

"Unnatural," "Unsuitable," Unemployed!

LESBIANS AND WORKPLACE DISCRIMINATION IN
BOLIVIA, BRAZIL, COLOMBIA, HONDURAS AND MEXICO.

ADEIM-Simbiosis
Artemisa
Cattrachas
Criola
I G L H R C
Red Nosotras LBT



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LESBIANS AND WORKPLACE DISCRIMINATION
IN LATIN AMERICA,
A REGIONAL REPORT FOCUSING ON BOLIVIA,
BRAZIL, COLOMBIA, HONDURAS AND MEXICO.

ADEIM-Simbiosis (Bolivia)
Artemisa (Mexico)
Cattrachas (Honduras)
Criola (Brazil)
IGLHRC
Red Nosotras LBT (Colombia)

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LA ASOCIACIÓN PARA EL DESARROLLO INTEGRAL DE LA MUJER – ADEIM SIMBIOSIS (Bolivia)

contributes to holistic development of lesbian and bisexual women, in order to improve their quality of life through the identification, recognition and acceptance of their sexuality. They seek behavioral and attitudinal changes in society that foster respect for and recognition of diverse sexual and gender options, by way of the full exercise of civil and human rights.

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ARTEMISA, INTERDISCIPLINARY GROUP FOCUSING ON YOUTH, GENDER SEXUALITY AND HUMAN RIGHTS. (Mexico)

The mission of ARTEMISA is to foster human rights through collaborative work among different social sectors concerned with gender and empowerment. Its approach is based upon the notion of intersectionality and respect for diversity by: a) developing theory-based, methodological and conceptual tools concerning youth, sexuality, gender and human rights; b) promoting the training, skills and awareness of women and young people so that they can defend and promote their human rights; c) carrying out effective actions with regard to gender and intersectionality, at the local, national, and international level.

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THE INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION (IGLHRC)

is A US-based nonprofit, non-governmental organization (NGO) with a regional office in Argentina. Their mission is to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status. IGLHRC effects this mission through

advocacy, documentation, coalition building, public education, and technical assistance.

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CRIOLA (Brazil)

is a nonprofit association based in Rio de Janeiro, founded in 1992. Its founders and leaders are a group of Afro-Brazilian women with diverse backgrounds. Its mission is to train Black women to enable them to become agents for change in the struggle against racism, sexism, and homophobia, and work for the creation of better conditions of life for the Black population. To achieve its objectives, Criola has the following areas of work: Economy; Work and Income; Black Women's Health; Human Rights Advocacy; Political Action and Coordination with Institutions and Social Movements; Publications, Information-sharing, and Documentation.

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RED NOSOTRAS LBT (MUJERES LESBIANAS, BISEXUALES Y TRANSGENERISTAS DE COLOMBIA)

is a network bringing together groups like Grupo Labrys, Mujeres al Borde, Mamas Lesbianas and autonomous activists who are lesbians, bisexuals and/or transgeneristas women in Colombia. They work for women's rights and for their position in society. While sharing their political struggles with gay men, they also work to promote gender equality inside LBGT (lesbian, bisexual, gay and transgeneristas) organizations and movements.

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ADEIM-Simbios wishes to thank all the lesbians who contributed to this report and whose names could not be published herein. Without their support, this report could never have been done. Let us keep up the fight, sisters.

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Catrachas wishes to thank all the women who agreed to be interviewed.

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A construção da cidadania é um processo dialético de transformação social. Há, assim, momentos em que a superação da visão naturalizadora de uma determinada forma de desigualdade institui-se de maneira mais radical. A partir daí, essa desigualdade nunca mais poderá ser retomada como algo natural da condição humana. O reconhecimento da desigualdade como um problema social e da construção da igualdade é um caminho pleno de contradições e de redefinição permanente de conflitos.

Maria Bethânia Avila
(Feminismo, cidadania e transformação social)

La homosexualidad es una condición de la persona humana que implica la elección de una opción de vida tan respetable y válida como cualquiera, en la cual el sujeto que la adopta es titular, como cualquier persona, de intereses que se encuentran jurídicamente protegidos y que no pueden ser objeto de restricción por el hecho de que otras personas no compartan su específico estilo de vida.

Corte Constitucional de Colombia
Sentencia T-101 (1998)

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Prologue

ANA FALÚ
Quito, October 2004

"I have two female friends who some time ago were about to start working for the city government. They got through the interviews and everything, then finally they spoke to someone who said no, if their appearance were different, yes, but no lesbians in government, no, at least not that obvious." (Marcia, Mexico)

"I'm 36 years old and working now at the Criminal Investigation Agency. My story is common at this institution: most of my male colleagues talk about me behind my back and call me 'bull dyke' or 'lesbian'. My superiors have done nothing to stop the harassment; on the contrary, they contribute in some way to keep it going. I live in the compound where all the establishment employees have privileges, so my neighbors are my colleagues at work. They've taken it upon themselves to bring these comments about how I live with my partner back to the neighborhood, so their children and wives comment on it and turn it into grist for the mill." (Helga, Honduras).

"I worked as a secretary at the Libros y Más bookstore in the city of La Paz. When my colleagues at work saw me hugging my partner, they told my boss. He called me into his office and told me I had to quit my job because my colleagues didn't want to share the workplace with someone like myself; besides, he told me that what I did was against all morality and he couldn't accept my life-style." (Tania, Bolivia)

With these words, several Latin American women testify to the many forms of discrimination they suffer in the current job market, both when searching for and when trying to keep a steady job. The analysis of the marginalization of and discrimination against specific groups or collectives of women has been a constant concern for UNIFEM the world over, particularly in Latin America. This concern has been framed within an effort to clarify the mistaken (and, paradoxically, widely disseminated)

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concept — even within women’s organizations and movements — that women constitute a homogeneous group. While many women do, in fact, share common problems of domination and exploitation because of the patriarchal structure perpetuated in most societies throughout history, it would be a serious mistake to consider this the sole existing cause or form of discrimination, or to say that it affects all women equally. In addition to gender-based discrimination, Latin American women suffer discrimination based on their ethnicity, social class, and sexual orientation. We must understand this if we want to implement effective transformation projects. The right to choose when it comes to our own bodies, reproduction, and sexuality has been the banner women have raised high as well as the core issue of their struggles.

I have been asked to write a prologue for this Report, which contributes to a better understanding of sexual differences as a political issue through its integral analysis of discrimination against lesbian women in the job market, based on statistics, law, and testimonials and taking examples from Bolivia, Brazil, Colombia, Mexico, and Honduras. Lesbian women in the job market suffer at the very least from double discrimination: first because of their status as women, and second because of their sexual orientation. This constitutes a flagrant violation of their fundamental human rights to “non-discrimination” and “gainful employment.” Moreover, they face permanent obstacles to the enjoyment and exercise of their citizen rights, such as access to education, housing and food, among others. This, in short, makes it difficult for them to develop their overall potential as persons. Because lesbians are stigmatized, societies do not benefit from the contributions these women citizens make. This report undoubtedly makes a valuable contribution to reflections on the issue of discrimination against lesbians which has up to now been relegated to a place of invisibility and raises questions that must be a part of any democratic agenda.

Although we face an enormous challenge, the outlook isn't all gloomy. Since the year 2001 several countries and cities all over the world, including Latin America and the Autonomous City of Buenos Aires, have legalized same-sex marriages or civil unions. Still, we must emphasize the need to break with double standards and ambivalent discourse, and to assume respect for sexual orientation and the freedom of choice every individual exercises when it comes to their sexuality. To that end, we need a united effort that includes civil society, political decision-makers and government instances in order to strengthen secular governments. We insist: we need institutional change, and we need public policies that support and respect the diversity of collectives. To quote Roxana Vasquez: "Democracy as a perpetually challenging construct' has, over the course of the last century — particularly the last half of it —, witnessed the shaping, reshaping, broadening and strengthening of social movements that place, within the solid core of their claims and agendas, dimensions hitherto unconsidered in the traditional logic of politics, specifically sexuality as an object of attention, raising their demands in the face of exclusionary and discriminatory practices while also recognizing in sexuality and reproduction a field of rights."

To follow Roxana Vásquez's line of thinking, even the vast majority of people ignore the fact that you cannot hierarchize human rights, and that while the end-of-century conferences the United Nations summoned did voice international support, in the conception of human rights "problems get placed in a hierarchy according to their importance, and in day-to-day practice the much-vaunted principles proclaimed in the name of human rights get ignored." Without a doubt, making principles operative, moving from verbalizing to practice, implies a demanding cultural process, transformation and continued work to roll back these forms of discrimination. Only by taking that route will we move forward in pursuit of democracy.

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ANA FALÚ was born and raised in Argentina. She is the current UNIFEM Regional Director for the Mercosur Countries. She is also a researcher with the National Council for Science and Technology in Argentina, and has been a tenured Professor at Cordoba University, Argentina, since 1985.

Ana graduated as an Architect with a PhD obtained at Delft University, The Netherlands. During the 80s she pursued post-graduated studies in ISS and Bouwcentrum International Education, Rotterdam, the Netherlands. As a feminist advocate, between 1997 and 2002 she was the Latin American Coordinator for Women and Habitat Network, with affiliated groups in 17 countries. Together with Virginia Vargas Valente, she was part of the coordinating team of Latin American women towards the 4th United Nations World Conference on Women (China, 1995). She has been Vice-President of the International Habitat Coalition. Ana currently works as a consultant for different UN institutions, the World Bank and the Interamerican Development Bank. As a scholar, she has coordinated research teams on issues like "Globalization, Urban Patterns and Governance"; "Tools for Urban Governance: Urban Gender Indicators"; "Public Policies, Women and Local Governance Program for the Mercosur Countries", "Urban Uses of Time and Space: Social and Gender Asymmetries". She has written several books, scientific articles and advocacy documents.

Prologue

BLANCA DOLE DURÓN
Tegucigalpa, November 2004

How many times have we heard, read about or discussed cultural, social, economic and political discrimination against women? How many times have we attended international conferences in which the governments of the world sign platforms and action plans to put the brakes on this discrimination? How many international treaties and covenants have our governments signed and ratified?

These questions reveal a history of good intentions, but a practice that demonstrates the lack of political will to turn such intentions into reality.

Let us take as our point of departure the fact that women live in a world that denigrates them, discards them, invalidates them; fails to provide them with remuneration commensurate with their skills, sexually harasses them; casts them aside because of their sexual preference; considers them a disposable product because of their age; devalues them because of their race; ignores them because of their youth.

This report sets forth the reality of many women in the labor market — women who are indigenous, black, young and old, and who, additionally, have embraced a sexual preference that departs from what society has established as “normal” — in other words, women who are lesbians.

Lesbians enter into a maddening working world, one that requires great inner strength, great capacity for loving, and enormous tolerance and patience. This world demands of them that they constantly prove themselves the best in their field of endeavor. It also too often exacts the toll of having to live their sexual identities in silence for fear of reprisals from their colleagues and superiors, both male and female.

Too often, co-workers think that a lesbian woman will bring about a break with “healthy customs,” or that she will taint the company’s image because

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she's "abnormal." Many heterosexual women fear lesbians because they assume these co-workers must be attracted to them. Many men use pressure, coercion or violence try to "fix" lesbians and convert them into "real women."

The testimonies in this report touch the fiber of all human beings with the capacity to love. They help us to understand that the world is painted in the colors of the rainbow, rather than in two simple colors, as those who wield economic, political, and religious power would have us believe. We must be aware that we come of age in a world of dichotomies: good or bad, black or white, poor or rich, young or old, religious or atheist, a man or a woman.

Every human being faces the enormous challenge of learning how to see the world differently from the one that has been imposed on us — see the world as one full of possibilities, painted in diverse colors, and to take on the task of fully inhabiting this broader world while establishing relations based on equality, justice, respect, tolerance, solidarity, and peace.

Lesbians face an even greater challenge to avoid keeping their LESBIAN BEINGS quiet. We only need to remember that the twenty-first century belongs to us, and that we now exist in greater numbers and with greater visibility than ever before!

This research on the situation of lesbians in the working world in Latin America, with an emphasis on Bolivia, Brazil, Colombia, Honduras and Mexico, will give readers a panoramic view that will make them allies in the struggle for the working rights of lesbian women.

Dare to explore every chapter of this document. Start on a path toward new knowledge, or fortify what you already know about this reality, the reality lived by human beings just like you, just like me, just like our leaders, just like those who have decided to dedicate their lives to God.

I have every hope that the testimonies and recommendations set forth in this report will incite the men and women who have been invested with authority by the peoples of Latin America not only to reflect but to take corrective measures that lead to respect for the human rights of lesbian workers.

BLANCA DOLE DURÁN was born and raised in Honduras and coordinates the Feminist Collective of University Women Graduates. She graduated in Social Work at the Autonomous National University, in Honduras. As a consultant, she worked for ECLAC (Economic Commission for Latin America and the Caribbean) in the project Democratic Governance 2003-2004 that developed the strategy adopted by the National Women's Institute in order to have the Electoral Act passed, securing women political participation. Blanca completed postgraduate studies in several fields, including Gender Studies (Women's Subordination: Diverse Perspectives at National Autonomous University, Honduras in 1988 and Women in the Urban Informal Sector at El Salvador University in 1989); Qualitative Research, at the Costa Rica University in 1990 and Local Economic Development Management at FLACSO, Costa Rica in 2001. She is a Board member for the (governmental) National Women's Institute. As an activist, she has been among the coordinators of the National Convergence of Women in Honduras and still is one of the coordinators of the Central American (Feminist) Program La Corriente. She has also been among coordinators of feminist advocacy processes in Central America related to the 4th United Nations World Conference on Women (China, 1995) and the 4th Latin American Feminist Encuentro (1997). At the national level, she coordinated the National Initiative on Women and Political Participation (1997-98) and the 1st and 2nd National Women's Conference. She has published several research findings, and articles in newspapers, journals and books.

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1. Introduction

This report uses a human rights lens to examine workplace discrimination against lesbians in five countries in Latin America. In the process, it seeks to make explicit the links between discrimination in the workplace and the ability of women whose sexual and gender expression does not conform to social and community norms to secure the basic elements of survival—food, housing, education and medical care—for themselves and their families. Discrimination based on gender and sexual orientation permeates the lives of lesbians, and significantly undermines their economic security. It exacerbates the sexism lesbians already experience as women, and the racism faced by people of indigenous or African descent or members of other racially- or ethnically-marginalized groups. Even worse, it compromises their ability to obtain support from those to whom most people turn first when in financial need: their families and communities.

IGLHRC collaborated with five groups in producing this report: ADEIM Simbiosis (Bolivia), Criola (Brazil), Red Nosotras LBT (Colombia), Cattrachas (Honduras), and Artemisa (Mexico). These groups form part of the LGBT movement in Latin America (comprised of lesbians, gays, bisexuals, transvestites, transsexuals and transgendered people), which has had a strong human and sexual rights record, in recent years, and which started in the 70s. Many of the expressions of this movement (to which all of the organizations that have prepared this report belong) reflect the historical legacy of Latin American human rights activism, and emphasize civil and political rights. As a result, documentation and activism in the LGBT arena have primarily focused on state action punishing behavior classified as “deviant”—from the most immediately egregious such as torture, extrajudicial killings and impunity, to the persistently

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devastating, such as bar raids, persecution of public sex, and sodomy laws. While lesbians have sometimes been the targets of repressive measures aimed at public behavior, they are most likely to experience discrimination and abuse in their homes, the schools they attend and the offices, factories or other settings where they work.

While some statistics illustrating gender- or race-based inequalities in the Latin American labor sector are available, the truth is we need to take great strides in terms of compiling statistics that disaggregate these two factors. Since no official statistics exist in the region that break sexual orientation down into data, our research has been fundamentally qualitative. This report explores the situation of lesbians based on their exercise of the right to work (wages, working conditions, hiring and promotion practices) and the right to social security (including social insurance, pensions, bereavement and sick leave).

Some forms of labor discrimination faced by lesbians are similar to those experienced by their gay male counterparts, especially those pertaining to access to social benefits, and to the psychological and emotional implications of remaining “closeted,”¹ and the requirement that women present themselves in conventionally feminine ways (and, similarly, that men present themselves as masculine). But there are also critical differences that account for the focus on discrimination against lesbians in this report. As women in patriarchal economies, lesbians are subject to disparities in salary, benefits and treatment in all sectors, and are often restricted to low-wage/low status sectors with little job security as a result of the

¹ “To be closeted” means to hide one’s status as a lesbian, homosexual or bisexual.

gendered division of labor. In addition, like all women, lesbians are often disproportionately responsible for the care of children or other family members, so inferior wages and limited opportunities have an exponential effect. Due to this systemic gender subordination, a dual-income family headed by two women—adjusting for factors such as education, skills, geographic location, etc.—is statistically at the bottom of the economic ladder, while one headed by two men is (at least theoretically) likely to have the highest joint income – even more than a heterosexual couple – since both earners are male.

Research for this report was conducted during a period of profound economic dislocation that has swept the entire Latin American region. The crisis is a product of decades of structural adjustment policies imposed by financial bodies such as the World Bank and the International Monetary Fund dominated by the U.S. government and, to a lesser degree, by the governments of the world's other economic powers. Unemployment, poverty and the devastation of public services—especially in the areas of health and education—have combined to create a context in which only privileged elites can fully enjoy their fundamental human rights. The crisis has served to deepen preexisting inequalities and exclusions: those who were already in a disadvantaged position based on such characteristics as gender, race, ethnicity, color, age, nationality, and sexual orientation have been affected the most during this period.

At the same time, as has always been the case whenever the region has experienced a crisis, Latin America is witnessing the emergence of strong social movements that seek a way out of these political and economic crises. The World Social Forum—a vast global gathering of progressive civil society organizations from a variety of sectors that has been held several times in Porto Alegre, Brazil in 2001, 2002, 2003 and 2005 and in Mumbai, India, in 2004, as well

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as several regional initiatives, exemplify this trend. Unfortunately, however, some in the activist sector have revived an old debate by affirming that economic oppression eclipses all other forms of oppression.

Lesbians—whether closeted or open about their sexual orientation—have been key "compañeras" in virtually every struggle for justice in Latin America. But denial within some civil society movements of the direct relationship between homophobic discrimination and economic instability further marginalizes lesbians and alienates them from their activist "allies" by erasing their suffering; not only diminishes the potential of the entire progressive agenda by ignoring the centrality of sexual control in economic domination.

The cases we have documented in this Report also help to elucidate the connections between sexual and economic control and denial of the full exercise of their human rights to lesbians. The former UN Special Rapporteur on Violence Against Women noted clearly that without economic independence and sexual autonomy, women will continue to be targets of violence by their families, their communities and, whether because of acts committed or acts omitted, by police and other government officials.

In her 1999 report on violence against women in the family, she states:

The dominance of familial ideology both within and outside the walls of the family home entrenches women's roles as wives and mothers and impedes women's access to nontraditional roles. Such ideology exposes women to violence both within and outside the home by enforcing women's dependent status, particularly among poor and working class women, and by exposing those women who

do not fit within or ascribe to traditional sex roles to gender-based crimes.²

Furthermore, she notes that “economic and social policies that continue to ensure women’s economic dependence on men often result in violence against women” and stresses that, in many cases, this dependent status is enforced through law.³

Moreover, without economic and social independence, women who face discrimination will find themselves in the predicament that several of our interviewees describe: clear that the discrimination they have experienced is wrong, and, in some cases even illegal, but unwilling to face the social disapproval that would result from demanding justice.

A. HUMAN RIGHTS, ECONOMIC AND SOCIAL RIGHTS, SEXUAL RIGHTS

The human rights model offers a powerful vision and tools for contesting predominant patterns of sexual and economic control. It is a vehicle for enabling activists and organizations from a variety of sectors to break out of single-issue agendas and the constraints of narrowly constructed identity politics. One of the most significant contributions of the human rights framework is its articulation of the “indivisibility of rights” in all realms – including civil, political,

² Radhika Coomaraswamy, *Violence Against Women in the Family: Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights Resolution 1995/85. UN document: E/CN.4/1999/68, paragraph 9.

³ Radhika Coomaraswamy, *Violence Against Women: Addendum on Economic and Social Policy and its Impact on Violence Against Women*. UN document: E/CN.4/2000/68/Add.5, paragraph 8.

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social, economic and cultural – and its recognition that the exercise of any one right is contingent upon the ability to avail oneself of all of the others. To pursue any single right to the exclusion of other rights is to ignore lived experience; if we are ill and cannot access adequate healthcare because our intimate partnerships are not formally recognized, we can't exercise our right to work. If we are prevented from leaving our homes by family members seeking to force us to conform to norms of gender or sexuality, we will not be able to exercise the right to vote or the right to pursue an education.

These different expressions of discrimination and exclusion are inextricably connected to one another in our lives. Thus, it is of critical importance that our analytical frameworks and our political movements enumerate the ways that discrimination based on sexual orientation undermines our enjoyment of social and economic rights. The human rights framework offers a means of establishing these links and tailoring our rights claims to address the economic and social costs of discrimination.

B. REPORT PROCESS AND METHODOLOGY

The centerpiece of this report is the original research on workplace discrimination against lesbians conducted by the organizations IGLHRC partnered with in each of the countries studied. Each of the groups that took part in this research selected a different approach to collecting data. ADEIM-Simbiosis (Bolivia) facilitated focus groups. Criola (Brazil) conducted a series of individual interviews with lesbians who had experienced discrimination in the workplace. Red Nosotras LBT (Colombia) employed two tools: an exploratory survey and in-depth individual interviews. Cattrachas (Honduras) worked with in-depth individual interviews. And Artemisa (Mexico) used both an open-ended questionnaire and individual in-depth interviews.

The selection of tools depended on the specific features of each country and the resources of the groups. Overall, the documentation reflects the lives of lesbians who are between 19 and 50 years of age, with 30 as the average age. From a socioeconomic perspective, most interviewees range from working- to middle-class. A majority had completed high school and pursued at least a few years of university education. However, there are testimonies from women from a wide range of educational backgrounds, including those who did not finish primary school.

In terms of challenges and limitations faced while collecting the stories, it is worth noting that, for many lesbian and bisexual women, workplace discrimination is so routine that it can be difficult to identify abusive behavior as such. In some cases pseudonyms were used upon request from the interviewees in order to preserve their safety. In other cases, interviewees chose to use their real names.

C. STRUCTURE OF THE REPORT

The report is organized into five chapters. Chapter 2, "Setting the Context: Some Economic, Social, Political and Legal Factors Affecting Lesbian Workers", provides a backdrop for understanding the testimonies documenting violations against lesbian workers that are presented in Chapters 3 to 5. Section I offers an overview of current economic, political and cultural conditions common to the Latin American region. Section II then provides a more detailed look at the specific political and legal context in each of the countries studied. Including domestic laws whose protections could be applied to lesbian workers, as well as those that are openly discriminatory or that can be enforced in a discriminatory manner.

Most Latin American governments, including those analyzed

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in this publication, have ratified a number of international covenants and conventions, particularly those addressing labor issues. These commitments, however, are not always reflected in the domestic laws of each country. And even where domestic law incorporates universal human rights standards, government actors do not always comply.

Notwithstanding inconsistent implementation of universal rights standards, this section deliberately includes redemptive cases of “good practices,” which can serve as examples to be replicated in other Latin American countries. Some examples include the Federal Law for the Prevention and Elimination of Discrimination enacted in Mexico in 2003, which includes sexual preference among the forms of expression to be protected from discrimination. Several court cases also deserve mention, such as the 2003 ruling of the Supreme Court of Brazil, which states that the National Social Security Institute must pay retirement benefits to the surviving partners of deceased gay men and lesbians, and the ruling of the Constitutional Court of Colombia, which repealed Article 46 of the decree regulating the teaching profession and which banned gays and lesbians from working in this field.

Chapter 3, "Life Stories and Discriminatory Practices" breaks new ground by documenting the range of forms that employment discrimination against lesbians takes in the countries under review. Excerpts from testimonies gathered in the course of the research for this report are organized thematically and linked to the specific universal rights guarantees they violate. This chapter also includes stories of support and solidarity experienced by the interviewees, and explores the creative strategies that enable lesbians to survive the painful discrimination they all-too-frequently face on the job.

Chapter 4, "Emblematic Stories" provides one entire, unedited testimony from each of the countries studied. These full testimonies provide the reader with a more complete picture than the "snapshots" of rights-specific violations in the previous chapter allow. These emblematic stories confirm the enormous personal costs involved in socially imposed closeting, and the tremendous courage required and potential repercussions faced by those who challenge normative standards governing gender and sexual identity in Latin American societies. They "stand in" for the thousands of such stories of Latin American lesbians that remain to be told.

The unique issues facing lesbian and bisexual women working at non-governmental organizations are addressed in Chapter 5, "Lesbian Workers at NGOs". While these workers typically experience more freedom and flexibility than their counterparts in other types of work settings, they also often experience uncomfortable disparities between the stated vision, and the actual culture, rhetoric and policies of the organizations that employ them.

The report concludes with Chapter 6, an overview of research findings, and a detailed series of recommendations directed not only to the federal governments of the countries covered in the report, but also to state and local governments, regional bodies, NGOs, unions and transnational financial institutions. It is clear that multiple stakeholders must be involved if lesbians are to fully enjoy their fundamental and indivisible human rights.

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2. Regional Context

Economic, social, political & legal factors affecting lesbians as workers in Latin America.

A. LABOR OVERVIEW

According to Panorama Laboral 2004 , published by the ILO (International Labor Office), the labor market in Latin America in 2004 registered a decline in unemployment in several countries, a decline in regional unemployment figures (10.5%), real salary growth in almost every country, and a spike in productivity¹. Despite this, the number of jobs in the informal sector has grown, the number of workers with no social protection has risen, and women and young people are still the two sectors most affected by unemployment.

At the regional level, women recorded an unemployment rate 1.4 times higher than that of men. In the countries where total unemployment declined during 2004 (Argentina, Brazil and Venezuela), it declined more among men than among women. In those countries where unemployment rates rose (Chile, Mexico and Peru), they rose more among women than among men. Throughout the region the unemployment rate for youth as a whole is twice the unemployment rate for the total population. This sector records the same disparities between women and men already cited for the population as a whole.

¹ See full document at www.oit.org.pe

The ILO lists the following regional employment trends:

- **Increased informal sector employment.** The rise in employment rates corresponded mostly to the informal sector between 1990 and 2003. According to estimates during this period 6 out of every 10 individuals employed worked in the informal sector. Presently half of all employed women work in the informal sector.
- **Privatization and outsourcing of jobs continues.** Between 1990 and 2003, almost 9 out of 10 employed persons worked in the private sector, and 9 out of 10 new workers found employment in the service sector. 85% of employed women are concentrated in the service sector.
- **Social Security coverage declined.** Approximately 5 out of 10 new wage earners have access to social security benefits, while only 2 out of 10 wage earners in the informal sector had such coverage in 2003. Women and men registered the same rate of decline.

1. OTHER ASPECTS OF THE SITUATION FOR WOMEN AS A GROUP IN THE REGION

Regarding political participation, let us use as an example the percentage of women who hold parliamentary seats, from figures provided by UNDP (United Nations Development Program)²: in Bolivia, that figure is 17.8 %; in El Salvador, 10.7%; in Nicaragua, 20.7%; in Guatemala 8.2%; in Brazil 9.1%; and in Uruguay 11.5%.

In education, the picture changes somewhat. In most countries the net registration rate among women exceeds 90% for primary school (Bolivia, Ecuador, Dominican Republic, Paraguay, Peru, Colombia, Brazil, Venezuela, Panama, Mexico, Cuba, Uruguay) and in others, it exceeds 80% (Guatemala, Nicaragua, El Salvador). For college education, however, percentages drop as follows: Bolivia and

² PNUD: 2004, Informe de Desarrollo Humano, pp 217-220

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Paraguay, 22%; Brazil, 21%; Colombia, 25%; Venezuela, 31%; Panama, 42%; Mexico, 21% (PNUD: 2004, 225-228).

Let us add one more figure: violence against women, in particular sexual aggression. The UNDP report, which only counts the population of women in this category, provides hair-raising figures: the victims of such violence total 1.7 % of the entire population in Asunción (Paraguay); 4.8% in Bogotá (Colombia); and 6.4% in Buenos Aires (Argentina). Additionally, according to UNDP's own estimates, between 25% and 50% of women in Latin America have suffered some form of domestic violence.

2. CERTAIN SPECIFICITIES REGARDING THE SITUATION OF LESBIANS IN THE REGION

Lesbians are no exception. On the contrary; as we already stated in the Introduction, one can add to gender disadvantages the consequences of discrimination based on sexual preference. Because women earn less than men, lesbian families are more vulnerable to poverty than families that include males (both heterosexual and gay). Furthermore, because women earn less than men and have less access to higher education, young lesbians have less possibilities than gay men of achieving independence, which becomes indispensable in those (quite frequent) cases in which their families condemn them for their sexual preference. Because they earn less over the course of their lifetimes, older lesbians will also have less income when they retire, and because of the lack of legal recognition for same-sex couples, they cannot add their partners' pension to their own, as heterosexual couples can.

The panorama becomes more complex when we take into account that most Latin American governments have opted to buckle under to the highly-touted structural adjustment programs and to use their budgets to pay down their foreign debt. In the process

those few that did, at some point, cover fundamental areas such as health, education and retirement, have stopped covering them. These benefits, once privatized, cease to serve the society at large and only reach those sectors that can afford to pay for the services. When lesbians and bisexual people (as well as gays and transgendered people) claim our right to social security, we do so knowing that Latin American governments do not guarantee that right to any family, no matter how traditional it may be.

An observation about political participation: according to our Latin America and Caribbean Program Summary 2004 (Resumen del Año 2004 en América Latina y el Caribe) LGT candidates ran for election in Brazil, Mexico and Colombia last year, and none of them won.³

In schools and educational institutions, adolescent and young adult women who begin to develop feelings for other women find themselves vulnerable due to discrimination from their female schoolmates, the attitudes of high schools and university faculties and their families' lack of understanding and open-mindedness. In addition, the fear that their sexual orientation might be divulged forces them to stay silent; that's why so few abuses are reported and made public. Still, the expulsion of a female student from the Juan Francisco Vergara Lyceum in Viña del Mar, Valparaíso (Chile) in 2002; the denunciation presented to the media by female students of the Carmela Carvajal School in Santiago de Chile reporting the harassment the faculty had subjected them to because they were lesbians (they had assigned private guards to spy on them) in 2003; and the forced dropout of a female student at Liceo Cristiano in El Salvador in 2003, illustrate the shared landscape found throughout Latin America.

³ "IGLHRC: Informe anual sobre America Latina y el Caribe 2004"
www.iglhrc.org/español.

B. CONTEXT OF THE COUNTRIES INCLUDED IN THIS REPORT

1. AN INTRODUCTION IN STATISTICS

To provide an overview of the prevailing inequalities between men and women in the countries studied — both in the economic arena and, specifically, in the labor arena — we have selected statistics compiled by the Economic Commission for Latin America and the Caribbean (ECLAC), a United Nations regional commission, in its Gender Statistics Program (updated to September 2005).⁴

Urban Unemployment

Country	Women	Men
Bolivia	7.9%	5.2%
Brazil	13.4%	8.7%
Colombia	20%	14.8%
Honduras	5.6%	6.3%
Mexico	2.6 %	3.9%

Percentage of the urban population holding low-productivity jobs⁵

Country	Women	Men
Bolivia	76.7%	58.5%
Brazil	51.6%	42.3%
Colombia	n/d	n/d ⁶
Honduras	57.9%	55.7%
Mexico	51 %	44.9%

⁴ <http://www.eclac.cl/mujer/proyectos/perfiles/default.htm>

⁵ "Low-productivity jobs" are jobs in the informal sector with no job security, low wages and no social benefits.

⁶ This figure was not available for Colombia, but in its place we provide another figure, which is also revealing: participation in the workforce, (the percentage of people of working age who effectively work) is 57% for women and 70% for men.

Average salary

In Bolivia, the average salary for women equals 38.6% of what a man with up to 3 years of education makes; in Brazil, it equals 56.2%; in Colombia, 79.3%; in Honduras, 63.5%; and in Mexico 69.5% of what men with 13 years of formal education or more make. To clarify these figures for the reader, we have assigned arbitrary figures to men's wages, and compared them to women's wages:

Country	Women	Men
Bolivia	\$38.60	\$100
Brazil	\$168.60	\$300
Colombia	\$237.90	\$300
Honduras	\$190.50	\$300
Mexico	\$208.50	\$300

Per capita income

Per capita income is a calculation made to determine the average income for every inhabitant of a given country; that is, how much each inhabitant earns for his or her survival on average. In Bolivia, women's per capita income is 47.5% that of men; in Brazil, 50.1%; in Colombia, 56.4%; in Honduras, 43.2%; and in Mexico, 38.5%. Again, in order to show clearly what these figures indicate, let us imagine that in each of the countries studied men earn per capita income of \$500, and that will give us the women's per capita income.

Country	Women	Men
Bolivia	\$237.50	\$500
Brazil	\$250.50	\$500
Colombia	\$282	\$500
Honduras	\$216	\$500
Mexico	\$192.50	\$500

These figures paint a discouraging picture for women in terms

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of economics and salaries, a picture of higher unemployment combined with (or replaced by) inferior quality jobs, lower salaries and lower income.

2. PARTICULARS FOR EACH COUNTRY STUDIED

BOLIVIA is undergoing a gradual flexibilization of the labor market as a result of liberalization. Income disparities between men and women can be found in all fields of endeavor, with language disparities added to the formula: women who speak Quechua, Aymará, Guaraní or other native languages spoken in Bolivia earn less. The majority of women work in the informal sector, as in most Latin American countries.

No law currently exists that recognizes the rights of same-sex couples. The Bolivian Constitution recognizes the principle of non-discrimination, but does not specifically grant protected-category status to sexual orientation or gender identity.⁷

Article 323 of the Penal Code punishes "obscene acts in public places." The wording of this article gives rise to ambiguities which on occasion have proven deleterious to lesbians (and other "sexual dissidents"), because the interpretation of what is considered "obscene" is left to the discretion of the police, in the first instance, and secondly to the judicial system.

The General Labor Law contains terms such as "honorability"⁸ (one of the requirements for employment) and "morality"⁹ (employers bear the obligation, among others, to guarantee said

⁷ Article 6.1: "All human beings...are entitled to the rights, freedoms and guarantees recognized by the present Constitution, regardless of race, sex, language, religion, origin, economic or social status and all other".

⁸ Labor Law Article 65: "Whenever a vacancy occurs in any job position, it shall be filled with the employee or worker ranked immediately below provided he meets the requirement of honorability, skill and seniority".

⁹ Labor Law, Article 67: "Employers are obligated to take all necessary precautions to protect the life, health and morality of their workers".

quality exists among “the workers”), which are used with prejudice against lesbian, gay and transgender people.

On the other hand, it is very important to single out the existence of Bolivia’s Framework Law of Sexual and Reproductive Rights, which in Article 1 included “sexual preference” as a category with protected status against discrimination in the exercise of those rights. The Chamber of Deputies and the Senate enacted this Law in 2004, however, the Executive Branch, because of the intervention of the Catholic Church, vetoed it. In short, lesbians face a complete lack of protection in Bolivia’s labor market.

The loss of rights and guarantees in the workplace characterizes the situation in BRAZIL. Women there as a group face difficulties when seeking access to high-skilled jobs, as well as a lack of opportunities for professional advancement and clear inequalities with regard to men in terms of remuneration.

We must add racial discrimination to the inequalities between women and men, which explains why black women find themselves at the greatest disadvantage in the labor market. Black women earn fifty percent less than white women and have the highest unemployment rate in the country. Purportedly comprehensive policies have not, in practice, changed racial inequality. As for black lesbian women, the researchers in this report underline the most frequently-heard comment: “Skin color you can see, but sexual orientation you can hide.” This is why many feel that the discrimination they suffer has more to do with the fact that they are black, and less to do with the fact that they are lesbian. Nevertheless, there is a need for more in-depth studies that consider the intersection between class, race, gender and sexual orientation.

While no national antidiscrimination law has been passed in Brazil, the states of Alagoas (1989), Mato Grosso (1989), Sergipe (1989), the Federal District (2000), Rio de Janeiro (2001), São Paulo (2001), Minas Gerais (2002), Bahia (2002), Rio Grande do

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Sul (2002) and Santa Catarina (2003), along with more than 150 cities across the country, do have laws to that effect. Some of these cities, such as Fortaleza, also confer protected-category status to "gender identity." In March, 2003, in a case that set a national precedent, the Labor Ministry of the State of Rio Grande do Sul ruled against General Motors because of its dismissal of an employee, Gilberto Biesek, based on sexual orientation.

With regard to the rights of same-sex couples, since March 2004 the State of Rio Grande do Sul allows such couples to register with a notary public and recognizes almost all of their marriage rights, including inheritance, pension and social security rights; the states of Paraíba and Roraima followed suit later in 2004. The cities of Recife (2001), São Paulo (2002), and Rio de Janeiro (2003) have laws that recognize equal rights to social benefits for both homosexual and heterosexual partners of civil servants. In the states of Parana, Bahia, and Goiás, same-sex couples can register at officially approved registries created by LGBT organizations, and are also entitled to social benefits. In February 2003, the Supreme Federal Court issued a ruling which stated that the National Social Security Institute had to pay pensions to gay widowers and lesbian widows. From December 2003 it exists in Brazil a legislation that authorizes the grant off of residence to any foreigner who maintains a stable homosexual union with a citizen of the country. Numerous rulings of the Brazilian judiciary have recognized inheritance, social benefits and permanent residence rights (in the case of foreign partners) for same-sex couples.

In 2003 the Brazilian government launched the Brazil Without Homophobia Program, which consists of a series of measures to combat discrimination on the basis of sexual orientation which has not been fully implemented at the time of writing this report. Brazilian civil society has already set in motion a series of initiatives — too numerous to mention in this brief overview — which aim to establish equal rights for lesbians, gays, bisexuals and transgender

persons.

In COLOMBIA, while women's access to education has increased, educational content is still discriminatory. Women's overall health improved, although most women still live in precarious conditions and the health system does not provide sufficient coverage. This country has a legal system favorable to women. The Constitutional Court, within the framework of the ban on gender-based discrimination, established affirmative action measures applicable to quotas, choice of profession, retirement, employment application procedures, maternity, domestic labor, reproductive health, protection against gender-based violence, etc. This same Court, in fact, issued a historic ruling in 2001 that favored Alba Nelly and ordered the warden of the prison to which she (Alba Nelly) had been confined to allow her female partner to visit her under the same conditions granted to heterosexual women.

In a previous ruling, the Court had already established that "homosexuality represents a personal, intimate, non-punishable lifestyle or individual choice of conduct," and that "the condition of homosexuality in and of itself cannot constitute grounds for exclusion from the Armed Forces."¹⁰ In 1998, the same Court repealed Article 46e of Decree number 2277 (1979) which regulated the teaching profession and deemed "homosexuality" a "cause of misbehavior." The Court ruled the exclusion of homosexuals from the teaching profession "entirely unjustified."¹¹ That same year, the Court ruled in favor of a group of students who had been expelled from an educational institution because of their homosexuality,¹² and in 2003 forced the Boy Scouts to reinstate activist Edgar Robles Fonnegra,

¹⁰ Constitutional Court of Colombia. Ruling T-097/94. *Disciplina en las fuerzas militares.*

¹¹ Constitutional Court of Colombia. Ruling C-491/98.

¹² Constitutional Court of Colombia. Ruling T-101/98

¹³ Constitutional Court of Colombia. Ruling T-808/03.

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who had been expelled from that institution on the same grounds.¹³

HONDURAS has taken small steps forward in education and health, but income levels for the population as a whole have tended to diminish. Likewise, we recognize advances in the institutionalization of gender equality, evidenced by the legal reforms that have taken root in Honduras such as the Women's Equal Opportunity Rights Law (2000).

Two important events happened for LGBT people in Honduras in 2004, one positive and the other negative. On August 7th, after years of legal wrangling, the government finally granted legal status to three gay groups (Comunidad Gay Sampedrana, Colectivo Violeta and Grupo Kukulcán). On October 28th, however, Congress voted unanimously for a constitutional reform that explicitly prohibits marriage and adoption for same-sex couples. Out of all the Latin American countries, only Honduras has passed such a measure, the result of undue interference of the Bush government in Honduran politics. These events occurred in the context of frenzy activism by Evangelical churches, who have powerful allies in the State.

In MEXICO the Constitution recognizes social benefits for male and female workers alike, but in practice such benefits rarely take effect. In trade unions, claims based on sexual harassment and discrimination on the grounds of marital status, gender or sexual orientation are considered of too little importance and not taken into account. Millions of women in this country, whose employers include the Mexican government as well as the maquiladoras and the informal sector, face the reality of an increasingly precarious labor market.

Mexico's National Constitution enshrines the principle of non-

¹⁴ Political Constitution of the Mexican States, Article 1: "All forms of discrimination based on ethnic or national origins, gender, age, varying capacities, different capacities, social status, health status, religion, opinion, marital status or any other condition that is an affront to human and has as its objective to annul or impair the rights and liberties of the individual are prohibited".

discrimination, and although it does not specifically mention “sexual orientation,” it does include the term “preferences,” which can be interpreted broadly.¹⁴ The Constitution of the State of Nuevo León (2004), as well as the Penal Codes of the Federal District (2002), Chiapas (2003) and Aguascalientes (2003) explicitly ban discrimination on the grounds of “preference” or “sexual orientation.”

The Federal Discrimination Prevention and Elimination Act (2003) also grants protected-category status to “sexual preferences,” “physical appearance, dress, speech and gesture” and “publicly declaring sexual preference.”¹⁵ This law, in addition to obligating the Mexican government to refrain from acts of discrimination and to punish those who do commit such acts, also binds it to engage in prevention and implement all measures it may deem suitable to modify social environments that contribute to discrimination. The implementation of this law is still in its early stages. This law presents an additional problem: the National Council to Prevent Discrimination, charged with implementing it, has the power to punish civil servants who commit acts of discrimination, but in the case of private individuals and actors, only has power to invite them to a conciliation process with the aggrieved party.

¹⁵ Federal Law for the Prevention and Elimination of Discrimination, Article 4.

3. Life Stories and Discriminatory Practices

This chapter is, for us, the most important one in this Report because it contains the voices of lesbians from Bolivia, Brazil, Colombia, Honduras and Mexico who have been and continue to be targeted for discrimination in the workplace based on their sexual preference or gender expression, and who continue to claim their right to a sexuality “free of discrimination, coercion and violence” (Beijing Declaration and Platform for Action, Paragraph 96) while finding ever more creative and courageous ways to resist.

This chapter presents information in the following order:

1. Concrete instances of violations of the human rights of lesbians in the workplace, taken from in-depth interviews carried out in the five countries represented here and specifying the right violated and the actor responsible for the violation in each case;¹
2. Positive experiences reflecting the support and solidarity lesbians have encountered as they seek remedies and take action in response to the violation of their rights;
3. Strategies and survival mechanisms employed by the interviewees in their workplaces;
4. The position of trade unions regarding lesbians and their rights as workers;
5. A survey of discrimination against lesbians in the workplace conducted in Colombia.

¹ For a more detailed explanation of the international human rights instruments that protect the rights cited in this chapter please see Appendix 4.

A. CONCRETE INSTANCES OF VIOLATIONS OF THE HUMAN RIGHTS OF LESBIANS IN THE WORK PLACE

All the cases we include in this section illustrate violations of three fundamental rights:

THE RIGHT TO LIBERTY²

THE RIGHT TO WORK

And THE RIGHT TO EQUALITY AND NON-DISCRIMINATION³ which states the cornerstone principle of the entire human rights system: the right of everyone to exercise all their rights.

While the violation of these three fundamental rights runs as a common thread through all testimonials, the various episodes that our interviewees recount contain specific violations of other rights.

² The right to liberty is that generic right which, as an expression and a concrete fulfillment of the value of liberty, presumes for individuals social groups alike the possibility of taking independent action, both under the condition of excluding other conducts or participating in solidarity with collective conduct (Institute of Political Studies for Latin America and Africa, "Human Rights Course", www.iepala.es)

³ The use of the term "right to equality" is to be understood to mean the generic right, fulfillment in practice and development of the value of equality, which presumes not only its recognition according to the legal standard of the principle of non-discrimination in instances that require that rights be recognized and guaranteed, but also effective compliance within a social context. (IEPALA, op cit)

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1. VIOLATIONS OF THE RIGHT TO PRIVACY⁴

Marta: (Bolivia)

I worked as a cashier at the Olimpia bookstore and in my free time I liked to coin phrases and write poems on lesbian topics. I didn't notice it when some of my co-workers took the notebook I used to write in from my till. One day, I came in to work only to get the news that someone had taken my place. I went to see the staff manager immediately and asked why they had done that to me. He replied that I should be thankful he hadn't told all my colleagues that I was a lesbian, and that I would be better off leaving right away and not complaining. I just picked up my things and left.⁵

Patty: (Bolivia)

I worked as a secretary at the law offices of Álvarez y Asociados in La Paz. One day, someone called my boss to tell him that I was a lesbian, that I fancied women and lived with a woman. Immediately after receiving that call, he called me into his office and asked me straight away if I was a lesbian. Of course, I got really nervous, but said I wasn't. No matter how hard I tried to convince him, he fired me all the same and said that he wasn't doing it because he himself was homophobic, but because he served the public and someone might somehow find out and he would lose his clients. I had no choice but to leave.⁶

⁴ In its broadest sense, the right to privacy can be defined as that human right by virtue of which a person, -whether an individual or group-, has the power to exclude others from knowledge of their personal life - feelings, emotions, vital and personal data and image -, as well as the faculty to determine how much those dimensions of the personal life can be communicated rightfully to others. (IEPALA, op.cit)

⁵ Adeim-Simbiosis, focus group coordinated by Yngrid Guzmán, in La Paz, Bolivia, July 2004.

⁶ Adeim-Simbiosis, focus group coordinated by Yngrid Guzmán, in La Paz, Bolivia, July 2004.

Teresa: (Bolivia)

I worked as a teacher at Instituto América. One day, one of my students saw me with some lesbian friends, and the next day the rumors flew throughout the Instituto and, unfortunately, reached the ears of the Principal. He fired me without offering any explanation.⁷

Vilma Georgina (Honduras)

I'm 25 years old. I used to work at a family-owned chain of stores, Tiendas Carrión... the best stores in Honduras.

One time, an openly lesbian customer came to the store. When my co-workers saw her talking to me, they started calling me "marimacha" behind my back. A week later, the lady supervisor and the manager started calling my co-workers to ask them whether I'd ever touched them or harassed them, if I drank alcohol or smoked. The situation got so tense that every time they rotated a new girl in to the section where I worked, the first thing she asked was to see "the lesbian." I decided to talk to David Núñez (the store manager) and ask him why they meddled in my private life. He replied, "A lie told a hundred times becomes a truth."⁸

María (Mexico)

When they found out at the office that I lived with a girl and had gay friends, they tagged my locker and my chair with names. I also became the target of religious and homophobic comments coming from my bosses and colleagues at work."⁹

⁷ Adeim-Simbiosis, focus group coordinated by Yngrid Guzmán, in La Paz, Bolivia, July 2004.

⁸ Cattrachas interview with "Vilma Georgina" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004.

⁹ Artemisa interview with "María" conducted by Marina Bernal, in Mexico City, June 2004.

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Marcia (Mexico)

One day my lady boss, who was also a lesbian but a closeted lesbian, said to me "Listen, you have a lot of women calling you." And I said "So? What's the problem? That I'm getting personal calls? That I'm getting calls from women?"... "That you get personal calls." "Fine, it's over. If it's the office phone I don't have a problem understanding that."

1.2 VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION¹⁰

Tania (Bolivia):

I worked as a secretary at the Libros y Más bookstore in the city of La Paz. When my co-workers saw me hugging my partner, they told my boss. He called me into his office and said I had to quit my job because my co-workers didn't want to share their office space with someone like me. He also told me what I was doing was against all morals and that he couldn't accept my life-style.¹¹

Rubí (Mexico):

I would like to be able to say it. Everyone talks about their wives and I can't talk about mine. I have to say "he" instead of "she" and I would like to say "her."¹²

And then one day I said to one of the lady lawyers who worked with me "No, darling, that's not how you do this," and my lady boss said "Be very careful." And I said to her

¹⁰ The right to freedom of expression can be defined as the right of the individual to publicly and outwardly express his opinion, thoughts and all other aspects of his personality (IEPALA, op.cit)

¹¹ Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz – Bolivia, July 2004.

¹² Artemisa interview with "Rubí" conducted by Marina Bernal in Mexico City, June 2004.

“Look here, you’re tripping out. A lot of women talk to each other like that.”¹³

Denying a woman work or treating her unequally because her physical image is "not feminine enough" — which in the labor market translates into “good appearance” and in terms of social mores equals “pretty, attractive” — constitutes another violation of the right to freedom of expression.

"Beauty" as a social value has gained increasing importance in Latin American societies. Even men now must face the demand that they have "well-preserved" bodies and a youthful appearance in order to be accepted in society. For women, beauty has always been an obligation, and it still is. "Beautiful" is generally a synonym of slim and light-skinned, with light brunette or blonde hair and blue eyes. Exceptions may exist, such as the "exotic beauty" with indigenous or African features, but "beauty" with no adjectives attached reflects the racism that prevails in Latin American societies, and by default, that is still understood as "white and blond." A "beautiful" woman is above all "feminine," that is, she reproduces to the letter the feminine ideal prevalent in her society: she is both dainty and competent, sensuous and eager to stir the desire of men.

The United Nations Special Rapporteur on Violence Against Women acknowledged, in her 2002 Annual Report, that the parameters of beauty affect women in different ways. As she states:

In the “Western” world in the twenty-first century
the beauty myth that a thin female physique is the only
accepted shape is imposed on women by the media via

¹³ Artemisa interview with “María” conducted by Marina Bernal in Mexico City, June 2004.

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magazines, advertising and television. This message is sent to young impressionable girls who strive to attain this perfect image without realizing that this image is often unrealistic. Advertisements continue to portray women in their traditional roles or as bodies to sell a product. This culture of impractical ideals results in many practices that cause a great deal of abuse to the female body. Cosmetic surgery of every part of the female body has led to health problems and complications for many women. In addition, eating disorders due to unhealthy food habits has also raised a great deal of concern in the Western world. Girls and women are disproportionately affected by eating disorders and cultural demands for thinness in the Western world.¹⁴

All women who depart from those ideals suffer various forms of exclusion and mistreatment in society. In the workplace, "beauty" and "femininity" translate into "good appearance," an unavoidable requirement for women at all levels of occupation, from the humblest to those that require higher academic credentials. Sometimes, the requirement is requested explicitly (as in the help wanted ads for example), but in most cases it is never mentioned, notwithstanding the fact that it influences applicant selection and promotion possibilities for female workers.

Lesbians (and some bisexual and heterosexual women, too) whose gender expression does not fit the "feminine" ideal face severe difficulties when searching for and trying to hold onto a job, as the testimonials that follow show.

¹⁴ Radhika Coomaraswamy, 2002. Violence against women: Cultural practices in the family that are violent against women. UN Annual Report: E/CN.4/2002/83, Paragraph 96. Artemisa interview with "Rubí" conducted by Marina Bernal in Mexico City, June 2004.

Marcela (Bolivia):

I used to work as a translator for Hijos de Dios, a religious institution that helps the homeless. At first my boss had no problem with how I dressed, but because everything changes, they changed my boss. The first thing his replacement did was try to force me to either change my dress style or quit my job. Since I didn't agree to his request, I had to resign. Because of how I dress I often have trouble getting a job, since I'm not exactly the most feminine woman.¹⁵

Sonia (Honduras):

I always dress masculine. I'm in charge of payroll at the export cigar factory, so it doesn't affect me too much, and the people around me have already gotten used to it. But before I worked there, whenever I applied for jobs in banks or stores, they obviously wouldn't hire me because of my "dress style," since the jobs required contact with customers and they preferred women who dressed provocatively.¹⁶

Marcia (Mexico):

I have two female friends who some time ago were about to start working for the city government. They got through the interviews and everything, then finally someone spoke to them and said no, maybe if their appearance were different, yes, but no lesbians in government, no, at least not that obvious.¹⁷

Amanda (Mexico):

I taught kindergarten for nine years, and since I didn't fit the white, tall, slender, feminine stereotype, they didn't invite me to

¹⁵ Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

¹⁶ Cattrachas interview with "Sonia" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004

¹⁷ Artemisa interview with "Marcia" conducted by Marina Bernal in Mexico City, June 2004.

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many meetings and didn't give me good year-end evaluations.¹⁸

All of the cases we have included above reflect a breach of the commitments governments have assumed upon ratifying the CEDAW (Convention for the Elimination of Discrimination Against Women), which says in Article 5.a that:

“States Parties shall take all appropriate measures:
(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;”

This right has also been recognized by the Interamerican Convention to Prevent, Punish and Eradicate Violence Against Women, or the Belem do Pará Convention, as follows:¹⁹

Article 6. The right of every woman to be free from violence includes, among others: a. The right of women to be free from all forms of discrimination; and b. The right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.

CEDAW dedicates one specific article (Article 10) to the educational environment, and underlines the fundamental importance

¹⁸ Artemisa interview with “Amanda” conducted by Marina Bernal in Mexico City, June 2004.

¹⁹ Ratifications: Bolivia 10/26/94, Brazil 11/16/95, Colombia 10/3/96, Honduras 7/4/95 and Mexico 6/19/98.

of “the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education, so that all women may in fact live free from discrimination.” The following testimonial, from Janet (Colombia), underlines the gap between the reality and this pledged commitment.

In the month of January, 2002, I showed up for the teacher selection process at the Fundación Universitaria Los Libertadores, in Bogotá. I applied for the Hotel and Tourism program. My objective was to have them assign me to Geography I, Geography II and Ecotourism.

I went through the entire selection process and in the interview with the psychologist they rated me at 3.61. The rating scale went like this: from 1 to 2.9 doesn't get selected; from 3.0 to 3.5 gets selected under observation; and from 3.6 to 5.0 gets selected without observation. So they selected me without observation, but the psychologist put this remark in her report: “Suggest follow-up of her teacher-student relations. Evidenced unfeminine gestures and attitudes. Her personal appearance was not the most appropriate for the interview.” Before reaching the phase with the psychologist, I had several academic-oriented interviews in which the dean of the Department of Human and Social Education at this university confirmed my academic credentials. They found no impediment.

Faced with pressing deadlines for the selection process and the long delay before the interviews with the psychologist, they went ahead and gave me my class schedule and information about the administrative processes so I could plan my curriculum.

I still didn't have a contract because you have to go through the whole process, and once I got to the interview with the psychologist, even though I hadn't seen the results, I went ahead and showed up

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for the first day of classes, after which you have to sign an attendance sheet. When I didn't find my name on it, I went to the dean's administrative offices. There they told me that something had happened and that I couldn't sign anything until I'd spoken with the dean of the humanities department, who would be there at night. They recommended that I not enter the classroom for my next class before speaking to her. I had scheduled classes from 7 to 9 in the morning and 8 to 10 in the evening, Monday to Thursday.

At the meeting that evening, the director told me to relax, she really didn't think I had any need to get worked up. I had no idea what she was talking about yet. She talked to me about a lot of things for almost an hour before telling me the results of the interview with the psychologist. She said that as soon as I'd left the psychologist's office, she [the psychologist] proceeded to call her in. She told her about the observations she'd made and said that I should be hired only under certain conditions, to which she replied that it seemed absurd to have to coordinate a follow-up. She apologized to me and said that it wasn't her policy, much less the university's policy in particular; but that the psychologist's decision was the most important one in the selection process. After we talked about the many teaching projects we had in common, she asked me: "Why don't we tear up the psychologist's evaluation?" to which I said no. At that moment some people came into the office and I took advantage of that to make photocopies (of the evaluation).

I reacted very calmly. I still hadn't read the psychologist's evaluation, so I assumed it had to do with my age. I thought I was too young to establish a teacher-student relationship with thirty-year-old, the average age at that university. I'm a delayed-reaction type of person. I got home feeling sad and told my parents more or less what had happened. They still didn't know I was a lesbian.

I felt really bad for almost a month. I was very discouraged because a lot of things related to my financial security depended on this job. I felt really bad, I blamed myself for everything, but I never questioned or punished myself because of my sexual orientation. I was really shocked because there's been a long, ongoing process of struggle to eliminate employment discrimination based on sexual orientation, and that's what bothered me. I assumed that discrimination in the job market had been eliminated.

I seriously thought about suing that psychologist before the Colombian Psychology Society, but in the end I didn't feel capable of doing that. I don't regret not having done it. Besides, even if I had filed a lawsuit for employment discrimination and won reinstatement, I had no interest in staying at the university under those circumstances.²⁰

“Zeta” (also from Colombia), whose full testimonial appears in Chapter 4, tells a similar story.

3. VIOLATIONS OF THE RIGHT TO PERSONAL SAFETY AND A LIFE FREE FROM VIOLENCE²¹

The widespread forms of prejudice against lesbians in society also find expression in the workplace. Lesbians, like all “Others” (men and women of African descent and poor people, for example),

²⁰ Nosotras LBT Network interview with “Janet” conducted by Elizabeth Castillo in Bogotá, Colombia, June 2004.

²¹ The right to life understood as the right to preserve psychic and physical safety, also known as the right to integrity of the person *derecho a la integridad personal*, can be defined as that human right which implies a demand or intention, on behalf of the bearer, to preserve –in the face of any form of aggression, whether physical or moral,- his or her existence within certain standards of feasibility and dignity in the physical, psychic and moral dimensions. (IEPALA op.cit)

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have been hypersexified in the catalogue of social mores. The lesbian woman "is" sex, therefore what sort of relationship, aside from the purely sexual, could she possibly establish with someone else, regardless of her age? The spectre of the "lesbian deemed unfit to deal with girls" due to her supposed "propensity towards sexual harassment" appears in Zeta's testimony in Chapter 4. In the following example, one of our Mexican interviewees describes a situation that illustrates this point:

Rosa María (Mexico)

Primary school and kindergarten teachers absolutely have to live in the closet.²² We have several colleagues in the group, and they have to stay in the closet because if they don't, they get fired immediately. There's this idea, this fallacy that they're going to abuse the children, and that's also discrimination. When they tell us that, we say "well, keep an eye out, because most rapists are heterosexual men and family members of the girls who get raped."²³

In the following example we see once again the idea that you can't expect anything from a lesbian but "sexual" conduct, which turns her into a potential stalker, this time stalking an adult woman:

Marcia (Mexico)

When the woman who would later on become my boss interviewed me for the job, she said to me: "I want to ask you a question, and don't think it's because of any indiscretion on behalf of "A" (my friend, who had recommended me for the job)... Are you

²² NOTE: The term "Closet" is used as an Anglicism in almost every Latin American country and with the same meaning that it has in English, to designate lesbians or gays who hide their preference as such in one, several or all spheres of their life. It is also applied to lesbians and gays who have not engaged in a personal process of accepting said condition.

²³ Artemisa interview with Rosa María conducted by Marina Bernal in Mexico City, June 2004.

a lesbian?" I said that wasn't an indiscretion and yes, I am a lesbian and have been a militant. Because she'd worked with the government and I thought she might have access to files, I said: "Yes, I was a speaker in the second Gay Pride Parade in '80 and I've taken part in many other activities." And she said to me "I don't have a problem with that," and I said, "I don't either; I don't have a problem with other people's heterosexuality, or with anyone's sexuality." And she says to me: "All I want to request of you is that you don't fall in love with me." Later on, I told my friend "A" about it, and she replied: "She said the exact same thing to me."

While prejudice taints lesbians as "stalkers," the reality puts them in an unfortunate yet all too common position for many women: that of victims/objects of sexual harassment at the hands of their male bosses. In the case of women already identified by their bosses or colleagues as lesbians, an excuse with deep cultural roots accompanies the harassment, and that excuse is that what lesbian women really need is a man "to rid them of that lesbian thing:"

Rosemary (Honduras)

I'm 21 years old, I live in the city of San Pedro Sula, Honduras... Until recently I worked at the Holiday Inn Hotel in marketing and sales. I'm a lesbian, but no one at my job knew about it until the day they heard me talking on the phone to my partner. A few days later, my boss called me into her office and told me that she had no interest in my personal life, but she did have an interest in my professional life, and not to let my guard down on the job. The problem started with Héctor, the administrative director, who stalked me all the time. When he found out about my sexual preference, the stalking got worse, to the point where I no longer wanted to go to work. One day my partner suggested that I tell him I was going to accuse him of harassment on the job, and that's what I told him.

His girlfriend, a colleague of mine at work, also found out

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about what he was doing to me. He'd been saying he "wanted to cure" me of being a lesbian, because I still hadn't met a real man who could make me feel something. The situation got so uncomfortable that I resigned because it started to put me under a lot of stress.²⁴

In some cases, women are "accused" of being lesbians because they don't give in to the harassment of their bosses or colleagues at work. This accusation presents a problem for all women, but for those who are, in fact, lesbians and who try to conceal this aspect of their lives, the situation becomes even more difficult. In many cases, not even the explicit assertion of lesbian preference is enough to put an end to the harassment.

Rubí (Mexico)

Both managers harassed me, the night manager and the day manager, each on his own, but both (...) would make insinuations to me, and the night manager told me he definitely wanted everything with me. I told him what he wanted was too much. I said no, because it wasn't right. In fact he had his wife, he should look to her. And he started getting worse, every day, telling me I was a lesbian and that's why I didn't give in. And I said, "It seems to me like you're the one who's gay and you think we're all alike." That's how I handled him, and he said no, I was the lesbian because I wasn't giving in. It's uncomfortable for me because no matter how much you tell them "I don't want to, I'm not interested"... it's harassment, and as a woman you have to say "I'm married, I'm not interested. I'm happy, leave me alone." And I no longer know what works and what doesn't. Because I tell them "I'm married." They say "It doesn't matter, it's all right." "I'm a lesbian, I don't like men, they don't interest me."

²⁴ Catrachas interview with "Rosemary" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004.

They get more obstinate. I don't know what it's all about.²⁵

4. VIOLATIONS OF THE RIGHT TO DEFEND HUMAN RIGHTS

Karina (Mexico)

I teach at the Language School, part of an international company that teaches English. I'm an activist, so one day I took part in a television program about young lesbians. The mother of one of the students at the school saw the program and went to the school's director to complain about the school having a lesbian at the institution. That woman threatened to raise a commotion (her husband worked at a very prominent Mexican television station) and to take her daughter and her friends' daughters out of the school if they didn't expel me.²⁶

Marcia (Mexico)

We had a lot of arguments about it at the union. By that time we'd held some marches, people talked about the issue more, and after those arguments, I remember the general manager where I used to work told me not to take his advice in the wrong way, but that I shouldn't defend homosexuals so vigorously because people would think I was one... How do you respond to that? And I said nothing, thanks a lot for the pointer.²⁷

5. VIOLATIONS OF SPECIFIC ASPECTS OF THE RIGHT TO WORK

THE RIGHT TO EQUAL OPPORTUNITIES FOR PROMOTION

²⁵ Artemisa interview with "Rubi" conducted by Marina Bernal in Mexico City, June 2004.

²⁶ Artemisa interview with "Karina" conducted by Marina Bernal in Mexico City, June 2004.

²⁷ Artemisa interview with "Marcia" conducted by Marina Bernal in Mexico City, June 2004.

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Marta (Bolivia)

A friend of mine, in Santa Cruz, did not get promotion in her job because her boss learnt that she was a lesbian. What happened was that some co-workers were jealous of her and set out to look for something that would deprive her of promotion. And found it, because they took to follow her to know what she did after work. They were able to present evidences to the boss and he decided not to promote her, but not to fire her either.²⁸

Cristina (Brazil)

In the year 2000 I worked as a nursing technician at a clinic in Rio de Janeiro. Some professionals at the clinic recommended me for a supervisor opening on one of the teams, but the chief of nursing staff rejected the recommendation arguing that I wasn't capable of filling the post because I was a lesbian. Fortunately, other professional staff members at the clinic interceded with the owner, who passed up the chief of nursing staff's recommendation and confirmed me in the supervisor post, which I still hold today.²⁸

Helga (Honduras)

I'm 36 years old and presently work at the General Office Of Criminal Investigations. The reality is that I've had fewer opportunities than my female colleagues as far as promotions and raises go.²⁹

²⁸ Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

²⁹ Criola interview with "Cristina" conducted by Lucia María Xavier de Castro, in Río de Janeiro, Brazil, October 2004.

THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

The World Health Organization (WHO) defines health as a “state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”²⁹ As the following examples show, the hostile attitudes of female or male colleagues contribute to creating a hostile environment, which keeps lesbians from experiencing the workplace as a space of self-actualization, well-being and growth.

Karina (Mexico)

Every day I get sadder because of how they treat us. That’s what I live with, always so upset because I have to tell myself “Gosh, I won’t do that because something could happen...” and I’m always under pressure to perform super well at work, with really high demands... Right now that’s how I make my living, so my life has really been very limited because I have to make sure my students don’t see me and go tell on me, so it’s best to just leave it at that... I’ve been living with all these restrictions, always feeling like the next day someone’s going to come around and say: “Hey you, pervert... What are you going to talk about? Oral sex?...” And then you have to go and complain, and that’s how it is for me all the time. They might just fire me tomorrow, so that’s why I work more and make more of an effort, to relieve the worry.³⁰

³⁰ Preamble to the Constitution of the World Health Assembly adopted by the International Health Conference, New York, June 19th-22nd, 1946

³¹ Artemisa interview with “Karina” conducted by Marina Bernal in Mexico City, June 2004.

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Sonia (Honduras)

I'm 30 years old and work as a payroll officer in a cigar factory. It's worth mentioning that I'm undeniably lesbian. I've held onto this job through a lot of effort and extra hours, so I can assure you I give 20% more than anyone else.³¹

Helga (Honduras)

I'm 36 years old and working now at the General Directorate of Criminal Investigation. My story's a common one at this institution: most of my male colleagues talk about me behind my back and call me "marimacha" or "lesbian." My superiors have done nothing to stop the harassment; on the contrary, they contribute in some way to keep it going. I live in the complex where all agency employees have privileges, so my neighbors are also my colleagues at work. They've taken it upon themselves to start making comments in my neighborhood, and since I live with my partner, their children and wives add their own comments and turn it into grist for the mill.³²

A driver [at the store] who lived in the same complex saw me with my partner and the whole lurid thing about my sexuality continued. And that wasn't enough; they would make fun of me on the bus. I reported the man but the management ignored my complaint. The stress was unbearable, because even in the bathrooms they had written graffiti about me being butch. I went back to management and threatened to take it to [the] Human Rights [Special Prosecutor]; that calmed things down a bit. Management spoke to the women involved to get them to respect me as a woman.

³¹ Cattrachas interview with "Sonia" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004.

³² Cattrachas interview with "Helga" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004.

B. THE INTERVIEWEES' POSITIVE EXPERIENCES OF SUPPORT AND SOLIDARITY

Among the testimonials compiled for this Report, one fact stands out: the positive responses and support of some female bosses toward lesbians who openly assume their lesbianism in the workplace.

Rubí (Mexico)

No, I haven't come out at the job I have right now. In fact, I always keep quiet about it at all my jobs. Right now the only one who knows is my manager. I did tell her, we confided in each other... She asked me about my colgijes.³³ She said "I'm thinking you are." I said "The truth, yes." "Oh, so that's cool." She was really open, really relaxed about it, and we continued getting along from the time I got here to now, nothing has changed at all. In fact everybody says I'm her pet and that really gets me going.³⁴

Marcia (Mexico)

The problem — and I'm thankful to my other boss for the way she handled everything — started because I was the administrative coordinator and this other girl (the one who brought me there, in fact)...., this other girl worked as an event planner and we had a fling. Not even a relationship, well, a passionate, stormy relationship, but having that at the workplace, was... And it's over, it didn't last long and our boss was great about it. She knew how to handle things, keep it from becoming something larger. She started talking to each one of us separately, and said "Alright, alright, it's been a month

³³ Wristbands, necklaces and other fashion accessories that literally "hang." In this particular case, it refers to rainbow-colored accessories, which represent the banner of diversity and which, when worn, express to those who understand their meaning that the wearer is lesbian or gay.

³⁴ Artemisa interview with "Rubí" conducted by Marina Bernal in Mexico City, June 2004.

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and you two broke up already, so that's it, talk to each other again, let's all go dance." That was good, and my problem there started not because I'm a lesbian, but because I'm passionate.³⁵

Karina (Mexico)

(When they tried to fire me)... my immediate superior at the time defended me but told me "I'm going to talk to the general director and I'm going to ask him to please let us reinstate you in two months, three months, but for right now, we'll just let the scandal die down." (See complete story in Chapter 4).³⁶

Some interviewees also cited positive experiences regarding the possibility of securing health insurance or access to social benefits for their partners. Marcia (Mexico), for example, relates her experience:

"Yes, this was fine... no problem here. Two things: One was the life insurance policy we have where you name a beneficiary, and I put her down as my beneficiary. Where it asked for "Kinship:" "None." And nothing happened. The other one happened at the union, where we pay dues and it goes into a fund for I don't know what. I put her down for that too, and there was no problem."³⁷

Rosa María (Mexico), who works at the Metropolitan Autonomous University of Mexico, took advantage of the wording on the major medical insurance form, which includes options for "concubino o concubina" (NOTE: In Mexican legal documents, "concubine" means "common-law partner" or "live-in partner") and included her partner:

³⁵ Artemisa interview with "Marcia" conducted by Marina Bernal in Mexico City, June 2004.

³⁶ Artemisa interview with "Karina" conducted by Marina Bernal in Mexico City, June 2004.

³⁷ Artemisa interview with "Marcia" conducted by Marina Bernal in Mexico City, June 2004.

I think we ourselves retreat and don't defend our rights. Here, for example, we have a major medical insurance policy which includes your partner or "concubine." So I went to request the application for my partner and they tried to argue that I couldn't because she's a woman. I said "No, wait. It says here 'concubine, wife or husband.' She's my concubine, she's my partner (I think it also included the term "partner"). She's my partner and you have no grounds for discrimination.' I fought it and won: I have major medical coverage for her (...) You see, unfortunately, around two or three years ago she got pneumonia and had to check into the hospital and we had to use that benefit, so when we got to the hospital to sign her in, the receptionist started to take our information and she asks me: "Patient's name, name of the insurance provider and kinship." I said "she's my partner" and the girl turns around and looks at us... and she didn't know how to phrase it. She froze in front of the computer. "She's my partner, miss." "Should I put down friend?" "No, she's my partner." ³⁸

C. SURVIVAL STRATEGIES AND MECHANISMS EMPLOYED IN THE WORKPLACE BY INTERVIEWEES

1. HIDING

Hiding appears to be the basic, fundamental strategy that lesbians use to protect themselves from discrimination and other human rights abuses in the workplace. But what does hiding one's sexual preference in the workplace imply? As we shall see in the testimonials that follow, in certain cases it means not talking about the life you lead outside of work; in others, it may mean you have to either invent or actually lead a heterosexual existence. As far as this

³⁸ Artemisa interview with Rosa María conducted by Marina Bernal in Mexico City, June 2004.

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issue goes, it's worthy of notice when some of our interviewees argue that there is no reason to make one's sexual preference "public," while ignoring the fact that this limitation applies only to lesbians (and homosexuals, or the homosexual relations of bisexual people). Few places make heterosexuality as "public" as the workplace does from the swapping of stories about family life while on break to the presence of spouses at workplace events in some companies, not to mention the offices where male and female employees display photos of their spouses, daughters and sons.

Some interviewees insist that their sexual preference doesn't affect their on-the-job or professional performance. This is true, but here, too, the boundaries between the private and the public become blurred. A woman's marital status (and, in certain cases, that of a man) remains a relevant factor in hiring, promotion or retention at most jobs. Depending on the work environment, a married woman may be considered more stable or more trustworthy than a single woman (in teaching, for example). In other cases, profitability prevails and single women without the burdens of family are the preferred employees. Gender inequality still implies that women rarely get judged strictly on their on-the-job or professional performance. A woman's marital status still "speaks" to her maturity, trustworthiness or availability as a worker. And, as we have asserted previously, a woman's appearance can either multiply or hinder work opportunities.

Moreover, couldn't the energy that lesbians must employ to keep the doors of their closets shut, the tensions generated by the possibility of being discovered and the watchfulness over gestures and conversations be channeled toward doing their jobs with greater efficiency and creativity? Can we say categorically that sexual preference does not affect one's professional abilities when the society in which we live condemns that sexual preference, therefore making

it necessary to hide it or, in a small percentage of instances, defend it?

In this regard, every woman draws the line as to how far she's willing to go, what price she's willing to pay, and how to balance protecting herself while at the same time not betraying herself. It's a delicate balance that varies according to circumstances at the workplace, her age and her contact with (and the existence of) organizations and legal resources that might support her in cases involving discrimination.

Hiding, however, as we shall see ahead, does take a serious toll on the physical and emotional health of lesbians.

María (Bolivia)

Our society, unfortunately, is very close-minded, and therefore if you want to keep your job you have to hide your identity because of the intolerance and lack of knowledge about the subject. I usually hide it by going out with guys.³⁹

Tania (Bolivia)

In my case, after what happened to me before, I prefer not to appear in public anywhere with other lesbians, and when they ask me if I'm married, I say I am.⁴⁰ (Tania narrates her full story in Chapter 4.)

Marta (Bolivia)

I don't talk about my private life at all, and when people bring

³⁹ Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

⁴⁰ Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

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up the topic of heterosexuality and couples, I play along but I don't use anyone as a smokescreen.⁴¹

Patty (Bolivia)

No one, or at least no one I know, would make their private life public. No one has the right to denigrate our life or judge it. I wouldn't make it public. My professional capacities don't hinge on my preference, they're two separate things. When they ask, I say I have a boyfriend.⁴²

Carla (Bolivia)

I try to hide it by being very feminine.⁴³

Amanda (Mexico)

I believe that as long as you are fine with it, you don't have to go around telling everyone, because unfortunately it's not yet at the level where you can discuss it... Whoever wanted to know could ask me, but I didn't go around yelling it out, no. I never talked about my sexuality at my formal jobs."⁴⁴

Marcia (Mexico)

No, I don't watch myself. I've never been the "closet" type, but I don't go around telling, either. I let people think whatever they want to think.⁴⁵

⁴¹ Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

⁴² Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

⁴³ Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán in La Paz, Bolivia, July 2004.

⁴⁴ Artemisa interview with "Amanda" conducted by Marina Bernal in Mexico City, June 2004.

⁴⁵ Artemisa interview with "Marcia" conducted by Marina Bernal in Mexico City, June 2004.

Cecilia (Mexico)

Well, the truth is that since I'm a music teacher at a school, although there are a lot of us homosexuals, I've always made it my decision to hide my sexual orientation. The truth is, that's easier than getting into problems involving lawyers... and having them greet me with long faces there.⁴⁶

Sonia, from Honduras, eloquently summarizes what hiding implies for lesbians:

At our company, my other lesbian colleagues prefer to hide their lesbian tendencies, because it's very clear how hard it is to fight society and your surroundings, so it's preferable to hide it for the sake of financial stability. What they do to hide their lesbian tendencies is pretend that they have a boyfriend or a relationship with a man, but it has consequences for their mental health. They're exhausted, emotionally unstable and that damages their relationships, sooner or later.⁴⁷

2 THE SEARCH FOR MORE AFFIRMING WORKPLACES

Some women who do not want to or cannot hide their lesbian preference may, in certain cases, have the option to work in places that allow them to project an image much less restricted by the traditional feminine canon, such as NGOs (see Chapter 5 for a detailed study of this sector of the job market) or the world of the arts, which has a significant number of out-of-the-closet male homosexuals. Of course, in most cases this option has a strong class component and only allows entry to women with higher levels of formal education. In some cases, women exchange the possibility of

⁴⁶ Artemisa interview with "Cecilia" conducted by Marina Bernal in Mexico City, June 2004.

⁴⁷ Cattrachas interview with "Sonia" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004.

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earning higher wages for the comfort of not being challenged or discriminated against because of something so central to their personality. This is certainly the case at many NGOs (see Chapter 5), but is not exclusive to them.

Zeta (Colombia):

I modified the profile of the school where I would want to work. They don't pay that well, but you are who you are, you don't hide who you are, and the human being matters. All that matters is who you are, how you feel and how you reason. I traded money for that well-being. I earn half of what I could be earning but I'm happy. ⁴⁸

Marcia (Mexico):

At the arts venues, you have greater freedom to express your sexual orientation without any problems, like in a choreography workshop or the case of this dancer or that musician. Theater, music, dance, everything. Because it's like there's more gay people there, so that on the one hand. I had no problems there.

Academy in that sense is very friendly. I think it allows a lot of things. Another advantage academy has is that you don't have someone looking over your shoulder all the time, and that for us is really important. You can dress however you want. We have our work cubicles here, where you're generally alone or with people you want to be with. Your main interaction is with students, and regardless of your religion, preference or ideology, you're in a position of power, so in that sense we have several advantages. ⁴⁹

⁴⁸ Nosotras LBT Network interview with "Janet" conducted by Elizabeth Castillo in Bogotá, Colombia, June 2004.

⁴⁹ Artemisa Interview with "Marcia" conducted by Marina Bernal, in Mexico City, June, 2004.

Amanda (Mexico)

Maybe it's because academy isn't so rigid. You have more freedom, so yes, it's like they're more neutral spaces.⁵⁰

Rosa María (Mexico)

Because it's an educational institution, and supposedly the people there are forward-thinking. I've had a few promotions and have never been limited by my sexual orientation."⁵¹

3. USING THE COMPANY'S OWN INTERNAL LOGIC AS A DEFENSE

In very traditional environments what lesbians sometimes do, without even making their sexual preference explicit, is to use the company's own internal logic. For example, they can demand that the company subsidize the cost of a "good appearance," as in the following example:

Rubí (Mexico)

You get that a lot in showroom girls, because I've also worked as a showroom girl: the "obligatory skirt." A lot of companies require the skirt. If they want me to wear a skirt, then they can buy it for me. That's definitely how I handle it: if they give me the uniform, obviously I wear it and if they don't, it's not going to come out of my pocket (...) (M: So did they buy it for you?) Yes. I tell them flat out, 'you know I don't have the money to buy it and I have nowhere to pull it out from, so if you want to hire me then hire me, and if not, I'll look elsewhere.' 'Fine, there's your uniform, don't tell anyone.'⁵²

⁵⁰ Artemisa Interview with "Amanda" conducted by Marina Bernal, in Mexico City, June, 2004.

⁵¹ Artemisa Interview with "Marcia" conducted by Marina Bernal, in Mexico City, June, 2004.

⁵² Artemisa Interview with "Rubí" conducted by Marina Bernal, in Mexico City, June, 2004.

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Another, much sadder way to take advantage of the prevailing logic at the company consists of “reaping the benefits” of the dehumanization of male and female workers, which in certain companies makes their sexual preference irrelevant as long as it doesn’t interfere with their “exploitability:”

Rubí (Mexico)

I’ve seen it with my acquaintances: some companies don’t care. Like they say, as long as they deliver the work, nothing else matters to them. ⁵³

4. ASSERTIVENESS FROM A POSITION OF MILITANCY

In the case of lesbian activists, sometimes the work they do to gain acceptance of their preference puts them at an advantage when it comes to facing discrimination. These activists usually have an additional advantage: they have greater knowledge of supportive laws in force where they live and they have contact with human rights organizations, which gives them a different approach to threatening and hostile situations.

Rosa María (Mexico)

I’ve been working at this university for 21 years. My coming out of the closet and coming to work at this university happened hand in hand, but gradually. At first I was really scared. I was scared of being rejected, of having people look down at me, even having them kick me out. But little by little I started to understand that I didn’t have to be embarrassed about it, and that if they didn’t talk to me, well it wasn’t my problem but the problem of whoever decided not to talk to me. And if they kicked me out, well, then we would have a real problem because they can’t kick me out for being a lesbian.

⁵³ Artemisa Interview with “Rubí” conducted by Marina Bernal, in Mexico City, June 2004.

That was it: I started getting my courage up, opening things up on my own... And yes, I believe so. Look: they stigmatized blacks a lot, and calling them black was derogatory, but they took it back as a way of giving themselves dignity. I think this can be done, and should be done, to dignify what you are. Because in the end that's what you are. We can't live like ostriches with our heads buried in the sand. And when you come out and say it, it disarms them, they don't know what to say, they don't know how to respond to what they suspect and you confirm. The word lesbian sounds too strong to people, and I say why should it sound weak? Why: because it refers to a woman? Gay sounds really light or really gentle. Lesbian is a strong word and I like it. I very much identify as a lesbian, I know myself to be a lesbian, I like myself as a lesbian, just like that. ⁵⁴

Karina (Mexico)

Karina works as a teacher at an international language school in the capital, Mexico City. She almost got fired when the mother of one of her students complained to the administration about a lesbian working at the school after seeing Karina present herself as a lesbian on a television report. Karina's complete testimonial appears in Chapter 4.

Then they made me sign a resignation letter. I didn't really know what to do but this law that says they can't discriminate against you had already been passed ⁵⁵. The next day I went to talk to the people at Amnesty International, and we agreed that the lady director would write me a letter. I didn't want them to sue them or anything like that, because then I couldn't go back to my job, which I really needed. She said "Well, I can write a letter for you as a reminder to your company that they can't do what they're doing. You take that

⁵⁴ Artemisa Interview with Rosa María conducted by Marina Bernal, in Mexico City, June 2004.

⁵⁵ Mexico City Penal Code, Article 26 (see Chapter 2).

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letter and the one from the National Human Rights Commission, which is in touch with Amnesty International." The director said: "I don't think they know who they got involved with." She meant because of my contacts... So I think someone told the director his actions would have consequences. They called me the next day and said: "Yes, we won't dismiss you. We will transfer you to another branch, but you have our guarantee." ⁵⁶

D. THE POSITION OF TRADE UNIONS AND ON LESBIANS AND THEIR RIGHTS AS WORKERS

Many activists might expect to find support at the trade unions. Unfortunately, those who have sought such support have generally come away disappointed.

In BOLIVIA up to now trade unions have completely refused to discuss the issue, as in the following account by ADEIM-Simbiosis, the project partner group from Bolivia:

We went to the offices of the COB (Central Obrera Boliviana, or Bolivian Workers Central). We wanted to talk to the top leader, but the secretary told us that he was very busy and that what we could do was leave our telephone number and she would get in touch with us and grant us an interview at an agreed-upon date and time. Supposedly, this had to be within a week at the latest, but the call never came. So we insisted and went back to the office but, unfortunately, we had no luck that time either, since the leader we mentioned wasn't around and no one knew when he would return. They told us that it would be difficult to meet with him because he was very busy. Then we tried to talk to another leader, but that didn't work out either. We tried several times but whenever we went

⁵⁶ Artemisa Interview with "Karina" conducted by Marina Bernal, in Mexico City, June 2004.

there, they were busy with meetings or there was simply no one to talk to.

BRAZIL offers a more varied landscape, according to Criola, our project partner:

Most Brazilian trade unions are affiliated with CUT (Central Unica de Trabalhadores, Single Workers' Trade Union). This union has a strong relationship, both historically and politically, with the PT (Partido dos Trabalhadores, or Workers Party). Libertarian causes, including freedom of sexual orientation, have always been on the PT platform. Several years ago the CUT joined the Gay Pride contingents marching with its banners and slogans in cities like São Paulo and Porto Alegre.

Other trade unions, such as Forza Sindical (Trade Union Force) CGT (Confederacion al dos Trabalhadores, or General Workers Union) and SDS (Social Democracia Sindical or Trade Union Social Democracy) have not taken on homosexuality as an issue.

Elizabeth Castillo, research coordinator for the Nosotras LBT Network of Bogotá, COLOMBIA, made the following statement regarding her country:

In Colombia, the issue of homosexual rights doesn't figure on trade union agendas. The experience of a project called Planeta Paz, which aims to unite popular social sectors, has been an interesting example. The union representatives (all of them men) had very disengaged attitudes toward the LGBT sector, especially the women, but after some ongoing work with them we've managed to get some recognition. For the union movement, women's rights do not exist as a project to struggle for.

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The position of HONDURAN trade unions at this time is a complete unknown. CATRACHAS, our Honduran partner, commented:

Despite our repeated attempts to approach them, they have made their refusal evident through their absolute apathy and indolence. While we conducted the research we contacted them several times by fax and e-mail with requests for interviews with the most representative trade unions in Honduras, among them: COCENTRA (Central American Workers Confederation); CUTH (United Confederation of Honduran Workers); FUTH (United Federation of Honduran Workers); and CTH (Confederation of Honduran Workers). We got no response from any of them, except for the COCENTRA Women's Committee, which sent us a statement by e-mail that had no relation to the research subject.

Trade unions in Mexico, generally speaking, don't consider discrimination based on sexual orientation part of their agenda when it comes to defending the rights of their affiliates. Unions, with only a few exceptions, do not take women in general or their needs and demands into account.

Amanda:

Those who work at the forefront, we might say, are one of the unions affiliated to Teléfonos de Mexico, which managed to get sexual harassment included in its collective bargaining agreement; and the union at the UAM (Autonomous Metropolitan University). The others are very democratic and all, but it's really difficult. We've worked with STUNAM (Workers Union of the Autonomous Metropolitan University), the UNT (National Workers Union of Mexico), the streetcar operators union, and that's all... And that's just for the sexual harassment issue, you know?... The trade union sector is very conservative and traditional. It doesn't allow women's

issues. Forget it! Right now we're pushing for reforms so we can present something related to women, since we've been working and pushing and asking them about it for almost two years, just so they would more or less put something in there, but they didn't want to because it's too difficult... It's hard to get in their heads that harassment is a problem, that getting fired for being pregnant is a problem, that work needs to be done on sexual preference, it's hard to talk to them about that topic.⁵⁷

In Rosa María's (Mexico) experience, the UAM union is more open because homophobia is considered unacceptable in academic environments:

No, the issue doesn't get discussed. You know that in terms of legislation we've still got a long way to go, and trade unions are no exception, even though that could be a space because most of those who participate in trade unions are leftists, supposedly forward-looking people. That's just supposedly, in theory it should be... Yes, there's a lot of homophobia, I suppose, but they won't risk it. I think right now it's not politically correct to be so homophobic, you look bad, and even worse in a university environment. I think that slows them down a bit.⁵⁸

The university unions may be more open and obtain greater benefits for women in general and for lesbians in particular, but the situation is quite different for employees of transnational corporations, like maquilas or hotel chains, which do not even have collective bargaining agreements:

⁵⁷ Artemisa Interview with "Amanda" conducted by Marina Bernal, in Mexico City, June, 2004.

⁵⁸ Artemisa Interview with Rosa María conducted by Marina Bernal, in Mexico City, June, 2004.

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Amanda:

International hotel chains... Standards, international codes of conduct supposedly exist, but many here in Mexico don't comply with them... If they want to they just fire you and that's it.⁵⁹

Likewise, gender discrimination seems to be a constant in the unions, as Marcia recounts:

There was outright gender discrimination on the metro. I worked at the metro when the first women came to work as train conductors, and of course the big objection came from the union, not from the company... Women get the nastiest, heaviest shifts. You didn't discuss the gay world, you didn't discuss homosexuality, you didn't discuss anything. At one of the collective bargaining agreement talks, you see that one of the grounds for rescinding the contract is the "lack of probity." A person "of probity" is "good," "kind"... In the bargaining agreement we would have to specify (what would be "lack of probity") and when we started to interpret that someone said 'homosexuality,' and I said oh no ... no. And they said "it goes against nature"... They argued that it goes against nature, "and besides, the men had a place to bathe, the showers, and it would be really uncomfortable to shower knowing that there were homosexuals there..." It didn't get passed but we argued a lot.⁶⁰

E. EXPLORATORY SURVEY ON EMPLOYMENT DISCRIMINATION IN COLOMBIA

Conducted among 50 lesbians who live in the city of Bogotá

⁵⁹ Artemisa Interview with "Amanda" conducted by Marina Bernal, in Mexico City, June, 2004.

⁶⁰ Artemisa Interview with "Marcia" conducted by Marina Bernal, in Mexico City, June, 2004.

(although some come from the interior). The interviewees range in age from 20 to 55 years, with an average age of 30. The survey aimed to portray their experiences of discrimination, denial of freedom of expression, denial of the right to privacy and denial of the right to a safe and secure working environment on the job. The following table presents the survey results.

Absolute Values	Yes	No	R	Total
Has felt discriminated against for being lesbian	24	23	3	50
Has been fired from work for being lesbian	7	43		50
Knows a case of someone fired for being lesbian	21	27	2	50
Has been denied employment for being lesbian	8	40	2	50
The people with whom she works know she is a lesbian	27	23		50
Has been mistreated by colleagues at work or by bosses for being lesbian	13	37		50
Knows a case of mistreatment of a woman at her job for being lesbian	18	32		50
Considers invisibilization or being closeted in the workplace frequent in her country	46		4	50
Considers that being closeted in the workplace has some negative consequence for a woman's health	30	18	2	50
Considers that the prerequisite of good appearance discriminates against women	35	14	1	50
Considers that the prerequisite of good appearance affects lesbians in the workplace	34	10	6	50
Considers that the prerequisite of good appearance affects the health of lesbian women	19	24	7	50

F. REMARKS

- If we add the percentage of interviewees fired from their job at least once because of their sexual preference (14%) and the percentage denied employment because of their sexual preference

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(16%), we see that 30% of the interviewees have faced the severest form of employment discrimination based on sexual orientation. The 42% of women who have heard of similar cases substantiates the fact that a problem with discrimination based on sexual orientation in the job market does indeed exist in Colombia.

- At first glance, one statistic stands out: the 54% of women who have come out as lesbians at their jobs, particularly given that 92% of this group of women consider “invisibilization or being closeted at the workplace” frequent in Colombia. Perhaps this disparity can be explained by the fact that the survey was carried out among women who attend activities held by lesbian groups in Bogotá and who, because of their individual life paths or because they have chosen to work in more favorable surroundings, have the option to come out as lesbians at their workplaces. Still, these interviewees know they are exceptions, which accounts for the high percentage of invisibility among the remainder. Even within this privileged group, however, a high percentage (46%) hide their sexual preference on the job, which also reinforces the perception that that figure may likely be much higher in sectors with a lesser awareness of the problem.

- As we have already seen in the testimonies, disparagement and mistreatment in the workplace seem a common occurrence. 26% of those surveyed said they had experienced mistreatment at their job, and 36% said they knew of another lesbian who had been mistreated.

- Finally, 70% of the Colombian interviewees consider that the prerequisite of good appearance, based on gender stereotypes and on established cultural norms of beauty, affects them in the workplace. 38% of the interviewees consider that this prerequisite has deleterious effects on the health of lesbian women. While this may, once again, be attributed to the particular profiles of the interviewees, it is interesting to note the high degree of awareness of this pernicious and not a “natural” demand. We consider this degree of awareness to be positive, because it reduces the harmful effects of this demand for “beauty.”

4. Emblematic stories

In the following chapter we present four complete testimonials based on the interviews we conducted in four of the countries targeted by this Report.

We selected these stories as emblematic ones because in some fashion they represent many other silenced cases of discrimination against lesbians in the workplace that our research has not been able to uncover. We include them also to acknowledge the contribution of the women who have dedicated some of their time to us and allowed us to get to know part of their lives.

Because a variety of techniques were used to gather the stories in each country, the stories are narrated with respect for their original format.

Tania (Bolivia)¹

Have you ever been fired from your job for being a lesbian or looking like one, or do you know any other cases in which this happened to a lesbian? Describe it

Tania: Yes: When my co-workers saw me hugging my partner, they told my boss. He called me into his office and said I had to quit my job because my co-workers didn't want to share their office space with someone like me. He also told me what I was doing was against all morals and that he couldn't accept my life-style.

Do you know of any other cases in which a woman was mistreated by her colleagues at work or her boss for being a lesbian? Describe it

Tania: In my case my colleagues at work, after discovering my identity

¹Adeim -Simbiosis, focus group coordinated by Yngrid Guzmán and follow-up interview also conducted by Yngrid Guzmán in La Paz, Bolivia, July, 2004.

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and getting me fired, insulted me in all sorts of ways, saying how dare I work there when I was a pervert.

Is being invisible or closeted on the job frequent in Bolivia?

Why?

Tania: Yes, because unfortunately our country still isn't ready to accept us.

What are your strategies for staying in the closet on the job?

Tania: In my case, after what happened to me before, I prefer not to appear in public anywhere with other lesbians, and when they ask me if I'm married, I say I am.

What are the consequences for your health of having to hide your sexual identity at your job?

Tania: Above all, it affects me emotionally: you tend to repress yourself and therefore you suffer mood swings, and it affects your personality.

Do you consider that the prerequisite of "good appearance" discriminates against women? How does it affect lesbians in particular?

Tania: In a sense yes, because good appearance means dressing like a little lady and if you don't do that, you don't meet the requirements.

What strategies do you use to get around this prerequisite?

Tania: I'm very feminine.

How does the fact of not having any social benefits affect lesbian families?

Tania: It affects us because when your partner gets sick, you can't take her to the hospital because she isn't recognized [as your partner].

To what degree does the overlap between sexual orientation, race, age, ethnic background, disability, etcetera affect discriminatory practices?

Tania: I believe all women are already discriminated against.

Do you believe that national laws should include specific articles

that protect lesbians at every level? Why?

Tania: Yes, because national laws should guarantee us all rights and benefits, like the rest of the population.

ZETA (Colombia) ²

Following my custom of getting jobs through the newspapers, in 1997 I presented my resume to a high school in the city of Bogotá that was searching for someone with a degree to serve as substitute volleyball coach. At my interview in the Iragua gym, the principal inquired about my experience and professional profile, the curriculum I would develop, the ages of the children I would like to work with, my marital status, and what religion I professed. I spoke about my daughter; she asked me her age and whether she'd been baptized in the Catholic Church. I answered everything with complete transparency and not knowing my rights in these situations. My professional resume is outstanding. It met her requirements and they hired me immediately, because they needed a volleyball teacher and a physical education teacher.

There were no religious men or women around at the time of the interview. I didn't know it was an all-girls school. I did know that it was Catholic, I just didn't imagine to what degree.

They invited me to lunch, and what caught my attention was that even though it was an elite school, they had too much formal protocol: that surprised me. I have good table manners, but it seemed strange to me to have to use several types of spoon with an *ajiaco*.³ These really serious women in uniforms and white gloves waited on us. The principal stayed with me for the whole thing.

² Nosotras LBT Network interview with Zeta, conducted by Elizabeth Castillo from the Group of Lesbian Mothers in Bogotá, Colombia, June, 2004

³ Hearty peasant soup from inland Colombia

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Because I was going to a job interview, I had dressed appropriately and elegantly. I felt like the invitation to lunch was another test. Oddly, in mid-luncheon everyone got up from the table, looked toward one side of the room and prayed. I didn't know the prayer but I stood up, bowed my head and moved my lips as if I did.

When we finished with lunch, the lady principal reconfirmed that I was hired, pointedly told me that she liked my professional profile and instructed me on how to get to the personnel office to sign the contract.

They assigned the higher grades, ninth, tenth and eleventh, to me. I would teach them physical education and volleyball.

The next day I started work and they introduced me to two other female teachers. There were no men on the premises, only the priest, the doormen, and the messenger. Because I exercise, I'm used to working out in shorts, which is common practice. I work actively with the students, I run with them, I do exercise with them, etcetera.

I had arrived early, changed, put my shorts and cachucha⁴ on and was all ready to work when my colleagues arrived. That's when I got my first shock: they were very surprised to see me like that. I still didn't understand their surprise: they asked me if I was going to work like that, and I said yes, of course. Then they told me there were certain restrictions: for example neither the girls nor the teachers worked out in shorts, because the principal and the administration were concerned about the students' safety and privacy, and the girls had to be protected. This struck me, and I changed my clothes.

⁴ A hat.

The first class arrived. That day, after lunch, we went out jogging.

The girls ran in sweatshirts and track suits, and it was terribly hot. I invited them to take off their sweatshirts and they replied that they couldn't take them off, so I left it at that. At the end of the day I asked my colleagues why the girls had behaved like that (there was no problem with the little ones), and they told me that it wasn't proper for growing girls to let their breasts show.

I created my world in the gym. The girls came to class and it was another world, for me and for them. There was a really beautiful, large stained glass image of the Virgin Mary in the gym. My classes went for the full hour straight through, and at twelve noon and three there were no interruptions at all. Every fifteen days the girls who had class with me, however, would miss class because they had to make an excursion to the Holiest. When I asked them what the trip was about, they told me that day they wore their dress uniforms and put on white gloves so that one by one they could touch the hand of the Holiest. It was an image of José María Escrivá de Balaguer, which I learned afterward as I jogged with the girls around the school.

Two weeks after I started working there, the academic director called me and asked me if I was reciting the Angelus. I didn't know what she meant. They'd hired me to work and I didn't think I had to concern myself with anything else. They didn't explain that to me, they just asked me if I was Catholic and that was all. I knew about the material, the onces,⁵ lunches, etcetera, but that was all. That question scared me and I said yes, we did recite that prayer. She told me that some of the girls had told her we weren't reciting the prayer. None of the girls in my classes had told me that we had to pray.

⁵ Snack break taken at 11 in the morning.

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When I told my female colleagues why they'd called me in, they laughed and explained to me that no matter what I was doing, at twelve noon and three in the afternoon you had to stop everything and recite the Angelus, a prayer that brings the entire Catholic Church together. From then on, I would remind the girls that it was time for the Angelus and they would pray. That day I understood why there was a stained glass image of the Virgin Mary in the gym.

I blended in with people, among the women who kept "a low religious profile," and didn't concern myself with learning the prayers. I had to wear a skirt, of course. I only had a couple of outfits, the one I'd worn to the interview and two other skirts. Lively colors weren't allowed, only gray, blue or black.

The day of the teachers' first bimonthly meeting arrived. It was a Saturday and we were in the school auditorium with listening to a lecture on pedagogy. He stopped in mid-lecture, looked at the clock, and then everyone stood up and suddenly faced in one direction. I didn't know what to do. I slowly shifted around. I didn't understand anything and what's worse, I had a column right in front of me. When lunch was over I went to see what they were looking at and saw an image of the Virgin Mary. That's when I understood.

Another very embarrassing, uncomfortable situation happened to me with an elderly woman who ran the stockroom. She was very zealous and strict about her work and we grew very close. One day I helped her carry some packages of paper that were too heavy for her. We had almost finished putting the paper away when she said: "Twelve noon, let's pray." It was just the two of us, so I couldn't escape, and of course I didn't know the prayer, which to make things worse is a call and response for two voices. I felt

really bad. I didn't want to be there, I wanted to disappear. From that day on, the woman never talked to me again.

I didn't feel comfortable, but I'd created a world in the gym and I loved the work. We finished the semester and the first half of the school year. We were about to go on vacation. They would give us our paycheck on our way out. They gave me my check and I went on vacation.

We finished on a Friday, and on Monday they called me early at home to inform me that the lady principal wanted to see me and would be expecting me at nine in the morning. One of her secretaries was waiting for me at the reception. They didn't let me go into the school alone, but provided me an escort to the chaplain's office. I waited for about fifteen minutes and then they took me to the principal's office. I hadn't seen that space yet, which was a much more private office.

She greeted me and asked me if I knew why she'd called me. I didn't. I noticed she was worried, tense. When she asked me whether I was married, that's when I figured out what the issue was. I told her I was married (this was partially true, because I hadn't yet gotten divorced) and lived with my husband and daughter. When I signed the contract, they'd requested my marriage certificate and my daughter's baptismal certificate.

The principal told me she was in a very difficult situation, but that I should understand that this was an educational institution where morality and religious principles were fundamental, and anything outside of those parameters would force her to intervene. She told me that certain information about the fact that I shared my life with a woman had reached the higher ranks.

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So obviously I felt really bad, as if I'd been attacked, stripped of my dignity. I wanted to fall apart. She said she had evidence of that and had orders from higher up to terminate my contract. I asked who told her that, and argued that people's private life was just that: Private. She told me I needed to understand her, her position was at stake and she wasn't one to judge, but the decision had been made and she couldn't tell me who'd given the information. She thanked me and said my work was impeccable but I should understand that working with young girls was risky in my condition. I was pretty upset, and replied that I didn't agree with that and that I had a daughter. She asked me to understand how the parents of the girls at a school like that might feel if they knew their daughters had a lesbian teacher. She skipped to the paperwork right away and said not to worry, the school would give me severance pay for the unfair dismissal. She added that it had already been approved, that I wouldn't have a problem with my work history but please, not to list the school as a work reference because they would be forced to disclose information that was not convenient [to disclose].

I understood that no matter what I said or did, I would not be heard out and would not be addressed, so I kept quiet. She simply said: "I'm not interested. The decision has been taken. Good-bye."

I was furious. I wanted to cry. The worse part was the attack by someone anonymous, which is horrible, because they violated my privacy, hurt me professionally and I would never know who had done it.

From that point on, it was all about signing papers. Everything was ready. As for the unfinished business, they told me I wouldn't have to come back to the school, they would forward my mail to me. The letter says they've decided they no longer need my services

and were terminating my contract without just cause; they would cover everything and pay me whatever I was entitled to; the school would take care of everything.

I just wanted to sign and leave. I put the papers away and left. I walked for about an hour and cried the whole way. I called my partner. We met up and went home. That was a horrible vacation: I didn't want to get a job, I got depressed. It hit me hard but my partner played a big role in getting me through the crisis. I didn't want to work. In fact, I think wanted to disappear. I didn't work for six months, I did a lot of chores, but at home. I didn't want to go out anywhere.

They gave me severance pay to cover the unwarranted dismissal. I figured I would get about eight hundred thousand pesos, and they gave me four million and a half. I used that money to cover expenses for the months it took me to recover.

These schools are all associated with each other, and I felt blacklisted. When I returned to work, I avoided district sports championship tournaments and games so I wouldn't run into anyone from that school.

I didn't go back to my university because I was afraid of the gossip. I met with some schoolmates and a female classmate told me the teacher who'd worked there before me had been dismissed for the same reason. It made me feel happy and relieved, because now I had proof that my work was good and that I hadn't been dismissed on the grounds of incompetence. It confirmed to me that they would hire outstanding professionals and then fire them because of personal, private matters that had nothing to do with on-the-job performance.

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I grew stronger as a professional. I decided I wanted an open-minded school that respects people for who they are, that wouldn't question my beliefs or orientation. I understood that high-paying schools that project a solid, untarnished image are the least inclined to empower the individual. Individuality has a price, and they really don't care about it.

I modified the profile of the school where I would want to work. They don't pay that well, but you are who you are, you don't hide who you are, and the human being matters. All that matters is who you are, how you feel and how you reason. I traded money for that well-being. I earn half of what I could be earning but I'm happy. I don't want to sue because I'm not willing to relive it or file a lawsuit in court without really knowing who I'm suing, because all I know is its strength and power, not its face. The monster is this institution that promotes faith in God, respect, and doesn't practice it. I haven't been attacked by Catholics because I haven't exposed myself, but I have been attacked by Opus Dei.

I'd like to tell a story: One day at school I found a young girl smoking in the bathroom. According to procedure, you talked to the girl first and then presented the evidence to the parents and the school. When I spoke to the girl she told me that the punishment was to go to Mass twice, to do penitence, and that she would be severely grounded in terms of friends, etcetera, etcetera. She begged me not to put her through that. She was about to graduate so I decided not to report her. A few years later I ran into her and we talked about the episode. She was finishing her studies at my alma mater, and told me how much the world I had built in that gym, the freshness, the serenity, had meant to her, and how much what had happened meant to her; at least with her I made a difference.

I didn't want to sue: had I won, I would have been reinstated and I'm not interested. Money doesn't buy well-being or serenity, I know

that well. It used to be that I couldn't even walk by that school... today I can, and I always thank God that I no longer work there.

RoseMary (Honduras)⁶

My name is "RoseMary," I'm 21 years old, I live in the city of San Pedro Sula, Honduras, and I would like to present to you my case of employment discrimination.

It happened at the X Hotel, where I worked in marketing and sales. I'm a lesbian, but no one at my job knew about it until the day they heard me talking on the phone to my partner. A few days later, my boss called me into her office and told me that she had no interest in my personal life, but she did have an interest in my professional life, and not to let my guard down on the job. The problem started with Héctor, the administrative director, who stalked me all the time. When he found out about my sexual preference, the stalking got worse, to the point where I no longer wanted to go to work. One day my partner suggested that I tell him I was going to accuse him of harassment on the job, and that's what I told him.

His girlfriend, a colleague of mine at work, also found out about what he was doing to me. He'd been saying he "wanted to cure" me of being a lesbian, because I still hadn't met a real man who could make me feel something. The situation got so uncomfortable that I resigned because it started to put me under a lot of stress.

"Karina" (Mexico)⁷

I started work at (the English language school) and once I started to feel comfortable I told some of my classmates about what my life

⁶ Cattrachas interview with "Rosemary" conducted by Indyra Mendoza in Tegucigalpa, Honduras, May 2004.

⁷ Artemisa Interview with "Karina" conducted by Marina Bernal, in Mexico City, June 2004.

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was about and my preference and the thing is, I don't know, the atmosphere with my classmates is really beautiful because they're very open-minded people. Some are foreigners, so they don't have a problem with it and that's good. I really was having a good time, but the problem is that I came out... and well, I've always been an activist, especially with my partner, who I went to live with after [my family] kicked me out, because she's quite the activist, me too. It seemed to me, from way back and from even before I met her, that I had to do something to defend people's rights. At that time I was with the group that I'm coordinating now, I was at Amnesty International, in a special division for people of diverse sexual preferences, doing a lot of things, speaking at forums. So one day I went on this program Adela Micha's had at the time, *Mujeres trabajando* (Women at Work), which dealt with young lesbians, and I didn't want to go because I said I think there could be some risks.

Anyway, I decided to go. I think the first broadcast there were no problems, but after several rebroadcasts everyone had the chance to see it. I think someone at work said something to my father: "Listen, your daughter," and the same with my Mom. I think the family priest from Puebla found out, and one day when they rebroadcast the program, the mother of a little girl that took English classes there... she isn't my student and wasn't my student, but she saw me and asked the principal how they could allow a lesbian to be on the teaching staff, that was impossible and her husband worked at *Televisión Azteca* and she would make a commotion if they allowed me to stay and overall, even though I believe because it's an international institution the language school is more open-minded, the general manager there is very close-minded and decided to have me fired. My immediate superior at the time defended me but said "I'm going to talk to the general manager and ask him to please let us reinstate you in two or

three months, but fire you for now so the scandal dies down.”

Then they made me sign a resignation letter. I didn't really know what to do but this law that says they can't discriminate against you had already been passed.⁸ The next day I went to talk to the people at Amnesty International, and we agreed that the lady director would write me a letter. I didn't want them to sue them or anything like that, because then I could go back to my job, which I really needed. She said “Well, I can write a letter for you as a reminder to your company that they can't do what they're doing. You take that letter and the one from the National Human Rights Commission, which is in touch with Amnesty International.” The director said: “I don't think they know who they got involved with.” She meant because of my contacts... So I think someone told the director his actions would have consequences. They called me the next day and said: “Yes, we won't dismiss you. We will transfer you to another branch, but you have our guarantee.”

Interviewer: The explicit reason the man gave you when he asked for your resignation...

None, because he didn't even see my face, he did it through my immediate superior, but she came to me and said “Look: this woman is angry, she went and told the general manager, and he doesn't want to hear about it. He's a misogynist and an ignorant person because he won't hear anything.”

Interviewer: The specific reason was because you're a lesbian? Yes, of course, of course.

Interviewer: Because you were hurting the company's image? No, because I never said I worked there. It was about my being a lesbian, because the lady's complaint is “Why do you have a lesbian there?”, so then the director said “You're right, let's kick her out.”

⁸ Federal District Penal Code. Article 26. See Chapter II.

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I know he's a homophobic person I've heard things about him, but I think they got scared because "they might make a huge commotion."

Interviewer: The company's image?

Yes, (it was) like they said, "We can fire this one, it's easier, let's kick her out," but also thinking "It's her fault she's like that, how can someone do that, how?" Then: "Yes, we're firing you because you're there, because you're a lesbian, because people already know and just because" ... Horrible, and no way around it. If it had been something else, maybe, we might have talked, negotiated, but it was like: "So yeah, the lesbian. So yeah, got to fire her, because it's the lesbian." It wasn't like someone said: "No, ma'am, we can't fire her?", it was like: "Yeah, yeah, yeah, you're right, what's she doing there, so let's fire her."

Interviewer: No attempt to even disguise it as inefficiency, or was it really explicit?

It was explicit, just like that.

Interviewer: And that's when you started to get moving with the letters?

Yes, the following day. And they told me, "Well, we can accept you somewhere else." I think it did have a lot to do with management, because my immediate superior never discriminated against me, and my new boss I was going to work under at the new branch would never discriminate against me. (He was) like pretty open-minded, really great, in fact at the new branch, once I got there, three were already way out of the closet, so the atmosphere there was alright. (The problem) was in fact a problem with the general management.

Interviewer: You're saying the company doesn't necessarily... have that same attitude in other countries?

In other countries they would have reacted immediately and said: "No, we can't fire her."

Interviewer: Do the employee guidelines discriminate?

I haven't, I've never seen... the things they've given us never say that everyone is accepted, no, no. And I don't know if the language school has something at the international level that says that it can... I don't know.

Interviewer: What was your contract like?

I was on payroll, under contract with all due legal considerations,⁹ everything, everything. So, yes, that's how it was. It's not so easy to fire people from that place, but (my case) was like very justified.

Interviewer: Were you on payroll? Full time employee?

Yes, there are different contracts there, half time and full time. I had like two, three years seniority there.

Interviewer: When you signed your resignation letter, was there some sort of negotiation?

Not at first, because my boss told me "I'm sure in three months I can reinstate you." So then it was like a little break, we didn't talk about it and because they transferred me to another branch the day after, we never even had the time to discuss the issue.

Interviewer: What happened with the transfer to another branch?

Well, I spoke to the director there, and he said: "Look, I know why you're here and I think I disagree with the man. I have two or three employees here who are out of the closet. I'm just going to ask you not to discuss this with anyone else at work and keep it discreet while you're here." My immediate superior from the other place, the one they fired me from, talked to the employees there to tell them why I had left and the employees were really indignant, according to what they told me. And he (the new boss) told me: "So then, stay here, all I ask is that you keep discreet about it."

Everything that happened gave me a sensation of real powerlessness.

⁹ Meaning that the company made contributions to the Mexican Social Security Institute to cover Karina's health and retirement plans.

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I went through a really difficult period, financially and emotionally. The woman who denounced me didn't see me as a human being, but like something she could get rid of. Corporations have this motto of pleasing the customer, even if it's an injustice. So, if someone says "I don't like her, get rid of her," they'll do that just to avoid conflict.

I didn't tell my family because I imagined something like my Mom saying "I told you so," because I've faced discrimination at school and had [my family] tell me "They were right to kick you out," so that's twice the damage. I abstained from commenting and went on my merry way... Although I'd like to find another job... That's what I live with, always so upset because I have to tell myself "Gosh, I won't do that because something could happen..." I have a female friend, a magazine editor, who proposed that I shoot in the nude and I love it, I don't have a problem with my body and I got there for the session and told her "You know what, little buddy? We're going to do it, but let's cover my face because it might end up..." ... Right now that's how I make my living, so my life has really been very limited because I have to make sure my students don't see me and go tell on me, so it's best to just leave it at that... I've been living with all these restrictions, always feeling like the next day someone's going to come around and say: "Hey you, pervert... ¿What are you going to talk about? Oral sex?..." And then you have to go and complain, and that's how it is for me all the time. They might just fire me tomorrow,

5. Lesbian Workers at NGOs

Non-governmental organizations (NGOs) have become an ever more interesting employment alternative for many women. Because this sector presents unique characteristics, we believe it deserves a separate section in this Report.

For this Chapter, we distributed a questionnaire among 35 lesbians and bisexual women who are involved in a relationship with another woman and who work at NGOs in the region. Our interviewees come from Argentina (3), Chile (2), Paraguay (2), Uruguay (2), Brazil (4), Peru (2), Ecuador (2), Colombia (3), Panama (2), Puerto Rico (2), Mexico (3), Guatemala (2), Nicaragua (2), Honduras (2) and Costa Rica (2). In some cases, we conducted follow-up interviews to elicit more in-depth responses. In order to protect the interviewees' confidentiality, we have changed all their names and will provide no further details about the organizations for which they work.

A. GENERAL CHARACTERISTICS OF QUESTIONNAIRE RESPONDENTS

- 80% have been working for more than 10 years at NGOs; 18% have been working between 5 and 10 years, and 2% for less than 5 years.
- In all cases (100%), interviewees have openly declared themselves lesbians or bisexual women in a relationship with another woman at the organizations for which they work.
- 70% work in organizations with a national scope of action; 20% in international organizations and 10% in organizations with a strictly local scope (limited to a given city).

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- 60% of all interviewees work either in feminist organizations or in women's programs contained within organizations that work for social justice, while the remaining 40% work in specifically LGBT organizations or LGBT programs at Human Rights organizations.
- 45% work in South America; 45% in Central America and Mexico, and 10% in the Caribbean.

B. THE ADVANTAGES OF WORKING AT AN NGO

Notwithstanding the obstacles we shall underline in the following section, all interviewees agreed that they would never trade their job at an NGO for a job in the corporate sector or any other sector because, among other reasons cited, they all find it important to do work that gives them, as Claudia¹ says, "the possibility to create, to question oneself."

The aspect of working at an NGO most frequently cited as positive by our interviewees is the "freedom" and the "autonomy." That freedom finds expression on many levels. Many value the increased possibilities for "time management," for adapting the program agenda "according to the circumstantial needs that present themselves beyond the planning hub that leads to the project objective" (Julia²). This allows them to lead their lives at a more easygoing pace, to harmonize personal life with work life and keep from generating excessive tension.

Another highly-rated aspect – also a result of the "freedom" that NGOs allow -- is the ability to generate one's own work projects and have the power of decision over them. This includes deciding

¹ Electronic message addressed to Alejandra Sardá, IGLHRC, October 7, 2004

² Electronic message addressed to Alejandra Sardá, IGLHRC, October 11, 2004

on strategies, "the choice of what to work on and who to work with," (Julia), and also, as Javiera points out³, "the possibility of working on transgressive issues."

Valeria⁴ points out that the freedom or flexibility that comes with working at an NGO allows her to "declare myself a lesbian activist without that causing major collateral damage," and Alicia⁵ points to one of the issues that appears as a negative in all testimonials about the corporate sector: "There are no dress codes or demands."

Mariana⁶ summarizes everyone's feelings eloquently:

I love being able to work in an organization where I have my political identity, where I'm a participant in its construction, where you try to forge working relations more democratically... Working at an NGO is very different from working at a corporation, where we are employees and have no right to debate or decide the direction it takes.

Another aspect that garners repeated positive rankings in the responses we received has to do with the greater "horizontality" of work relations at NGOs, compared to other sectors. Because of their extensive work experience with NGOs, our interviewees clearly understand that this "horizontality" is, in most cases, more of an intention than a concrete achievement. Still, the mere presence of this "horizontality" or, more generally speaking, of "democratic principles" (Clara⁷) as values to be aspired to in the workplace, is enough to create a markedly different environment from that of the

³ Electronic message addressed to Alejandra Sardá, IGLHRC, October 11, 2004

⁴ Electronic message addressed to Alejandra Sardá, IGLHRC, October 13, 2004

⁵ Electronic message addressed to Alejandra Sardá, IGLHRC, October 13, 2004

⁶ Electronic message addressed to Alejandra Sardá, IGLHRC, October 8, 2004

⁷ Electronic message addressed to Alejandra Sardá, IGLHRC, October 8, 2004

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corporate sector. As Julia explains: "The intent comes closer to having whatever hierarchy exists serve the organizational aspect more than the abuse of power." Along these lines, our interviewees value the "possibility of participating in decision-making," "of establishing more democratic relationships" and, in general, the "good treatment" that this generates within the organizations. Mariana reflects on the other meaning and possible use of the hierarchies:

Working at a feminist NGO opens up greater possibilities for dealing with conflicts. We know other forms of preconstructed hierarchies exist (of knowledge, of insertion, for example), but at least in my organization those hierarchies haven't put a damper on the process of calling things into question.

On this same topic, it's interesting to point out that some interviewees compared their experience at NGOs to their experience with less-structured activist groups, and in every instance they expressed their preference for NGOs because they found "greater clarity in terms of functions and boundaries of authority" (Clara). Julia, in concert with many other interviewees, concludes that because they are more structured, there is "less of a margin for extortion" at NGOs.

Those who work in LGBT organizations remarked on the importance for them of "being useful" (Mara⁸) and "working with and for my LGBT population" (Celia⁹).

Those who work in women's organizations or programs also singled out the importance for them, as lesbians, of having "greater possibilities for doing militant work on behalf of lesbian rights when working

⁸ Electronic message addressed to Alejandra Sardá, IGLHRC, October 9, 2004

⁹ Electronic message addressed to Alejandra Sardá, IGLHRC, October 7, 2004

with an NGO; there's more understanding and possibilities for support, both from people and at the institutional level." (Martina¹⁰)

In the following section we will see how practically every interviewee ranks NGOs' dependence on donors and the consequent lack of job security among the most negative aspects of working in this sector. Still, Electra¹¹ highlights one positive aspect of that dependency:

Job security depends on funding for the project we're working on, not on partisan interests or the wishes of the immediate superior (the boss, male or female) or of godmothers or godfathers. We get rehired based on our professionalism, on the execution of the work plan.

Liliana¹² points to one "core" component that serves as a source of satisfaction for NGO workers but which, as we shall see in the following section, can also turn on them when it comes to demanding worker rights:

I also believe that motivation at work has to do not just with making an income to survive, but rather with a cause that corresponds to your own convictions and dreams. In other words, you work there for something else besides the salary, and that not only gives you financial satisfaction and returns, but political and emotional satisfaction, too.

C. NEGATIVE ASPECTS OF WORKING AT AN NGO

The one aspect most commonly ranked as negative by our

¹⁰ Electronic message addressed to Alejandra Sardá, IGLHRC, October 11, 2004

¹¹ Electronic message addressed to Alejandra Sardá, IGLHRC, October 11, 2004

¹² Electronic message addressed to Alejandra Sardá, IGLHRC, October 8, 2004

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interviewees has to do with the "difficulty of getting access to the resources that allow organizations to hold onto their political vision" (Claudia).

"Suffering every year wondering whether we'll get our funding renewed" (Julia) or "having to constantly wonder about funding and the search for funding" (Javiera) generates a sense of instability and of the "impossibility of forward planning" which our interviewees say hurts them as persons/workers and the projects they work on. When the same person who runs the project also bears responsibility for fundraising, that uncertainty and consequent tension multiply.

Martina, who is a "public lesbian," meaning she has come out openly in her country's media, explains the particularly harrowing effect of this instability on lesbians like her who work at NGOs:

As in so many other workplaces, NGOs offer no job security. You never know whether projects will continue or not. This has nothing to do specifically with the issue of sexual preference, it has to do with the country's economic situation. Still, in this context being a woman and a lesbian implies you are more vulnerable to losing your job, and if you're a public lesbian, it also implies less possibilities of getting another one because it's harder to get someone to hire a woman who openly declares herself a lesbian.

Mara, another "public lesbian," agrees with Martina, and summarizes it thusly: "I don't regret it, on the contrary. But the truth is that taking this path means a lot of doors close on you, and you have fewer employment options than you might have if you weren't so public about it."

The aspect rated second most negative by our interviewees is the other side of the highly-valued "horizontalty:" the existing gap between the values an NGO espouses and their daily implementation. As

Julia says, "We've all been shaped by top-down hierarchies in our jobs and by this system, so that can sometimes carry over and in some ways inform the work we do in these organizations...".

Most of our interviewees agree with Julia that NGOs often pursue "the quest for a functional organizational form that breaks the mold of limitless exploitation of time, a different, constructive, functional form that doesn't hurt the workers' health" as an objective, but don't always achieve it in practice. Sometimes, NGOs become paralyzed by fear of implementing authoritarian models, and because "You don't always have specific duties or boundaries of authority laid out" (Clara), this has negative results for the women workers because it generates confusion and tension.

In this sense, Valeria regards as a minus "The false belief that exists in our country that in the world of the NGOs no violations of our human rights take place, and yet paradoxically, they do take place."

Many interviewees also referred to the flip side of "freedom," an aspect of working at NGOs that they also rank as positive. According to Mara, "Unlike when you're an unpaid activist, when your activism is your work, I think you lose some freedom. You can leave a group over a disagreement, but leaving a job is harder; you have to think about it more. And sometimes you end up accepting things that you wouldn't accept if your survival weren't at stake."

Others, such as Ana¹³, ranked "decision-making and the wielding of power" (specifically when the possibilities of participation and effective intervention are restricted) as another negative aspect of the work.

¹³ Electronic message addressed to Alejandra Sardá, IGLHRC, October 9, 2004

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In the specific case of those who work at NGOs with homosexual men, another criticism arises, leveled at "the invisibilization that targets the population of lesbian women and bisexual women" (Celia) within the organization. In most cases, at least among our interviewees, these organizations receive their funding for work with HIV/AIDS, where men have much greater control of the agenda than women.

While she does make it clear that in her organization "it's the opposite, because it has an institutional interest in the issue," Martina, who works in a women's program at an NGO that works for social and economic justice, singles out one interesting subtlety regarding the difficulties lesbians face in this sector:

Because of the pressures for politically correct discourse, some think that NGOs surely must understand, respect and practice non-discrimination based on sexual preference, they must recognize these rights. Yet at NGOs, as in any other social arena, you have people with prejudices, with little information on the issues, etcetera. That's why it can become even more difficult for these people to accept that they don't have the information, that they have the same prejudice as anyone else on this issue. Because they think they already know it, they don't want to be educated on the issue.

The interviewees also ranked as negative certain other characteristics of working at NGOs, such as "the not always productive use of time" exemplified by an "excess of sometimes exhausting arguments" and the "meetings overload."

Finally, interviewees who live in countries where the government attitude toward NGOs is one of confrontation underlined the negative effect this attitude can have on an organization. The public

denigration of NGOs and the undue interference of non-governmental actors, such as the "hierarchies of the Catholic and Evangelical Churches" (Electra), make it difficult for NGOs to fulfill their mission and get access to public resources and/or public media. They also create fear and tension in workers, whether because of the direct threats they receive or because of the negative climate they foster toward them and the work they do in society at large.

D. NGOS AND WORKERS' RIGHTS

1. SALARIES

All interviewees, even those who are happy with their salary, stated the rule at NGOs: that salaries "are quite low, far from really addressing the level of experience, dedication and time worked." (Liliana).

Ana relates an experience many share:

I work here because it's my vocation and conviction, not for the money I make, which isn't a lot.

And Clara says that "job insecurity and low wages mean you have to have several jobs at the same time."

2. HEALTH INSURANCE

As for health insurance, 60% of our interviewees work at NGOs that provide coverage and 40% do not. It's important to highlight the fact that the NGOs who do not cover this right include small lesbian groups (or lesbian and homosexual groups) with a strictly local scope, as well as some women's organizations with a national scope. International organizations (both LGBT and women's organizations) and most organizations with a national scope (idem)

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do provide health insurance for their staffs. In the case of international organizations, this coverage also extends to the lesbian worker's partner.

Each and every interviewee highlights this as one of the most problematic aspects of working at NGOs.

Liliana comments:

Circumstances at my present job are the best. Unfortunately, that isn't the case at most organizations. They generally don't provide basic social benefits. In that sense, the great number of people who work at these organizations do so with no health insurance, no pension, and in many cases, without enough time off to rest and with no coverage in case of illness.

Clara adds: "My situation is totally exceptional. All the other NGOs in my country hire you at a flat fee and provide no coverage at all."

3. PENSION/RETIREMENT

The percentage of organizations that provide retirement benefits (30%) is less than the percentage of organizations that provide health insurance, a worrisome disparity because it reflects another aspect of the "instability" our interviewees talk about later in this Report.

It's also telling that beyond stating that they would not receive retirement benefits, our interviewees made no comment at all about this, with one sole exception (see below), while all of them (both those who have it and those who don't) made some sort of comment about health insurance. We dare suggest that retirement benefits are more difficult to incorporate as a necessity because that would require

an awareness of the fact that we won't be young, dynamic and self-sufficient for the rest of our lives. Women used to taking care of themselves and not only surviving but also flourishing in very hostile surroundings, as all our interviewees do, don't exactly welcome reminders of the fragility and dependence that old age might carry with it.

In this situation, a natural and understandable human limitation has become something dangerous because governments do not take it upon themselves to assist "human nature" and its fragile selective memory with laws and social policies that provide for all persons to exercise their right to retirement. Many lesbian and homosexual couples experience similar situations when death unexpectedly takes one party and that party hasn't drafted a will or taken measures to protect common property. Doing so would imply acknowledging the certainty of death, which is difficult for any human being to do. (Heterosexuals are exempt from having to take this action because the protections the law affords them allows them that exemption). In this case, it is also the government's responsibility to take measures so that all persons, without any discrimination whatsoever, can exercise the right to conserve their property.

The sole exception that confirms the rule is Alicia, who in her own words worked "a lifetime" in a women's organization from which she is about to retire. Perhaps her own particular situation made her aware of what it means when NGOs do not provide retirement benefits to their workers:

Because they depend exclusively on project proposals, they do NOT cover this. It's a topic that concerns us, especially when you've dedicated your entire working life to it and when you leave you leave with empty hands (your brain's full, but that doesn't pay the rent or cover your debts, your meals...).

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Despite the aforementioned limitations, it's worth pointing out that established organizations have already adopted integral respect for the rights of workers (which includes fair pay, health insurance for the worker and her family, pension and retirement funds, vacations and paid leave) as a nonnegotiable value. It is still worrisome that smaller organizations must continue to set their workers' rights aside in order to be able to carry out the programs they wish to implement. We shall approach this topic again at the end of this section and in the Recommendations section.

E. NGOS AND DISCRIMINATION AGAINST LESBIANS

As we stated previously, 100% of our interviewees have openly declared themselves as lesbians or as bisexual women in a relationship with another woman at the organization where they work. For all of them, this is a matter of pride that makes them value their workplace, especially those who work at women's organizations (and not specifically LGBT):

This for me has meant that I can work someplace where I can be me, a place that questions itself with my presence, that respects my experience and the experience of other lesbian women at this organization, a place whose political practices question heterosexuality in a variety of environments and which openly supports lesbian women (Claudia)

When I was involved in lesbian relationships, the people at my organization always knew about it. From the outset I considered it a matter of pride. (Mariana)

Interviewees who had worked previously in the corporate or government sector generally did so while hiding their sexual preference (80%). In most cases, they hid as a strategy to keep their

jobs (which they depended on for survival) in hostile surroundings. Valeria talks about it candidly: "Nooooooo. Invisibility guaranteed you your meal ticket." Celia argues that she did so "because of the open and extreme homophobia, and also because I was surrounded by an equally extreme environment of machismo." For Ana, "The environment was visibly and palpably hostile."

Some interviewees also mention where they were in their own process of self-acceptance as their reason for not revealing their sexual preference in previous jobs:

"At that time I was going through a heavy process of self-acceptance as a lesbian, so it wasn't easy for me to open up and handle it in a way that was positive for me, my partner and the workplace." (Liliana).

The impossibility of openly declaring themselves lesbians, among other reasons, prompted many interviewees to enter the NGO sector as workers as soon as they could, according to Mara.

My job was the main restriction I had to live with for many years as an activist: I had to be careful when I went on marches, make sure they didn't photograph me or to put me on television. It was a tense situation, and somewhere inside it made me ashamed that I couldn't come out. But at the same time, my survival depended on my job and I couldn't play around with that.

Claudia agrees: "Having to hide, or living by heterosexual standards, doesn't make the workplace easy or pleasant."

The minority who did not hide their sexual preference at their jobs in the corporate or government sector (20%) was exposed to

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discriminatory situations or unequal treatment. Julia, who worked in the corporate sector, lists certain situations found in other testimonials:

The lady boss would cast these openly disdainful looks at me. She always made denigrating comments to third parties, which ended up reaching me, or found excuses to keep from giving me more work, because she couldn't stand me. On the other hand, she considered my schedule as always on call because I didn't have "a family." For example, she would make me go pick up packages any day and at all hours, which wasn't in my job description, or would pay me three months after I'd completed a job.

Even those who didn't openly declare their preference but who adopted a positive attitude towards homosexuality were the object of mistreatment, such as Electra:

Before working at an NGO, I worked in the media, and I had already started to defend the life-style. I wasn't out though, mainly because I was very young, I was getting my professional career on track, and the media world is really macho-oriented... There were so many situations (of discrimination): from the jokes to people who stopped talking to me and a lot of looking down on me and denigrating the work I did. They were hard times.

One worrisome fact warrants more careful in-depth research: 50% of our interviewees say they have suffered discrimination because of their sexual preference in their organizations. In all cases, these organizations work at the national or local level.

When they work in mixed organizations (with homosexual

men), situations such as those that Celia describe can take place: "The cruel jokes and the outright hostility, sometimes even the hatred coming from gay male volunteers towards lesbian and bisexual women at the NGO." Even when it doesn't reach these extremes, several interviewees mentioned the constant, arduous struggle they face as a weak minority in the organization (because of their smaller numbers and because they do not fundraise) when they're trying to make lesbian issues visible.

In the case of women who work in women and feminist organizations or programs, unequal treatment assumes subtler and more varied expressions. Here are some examples:

- Some members of the NGO didn't want posters with lesbian content to be conspicuous (Andrea¹⁴)
- They put roadblocks in my way to keep me from attending an international lesbian event by arguing that the organization I worked for was not a lesbian organization, that the invitation had been sent to the organization and not to any specific person (Clara)
- Any activities that promote sexual diversity I have to publicize myself, always; if I don't, the dates go by unnoticed. Besides, many people in the collective don't take the activities we plan for these events seriously (Electra)
- Sometimes our colleagues don't appreciate the opinions you might have on certain topics, or deny them or try to make them invisible, for example: the family, violence in the family or sexism. My colleague has told me several times that I can't possibly have an opinion about "children" because I don't have any and I won't ever know what that means... (Valeria)

¹⁴ Electronic message addressed to Alejandra Sardá, IGLHRC, October 7, 2004

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"Cristina", interviewed by Criola in Rio de Janeiro, Brazil, comments:

In addition to that [her professional employment], I'm the president of the Women's Association of Irajá, and I get a lot of pressure from the men who lead the neighborhood community movement to quit this post because they argue that "I'm not good company for the youth in the community."¹⁵

Several interviewees, like Celia above, distinguish between the conduct of specialized staff members at NGOs and the volunteers or employees who work for management. In such cases, the attitudes of NGO leaders is fundamental to preserving the right of lesbian workers to be protected from discrimination in the workplace. Mariana adds a good example of conflict resolution:

We caught wind of certain comments that the secretary had made about it [Mariana's sexual preference] so the institutional coordinators (who aren't lesbians themselves) had a talk with her about it and explained to her that this is a democratic institution that will not tolerate any kind of discrimination.

Martina also provides similar examples which illustrate the educational and sensitivity training that many lesbian workers do at their NGOs without any sort of compensation:

Some of my colleagues have gotten together to reflect on the issue after some informal discussions came up on the job, and that's because several times I heard and was made a

¹⁵ Criola Interview with "Cristina" carried out by Lucia María Xavier de Castro, in Rio de Janeiro, Brazil, October, 2004.

participant of discriminatory comments related to sexual preference, which didn't refer to me directly but had to do with the subject. For example: We had a company training session and a male colleague told me that "agrottoxins produce homosexuality:" another time, a female colleague told me that she was against homosexuality because the world would end up without people....

In both cases Martina and some of her female heterosexual colleagues who had more information and sensitivity about "the issue" took responsibility for debunking the prejudices of their other colleagues, both male and female. Beyond the good disposition of the lesbian workers (and their allies), it's important to highlight the fact that a heterosexual worker will not likely have to "educate" her lesbian colleagues in the same fashion. The "obligation" to educate those who are ensnared by prejudice always falls on the victims of that prejudice (lesbians, native peoples, African descendants, the disabled). Once again, this shows us how the failure of governments to honor the commitments they have assumed in international human rights treaties — which include education that promotes "understanding, tolerance and friendship,¹⁶" — implies additional work (uncompensated, of course) for lesbians and other social groups.

We conclude this chapter with a comment made by Liliana that clearly states some of the challenges NGOs face as they attempt to coexist with their double identity, both as workplace and as projects for the transformation of society:

I believe this raises certain fundamental issues in relation to working conditions at NGOs:

¹⁶ Universal Declaration of Human Rights, Article 26.1 Right to education).

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1. The founders who provide monies to organizations generally don't approve any resources to cover the costs of providing social benefits to the people who work there, thus the organizations don't have a way to provide those benefits;
2. The work ethic in these organizations is often one of "sacrifice for the cause," which gives programmatic activities greater priority over quality of life for those who work at the organizations, with social benefits always getting postponed. So they end up with a sort of contradiction in which you work for human rights but do not guarantee the rights of the people in the organization.

6. Conclusions and Recommendations

CONCLUSIONS

We have concerned ourselves in this Report with lesbians and their situation in the working world; the repercussions that situation has on their physical, mental, and spiritual health; and their possibilities for gaining access to education, housing, food and , fundamentally, for exercising their rights as citizens and effectively seeing themselves as full-fledged citizens.

From reading this Report we conclude that lesbians face inequality in the working world, a situation which in certain instances they share with all other women — or at least with all other women of African descent or indigenous , young or elderly, like them — but which also has its own specific attributes based on their being lesbians. As we stated previously in Chapter 3, that situation of inequality constitutes, in and of itself, a violation of the fundamental human right to non-discrimination, and is also a springboard for a host of violations of other fundamental human rights:

- The right to an effective remedy for all violations
- The right to equality before the law
- The right to social security
- The right to fair wages and equal pay for equal work
- The right to favorable, healthy, safe and fair working conditions
- The right to freedom of Expression

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A. LESBIANS AND ECONOMIC JUSTICE IN LATIN AMERICA

Latin America is suffering a profound employment crisis as a result of the privatization and precarization measures implemented during the 90s. This crisis has resulted in the impoverishment of large sectors of the population.

Women have been the most harmed and impoverished: they suffer from higher unemployment rates than men; when they do obtain employment, they land the lowest-paid jobs under the most precarious of conditions; they experience difficulties getting promoted at their jobs and earn lower salaries overall than men.

Some of the general characteristics of the labor situation for Latin American women that we mentioned in Chapter 2 have a particularly strong effect on lesbians, this effect is multiplied in the case of African-descended, indigenous, young and elderly lesbians. For example:

- The majority presence of women in the informal economy.

For lesbians, working in the informal economy means that they find themselves sidelined from the strides certain countries have begun to make in terms of equal rights and non-discrimination, particularly with regard to social benefits (sick leaves, pension, health insurance, etc.). If they work in family-owned businesses, it reinforces their dependence on their family and the fact that they must heed their orders which, in most cases, do not allow them to live out their sexual preference freely. If their work involves clandestine activities, they expose themselves to all manner of abuses with no possibility of resorting to the protection afforded by the law, even when laws exist that can protect them.

- High unemployment rates and unequal salaries and income

These indicators raise concerns because lesbians must have the basic ingredient of financial independence in order to assert their identity. If they have no employment possibilities or their salaries do not even cover their subsistence, lesbians find themselves forced to live with family members and comply with their orders, which in many cases implies hiding their sexual preference and having to lead a “double life”. This has particularly serious effects on young lesbians, whom unemployment affects the most, and who usually need to separate themselves from their families more than many others to face life independently, expressing their sexuality as they wish to. Unemployment affects another sector: lesbians age 40 and older, for whom this often means finding themselves forced to live with their families (after a breakup, for example), thus losing the independence they had already achieved, and having to revert to “closeted” behavior. Families may cast both young and elderly lesbians in the role of “care providers” for sick family members, the elderly and infants, which severely limits their choices and possibilities. In certain cases, the lack of employment possibilities can keep a woman from leaving a troublesome or outright abusive romantic relationship.

Certain countries of the region have begun to show encouraging signs of progress. The overall panorama, however, shows a decrease in the effective exercise of economic rights for the entire population, which keeps us from becoming overly optimistic. For example, even if complete equality for both homosexual and heterosexual couples were recognized tomorrow, across the board, in every country of the region, that equality would not mean much for the majority (who are

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unemployed, underemployed and/or working the informal sector). It would carry the importance of a symbolic gesture, an affirmation of the commitment all countries of the region express to the principle of non-discrimination. In practice, however, it would not go far enough. Either you have justice for all people, or you have justice for no one. Or rather, you have a veneer of justice that only benefits the most privileged sectors.

B. LESBIANS AS WORKERS

According to the testimonials gathered for this Report (see Chapters 3 and 4), lesbians rarely find a place of personal growth and fulfillment in the workplace . We find exceptions to this rule among those women who, thanks to the privileges of education and/or class, have managed to gain access to workplaces where their sexual preference does not present a problem (educational institutions, NGOs and certain cultural and artistic arenas).

Constant factors that recur in all the testimonials:

- Because of their sexual preference and in some cases their gender expression, lesbian workers are exposed inside and outside of the workplace to invasions of privacy not observed in heterosexual workers or workers with more conventional gender expressions.
- The reasons cited for firing lesbian workers are exclusively grounded in prejudice: the danger that they pose to the morals of their female and male colleagues and the company or the institution's prestige. The substance of these prejudices has never been proven true in fact.
- With rare exceptions the most common reaction among fired lesbian workers is not to protest, but to accept the firing and

seek a new job, where they will then double up on precautionary measures to keep from being “discovered.” The lack of legal protection and, in some societies, the explicit and implicit condemnation of lesbianism contribute to the imposition of this silence, which in turn allows the abuses to continue because employers know they can act with impunity.

- Still, the testimonials compiled in this Report indicate that when lesbians boldly press for their rights and display their sexual preference not as a source of shame but as another facet of their personality, the result is generally positive.

SUGGESTED RESEARCH

In order to develop a more complete view of the employment discrimination that lesbians in the region face and their resistance strategies, broader research is required spanning not only a range of countries, but a much broader and diverse universe covering the various sectors of the labor market. Another indispensable aspect to study regarding discrimination in the workplace is the intersection between sexual preference and race/ethnicity, as well as sexual preference and age. It would also be useful to visit rural zones to study the specific modalities of discrimination based on sexual preference/gender expression that occur in that environment.

This sort of research is of fundamental importance for the drafting and design of public laws and policies that contribute to guarantee lesbian populations, in all their diversity, the full exercise of their human rights in the workplace.

RECOMMENDATIONS

ADEIM-Simbiosis, Artemisa A.C., Cattrachas, The International Gay and Lesbian Human Rights Commission

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(IGLHRC), Criola and Nosotras LBT Network call upon the governments of Bolivia, Brazil, Colombia, Honduras and Mexico to:

- Enforce the provisions concerning human rights, women's rights and workers' rights contained in national and international laws and treaties that they have ratified and end all instances of inequality based on gender, ethnicity, language, nationality, age, sexual preference/orientation and its expression and gender identity along with its expression, particularly in the area of social and economic rights.
- Implement affirmative action measures to facilitate access to fair employment opportunities for young lesbians and lesbians over the age of 40, particularly those of African, indigenous and other ethnic groups in socially disadvantageous circumstances; disabled women, lesbians, transgender and intersex persons.
- Implement all measures necessary to regulate the informal sector of the economy, thus guaranteeing all male and female workers in that sector full enjoyment of their social and economic rights.
- Promote studies of workplace discrimination based on sexual orientation/preference and its expression and gender identity and its expression in order to gauge the dimensions of the problem and propose effective solutions for each country and each sector of the economy. This task should be assigned to the government bodies charged with overseeing the protection of human rights and/or workplace rights.

ADEIM-Simbiosis, Criola, Cattrachas, IGLHRC and Nosotras LBT Network call upon the governments of Bolivia, Brazil, Honduras and Colombia to:

- Enact an antidiscrimination law that grants protected status to

sexual orientation/sexual preference and its expression, as well as gender identity and its expression, and make it compulsory for both the public and the private sectors.

- Implement the mechanisms necessary to record discrimination complaints and protect the right to effective remedy of those who have been the object of discrimination.
- Promote educational campaigns targeting the general population, as well as other, sector-specific campaigns (educational, health, corporate) to raise awareness about discrimination based on orientation/sexual preference and gender identity and its expression as a social problem.

ADEIM-Simbiosis, Artemisa A.C., Cattrachas, Criola, IGLHRC and Nosotras LBT Network call upon the governments of Bolivia, Mexico, Honduras, Brazil and Colombia to:

- Enact a civil union law that recognizes equal rights for same-sex marriages and common-law marriages between people of the opposite sex for all purposes of civil and criminal law.
- Enact an adoption law that allows same-sex partners to adopt the biological sons and daughters of their partners and designates them “second mother” or “second father.”

ADEIM-Simbiosis and IGLHRC call on the government of Bolivia to:

- Amend Article 65 of the Labor Act by eliminating the reference to “honorability” of female and male workers.
- Amend Article 67 of the Labor Act by eliminating references to the employer’s obligation to preserve “the morality” of female and male workers.
- Amend Article 80 of the General Labor Act to include the same-sex partners of female and/or male workers as beneficiaries of

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their partner's workmen's compensation benefits and life insurance policies.

- Enact, implement and disseminate the Framework Law on Sexual and Reproductive Rights.

Criola and IGLHRC call upon the government of Brazil to:

- Implement promptly and provide with all necessary resources the Brazil Without Homophobia Program.
- Lend all necessary support to the National Council Against Discrimination so it may fulfill its mission effectively.

Nosotras LBT Network and IGLHRC call upon the government of Colombia to:

- Amend Article 47 of the Integral Social Security System Act (797/2003) to incorporate the right of both male and female workers to receive "survivor benefits" upon death of their same-sex partners.
- Amend Article 47 of the Substantive Labor Code to include the same-sex partner of an expecting mother as a beneficiary of paid maternity leave under conditions equal to those for the unborn child's father or the mother's male partner, pursuant to the current law.
- Create venues for dialogue between the Ministry of Culture and LBT women in which to debate including and allowing the participation of female citizens with other sexual orientations and gender identities in ongoing or planned programs and projects in the areas of creative development, presentation and promotion of works of art, culture and communications that promote the full exercise of their rights, as well as their access to cultural goods and services under equal conditions as those applied to the general population.

Cattrachas and IGLHRC call upon the government of Honduras to:

- Repeal the Amendment to the Constitution approved in October 2004 which prohibits same-sex couples from marrying and adopting boys and girls on the grounds that it is discriminatory and violates international human rights treaties ratified by the Honduran government¹.
- Amend Article 12 of the Labor Code to incorporate sexual option/orientation/preference and its expression, as well as gender identity and its expression, as categories protected against discrimination.

Artemisa A.C: and IGLHRC call upon the Mexican government to:

- Deepen the implementation of the Federal Discrimination Prevention and Elimination Act and disseminate it widely among the general public and, in particular, among employers in the various sectors of the economy.
- Amend the Federal Discrimination Prevention and Elimination Act to make the public and private sectors equally liable for committing discriminatory acts and equally bound to comply with the provisions of the law.
- Revise the exemptions from labor, tax and human rights regulations contained in pertinent current national legislation that benefit the maquiladora industry.
- Amend Article 84 of the Social Security Act to incorporate provisions that name the male or female same-sex partner of a covered individual among those eligible to claim health

¹ See reference to ICCPR in Annex 4.

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insurance and maternity leave benefits.

- Amend Article 3 of the Federal Labor Act to incorporate sexual option/ Amend Article 12 of the Labor Code to incorporate sexual option /orientation/ preference and its expression, as well as gender identity and its expression, as categories protected against discrimination in the workplace.
- Amend Article 133 of the Federal Labor Act to incorporate a provision that prohibits employers from rejecting female and male job applicants on the grounds of sexual option/ orientation/ preference and its expression, as well as gender identity and its expression.

ADEIM-Simbiosis, Artemisa A.C., Cattrachas, The International Gay and Lesbian Human Rights Commission (IGLHRC), Criola and Nosotras LBT Network call upon all NGOs in the region, as well as international NGOs with regional offices, to:

- Guarantee to all workers, both male and female, the right to fully exercise their workplace rights, including health insurance, vacations and sick leave, pension or retirement benefits.
- Extend social benefits to the same-sex partners of their male and female employees, as well as to their biological sons and daughters and all children they have raised.
- Raise awareness among founders about the importance of respecting the workplace rights of NGO personnel and allocating funds to that end.
- Promote sensitivity training campaigns on sexual and gender diversity among their workers through agreements with organizations that have special expertise in the subject, and offering them fair remuneration for the work performed.

ADEIM-Simbiosis, Artemisa A.C., Cattrachas, The International Gay and Lesbian Human Rights Commission (IGLHRC), Criola and Nosotras LBT Network call upon all those

who work in regional NGOs to:

- Exercise their fundamental human right to join together for the defense of their rights as workers and establish unions or other entities that help promote a culture of solidarity within their sector (for instance, to obtain group health insurance, to start savings funds, etcetera) and in which workers from more than one organization participate.

ADEIM-Simbiosis, Artemisa A.C., Cattrachas, the International Gay and Lesbian Human Rights Commission (IGLHRC), Criola and Nosotras LBT Network, call upon all funding agencies who support programs and projects in the region to:

- Take into consideration the obligation all NGOs have to respect their workers' workplace rights by allocating the funds needed to fulfill that obligation.
- Promote awareness among the NGOs they support of their role as employers and the need to play that role in a manner consistent with fundamental human rights principles.

ADEIM-Simbiosis, Artemisa A.C., Cattrachas, the International Gay and Lesbian Human Rights Commission (IGLHRC), Criola and Nosotras LBT Network call on all trade unions and guilds from Bolivia, Brazil, Colombia, Honduras and Mexico to:

- Recognize same-sex couples and the children that live with them as nuclear families entitled to all the social benefits unions offer.
- Sign pacts of non-discrimination based on sexual option/ orientation/preference and its expressions, as well as gender identity and its expressions, and put into practice the commitments these pacts establish.

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- Invite organizations with expertise in the subject to carry out awareness-raising and sensitivity training activities among male and female workers from their respective sectors and at all levels of the hierarchy, offering them fair remuneration for the work performed.
- Promote research among male and female union workers on discrimination based on sexual option/orientation/preference and its expression, as well as gender identity and its expression, in order to evaluate the dimension of the problem and find effective solutions.
- Learn from and carry out exchanges with unions and international federations from other countries regarding the mechanisms they have developed for defending and protecting the workplace rights of the LGBT population.

Narrative Addendum

Defending the Rights of Lesbian Workers from the Unionist Perspective

In this Addendum we present the life story of Teresa De Rito, native Argentinian, unionist and lesbian activist for twenty 20 years, along with references to certain international trade confederation covenants and resolutions that address non-discrimination based on sexual orientation.

A. LIFE STORY: TERESA DE RITO

Interviewed in Buenos Aires, Argentina, by Fabiana Tron on September 20th, 2004

In the early 80s, Teresa was the first Argentine woman who dared to talk in public and on television about her homosexuality. “But half the world knew about it already. I came out at age 15 and was able to talk it over calmly with my parents.” She’s still a pioneer today, as the creator of the first Observatory of On the Job Discrimination Against LGTTB Persons, which has been in operation since 2003. For her militancy means “working to change bedrock issues and improve living conditions for all human beings, above all the situations that the weakest face today.”

When did you start working as a union activist? Why did you decide to do it?

In 1977 I started working at the Secretariat of Industry and

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Commerce, when we already lived under the military government.

¹ They had infiltrated the unions, and any union activists that still remained in the unions collaborated with the military. The disappearance of our colleagues became an everyday event. Facing this situation, in 1980 several of us started to meet clandestinely, wherever we could. At first, we couldn't do much. In addition to political discussions, we held literary workshops and other activities to keep from disbanding, which the military wanted us to do.

After the Malvinas War in 1982, we understood that the end was approaching for the dictatorship. The moment had come to go out into the light and fight. So, on December 16th, 1982, we marched to push the dictatorship to hold elections.

At the UPCN (National Civil Servants Union) we faced the risk that many of the union activists who had collaborated with the military dictatorship would end up in leadership positions. We pressed for recognition as the Normalizing Commission, the one responsible for assuming leadership positions and, as the word indicates, normalizing things at the union so that later on the affiliates could choose their representatives by election. I worked as a normalizer from 1982 to 1984. Those two years were very hard. I stopped going home to sleep because from the moment I became a normalizer I had a Ford Falcon² parked in front of my house every night.

We started internally, rebuilding the union, which had had all its assets seized and was in a disastrous state with its affiliate list in pieces. Those were cold, sleepless nights.

How and when did you start to work in the ranks of CHA (Argentine Homosexual Community)? Why did you decide to do it?

¹ Argentina experienced a very bloody military dictatorship from March 1976 to December 1983.

² The Ford Falcon, the car used by the Argentine paramilitary groups responsible for disappearances of social activists during the dictatorship in Argentina.

1986 marks the beginning of my period of militancy with the CHA. I had lots of gay friends, many of whom had been arrested in an early-morning razzia the police conducted at the Balvanera al Sur bar (April 1984). Those groups got stronger and decided to found the CHA.

I'd long ago seen the need to join my union-based struggle with specific work aimed at addressing the issues facing gays and lesbians. One of my friends invited me to join the organization, so we could deepen the work with Human Rights groups and unions, and I accepted.

We faced lots of difficulties in trying to join up with Human Rights organizations. The idea of Human Rights was still strongly associated with the disappeared. It took some time but we finally achieved it.

When did you make the decision to come out in the media as a lesbian? Why did you decide to do it? What was your coming-out experience like? How did your family and the people at your job take it?

I came out in the media in the year 1986. Lesbians were completely invisible. It seemed to me we could no longer remain in hiding and allow the men to speak for us, with us in their shadow.

I had become a UPCN Trade Union Delegate; besides that, I served as a member of the Guilds Commission at the Secretariat of Industry and Commerce. People didn't show any sort of prejudice, and as for my colleagues, male and female (3,000 agents), my work at the union outweighed my private life. Most of the women worked triple shifts (working at home, caring for the children and holding a paid job). My female colleagues, who carried all those problems and all that pain, weren't about to concern themselves with finding out who I slept with. We women in the union had put up with a lot of obstacles and discrimination. Despite it all, that discrimination still

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exists in Argentina's trade unions. Many male union activists openly discriminate against us. It's very difficult for worker assemblies, even at the supposedly progressive guilds, to vote for measures that specifically concern female colleagues, because there'll always "be time to vote on them later."

I believe I had no problems because I participated in all the struggles, working hand in hand with people to reclaim the guild. When you share that life of struggle with your colleagues, you learn that your life depends on them, because we all risk our lives in one way or another. Those really intense experiences give rise to an interplay of loyalties that allows you to overcome any differences.

What type of relationship did the CHA and the unions continue to have afterwards?

The union supported many of the women in the CHA. For example, it partially funded travel expenses to attend the National Women's Assemblies.³ Thanks to UPCN, the CHA was able to send 12 women delegates to the Assembly held in Neuquén. The CHA at that time never had funding for the women.

Nor should we forget that Obras Sociales Sindicales (NOTE: A trade union fund for social works operated by the unions but independent of them) was the first to provide HIV+ people with the medication they needed. Keep in mind that at time they were kicking lots of gay men out of private health care provider programs (NOTE: known as "pre pagas") at that time.

Why did you found AHORA (Association of Homosexuals of the Argentine Republic)?

³ Since 1987, a National Women's Assembly takes place in Argentina with rotating headquarters in a different province each year and with close to 15.000-20.000 woman from all sectors in attendance.

None of the LGTTB organizations, at least those I know, had taken on labor issues. Gays and lesbians face very harsh realities in the workplace. For example, raises and promotions are hard to get. Most of the people who share our social status find themselves forced to blend in as heterosexuals, passing themselves off as heterosexuals or leading a double life, at considerable risk to their psyche and peace of mind, because of homophobia.

Gay and lesbian workers are the targets of harassment, firing and both direct and indirect discrimination in their workplaces.

Besides, many male and female homosexual workers don't feel capable of resorting to their own union structures to seek help because they fear rejection.

I felt the need to develop actions and create political instances that would address the issue, and that's why we founded the Association of Homosexuals of the Argentine Republic (AHORA).

In mid-2003, we launched the Trade Union Observatory. The observatory comprises a team of workers from several disciplines, including sociologists, social communicators, political scientists, lawyers, and also lgttb activist colleagues who belong to many different guilds from the various Argentine Workers Unions locals (CGT⁴ and CTA⁵). It has three basic objectives; to investigate discrimination against glttb persons in the workplace; to process workplace discrimination reports; and to develop sensitivity and awareness training regarding glttb issues in the unions.

⁴ Confederación General del Trabajo, or General Workers Confederation. The oldest of the union locales, it comprises mainly industrial guilds and holds to an extremely conservative political ideology.

⁵ Central de los Trabajadores Argentinos, or Argentine Workers Coalition. The newest of the unions comprises state workers and an enormous array of "new subjects" to the unionist milieu, such as sex workers and the unemployed. It espouses quite progressive positions, which may explain why the government still hasn't granted it legal status.

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What is the non-discrimination covenant? Describe the process that culminated in its approval.

The covenant states that we will draft a Macro Law to govern all civil servant unions. This law binds the parties, among other things, to punish all acts of incitement of homophobia in government workplaces.

I've been working on this since the year 2000, and I've had the support of my compañeras in the Secretariat for Equal Treatment and Opportunities at my union (the UPCN). We formed an alliance for mutual support, because they wanted to include the act of sexual harassment.

This covenant will be submitted for ratification at all unions. Up to now it's been ratified by UPCN and PAMI (an agency that works for health and social benefits for retirees and pensioners.)

With this covenant in place any state worker affiliated to UPCN, whether male or female, can bring to the floor any instance of homophobia and discrimination that they may have experienced as LGTTB persons — which are as important as salary and all the other issues — and the union pledges to back them up in presenting their claims against their employer, in this case the state.

B. RESOLUTIONS APPROVED BY TRADE UNION CONFEDERATIONS ADDRESSING NON-DISCRIMINATION BASED ON SEXUAL ORIENTATION.

1. INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU) AND ITS HEMISPHERIC BRANCH, THE INTER-AMERICAN REGIONAL ORGANIZATION OF WORKERS.

A confederation of national trade union locals created in 1949, its ranks comprise over 234 affiliate organizations in 152 countries and territories. The IRO, founded in 1951, has a membership totaling

33 trade union locals from 29 countries on the American continent.

The IROW through its Resolution 11, an instrument that denounces all forms of racial discrimination with the aim of building more just societies, recognizes that "... homosexuals and lesbians ... face multiple forms of discrimination" and urges its affiliates to take all necessary actions to pressure governments to combat these causes and manifestations of racism, xenophobia, and the multiple forms of discrimination.

2. PUBLIC SERVICES INTERNATIONAL (PSI)

PSI, founded in 1907, comprises more than 600 public service sector unions from 140 countries.

At its 25th World Congress in (Helsinki, August 2- 1993), PSI ratified Resolution 27, which states that "lesbian and gay workers throughout the world are confronted with various types of oppression and discrimination on the basis of their sexuality." PSI urges all affiliates to actively support the initiatives of lesbian and homosexual workers to prevent or combat discrimination in the workplace, and recommends that they incorporate anti discrimination clauses into their internal policies.

3. EDUCATION INTERNATIONAL (EI)

Founded in 1993, EI comprises 319 unions representing workers from all sectors of education (preschool or university level) and from 162 countries. EI, with its 29 million affiliates, is the trade union federation with the largest membership in the world.

In its Second World Congress (Washington, July 25th-29th, 1998) EI included the following among its recommendations:

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- **Declare that all discrimination against educators and students based on sexual orientation is a violation of their human rights.**
- **Promote education to combat prejudice, discrimination and harassment based on sexual orientation.**
- **Apply antidiscrimination and equal opportunity policies regarding sexual orientation in their internal procedures and organization.**
- **Support the right of all educators to not conceal their sexual orientation in the workplace, as well as to record and denounce all instances of discrimination, violence and unequal treatment in working conditions for people with sexual orientations other than heterosexual.**

Annex

The charts included in this annex are intended to help readers analyze particular problems or concerns through a human rights lens, and to address them using human rights strategies.

To begin, it is useful to understand four basic principles of human rights:

- **Universality** – human rights are understood to be universal, that is, they apply to all people equally, by virtue of being human;
- **Indivisibility** – all human rights are connected to each other. While we categorize rights into different areas (see Chart B) – civil, cultural, economic, political and social — it is not ultimately possible to separate them from each other in order for individuals and groups to be able to exercise and enjoy their rights;
- **Interdependence** – all rights are equally important and the ability to exercise and enjoy one right is contingent upon the ability to exercise and enjoy all the others;
- **Inalienability** – rights belong to every person, and are theirs to claim. While it is the duty of governments to protect and promote rights, it is individuals and groups who hold those rights, not governments.

Based on these four principles, human rights organizing is an adaptable tool for holding governments accountable to their duty to protect and promote the rights of lesbian workers.

Chart I, **REFRAMING ISSUES AS HUMAN RIGHTS**, was developed as a tool to translate a problem or issue into a focus of human rights

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strategy. It is intended to take you step-by-step through a process that identifies a potentially broad range of actors as targets, allies and resources. It begins by asking you to identify an issue or concern in human rights terms – i.e. the violator(s), the violation(s), and the pathway of responsibility. It then asks you to link the issue to specific international human rights protections, and regional and national laws and policies (see Appendix II for examples).

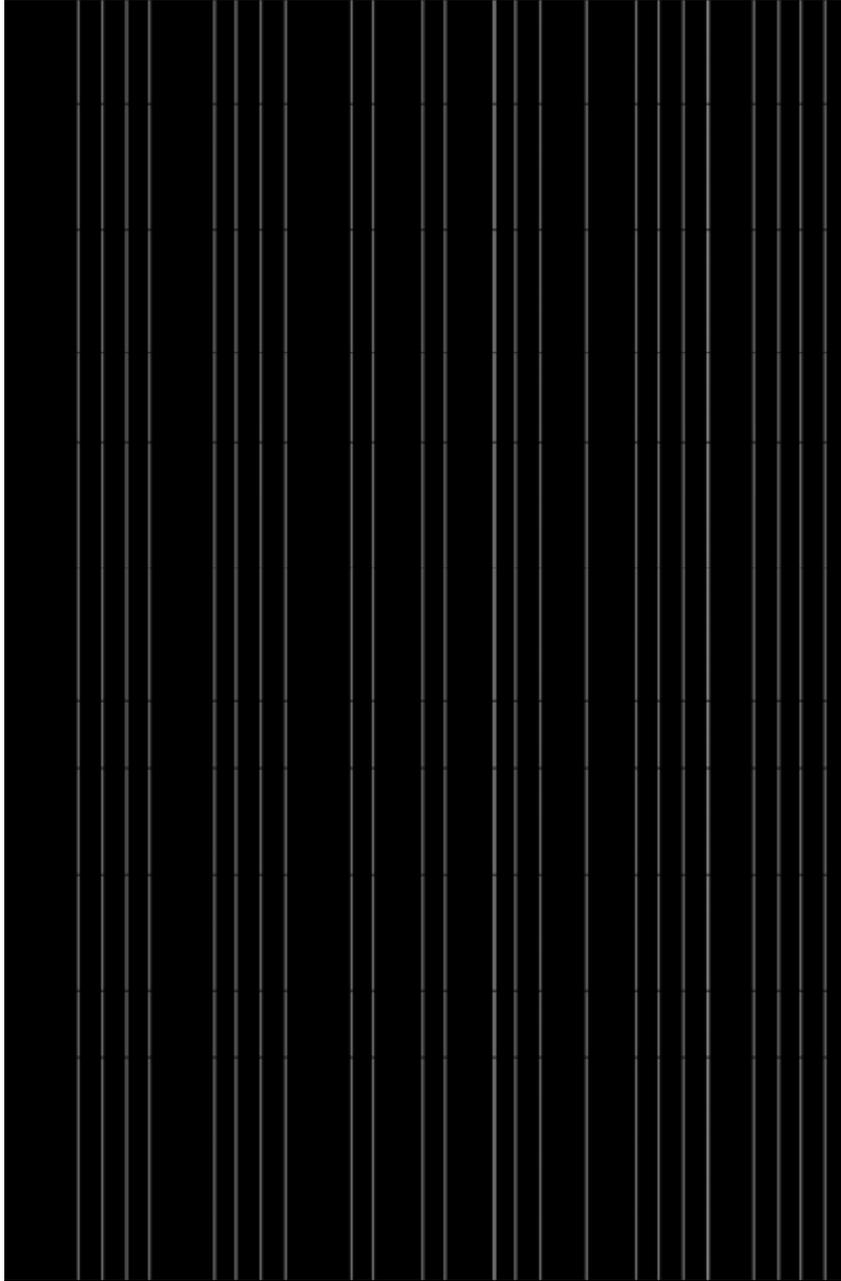
Once the problem has been identified in human rights terms and the associated right(s) are identified, the exercise asks you to identify: 1) those from whom you are seek action/change); 2) a remedy (what, precisely, you are asking them to do/not do), and, 3) your goals, and the best strategies to reach them. The exercise then focuses on what will be needed in order to achieve your goals, in terms of skills and resources. Finally, the chart directs the reader to identify indicators – in other words, what measures will be used to identify whether or not the goals have been achieved.

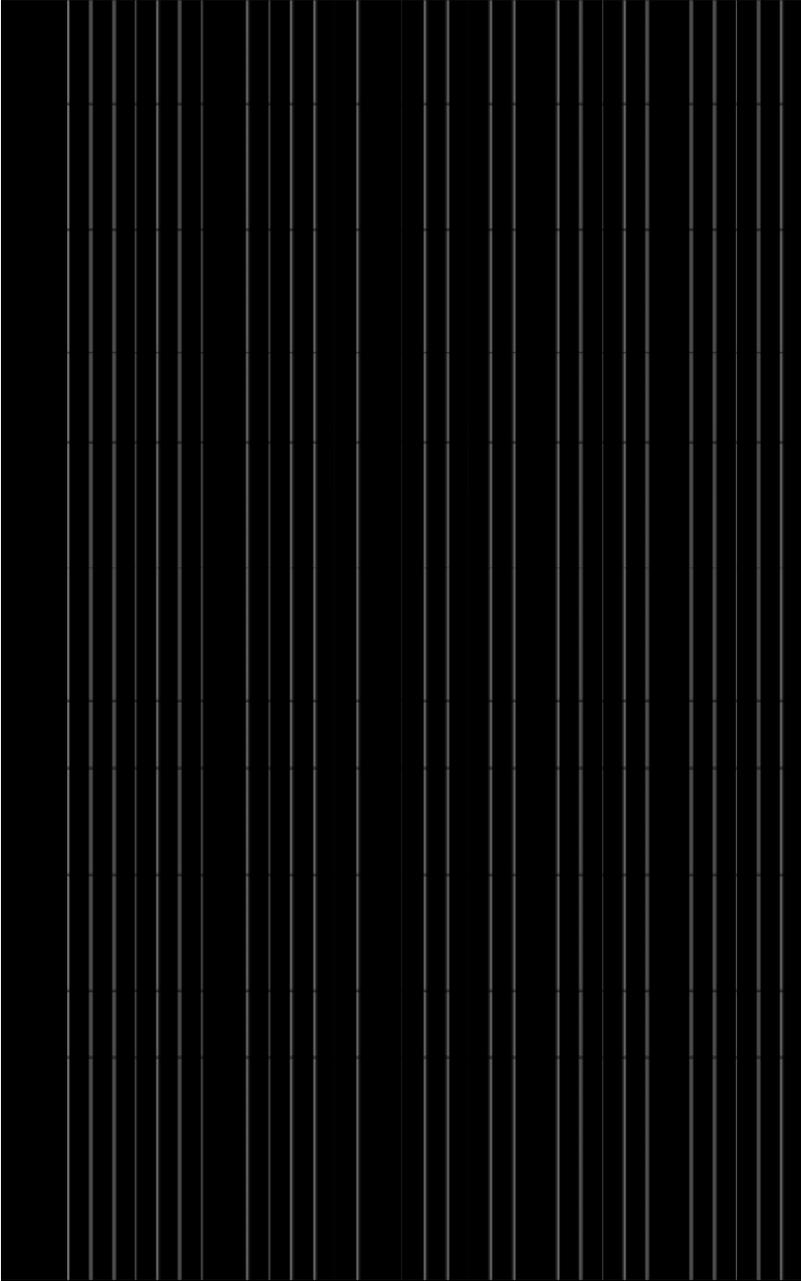
Appendix II provides a list of those international, regional and national human rights protections most directly relevant to issues of labor discrimination against lesbians. This table should not, however, be viewed as exhaustive – additional instruments should also be explored as options for supporting rights claims.

We hope that these charts help you to develop human rights strategies and engage in effective human rights advocacy.

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Chart I: REFRAMING ISSUES AS HUMAN RIGHTS





Adapted from Julie Mertus, Nancy Flowers, Malika Dutt, 1999. *Local Action, Global Change.: Learning About the Human Rights of Women and Girls*. NY: UNIFEM and Center for Women's Global Leadership.

Appendix II

The International Legal Framework

In this Appendix we provide a list, although by no means an exhaustive one, of international human rights instruments and national laws that protect the rights of lesbians as workers.

Human rights covenants and conventions are international agreements. Below we outline the process by which they become the law of the land in any given country:

- The United Nations General Assembly approves the covenant or convention.
- The countries “sign” it. Signing entails no obligation to them, it merely expresses their good will to set in motion the process of ratifying the Covenant.
- Each country establishes guidelines within its respective Constitution for the ratification process of international instruments. Usually the legislative branch analyzes the instruments and either approves or vetoes ratification. In certain countries, that decision lies with the crown or the executive branch.
- When a country ratifies a covenant or convention it commits to accepting its provisions, to submit reports to the UN Commission responsible for monitoring compliance with that pact, and to allow evaluations of its application in that country.
- Once the covenant or convention has been ratified, it has to be incorporated into national legislation to make it enforceable (in other words, to legally bind governments to comply with its provisions). The Constitution of certain countries states that international human rights treaties ratified by those countries automatically become part of national legislation with

preeminence. This means any national law that contradicts the international instrument must be amended. In other countries, this process is not automatic and must be followed for each treaty in turn.

- When a treaty comes into existence, it establishes the number of governments that must ratify it to enter in force. For example: the Convention on the Rights of the Child set that number at 20. A month after ratification by the 20th government, it entered in force in all countries that had ratified it up to that moment.

A. RIGHT TO EQUALITY AND NON-DISCRIMINATION

INTERNATIONAL INSTRUMENTS

Universal Declaration of Human Rights¹

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: 1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

International Covenant on Economic, Social and Cultural Rights²

¹ The Universal Declaration is considered common law for all member states of the United Nations, among them those covered in this Report.

² Ratifications: Bolivia (8/12/82), Brazil (1/24/92), Colombia (10/29/69), Honduras (2/17/81) and Mexico (3/23/81).

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Article 2.2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.³

Article 3. The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

International Covenant on Civil and Political Rights⁴

Article 2.1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex,⁵ language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color,

³ In 2000, The Committee on Economic, Social and Cultural Rights published General Comment 14: The right to health, which in paragraph 18 states that sexual orientation is included among the grounds cited in Articles 2.2 and 3 of the Covenant. That interpretation is applicable to all other rights guaranteed by The Covenant. (E/C.12/2000/4, CESCR)

⁴ Ratifications: Bolivia (8/12/82), Brazil (1/24/92), Colombia (10/29/69), Honduras (12/19/65) and Mexico (3/23/81).

⁵ In 1994, the UN Human Rights Committee in the case *Toonen v/Australia* Stated that "sexual orientation" is included in the reference to "sex" in Articles 2.1 and 26 (UN GAOR Comm, Der.Hum. Sesión 15va., Caso. no. 448/1992, UN Doc CCPR/c/50/D/488/1992)

sex, language, religion, political or other opinion, national or social origin, property, birth or other status

Convention on the Elimination of All Forms of Racial Discrimination⁶

Article 1.1. In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁷

Article 1 For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(e) To take all appropriate measures to eliminate discrimination against women by any person,

⁶ Ratifications: Bolivia (9/22/70), Brazil (3/27/68), Colombia (9/2/81) and Mexico (2/20/75). Honduras has not ratify it yet.

⁷ Ratifications: Bolivia (06/20/90), Brazil (02/01/84), Colombia (01/19/82), Honduras (07/14/80) and Mexico (03/15/02).

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organization or enterprise;
(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women"

REGIONAL INSTRUMENTS

American Convention on Human Rights⁸

Article 1: The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

American Declaration of the Rights and Duties of Man⁹

Article 2: All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

The Treaty of Amsterdam (European Union Charter, amended in 1993).

Article 13: "...the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on... sexual orientation." This clause means that all objections to any discriminatory laws or

⁸ Ratifications: Bolivia (19/7/79), Brazil (25/9/92), Colombia (31/7/73), Honduras (8/9/77), Mexico (3/4/82).

⁹ The American Declaration is considered common law for all member states of the Organization of American States, which includes Bolivia, Brazil, Colombia, Honduras and Mexico.

policies in Member states can be submitted to the European Union institutions, including the European Court of Justice.

NATIONAL LEGISLATION CONTAINING SPECIFIC REFERENCES TO SEXUAL ORIENTATION

In Latin America, the Constitution of Ecuador (Article 23.3 - 1998) bans discrimination due to sexual orientation; Peru's Law Number 28.237 (2004) recognizes the appeal for legal protection that issues from the right to non-discrimination based on sexual orientation (Article 37); and Uruguay's Penal Code (2003) considers "the incitement of hatred, disparagement, or all manner of moral, physical or psychological violence against one or more persons by reason of... sexual orientation and sexual identity..." a crime (Article 149 bis), as well as the commission of "acts of moral or physical violence, hatred or disparagement against one or more persons by reason of... sexual orientation and sexual identity..." (Article 149 ter).

In North America, the Supreme Court of Canada ruled in 1995 (*Egan vs. Canada*) that sexual orientation must be considered among the categories explicitly granted protection against discrimination in Section 15.1 of the Canadian Charter of Rights and Freedoms (1982).

South Africa was the first country in the world to enshrine in its Constitution a prohibition on discrimination on the grounds of sexual orientation (Article 9.3, 1997).

In Europe, non-discrimination based on sexual orientation enjoys constitutional status in the Netherlands (Article 1), Portugal (Article 13 - 2004) and Switzerland (Article 8.2 - 1999). The following European countries, through their respective Penal Codes,

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penalize discrimination and violence based on sexual orientation: Bosnia Herzegovina (Article 141 – 2000); Spain (1995); Iceland (Section 180, Article 19 –1996); Lithuania (Article 169 – 2000); Norway (Paragraph 439 – 1981); and Netherlands (Articles 137 c, d, e,f –1992). Romania has followed suit with an Ordinance issued August 31st, 2000.

A. SPECIFIC REFERENCES TO NON-DISCRIMINATION BASED ON SEXUAL ORIENTATION IN THE WORKPLACE

REGIONAL INSTRUMENTS

In Latin America, Declaration 10 of the MERCOSUR countries (Argentina, Brazil, Paraguay and Uruguay as full members and Bolivia, Chile, Peru and Venezuela as associated countries) states in Article 1 that “Every worker is guaranteed equal rights, treatment and opportunities to employment and occupation, without distinction and exclusion by reason of... sex or sexual orientation.” None of the MERCOSUR member countries have incorporated this regulation into their national legislation. For now, its importance is limited to a statement of principles, valid in and of itself, that provides for possible concrete actions to give it the force of law in the various countries.

In Europe, The European Parliament, through Resolution Number 924 of 1984, requested a cessation of all discrimination based on sexual orientation in the workplace. Unfortunately, the European Parliament has very limited enforcement power. Its statements can be used in support of activist and rights defense campaigns. The Council of Europe, in its Resolution N° R6 (2000) , which alludes to the status of civil servants in Europe, states that "There should be no unfair discrimination on the basis of, ...sexual orientation... especially concerning the access to public posts and promotion."

(Paragraph 9). Council of Europe Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation effective as of December 2nd, 2002, establishes a “general framework for combating discrimination on the grounds of... sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.” Article 3 clearly states that the Directive must be applied to the public as well as the private sectors.

NATIONAL LEGISLATION

In Latin America, the Organic Labor Act, or Law Number 5292, effective in Venezuela as of January 25th, 1999 recognizes the “Principle of no arbitrary discrimination based on gender or sexual preference in the workplace... “ (Article 8.e)

In North America, the Canadian Human Rights Act (1985) bans discrimination based on sexual orientation (Article 3, 1996). And in the USA, H.R.2692 (Employment Non-Discrimination Act of 2001, or ENDA) enacted July 31st, 2001, specifically aims at prohibiting employment discrimination based on sexual orientation. This law creates a double standard because it does not apply to religious organizations, the Armed Forces or veterans.

In Namibia, Labor Act 6 (1992) provides in Section 107 that discrimination and harassment based on several grounds, including sexual orientation, can result in punitive measures from the Labor Court. In 1998 South Africa enacted Employment Equity Act Number 55, which prohibits unfair discrimination based on a list of grounds including sexual orientation. This law applies to the public sector as well as the private sector.

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In Israel, the Knesset (Parliament) passed the Equal Opportunity Act, which prohibits employers from discriminating against employees and job applicants based on their sexual orientation, in January, 1992.

In Australia, the Equal Opportunity Act (1991) includes "sexual orientation" as a category that enjoys protection against discrimination in all areas of employment. In New Zealand the Human Rights Act (1993) affords protection against discrimination based on sexual orientation on the job and elsewhere.

In Europe the following countries have an explicit ban on discrimination based on sexual orientation in the workplace: Denmark (Law Number 289/87 for the public sector and 459/96 for the private sector), Slovenia (Labor Relations Act, 1998), Spain (Fiscal, Administrative and Social Order Measures Act, Law 62/2003, along with the Penal Code, 1995), Finland (Employment Contracts Act Number 55 of 2004, Maritime Workers Act Number 423 of 2004 and the Penal Code of 1995), France (Struggle Against All Forms of Discrimination Act, Law Number 2566, 2001), Ireland (Employment Equality Act 21, 1998 and Law Number 10 contra Despidos Injustificados, 1993), Luxembourg (Penal Code, 1997), Malta (The Employment and Industrial Relations Act, Chapter 452.89, 2003), Norway (Workplace Act Number 4, 1998), The Netherlands (Equal Treatment Act, 1994 and Penal Code, 1992), Czech Republic: (Labor Code, 2000), Sweden (Penal Code, 1999) and Switzerland (Code of Obligations, 2001). All the above laws apply to the private as well as the public sector. In the case of Denmark, Ireland and Sweden, current laws create a double standard because they exempt religious institutions from having to apply them.

B. THE RIGHT TO WORK

INTERNATIONAL INSTRUMENTS

Universal Declaration of Human Rights.

Article 23: Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

International Covenant on Economic, Social and Cultural Rights

Article 6: The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 7: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;**
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;****
- (b) Safe and healthy working conditions;**
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;**
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as**

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remuneration for public holidays

**Convention for the Elimination of All Forms of Discrimination
Against Women (CEDAW)**

Article 11

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

REGIONAL INSTRUMENTS

American Declaration of the Rights and Duties of Man.

Article XIV: Every person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit.... Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.

C. THE RIGHT TO SOCIAL SECURITY

INTERNATIONAL INSTRUMENTS

Universal Declaration of Human Rights

Article 25: Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 22: Everyone, as a member of society, has the right to social security.

International Covenant on Economic, Social and Cultural Rights

Article 9: The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

On August 6th, 2003, the UN Civil and Political Rights Committee issued a statement on the Young vs. Australia case (CCPR/C/78/D/941/2000). Edward Young applied for the pension to which his partner, an army veteran, was entitled. The Commission reasoned that the distinction between married or heterosexual couples

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in common-law unions — whose members could be considered “dependents” with a right to a pension —, and homosexual couples, who do not have that possibility, violated Article 26 of the Covenant (see also the right to equality and non-discrimination). It also stated that such a distinction is neither “reasonable nor objective.”

REGIONAL INSTRUMENTS

In 1994 the so-called “Roth Resolution,” issued by the European Parliament (A3-0028/94), requested, among other points, a cessation of all discrimination against homosexual persons pursuant to social benefits, inheritance, housing and other legal and political issues.

RECOGNITION OF SAME-SEX UNIONS (which includes the Right to Social Security for spouse and family)

Civil marriage, with all their attendant rights and obligations, have been legalized for same-sex partners in Netherlands (2000), Belgium (2002), Canada (2005) and Spain (2005).

South Africa’s Special Pensions Act Number 69 contains a definition of “marriage relationship” that sets a benchmark because of its broad application: “a marriage; a union contracted in accordance with customary law or which is recognized as marriage in accordance with the tenets of any religion; a continuous cohabitation in a homosexual or heterosexual partnership for a period of at least 5 years” Medical Schemes Act No. 131 1998-09, from September 1998 and effective as of January, 2000, allows homosexuals and lesbians who have medical insurance coverage to include their partners if they wish to do so. The Estate Duty Act, 1955 (Ley de Compensaciones Laborales) was amended by Law N° 59 of the year 2000 to include same-sex couples. The Supreme Court of Appeals,

on November 30th, 2004, declared as unconstitutional the then-current common law definition of marriage as only possible between members of the opposite sex. The Supreme Court of Appeals ruling on the definition of marriage entered in force immediately, but many marriage laws must still be amended for equality to prevail.

In New Zealand a broad law covering civil unions for same-sex couples entered into force in 2004.

Europe has civil union laws that grant same-sex couples the same rights as couples of the opposite sex, with the exception of religious marriages and, in certain cases, adoption, in the following countries: Germany (2004), Croatia (2003), Denmark (1989), France (Civil Covenant of Solidarity Act, 1999), Hungary (Cohabitation Act, 1996), Iceland (1996), Norway (1993), Portugal (2001), The United Kingdom (2004), Sweden (1994) and Switzerland (2004).

In Israel in 1994 the Supreme Court (Danilowitz vs. El Al) recognized equal rights in employment benefits for same-sex and opposite-sex partners. In 1997, in Steiner vs. Israeli Defense Forces, the legal system also recognized pension entitlement for same-sex couples. In December 2004 it recognized joint property, income tax and inheritance rights for same-sex couples.

D. THE RIGHT TO LIBERTY

Universal Declaration of Human Rights¹⁰

Article 3: Everyone has the right to life, liberty and security of person.

¹⁰ See also International Covenant on Civil and Political Rights (Article 9).

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American Declaration on the Rights and Duties of Man¹¹

Article I. Every human being has the right to life, liberty and the security of his person.

E. THE RIGHT TO PRIVACY

Universal Declaration of Human Rights

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

International Covenant on Civil and Political Rights

Article 17 No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.

American Declaration on the Rights and Duties of Man

Article V. Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.

American Convention on Human Rights

Article 11. Protection of Honor and Dignity

1. Everyone has the right to have his honor respected and his dignity recognized.
2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home,

¹¹ See also American Convention on Human Rights (Article 7)

or his correspondence, or of unlawful attacks on his honor or reputation.

3. Everyone has the right to the protection of the law against such interference or attacks.

F. FREEDOM OF EXPRESSION

Universal Declaration of Human Rights

Article 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

International Covenant on Civil and Political Rights

Article 18. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

American Declaration on the Rights and Duties of Man

Article IV. Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

American Convention on Human Rights

Article 13. Freedom of Thought and Expression 1. Everyone has the right to freedom of thought and expression.

G. THE RIGHT TO INTEGRITY OF PERSON AND A LIFE FREE OF VIOLENCE

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American Convention on Human Rights (Pact of San José, Costa Rica)

Article 5. Right to Humane Treatment. Every person has the right to have his physical, mental, and moral integrity respected.

Inter-American Convention On The Prevention, Punishment And Eradication Of Violence Against Women (Convention Of Belem Do Pará)¹²

Article 3 Every woman has the right to be free from violence in both the public and private spheres.

Article 4 Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: a) The right to have her life respected; b) The right to have her physical, mental and moral integrity respected;

H. THE RIGHT TO DEFEND HUMAN RIGHTS

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, approved by the United Nations General Assembly (85th Plenary Session, December 9th, 1998) :

Article 1 Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

¹² Ratifications: Bolivia 10/26/94, Brazil 11/16/95, Colombia 10/3/96, Honduras 7/4/95 and Mexico 6/19/98

This Report contributes to a better understanding of sexual differences as a political issue through its integral analysis of discrimination against lesbian women in the job market, based on statistics, law and testimonials and taking examples from Bolivia, Brazil, Colombia, Mexico and Honduras. Lesbian women in the job market suffer at the very least from double discrimination: first because of their status as women, and second because of their sexual orientation. This constitutes a flagrant violation of their fundamental human rights to "non-discrimination" and "gainful employment." Moreover, they face permanent obstacles to the enjoyment and exercise of their citizen rights, such as access to education, housing and food, among others. This, in short, makes it difficult for them to develop their overall potential as persons. Because societies stigmatize them, they do not benefit from the contributions these women citizens make. This report undoubtedly makes a valuable contribution to reflections on the issue of discrimination against lesbians, which has up to now been relegated to a place of invisibility, and raises questions that must be a part of any democratic agenda.

ANA FALÚ,
UNIFEM Regional Director
for the Mercosur Countries.

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