



FACT SHEET

Discrimination in the civil regulation of LGBTI partnerships and the protection of their families (CEDAW – Article 16)

Peru does not have any regulation that allows for the protection of same-sex couples. A congressional office presented an Equal Marriage Bill 00525/2021-CR on October 22, 2021. Currently, it is being considered in the Justice and Human Rights Commission. On the other hand, in the area of litigation, the Eleventh Constitutional Court of the Superior Court of Justice of Lima, has ruled positively in the case of lesbian couple S. P. P. and G. M. A., both of Peruvian nationality, who could not register their marriage performed abroad in the Peruvian civil registries because the National Registry of Identification and Civil Education (Reniec) indicated that the Peruvian Civil Code only allows marriage between a man and a woman. Similarly, there is the case of D.D. and J.T., a lesbian couple who also requested to Reniec that the identity card of their son recognize the filial relationship of both as mothers without obtaining any favorable response.

The right to legal gender recognition of transgender women

The lack of legal gender recognition in Peru exposes trans persons to marginalization and exclusion and denigrates and subjects them to constant humiliation in a cultural context that does not guarantee their human rights. The National Plan against Gender Violence 2016 - 2021 and article 3 of Law 30363 addresses violence based on sexual orientation. However, gender identity is not considered a prohibited ground for discrimination, leaving the trans population unprotected, thus rendering trans women invisible.

The National Commission against Discrimination (CONACOD), points out that trans persons have been using the judicial route with the provisions of Article 29 of the Civil Code, in the absence of a better administrative procedure that allows the updating of their data before the RENIEC.¹ It has been evidenced that there are several procedural obstacles: 1) non-compliance with the established deadlines, 2) the accreditation of the initiation of a gender- transition process, and 3) the discretion of the judges that, many times, contributes negatively to the delay of the judicial processes. In addition, the use of the medical certificate of gender dysphoria is noteworthy, representing a big problem considering that gender dysphoria is understood as the pathologization of trans people and is used by the judges as the main argument to declare the lawsuit founded.²

During the global health crisis caused by COVID-19, the LGTBI community has been deeply affected in Peru and has a higher rate of violence and discrimination than usual. As a result of the COVID-19 health emergency, the Executive Power established the suspension of the exercise of constitutional rights, among others, to free transit, allowing the intervention of the National Police and the Armed Forces in the verification of compliance with the provisions. In addition to this norm, On April 2, the government established the "differentiated outdoor activities by gender"³ to acquire food, pharmaceutical products, and financial procedures.

RECOMENDATIONS.

- Implement and approve the bill for Equal Marriage and Civil Union for LGBTI people and the Gender Identity Bill and adopt measures for legal gender recognition for trans people, establishing an administrative procedure for the RENIEC so that trans persons can change their name and/or sex in their identity documents and/or sex on their identity documents.
- Develop awareness programs and education campaigns to eliminate discrimination against women, including LGBTI+ women.
- Provide gender and SOGIESC training to health personnel and judicial operators, incorporating equality and non-discrimination criteria related to sexual diversity.
- Include trans and intersex women as populations protected by the legislation that prosecutes the crime of femicide.
- Incorporate into Health Sector policies specific services related to sexual and reproductive health, considering the specific medical contingencies of LGBTI+ women. Such measures should include the establishment of health information and counseling services.



¹ CONACOD. (2019) Informe sobre la situación de la identidad de género de las personas trans en el Perú

² PROMSEX. (2012). Informe de Derechos Humanos de las personas TLGB.

³ This measure was cancelled on March 10, 2020.