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PROGRAM

Honduras

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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This document was prepared by law students and highlights information about publicly-accessible country conditions available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto, Faculty of Law cannot provide such advice or assistance.

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I. Introduction

This Country Conditions report on human rights violations of LGBT persons in Honduras is intended to provide a comprehensive and up to date survey of relevant legislation, case law, scholarship, and documentation from Canadian and American governmental agencies, non-governmental organizations, and the media.

Although homosexuality is not criminalized in Honduras, the Constitution was amended in 2005 to ban same-sex marriage and adoption by same-sex couples. Other legislation has been put in place to limit freedom of expression and association. There are no laws protecting LGBT people from discrimination in the workplace. While there is a long history of discrimination against LGBT people in Honduras, numerous sources have confirmed that the level of discrimination and violence directed at members of the LGBT community has been escalating in recent years.

This report references many specific instances of brutal violence against LGBT people and reveals that perpetrators of violence are able to act with total impunity. On June 28, 2009, a military coup ousted President Manuel Zelaya. The de facto government installed after the coup imposed severe restrictions on freedom of expression and assembly. Since the inauguration of President Porfirio Lobo in January 2010, there have been many new acts of violence and intimidation against journalists, human rights defenders, and political activists. Judges and attorneys critical of the coup were removed from their posts and the independence of the judiciary is questionable. All sources agree that the authorities are unwilling to provide protection to LGBT victims or their families and that security forces are in fact often active participants in assaults and killings. Police officers harass, assault, and even kill LGBT people but are rarely, if ever, brought to justice.

The Inter-American Commission on Human Rights stated on January 20, 2011 that it is “deeply concerned about the serious threats, acts of violence and murder... in particular rising number of killings of members of LGBT community” (See below: Amnesty International, *Honduras: Honduran human rights defender at risk*). This survey provides a clear illustration of the persecution faced by LGBT persons in Honduras.

II. Legislation

To access full text of Honduran legislation, see <http://www.poderjudicial.gob.hn/>

See also: Human Rights Watch, *Not Worth a Penny: Human Rights Abuses against Transgender People in Honduras* (29 May 2009), online: <<http://www.hrw.org/en/reports/2009/05/29/not-worth-penny-0>>. Page 10-14 discusses relevant legislation in depth.

1. Daniel Ottosson, *State-sponsored homophobia: a world survey of laws prohibiting same sex activity between consenting adults*. International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) (May 2010), online: <http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2010.pdf>.

- **Homosexual acts are legal in Honduras**
- **Equal age of consent laws for homosexual and heterosexual acts**

Male-to-male and female-to-female relations are legal. There is no prohibition on homosexual activity (44). Fifteen is the age of consent for both homosexual and heterosexual acts (46).

2. Global Issues In Context, "Same-sex Marriage." *Global Issues in Context Online Collection*. Detroit: Gale, (2011), online: <<http://find.galegroup.com/gic/infomark.do?&contentSet=REF&idigest=87c3696ed657d25964dd4ad8a05241ea&type=retrieve&tabID=T002&prodId=GIC&docId=CP3208520244&source=gale&userGroupName=rich43584&version=1.0>>.

- **No recognition of same-sex couples**
- **Same sex adoption, marriage and unregistered cohabitation constitutionally prohibited in 2005**

During the early years of the twenty-first century, several countries created legislation banning homosexual marriage. Honduras amended its constitution to include wording prohibiting both same-sex marriage and adoption by lesbian and gay couples.

3. Amnesty International, *Public Statement: Honduras: The Right to Freedom of Association and LGBT Organizations* (9 December 2004), online: <<http://www.amnesty.org/fr/library/asset/AMR37/015/2004/fr/e64bbb54-d547-11dd-8a23-d58a49c0d652/amr370152004en.html>>.

- **The right to associate is ensured under Article 78 of the Constitution, excluding acts or statements ‘contrary to public order and morality.’**
- **LGBT groups trying to organize have found difficulty**

In April 2000 the LGBT organization *Grupo Prisma* submitted a request for official registration to the Ministry of the Interior and Justice, as required by law. The application outlined the aims of the association, namely bringing together members of the LGBT community to undertake activities to increase the self-esteem of this group and provide a space for dialogue and support. The application was denied under Article 78 of the Honduran Constitution because ‘the Statutes breach morality, public order, proper behaviour...’ (“Los Estatutos violentan la moral, el orden público, las buenas costumbres...”)

4. Amnesty International, *Amnesty International Report 2004 – Honduras* (26 May 2004), online: <<http://www.unhcr.org/refworld/docid/40b5a1f64.html>>

- **Severe restrictions on right to freedom of association**

The National Congress approved an amendment to the Penal Code which was intended to deal with crimes committed by gangs but which in fact imposed severe restrictions on the right to freedom of association, in contravention of the Constitution and of international instruments to which Honduras is a party.

5. *Constitución de 1982 con reformas hasta 2005* (Republica de Honduras), online: Georgetown University, Political Database of the Americas <<http://pdba.georgetown.edu/Constitutions/Honduras/hond05.html>>. *Political Constitution of 1982 through 2005 Reforms* (Republic of Honduras), online: English version: <<http://www.honduras.com/honduras-constitution-english.html>>. (Please note that the English version below is a rough translation.)

- **Discrimination on grounds that are “injurious to human dignity” are banned; No express constitutional protections from discrimination based on sexual orientation or gender identity (see Article 60)**
- **Censorship of thought and the prevention of dissemination of ideas are constitutionally banned (with some exceptions) (see Article 75)**
- **Freedom of association is protected (with some exceptions) (see Article 78)**
- **Amended in 2005 to ban same-sex marriage (see Article 112) and adoption by same-sex couples (see Article 116)**

An amendment to the Constitution occurred in 2005 to ban the legal recognition of same-sex marriage and ban adoption by same-sex couples. Laws exist that allow for the freedom of association and the free issuance of thought. Hondurans have the right not to be censored by direct or indirect methods. However, freedom of association can be restricted if the authorities believe the assembly is contrary to “public order or morality” and authorities can censor the dissemination of thought if they believe it is against the “ethical or cultural values” of the society.

Relevant Articles from the Constitution

ARTICULO 60: Todos los hombres nacen libres e iguales en derechos. En Honduras no hay clases privilegiadas. Todos los hondureños son iguales ante la Ley. Se declara punible toda discriminación por motivo de sexo, raza, clase y cualquier otra lesiva a la dignidad humana. La Ley establecerá los delitos y sanciones para el infractor de este precepto.

ARTICLE 60: All men are born free and equal in rights. In Honduras no privileged classes. All Hondurans are equal before the law. Declares punishable any discrimination on grounds of sex, race, class and any other injurious to human dignity. The Law will establish the offenses and penalties for violators of this precept.

ARTICULO 75: La Ley que regule la emisión del pensamiento, podrá establecer censura previa, para proteger los valores éticos y culturales de la sociedad, así como los derechos de las personas,

especialmente de la infancia, de la adolescencia y de la juventud. La propaganda comercial de bebidas alcohólicas y consumo de tabaco será regulada por la Ley.

ARTICLE 75: The Law governing the issuance of thought, may establish prior censorship, to protect the ethical and cultural values of society, as well as the rights of persons, especially for children, adolescents and youth. The commercial propaganda of alcoholic beverages and tobacco use will be regulated by law.

ARTICULO 78: Se garantizan las libertades de asociación y de reunión siempre que no sean contrarias al orden público y a las buenas costumbres.

ARTICLE 78: Are guaranteed freedoms of association and assembly provided that they are not contrary to public order and to the morality.

ARTICULO 112: Se reconoce el derecho del hombre y de la mujer, que tengan la calidad de tales naturalmente, a contraer matrimonio entre sí, así como la igualdad jurídica de los cónyuges. Sólo es válido el matrimonio civil celebrado ante funcionario competente y con las condiciones requeridas por la Ley. Se reconoce la unión de hecho entre las personas igualmente capaces para contraer matrimonio. La Ley señalará las condiciones para que surta los efectos del matrimonio. Se prohíbe el matrimonio y la unión de hecho entre personas del mismo sexo. Los matrimonios o uniones de hecho entre personas del mismo sexo celebrados o reconocidos bajo las leyes de otros países no tendrán validez en Honduras.

ARTICLE 112: recognizes the right of men and women, who have the quality of such of course, to marry among themselves, as well as the legal equality of spouses. It is only valid civil marriage held before competent official and with the conditions required by law. Recognizes the de facto union between the people equally capable for marriage. The Law brought the conditions for which it takes the effects of marriage. It prohibits marriage and the union of done between persons of the same sex. The marriages or de facto unions between persons of the same sex concluded or recognized under the laws of other countries will have no validity in Honduras.

ARTICULO 116: Se reconoce el derecho de adopción a las personas unidas por el matrimonio o la unión de hecho. Se prohíbe dar en adopción niños o niñas a matrimonios o uniones de hecho conformados por personas del mismo sexo. La Ley regulará esta institución.

ARTICLE 116: recognizes the right of adoption to the people united by the marriage or in fact. It prohibits in adoption boys or girls to marriages or de facto unions formed by the same sex. The law shall regulate this institution.

III. Jurisprudence

Immigration and Refugee Board

1. *Hernandez-Trochez v. Canada (Minister of Public Safety and Emergency Preparedness)*, [2006] IADD No. 1396.

Claim rejected

- **No discussion of risk to homosexuals living in Honduras.**
- **Lack of evidence before the court of any risk of hardship to the appellant due to his Hepatitis C condition.**

The appellant, a homosexual male living with Hepatitis C, appealed a deportation order on humanitarian and compassionate grounds. He has never been granted Convention status. When considering the potential for hardship for the appellant in Honduras, the court stated that there was no evidence that Hepatitis C caused any hardship. On the contrary, the court weighed the fact that the appellant was proficient in Spanish, the official language of Honduras, against his claim of hardship. The court did not discuss the risk to homosexuals in Honduras.

2. *Padilla v. Canada (Minister of Citizenship and Immigration)*, [2008] IADD No. 1758.

Claim rejected

- **No discussion of risk to HIV positive homosexuals living in Honduras**

The appellant, an HIV positive homosexual male, claimed humanitarian and compassionate grounds against a deportation order. The appellant had formerly been granted Convention status. The board dismissed the appeal, primarily on the grounds of the appellant's criminality. The court did not discuss the country conditions in Honduras, stating that to do so would be premature given that the country of removal was yet to be officially determined (although Honduras was the likely country).

IV. Government Reports

Canada

1. Immigration and Refugee Board Canada. *Honduras: Treatment of homosexuals, including protection offered by the state and the attitude of the population* (15 December 2006), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=451290&l=e>.
- **LGBT community stigmatized**
 - **No laws protecting homosexuals from discrimination**
 - **Reports of crimes against homosexuals**
 - **No protection from authorities for LGBT population**
 - **No registration or investigation for LGBT murders**
 - **LGBT harassed by police**
 - **200 murders of LGBT between 1991-2001**

Honduras has no laws protecting homosexuals from discrimination and a number of crimes against homosexuals have been reported in the country. From 2004-2005 more than 10 LGBT people were killed, adding to the 200 over the last decade. The police do not always investigate these murders, and the deaths are sometimes not registered. Some media sensationalize the topic of homosexuality. Homosexuals in Honduras are frequently harassed by police and are frequently charged with offending "morality and public decency" if seen expressing affection in public.

2. Immigration and Refugee Board Canada, *Honduras: Update to HND25191.E of 6 January 1997 on the treatment of gays and lesbians and the availability of state protection* (September 2004), online: <<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=42df60f923&skip=0&>

;category=COI&publisher=IRBC&coi=HND&rid=4562d94e2&query=sexual orientation&searchin=fulltext&display=10&sort=relevance>

- **LGBT people experience violent acts causing death**
- **Second highest country for LGBT murders**
- **Only “gay bar” shut down and arrests denied by officials**
- **2002 Police and Social Co-Existence Law used to arrest those perceived as LGBT**
- **Legal authority calls transvestites “evil”**

LGBT persons in Honduras continue to experience discrimination, harassment and violent acts sometimes resulting in death. Honduras has the second highest number of murders for LGBT persons in Latin America and the Caribbean. The city of San Pedro Sula’s only gay bar was shut down and police arrested patrons and held them in detention for 24 hours, followed by a press release by the mayor denying that any arrests had been made in any of the city’s bars. The 2002 Police and Social Co-Existence law grants the police the power to “restrict the movement or presence of individuals in public areas considered to be dangerous, in order to prevent organized crime and protect public safety.” Human rights groups say that the law is used to seek out and arrest individuals perceived to be LGBT. In November 2002, police tried to force 100 transgendered sex workers to relocate to another area in the city, in the interests of development and tourism. A municipal judge called transvestites “evil” and stated that police would arrest any transvestite outside the relocated area.. In July 2003, two police officers seeking the services of a prostitute were charged with murder after they shot and killed an individual because he was a transvestite. Although the officers were arrested and charged with the death of Erick David Yanez, witnesses of the shooting reportedly received death threats from the police officers charged, and in a July 2004 update, Amnesty International reported that the two police officers were now fugitives of justice and that witness Suarez sought refugee status in Europe.

United States of America

1. Bureau of Democracy, Human Rights and Labor. *2009 Human Rights Reports: Honduras* (11 March 2010), online: <<http://www.state.gov/g/drl/rls/hrrpt/2009/wha/136117.htm>>
 - **Officials assault, rape LGBT detainees**
 - **Law used to criminalize social organization of LGBT**
 - **Hate crimes against LGBT have increased**
 - **LGBT members of NGOs abused and killed**
 - **LGBT persons hide from families and conceal identities**
 - **Anti-gay discriminatory hiring practices**
 - **28 reported murders of LGBT persons since between 2008 – 2010 uninvestigated**
 - **7-10 hate crimes against LGBT/month, including police brutality**
 - **Police officer has said “We should kill all homosexuals”**
 - **Police placed unlawfully detained LGBT rights activist in cell with gang where he was raped and beaten**

In Honduras prisons, security officials rape and physically assault LGBT persons. Hate crimes have increased, especially during political campaign season. Police forces have killed and abused members of NGOs focused on sexual diversity rights. When an LGBT person is found dead, the

prosecutor faces difficulty because “the victims had either concealed their identity or sexual orientation, or were hiding from their families.” In addition, due to police corruption, fear and intimidation, LGBT victims frequently do not file charges or proceed with prosecutions. A human rights group estimated that it registered approximately one case per month of police pistol-whipping, among other abuses, of LGBT persons. An NGO psychiatric clinic treated between 7-10 victims of hate crimes per month. Police unlawfully detained an LGBT rights activist and placed him in a cell with 57 gang members who raped and beat him.

2. Bureau of Democracy, Human Rights and Labor. *2008 Human Rights Reports: Honduras* (25 February 2009), online: <<http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119164.htm>>

- **LGBT persons shot and killed in the centre of city**
- **LGTB person attacked by 3 men with clubs after hailing cab**
- **Lesbian-Gay Rainbow Association burglarized and archives stolen during police investigation for rape of employee**
- **5 police charged for torture and unlawful detention of 7 employees of Lesbian-Gay Rainbow Association – case never developed**

In Honduras, on October 30 a transgendered sex worker was shot and killed, and the next day another transgendered sex worker was shot and killed in the centre of Camayagua. In December, a transgendered sex worker was beaten with clubs and pipes by 3 men after hailing a cab in the same city. The treasurer of the Lesbian-Gay Rainbow Association was unlawfully detained, beaten by police and placed in a jail cell with gang members who also beat and raped him. The victim charged the police officers who did this, and while the investigation was being conducted, the offices of Lesbian-Gay Rainbow Association were burglarized and all computers and archives were stolen. In December 2007 the Public Ministry charged 5 police officers for the torture and unlawful detention of 7 employees of the Lesbian-Gay Rainbow Association, but there are no known developments in the case.

Note: No information on Honduras could be found at Home Office: UK Boarder Agency website < <http://www.ukba.homeoffice.gov.uk/>>.

V. Non-Governmental Organizations

American Jewish World Service

1. American Jewish World Service, “Where we work: Asociación LGTB Arcoiris de Honduras,” (2011), online:
<http://ajws.org/where_we_work/americas/honduras/asociacion_lgtb_lesbian_gay_transgender_and_bisexual_arcoiris_de_honduras_arcoiris.html>.

- **The LGBT community, following the coup d'état, is increasingly facing persecution, violence, and the state's institutional discrimination.**

Arcoiris was founded in 2003 to create the Rainbow House, a center for training community leaders and as a base for outreach efforts. Arcoiris work focuses on HIV prevention and peer

support, human rights promotion and defense, and cultural activities on behalf of the LGBT community in Comayagüela.

2. American Jewish World Service, *Stemming HIV/AIDS in LGBT and Sex Worker Communities in Honduras* (1 October 2007), online:

<http://ajws.org/who_we_are/news/archives/features/stemming_hiv_aids_in_lgbt_and.html>.

- **Honduras accounts for more than half of all Central American AIDS cases**
- **LGBT community is especially affected by this pandemic and is also one of the most ostracized and alienated groups in the country**
- **LGBT persons live in a climate of harassment and second-class citizenship**
- **Honduras is a conservative Roman Catholic country with growing evangelical Christian population**
- **Intimidation and discrimination are persistent from police**
- **Discrimination also frequent from family members; LGBT children are commonly thrown out of their parents' homes**

Amnesty International

1. Amnesty International, *Honduras: Honduran human rights defender at risk*. (21 January 2011), online: < <http://www.amnesty.org/en/library/info/AMR37/002/2011/en>>

- **January 19, 2011 LGBT activist, Alex David Sánchez Álvarez assaulted and threatened**
- **Álvarez offered no support or protection when he reported incident to Special Prosecutor for Human Rights**
- **7 Jan. 2011 to 21 Jan. 2011: 3 LGBT persons killed, local organizations report**
- **Inter-American Commission on Human Rights: “deeply concerned about serious threats, acts of violence and murders... in particular rising number of killings of members of LGBT community” (20 Jan. 2011)**

2. Amnesty International, *Honduras: Family of Dead Man Intimidated by Police*. (27 September 2010), online: <http://www.amnesty.org/en/library/info/AMR37/014/2010/en>

- **“Impunity is rife and excessive use of force by state and security forces rarely investigated”**
- **Family subjected to intimidation and surveillance by police officers responsible for his arrest; officers remained on duty in the town while being investigated**
- **Family asked Ministry of Interior and the Public Prosecutor’s Office for protection twice but received no response**

On the 1 June 2010, Mario Orlando Sequira Canales, a Honduran citizen who lived in US but visiting family in Honduras, was detained by police; he died in police custody hours later. Forensic report showed he had been beaten and suffocated.

3. Amnesty International, *Honduras Failing to Tackle Coup Rights Abuses*. (27 June 2010), online: <<http://www.amnesty.org/en/for-media/press-releases/honduras-failing-tackle-coup-rights-abuses-2010-06-25>>.

- **Human rights abuses “spiraled” after the coup**
- **Police and military officers responsible for mass arrests, beatings and torture in the wake of the coup have not been brought to justice**
- **Human rights activists, opposition leaders and judges suffer threats and intimidation**
- **Media outlets closed and journalists censored**
- **Security forces commit acts of sexual violence against women and girls**

Honduran authorities have failed to address serious human rights violations that followed coup d'état of 28 June 2009, when ex-President Manuel Zelaya was forced from power.

4. Amnesty International, *Honduras: Submission to the UN Universal Periodic Review: Ninth Session of the UPR Working Group of the Human Rights Council November – December 2010*. (19 April 2010), online: <<http://www.amnesty.org/en/library/asset/AMR37/005/2010/en/79e58f10-220d-40ff-%20ab81-464b56aa439b/amr370052010en.pdf>>.

- **There is “a climate of insecurity” in Honduras**
- **Authorities have failed to investigate human rights violators, particularly members of the police and military and have yet to develop a national human rights plan**
- **Concerns about human rights protection and impunity for human rights violations have intensified since the coup d'état**
- **The coup of 28 June 2009 marked “a new surge in violations by security forces”**

5. Amnesty International, *Public Statement: Honduras: Independence of the judicial system is seriously undermined as the dismissal of justice officials is confirmed*. (2 June 2010), online: <<http://www.amnesty.org/en/library/asset/AMR37/010/2010/en/9d0f0663-1f71-4c27-a225-54a1dc3178ac/amr370102010en.pdf>>.

- **“The notion of an independent judicial system in Honduras is severely weakened”**

6. Amnesty International, *Public Statement: Honduras: Rule of law in danger after justice officials unfairly dismissed*. (12 May 2010), Online: <<http://www.amnesty.org/en/library/asset/AMR37/009/2010/en/a4cd781a-d633-4bf6-b7c1-f6e53334fd73/amr370092010en.pdf>>.

- **Independence of judiciary seriously compromised due to intimidation**
- **Four judges and a public attorney removed from post for having criticized coup**
- **Judicial system seriously undermined by politically motivated harassment of judicial these officials**

7. Amnesty International, *Honduras must launch full investigation into death of Human Rights Campaigner*. (15 December 2009), online: <<http://www.amnesty.org/en/news-and>>

updates/news/honduras-must-launch-full-investigation-death-human-rights-campaigner-20091215>.

- **LGBT activist Walter Trochez shot in chest by a drive-by gunman, died in hospital**
- **Amnesty International fears he was targeted because of his human rights work and that his killing “may be a sign of worse abuses to come in the atmosphere of political instability and fear that has prevailed since the coup”**

Since June, Walter Trochez had been documenting human rights violations during protests against the coup d'état. He was already known for his human rights work with the lesbian, gay, bisexual and transgender community in Honduras.

8. Amnesty International, *Defending Human Rights in a Changing World*. (21 August 2008), online: <<http://www.amnesty.org/en/library/asset/ACT30/006/2008/en/f6303336-5d55-11dd-a592-c739f9b70de8/act300062008eng.pdf>>.

- **Donny Reyes - treasurer of the LGBT organization Rainbow Association (Asociación Arcoiris) in Honduras was detained by police in Tegucigalpa in March 2007**
- **Officers reportedly beat him before putting him in a police station cell for six and a half hours where other detainees repeatedly raped and beat him, allegedly encouraged by a police officer. He was later released.**

9. Amnesty International, *Central America: Persecution and resistance: The experience of human rights defenders in Guatemala and Honduras*. (7 August 2007), online : <<http://www.amnesty.org/en/library/asset/AMR02/001/2007/en/d8c31be5-d381-11dd-a329-2f46302a8cc6/amr020012007en.pdf>>.

- **LGBT organization subject to pattern of intimidation and attacks**

The Rainbow Association provides training for human rights defenders on issues of sexual orientation, gender identity and HIV/AIDS prevention. Since it was set up in 2003, it has been subject to a pattern of intimidation and attacks. For example, on June 12 and July 1, 2006 the Association's offices were raided by unidentified individuals who confiscated documents and destroyed computers and furniture. In December 2006, the then Director of the Association, José Richard Figueroa, was forced to leave Honduras for his own safety. In May 2007, the Association moved their office because members felt intimidated by the persistent presence of police patrol cars outside the former offices. (12)

10. Amnesty International, *Honduras: Human rights violations against lesbian, gay, bisexual and transgender people*. (30 August 2003), online:

<<http://www.amnesty.org/en/library/asset/AMR37/014/2003/en/45a7e6cf-d697-11dd-ab95-a13b602c0642/amr370142003en.html>>

- **According to article 60 of the Constitution, all Hondurans are equal before the law, but in practice, LGBT people are subjected to violent forms of discrimination**
- **Approximately 200 homosexual and transsexual sex workers killed from 1991-2003**
- **Only a number of cases were registered and investigated**

Human Rights Watch

1. Human Rights Watch, *After the Coup Ongoing Violence, Intimidation, and Impunity in Honduras* (20 December 2010), online: < <http://www.hrw.org/en/reports/2010/12/21/after-coup-0> >.

- **The Human Rights Unit has faced several obstacles that undermine its ability to adequately investigate and prosecute cases - limited resources, lack of independent investigators, limited judicial independence, and the failure to implement a Witness Protection Program**

On June 28 2009, a military coup ousted President Manuel Zelaya. The de facto government installed after the coup adopted executive decrees that imposed unreasonable and illegitimate restrictions on freedom of expression and assembly. Since the inauguration of President Porfirio Lobo in January 2010, there have been new acts of violence and intimidation against journalists, human rights defenders, and political activists.

2. Human Rights Watch, *Honduras: Investigate Murders of LGBT People - Authorities Should Act to Stop the Violence* (16 December 2009), online: <<http://www.hrw.org/en/news/2009/12/16/honduras-investigate-murders-lgbt-people>>.

- **There is a “pattern of violence” against LGBT people; violence has accelerated**

“The killing of an HIV/AIDS outreach worker on December 14, 2009, is part of a pattern of violence against lesbian, gay, bisexual, and transgender (LGBT) people in Honduras that seems to have accelerated in the turbulent months since the June 28 coup.”

3. Human Rights Watch, *UN: Landmark meeting denounces rights abuses based on sexual orientation, gender identity* (11 December 2009), online: <<http://www.hrw.org/en/news/2009/12/11/un-landmark-meeting-denounces-rights-abuses-based-sexual-orientation-gender-identity>>.

- **An “atmosphere of impunity” in Honduras has led to increased violence for LGBT community and other marginalized people**

Indyra Mendoza Aguilar, coordinator of the *Lésbica Feminista Cattrachas* network in Honduras said that an atmosphere of impunity since the June coup in Honduras has meant spreading violence against already marginalized people. "In Honduras, as in many countries, the state turns a blind eye to violence against our communities," said Mendoza Aguilar.

4. Human Rights Watch, *Not Worth a Penny: Human Rights Abuses against Transgender People in Honduras* (29 May 2009), online: <<http://www.hrw.org/en/reports/2009/05/29/not-worth-penny-0>>.

- **The power and discretion given to the police under the 2002 Law on Police and Social Affairs facilitates abuse and arbitrary detentions of transgender people**
- **Police officials admit that homophobia is rampant in the police force**
- **LGBT groups in Honduras have been subjected to discriminatory actions by both the authorities and private actors**
- **90% of such rights violations are not investigated**

International Gay and Lesbian Human Rights Commission (IGLHRC)

1. IGLHRC, *Three Murders in Two Weeks: Protest the Killings of LGBTI People in Honduras*. (10 January 2011), online:
<<http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/globalactionalerts/1308.html>>

- **In the past year and a half, 31 lesbian, gay, bisexual, transgender, and intersex (LGBTI) people in Honduras have been murdered**

“The Inter-American Commission on Human Rights (IACHR) has already expressed concern at violations of the human rights of lesbian gay, bisexual and transgender people have worsened since the coup in Honduras on June 28, 2009.”

VI. Media Reports

1. Michelle Garcia, “Trans, Gay Murders Rock Honduras,” *Advocate.com* (January 21, 2011), online:
<http://www.advocate.com/News/Daily_News/2011/01/21/Trans_Gay_Murders_Rock_Honduras/> .
 - **31 LGBT deaths in Honduras in the last few months**
 - **23 year-old trans woman found stoned to death in December**
 - **Police show minimal interest in solving the cases**
2. Alexei Barrionuevo, “Argentina Approves Gay Marriage, in a First for Region.” *The New York Times* (15 July 2010), Online :
<<http://www.nytimes.com/2010/07/16/world/americas/16argentina.html>>.

“The anti-gay atmosphere in Honduras is so intense, human rights groups say, that more than 20 gay and transgender people have been killed there in the past five years.”

3. Michael A. Jones, “The Coup in Honduras and a Rise in LGBT Violence,” *change.org* (July 23, 2009), online:
http://gayrights.change.org/blog/view/the_coup_in_honduras_and_a_rise_in_lgbt_violence
 - **Transgender activist shot dead, other LGBT activists detained**

4. Tanya O'Carroll, "Fear and repression - LGB&T life in Honduras," *The Lesbian & Gay Foundation* (7 Apr 2010), online: <<http://www.lgf.org.uk/fear-and-repression-lgb-t-life-in-honduras/>>.
 - **LGBT organizations a target for violence since the coup**
 - **At time of printing, 23 members of the Tegucigalpa LGBT community had been murdered**
 - **New government is openly hostile toward LGBT people**
5. Doug Ireland, "Gay Murder Rates Soar in Brazil, Honduras," *WGLB* (January 20, 2011), online: <<http://wglb-tv.blogspot.com/2011/01/gay-murder-rates-soar-in-brazil.html>>.
 - **Stats show an increase in anti-gay murders over the last three years**
6. Reed Johnson, "Honduras Measure to Ban Same-sex marriage mobilizes rights groups" *Los Angeles Times* (19 January 2005), online: <<http://articles.latimes.com/2005/jan/19/world/fg-gaymarriage19>>.
 - **2005 amendments to Constitution backed by country's "swelling evangelical movement" and Roman Catholic Church**
 - **Congressional motion to ban same sex marriage and adoption passed unanimously**
 - **Religious leaders describe homosexuality as "a sickness of the soul"**

Rev. Oswaldo Canales, president of the Evangelical Fraternity of Honduras, which represents 98% of the country's estimated 2 million evangelicals says: "For me, a homosexual is like an alcoholic, like an addict that needs help. They are sick morally and have a sickness of the soul." Activists say they're fed up with job discrimination, police brutality, hate crimes and the media's stereotyping of them as prostitutes, junkies and delinquents.

VII. Scholarship

1. James Daniel Wilets. "Honduras." *The Greenwood Encyclopedia of LGBT Issues Worldwide*. Ed. Chuck Stewart. Santa Barbara, California: Greenwood Press, 2010.
 - **Honduras: "one of the most violent countries in Latin America and the level of violence continues to increase substantially" (147)**
 - **Rule of law highly compromised with severe consequences for LGBT**
 - **Security forces more than "ineffective bystander:" they are a significant source of violence and discrimination (142)**
 - **Discrimination is "widespread" throughout country and not limited to one area – no internal flight alternatives (142)**
 - **Honduras accounts for 17% of Central American population, but 60% of regions AIDS cases (145); it has the highest HIV prevalence rate in the region (143)**
 - **LGBT persons and those with HIV suffer "extensive and severe workplace discrimination" (143)**

- **Authorities violate prohibition of torture, and other cruel, inhuman or degrading treatments or punishment (145)**
- **The 2002 “Ley de Policia y de Covivencia Social” (the Police and Citizen Coexistence Law) has been used to harass LGBT organizations and individuals who attempt to associate with one another**

According to Wilets “persecution and other targeting of gay and transgendered individuals by entities acting with explicit or implicit government support is widespread throughout Honduras and is not limited to a particular region” (143).

Although there are many LGBT rights organizations, their members are “frequently the subjects of government harassment and intimidation, including murder, beatings, and other mistreatment.” These organizations face government hostility, “reflected in the government requirement that LGBT organizations remove any reference to their LGBT advocacy work in their title or mission” (144).

While the Constitution prohibits discrimination based on race, gender, class or ‘any other discrimination that is detrimental to human dignity,’ the courts have “never interpreted the nondiscrimination clause of the constitution as applying to sexual minorities and in fact discrimination is widespread in both the government and in society at large” (145).

LGBT persons and those with HIV also “suffer extensive and severe discrimination in the workplace” (143). LGBT groups have documented that “security forces, governmental agencies, and private employers engaged in antigay discriminatory hiring practices” (148).

Police are complicit in violence and discrimination against the LGBT community. In April 2007 a group of five men attacked Josef Fabio Estrada: “numerous reports indicate that the police officers present were laughing and encouraging the men to continue their violent assault. Police were reported to be yelling: “Kill the faggot, beat him!” (147) The World Policy Institute has reported that the “Honduran police frequently charge... gay (and occasionally lesbians) with offending ‘morality and public decency’ if they are seen expressing physical affection in public” (148).

2. Deena Hurwitz, Mark Bromley, and Stefano Fabeni. *Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Honduras: A Shadow Report*. University of Virginia International Human Rights Law Clinic in partnership with Global Rights (Oct 2006), online: <http://www.globalrights.org/site/DocServer/Shadow_Report_Honduras.pdf?docID=9964>.

- **LGBT individuals face discrimination in the workplace, where there are no non-discrimination laws to protect them.**
- **Those with HIV/AIDS are often particularly victimized by discrimination in access to employment, education, and health care (3,5,14)**
- **LGBT organizations are stigmatized by religious organizations and politicians who consider them a danger to society**

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LGBT people are often denied employment or promotion, and are subjected to harassment by employers and coworkers. LGBT victims generally lack redress for the wrongs suffered in the workplace (4, 14).

The hostility against the LGBT community has resulted in laws that discriminate on the basis of sexual orientation and gender identity, either de jure or de facto. First, the amendment to the constitution banning gay marriage and adoption by same sex couples discriminates on its face against LGBT individuals. Second, The Coexistence Law, while not discriminatory on its face, is used to target people identified as homosexual or transvestite (3,14).

Constitutional Amendments

Article 60 of the Honduras Constitution ensures all individuals are equal before the law, and that “discrimination on the basis of sex, race, class, and any other basis harmful to human dignity shall be punishable.” Despite this seemingly inclusive provision, LGBT individuals face serious human rights violations because of their sexual orientation and gender identity (3).

There is a “generalized discriminatory culture with respect to LGBT individuals and their communities (3).

“In 2004, members of Honduran evangelical groups responded vehemently to the government’s formal registration of three LGBT associations. Although some members of the government defended the registrations, others aligned with the growing fundamentalist movement. This led to Congressman Jose Celin Discua sponsoring a proposed amendment to the Honduran Constitution that would ban marriage and adoption by same-sex couples. This amendment passed unanimously, and the Constitution was officially amended in January 2005. This amendment is particularly detrimental for LGBT individuals, as it could in fact promote different treatment between unmarried same-sex and opposite-sex couples” (13).

The Coexistence Law

The LGBT community has faced increasing levels of public and private discrimination since the passing of the 2002 “Ley de Policía y de Convivencia Social” (The Police and Citizen Coexistence Law) which granted substantial power and discretion to police forces to take action “for the preservation of public morality and decency” (3).

“Several Honduran laws lend themselves to arbitrary enforcement against the LGBT community. In particular, the Coexistence Law effectively gives police officers the authority to selectively arrest and harass transsexual and other effeminate-looking individuals” (11).

Elkyn Suárez Mejía, a well-known Honduran LGBT activist, has noted that the 2002 Police and Coexistence Law is often used to give force to the anti-gay movement, since the government views the rights of sexual minorities as being in conflict with public decency and morals (3). “In May 2002, when Honduran President Ricardo Maduro signed the Coexistence Law, the police were permitted to restrict the movement or presence of individuals in public areas in order to preserve morality and decency and to protect public safety. In reality, police use the Coexistence Law to target LGBT individuals for harassment, intimidation, physical and emotional abuse” (8).

Workplace discrimination

The workplace is an area of substantial discrimination against LGBT individuals. Although there are no laws that allow employment discrimination on the basis of sexual orientation, there are no laws preventing such actions either. As a result, employers frequently discriminate against LGBT

employees and job applicants. The main workplace anti-discrimination provision, Article 12 of the Labor Code, does not explicitly include sexual orientation as a prohibited ground of discrimination; therefore, the law is effectively ignored with respect to LGBT individuals (4).

Discrimination against LGBT NGOs

“In Honduras, any NGO must go through a “registration” process in order to be granted legal status. LGBT organizations first began applying for legal registration in the early 1990s, but their applications were systematically denied by the Ministry of Interior until three organizations were registered in 2004. The constant denials negatively impacted the ability of these organizations to effectively address human rights issues important to the LGBT community. In addition, the government’s refusal to grant legal status to these groups represents a violation of the right of homosexual and transgender persons to freedom of association and assembly. These communities were forced to seek protection as individuals rather than as an organized group, making them more vulnerable and lessening their ability to advocate with government” (12).

“On April 4, 2000, the LGBT organization Grupo Prisma submitted a request for official registration and approval of the statutes of the organization to the Ministry of the Interior and Justice, as required by law. On August 2, 2000 a decision was issued, denying the application. The official reason was that “the Statutes [of the organization] breach morality, public order, and proper behavior” (12).

“In 2004 the Ministry of the Interior and Justice granted official registration to three LGBT groups in San Pedro Sula: Comunidad Gay Sampedrana para la Salud Integral, Kukulcan, and Colectivo Violeta. The recognition of these groups is an important step forward, but does not appear to have signaled a policy change. What’s more, there has been significant backlash in response” (12).

HIV/AIDS Discrimination

Some of the hostility towards the LGBT community can be traced to the fact that the first reported cases of HIV in Honduras involved gay men: “as a result, a significant amount of animus was directed against the gay community” (3). There is currently no legislation in Honduras addressing the rights of people living with HIV/AIDS (5).

Particular Instances of Violence

“The death of Ericka David Yañéz on July 15, 2003. Yañéz was a nineteen year old sex worker, who was also a travestí member of Comunidad Gay Sampedrana, an LGBT rights NGO based in San Pedro Sula. According to witnesses, two San Pedro Sula policemen driving an official police car were looking for the services of a prostitute. They got into an argument with Yañéz when they realized she was a transgender person. Their altercation escalated as the officers attacked Yañéz, ending when one shot Yañéz with his service weapon” (7).

“On July 15, 2004, the body of Victor Manuel García Baquedano, a gay man, was found hanging by a sweater tied around his neck from a bridge in Comayauela. The police found it suspicious that Victor’s hands were gripping the sweater around his neck, as if he had resisted dying in that manner, suspended 10 meters above the ground, and expressed doubt regarding whether the death was a suicide or a murder” (7).

“Pedro Humberto Romero, a 15 year old travestí known as “la Macarena”, was found dead on July 8, 2004 in San Pedro Sula. He had been shot 23 times. His hands and feet were tied with shoelaces and he had third degree burns over 90% of his body. There was no serious investigation of Romero’s murder.” (13)

“On August 15, 2006, Javier Enrique Hernandez, a gay man and member of Comunidad Gay Sampedrana, was found dead in his apartment in San Pedro Sula. He was found lying face down in a pool of blood, with his hands and feet tied. A tee shirt was tied around his neck, and wire was wrapped around the tee shirt. There was evidence that Hernandez had been tortured before his death. The police classified the case as a robbery because the apartment was in disarray and some valuables were missing.” (8)

3. Fernández-Aleman, Manuel and Stephen O. Murray. *Heterogender Homosexuality in Honduras*. Lincoln, NE: Writers Club Press/iUniverse Inc., 2002.

- **Violence against LGBT in Honduras is “all too frequent;” there is “an extraordinarily palpable degree of violence in the environment.” (6)**
- **There is a connection between the appearance of the first AIDS cases after 1985 and the dramatic rise of hate crimes (162-163)**
- **AIDS produced “a homophobic backlash in the form of hate crimes and the closure of most of the new gay locales in countries such as Honduras” (162)**
- **Violence is “a reflection of an old and deeply ingrained homophobia” (163)**

End of report