



Human Rights Watch

UPR Submission

Honduras

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Summary

This submission highlights Human Rights Watch's concerns regarding human rights violations against people in Honduras on the grounds of their sexual orientation and gender identity. It also draws attention to the violence against women who participated in public protests after the June 2009 coup d'état. As a party to the International Covenant on Civil and Political Rights, the UN Convention on the Elimination of Discrimination Against Women, the Inter-American Convention on Human Rights, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, Human Rights Watch believes that Honduras is in violation of some of its most fundamental human rights obligations.

Background

Honduras has extremely high rates of criminal violence. For example, the United Nations Development Program (UNDP) Violence Observatory of the National Autonomous University in Honduras (hereinafter, UNDP Violence Observatory) put the homicide rate in 2008 at 57.9 per 100,000 inhabitants.ⁱ This drastically exceeds the rate of 5.4 per 100,000 inhabitants within the United States in the same year.ⁱⁱ The UNDP Violence Observatory has also documented an increase in lethal violence against women in recent years. It registered 175 cases of homicide against women in 2005, 202 in 2006, 295 in 2007, and 312 in 2008 (an average of one woman every 28 hours). Of the 312 recorded in 2008, 148 killings happened in the public sphere and 92 happened in the victims' homes. The UNDP Violence Observatory also recorded 870 cases of women physically attacked on the grounds of their gender in 2008.ⁱⁱⁱ

A report by the Inter-American Commission on Human Rights following the June 2009 coup d'état found that Hondurans who engaged in demonstrations against the coup d'état had their freedom of expression promptly curtailed and were arbitrarily detained.^{iv} According to the Commission, many women who had engaged in public demonstrations condemning the coup were subject to sexual and gender-based violence inflicted by security forces.^v The Commission also found that while in detention women were vulnerable to rape and sexual violence by the police.

Various UN agencies have also reported that violence against lesbian, gay, bisexual, and transgender (LGBT) people is a serious problem in Honduras.^{vi} International and local nongovernmental organizations have reported similar concerns.^{vii} Human Rights Watch found that since February 2009, the National Criminal Investigation Department (NCID) documented seven killings of LGBT people, while Honduran LGBT advocates confirmed 19 murders, since June 2009.^{viii}

Police Brutality Against and Failure to Protect Transgender Women

Transgender women in Honduras are frequent targets of physical violence, all too often leading to death.^{ix} Human Rights Watch research indicates that lesbian, gay, bisexual, and transgender (LGBT) people in Honduras are often victims of violence, sometimes by state actors, and that their complaints go unanswered by the local authorities. Human Rights Watch documented at least 17 murders of transgender women, (*travestis* in Spanish), in Honduras between 2005 and June 2009. Since June 2009, the LGBT organizations in Honduras documented 19 murders of gay men and transgender women.

The Honduran state has failed to provide effective protection for transgender women [*travestis*] or to take adequate steps to ensure that the perpetrators of these attacks are brought to justice. For example, on January 9, 2009, unknown assailants killed a leading Honduran [travesti] activist, Cynthia Nicole, in a drive by shooting.^x As of February 2009, the Honduran government had not begun to investigate the murder and now 15 months later still the murder remains unsolved. A member of NCID told Human Rights Watch in February 2010 the prosecutor's office was prioritizing the investigation of other killings. More recently, on December 14, 2009, unknown men shot in the chest and killed Walter Trochez, another well-known HIV/AIDS and LGBT outreach worker. Walter had repeatedly told the authorities he was at risk and informed the General Attorney's office of an attempt to kidnap him on December 5, 2009. No measures were taken to protect him.^{xi} These are just illustrative of the general situation of lack of protection and investigation into the attacks on transgender women and gay men in Honduras.

Direct police attacks against this community also go unanswered. For instance, in January 2009, policemen attacked a travesti HIV/AIDS outreach worker. She reported the police officers that attacked her, but they were never suspended.^{xii} In December 2008, Human Rights Watch interviewed over 20 transgender women who mentioned instances of physical attacks by the police, none of these cases lead to the police officers being investigated, despite being denounced by the victims. Human Rights Watch also documented arbitrary arrests by the police using the Law on Police and Social Affairs. Police officers told Human Rights Watch that transgender women are detained under this law for violating "public morality." There is no definition in the law of what public morality means or cases before the courts that help to define it in a concrete manner.^{xiii}

Human Rights Watch has documented cases of policemen abusing their power to rape and extort money from transgender women who are in some instances arbitrarily detained.^{xiv} According to Human Rights Watch research, since 2003, the judiciary has only prosecuted one policeman for attacks against a transgender woman, despite many other attacks having been reported to the authorities, which have not been investigated.^{xv}

In tolerating acts of violence against transgender women and gay men perpetrated by police or other officials, or failing to take steps to prevent, deter and punish similar acts by third parties against transgender women and gay men, Honduras is in violation of many of its most fundamental human rights obligations. These include the right to life, the right to physical integrity and to be protected from acts of ill-treatment, the prohibition on arbitrary detentions and crucially the right to equal protection without distinction of any kind and the right to an effective remedy.

Violence against Women in the Wake of the Coup

Honduras has high rates of domestic violence, rape, sexual harassment, and workplace discrimination.^{xvi} A 2008 report by UNDP specifically on violence against women recorded 10 murders where sexual violence took place before the woman was killed. The report also documents that in 2006 the NCID received 5,735 cases of domestic violence against women and 429 against men.^{xvii}

Following the 2009 coup, international and national human rights organizations documented gender-based violence against women by State agents and private third parties, due to the authorities' failure to protect women. Protestors against the coup were dispersed, arbitrarily detained, and verbally and physically abused.^{xviii} In this context women were subjected to particular forms of gender based abuse. The Inter-American Commission on Human Rights found that the violence against women in the context of the coup was not being adequately investigated by the judicial authorities.^{xix} A fact-finding mission conducted by international human rights experts and observers found that women were groped and beaten particularly around the breast and crotch areas, as well as subjected to sexual insults and threats of sexual violence. The mission also found that several women were raped.^{xx}

Such violence against women violates Honduras's obligations to provide women equal protection under the law, to protect their right to life, bodily integrity, liberty and security. Honduras has also failed to provide women whose rights have been violated with an effective remedy.

Recommendations

The Government of Honduras should be urged to:

- Adopt a comprehensive law on non-discrimination based on international human rights standards, including gender identity and expression, and sexual orientation, which would enhance and specify the protections of article 321 of the Penal Code, and which would create an independent body to promote non-discrimination and equality and monitor compliance with this law by public and private actors.
- Issue a written directive from the Ministry of Security to all law enforcement institutions reaffirming that violence, abuse, and discrimination against women and LGBT people based on gender identity or expression, as well as sexual orientation, within and outside the home, will not be tolerated and will be cause for sanction.
- Revise the Law on Police and Social Affairs to eliminate ill-defined references to “morality” as well as other vague language that can be used to justify the discriminatory targeting of transgender people. Law enforcement officials should not use the Law on Police and Social Affairs as a justification to arrest transgender people who do legally permitted sex work.
- Conduct independent, impartial, and effective investigations into acts of extortion and unlawful use of force against transgender people and women by Honduran law enforcement officials.
- Initiate administrative and where appropriate criminal investigations against officials found to have engaged in or condoned violence against or extortion of transgender people and women.
- Provide regular training to law enforcement officials, in particular to the police, the National Department of Criminal Investigation, and all staff of the Office of the Attorney General, on human rights issues in general and in particular on issues of gender, gender identity and expression, and sexual orientation.
- Ensure respect for and protection of the human rights of all detainees, including guarantees to due process for detained LGBT people and women, including their right to access to a lawyer, their right to a phone call, and protection against cruel and inhumane treatment and freedom from discrimination and violence on the basis of gender, gender identity and expression, and sexual orientation.

ⁱ PNUD and Universidad Autónoma de Honduras, *Observatorio de la Violencia, Mortalidad y Otros*, Ed. 13, January 2009, available at <https://www.unah.edu.hn/uploaded/content/category/926831121.pdf> (accessed April 1, 2010).

ⁱⁱ Federal Bureau of Investigation, *Report on Crime in the United States*, 2008, available at http://www.fbi.gov/ucr/cius2008/data/table_01.html (accessed April 8, 2010).

ⁱⁱⁱ See supra note i.

^{iv} Inter-American Commission on Human Rights, *Honduras: Human Rights and the Coup D'état*, OEA/Ser.L/V/II, Doc. 55, December 30, 2009, available at <http://www.cidh.oas.org/countryrep/Honduras09eng/Toc.htm> (accessed April 8, 2010) para. 517.

^v *Ibid.*, paras. 519-521.

^{vi} *Interim report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions*, A/57/138, July 2, 2002; Commission on Human Rights, Report of the Special Rapporteur Ms. Asma Jahangir, Mission to Honduras, (Fifty-ninth session, 2002), E/CN.4/2003/3/Add.2, paragraph. 68, <http://www.scribd.com/doc/12681097/UN-Special-Rapporteur-Asma-Jehangir-Report-on-India>; Special Rapporteur on violence against women, its causes and consequences, Addendum Communications to and from Governments, E/CN.4/2005/72/Add.1, March 18, 2005, paragraph. 180 (accessed on April 23, 2009).

^{vii} Centro de Investigación y Promoción de los Derechos Humanos (CIPRODEH), *Shadow Report on Honduras Progress in the Compliance of the International Covenant on Civil and Political Rights*, August 2004 (on file with Human Rights Watch); Cattrachas, Comunidad Gay Sampedrana, Foro nacional de VIH/SIDA, Grupo KUKULCAN, Grupo Arcoiris, and IGLHRC, *Shadow Report on Lesbian, Gay, Bisexual and Transgender Rights in Honduras*, September 2006 (on file with Human Rights Watch).

^{viii} Human Rights Watch, *Honduras: Investigate Murders of LGBT People*, December 16, 2009, available at: <http://www.hrw.org/en/news/2009/12/16/honduras-investigate-murders-lgbt-people> [accessed 31 March 2010].

^{ix} Human Rights Watch, "*Not Worth a Penny*": *Human Rights Abuses against Transgender People in Honduras*, May 29, 2009, available at <http://www.hrw.org/en/reports/2009/05/29/not-worth-penny-0> (accessed April 8, 2010) pp. 3, 18-21, 31-32.

^x Human Rights Watch, *Honduras: Investigate Murder of Transgender Activist*, 12 January 2009, available at: <http://www.hrw.org/en/news/2009/01/12/honduras-investigate-murder-transgender-activist> [accessed 31 March 2010].

^{xi} See supra note viii.

^{xii} See supra note x.

^{xiii} See supra note ix.

^{xiv} See supra note ix, pp. 3, 18-21, 31-32.

^{xv} *Ibid.*

^{xvi} U.S. Department of State Bureau of Democracy, Human Rights, and Labor, *Honduras*, 28 February 2005, available at: <http://www.state.gov/g/drl/rls/hrrpt/2004/41765.htm> [accessed on February 26, 2010].

^{xvii} PNUD and Universidad Autónoma de Honduras, Observatorio de la Violencia, Mortalidad y Otros, *Informe Especial: Muerte de Mujeres por Violencia Intencional*, Ed. 1, January 2009, available at http://www.undp.un.hn/publicaciones/Observatorio_Violencia/EspecialMujeresEd01_2006-2008.pdf (accessed April 8, 2010).

^{xviii} Human Rights Watch, *Honduras: Military Coup a Blow to Democracy*, 28 June 2009, available at: <http://www.hrw.org/en/news/2009/06/28/honduras-military-coup-blow-democracy> [accessed 24 February 2010].

^{xix} Inter-American Commission on Human Rights, *Honduras*, supra note iv, paras 528-529.

^{xx} Honduran Feminists in Resistance, *Summary of Findings: International Women's Human Rights Fact-Finding Mission*, pgs. 17-21, August 2009; Laura Carlsen (Director of the Americas Program of the Center for International Policy, in collaboration with Honduran Feminists in Resistance), for the Huffington Post, *Honduran Coup Violates Women's Human Rights*, 6 November 2009, available at: http://www.huffingtonpost.com/laura-carlsen/honduran-coup-violates-wo_b_348510.html [accessed 26 February 2010].