

**International Gay and Lesbian Human Rights Commission input memo to the UN
Secretary-General's Study on Violence Against Women**

Prepared by Susana T. Fried and Alex Teixeira

I. KEY ISSUES THE STUDY SHOULD BE ADDRESSING: Violence against Lesbian, Bisexual and Transgender Women

One night, not so long ago, a mother was beating her daughter. She was placed in a sack, hung from the ceiling, and beaten by a broom again and again. On other occasions, the daughter was made to kneel on painful rocks or dry mung beans, arms stretched out, both hands holding glasses of water, and told to hold that position for hours on end unless she wanted to be mercilessly beaten again. When she was not beaten, she was forced to do manual domestic labor, often doing “traditional” male chores like fixing broken pipes or standing near the front door all night long. All this, simply because she is a lesbian.

This story is recounted in a report on violence against lesbians in the Philippines. It could have taken place in nearly any country of the world where countless women are discriminated against at work, tortured by the police and other state officials, raped by male family members, and subject to other forms of violence and inhumane treatment because of their actual and/or perceived sexual orientation and gender expression.

United Nations human rights treaty bodies and independent experts are increasingly raising concerns about the relationship between efforts to control women’s sexuality and violence against women. In her 2002 report, the Special Rapporteur on Violence Against Women highlighted the impact of heteronormativity, explaining that violence against women who transgress norms of gender and sexuality is particularly “acute when combined with discrimination on the basis of sexual orientation or change of gender identity. Violence against sexual minorities is on the increase and it is important that we take up the challenge of what may be called the last frontier of human rights.”¹

Assumed heterosexuality in the investigation of violence against women – including the examination of crimes committed in the name of honor, traditional practices affecting the health of women and girls, and domestic violence, among other forms – will fail to produce adequate policies for eliminating violence and respecting women’s rights.

Women’s sexuality is regulated in all communities and maintained through particular legal responses, strict constraints or even severe punishment and is justified as securing social, economic and cultural norms, such as: forced marriages and childbirth, “corrective rape,” so-called “honor killings,” or the perpetuation of beliefs that women, and particularly married women, are always available for sex – with or without their consent.² The ways in which the accusation of lesbianism is used to attack women’s human rights defenders and organizations, and the ways in which women and organizations respond to these tactics is another important point of intersection between movements that are traditionally treated as “separate.”³

¹ Radhika Coomaraswamy. Report to Commission on Human Rights, 10 April 2002.

² Susana Fried, Ali Miller and Cynthia Rothschild, *Lesbians, Gender and Human Rights Violations* available through Amnesty International at <http://www.amnestyusa.org/women/lesbians.html>, last accessed on April 29, 2005.

³ See *Written Out: How Sexuality is Used to Attack Women’s Organizing* (2005) for an analysis and discussion of lesbian-baiting available at www.iglhrc.org.

Human rights abuses against lesbian, bisexual and transgender women are shaped and determined by gender as well as by actual or perceived sexual identity and other identity categories, such as race, ethnicity, (im)migrant status, language, class, etc. Any expression of identity or divergence from cultural norms that require the expression of gender that neatly corresponds to biological sex, causes fear and hatred leading to actual violence, threats of violence, and psychological harm. Rooted in stereotypes stemming from rigid conceptions of masculinity and femininity, this violence occurs on many levels ranging from daily torment and harassment in schools to hate-driven murder. It is precisely the eradication of these cultural stereotypes that is required by Article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

International human rights experts have called for greater attention to the intersections of gender-based discrimination, heteronormativity⁴, homophobia and other forms of discrimination such as racism and intolerance. For example, the UN Special Rapporteur on Violence Against Women has received information about lesbian women “being targeted for rape, specifically because of their sexual orientation in order for the aggressor to ‘prove the [victim’s] womanhood.’”⁵ This is consistent with information we have received from colleagues in Guatemala who tell us about how women who appear “masculine” are lured into bars and then raped.

While the rape of any woman puts her at risk of contracting HIV/AIDS, stigma and discrimination against women whose sexual and gender expression does not conform to social and cultural norms puts them in a compromised position. All too often, women who have sex with women, whether or not they define themselves as lesbian or bisexual, find it impossible to receive appropriate and accessible HIV/AIDS support, treatment and care due to their well-founded fears of hatred or dismissal by health care providers.

Despite the pattern of human rights violations perpetrated against women who have sex with other women, whether or not they identify as lesbian or bisexual, as well as women who transgress culturally constructed notions of gender, sex, and sexuality, this violence goes under-reported due to biases in data collection, threats of retaliatory violence in response to attempts to seek redress, and legal and/or political climates of discrimination which have the effect of “driving women underground”- meaning that women will not choose to seek attainment of rights or services. In this context Nigel Rodley, former UN Special Rapporteur on Torture, has commented:

I believe that discrimination on grounds of sexual orientation or gender identity may contribute to the process of the dehumanization of the victim, which is often a

⁴ By “heteronormativity” we mean the normative social construction of gender, based on the pairing of male/female, man/women, husband/wife, among the series of oppositions taken to be “normal” and “natural.” As the former UN Special Rapporteur on Violence Against Women commented in her report to the UN Commission on Human Rights in 2002 [E/CN.4/2002/83] the cost of transgressing these opposites can be severe, noting “Gender-based violence is rooted in the social construct of what it means to be either male or female. When a person deviates from what is considered “normal” behavior they are targeted for violence.” We also believe that gender is always constituted through a particular social, cultural, historical and geographical lens. It is therefore inextricable from other categories of “difference” such as race, class, caste, (im)migrant status, health status, among others.

⁵ Yakin Ertürk, *Report to the Commission on Human Rights*, 17 January 2005, E/CN.4/2005/72.

necessary condition for torture and ill-treatment to take place. Furthermore, discriminatory attitudes towards members of sexual minorities can mean that they are perceived as less credible by law enforcement agencies or not fully entitled to an equal standard of protection, including protection against violence carried out by non-State agents. Members of sexual minorities, when arrested for other alleged offences or when lodging a complaint of harassment by third parties, have reportedly been subjected to further victimization by the police, including verbal, physical and sexual assault, including rape. Silencing through shame or the threat by law enforcement officials to publicly disclose the birth sex of the victim or his or her sexual orientation (to family members, among others) may keep a considerable number of victims from reporting abuses.⁶

II. KEY RECOMMENDATIONS THE STUDY SHOULD BE PROPOSING

1. Violence perpetrated and/or condoned by the state on the basis of sexual conduct and/or gender expression meets the standard deserving attention, recognition and response by the international community.
2. Data on violence against women should be disaggregated with respect to sexual orientation and gender identity wherever possible.
3. Researchers and program staff addressing violence against women should be particularly attentive to assumptions they bring to the exploration of violence against women who transgress social or cultural boundaries. They, for instance, should not assume that the survivors or victims are heterosexual.
4. Researchers and program staff need to make and maintain contacts with local civil society groups that represent or have access to lesbian, bisexual and transgender communities of women, and work in consultation with these groups to design and implement the most effective strategies. Where possible, researchers and program staff should utilize reporting tools already developed by NGO advocates.
5. Researchers and program staff need to develop or improve their capacity to be sensitive to where and how to gather information on violence against sexually non-conforming women in order to develop more accurate measures about the extent and location of violence against women. In particular, those working directly with survivors must be adequately trained in seeking information related to violence and sexual/gender identity, and in ensuring the safety, security and confidentiality of those reporting. They should also be sensitive to the ways in which violence against sexual minorities is often hidden within the context of families and communities who hide the existence and/or nature of the violence, or whose primary concern is protecting their family's honor rather than protecting women members of the family or seeking justice for those who have been victims of violence.

⁶ Sir Nigel Rodley, Special Rapporteur on Torture, Statement to the General Assembly, 8 November 2000, UN Doc E/CN.4/2002/76.