



“My Life Passed Before My Eyes”
Violence and Discrimination Against LGBT People in
Honduras

Copyright © 2020 Human Rights Watch

All rights reserved.

Printed in the United States of America

ISBN:

Cover design by Rafael Jimenez

Human Rights Watch defends the rights of people worldwide. We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice. Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.

Human Rights Watch is an international organization with staff in more than 40 countries, and offices in Amsterdam, Beirut, Berlin, Brussels, Chicago, Geneva, Goma, Johannesburg, London, Los Angeles, Moscow, Nairobi, New York, Paris, San Francisco, Sydney, Tokyo, Toronto, Tunis, Washington DC, and Zurich.

For more information, please visit our website: <http://www.hrw.org>



NOVEMBER 2020

“My Life Passed Before My Eyes”

Violence and Discrimination Against LGBT People in Honduras

Glossary	i
Summary	1
Recommendations	4
To the President and the Executive Branch	4
To the Attorney General’s Office	4
To the Ministries of Public Security and Defense	4
To Congress.....	5
To the Secretariat of Human Rights, in collaboration with the Directorate for Childhood, Adolescence and Families	5
To the Ministry of Education.....	5
To the Ministry of Labor, in Conjunction with the Human Rights Ombudsperson’s Office.....	5
To Donors and Development Partners	6
Methodology	7
I. Background	9
Sexual Orientation and Gender Identity in Honduras	11
Legal and Policy Context.....	12
Social Stigma and Discrimination	17
II. Violence Against LGBT People in Honduras.....	19
Domestic Violence.....	22
Violence and Harassment by State Security Forces.....	24
National Police.....	25
Military Police	27
Violence by Gangs	30

Violence by Members of the Public	34
III. Discrimination in Honduras: A Pathway to Life on the Margins	36
Education Discrimination and Bullying.....	36
Employment Discrimination	39
IV. Obligations Under International Human Rights Law	42
Obligation to Investigate and Protect Against Violence.....	43
Protection from Discrimination	46
Legal Gender Recognition	48
V. Acknowledgments.....	49
Annex I. Responses from Honduras’s Attorney General’s Office, 2019.....	51
Annex II. Response from Honduras’s Attorney General’s Office, 2020.....	57

Glossary

Bisexual: The sexual orientation of a person who is sexually and romantically attracted to both women and men.

Cisgender: Denoting or relating to a person whose sense of personal identity and gender corresponds with their sex assigned at birth.

Gay: A synonym for homosexual in many parts of the world; in this report, used specifically to refer to the sexual orientation of a man whose primary sexual and romantic attraction is toward other men.

Gender: The social and cultural codes (linked to but not congruent with ideas about biological sex) used to distinguish between society's conceptions of "femininity" and "masculinity."

Gender Identity: A person's internal, deeply felt sense of being female or male, both, or something other than female or male.

Heterosexual: The sexual orientation of a person whose primary sexual and romantic attraction is toward people of another sex.

Homophobia: Fear of, contempt of, or discrimination against homosexuals or homosexuality, usually based on negative stereotypes of homosexuality.

Homosexual: The sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex.

Intersex: An umbrella term that refers to a range of traits and conditions that cause individuals to be born with chromosomes, gonads, and/or genitals that vary from what is considered typical for female or male bodies.

LGBT: Lesbian, gay, bisexual, and transgender; an inclusive term for groups and identities sometimes also grouped as "sexual and gender minorities."

LGBTI: Umbrella term used to refer inclusively to those who are lesbian, gay, bisexual, and transgender along with those who are intersex.

Non-Binary: Gender identity of people who identify as neither female nor male.

Sexual Orientation: The way in which a person's sexual and romantic desires are directed. The term describes whether a person is attracted primarily to people of the same or other sex, or to both or others.

Sexual Violence: Any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.¹

Transgender: The gender identity of people whose sex assigned at birth does not conform to their identified or lived gender. A transgender person usually adopts, or would prefer to adopt, a gender expression in consonance with their gender identity but may or may not desire to permanently alter their physical characteristics to conform to their gender identity.

Transgender Men: Persons designated female at birth but who identify and may present themselves as men. Transgender men are generally referred to with male pronouns.

Transgender Women: Persons designated male at birth but who identify and may present themselves as women. Transgender women are generally referred to with female pronouns.

Transphobia: Fear of, contempt of or discrimination against transgender persons, usually based on negative stereotypes of transgender identity.

Travesti: A term that has different meanings in different cultural contexts, but in Central America is generally claimed by people assigned male at birth, who transit towards the female gender. *Travestis* do not necessarily identify as women and sometimes use the term to denote a political identity.

¹ International Criminal Court, "Elements of Crimes," <https://legal-tools.org/doc/3coe2d> (accessed September 17, 2020).

Summary

When Vicky Hernández was killed on the streets of San Pedro Sula in June 2009, the chances were slim that anyone would be held to account for her murder. Hernández was a transgender woman, a sex worker, and an activist with the trans rights group Unidad Color Rosa, living and working in a context in which violence was at high levels. Violence particularly targeted lesbian, gay, bisexual, and transgender (LGBT) people and human rights defenders.²

Hernández's body was found on the morning of June 29, 2009, in the immediate aftermath of a military coup on June 28. She was killed while a curfew was in place, enforced by security forces who were patrolling the streets. The military coup ushered in more violence and more impunity in Honduras.

LGBT activists in Honduras, however, have not allowed Hernández's murder to be swept under the rug. In 2012, the Cattrachas Lesbian Network filed a petition before the Inter-American Commission on Human Rights alleging that the state of Honduras was responsible for Hernández's murder and for failing to diligently investigate her death and bring the perpetrators to justice.³ The Commission issued a Merits Report in December 2018 affirming Cattrachas's allegations and supplying recommendations to Honduras regarding its obligations to prevent and investigate acts of violence based on sexual orientation and gender identity. Honduras did not comply with the recommendations, and in May 2019 the Commission referred the case to the Inter-American Court of Human Rights (the "Court"). On November 11, 2020, the Inter-American Court of Human Rights held initial hearings into the allegations of state responsibility.

In May 2009, Human Rights Watch published a report titled *"Not Worth a Penny": Human Rights Abuses against Transgender People in Honduras*.⁴ Nearly all the 35 people Human

² REDLACTRANS, *The Night is Another Country: Impunity and Violence against Transgender Women Human Rights Defenders in Latin America*, 2012, <https://clac.cab/portfolio-item/night-another-country-impunity-and-violence-against-transgender-women-human-rights> (accessed November 2, 2020).

³ Inter-American Commission on Human Rights, Report No. 157/18, Case 13.051, *Report on Merits*, December 7, 2018, <https://www.oas.org/en/iachr/decisions/court/2019/13051FondoEn.pdf> (accessed November 4, 2020).

⁴ Human Rights Watch, *"Not Worth a Penny": Human Rights Abuses against Transgender People in Honduras*, May 2009, <https://www.hrw.org/report/2009/05/29/not-worth-penny/human-rights-abuses-against-transgender-people-honduras>.

Rights Watch interviewed in Honduras in late 2008 and early 2009 were victims of, or eye-witnesses to, harassment, beatings, and ill-treatment of transgender people at the hands of police. At least 17 *travestis*—people assigned as male at birth who transit toward a female gender, but may or may not identify as transgender—were killed in public places in Honduras between 2004 and 2009; many more were beaten, stabbed, or shot. Transgender people and LGBT organizations also experienced police inaction and failure to investigate cases that they had registered with the police.

Violence against transgender people in Honduras, along with lesbian, gay, and bisexual people, has continued unabated in the years following the coup. This report, based on interviews with 25 LGBT people from Honduras, documents a complex web of violence and discrimination against LGBT people in Honduras. Our findings suggest that many LGBT Hondurans face violence and discrimination, including from state and non-state actors, that threatens their physical safety, limits their life choices, and in some cases leads them to flee their country.⁵ And while almost all victims of violence in Honduras face challenges obtaining redress in the face of fragile institutions, corruption, and the violence of organized criminal organizations, LGBT victims with whom HRW spoke noted additional barriers in the form of stigma and discrimination from the police, other law enforcement agents, and judicial institutions who are charged with keeping them safe.

Some interviewees described violence at the hands of family members, leading them to flee home at as young as eight years old. Others described bullying and discrimination that drove them out of school or limited their academic success. Although no statistics are available on LGBT people's economic situation in Honduras, many interviewees told us that family rejection and discrimination lead to a higher likelihood of economic marginalization, particularly for trans women, several of whom said they could not find any job other than sex work. Poverty in turn places LGBT people at high risk of violence from gang members, from other members of the public, and from police and other members of the security forces.

⁵ The Inter-American Commission on Human Rights has also published on the high levels of violence, noting in a 2019 report that 155 LGBT murders occurred between 2014 and 2019. Inter-American Commission on Human Rights, Human Rights Situation in Honduras, OEA/Ser.L/V/II., Doc. 146, August 27, 2019, <https://www.oas.org/es/cidh/informes/pdfs/Honduras2019.pdf> (accessed November 6, 2020), para. 277.

The government of Honduras should hold accountable public officials who carry out or are complicit in violence or discrimination on the grounds of gender identity or sexual orientation, and should take meaningful and rights-respecting steps through legal or policy reform to protect against discrimination on these grounds in all sectors including employment, education, housing, health care, and access to goods and services. It should strengthen existing systems for tracking and investigating crimes based on anti-LGBT animus, prosecute such offenses as hate crimes and hold those responsible accountable. It should establish an administrative procedure for legal gender recognition that allows trans people to obtain documents that reflect their gender identity without unnecessary hurdles. Its leaders should make unambiguous statements of support for the rights of LGBT people, including the right to non-discrimination and the right to be free from violence.

Each day that passes without adequate protection puts the lives of LGBT people in Honduras at risk of persecution and abuse. The government has an obligation to take steps to protect them.

Recommendations

To the President and the Executive Branch

- Require all ministries and other government agencies to prohibit discrimination on the grounds of sexual orientation and gender identity in hiring, contracting, and all other activities, and to take steps to counter systemic anti-LGBT discrimination.
- Prohibit the Military Police for Public Order from carrying out stops and searches of ordinary civilians at checkpoints and in the streets.
- Terminate the Asylum Cooperative Agreement signed with the United States, which would allow the United States to transfer asylum seekers, including LGBT people, to Honduras.

To the Attorney General's Office

- Conduct prompt, thorough, and independent investigations into crimes against LGBT people to hold those responsible accountable.
- Conduct monitoring and evaluation of existing systems to track bias-motivated crimes. Ensure that all officials who receive complaints, including police and prosecutors, receive training on sexual orientation and gender identity in order to assist them in identifying such crimes, and that they systematically ask complainants to indicate whether they (or the victim) may have been victimized on the basis of sexual orientation or gender identity.
- Train judges and prosecutors in the elements of a hate crime in order to ensure that bias-motivated crimes are prosecuted as such.

To the Ministries of Public Security and Defense

- Issue a regulation clearly prohibiting discrimination on the basis of sexual orientation or gender identity and hold accountable law enforcement officers and military personnel who engage in such discrimination.

To Congress

- Pass comprehensive civil non-discrimination legislation that explicitly includes sexual orientation and gender identity as protected classes and that covers sectors including, inter alia, education, employment, health and housing.
- Pass a gender identity law that allows people to change the sex markers on their official documents through a simple, administrative process, such as filing an application at the Civil Registry. Legal gender recognition should not include burdensome requirements that violate rights, such as a requirement to undergo divorce, surgery, or psychiatric evaluation before changing one's gender.

To the Secretariat of Human Rights, in collaboration with the Directorate for Childhood, Adolescence and Families

- Establish support services for young people, including both children and young adults, who are expelled from their homes for reasons related to their sexual orientation or gender identity, including shelter, counseling services, educational services and job training.

To the Ministry of Education

- Adopt an anti-discrimination policy that requires all schools, public and private, not to discriminate against students on the basis of sexual orientation, gender identity or gender expression.
- Adopt an anti-bullying policy that requires all schools to take measures to prevent and respond to instances of bullying based on sexual orientation, gender identity and gender expression.
- Create a system to gather and publish data about bullying on the basis of sexual orientation and gender identity in schools.

To the Ministry of Labor, in Conjunction with the Human Rights Ombudsperson's Office

- In collaboration with LGBT organizations, conduct a national-level investigation into allegations of employment discrimination on the grounds of sexual orientation

and gender identity, and sanction employers who violate national law by discriminating.

- Conduct a public messaging campaign to ensure that both employers and LGBT people are aware of the law that prohibits employment discrimination on the grounds of sexual orientation and gender identity.

To Donors and Development Partners

- Provide adequate financial and technical support to accountability mechanisms in Honduras aimed at investigating and documenting bias-based crimes, including within offices of the Attorney General and the human rights ombuds office.
- Provide financial and technical support to LGBT-led organizations in Honduras in all aspects of their work, including those related to documentation of human rights violations, advocacy, economic empowerment, and service provision.
- Publicly speak out in support of the rights of LGBT people and urge the Honduran government to adopt policies to combat violence and discrimination against LGBT people.
- Provide emergency assistance to LGBT people and human rights defenders working on issues related to gender and sexuality in Honduras when they face security threats.

Methodology

This report is comprised of the Honduras-focused sections of a longer, multi-country Human Rights Watch report, *“Every Day I Live in Fear”: Violence and Discrimination Against LGBT People in El Salvador, Guatemala and Honduras and Obstacles to Asylum in the United States*, published in October 2020.⁶ Human Rights Watch researchers interviewed 25 victims of anti-LGBT abuses from Honduras, including seven lesbian or bisexual women, six gay or bisexual men, eight trans women, three trans men, and one non-binary person.⁷ Seventeen of them were living in Honduras at the time of the interview, and were interviewed in Tegucigalpa, Comayagüela, San Pedro Sula, and El Progreso in May and August 2019. Eight were asylum seekers or refugees, interviewed in the United States (Los Angeles and Washington, DC) in December 2019 and Mexico (Tijuana) in January 2020. Human Rights Watch also interviewed representatives of LGBT organizations and other human rights organizations, journalists, government officials, and United Nations officials.

The research focuses on violence and economic marginalization, which puts LGBT people at greater risk of violence. For that reason, the report includes cases of discrimination in education and employment but does not include other forms of discrimination such as in medical settings. Although we did document several such cases, including sexual harassment from health providers on the grounds of sexual orientation or gender identity, these incidents did not clearly contribute to economic marginalization or physical violence. The exclusion of such incidents should not be taken to suggest that these are not serious human rights violations that merit further investigation and reporting.

Interviewees who were victims of human rights violations were reached with the support of domestic LGBT rights organizations in Honduras, or with the support of immigration lawyers and organizations providing support services to asylum seekers and refugees in Mexico and the United States. Spanish-speaking Human Rights Watch researchers

⁶ Human Rights Watch, *“Every Day I Live in Fear”: Violence and Discrimination Against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States*, October 2020, <https://www.hrw.org/report/2020/10/07/every-day-i-live-fear/violence-and-discrimination-against-lgbt-people-el-salvador>.

⁷ Not all interviewees disclosed both their gender identity and their sexual orientation, and there may be some overlap between categories. For instance, a trans woman or man may also be lesbian, gay, or bisexual, but given the nature of the qualitative interviews conducted, some interviewees only identified themselves as trans without discussing their sexual orientation.

conducted the interviews in Spanish. Most interviews were conducted one-on-one in a private space, while some were conducted in small groups of individuals who knew one another and expressed comfort in speaking together. No compensation was provided to interviewees.

In addition, Human Rights Watch conducted a literature review, including reports published by human rights organizations, the Inter-American Commission on Human Rights, United Nations agencies, and the US State Department. Human Rights Watch also issued information requests to the Honduran government in July 2019, asking for available data on the number of cases of violence against LGBT people that had been reported to police, the number prosecuted, and the number resulting in convictions. Human Rights Watch issued information requests again in September 2020, asking for further information on efforts to combat violence and discrimination based on gender identity and sexual orientation. Responses are also included as annexes to this report.

I. Background

I am considering leaving [Honduras]. But I don't have the financial means to buy a plane ticket. I also don't want to risk my life [traveling by land]. If I stay here, I will at least get a dignified burial. But what if I end up on the street?

—William Alejandro Martínez, trans man interviewed in Tegucigalpa, Honduras, May 16, 2019, who is now seeking asylum in Spain

Honduras, the second poorest country in Central America, is marked by staggering income inequality.⁸ The Economic Commission for Latin America and the Caribbean (ECLAC), a regional United Nations commission tasked with contributing to the economic development of Latin America, estimated that in 2018, 56 percent of the population lived in poverty and 19 percent in extreme poverty.⁹ The Honduran government estimated these same numbers to be 62 percent in poverty and 39 percent in extreme poverty.¹⁰

Poverty is one contributing factor to Honduras's astronomical rates of violence.¹¹ Gang-related violence, much of it exported from the United States as a result of past deportations of members of street gangs initially formed in US cities in the 1980s and 90s, is persistent and pervasive.¹² Dozens of local and transnational gangs have a presence in Honduras, controlling the lucrative local drug trade and using violence to ensure

⁸ Steven Dudley, "Honduras Elites and Organized Crime: Introduction," InSight Crime, April 9 2016, <https://www.insightcrime.org/investigations/honduras-elites-and-organized-crime-introduction> (accessed September 11, 2020); Central Intelligence Agency, *The World Factbook: Honduras*, May 20, 2020, <https://www.cia.gov/library/publications/the-world-factbook/geos/ho.html> (accessed September 11, 2020); IndexMundi, Income distribution, "GINI Index (World Bank Estimate) - Country Ranking," December 28, 2019, <https://www.indexmundi.com/facts/indicators/SI.POV.GINI/rankings> (accessed September 11, 2020).

⁹ Economic Commission for Latin American and the Caribbean (ECLAC), *Social Panorama of Latin America 2019*, https://repositorio.cepal.org/bitstream/handle/11362/44989/1/S1901132_en.pdf (accessed September 11, 2020), p. 96.

¹⁰ Ibid.

¹¹ Association for a More Just Society, "Why is Honduras so Violent? Drugs, Gangs, Corruption, and Impunity," September 2019, <https://www.ajs-us.org/wp-content/uploads/2019/09/why-is-honduras-so-violent.pdf> (accessed September 11, 2020), p. 3.

¹² Jonathan Pedneault (Human Rights Watch), "The Long Journey to the US Border," commentary, *Los Angeles Review of Books*, August 31, 2019, <https://www.hrw.org/news/2019/08/31/long-journey-us-border>; Daniel Denvir, "Deporting People Made Central America's Gangs. More Deportation Won't Help," *Washington Post*, July 20, 2017, <https://www.washingtonpost.com/news/posteverything/wp/2017/07/20/deporting-people-made-central-americas-gangs-more-deportation-wont-help> (accessed September 10, 2020).

compliance and solidify control. The most dominant gangs are Mara Salvatrucha 13, also known as MS-13, and the 18th Street Gang, also known as Barrio 18, which currently operates as two separate factions.¹³ These gangs exercise territorial control over certain neighborhoods and carry out acts of violence including murder, extortion, kidnapping, human trafficking, and intimidation.¹⁴ In 2019, Honduras had 41.2 homicides per 100,000 inhabitants, one of the highest rates in the world.¹⁵ Local human rights and humanitarian organizations have documented cases of homicides that go unreported to authorities because victims fear reprisals—including extrajudicial killings—from criminal organizations.¹⁶ Impunity for reported incidents of violence is also the norm: in February 2019, Honduras’s human rights commission stated that failure to conduct meaningful investigations resulted in impunity for 90 percent of murders in the country.¹⁷

In 2009, a military coup ousted President Manuel Zelaya, the first blow in a sustained attack on democratic institutions that also increased military influence in policing.¹⁸ Civil society leaders, human rights activists, student activists and journalists are subject to intimidation by state agents and criminal organizations.¹⁹ The United Nations special rapporteur on the independence of judges and lawyers has raised questions about the

¹³ International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, April 6, 2017, https://d2o71andvipowj.cloudfront.net/o62-mafia-of-the-poor_o.pdf (accessed September 10, 2020).

¹⁴ US Department of State, “Honduras 2019 Human Rights Report,” February 2020, <https://www.state.gov/wp-content/uploads/2020/02/HONDURAS-2019-HUMAN-RIGHTS-REPORT.pdf> (accessed September 11, 2020). See also generally, Insight Crime, *Gangs in Honduras*, April 21, 2016, <https://www.insightcrime.org/images/PDFs/2015/HondurasGangs.pdf> (accessed September 11, 2020).

¹⁵ Parker Asmann and Eimhin O’Reilly, “Insight Crime’s 2019 Homicide Round-Up,” January 28, 2020, <https://www.insightcrime.org/news/analysis/insight-crime-2019-homicide-round-up> (accessed September 11, 2020). In the past five years, Honduras’s homicide rate has consistently been one of the highest in the region: it was 57.5 in 2015, 56.5 in 2016, and 41.7 in 2017. United Nations Office on Drugs and Crime, “Global Study on Homicide 2019,” <https://www.unodc.org/unodc/en/data-and-analysis/global-study-on-homicide.html>, searching “homicide data” for “Honduras” and “homicide rate.”

¹⁶ Immigration and Refugee Board of Canada, Honduras: Information Gathering Mission Report, February 2018, https://www.ecoi.net/en/file/local/1429301/1226_1523526023_ffm-honduras-eng.pdf, p. 15.

¹⁷ “Honduras Ombudsman: Impunity is a National Problem That Affects Social Peace” (“Ombudsman Hondureño: La impunidad es un problema de país que afecta la paz social”), CONADEH, February 15, 2019, <https://www.conadeh.hn/?p=2514> (accessed September 11, 2020). See also Adriana Beltrán, “Children and Families Fleeing Violence in Central America,” WOLA, February 1, 2017, <https://www.wola.org/analysis/people-leaving-central-americas-northern-triangle> (accessed September 10, 2020).

¹⁸ International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, https://d2o71andvipowj.cloudfront.net/o62-mafia-of-the-poor_o.pdf, p. 4.

¹⁹ Immigration and Refugee Board of Canada, Honduras: Information Gathering Mission Report, https://www.ecoi.net/en/file/local/1429301/1226_1523526023_ffm-honduras-eng.pdf, p. 14.

independence of Honduras's judiciary.²⁰ The justice system lacks adequate funds, equipment and staff, rendering it ineffective and vulnerable to intimidation, corruption, political manipulation, and patronage. Organized criminal elements have exercised influence on the outcomes of some court proceedings.²¹

Honduras is a transit point for drug trafficking from Colombia and Mexico to North America, and according to the UN Office on Drugs and Crime, in the wake of the 2009 coup, narco trafficking flights routed through Honduras notably increased and organized criminals took control of more Honduran territory.²² The drug trade has corrupted mayors, members of the national congress, and a former president, and US prosecutors have linked current president Juan Orlando Hernández to the drug trade.²³ The National Police has been implicated in cooperating with traffickers moving cocaine or receiving bribes in exchange for ignoring criminal activity.²⁴

Sexual Orientation and Gender Identity in Honduras

Violence against LGBT people in the Honduras takes place along an economic axis. This holds true for gang violence but also for police violence: Human Rights Watch interviews suggest some police believe they can abuse or fail to attend to the needs of people living in poverty or who are otherwise marginalized without consequences. LGBT people in Honduras straddle various economic strata, but some, especially those who are trans and

²⁰ In August 2019, the United Nations special rapporteur on the independence of judges and lawyers reported that four justices of the Constitutional Chamber of the Supreme Court were removed by Congress for political reasons and noted the lack of transparency in judicial appointments and lack of public scrutiny in the appointment of high officials. United Nations Office of the High Commission for Human Rights, Preliminary Observations About Official Visit to Honduras, Diego García-Sayán, Special Rapporteur on the independence of judges and lawyers, August 22, 2019, <https://ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=24910&LangID=S> (accessed September 11, 2020).

²¹ US Department of State, "Honduras 2019 Human Rights Report," <https://www.state.gov/wp-content/uploads/2020/02/HONDURAS-2019-HUMAN-RIGHTS-REPORT.pdf>.

²² United Nations Office on Drugs and Crime, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, https://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf (accessed September 11, 2020), pp. 32, 37, 65.

²³ Steven Dudley, "Another Day, Another Damning Testimony of Elites by Honduras Trafficker," InSight Crime, March 20, 2017, <https://www.insightcrime.org/news/analysis/another-damning-testimony-elites-honduras-trafficker> (accessed September 11, 2020); Emily Palmer and Benjamin Weiser, "El Chapo Said to Have Given \$1 Million to Honduran President's Brother," *New York Times*, October 2, 2019, <https://www.nytimes.com/2019/10/02/world/americas/el-chapo-honduras-drug-trial.html> (accessed September 11, 2020).

²⁴ "Honduras Ex-Police Chief Faces US Drug Trafficking Charges," *BBC*, May 1, 2020, <https://www.bbc.com/news/world-latin-america-52502370> (accessed September 11, 2020); Christopher Sherman, Martha Mendoza and Garance Burke, "Honduras' National Police Chief Helped Cartel Move 1,700 lbs. of Cocaine, Report Says," *Associated Press*, reprinted in *Chicago Tribune*, January 26, 2018, <https://www.chicagotribune.com/ct-honduras-police-cocaine-20180126-story.html> (accessed September 11, 2020).

gender non-conforming, are pushed into the social and economic margins by a lifetime of discrimination. This systemic marginalization often begins with rejection and abuse by families: several interviewees told Human Rights Watch of parents and other family members physically assaulting them and expelling them from their homes.

Education and employment discrimination on the grounds of sexual orientation or gender identity contribute further to economic marginalization, ultimately leaving many LGBT people without stable livelihoods and few housing options outside of poor and often gang-controlled neighborhoods.²⁵ A significant number of trans women, often unable to obtain other employment, do sex work, a business that requires frequent interactions with gang members and police and sometimes exposes them to violence.

Gang violence affects many Hondurans regardless of their gender identity or sexual orientation, but in some cases gangs specifically target LGBT people, killing, assaulting, threatening or extorting them for reasons that interviewees told Human Rights Watch might be linked to personal anti-LGBT animus; to assert social control or dominance; or because gangs recognize that LGBT people, particularly those who are poor, may have weak social support systems to protect them. And while Honduras has failed to curb gang violence against the population in general, LGBT people may face an additional barrier to protection: LGBT people reported stigma and discrimination from police officers when they attempted to report crimes, deterring some from reporting at all, as discussed in Section II below.

Legal and Policy Context

Honduras's efforts to use law and policy to address violence and discrimination against LGBT people have been largely ineffective and are undermined by conflicting policies that reinforce discrimination.

Honduras's semi-autonomous National Human Rights Commission (*Comisionado Nacional de Derechos Humanos*, CONADEH), established in 2014, houses an Ombudsperson's

²⁵ Honduras does not maintain statistics that track economic vulnerability among LGBT people. The World Bank has urged countries to collect such data, where it does not pose a risk to the privacy and security of LGBT individuals. World Bank and UNDP, *Investing in a Research Revolution for LGBTI Inclusion*, November 2016, <http://documents.worldbank.org/curated/en/196241478752872781/pdf/110035-WP-InvestinginaResearchRevolutionforLGBTIInclusion-PUBLIC-ABSTRACT-SENT.pdf> (accessed September 10, 2020).

Office for HIV and Sexual Diversity that has condemned anti-LGBT hate crimes and advocated for rights-respecting reforms, including the passage of a gender identity law, but the office is under-resourced. Its director, Francia Maradiaga, told Human Rights Watch that the office does not have the capacity to investigate individual cases and relies heavily on information from the lesbian human rights organization Cattrachas, which documents human rights violations against LGBT people.²⁶

Non-Discrimination Legislation

Honduras has no comprehensive civil law prohibiting discrimination on the basis of sexual orientation and gender identity. In 2013, Honduras enacted a penal code that punishes discrimination on several grounds, including sexual orientation and gender identity, as well as public speech that incites “discrimination, hate, persecution, violence or attacks” on the same grounds with up to five years in prison. Additional sanctions apply if the perpetrator is a public official.²⁷ In response to an information request from Human Rights Watch, the Attorney General’s office stated that four people have been convicted since 2013 on charges related to anti-LGBT discrimination.²⁸ A new penal code, with lower penalties for discrimination and narrower categorizing of types of discrimination covered, went into effect in June 2020, although at the time of writing a group of judges had challenged the new code before the Supreme Court, arguing that it instituted impunity for abuse of power, in violation of the constitution.²⁹ As discussed further in Section IV, Honduras should focus on adopting a comprehensive civil law prohibiting discrimination that includes sexual orientation and gender identity as a protected ground, rather than using the criminal law as the primary tool to provide protection against discrimination.

²⁶ Human Rights Watch interview with Francia Maradiaga, Tegucigalpa, May 16, 2019.

²⁷ Republic of Honduras, Penal Code of 2013, poderjudicial.gob.hn/CEDIJ/Leyes/Documents/CodigoPenal-ReformaIncluida.pdf, art. 321.

²⁸ Republic of Honduras, Ministerio Público, Oficio S.D.G.F. no 480-2020, September 25, 2020; see Annex II.

²⁹ Republic of Honduras, Decreto 130-2017, Código Penal (Decree 130-2017, Penal Code), https://www.tsc.gob.hn/web/leyes/Decreto_130-2017.pdf (accessed November 11, 2020), arts. 211-213; “The AJD Presents an ‘Appeal of Unconstitutionality Against the New Penal Code’” (“Desde la AJD se llevó a cabo la Presentación de ‘Recurso de Inconstitucionalidad contra el Nuevo Código Penal’”), Asociación de Jueces por la Democracia news release, August 6, 2020, <https://juecesporlademocracia.org/desde-la-ajd-se-llevo-a-cabo-la-presentacion-de-recurso-de-inconstitucionalidad-contra-el-nuevo-codigo-penal/?fbclid=IwARoQud2k3SNb0LTFHcnWJBqrUNWLY6oXPX3beKnxx5sbt6HitTwzDUAQRMA> (accessed September 11, 2020).

Hate Crimes Legislation and Tracking

Under the penal code adopted in 2020, sentences for offenses can be increased for “aggravating circumstances,” including when the offense is found to be motivated by the sexual orientation or gender identity of the victim.³⁰ The 2013 penal code also provided higher penalties for bias-motivated crimes on grounds including sexual orientation and gender identity, but there are no confirmed convictions under that law.³¹

Since 2017, criminal complaint forms have included a box that can be ticked if the victim reporting a crime self-identifies as LGBTI, but the Attorney General’s Office reported in response to an information request from Human Rights Watch that a lack of cases indicates “that it is being ignored by the officials receiving the complaints.”³²

The Inter-American Commission on Human Rights has noted that throughout the Americas:

Insufficient training of police agents, prosecutors, and forensics authorities might also lead to inaccurate reporting. For example, when trans victims are registered according to their sex assigned at birth, their gender identity is not reflected in the records. Trans women are frequently identified in public records as ‘men dressed in women’s clothes.’³³

Legal Gender Recognition

Transgender people are made particularly vulnerable by the lack of legislation providing for an administrative procedure to modify the sex marker on their official identification documents. The absence of legal gender recognition means that every time a transgender

³⁰ Article 32(8) of the 2020 penal code classifies under aggravating circumstances the commission of a crime “for racist motives or others related to the ideology, religion or beliefs of the victim, age, language, family situation, race or nationality, sex, sexual orientation or gender identity, reasons of gender, illness or disability.” Decreto 130-2017, Código Penal (Decree 130-2017, Penal Code), https://www.tsc.gob.hn/web/leyes/Decreto_130-2017.pdf.

³¹ REDLAC, “The Impact of Violence on the LGBTI Community in Northern Central America,” Snapshot No. 6, September 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/Protection%20Snapshot%206%20-%20English%20-%20September%202019.pdf> (accessed September 15), page 5.

³² Republic of Honduras, Ministerio Público, Oficio DIPEGEC No. 241-2019, August 2, 2019. See Annex I.

³³ Inter-American Commission on Human Rights, *Violence Against LGBTI Persons*, OAS/Ser.L/V/II.rev.1 Doc. 36, November 12, 2015, <http://www.oas.org/en/iachr/reports/pdfs/ViolenceLGBTIPersons.pdf> (accessed September 10, 2020).

person is required to present an identification document, they risk being subjected to humiliation, discrimination, and even violence.³⁴

Trans people interviewed by Human Rights Watch described constant challenges related to the mismatch between their appearance and the name and sex marker on their official documents: everyday challenges such as routine banking or buying a long-distance bus ticket contributed to a sense of perpetual alienation and exclusion.³⁵ In addition, Honduras places transgender women in men's prisons, which can lead to physical and sexual abuse. A judge informed Human Rights Watch of a case in which a trans woman was raped by her fellow detainees with the complicity of prison guards. The judge said she had informed prosecutors when she became aware of the case, but that they did not investigate. "There's no way to protect" trans women in men's prisons, she said.³⁶

A November 2017 advisory opinion issued by the Inter-American Court of Human Rights (IACtHR) stated that in order to uphold the rights to privacy, nondiscrimination, and freedom of expression—as member states, including Honduras, are obligated to do under the American Convention on Human Rights—states should establish simple, efficient procedures that allow people to change their names and gender markers on official documents through a process of self-declaration, without invasive and pathologizing requirements, such as medical or psychiatric evaluation or divorce.³⁷ But to date, Honduras has not done so, in contrast to several other Latin American countries.³⁸ In 2015 during its Universal Periodic Review at the United Nations Human Rights Council, Honduras accepted recommendations to address violence and discrimination based on sexual orientation and gender identity but rejected recommendations to pass a proposed Gender Identity Law that would allow for an administrative procedure for name and gender change on official

³⁴ Neela Ghoshal and Kyle Knight, "Rights in Transition: Making Legal Recognition for Transgender People a Global Priority," Human Rights Watch, World Report 2016, <https://www.hrw.org/world-report/2016/rights-in-transition>.

³⁵ Human Rights Watch interviews with Pablo B. (pseudonym), Tegucigalpa, May 14, 2019, and Anabel H. (pseudonym), Tegucigalpa, May 16, 2019.

³⁶ Human Rights Watch interview with Mildred López, El Progreso, August 28, 2019.

³⁷ Inter-American Court of Human Rights, Advisory Opinion OC-24/17, November 24, 2017, http://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf (accessed September 10, 2020), pp. 43-72; Neela Ghoshal (Human Rights Watch), "For LGBT Rights, 2018 Will Be the Year of the Courts," commentary, *Advocate*, January 24, 2018, <https://www.hrw.org/news/2018/01/24/lgbt-rights-2018-will-be-year-courts>.

³⁸ "OAS Presents Report on the Official Recognition of Gender Identity in the Countries of the Hemisphere," OAS news release, E-058/20, June 2, 2020, https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-058/20 (accessed September 10, 2020).

documents.³⁹ CONADEH, the national human rights institution, has expressed support for legal gender recognition for trans people.⁴⁰

Discriminatory Laws

Honduras's 2001 Law on Police and Social Affairs establishes a police mandate regarding the "prevention and elimination of disturbances to tranquility, public morality, and proper conduct."⁴¹ It empowers the National Police to arrest anyone who "goes against modesty, proper conduct and public morals ... and disturbs the neighbors' tranquility with their immoral conduct."⁴² The law includes sanctions against particular groups of people, including "vagabonds," defined as including "street people, scoundrels, street prostitutes, drug addicts, drunkards, and gamblers."⁴³ Human Rights Watch found in a 2009 report that the law was used arbitrarily to justify arrests of transgender women.⁴⁴

In 2005, Honduras passed a constitutional amendment prohibiting the recognition of marriage between people of the same sex, including same-sex marriages contracted in other countries.⁴⁵ Honduras also bans adoption by same-sex couples.⁴⁶ While lack of access to marriage was not among the factors that led any LGBT asylum seekers interviewed by Human Rights Watch to leave their country, the existence of such an amendment is an indication of state-sponsored homophobia.

³⁹ ARC International, UPR SOGIESC Database, Honduras (Cycle 2), <https://arc-international.net/global-advocacy/universal-periodic-review> (accessed September 11, 2020).

⁴⁰ CONADEH, "Impunity Prevails for Acts of Violence Against Members of Sexual Diversity" ("Prevalecen En La Impunidad Acciones De Violencia Contra Miembros De La Diversidad Sexual)," May 17, 2018, <https://www.conadeh.hn/?p=2008> (accessed September 11, 2020).

⁴¹ Republic of Honduras, Legislative Branch, Decree No. 226-2001, *Ley de Policía y Convivencia Social* (Law on Police and Social Affairs), <https://www.tsc.gob.hn/biblioteca/index.php/leyes/63-ley-de-policia-y-convivencia-social> (accessed September 11, 2020), art. 5.

⁴² Republic of Honduras, Legislative Branch, Decree No. 226-2001, *Ley de Policía y Convivencia Social* (Law on Police and Social Affairs), <https://www.tsc.gob.hn/biblioteca/index.php/leyes/63-ley-de-policia-y-convivencia-social>, art 142 (3).

⁴³ *Ibid.*, art. 99.

⁴⁴ Human Rights Watch, "Not Worth a Penny."

⁴⁵ Constitution of Honduras, Decree No. 131, January 11, 1982, modified by Decree 36 of May 4, 2005, https://www.oas.org/dil/esp/Constitucion_de_Honduras.pdf (accessed September 11, 2020), art. 112.

⁴⁶ "Honduran Parliament Prohibits Adoption by Same-Sex Couples" ("El Parlamento de Honduras prohíbe adopción a parejas del mismo sexo"), *El Nuevo Diario* (Tegucigalpa), August 17, 2018, <https://www.elnuevodiario.com.ni/internacionales/centroamerica/472430-honduras-niega-adopcion-matrimonios-mismo-sexo> (accessed September 11, 2020).

Social Stigma and Discrimination

Negative experiences in the family, at school, and during everyday interactions on the streets and in public accommodations contribute to the stigma and discrimination experienced by LGBT people in Honduras.

Lucía P., a 25-year-old transgender woman originally from Comayagüela, told Human Rights Watch that she left home at age 16 because her family did not accept her gender expression. “My parents always criticized homosexual people ... they always said things to me like ‘You have to be like a man,’” she said.⁴⁷

Nina G., a 26-year-old lesbian from Tegucigalpa, said that when she was a teenager, her father expelled her older half-brother from the home after he came out as gay: “My father said to him, ‘You’re not going to contaminate my daughter.’”⁴⁸ When Nina herself told her parents she was a lesbian at age 19, “My father insulted me, got angry, and said it was my brother’s fault.” Nina G.’s mother told her that she was possessed by a demon.⁴⁹

William Martínez, a 36-year-old transsexual man from Comayagüela, said that at age 28, he disclosed his identity to his parents, who told him “all the worst things you can say to a homosexual” and then kicked him out of the family home.⁵⁰ William S. described his vulnerability after being expelled by his parents:

I was kicked out of my house, with three lempiras (US 12 cents) in my bag. I bought a cigarette and I ran out of money. I didn’t know where to go.... I stayed at 24/7 gas stations. I walked long stretches and sat down to talk for hours with the guard. And during the day I visited the few people I knew to be able to eat. A person with whom I got along realized that something was happening to me, asked me, and gave me a place to stay.⁵¹

⁴⁷ Human Rights Watch interview with Lucía P. (pseudonym), Los Angeles, December 10, 2019.

⁴⁸ Human Rights Watch interview with Nina G. (pseudonym), Tegucigalpa, May 15, 2019.

⁴⁹ Ibid.

⁵⁰ Human Rights Watch generally uses the term “transgender” as inclusive of those who identify themselves as transsexual. Martínez asked to be described as transsexual in this report.

⁵¹ Human Rights Watch interview with William Alejandro Martínez, Tegucigalpa, May 16, 2019.

Juan Y., a 35-year-old trans man who grew up in the Francisco Morazán department, explained to Human Rights Watch that stigma and discrimination are directly related to economic well-being:

When [people] realize that I am biologically female, I suffer more discrimination, for example at the beach or at the pool. I therefore need to choose where to go so as not to expose myself to danger. It has much to do with one's economic situation: when I have less means, I am more exposed. For example, now I have more money so I can take a car, not the bus, I can work more from home.⁵²

Marina T., a trans woman from Honduras whom Human Rights Watch interviewed in Tijuana while she was waiting to apply for asylum in the United States, described the different life she hoped she would find outside Honduras:

I want to become independent, find work, finish my studies, and live a life full of peace, full of love, the love that I never received from my family in Honduras. I don't want to keep suffering.⁵³

⁵² Human Rights Watch interview with Juan Y. (pseudonym), Tegucigalpa, May 17, 2019.

⁵³ Human Rights Watch interview with Marina T. (pseudonym), Tijuana, Mexico, January 31, 2020.

II. Violence Against LGBT People in Honduras

Given the pervasive nature of crime in Honduras generally, it is not surprising that LGBT people also fall victim to violence. But some cases bear clear indications of anti-LGBT animus, even when it is unclear who has perpetrated such crimes.

For example, Shakira, a trans woman also known by her nickname “La Moy,” was killed on June 9, 2019 in Choloma, 10 miles north of San Pedro Sula. A person who saw Shakira’s body told a Human Rights Watch researcher that her face was mutilated with a rock, her penis was cut off, and a note was left by her body that said, “[this] is the first one, two more to go.”⁵⁴

Honduras, by some estimates, has the highest rate of murders of transgender people in the world.⁵⁵ Violence against transgender women in some parts of Latin America is of such significant magnitude that activists have coined the term “transfemicide” or “transfeminicide,” referring to the murder of trans women because of their gender, as female, and gender identity as trans women.⁵⁶ The term acknowledges the intersectional violence and discrimination that trans women face under patriarchal social structures built around rigid gender norms and roles.

A May 2018 CONADEH report estimated that more than 40 LGBT people had been killed in the year leading up to the report’s publication, although the report did not reach a determination as to how many of the murders were likely to be related to anti-LGBT animus. CONADEH condemned the environment of impunity for anti-LGBT violence and

⁵⁴ Mirte Postema, “Amidst Violence, Hondurans March for Pride,” Human Rights Watch dispatch, September 9, 2019, <https://www.hrw.org/news/2019/09/09/amidst-violence-hondurans-march-pride>; Emy Padilla, “Honduras: Three Hate Crimes Against LGBT People in One Week” (“Honduras: tres crímenes de odio a personas LGBT en una semana”), *Presentes*, June 12, 2019, <https://agenciapresentes.org/2019/06/12/honduras-tres-crimenes-de-odio-contra-personas-lgbt-en-una-semana> (accessed September 11, 2020).

⁵⁵ Transgender Europe, “Trans Murder Monitoring,” https://transrespect.org/en/map/trans-murder-monitoring/?submap=tmm_relative_numbers (accessed September 11, 2020).

⁵⁶ Transfemicide/transfeminicide has been recognized officially as a category of violence by the governments of Argentina and of Mexico City, both of which have among the world’s most rights-respecting gender identity laws.

called for the state to bring perpetrators to justice.⁵⁷ In 2019, CONADEH specifically named state security agents as among those responsible for violence against LGBT people.⁵⁸

Other forms of violence against trans people are also common. Human Rights Watch first reported on violence against trans women in Honduras in 2009. At that time we reported on a range of abuses based on gender identity and expression, including rape, beatings, extortion, and arbitrary detentions by law enforcement officials, as well as police inaction and recurrent failure to investigate violence against transgender people.⁵⁹

Such violations persist. Eleven of the 25 LGBT Hondurans whom Human Rights Watch interviewed said they had experienced some form of violence related to their sexual orientation or gender identity. The story of Perla M., a 29-year-old trans woman from San Pedro Sula, is emblematic of the multiple forms of violence that trans people, and some lesbian, gay, and bisexual people, experience in Honduras. As a child who did not conform to a male gender expression from an early age, Perla was repeatedly targeted. She told Human Rights Watch that her uncle and two of his friends raped her when she was six years old. Two years later, she said, a schoolteacher raped her.⁶⁰ Perla began doing sex work at age 15.⁶¹ At age 20, Perla and five other trans friends were briefly detained by police:

They were joking, saying that we don't have any rights. They put us in a cell with men. We were in a cell for 24 hours. I asked the police for water, and one of them threw water in my face. He said, 'You all shouldn't exist, we work guarding the community but not animals like you.'⁶²

Perla said that police abuse, based on her own experience and the experience of others, was the main reason she joined a caravan of asylum seekers traveling to the United States

⁵⁷ CONADEH, "Impunity Prevails for Acts of Violence Against Members of Sexual Diversity" ("Prevalecen En La Impunidad Acciones De Violencia Contra Miembros De La Diversidad Sexual)," <https://www.conadeh.hn/?p=2008>.

⁵⁸ "At Least 325 LGBTI People Killed in Honduras Since 2009" ("Al menos 325 personas LGBTI asesinadas en Honduras desde 2009), *Deutsche Welle*, July 15, 2019, <https://www.dw.com/es/al-menos-325-personas-lgbti-asesinadas-en-honduras-desde-2009/a-49590145> (accessed September 11, 2020).

⁵⁹ "Honduras: End Violence Against Transgender People," Human Rights Watch news release, May 29, 2009, <https://www.hrw.org/news/2009/05/29/honduras-end-violence-against-transgender-people>.

⁶⁰ Human Rights Watch interview with Perla M. (pseudonym), Washington D.C., December 5, 2019.

⁶¹ Ibid.

⁶² Ibid.

in January 2019. She said that a friend of hers was arrested and later found dead, and she had heard other stories of police allegedly killing trans women. Police violence against the general population was also a factor, she said, referencing an abusive police response to election-related protests in December 2017. “So many people were beaten, killed. After all this death I decided to go in the caravan, because I wanted to protect my life.”⁶³

The state of Honduras is the respondent in a case currently pending before the Inter-American Court of Human Rights related to the murder of Vicky Hernández, a trans woman killed on the streets of San Pedro Sula in 2009. Petitioners, the Lesbian Network Cattrachas and RFK Human Rights, allege that the Honduran state bore direct responsibility for her death, and in addition, that in failing to conduct a meaningful investigation into the murder, including into whether violence was motivated by anti-LGBT prejudice, Honduras violated her right to life under the Inter-American Convention on Human Rights. The Inter-American Commission found Honduras responsible for, inter alia, the violation of the right to life, the right to equal protection and nondiscrimination, and the right to judicial protection under the American Convention on Human Rights.⁶⁴ The commission submitted the case to the court in April 2019 because of Honduras’s lack of compliance with the commission’s recommendations. Those recommendations included:

- Adopting legislative, administrative, or other measures to secure recognition for the self-perceived gender identity of trans persons, taking into account inter-American standards in such matters;
- Adopting legislative, administrative, or other measures to adequately map the context of violence faced by LGBT people in Honduras and introduce a comprehensive policy for its prevention and eradication that addresses its structural causes;
- Designing instruction, awareness, and training programs for state security bodies in relation to violence based on prejudice against LGBT persons.⁶⁵

⁶³ Ibid.

⁶⁴ Inter-American Commission on Human Rights, OEA/Ser.L/V/II.170 Doc. 179, Report No. 157/18, Case 13.051, *Report on Merits*, <https://www.oas.org/en/iachr/decisions/court/2019/13051FondoEn.pdf>, p. 24.

⁶⁵ Ibid.

Human Rights Watch wrote to the Honduran Attorney General's Office in July 2019 requesting available statistics on violence against LGBT people, including criminal cases opened and cases resulting in convictions. According to the office, the special prosecutor for crimes against life, which prosecutes murders, opened 45 cases for murders of LGBT people between 2015 and August 2019, of which nine had resulted in convictions. None of these cases were prosecuted as hate crimes.⁶⁶

Domestic Violence

Human Rights Watch interviewed five LGBT Hondurans who described experiencing domestic violence or neglect at the hands of family members or intimate partners, or both. One went to the police to file a complaint, but only faced further abuse. The other three did not consider filing complaints, expecting police would not be responsive.

Carla T., a 24-year-old transgender woman from Comayagüela, said that from the age of 12, her family beat her because of her perceived gender difference. "They punished me daily," she said, adding that her mother kept her three brothers away from her, as if they would "catch" what she had if they were near her.⁶⁷

Anabel H., a trans woman from Tegucigalpa, said that after her father saw her wearing makeup and women's clothing, he kicked her out of the home at age 17, with nothing but the clothes she was wearing. She walked for four hours to find friends who she thought might be able to help her. They introduced her to sex work, the only way they knew to survive. For children under age 18, sex work is considered under international law as one of the worst forms of child labor, and Anabel experienced it as rape.⁶⁸

Gabriela P., a 21-year-old trans woman who grew up in Cortés department, experienced severe domestic violence as a child, leading to a life on the move. Gabriela's mother left home when she was one month old, and she was raised by her father. She told Human Rights Watch how the abuse began:

⁶⁶ Republic of Honduras, Ministerio Público, Resolución DGF-274-2019, August 7, 2019. See Annex I.

⁶⁷ Human Rights Watch interview with Carla T. (pseudonym), Los Angeles, December 13, 2019.

⁶⁸ International Labour Organization, Worst Forms of Child Labour Convention, 1999 (No. 182), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (accessed September 11, 2020), art. 3(b); Human Rights Watch interview with Anabel H., Comayagüela, May 16, 2019.

At age eight, I told my dad not to buy me boys' toys, but to buy me dolls and dresses. I said, 'I feel like a girl.' He grabbed me by the hair and hit me with a broomstick. He locked me in a room. I spent days without eating. He said, 'If you don't want to be a boy, you're going to die.'

When my father beat me, I tried to go to the police, and they called me a faggot and said they wouldn't help me. I went to the police twice in Honduras. The second time I went dressed as a girl and they pulled my hair, pushed me with a gun and told me to leave.⁶⁹

Gabriela P. fled her abusive family, and her country, for the first time at age eight-and-a-half, trying to make it to Mexico or the United States. She traveled through Guatemala to Belize, "by myself, asking for directions, asking for money," before Belizean authorities turned her back at the border and she returned to Honduras. Back at home, she said, she would go for days without being given food. At one point her father submerged her in a *pila*, a clothes-washing trough, because of her gender expression, only stopping when a neighbor intervened.⁷⁰ She fled again at age 12, "begging [for] food and money, barefoot," and made it as far as Mexico. There, in Chiapas, Gabriela P. said, several men gang-raped her. She did not report the rape to the police, afraid they would deport her. She was caught by Mexican immigration authorities and deported anyway, shortly after the rape. Gabriela P. fled Honduras five times altogether before she eventually made it to the United States with a caravan in 2018. Her asylum case was ongoing when Human Rights Watch interviewed her.

Lucía P., a trans woman from Comayagüela, experienced violence in the form of repeated sexual assault by an uncle, from age 7 through age 11. As an adult, she also suffered violence. In 2017 an intimate partner sent people to attack her following an argument:

My partner in Honduras said that he sent for me to be attacked by others. I don't know if he was the one who sent them, but two people assaulted me.

⁶⁹ Human Rights Watch interview with Gabriela P., Washington, D.C., December 5, 2019.

⁷⁰ Human Rights Watch interviews with Gabriela P., Washington, D.C., December 5, 2019, and by telephone, May 26, 2020.

I fell unconscious, six to eight minutes. I had a black eye, a bleeding nose. I thought it was a robbery, but I was not robbed.⁷¹

In around 2014, her partner put a gun in her mouth. “Then I decided to leave,” Lucía P. said. She told Human Rights Watch she never considered filing a police report: “We [trans women] don’t get any support from the government.”⁷²

Scarlett L., a 35-year-old bisexual woman, left Honduras and fled to the United States after she was beaten by her male former partner, who discovered Scarlett was in a relationship with a woman:

He realized I was with a woman and started to say bad words, lesbian, dyke. He pushed me on the bed and hit me on the back. My son was 10 years old and realized what he was doing and prevented him from doing more.

I never went to the police because the police don’t do anything about women who are with men [and are beaten], let alone those of us who are with women. My ex-partner’s sister was beaten seriously and she filed a report and the police never did anything.⁷³

Violence and Harassment by State Security Forces

Of the 25 interviews with LGBT people in or from Honduras, eight recounted violations by state security agents. These security agents included the National Police as well as the Military Police, a special command of the Armed Forces that was created by former president Porfirio Lobo Sosa in 2013 to fight organized crime, but that works with the National Police to combat common crime.⁷⁴ Four reported being sexually or physically assaulted, while others said the National or Military police had humiliated, sexually harassed, or discriminated against them. Only one person, William Martínez, whose case

⁷¹ Human Rights Watch interview with Lucía P., Los Angeles, December 10, 2019.

⁷² Ibid.

⁷³ Human Rights Watch interview with Scarlett L., Los Angeles, December 11, 2019.

⁷⁴ Republic of Honduras, Legislative Branch, Decree No. 168-2013, <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/Ley%20de%20la%20Policia%20Militar%20del%20Orden%20Publico%20%283%2C9mb%29.pdf> (accessed September 11, 2020).

is documented below, reported filing a complaint about violence by members of the security forces, and in his case it led to reprisals, ultimately leading him to seek asylum.

Francia Maradiaga of CONADEH told Human Rights Watch in 2019 that CONADEH had trained 8,000 members of the National Police on LGBT issues, but that the Military Police—although they engage with and arrest civilians, including LGBT people—had been less open to trainings.⁷⁵

National Police

Humberto M., a gay man from Tegucigalpa, was imprisoned at the National Penitentiary in Támara for two years, from 2013 to 2015, on murder charges before he was ultimately acquitted. He said officers from the investigations wing of the National Police tortured him to get him to sign an incriminating document. Reports of torture and mistreatment in Honduran prisons were disturbingly common during this period, with the Center for Prevention, Treatment and Rehabilitation of Victims of Torture (CPTRT) reporting that 6 out of 10 people in detention were allegedly subjected to torture or cruel, inhuman, or degrading treatment during their arrest in certain cities between December 2013 and July 2014.⁷⁶ Some forms of torture that Humberto M. experienced may have been unrelated to his sexual orientation: he said police beat him, left him naked with his hands and feet tied, threw water and sprayed tear gas into his cell. But other forms of torture and mistreatment, including rape by an instrument, were clearly homophobic in nature:

The harassment was pretty constant. One put his penis in my face. One held me, raised my head and the other put his penis in my face. They told me: ‘But aren’t you a faggot? Isn’t that how you like it?’ When they inserted the police baton into my rectum, they said to me: ‘Isn’t it what you like?’ I was silent to bear the pain. Again they left me, with a blow to the face.⁷⁷

⁷⁵ Human Rights Watch interview with Francia Maradiaga, Tegucigalpa, May 16, 2019.

⁷⁶ Centro de Prevención, Tratamiento y Rehabilitación de Víctimas de la Tortura y sus Familiares (Center for Prevention, Treatment and Rehabilitation of Torture Victims and their Families), Report for the Universal Periodic Review of Honduras (“Informe para el Examen Periódico Universal Honduras”), August 24, 2013, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1754&file=SpanishTranslation> (accessed September 11, 2020).

⁷⁷ Human Rights Watch interview with Humberto M. (pseudonym), Tegucigalpa, August 26, 2019.

Cattrachas Lesbian Network closely followed his case, and after six months a lawyer with Cattrachas managed to secure his transfer to another prison.⁷⁸

Sexual assault by police may also be opportunistic. Perla M., a 29-year-old trans woman from San Pedro Sula, told Human Rights Watch that police harassed her on the street when she was engaging in sex work. According to Perla, the police informed her and her fellow sex workers that if they wanted to work, they had to sell drugs that the police confiscated from others and to provide sexual services to police officers. Extorting sexual services is a form of sexual assault.⁷⁹

Perla also said that when she was 20 years old, police arrested her and five other transgender friends on charges related to sex work and detained them overnight. They took the 100 lempiras (US\$4) that Perla had on her person and, when she said she was thirsty, an officer threw water on her face.⁸⁰

Miguel R., a 26-year-old bisexual man from Tegucigalpa, described several incidents involving abusive police conduct. When Miguel was 17 years old, around 2010, three police officers stopped Miguel in the street, took Miguel to a place outside his neighborhood and ordered him to take all his clothes off. They asked if he was “a faggot,” and one officer ripped off his earring. When he started bleeding, the officers let him leave.⁸¹ Miguel said he remembered being harassed by police as early as age 13, when police mocked him in the street for his manner of walking.⁸²

In 2012, Miguel, then 19, attended a meeting of the Association of Youth in Motion (AJEM), an LGBT and indigenous rights organization. When he left the meeting with friends, three police officers approached and asked them for their identification. The officers began to mock them, calling them names like “fucking faggot.” When one of Miguel’s friends told the officers to leave them alone, the officers threw water and pointed their weapons at

⁷⁸ Ibid.

⁷⁹ Human Rights Watch interview with Perla M., Washington D.C., December 5, 2019.

⁸⁰ Human Rights Watch interviews with Perla M., Washington D.C., December 5, 2019, and by telephone, June 29, 2020.

⁸¹ Human Rights Watch interview with Miguel R. (pseudonym), Los Angeles, December 12, 2019.

⁸² Ibid.

them. After one of the young men began to cry, the officers left, telling Miguel and his friends, “Stop making a scene.”⁸³

Alberto G., a 34-year-old gay man from the Department of Colón, said that in 2018 he was biking back home after curfew when he was stopped by police in a patrol car, who asked for his identification. He said that the police likely assumed he was gay because he was wearing tight fitting clothes. They took him to a police post, where they asked if he was out cruising for men, taunted him with terms like “little butterfly,” an offensive term used for gay people, and asked him to provide sexual favors. They detained him for the night, only allowing him to leave the next day after he cleaned the patrol car. Alberto G. told Human Rights Watch he didn’t consider filing a complaint: “The police don’t take gay people seriously,” he said.⁸⁴

Military Police

The establishment of Honduras’s Military Police for Public Order, part of a government initiative to fight organized crime in 2013, has led to an increased militarization on the streets of Honduras. The military police, like the National Police, set up checkpoints in the streets, stop civilians arbitrarily, and have been implicated in a number of human rights abuses, including during national elections in 2017.⁸⁵ The UN High Commissioner of Human Rights has recommended that the military police’s role in law enforcement be reined in.⁸⁶ The National Human Rights Commission opposed its creation, and an official with the commission described military police officers as acting in violation of the law.⁸⁷

In May 2019, William Alejandro Martínez, a 36-year-old trans man, was on his way home from work at an LGBT rights organization in Comayagüela when three military police

⁸³ Ibid.

⁸⁴ Human Rights Watch interview with Alberto G. (pseudonym), Los Angeles, December 13, 2019.

⁸⁵ United Nations High Commissioner for Human Rights, Accountability for Human Rights Violations Committed in the Context of the 2017 Elections in Honduras: Progress and Challenges, January 2020, https://www.ohchr.org/Documents/Countries/HN/HondurasFollowupreportaccountabilityforHRviolations_FINAL. pdf (accessed September 11, 2020).

⁸⁶ Ibid., p. 22; United Nations High Commissioner for Human Rights, “Human Rights Violations in the Context of the 2017 Elections in Honduras,” undated, https://www.ohchr.org/Documents/Countries/HN/2017ReportElectionsHRViolations_Honduras_EN.pdf (accessed September 11, 2020); United Nations High Commissioner for Human Rights, “Annual Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Honduras,” A/HRC/34/3/Add.2, February 9, 2017, <https://reliefweb.int/sites/reliefweb.int/files/resources/G1702929.pdf> (accessed September 11, 2020).

⁸⁷ Human Rights Watch interview with Francia Maradiaga, Tegucigalpa, May 16, 2019.

officers stopped him and asked for his identification, then physically assaulted and threatened to arrest him because his gender expression did not match the female sex marker on his ID card:

They looked at my ID and said, ‘She’s a woman,’ and threw [the ID] back at me. I said, ‘Biologically I’m a woman, I’m part of the community of sexual diversity.’ One of them grabbed my hand and said they were going to take me with them. ‘What the fuck are you?’ He touched my breasts and stuck his hand inside my genitals. I said, ‘Don’t touch me, I’m a human rights defender.’ The other one pointed his rifle at me and said, ‘I don’t give a damn what you are.’

There, I froze. I was paralyzed. I thought they were going to kill me. My life passed before my eyes. A white pickup truck was passing by and I shouted ‘Help, they’re going to kill me!’ The driver stuck his head out the window, ‘What’s going on?’ The police officer who was holding me took my phone from my pocket and said, ‘We’re going to find you.’ The other one, with the rifle, said ‘Get out of here fucking dyke, when we find you, we’re going to put this in you,’ and pointed to his rifle.

I don’t remember how I got home, I was trembling so much.

Martínez filed a complaint at the Prosecutor’s Office, although he said staff there refused to qualify the crime as sexual assault because there was “no penetration” by a penis, annotating the complaint simply as robbery, discrimination, and abuse of authority.⁸⁸ A year after filing the complaint, Martínez had not heard back from the Prosecutor’s Office. Martínez also filed a complaint at the Protection Mechanism for Human Rights Defenders, a government agency, but he said officials there simply suggested he should change his schedule and hours to avoid problems.⁸⁹ Martínez explains how the incident impacted him:

⁸⁸ Article 173 of Guatemala’s penal code defines rape in a manner that is inclusive of digital penetration, and the 2008 law on femicide and other violence against women includes the crime of sexual violence, which is defined broadly and does not require penetration. It is not clear why prosecutors did not qualify the assault on Martínez as sexual violence.

⁸⁹ Human Rights Watch telephone interview with William Alejandro Martínez, June 11, 2020.

It killed me, having a rifle in my face.... When I got home I cried like I have never cried before. The most painful thing is that if they had killed me, I would just be one more number, and one less homosexual. One less embarrassment for my family, ‘When the dog dies the rabies is gone.’

Psychologically, that has destroyed me. It was the straw that broke the camel’s back. It’s always been about living, enduring everything, having a smile, but I can’t take it anymore.... There’s no one to protect my security, my rights. No one can guarantee me a safe space.⁹⁰

In June 2019, Martínez said, the same three military police officers showed up near his workplace again, this time in civilian clothes. They threw him to the ground, kicked him, told him they knew that he had been to the prosecutor’s office, and threatened to kill him. Fearing for his life, Martínez fled to Spain 48 hours later with the help of LGBT organizations in Honduras with only his plane ticket and €60. At time of writing, he was awaiting the adjudication of his asylum claim there.⁹¹

Perla M., a 29-year-old trans woman from San Pedro Sula, told Human Rights Watch that in 2017, three military police officers came to her home and told her that someone had filed a complaint against her, and that she needed to come with them. “But they didn’t take me to a court, or a jail,” she said. “They told me I was about to live my worst nightmare, and they took me to an abandoned house and raped me.”⁹² Perla said she attempted to file a complaint with the National Civil Police, but that an officer called her a “faggot” and told her to come back another day.⁹³

Lucía P., a 25-year-old trans woman, said that when she was 20 years old, a group of market vendors cursed at Lucía and her friends, threw fruit and water at them, and said “people like them” should not exist. Four military police officers were nearby and Lucía

⁹⁰ Human Rights Watch interviews with William Alejandro Martínez, Tegucigalpa, May 16, 2019, and by telephone, June 11, 2020.

⁹¹ Human Rights Watch telephone interview with William Alejandro Martínez, June 11, 2020.

⁹² Human Rights Watch telephone interviews with Perla M., June 29, 2020, and August 14, 2020.

⁹³ Ibid.

and her friends asked for help, but instead of helping of them, one of the officers said, “God made woman for man, man for woman.”⁹⁴

JLo Córdoba, a 30-year-old trans human rights defender, experienced severe and repeated violence. Córdoba said she had been shot three times by men whom she believed to be members of the military police in Comayagüela, where military police have an active presence. She believed she was targeted because as a well-known human rights activist, she often publicly denounced harassment and violence against other trans people.⁹⁵ Córdoba said she was first shot in 2012 in a park adjacent to the headquarters of the Joint Chiefs of Staff of the Armed Forces in Tegucigalpa. She saw two men in military uniforms and could hear them saying they intended to “clean the park so there are no more faggots.” Córdoba said that when they left, she dragged herself to the street, unable to walk. A police patrol took her to the Hospital Escuela and she underwent surgery.⁹⁶

Córdoba was shot at again at again, this time without being hit, in October 2016.⁹⁷ After the October 2016 attack, she filed a complaint and authorities showed her a photo lineup, but Córdoba did not recognize anyone. In October 2017, as she was leaving work, a man got out of a car, shot her in the knee, and left without saying anything. After she recovered, she again filed a complaint.⁹⁸ None of the complaints have resulted in investigations or arrests, to Córdoba’s knowledge.⁹⁹

Violence by Gangs

Gang violence is pervasive in Honduras, and LGBT people report physical assault, extortion, and intimidation at the hands of gang members. LGBT people who felt compelled to leave their homes and communities frequently cited gang violence as a factor. Gang violence is both general and specific. LGBT people are caught up in the general morass of gang related violence, but in some instances are specifically targeted for being LGBT, or the form of harassment they experience is related to their sexual orientation

⁹⁴ Human Rights Watch interview with Lucía P., Los Angeles, December 10, 2019.

⁹⁵ Human Rights Watch telephone interview with JLo Córdoba, September 1, 2020.

⁹⁶ Human Rights Watch interview with JLo Córdoba, Comayagüela, August 21, 2019.

⁹⁷ Front Line Defenders, “Assassination Attempt Against JLo Córdoba,” November 4, 2016, <https://www.frontlinedefenders.org/en/case/assassination-attempt-against-jlo-cordoba> (accessed September 11, 2020).

⁹⁸ Human Rights Watch interview with JLo Córdoba, Comayagüela, August 21, 2019.

⁹⁹ Human Rights Watch telephone interview with JLo Córdoba, September 1, 2020.

or gender identity. Miguel R., for instance, said he was threatened by gangs after witnessing a murder, and there was no indication they were aware that he was gay.¹⁰⁰ In other cases, gang members appeared to target LGBT people motivated by anti-LGBT animus, to exert power, or due to their perceived vulnerability to extortion.

Victims rarely file complaints when they are victimized by gangs, with reason: as an official from the National Human Rights Commission explained, “If people complain, it gets worse. Some do file complaints, but then they don’t want you to investigate.”¹⁰¹

Marina T., a trans woman from San Pedro Sula, said that in 2017, nine men from MS-13 gang-raped her, breaking her clavicle. Her brother, whom she described as transphobic, was also an MS-13 member and Marina T. told Human Rights Watch that she believed he may have been complicit in her rape:¹⁰²

I was raped by nine gang members from MS-13 in 2017. I was coming from work, I was a hairstylist in houses, I had many clients, that night they intercepted me with pistols, they tore off my clothes, and did whatever they could with my body. They left me full of bruises on my arms. I didn’t file a complaint because they said if I talked, they were going to kill my mother and my sister.

I just asked for strength from God and I went to a health center, did an HIV test. Thank God, I was negative.¹⁰³

Marina T. fled Honduras after the attack. She told Human Rights Watch, “I had nowhere to flee in my country.”¹⁰⁴

Noé E., a trans man from Comayagua, described the attack to which three gay friends were subjected by gang members, and the subsequent police inaction:

¹⁰⁰ Human Rights Watch interview with Miguel R., Los Angeles, December 12, 2019.

¹⁰¹ Human Rights Watch interview with Francia Maradiaga, Tegucigalpa, May 16, 2019.

¹⁰² Human Rights Watch interview with Marina T., Tijuana, January 31, 2020.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

One day I was walking with my friends. There were gang members where I lived, and they couldn't stand to see a *travesti* or a person who was visibly gay, and they attacked and beat up my friends. The police arrived, and they didn't do anything. The police said: 'That's what happens when you go around tempting men.' My friends made a complaint, but the police who were present said nothing was going to happen with that complaint.¹⁰⁵

Alberto G., a 34-year-old gay man from Colón department, began to have problems with gang members in November 2011:

I was sitting in a park in Tocoa, Colón. Four or five guys approached, around 23 to 25 years old. I knew they were gang members because of their tattoos and because they made gang signs with their fingers. They said, 'What are you doing here, you faggot piece of shit. Get out of here!' I said, 'But it's a public park.' They said, 'Move on before we kill you, or rape you.'

A few days later, Alberto began to get scared that he was at risk for talking back to the gang members. He briefly fled to Mexico but was deported the same month.

In February 2012, Alberto ran into the same gang members on a dark street:

I was walking home, on a dark street. There, they surrounded me, the same ones who had threatened me. They said, 'Today you're going to die, faggot.' I told them to leave me alone. One of them pulled me, and then I was shot in the back. I screamed like crazy.

I don't know who took me to the hospital, but I found myself there, bleeding. The police arrived and asked what had happened to me. I didn't tell them about my sexual orientation, out of fear, and because my family and friends were there.... And I didn't file a complaint against the people who shot me, because they had threatened to harm my family if I snitched.¹⁰⁶

¹⁰⁵ Human Rights Watch interview with Noé E. (pseudonym), Los Angeles, December 11, 2019.

¹⁰⁶ Human Rights Watch interview with Alberto G., Los Angeles, December 13, 2019.

Alberto G.'s large intestine had been perforated by the bullet, and he spent nearly three weeks in the hospital. Alberto never reported the incident to the police because the gang members had warned him not to. When he was discharged, he said, people on the street gossiped that he was shot for being gay.¹⁰⁷

In February 2018, Alberto G. was walking in Tocoa when he ran into three or four young men he believed to be gang members and who were “drinking, smoking, and acting crazy.” He recounted:

They stepped into my path. One of them wanted sex. They grabbed me by force. One of them hit me with something in the neck. I said that they disgusted me, and they got angry.... I fainted, [after feeling] that they had cut my face, with something like a knife... When I came to, they had gone. They didn't rape me. I had blood pouring from my face. A motorcycle driver passed by and drove me to the hospital, where I got stitches.¹⁰⁸

Fearing further attacks, he went to live with his sister in another town, where he was severely depressed, including about the permanent scar on his face. He said he did not report the incident out of fear of retribution. In September 2018, he went back to Tocoa and ran into the same men again, who asked him if he liked the “souvenir” on his face. Alberto G. ran away. These incidents of violence ultimately drove him to seek asylum in the United States.¹⁰⁹

Lucía P., a 25-year-old transgender woman from Comayagüela, told Human Rights Watch that she left Honduras for the United States because of threats from MS-13:

They started around January 2018. At the mall I was threatened.... They told me, ‘We don't want people like you. You know what will happen to you, that's why you're found in buckets, in plastic bags, with things in your parts.’ The second time I was at work and went out. I was pushed against a

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid. Alberto showed a Human Rights Watch researcher the scar on his face.

truck. They told me, ‘You know it will happen the third time. I’m going to hit you with lead.’¹¹⁰

Carla T., a 24-year-old transgender woman from Comayagüela, said eight gang members visited the home where she lived with her grandmother in December 2017 and told her, “We don’t want people like you here. You have to leave. You will infect children.” In January 2018, the same gang members came to her house to attempt to extort her for 100 lempiras (US\$4). Carla tried to file a complaint at the police station in San Isidro, but she said police officers did not take her seriously and called her “faggot.” While she was at the police station, the gang members showed up and claimed that Carla had been harassing them. “So then the police locked me up for the night, for giving the gang members problems,” she told Human Rights Watch.¹¹¹

The Honduran victims of gang violence Human Rights Watch interviewed were all gay or transgender, but lesbians are also reportedly victimized. Francia Maradiaga of the National Human Rights Commission reported one case in which gang members suspected a local restaurant owner was a lesbian. They painted “Get out of here, lesbian” on her restaurant, forcing her to close her business and leave the area.¹¹²

Violence by Members of the Public

Interviews conducted by Human Rights Watch revealed that everyday violence, not necessarily linked to gangs, plagues many LGBT people in Honduras. As with other forms of violence against LGBT people, several factors prevent access to justice: fear of repercussions or skepticism about the likelihood of a positive outcome that discourages victims from filing complaints; actual and perceived anti-LGBT attitudes on the part of police; and a broken, corrupt judicial system.

Juan Y., a 35-year-old trans man who grew up in the Francisco Morazán department, told Human Rights Watch that in 2013, the man he considered his best friend, together with other men, caught him when he was walking alone in the street and gang-raped him:

¹¹⁰ Human Rights Watch interview with Lucía P., Los Angeles, December 10, 2019.

¹¹¹ Human Rights Watch interview with Carla T., Los Angeles, December 13, 2019.

¹¹² Human Rights Watch interview with Francia Maradiaga, Tegucigalpa, May 16, 2019.

I went to the police, and they asked me: ‘What were you doing? Why did you expose yourself by going out alone?’ A female police officer told me, ‘A woman can’t go out alone.’ I don’t think they took down the complaint. They didn’t give me any copy. They didn’t send me to the Forensic Medicine office, like they usually do in cases of rape. One police officer said, ‘But raping you is like raping a man.’ They took it as a joke.¹¹³

Anabel H., a 29-year-old trans woman from Tegucigalpa, said three men ambushed her when she arrived in her apartment in June 2011. They robbed and punched her, hit her with a pole, doused her with alcohol, and lit her on fire. Anabel managed to escape as they debated how to kill her. She spent nine months in the hospital after the attack.¹¹⁴

¹¹³ Human Rights Watch interview with Juan Y., Tegucigalpa, May 17, 2019.

¹¹⁴ Human Rights Watch interview with Anabel H., Tegucigalpa, May 16, 2019.

III. Discrimination in Honduras: A Pathway to Life on the Margins

LGBT Hondurans face an array of obstacles in life that limit their opportunities and can prevent them from flourishing. These include family rejection, bullying and other forms of discrimination in school, and employment discrimination on the grounds of gender identity or sexual orientation.

Human Rights Watch interviewed several LGBT Hondurans who described being targeted and stigmatized from a young age because of their non-normative gender expression. Their perceived difference rendered them vulnerable to bullying and abuse. The cumulative effect of being rejected at home, bullied at school and ostracized from the community is to reinforce a cycle of marginalization and poverty. Such was the case for Gabriela P., who endured severe abuse by her father, before fleeing to Belize, Guatemala, Mexico, and finally the United States, as described above. As a direct consequence of the violent abuse, Gabriela never went back to school after fleeing home for the first time, in second grade.¹¹⁵

Seven interviewees told Human Rights Watch that they had experienced bullying and discrimination in educational settings. They described being targeted by peers, teachers, and administrators. Some said that they felt compelled to leave school as a result, reducing their life chances and placing them on a path to heightened economic insecurity, exacerbated by discrimination in the labor market.

Education Discrimination and Bullying

Interviewees described school as an unsafe space, especially for those who are visibly gender non-conforming. For two trans people interviewed by Human Rights Watch, pervasive bullying led them to drop out of school.

Carla T., a 24-year-old transgender woman from Comayagüela, dropped out at age 13 because of bullying and direct discrimination from teachers who forced her to sit

¹¹⁵ Human Rights Watch interview with Gabriela P., Washington, D.C., December 5, 2019.

separately from other students.¹¹⁶ Anabel H., a trans woman from Tegucigalpa, said that from the age of 10, she stopped attending school halfway through every year because of bullying. In high school, she said, her classmates threatened to rape her and threw water bottles at her. When she complained to the school director, she was told she should act like a boy if she did not want to be bothered. Anabel dropped out of school.¹¹⁷

Noé E., a non-binary person from Comayagua, dropped out at age 12. Their teachers knew they were being bullied and did not address it, they said. “They didn’t do anything. They knew how I was and to them it was always my fault.”¹¹⁸ Noé E. was also suspended from school multiple times for refusing to wear the girls’ uniform:

Sometimes the teacher expelled me for two weeks, for not wearing the uniform. Because I was required to put on a skirt and blouse. Sometimes I put on a male uniform, but then I always had problems with my family, and with the school, because the teachers told me, ‘Why are you wearing that? Why are you putting on boys’ clothes when you’re a girl?’ I always said, ‘Because I like it, what is the problem?’ and they would send me home.¹¹⁹

Noé E. was not alone in suffering suspension or expulsion because of their gender expression. Juan Y., a 35-year-old trans man who grew up in Francisco Morazán department, told Human Rights Watch that he was expelled from his middle school: “They said it was because I was a lesbian. They said I couldn’t stay there because I was ruining the school’s environment.” In high school, Juan said, the principal sent him to a psychologist after finding out he had a girlfriend, and a pastor was brought in to lecture students about homosexuality:

He said God created man and woman... that homosexuality was condemned by God, and that those acts are not tolerable. That the classroom could not be contaminated with such persons.¹²⁰

¹¹⁶ Human Rights Watch interview with Carla T., Los Angeles, December 13, 2019.

¹¹⁷ Human Rights Watch interview with Anabel H., Tegucigalpa, May 16, 2019.

¹¹⁸ Human Rights Watch interview with Noé E. (pseudonym), Los Angeles, December 11, 2019.

¹¹⁹ Ibid.

¹²⁰ Human Rights Watch interview with Juan Y., Tegucigalpa, May 17, 2019.

Lucía P., a 25-year-old transgender woman originally from Comayagüela, faced discrimination and sexual assault as a student:

When I was in school, I was abused by both students and teachers. Teachers incited students against me. In *colegio*, the bullying and mistreatment started again, also harassment, sometimes they beat me, sometimes they put their parts, one put his part in my mouth, one of them tried to force me to do oral sex.¹²¹

Miguel R., a 26-year-old bisexual man from Tegucigalpa, said that throughout his education, classmates bullied him, on one occasion hitting him with a rock, because he was effeminate. He informed teachers of the bullying, but they disciplined him instead.¹²²

Kendra Jordany, a 31-year-old transgender woman and activist from San Pedro Sula, said that her high school sent her to a psychologist who tried to “change” her. Later, between 2011-12, during her studies at the National Autonomous University of Honduras in the Sula Valley, she complained against a professor who discriminated against her:

The professor stopped me at the end of the first class and said, ‘You can’t come dressed like this [...] you are a man and you are dressed as a woman.’ And I said that it was my right and that he had to respect my gender identity. He said to me, ‘But if I enter that door with a skirt, are you going to respect me?’ So I said I did not care how he was dressed, but I told him that I was going to report him and that I was going to leave the class, and that I was disgusted that a person like him would be teaching me. I went out, I started to cry. I was smoking and he came up to me with a cigarette and started talking about God. I complained about him to the university commissioner, and they gave him a verbal sanction.¹²³

Jordany was the only LGBT person interviewed by Human Rights Watch who obtained any form of recourse for discrimination in an educational setting.

¹²¹ Human Rights Watch interview with Lucía P., Los Angeles, December 10, 2019.

¹²² Human Rights Watch interview with Miguel R., Los Angeles, December 12, 2019.

¹²³ Human Rights Watch interview with Kendra Jordany, San Pedro Sula, August 28, 2019.

Employment Discrimination

LGBT people in Honduras experience discrimination during job searches and in the workplace. Of the twenty-five LGBT Hondurans interviewed by Human Rights Watch, eight, including seven trans people and one gay man, described experiences of employment discrimination.

Noé E., the non-binary person from Comayagua who dropped out of school at age 12 because of bullying and discrimination, as described above, said that after they faced rejection at home and moved out at age 15, they found work selling clothes and shoes, but in looking for work, Noé faced employment discrimination: “In some cases [employers] said ‘I can’t give you work because people are going to look at you strangely and they’re not going to want this here.’”¹²⁴

Juan Y., a 35-year-old trans man, told Human Rights Watch that he faced discrimination on the job market, compounded by the fact that his identification documents did not match his gender identity:

There are many factories. They ask for a queue for women and one for men. When they look at the CV they say, ‘This is not the queue for women. You have to come another day.’ When I went on a day for women, I was rejected. They asked, ‘Where will we put you?’ When I said, ‘Anywhere, it doesn’t matter,’ they responded ‘What bathroom will you use?’

[...] I could work at the market because there they don’t ask for papers. However, if people there find out [about one’s gender identity], you can suffer violence [...] In order to set up a business, you need a license from the municipality and to get that you need to have an ID. The ID that I have is not acceptable to them.¹²⁵

¹²⁴ Human Rights Watch interview with Noé E., Los Angeles, December 11, 2019.

¹²⁵ Human Rights Watch interview with Juan Y., Tegucigalpa, May 17, 2019.

JLo Córdova, a 30-year-old trans activist, told Human Rights Watch that sex work can be the only viable employment for transgender women:

Nobody accepts us. We are mocked when we submit our papers. We're not even considered for domestic work. So trans women resort to selling our bodies in order to survive. We have no other choice.¹²⁶

Anabel H., a 29-year-old trans woman from Tegucigalpa, also sells sex due to employment discrimination:

I went to a clothing store first. I arrived and they told me that the position was filled. It was because of my gender expression because I looked very effeminate, that is what I felt. [...] Then to a restaurant to wash dishes and clean. They told me no. There was nothing to do. My friends told me that they could no longer help me. 'We prostitute ourselves from Monday to Friday to pay apartment, food, clothes, shoes.' So I said, 'Okay, I don't know what to do.'¹²⁷

Carla T., a 24-year-old trans woman from Comayagüela, said she applied for a job at a clothing store but was turned away on grounds that she would "ruin the clientele." She also tried to get a job washing dishes and cleaning homes, but was unsuccessful.¹²⁸

William Martínez, a 36-year-old trans man from Comayagüela, told Human Rights Watch that when he tried to get a job at a beauty salon, they did not want him because he looked like a man. When he tried to get a job in a carpentry shop, he was told they only wanted (cisgender) men.¹²⁹

As discussed above, Honduras's penal code criminalizes discrimination, including employment discrimination. Yet none of the Hondurans interviewed by Human Rights Watch had attempted to file a complaint. Cattrachas said it had not received any

¹²⁶ Human Rights Watch interview with JLo Córdova, Comayagüela, August 21, 2019.

¹²⁷ Human Rights Watch interview with Anabel H., Tegucigalpa, May 16, 2019.

¹²⁸ Human Rights Watch interview with Carla T., Los Angeles, December 13, 2019.

¹²⁹ Human Rights Watch interview with William Alejandro Martínez, Tegucigalpa, May 16, 2019.

employment discrimination complaints.¹³⁰ A representative of the Ministry of Human Rights in Honduras told Human Rights Watch, “People don’t file complaints. Sometimes they don’t even know that it’s discrimination.”¹³¹

In addition, the type of discrimination that LGBT people have experienced at the hands of the police when they have sought to report other crimes, described in Section II, is likely to deter them from filing discrimination complaints with the police. Authorities should ensure that victims will not be subjected to further discrimination if they decide to report a case of employment discrimination.

¹³⁰ Voice messaging communication to Human Rights Watch from Astrid Ramos, Catrachas, June 29, 2020.

¹³¹ Human Rights Watch interview with Jacqueline Anchecta, vice minister of human rights, Tegucigalpa, May 13, 2019.

IV. Obligations Under International Human Rights Law

The Inter-American system is among the most developed regional human rights systems when it comes to articulating the basis for rights and protections related to sexual orientation and gender identity, which Honduras is obligated to uphold.¹³² As the Inter-American Commission on Human Rights (the “Commission”) has stated:

[t]he principles of non-discrimination, equality before the law, the right to life and personal integrity are founding principles of the regional and universal human rights system, with legal duties that are of particular importance to lesbian, gay, bisexual, trans, and intersex (hereinafter ‘LGBTI’) persons in the Americas.¹³³

The Inter-American Court of Human Rights (“the Court”) has ruled that sexual orientation and gender identity are considered protected grounds under Article 1.1 of the American Convention on Human Rights (“the Convention”), which protects all rights recognized within the convention without discrimination on any grounds.¹³⁴

Article 4 of the Convention protects the right to life, echoing Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which Honduras is a state party. Article 5 protects each person’s “physical, mental, and moral integrity” and prohibits torture and cruel, inhuman and degrading punishment or treatment.¹³⁵ No one should live with the constant threat of violence, and states are obligated under international and regional law to protect the right to security of the person and the right to personal integrity.

¹³² American Convention on Human Rights, adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, November 22, 1969, ratified by Honduras on September 5, 1977, <https://www.cidh.oas.org/basicos/42merica/basic3.american%20convention.htm> (accessed November 6, 2020).

¹³³ Inter-American Commission on Human Rights, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas*, OEA/Ser.L/V/II.170 Doc. 184, December 7, 2018, <http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf> (accessed September 11, 2020).

¹³⁴ Inter-American Court of Human Rights, *Case of Atala Riffo & Daughters v. Chile*, Judgment of February 24, 2012, https://corteidh.or.cr/docs/casos/articulos/seriec_239_ing.pdf (accessed September 11, 2020), para 91; see also Inter-American Commission on Human Rights, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas*, <http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf>, pp. 26-28.

¹³⁵ American Convention on Human Rights, arts. 4, 5; International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by Honduras in 1997, art. 6.

The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity address both violence and discrimination against LGBT people. The principles assert that states should take all necessary measures to prevent violence and harassment related to sexual orientation or gender identity, including through vigorous investigation, redress to victims, and awareness-rising campaigns to reduce bias.¹³⁶

Obligation to Investigate and Protect Against Violence

The Organization of American States (OAS), the main regional governance body in the Western Hemisphere, has recognized the obligation of member states to address violence against LGBT people. The OAS's General Assembly has issued annual resolutions since 2013 urging member states to produce data on violence based on sexual orientation and gender identity, with a view to fostering public policies to prevent such violence.¹³⁷

The Inter-American Commission on Human Rights, created by the OAS to serve as the principal hemispheric human rights body, has specified that states should “make efforts and allocate sufficient resources to collect and analyze disaggregated statistical data in a systematic manner on the prevalence and nature of violence and bias discrimination against LGBTI persons, or those perceived as such.”¹³⁸

The Inter-American Court has found that the right to life under Article 4 of the American Convention, in conjunction with Article 1(1), is comprised of both negative and positive obligations.¹³⁹ States must not only ensure that no person be arbitrarily deprived of their life, but must also adopt all appropriate measures to “prevent, try, and punish the

¹³⁶ International Commission of Jurists, *The Yogyakarta Principles - Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity*, March 2007, http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf (accessed September 11, 2020), principle 5.

¹³⁷ OAS, General Assembly, Human Rights, Sexual Orientation, and Sexual Orientation and Gender Identity and Expression, AG/RES. 2807 (XLIII-O/13), adopted at the fourth plenary meeting, June 6, 2013, http://www.oas.org/en/iachr/lgtbi/docs/AG-RES_2807_XLIII-O-13.pdf (accessed September 11, 2020).

¹³⁸ Inter-American Commission on Human Rights, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas*, <http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf>.

¹³⁹ Inter-American Court of Human Rights, *Case of Myrna Mack Chang v. Guatemala*, Merits, Reparations and Costs, Judgment of November 25, 2003, Series C No. 101, https://www.corteidh.or.cr/docs/casos/articulos/seriec_101_ing.pdf (accessed September 11, 2020), para. 153.

deprivation of life as a consequence of criminal acts, in general, but also to prevent arbitrary executions by its own security agents.”¹⁴⁰

As such, the court held that safeguarding the right to life requires:

States to effectively investigate deprivation of the right to life and to punish all those responsible, especially when State agents are involved, as not doing so would create, within the environment of impunity, conditions for this type of facts to occur again, which is contrary to the duty to respect and ensure the right to life.¹⁴¹

The Commission has further emphasized that “any abridgment of the human rights recognized by the Convention that may be attributed, according to the rules of international law, to actions or omissions by any public authority constitutes an act attributable to the State.”¹⁴²

The UN Human Rights Committee, in overseeing states’ compliance with the ICCPR, emphasizes that states’ positive obligations:

...will only be fully discharged if individuals are protected by the State, not just against violations of ... rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of ... rights in so far as they are amenable to application between private persons or entities.¹⁴³

The UN Office of the High Commissioner for Human Rights notes that although hate-motivated violence against LGBT people is typically perpetrated by non-state actors,

¹⁴⁰ Ibid.

¹⁴¹ Inter-American Court of Human Rights, *Case of Myrna Mack Chang v. Guatemala*, Merits, Reparations and Costs, Judgment of November 25, 2003, Series C No. 101, https://www.corteidh.or.cr/docs/casos/articulos/seriec_101_ing.pdf, para. 156.

¹⁴² Inter-American Commission on Human Rights, *Report on Citizen Security and Human Rights*, OEA/Ser.L/V/II., Doc. 57, December 31, 2009, https://www.cidh.oas.org/countryrep/Seguridad.eng/CitizenSecurity.IV.htm#_ftnref21 (accessed September 11, 2020), para 39.

¹⁴³ UN Human Rights Committee, General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.13 (2004), <https://www.refworld.org/docid/478b26ae2.html> (accessed November 11, 2020), para. 8.

“failure by State authorities to investigate and punish this kind of violence is a breach of States’ obligation to protect everyone’s right to life, liberty and security of person.”¹⁴⁴

Under the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as the Convention of Belém do Pará, states party are obligated to adopt measures to combat violence against women.¹⁴⁵ The Inter-American Commission on Human Rights has interpreted the Belém do Pará convention, which defines “violence against women” as “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women” as applicable to transgender women.¹⁴⁶

The Inter-American Court of Human Rights has ruled that in investigating and prosecuting cases of violence, judicial processes should be attentive to the specific vulnerabilities of LGBT people. In March 2020, in *Azul Rojas Marín y Otra vs. Perú*, a case involving sexual violence and other forms of torture of a trans woman in prison, the Court held that when investigating violent acts, state authorities “have a duty to take all reasonable measures to uncover whether there are possible discriminatory grounds.” No facts can be omitted from this investigation if they can lead to establishing that the violence was motivated by discrimination; failure to investigate possibly discriminatory motives could be a violation of the non-discrimination provision in Article 1(1) of the American Convention.¹⁴⁷

In its determination, the court ordered Peru to establish a specific protocol for investigation and administration of justice in cases involving allegations of violence against LGBTI people. Such a protocol should include, the court ruled, the obligation to be sensitive to victims’ gender identity and sexual orientation, not engage in stereotyping or other discriminatory treatment, avoid retraumatization, and stipulate methods to

¹⁴⁴ UN Office of the High Commissioner, “Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law,” October 2012, <http://www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf> (accessed September 11, 2020), p. 14.

¹⁴⁵ Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), adopted June 9, 1994, entered into force March 9, 1995, <https://www.oas.org/en/mesecvi/docs/BelemDoPara-ENGLISH.pdf> (accessed September 16, 2020), arts. 7-8. Honduras ratified the treaty in 1995.

¹⁴⁶ Inter-American Commission on Human Rights, OEA/Ser.L/V/II.170 Doc. 179, Report No. 157/18, Case 13.051, *Report on Merits*, <https://www.oas.org/en/iachr/decisions/court/2019/13051FondoEn.pdf>, paras. 80, 98.

¹⁴⁷ Inter-American Court of Human Rights, *Case of Azul Rojas Marín et al. v. Peru*, Preliminary Objections, Merits, Reparations and Costs, Judgment of March 12, 2020, https://www.corteidh.or.cr/docs/casos/articulos/seriec_402_esp.pdf (accessed September 11, 2020), para. 196.

determine whether crimes of sexual violence or torture were perpetrated due to anti-LGBTI animus.¹⁴⁸

Protection from Discrimination

Regional and international human rights law are equally firm in their condemnation of all forms of discrimination against LGBT people. The OAS General Assembly resolution cited above, in addition to calling for data collection with regard to violence, calls on member states to adopt public policies against discrimination by reason of sexual orientation and gender identity or expression.¹⁴⁹ The Yogyakarta Principles also call on states to ensure all human rights without discrimination on the basis of sexual orientation or gender identity, including the right to work and to education.¹⁵⁰

In February 2020, the Inter-American Convention Against All Forms of Discrimination and Intolerance entered into force. It explicitly protects against discrimination on the grounds of gender identity, gender expression and sexual orientation alongside other grounds including language, cultural identity, migrant or refugee status, and socioeconomic status. It has been signed by 12 countries and ratified by Mexico and Uruguay. Honduras is among the countries that have neither signed nor yet ratified the convention.¹⁵¹

As noted by the UN Human Rights Committee, the term “discrimination” should be understood broadly, “to imply any distinction, exclusion, restriction or preference... which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”¹⁵² Regardless of intent, policies and practices that result in disparate impacts on particular groups of people—including LGBT people—can constitute discrimination which states are obligated to

¹⁴⁸ Ibid., paras. 241-244; “Groundbreaking Ruling: Inter-American Court Finds Peru Responsible for Discriminatory Torture Against an LGBTI Person and Orders the State to Combat Discrimination,” Redress news release, April 7, 2020, <https://redress.org/news/groundbreaking-ruling-inter-american-court-finds-peru-responsible-for-discriminatory-torture-against-an-lgbti-person-and-orders-the-state-to-combat-discrimination> (accessed September 11, 2020).

¹⁴⁹ OAS, General Assembly, Human Rights, Sexual Orientation, and Sexual Orientation and Gender Identity and Expression, AG/RES. 2807 (XLIII-O/13), adopted at the fourth plenary meeting, http://www.oas.org/en/iachr/lgtbi/docs/AG-RES_2807_XLIII-O-13.pdf, art. 2.

¹⁵⁰ Yogyakarta Principles, principles 12, 16.

¹⁵¹ Inter-American Convention Against All Forms of Discrimination and Intolerance, adopted June 5, 2013, entered into force February 20, 2020, http://www.oas.org/en/sla/dil/inter_american_treaties_A-69_discrimination_intolerance_signatories.asp (accessed September 11, 2020).

¹⁵² UN Human Rights Committee, CCPR General Comment No. 18, Non-Discrimination, November 10, 1989, <https://www.refworld.org/docid/453883fa8.html> (accessed September 11, 2020), para. 7.

eliminate. The UN Committee on Economic, Social and Cultural Rights, the authoritative body that interprets the UN Convention on Economic, Social and Cultural Rights, has also stressed that states are obligated to eliminate not only formal, but also de facto or substantive, discrimination, noting:

Eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination... In order to eliminate substantive discrimination, States parties may be, and in some cases are, under an obligation to adopt special measures to attenuate or suppress conditions that perpetuate discrimination.¹⁵³

Accordingly, to effectively curtail systemic discrimination, it is critical that states prioritize adopting comprehensive civil and administrative laws banning discrimination. While the use of the criminal law is warranted when discrimination manifests itself in particular egregious forms—notably, acts of violence or incitement to violence—its focus on criminal intent, which needs to be established beyond a reasonable doubt, is inadequate to capture and sanction much discriminatory behavior.¹⁵⁴ This is particularly true when discrimination is widespread as part of policies and practices. By contrast, civil and administrative legal frameworks are better designed than the criminal law to give greater weight to the consequences of particular actions, and can help address and sanction harmful actions and practices that impact groups or large numbers of people in a way that promotes good systems and policies.

States are also obligated to adopt robust economic and social policies in various areas—education, health, and employment, among others—to counter societal discrimination and

¹⁵³ UN Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-Discrimination in Economic, Social and Cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), July 2, 2009, E/C.12/GC/20, <https://www.refworld.org/docid/4a60961f2.html> (accessed September 11, 2020).

¹⁵⁴ In many countries, including in Honduras, governments have used the criminal law in ways that disproportionately impact particularly vulnerable or marginalized groups, including LGBT people, raising further concerns about its effectiveness and appropriateness as the primary tool to address discrimination.

its harmful effects, and affirmatively ensure the equal rights of vulnerable groups, such as LGBT people in Honduras.

Legal Gender Recognition

In November 2017, the Inter-American Court of Human Rights issued an advisory opinion, in response to a query from Costa Rica about its obligations under the American Convention, stating that in order to uphold the rights to privacy, nondiscrimination, and freedom of expression, states must establish simple, efficient procedures that allow people to change their names and gender markers on official documents through a process of self-declaration, without invasive and pathologizing requirements such as medical or psychiatric evaluation or divorce.¹⁵⁵ The Yogyakarta Principles also urge states to ensure that procedures exist whereby a person's self-defined gender identity can be indicated on all state-issued identity documents that include gender markers.¹⁵⁶ To date, Honduras has provided no path to legal gender recognition for transgender people.

¹⁵⁵ Inter-American Court of Human Rights, Advisory Opinion OC-24/17, http://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf, pp. 43-72.

¹⁵⁶ Yogyakarta Principles, principle 3.

V. Acknowledgments

This report was written by Neela Ghoshal, associate director in the LGBT Rights program at Human Rights Watch, with assistance from Cristian González Cabrera, researcher in the LGBT Rights program. It is based on research conducted by Neela Ghoshal, Cristian González Cabrera, and Mirte Postema, former researcher in the LGBT Rights program. This report was reviewed by Graeme Reid, director of the LGBT Rights program; Danielle Haas, senior editor; Bill Frelick, director of the Refugee and Migrant Rights Division; Alison Leal Parker, managing director of the US Program; Tamara Taraciuk Broner, acting deputy director in the Americas division; Paula Ini, research assistant in the Americas division; Amanda Klasing, acting co-director of the Women's Rights Division; Michael Bochenek, senior researcher in the Children's Rights Division; and Maria McFarland Sánchez-Moreno and Aisling Reidy, senior legal advisors.

Anjelica Jarrett, coordinator of the LGBT Rights program provided editorial and production assistance and formatted the report. Additional production assistance was provided by Travis Carr, digital coordinator, and Fitzroy Hopkins, senior administrative manager.

We are grateful for the assistance of a great many organizations and individuals who assisted us in a variety of ways, including connecting us to interviewees, regularly sharing information and analysis, reviewing drafts of the report and answering our questions along the way. We wish to specifically thank the following, with heartfelt apologies if we have inadvertently omitted anyone.

In Honduras: Arcoíris, Artemisa, Asociación Lésbica Cattrachas, Colectivo Violeta, and Kukulcán.

In Mexico: Al Otro Lado, Casa Arcoíris, Casa de Luz, and El Jardín de las Mariposas.

In the United States: Casa Ruby, Human Rights First, the LA LGBT Center, and TransLatin@ Coalition.

A special thank you to Mirte Postema for her continued support and feedback long after her term of employment with Human Rights Watch concluded.

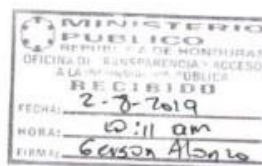
We are grateful to Arcus Foundation for generously supporting this research.

Finally, our immense appreciation to all the LGBT people in and from Honduras who spoke with us. We carry their stories with us and are inspired by their perseverance even in the face of numerous obstacles. Without them, this report would not have been possible.

Annex I. Responses from Honduras's Attorney General's Office, 2019

 MINISTERIO PÚBLICO <small>REPÚBLICA DE HONDURAS</small>	DIPEGEC	OFICIO DIPEGEC No.241-2019
	División de Planificación Estratégica y Gestión de la Calidad	Tegucigalpa, M.D.C., Viernes 02 de agosto de 2019

Abogado
GERSON MISAEL ALONZO OCHOA
 Oficial de Información Pública
 Su Oficina

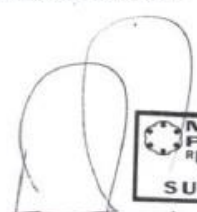


Abogado Alonso:

El motivo de la presente lleva como finalidad la devolución del Auto No. FGA-200-2019, mediante el cual, se nos instruye evacuar solicitud presentada por **Graeme Reid**, en su condición de Director del Programa LGBT Human Rights Watch, Organización de Derechos Humanos no gubernamental, ubicada en la ciudad de New York, Estados Unidos; en la cual solicita lo siguiente: "... estado de las investigaciones penales sobre presunta violencia en contra de personas lesbianas, gais, bisexuales y transgéneros (LGBT), Cuantos casos sobre Homicidios, Asesinatos y/o Femicidios de personas LGTB en los años 2015 y 2019...".

El Ministerio Público a través de la División de Planificación Estratégica y Gestión de la Calidad (DIPEGEC), en relación a dicha solicitud, le informa que después de una búsqueda exhaustiva en nuestra base de datos, se corroboró que no hay registro alguno de lo solicitado por su persona en el párrafo anterior, ya que en la toma de la denuncia se consignan únicamente los géneros masculino y femenino. Es importante referir que, a partir del año 2017 se habilitó en el SIGEFI una tercera casilla para que, al momento de la toma de la denuncia, el denunciante y/o víctima, especificara si pertenecía a la Comunidad "LGTBI", corroborando que se está haciendo caso omiso por parte de los receptores de denuncia.

Atentamente,


Abogado JUAN CARLOS ROMERO YANES
 Sub Jefe de la DIPEGEC




☐ Abogado Daniel Arturo Sibrián, Fiscalía General Adjunta
☐ Abogado José Mario Salgado, Director General de Fiscalía
☐ Archivo

Fecha de emisión
 02.08.2019
 Elaborado por: Claudia Meléndez


Oficina de Planificación Estratégica y Gestión de la Calidad
 Edificio Lomas Plaza 1, Lomas del Guajarro, Ave. República Dominicana, email:lopegec@gmail.com, Tel.: 22-21-01-03

Página
 1 de 1

 MINISTERIO PÚBLICO <small>PROSECUCIÓN DEL PODER JUDICIAL</small>	DGF	Resolución DGF-274-2019
	DIRECCIÓN GENERAL DE FISCALÍA	Tegucigalpa, M.D.C. 07 de Agosto de 2019.


**MINISTERIO PÚBLICO.- SUB DIRECCIÓN GENERAL DE FISCALÍA.-
TEGUCIGALPA, MUNICIPIO DEL DISTRITO CENTRAL, A LOS SIETE
DÍAS DEL MES DE AGOSTO DEL AÑO DOS MIL DIECINUEVE.**

VISTA: La solicitud presentada por el Señor **GRAEME REID**, en su condición de Director del programa LGBT Human Rights Watch, organización de Derechos Humanos no gubernamental, ubicada en la Ciudad de Nueva York, Estados Unidos, de fecha 18 de Julio de 2019, en la cual pide la siguiente información: (sic) "...solicitud de información sobre el estado de las investigaciones penales sobre presunta violencia en contra de personas lesbianas, gais, bisexuales y transgéneros (lgbt), el motivo de la misma es reflejar los datos arrojados en una próxima publicación de Human RIGHTS WATCH (HRW). Human Rights Watch es una organización de Derechos Humanos no gubernamental y sin fines de lucro que trabaja en más de 90 países del mundo para la defensa de los derechos Humanos. Establecida en el año 1978 HRW es conocida por sus investigaciones rigurosas, por su cabildeo enfocado, frecuentemente en colaboración organizaciones de derechos humanos locales. Enviar respuesta a las siguientes preguntas: **I.** ¿Cuántos casos sobre homicidios(art. 116 CP) asesinatos, femicidios, personas LGTB que ha perseguido el Ministerio Público entre el 2015 al 2019, a. Para cada año ¿cuántas víctimas eran mujeres lesbianas? ¿Cuántas mujeres trans? ¿Cuántas eran hombres gais? ¿cuántos eran hombres bisexuales? ¿cuántas mujeres bisexuales? **B.** Si esa información estaría disponible, proporcionar los nombres de las víctimas. **C.** ¿proveer información sobre resultados en cada caso, separados por año y por sub grupo LGBT (mujeres lesbianas, mujeres trans, hombres trans, hombres gais, mujeres bisexuales)? ¿Cuántos de esos casos **I.** Siguen en investigación? **ii.** Fueron desestimados? **iii.** Fueron judicializados? **iv.** Resultaron en una condena? **d.** En cuántos de esos casos la fiscal pidió una pena más alta porque consideró que el crimen fue cometido con odio o prejuicio hacia personas LGBT (ART. 27 NUM. 27 CP)? **I.** ¿ En cuántos casos la Juez aceptó aplicar la pena más alta? **2.** ¿Cuántas denuncias por violación, lujuria, sufridas por personas LGBT recibió el Ministerio Público en cada año entre 2015 y 2019. **a.** Para cada año ¿cuántas víctimas eran mujeres lesbianas? ¿cuántas eran hombres gais? ¿cuántas eran hombres trans? ¿cuántas eran mujeres bisexuales? ¿cuántos eran hombres bisexuales? **b.** Si esa

 MINISTERIO PÚBLICO <small>PROSECUCIÓN GENERAL DE LA REPÚBLICA</small>	DGF	Resolución DGF-274-2019
	DIRECCIÓN GENERAL DE FISCALÍA	Tegucigalpa, M.D.C. 07 de Agosto de 2019.

información estaría disponible ¿podría proporcionar los nombres de las víctimas?. c. ¿proveer información sobre los resultados en cada caso, de ser posible, separados por año y por subgrupo LGBT (mujeres lesbianas, mujeres trans, hombres trans, hombres gays, mujeres bisexuales, hombres bisexuales)? ¿cuantos de esos casos? i. Fueron abiertos?. ii. Siguen bajo investigación?. iii. Fueron ordenados bajo reserva. iv. Fueron archivados. v. Fueron judicializados. vi. Resultaron en una condena?. d. ¿en cuantos de esos casos la Fiscal pidió una pena más alta porque se consideraba que el crimen fue cometido por odio o perjuicio personas LGBT. (ART. 27 CP)?. I. ¿En cuantos casos el Juez aceptó aplicar la pena más alta?. 3. ¿cuantas denuncias por el delito de lesiones (art. 133 cp) violencia intrafamiliar, violencia doméstica (7 y 9 de la ley contra la Violencia Doméstica) Trata de Personas (art. 52 Ley contra la Trata de personas) sufridas por persona LGBT recibió la Fiscalía General de la República en cada año entre el 2015 al 2019. A. Para cada año, ¿cuantas víctimas eran mujeres lesbianas?. ¿cuantas mujeres trans? ¿cuantas eran hombres gays? ¿cuantas hombres bisexuales?. B. Si esa información estaría disponible, ¿podría proporcionar los nombres de las víctimas?. C. Podría proveer información sobre los resultados en cada caso, de ser posible, separados por año y por subgrupo LGBT (MUJERES LESBIANAS, MUJERES TRANS, HOMBRES TRANS, HOMBRES GAIS, MUJERES BISEXUALES, HOMBRES BISEXUALES)? ¿Cuantos de esos casos? i. Fueron abiertos?. ii. Siguen bajo investigación?. iii. Fueron ordenados bajo reserva? iv. Fueron archivados? v. Fueron judicializados?. Vi. Resultaron en una condena? d. ¿cuantos de esos casos la Fiscal pidió una pena más alta porque se consideraba que el crimen fue cometido por odio o perjuicio hacia personas LGBT (ART. 27 CP). ¿En cuantos casos la Juez aceptó aplicar la pena más alta?...". **Esta Sub-Dirección General de Fiscalía:**

CONSIDERANDO: Que la Ley de Transparencia y Acceso a la Información Pública, aprobado por el Decreto Legislativo No. 170-2006, reconoce al acceso a la información pública como una garantía del ciudadano. Asimismo el artículo 2.3 de la aludida Ley impone la obligación, a los entes del Estado, a realizar de manera efectiva la transparencia, en el ejercicio de las funciones públicas y en las relaciones del estado con los particulares.


 MINISTERIO PÚBLICO <small>DEFENSORÍA DE LA JUSTICIA</small>	DGF	Resolución DGF-274-2019
	DIRECCIÓN GENERAL DE FISCALIA	Tegucigalpa, M.D.C. 07 de Agosto de 2019

CONSIDERANDO: Que el artículo 17 de la referida ley indica que debe preponderarse, como de mayor interés, los datos clasificados por su sensibilidad y por la potencialidad de una daño personal versus el derecho de la población a la transparencia; o que ponga en riesgo o perjudique: ...3) El desarrollo de las investigaciones reservadas en materia de actividades de prevención, investigación o persecución de los delitos o de la impartición de justicia.

CONSIDERANDO: Que mediante acuerdo FGR-007-2018 emitido por la Fiscalía General de la República, tiene por objeto garantizar la clasificación de información atinente a los diferentes procesos penales, permitiéndose nuestra institución dirigir técnica y jurídicamente la investigación de los delitos hasta descubrir a los responsables, y requerirlos ante los Tribunales de Justicia, mediante el ejercicio de la acción Penal Pública, minimizando el riesgo de filtración de información. Estimándose para tal efecto pertinente, clasificar la secretividad de las investigaciones y la información que es sustanciada en la Institución.

CONSIDERANDO: Que la normativa Procesal Penal, impone la obligación a de mantener en absoluta reserva la información investigativa, la que únicamente podrá utilizarse para las finalidades investigativas propias de las autoridades competentes, so pena de incurrir en las sanciones prescritas. La absoluta reserva de las informaciones sobre la investigación, responde a la estricta observancia de las normas de Derechos Humanos, estado de inocencia, derecho a la defensa, derecho a la propia imagen, derecho a la intimidad personal y otros.-Siendo el Ministerio Público un ente encargado de tutelar tales derechos, como representante y defensor de los intereses generales de la sociedad, quien está llamado a velar por el respeto, cumplimiento de los derechos y garantías constitucionales y por el imperio mismo de la Constitución y las Leyes.

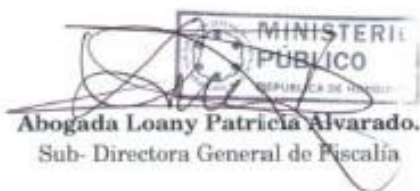
CONSIDERANDO: Que la información solicitada, se proporcionará de manera parcial ya que el Ministerio Público, no tiene en sus registros esa información desagregada en esos terminos. En cuanto a la Fiscalía de Derechos Humanos, informó lo siguiente: 1. En la base de datos se registran 29 casos activos y que están en proceso de investigación de los grupos LGTBE. 2. Los delitos que más denuncian estas comunidades son: Discriminación, Amenazas, Abuso de Autoridad y Violación de los deberes de los Funcionarios. 3. Siendo el delito de Discriminación el

 MINISTERIO PÚBLICO <small>REPÚBLICA DE GUATEMALA</small>	DGF	Resolución DGF-274-2019
	DIRECCION GENERAL DE FISCALIA	Tegucigalpa, M.D.C. 07 de Agosto de 2019.

demás afluencia. 4. Registrando que hay 4 Cierres Administrativos d denuncia sobre los casos de LGTBI.

Al respecto La Fiscalía Especial de Delitos Contra la Vida, en relación a lo peticionado, proporciona la información en varios cuadros que se adjuntan. Asimismo en cuanto a los nombres de personas como victimas, no se puede brindar esa información, ya que el Artículo 23 de la Ley de Transparencia y Acceso a la Información Pública, reconoce la garantía de Habeas Data.

POR TANTO: Esta Dirección General de Fiscalía en uso de las facultades y atribuciones conferidas y en aplicación de los artículos 72, 75, 321, de la Constitución de la Rep., 1,3,13, 16 y 33 de la Ley del Ministerio Público; 16 y 17 del Código Procesal Penal, acuerdo FGR-007-2018 emitido por la Fiscalía General de la República de conformidad al contenido de los Artículos 16 17 y 18 de la Ley de Transparencia y Acceso a la Información Pública., 24,25,26 27 y 33 del Reglamento de la Ley de Transparencia y Acceso a la Información Pública. **Resuelve:** 1) Declarar CON LUGAR la solicitud del Señor **GRAEME REID**, en su condición de Director del programa LGBT Human Rights Wath 2) Remítase la información al Oficial de Transparencia, en respuesta a la solicitud planteada. 3) Remítase igualmente copia a la Fiscalía General a efecto de dar cumplimiento a los autos FGR-324-2018, 325-2018 Y 326-2018.- **NOTIFIQUESE.**


Abogada Loany Patricia Alvarado.
 Sub- Directora General de Fiscalía

CASOS INVESTIGATIVOS DE LGTB AÑOS: 2015-2019

2015	
HOMICIDIO. ART 116 CP	ASESINATO ART. 117 CP
12	1

Mujeres Lesbianas	Hombres Gays	Mujeres Trans	Hombres Bisexuales	Hombres Trans
2	8	2	1	

2018	
HOMICIDIO, ART. 116 CP	ASESINATO ART. 117 CP
6	4

Mujeres Lesbianas	Hombres Gays	Mujeres Trans	Hombres Bisexuales	Hombres Trans
	9 (hay un expediente con 2 víctimas)	2		

2016		
HOMICIDIO, ART 116 CP	ASESINATO ART. 117 CP	FEMICIDIO ART. 118-A CP
7		1

Mujeres Lesbianas	Hombres Gays	Mujeres Trans	Hombres Bisexuales	Hombres Trans
2	3	2		

2019	
HOMICIDIO, ART. 116 CP	ASESINATO ART. 117 CP
6	2

Mujeres Lesbianas	Hombres Gays	Mujeres Trans	Hombres Bisexuales	Hombres Trans
2	5 (hay un expediente con 2 víctimas)	2 (hay un expediente con 2 víctimas)		

La octava víctima del 2016 no está dentro de la población LGTB, sin embargo, fue reportado por APUVIMEH como una persona empleada de esa organización, por eso se investiga en esta sección su muerte.


2017				
HOMICIDIO, ART 116 CP	ASESINATO ART. 117 CP			
5	1			
Mujeres Lesbianas	Hombres Gays	Mujeres Trans	Hombres Bisexuales	Hombres Trans

CASOS JUDICIALIZADOS LGTBI DESDE 2015-2019 ZONA CENTRO, SUR ORIENTE

REQUERIMIENTOS FISCALES PRESENTADOS (CASOS JUDICIALIZADOS)	2015	2016	2017	2018	2019
	2 (Gay)	4 (3 Gay, 1 lesbiana)	3 (Gay)	2 (Gay)	1 (son dos víctimas Trans). Se presenta una sola acusación en donde tenemos dos víctimas; un muerto y una tentativa.)

TODAS SENTENCIAS CONDENATORIAS	2015	2016	2017	2018	2019
	1	1	3	3	1

Annex II. Response from Honduras's Attorney General's Office, 2020

	S.D.G.F.	Oficio S.D.G.F No. 480-2020
	SUBDIRECCIÓN GENERAL DE FISCALÍA	Tegucigalpa, M.D.C. 25 de septiembre de 2020.

Abogado **GERSON MISAEL ALONZO OCHOA**
Oficial de Transparencia y Acceso a la Información Pública
Ministerio Público

Abogado **ALONZO:**



Por medio del presente y de la manera más atenta me dirijo a Usted, a fin de trasladarle la Resolución **SDGF N. 263-2020**, emitida por la Sub Dirección General de Fiscalía, en fecha veinticinco de septiembre de dos mil veinte, correspondiente a la solicitud realizada por **NEELA GHOSHAL** de **HUMAN RIGHTS WATCH**, mediante el correo electrónico institucional de la Oficina de Transparencia y Acceso a la Información Pública (**OTAIP**) del Ministerio Público, de fecha 17 de septiembre de dos mil veinte, Auto **FGA- 203-2020** - Lo anterior a fin de que brinde una respuesta a la peticionaria.

Sin otro particular, me suscribo de usted,

Atentamente


ABOG. LOANY PATRICIA ALVARADO
Sub Directora de la Dirección General de Fiscalía.

C.c. Abogado **Daniel Arturo Sibrian Bueso**/Fiscal General Adjunto.

	S.D.G.F.	RESOLUCIÓN SDGF N. 263-2020.
 MINISTERIO PÚBLICO <small>PROSECUCIÓN DE HONDURAS</small>	SUBDIRECCIÓN GENERAL DE FISCALÍA	Tegucigalpa, M.D.C. 25 de septiembre de 2020

VISTO: El Auto FGA-203-2020, suscrito por el Abogado Daniel Arturo Sibrian Bueso, Fiscal General Adjunto, mediante el cual remite solicitud presentada por NEELA GHOSHAL, de HUMAN RIGHTS WATCH, recibida en fecha 17 de septiembre del 2020, en el correo electrónico institucional de la Oficina de Transparencia y Acceso a la Información Pública (OTAIP), del Ministerio Público, mediante el cual pide la siguiente información: (sic) "... Le agradeceríamos que tenga a bien responder a las siguientes preguntas: 1. El Código Penal de 2013 contiene una disposición sobre delitos de odio, incluidos aquellos motivados por la orientación sexual y la identidad de género. Ninguno de los 45 casos de homicidio perpetrados contra personas LGBT en los cuatro años transcurridos entre 2015 y 2019 han sido clasificados como delitos de odio. ¿Cuál es la razón de esto? 2. ¿Qué capacitación específica se brinda a fiscales y jueces sobre los delitos motivados por el odio y sobre cómo determinar si un delito debe clasificarse como delito de odio? 3. ¿Qué otra capacitación reciben los fiscales y demás personal de fiscalías acerca de la orientación sexual y la identidad de género, y sobre las obligaciones que tienen, conforme al derecho de Honduras y al derecho internacional, de prevenir, investigar y sancionar delitos vinculados con la orientación sexual y la identidad de género? 4. ¿Se brindan instrucciones claras al personal de las fiscalías de que a quienes presentan denuncias deben ofrecerles la opción de identificarse de manera voluntaria como personas LGBTI, a fin de que su institución pueda realizar un seguimiento más eficaz de los delitos de odio y darles respuesta? 5. ¿Qué medidas adopta su institución para proteger a las víctimas de la posibilidad de represalias de agresores que no sean actores estatales, incluidos miembros de pandillas, cuando presentan denuncias? 6. ¿Qué medidas están adoptando para mejorar la confianza entre las comunidades LGBT y los funcionarios de aplicación de la ley, incluidos policías y fiscales, a fin de que sea más probable que las personas LGBT denuncien los delitos que sufren? 7. Desde 2013, ¿alguien ha sido condenado por discriminación en razón de la orientación sexual o la identidad de género invocando el artículo 321 del Código Penal de 2013? 8. ¿Qué medidas está adoptando su institución, si efectivamente lo está haciendo, para informar a empleadores y solicitantes de empleo que la discriminación en el trabajo por motivos de orientación sexual o identidad de género es ilegal en Honduras? Quedo a la espera de sus respuestas a estas preguntas y ansio colaborar con su institución para promover los derechos de las personas LGBT en Honduras. Le agradecería que me envíe sus respuestas por correo electrónico a ghoshan@hrw.org, con plazo hasta el 1 de octubre de 2020, de modo que podamos incluirlas en nuestro informe..." Por tal razón y para efectos de garantizar tanto la transparencia, como el cabal y exacto acceso a la información pública solicitada, SE DISPONE:

Delegar a la Dirección General de Fiscalía (DGF); a fin de que por su medio de una respuesta adecuada a la petición presentada por NEELA GHOSHAL, de HUMAN RIGHTS WATCH.- Misma que se hace de la siguiente manera:

CONSIDERANDO PRIMERO (1): Que conforme a lo establecido en el artículo 13 de la Convención Americana Sobre Derechos Humanos, un elemento importante que incluye la Libertad de Expresión, es precisamente el derecho al Acceso de la información Pública; que se traduce en la libertad que tienen los ciudadanos de buscar, recibir y difundir informaciones e ideas de toda índole, sin consideración de fronteras, ya sea oralmente, por escrito, en forma impresa o artística, o por cualquier otro procedimiento de su elección.

CONSIDERANDO SEGUNDO (2): Que la finalidad de la Ley Transparencia y Acceso a la Información Pública, es el desarrollo y ejecución de la política nacional de transparencia, así como el ejercicio del derecho de toda persona al acceso a la información pública para el fortalecimiento del Estado de Derecho y consolidación de la democracia mediante la participación ciudadana.- Sin embargo, la Convención Americana en su artículo 13.2, reconoce que el sistema constitutivo de la libertad de expresión, consistente en el acceso a la información Pública **NO** es un derecho absoluto, sino que puede estar sujeto a las limitaciones de carácter excepcional, consagración legal, objetivos legítimos, necesidad y proporcionalidad. En este preciso sentido, La Ley de Transparencia y Acceso a la Información Pública Hondureña, impone en su artículo 2.3¹ la obligación de los entes del Estado realizar de manera efectiva la transparencia, pero al mismo tiempo en el numeral 6 del artículo 2² garantiza la protección, clasificación y seguridad de la información pública y el respeto a las restricciones de este acceso.

CONSIDERANDO TERCERO (3): Que al analizar la petición formulada por NEELA GHOSHAL de HUMAN RIGHTS WATCH, recibida en fecha 17 de septiembre del 2020, considera esta Subdirección General de Fiscalía que la solicitud realizada, se trata de información que puede ser compartida, en ese sentido se libró Memorando SDGF 974-2020, a la Fiscalía Especial de Delitos Contra La Vida y SDGF 975-2020 a la Fiscalía Especial de Derechos Humanos; así como el Oficio SDGF 439-2020 a la Escuela de Formación del Ministerio Público "*Orlan Arturo Chávez*", solicitando la información requerida; obteniendo dichas respuestas a través de los

¹ Artículo 2 numeral 3 de La Ley de Transparencia y Acceso a la Información Pública: Son objetivos de esta Ley establecer los mecanismos para:
1.- (...)3. Hacer efectiva la Transparencia en el ejercicio de las funciones públicas y en las relaciones del estado con los particulares; (...)

² Artículo 2 numeral 6 de La Ley de Transparencia y Acceso a la Información Pública Son objetivos de esta Ley establecer los mecanismos para:
1.- (...)6. Garantizar la protección, clasificación y seguridad de la información pública y el respeto a las restricciones de acceso en los casos de (...) 6) La secretividad establecida por la Ley.

Oficios FEDCV 0154-2020, FEDH 1333-2020 y EFMP 294-2020, por lo que se procede acceder a lo solicitado, detallando las respuestas en el orden cronológico que fueron requeridas.-

1. El Código Penal de 2013 contiene una disposición sobre delitos de odio, incluidos aquellos motivados por la orientación sexual y la identidad de género. Ninguno de los 45 casos de homicidio perpetrados contra personas LGBT en los cuatro años transcurridos entre 2015 y 2019 han sido clasificados como delitos de odio. ¿Cuál es la razón de esto? Se le informa a la peticionaria que según la información brindada por la Fiscalía Especial de Delitos Contra La Vida, la Sección de Investigación de Muerte de Personas Pertenecientes a Grupos Sociales Vulnerables (SMPPGSV), conduce las investigaciones relacionadas a los miembros de la comunidad LGTBI con un enfoque de derechos humanos, hacia la determinación de circunstancias o antecedentes de discriminación; no obstante para el establecimiento como realidad jurídica de la circunstancia agravante genérica de responsabilidad penal del artículo 27 del Decreto 144-83, reformado por adición del numeral 27, por medio del Decreto 23-2013, de fecha 25 de febrero de 2013 y publicado en el Diario Oficial La Gaceta N. 33,092 de fecha 6 de abril de 2013 y vigente a partir del 26 de abril de 2013, es menester la acreditación de *“...prueba sobre conflicto previo al ataque, por orientación sexual o de cualquier otra índole como el odio...connotación de desprecio hacia los ofendidos”*, y en relación a los casos judicializados se identificó distintos móviles que excluyen la apreciación de un delito de odio por discriminación, sino más bien circunstancias de hecho que orientaron el origen de la voluntad delictiva hacia problemas interpersonales vinculados a una relación sentimental o sexual de los sujetos del delito robo, u implicación en grupos criminales organizados.- En cuanto a los procesos penales que se encuentran en su fase de investigación preliminar, es importante señalar que se encuentra un pobre respaldo de denuncias por discriminación por miembros de la comunidad LGTBI, lo que evidentemente dificulta la posibilidad de orientar la investigación hacia este punto atendiendo los antecedentes de amenazas o hechos denunciados en el marco del desprecio de la víctima por su orientación sexual o identidad de género.- De la misma manera, resulta pertinente establecer que en estos procesos investigativos, al no contar con antecedentes de denuncia por las víctimas, devenimos en la obligación de atender a la dinámica reflejada en las escenas criminales, y la representación de la realidad histórica del hecho mediante la incorporación de material probatorio. Mientras la prueba allegada al proceso no advierta la concurrencia de esta circunstancia anteriormente regulada por el artículo 27, numeral 27 del Código Penal decreto 144-83, no podemos establecer que toda muerte violenta de miembros de la comunidad LGTBI representa la comisión de un delito de odio por discriminación en atención a su orientación sexual o identidad de género, pues como bien se ha señalado anteriormente si se ha advertido en casos particulares la concurrencia de otros móviles excluyentes de esta circunstancia.-

2. ¿Qué capacitación específica se brinda a

fiscales y jueces sobre los delitos motivados por el odio y sobre cómo determinar si un delito debe clasificarse como delito de odio? Conforme a la respuesta enviada por la Escuela de Formación del Ministerio Público “*Orlan Arturo Chávez*”, es de importancia hacer referencia a que de acuerdo al principio de legalidad sólo son reprochables las conductas expresamente descritas en la norma; de este modo, la normativa penal hondureña (tanto la derogada como la vigente) no contempla bajo el nomen juris de crímenes o delitos de odio a alguna conducta; sin embargo, si se observa como reprochable la discriminación en sentido amplia, es decir la que se ejerce impulsada por motivaciones en razón de orientación sexual, o pertenencia a grupo étnico o religioso entre otros.- 3. *¿Qué otra capacitación reciben los fiscales y demás personal de fiscalías acerca de la orientación sexual y la identidad de género, y sobre las obligaciones que tienen, conforme al derecho de Honduras y al derecho internacional, de prevenir, investigar y sancionar delitos vinculados con la orientación sexual y la identidad de género?* Al respecto, la Escuela de Formación del Ministerio Público, con el apoyo de la organización no gubernamental “*SOMOS CDC*” desarrolló en el año 2019 una serie de capacitaciones dirigidas a fiscales a nivel nacional, orientadas a la sensibilización sobre delitos cometidos por razón de orientación sexual e identidad de género, incluyendo las etapas de investigación y persecución penal efectiva en esta temática. - 4. *¿Se brindan instrucciones claras al personal de las fiscalías de que a quienes presentan denuncias deben ofrecerles la opción de identificarse de manera voluntaria como personas LGBTI, a fin de que su institución pueda realizar un seguimiento más eficaz de los delitos de odio y darles respuesta?* Cabe mencionar que el Módulo de Recepción de Denuncias, es el ente fiscal que actúa como filtro para la recepción de las denuncias en las sedes de los diferentes despachos fiscales, para proceder a tomar la denuncia al usuario se cuenta con un formato en donde en una de sus casillas se solicita el género del denunciante es ahí donde se le indaga de una manera respetuosa y confidencial si es miembro de la comunidad LGTBI; también es preciso resaltar que el personal asignado a dicho módulo está altamente capacitado y sensibilizado con dicha temática.- 5. *¿Qué medidas adopta su institución para proteger a las víctimas de la posibilidad de represalias de agresores que no sean actores estatales, incluidos miembros de pandillas, cuando presentan denuncias?* Existe en nuestro país la Ley de Protección A Testigos en el Proceso Penal, creada mediante **Decreto 63-2007**, esta ley tiene por objeto crear el Programa de Protección a Testigos en el Proceso Penal, el que estará bajo la dirección y coordinación del Ministerio Público; la finalidad del programa es brindar protección a Testigos en el Proceso Penal, que como consecuencia de su participación eficaz y efectiva en el mismo, sean admitidos en el Programa.- La protección del Programa se extenderá al cónyuge, compañero (a) de hogar, familiares u otras personas relacionada con el Testigo que, en virtud de su testimonio se encuentre en situación de riesgo de acuerdo a la presente ley y su

reglamento.- 6. *¿Qué medidas están adoptando para mejorar la confianza entre las comunidades LGBT y los funcionarios de aplicación de la ley, incluidos policías y fiscales, a fin de que sea más probable que las personas LGBT denuncien los delitos que sufren?* A lo expuesto es decir nuestro país toma medidas por medio de la Fiscalía Especial de Derechos Humanos, a efecto de investigar y llevar a la justicia a todos aquellos actos de violencia y discriminación en perjuicio de las personas LGBTI; de igual manera a través de la creación de la Fiscalía Especial Para La Protección de Los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia, con el objeto de garantizar la defensa del interés social, el reconocimiento, promoción y protección de sus derechos; así como, de toda persona jurídica, dedicada la defensa y promoción de los derechos humanos y a la libertad de expresión, en riesgo por su actividad; esta Fiscalía ejercerá la acción fiscal en la investigación y enjuiciamiento de los delitos cometidos en perjuicio de ese sector social, por parte de empleados, servidores, funcionarios públicos y cualquier particular que pudiese atentar contra sus derechos individuales, como producto de la actividad de defensoría que desarrollen.-

7. *Desde 2013, ¿alguien ha sido condenado por discriminación en razón de la orientación sexual o la identidad de género invocando el artículo 321 del Código Penal de 2013?* En relación a esta interrogante según la información proporcionada por la Fiscalía Especial de Derechos Humanos, en fecha 18 de abril de 2018, mediante expediente judicial TSS (04) 008-2012, el Tribunal de Sentencia de Siguatepeque, Comayagua, les dictó sentencia condenatoria por el delito de Discriminación a cuatro ciudadanos en perjuicio de otro ciudadano, en razón de su orientación sexual.

8. *¿Qué medidas está adoptando su institución, si efectivamente lo está haciendo, para informar a empleadores y solicitantes de empleo que la discriminación en el trabajo por motivos de orientación sexual o identidad de género es ilegal en Honduras?* Al respecto en las diversas capacitaciones relacionadas con esta temática, se realiza énfasis en ello.

POR TANTO: Esta Subdirección General de Fiscalía en uso de las facultades y atribuciones conferidas y en aplicación de los Artículos 321 de la Constitución de la República, 6, 7, 12, 13, 16, 28, 33 y 34 de la Ley del Ministerio Público; 1, 2, 3, 4, 14, 15 y 20 de la Ley de Transparencia y Acceso a la Información Pública; **RESUELVE:** Por las razones expuestas: **PRIMERO:** En relación a la petición formulada por formulada por NEELA GHOSHAL de HUMAN RIGHTS WATCH, recibida en fecha 17 de septiembre del 2020, considera esta Subdirección General de Fiscalía que la solicitud realizada, se trata de información que puede ser compartida, en ese sentido se libró Memorando SDGF 974-2020, a la Fiscalía Especial de Delitos Contra La Vida y SDGF 975-2020 a la Fiscalía Especial de Derechos Humanos; así como el Oficio SDGF 439-2020 a la Escuela de Formación del Ministerio Público "Orlan Arturo Chávez", solicitando la información

requerida; obteniendo dichas respuestas a través de los Oficios FEDCV 0154-2020, FEDH 1333-2020 y EFMP 294-2020, por lo que se procede acceder a lo solicitado, detallando las respuestas en el orden cronológico que fueron requeridas.- **1. El Código Penal de 2013 contiene una disposición sobre delitos de odio, incluidos aquellos motivados por la orientación sexual y la identidad de género. Ninguno de los 45 casos de homicidio perpetrados contra personas LGBT en los cuatro años transcurridos entre 2015 y 2019 han sido clasificados como delitos de odio. ¿Cuál es la razón de esto?** Se le informa a la peticionaria que según la información brindada por la Fiscalía Especial de Delitos Contra La Vida, la Sección de Investigación de Muerte de Personas Pertenecientes a Grupos Sociales Vulnerables (SMPPGSV), conduce las investigaciones relacionadas a los miembros de la comunidad LGTBI con un enfoque de derechos humanos, hacia la determinación de circunstancias o antecedentes de discriminación; no obstante para el establecimiento como realidad jurídica de la circunstancia agravante genérica de responsabilidad penal del artículo 27 del **Decreto 144-83**, reformado por adición del numeral 27, por medio del **Decreto 23-2013**, de fecha 25 de febrero de 2013 y publicado en el Diario Oficial La Gaceta N. 33,092 de fecha 6 de abril de 2013 y vigente a partir del 26 de abril de 2013, es menester la acreditación de *"...prueba sobre conflicto previo al ataque, por orientación sexual o de cualquier otra índole como el odio...connotación de desprecio hacia los ofendidos"*, y en relación a los casos judicializados se identificó distintos móviles que excluyen la apreciación de un delito de odio por discriminación, sino más bien circunstancias de hecho que orientaron el origen de la voluntad delictiva hacia problemas interpersonales vinculados a una relación sentimental o sexual de los sujetos del delito robo, u implicación en grupos criminales organizados.- En cuanto a los procesos penales que se encuentran en su fase de investigación preliminar, es importante señalar que se encuentra un pobre respaldo de denuncias por discriminación por miembros de la comunidad LGTBI, lo que evidentemente dificulta la posibilidad de orientar la investigación hacia este punto atendiendo los antecedentes de amenazas o hechos denunciados en el marco del desprecio de la víctima por su orientación sexual o identidad de género.- De la misma manera, resulta pertinente establecer que en estos procesos investigativos, al no contar con antecedentes de denuncia por las víctimas, devenimos en la obligación de atender a la dinámica reflejada en las escenas criminales, y la representación de la realidad histórica del hecho mediante la incorporación de material probatorio. Mientras la prueba allegada al proceso no advierta la concurrencia de esta circunstancia anteriormente regulada por el artículo 27, numeral 27 del Código Penal **Decreto 144-83**, no podemos establecer que toda muerte violenta de miembros de la comunidad LGTBI representa la comisión de un delito de odio por discriminación en atención a su orientación sexual o identidad de género, pues como bien se ha señalado anteriormente si se ha advertido en casos particulares la concurrencia de otros móviles excluyentes de esta

circunstancia.- 2. *¿Qué capacitación específica se brinda a fiscales y jueces sobre los delitos motivados por el odio y sobre cómo determinar si un delito debe clasificarse como delito de odio?* Conforme a la respuesta enviada por la Escuela de Formación del Ministerio Público “*Orlan Arturo Chávez*”, es de importancia hace referencia a que de acuerdo al principio de legalidad sólo son reprochables las conductas expresamente descritas en la norma; de este modo, la normativa penal hondureña (tanto la derogada como la vigente) no contempla bajo el nomen juris de crímenes o delitos de odio a alguna conducta; sin embargo, si se observa como reprochable la discriminación en sentido amplia, es decir la que se ejerce impulsada por motivaciones en razón de orientación sexual, o pertenencia a grupo étnico o religioso entre otros.- 3. *¿Qué otra capacitación reciben los fiscales y demás personal de fiscalías acerca de la orientación sexual y la identidad de género, y sobre las obligaciones que tienen, conforme al derecho de Honduras y al derecho internacional, de prevenir, investigar y sancionar delitos vinculados con la orientación sexual y la identidad de género?* Al respecto, la Escuela de Formación del Ministerio Público, con el apoyo de la organización no gubernamental “*SOMOS CDC*” desarrolló en el año 2019 una serie de capacitaciones dirigidas a fiscales a nivel nacional, orientadas a la sensibilización sobre delitos cometidos por razón de orientación sexual e identidad de género, incluyendo las etapas de investigación y persecución penal efectiva en esta temática. - 4. *¿Se brindan instrucciones claras al personal de las fiscalías de que a quienes presentan denuncias deben ofrecerles la opción de identificarse de manera voluntaria como personas LGBTI, a fin de que su institución pueda realizar un seguimiento más eficaz de los delitos de odio y darles respuesta?* Cabe mencionar que el Módulo de Recepción de Denuncias, es el ente fiscal que actúa como filtro para la recepción de las denuncias en las sedes de los diferentes despachos fiscales, por lo que para proceder a tomar la denuncia al usuario se cuenta con un formato en donde en una de sus casillas se solicita el género del denunciante es ahí donde se le indaga de una manera respetuosa y confidencial si es miembro de la comunidad LGBTI; también es preciso resaltar que el personal asignado a dicho módulo está altamente capacitado y sensibilizado con dicha temática.- 5. *¿Qué medidas adopta su institución para proteger a las víctimas de la posibilidad de represalias de agresores que no sean actores estatales, incluidos miembros de pandillas, cuando presentan denuncias?* Existe en nuestro país la Ley de Protección A Testigos en el Proceso Penal, creada mediante Decreto 63-2007, esta ley tiene por objeto crear el Programa de Protección a Testigos en el Proceso Penal, el que estará bajo la dirección y coordinación del Ministerio Público; la finalidad del programa es brindar protección a Testigos en el Proceso Penal, que como consecuencia de su participación eficaz y efectiva en el mismo, sean admitidos en el Programa.- La protección del Programa se extenderá al cónyuge, compañero (a) de hogar, familiares u otras personas relacionada con el Testigo que, en virtud de su testimonio se encuentre en situación

de riesgo de acuerdo a la presente ley y su reglamento.- 6. *¿Qué medidas están adoptando para mejorar la confianza entre las comunidades LGBT y los funcionarios de aplicación de la ley, incluidos policías y fiscales, a fin de que sea más probable que las personas LGBT denuncien los delitos que sufren?* A lo expuesto es decir nuestro país toma medidas por medio de la Fiscalía Especial de Derechos Humanos, a efecto de investigar y llevar a la justicia a todos aquellos actos de violencia y discriminación en perjuicio de las personas LGTBI; de igual manera a través de la creación de la Fiscalía Especial Para La Protección de Los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia, con el objeto de garantizar la defensa del interés social, el reconocimiento, promoción y protección de sus derechos; así como, de toda persona jurídica, dedicada la defensa y promoción de los derechos humanos y a la libertad de expresión, en riesgo por su actividad; esta Fiscalía ejercerá la acción fiscal en la investigación y enjuiciamiento de los delitos cometidos en perjuicio de ese sector social, por parte de empleados, servidores, funcionarios públicos y cualquier particular que pudiese atentar contra sus derechos individuales, como producto de la actividad de defensoría que desarrollen.- 7. *Desde 2013, ¿alguien ha sido condenado por discriminación en razón de la orientación sexual o la identidad de género invocando el artículo 321 del Código Penal de 2013?* En relación a esta interrogante según la información proporcionada por la Fiscalía Especial de Derechos Humanos, en fecha 18 de abril de 2018, mediante expediente judicial TSS (04) 008-2012, el Tribunal de Sentencia de Siguatepeque, Comayagua, se les dictó sentencia condenatoria por el delito de Discriminación a cuatro ciudadanos en perjuicio de otro ciudadano, en razón de su orientación sexual. 8. *¿Qué medidas está adoptando su institución, si efectivamente lo está haciendo, para informar a empleadores y solicitantes de empleo que la discriminación en el trabajo por motivos de orientación sexual o identidad de género es ilegal en Honduras?* Al respecto en las diversas capacitaciones relacionadas con esta temática, se realiza énfasis en ello; **SEGUNDO:** Remítase la presente Resolución al Oficial de Transparencia del Ministerio Público a efecto de dar respuesta a la petitoria; **TERCERO:** Remítase igualmente, copia a la Fiscalía General Adjunta a efecto de dar cumplimiento a lo estipulado en el Auto FGA- 203-2020.- NOTIFIQUESE.


ABOG. LOANY PATRICIA ALVARADO
Subdirectora General de Fiscalía.



C.C. Y.D.N.