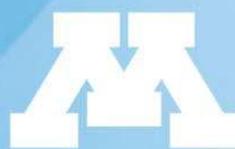


Country of Origin Report: Sexual Orientation and Gender Identity and Expression in Honduras

ORAM - Organization for Refuge, Asylum
and Migration

The University of Minnesota



MINNESOTA LAW

UNIVERSITY OF MINNESOTA

About This Report

Country of Origin (COI) reports are an essential tool in asylum adjudication. Reports are used for assessing a variety of elements in asylum claims: individual risk of persecution, the applicant's credibility, and the availability of state protection.

Building on its extensive research and training experience within the refugee field, ORAM identified that more nuanced and culturally sensitive conceptualizations of sexual orientation and gender identity in COI reports could lead to a more accurate adjudication of asylum claims of this nature.

This Honduras COI Report is intended to help adjudicators and protection officers assess asylum claims by contextualizing personal stories of persecution.

About ORAM

Founded in 2008, ORAM is a pioneer in advocating for the safety and well-being of extremely vulnerable asylum seekers and refugees. ORAM provides innovative tools and delivers educational programs for refugee and migration professionals. Drawing upon our leadership experience and trailblazing work on sexual and gender minority refugees, we assist those facing extreme persecution and are in desperate need of help.

ORAM works closely with governments, international and local organizations, respected academic institutions and communities to promote system-wide change through the sharing of information, capacity building and establishing sustainable futures for asylum seekers and refugees globally.

About The Immigration and Human Rights Clinic, University of Minnesota Law School

The Immigration and Human Rights Clinic is part of the James H. Binger Center for New Americans at the University of Minnesota Law School. Students in the Clinic represent asylum-seekers and human trafficking survivors who are seeking protection in the United States. The Clinic also works on public policy issues affecting refugees, asylum-seekers and other non-citizens.

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1. INTRODUCTION

Violence and discrimination against the LGBT population in Honduras has been widespread for generations.¹ The nation suffers from tremendous political instability. Decades of military rule and outside state influence, a government coup in 2009, and possible fraud surrounding the 2017 presidential election all contributed to this instability.² This environment has allowed violence and corruption to permeate nearly every part of the country.

Murder rates within the LGBT population have skyrocketed in the past decade. Between 1994 and 2008, there were fewer than two reported murders of LGBT people on average in Honduras annually.³ The murder rate of LGBT individuals increased to an annual average of 31 people after the coup (between 2009 and 2018).⁴ In 2019, the number of LGBT people murdered in the country increased to 40.⁵ This trend indicates that the situation for LGBT people in Honduras continues to deteriorate.

Although Honduras decriminalized homosexuality in 1899, it was not until 2013 that Honduras criminalized “discrimination due to sexual orientation and gender identity.”⁶ ⁷ LGBT advocates have faced fierce resistance to these recently granted protections and are likely to confront similar opposition if they propose further expansion of LGBT rights in the future.

Certain Honduran religious and cultural beliefs both reflect and encourage the population’s widespread condemnation of LGBT persons. For example, Honduran adherence to

¹ *Freedom in the World, 2018 - Honduras*, FREEDOM HOUSE (2018), <https://freedomhouse.org/report/freedom-world/2018/Honduras>.

² Amelia Cheatham, *Central America’s Turbulent Northern Triangle*, COUNCIL ON FOREIGN RELATIONS (last updated Oct. 1, 2019), <https://www.cfr.org/backgrounder/central-america-turbulent-northern-triangle>.

³ *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catrachas 1994 – 2018*, CATTRACHAS (2018), 18, <http://catrachas.org/images/archivos/MuertesLGBTBI/Informe-de-muertes-LGBTBI-de-1994-a-2018.pdf>.

⁴ *Id.*

⁵ *Id.* at 21.

⁶ Lucas Ramón Mendos, *State Sponsored Homophobia*, ILGA WORLD 35 (Dec. 2019),

https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2019.pdf

⁷ Penal Code of Honduras. S. 321 (text amended by Decree No. 23-2013) *see* Section 2.4.1 of this Report.

the concept of machismo fuels controlling masculine behavior and violence against the general population.⁸ The religious beliefs of the Christian majority bolster the violent actions of individuals by confirming and demanding adherence to traditional gender and heterosexual standards. The mixture of these traditional values and homophobic beliefs has created extremely dangerous conditions for the LGBT community in Honduras.⁹

The purpose of this Report is to review the history and impact of laws regarding the LGBT population in Honduras. This Report analyzes the treatment of the LGBT community by state actors, including military officials, government officials, and the national police. This Report also examines treatment of the Honduran LGBT population by non-state actors, including criminal organizations, families, and the greater public.

2. LEGAL FRAMEWORK

Currently, there is no comprehensive legal framework regarding LGBT issues in Honduras. Given such an absence, this section of the Report discusses legal protections relating to LGBT people that derive from, or are present in, the Honduran Constitution, domestic legislation, and international obligations.

2.1. Laws specifically concerning same-sex acts and “homosexual” behavior

Same-sex sexual activity and behavior are not criminalized in Honduras. Same-sex sexual activity between individuals able to consent has been legal under the Penal Code of Honduras since 1899.¹⁰ The age of consent in Honduras does not differ depending on the gender or sexual orientation of an individual.¹¹ However, legality of same-sex sexual acts is not necessarily

⁸ Duncan Tucker, *Homophobia in Honduras: Growing Attacks on LGBT Activists*, INDEX ON CENSORSHIP (Apr. 20, 2016), <https://www.indexoncensorship.org/2016/04/magazine-honduras-rainbow-warriors-the-dangers-of-being-an-lgbt-activist/>.

⁹ *Id.*

¹⁰ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva; ILGA, March 2019), 185, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf.

¹¹ Código Penal [Cód. Pen.] [Criminal Code] art. 140, *available at* <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/CodigoPenal-Oct2018.pdf>

evidence of a safer environment for sexual and gender minorities.¹² In fact, more than 120 years after the decriminalization of homosexuality in Honduras, there has been limited advancement in establishing a legal framework that adopts necessary measures to prevent and penalize violence, segregation, exploitation, and discrimination committed against the LGBT population.¹³

2.2. Laws granting rights/specifically denying rights to same-sex couples

In 2005, Honduras amended its Constitution to prohibit same-sex marriages, de facto unions, and adoption by same-sex couples.¹⁴ After the amendment, Article 112 of the Honduran Constitution went further, clarifying that recognized marriages and de facto unions are between “a man and a woman, who have those qualities naturally.”¹⁵ Furthermore, Honduras does not recognize same-sex marriages or unions that are legally enforceable in other countries.¹⁶ Moreover, Article 116 of the Honduran Constitution specifically prohibits the giving of children through adoption to persons of the same sex who form marriages or de facto unions.¹⁷

These constitutional provisions sit in marked contrast with the global trend of legalizing same-sex marriages in unions. Since 2001, an ever-increasing number of countries – including seven in Latin America - have legalized same-sex marriages and unions.¹⁸ In most countries, marriage is the most comprehensive legal vehicle for the official recognition of a relationship.¹⁹ This official recognition attaches many benefits, rights, and duties to the union.²⁰ LGBT couples in Honduras do not have access to any of these legal benefits nor to the societal status that comes

¹² International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019), 179, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf.

¹³ Jennifer Avila, *Soy mujer trans, no quiero ser noticia*, CONTRA CORRIENTE, https://contracorriente.red/mujer-trans-no-noticia_.

¹⁴ Constitución Política de la República de Honduras, Jan. 20, 1982, art. 112, 116, reformed by Decree 176/2004, ratified by Decree 36/2005, available at https://www.constituteproject.org/constitution/Honduras_2013.pdf?lang=en p. 24.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See, e.g., International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019), available at https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf

¹⁹ *Id.* at p. 277.

²⁰ *Id.*

from being in a state-recognized relationship. This lack of access and recognition further marginalizing the LGBT community.

2.3. Laws relating to the legal recognition of the gender identity of transgender persons

There is currently no right in Honduras to legally change one's assigned gender at birth or to rectify registration documents.²¹ LGBT activists are currently working to pass legislation that would allow individuals to legally change their gender.²² The Latin American and Caribbean network of transgender people (REDLACTRANS) claims that the lack of legal recognition for transgender individuals advances exclusion, marginalization, and discrimination of the transgender population.²³

This lack of legal recognition also makes transgender individuals more invisible in official records and systems. Because identity cards match the individual's sex on their birth certificate, a person often appears more gender-conforming than they may be in reality.²⁴ This can cause crimes against transgender individuals to be disguised in reports, because the crime will be recorded according to the individual's identity card.²⁵ The lack of specific information about the transgender population in Honduras creates difficulty in defining the precise scope of human rights violations in this particular area.²⁶

Additionally, the current process for obtaining an identity card creates barriers for LGBT individuals. Identity cards are issued to Honduran citizens when they reach 18 years of age.²⁷

²¹*Id* at p. 530.

²² See, e.g., Anastasia Moloney, *Top Americas rights commission condemns Honduras LGBT+ murders*, REUTERS (July 19, 2019), <https://www.reuters.com/article/us-honduras-lgbt-murders/top-americas-rights-commission-condemns-honduras-lgbt-murders-idUSKCN1UD323; I Know Who I Am, But My Country Doesn't Recognize Me>", ARCUS FOUNDATION (Sept. 1, 2019), <https://www.arcusfoundation.org/stories-of-impact/lgbt-i-know-who-i-am-but-my-country-doesnt-recognize-me/>.

²³ *Human Rights Violations of Trans Women in Costa Rica, El Salvador, Guatemala, Honduras and Panama*, REDLACTRANS, 46, <http://redlactrans.org.ar/site/wp-content/uploads/2013/05/ReportREDLACTRANS.pdf>.

²⁴ *Research Directorate, Procedure for Obtaining Identity Card*, IMMIGRATION AND REFUGEE BOARD OF CANADA (January 2011 – December 2015), available at <https://irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=456246&p1s=1>.

²⁵ *Id.*

²⁶ *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*, REDLACTRANS 12, (2012).

²⁷ *Research Directorate, Procedure for Obtaining Identity Card*, IMMIGRATION AND REFUGEE BOARD OF CANADA (January 2011 – December 2015), available at <https://irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=456246&p1s=1>.

The application process includes a photograph, which can be changed over time, and fingerprinting.²⁸ While the ability to be photographed at the age of 18 and change that photograph in the future may appear to benefit the transgender community, a gender-conforming photograph without the ability to change one's legal gender on identity documents to match that photograph can lead to discrimination and harassment when officials note the discrepancy.

2.4. Laws protecting LGBT people

While the Honduran Constitution does not protect LGBT people, the Penal Code was amended to purportedly protect them from discrimination.²⁹ However, this protection has not been effective in reducing violence and discrimination directed against the LGBT population. In 2013, the National Congress passed legislation that added sexual orientation and gender identity to the classes of persons protected from discrimination.³⁰ Title XI of the Honduran Penal Code addresses crimes against the existence and the security of the state,³¹ and Chapter III of that Title deals with crimes against the right of peoples.³² Article 321 of Chapter III criminalizes:

“arbitrary and illegal obstruction, restriction, reduction, impediment, or annulment of the exercise of individual and collective rights, or the denying of a professional service motivated by sex, gender, age, sexual orientation, gender identity, party affiliation or political opinion, marital status, belonging to indigenous or Afro-descendant communities, language, tongue, nationality, religion, familial affiliation, social or economic status, disability, health condition, physical appearance or anything else that infringes upon the human dignity of the victim.”³³

Additionally, Article 321 enhances the penalty if the act is committed: (1) with violence; (2) by a public servant while exercising their position; or (3) by a repeat offender.³⁴

²⁸ *Id.*

²⁹ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019), available at https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf

³⁰ United States Department of State, *Country Reports on Human Rights Practices for 2015 - Honduras*, 32, <https://2009-2017.state.gov/documents/organization/253235.pdf>

³¹ Código Penal [Criminal Code], 95, available at <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/CodigoPenal-Oct2018.pdf>

³² *Id.* at 100.

³³ *Id.* at 101.

³⁴ *Id.* at 101.

This amendment is significant because it expressly incorporates gender identity and sexual orientation into the protected classes of discrimination, which previously was not included. However, there is still no legal framework that specifically addresses the LGBT population's unique needs.³⁵ In the same 2013 Penal Code Reform, Honduras adopted Article 321-A in Chapter III of Title XI, making it an offense to:

“ ... Publicly or through public means of communication incite discrimination, hatred, contempt, persecution, or any form of violence or attacks against any person, group, association, foundation, society, corporation, nongovernmental organization for any of the reasons enumerated in the previous article.”³⁶

“Previous article” refers to Article 321, discussed in the above section, which specifically includes sexual orientation and gender identity as enumerated reasons

Because Article 321 bans sexual orientation discrimination in broad terms, it therefore theoretically applies in the employment context as well.³⁷ However, the Honduran Labor Code does not specifically include sexual orientation or gender identity as one of the prohibited grounds of discrimination.³⁸

The 2013 Penal Code amendments also addressed violence motivated by sexual orientation or gender identity of the victim (among other grounds) popularly known as “hate crimes.”³⁹ The amendments enhance the criminal punishment that an offender receives upon commission of a hate crime. Title IV of the Honduran Penal Code addresses circumstances that modify criminal liability.⁴⁰ Chapter II, Article 27 of this Title lists aggravating circumstances and states that it is an aggravating circumstance: “to commit a crime with hate or contempt due

³⁵ For an example of such a framework, *see, e.g.*, Law on Equal Opportunities for Women, 2000. <https://pdba.georgetown.edu/Parties/Honduras/Leyes/LeyMujer.pdf>

³⁶ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019), *available at* https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf; *see also* Código Penal [Criminal Code], 102, *available at* <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/CodigoPenal-Oct2018.pdf>

³⁷ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019), *available at* https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf

³⁸ Código del Trabajo [Labor Code], Art. 12, *available at* <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/29076/64849/S59HND01.htm#t1>

³⁹ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019), 258, *available at* https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf

⁴⁰ Código Penal [Criminal Code], 9, *available at* <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/CodigoPenal-Oct2018.pdf>

to the sex, gender, religion, national origin, belonging to indigenous or Afro-descendant populations, sexual orientation or gender identity, age, marital status or disability, ideology or political opinion of the victim.”⁴¹ These amendments are important steps forward in the codification of LGBT protections in Honduras, but have not effectuated change. However, despite the passing of these protective measures in 2011, LGBT organizations in Honduras report that there is no practical application of these laws on the ground.⁴² One example of this is the discrepancy between reports of violence against the LGBT community and formal investigations of those crimes by Honduran authorities. In August of 2018, the Inter-American Commission on Human Rights (IACHR) reported that, according to information provided by civil society organizations, there were 177 murders of LGBT people in the previous five years, which resulted in only 65 investigations and no convictions.⁴³

These high rates of impunity for sexual and gender-based crimes in Honduras are due to a variety of factors.⁴⁴ First, few victims of sexual and gender-based crimes report them.⁴⁵ This is often the result of fear, given the absence of protection mechanisms for victims who do report their attackers.⁴⁶ It also results from a sense of futility, given that authorities rarely effectively investigate and prosecute cases.⁴⁷ This ineffective official response is not only due to lack of training or resources, but also due to the discriminatory and intentional mishandling of cases by police, prosecutors, and judges⁴⁸—the very authorities who are supposed to help victims.

⁴¹ *Id* at 12.

⁴² Clara Murguialday, *Diagnostico de Situación de la Comunidad LGBTI en 4 Países Centroamericanos*, MUGEN GAINETIK (2017), available at: <http://observatoriodederechossexualesyderechosreproductivos.org/images/DIAGNOSTICO-LGTBI-EN-CENTROAMERICA.pdf>

⁴³ Organization of American States (OAS), Press Release: *IACHR Has Concluded its Visit to Honduras and Presents its Preliminary Observations* (Aug. 3, 2018), https://www.oas.org/en/iachr/media_center/PReleases/2018/171.asp

⁴⁴ Andrea Fernández Aponte, *Left in the Dark: Violence Against Women and LGBTI Persons in Honduras and El Salvador*, LATIN AMERICAN WORKING GROUP, available at <https://www.lawg.org/left-in-the-dark-violence-against-women-and-lgbti-persons-in-honduras-and-el-salvador/>

⁴⁵ *Id.*

⁴⁶ Kids in Need of Defense, *Neither Security nor Justice: Sexual and Gender-based Violence and Gang Violence in El Salvador, Honduras, and Guatemala* (May 2017), 10, available at https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice_SGBV-Gang-Report-FINAL.pdf

⁴⁷ *Id* at 7-8.

⁴⁸ *Id.*

Additionally, LGBT victims fear they will suffer harassment from police officials if they report crimes.⁴⁹ There is also growing concern regarding police collusion and other forms of involvement with gang activities, which further erodes the LGBT community's and general public's trust in government authorities.⁵⁰

In order for the Penal Code amendments to have an impact, organizations like REDLACTRANS highlight the need for regulatory processes to be accompanied by policies that train public officials in human rights generally.⁵¹ The organization also highlights the rights of transgender persons in particular, how to implement this anti-discrimination legislation, and how to otherwise prevent violence and discrimination against transgender persons.⁵² Additionally, judges, advocates, and prosecutors should be trained in the regulations, apply them consistently and rigorously, and understand how to identify prejudice or hate against transgender persons.⁵³ REDLACTRANS also contends that criminal punishments for discrimination should be accompanied by non-penal regulations (like civil penalties) that prevent discrimination and advance inclusion of transgender persons in other areas such as education, work, or public health.⁵⁴

2.5. Laws concerning LGBT organizations

Article 78 of the Honduran Constitution guarantees the right to freedom of association and assembly, provided it is not contrary to the public order or to public morals.⁵⁵ However, this is not always the reality for LGBT organizations. In order to receive legal recognition, an organization must submit a request for official registration to the Ministry of Interior and

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* See Also *Human Rights Violations of Trans Women in Costa Rica, El Salvador, Guatemala, Honduras and Panama*, REDLACTRANS, 46, <http://redlactrans.org.ar/site/wp-content/uploads/2013/05/ReportREDLACTRANS.pdf>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Honduras's Constitution of 1982 with Amendments through 2013*, CONSTITUTE, art. 78 at 19, available at https://www.constituteproject.org/constitution/Honduras_2013.pdf?lang=en.

Justice.⁵⁶ In August of 2000, the Ministry of Interior and Justice denied LGBT organization Grupo Prisma's application because group's statutes and articles of association " ... breach morality, public order, and proper behavior."⁵⁷

Furthermore, Article 75 of the Honduran Constitution states that: "the law that regulates the expression of thought may establish prior censorship to protect the ethical and cultural values of society, as well as the rights of persons, especially those of childhood, adolescence and youth."⁵⁸ This means that the government can effectively censor LGBT organizations' dissemination of information by claiming it is contrary to the "ethical and cultural values" of Honduran society. Moreover, the focus on content that reaches children can be distorted to "protect morality."⁵⁹

In 2004, the Ministry of the Interior granted legal recognition to three LGBT organizations that had been waiting 15 years since submitting their petitions.⁶⁰ There was significant backlash from various sectors of Honduran society, including organized protests by the Catholic Church, evangelical groups, and conservative legislators.⁶¹ This backlash is credited for spurring the push for and approval of the 2005 constitutional amendments banning same-sex marriage and adoption of children by same-sex couples.⁶²

Another law related to assembly and organization was the Police and Social Co-Existence Law, passed in 2002. This law allowed police to restrict movement or presence of individuals considered to be dangerous in public areas. The goal of the law is to prevent organized crime and

⁵⁶ *Id.*

⁵⁷ Amnesty International, *Honduras: Human rights violations against lesbian, gay, bisexual and transgender people.* (2003), AI Index: AMR 37/014/2003.

⁵⁸ *Honduras's Constitution of 1982 with Amendments through 2013*, CONSTITUTE, art. 75 at 18, available at https://www.constituteproject.org/constitution/Honduras_2013.pdf?lang=en.

⁵⁹ *Id.*

⁶⁰ Freddy Cuevas, *Religious leaders criticize Honduran government for recognizing gay groups*, SAN-DIEGO UNION-TRIBUNE (Aug. 31, 2004), available at <https://archive.globalgayz.com/central-america/honduras/gay-honduras-news-and-reports/#article1>.

⁶¹ Suyapa Portillo Villeda, PhD, *Honduras LGBTI: Landscape Analysis of Political, Economic and Social Conditions*, ASTRAEA LESBIAN FOUNDATION FOR JUSTICE (2015), available at <https://www.astraea-foundation.org/publication/honduras-lgbti-landscape-analysis/>.

⁶² Jennifer Avila, *Soy mujer trans, no quiero ser noticia*, CONTRA CORRIENTE, https://contracorriente.red/mujer-trans-no-noticia_

protect public safety. Local LGBT rights groups believe that this law is used to limit their right to free assembly.⁶³

2.6. Discussion on criminalization/decriminalization of LGBT rights

In January 2018, the Inter-American Commission on Human Rights (IAHCR) issued an advisory opinion regarding LGBT rights.⁶⁴ The Court held that the extension of all existing legal mechanisms, including marriage of same-sex couples and the right to change one's name and identity documents to conform to one's gender, are human rights protected by the American Convention on Human Rights.⁶⁵ The decision set binding precedent for Honduras and other countries in Latin America and the Caribbean.⁶⁶ Following this ruling, LGBT activists began filing suits in Honduras, some of which are discussed below.

Indyra Mendoza, the coordinator of Lesbian Network CATTRACHAS, filed a petition in March of 2018 with the Supreme Court of Honduras to challenge the State's failure to create a process for transgender individuals to change their names and genders on official documents.⁶⁷ Mendoza also challenged Articles 112 and 116 of the Constitution, prohibiting marriage and adoption by same-sex couples.⁶⁸ Donny Reyes, the coordinator of LGBT Association Arcoiris (Rainbow), and Alex Sorto, the Executive Director of Somos CDC, also filed a constitutional challenge on Honduras's bans on gay marriage and adoption.⁶⁹ A previous petition they had filed challenging the same bans was dismissed in November 2018 due to "technical errors."⁷⁰ The

⁶³ *Id.*

⁶⁴ Jorge Contesse, *The Inter-American Court of Human Rights' Advisory Opinion on Gender Identity and Same-Sex Marriage*, AMERICAN SOCIETY OF INTERNATIONAL LAW (2018, Volume 22, Issue 9), available at <https://www.asil.org/insights/volume/22/issue/9/inter-american-court-human-rights-advisory-opinion-gender-identity-and>

⁶⁵ *Id.*

⁶⁶ Case description: In May 2016, the Republic of Costa Rica requested that the IACHR clarify what amounts to discrimination after observing that the protection of LGBT rights vary significantly amongst countries that belong to the Organization of American States. Full opinion available at: http://www.corteidh.or.cr/docs/opiniones/seriea_24_eng.pdf

⁶⁷ Mirte Postema, *LGBT Hondurans March Against Hate*, HUMAN RIGHTS WATCH (Mar. 23, 2019), <https://www.hrw.org/news/2019/05/23/lgbt-hondurans-march-against-hate#>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Sala de lo Constitucional admite nuevo recurso que permita matrimonio gay*, PROCESO DIGITAL (Feb. 6, 2019, 19:56), <https://proceso.hn/mas-noticias/32-m%C3%A1s-noticias/sala-de-lo-constitucional-admite-nuevo-recurso-que-permita-matrimonio-gay.html>.

President of the Evangelical Brotherhood of Honduras, Alberto Solorzano, personally presented to the Court opposing the claim.⁷¹

Other activist groups are working to enact change through congressional means.⁷² Two LGBT civil society organizations, Cozumel Trans and Colectivo Unidad Color Rosa, submitted a proposal to Congress for a gender identity law that would allow name and gender marker changes.⁷³ CATRACHAS is also litigating three cases in the Inter-American System for the protection of human rights to enact changes in Honduras.⁷⁴ Two of these cases allege State responsibility for endemic violence that transgender women experience in Honduras.⁷⁵

2.7. Implementation of International Human Rights Obligations

2.7.1. International Covenant on Civil and Political Rights (ICCPR)

Honduras ratified the ICCPR on August 25, 1997.⁷⁶ Articles 2(1) and 26 set out non-discrimination standards which prohibit discrimination based on sexual orientation.⁷⁷ However, the Honduran government continues to engage in widespread discrimination against the LGBT community both directly and indirectly.⁷⁸ Honduras is also in violation of Article 3, Gender Equality.⁷⁹

Extrajudicial killings by both state and non-state actors that are based on the victim's sexual orientation violate Article 6 of the ICCPR, Right to Life.⁸⁰ The Honduran government also regularly fails to properly register and investigate these crimes.⁸¹ Police brutality toward the

⁷¹ *Id.*

⁷² Mirte Postema, *LGBT Hondurans March Against Hate*, HUMAN RIGHTS WATCH (Mar. 23, 2019), <https://www.hrw.org/news/2019/05/23/lgbt-hondurans-march-against-hate#>.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Status of Ratification of International Covenant on Civil and Political Rights: United Nations Human Rights Office of the High Commissioner: <https://indicators.ohchr.org>. Accessed: June 7, 2020.

⁷⁷ *Id.* at 3, (In *Toonen v. Australia*, Human Rights Committee made clear that sexual orientation is included in the reference to sex in the ICCPR).

⁷⁸ *Id.* at 4.

⁷⁹ *Id.* at 5.

⁸⁰ Status of Ratification of International Covenant on Civil and Political Rights: United Nations Human Rights Office of the High Commissioner: <https://indicators.ohchr.org>. Accessed: June 7, 2020.

⁸¹ *Id.* at 6.

LGBT community has been documented since the 1980s, and instances of cruel, unusual, or degrading punishment by state actors continue, in violation of Article 7 of the ICCPR.⁸² Additionally, these arbitrary arrests and many of the human rights abuses discussed in this section violate Article 9 of the ICCPR, Right to Liberty and Security of Person.⁸³ While detained, whether justified or arbitrarily, LGBT prisoners are routinely victimized.⁸⁴ This is in violation of Article 10 of the ICCPR, Treatment of Individuals Deprived of Their Liberty.⁸⁵

In summary, Honduras' public commitments to prohibiting violence on the basis of gender identity and expression must translate into concrete actions that reduce violence against the LGBT community.

3. APPLICATION OF THE LAW

This section of the Report addresses the application of laws concerning LGBT people discussed in Section 2, the discriminatory application of The Law of Police and Social Affairs, the social impact laws have on LGBT people, and the lack of adequate State protection from widespread violence and discrimination plaguing the LGBT community.

3.1. Discriminatory application of laws against LGBT people

The 2001 Law on Police and Social Affairs (Spanish: *Ley de Policía de Convivencia Social*⁸⁶) is vaguely worded and arbitrarily enforced by the Honduran police so as to discriminate against the LGBT community.⁸⁷ Article 5 of this law states that police should “prevent and

⁸² *Id.* at 8.

⁸³ *Id.* at 9.

⁸⁴ *Id.* at 11.

⁸⁵ *Id.*

⁸⁶ Ley de Policía y de Convivencia Social, Poder Legislativo, Decreto No. 226-2001. Available at <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10638.pdf?file=fileadmin/Documentos/BDL/2016/10638>.

⁸⁷ Violence and Protection in the North of Central America, *The impact of violence on LGBTI people in the North of Central America*, REDLAC (SNAPSHOT # 6, September 2019), available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Protection%20Snapshot%20%20-%20English%20-%20September%202019.pdf>.

eliminate disturbances to tranquility, public morality, and proper conduct.”⁸⁸ Additionally, Article 142 gives police the power to arrest anyone who “exhibits total nudity or goes against modesty, proper conduct and public morals . . . and disturbs the neighbors’ tranquility with their immoral conduct.”⁸⁹ Article 99 of the law includes sanctions against “people who have no honest means of living” including “beggars, street prostitutes, drug addicts, drunkards, and gamblers.”⁹⁰ There are no definitions of these subjective terms nor is there jurisprudence to clarify the law’s meaning.⁹¹ According to Human Rights Watch (HRW), this ambiguity gives the police the power and discretion to arbitrarily arrest LGBT people.⁹² ⁹³ HRW reports that the police justify their actions using the vague language in provisions of the statute such as “public morality” and “public scandal.”⁹⁴ For example, an outreach worker told HRW that police officers accused her of stealing, and then proceeded to smash her head against a glass door while accusing her of “public scandal.”⁹⁵ Furthermore, the National Police use this law to justify raiding and closing places they know LGBT people socialize.⁹⁶ These actions related to public morality are vague, not shown to be necessary, and applied disproportionately to the LGBT community.⁹⁷

3.2. Social impact of laws against LGBT

The mere existence of legal provisions against LGBT individuals reinforces and justifies the discrimination that gender and sexual minorities in Honduras face due to sociocultural norms.

⁸⁸ Ley de Policía y de Convivencia Social, Poder Legislativo, Decreto No. 226-2001. Available at <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10638.pdf?file=fileadmin/Documentos/BDL/2016/10638>.

⁸⁹ *Id.*

⁹⁰ Ley de Policía y de Convivencia Social, Poder Legislativo, Decreto No. 226-2001. Available at <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10638.pdf?file=fileadmin/Documentos/BDL/2016/10638>.

⁹¹ “Not Worth a Penny”: Human Rights Abuses against Transgender People in Honduras, HUMAN RIGHTS WATCH (May 2009), available at <https://www.justice.gov/sites/default/files/eoir/legacy/2013/06/14/transgender2009.pdf>

⁹² Jennifer Avila, *Soy mujer trans, no quiero ser noticia*, CONTRA CORRIENTE, <https://contracorriente.red/mujer-trans-no-noticia>.

⁹³ *Id.* (It is estimated that 90% of cases of police abuse are not investigated).

⁹⁴ *Honduras: End Violence Against Transgender People, Government Should Prosecute Attackers and Prohibit Discrimination*, HUMAN RIGHTS WATCH (May 2009), available at <https://www.hrw.org/news/2009/05/29/honduras-end-violence-against-transgender-people#>

⁹⁵ *Id.*

⁹⁶ Immigration and Refugee Board of Canada, *Honduras: Treatment of sexual minorities, including legislation; state protection and support services available* (Nov. 2013), HND104661.E, available at <https://www.refworld.org/docid/52ce9e6e4.html>.

⁹⁷ *Honduras: End Violence Against Transgender People, Government Should Prosecute Attackers and Prohibit Discrimination*, HUMAN RIGHTS WATCH (May 2009), available at <https://www.hrw.org/news/2009/05/29/honduras-end-violence-against-transgender-people#>

The lack of recognition of the right of gender identity and the impossibility of rectifying one's documents to reflect their gender identity creates impediments in accessing basic rights such as education, work, health, and housing, among others.⁹⁸

Due to these barriers, transgender women often have to resort to sex work in order to survive.⁹⁹ This further increases their vulnerability and social exclusion.¹⁰⁰ Transgender women who do sex work are exponentially more likely to be victims of crimes and abuses by the police.¹⁰¹ Furthermore, sex workers often work during the night in dark and insecure areas, which exposes them to greater risk.

The lack of legal protections and recognition afforded to Honduras's LGBT population, coupled with the lack of state protection, has led to the increased displacement of LGBT people both within Honduras and abroad.¹⁰² For example, The United Nations High Commissioner for Refugees (UNCHR) reported a substantial increase in the percentage of LGBT asylum cases attended by its office in Tapachula, Mexico. While in 2014, LGBT cases accounted for 1.6% of the total cases attended that figure had increased to 10% by 2016.¹⁰³

3.3. Inadequacy of State Protection

The Honduran state seems unwilling or unable to protect its LGBT population. According to Sin Fronteras observatory, from 2014 to June 2019, there were more than six times more LGBT homicides in Honduras than in Guatemala and more than three times than in El Salvador, countries with similar sociocultural beliefs surrounding LGBT issues.¹⁰⁴ While in

⁹⁸ *Human Rights Violations of Trans Women in Costa Rica, El Salvador, Guatemala, Honduras and Panama*, REDLACTRANS, 47, available at: <http://redlactrans.org.ar/site/wp-content/uploads/2013/05/ReportREDLACTRANS.pdf>

⁹⁹ *Id.* at 49.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Kids in Need of Defense, *Neither Security nor Justice: Sexual and Gender-based Violence and Gang Violence in El Salvador, Honduras, and Guatemala* (May 2017), 10, available at: https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice_SGBV-Gang-Report-FINAL.pdf

¹⁰³ LGBTI Asylum Seekers and Refugees from a Legal and Political Perspective, p. 96

¹⁰⁴ Violence and Protection in the North of Central America, *The impact of violence on LGBTI people in the North of Central America*, REDLAC (SNAPSHOT # 6, September 2019), 6, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Protection%20Snapshot%206%20-%20English%20-%20September%202019.pdf>

recent years the number of overall murders in Honduras has decreased, the number of LGBT murders has increased.¹⁰⁵ Between 2010 and 2017, the annual number of homicides in Honduras declined from 6,239 to 3,866.¹⁰⁶ In contrast, murders of LGBT people increased from 18 to 35 during the same period.¹⁰⁷

Widespread impunity for crimes against the LGBT community in Honduras continues to undermine trust in authorities and the justice system.¹⁰⁸ Authorities continue to lack sufficient capacity and resources to investigate, prosecute and punish those responsible.¹⁰⁹ Furthermore, sometimes this failure is due to the intentional mishandling of cases by police, prosecutors, and judges.¹¹⁰

Additionally, the actual number of crimes against vulnerable populations is likely far higher than reported. The lack of protection mechanisms for victims who report crimes further discourages women, girls, and LGBT people from speaking out.¹¹¹ For example, in 2016, authorities only investigated fifteen of the more than 400 cases of femicide, and just two of those cases resulted in guilty verdicts.¹¹² Inadequate judicial response to such violence fuels impunity, corruption, and high levels of poverty and inequality.¹¹³

The National Police, Military Police, and the army contribute to the insecurity through their illegitimate use of force, and in some cases their complicity with organized crime.¹¹⁴ The

¹⁰⁵ *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catrachas 1994 – 2018*, CATTRACHAS (2018), 18, <http://catrachas.org/images/archivos/MuertesLGBTTI/Informe-de-muertes-LGBTTI-de-1994-a-2018.pdf>.

¹⁰⁶ Alianza por la Paz y Justicia. Segundo informe de Impunidad en Homicidios, Periodo de estudio 2010-2017; <https://www.dropbox.com/s/5wuno9aej0gtidk/Homicidios%20e%20Impunidad.pptx?dl=0#>.

¹⁰⁷ *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catrachas 1994 – 2018*, CATTRACHAS (2018), 18, <http://catrachas.org/images/archivos/MuertesLGBTTI/Informe-de-muertes-LGBTTI-de-1994-a-2018.pdf>.

¹⁰⁸ *Amnesty International Report 2017/18 – Honduras*, AMNESTY INTERNATIONAL (Feb. 2018), available at <https://www.refworld.org/docid/5a9938efa.html>.

¹⁰⁹ *Amnesty International Report 2017/18 – Honduras*, AMNESTY INTERNATIONAL (Feb. 2018), available at <https://www.refworld.org/docid/5a9938efa.html>.

¹¹⁰ Andrea Fernández Aponte, *Left in the Dark: Violence Against Women and LGBTI Persons in Honduras and El Salvador*, LATIN AMERICAN WORKING GROUP, available at <https://www.lawg.org/left-in-the-dark-violence-against-women-and-lgbti-persons-in-honduras-and-el-salvador/>.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

IACHR has received a number of reports of human rights violations by security forces that include torture, demeaning or inhumane treatment, excessive use of force, and illegal detentions.¹¹⁵ There have also been reports of authorities extorting people in exchange for “protection,” as well as subjecting arbitrary detainees to blackmail and sexual violence.¹¹⁶

The government has a police investigative unit dedicated to investigating violent crimes against LGBT and other vulnerable communities.¹¹⁷ The unit is comprised of Public Ministry prosecutors, members of the prosecutor’s investigative agency, and the National Police.¹¹⁸ While the existence of a unit is a step forward, the limited resources and small geographic scope of operation undermine its utility¹¹⁹

The Honduras government’s failure to investigate and prosecute human rights violations against LGBT persons is well documented and long standing. As far back as 2001, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions reported that the killings of over 200 members of the LGBT community in San Pedro Sula between 1991 and 2001 were never investigated.¹²⁰ Honduran officials never responded to this report nor did the situation improve. Between 2008 and 2018, there were at least 295 LGBT individuals murdered, including 11 human rights defenders.¹²¹ CATRACHAS reports that between 1994 and 2019 there were 347 murders of LGBT people in Honduras, resulting in 68 adjudicated cases (just under 20 percent).¹²² These numbers are not improving. In 2018, there were 29 reported LGBT murders

¹¹⁵ Violence and Protection in the North of Central America, *The impact of violence on LGBTI people in the North of Central America*, REDLAC (SNAPSHOT # 6, September 2019), 8, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Protection%20Snapshot%206%20-%20English%20-%20September%202019.pdf>.

¹¹⁶ *Id.*

¹¹⁷ Honduras 2019 Crime and Safety Report, United States Department of State Overseas Security Advisory Council (2019), available at: <https://www.osac.gov/Country/Honduras/Content/Detail/Report/ff459385-017d-4ff2-8a02-15f4aec15a69>

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ “Not Worth a Penny”: *Human Rights Abuses against Transgender People in Honduras*, HUMAN RIGHTS WATCH (May 2009), available at <https://www.justice.gov/sites/default/files/eoir/legacy/2013/06/14/transgender2009.pdf>.

¹²¹ Michel Forst, *UN Special Rapporteur on the Situation of Human Rights Defenders on His Visit to Honduras* UN OFFICE OF THE HIGH COMMISSIONER (May 12, 2018), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23063&LangID=E>.

¹²² *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catranchas 1994 – 2018*, CATRACHAS (2018), available at: <http://catranchas.org/images/archivos/MuertesLGBTTI/Informe-de-muertes-LGBTTI-de-1994-a-2018.pdf>.

and three adjudicated cases (10 percent).¹²³ In 2019, there were 40 reported LGBT murders and just three adjudicated cases (8 percent).¹²⁴

In addition to the failure to prosecute LGBT crimes, Honduran police have also actively arrested, prosecuted and detained LGBT activists and protestors. For example, in 2013 police arrested and charged German Mendoza, gay rights activist and friend of Trochez, with Trochez's murder.¹²⁵ Nearly two years later, Mendoza was found innocent and released from prison. He reported being repeatedly tortured by officials in an attempt to coerce him into pleading guilty. Mendoza believes that the government charged him with murder to "wash its hands of the responsibility."¹²⁶ More recently, in March of 2019, local human rights organizations in Honduras reported over 48 arbitrary detentions by the police during a protest over the restructuring of health and education systems in the country.¹²⁷

Transgender individuals, in particular male to female, are especially vulnerable to police abuse and violence.¹²⁸ Nearly every transgender person who was interviewed by Human Rights Watch interviewed in 2008 and 2009 reported harassment, beatings, and maltreatment by the police.¹²⁹ Eight years later, this had not changed. Between October and December of 2017, Expediente Abierto surveyed fifty transgender women. 60% of those surveyed reported having suffered physical violence, and 39% identified members of public government security forces as their principal aggressors.¹³⁰

¹²³ *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catrachas 2009 – Marzo 2020*, CATRACHAS (2018), 21, available at: <http://catrachas.org/images/archivos/MuertesLGBTTI/Informe-muertes-LGBTI-2009-marzo2020.pdf>

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Honduras: Events of 2019*, HUMAN RIGHTS WATCH (2020), available at <https://www.hrw.org/world-report/2020/country-chapters/honduras>.

¹²⁸ "Not Worth a Penny": *Human Rights Abuses against Transgender People in Honduras*, HUMAN RIGHTS WATCH (May 2009), available at <https://www.justice.gov/sites/default/files/eoir/legacy/2013/06/14/transgender2009.pdf>

¹²⁹ *Id.*

¹³⁰ Jennifer Avila, *Soy mujer trans, no quiero ser noticia*, CONTRA CORRIENTE, <https://contracorriente.red/mujer-trans-no-noticia>.

3.4. Political climate toward LGBT

The Honduran president, Juan Orlando Hernandez, stated that, as a Christian, he is against gay marriage. The two major political parties in Honduras have not expressed any support for expanding LGBT rights—in fact, they have mostly ignored the topic.¹³¹ Considering the vast majority of Honduran society is opposed to recognizing LGBT rights,¹³² it does not seem likely the topic will gain much political traction without external pressure. A study carried out by CID Gallup Latinoamerica indicated that only 17% of Hondurans support the idea of legally recognizing gay marriage.¹³³

The Honduran coup in 2009 served as the fulcrum for a political shift in LGBT violence and anti-LGBT sentiment. Activists reported that homophobic violence increased drastically after the 2009 overthrow of President Manuel Zelaya in a military coup d'état. The following year, Hondurans elected right-wing candidate Porfirio Lobo Sosa, which was followed by a noticeable suppression of human rights.¹³⁴ Records from LGBT organizations indicate that on average fewer than two LGBT people were murdered in Honduras each year from 1994 to 2008.¹³⁵ After the coup in 2009, the number increased to an average of thirty-one murders of LGBT individuals annually between 2009 and 2018.¹³⁶ This number increased in 2019, with a total of 40 reported murders of LGBT individuals.¹³⁷

¹³¹ <https://www.laprensa.hn/honduras/1178836-410/hondurenos-rechaza-matrimonio-homosexual-planificacion-familiar>

¹³² La Prensa, *Mas del 70% de los hondurenos rechazan el matrimonio homosexual*. (May 2018), available at: <https://www.laprensa.hn/honduras/1178836-410/hondurenos-rechaza-matrimonio-homosexual-planificacion-familiar>

¹³³ *Id.*

¹³⁴ Duncan Tucker, *Homophobia in Honduras: Growing Attacks on LGBT Activists*, INDEX ON CENSORSHIP (Apr. 20, 2016), <https://www.indexoncensorship.org/2016/04/magazine-honduras-rainbow-warriors-the-dangers-of-being-an-lgbt-activist/>.

¹³⁵ *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catrachas 1994 – 2018*, CATTRACHAS (2018), 18, <http://catrachas.org/images/archivos/MuertesLGBTTI/Informe-de-muertes-LGBTTI-de-1994-a-2018.pdf>. (Between 1994 and 2008 there were a total of 20 LGBT murders, resulting in an average of 1.33 murders annually).

¹³⁶ *Informe Sobre Muertes Violentas de la comunidad LGTTBI Catrachas 2009 – Marzo 2020*, CATTRACHAS (2018), 21, available at: <http://catrachas.org/images/archivos/MuertesLGBTTI/Informe-muertes-LGBTI-2009-marzo2020.pdf>

¹³⁷ *Id.*

Since the 2009 coup, leaders in the LGBT community have advocated for political action.¹³⁸ Movement of Diversity in Resistance (MDR), an organization founded in the wake of the coup, decided to create a political arm to participate in the Honduran general elections.¹³⁹ MDR established a political party with the Liberty and Refoundation (LIBRE) party, an umbrella organization for different groups.¹⁴⁰ While LIBRE risked votes by supporting the LGBT movement, they have now built a relationship of trust and cooperation with the LGBT community.¹⁴¹ One of the first LGBT individuals nominated as a candidate by MDR and LIBRE, Erick Alex Martinez Avila was a leader within the LGBT community and a radio journalist.¹⁴² Two weeks after his nomination, he was found strangled to death in his home. His death sent international shockwaves.¹⁴³

Avila's violent murder did not deter MDR and LIBRE. In 2012, four LGBT candidates ran in the party's primary elections, and 12 LGBT candidates ran in 2017.¹⁴⁴ Candidates, such as Erick Martinez, a Gay man, and Claudia Spellman, a transgender woman, experienced insults and taunts throughout their campaign.¹⁴⁵ While no LGBT candidate has won a position in Congress, both Martinez and Spellman's campaigns succeeded in expanding LGBT visibility and rose public awareness of the LGBT movement.¹⁴⁶

¹³⁸Michael K. Lavers, *Activists Loses Bid to Become First LGBT Member of Honduras Congress*, WATERMARK (Mar. 16, 2017), <https://www.watermarkonline.com/2017/03/16/activist-loses-bid-become-first-lgbt-member-honduras-congress/>.

¹³⁹Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

¹⁴⁰Lucas Perelló, *In Honduras, New Evidence Sheds Light on the Close Ties Between the National Party and Drug Trafficking*, GLOBAL AMERICANS (Aug. 7, 2019), <https://theglobalamericans.org/2019/08/in-honduras-new-evidence-sheds-light-on-the-close-ties-between-the-national-party-and-drug-trafficking/>.

¹⁴¹*Id.*

¹⁴²*Journalist, Human Rights Defender Killed*, IFEX (May 9, 2012), <https://ifex.org/journalist-human-rights-defender-killed/>.

¹⁴³*Id.*

¹⁴⁴Ernesto Valle, *LGBT Candidates in Honduras Elections*, WASHINGTON BLADE (Dec. 4, 2017), <https://www.washingtonblade.com/2017/12/04/lgbt-candidates-run-in-honduras-elections/>.

¹⁴⁵*Id.*

¹⁴⁶*Id.*

4. TREATMENT BY NON-STATE ACTORS

4.1. General societal attitudes

4.1.1. Economic Development and Public Approval of LGBT

Honduras remains a deeply homophobic and transphobic country.¹⁴⁷ This widespread public sentiment may be tied to the country's economic development and poverty levels.¹⁴⁸ Research has shown that a state's poverty and development levels can predict LGBT acceptance and protection in the state.¹⁴⁹ Worldwide, countries on the poorer end of the scale tend to be less aggressive in protecting the LGBT community.¹⁵⁰ In Latin America specifically, studies have shown that countries with higher levels of economic development coincide with higher levels of education, industrialization, and support for same-sex marriage.¹⁵¹ A 2018 poll conducted by CID Gallup revealed 75% of Hondurans reject the idea of legalizing same-sex marriage, with only 17% approving of extending marriage rights.¹⁵²

Although many Latin American nations are making strides to update LGBT protections, there has been limited movement from Central American countries to extend LGBT rights.¹⁵³ LGBT activists in Honduras worry that the region-wide push for legislative protections will create a backlash of attacks against the LGBT resulting from these state actions.¹⁵⁴ Their fear

¹⁴⁷ ASTRAEA LESBIAN FOUNDATION FOR JUSTICE, HONDURAS LGBTI: LANDSCAPE ANALYSIS OF POLITICAL, ECONOMIC, AND SOCIAL CONDITIONS, <https://www.astraeaoundation.org/publication/honduras-lgbti-landscape-analysis/>.

¹⁴⁸ *Id.*

¹⁴⁹ Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

¹⁵⁰ *Id.*

1. ¹⁵¹ Anna-Catherine Brigida, *Latin America has Become an Unlikely Leader in LGBT Rights*, Quartz (June 6, 2018), <https://qz.com/1288320/despite-its-catholic-roots-latin-america-has-become-an-unlikely-lgbt-rights/>.

¹⁵² *Más del 70% de los hondureños rechaza matrimonio homosexual*, LA PRENSA (May 17, 2018), <https://www.laprensa.hn/honduras/1178836-410/hondurenos-rechaza-matrimonio-homosexual-planificacion-familiar>.

¹⁵³ Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

¹⁵⁴ *Transgender Murders in Honduras Stoke Fears of Backlash Against LGBT+ Rights*, REUTERS (July 16, 2019), <https://www.voanews.com/americas/transgender-murders-honduras-stoke-fears-backlash-against-lgbt-rights>.

may be well-founded: the Mexican Supreme Court announcement that the 2015 ban on same sex marriage was unconstitutional coincided with a noticeable increase in LGBT deaths in Honduras.

¹⁵⁵ Although the motives for these killings remain unclear, Honduran LGBT activists are concerned that they may have been retaliation by the public for the legislative advancement of LGBT rights, and that it could be repeated in Honduras. ¹⁵⁶

4.1.2. *Machismo and the Patriarchal Structure of Society*

In aggressively male-dominated societies, masculinity and sexual control are often seen as signs of virility and power. This paradigm is often coupled with the view that homosexuality, queerness or other sexual identities are an affront to manhood.¹⁵⁷ One of the pillars of Honduran culture is *machismo*, a term used to describe the strong and aggressive assertion of manliness over others.¹⁵⁸ This concept builds on the deeply rooted patriarchal structure of the country, with public support for men to hold all positions of authority in society.¹⁵⁹ In both the private and public spheres of individuals' lives, *machismo* is an ever-present force.¹⁶⁰ Its influence in Honduran culture contributes greatly to the cycle of violence within society.¹⁶¹ It is this concept that leads to the widely held belief in Honduras that men can do anything they want to those beneath them, including women and LGBT individuals.¹⁶² *Machismo* is a self-perpetuating culture of violence and fear, leaving victims with no options or relief.¹⁶³ As a result, femicide is one of the highest causes of death in Honduras and responsible for the death of a woman every

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ Monroe, I. (2013, September 11). Complex factors fuel Jamaica's violent homophobia. Retrieved from: <https://www.iremonroe.com/>

¹⁵⁸ Emanuel Rodriguez, *Honduran Youth Re-Examine "Machismo" in Course to Prevent Violence*, CREATIVE ASSOCIATES, <https://specialreports.creativeassociatesinternational.com/honduran-youth-re-examine-machismo-in-course-to-prevent-violence/>.

¹⁵⁹ Paulina Villegas, *Where Machismo is Entrenched, Focus Moves to the Trenches*, N.Y. TIMES (Apr. 23, 2017), <https://www.nytimes.com/2017/04/23/world/americas/where-machismo-is-entrenched-focus-moves-to-the-trenches.html>.

¹⁶⁰ Isabel Torres Garcia, *Violence Against Women in Politics: Research on Political Parties in Honduras*, NATIONAL DEMOCRATIC INSTITUTE (Aug. 2017), https://www.ndi.org/sites/default/files/InvestigacionNDI%20VPCMHonduras_ENGLISH_PDF.pdf.

¹⁶¹ *Id.*

¹⁶² Juju Chang, Jackie Jesko, Ignacio Torres, & Jenna Millman, 'Men Can Do Anything They Want to Women in Honduras': Inside One of the Most Dangerous Places on Earth to be a Woman, ABC NEWS (May 3, 2017),

¹⁶³ *Id.*

eighteen hours.¹⁶⁴ According to global organizations, these gender-based killings have risen past epidemic levels.¹⁶⁵

Male entitlement through *machismo* is not only tolerated by the public, but also even celebrated.¹⁶⁶ These long held beliefs and rhetoric of male superiority in society are reinforced by the institutional inequalities of genders seen in the form of a widespread pay gap, access to education, and workplace behavior.¹⁶⁷ In recent years, the social and economic issues plaguing Honduras have magnified the presence of *machismo* in society.¹⁶⁸ Women in Honduras, more likely to be living in poverty, rely heavily on their relationships with men.¹⁶⁹ In certain cases, this leaves women at the mercy of the men in their lives.¹⁷⁰

4.2. The role of religion and the position of organized religions and religious leaders

Pushback from religious institutions and conservative values play a large role in Latin American countries' discrimination against the LGBT community.¹⁷¹ In Honduras, Christianity has been the majority religion since the country's colonial era, and currently almost 80% of the population identifies as Christian.¹⁷² Until the 1980s, the Catholic Church held a monopoly over the practice of Christianity and its members in the country.¹⁷³ In more recent decades, Evangelical Churches in Honduras have spread rapidly with a significant rise in membership.¹⁷⁴ Unlike the Catholic Church, which engaged in more passive disapproval, Evangelical leaders

¹⁶⁴ UN: 'Machismo' in Honduras Driving Epidemic of Femicides, TELESUR (Nov. 28, 2018), <https://www.telesurenglish.net/news/UN-Machismo-in-Honduras-Driving-Epidemic-of-Femicides-20181128-0017.html>.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Robert Pantzer, *This is Not a Game: Education, Machismo, and Violence*, SIN MIEDOS (June 19, 2018), <https://blogs.iadb.org/seguridad-ciudadana/en/this-is-not-a-game-education-machismo-and-violence/>.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*; James Frederick, *When Gang Violence Strikes at Home, Honduran Moms Flee*, UN REFUGEE AGENCY (Nov. 24, 2016), <https://www.unhcr.org/en-us/news/stories/2016/11/5834166b4/gang-violence-strikes-home-honduran-moms-flee.html>.

¹⁷⁰ *Id.*

¹⁷¹ Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

¹⁷² Honduras – Religion, GLOBAL SECURITY, <https://www.globalsecurity.org/military/world/centam/ho-religion.htm>.

¹⁷³ Javier Corrales, *The Expansion of LGBT Rights in Latin America and the Backlash*, OXFORD HANDBOOKS (June 2019), <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780190673741.001.0001/oxfordhb-9780190673741-e-14>.

¹⁷⁴ *Id.*

tend to take an active opposition to LGBT rights.¹⁷⁵ The religious shift in Honduras towards Evangelicalism has led to a harsh pushback against the LGBT movement.¹⁷⁶

Despite the competition for followers between the Catholic and Evangelical institutions in Honduras, these Christian institutions essentially joined forces on commonly held beliefs to shape societal and political opinions in the region.¹⁷⁷ Both religious institutions view the LGBT movement as a manifestation of secularism and the region's lack of religious belief.¹⁷⁸ Although research found Catholic-majority Latin American states are more likely to be accepting of LGBT, Honduras remained an outlier of the study with additional surveys suggesting that disapproval of LGBT matters is nearly equal within Catholic and Evangelical churches.¹⁷⁹

These religious institutions actively resist any legislative action that increases the rights of the LGBT community.¹⁸⁰ In 2004, the Honduran government granted non-profit status to LGBT organizations. In response, pastors in cities across Honduras took 1,500 followers to the streets to chant religious hymns in protest.¹⁸¹ In 2013, both the Catholic and Evangelical churches pressured government officials to dismantle the recent amendment to Penal Code 312, which criminalized discrimination on the basis of sexual orientation and gender.¹⁸² Pastor Evelio Reyes, who was sued under this penal code for urging his congregation to oppose LGBT political candidates, swears he will continue to do everything possible to roll back this amendment.¹⁸³

¹⁷⁵ *Id.*

¹⁷⁶ Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Religion in Latin America: Social Attitudes*, PEW RESEARCH CENTER (Nov. 13, 2014), <https://www.pewforum.org/2014/11/13/chapter-5-social-attitudes/>.

¹⁸⁰ Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

¹⁸¹ ASTRAEA LESBIAN FOUNDATION FOR JUSTICE, HONDURAS LGBTI: LANDSCAPE ANALYSIS OF POLITICAL, ECONOMIC, AND SOCIAL CONDITIONS, <https://www.astraeaoundation.org/publication/honduras-lgbti-landscape-analysis/>.

¹⁸² *Nelson Arambú, of Honduras*, Latin America Working Group, <https://www.lawg.org/nelson-arambu-of-honduras-we-do-not-want-to-come-back-here-next-year-to-report-more-murders-of-the-lgbt-community/>.

¹⁸³ ASTRAEA LESBIAN FOUNDATION FOR JUSTICE, HONDURAS LGBTI: LANDSCAPE ANALYSIS OF POLITICAL, ECONOMIC, AND SOCIAL CONDITIONS, <https://www.astraeaoundation.org/publication/honduras-lgbti-landscape-analysis/>.

Pastor Reyes explained that his commitment stems from his belief that sexual orientation is not a right.¹⁸⁴

According to human rights defender Indryna Mendoza, religious fundamentalists closed doors for the LGBT community in Honduras and continue to actively preach against them.¹⁸⁵ Evangelical Churches argue that their anti-LGBT messages are in defense of traditional family beliefs, which they believe the LGBT movement threatens.¹⁸⁶ While the influence of religious institutions over the public's opinion is difficult to quantify, 74% of Hondurans who are not religious oppose same-sex marriage, showing that anti-LGBT sentiment is not strictly associated with religion.¹⁸⁷ Religious institutions build upon a foundation of negative sentiment surrounding the LGBT community, bringing it to the forefront of the nation's attention with vocal opposition to any progress in the LGBT movement.¹⁸⁸

In summary, the entrenchment of both *machismo* culture and conservative religious values combined create high levels of public discrimination against LGBT individuals.¹⁸⁹ Societal tolerance and approval of this discrimination against the LGBT community leads to targeted violence motivated by prejudice.¹⁹⁰

4.3. Depiction of homosexuality and LGBT in the media

Honduras's mainstream media often portrays the LGBT community negatively and in many instances commercialize the LGBT hatred of their viewers.¹⁹¹ News stations make money

¹⁸⁴ *Id.*

¹⁸⁵ "I Know Who I Am, But My Country Doesn't Recognize Me", ARCUS FOUNDATION (Sept. 1, 2019), <https://www.arcusfoundation.org/stories-of-impact/lgbt/i-know-who-i-am-but-my-country-doesnt-recognize-me/>.

¹⁸⁶ *Transgender Murders in Honduras Stoke Fears of Backlash Against LGBT+ Rights*, VOA (Jul. 16, 2019), <https://www.voanews.com/americas/transgender-murders-honduras-stoke-fears-backlash-against-lgbt-rights>.

¹⁸⁷ *Religion in Latin America: Social Attitudes*, PEW RESEARCH CENTER (Nov. 13, 2014), <https://www.pewforum.org/2014/11/13/chapter-5-social-attitudes/>.

¹⁸⁸ *Id.*

¹⁸⁹ Anastasia Moloney, *Top Americas rights commission condemns Honduras LGBT+ murders*, REUTERS (July 19, 2019), https://www.reuters.com/article/us-honduras-lgbt-murders/top-americas-rights-commission-condemns-honduras-lgbt-murders-idUSKCN1UD323_.

¹⁹⁰ *Inter-American Commission on Human Rights: Situation of Human Rights in Honduras* (2015).

¹⁹¹ Duncan Tucker, *Homophobia in Honduras: growing attacks on LGBT activists*, INDEX ON CENSORSHIP (Apr. 20, 2016), <https://www.indexoncensorship.org/2016/04/magazine-honduras-rainbow-warriors-the-dangers-of-being-an-lgbt-activist/>; Sorcha Pollak,

by carrying out surveys on “whether same sex marriage would destroy the values of society.”¹⁹² The Honduran media’s use of hate speech against the LGBT community drew the concern of the UN Human Rights Special Rapporteur Michel Forst in 2018, who learned of TV programs broadcasting moral debates in which religion is used to discriminate and generate hatred against these communities.¹⁹³ Forst admonished the Honduran government’s inaction to reduce this hate speech which directly targets human rights defenders and LGBT individuals.¹⁹⁴

Not only does the mainstream media shine a negative light on the LGBT community, but reporters attempting to cover issues regarding the LGBT community are physically assaulted, expelled from events, and targeted by government smear campaigns.¹⁹⁵ A transgender woman returning home after a TV interview was attacked by a group and stripped of her female identifying clothing and shoes as an “act of humiliation”.¹⁹⁶ Dina Meza, an investigative reporter focused on violence against the LGBT community and nominated for an Index on Censorship Freedom of Expression Award in 2014, has received numerous threats because of her work.¹⁹⁷ When reporters speak out at an international level regarding the treatment of the LGBT community in Honduras, they are called out for undermining the nation on the global stage.¹⁹⁸ As a result, the mob-like violence against LGBT individuals in Honduras is normally unreported at the international level.¹⁹⁹

Honduras: ‘They have silenced us completely’, THE IRISH TIMES (May 12, 2015), <https://www.irishtimes.com/news/world/honduras-they-have-silenced-us-completely-1.2208492>.

¹⁹² *Id.*

¹⁹³ Michel Forst, *UN Special Rapporteur on the Situation of Human Rights Defenders on His Visit to Honduras*.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ Duncan Tucker, *Rainbow Warriors: Attacks and Killings of LGBT Activists in Honduras*, INDEX (Apr. 5, 2016), <https://journals.sagepub.com/doi/full/10.1177/0306422016643026>.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

4.4. Treatment of LGBT by fellow citizens

4.4.1. The Public

The LGBT community experiences limited to non-existent tolerance by the Honduran public. Only 17% of the Honduran population approves of homosexuality.²⁰⁰ With over 75% of reported attacks on transgender individuals taking place in public settings, the Honduran public has implicitly signaled its approval of harassment and discrimination towards the LGBT community.²⁰¹

LGBT individuals are targeted differently depending on their sexual orientation or gender identity.²⁰² Transgender women and gay men are disproportionately at risk.²⁰³ Of the LGBT individuals killed in Honduras over the past decade, almost a third were transgender and half were gay men.²⁰⁴ Transgender women are usually killed in the streets with firearms, and gay men are murdered at home or workplaces.²⁰⁵ Determining how many lesbians are targeted and killed in Honduras because of their sexuality is difficult because high levels of femicide in the country complicate potential motives behind murders of women.²⁰⁶

Nahomy Otero, an LGBT Human Rights Defender, describes life as a transwoman in San Pedro Sula as one of restriction.²⁰⁷ Transwomen are “not allowed to walk openly on the streets of [the] city, to go into shops, to visit a mall.”²⁰⁸ Otero states that the LGBT community is despised and discriminated against everywhere they go.²⁰⁹ Another LGBT woman describes walking in

²⁰⁰ Anastasia Moloney, *Top Americas Rights Commission Condemns Honduras LGBT+ Murders*, REUTERS (July 19, 2019), <https://www.reuters.com/article/us-honduras-lgbt-murders/top-americas-rights-commission-condemns-honduras-lgbt-murders-idUSKCN1UD323>.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ Linda Farthing, *'I Knew I Had to Get Out to Survive' - Violence Drives LGBT Central Americans North*, WORLD POLITICS REVIEW (May 13, 2019), <https://www.worldpoliticsreview.com/articles/27840/i-knew-i-had-to-get-out-to-survive-violence-drives-lgbt-central-americans-north>.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Sorcha Pollak, *Honduras: 'They have Silenced Us Completely'*, THE IRISH TIMES (May 12, 2015), <https://www.irishtimes.com/news/world/honduras-they-have-silenced-us-completely-1.2208492>.

²⁰⁸ *Id.*

²⁰⁹ *Id.*

public with a friend when a passerby approached her and insulted her because of her gender expression, and shot her in the chest, puncturing her right lung.²¹⁰ In a different case, a transwoman was assaulted at the door of her house after several instances of harassment from neighbors.²¹¹ Four confronted her when she arrived home and threatened her with a gun to “become a man” or they would kill her.²¹²

4.4.2. Family, School, and Work

Those within the LGBT community face discrimination not only from the public, but also within their daily lives through family, work and school.²¹³ For many LGBT Hondurans, the violence began in the home.²¹⁴ In these familial settings, abuse from fathers and brothers is regarded as a typical part of life.²¹⁵ As described by Karen Paz, a domestic abuse survivor from Honduras, hitting a woman is as normal to a man as eating a tortilla from a food stand on the way to work.²¹⁶ Paz explains her abuse from her husband that substantially impacted her and her children’s lives.²¹⁷ Women and children in Honduras are especially vulnerable to sexual and gender based violence at home and in their neighborhoods. According to a March 2015 UN report, domestic violence was the leading reported crime in Honduras.²¹⁸

²¹⁰ REDLACTRANS, *TIMES HUMAN RIGHTS VIOLATIONS OF TRANS WOMEN IN COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, AND PANAMA* (2015).

²¹¹ *Id.*

²¹² *Id.*

²¹³ REDLACTRANS, *TIMES HUMAN RIGHTS VIOLATIONS OF TRANS WOMEN IN COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, AND PANAMA* (2015).

²¹⁴ *Mafia of the Poor: Gang Violence and Extortion in Central America*, INTERNATIONAL CRISIS GROUP (APR. 6, 2016), <https://www.refworld.org/pd/58e74ed64.pdf>.

²¹⁵ *Mafia of the Poor: Gang Violence and Extortion in Central America*, INTERNATIONAL CRISIS GROUP (APR. 6, 2016), <https://www.refworld.org/pd/58e74ed64.pdf>.

²¹⁶ Federica Valabrega, *‘I’m A Survivor of Violence’: Portraits of Women Waiting in Mexico for U.S. Asylum*, NATIONAL PUBLIC RADIO (Jan 16, 2019), <https://www.npr.org/sections/pictureshow/2019/01/16/684812592/i-m-a-survivor-of-violence-portraits-of-women-waiting-in-mexico-for-u-s-asylum>.

²¹⁷ *Id.*

²¹⁸ Federica Valabrega, *‘I’m A Survivor of Violence’: Portraits of Women Waiting in Mexico for U.S. Asylum*, NATIONAL PUBLIC RADIO (Jan 16, 2019), <https://www.npr.org/sections/pictureshow/2019/01/16/684812592/i-m-a-survivor-of-violence-portraits-of-women-waiting-in-mexico-for-u-s-asylum>.

For those in the LGBT community, when relatives learn of a family member's sexual orientation or gender identity, they may shun them and force this individual onto the streets.²¹⁹ Those who have gone through this say they flee their homes at a young age because their families punish them in cruel ways, and this has severe psychological impacts on their lives.²²⁰ Carlos, a 25 year old gay man from Honduras, explains that it is difficult to endure your family members being ashamed of you, beating you, and eventually chasing you out of your home.²²¹ Alexandra, a transgender woman from Santa Barbara in Honduras, was harassed by her father when she came out as gay and transitioned to identifying as transgender.²²² If Alexandra passed him on the street, her father would verbally abuse and even publicly beat her.²²³

The Honduran LGBT population has found that educational and employment opportunities grow worse every day.²²⁴ While individuals can attempt to remain closeted and find a job, they remain at risk of being fired if their sexual orientation is discovered.²²⁵ A gay man from Honduras reported being fired after fifteen days on a job. He attempted to hide the fact that he was gay, but eventually his boss discovered his sexuality and told him that gays could not work there because it damaged the reputation of the business.²²⁶

While Honduras enacted legislation penalizing discrimination on the basis of sexual orientation or gender identity, this discrimination still persists in the spheres of work, education, and healthcare.²²⁷ Activist LGBT groups claim that government agencies and private employers

²¹⁹ *Id.*

²²⁰ Duncan Tucker, *Homophobia in Honduras: Growing Attacks on LGBT Activists*, INDEX ON CENSORSHIP (Apr. 20, 2016), <https://www.indexoncensorship.org/2016/04/magazine-honduras-rainbow-warriors-the-dangers-of-being-an-lgbt-activist/>.

²²¹ *No Safe Place: Salvadorans, Guatemalans, and Hondurans Seeking Asylum in Mexico Based on their Sexual Orientation and/or Gender Identity*, AMNESTY INTERNATIONAL (Nov. 2017), <https://www.amnestyusa.org/wp-content/uploads/2017/11/No-Safe-Place-Briefing-ENG-1.pdf>.

²²² Michael Snyder, *Escaping Hate: A Trans Woman's Journey North*, THE NATION (Mar. 13, 2018), <https://www.thenation.com/article/archive/escaping-hate-a-trans-womans-journey-north/>.

²²³ *Id.*

²²⁴ Duncan Tucker, *Homophobia in Honduras: Growing Attacks on LGBT Activists*, INDEX ON CENSORSHIP (Apr. 20, 2016), <https://www.indexoncensorship.org/2016/04/magazine-honduras-rainbow-warriors-the-dangers-of-being-an-lgbt-activist/>.

²²⁵ *Id.*

²²⁶ Alisa Winton, *'I've Got to Go Somewhere': Queer Displacement in Northern Central America and Southern Mexico*, in *LGBTI ASYLUM SEEKERS AND REFUGEES FROM A LEGAL AND POLITICAL PERSPECTIVE* 95, 102 (2019).

²²⁷ U.S. DEPARTMENT OF STATE, HONDURAS 2018 HUMAN RIGHTS REPORT (2018).

engage in discriminatory hiring practices.²²⁸ Individuals identifying as transgender are vulnerable to this type of discrimination.²²⁹ Many are unable to find suitable and safe employment.²³⁰ Without alternative employment, transgender women often turn to sex work, which increases their risk in being attacked.²³¹ In addition to discrimination in employment, transgender individuals are prevented by the government from updating identity documents to reflect their gender identity which can lead to being “outed” when applying for employment.²³²

4.4.3. Organized Crime and the LGBT Community

In Honduras, extensive poverty and few educational or work opportunities led to the rise of criminal organizations.²³³ Although gangs have been present in the region since the 1970s, groups mainly took root following mass deportations of criminals from the United States early in the 21st century.²³⁴ The two most prominent gangs in Honduras are *Marra Salvatrucha* (MS-13) and *Barrio 18*.²³⁵ Engaging primarily in drug sales and extortion, gang related violence is responsible for much of Honduras’ homicides and crimes that affect the daily lives of citizens.²³⁶ These organizations thrived in the country’s political turmoil. They retain control over a large portion of the population and in these communities, there is little government or law enforcement presence and individuals are subject to the will of the gangs.²³⁷

As visible members of a socially vilified minority, the LGBT community runs extra risk of gang related violence.²³⁸ LGBT individuals who live in gang controlled areas are likely to

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ CONGRESSIONAL RESEARCH SERVICE, HONDURAS: BACKGROUND AND U.S. RELATIONS (July 22, 2019).

²³⁴ *Fight and Flight: Tackling the Roots of Honduras’ Emergency*, INTERNATIONAL CRISIS GROUP (Oct. 25, 2019), <https://www.crisisgroup.org/latin-america-caribbean/central-america/honduras/077-fight-and-flight-tackling-roots-honduras-emergency>.

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ INSIGHT CRIME, HONDURAS PROFILE (Aug. 27, 2018).

²³⁸ *No Safe Place: Salvadorans, Guatemalans, and Hondurans Seeking Asylum in Mexico Based on their Sexual Orientation and/or Gender Identity*, AMNESTY INTERNATIONAL (Nov. 2017), <https://www.amnestyusa.org/wp-content/uploads/2017/11/No-Safe-Place-Briefing-ENG-1.pdf>.

experience brutal forms of gender based violence.²³⁹ The gang's threats towards the community to "Join Us or Die" can result in the attempted recruitment and harassment of gay men.²⁴⁰ This can result in abuse for not being a "real man," or gangs may exile the individual from the gang controlled area because of their noncompliance with societal norms.²⁴¹

Jose Cortes, a gay man from Honduras, was forced to flee the country after being targeted by gangs when they discovered his sexual orientation.²⁴² While Cortes attempted to relocate to a new neighborhood, the gangs found him and continued the harassment.²⁴³ After the murder of four transgender people and three gay men, Cortes knew he had to get out of the country to survive.²⁴⁴ Carlos, the 25 year old gay man from Honduras, received continuous death threats from gangs in his neighborhood.²⁴⁵ However in March of 2016, gang members beat him, and told him that if he didn't leave town immediately, he would end up dead.²⁴⁶ Although he fled his town for San Pedro Sula, the gangs found him several weeks later and attacked him.²⁴⁷ Carlos, no longer safe in the country, fled Honduras.²⁴⁸ These experiences are common to LGBT individuals who have fled Honduras after being targeted by gang violence.

4.5. Access to healthcare

The government of Honduras has expressed a need to prevent discrimination towards LGBT individuals within the medical field because of health professionals' religious beliefs.²⁴⁹ Many health professionals in Honduras have generated a great number of complaints due to their

²³⁹ *Id.*

²⁴⁰ Linda Farthing, *'I Knew I Had to Get Out to Survive'- Violence Drives LGBT Central Americans North*, WORLD POLITICS REVIEW (May 13, 2019), <https://www.worldpoliticsreview.com/articles/27840/i-knew-i-had-to-get-out-to-survive-violence-drives-lgbt-central-americans-north>.

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *No Safe Place: Salvadorans, Guatemalans, and Hondurans Seeking Asylum in Mexico Based on their Sexual Orientation and/or Gender Identity*, AMNESTY INTERNATIONAL (Nov. 2017), <https://www.amnestyusa.org/wp-content/uploads/2017/11/No-Safe-Place-Briefing-ENG-1.pdf>.

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ REDLACTRANS, *TIMES HUMAN RIGHTS VIOLATIONS OF TRANS WOMEN IN COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS, AND PANAMA* (2015).

mistreatment of transgender patients, who the health professionals deem a “sin in the eyes of god.”²⁵⁰ For example, three transgender women who suffered an accident in public transport, were taken to the hospital and refused access to healthcare.²⁵¹ In another incident a transgender sex worker had been shot and was taken to Hospital Mario Catarino Rivas.²⁵² When medical staff noticed she was a transgender woman, they refused to give her healthcare, and she died from her wounds.²⁵³

Members of the LGBTI community with HIV face additional prejudice and discrimination in accessing healthcare. An NGO reported an incident where “a physician asserted victims’ sexual orientation caused him to contract the human papillomavirus and colon cancer.”²⁵⁴ Despite additional legislative protections for individuals with HIV, LGBT people with the disease find access to health services a major challenge.²⁵⁵ Transgender women have filed a complaint against a public health center after it refused to give them medication for HIV, claiming the drugs had expired.²⁵⁶ It was later determined they purposely let the drugs expire to prevent the transgender women from continuing their treatment.²⁵⁷

5. SOCIAL LIFE

5.1. General climate and openness around LGBT

As a result of the community’s invisibility and extensive Honduran homophobia, interaction and movement for the LGBT community was limited.²⁵⁸ Many in the community were unable to safely express their sexual orientation or gender identity in public.²⁵⁹ Instead, the

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ Mirte Postema, *Amidst Violence, Hondurans March for Pride*, HUMAN RIGHTS WATCH (Sept. 9, 2019), <https://www.hrw.org/news/2019/09/09/amidst-violence-hondurans-march-pride>.

LGBT community, lesbians in particular, reserved this type of socialization for private house parties.²⁶⁰ Gay men, able to pass in Honduran society, were tolerated at a few heterosexual clubs and restaurants.²⁶¹ The same anonymity was virtually unattainable for transgender women in Honduras.²⁶² Due to their outward expressions of their gender identity, transgender women were more likely to be targeted with violence.²⁶³ In 2009, the more progressive Zeyla government was overthrown and replaced with the Micheletti regime.²⁶⁴ LGBT activists protested the new militarized government and the resulting spike of targeted LGBT violence.²⁶⁵ Many activists tied the dramatic increase in violence to the post-coup conservative government.²⁶⁶ In the wake of the 2009 political upheaval, the LGBT movement was forged. While previously, LGBT organizations struggled to work together, due to transphobia and lesbophobia, thirteen organizations came together after the coup to work towards a common agenda.²⁶⁷ Not only did the LGBT organizations cooperate internally, they created relationships with other organizations who opposed the coup, including feminists, unions, and others.²⁶⁸ LGBT activist José Rodolfo Palacois called the 2009 coup the Honduran “Stonewall,” and predicted that the LGBT community would not return to their previous societal invisibility.²⁶⁹

With the new visibility of the LGBT community, the risk of violence increased. Many who identified as LGBT became internally displaced in Honduras or fled the country because of

²⁶⁰ *The State of the LGBT** Movement in Honduras*, HONDURAN EQUALITY DELEGATION (2014), <https://honduranequalitydelegation.files.wordpress.com/2014/02/the-state-of-the-lgbt-movement-in-honduras.pdf>.

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ *Fight and Flight: Tackling the Roots of Honduras' Emergency*, INTERNATIONAL CRISIS GROUP (Oct. 25, 2019), <https://www.crisisgroup.org/latin-america-caribbean/central-america/honduras/077-fight-and-flight-tackling-roots-honduras-emergency>.

²⁶⁵ *Id.*

²⁶⁶ Whitney Eulich, *In Latin America, LGBT Legal Rights Change More Quickly Than Attitudes*, THE CHRISTIAN SCIENCE MONITOR (May 20, 2016), <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes>.

²⁶⁷ Ramiro Sebastián Fúnez, *Honduras: Human Rights Five Years after the Coup*, AMERICAS QUARTERLY, <https://www.americasquarterly.org/content/honduras-human-rights-five-years-after-coup>.

²⁶⁸ *Id.*

²⁶⁹ *Id.*

the increasing violence after 2009.²⁷⁰ Funez, an LGBT activist, says that 8 out of 10 LGBT people in San Pedro Sula want to migrate to the United States, a country viewed as respecting human rights.²⁷¹ While many in the LGBT movement continue to advocate for their rights, one activist acknowledges that nothing has changed in the city despite the years of work, because individuals could still be killed at any moment.²⁷² The only identifiable difference to activists is the increase in LGBT individuals migrating out of Honduras.²⁷³

5.2. LGBT Activists and Organizations

In response to the growing violence over the past decade towards LGBT individuals, members of the LGBT community banded together to protect one other.²⁷⁴ Many of the individuals working to protect the rights of the LGBT community in Honduras are human rights defenders.²⁷⁵ These activists are critical because they investigate, report on, publicize, and demand justice for violations against the LGBT community, in attempts to prevent impunity for the perpetrators.²⁷⁶ These LGBT activists face high risks of threats against their lives and violent attacks, because of their defense of human rights.²⁷⁷ The Asociacion Para una vida Mejor (APUMIVEH) supported LGBT minorities and those with HIV. However, the organization was forced to close its doors in December 2013 because of continuous death threats. Arcoiris (Rainbow) is another organization that works with LGBT persons and lobbies the Honduran government to further expand LGBT rights. The organization reported over a dozen security

²⁷⁰ Michael K. Lavers, *Activists Forge Ahead in Violence-plagued Honduras City*, WASHINGTON BLADE (Feb. 20, 2017), <https://www.washingtonblade.com/2017/02/20/activists-forge-ahead-violence-plagued-honduras-city/>.

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ Ramiro Sebastián Fúnez, *Honduras: Human Rights Five Years after the Coup*, AMERICAS QUARTERLY, <https://www.americasquarterly.org/content/honduras-human-rights-five-years-after-coup>.

²⁷⁵ *LGBTI Defenders in Honduras Doubly at Risk*, FRONTLINE DEFENDERS (Feb. 3, 2016), <https://www.frontlinedefenders.org/en/statement-report/lgbti-defenders-honduras-doubly-risk>.

²⁷⁶ *Id.*

²⁷⁷ *Id.*

incidents in the second half of 2015 alone. Over the course of one year, five LGBT defenders who were members of Arcoiris were killed because of their work.²⁷⁸

At another organization, Colectivo Unidad Color Rosa, men entered their office with guns, took documents, and threatened to kill everyone.²⁷⁹ On multiple occasions, the organization's colleagues have experienced kidnapping attempts outside their office.²⁸⁰ These attacks are evidence of growing numbers of targeted attacks and killings of LGBT defenders in Honduras. The intended effect of these attacks is to intimidate the LGBT activist community.²⁸¹ While these threats and deaths seriously affect the work of LGBT defenders and organizations and reduce their availability to continue advocating, many activists remain unmoved in their commitment to their cause.²⁸² Josué Hernandez, an LGBT activist, refuses to leave Honduras until transgender women no longer face human rights violations.²⁸³ José Rodolfo Palacois echoes this sentiment: “in every revolution there are casualties, but we know we can't stop.”²⁸⁴

²⁷⁸ *Honduras: WHRDIC condemns the killings of LGBTI rights defenders in Honduras*, INTERNATIONAL FEDERATION FOR HUMAN RIGHTS (Sept. 10, 2015), <https://www.fidh.org/en/region/americas/honduras/honduras-whrdic-condemns-the-killings-of-lgbti-rights-defenders-in>.

²⁷⁹ Michael K. Lavers, *Violence, Discrimination Prompt LGBTI Hondurans to Migrate*, WATERMARK ONLINE (July 18, 2018), <https://www.watermarkonline.com/tag/members-of-colectivo-unidad-color-rosa/>.

²⁸⁰ *Id.*

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²⁸⁴ Ramiro Sebastián Fúnez, *Honduras: Human Rights Five Years after the Coup*, AMERICAS QUARTERLY, <https://www.americasquarterly.org/content/honduras-human-rights-five-years-after-coup>.

6. CONCLUSION

Honduras faces numerous critical issues it must address before its human rights record for the LGBT population can be considered adequate. Systemic problems like political corruption, poverty, entrenched heteronormative family values, a culture of *machismo* and institutionalized LGBT-phobia within the dominant religious organizations must be openly discussed and acknowledged by officials and leaders within the country. Religious, political and academic institutions must provide education surrounding LGBT discrimination, violence and abuse.

The legal frameworks are inadequate and openly discriminatory to the LGBT population and must also be addressed. The constitutional amendments prohibiting same-sex marriage should be overturned, and the penal code provisions need to be more explicit in stating the illegality of discrimination of the LGBT population. Currently, the laws that do offer minimal protection to the LGBT population are not enforced. All legal frameworks within the country need to improve their enforcement mechanisms that follow from the laws that currently offer some protection to minorities (of which LGBT may be included).

The international and regional human rights communities in Latin American have pursued litigation, direct participation, and other forms of advocacy to help safeguard the rights of the LGBT population in Honduras. Time will tell whether these efforts result in a more supportive response from the Honduran government, and thus offer sufficient protection to the Honduran LGBT community.

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