fundación triángulo
por la igualdad social de lesbianas, gais, bisexuales y transexuales

MONITORING NETWORKS OF VIOLENCE ON LGBT. PERFORMANCE MODELS

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I think that in a specialized forum like this one it is not necessary to justify that the protection of minorities defined by their sexual orientation or gender identity is a human rights issue. There are several declarations of the United Nations, the Council of Europe, the European Union and international treaties, and you know them all.

- **Universal Declaration of Human Rights (Art. 3)**
- **International Covenant on Civil and Political Rights (Art. 6, 9)**
- **The Convention on the Elimination of all Forms of Discrimination against Women** (CEDAW)
- **Convention for the Protection of Human Rights and Fundamental Freedoms** (ECHR) (art. 14)
- **TFEU**: art 18 y 21. Non discrimination Directives and ECtHRCase Law
- **Council of Europe recommendations on the rights of LGBT people** (2010)
  - Recommendation CM/Rec(2010)5 of the Ministers' Committee to member states on measures to fight discrimination on grounds of sexual orientation or gender identity (Adopted by the Committee of Ministers on 31 March 2010 at the 1081st meeting of the Ministers' Deputies).
  - 54 Resolution 1728 (2010) Discrimination on the basis of sexual orientation and gender identity; Assembly debate on 29 April 2010 (17th Sitting). 55 Recommendation 1915
- Council of Europe: Convention on preventing and fighting violence against women and domestic abuse.
- **Report of the United Nations High Commissioner for Human Rights**, "Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity" (A/HRC/19/41)
- **Documentation of extrajudicial killings of LGBT and transgender special reports**

The idea that every man and woman is born free and equal in dignity and rights is opposite to an exclusion or derogatory treatment because of their sexual orientation or gender identity. In our opinion, it is also clear

that governments have the duty to ensure their citizens' protection from sectarian violence and discrimination. And only, with a fair and equal fulfillment of the law we can achieve a democratic state, a development and standards of civilization.

The important issue, however, is that we are all aware of the political debate that exists in this area, and the frequent opposition in several countries to take into account the protection of this minority. Unfortunately, there are still 76 countries that criminalize homosexuality and its types, and there are even more forget their international commitments with the Universal Declaration of Human Rights, and make **no efforts** to avoid a structural violence and rejection against LGTB minority. There is little that can be done against this procedure, but just by reminding international commitments and drawing the international community attention to follow the path of respect for human rights.

More troublesome is the case of a huge number of countries, that know and accept their responsibilities in this area, but are reluctant to adopt effective protection measures. It is either due to the fear of the political cost that an action for an unpopular minority can report them or due to the cost to face groups with strong popular support that promote homophobia and transphobia.

My speech focuses mainly in these cases. I believe that if a governor doesn't risk defending publicly sexual minorities' rights, he or she should, at least, accept his duty with such minorities as a safety issue.

It is a human rights issue, **yes**, but it's a safety issue **too**. In a civilized country the **public authority** is the only one who holds the monopoly of violence, under democratic law and guiding principles of human rights. Otherwise, this is just another player in the field of violence. That is why a government should never let any citizen hold the right to inflict violence on a minority, because:

- This establishes a dual citizenship status
- It risks the whole legal system reliability
- It introduces a germ of corruption in the legal system that often ends up ruining it.

If a group of citizens can practice any type of violence without legal consequences; what prevents that the number of victims will increase? What confidence can the citizens have in the justice system? Law enforcement must be fair and equal in order to be legitimate.

The problem of hate crimes and specifically gender crimes, is that the criminal feels that he has social support when he breaks the law. These criminals often see themselves as the defenders of patriotic, religious, social or family values. And worst of all, when the system ignores these attitudes, this thought feels supported and may increase.

UN reports state that in hate crimes it is not always necessary to adopt special legislation to protect minorities, where there is an adequate enforcement of general rules for all citizens, without exception. According to this, we believe there is a need for monitoring networks of violence on LGTB groups. The UN, the Council of Europe, the European Union, NGOs, state in their reports severe deficits in the public enforcement of crimes against gay and transgenders. We know by experience the existence of these deficits.

In a great number of cases Gay, Lesbians, and specially transsexual claims are not attended, are denied or cover up. A worrying number of crimes against transgender women or gay activists are not investigated, or criminals are not punished according to the country ordinary standards for the same cases. In Jurisprudence we notice many cases that exonerate the guilty, based on “the fear” of the murderer to be raped by the victim, or the “passionate nature” of the crime. The result of all the social stigma is that many members of the LGBT community, does not report assaults, rapes or attacks, because they have **no faith** in the legal system.

We need a special legislation for hate crimes, or at least the existence of reporting systems, because unfortunately, in our society the principle that “if it is not quantified it doesn’t exist” is well extended. In most countries, there are not separate numbers of hate crimes against gays, lesbians and transsexuals, usually they are not recognized as a category in reports and that leads to an idyllic picture far away from reality. We defend that a specific legislation for hate crimes is required, or at least

monitoring networks should be established in order to determinate the dimension of the problem and to set up eradication policies.

But first of all: We understand monitoring is more than account of deaths and a selection of relevant cases. We must try to offer a complete care service to victims if we want an effective reporting. If you "exchange" help and care with victims they collaborate with the system. Otherwise, only a limited party of the victims have interest in collaborate and be exposed reporting to network, and finally network only collect press releases and the most political cases.

At this particular point, we think that there are some possible performance models of monitoring networks:

The first one is an institutional network: a network model following those implemented in some Western countries to fight the gender crimes against women. In the Spanish example[1] from a situation of high domestic violence, much higher than in the surrounding countries, only in 13 years we have decreased highly our crime rate compared to our neighbour countries. This was possible by developing a global care for victims, based on police, medical, psychological, and health care services. Today, we have more than five thousand prisoners due to gender crimes and about 750 potential criminals are monitorized. In a short time gender crimes have changed from a private secret issue that nobody cares about, to being one of the most rejected crimes.

But, this kind of network involves a public commitment of the government, a budget, and professional and convinced human resources together with material ones such as courts, police, hospitals, etc..

That's why for a minority a **mixed network** may be affordable. The clearest example may be the care service for homosexuals and transsexuals in Madrid.[2] This is a low cost network, in which the administration doesn't create special services, but this has established

[1]Portal sobre violencia de género: http://www.msc.es/ssi/violenciaGenero/home.htm
Portal Observatorio contra la violencia de género del poder judicial
http://www.poderjudicial.es/cgpj/es/Temas/Violencia_domestica_y_de_genero/El_Observatorio_contra_la_violencia_domestica_y_de_genero

[2] **Programa de Información y Atención a Homosexuales y Transexuales:**
http://www.madrid.org/cs/Satellite?c=CM_InfPractica_FA&cid=1142615119862&idConsejeria=1109266187278&idListConsj=1109265444710&language=es&pagename=ComunidadMadrid%2FEstructura&sm=1109265843983

direct contact bridges between the different sections of the administration involved in the treatment of victims and has assured that in each service victims will be attended by a sensitive and trained person. Government publicly offers NGO´s to collaborate, and the reception of complaints is transmitted by people belonging to the LGBT community. Complaints of crimes or attacks can be made by telephone with legal effect and they just need further confirmation in the police station. Every victim receives an individualized treatment in which he/she is referred to the appropriate legal, medical, psychological, or social service.

The system was created 10 years ago in the middle of a worrying situation for the number of aggressions in the streets. Reports statistics show that there is a before and after the laws of Equal marriage rights for LGBT families, and legal sex change for transsexuals. If in the first years the service queries were related to assaults, discrimination, denial of administrative services and transgender access to medical services. After the pass of gay marriage law and the recognition of legal sex change, the system shows an increase in social normalization. Service has change in its use and orientation. At this moment, the order of the queries is: Marriage (20%), Migration (14%), self-acceptance (12%), AIDS (7%), Transsexuality (7%), **Discrimination** (6%). Assaults have almost disappeared.

I highlight here that although we are still developing relevant scientific studies, the reports of the public prosecutor for hate crimes in Barcelona, the Madrid service reports, and the Annual General State report on crime, show that it is clear that laws recognizing LGBT rights have a strong effect on social normalization. Although there is still a high incidence of bullying in schools, mobbing at work places, violence has been reduced in number and intensity, and we feel it in our day to day life.

Finally, if governments are unwilling to promote a monitoring network, they must know that we are not giving up their presence, and there will always be a **third monitoring party**;

- The best good example is LGBT toolkit of the European Union (2010): which requires the European delegations to make a report on

LGBT situation in each country, and developing a security plan and support of activists threatened. On this base the EU Commission expresses some concerns about situations or laws that do not respect the rights of the LGBT population.

- NGO networks; There are already a number of general and special reports from prestigious NGOs about violence on LGBT (Amnesty International, Human Right Watch, ILGA, Transrespect vs Transfhobia… Obviously they are not so effective in a complete treatment as an institutional network, but we are also increasing our efficiency. For example, we hope that in 2013 a group of eight NGOs will begin monitoring violence over transgender women in eight countries (Bolivia, Chile, Colombia, Dominican Republic, Honduras, Paraguay, Peru, Spain). This network will try to assist women with high risk exponent. The system will receive alarms for 24 hours every day, in person, by phone, by mail or via mobile application, which includes a panic button with three levels of intensity. Each potential victim may be found by GPS in real time. Each proven complaint will be reported to local authorities, NGOs, human rights defenders, media, and diplomatic delegations which are sensitive to this policy. The proved abuses will be treated by opening a dialogue with local authorities and will end up in a political action. We know that this network will be less efficient than an institutional one or a network that counts on the cooperation of the government, but we don't renounce to the idea that it is necessary to show the reality of this structural violence. We also hope this could be the germ of a mixed network or an institutional network in the future.

To end up, we would like to transmit the idea that if a country ignores its duty in this field, we will not give up our right to live in freedom and with dignity.

Thank you very much for your attention, I am at your disposal

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Monitoring networks of violence on LGBT. Performance models

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Is a Question of Human Rights

- “monumental tragedy for those concerned and a stain on our collective conscience”.(Ban Ki Moon)
- The principle of universality admits no exception. Human rights truly are the birthright of all human beings

Is a Question of Human Rights

- Universal Declaration of Human Rights (Art. 3)
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Is a Question of Safety (too)

- Dual citizenship Status
- Risk whole legal system reliability
- Enter a germ of corruption in the legal system
- Political “problem” vs Human Rights and safety
- Deficits on Public Enforcement

Need of Monitoring Networks & Perform Models

- Vs “If not Accounted dont exist” principle
- Institutional Networks (gender crimes)
- Mixed Networks (Madrid Care System for Homosexual and Transsexuals)
- Third parties control
  - EU Toolkit on LGTB Issues (2010)
  - NGO Networks (efficiency problem)

Monitoring as complete relationship

- Need to build up relationship with victims
- Not only account of deaths and relevant cases
- “Exchange” of care service for a complete sight and effective politic action

Institutional Networks (Gender crimes surveillance)

- Special Regulation: Police, Judicial, Assistance, Medical services…
- Budgetary support & Human resources
- High social Impact (Spain):
  - Rate: 73 deaths per year. 545 from 2003-2010
  - Rate before Law 71,5
  - Rate after Law 67,0
  - More than 134.000 complaints per year
  - Total person Imprisioned 5.030
  - Persons under surveillance 745

Mixed Networks (Madrid)

- Colaboration NGO-Administration
- NGO receive victims and are independent of administration: over 700 persons/year
- Complaints have oficial effect
- Bridges to the administration services for victims: Sensibilized attention
- Low Cost vs High rate of satisfaction (87%)

Social evolution (12 years)

- **Before** Law of Equal Marriage and Legal Sex Change (%)
  - Agressions, Discrimination , Access to health service (transgender)…
- **After** of Law recognition of rights

  Marriage (20%), Migration (14%), self-acceptance (12%), AIDS (7%), transsexuality (7%), **Discrimination** (6%)

Tirhd Parties surveillance

- UE toolkit on LGTB Issues (2010)
  - Eu Delegations: Report of LGTB situation
  - Help to Activist trheatened
  - Eu concerns about cases and Laws

Private NGO Networks:

Annual reports and political action

Non complete surveillance/service

Increase efficency of Networks

- Real-time monitoring 24 hours
- Traditional contact: presential, telephone, e-mail… plus
- New Technologies: Mobile Apps: panic button, GPS localization.
- Political Action: Local Authorities+ NGO+Media+Diplomatic services
- ***Will NEVER GIVE UP: Free and with dignity***