INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING PERSECUTION OF HIV-POSITIVE INDIVIDUALS IN HONDURAS

<table>
<thead>
<tr>
<th>TAB</th>
<th>GOVERNMENTAL SOURCES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• “Persons with HIV and AIDS continued to be targets of discrimination. According to NGO Association for a Better Life, there were reports of forced sterilization of women with HIV, and they suffered disproportionately from gender-based violence.” (p. 20)</td>
</tr>
<tr>
<td></td>
<td>• “The Ministry of Human Rights reported a study that found that six of 10 persons believed that women with HIV had no right to become pregnant.” (p. 20)</td>
</tr>
<tr>
<td></td>
<td>• “A study conducted on stigma and discrimination associated with HIV found that 13 percent of citizens believed that anyone has the right to assault a person for identifying as transgender, an increase of 4 percent between 2016 and 2019.” (p. 20)</td>
</tr>
<tr>
<td></td>
<td>• “Many employers discriminated against women. Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation […]” (p. 24)</td>
</tr>
<tr>
<td></td>
<td>SUMMARY</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>• “Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS.” (p. 21)</td>
</tr>
<tr>
<td></td>
<td>• “Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation […]” (p. 26)</td>
</tr>
<tr>
<td></td>
<td>• “Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS.” (p. 27)</td>
</tr>
<tr>
<td></td>
<td>• “Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation […]” (p. 33)</td>
</tr>
<tr>
<td></td>
<td>• “A highly qualified American Ph.D. professor of Latin American studies, Suyapa Portillo, who specializes in the LGBTQ community (lesbian, gay, bisexual, transgender, and queer—an acronym that covers the entire spectrum of homosexual and related sexual orientations) in Honduras, testified as an expert witness for the petitioner. In the last 12 years she’s visited Honduras three to four times a year to conduct re-search. The immigration judge qualified Dr. Portillo to testify as an expert witness regarding ‘the experience of LGBTQ people in Honduras’ and also of ‘HIV-positive people’ in that country—overlapping groups, obviously—and having been thus qualified Dr. Portillo testified that it’s very difficult for people with HIV to find employment—employers often require proof that an applicant does not have HIV.” (p. 260-261)</td>
</tr>
<tr>
<td></td>
<td>• “And for cultural reasons related to Honduran’s belief about these two diseases, the medical treatment of both HIV and AIDS in Honduras is often deficient and often invasive of privacy […]” (p. 259)</td>
</tr>
</tbody>
</table>
|   | • “JS2 noted that the State’s HIV prevention policies were ineffective and that persons infected by HIV faced discrimination. It recommended that Honduras repeal all legislation that undermined the rights of persons infected by HIV and re-establish the
<table>
<thead>
<tr>
<th>TAB</th>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>national HIV prevention programme as a means to facilitate coordination between the State and civil society.” (p. 7)</td>
</tr>
<tr>
<td></td>
<td>• “JS2 noted that applicants for jobs in many private companies and within the armed forces were required to undergo HIV screening.” (p. 6)</td>
</tr>
<tr>
<td></td>
<td>• “The Commission notes with concern the information received that in the country, 11.9% of trans women live with the immunodeficiency virus (HIV). The Commission takes note of the discrimination faced by trans people, in particular, exposing them to a process of exclusion, which in turn makes them more vulnerable, among other causes, because they are more susceptible to HIV infection.” (p. 125)</td>
</tr>
<tr>
<td></td>
<td>• “[…] [L]esbian, bisexual, transgender, queer and intersex women, women engaged in sex work/prostitution and women living with HIV have reportedly less access to quality health care due to stigmatization and discriminatory attitudes. Women have reported severe cases of discrimination against women living with HIV, including forced sterilization.” (p. 11)</td>
</tr>
<tr>
<td></td>
<td>• “Lesbian, bisexual, transgender, queer and intersex women and women engaged in sex work/prostitution have been particularly vulnerable to violence, and transgender women, women engaged in sex work/prostitution and women living with HIV complained in particular of obstacles to accessing quality health services.” (p. 15)</td>
</tr>
<tr>
<td></td>
<td>• “During the visit, the experts met with the representatives of indigenous, Garifuna and Afro-Honduran women, peasant farmers and rural women, transgender women, women engaged in sex work/prostitution and women living with HIV. They also visited women’s prison in Tegucigalpa. All these women recounted stories of discrimination, marginalization and exclusion.” (p. 15)</td>
</tr>
<tr>
<td>NON-GOVERNMENTAL SOURCES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• “An NGO reported an incident where ‘a physician asserted victims’ sexual orientation caused him to contract the human papillomavirus and colon cancer.’” (p. 31)</td>
</tr>
<tr>
<td></td>
<td>• “Transgender women have filed a complaint against a public health center after it refused to given them medication for HIV, claiming the drugs had expired. It was later determined they purposely let the drugs expire to prevent the transgender women from continuing their treatment.” (p. 31)</td>
</tr>
<tr>
<td>Number</td>
<td>Source</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>9.</td>
<td>Meyers, “Marginalized Hondurans Find Supportive Care – and Friendships – at a Local Clinic,” Direct Relief (Oct. 18, 2019), available at: <a href="https://www.directrelief.org/2019/10/marginalized-hondurans-find-supportive-care-and-friendships-at-a-local-clinic/">https://www.directrelief.org/2019/10/marginalized-hondurans-find-supportive-care-and-friendships-at-a-local-clinic/</a></td>
</tr>
<tr>
<td>10.</td>
<td>Excerpt of The Glob. Fund, “Baseline Assessment - Honduras: Scaling up Programs to Reduce Human Rights-Related Barriers to HIV Services” (Nov. 2018), available at: <a href="https://www.theglobalfund.org/media/8150/crg_humanrightsbaselineassessmenthonduras_report_en.pdf?u=637319004306270000">https://www.theglobalfund.org/media/8150/crg_humanrightsbaselineassessmenthonduras_report_en.pdf?u=637319004306270000</a></td>
</tr>
</tbody>
</table>

** SUMMARY **

- “Despite additional legislative protections for individuals with HIV, LGBT people with the disease find access to health services a major challenge.” (p. 31)
- “Members of the LGBTI community with HIV face additional prejudice and discrimination in accessing healthcare.” (p. 31)
- “In conservative Honduras, being HIV positive – or a sex worker, prisoner, or member of the LGBTQ community – is ‘horribly stigmatized,’ said Denise Main, a doctor and activist. ‘Commercial sex workers, gay men, and then transsexual women are…the lowest that you can be.’ These groups experience widespread violence, discrimination, and stigma.” (p. 2)
- “[Commercial sex workers, gay men, and then transsexual women] also – along with poor people, members of the Garifuna community (an indigenous group), and soldiers – have particularly high incidences of HIV, in a country that’s long been battling an epidemic. Although rates have improved since the 1990s, the medical nonprofit Siempre Unidos estimates that one in 50 Hondurans is HIV positive.” (p. 2)
- “Women living with HIV also face specific violations of their reproductive rights. Women living with HIV in Honduras have experiences of forced or coerced sterilization, often a feature of the HIV experience in Latin America, with the Inter-American Commission on Human Rights (IACHR) expressing concern for the consequences of limitations on sexual and reproductive rights in the country. This was also the experience of some of the research participants – as one FGD participant described, ‘when they [women living with HIV] have found they are pregnant, they have the right to be mothers, so what has happened is that the doctor that is on duty doesn’t want to attend to her and the clinic closes, and he doesn’t attend to her’ […]” (p. 33)
• “Several participants noted that doctors viewed them solely as HIV patients, often largely ignoring other health needs and failing to provide holistic and comprehensive care […] As one FGD participant described her visit to the clinic, ‘on one occasion I went with stomach pain and problems with hemorrhoids and the first things she [the doctor] did was check if I needed an HIV test…in the end she didn’t do anything, she made me waste my time because she checked my throat and pelvis, but nothing for the stomach’ […]’” (p. 28)

• “Participants reported feeling labelled solely as HIV patients rather than being treated as an individual with particular health needs – as one female sex worker described it, the health staff only considered her “from the waist down” […]], echoing the findings of earlier studies.” (p. 28)

• “In some cases, participants reported medical staff enquiring about future plans to have children and suggesting women living with HIV not have children […]” (p. 27-28)

• “These issues with treatment were often compounded by explicit experience with stigma in the health setting itself. Focus group participants discussed experiences with health care providers, including a counsellor, where the providers explicitly blamed clients’ immoral behavior for their infection and suggested religious conversions or treatments […]” (p. 28)

• “The consequences of this can be severe - in some cases, participants reported cases where individuals were denied the right to basic health care due to suspicion of their HIV status […]” (p. 27)

• “The provision of health services, especially for populations in vulnerable situations, is extremely poor in the prison system […] In this context, where even basic health care needs are not met, inmates with HIV-specific health concerns are especially unlikely to have their needs met […]” (p. 22)

• “Key populations and populations in vulnerable situations often encounter multi-layered forms of stigma and discrimination that are based both on their identification as members of these populations and because of the assumed relationship this identity has with HIV, as exemplified by a focus group participant who said: ‘if they [health system personnel] see a trans girl who was stabbed, they don’t even want to touch her because of the stigmatization, that all the homosexual people and trans have HIV…so what do they do? They wait to have her tested to see if she has HIV or not…they won’t attend to her because there might be contact and the medical staff might get infected[.]’” (p. 27)

• “High levels of discriminatory attitudes were also found in a public opinion survey conducted by USAID in 2016, with 35.5% of Hondurans believing that God punishes sex workers and gay men with HIV for their way of life; 33.3% agreeing that employers should have the right to test prospective employees for HIV; only 41% agreeing that women living with HIV have the right to become pregnant; almost 70% agreeing that children living with HIV should have to receive a separate education from the general population of children;…” (p. 26)

• “In [Honduras’] Global AIDS Monitoring progress report, it was reported that only half of respondents in a survey would buy fresh fruits from a vendor with HIV.” (p. 26)

• “In 2016, CONADEH reported 58 complaints related to HIV and AIDS received nationally which corresponded to the following issues: 10 on the right to personal integrity, 11 regarding the right to work, 1 regarding the right to life, 3 regarding the
right to due process, twenty-seven regarding the right to health, and 5 regarding the right to personal security and privacy.” (p. 24)

- “Overall, 40.3% of people living with HIV said they had encountered forms of stigma and discrimination, and only 15% of people living with HIV felt they could comfortably disclose their HIV status beyond their close friends and families.” (p. 26)

- “One recent report stated that the level of stigma experienced is higher among the following groups: older people, transgender people/transvestites/transsexuals, those with lower levels of education; people who have migrated to another country, bisexuals, and those whose self-perception of their health is particularly low.” (p. 26)

- “Because of actual and feared stigmatization by the community as well as service providers and the fear associated with being diagnosed as HIV-positive, individuals are often reluctant to get tested. As a result, many people living with HIV are not aware of their HIV status and less than half of people living with HIV in Honduras are receiving antiretroviral treatment.” (p. 26)

- “There was strong consensus among research participants regarding the importance of HIV-related stigma and discrimination as a barrier to the realization of the rights of individuals. For example, fear of a positive diagnosis and the resulting stigmatization was listed by multiple respondents as resulting in avoidance of testing […]; others mentioned the risk of being recognized while attending specialized services and then being labelled as being HIV-positive as a barrier to seeking care […]; and others reported that employers commonly require individuals to undergo HIV-testing (often disguised as part of a general health check) prior to being considered for employment […].” (p. 27)

- “Even within the healthcare settings, issues with confidentiality, stigma and discrimination are relatively commonplace for people living with HIV in Honduras.” (p. 26)

- “[Female sex workers] are often viewed as promoters of immorality and are assumed to be HIV-positive […] While not mentioned as often by research participants, other populations such as incarcerated people and people who inject drugs also faced multiple forms of stigma and discrimination, again often because of the assumed links these groups have to HIV.” (p. 27-28)

- “These norms were also seen as contributing to the stigmatization of women living with HIV, who are often assumed to have been infected through immoral sexual behavior and therefore experience what one key informant termed a ‘double stigma’ […]” (p. 34)

- “Research participants reported the fear of disclosure of HIV-status (or the assumption of being HIV-positive) as being a significant barrier to the use of HIV services for all key population groups. In particular, participants reported that being seen using services would effectively ‘label’ them as someone living with HIV […] This fear was particularly acute when referring to centers dedicated to or specializing in providing HIV care, such as the VICITS (Vigilancia Centinela de las Infecciones de Transmisión Sexual) and SAI (Servicios Atención Integral) centers, where research participants described how being seen resulted in assumptions and gossip about their HIV status […]” (p. 28)

- “The lack of effective implementation of legal protections and punitive regulations for people living with HIV represents a persistent barrier to access for key populations,
<table>
<thead>
<tr>
<th>TAB</th>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>particularly female sex workers, men who have sex with men, transgender people/transvestites/transsexuals, and people who use drugs.” (p. 25)</td>
</tr>
<tr>
<td></td>
<td>• “As in other settings, non-hetero-normative sexual orientations are considered by many in Honduras to be immoral and sinful, creating psychosocial pressures that are particularly acute when paired with a positive HIV diagnosis […]” (p. 27)</td>
</tr>
<tr>
<td></td>
<td>• “Recent research in Honduras found a direct relationship between HIV infection and accounts of power inequality, physical abuse, psychological, sexual, and verbal abuse, as well as the inability to decline sexual relations with their partner, or negotiate for safe sex for one-third of women.” (p. 33)</td>
</tr>
<tr>
<td></td>
<td>• “This reality was noted by research participants as well, who noted both that women in abusive relationships were less likely to be able to take steps to protect themselves from infection or seek effective treatment (often the result of fear of stigma associated with the husband’s status being disclosed) and that women living with HIV were also subject to higher rates of violence as a result of their condition […]” (p. 33)</td>
</tr>
<tr>
<td></td>
<td>• “Cultural and religious values, particularly conservative religious values within the Catholic and evangelical churches, were also raised in a number of interviews and discussions. These were seen as underlying many of the broader values that lead to the stigmatization of people living with HIV and Lesbian, Gay, Bisexual, Transgender people/Transvestites/Transsexuals and Intersexed populations, inequitable gender norms, and the lack of the development or implementation of further legal protections of the human rights of key populations […]” (p. 34)</td>
</tr>
<tr>
<td></td>
<td>• “Honduras has a concentrated HIV epidemic among the following key populations: men who have sex with men, transgender people/transvestites/transsexuals, and female sex workers.” (p. 22)</td>
</tr>
</tbody>
</table>


- “In Honduras, women living with HIV do not have adequate access to reproductive health information. As a result, these women have become the subject of forced sterilization. Rather than inform these women about contraception in order to preserve their health, they are pressured to use contraceptives or told that sterilization is their only option.” (p. 6)
- “Additionally, women living with HIV have been subject to sterilization without their consent during caesarean procedures.” (p. 6)
- “Twenty percent of Honduran women living with HIV who participated in a Central American-focused study reported being victims of forced sterilization due to misinformation or lack of informed consent.” (p. 6)
- “Women living with HIV in Honduras also have reported pressure to undergo sterilization once they discover they are HIV positive.” (p. 6)
<table>
<thead>
<tr>
<th>TAB</th>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>•</td>
<td>“Healthcare providers tell these women that due to their condition as HIV-positive patients, they cannot have children and therefore must consent to sterilization.” (p. 6)</td>
</tr>
<tr>
<td>•</td>
<td>“According to a recent study, 11 percent of the women living with HIV who participated in the study indicated they had been pressured by healthcare providers to use contraceptives due to being HIV positive.” (p. 6)</td>
</tr>
<tr>
<td>•</td>
<td>“Despite the fact that science and medicine have progressed to prevent mother-to-child transmission of HIV, healthcare providers in Honduras continue to misinform these women about the probability of such transfer.” (p. 6)</td>
</tr>
<tr>
<td>•</td>
<td>“A thin line exists between pressuring women to use contraceptives on the one hand and campaigns for the prevention of HIV transmission and unplanned pregnancy on the other. However, in Honduras, healthcare providers specifically and explicitly pressure women who are HIV positive to use contraception when they seek medical attention.” (p. 6)</td>
</tr>
<tr>
<td>•</td>
<td>“As a result of the lack of public sources of information and sexual and reproductive education in Honduras, women living with HIV rely on information provided by healthcare providers about their condition as HIV positive and their alternatives concerning reproduction and prevention of mother-to-child transmission of HIV. Healthcare providers’ responsibility is even more critical, as the lack of complete information or the communication of erroneous information becomes a key factor in these women’s decisions to undergo sterilization.” (p. 7)</td>
</tr>
</tbody>
</table>


• “A large proportion of people living with HIV were noted as unemployed, ranging from 7% in Uganda to 61% in Honduras.” (p. 10)
• “Of those who lost a job or had to stop working because of their HIV-status, ill health was a factor or the sole cause of job loss in a significant proportion of cases, ranging from 23% (Malawi) to 100% (both Korea and Timor-Leste). It was also a major factor in Fiji and Honduras, where HIV-related ill health caused or contributed to job loss in 88% of cases in both countries.” (p. 16)
• “In many countries (Fiji, Honduras, Korea, Nicaragua, Timor-Leste and Ukraine), ill health was a factor or the sole cause of job loss for more than half those who had lost their job because of their HIV status.” (p. 16)


• “[Ms. A] went to two local hospitals before finding one that was equipped to do a cesarean section, which was recommended in her case due to unknown viral loads and inadequate access to consistent antiretroviral treatment during pregnancy. The doctor on duty refused to do the procedure unless she also gave consent for tubal sterilization. In
order to protect her child, Ms. A agreed to sign a document while in active labor and under duress, though she was and remains devastated by her sterilization.” (p. 96)

- “Upon the advice of her physician due to her HIV status, Ms. B scheduled a cesarean section for the delivery of her son. She describes her experience as follows: ‘When D was born, I had to go to the … Hospital to have the child. I told the doctor there that I planned to have at least one more child after D. The doctor said that he could ‘tie my tubes,’ which would be an easily reversible procedure. The doctor had me sign a paper that said that the procedure I would undergo was to tie my tubes. Later, I went to a gynecologist, who told me that the doctor lied and I had actually been sterilized. I talked to other HIV positive women, who said that they had also suffered from the same procedure. The doctors violated our right as women to have children.’” (p. 96)

- “Ms. A reports she had great difficulty in obtaining proper care for her HIV disease. She was often unable to afford the medications or tests for frequent monitoring and, as a result, received only intermittent treatment.” (p. 96)

- “Ms. A, a 34-year-old woman of Garifuna descent, came to the US from Honduras in 2014 to escape extreme discrimination based on her ethnicity and HIV-positive status, and her inability to obtain appropriate medical care, as well as in hopes of reversing her involuntary sterilization.” (p. 96)

- “In addition, Ms. B faced overt discrimination in the community as a result of her HIV status and was reportedly fired from her job as well.” (p. 96)

- “Ms. A reports she was unable to finish high school and was repeatedly denied employment based on widespread discrimination against WLHIV in Honduras.” (p. 96)

- “Ms. B faced significant difficulties in obtaining adequate care for her HIV infection because she lacked the money to pay the fees for the required blood tests and antiretroviral medications.” (p. 96)

- “Garifuna women who are living with HIV (WLHIV) suffer the additional burden of stigmatization and discrimination.” (p. 95)

- “Kendall and Albert, in a 2015 study of 285 women living with HIV from four Central American countries (El Salvador, Honduras, Mexico and Nicaragua), found that about 25% reported that their healthcare providers pressured them to undergo sterilization.” (p. 94)

- “The practice of coerced or forced sterilization has been well documented in a number of Central and South America countries, including the Dominican Republic, Venezuela, Chile, El Salvador, Honduras, Mexico and Nicaragua.” (p. 94)
<table>
<thead>
<tr>
<th>TAB</th>
<th>SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• “[Fernanda, the 21-year-old Honduran woman,] fled Honduras after her HIV status was made public and she was accused falsely of trying to infect members of the community. Local criminal groups showed up at her house, threatening to kill her.” (p. 2)</td>
</tr>
<tr>
<td></td>
<td>• “A UNAIDS report notes an estimated 23,000 Hondurans were living with HIV in 2018…” (p. 2)</td>
</tr>
<tr>
<td></td>
<td>• “The report identifies trans Hondurans as one of ‘the key populations most affected by HIV’ in the country. It notes 8.2 percent of trans Hondurans lived with HIV in 2018.” (p. 2)</td>
</tr>
<tr>
<td></td>
<td>• “Roxsana Hernández was a transgender woman with HIV from Comayagua, a city that is roughly 50 miles northwest of the Honduran capital of Tegucigalpa.” (p. 1)</td>
</tr>
<tr>
<td></td>
<td>• “Hernández on May 9, 2018, asked for asylum in the U.S. at the San Ysidro Port of Entry in San Diego after she joined a migrant caravan that left Honduras a few months earlier. Hernández died at a New Mexico hospital 16 days later while in U.S. Immigration and Customs Enforcement custody.” (p. 1)</td>
</tr>
<tr>
<td></td>
<td>• “The second autopsy also concluded the cause of death was ‘most probably severe complications of dehydration superimposed upon HIV infection, with the probable presence of one or more opportunistic infections.’” (p. 1)</td>
</tr>
<tr>
<td></td>
<td>• “Rihanna Ferrera, director of Asociación de Derechos Humanos Cozumel Trans, a trans Honduran advocacy group, on Jan. 22 told the Washington Blade during an interview in Tegucigalpa that Hernández decided to leave Honduras, in part, because she wanted access to better antiretroviral drugs. (p. 1-2)</td>
</tr>
<tr>
<td></td>
<td>• “‘She left in search of a better life, a better quality of life, better medications,’” said Ferrera. (p. 2)</td>
</tr>
<tr>
<td></td>
<td>• “[Roxsana] Hernández’s case underscores the precarious situation in which many Hondurans with HIV face because of a combination of factors that include poverty and a lack of access to treatment.” (p. 2)</td>
</tr>
<tr>
<td></td>
<td>• “A gang chased Eduin Ballestero out of Honduras. Unable to stay in the Central American country’s capital, his hometown, where he had been discriminated against because of his ethnicity and HIV status, Ballestero set out for America.” (p. 1)</td>
</tr>
<tr>
<td></td>
<td>• “There is much misunderstanding surrounding HIV in Honduras, and ‘the stigma is mind-blowing,’ said Nicole Felice Lopez, director of development and communications for Montana de Luz.” (p. 2)</td>
</tr>
<tr>
<td>TAB</td>
<td>SUMMARY</td>
</tr>
<tr>
<td>-----</td>
<td>---------</td>
</tr>
<tr>
<td>•</td>
<td>“Although [Montana de Luz] is working to educate Hondurans on how HIV is spread, many there believe that just being around HIV-positive people or something they touched could infect them with AIDS virus, Lopez said. The stigma is so great, she said, that some people aren’t able to get jobs or housing because of their HIV status.” (p. 2)</td>
</tr>
<tr>
<td>•</td>
<td>“I do not feel safe,’ Susan said through the interpreter, her voice growing animated. When Ms. Velez asked why, she described people coming to the house and threatening her. ‘They wear ski masks on their head and they told me that they’re going to kill me if they see me alone, and why did I come back here? I should have stayed with my mother where I was.’ Susan said it has happened about six times since she returned in November, and that they sometimes pointed guns at her. ‘They want to kill me because I have H.I.V.,’ she said.” (p. 8)</td>
</tr>
<tr>
<td>•</td>
<td>“Ms. Batiz left her small village on the Atlantic coast of Honduras with plans to seek asylum, because she was persecuted for having H.I.V. ‘I don’t think it’s right,’ she said, ‘for someone to tell you, ‘You should die.’’” (p. 2)</td>
</tr>
<tr>
<td>•</td>
<td>“‘The women who are infected are considered to be dirty,’ said Deborah Ottenheimer, a Manhattan-based gynecologist who does exams for women seeking asylum because of human rights abuses. She has met Honduran women with H.I.V. who experienced all types of persecution, including forced sterilization. ‘They can’t get jobs, they often are attacked. Their children — especially if their children are thought to be, not even known to be, but thought to be H.I.V. positive — will also be discriminated against. They won’t be allowed to go to school.’” (p. 4)</td>
</tr>
<tr>
<td>•</td>
<td>“‘Everybody, all my classmates, knew about my mother and my sister, too,’ Kirad recalled. She said they called Susan ‘sidosa,’ a slur against people with AIDS. There were also vicious attacks. ‘They would take her to the bathroom and would put her head in the toilet,’ Kirad said, adding that these were filthy toilets without modern plumbing.” (p. 4)</td>
</tr>
<tr>
<td>•</td>
<td>“The transcript of Susan’s credible fear interview does not include this graphic incident. Regardless, it shows that Susan clearly stated that she was threatened and discriminated against, and that students wanted to kill her. ‘Because I am H.I.V.-positive,’ she said, ‘and because I am black.’ She said students feared she would ‘contaminate’ them.” (p. 5)</td>
</tr>
<tr>
<td>•</td>
<td>“[...] [T]he reality, according to Amnesty International and the U.S. State Department, is that people with H.I.V. [in Honduras] are routinely denied access to jobs, education and health services.” (p. 4)</td>
</tr>
<tr>
<td>•</td>
<td>“Sometimes I was walking down the street and some people would see me and say, ‘Here comes the one with SIDA,’” [Batiz] said, using the Spanish word for AIDS. ‘It’s very difficult situation to be there as an activist.’” (p. 4)</td>
</tr>
<tr>
<td>•</td>
<td>“[Batiz’s] descriptions are reminiscent of AIDS activists in the U.S. during the 1980s who were part of the protest movement Act Up. Ms. Batiz said this activity made her an easy target in Honduras. She was a black woman with H.I.V., protesting for better conditions, and living in a place where people are terrified of AIDS.” (p. 4)</td>
</tr>
</tbody>
</table>
“Ms. Batiz turned to a nongovernmental organization in Honduras that helps people with H.I.V. She became an H.I.V. educator. Soon, Ms. Batiz was working for the organization, attending protests to demand more medicine. One time, she said, police used tear gas and hoses on demonstrators.” (p. 3)

“When that changed, people with H.I.V. could also seek asylum in the U.S. if they were persecuted for it in their home country. Ms. Batiz and her daughters made a strong case that they were.” (p. 3)


“In spite of all this progress, only 42% of HIV positive individuals in Honduras are receiving anti-retroviral treatment (CONASIDA Plan Estratégico Nacional, 2014). 58% are not receiving even the baseline anti-retroviral treatment! Among people living with HIV in Honduras, only 39% had suppressed viral loads as of 2016 (UNAIDS – Honduras, 2018). While progress has been made in mother-to-child transmission, only 51% of HIV positive mothers receive the appropriate ARV treatment to reduce the risk of passing on HIV to their child (UNAIDS – Honduras, 2018).” (p. 5)

“The actual prevalence of HIV in Honduras could also be worse than what is reported. Only 12.6% of individuals between 15 and 49 have been tested for HIV and know their results (CONASIDA, 2014). Many HIV positive individuals do not know about HIV, are unsure how to get tested, or are afraid to get tested. Rural areas are extremely hard to document, census data is less reliable, and many hospitals still use handwritten documentation systems. All of these factors affect the reliability of our baseline statistics on HIV in Honduras.” (p. 5)

“Stigma surrounding HIV in Honduras has led to lower rates of testing, diagnosis, and follow-up care. There are many other barriers to HIV care in Honduras—many of which our children and their families face on a daily basis. Honduras has the second highest poverty rate in the Western Hemisphere behind Haiti, high rates of crime, and political instability. Vulnerable populations have much higher rates of HIV in Honduras, including men who have sex with men (prevalence of 11.9%), sex workers (prevalence of 5.3%), transgender people (prevalence of 11.9%), the Garifuna population, and minority communities (UNAIDS – Honduras, 2018).” (p. 6)
TAB 1
HONDURAS 2019 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Honduras is a constitutional, multiparty republic. The country last held national and local elections in November 2017. Voters elected Juan Orlando Hernandez of the National Party as president for a four-year term beginning January 2018. International observers generally recognized the elections as free but disputed the fairness and transparency of the results.

The Honduran National Police (HNP) maintain internal security and report to the Secretariat of Security. The armed forces, which report to the Secretariat of Defense, are responsible for external security but also exercise some domestic security responsibilities in a supporting role to the HNP and other civilian authorities. Some larger cities have police forces that operate independently of the HNP and report to municipal authorities. The Military Police of Public Order (PMOP) report to military authorities but conduct operations sanctioned by civilian security officials as well as by military leaders. The National Interinstitutional Security Force (FUSINA) coordinates the overlapping responsibilities of the HNP, PMOP, National Intelligence Directorate, Public Ministry, and national court system. Although FUSINA reports to the National Security and Defense Council, it did not have an effective command and control infrastructure. As a result, civilian authorities at times did not maintain effective control over the security forces.

Significant human rights issues included: unlawful or arbitrary killings, including extrajudicial killings; torture; harsh and life-threatening prison conditions; arbitrary arrest or detention; killings of and threats to media members by criminal elements; criminalization of libel, although no cases were reported; widespread government corruption; and threats and violence against indigenous, Afro-descendent communities, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government continued to prosecute and punish officials who committed abuses, but a weak judicial system and corruption were major obstacles to gaining convictions.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of homicide, torture, kidnapping, extortion, human trafficking, intimidation, and other
threats and violence directed against human rights defenders, judicial authorities, lawyers, the business community, journalists, bloggers, women, and members of vulnerable populations. The government investigated and prosecuted many of these crimes, particularly through the HNP’s Violent Crimes Task Force.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were several reports that the government or its agents committed arbitrary or unlawful killings. In general the killings took place during law enforcement operations or were linked to other criminal activity by government agents. Civilian authorities investigated and arrested members of the security forces accused of human rights abuses. Impunity, however, remained a serious problem, with significant delays in some prosecutions and sources alleging corruption in judicial proceedings.

The Public Ministry reported 307 arbitrary or unlawful killings by security forces during the year, of which 34 cases were dismissed, 103 resulted in convictions, 87 resulted in fines, and 83 were still under investigation at year’s end. The HNP’s Internal Affairs Directorate conducted internal investigations of HNP members in a continuation of the police purge begun in 2016.

On August 9, HNP sub inspector Omar Rolando Rodriguez Morazan, assigned to a police checkpoint in Pavana, Choluteca, was arrested in connection with the June 30 killing of Melvin Adolfo Bonilla in the village of La Vigilia, Moroceli. Bonilla was allegedly killed for working with authorities against the individuals who had killed his brother.

 Authorities continued to investigate the deaths of 22 protesters that occurred during civil unrest following the disputed 2017 elections. On March 24, the Public Ministry’s Agency for Technical Investigations (ATIC) executed an arrest warrant against PMOP soldier Denis Omar Caceres Ramirez for his alleged involvement in the death of postelection protester David Octavio Quiroz Urrutia in Progreso, Yoro, in 2017. Caceres’ arrest was the second arrest of a member of the security forces allegedly involved in killings of election protesters.

The government continued to pursue legal actions against individuals allegedly involved in the 2016 killing of environmental and indigenous activist Berta
Honduras. On December 2, a court handed down sentences ranging from 30 to 50 years’ imprisonment for seven defendants, who had been convicted in November 2018 of planning and carrying out the killing of Caceres and attempted killing of Gustavo Castro, a Mexican activist. The legal process against Roberto David Castillo Mejia, one of the alleged intellectual authors of the killing, was proceeding slowly, and Castillo remained incarcerated. His trial resumed on October 10. On September 12, an appeals court annulled the criminal proceedings against two former police officers, Carlos Cruz and Miguel Arcangel Rosa, who had been accused of falsifying evidence in favor of the defendants accused of killing Berta Caceres. The Public Ministry appealed that ruling on September 17.

There continued to be reports of violence related to land conflicts and criminal activity. Near a mining project in Tocoa, Colon Department, unknown gunmen killed Gerson Geovanny Leiva and Lucas Evangelista Bonilla in their homes. Both community leaders supported the mine operated by Los Pinares Investments, the company that managed mining operations.

Organized-criminal elements, including drug traffickers and local and transnational gangs including MS-13 and the 18th Street gang, committed killings, extortion, kidnappings, human trafficking, and intimidation of police, prosecutors, journalists, women, and human rights defenders. Major urban centers and drug trafficking routes experienced disproportionate rates of violence. The Violence Observatory of the Autonomous University of Honduras (UNAH) reported that as of June, 87 individuals working in the transportation sector, including taxi, bus, motorcycle taxi, and private company drivers, had been killed by criminal gangs.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

The government continued to make significant advances in combatting kidnappings by criminals. The HNP reported 11 kidnappings through October, a 40 percent decrease from the same period in 2018. The HNP secured the release of all 11 kidnapping victims, and investigations were underway in each case.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
Although the law prohibits such practices, government officials received complaints and investigated alleged abuse by members of the security forces on the streets and in detention centers.

The Public Ministry reported 23 cases of alleged torture by security forces through September. As of September, none of these cases had been prosecuted. The ministry also reported 16 cases of alleged cruel and inhuman treatment, of which 13 were being prosecuted at year’s end. The quasi-governmental National Committee for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment (CONAPREV) received 33 complaints of the use of excessive force by security forces against citizens.

Prison and Detention Center Conditions

Prison conditions were harsh and sometimes life threatening due to pervasive gang-related violence and the government’s failure to control criminal activity within the prisons. Prisoners suffered from overcrowding, insufficient access to food and water, violence, and alleged abuse by prison officials.

Physical Conditions: Prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation and medical care, and, in some prisons, lack of adequate ventilation and lighting. The Secretariat of Human Rights reported that, as of September, the total prison population was 21,629 in 27 prisons. According to the secretariat, the system had a designed capacity for approximately 10,600 inmates.

The National Prison Institute (INP) reported nine violent deaths. In October prison gang members shot, killed, and mutilated prisoner Nery Orlando Lopez Sanabria in the La Tolva maximum security prison.

As of September the Secretariat of Human Rights reported that the country’s three pretrial detention centers held 79 individuals. These three centers were on military installations and received some support services from the military, but the INP administered them. The government used pretrial detention centers to hold high-profile suspects and those in need of additional security. Long periods of pretrial detention remained common and problematic, with many other pretrial detainees held in the general population with convicted prisoners.

The government failed to control adequately pervasive gang-related violence and criminal activity within the prisons. Many prisons lacked sufficient security
personnel. Many prisoners had access to weapons and other contraband, inmates attacked other inmates with impunity, escapes were frequent, and inmates and their associates outside prison threatened prison officials and their families. These conditions contributed to an unstable, dangerous environment in the penitentiary system. Media reported prison riots and violent confrontations between gang members in prisons throughout the year.

Authorities did not generally segregate those with tuberculosis or other infectious diseases from the general prison population; as of September the INP reported 90 prisoners were being treated for tuberculosis. There was only limited support for persons with mental illnesses or disabilities. CONAPREV reported that every prison had a functioning health clinic with at least one medical professional, but basic medical supplies and medicines, particularly antibiotics, were in short supply throughout the prison system. In most prisons only inmates who purchased bottled water or had water filters in their cells had access to potable water.

**Administration:** As of August CONAPREV received 199 complaints of alleged use of excessive force against prisoners. As of December no information was available from the government on whether authorities investigated these complaints. Media reports noted that family members often faced long delays or were unable to visit detainees.

**Independent Monitoring:** The government generally permitted prison visits by independent local and international human rights observers, including the International Committee of the Red Cross. CONAPREV conducted more than 60 visits to adult prisons as of the end of August. The judicial system was legally responsible for monitoring prison conditions and providing for the rights of prisoners.

**Improvements:** Through August, CONAPREV trained 890 technical, administrative, and security personnel on topics including first aid and appropriate use of force.

**d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The Inter-American Commission on Human Rights (IACHR) reported that authorities at times failed to enforce these requirements effectively.
Arrest Procedures and Treatment of Detainees

The law provides that police may make arrests only with a warrant unless they make the arrest during the commission of a crime, there is strong suspicion that a person has committed a crime and might otherwise evade criminal prosecution, they catch a person in possession of evidence related to a crime, or a prosecutor has ordered the arrest after obtaining a warrant. The law requires police to inform persons of the grounds for their arrest and bring detainees before a competent judicial authority within 24 hours. It stipulates that a prosecutor has 24 additional hours to decide if there is probable cause for indictment, whereupon a judge has 24 more hours to decide whether to issue a temporary detention order. Such an order may be effective for up to six days, after which the judge must hold a pretrial hearing to examine whether there is probable cause to continue pretrial detention. The law allows persons charged with some felonies to avail themselves of bail and gives prisoners the right of prompt access to family members. The law allows the release of other suspects pending formal charges, on the condition that they periodically report to authorities, although management of this reporting mechanism was often weak. The government generally respected these provisions. Persons suspected of any of 22 specific felonies must remain in custody, pending the conclusion of judicial proceedings against them. Some judges, however, ruled that such suspects may be released on the condition that they continue to report periodically to authorities. The law grants prisoners the right to prompt access to a lawyer of their choice and, if indigent, to government-provided counsel, although the public defender mechanism was weak, and authorities did not always abide by these requirements.

Arbitrary Arrest: The Public Ministry reported 19 cases of alleged illegal detention or arbitrary arrest as of September, and the National Human Rights Commission of Honduras (CONADEH) reported 80 cases of arbitrary or illegal arrests by security forces.

Pretrial Detention: Judicial inefficiency, corruption, and insufficient resources delayed proceedings in the criminal justice system, and lengthy pretrial detention was a serious problem. For crimes with minimum sentences of six years’ imprisonment, the law authorizes pretrial detention of up to two years. The prosecution may request an additional six-month extension, but many detainees remained in pretrial detention much longer, including for more time than the maximum period of incarceration for their alleged crime. The law does not authorize pretrial detention for crimes with a maximum sentence of five years or less. The law mandates that authorities release detainees whose cases have not yet
come to trial and whose time in pretrial detention already exceeds the maximum prison sentence for their alleged crime. Even so, many prisoners remained in custody after completing their full sentences, and sometimes even after an acquittal, because officials failed to process their releases expeditiously.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but the justice system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to intimidation, corruption, politicization, and patronage. Low salaries and a lack of internal controls rendered judicial officials susceptible to bribery, although the Supreme Court did significantly raise salaries during the year and was making improvements in transparency. Powerful special interests, including organized criminal groups, exercised influence on the outcomes of some court proceedings.

Trial Procedures

The law provides for the right to a fair and public trial; however, the judiciary did not always enforce this right.

The law presumes an accused person is innocent. The accused has the right to an initial hearing before a judge, to ask for bail, consult with legal counsel in a timely manner, have a lawyer provided by the state if necessary, and request an appeal. Defendants may receive free assistance of an interpreter. The law permits defendants to confront witnesses against them and offer witnesses and evidence in their defense. Defendants may not be compelled to testify or confess guilt. Authorities generally respected these rights.

Credible observers, including Peace Brigades International, noted problems in trial procedures, such as a lack of admissible evidence, judicial corruption, widespread public distrust of the legal system, witness intimidation, and an ineffective witness protection program.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies
The law establishes an independent and impartial judiciary in civil matters, including access to a court to seek damages for human rights violations. Litigants may sue a criminal defendant for damages if authorized by a criminal court. Individuals and organizations may appeal adverse domestic decisions to the Inter-American Human Rights System.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

Although the law generally prohibits such actions, a legal exception allows government authorities to enter a private residence to prevent a crime or in case of another emergency. There were credible complaints that police occasionally failed to obtain the required authorization before entering private homes.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, with some restrictions, and the government generally respected this right. A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the major news media.

Freedom of Expression: The law includes a provision to punish persons who directly or through public media incite discrimination, contempt, repression, or violence against a person, group, or organization for reasons of gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity.

Violence and Harassment: There were continued reports of harassment and threats against journalists, media figures, and bloggers. On March 17, a gunman shot and killed journalist Gabriel Hernandez in Nacome, Valle Department. Hernandez directed the television program The People Speak, where he discussed social issues and local politics. As of December the Secretariat of Human Rights had no information regarding an investigation or arrest in the case. In June a court found 12 members of the 18th Street gang guilty for their connections to the 2017 murder of Igor Padilla, a television journalist with the network HCH.
Government officials at all levels publicly denounced violence and threats of violence against media members and social communicators. It was usually unclear whether violence and threats against journalists were linked to their work or were products of generalized violence.

The government allocated a budget of nearly 25 million lempiras (one million dollars) for the continued operation of a protection mechanism that included provision of protection to journalists. By August it had provided protection to 39 journalists, among other types of activists and human rights defenders. Some nongovernmental organizations (NGOs) continued to express concern about weak implementation of the law and limited resources available to operate the government’s protection mechanism. Civil society organizations continued to criticize the government’s failure to investigate threats adequately.

The HNP’s Violent Crimes Task Force investigated crimes against high-profile and particularly vulnerable victims, including journalists (as well as judges, human rights activists, and members of the LGBTI community). As of September the task force had submitted 17 cases to the Public Ministry, arrested 24 persons, and obtained four convictions.

Censorship or Content Restrictions: Media members and NGOs stated the press self-censored due to fear of retaliation from organized crime or corrupt government officials.

Libel/Slander Laws: Citizens, including public officials, may initiate criminal proceedings for libel and slander. No cases were reported during the year.

Nongovernmental Impact: Some journalists and other members of civil society reported threats from members of organized crime. It was unclear how many of these threats were related to the victims’ professions or activism. Several anonymous social media sites, possibly linked to political parties, criticized journalists (as well as activists and civil society organizations) who were critical of the government or opposition party policies.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, but in contrast with 2018, there were no credible reports that the government monitored private online communications without appropriate legal authority.
Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

Freedom of Peaceful Assembly

The law provides for freedom of peaceful assembly, and the government generally respected this right. The law requires a judge to issue an eviction order for individuals occupying public and private property if security forces have not evicted the individuals within a specified period of the occupation. Some local and international civil society organizations, including students, agricultural workers groups, political parties, and indigenous rights groups, alleged that members of the security forces used excessive force to break up demonstrations. The IACHR reported that the government at times used a policy of arbitrary detentions or arrests to inhibit protest.

On June 19, a soldier allegedly killed Eblin Noel Corea Maradiaga, a 17-year-old student, in Yarumela, La Paz, where a road had been blocked during a protest earlier that day. On September 19, the Office of the Special Prosecutor for Crimes against Life and ATIC arrested Adan Garcia Banegas, a member of the armed forces, for his alleged role in Maradiaga’s death. The Secretariat of Defense’s Human Rights Division worked with the Attorney General’s Office to investigate the June 19 incident, which occurred in the context of widespread unrest in the country.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right. The law prohibits illicit association, defined as gatherings by persons bearing arms, explosive devices, or dangerous objects with the purpose of committing a crime, and prescribes prison terms of two to four years and a fine of 30,000 to 60,000 lempiras ($1,200 to $2,400) for anyone who convokes or directs an illicit meeting or demonstration. There were no reports of such cases during the year, although authorities charged some protesters with sedition. Public-sector
unions expressed concern over some officials refusing to honor bargaining agreements and firing union leaders. The law prohibits police from unionizing (see section 7.a.).

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at https://www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

In-country Movement: There were areas where authorities could not assure freedom of movement because of criminal activity and a lack of significant government presence.

e. Internally Displaced Persons

In 2018 the Internal Displacement Monitoring Center estimated there were approximately 191,000 internally displaced persons (IDPs) in the country. Internal displacement was generally caused by violence, national and transnational gang activity, and human trafficking. Official data on forced internal displacement was limited in part because gangs controlled many of the neighborhoods that were sources of internal displacement (see section 6, Displaced Children).

The government maintained the Interinstitutional Commission for the Protection of People Displaced by Violence and created the Directorate for the Protection of Persons Internally Displaced by Violence within the Secretariat of Human Rights. Both the ministry and the commission focused on developing policies to address IDPs. Under the Regional Integral Framework for Protection and Solutions, the government continued to strengthen its capacity to provide services to key population groups, including refugees and returned migrants, through 14 commitments and 28 specific actions between 2018 and 2020. As of November 14, the government had implemented 15 of the 28 actions to promote the safe, voluntary, dignified return, resettlement, or local integration of IDPs.

f. Protection of Refugees
Abuse of Migrants, Refugees, and Stateless Persons: Transiting migrants were vulnerable to abuse by criminal organizations. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations to provide protection and assistance to refugees and other persons of concern.

Access to Asylum: The law provides for the granting of asylum or refugee status. The government has a nascent system to provide protection to refugees, the effectiveness of which had not been fully proven by year’s end, but at times there were delays in processing provisional permits for asylum applicants.

g. Stateless Persons

Not Applicable.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the right to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage. The law does not permit active members of the military or civilian security forces to vote. The constitution prohibits practicing clergy from running for office or participating in political campaigns.

Elections and Political Participation

Recent Elections: In December 2017 Juan Orlando Hernandez of the National Party was declared the winner in the November elections. International observers generally agreed the elections were free but disputed the fairness and transparency of the results. The Organization of American States (OAS) and EU observer teams agreed that the margin of victory separating incumbent president Hernandez from challenger Salvador Nasralla was extremely narrow. The OAS mission found that the 1.5 percent margin of victory, combined with numerous irregularities in vote processing, left it unable to state with certainty who won the presidential election. The EU mission agreed there were serious irregularities in the process but concluded that safeguards built into the system, including posting of voting results forms on a public website, helped promote transparency. NGOs reported irregularities, including problems with voter rolls, buying and selling of electoral workers’ credentials, and lack of transparency in campaign financing.
Political Parties and Political Participation: Civil society and opposition parties accused officials of using government resources to attract voters.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate. Women, however, suffered political violence, which ranged from harassment for voting against party lines to receiving death threats for their political participation. Women held 22 percent of seats in the National Congress, and fewer women participated in regional and local politics.

Section 4. Corruption and Lack of Transparency in Government

The law provides for criminal penalties for corruption by officials, but authorities did not implement the law effectively, and officials continued to engage in corrupt practices with impunity. There were numerous reports of government corruption during the year. The government took steps to address corruption at high levels in government agencies, including arresting and charging members of congress, judges, prosecutors, sitting and former senior officials, mayors and other local authorities, and police officers. Anticorruption efforts continued to lag and remained an area of concern, as well as the government’s ability to protect justice operators, such as prosecutors and judges.

In 2016 the OAS Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) began collaborating with the judiciary, the Public Ministry, and other institutions to prevent and investigate acts of corruption. Prompted by MACCIH’s work, the Public Ministry created an anticorruption unit (UFECIC) that undertook cases for investigation, including 13 major cases in conjunction with MACCIH. MACCIH assisted the Supreme Court with the establishment of an anticorruption court with national jurisdiction.

Corruption: As of October UFECIC, in collaboration with MACCIH, had presented 13 case investigations, including against former first lady Rosa Elena Bonilla de Lobo, spouse of former president Porfirio Lobo, which resulted in her conviction in August on fraud and misappropriation of public funds and a sentence of 58 years in prison. Several cases involved accusations against members of congress, such as the fe de erratas (erratum) case against two members of congress accused of altering legislation and the Network of Congresspersons case, in which five officials were accused of diverting public funds. In March, UFECIC presented two cases to the anticorruption court related to hydroelectric projects, Patuca III Collusion and Corruption and Fraud in el Gualcarque. The latter was
based on multiple reports of irregularities in hydroelectric projects managed by the company DESA, presented by the deceased environmental defender Berta Cáceres and involving David Castillo, accused of being one of the alleged intellectual authors in Cáceres’ killing. In May UFECIC presented a case referred to as Narcopolitics, which accused 12 citizens of being part of a money-laundering scheme that moved funds from international drug trafficking through large-scale public works projects contracted by the government, most of which were never carried out. The son of former president Porfirio Lobo Sosa, who was serving a prison sentence in the United States, was named in this case.

During the year the National Anticorruption Council (CNA) presented eight high-profile cases to the Public Ministry, citing several public administration and elected officials and relatives of former presidents. In February the CNA presented a case against former president Lobo and former Central Bank president Wilfredo Cerrato for violation of the duties of public servants and embezzlement of public funds. Following the announcements of these cases, the CNA reported being the target of harassment campaigns and threats.

Financial Disclosure: Public officials are subject to a financial disclosure law but did not always comply. The law mandates that the Supreme Auditing Tribunal monitor and verify disclosures. The tribunal published its reports on its website and cited the names of public officials who did not comply with the disclosure law.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but some human rights organizations criticized government officials for lack of access and responsiveness.

The United Nations or Other International Bodies: Some civil society organizations criticized the government for failing to comply with, or inadequately complying with, recommendations by the Inter-American Commission of Human Rights and protection measures ordered by the government and recommended by the IACHR.

Government Human Rights Bodies: A semiautonomous commissioner for human rights served as an ombudsman and investigated complaints of human rights
abuses. With offices throughout the country, the ombudsman received cases that otherwise may not have risen to national attention. The Secretariat of Human Rights served as an effective advocate for human rights within the government. The Public Ministry’s Office of the Special Prosecutor for Human Rights handled cases involving charges of human rights abuses by government officials. In 2018 the Public Ministry also created the Special Prosecutor’s Office for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials. There is also a Human Rights Committee in the National Congress. The Ministries of Security and Defense both have human rights offices that investigated alleged human rights abuses and coordinated human rights-related activities with the Secretariat of Human Rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes all forms of rape of men or women, including spousal rape. The government considers rape a crime of public concern, and the state prosecutes rapists even if victims do not press charges. The penalties for rape range from three to nine years’ imprisonment, and the courts enforced these penalties.

According to UNAH Violence Observatory statistics, killings of women decreased from 9.1 deaths per 100,000 in 2016 to 8.2 per 100,000 in 2018, and to 7.9 per 100,000 as of June. Women in domestic situations were the most vulnerable group, accounting for approximately 40 percent of these deaths.

The law criminalizes domestic violence and provides penalties of up to four years in prison for domestic violence. If a victim’s physical injuries do not reach the severity required to categorize the violence as a criminal act, the legal penalty for a first offense is a sentence of one to three months of community service. Female victims of domestic violence are entitled to certain protective measures. Abusers caught in the act may be detained for up to 24 hours as a preventive measure. The law provides a maximum sentence of three years in prison for disobeying a restraining order connected with the crime of intrafamilial violence.

The law was not effectively enforced, and weak public institutional structures contributed to the inadequate enforcement of the law. Due to impunity rates of up to 90 percent in the courts, women often did not report the crime, or withdrew the case, because they feared or were economically dependent on the aggressor.
addition, women experienced delays in accessing justice due to police who failed to process complaints in a timely manner or judicial system officials who deferred scheduling hearings. Institutions such as the judiciary, the Public Ministry, the National Police, and the Secretariat of Health attempted to enhance their response to domestic violence, but obstacles included insufficient political will, inadequate budgets, limited or no services in rural areas, absence of or inadequate training and awareness of domestic violence among police and other authorities, and a pattern of male-dominant culture and norms. Additionally, the National Institute for Women lost authority and power to advocate for female victims when it was folded into the Sectorial Cabinet of Inclusion and Social Development. NGOs, human rights organizations, and universities offered alternative legal services, care, and support but were limited by budget and size.

In cooperation with the UN Development Program, the government operated consolidated reporting centers in Tegucigalpa and San Pedro Sula where women could report crimes, seek medical and psychological attention, and receive other services. These reporting centers were in addition to the 298 government-operated women’s offices--one in each municipality--that provided a wide array of services to women, focusing on education, personal finance, health, social and political participation, environmental stewardship, and prevention of gender-based violence.

**Sexual Harassment:** The law criminalizes various forms of sexual harassment. Violators face penalties of one to three years in prison and possible suspension of their professional licenses, but the government did not effectively enforce the law.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization.

**Discrimination:** Although the law accords women and men the same legal rights and status, including property rights in divorce cases, many women did not fully enjoy such rights. Most women in the workforce engaged in lower-status and lower-paying informal occupations, such as domestic service, without the benefit of legal protections. By law women have equal access to educational opportunities.

**Children**

**Birth Registration:** Children derive citizenship by birth in the country, from the citizenship of their parents, or by naturalization.
Child Abuse: Child abuse remained a serious problem. The law establishes prison sentences of up to three years for child abuse. As of July 30, the Violence Observatory reported killings of 264 persons younger than 23.

Early and Forced Marriage: The minimum legal age of marriage for both boys and girls is 18. According to UNICEF, 8 percent of children were married before age 15 and 34 percent before age 18.

Sexual Exploitation of Children: The commercial sexual exploitation of children, especially in sex trafficking, continued to be a problem. The country was a destination for child sex tourism. The legal age of consent is 18. There is no statutory rape law, but the penalty for rape of a minor younger than 12 is 15 to 20 years in prison, or nine to 13 years in prison if the victim is 13 or older. Penalties for facilitating child sex trafficking are 10 to 15 years in prison, with fines ranging from one million to 2.5 million lempiras ($40,000 to $100,000). The law prohibits the use of children younger than 18 for exhibitions or performances of a sexual nature or in the production of pornography.

Displaced Children: Civil society organizations reported that common causes of forced displacement for youth included death threats for failure to pay extortion, attempted recruitment by gangs, witnessing criminal activity by gangs or organized crime, domestic violence, attempted kidnappings, family members’ involvement in drug dealing, victimization by traffickers, discrimination based on sexual orientation, sexual harassment, and discrimination for having a chronic illness.


Anti-Semitism

The Jewish community numbered more than 250 members. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at https://www.state.gov/trafficking-in-persons-report/.
Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The Public Ministry is responsible for prosecuting violations. The law requires that persons with disabilities have access to buildings, but few buildings were accessible, and the national government did not effectively implement laws or programs to provide such access.

The government has an Office for People with Disabilities located within the Ministry of Development and Social Inclusion, but its ability to provide services to persons with disabilities was limited. Mental health professionals expressed concern about social stigma by families and communities against persons with mental disabilities and a lack of access to mental health care throughout the country.

Indigenous People

In the 2013 census, approximately 8.5 percent of the population identified themselves as members of indigenous communities, but other estimates were higher. Indigenous groups included the Miskito, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortís, Nahual, Bay Islanders, and Garifunas. They had limited representation in the national government and consequently little direct input into decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Indigenous communities continued to report threats and acts of violence against them and against community and environmental activists. Violence was often rooted in a broader context of conflict over land and natural resources, extensive corruption, lack of transparency and community consultation, other criminal activity, and limited state ability to protect the rights of vulnerable communities.

Ethnic minority rights leaders, international NGOs, and farmworker organizations continued to claim that the government failed to redress actions taken by security forces, government agencies, and private individuals and businesses to dislodge farmers and indigenous persons from lands over which they claimed ownership based on land reform law or ancestral land titles.

Persons from indigenous and Afro-descendent communities continued to experience discrimination in employment, education, housing, and health services.
An IACHR report noted there were insufficient hospital beds and inadequate supplies at the only hospital that services Gracias a Dios Department, home to the majority of the Miskito community. On September 8, Garifuna leader Mirna Suazo was shot and killed by two assailants on a motorcycle. Three other Garifuna women also were killed within three days of Suazo’s killing. The government was investigating these crimes and had arrested suspects as of November.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law states that sexual orientation and gender identity characteristics merit special protection from discrimination and includes these characteristics in a hate crimes amendment to the penal code. Nevertheless, social discrimination against LGBTI persons persisted, as did physical violence. Local media and LGBTI human rights NGOs reported an increase in the number of killings of LGBTI persons during the year. Impunity for such crimes was a problem, as was the impunity rate for all types of crime. According to the Violence Observatory, of the 317 cases since 2009 of hate crimes and violence against members of the LGBTI population, 92 percent had gone unpunished.

CONADEH reported 16 hate crimes against transgender women through September. In June, three LGBTI individuals were killed, and four LGBTI persons were killed during one weekend in July. One of the victims, a young transgender woman known as Shakira or “La Moy,” was violently killed in the department of Cortes. The government responded to the multiple LGBTI murders with social media messages condemning the violence against the LGBTI community. The HNP was investigating these crimes and had arrested multiple suspects as of November.

LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices. Transgender women were particularly vulnerable to employment and education discrimination; many could find employment only as sex workers, substantially increasing their risk of violence. Transgender individuals noted their inability to update identity documents to reflect their gender identity. In September a lesbian student in Tegucigalpa was suspended from school for eight days and forced to attend a private graduation after classmates found photographs on a social media platform of her kissing another young woman.

**HIV and AIDS Social Stigma**
Persons with HIV and AIDS continued to be targets of discrimination. According to NGO Association for a Better Life, there were reports of forced sterilization of women with HIV, and they suffered disproportionately from gender-based violence. The Ministry of Human Rights reported a study that found that six of 10 persons believed that women with HIV had no right to become pregnant. A study conducted on stigma and discrimination associated with HIV found that 13 percent of citizens believed that anyone has the right to assault a person for identifying as transgender, an increase of 4 percent between 2016 and 2019.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law grants workers the right to form and join unions of their choice, bargain collectively, and strike. It prohibits employer retribution against employees for engaging in trade union activities. The law places restrictions on these rights, such as requiring that a recognized trade union represent at least 30 workers, prohibiting foreign nationals from holding union offices, and requiring that union officials work in the same substantive area of the business as the workers they represent. Through August, eight new unions had been formed. The law prohibits members of the armed forces and police, as well as certain other public employees, from forming labor unions.

The law requires an employer to begin collective bargaining once workers establish a union, and it specifies that if more than one union exists at a company the employer must negotiate with the largest.

The law allows only local unions to call strikes, prohibits labor federations and confederations from calling strikes, and requires that a two-thirds majority of both union and nonunion employees at an enterprise approve a strike. The law prohibits workers from legally striking until after they have attempted and failed to come to agreement with their employer, and it requires workers and employers to participate in a mediation and conciliation process. In addition, the law prohibits strikes in a wide range of economic activities that the government has designated as essential services or that it considers would affect the rights of individuals in the larger community to security, health, education, and economic and social well-being.
The law permits workers in public health care, social security, staple food production, and public utilities (municipal sanitation, water, electricity, and telecommunications) to strike as long as they continue to provide basic services. The law also requires that public-sector workers involved in the refining, transportation, and distribution of petroleum products submit their grievances to the Secretariat of Labor and Social Security (STSS) before striking. The law permits strikes by workers in export-processing zones and free zones for companies that provide services to industrial parks, but it requires that strikes not impede the operations of other factories in such parks. The STSS has the power to declare a work stoppage illegal, and employers may discipline employees consistent with their internal regulations, including by firing strikers, if the STSS rules that a work stoppage is illegal.

The government did not effectively enforce the law. Nearly two years after passage of a comprehensive labor inspection law in 2017, the STSS released implementing regulations based on extensive consultations with the private sector and unions. Employers frequently refused to comply with STSS orders that required them to reinstate workers who had been dismissed for participating in union activities. By law the STSS may fine companies that violate the right to freedom of association. The law permits fines, and while the monetary penalty is sufficient to deter violations, the failure of the government to collect those fines facilitated continued labor code violations. Through August the STSS administered fines of more than 17.6 million lempiras ($704,000). Despite administering fines, through September 30, the government had not collected a fine originating from a labor violation. Both the STSS and the courts may order a company to reinstate workers, but the STSS lacked the means to verify compliance. While there were cases where a worker was reinstated, such as the reinstatement of a union leader in Tegucigalpa following his unlawful dismissal, the reinstatement process in the courts was unduly long, lasting from six months to more than five years.

Workers had difficulty exercising the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively. Public-sector trade unionists raised concerns about government interference in trade union activities, including its suspension or ignoring of collective agreements and its dismissals of union members and leaders.

Some employers either refused to engage in collective bargaining or made it very difficult to do so. Some companies also delayed appointing or failed to appoint representatives for required STSS-led mediation, a practice that prolonged the
mediation process and impeded the right to strike. There were allegations that companies used collective pacts, which are collective contracts with nonunionized workers, to prevent unionization and collective bargaining because only one collective contract can exist in each workplace. Unions also raised concerns about the use of temporary contracts and part-time employment, suggesting that employers used these mechanisms to prevent unionization and avoid providing full benefits. A Supreme Court ruling requires that both unions and employers notify the STSS of new collective agreements before they go into effect.

Antiunion discrimination continued to be a serious problem. The three major union federations and several civil society groups noted that many companies continued to violate the law despite being fined by government authorities for violations of the labor code. Some failed to remedy violations despite multiple visits by STSS inspectors. Local unions, the AFL-CIO’s Solidarity Center, and other organizations reported that some employers harassed union leaders in attempts to undermine union operations.

The Solidarity Center reported threats against several labor leaders, including a public-sector labor union leader. The Antiunion Violence Network reported more than 50 cases of antiunion violence, including the killing of a trade unionist during protests by the education and health sectors.

Labor activists alleged that automotive component producer Honduras Electrical Distribution Systems (Kyungshin Lear) refused to engage in collective bargaining. Some companies in other sectors, including the melon and palm industries, established employer-controlled unions that prevented the formation of independent unions because of legal restrictions on the number of unions and collective bargaining agreements allowed per company.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced labor, but the government did not effectively implement or enforce these laws. Administrative penalties were insufficient to deter violations and were rarely enforced. Penalties for forced labor under antitrafficking law range from 10 to 15 years’ imprisonment, but authorities often did not enforce them.

Forced labor occurred in street vending, domestic service, the transport of drugs and other illicit goods, and other criminal activity. Victims were primarily impoverished individuals in both rural and urban areas (see section 7.c.). The law
requiring prisoners to work at least five hours a day, six days a week took effect in 2016. Regulations for implementing the law were still under development as of September. The Secretariat of Human Rights stated it was taking every precaution to protect prisoners’ rights and assure that the work provided opportunities for prisoners to develop skills they could use in legal economic activities after their release.

Also see the Department of State’s * Trafficking in Persons Report* at https://www.state.gov/trafficking-in-persons-report/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all of the worst forms of child labor. The law regulates child labor, sets the minimum age for employment at 14, and regulates the hours and types of work that minors younger than 18 may perform. By law all minors between the ages of 14 and 18 in most industries must receive special permission from the STSS to work, and the STSS must perform a home study to verify that there is an economic need for the child to work and that the child not work outside the country or in hazardous conditions, including in offshore fishing. The STSS approved 91 such authorizations through September. The vast majority of children who worked did so without STSS permits. If the STSS grants permission, children between 14 and 16 may work a maximum of four hours a day, and those between 16 and 18 may work up to six hours a day. The law prohibits night work and overtime for minors younger than 18, but the STSS may grant special permission for minors between the ages of 16 to 18 to work in the evening if such employment does not adversely affect their education.

The law requires individuals and companies that employ more than 20 school-age children at their facilities to provide a location for a school.

The government did not effectively enforce the law. Fines for child labor were not sufficient to deter violations. The law also imposes prison sentences of three to five years for child labor violations that endanger the life or morality of a child. The STSS completed 74 inspections and 19 verification inspections as of September and sanctioned two companies for not correcting noncompliant child labor practices.

Estimates of the number of children younger than 18 in the country’s workforce ranged from 370,000 to 510,000. Children often worked on melon, coffee, okra, and sugarcane plantations as well as in other agricultural production; scavenged at
garbage dumps; worked in the forestry, hunting, and fishing sectors; worked as domestic servants; peddled goods such as fruit; begged; washed cars; hauled goods; and labored in limestone quarrying and lime production. Most child labor occurred in rural areas. Children often worked alongside family members in agriculture and other work, such as fishing, construction, transportation, and small businesses. Some of the worst forms of child labor occurred, including commercial sexual exploitation of children, and NGOs reported that gangs often forced children to commit crimes, including homicide (see section 6, Children).

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings and the Department of Labor’s List of Goods Produced by Child Labor or Forced Labor at https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity. Penalties include prison sentences of up to five years and monetary fines. The law prohibits employers from requiring pregnancy tests as a prerequisite for employment; penalties were not sufficient to deter violations. The government did not effectively enforce these laws and regulations.

Many employers discriminated against women. Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation (see section 6).

e. Acceptable Conditions of Work

There are 42 categories of monthly minimum wages, based on the industry and the size of a company’s workforce; the minimum average is above the poverty line. The law does not cover domestic workers.

The law applies equally to citizens and foreigners, regardless of gender, and prescribes a maximum eight-hour shift per day for most workers, a 44-hour workweek, and at least one 24-hour rest period for every six days of work. It also provides for paid national holidays and annual leave. The law requires overtime
pay, bans excessive compulsory overtime, limits overtime to four hours a day for a maximum workday of 12 hours, and prohibits the practice of requiring workers to complete work quotas before leaving their place of employment. The law does not protect domestic workers effectively. In many industries, including agriculture, cleaning, and security, employers did not respect maternity rights or pay minimum wage, overtime, or vacation. In these sectors employers frequently paid workers for the standard 44-hour workweek no matter how many additional hours they worked. In the agricultural sector, companies frequently paid less than minimum wage to most workers, with less than 1 percent of agricultural workers receiving the minimum wage. In security and domestic service sectors, workers were frequently forced to work more than 60 hours per week but paid only for 44 hours. Through August the STSS recovered 761 million lempiras ($30 million) in overtime payments for 139,135 workers.

Occupational safety and health standards were current but not effectively enforced. By law workers may remove themselves from situations that endanger their health or safety without jeopardizing continued employment. Under the new inspection law, the STSS has the authority temporarily to shut down workplaces where there is an imminent danger of fatalities. There were not enough trained inspectors, however, to deter violations sufficiently.

The STSS is responsible for enforcing the national minimum wage, hours of work, and occupational health and safety laws, but it did so inconsistently and ineffectively. Civil society continued to raise issues of minimum wage violations, highlighting agricultural companies in the south as frequent violators. The 2017 inspection law permits fines, and while the monetary penalty is sufficient to deter violations, the failure of the government to collect those fines facilitated continued labor code violations. As part of the monitoring and action plan agreed between Honduras and a foreign government, the government increased the STSS budget to approximately 79.4 million lempiras (three million dollars). As of September inspectors conducted 14,039 total inspections, including 1,345 unannounced inspections. As of November the STSS had an insufficient number of inspectors to enforce the law effectively.

The STSS reported a significant reduction in company obstruction of labor inspectors, with 226 cases through September. Because labor inspectors continued to be concentrated in Tegucigalpa and San Pedro Sula, full labor inspections and follow-up visits to confirm compliance were far less frequent in other parts of the country. Many inspectors asked workers to provide them with transportation so that they could conduct inspections, since the STSS did not have sufficient
resources to pay for travel to worksites. Credible allegations of corruption in the Secretariat of Labor continued.

Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agricultural sectors, as well as in the informal economy. Employers rarely paid the minimum wage in the agricultural sector and paid it inconsistently in other sectors. Employers frequently penalized agricultural workers for taking legally authorized days off.

While all formal workers are entitled to social security, there were reports that both public- and private-sector employers failed to pay into the social security system. The STSS may levy a fine against companies that fail to pay social security obligations, but the amount was not sufficient to deter violations.

There continued to be reports of violations of occupational health and safety law affecting the approximately 5,000 persons who made a living by diving for seafood such as lobster, conch, and sea cucumber, most from the Miskito indigenous community and other ethnic minority groups in Gracias a Dios Department. The violations included lack of access to appropriate safety equipment. Through September the STSS inspected 15 fishing boats.
TAB 2
EXECUTIVE SUMMARY

Honduras is a constitutional, multiparty republic. The country last held national and local elections in November 2017. Voters elected Juan Orlando Hernandez of the National Party as president for a four-year term beginning January 2018. International observers generally recognized the elections as free but disputed the fairness and transparency of the results.

Civilian authorities at times did not maintain effective control over the security forces.

Human rights issues included reports of arbitrary and unlawful killings; complaints of torture; harsh and life-threatening prison conditions; arbitrary arrest or detention; killings of and threats to media members by criminal elements; criminalization of libel, although no cases were reported; widespread government corruption; and threats and violence against indigenous, Afro-descendent communities and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government took steps to prosecute and punish officials who committed abuses. Impunity existed in many cases, however, as evidenced by lengthy judicial processes, few convictions of perpetrators, and failures to prosecute intellectual authors of crimes.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of homicide, extortion, kidnapping, torture, human trafficking, intimidation, and other threats and violence directed against human rights defenders, judicial authorities, lawyers, the business community, journalists, bloggers, women, and members of vulnerable populations.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were several reports that the government or its agents committed arbitrary or unlawful killings. In general the killings took place during law enforcement
operations or were linked to other criminal activity by government agents. Civilian authorities investigated and arrested members of the security forces accused of human rights abuses. Impunity, however, remained a serious problem, with significant delays in some prosecutions and sources alleging corruption in judicial proceedings. The Violence Observatory of the Autonomous University of Honduras (UNAH) reported 16 deaths involving security forces during the first six months of the year. These included eight deaths involving the Honduran National Police (HNP) and eight involving the military.

On September 6, 2nd Lieutenant Chemis Xavier Paz Cruz, assigned to the 5th Battalion of the Military Police for Public Order (PMOP), was convicted of the 2016 murder of Elias Jireh Elver during a patrol in Tegucigalpa. Paz’s sentencing was pending at year’s end.

Following months of investigations into postelection violence, the HNP and the Public Ministry’s Technical Agency for Criminal Investigations (ATIC) concluded 22 investigations into alleged human rights violations by members of both the HNP and PMOP and passed the cases to the Public Ministry for possible prosecution. The Public Ministry launched 17 cases related to abuse of authority in August, noting that more cases would be forthcoming. On September 18, the Public Ministry announced the first case against an HNP officer for the death of a protester.

The government continued to investigate the 2016 killing of environmental and indigenous activist Berta Caceres. On March 2, the Public Ministry’s ATIC arrested a ninth suspect, Roberto David Castillo Mejia, the former president of the company building the Agua Zarca dam, which Caceres had long opposed. Throughout the year both the Caceres family private attorneys and the defense team complained the Public Ministry restricted access to evidence. Both legal parties asserted their right to review additional evidence that investigators had collected but not analyzed, including electronics such as laptops, cell phones, memory sticks, and tablets. On August 24, the three-judge tribunal ordered the Public Ministry to grant the prosecution and defense access to the requested evidence. The oral hearings for the first eight individuals accused of planning and executing the murder of Berta Caceres, scheduled to begin on September 17, were delayed due to legal motions filed by the Caceres family’s attorneys that called for removal of the three presiding judges. An appellate court denied the motion to dismiss the judges, and oral hearings began on October 20. On November 29, the court convicted seven of the eight defendants of murder and fully acquitted the eighth. The defendants were expected to appeal the verdict.
There continued to be reports of violence related to land conflicts and criminal activity in the Bajo Aguan region, but the overall level of violence in the area was far below its 2012 peak. On September 7, collaboration among the government’s Bajo Aguan Task Force, INTERPOL, and Mexican law enforcement authorities resulted in the arrest and extradition from Mexico to Honduras of Osvin Naun Caballero Santamaria. Caballero was a suspect in several crimes, including the 2016 killings of Jose Angel Flores and Silmer Dionisio George, two leaders of the Unified Peasant Movement of the Bajo Aguan (known as MUCA).

Organized criminal elements, including drug traffickers and local and transnational gangs such as MS-13 and the 18th Street gang, committed killings, extortion, kidnappings, human trafficking, and intimidation of police, prosecutors, journalists, women, and human rights defenders. Major urban centers and drug trafficking routes experienced disproportionate rates of violence. The UNAH Violence Observatory reported that as of June, 82 individuals working in the transportation sector had been killed, including 49 taxi, bus, and motorcycle taxi drivers and 33 private company drivers.

On September 5, the HNP reported a national homicide rate of 39.6 per 100,000 inhabitants for the months of January to August. The UNAH Violence Observatory projected a final homicide rate of approximately 40 per 100,000 inhabitants through year’s end. Reports linked many of these homicides to organized crime and gangs.

**b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

The government continued to make significant advances in combatting kidnappings by criminals. In July the HNP rescued a nine-year-old child within 72 hours of his abduction in El Negrito, Yoro Department. The HNP reported 15 kidnappings through August, a 35 percent decrease from the same period in 2017. The HNP reported it rescued 11 of the 15 kidnap victims. The HNP recovered an additional person through negotiations, one victim remained captive, and two victims were killed while in captivity. The HNP estimated that it prevented more than 58.6 million lempiras ($2.44 million) in ransom payments to kidnappers between January and August.
c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the law prohibits such practices, government officials received complaints and investigated alleged abuse by members of the security forces on the streets and in detention centers. The quasi-governmental National Committee for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment (CONAPREV) reported two complaints of torture or cruel, inhuman, or degrading treatment.

Prison and Detention Center Conditions

Prison conditions were harsh and sometimes life threatening due to pervasive gang-related violence and the government’s failure to control criminal activity within the prisons. Prisoners suffered from overcrowding, insufficient access to food and water, violence, and alleged abuse by prison officials.

Physical Conditions: Prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation and medical care, and, in some prisons, lack of adequate ventilation and lighting. The Ministry of Human Rights reported that, as of September 20, the total prison population was 20,506 in 27 prisons. According to the ministry, the system had designed capacity for approximately 10,600 inmates.

The National Prison Institute (INP) reported that as of September, 23 inmates had died in prison (16 from natural causes, four from violence, two from accidents, and one from suicide). The INP reported no deaths involving prison officials. CONAPREV registered 25 deaths through September and confirmed four inmates died from violence within the prison.

As of September the Ministry of Human Rights reported that the country’s three pretrial detention centers held 62 individuals. These three centers were on military installations and received some support services from the military, but the INP administered them. The government used pretrial detention centers to hold high-profile suspects and those in need of additional security. Pretrial detainees were often held with convicted prisoners.

There was pervasive gang-related violence, and the government failed to control criminal activity effectively within the prisons. Some prisons lacked sufficient security personnel. Many prisoners had access to weapons and other contraband, inmates attacked other inmates with impunity, escapes were frequent, and inmates
and their associates outside prison threatened prison officials and their families. These conditions contributed to an unstable, dangerous environment in the penitentiary system. Media reported prison riots and violent confrontations between gang members in prisons throughout the year.

Through October 2018 the national prisons had approximately 1,160 female prisoners, 810 of whom the government detained at the National Women’s Social Adjustment penitentiary. Others were held in separate areas of men’s prisons. Children younger than age three could stay with their mothers in prison.

Authorities did not segregate those with tuberculosis or other infectious diseases from the general prison population; there was only limited support for persons with mental illnesses or disabilities. As of September officials reported that 151 prisoners were being treated for tuberculosis. Officials also stated that all penitentiary centers had an antiretroviral treatment program. CONAPREV reported that every prison had a functioning health clinic with at least one medical professional. Basic medical supplies and medicines, particularly antibiotics, were in short supply throughout the prison system. In most prisons only inmates who purchased bottled water or had water filters in their cells had access to potable water.

**Administration:** As of September the INP reported no formal complaints for mistreatment of detainees, although CONAPREV alleged 39 possible cases of torture or cruel, inhuman, or degrading treatment. Authorities conducted no official investigations of mistreatment because they received no formal complaints. Media reports noted that family members often face long delays or are unable to visit detainees.

**Independent Monitoring:** The government generally permitted prison visits by independent local and international human rights observers, including the International Committee of the Red Cross. CONAPREV conducted seven visits to juvenile detention facilities as of the end of August. The judicial system was legally responsible for monitoring prison conditions and providing for the rights of prisoners.

**Improvements:** Through September the INP trained 435 technical, administrative, and security personnel working in 13 prisons on topics such as first aid and appropriate use of force.

d. **Arbitrary Arrest or Detention**
The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The Inter-American Commission on Human Rights (IACHR) reported that authorities at times failed to enforce these requirements effectively.

**Role of the Police and Security Apparatus**

The HNP maintains internal security and reports to the Secretariat of Security. ATIC has legal authority to investigate 21 types of crimes and make arrests. The armed forces, which report to the Secretariat of Defense, are responsible for external security but also exercise some domestic security responsibilities. Some larger cities have independent police forces that supplement the HNP and report to municipal authorities. The PMOP reports to military authorities but conducts operations sanctioned by civilian security officials as well as by military leaders. As of September the PMOP had approximately 4,500 personnel organized into eight of 10 planned battalions and was present in all 18 departments. The National Interinstitutional Security Force (FUSINA) coordinates the overlapping responsibilities of the HNP, PMOP, National Intelligence Directorate, Public Ministry, and national court system. FUSINA reports to the National Security and Defense Council. The president chairs the council, which includes representatives of the Supreme Court, National Congress, Public Ministry, and Secretariats of Security and Defense.

Civilian authorities at times did not maintain effective control over the security forces. The government took steps to investigate and punish abuses, but corruption and inefficiency resulted in impunity in many cases. The armed forces surrendered members accused of human rights violations to civilian authorities. The armed forces sometimes dishonorably discharged such individuals, even before a criminal trial. The Public Ministry, primarily through the Office of the Special Prosecutor for Crimes against Life, is responsible for investigating cases in which a government agent is allegedly responsible for killing a civilian. Prosecutors try such cases in civilian courts. Prosecutors and judges attached to FUSINA prosecute and hear cases related to FUSINA operations. A unit within the Office of the Special Prosecutor for Crimes against Life manages some cases of homicides committed by members of the security forces and government officials. The human rights office of the joint staff of the armed forces investigates allegations of human rights abuses by members of the armed forces.
HONDURAS

The human rights office of the joint staff of the armed forces reported that in 2017 more than 6,200 members of the armed forces, including the army, navy, air force, PMOP, and others, received training on human rights. Through June more than 5,800 members of the armed forces received human rights training from military and nongovernmental organization (NGO) instructors.

Corruption and impunity remained serious problems within the security forces. Some members of security forces allegedly committed crimes, including crimes linked to local and international criminal organizations. The Public Ministry’s ATIC investigated some criminal cases involving HNP officers.

As of November the Police Purge Commission reported that, since its creation in 2016, it had referred for removal or provisional suspension more than 5,600 police officers on various grounds including corruption, criminal activity, and poor performance.

**Arrest Procedures and Treatment of Detainees**

The law provides that police may make arrests only with a warrant, unless they make the arrest during the commission of a crime, there is strong suspicion that a person has committed a crime and might otherwise evade criminal prosecution, they catch a person in possession of evidence related to a crime, or a prosecutor has ordered the arrest. The law requires police to inform persons of the grounds for their arrest and bring detainees before a competent judicial authority within 24 hours. It stipulates that a prosecutor has 24 additional hours to decide if there is probable cause for indictment, whereupon a judge has 24 more hours to decide whether to issue a temporary detention order. Such an order may be effective for up to six days, after which the judge must hold a pretrial hearing to examine whether there is probable cause to continue pretrial detention. The law allows persons charged with some felonies to avail themselves of bail and gives prisoners a right of prompt access to family members. The law allows the release of other suspects pending formal charges, on the condition that they periodically report to authorities. The government generally respected these provisions. Persons suspected of any of 22 specific felonies must remain in custody, pending the conclusion of judicial proceedings against them. Some judges, however, ruled that such suspects may be released on the condition that they continue to report periodically to authorities. The law grants prisoners the right to prompt access to a lawyer of their choice and, if indigent, to government-provided counsel, although authorities did not always abide by these requirements.
Arbitrary Arrest: The Public Ministry reported 49 cases of illegal detention or arbitrary arrest as of October. As of September the National Human Rights Commission of Honduras (CONADEH) reported 16 cases of arbitrary arrest by the HNP, two by the DPI, and six by the armed forces.

Pretrial Detention: Judicial inefficiency, corruption, and insufficient resources delayed proceedings in the criminal justice system, and lengthy pretrial detention was a serious problem. For crimes with minimum sentences of six years’ imprisonment, the law authorizes pretrial detention of up to two years. The prosecution may request an additional six-month extension, but many detainees remained in pretrial detention much longer, including for more time than the maximum period of incarceration for their alleged crime. The law does not authorize pretrial detention for crimes with a maximum sentence of five years or less. The law mandates that authorities release detainees whose cases have not yet come to trial and whose time in pretrial detention already exceeds the maximum prison sentence for their alleged crime. Even so, many prisoners remained in custody after completing their full sentences, and sometimes even after an acquittal, because officials failed to process their releases expeditiously.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but the justice system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to intimidation, corruption, politicization, and patronage. Low salaries and a lack of internal controls rendered judicial officials susceptible to bribery. Powerful special interests, including organized criminal groups, exercised influence on the outcomes of some court proceedings.

On September 13, the Supreme Court accepted an appeal by the defense attorneys of six former members of the court, including its former president Jorge Rivera Aviles, to grant the accused freedom from pretrial detention after one month in jail. Charges against the six former court officials included several counts of misappropriation of funds and abuse of authority. The legal proceedings against the six were ongoing as of October.

Trial Procedures

The law provides for the right to a fair and public trial; however, the judiciary did not always enforce this right.
The law presumes an accused person is innocent. The accused has the right to an initial hearing before a judge, to ask for bail, consult with legal counsel in a timely manner, have a lawyer provided by the state if necessary, and request an appeal. Defendants may receive free assistance of an interpreter. The law permits defendants to confront witnesses against them and offer witnesses and evidence in their defense. Defendants may not be compelled to testify or confess guilt. Authorities generally respected these rights.

Credible observers noted problems in trial procedures such as a lack of admissible evidence, judicial corruption, widespread public distrust of the legal system, witness intimidation, and an ineffective witness protection program.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

The law establishes an independent and impartial judiciary in civil matters, including access to a court to seek damages for human rights violations. Litigants may sue a criminal defendant for damages if authorized by a criminal court. Individuals and organizations may appeal adverse domestic decisions to the Inter-American Human Rights System.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the law generally prohibits such actions, a legal exception allows government authorities to enter a private residence to prevent a crime or in case of another emergency. There were credible complaints that police occasionally failed to obtain the required authorization before entering private homes. As of September CONAPREV registered two alleged cases of illegal entry by government officials.

Ethnic minority rights leaders, international NGOs, and farmworker organizations continued to claim that the government failed to redress actions taken by security forces, government agencies, and private individuals and businesses to dislodge farmers and indigenous persons from lands over which they claimed ownership based on land reform law or ancestral land titles (see section 6, Indigenous People).
Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, with some restrictions, and the government generally respected this right. A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the major news media.

**Freedom of Expression:** The law includes a provision to punish persons who directly, or through public media, incite discrimination, hate, contempt, repression, or violence against a person, group, or organization for reasons of gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity.

In September congress repealed Article 335-B of the law, which criminalized hate speech and language inciting terrorism, due to concern that this article could be used to target journalists and members of civil society for expressing views critical of the government. Media associations and NGOs praised the congressional action.

**Violence and Harassment:** There were continued reports of harassment and threats against journalists, media figures, and bloggers. NGO Peace Brigades International registered a significant increase in reports of harassment against journalists and social communicators since 2017. They registered 41 security incidents involving journalists and social commentators between January and August, nearly twice the number of complaints registered during the same period in 2017. Reports linked most of these instances of harassment and threats to organized criminal elements and gangs.

Government officials at all levels publicly denounced violence and threats of violence against media members and social communicators. UNAH’s Violence Observatory reported no killings of journalists and social communicators during the first six months of the year, as compared with two such killings in 2017. There were many reports of intimidation and threats against media members and their families, including from members of the security forces and organized crime. It was usually unclear whether violence and threats against journalists were linked to their work or were products of generalized violence.
Human rights defenders, including indigenous and environmental rights activists, political activists, labor activists, and representatives of civil society working to combat corruption, reported threats and acts of violence. Civil society organizations, including students, agricultural workers groups, and indigenous rights groups, criticized the government and its officials for allegedly criminalizing and stigmatizing social protest. Members of the Police Purge Commission, National Anticorruption Council (CNA), and Public Ministry’s anticorruption unit (UFECIC) all reported receiving threats. The Agroindustrial Worker’s Federation, a labor syndicate, reported two cases of threats against union leaders (see section 7.a.).

The government allocated a budget of nearly 25 million lempiras ($1.04 million) for the operation of its protection mechanism. By August it had 34 permanent and contract staff. The mechanism approved 219 protection cases, including 131 human rights defenders, 39 journalists, 30 social commentators, and 19 justice-sector workers. As of August 31, the mechanism had received 122 new requests for protection, of which 104 met legal requirements and were accepted. Of the 104 accepted cases, eight were closed during the year. The remaining 96 cases included 52 human rights defenders, 14 journalists, 21 social commentators, and 9 justice-sector workers. Some NGOs continued to express concern about weak implementation of the law and limited resources available to operate the government’s protection mechanism for human rights defenders. Civil society organizations continued to criticize the government’s failure to investigate threats against activists and journalists adequately.

The HNP’s Violent Crimes Task Force investigated crimes against high-profile and particularly vulnerable victims, including judges, journalists, human rights activists, and members of the LGBTI community. As of November the task force had submitted 19 cases to the Public Ministry, arrested 42 persons, and obtained six convictions.

Censorship or Content Restrictions: Media members and NGOs stated the press self-censored due to fear of retaliation from organized crime or corrupt government officials.

Libel/Slander Laws: Citizens, including public officials, may initiate criminal proceedings for libel and slander.
National Security: The Organization of American States (OAS) Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) continued to raise concerns regarding the law for the classification of public documents related to defense and national security (the Secrets Law). MACCIH called on the government either to amend the law or pass a new one. According to MACCIH representatives, the law prohibits authorities from fully investigating government contracts and funds, enabling government institutions to misuse an overly broad classification system under the guise of “national security” to hide potential illicit activity in such areas as the security tax fund, water authority, and social security administration. Civil society organizations supported MACCIH’s calls to reform the law.

Nongovernmental Impact: Some journalists and other members of civil society reported threats from members of organized crime. It was unclear how many of these threats were related to the victims’ professions or activism. Several anonymous social media sites, possibly linked to political parties, criticized activists, civil society organizations, and journalists who were critical of the government or opposition party policies.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, but there were credible reports that the government monitored private online communications. According to the International Telecommunication Union, in 2017 approximately 32 percent of the population used the internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The law provides for freedom of peaceful assembly, and the government generally respected this right. The law requires a judge to issue an eviction order for individuals occupying public and private property if security forces had not evicted the individuals within a specified period of the occupation. Some local and international civil society organizations, including students, agricultural workers groups, political parties, and indigenous rights groups, alleged that members of the
security forces used excessive force to break up demonstrations. The IACHR reported that the government at times used a policy of arbitrary detentions or arrests to inhibit protest.

Law enforcement evictions of protesters, land rights activists, and others were generally conducted peacefully, although injuries to both protesters and law enforcement officers were occasionally reported. The NGO Peace Brigades International reported several instances of threats and intimidation by security forces, including a heavy military presence in disputed areas. Conversely, media sources reported in October that two soldiers were ambushed and killed near Tocoa, Colon, as they sought peacefully to remove protesters from blocking a road. No suspects were arrested, and it is unclear if the shooters were related to the protesters or linked with illicit groups.

**Freedom of Association**

The law provides for freedom of association, and the government generally respected this right. The law prohibits illicit association, defined as gatherings by persons bearing arms, explosive devices, or dangerous objects with the purpose of committing a crime, and prescribes prison terms of two to four years and a fine of 30,000 to 60,000 lempiras ($1,250 to $2,500) for anyone who convokes or directs an illicit meeting or demonstration. There were no reports of such cases during the year, although authorities charged some protesters with sedition. Public-sector unions expressed concern over some officials refusing to honor bargaining agreements and firing union leaders. The law prohibits police from unionizing (see section 7.a.).

**c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

**d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection
and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

**Abuse of Migrants, Refugees, and Stateless Persons:** Transiting migrants were vulnerable to abuse by criminal organizations.

**In-country Movement:** There were areas where authorities could not assure freedom of movement because of criminal activity and a lack of significant government presence.

**Internally Displaced Persons (IDPs)**

In 2017 the Internal Displacement Monitoring Center estimated there were approximately 190,000 IDPs in the country. In 2017 the National Human Rights Commission identified 339 cases of forced displacement and 349 cases of individuals at risk of forced displacement. Internal displacement was generally caused by violence, national and transnational gang activity, and human trafficking. Official data on forced internal displacement was limited in part because gangs controlled many of the neighborhoods that were sources of internal displacement (see section 6, Displaced Children).

The government maintained the Interinstitutional Commission for the Protection of People Displaced by Violence, and within the newly created Ministry of Human Rights, the government created the Directorate for the Protection of Persons Internally Displaced by Violence. Both the ministry and the commission focused on developing policies to address IDPs. Following up on the Comprehensive Refugee Response Framework conference that the government hosted in October 2017, the participants, including governments from across the region, agreed to the Regional Integral Framework for Protection and Solutions. Under the framework the government pledged to strengthen its capacity to provide services to key population groups, including refugees and returned migrants, through 14 commitments and 28 specific actions between 2018 and 2020.

**Protection of Refugees**

The government cooperated with UNHCR and other humanitarian organizations to provide protection and assistance to refugees and other persons of concern.

**Access to Asylum:** The law allows for the granting of asylum or refugee status. The government has established a system to provide protection to refugees, but at
times there were significant delays in processing provisional permits for asylum applicants.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the right to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage. The law does not permit active members of the military or civilian security forces to vote. The constitution prohibits practicing clergy from running for office or participating in political campaigns.

Elections and Political Participation

Recent Elections: In December 2017 Juan Orlando Hernandez of the National Party was declared the winner in the November 26 elections. International observers generally agreed the elections were free but disputed the fairness and transparency of the results. The OAS and EU both fielded observer teams for the elections and agreed that the margin of victory separating incumbent President Hernandez from challenger Salvador Nasralla was extremely close. The OAS mission found that this small margin, combined with numerous irregularities in vote processing, left it unable to state with certainty who won the presidential election. The EU mission agreed that there were serious irregularities in the process but concluded that safeguards built into the system, including posting of voting results forms on a public website, helped promote transparency. NGOs reported irregularities, including problems with voter rolls, buying and selling of electoral workers’ credentials, and lack of transparency in campaign financing.

Political Parties and Political Participation: Civil society and opposition parties accused officials of using government resources to attract voters.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate. Women, however, suffered political violence, which ranged from harassment for voting against party lines to receiving death threats for their political participation.

Section 4. Corruption and Lack of Transparency in Government

The law provides for criminal penalties for corruption by officials, but authorities did not implement the law effectively, and officials continued to engage in corrupt practices with impunity. There were numerous reports of government corruption
During the year. The government took steps to address corruption at high levels in government agencies, including arresting and charging members of congress, judges, prosecutors, sitting and former senior officials, mayors and other local authorities, and police officers. Anticorruption efforts continued to lag and remained an area of concern, as well as the government’s ability to protect justice operators, such as prosecutors and judges.

Corruption: The Public Ministry’s anticorruption unit (UFECIC) made several announcements of case investigations, including against former first lady Rosa Elena Bonilla de Lobo, spouse of former president Porfirio Lobo; the “fe de erratas” case against two members of congress accused of altering legislation; and the “Network of Congresspersons” case, in which five officials were accused of diverting public funds. UFECIC announced a fourth case in June, named “Pandora,” in which 38 individuals, including a former secretary of agriculture and several members of congress, were accused of fraud, abuse of authority, misuse of public funds, and other corruption-related crimes.

On February 22, the CNA presented five of its highest-profile cases to the public, citing several public administration and elected officials, including a Supreme Court judge, a congressman, and former first lady Bonilla de Lobo. Following the announcement the CNA reported harassment campaigns and threats.

MACCIH, the CNA, and civil society organizations continued to press for the passage of legislation to combat corruption, but most legislative efforts stalled in congress.

Financial Disclosure: Public officials are subject to financial disclosure law but did not always comply. The law mandates that the Supreme Auditing Tribunal monitor and verify disclosures. The tribunal published its reports on its website and cited the names of public officials who did not comply with disclosure law.

The Public Ministry’s Campaign Financing Unit, created in June 2017, conducted audits of 397 candidates, focusing on those who won their bids for election. The unit reported that 76 percent of candidates for public office reported on all campaign expenditures and that four cases were referred to the Public Ministry for investigation.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights
A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Human rights organizations criticized government officials for lack of access and responsiveness.

The United Nations or Other International Bodies: Some civil society organizations criticized the government for failing to comply with, or inadequately complying with, rulings by the Inter-American Court of Human Rights and protection measures ordered by the court and the IACHR.

Government Human Rights Bodies: A semiautonomous commissioner for human rights served as an ombudsman and investigated complaints of human rights abuses. With offices throughout the country, the ombudsman received cases that otherwise may not have risen to national attention. An independent Ministry of Human Rights was established in January and, despite operational challenges from its recent inception, has served as an effective advocate for human rights within the government. The Public Ministry’s Office of the Special Prosecutor for Human Rights handled cases involving charges of human rights abuses by government officials. In March the Public Ministry also created the Special Prosecutor’s Office for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Officials. The Human Rights Committee is in the congress. The Ministries of Security and Defense both have human rights offices that investigated alleged human rights abuses and coordinated human rights-related activities with the Ministry of Human Rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes all forms of rape of men or women, including spousal rape. The government considers rape a crime of public concern, and the state prosecutes rapists even if victims do not press charges. The penalties for rape range from three to nine years’ imprisonment, and the courts enforced these penalties.

The law provides penalties of up to four years in prison for domestic violence; however, if a victim’s physical injuries do not reach the severity required to categorize the violence as a criminal act, the only legal penalty for a first offense is a sentence of one to three months of community service. Female victims of
domestic violence are entitled to certain protective measures. Abusers caught in the act may be detained for up to 24 hours as a preventive measure. The law provides a maximum sentence of three years in prison for disobeying a restraining order connected with the crime of intrafamilial violence.

In cooperation with the UN Development Program, the government operated consolidated reporting centers in Tegucigalpa and San Pedro Sula where women could report crimes, seek medical and psychological attention, and receive other services. These reporting centers were in addition to the 298 government-operated women’s offices—one in each municipality—that provided a wide array of services to women, focusing on education, personal finance, health, social and political participation, environmental stewardship, and prevention of gender-based violence.

**Sexual Harassment:** The law criminalizes various forms of sexual harassment. Violators face penalties of one to three years in prison and possible suspension of their professional licenses, but the government did not effectively enforce the law.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization.

**Discrimination:** Although the law accords women and men the same legal rights and status, including property rights in divorce cases, many women did not fully enjoy such rights. Most women in the workforce engaged in lower-status and lower-paying informal occupations, such as domestic service, without the benefit of legal protections. By law women have equal access to educational opportunities.

**Children**

**Birth Registration:** Children derive citizenship by birth in the country, from the citizenship of their parents, or by naturalization.

**Child Abuse:** Child abuse remained a serious problem. The law establishes prison sentences of up to three years for child abuse. The Violence Observatory reported the homicides of 119 children as of July 1.

**Early and Forced Marriage:** The minimum legal age of marriage for both boys and girls is 18 with parental consent. According to UNICEF, 8 percent of children were married before age 15 and 34 percent before age 18.
Sexual Exploitation of Children: The commercial sexual exploitation of children, especially in sex trafficking, continued to be a problem. The country was a destination for child sex tourism. The legal age of consent is 18. There is no statutory rape law, but the penalty for rape of a minor younger than age 12 is 15 to 20 years in prison, or nine to 13 years in prison if the victim is age 13 or older. Penalties for facilitating child sex trafficking are 10 to 15 years in prison, with fines ranging from one million to 2.5 million lempiras ($41,700 to $104,000). The law prohibits the use of children younger than age 18 for exhibitions or performances of a sexual nature or in the production of pornography.

Displaced Children: Many children lived on the streets. Casa Alianza estimated 15,000 children were homeless and living on the streets, primarily in major cities. Civil society organizations reported that common causes of forced displacement for youth included death threats for failure to pay extortion, attempted recruitment by gangs, witnessing criminal activity by gangs or organized crime, domestic violence, attempted kidnappings, family members’ involvement in drug dealing, victimization by traffickers, discrimination based on sexual orientation, sexual harassment, and discrimination for having a chronic illness.


Anti-Semitism

The Jewish community numbered more than 250 members. There were no reports of anti-Semitic acts.

 Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The Public Ministry is responsible for prosecuting violations. The law requires that persons with disabilities have access
to buildings, but few buildings were accessible, and the national government did not effectively implement laws or programs to provide such access.

The government has an Office for People with Disabilities located within the Ministry of Development and Social Inclusion, but its ability to provide services to persons with disabilities was limited.

**Indigenous People**

In the 2013 census, approximately 8.5 percent of the population identified themselves as members of indigenous communities, but other estimates were higher. Indigenous groups included the Miskito, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortis, Nahual, Bay Islanders, and Garifunas. They had limited representation in the national government and consequently little direct input into decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Indigenous communities continued to report threats and acts of violence against them and against community and environmental activists. Violence was often rooted in a broader context of conflict over land and natural resources, extensive corruption, lack of transparency and community consultation, other criminal activity, and limited state ability to protect the rights of vulnerable communities.

Persons from indigenous and Afro-descendent communities continued to experience discrimination in employment, education, housing, and health services. An IACHR report noted that there were insufficient hospital beds and inadequate supplies at the only hospital that services the Gracias a Dios Department, home to the majority of the Miskito community.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law states that sexual orientation and gender identity characteristics merit special protection from discrimination and includes these characteristics in a hate crimes amendment to the penal code. Nevertheless, social discrimination against LGBTI persons persisted. LGBTI human rights NGOs alleged that the PMOP and other elements of the security forces harassed and abused LGBTI persons. One international NGO reported that five members of the PMOP in uniform allegedly assaulted and raped a gay man on July 16 in Tegucigalpa. The victim submitted to a medical examination with the Public Ministry’s Forensic Medicine Unit, filed a
complaint with the HNP’s Criminal Investigation Unit, and temporarily left the country.

LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices. The Association for a Better Life, an NGO that works with LGBTI persons, reported an incident of discrimination at San Felipe Hospital in Tegucigalpa where a physician asserted that the victim’s sexual orientation caused him to contract the human papillomavirus and colon cancer. LGBTI groups continued working with the Violent Crimes Task Force, Ministry of Security, and Office of the Special Prosecutor for Human Rights to address concerns about intimidation, fear of reprisals, and police corruption.

Transgender women were particularly vulnerable to employment and education discrimination; many could find employment only as sex workers, substantially increasing their risk of violence. Transgender individuals noted their inability to update identity documents to reflect their gender identity.

**HIV and AIDS Social Stigma**

Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS. The law provides persons with HIV the right to have access to, and remain in, employment and the education system. The law also defines administrative, civil, and criminal liability and penalties for any violation of the law, which includes denial or delay in care for persons with HIV.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law grants workers the right to form and join unions of their choice, bargain collectively, and strike. It prohibits employer retribution against employees for engaging in trade union activities. The law places a number of restrictions on these rights, such as requiring that a recognized trade union represent at least 30 workers, prohibiting foreign nationals from holding union offices, and requiring that union officials work in the same substantive area of the business as the workers they represent. In 2016 the Ministry of Labor and Social Security (STSS) administratively ruled that seasonal workers could not form a union. The law prohibits members of the armed forces and police, as well as certain other public employees, from forming labor unions.
The law requires an employer to begin collective bargaining once workers establish a union, and it specifies that if more than one union exists at a company the employer must negotiate with the largest.

The law allows only local unions to call strikes, prohibits labor federations and confederations from calling strikes, and requires that a two-thirds majority of both union and nonunion employees at an enterprise approve a strike. The law prohibits workers from legally striking until after they have attempted and failed to come to agreement with their employer, and it requires workers and employers to participate in a mediation and conciliation process. Additionally, the law prohibits strikes in a wide range of economic activities that the government has designated as essential services or that it considers would affect the rights of individuals in the larger community to security, health, education, and economic and social well-being.

The law prohibits certain public service employees from striking. The law permits workers in public health care, social security, staple food production, and public utilities (municipal sanitation, water, electricity, and telecommunications) to strike as long as they continue to provide basic services. The law also requires that public-sector workers involved in the refining, transportation, and distribution of petroleum products submit their grievances to the STSS before striking. The law permits strikes by workers in export processing zones and free zones for companies that provide services to industrial parks, but it requires that strikes not impede the operations of other factories in such parks. The STSS has the power to declare a work stoppage illegal, and employers may discipline employees consistent with their internal regulations, including firing strikers, if the STSS rules that a work stoppage is illegal.

The government did not effectively enforce the law. Although the STSS passed a comprehensive labor inspection law in 2017 that substantially increased fines for violations and updated labor inspector authorities, the STSS had not released implementing regulations despite months of consultation and work with the private sector and unions. By law the STSS may fine companies that violate the right to freedom of association. The law permits a fine of 300,000 lempiras ($12,500) per violation. If a company unlawfully dismisses founding union members or union leaders, the law stipulates that employers must also pay a fine equivalent to six months of the dismissed leaders’ salaries to the union itself. Through August the STSS administered fines of more than 25.3 million lempiras ($1.05 million), including more than 6.1 million lempiras ($254,000) for violations of freedom of
association and more than 13.2 million lempiras ($550,000) for obstruction of labor inspectors. Both the STSS and the courts may order a company to reinstate workers, but the STSS lacked the means to verify compliance. While there were cases where a worker was reinstated, such as the reinstatement of a union leader in Tegucigalpa following his unlawful dismissal, the reinstatement process in the courts was unduly long, lasting from six months to more than five years.

Workers had difficulty exercising the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively. Public-sector trade unionists raised concerns about government interference in trade union activities, including its suspension or ignoring of collective agreements and its dismissals of union members and leaders.

Although there is no legal requirement that they do so, STSS inspectors generally accompanied workers when they notified their employer of their intent to form a union. In some cases STSS inspectors, rather than workers, directly notified employers of workers’ intent to organize. Workers reported that the presence and participation of the STSS reduced the risk that employers would dismiss the union’s founders and later claim they were unaware of efforts to unionize.

Some employers either refused to engage in collective bargaining or made it very difficult to do so. Some companies also delayed appointing or failed to appoint representatives for required STSS-led mediation, a practice that prolonged the mediation process and impeded the right to strike. There were allegations that companies used collective pacts, which are collective contracts with nonunionized workers, to prevent unionization and collective bargaining because only one collective contract can exist in each workplace. Unions also raised concerns about the use of temporary contracts and part-time employment, suggesting that employers used these mechanisms to prevent unionization and avoid providing full benefits. A Supreme Court ruling requires that both unions and employers notify the STSS of new collective agreements before they go into effect.

Antiunion discrimination continued to be a serious problem. The three major union federations and several civil society groups noted that many companies paid the fines that government authorities imposed but continued to violate the law. Some failed to remedy violations despite multiple visits by STSS inspectors. Local unions, the AFL-CIO’s Solidarity Center, and other organizations reported that some employers harassed union leaders in attempts to undermine union operations. Civil society organizations regularly raised concerns about practices by agricultural companies, particularly in the south. Through September the STSS conducted 308
honduras

hygiene and social security inspections and levied fines totaling approximately 5.68 million lempiras ($237,000).

The Solidarity Center reported threats against several labor leaders, including a public-sector labor union leader. Through November, the Solidarity Center documented 11 cases of threats against union leaders.

Labor activists alleged that automotive component producer Honduras Electrical Distribution Systems (Kyunghsin Lear) refused to engage in collective bargaining. Some companies in other sectors, including the melon industry, established employer-controlled unions that prevented the formation of independent unions because of legal restrictions on the number of unions and collective bargaining agreements allowed per company.

Several companies in export processing zones had solidarity associations that functioned similarly to company unions for the purposes of setting wages and negotiating working conditions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced labor, but the government did not effectively implement or enforce these laws. Administrative penalties were insufficient to deter violations and were rarely enforced. Penalties for forced labor under antitrafficking law range from 10 to 15 years’ imprisonment, but authorities often did not enforce them. The government investigated several cases of labor trafficking, including forced begging and domestic service.

Forced labor occurred in street vending, domestic service, the transport of drugs and other illicit goods, and other criminal activity. Victims were primarily impoverished individuals in both rural and urban areas (see section 7.c.). The law requiring prisoners to work at least five hours a day, six days a week took effect in 2016. Regulations for implementing the law were still under development as of September. The Ministry of Human Rights stated it was taking every precaution to protect prisoners’ rights and assure that the work provided opportunities for prisoners to develop skills they could use in legal economic activities after their release.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.
c. Prohibition of Child Labor and Minimum Age for Employment

The law regulates child labor, sets the minimum age for employment at 14, and regulates the hours and types of work that minors younger than age 18 may perform. By law all minors between ages 14 and 18 must receive special permission from the STSS to work, and the STSS must perform a home study to verify that there is an economic need for the child to work and that the child not work outside the country or in hazardous conditions, including in offshore fishing. The STSS approved 91 such authorizations through September. The vast majority of children who worked did so without STSS permits. If the STSS grants permission, children between 14 and 16 may work a maximum of four hours a day, and those between 16 and 18 may work up to six hours a day. The law prohibits night work and overtime for minors younger than age 18, but the STSS may grant special permission for minors ages 16 to 18 to work in the evening if such employment does not adversely affect their education.

The law requires that individuals and companies that employ more than 20 school-age children at their facilities provide a location for a school.

In 2017 the government took steps to address child labor, including the development of a new protocol for labor inspections to identify child labor, but inadequate resources impeded inspections and enforcement outside of major cities in rural areas where hazardous child labor was concentrated. Fines for child labor are 100,000 lempiras ($4,170) for a first violation and as high as 228,000 lempiras ($9,500) for repeat violations. The law also imposes prison sentences of three to five years for child labor violations that endanger the life or morality of a child. The STSS completed 74 inspections and 19 verification inspections as of September and sanctioned two companies for not correcting noncompliant child labor practices.

Estimates of the number of children younger than age 18 in the country’s workforce ranged from 370,000 to 510,000. Children often worked on melon, coffee, okra, and sugarcane plantations as well as in other agricultural production; scavenged at garbage dumps; worked in the forestry, hunting, and fishing sectors; worked as domestic servants; peddled goods such as fruit; begged; washed cars; hauled goods; and labored in limestone quarrying and lime production. Most child labor occurred in rural areas. Children often worked alongside family members in agriculture and other work, such as fishing, construction, transportation, and small businesses. Some of the worst forms of child labor occurred, including
commercial sexual exploitation of children, and NGOs reported that gangs often forced children to commit crimes, including homicide (see section 6, Children).

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity. Penalties include prison sentences of up to five years and monetary fines. The law prohibits employers from requiring pregnancy tests as a prerequisite for employment; violators are subject to a 5,000 lempira ($208) fine. The government did not effectively enforce these laws and regulations.

Many employers discriminated against women. Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation (see section 6, Children).

e. Acceptable Conditions of Work

There are 42 categories of monthly minimum wages, based on the industry and the size of a company’s workforce; the minimum average salary was 8,910 lempira ($370). The law does not cover domestic workers.

The law applies equally to citizens and foreigners, regardless of gender, and prescribes a maximum eight-hour shift per day for most workers, a 44-hour workweek, and at least one 24-hour rest period for every six days of work. It also provides for paid national holidays and annual leave. The law requires overtime pay, bans excessive compulsory overtime, limits overtime to four hours a day for a maximum workday of 12 hours, and prohibits the practice of requiring workers to complete work quotas before leaving their place of employment. The law does not protect domestic workers effectively.

Occupational safety and health standards were current but not enforced. By law workers may remove themselves from situations that endanger their health or
safety without jeopardizing continued employment. Under the new inspection law, the STSS has the authority temporarily to shut down workplaces where there is an imminent danger of fatalities. There were not enough trained inspectors, however, to deter violations sufficiently.

The STSS is responsible for enforcing the national minimum wage, hours of work, and occupational health and safety laws, but it did so inconsistently and ineffectively. Civil society continued to raise issues of minimum wage violations, highlighting agricultural companies in the south as frequent violators. The 2017 inspection law permits fines of up to 25 percent of the economic damage suffered by workers, 1,000 lempiras ($42) for failing to pay the minimum wage or other economic violations, and 100,000 lempiras ($4,170) for violating occupational safety or health regulations and other law violations. As part of the United States-Honduras Monitoring and Action Plan, the government increased the STSS budget to approximately 79.4 million lempiras ($3.31 million). As of September inspectors conducted 1,435 unannounced inspections. As of November the STSS had 169 labor inspectors.

The STSS reported a significant reduction in company obstruction of labor inspectors, with 226 cases through September. Because labor inspectors continued to be concentrated in Tegucigalpa and San Pedro Sula, full labor inspections and follow-up visits to confirm compliance were far less frequent in other parts of the country. Many inspectors asked workers to provide them with transportation so that they could conduct inspections, since the STSS did not have sufficient resources to pay for travel to worksites. Credible allegations of corruption among labor inspectors continued. Inspectors reportedly failed to respond to requests for inspections to address alleged violations of law, conduct adequate investigations, impose or collect fines when they discovered violations, or otherwise abide by legal requirements.

Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agricultural sectors, as well as in the informal economy. Employers rarely paid the minimum wage in the agricultural sector and paid it inconsistently in other sectors. Employers frequently penalized agricultural workers for taking legally authorized days off.

There were reports that both public- and private-sector employers failed to pay into the social security system. The STSS may levy a fine of 100,000 lempiras ($4,170) per infraction against companies that fail to pay social security obligations.
There continued to be reports of violations of occupational health and safety law affecting the approximately 5,000 persons who made a living by diving for seafood such as lobster, conch, and sea cucumber, most from the Miskito indigenous community and other ethnic minority groups in Gracias a Dios Department. These violations included lack of access to appropriate safety equipment. Civil society groups reported that most dive boats held more than twice the craft’s capacity for divers and that many boat captains sold their divers marijuana and crack cocaine to help them complete an average of 12 dives a day, to depths of more than 100 feet. During the year the STSS inspected 27 fishing boats including in La Ceiba, Atlantida Department, and Puerto Lempira, Gracias a Dios Department. Civil society reported an average of 15 deaths per year attributable to unsafe diving practices.
TAB 3
EXECUTIVE SUMMARY

Honduras is a constitutional, multiparty republic. The country held national and local elections in November. Voters elected Juan Orlando Hernandez of the National Party as president for a four-year term to begin in January 2018. International observers generally recognized the elections to be free, but disputed the fairness and transparency of the results.

Civilian authorities at times did not maintain effective control over the security forces.

The most significant human rights issues included alleged arbitrary and unlawful killings; a complaint of torture; harsh and life-threatening prison conditions; arbitrary arrest or detention; unlawful interference with privacy; killings of and threats to media members by criminal elements and criminalization of libel; widespread government corruption, including in the judiciary; threats and violence against indigenous and Afro-descendent communities; and societal violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government took steps to prosecute and punish officials who committed abuses. Impunity existed in many cases, however, as evidenced by lengthy judicial processes, few convictions of perpetrators, and failures to prosecute intellectual authors of crimes. Perpetrators in emblematic cases dating back many years, such as the 2009 killing of the antidrug czar Julian Aristides Gonzalez, continued to enjoy impunity.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of murder, extortion, kidnapping, torture, human trafficking, intimidation, and other threats and violence directed against human rights defenders, judicial authorities, lawyers, the business community, journalists, bloggers, and women and other members of vulnerable populations.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings
There were several reports that the government or its agents committed arbitrary or unlawful killings. In general the killings took place during law enforcement operations or were linked to other criminal activity by government agents. Civilian authorities investigated and arrested members of the security forces accused of human rights abuses. Impunity, however, remained a serious problem, with delays in some prosecutions and sources alleging corruption in judicial proceedings. The Violence Observatory of the Autonomous University of Honduras (UNAH) reported 11 deaths involving security forces during the first six months of the year. These included nine deaths involving the Honduran National Police (HNP) and two involving the Military Police for Public Order (PMOP). Following the November 26 elections, protests, looting, and clashes between protesters and security forces occurred through the end of the year. Nongovernmental organizations (NGOs) claimed security forces used excessive force to break up protests and killed between 16 and 22 individuals. Additional deaths were reported not at the hands of security forces but possibly related to postelectoral violence. An improvised explosive device killed at least one police officer during the violence. Authorities publicly stated they would investigate alleged human rights abuses and hold accountable members of the security forces who committed such abuses. They were also investigating individuals not part of the security forces for acts of violence and other criminal activity.

On February 20, authorities arrested Lelis Wilfredo Aguilar Fernandez, an HNP officer assigned to the Police Intelligence Unit, for the February 20 killing of Josue Matias Deras. Witnesses claimed that Aguilar shot Matias in the back at close range during a search operation and then planted a weapon at the crime scene in an attempt to claim the killing occurred in self-defense. On February 24, a judge ordered Aguilar held in custody pending trial.

The government continued to investigate the March 2016 killing of environmental and indigenous activist Berta Caceres. On January 12, a seventh suspect was arrested in Mexico in a joint operation between Honduran and Mexican officials and returned to Honduras. On February 8, Honduran authorities arrested an eighth suspect. On June 13, a judge found sufficient evidence against the first four suspects, arrested in May 2016, to retain them in custody and continue to criminal trial. This included a suspect who was an active-duty military officer at the time of the killing. On November 20, authorities arrested one current and one former Honduran National Police officer for tampering with evidence in the case.

On February 28, a court convicted military intelligence officers Elmer Eliazar Mejia Aguilar and Jose Luis Melgar Deras, members of the Office of the Director...
General for Military Intelligence (C-2), of the 2014 premediated killings of siblings Ramon Eduardo Diaz Rodriguez and Zenia Maritza Diaz Rodriguez. A judge ordered two other suspects on trial released.

On February 13, prosecutors and investigators from the Public Ministry and its Technical Criminal Investigation Agency arrested Wilmer Samuel Alvarez Pagoada as a suspect in the 2013 killing of chief money-laundering prosecutor Orlan Arturo Chavez. Authorities also issued an arrest warrant for former police commissioner Mario Guillermo Mejia Vargas on suspicion of organizing the killing. In 2013 two men on motorcycles fatally shot Chavez. Alvarez, a lawyer and computer expert, and Luis Alejandro Castro Nunez, formerly chief of security monitoring for the Supreme Court and a member of the military, were the suspected shooters. Castro was already in prison on other charges. The Police Purge Commission removed Mejia from the police in 2016. He surrendered to foreign authorities in 2016 for drug trafficking and was on trial in a foreign country. A judge ordered Castro and Alvarez detained in a maximum-security prison pending trial.

On September 8, a court sentenced Marvin Noe Andino Mascareno to 17 years’ imprisonment for the attempted murder of Hilda Emperatriz Caldera, widow of murdered antidrug official Alfredo Landaverde. Andino was sentenced in January 2016 to 22 years in prison for Landaverde’s murder. Caldera was wounded in that attack, which occurred in 2011, but attempted murder charges against Andino were dismissed by the trial court. The Public Ministry appealed the dismissal, which the Supreme Court overturned, and the attempted murder case was returned to the lower court.

There continued to be reports of violence related to land conflicts and criminal activity in the Bajo Aguan region, but the overall level of violence in the area was far below its 2012 peak. Beginning on August 27, several agricultural worker groups occupied at least seven African palm plantations in the Bajo Aguan region. During the occupations one worker was reportedly shot and injured by a plantation security guard. Following the eviction on August 28 of a worker group from a plantation owned by the Dinant Corporation, two Dinant security guards were found dead. An agricultural worker was found killed on September 20. Two security guards were detained for possible involvement in the killing but were released following forensic tests. Authorities carried out several peaceful evictions of agricultural workers in August and September. As of September 25, authorities continued to investigate the new killings. Denis Ramon Mejia Castillo was arrested in September for the killings of Manuel Milla Ruiz and Allan Reynery.
Perez in 2016. No members of the security forces were reported to have been responsible for deaths related to the land conflict.

Organized criminal elements, including drug traffickers and local and transnational gangs such as MS-13 and the 18th Street gang, committed killings, extortion, kidnappings, human trafficking, and intimidation of police, prosecutors, journalists, women, and human rights defenders. Major urban centers and drug trafficking routes experienced disproportionate rates of violence. The UNAH Violence Observatory reported that as of September, 84 individuals working in the transportation sector had been killed during the year, often for failing to make extortion payments. This represented a 52 percent reduction from 2016.

According to the UNAH Violence Observatory, as of September there was a significant reduction in the overall annual homicide rate compared with 2016, dropping from approximately 60 per 100,000 to an estimated 46.5 per 100,000. Reports linked many of these homicides to organized crime and gangs.

As of November the Public Ministry’s Bajo Aguan Task Force (created in 2014 to investigate cold homicide cases related to land conflicts), had obtained five convictions and four new arrest warrants, made five arrests, and referred six new cases for prosecution. The task force performed 20 exhumations. Since its inception, the task force obtained 44 arrest warrants, made 23 arrests for homicides related to the land conflict, and secured 11 homicide convictions.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

The government continued to make significant advances in combatting kidnappings by criminals. On September 23, authorities rescued journalist and opposition Liberal Party political candidate Victor Manuel Pineda, whose family reported him kidnapped on September 4. The HNP reported 22 kidnappings in 2016, a 45-percent decrease from 2015 and 76-percent decrease from 2013. The HNP reported that in 2016 it rescued 18 victims of the 22 kidnapped. Three more were freed through negotiations, and one was killed while a hostage. The HNP estimated that it prevented more than 56 million lempiras ($2.37 million) in ransom payments to kidnappers in 2016.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
Although the constitution and law prohibit such practices, government officials received complaints and investigated alleged abuse by members of the security forces on the streets and in detention centers. As of September the NGO Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and their Families (CPTRT) reported one complaint against security forces for torture.

**Prison and Detention Center Conditions**

Prison conditions were harsh and sometimes life threatening due to pervasive gang-related violence and the government’s failure to control criminal activity within the prisons. Prisoners suffered from overcrowding, insufficient access to food and water, violence, and abuse by prison officials.

**Physical Conditions:** Prisoners suffered from severe overcrowding, malnutrition, lack of adequate sanitation and medical care, and, in some prisons, lack of adequate ventilation and lighting. The Ministry of Human Rights, Justice, Governance, and Decentralization reported that, as of August 21, the total prison population was 18,950 in 27 prisons, a 10-percent increase over August 2016. According to the ministry, the system had designed capacity for approximately 10,600 inmates. This included two prisons that were opened in late 2016 with capacity for 1,600 inmates. In October and November, the government closed the San Pedro Sula prison and the Santa Barbara prison, two of the most overcrowded facilities and both located in city centers, and transferred the inmates to other facilities. Family members and NGOs complained that transfer to prisons farther away increased cost of visits and made it more difficult for prisoners to maintain family relationships. Local authorities were concerned about additional overcrowding and limited rehabilitation resources.

The National Prison Institute (INP) reported that as of August 28, 23 male inmates had died in prison, 16 from natural causes, and seven from violence. The INP reported no deaths involving prison officials. In contrast, the quasi-governmental National Committee for the Prevention of Torture, Cruel, Inhuman, or Degrading Treatment (CONAPREV) reported that 19 prisoners died in altercations between inmates, three committed suicide, and four died from illness. In August and September, authorities discovered clandestine graveyards in the Tamara prison in areas controlled by MS-13 gang members following the transfer of gang leaders to a new high-security prison. Forensic authorities reported that some of the bodies had been buried more than four years.
As of August the Ministry of Human Rights, Justice, Governance, and Decentralization reported that the country’s four pretrial detention centers held 49 individuals. Three of these centers were on military installations, and the other was located at the HNP’s Special Operations Command (known as COBRAS). The government used pretrial detention centers to hold high-profile suspects and those in need of additional security. The military provided some support services to the three detention centers located on military bases, but neither administered them nor provided guards for the facilities. Instead, the INP oversaw them, as it did other prisons.

Due to overcrowding and lack of adequate training for prison staff, prisoners were subjected to serious abuse. Prisons lacked trained personnel to safeguard the psychological and physical well-being of inmates, and some prisons lacked sufficient security personnel.

There was pervasive gang-related violence, and the government failed to control criminal activity within the prisons. Many prisoners had access to weapons and other contraband, inmates attacked other inmates with impunity, escapes were frequent, and inmates and their associates outside prison threatened prison officials and their families. These conditions contributed to an unstable, dangerous environment in the penitentiary system. Media reported multiple prison riots and violent confrontations between gang members in prisons throughout the year.

The government took steps to control violence by transferring the highest-security detainees—primarily gang members and violent convicts—to two newer maximum-security prisons. High-security detainees complained that authorities confined them to their cells for long periods and restricted their access to family members and legal representation.

The government held approximately one-half of its estimated 355 female prisoners at a facility for mothers with young children and pregnant women. Others were housed in separate areas of men’s prisons. In the San Pedro Sula prison, for instance, approximately 70 women resided in their own wing of the prison but shared communal space with upwards of 2,900 men. Children up to age three could stay with their mothers in prison.

Authorities did not segregate those with tuberculosis or other infectious diseases from the general prison population; there was only limited support for persons with mental illnesses or disabilities. On September 21, officials reported that 201 prisoners were being treated for tuberculosis, including three inmates with drug-
resistant tuberculosis under treatment at the national cardio-pulmonology institute. The officials also stated that tuberculosis-positive inmates received a monthly stipend to pay for special food. CONAPREV reported that every prison had a functioning health clinic with at least one medical professional, except for the National Penitentiary in Francisco Morazan Department. Basic medical supplies and medicines, particularly antibiotics, were in short supply throughout the prison system. In most prisons only inmates who purchased bottled water or had water filters in their cells had access to potable water.

As of August the NGO Casa Alianza reported there were 574 minors (506 boys and 68 girls) in five juvenile detention centers, segregated by gender. This represented a 16-percent increase from 2016. NGOs expressed their concern that 45 minors, all of whom were gang members, were housed in the HNP COBRAS pretrial detention center. Casa Alianza reported 259 youths benefited from alternative sentencing outside the juvenile detention system (see section 6, Institutionalized Children). On June 1, one youth died due to injuries from a fire following a riot on May 23. On July 3, a 23-year-old prisoner was killed by fellow inmates after passing himself off as a minor. Civil society reported difficulty accessing some youth detention centers due to confrontations between inmates and authorities.

**Administration:** Prisoners could submit complaints to judicial authorities without censorship and could submit requests for the investigation of inhuman conditions to the director of the prison in which they were incarcerated. Directors could then transfer the complaints to the INP director. Prisoners also could file complaints with the INP’s Human Rights Protection Unit, the Public Ministry’s Office of the Special Prosecutor for Human Rights, and the Ministry of Human Rights, Justice, Governance, and Decentralization. The National Human Rights Commission (CONADEH) also accepted complaints and conducted investigations. The results of investigations by NGOs and government officials were available to the public. As of August the INP reported receiving no formal complaints for mistreatment of detainees. The Public Ministry reported receiving 22 complaints of excessive force, two for mistreatment, and four for torture by prison officials. The ministry conducted 36 investigations in 2016 and 16 as of September. CONAPREV reported there were three complaints of torture and mistreatment in detention centers as of September. NGOs reported that some prisoners were reluctant to file official complaints because they did not trust the authorities and there was no effective system for witness protection (see also section 1.c.).
Independent Monitoring: The government generally permitted prison visits by independent local and international human rights observers, including the International Committee of the Red Cross. CONAPREV made more than a dozen visits to juvenile detention facilities as of the end of August. The judicial system was legally responsible for monitoring prison conditions and guaranteeing the rights of prisoners.

Improvements: In January the congress passed legal reforms to the INP in an effort to professionalize the prison guard system. On September 27, the congress passed a law to allow some nonviolent pretrial detainees to use electronic monitoring systems to reduce the overcrowding of prisons. The government reported refurbishing six existing penal facilities, including maintenance and improvements to kitchens, libraries, workshops, and administrative facilities.

During the year the government improved health services for prisoners. As of August the government had 18 general practitioners, seven specialists, 49 nurses, and a budget of 54 million lempiras ($2.29 million) to provide health services in prisons. In addition CONAPREV reported an increase in technical personnel, including public defenders, psychologists, and social workers, available to assist prisoners.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his/her arrest or detention in court. Human rights NGOs reported that authorities at times failed to enforce these requirements effectively and used a policy of arbitrary detentions or arrests to inhibit protest. CONADEH reported 12 cases of arbitrary arrest as of September. The Committee of Relatives of the Disappeared in Honduras reported 23 illegal or arbitrary arrests: five by the PMOP, 13 by the HNP, and five by municipal police.

Role of the Police and Security Apparatus

The HNP maintains internal security and reports to the Secretariat of Security. The Technical Agency for Criminal Investigations at the Public Ministry (Attorney General’s Office) has legal authority to investigate 21 types of crimes and make arrests. The armed forces, which report to the Secretariat of Defense, are responsible for external security but also exercise some domestic security responsibilities. Some larger cities have independent police forces that supplement the HNP and report to municipal authorities. The PMOP reports to military
authorities but conducts operations sanctioned by civilian security officials as well as by military leaders. As of August the PMOP had approximately 4,000 personnel organized into eight of 10 planned battalions and was present in all 18 departments. The National Interinstitutional Security Force (FUSINA) coordinates the overlapping responsibilities of the HNP, PMOP, National Intelligence Directorate, Public Ministry, and national court system. FUSINA reports to the National Security and Defense Council. The president chairs the council, which includes representatives of the Supreme Court, National Congress, Public Ministry, and Secretariats of Security and Defense.

Civilian authorities at times did not maintain effective control over the security forces. The government took steps to investigate and punish abuses, but corruption and inefficiency resulted in impunity in many cases. The armed forces surrendered members accused of human rights violations to civilian authorities. The armed forces sometimes dishonorably discharged such individuals, even before a criminal trial. The Public Ministry, primarily through the Office of the Special Prosecutor for Crimes against Life, is responsible for investigating cases in which a government agent is allegedly responsible for killing a civilian. Prosecutors try such cases in civilian courts. Prosecutors and judges attached to FUSINA prosecute and hear cases related to FUSINA operations. A unit within the Office of the Special Prosecutor for Crimes against Life manages some cases of homicides committed by members of the security forces and government officials. The human rights office of the joint staff of the armed forces investigated allegations of human rights abuses by members of the armed forces.

The human rights office of the joint staff of the armed forces reported that in 2016 more than 7,000 members of the armed forces, including army, navy, air force, PMOP, and others, received training on human rights and use of force. More than 3,000 received gender training. The armed forces and various NGOs provided the training. As of August the Vice Ministry of Human Rights and Justice had trained more than 3,500 members of the armed forces on human rights.

Corruption and impunity remained serious problems within the security forces. Some members of the HNP committed crimes, including crimes linked to local and international criminal organizations. As of August the CPTRT reported 55 cases of corruption linked to members of the security forces, including 33 prison officials.
As of November 30, the Police Purge Commission reported that, since its creation in April 2016, it had reviewed the conduct of approximately 14,000 HNP officers and removed 4,445.

**Arrest Procedures and Treatment of Detainees**

The law provides that police may make arrests only with a warrant, unless they make the arrest during the commission of a crime, there is strong suspicion that a person has committed a crime and might otherwise evade criminal prosecution, they catch a person in possession of evidence related to a crime, or a prosecutor has ordered the arrest. The law requires police to inform persons of the grounds for their arrest and bring detainees before a competent judicial authority within 24 hours. It stipulates that a prosecutor then has 24 additional hours to decide if there is probable cause for indictment, whereupon a judge has 24 more hours to decide whether to issue a temporary detention order. Such an order may be effective for up to six days, after which the judge must hold a pretrial hearing to examine whether there is probable cause to continue pretrial detention. The law allows persons charged with some felonies to avail themselves of bail and gives prisoners a right of prompt access to family members. The law allows the release of other suspects pending formal charges, on the condition that they periodically report to authorities. The government generally respected these provisions. Persons suspected of any of 22 specific felonies must remain in custody, pending the conclusion of judicial proceedings against them. Some judges, however, ruled that such suspects may be released on the condition that they continue to report periodically to authorities. The law grants prisoners the right to prompt access to a lawyer of their choice and, if indigent, to government-provided counsel, although authorities did not always abide by these requirements.

**Arbitrary Arrest:** The Public Ministry reported 35 cases of illegal detention or arbitrary arrest as of October.

**Pretrial Detention:** Judicial inefficiency, corruption, and insufficient resources delayed proceedings in the criminal justice system, and lengthy pretrial detention was a serious problem. According to the UNAH’s Violence Observatory, as of July, 55 percent of the prison population had not been convicted. For crimes with minimum sentences if convicted of six years’ imprisonment, the law authorizes pretrial detention of up to two years. The prosecution may request an additional six-month extension, but many detainees remained in pretrial detention much longer, including for more time than the maximum period of incarceration for their alleged crime. Pretrial detainees were often held with convicted prisoners. The
law does not authorize pretrial detention for crimes with a maximum sentence of five years or less. The law mandates that authorities release detainees whose cases have not yet come to trial and whose time in pretrial detention already exceeds the maximum prison sentence for their alleged crime. Even so, many prisoners remained in custody after completing their full sentences, and sometimes even after an acquittal, because officials failed to process their releases expeditiously.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, but the justice system was poorly funded and staffed, inadequately equipped, often ineffective, and subject to intimidation, corruption, politicization, and patronage. Low salaries and a lack of internal controls rendered judicial officials susceptible to bribery. Powerful special interests, including organized criminal groups, exercised influence on the outcomes of some court proceedings. The Supreme Court approved a National Plan to Eradicate Judicial Delay, aimed at reducing wait times for court cases. As part of that plan, the court established three new mobile justices of the peace in July and inaugurated new courts: one in July, two in August, and two in October.

On June 30, Teodoro Bonilla, former vice president of the Judicial Council, was found guilty of influence peddling for using his position in the judiciary to obtain dismissal of charges against two relatives facing criminal prosecution for engaging in organized criminal activities. On September 11, Bonilla was sentenced to serve six years in prison and to pay a fine of 200,000 lempiras ($8,470), the first ever conviction for influence peddling by a government official. The Public Ministry had requested the maximum sentence of nine years’ imprisonment and a fine of 300,000 lempiras ($12,700).

Trial Procedures

The law provides for the right to a fair and public trial; however, the judiciary did not always enforce this right.

The law presumes an accused person is innocent. The accused has the right to an initial hearing before a judge, to ask for bail, consult with legal counsel in a timely manner, have a lawyer provided by the state if necessary, and request an appeal. Defendants can receive free assistance of an interpreter, and the Supreme Court created a new public registry of interpreters in November to ensure that defendants had access to free interpretation. The law permits defendants to confront witnesses
against them and offer witnesses and evidence in their defense. Authorities generally respected these rights.

Credible observers noted problems in trial procedures such as a lack of admissible evidence, judicial corruption, widespread public distrust of the legal system, witness intimidation, and an ineffective witness protection program.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law establishes an independent and impartial judiciary in civil matters, including access to a court to seek damages for human rights violations. Litigants may sue a criminal defendant for damages if authorized by a criminal court. Individuals and organizations may appeal adverse domestic decisions to the Inter-American Human Rights system.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

Although the constitution and law generally prohibit such actions, a legal exception allows government authorities to enter a private residence to prevent a crime or in case of other emergency. There were credible complaints that police occasionally failed to obtain the required authorization before entering private homes. As of June the judicial system reported three convictions in 10 alleged cases of illegal entry by government officials. The CPTRT reported five cases of illegal entry into homes by members of the security forces as of August. There were also complaints that security forces entered private homes without the required authorization during a 10-day state of emergency and curfew imposed in December.

Ethnic minority rights leaders and farmworker organizations continued to claim that the government failed to redress actions taken by the security forces, government agencies, and private individuals and businesses to dislodge farmers and indigenous peoples from lands over which they claimed ownership based on land reform laws or ancestral land titles (see section 6, Indigenous People).

Section 2. Respect for Civil Liberties, Including:
a. Freedom of Expression, Including for the Press

The constitution and laws provide for freedom expression, including for the press, with some restrictions, and the government generally respected this right. A small number of powerful business magnates with intersecting commercial, political, and family ties owned most of the major news media.

Freedom of Expression: The penal code includes a provision to punish persons who directly, or through public media, incite discrimination, hate, contempt, repression, or violence against a person, group, or organization for reasons of gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity.

Media associations and NGOs expressed concerns about revisions to the penal code in January that criminalize certain speech, including on social media, regarding terrorism.

Violence and Harassment: There were continued reports of harassment and threats against journalists and social communicators (including social and political commentators, talk-show hosts, and bloggers). Reports linked most of these instances of harassment and threats to organized criminal elements and gangs.

Government officials at all levels publicly denounced violence and threats of violence against members of the media and social communicators. UNAH’s Violence Observatory reported two killings of journalists and social communicators during the first six months of the year. For example, on January 17, journalist Igor Abisai Padilla Chavez was shot and killed. There were also many reports of intimidation and threats against members of the media and their families, including from members of the security forces and from organized crime. It was usually unclear whether violence and threats against journalists were linked to their work or were products of generalized violence.

Human rights defenders, including indigenous and environmental rights activists, political activists, labor activists, and representatives of civil society working to combat corruption, reported threats and acts of violence. Civil society organizations, including students, agricultural workers groups, and indigenous rights groups, criticized the government and its officials for allegedly criminalizing
and stigmatizing social protest (see section 2.b.). Several senior state officials made public comments that local and international civil society organizations interpreted as threatening towards their members. This included the minister of environment, who in January suggested police should arrest members of international NGOs reporting on corrupt activities, and the chief justice of the Supreme Court at the midterm review of the Universal Periodic Review in Geneva, who stated domestic and international civil society acted in their own interests and presented false information that indirectly incited violence. Members of the Police Purge Commission, National Anti-Corruption Council, and Organization of American States’ Mission against Corruption and Impunity in Honduras (MACCIH) reported receiving threats. Among others, Olivia and Berta Zuniga, the daughters of killed activist Berta Caceres, reported being targets of multiple threatening incidents. The AFL-CIO’s International Solidarity Center reported threats against several labor leaders, including public sector union leaders (also see section 7.a.). On April 13, melon-sector union leader Moises Sanchez Gomez reported being attacked by several individuals who warned him to cease his union activities. His brother Hermes Misael Sanchez Gomez was injured by a machete in the attack.

The Ministry of Human Rights, Justice, Governance, and Decentralization continued to strengthen implementation of the 2015 Law for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Operators. A key part of this law was the creation of a national mechanism for the protection of human rights defenders and others protected by law. Some NGOs continued to express concern about weak implementation of the law and limited resources available for the protection of human rights defenders. Civil society organizations continued to criticize the government’s failure to investigate threats against activists and journalists adequately.

The government allocated a budget of 10 million lempiras ($424,000) in 2016, and 15.2 million lempiras ($644,000) in 2017--10 million lempiras ($424,000) from the National Budget for the operation of the mechanism, and an additional 5 million lempiras ($212,000) for protective measures from the Security Tax for the protection mechanism. By June 30, it had 27 permanent and contract staff. As of June 30, the mechanism had received 81 new requests for protection, of which 62 met the requirements of the law and were accepted. This increased the total requests for protection since the law’s approval in 2015 to 168. Of these, it had accepted 118, and from these, 14 cases were closed because the beneficiaries had left the country or had rejected the protection measures. The remaining 104 cases included 73 human rights defenders, 19 journalists, three social communicators,
and nine justice-sector workers. Of these requests, 17 were from persons who were already beneficiaries of protection measures mandated by the Inter-American Commission on Human Rights (IACHR) that the Human Rights Office of the Ministry of Security continued to implement. As of June 30, the Ministry of Security had transferred eight cases to the protection mechanism of 66 outstanding IACHR orders for protection in the country.

The HNP’s Violent Crimes Task Force (VCTF) investigated crimes against high-profile and particularly vulnerable victims, including judges, journalists, human rights activists, and members of the LGBTI community. As of October 2, the VCTF had remitted 25 cases to the Public Ministry, carried out 34 raids with judicial orders, executed 12 warrants for capture, detained 26 persons involved in crimes, and obtained six judicial sentences.

Censorship or Content Restrictions: Members of media and NGOs said the press self-censored due to fear of retaliation from organized crime or corrupt government officials.

Libel/Slander Laws: Citizens, including public officials, can initiate criminal proceedings for libel and slander. On September 7, indigenous Garifuna community activist Miriam Miranda issued an alert that police were attempting to arrest her following charges of slander brought by international businessmen over land disputes between the businessmen and Garifuna communities.

A health ministry official charged a union activist with slander after the activist filed charges with the Public Ministry that the official had paid to have him killed following his public statements about corrupt activities in a regional hospital. The Public Ministry conducted an investigation and brought charges against the official, but a judge found insufficient evidence to continue to trial. The official subsequently brought charges of slander against the union leader. A judge dismissed a request by the union leader to dismiss the charges and ordered the case to proceed to trial.

National Security: Reporters without Borders and other civil society organizations continued to express concerns about potential abuse of the law for the Classification of Public Documents Related to Defense and National Security. Beginning in the third quarter of 2015, the government made available to the public some information about activities that the security tax and other trust funds support, and it incorporated trust fund numbers into the current budget. In June
MACCIH issued a report detailing the necessity of changing the law to effectively combat corruption.

**Nongovernmental Impact:** Some journalists and other members of civil society reported threats from members of organized crime. It was unclear how many of these threats were related to the victims’ professions or activism. Several anonymous social media sites, possibly linked to political parties, criticized activists, civil society organizations, and journalists who were critical of the government or opposition party policies.

**Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, but there were credible reports that the government monitored private online communications. According to the International Telecommunication Union, in 2016 approximately 30 percent of the population used the internet.

**Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

**b. Freedoms of Peaceful Assembly and Association**

**Freedom of Peaceful Assembly**

The constitution and law provide for freedom of peaceful assembly, and the government generally respected this right. The law requires a judge to issue an eviction order for individuals occupying public and private property if security forces had not evicted the individuals within a specified period of the occupation. Some local and international civil society organizations, including students, agricultural workers groups, political parties, and indigenous rights groups, alleged that members of the security forces used excessive force to break up peaceful demonstrations. As results were delayed in the close presidential election, protests related to perceived fraud and manipulation of results broke out in late November and early December. Human rights organizations alleged that members of the security forces used excessive force in postelection violence and killed between 16 and 22 individuals. Some protesters were violent, attacking security forces and members of the media with weapons such as rocks and Molotov cocktails, killing at least one member of the security forces in December, damaging public and private property, and limiting access to public and private facilities. On several
occasions police used tear gas and water cannons to disperse violent protesters. Authorities temporarily detained protesters wielding rocks, machetes, and other dangerous items and would sometimes press charges.

On August 15, during a protest over a hydroelectric project in the community of Pajuiles, police used tear gas to disperse the protesters and arrested five individuals for instigating violence. Protesters claimed they became violent only after police arrested the peaceful protest leaders and allegedly assaulted a pregnant woman in the process.

Many civil society leaders and organizations condemned a decision by UNAH leaders authorizing police to evict protesters on September 8 from the Tegucigalpa UNAH campus. During the eviction civil society organizations criticized police for excessive use of force against a group of students and human rights activists. The students claimed university security personnel locked them in a campus building when police ordered everyone to leave the campus. Police attempted to detain the students after they escaped from the locked building, at which point they locked themselves in a vehicle with human rights defenders who claimed they had arrived to monitor the situation. A video surfaced showing police pepper-spraying the group as they left the vehicle. Several of the individuals required medical attention, and police reportedly failed to provide it. The police claimed they used appropriate force and only acted following aggressive actions by some of the students. The Police Purge Commission called for the police officers involved to be suspended and the launch of a formal investigation. On September 26, a judge upheld charges of trespassing against the students and charges of attacking state security for three human rights activists.

Law enforcement evictions of protesters, land rights activists, and others were generally conducted peacefully, although injuries were occasionally reported. As with the UNAH students, the government charged some individuals with trespassing after they occupied disputed land or public buildings and required them to present themselves to judicial authorities periodically while legal proceedings against them were pending. Civil society organizations claimed that by doing so, the government was criminalizing social protest and favoring powerful business and political elites that had acquired resources through corruption and other criminal activity.

Freedom of Association
The constitution and law provide for freedom of association, and the government generally respected this right. The penal code prohibits illicit association, defined as gatherings by persons bearing arms, explosive devices, or dangerous objects with the purpose of committing a crime, and prescribes prison terms of two to four years and a fine of 30,000 to 60,000 lempiras ($1,270 to $2,540) for anyone who convokes or directs an illicit meeting or demonstration. There were no reports of such cases during the year, although authorities charged some protesters with sedition. Public sector unions expressed concern over some officials refusing to honor existing bargaining agreements and firing union leaders. The law prohibits police from unionizing (see section 7.a.).

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: Transiting migrants were vulnerable to abuse by criminal organizations.

In-country Movement: In practical terms there were areas where authorities could not assure freedom of movement because of criminal activity and a lack of significant government presence.

Internally Displaced Persons (IDPs)

In 2016 UNHCR estimated there were approximately 174,000 IDPs in the country. In 2016 CONADEH identified 87 new cases of forced displacement and 370 cases of individuals at risk of forced displacement. The CPTRT reported 166 new cases of forced displacement as of September. Internal displacement was generally caused by violence, national and transnational gang activity, human trafficking,
and migrant smuggling. Official data on forced internal displacement was limited in part because gangs controlled many of the neighborhoods that were sources of internal displacement (see section 6, Displaced Children).

The government maintained an interinstitutional commission to address the problem of persons displaced by violence, which focused on policy development to address IDPs. In 2016 the commission presented a draft law to the cabinet for the prevention of internal displacement and protection of internally displaced persons that would clarify the role and presence of the commission and the types of government assistance provided to IDPs. In 2016 CONADEH also created a Forced Internal Displacement Unit (UDFI), in cooperation with UNHCR. The UDFI responded to claims of forced displacement with a focus on humanitarian assistance to victims and documentation of incidents and trends. Observers criticized the government for focusing on IDPs from a security standpoint, and not protection, and noted the commission and government response were hampered by limited budgetary resources, which prevented the law’s passage or the development or implementation of a holistic government response to internal displacement. On September 12, the government authorized the creation of an independent Secretariat for Human Rights effective January 1, 2018. The secretariat is to have a directorate to address IDP rights. The government hosted the Comprehensive Refugee Response Framework conference in October and volunteered to be part of a UNHCR pilot program to respond to displacement.

**Protection of Refugees**

The government cooperated with UNHCR and other humanitarian organizations to provide protection and assistance to refugees and other persons of concern.

**Access to Asylum:** The law allows for the granting of asylum or refugee status. The government has established a system to provide protection to refugees, but at times there were significant delays in processing provisional permits for asylum applicants. As of April authorities had received 14 applications for asylum, of which they approved three and continued to process the remainder.

**Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the right to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage. The law does not permit active members of the military or the
civilian security forces to vote. The constitution prohibits practicing clergy from running for office or participating in political campaigns.

**Elections and Political Participation**

**Recent Elections:** In December, Juan Orlando Hernandez of the National Party was declared the winner in the November 26 elections. International observers generally agreed the elections were free but disputed the fairness and transparency of the results. The Organization of American States (OAS) and the European Union (EU) both fielded observer teams for the November 26 elections, and agreed that the margin of victory separating incumbent President Hernandez from challenger Salvador Nasralla was extremely close. The OAS mission found that this small margin, combined with numerous irregularities in vote processing, left it unable to say with certainty who won the presidential election. The EU electoral observation mission agreed that there were serious irregularities in the process, but concluded that the safeguards built into the system, including posting of voting results forms on a public website, helped ensure transparency. NGOs reported irregularities, including problems with voter rolls, the buying and selling of electoral workers’ credentials, and lack of transparency in campaign financing.

**Political Parties and Political Participation:** Civil society and opposition parties accused officials of using government resources to attract voters. A new law passed in January aims to help address this issue (see section 4, Financial Disclosure).

**Participation of Women and Minorities:** No laws limit the participation of women and/or members of minorities in the political process, and they did participate. Women, however, suffered political violence, which ranged from harassment for voting against party lines to receiving death threats for their political participation.

**Section 4. Corruption and Lack of Transparency in Government**

The law provides for criminal penalties for corruption by officials, but authorities did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year. The government took steps to address corruption at high levels in government agencies, including arresting and charging members of congress, judges, prosecutors, current and former senior officials, mayors and other local authorities, and police officers. The quasi-governmental National Anticorruption Council had an investigative unit of 15 persons. The council receives government
funding, which obliges it to disclose the names of its investigators, making them vulnerable to reprisals. Council staff reported credible personal threats and attempts at intimidation. NGOs said that some individuals who reported public corruption also received threats.

The MACCIH began operations in the country in April 2016 with a mandate to prevent and combat corruption, reform the criminal justice system, reform aspects of the political and elections legal framework, and improve public security.

Corruption: Prosecutions of public-sector corruption predominantly targeted low-level officials and focused on charges of abuse of authority and misconduct in public office, which were easier to prove but carried lower penalties than illicit enrichment, fraud, and money laundering. There were reports that the government’s anticorruption institutions did not take sufficient steps to contain high-level corruption and were unwilling or lacked the professional capacity and resources to investigate, arrest, and prosecute those involved. On September 11, new anticorruption courts staffed with 11 judges and magistrates began operating in Tegucigalpa and San Pedro Sula. In May 2016 the Supreme Court ordered the creation of these special courts in order to investigate crimes including corruption, bribery, misuse of public office, misappropriation of public funds, and falsification of documents. Funded by the security tax, the courts were initially provided an approximately 6.5 million lempira ($275,000) budget, and in January judges were selected by a commission that included representatives from the NGO Association for a Better Society and the MACCIH.

On June 19, a tribunal of judges returned guilty verdicts against five former public officials for using shell companies to divert more than 290 million lempiras ($12.3 million) from the Social Security Institute. The tribunal also found defendant Mario Zelaya Rojas, the former director of the institute, guilty on charges of abuse of authority and fraud, and defendants Jose Ramon Bertetty and Vivian Melissa Juarez Fiallos guilty of violation of duties of public officials and fraud. This was the fourth conviction obtained by the Public Ministry against Zelaya and brought total convictions obtained in the case to 15. One of the convictions against Zelaya resulted in a sentence of 15 years’ imprisonment, the longest on corruption charges for a former public official in the history of the country.

On July 13, the MACCIH announced the start of an investigation into the private energy company Desarrollos Energeticos, SA (DESA), partially owned by the Atala family. Civil society long maintained that DESA, parent company of the controversial Agua Zarca hydroelectric plant, had ties to the killing of
environmental activist Berta Caceres and that government corruption contributed to the climate of impunity surrounding her death. One DESA employee and one former DESA employee were among eight suspects being prosecuted for her killing.

Financial Disclosure: Public officials are subject to financial disclosure laws but did not always comply. The law mandates that the Supreme Auditing Tribunal monitor and verify disclosures. The tribunal published its reports on its website and published the names of public officials who did not comply with disclosure laws. In January the congress passed a Campaign Finance Law that created a Financing, Transparency, and Accountability Unit to improve political campaign fiscal transparency. On May 30, the congress elected and swore in three magistrates to oversee the unit, which falls under the purview of the Supreme Electoral Tribunal. The new law and unit require political candidates and parties to open bank accounts and report all expenditures in an effort to increase transparency for elected government officials.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Human rights organizations criticized government officials for lack of access and responsiveness. Some human rights organizations claimed that government officials made statements about activists and organizations that constituted threats or harassment (see sections 2.a. and 2.b.).

The United Nations or Other International Bodies: Some civil society organizations criticized the government for failing to comply with, or inadequately complying with, rulings by the Inter-American Human Rights Court and protection measures ordered by the court and the IACHR.

rights abuses by government officials. The congress had a Human Rights Committee. The Ministries of Security and Defense both had human rights offices.

The government continued to implement 37 recommendations from a Truth and Reconciliation Commission created after the 2009 political crisis.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes all forms of rape of men or women, including spousal rape. The government considers rape a crime of public concern, and the state prosecutes rapists even if victims do not press charges. The penalties for rape range from three to nine years’ imprisonment, and the courts enforced these penalties.

The law provides penalties of up to four years in prison for domestic violence; however, if a victim’s physical injuries do not reach the severity required to categorize the violence as a criminal act, the only legal penalty for a first offense is a sentence of one to three months of community service. Female victims of domestic violence are entitled to certain protective measures. Abusers caught in the act may be detained for up to 24 hours as a preventive measure. The law provides a maximum sentence of three years in prison for disobeying a restraining order connected with the crime of intrafamilial violence.

In cooperation with the UN Development Program, the government operated consolidated reporting centers in Tegucigalpa and San Pedro Sula where women could report crimes, seek medical and psychological attention, and receive other services. These reporting centers were in addition to the 298 government-operated women’s offices--one in each municipality--that provided a wide array of services to women, focusing on education, personal finance, health, social and political participation, environmental stewardship, and prevention of gender-based violence.

Sexual Harassment: Both the penal and labor codes criminalize various forms of sexual harassment. Violators face penalties of one to three years in prison and possible suspension of their professional licenses, but the government did not effectively enforce the law.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates

**Discrimination:** Although the law accords women and men the same legal rights and status, including property rights in divorce cases, many women did not fully enjoy such rights. Most women in the workforce engaged in lower-status and lower-paying informal occupations, such as domestic service, without the benefit of legal protections. By law women have equal access to educational opportunities.

**Children**

**Birth Registration:** Children derive citizenship by birth in the country, from the citizenship of their parents, or by naturalization. Although birth registration was widely available in 2015, UNICEF reported that, according to the National Population and Housing Census of 2013, an estimated 65,000 children did not have birth registration documents. The largest numbers of unregistered children were in indigenous and Afro-Honduran communities.

**Education:** Education is tuition-free, compulsory, and universal through the 12th grade, although high school students had to pay fees.

**Child Abuse:** Child abuse remained a serious problem. The law establishes prison sentences of up to three years for child abuse.

The Violence Observatory reported the homicides of 326 children as of August. As of July Casa Alianza reported there were no arrests in 80 percent of homicide cases of individuals age 23 and under. While there were some improvements in the overall security situation, there were reports that police committed acts of violence against poor youths.

For additional information, see Appendix C.

**Early and Forced Marriage:** On July 12, the congress amended the law to raise the minimum legal age of marriage for both boys and girls to 18 with parental consent. It was previously 16 for girls with parental consent. According to government statistics, 10 percent of women married before age 15 and 37 percent before age 18.
Sexual Exploitation of Children: The commercial sexual exploitation of children, especially in sex trafficking, continued to be a problem. The country was a destination for child sex tourism. The legal age of consent is 18. There is no statutory rape law, but the penalty for rape of a minor under age 12 is 15 to 20 years in prison, or nine to 13 years in prison if the victim is age 13 or older. Penalties for facilitating child sex trafficking are 10 to 15 years in prison, with fines ranging from one million to 2.5 million lempiras ($42,400 to $106,000). The law prohibits the use of children under 18 for exhibitions or performances of a sexual nature or in the production of pornography.

Displaced Children: Many children lived on the streets. Casa Alianza estimated 15,000 children were homeless and living on the streets, primarily in major cities. Casa Alianza assisted 596 street children as of August.

One civil society organization reported that common causes of forced displacement for youth included death threats for failure to pay extortion, attempted recruitment by gangs, witnessing criminal activity by gangs or organized crime, domestic violence, attempted kidnappings, family members’ involvement in drug dealing, victimization by traffickers, discrimination based on sexual orientation, sexual harassment, and discrimination for having a chronic illness.

Institutionalized Children: Between January 2015 and September 2016, at least 10 juveniles were killed while in detention in government facilities, nine of them in the Renaciendo juvenile detention center. CONAPREV reported four incidents at Renaciendo as of August, including violence between members of the 18th Street gang and another gang, Los Chirizos, resulting in the deaths of two minors affiliated with Los Chirizos and injuries to 11 other detainees.


Anti-Semitism

The Jewish community, located primarily in San Pedro Sula, numbered several hundred. Leaders of the Jewish community reported frequent expressions of anti-Semitism in political discourse and events, ranging from swastikas spray painted on public buildings to hate speech in political speeches and on social media.
 Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The Public Ministry is responsible for prosecuting violations. The law requires that persons with disabilities have access to buildings, but few buildings were accessible, and the national government did not effectively implement laws or programs to provide such access.

The government had a disabilities unit in the Ministry of Development and Social Inclusion.

Indigenous People

In the 2013 census, approximately 8.5 percent of the population identified themselves as members of indigenous communities, but other estimates were higher. Indigenous groups included the Miskito, Tawahkas, Pech, Tolupans, Lencas, Maya-Chortis, Nahual, Bay Islanders, and Garifunas. They had limited representation in the national government and consequently little direct input into decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

Indigenous communities continued to report threats and acts of violence against them and against community and environmental activists. Violence was often rooted in a broader context of conflict over land and natural resources, extensive corruption, lack of transparency and community consultation, other criminal activity, and limited state ability to protect the rights of vulnerable communities.

Communal ownership was the norm for most indigenous land, providing land-use rights for individual members of the community. Documents dating to the mid-19th century defined indigenous land titles poorly. Communities complained of lost, stolen, illegally sold, and otherwise contested historical titles. The government continued its efforts to recognize indigenous titles. Lack of clear land titles provoked land use conflicts with nonindigenous agricultural laborers, businesses, and government entities interested in developing lands that indigenous and other ethnic minority communities traditionally occupied or used.
Persons from indigenous and Afro-descendant communities continued to experience discrimination in employment, education, housing, and health services.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law states that sexual orientation and gender identity characteristics merit special protection from discrimination and includes these characteristics in a hate crimes amendment to the penal code. Nevertheless, social discrimination against LGBTI persons was widespread. As of October the special prosecutor for human rights was investigating nine formal complaints of discrimination by LGBTI individuals in previous years. Representatives of NGOs that focused on the right to sexual diversity alleged that the PMOP and other elements of the security forces harassed and abused LGBTI persons. As of August APUVIMEH, an NGO that works with LGBTI persons, reported eight violent deaths of LGBTI persons in the central areas of the country. The UNAH Violence Observatory reported five homicides as of August. NGOs also documented multiple instances of assaults and discrimination against LGBTI persons, leading to forced displacement of some individuals.

LGBTI rights groups asserted that government agencies and private employers engaged in discriminatory hiring practices. LGBTI groups continued working with the VCTF, Ministry of Security, and Office of the Special Prosecutor for Human Rights to address concerns about intimidation, fear of reprisals, and police corruption. From September 2016 through July 2017, the VCTF made arrests in four cases.

Transgender women were particularly vulnerable to employment and education discrimination; many could find employment only as sex workers, substantially increasing their risk of violence. Transgender individuals noted their inability to get identity documents with their chosen gender.

**HIV and AIDS Social Stigma**

Access to employment, educational opportunities, and health services continued to be major challenges for persons with HIV/AIDS. The law provides persons with HIV the right to have access to, and remain in, employment and the education system. The law also defines administrative, civil, and criminal liability and
Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law grants workers the right to form and join unions of their choice, bargain collectively, and strike. It prohibits employer retribution against employees for engaging in trade union activities. The law places a number of restrictions on these rights, such as requiring that a recognized trade union represent at least 30 workers, prohibiting foreign nationals from holding union offices, and requiring that union officials work in the same substantive area of the business as the workers they represent. In 2016 the STSS administratively ruled that seasonal workers could not hold leadership positions in a union. Labor unions criticized this decision, saying it violated labor rights and international standards. The law prohibits members of the armed forces and police, as well as certain other public employees, from forming labor unions.

The law requires an employer to begin collective bargaining once workers establish a union, and it specifies that if more than one union exists at a company the employer must negotiate with the largest.

The law allows only local unions to call strikes, prohibits labor federations and confederations from calling strikes, and requires that a two-thirds majority of both union and nonunion employees at an enterprise approve a strike. The law prohibits workers from legally striking until after they have attempted and failed to come to agreement with their employer, and it requires workers and employers to participate in a mediation and conciliation process. Additionally, the law prohibits strikes in a wide range of economic activities that the government has designated as essential services or that it considers would affect the rights of individuals in the larger community to security, health, education, and economic and social well-being.

The law prohibits certain public service employees from striking. The law permits workers in public health care, social security, staple food production, and public utilities (municipal sanitation, water, electricity, and telecommunications) to strike as long as they continue to provide basic services. The law also requires that public-sector workers involved in the refining, transportation, and distribution of petroleum products submit their grievances to the STSS before striking. The
International Labor Organization (ILO) expressed concerns that restricting strikes in so many sectors was excessive. The law permits strikes by workers in export processing zones and free zones for companies that provide services to industrial parks, but it requires that strikes not impede the operations of other factories in such parks.

The STSS has the power to declare a work stoppage illegal, and employers may discipline employees consistent with their internal regulations, including firing strikers, if the STSS rules that a work stoppage is illegal. The ILO expressed concerns about the government’s authority to end disputes in several sectors, including oil production and transport, because such authority is vulnerable to abuse.

The government did not effectively enforce the law. A new law passed during the year substantially increases fines for labor law violations and updates the authorities of Ministry of Labor inspectors. Under the new law, the STSS can fine companies that violate the right to freedom of association. The law permits a fine of 300,000 lempiras ($12,700) per violation. If a company unlawfully dismisses founding union members or union leaders, the law stipulates that employers must also pay a fine equivalent to six months of the dismissed leaders’ salaries to the union itself. As of October 13, every fine imposed under the new law was under appeal, and no case had been resolved. The new law streamlines the process so that when the STSS imposes fines, inspectors no longer have to clear them through the Central Office of the Inspector General, a requirement that added a year or more to the time between an inspection and a fine. Both the STSS and the courts may order a company to reinstate workers, but the STSS lacked the means to ensure compliance. The reinstatement process in the courts was unduly long, lasting from six months to more than five years.

Workers had difficulty exercising the rights to form and join unions and to engage in collective bargaining, and the government failed to enforce applicable laws effectively. Public-sector trade unionists raised concerns about government interference in trade union activities, including its suspension or ignoring of collective agreements and its dismissals of union members and leaders.

Although there is no legal requirement that they do so, STSS inspectors generally accompanied workers when they notified their employer of their intent to form a union. In some cases STSS inspectors, rather than workers, directly notified employers of workers’ intent to organize. Workers reported that the presence and
participation of the STSS reduced the risk that employers would dismiss the union’s founders and later claim they were unaware of efforts to unionize.

Civil servants frequently engaged in illegal work stoppages without experiencing reprisals. Medical professionals and others continued to hold strikes throughout the year to protest arrears in salary and overtime.

Some employers either refused to engage in collective bargaining or made it very difficult to do so. Some companies also delayed appointing or failed to appoint representatives for required STSS-led mediation, a practice that prolonged the mediation process and impeded the right to strike. There were allegations that companies used collective pacts, which are collective contracts with nonunionized workers, to prevent unionization and collective bargaining because only one collective contract can exist in each workplace. Unions also raised concerns about the use of temporary contracts and part-time employment, suggesting that employers used these mechanisms to prevent unionization and avoid providing full benefits. A Supreme Court ruling requires that both unions and employers notify the STSS of new collective agreements before they go into effect. There were some complaints that employers delayed making such notifications.

Antiunion discrimination continued to be a serious problem. The three major union federations and several civil society groups noted that many companies paid the fines that government authorities imposed but continued to violate the law. Some failed to remedy violations despite multiple visits by STSS inspectors. Employers often threatened to close unionized factories and harassed or dismissed workers seeking to unionize. Local unions, the AFL-CIO’s International Solidarity Center, and other organizations reported that some employers dismissed union leaders in attempts to undermine union operations. Civil society organizations regularly raised concerns about practices by agricultural companies, particularly in the south. As of August the Solidarity Center reported that it was aware of 25 cases of individuals fired for union activism. In 2015 the STSS levied 650,000 lempiras ($27,500) in fines on 134 companies for labor rights violations. As part of a bilateral Monitoring and Action Plan signed by the minister of labor in 2015, in March the government increased fines for violations of labor laws through the new labor inspection law.

Employers often failed to comply with STSS orders requiring them to reinstate workers fired for engaging in union activities. The International Solidarity Center reported threats against several labor leaders, including public-sector labor union leaders. Civil society groups reported three labor activists or union leaders had
been violently attacked as of August. As of September NGOs documented eight cases of threats or violence against union leaders during the year, including leaders in the agricultural and public sectors.

There was credible evidence that some employers in the manufacturing industry continued to blacklist employees who sought to form unions. Labor activists highlighted one export factory, Petralex, that allegedly closed operations in response to unionization and reopened under a new name, blacklisting former union members. Some companies in other sectors, including the banana industry, established employer-controlled unions that prevented the formation of independent unions because of legal restrictions on the number of unions and collective bargaining agreements allowed per company.

Several companies in export processing zones had solidarity associations that functioned similarly to company unions for the purposes of setting wages and negotiating working conditions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced labor, but the government did not effectively implement or enforce these laws. Administrative penalties of up to 100,000 lempiras ($4,240) were insufficient to deter violations and were rarely enforced. Penalties for forced labor under antitrafficking laws range from 10 to 15 years’ imprisonment, but authorities often did not enforce them. The government investigated several cases of labor trafficking, including forced begging and domestic service.

Forced labor occurred in street vending, domestic service, the transport of drugs and other illicit goods, and other criminal activity. Victims were primarily impoverished men, women, and children in both rural and urban areas (also see section 7.c.). The 2015 prison labor law requiring prisoners to work at least five hours a day, six days a week, took effect in January 2016. Regulations for implementing the law were still under development as of September. The Ministry of Human Rights, Justice, Governance, and Decentralization said it was taking every precaution to protect prisoners’ rights and assure that the work provided opportunities for prisoners to develop skills they could use in legal economic activities after their release.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.
c. Prohibition of Child Labor and Minimum Age for Employment

The law regulates child labor, sets the minimum age for employment at 14, and regulates the hours and types of work that minors up to age 18 may perform. By law all minors between 14 and 18 must receive special permission from the STSS to work, and the STSS must perform a home study to verify that there is an economic need for the child to work and that the child will not work outside the country or in hazardous conditions, including in offshore fishing. The STSS approved 132 such authorizations between 2014 and August. The vast majority of children who worked did so without STSS permits. If the STSS grants permission, children between 14 and 16 may work a maximum of four hours a day, and those between 16 and 18 may work up to six hours a day. The law prohibits night work and overtime for minors under the age of 18, but the STSS can grant special permission for minors ages 16 to 18 to work in the evening if such employment does not adversely affect their education.

The law requires that individuals and companies that employ more than 20 school-age children at their facilities provide a location for a school.

The government did not devote adequate resources or sufficient inspectors to monitor compliance with child labor laws or to prevent or pursue violations. Fines for child labor are 100,000 lempiras ($4,240) for a first violation, and as high as 228,000 lempiras ($9,660) for repeat violations. These fines are higher than those for other violations of the labor code. The law also imposes prison sentences of three to five years for child labor violations that endanger the life or morality of a child. The STSS did not effectively enforce child labor laws, except in the apparel assembly sector, and there were frequent violations. The STSS issued 35 fines in 2015 for child labor violations. As of September the STSS had identified 14 small businesses that employed children and fined seven of them.

Estimates of the number of children under age 18 in the country’s workforce ranged from 370,000 to 510,000. Children often worked on melon, coffee, okra, and sugarcane plantations as well as in other agricultural production; rummaged at garbage dumps; worked in the forestry, hunting, and fishing sectors; worked as domestic servants; peddled goods such as fruit; begged; washed cars; hauled goods; and labored in limestone quarrying and lime production. Most child labor occurred in rural areas. Children often worked alongside family members in agriculture and other work, such as fishing, construction, transportation, and small businesses. Some of the worst forms of child labor occurred, including
commercial sexual exploitation of children, and NGOs reported that gangs often forced children to commit crimes, including murder (see section 6, Children).

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, age, sexual orientation, gender identity, political opinion or affiliation, marital status, race or national origin, language, nationality, religion, family affiliation, family or economic situation, disability, health, physical appearance, or any other characteristic that would offend the victim’s human dignity. Penalties include prison sentences of up to five years and monetary fines. The law prohibits employers from requiring pregnancy tests as a prerequisite for employment; violators are subject to a 5,000 lempira ($212) fine. The government did not effectively enforce these laws and regulations.

Many employers discriminated against women. According to a 2013 study by the National Institute for Women, employers paid women an average of 16 percent less than they paid men for comparable work. Female workers in some export-oriented industries and the agricultural sector continued to report being required to take pregnancy tests as a condition of employment. Persons with disabilities, indigenous and Afro-Honduran persons, LGBTI persons, and persons with HIV/AIDS also faced discrimination in employment and occupation (also see section 6, Children). As of August the STSS reported that it had received no formal complaints of work discrimination. The International Solidarity Center reported that the STSS had received 12 complaints of discrimination based on disability.

e. Acceptable Conditions of Work

There are 42 categories of monthly minimum wages, based on the industry and the size of a company’s workforce; the minimums range from 5,869 lempiras ($250) to 10,168 lempiras ($430). The law does not cover domestic workers.

The law applies equally to citizens and foreigners, regardless of gender, and prescribes a maximum eight-hour shift per day for most workers, a 44-hour workweek, and at least one 24-hour rest period for every six days of work. It also provides for paid national holidays and annual leave. The law requires overtime
pay, bans excessive compulsory overtime, limits overtime to four hours a day for a maximum workday of 12 hours, and prohibits the practice of requiring workers to complete work quotas before leaving their place of employment. The law does not protect domestic workers effectively.

In 2015 the government approved a new social security law. As part of the new law, employers must deposit at least 50 percent of the severance pay to which an employee is entitled into a bank account in the employee’s name. This provision, however, remained suspended as of September, pending the resolution of several court cases and further clarification of how the law will be implemented.

Occupational safety and health standards were current but not enforced. By law workers may remove themselves from situations that endanger their health or safety without jeopardizing continued employment. Under the new inspection law, the STSS has the authority temporarily to shut down workplaces where there is an imminent danger of fatalities.

The STSS is responsible for enforcing the national minimum wage, hours of work, and occupational health and safety laws, but it did so inconsistently and ineffectively. An inspection law (see 7.a., Freedom of Association and the Right to Collective Bargaining) was passed by the congress, and was in force, but at year’s end the implementing regulations had not been finalized. The new law permits fines of up to 25 percent of the economic damage suffered by workers, 1,000 lempiras ($42) for failing to pay the minimum wage or other economic violations, and 100,000 lempiras ($4,240) for violating occupational safety or health regulations and other labor code violations. As part of the Monitoring and Action Plan, the government nearly doubled the budget for inspectors, from 31.1 million lempiras ($1.32 million) to 59.5 million lempiras ($2.52 million). As of August inspectors had conducted 11,494 inspections, including 3,163 at work sites and 8,331 at STSS offices. As of December the STSS had 148 labor inspectors.

Because labor inspectors continued to be concentrated in Tegucigalpa and San Pedro Sula, full labor inspections and follow-up visits to confirm compliance were far less frequent in other parts of the country. Many inspectors asked workers to provide them with transportation so that they could conduct inspections, since the STSS did not have sufficient resources to pay for travel to worksites. Credible allegations of corruption among labor inspectors continued. Inspectors reportedly failed to respond to requests for inspections to address alleged violations of labor laws, conduct adequate investigations, impose or collect fines when they discovered violations, or otherwise abide by legal requirements.
Authorities did not effectively enforce worker safety standards, particularly in the construction, garment assembly, and agricultural sectors, as well as in the informal economy. The STSS conducted 31 reinspections of companies identified as labor rights violators under a Dominican Republic-Central America Free Trade Agreement complaint filed in 2012 by labor unions. Employers rarely paid the minimum wage in the agricultural sector and paid it inconsistently in other sectors. Employers frequently penalized agricultural workers for taking legally authorized days off.

There were reports of violations of overtime limits, with agricultural workers allegedly working seven days a week for many months. There were credible allegations of compulsory overtime at apparel assembly factories—particularly for women, who made up approximately 65 percent of the sector’s workforce—as well as in the private security sector and among domestic workers. Employers frequently denied workers mandatory benefits, including vacation pay and 13th- and 14th-month bonuses. As of August the STSS had recovered 26.9 million lempiras ($1.14 million) in unpaid severance from four companies and was working with an additional three companies to complete collection of outstanding severance payments from them. There were reports that both public- and private-sector employers failed to pay into the social security system.

Human rights organizations continued to report that workers in the private security and domestic sectors were typically obliged to work more than 60 hours a week, but were paid for only 44. Domestic workers often lacked contracts and received salaries below a living wage. Since many lived in on-site quarters, their work hours varied largely based on the will of individual employers. Private security guards also often worked for salaries below the minimum wage. Many guards worked every two days on 24-hour shifts, in violation of the law. Civil society organizations also reported that employers often forced workers in cleaning services and the fast food industry to work shifts of 12 hours or more, violating the legal limit. The STSS regularly received complaints of failure to pay agreed overtime, especially in the security and cleaning service sectors. As of August the STSS had received 85 formal complaints of failure to pay overtime and fined 57 companies for not doing so. The STSS estimated that more than 60 percent of workers were employed in the informal economy.

There continued to be reports of violations of occupational health and safety laws affecting the approximately 3,000 persons who made a living by diving for seafood such as lobster, conch, and sea cucumber, most from the Miskito indigenous
community and other ethnic minority groups in Gracias a Dios Department. These violations included lack of access to appropriate safety equipment. In 2014 the UN Committee on the Elimination of Racial Discrimination raised similar concerns, calling the working conditions “deplorable.” Civil society groups reported that most dive boats held more than twice the craft’s capacity for divers and that many boat captains sold their divers marijuana and crack cocaine to help them complete an average of 12 dives a day, to depths of more than 100 feet. In 2014 the government banned compressed air diving for sea cucumbers because of deaths in the dive fisheries. The STSS inspected 45 fishing boats at the opening of the season. As of September 20, the Honduran Miskito Association of Crippled Divers (AMHBLI) reported five deaths and 15 injuries. AMHBLI reported the deaths of 455 divers and the crippling of 1,750 others since 1988.
TAB 4
RIGOBERTO VELASQUEZ-BANEGAS,

v.

LORETTA E. LYNCH, Attorney General of the United States,

Petitioner, Respondent.


ARGUED DECEMBER 1, 2016 — DECIDED JANUARY 19, 2017

Before POSNER, RIPPLE, and ROVNER, Circuit Judges.

POSNER, Circuit Judge. The petitioner, a citizen of Honduras, entered the United States in 2005—without being authorized to do so—when he was 38 years old. He is now 49, still living in this country, still not authorized to live here. In 2014 the Department of Homeland Security began proceedings in the Immigration Court to have him removed from this country (i.e., deported) to Honduras. He applied for withholding of removal and also for protection under the
Convention Against Torture, on the ground that he is highly likely to be persecuted if returned to Honduras. The immigration judge denied both applications and ordered him removed. The Board of Immigration Appeals affirmed summarily, and he appeals to us.

In 2007 he discovered that he was HIV positive. HIV, short for human immunodeficiency virus, is treatable, but often progresses to AIDS—acquired immunodeficiency syndrome—a very serious, and though treatable often fatal, condition. In the Immigration Court the petitioner argued (and in our court continues to argue) that he is entitled to remain in the United States because of acute danger that he faces if returned to Honduras, danger resulting from the fact that a great many Hondurans believe that AIDS is an affliction of homosexuals (often it is, but not always, as so many Hondurans believe), and also that any man with HIV is also a homosexual. Most important, a great many Hondurans are hostile—often violently so—to persons they believe to be homosexual. And for cultural reasons related to Hondurans’ belief about these two diseases, the medical treatment of both HIV and AIDS in Honduras is often deficient and often invasive of privacy, though poor medical service is not itself a form of persecution.

The petitioner testified without contradiction that “straight” Hondurans tend not only to despise homosexuals but also to perceive them as weaklings, and on both accounts to attack them physically. He presented evidence that many suspected homosexuals have been killed in Honduras out of sheer hatred and that the police often are complicit in, or refuse to investigate, these crimes. He testified that he’s not himself a homosexual but he reminds us (as we noted in
the previous paragraph) that most Hondurans believe that any man who has either AIDS or HIV is homosexual. He fears that if returned to Honduras, as soon as he goes to a hospital for treatment of his HIV he will be “outed” as a presumed homosexual. And this is true, so far as appears, whether it is a private or a government-funded hospital—if the latter, the “outing” of him by the hospital might well be deemed explicit governmental persecution of presumed homosexuals.

He points out that persecution that does not result in death or serious bodily harm is still grounds for withholding of removal. E.g., Stanojkova v. Holder, 645 F.3d 943, 948 (7th Cir. 2011); Koval v. Gonzales, 418 F.3d 798, 805–06 (7th Cir. 2005). As we explained in Stanojkova,

Persecution involves … the use of significant physical force against a person’s body, or the infliction of comparable physical harm without direct application of force (locking a person in a cell and starving him would be an example), or nonphysical harm of equal gravity—that last qualification is important because refusing to allow a person to practice his religion is a common form of persecution even though the only harm it causes is psychological. Another example of persecution that does not involve actual physical contact is a credible threat to inflict grave physical harm, as in pointing a gun at a person’s head and pulling the trigger but unbeknownst to the victim the gun is not loaded. The line between harassment and persecution is the line between the nasty and the barbaric, or alternatively between wishing you were living in another country and being so desperate that you flee without any assurance of being given refuge in any other country.
Suspicion of the petitioner’s being homosexual will be enhanced because, though now in his late forties, he has never married. There has always been suspicion, even in the United States, that a man who never marries may be homosexual or at least bisexual, meaning he’s sexually or romantically attracted to both men and women. The suspicion does not extend to heterosexual men who have such huge sexual appetites that they are unwilling to tie themselves to one woman, in marriage, but that is not our petitioner.

There is no suggestion that as a resident of the United States all these years, albeit an unauthorized resident, the petitioner has engaged in serious criminal conduct—his entire criminal record appears to be limited to a couple of minor offenses that resulted in his being jailed for 15 days—or has posed or poses any kind of threat to the nation’s health or welfare. He is, in short, harmless, and we can’t understand the immigration judge’s failure to take that into account in deciding whether to grant withholding of removal—also her failure to take into account the alarming and pertinent fact that Honduras has the highest crime rate in the western hemisphere. In fact, according to the U.N. Office on Drugs and Crime, Honduras has the highest homicide rate in the world—90.4 homicides per 100,000 people; the international average is 6.2 homicides per 100,000 people. U.N. Office on Drugs and Crime, Global Study on Homicide 2013, pp. 12, 24 fig.1.5, www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf. This is a fact the immigration judge and Board of Immigration Appeals should have noted; neither did.

In fact the immigration judge made a hash of the record. A highly qualified American Ph.D. professor of Latin Amer-
ican studies, Suyapa Portillo, who specializes in the LGBTQ community (lesbian, gay, bisexual, transgender, and queer—an acronym that covers the entire spectrum of homosexual and related sexual orientations) in Honduras, testified as an expert witness for the petitioner. In the last 12 years she’s visited Honduras three to four times a year to conduct research. The immigration judge qualified Dr. Portillo to testify as an expert witness regarding “the experience of LGBTQ people in Honduras” and also of “HIV-positive people” in that country—overlapping groups, obviously—and having been thus qualified Dr. Portillo testified that it’s very difficult for people with HIV to find employment—employers often require proof that an applicant does not have HIV. She testified that since Honduras’s 2009 coup d’état (when the Honduran Army, following orders from the Honduran Supreme Court to oust President Manuel Zelaya, sent him into exile), more than 200 LGBTQ people have been murdered according to a pattern she thought indicated an “LGBT cleansing,” in which transgendered women were murdered with a single shot to the head and homosexual men tied up and mutilated. Dr. Portillo believes that the police are complicit in the murders and that laws purporting to protect LGBTQ people from assaults and murders are rarely enforced.

The immigration judge did not question the accuracy of Dr. Portillo’s testimony in the slightest, yet deemed it irrelevant because it was “general”—it was about the LGBTQ community and about the typical experiences of Hondurans who have HIV rather than about the petitioner specifically. But realistically the evidence is specific to the petitioner because he fits the description of Hondurans who are at risk of persecution as a result of being believed (accurately or not)
to be homosexual. The immigration judge demanded evidence that he would be persecuted if returned to Honduras, but failed to consider the feasibility of her demand. The petitioner left Honduras more than a decade ago; he’s hardly in a position, living in the United States, to assess the particular risk to him if he’s deported, as compared to the average HIV sufferer in Honduras or even the average HIV sufferer in Honduras who is middle-aged yet has never married. See 8 U.S.C. §§ 1231(b)(3); 1158(b)(1)(B)(ii).

No matter; to be a member of a group that faces a high probability of persecution in a foreign country is enough to establish that he’s at risk of persecution if deported to that country.

In evaluating whether it is more likely than not that the applicant’s life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the asylum officer or immigration judge shall not require the applicant to provide evidence that he or she would be singled out individually for such persecution if: (i) The applicant establishes that in that country there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and (ii) The applicant establishes his or her own inclusion in and identification with such group of persons such that it is more likely than not that his or her life or freedom would be threatened upon return to that country.

8 C.F.R. § 1208.16(b)(2). That is an accurate description of this case.
It’s often said that an immigrant seeking withholding of removal must prove that he or she is more likely than not to suffer persecution if deported, see, e.g., INS v. Stevic, 467 U.S. 407, 424 (1984), and that belief may have informed the immigration judge’s insistence on proof that the petitioner will be persecuted if removed to Honduras. But in recent opinions we’ve explained that the “more likely than not test” should not be taken literally, for so taken it would mean that an applicant for withholding of removal who had a 50.1 percent probability of being persecuted (killed, let’s say) if deported would be entitled to withholding of removal, but not one who had only a 50 percent probability of being killed if deported. Not only is this an absurd example of line drawing, but it assumes unrealistically that such statistics can be computed. In fact “all that can be said responsibly on the basis of actually obtainable information is that there is, or is not, a substantial risk that a given alien will be tortured if removed from the United States.” Rodriguez-Molinero v. Lynch, 808 F.3d 1134, 1135–36 (7th Cir. 2015). And therefore it should be enough to entitle the applicant to withholding of removal if there is a substantial, albeit unquantifiable, probability that if deported he will be persecuted. And that is Velasquez-Banegas’s situation, given Dr. Portillo’s testimony—testimony accepted in toto, we emphasize, by the immigration judge. In the appendix to this opinion, we reprint, with slight editing, pages 5 to 7 of the immigration judge’s opinion, which is where she summarizes Dr. Portillo’s testimony—which, to repeat, she accepted in its entirety.

She accepted the petitioner’s evidence as well as Dr. Portillo’s, stating that “Having reviewed the [petitioner’s] testimony and documentary submissions, I find the [petitioner] credible. His testimony is internally consistent and con-
sistent with his written statement. His testimony is also consistent with the other corroborative evidence in the record, including medical records and affidavits in support of his application.” What more could be required to justify granting withholding of removal?

Dr. Portillo testified without contradiction that “people with HIV are generally considered to be LGBTQ” and that the petitioner would not “be able to hide his HIV status due to a lack of confidentiality in hospitals and the likelihood that [he] would run into someone he knew while seeking treatment.” The immigration judge noted that other affidavits in the record (one by a native citizen of Honduras and another by a sociology professor who lived in Honduras for two years), stated that it is a “common belief in Honduras” that those with HIV are gay or lesbian, but this was not good enough for her because the affidavits had “cite[d] no data, reports, or examples.” But Dr. Portillo’s testimony that the immigration judge had accepted as truthful was uncontradicted evidence, from a qualified expert witness, that the petitioner will in all likelihood be unable to hide his HIV status and as such will be believed to be a homosexual and persecuted accordingly. Indeed he could hide it only by not seeking medical care for it, which would endanger his life.

In any event it was error for the immigration judge to suggest that the petitioner would be safe if he kept secret his HIV status. The law does not require people to hide characteristics like religion or sexual orientation, and medical conditions, such as being HIV positive. E.g., Muhur v. Ashcroft, 355 F.3d 958, 960–61 (7th Cir. 2004). The immigration judge implies that the petitioner would be thought to be homosexual and for that reason persecuted unless he evaded his po-
potential tormentors by pretending to be a very different person from what he actually is—a middle-aged HIV positive bachelor in a culture in which, should those characteristics be revealed, he would be in serious danger. The immigration judge would have sized up the danger to Velasquez-Banegas differently had she assumed the petitioner would live openly. Suppose a person if removed to his country of origin would be sure to be persecuted unless, by living in a cave, he avoided all contact with other persons. The next step would be to rule that no one can have a real fear of persecution because if persecution looms he can avoid it by committing suicide.

It’s true, as emphasized by the immigration judge, that the petitioner if deported will be returning to the region (Comayagua, also the name of the major city in the region) where his parents and siblings live. The immigration judge thought this would protect him from the heavy crime activity in the region, because he would be associating mainly with people who had known him all his life and would know he was not a homosexual. But they and others would know that he was HIV positive, which Hondurans consider a badge of homosexuality; and they might conclude that he had become a homosexual after leaving Honduras for the United States, for Hondurans also tend to believe that homosexuality is a lifestyle choice rather than a person’s genetic destiny.

The immigration judge failed even to mention the petitioner’s testimony that an imputation of homosexuality to him is made more likely by his being middle-aged yet never married. This omission takes on a special irony given the judge’s criticism of petitioner’s evidence as being too gen-
eral. Now maybe he could conceal his bachelor status, along with his HIV status, but in *Muhur v. Ashcroft*, *supra*, 355 F.3d at 960–61, we rejected the related proposition that “one is not entitled to claim asylum on the basis of religious persecution if (a big if, by the way) one can escape the notice of the persecutors by concealing one’s religion.” We noted that “Christians living in the Roman Empire before Constantine made Christianity the empire’s official religion faced little risk of being thrown to the lions if they practiced their religion in secret; it doesn’t follow that Rome didn’t persecute Christians, or that a Christian who failed to conceal his faith would be punished for acting ‘unreasonably.’” *Id.* The law does not take a life of stealth as its starting point.

The immigration judge thought the most severe harm that could befall Velasquez-Banegas in Honduras would be inability to receive adequate medical care. But that proposition was inconsistent with her crediting Dr. Portillo’s testimony (as she did), as was the judge’s further statement that Velasquez-Banegas “[had] not established that it [was] more likely than not that people [would] perceive him as LGBTQ”—though she had acknowledged that Dr. Portillo had “testified and stated in her affidavit that people with HIV are generally considered to be LGBTQ, which she attributes to a lack of information available to the public. She also testified that she does not believe that the petitioner would be able to hide his HIV status due to a lack of confidentiality in hospitals and the likelihood that the petitioner would run into someone he knew while seeking treatment. She also discussed a personal experience where she was extorted by police officers while on her way to a gay bar with friends who were members of the LGBTQ community. Three other affidavits in the record state generally that it is a common belief
in Honduras that those with HIV are gay or lesbian, but cite no data, reports, or examples. ... However, this evidence is insufficient to establish that the petitioner will likely have homosexuality imputed to him in Honduras, as it [this evidence] is general in nature, lacks objective data, and is not specific to the [petitioner].” What can the immigration judge have meant by that last sentence? The evidence, which certainly supports the proposition that Velasquez-Banegas is likely to have homosexuality imputed to him in Honduras if he’s deported, is “general” because there is more than one person in Honduras with HIV, and is specific to the petitioner because he fits the description of Hondurans at risk of persecution because believed (accurately or not) to be homosexual. The judge also said, contradicting her crediting Dr. Portillo’s testimony (see Appendix below), that Portillo’s testimony that people in Honduras are uninformed and therefore tend to link homosexuality to HIV was not based on any report or evidence. It was based on her testimony, which was evidence—uncontradicted evidence!

We have noted repeatedly that remand may be warranted when the agency overlooks key aspects of an asylum-seeker’s claim and might reach a different conclusion after fuller evaluation of the record. See Chen v. Holder, 604 F.3d 324, 330 (7th Cir. 2010); Gomes v. Gonzales, 473 F.3d 746, 752 (7th Cir. 2007); Chitay–Pirir v. INS, 169 F.3d 1079, 1081 (7th Cir. 1999). This is such a case. We therefore vacate the decisions of the Board and the immigration judge and remand the case for reconsideration in light of the analysis in this opinion.
APPENDIX (QUOTED FROM THE IMMIGRATION JUDGE’S OPINION)

Dr. Portillo testified that people with HIV, like the petitioner, are particularly vulnerable in Honduras. It is very difficult for such people to gain employment, because employers, particularly in the factory industry, require potential employees to present proof of a negative HIV test before being hired. Although this is illegal in Honduras, many private companies continue the practice with impunity.

Honduras has a socialized health care system, but those with money often use private doctors because of their superior quality and efficiency. She believes that private market care in Honduras is very expensive. She testified that hospitals often run out of medications, including HIV medication, which forces people to resort to self-medication or buying those medications in the private sector. She believes that the public health system’s problems stem from a military coup in 2009, which led to increased debt and corruption for the country. She testified that there are major hospitals and non-profit organizations who give medical care in the big cities in Honduras, but those who live in rural areas have to take a bus trip, often four to five hours long, to the city, where they must wait hours at the clinic for care. Also, the buses often do not run at night because of safety concerns. Dr. Portillo is not familiar with the particular medications that HIV patients take, and she has not studied or worked with doctors who treat patients with HIV.

She described her research regarding HIV testing in San Pedro Sula, Honduras, in 2006. She first went to a Red Cross clinic to be tested for the virus, which cost five hundred Lempira, and took two weeks to get results. She returned two weeks after her test to receive her results, and the nurses at the clinic gave her the results in front of everyone in the waiting room. She took a second HIV test at an Evangelical Church organization. The intake form there asked about sexual orientation, and she identified herself as bi-
sexual. While she was waiting for the results of the test, the clinic displayed videos and pamphlets about God and abstinence outside of marriage. After receiving her results, she was counseled on God and family. She received no information about prevention or what to do if she was HIV-positive. Finally, she went to a LGBTQ organization for testing, which she described as the "best experience." But such organizations are not funded on an ongoing basis and she does not know whether the organization still exists. After she received her results from all three clinics, she was given a card displaying her results, presumably to present to potential employers. She has not updated her research regarding current tests or procedures for HIV testing in Honduras since 2006.

Dr. Portillo remained in San Pedro Sula, Honduras, for two months after completing her HIV testing research before traveling to other parts of the country. She was not physically harmed or threatened during this time, though she did take daily precautions. However, five months later, she returned to San Pedro Sula and went out to a gay bar with friends who were members of the LGBTQ community. They were stopped by police for a driving violation and harassed because of their gender identity. Dr. Portillo told the police officers that she was a US citizen and that this behavior was inappropriate, which led to the police taking one of her friends and telling the rest of the group to follow them. The police led them to a dark area in the city, and demanded money in exchange for releasing her friend, to which Dr. Portillo agreed. She believes that she was extorted because of her claim to U.S. citizenship and the assumption that as such she carried money on her.

She testified that many Hondurans directly link the HIV virus to the LGBTQ community. She believes that this is the result of a dearth of education both in the public school system and the public generally. Most HIV-positive people she has interviewed in Honduras are afraid to come out because they fear the reaction of their family, friends, and community, and because they fear losing
their jobs. She testified that she does not believe it is possible for people to hide their HIV status in Honduras successfully because the confidentiality laws for medical providers are different from what they are in the United States, the cities are small, they may run into people they know, and many are required to seek help from LGBTQ organizations and may be seen there.

Dr. Portillo also discussed the homophobic nature of Honduran society. Since 2009, more than 200 LGBTQ people have been murdered, often in a particularly gruesome manner that she believes indicates they were targeted due to their gender identity. She testified that people defecated in front of the building of a LGBTQ organization where she worked, and they also spray-painted the building. Those who work for such organizations take precautions daily to avoid harassment. She also witnessed a large protest in Honduras regarding the government’s granting “non-profit status” to a LGBTQ group, which Ms. Portillo described as the largest protest she has ever seen. She also believes the police are complicit in the harassment, assault, and murder of members of the LGBTQ community, and that they rarely conduct fair investigations of such crimes. She discussed one case in which a transgender person was assaulted, on camera, and the footage showed police officers watching and laughing. Although the police officers involved were taken off active duty for a period of time, she does not believe they were prosecuted for any crimes.

According to Dr. Portillo, the Honduran constitution and criminal code have provisions intended to protect members of the LGBTQ community, but in practice these provisions are not used to protect members of the LGBTQ community or to prosecute those who discriminate or even physically assault or kill members of the community. She cited an example in which two transgender people ran for public office, and a well-known church leader made a derogatory televised speech encouraging the public to vote against them. But despite evidence of discrimination against
them, the two individuals had their lawsuit dismissed for lack of evidence.
RIPPLE, Circuit Judge, dissenting. I sincerely regret that I cannot join my esteemed colleagues in their disposition of this petition.

I cannot accept my colleagues’ view that the immigration judge “made a hash of the record.” Majority Op. at 4. The record in this case contains evidence supportive of the position of Mr. Velasquez-Banegas and evidence supportive of the position of the Government. The immigration judge carefully evaluated the entire record and determined that Mr. Velasquez-Banegas had not carried his burden of demonstrating, by a preponderance of the evidence, that he would be subject to persecution or torture if he returns to his homeland. Under well-established principles of law, our role in reviewing the immigration judge’s decision is limited. We review legal conclusions de novo; however, we review factual determinations under “the deferential substantial evidence standard.” Khan v. Holder, 766 F.3d 689, 695 (7th Cir. 2014); Mozdzen v. Holder, 622 F.3d 680, 683 (7th Cir. 2010). We reverse “the agency’s findings only if, viewing the record as a whole, a reasonable factfinder would be compelled to reach a contrary conclusion.” Darinchuluun v. Lynch, 804 F.3d 1208, 1214 (7th Cir. 2015) (citing 8 U.S.C. § 1252(b)(4)(B)); see also I.N.S. v. Elias-Zacarias, 502 U.S. 478, 481 (1992). Once we have determined that this deferential standard has been met, we have reached the limit of our authority. It is not within our ken to order a new trial because we believe that the evidence better supports a different conclusion.

Here, the substantial evidence test clearly has been met. Following a hearing, the immigration judge denied relief, re-
jecting both Mr. Velasquez-Banegas’s claim that he faced persecution based on his imputed sexual orientation and his claim that he would be persecuted because of his HIV status.

A.

The immigration judge first concluded that Mr. Velasquez-Banegas had not established that he was an imputed member of the LGBTQ community and therefore would suffer the mistreatment frequently accorded to members of that group. To support this conclusion, the immigration judge pointed to five factors that undercut Mr. Velasquez-Banegas’s claim: (1) Mr. Velasquez-Banegas was not gay and did not plan to associate with the LGBTQ community in Honduras; (2) Mr. Velasquez-Banegas “testified that none of the three people he knew with HIV in Honduras were homosexual, and that neither he nor anyone else believed them to be”¹; (3) Mr. Velasquez-Banegas likely would seek HIV treatment at a hospital located four hours away in Tegucigalpa, reducing the possibility that he would see someone he knew while receiving treatment;² (4) Mr. Velasquez-Banegas would be returning to his hometown where he lived for thirty-eight years and many people who knew him before would still be living there; and (5) neither the provided articles nor the country conditions report stated that individuals who are

¹ A.R. at 114. The Government concedes that this was an inaccurate portrayal of Mr. Velasquez-Banegas’s testimony. Government’s Br. 14 n.4. Mr. Velasquez-Banegas testified that he did not think these three people were homosexual, but he was not aware of what others thought. A.R. at 170–74.

² Id. at 114.
HIV-positive are assumed to be gay, although those documents did discuss access to HIV healthcare, the stigma associated with being HIV-positive, and the violence experienced by members of the LGBTQ community.

Next, the immigration judge addressed Mr. Velasquez-Banegas’s claim that his HIV status was a protected social group. The immigration judge determined that the social group was cognizable and that Mr. Velasquez-Banegas was a member of this group. However, the immigration judge denied relief because Mr. Velasquez-Banegas had not demonstrated that it was more likely than not that his “life or freedom would be threatened” on account of his HIV status. The “most severe harm” that Mr. Velasquez-Banegas would face, according to the immigration judge, was his inability to receive medical care in Honduras. However, the immigration judge concluded, and my colleagues do not challenge, that the problem of inadequate medical care is not specific to those with HIV.

Regarding relief under the Convention Against Torture, the immigration judge found that Mr. Velasquez-Banegas had not established that it was more likely than not that he would be perceived as gay, although the judge recognized that the record reflects that LGBTQ people in Honduras experience persecution and “possibly torture.” The immigration judge added that lack of access to medical care and employment did

---

3 Id. at 115.
4 Id. at 116.
5 Id. at 116–17.
not constitute torture. Based on these findings, the immigration judge denied Mr. Velasquez-Banegas’s petition.6

Mr. Velasquez-Banegas first asks us to review the determination that his HIV status would not cause him to be perceived as gay. He claims that the Board disregarded relevant evidence and also impermissibly reasoned that others would not perceive Mr. Velasquez-Banegas as gay so long as he did not disclose his HIV status.7

There can be no doubt that Mr. Velasquez-Banegas presented significant evidence that gay men in Honduras face abuse, violence, and even death at the hands of the general

6 Mr. Velasquez-Banegas appealed this decision to the Board of Immigration Appeals (“the Board”). There, he argued that the immigration judge erred in (1) finding that he would not be perceived as gay; (2) improperly concluding that Mr. Velasquez-Banegas could hide his HIV status; and (3) discounting evidence as too generalized to support his claims. Finally, he alleged that he had met his burden of proof for protection under the Convention Against Torture.

On July 1, 2015, the Board adopted and affirmed the immigration judge’s decision. Because the Board summarily affirmed the immigration judge’s opinion, we base our review on the immigration judge’s analysis. Balogun v. Ashcroft, 374 F.3d 492, 498 (7th Cir. 2004).

7 The Board has recognized explicitly that homosexuality qualifies as a “particular social group.” Moab v. Gonzales, 500 F.3d 656, 661 n.2 (7th Cir. 2007). The immigration judge noted that imputation may or may not apply to claims of membership in particular social groups. A.R. at 114. Assuming without deciding this issue, the immigration judge proceeded under the assumption that relief could be granted on this ground. Id. We have held that a petitioner can state an imputed claim where he shows that others will attribute a political opinion to him and will persecute him on that basis. See Chen v. Holder, 604 F.3d 324, 332 (7th Cir. 2010).
public, as well as at the hands of the police force.\textsuperscript{8} Indeed, the immigration judge concluded that “LGBTQ individuals in Honduras may face persecution, and possibly torture.”\textsuperscript{9} However, the immigration judge also found that Mr. Velasquez-Banegas had not shown that he would be perceived as gay based on his HIV-positive status.

Mr. Velasquez-Banegas submits that the immigration judge erred by discounting evidence merely because it was general in nature. Specifically, he claims that the immigration judge “faulted the testimony and affidavits in the record for only ‘generally’ stating that there is a ‘common belief in Honduras that those with HIV are gay or lesbian,’ and for citing ‘no data, reports, or examples.’”\textsuperscript{10} The relevant part of the immigration judge’s opinion states:

\begin{quote}
The record also contains some evidence that those with HIV are at times assumed to be a member of the LGBTQ community, and the respondent expressed this fear in his testimony. \textit{See} Ex. 3. The respondent’s expert witness, Ms. Portillo, testified and stated in her affidavit that people with HIV are generally considered to be LGBTQ, which she attributes to a lack of information available to the public. She also testified that she does not believe that the respondent would be able to hide his HIV status due to a lack of confidentiality in hospitals and the\end{quote}

\textsuperscript{8} \textit{See}, e.g., A.R. at 415–16, 486–87, 489, 521–24, 529–30, 537–46, 559.

\textsuperscript{9} \textit{Id}. at 117.

\textsuperscript{10} Pet’r’s Br. 17 (quoting A.R. at 17).
likelihood that the respondent would run into someone he knew while seeking treatment. She also discussed a personal experience where she was extorted by police officers while on her way to a gay bar with friends who were members of the LGBTQ community. Three other affidavits in the record state generally that it is a common belief in Honduras that those with HIV are gay or lesbian, but cite no data, reports, or examples. See Ex. 3, Tabs B, E, and F.

However, this evidence is insufficient to establish that the respondent will likely have homosexuality imputed to him in Honduras, as it is general in nature, lacks objective data, and is not specific to the respondent.\[11\]

First, it is important to note that the immigration judge considered the entire record, including “general” evidence. The judge found the general evidence to be unpersuasive and did not give very much weight to it. While Ms. Portillo, petitioner’s expert, had testified that people in Honduras are uninformed and therefore tend to link homosexuality to HIV, the judge noted that this statement was not based on any report or evidence. Instead, the expert could only support a related point; namely, that “there is considerable overlap between the two groups.”\[12\] Similarly, the country report only

---

11 A.R. at 114.

12 Id. at 398 (“Exhibit D”) (“To be precise, in 2005 UNAIDS estimated that 13% of men who have sex with men were living with AIDS. SHADOW REPORT at page 5.”). The other evidence fell short for the same reason.
supported the notion that the HIV/AIDS epidemic “is still concentrated in high-risk groups such as commercial sex workers and their clients, men who have sex with men, [and] prisoners ... .” It did not expand on whether Hondurans likely would assume that all HIV-positive men shared a particular sexual orientation. Indeed, the report could be interpreted as cutting against this view. It listed “Vulnerable Groups” as including “Men who Have Sex with Men,” as well as “Sex workers,” “Prisoners,” “Women,” “Vulnerable Youth,” “Orphans,” “Military,” “Migrant Groups and Mobile Populations in Affected Regions,” and “Indigenous Groups and Descendants of African Origin.”14 According to the coun-

Exhibit E states “[p]ersecution extends to those individuals who are perceived as gay due to their HIV/AIDS status. The epidemic is concentrated within gay men. As a result, HIV/AIDS is perceived to be a disease ‘caused’ by LGBT individuals. Heterosexual males who have HIV/AIDS are often believed to be gay, and thus face the same risks of harm as gay individuals. In turn, LGBT individuals are often thought to have HIV/AIDS. As such, LGBT individuals and those with HIV/AIDS face persecution based on both homophobia and AIDS-phobia.” Id. at 415. The exhibit, however, cites no support for this conclusion. Similarly, Exhibit F states “[t]he common myth surrounding those infected with HIV is that the person is gay or they engaged in some homosexual activity,” but again does not support this conclusion. Id. at 431. Most unpersuasively, Exhibit B states “[i]n Honduras, there are a lot of people who link HIV to being gay. I know that the two are not necessarily connected because I know that Miguel was not gay, and I know that Rigoberto is not gay. But in my country, a lot of people assume that the two things are linked together,” immediately after discussing a heterosexual man dying from AIDS and rumors that he had infected another woman. Id. at 390.

13 Id. at 303.

14 Id. at 310–12.
try report, all of these groups face an increased risk of exposure. It certainly was well within the discretion of the immigration judge to determine the weight that ought to be given to particular evidence. See 8 U.S.C. § 1158(b)(1)(B)(ii).

My colleagues also suggest that the immigration judge committed legal error in requiring evidence more specific to Mr. Velasquez-Banegas. They take the view that it is enough to be a member of a cognizable group that faces a high probability of persecution. Majority Op. at 6 (citing 8 C.F.R. § 1208.16(b)(2)). It is true that the general rule is that membership in a cognizable social group whose members are exposed to a high probability of persecution is sufficient to make out a case for withholding of removal. But that general rule assumes that it has been established that the applicant is in fact a member of the group. See 8 C.F.R. § 1208.16(b)(2)(ii). Here, no one maintains that Mr. Velasquez-Banegas is gay; in fact, he vigorously denies that he is and has stated that he has no plans to associate with the gay community, given his antipathy toward the group. His inclusion in the group therefore depends on establishing an imputed identification with that group, and, on that question, we already have acknowledged the necessity to examine the surrounding circumstances that might establish such an imputation, including the circumstances of the particular case. See Chen v. Holder, 604 F.3d 324, 332–33 (7th Cir. 2010).

Mr. Velasquez-Banegas seems to recognize the appropriateness of weighing evidence specific to him because he also contends that the immigration judge erred in failing to con-
sider “one of the most important pieces of particularized evidence he offered.” Mr. Velasquez-Banegas explained that, in addition to being HIV-positive, he has “never gotten married,” and currently is middle-aged and single. He asserts that this increases the particularized risk that others will assume he is gay once they learn he has HIV. He claims that because the immigration judge did not cite specifically this evidence in her opinion, her entire determination is void.

As I have noted earlier, the immigration judge did consider particularized evidence about Mr. Velasquez-Banegas, including that:

the respondent will be returning to a country, and region, that he has lived in for thirty-eight out of his forty-seven years of life. His parents and siblings live in Comayagua, where he plans to return, and it is likely that many people who knew him before his departure from Honduras are still living there, …. Thus, the respondent will likely be living with people who have known him for the majority of his life and are unlikely to impute homosexuality to him, should they find out he is HIV-positive.[17]

While the immigration judge’s opinion may have been clearer if it had stated that these findings directly overcame other “particularized” evidence about Mr. Velasquez-Banegas, including his age and marital status, that inference reasonably

---

15 Pet’r’s Br. 24–25 (emphasis in original).
16 A.R. at 174.
17 Id. at 114–15.
can be made from the record, and hardly warrants upsetting the immigration judge’s determination. Immigration judges need only consider those issues presented and say enough for us to conclude “that [they] ha[ve] heard and thought and not merely reacted.” *Solis-Chavez v. Holder*, 662 F.3d 462, 469 (7th Cir. 2011) (internal quotation marks omitted).

Finally, Mr. Velasquez-Banegas also contends that the immigration judge impermissibly reasoned that others would not perceive him as gay so long as he did not disclose his HIV status. He argues that he has a right to be open about his condition. 18 This is not an accurate characterization of the immigration judge’s opinion. The immigration judge concluded that, because Mr. Velasquez-Banegas likely would seek HIV treatment at a hospital located four hours away from his hometown, this “significantly decreases the odds that he would run into someone he knows while seeking treatment.” 19 Even if Mr. Velasquez-Banegas chooses to be open about his HIV status, he has not established that his HIV status will cause him to be perceived as gay. The fact that he may choose to share his status does not alter this outcome.

---

18 See *Stanojkova v. Holder*, 645 F.3d 943, 948 (7th Cir. 2011) (describing the inability to be open about membership in a protected group—their religion—as a “common form of persecution”); *Muhur v. Ashcroft*, 355 F.3d 958, 960 (7th Cir. 2004) (rejecting argument that applicant should avoid persecution by practicing religion covertly).

19 A.R. at 114.
B.

The immigration judge also determined that Mr. Velasquez-Banegas had established his membership in the particular social group of HIV-positive men living in Honduras. However, she then concluded that (1) he could not show a nexus between any harm he may suffer through his membership in this group; and (2) the alleged economic and social harm, including difficulty in procuring medical treatment and obtaining employment, did not rise to the level of persecution.

Although the statute governing withholding of removal does not define “persecution,” we have said that it “‘must rise above mere harassment.’” Ciorba v. Ashcroft, 323 F.3d 539, 545 (7th Cir. 2003). More to the point, we have described persecution as including “detention, arrest, interrogation, prosecution, imprisonment, illegal searches, confiscation of property, surveillance, beatings, or torture,” Toptchev v. I.N.S., 295 F.3d 714, 720 (7th Cir. 2002), behavior that threatens the same, and “non-life-threatening behavior such as torture and economic deprivation if the resulting conditions are sufficiently severe,” Capric v. Ashcroft, 355 F.3d 1075, 1084 (7th Cir. 2004) (citing Sayaxing v. I.N.S., 179 F.3d 515, 519 (7th Cir. 1999)). However, “generalized conditions of hardship which affect entire populations do not rise to the level of persecution.” Id.; see also Musabelli v. Gonzales, 442 F.3d 991, 994 (7th Cir. 2006) (“Asylum is not a form of unemployment compensation.”).

20 Mr. Velasquez-Banegas repeatedly cites reports showing that police officers and private citizens have targeted LGBTQ individuals in Honduras.
Mr. Velasquez-Banegas claims that the immigration judge ignored evidence related to the poor medical care and economic deprivation that HIV-positive individuals face. Mr. Velasquez-Banegas also claims the immigration judge gave too much weight to the fact that the Honduran government has enacted laws prohibiting the discriminatory practices which Mr. Velasquez-Banegas fears.

Regarding potential economic deprivation, the immigration judge acknowledged:

The record shows that the respondent will face some harm in Honduras on account of his HIV-positive status, including employment discrimination, welfare discrimination, social stigma, and difficulty obtaining medical treatment for HIV. See Ex. 3, Tabs G–O. The respondent’s expert witness, Ms. Portillo, testified that those with HIV in Honduras are frequently denied employment opportunities, particularly in the factory industry, as they are required to provide proof that they do not have the virus before being hired. [21]

Despite this evidence, the immigration judge determined that Mr. Velasquez-Banegas had not met his burden of establishing economically based persecution. The judge cited specific evidence in making this finding, including that the Honduran

---

21 Id. at 115.

But, as noted above, Mr. Velasquez-Banegas failed to connect his HIV status with imputed sexual orientation. We therefore cannot consider the possibility of violence facing LGBTQ persons within the merits of his persecution claim based solely on his HIV status.
government has prohibited companies from denying or terminating employment due to HIV status. Additionally, the immigration judge noted that Mr. Velasquez-Banegas’s expert, Ms. Portillo, only testified that the factory industry still conducted HIV tests and “was not aware of other industries in the country that refuse employment due to HIV status.”

The immigration judge found these deficiencies significant because Mr. Velasquez-Banegas did not have a history of factory work. He had grown up on a ranch in Honduras, worked on a horse ranch in Kentucky, and also worked on a tobacco farm. The immigration judge therefore concluded that Mr. Velasquez-Banegas did not establish that he would be unable to secure the type of employment that he would be most likely to seek in Honduras.

Finally, the immigration judge determined that, although Mr. Velasquez-Banegas may experience difficulty obtaining HIV treatment and medication, this difficulty was due to general country conditions that make it difficult for all Hondurans.

---

22 Id. at 116.
23 Id. at 377–79.
24 Id. at 382.
25 See, e.g., Medhin v. Ashcroft, 350 F.3d 685, 689 (7th Cir. 2003) (petitioner’s alleged loss of one job due to his ethnicity was at most, discrimination but not persecution); Zalega v. I.N.S., 916 F.2d 1257, 1260 (7th Cir. 1990) (“Although [the petitioner] complained that he could not get a government job commensurate with his education and training and that he could not obtain additional land to expand his fox farm, the economic disadvantage [the petitioner] suffered was minor.”).
rans to receive proper medical care. Additionally, the immigration judge noted “that the Honduran Government has passed legislation that establishes the right to medical care for people with HIV.”

Honduras also has a socialized medical system, low-cost hospital care for those with HIV (in cities), and “at least thirty[-]seven” HIV treatment centers in the country.

The immigration judge was certainly entitled to credit this evidence and come to the conclusion that any economic deprivation that Mr. Velasquez-Banegas might encounter would not rise to the level of persecution. I do not understand my colleagues to disagree with that determination.

Immigration cases always pose a special burden on United States judges. As Jacques Maritain so eloquently put it: “We are all wounded souls.” See Jacques Maritain, Réflexions sur l’Amerique 87–91 (1958). Every American, including every United States judge, has a family memory that includes ancestors who came from some place where life was not as good as it is here. The DNA of our national character makes it very difficult to tell an individual that he cannot enjoy the same liberty, safety, and security that we enjoy. When the individual suffers from a medical condition that cannot be treated as well in the country to which he is returned, basic humanitarian values make the task even more difficult. No doubt, those who must make necessary policy choices and those who must enforce those choices feel, or should feel, that same angst. But immigration must be regulated, and, in this Country, national policy is set by Congress and enforced by the Executive. Our

---

26 A.R. at 116.

27 Id.
own task as judges is limited. Because the immigration judge’s determinations were supported by substantial evidence, I respectfully dissent.
TAB 5
Summary of Stakeholders’ submissions on Honduras*


I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 28 stakeholders’ submissions to the universal periodic review, presented in a summarized manner owing to word-limit constraints.¹

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies²

2. Four submissions recommended that Honduras ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.¹ Joint Submission 17 (JS17) recommended that Honduras ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.³

3. The Geneva International Centre for Justice (GICJ) recommended that Honduras accept the individual complaint procedures under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination.⁴

4. Joint Submission 10 (JS10) recommended that Honduras sign the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.⁵

5. The International Campaign to Abolish Nuclear Weapons (ICAN) recommended that Honduras ratify the UN Treaty on the Prohibition of Nuclear Weapons.⁶ Two

* The present document was not edited before being sent to United Nations translation services.
submissions recommended that Honduras ratify the International Labour Organization Domestic Workers Convention, 2011 (No. 189).\(^8\)

6. GICJ welcomed the establishment in Honduras of an office of the Office of the High Commissioner for Human Rights (OHCHR). It also noted that Honduras had received visits by several special procedures mandate holders and that, in 2017, it had submitted a midterm report to the Universal Periodic Review (UPR).\(^9\) Joint Submission 4 (JS4) recommended that Honduras submit a midterm evaluation report on the implementation of the recommendations received during the present universal periodic review.\(^10\)

7. GICJ noted positively the establishment in 2016 of the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) of the Organization of American States and recommended to extend its mandate beyond 2020.\(^11\)

B. National human rights framework\(^12\)

8. JS10 acknowledged that there had been certain advances in the implementation of the recommendations received by Honduras during its second universal periodic review, including the creation of the Ministry of Social Development and Inclusion and the entry into operation of the Ministry of Human Rights.\(^13\)

9. GICJ recommended that Honduras set out more specific, clear and objective criteria for the selection of the National Human Rights Commissioner (CONADEH), encourage indigenous and female candidates, and ensure a broader participation of civil society in the selection process.\(^14\)

10. Joint submission 12 (JS12) recommended that Honduras ensure that the National Committee for the Prevention of Torture (CONAPREV) had sufficient resources and that its member were chosen by transparent and merit based selection criteria.\(^15\)

11. JS4 recommended that Honduras systematically consult with civil society on the implementation of recommendations received under the universal periodic review and incorporate the results of that process into public policies for the promotion and defence of human rights.\(^16\)

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

   Equality and non-discrimination\(^17\)

12. Joint Submission 15 (JS15) noted that the recently adopted criminal legislation was still not compatible with international human rights standards on discrimination and that it should include definitions of direct and indirect discrimination besides prohibiting discrimination in both the public and private spheres.\(^18\) It recommended that Honduras develop and adopt legislation to combat discrimination against vulnerable groups.\(^19\) Red Lésbica Cattrachas (Cattrachas) recommended that a definition of hate crime should be expressly included in criminal legislation.\(^20\)

13. Joint Submission 9 (JS9) highlighted that members of indigenous and Afro-Honduran communities and persons with disabilities continued to suffer discrimination and that children living in neighbourhoods where criminal gangs (maras) were particularly active were stigmatized and mistreated by law enforcement officers.\(^21\)

14. JS9 also noted that machismo and discrimination against women remained prevalent in Honduras and that, in spite of the progress made, there was still a lack of adequate protection policies. It recommended that Honduras ensure the full implementation of the second plan for gender equality and equity, for the period 2010–2022, and that it foster a culture of non-discrimination against women.\(^22\)
15. Three submissions noted that lesbian, gay, bisexual, transgender and intersex people faced persistent discrimination and that, rather than safeguarding the rights of that community, the State appeared to be doing just the opposite. Cattrachas noted that the media had had a prominent role in heightening the climate of hatred towards persons of diverse sex and gender and that religious fundamentalists encouraged discrimination against lesbian, gay, bisexual, transsexual, transgender, transvestite and intersex persons.

16. Joint Submission 16 (JS16) highlighted that a gender identity law allowing transgender and transsexual persons to obtain identity documents that accurately reflected their gender identity had not yet been adopted.

Development, the environment, and business and human rights

17. Several submissions indicated that over the previous decade Honduras had granted a considerable number of concessions for mining, electricity, agro-industrial and tourism projects and noted that this development model, which was based on unrestricted extraction of natural resources without prior consultation with the communities affected, was incompatible with sustainable land use and respect for human rights and had led to many conflicts between residents, the State and private companies.

18. Peace Brigades International Honduras Project (PBI) recommended that Honduras establish accessible, transparent and effective consultation and complaint mechanisms for communities affected by mining and commercial projects. Joint Submission 14 (JS14) recommended that Honduras conduct an audit under international observation to verify the legality and legitimacy of the various mining projects.

19. JS10 recommended that Honduras adopt a national plan of action to implement the United Nations Guiding Principles on Business and Human Rights in which all stakeholders, and in particular organizations of campesino, indigenous and Afrodescendant persons, participate as widely as possible.

Human rights and counter-terrorism

20. PBI expressed serious concern about the definition of the offence of association for purposes of engaging in terrorism contained in the new Criminal Code, which, owing to the ambiguous manner in which it was phrased, could permit the criminalization of other forms of conduct and could be used against rights defenders.

2. Civil and political rights

Right to life, liberty and security of person

21. Several submissions reported serious human rights violations in the context of the Government’s response to the protests that took place in the wake of the 2017 elections, including killings, arrests, acts of torture and ill-treatment, and the filing of criminal charges. JS12 also noted reports of violent repression in the context of the 2019 mass demonstrations against health and education reforms proposed by the government, resulting in several deaths.

22. Several submissions expressed concern about the ongoing militarization of the public security system, as reflected in the creation of the Public Security Council and the Public Order Military Police. Although initially established as a temporary measure, the latter has become a permanent structure with a steadily growing personnel. PBI recommended that Honduras refrain from deploying the armed forces in citizen security operations, commit to a time frame for phasing out the Public Order Military Police and improve the human rights training provided to the security forces.

23. JS12 noted that torture and other ill-treatment continued to be used by the security forces and highlighted that the vast majority of such cases remained in impunity. It also noted that the definition of torture in the new Criminal Code did not meet the requirements of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, since it did not include as active subjects individuals acting at the instigation
or with the consent or acquiescence of a public official or other person in the exercise of public functions.  

24. Joint Submission 13 (JS13) highlighted that the United Nations Working Group on mercenaries had indicated that there were more than 74,000 security guards in Honduras, over 60,000 of which were not registered, and that the use of private security guards was poorly regulated.  

25. Three submissions were concerned about the situation of the penitentiary system, including the severe and widespread overcrowding, lack of access to quality healthcare and sanitation, and the high levels of prison violence. JS12 stated that the percentage of pre-trial detainees exceeded that of those condemned, and that the Criminal Procedure Code continued to establish 21 crimes for which pre-trial detention was mandatory. GICJ recommended speeding up the adoption of the proposal tabled by the National Penitentiary Institute regarding the release of about 685 persons on humanitarian ground, most notably persons affected by mental or other disability.  

26. JS12 highlighted the increasing militarization in the management of prisons and the use of military facilities to hold persons deprived of liberty. GICJ acknowledged the construction and refurbishment of certain prison facilities, but expressed concern over newly opened detention centres, such as the Centro de llama Santa Barbara and the Centro Penal de Moroceli, which were ruled by military agents. Joint Submission 3 (JS3) recommended that Honduras allow unrestricted access to prisons for the National Committee for the Prevention of Torture (CONAPREV) and civil society organizations.  

27. Several submissions highlighted the persistence of widespread violence against lesbian, gay, bisexual, transgender and intersex persons. JS16 reported that, according to data published by the Office of the National Commissioner for Human Rights (CONADEH), more than 280 persons of diverse sexual orientation had lost their lives in violent circumstances in the last decade and that over 90 per cent of those crimes had gone unpunished. Two submissions indicated that the Act on Policing and Harmonious Social Relations continued to be used to justify the arbitrary detention of transgender persons.  

Administration of justice, including impunity, and the rule of law  

28. Joint Submission 8 (JS8) reported that the crisis precipitated by the 2009 coup d’état had worsened in recent years, exposing institutional weaknesses, a lack of separation between powers and a backdrop of persistent corruption and impunity. GICJ urged Honduras to amend the selection and appointment procedures of the Supreme Court judges, the Attorney General and his/her Deputy and implement all the recommendations of the Special Rapporteur on the independence of judges and lawyers.  

29. GICJ was also alarmed by the high levels of impunity, in particular for crimes perpetrated against women and human rights defenders. It noted that political trials, delays in the administration of justice, and impunity for acts of violence, killings and human rights violations were giving rise to profound dissatisfaction among the population.  

30. JS3 reported that the creation of the Office of the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials had failed to provide an institutional response to the violence that those groups faced. Joint Submission 11 (JS11) highlighted the violence and intimidation to which lawyers were exposed, in particular those working on cases directly affecting the interests of the army, security forces, landowners and private companies.  

31. Various communications referred to the emblematic case of the murder of the indigenous and environmental rights campaigner, Berta Caceres. JS4 noted that, because of her high profile, greater progress had been made in the investigation of her case than in most others, but stressed that the investigation had still been plagued by irregularities. JS11 recommended that Honduras continue with its inquiries into the alleged intellectual authors of this crime.  

32. The Center for Reproductive Rights (CPR) reported that justice officials were often unaware of the languages and cultures of the indigenous peoples and that the Office of the
Special Prosecutor for Ethnic Groups and Cultural heritage lacked financial and human resources to carry out its functions effectively.\textsuperscript{57}

*Fundamental freedoms and the right to participate in public and political life*\textsuperscript{58}

33. Several submissions raised concerns about provisions in the new Criminal Code that undermined freedom of expression and association and criminalized participation in social protests.\textsuperscript{59}

34. A number of submissions drew attention to the sizeable number of incidents in which human rights defenders, including journalists, media professionals, indigenous rights defenders, environmental defenders, student leaders and trade union activists, had been killed, threatened, attacked or subjected to acts of violence.\textsuperscript{60} Three submissions stated that the especially vulnerable situation of female human rights defenders was a particular concern.\textsuperscript{61}

35. The Inter-American Commission on Human Rights (IACHR) drew attention to the persistently high rates of violence against journalists and the fact that most of these crimes went unpunished.\textsuperscript{62} JS4 noted that journalists who reported on protests, organized crime, corruption, mining projects and human rights abuses were particularly vulnerable.\textsuperscript{63}

36. Four submissions provided information on the adoption of the Act on the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials, in 2015, and the creation of the National Protection System.\textsuperscript{64} JS3 expressed the view that the effectiveness of the National Protection System had been diminished by the failure to comply with regulations and civil society’s limited involvement in decision-making.\textsuperscript{65} PBI noted that the authorities were still not always fully informed about the system, especially in rural areas.\textsuperscript{66} Three submissions recommended that Honduras provide the National Protection System with the necessary funding and operational capacity.\textsuperscript{67}

37. JS11 noted that the Act on the Protection of Human Rights Defenders, Journalists, Media Professionals and Justice Officials envisaged physical protection measures only and did not address the structural reasons that placed these persons at risk. It thought it necessary that Honduras adopt an “integral protection policy”, as defined by IACHR.\textsuperscript{68}

38. Two submissions recommended that Honduras put a stop to campaigns that sought to smear and stigmatize human rights defenders and that it ran campaigns to raise awareness of their work, and particularly the work of female human rights defenders.\textsuperscript{69}

39. PBI drew attention to the systematic use of criminal legislation to criminalize, curtail and undermine the work of human rights defenders.\textsuperscript{70} Two submissions recommended that Honduras put a stop to such practices.\textsuperscript{71}

40. Two submissions stated that article 72 of the Honduran Constitution prohibited censorship, but that article 75 stipulated an exception “to protect the ethical and cultural values of society”.\textsuperscript{72} The Committee to Protect Journalists (CPJ) noted that the Criminal Code currently in force criminalized calumny, insult and defamation and recommended that Honduras refrain from using criminal defamation lawsuits against reporters and ensure that “crimes against honor” were eliminated from the new Criminal Code.\textsuperscript{73}

41. Three submissions highlighted that the Bill on Cybersecurity and Protection Measures against Acts of Hate and Discrimination on the Internet and Social Networks threatened freedom of expression and recommended that the Congress reject it.\textsuperscript{74}

42. JS10 recommended that Honduras repeal the Act on the Classification of Public Documents relating to Security and National Defence, which restricted public access to information on private, State-backed projects that affected people’s lives.\textsuperscript{75}

43. Cultural Survival (CS) welcomed the regulations on community outreach media services that allowed organizations of indigenous communities and persons of African descent to use radio and television channels for cultural and educational purposes and to encourage community participation. However, it found it regrettable that more than 12 radio stations created by four indigenous groups had yet to be granted a licence.\textsuperscript{76}
Prohibition of all forms of slavery

44. JS9 welcomed the efforts that Honduras had made to combat human trafficking by implementing the Trafficking in Persons Act and making investigations more thorough.78 The European Centre for Law and Justice (ECLJ) noted that Honduras had increased resources and funding to the Inter-Institutional Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons.79 However, both submissions observed the persistence of a high number of cases of human trafficking.80

45. JS9 recommended that Honduras take steps to prevent sexual exploitation and human trafficking using public information campaigns in the media and on social networks and that it enhance detection, investigation and follow-up mechanisms with a view to bringing those responsible to justice.81

Right to privacy and family life

46. Three submissions noted that equal marriage was prohibited in Honduras and same-sex couples were denied the right to adopt.82

47. Joint submission 1 (JS1) recommended that Honduras cease imports of invasive surveillance technology and abolish all security service practices related to the control of communications and the internet.83

3. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

48. JS3 highlighted that, since the coup d’état in 2009, Honduras had pursued policies that tended to heighten job insecurity and that gender inequality remained an issue in the formal employment sector. It recommended that Honduras repeal the Hourly Employment Act and implement public policies with a gender perspective in order to improve access to formal employment.85

49. Joint Submission 5 (JS5) welcomed the adoption of the Support for Micro and Small Enterprises Act but indicated that the lack of citizen security was a major obstacle to the development of micro-businesses.86 Two submissions highlighted that widespread violence and extortion had had a serious impact on sectors such as public transport and small business.87

50. Joint Submission 7 (JS7) noted that the lack of legislation regulating sex work made sex workers more vulnerable to discrimination and ill-treatment and recommended that Honduras adopt the bill on autonomous sex work. It also recommended adoption of the bill on paid domestic work, which would mean that paid domestic work was recognized as employment and homes were recognized as places of work, and of the draft public policy on the prevention of damage to the health of women working in the maquila industry.88

51. JS4 recommended that Honduras amend articles 495, 537, 555, 558 and 563 of the Labour Code in order to remove all unjustified restrictions on freedom of association, trade union rights, collective bargaining and the right to strike.89

52. JS2 noted that applicants for jobs in many private companies and within the armed forces were required to undergo HIV screening.90

Right to social security

53. JS15 indicated that, in 2019, the National Congress had amended the Framework Act on the Social Protection System so that pension and retirement funds could be used to finance health services, thereby jeopardizing the rights of those for whom the system had been created.92

Right to an adequate standard of living

54. JS3 noted that the average poverty rate in Honduras over the past five years had been 68.12 per cent and that inequality persisted. It reported that the State’s attempts to address those issues through welfare-based programmes had been ineffective.94 Two
submissions recommended that Honduras implement integrated public policies to reduce poverty, extreme poverty and inequality.95

55. Joint Submission 5 (JS5) reported that water was generally unsafe to drink and was not accessible to most people in Honduras, and that the country faced serious supply problems owing to bad practices in water storage and use and the impact of climate change.96

56. JS10 noted that the economic model that had taken root in Honduras treated land as an object to be exploited and monopolized by large corporations, had aggravated historical inequalities in access to land and had generated increasing social discord. It stated that the promotion of agricultural exports had resulted in unrelenting use of toxic agrochemicals and had discouraged the production of basic grains (corn, beans and rice), and that this had had a negative impact on food security and sovereignty.97

57. JS10 also noted that the State’s response to the social discord had been repressive, and had involved taking criminal action against persons defending the rights of the campesino, indigenous and Afrodescendant communities. It drew attention to several specific conflicts, including the conflict in Bajo Aguán. It recommended that Honduras cease criminalizing the campesinos’ struggle, adopt a protocol on forced evictions in rural areas that is in line with international human rights standards, and adopt the bill on comprehensive agrarian reform with a gender perspective.98

58. JS3 recommended that Honduras repeal Ministerial Agreement No. 1402-2018, under which technical environmental research had been classified as confidential information, and implement the principles of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.99

Right to health100

59. JS5 highlighted the insufficient availability of medication and beds in public hospitals, which caused long waiting lists.101 Joint Submission 17 (JS17) recommended that Honduras prioritize investment in the national health system in order to guarantee the availability of free, universal public health care.102

60. GICJ noted that, in 2019, more than 61’000 people in Honduras had been infected with dengue fever and that haemorrhagic dengue had claimed the lives of 106 persons. It recommended that Honduras reinforce preventive measures and seek technical assistance from the Pan-American Health Organization (PAHO).103

61. JS15 recommended that Honduras adopt policies on sexual and reproductive rights that are not influenced by religious doctrines, that it implement the National Policy on Sexual and Reproductive Health that was approved in 2016, and that it allocate sufficient budgetary resources to this policy.104

62. Four communications noted that Honduras maintained an absolute criminalization of abortion and a ban on emergency contraceptives. They recommended that Honduras decriminalize abortion and legalize it in cases of rape, incest, unviability of the foetus or risk to the life or health of the mother, and repeal the ban on emergency contraceptives.105 CPR highlighted that the criminalization of abortion and the ban on emergency contraceptives disproportionately affected victims of sexual abuse, adolescent girls, and poor women.106

63. JS2 noted that the State’s HIV prevention policies were ineffective and that persons infected by HIV faced discrimination. It recommended that Honduras repeal all legislation that undermined the rights of persons infected by HIV and re-establish the national HIV prevention programme as a means to facilitate coordination between the State and civil society.107

Right to education108

64. JS9 reported that a million children and teenagers between the ages of 3 and 17 either were outside the education system or did not regularly attend school, including a disproportionate number of indigenous children, children of African descent and children
with disabilities. It added that special attention needed to be given to the process of integrating returning migrant children and children displaced by violence into the education system.  

65. JS8 noted that the proportion of the State budget allocated to education had decreased between 2010 and 2019. JS9 recommended that Honduras ensure that all children had access to education and that it guarantee the quality of education by allocating greater budgetary resources to teacher training and infrastructure.

66. JS15 noted that, despite various attempts to address the situation, children and teenagers in Honduras still did not have access to comprehensive sex education owing to a lack of interest and political will on the part of the authorities and the considerable influence of the different churches in decision-making forums including educational reform committees.

67. JS17 recommended that Honduras discontinue the Guardians of the Nation programme and ensure that children and teenagers did not take part in military activities.

4. Rights of specific persons or groups

Women

68. JS3 drew attention to the structural violence suffered by women in Honduras, which was sustained by a culture of tolerance and high levels of impunity. Several submissions noted the sizeable number of cases of domestic and sexual violence and highlighted the fact that Honduras had one of the highest rates of violent deaths of women and femicide in the world.

69. IACHR warned that, although the country’s homicide rate had fallen, the frequency of gender-related killings of women had not fallen to the same extent as that of other homicides. It was especially concerned about the particular brutality towards women evident in these killings.

70. Joint Submission 7 (JS7) reported that, although a special team had been created in 2016 to investigate violent deaths of women and femicides, its budget was not sufficient. It noted that there were serious procedural flaws in the manner in which femicides were investigated and prosecuted, owing to a lack of human resources, limitations on their ability to travel to rural areas, a lack of technical supplies and equipment, and inadequate inter-institutional coordination.

71. JS15 recommended that the new Criminal Code establish penalties for offences of sexual violence against women that are commensurate with the grave nature of these crimes. Three submissions recommended that Honduras approve and implement the Protocol of Integral Attention for Victims and/or Survivors of Sexual Violence. JS7 recommended that Honduras adopt the draft comprehensive law on violence against women and develop related public policies to combat the structural causes of violence against women.

Children

72. JS9 noted that many children are still not registered and recommended that Honduras extend the reach of campaigns to raise awareness of the importance of registering children among parents, predominantly in rural areas, and that it invest in mobile units to access the most remote locations.

73. JS17 noted that the institutions tasked with protecting the rights of children and young people had persistent weaknesses and were insufficiently coordinated. It recommended that Honduras raise the status of the Directorate for Children, Adolescents and the Family and the National Institute for Youth to that of State secretariat, that it improve inter-institutional coordination and that it continue its efforts to implement a comprehensive system of safeguards for the rights of children and adolescents.

74. JS3 recommended that Honduras prioritize public investment in projects for children and adolescents.
75. Two submissions highlighted that minors were particularly vulnerable to the widespread violence that characterized the country, being exposed to threats, killings, acts of torture and sexual violence and recruitment into armed groups. JS9 expressed concern about the extreme vulnerability of children living in street situations to so-called “social cleansing” operations. JS17 recommended that Honduras allocate a budget to the National Policy on the Prevention of Violence against Children and Young People and proceed with its implementation.

76. JS9 reported that most children between the ages of 5 and 17 lived in rural areas and that 16.4 per cent of them worked. It recommended that Honduras establish policies and mechanisms to prevent and eradicate child labour, including support programmes for low-income families, campaigns to raise awareness of the importance of keeping children in school and prevention projects run in partnership with the private sector.

77. JS17 noted that progress in implementing the special justice system for juvenile offenders had stalled. It acknowledged that efforts had been made to improve conditions in centres for juvenile offenders following the creation of the National Institute for Juvenile Offenders but noted that conditions remained precarious and that prevention, rehabilitation and social reintegration strategies had not been implemented.

Minorities and indigenous peoples

78. CS noted that the preliminary bill on free, prior and informed consent that had been submitted to the National Congress was not compatible with international standards and did not reflect the contributions of indigenous organizations and organizations of persons of African descent. Several submissions recommended that Honduras postpone adoption of the bill and review the drafting process with a view to ensuring the active participation of all indigenous peoples and their organizations.

79. JS13 pointed out that mining and energy projects launched in indigenous peoples’ territories and lands without their prior consent had given rise to social and environmental conflicts in Honduras. JS14 highlighted that indigenous leaders linked to acts of resistance and the defence of their natural resources faced violence, killings and criminal prosecution, while the crimes committed against them went unpunished.

80. JS10 recommended that Honduras guarantee the right to prior consultation enjoyed by campesino, indigenous and Afrodescendant communities in the context of mining projects and that it comply with the ruling handed down by the Supreme Court of Justice in 2017 in the constitutional challenge brought against the law on mining.

Migrants, refugees, asylum seekers and internally displaced persons

81. JS6 noted that the main causes of forced displacement were threats, killings, extortion, forced recruitment into criminal organizations, sexual and domestic violence and land dispossession for the development of mining, energy, tourism and agro-industrial projects, and that indigenous communities, women, lesbian, gay, bisexual, transgender and intersex persons, children and adolescents were the population segments most likely to be adversely affected.

82. JS8 noted that Honduras had acknowledged that forced displacement was a problem needing to be addressed at the national level with the creation of the Inter-Institutional Commission for the Protection of Persons Displaced by Violence in 2013 and the subsequent establishment of the Directorate General for the Care and Protection of Internally Displaced Persons. However, it emphasized that the latter body had not been allocated sufficient budgetary or human resources. It recommended adopting, as a matter of urgency, the bill on the prevention of forced displacements and the care and protection of forcibly displaced persons that had been submitted to the National Congress in 2019.

83. Three submissions noted that the prevailing model of exclusive development and the climate of violence and discrimination were fuelling mass migration to North America and that, in 2018 and 2019, this had resulted in the formation of migrant caravans. JS8 expressed concern about the criminalization of the caravans and the use of police and military force to prevent migrants from leaving the country. JS3 noted the launch of
campaigns threatening criminal action against the parents of migrant children, and even the possibility of three years’ imprisonment, if they attempted to migrate irregularly.  

84. JS9 recommended that Honduras take measures to strengthen coordination between countries of origin, transit and destination in order to protect migrant children, young people and women and to safeguard their physical, psychological and emotional well-being by offering support programmes and guaranteeing access to basic services.  

85. JS8 noted that, in 2019, organizations of relatives of missing migrants had registered 741 Honduran migrants as having disappeared on the northward migration route. It emphasized that Honduras had not developed an effective mechanism for reporting persons who went missing outside the national territory and that there were no effective search and investigation mechanisms and no centralized register of missing persons.  

86. JS8 also reported that the number of Honduran migrants being detained in and deported from transit and destination countries had increased in recent years and that the consular assistance available to them was insufficient. It recommended that Honduras open more consulates, particularly along the migration route, and that it appoint consuls with expertise on migration issues.  

87. JS6 reported that 75,579 Hondurans had returned to the country in 2018, a year-on-year increase of 56.8 per cent. JS17 recommended that Honduras provide comprehensive protection for unaccompanied young persons and children returning to the country and that it guarantee their social reintegration. JS3 recommended that Honduras amend the Act on the Protection of Honduran Migrants and Members of Their Families to include reinsertion measures for deported migrants and protection measures for those at risk.  

88. JS17 recommended that Honduras rescind the migration agreements that gave it the status of a “safe third country” because it could not offer the conditions needed to ensure optimal security for those in need of international protection.

Notes

1 The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

AHR  The Advocates for Human Rights (United States);
Cattrachas  Red Lésbica Cattrachas (Honduras);
CPR  The Center for Reproductive Rights, Inc. (Switzerland);
CPJ  Committee to Protect Journalists (United States);
CS  Cultural Survival (United States of America);
ECLJ  The European Center for Law and Justice (France);
GICJ  Geneva International Centre for Justice (France);
ICAN  International Campaign to Abolish Nuclear Weapons (Switzerland);
PBI  Peace Brigades International Honduras Project (Honduras);
Red COIPRODEN  Coordinadora de Instituciones Privadas pro las Niñas, Niños, Adolectes, Jóvenes y sus Derechos (Honduras).

Joint submissions:

JS1  Joint Submission 1 submitted by: Access Now (United States of America), ACI Participa (Honduras);
JS2  Joint Submission 2 submitted by: Red Lésbica Cattrachas (Honduras), La Fundación Llanto, Valor y Esfuerzo – LLAVES (Honduras);
JS3  Joint Submission 3 submitted by: Asociación de Mujeres Intibucanas Renovadas – AMIR (Honduras), Asociación de Jueces por la Democracia – AJD (Honduras), Asociación Feminista Trans – AFET (Honduras), Asociación FLAN Honduras (Honduras), Asociación Intermunicipal de Desarrollo y Vigilancia – AIDEP (Honduras), Asociación LGTB Arcoíris de Honduras (Honduras), Asociación Nacional de Personas viviendo con SIDA – ASONAPVSIDA
Asociación para una ciudadanía participativa – ACI-Participa (Honduras), Asociación por la Democracia y los Derechos Humanos – ASOPODEHU (Honduras), Asociación Prevención y Educación en Salud Sexual y SIDA Tela – APREST (Honduras), Caritas – diócesis de San Pedro Sula (Honduras), Centro de Derechos de Mujeres – CDM (Honduras), Centro de Desarrollo Humano – CDH (Honduras), Centro de Educación y Prevención en salud, sexualidad y SIDA – CEPRES (Honduras), Centro de Estudios de la Mujer Honduras – CEM-H (Honduras), Centro de Estudios Para la Democracia CESPAPD (Honduras), Centro de Investigación y Promoción de los Derechos Humanos – CIPRODEH (Honduras), Centro para la Prevención, Tratamiento y Rehabilitación de víctimas de la Tortura y sus familiares – CPTRT (Honduras), Colectivo Diamantes Limeños (Honduras), Colectivo Unidad Color Rosa – CUCR (Honduras), Comité de familiares de detenidos desaparecidos de Honduras – COFADEH (Honduras), Comité de familiares de migrantes desaparecidos del progreso – COFAMIPRO (Honduras), Comité por la libre expresión – C-Libre (Honduras), Coordinación de instituciones privadas por las niñas, niños, adolescentes, jóvenes y sus derechos – COIPRODEN (Honduras), Crisálidas de Villanueva (Honduras), Ecuménicas por el derecho a decidir (Honduras), Equipo de monitoreo independiente de Honduras – EMIH (Honduras), Equipo de reflexión, investigación y comunicación – ERIC-SJ (Honduras), Espacio ACI Familia franciscana – JPIC (Honduras), Federación de Sindicatos de Trabajadores de la Agroindustria – FESTAGRO (Honduras), Foro de mujeres por la vida (Honduras), Foro Nacional de Sida – FOROSIDA (Honduras), Foro nacional para las migraciones – FONAMIH (Honduras), Foro social de la deuda externa y desarrollo de Honduras – FOSDEH (Honduras), Frente amplio del COPENH (Honduras), Asociadas por lo Justo en Honduras – JASS (Honduras), Las hormigas (Honduras), Movimiento Ambientalista Social del Sur por la Vida – MASSVIDA (Honduras), Movimiento Indígena Independiente Lenca de la Paz en Honduras – MILPAH (Honduras), Movimiento ambientalista santabarbarense – MAS (Honduras), Movimiento amplio por la dignidad y la justicia – MADJ (Honduras), Movimiento de mujeres por la paz visibilidad padilla (Honduras), MUCA y plataforma agraria (Honduras), Observatorio permanente Bajo Aguan (Honduras), Organismo cristiano de desarrollo integral de Honduras – OCDIH (Honduras), Brigadas de Paz Internacional PBI (Honduras), Plataforma internacional contra la impunidad – PI (Honduras), Pastoral de movilidad humana – PMH (Honduras), Red de defensoras de derechos humanos de Honduras (Honduras), Red de participación de organización de sociedad civil Siguatepeque – RPOSC (Honduras), Red de trabajadoras sexuales de Honduras – REDMUDE (Honduras), Unión de empresas y de organización de trabajadores del Campo – UTC (Honduras), Vía campesina (Honduras);

**JS4 Joint Submission 4 submitted by:** Alianza Mundial para la Participación Ciudadana – CIVICUS (South Africa), Red Latinoamericana y del Caribe para la Democracia – REDLAD (Colombia), Asociación de Organismos no Gubernamentales – ASONOG (Honduras);

**JS5 Joint Submission 5 submitted by:** Congregación de Nuestra Señora de la Caridad del Buen Pastor (Switzerland), Misioneras de San Carlos Borromeo – Scalabrinianas (Honduras), Franciscanos Conventuales (Honduras);
Joint Submission 6 submitted by: Cristosal (El Salvador), Asociación Para Una Vida Mejor de Personas Infectadas/Afectadas por el VIH-Sida en Honduras – APUVIMEH (Honduras);

Joint Submission 7 submitted by: Centro de Derechos de la Mujer – CDM (Honduras), Asociadas por lo Justo – JASS (Honduras), Plataforma Right Here Right Now – RHRN (Honduras), Foro de Mujeres por la Vida (Honduras), Red Nacional de Defensoras de Derechos Humanos en Honduras – RNDDH (Honduras), Centro de Estudios de la Mujer – CEMH (Honduras), Centro de Estudios y Acción para el Desarrollo de Honduras – CESADEH (Honduras), Grupo Sociedad Civil – GSC (Honduras), Red de Mujeres de Santa Bárbara (Honduras), Red de Mujeres Trabajadores Sexuales – REDMUSE/Restrasex (Honduras), Red Contra la Violencia de Choluteca (Honduras), Red de trabajadoras Domésticas de Francisco Morazán – RDT (Honduras), Grupo Lésbico y Bisexual Litos de Honduras – GLBLDH (Honduras), Movimiento de Mujeres por la Paz “Visitación Padilla” (Honduras);

Joint Submission 8 submitted by: Boston University School of Law International Human Rights Clinic (United States of America), Consejo Noruego para Refugiados (Norway), Equipo de Reflexión, Investigación y Comunicación (Honduras), Fundación para el Acceso a la Justicia y el Estado de Derecho (Mexico);

Joint Submission 9 submitted by: Istituto Internazionale Maria Ausiliatrice – IIMA (Switzerland), International Volunteerism Organization for Women, Education, and Development – VIDES International (Italy);

Joint Submission 10 submitted by: La Via Campesina Honduras (Honduras), FIAN Honduras (Honduras), Centro de Estudio para la Democracia – CESPAD (Honduras), Centro Desarrollo Humano – CDH (Honduras), Plataforma Agraria (Honduras), MILPAH (Honduras), Movimiento Ambientalista Social del Sur por la Vida – MASSVIDA (Honduras), Comité para la Defensa y Desarrollo de la flora y Fauna del Golfo de Fonseca – CODDEFFAGOLF (Honduras), ADEPES (Honduras), Caritas (Honduras), Asociación para el desarrollo de la Península de Zacate Grande – ADEPZA (Honduras), Iglesia Católica Parroquias de Amapala y Langue (Honduras), UTC La Paz (Honduras), Movimiento Ambientalista de Santa Bárbara – MAS (Honduras), Observatorio permanente de derechos humanos del aguán – OPDHA (Honduras), ACI Participa (Honduras), Organismo Cristiano de Desarrollo Integral de Honduras – OCDIH (Honduras);

Joint Submission 11 submitted by: Avocats Barreau Paris (France), Consejo General de la Abogacia Española (Spain);

Joint Submission 12 submitted by: World Organization Against Torture OCMT (Switzerland), Center for Prevention, Treatment and Rehabilitation of Victims of Torture and their Families – CPTRT (Honduras);

Joint Submission 13 submitted by: La Plataforma Internacional contra la Impunidad (Guatemala), El Consejo Indígena Lenca (Honduras);

Joint Submission 14 submitted by: Movimiento Amplio por la Dignidad y Justicia (Honduras), Consejo Cívico de Organizaciones Populares e Indígenas de Honduras – COPINH (Honduras);
JS15  Joint Submission 15 submitted by: Plataforma Derechos Aquí y Ahora Honduras (Honduras), Sexual Rights Initiative (Switzerland), Comité por la Diversidad Sexual de Honduras (Honduras), Plataforma Somos Muchas (Honduras), Grupo Estratégico por la Anticoncepción de Emergencia (Honduras);

JS16  Joint Submission 16 submitted by: Asociación Kukulcan (Honduras), Asociación Colectivo Violeta (Honduras), Asociación LGTB Arcoiris de Honduras (Honduras), Humanos en Acción (Honduras), Grupo Lésbico Bisexual LITOS (Honduras), SOMOS Centro para el Desarrollo y la Cooperación LGTBI (Honduras), Grupo Lésbico Bisexual Trans Feminista Ixchel (Honduras), Asociación de Derechos Humanos Cozumel Trans (Honduras);

JS17  Joint Submission 17 submitted by: Aldea Infantiles SOS (Honduras), Asociación Compartir con los Niños (Honduras), Asociación Cristiana de Jóvenes – ACJ (Honduras), Asociación Hondureña de Apoyo al Autista – APOAUTIS (Honduras), Asociación Juventud Renovada Hogar Diamante (Honduras), Asociación Libre Expresión (Honduras), Asociación para una Sociedad más Justa – ASJ (Honduras), Asociación Programa Amigo de los Niños / Children International APAN/CI (Honduras), Casa Alianza de Honduras (Honduras), Casa Asti (Honduras), Casa de los Ángeles de Honduras (Honduras), Casa Hogar Temporal Bencaleth (Honduras), Familias Solidarias de Honduras (Honduras), Fundación Hondureña de Rehabilitación e Integración del Limitado FUHRIL (Honduras), Instituto Psicopedagógico “Juana Leclerc” IPJL (Honduras), Nuestro Pequeños Hermanos – NPH (Honduras), Olimpiadas Especiales (Honduras), Plan Internacional Honduras (Honduras), Programa de Rehabilitación de Parálisis Cerebral – PREPACE (Honduras), Proyecto Alternativas y Oportunidades (Honduras), Save The Children Honduras (Honduras), Visión Mundial Honduras (Honduras).

Regional intergovernmental organization(s):

IACHR-OAS  Inter-American Commission – Organization of American States (United States of America).

2 For the relevant recommendations, see A/HRC/30/11, paras. 126.1–126.6, and 124.14–124.16.
3 JS7, p. 4. JS3, p. 18; JS15, p. 11; and JS17, p. 11.
4 JS17, p. 11.
5 GICJ, p. 5. See also JS3, p. 17 and JS12, p. 6.
6 JS10, pp. 9–10.
7 ICAN, p.1.
8 JS3, p. 18; and JS7, p. 9.
9 GICJ, pp. 1–2.
10 JS4, p. 17.
11 AI, pp. 2 and 5.
12 For the relevant recommendations, see A/HRC/30/11, paras. 124.1, 124.3–124.5, and 125.8.
13 JS10, p. 6. See also IACHR, p. 4.
14 GICJ, p. 5.
15 JS12, p. 6.
16 JS4, p. 17.
17 For the relevant recommendations, see A/HRC/30/11, paras. 124.6, 124.7, 124.10, 124.18, 124.20, 124.44, 124.47, 125.3, 125.11, 126.8, and 126.9.
19 JS15, p. 11.
20 Cattrachas, p. 7.
21 JS9, pp. 1–2.
22 JS9, p. 6. See also GICJ, p. 4.
23 JS3, p. 15. JS16, pp. 6–7 and 9; and Cattrachas, p. 1. See also PBI, p. 3; and AHR, p. 3.
24 Cattrachas, p. 2. See also AHC, p. 1.
25 JS16, p. 13. See also JS3, p. 19; JS15, p. 10; AHC, p. 6; and Cattrachas, pp. 5–6.
26 For the relevant recommendations, see A/HRC/30/11, para. 124.12.
27 JS3, p. 2; JS10, pp. 2–4; JS13, pp. 1–2; and JS14, pp. 1–3. See also CS, p. 1; and PBI, p. 2.
28 PBI, p. 6.
29 JS14, p. 7.
30 JS10, p. 9.
31 PBI, p. 3.
32 For relevant recommendations see A/HRC/30/11, paras. 124.2, 124.21–124.23, 124.43, 124.48, 125.28, 125.36, 125.40–125.43, 125.46, 126.11, and 126.12.
33 JS3, pp. 4–5; JS4, p. 14; JS11, p. 1; JS12, pp. 1 and 5; and IACHR, pp. 2–3, and 12.
34 JS12, pp. 1 and 5. See also JS3, p. 4; JS4, pp. 2 and 13; JS17, pp. 7 and 11; and IACHR, p. 5.
35 JS12, p. 2; JS3, p. 7; PBI, p. 3; and IACHR, pp. 12–14.
36 PBI, p. 5. See also JS3, p. 17; and JS5, p. 3.
37 JS12, pp. 1–2.
38 JS13, p. 4.
39 JS12, p. 3. See also JS3, p. 4; JS4, pp. 2 and 13; JS17, pp. 7 and 11; and IACHR, p. 5.
40 JS12, p. 2; JS3, p. 7; PBI, p. 3; and IACHR, pp. 12–14.
41 PBI, p. 5. See also JS12, p. 3.
42 JS12, pp. 1–2.
43 JS13, p. 4.
44 JS12, p. 3; GICJ, p. 3; and IACHR, p. 1.
45 JS12, p. 15.
46 GICJ, pp. 2–3.
47 JS12, p. 2. See also JS3, p. 17; and CICJ, p. 5.
48 GICJ, p. 2. See also JS12, p. 3.
49 JS3, p. 17. See also JS12, p. 4.
50 JS4, p. 6. See also CS, p. 5.
51 JS11, p. 11. See also CS, p. 7.
52 CPR, p. 4.
53 JS11, pp. 2–3. See also JS3, pp. 2–4; JS6, p. 2; and JS11, pp. 7–8.
54 CICJ, p. 2.
55 GICJ, p. 2. See also JS11, p. 8; and PBI, p. 4.
56 JS3, p. 7. See also PBI, pp. 4–5.
57 JS11, pp. 2–3.
58 JS4, p. 5; JS11, pp. 9–10; JS14, p. 4; CPR, p. 3; and IACHR, pp. 2 and 10–11.
59 JS4, p. 6. See also CS, p. 5.
60 JS11, p. 11. See also CS, p. 7.
61 CPR, p. 4.
62 For relevant recommendations see A/HRC/30/11, paras. 124.42, 124.49–124.56, 125.5, 125.27, 125.47–125.60, and 126.10.
63 JS3, p. 5; JS4, p. 12; JS11, p. 8; JS17, p. 7; and IACHR, p. 3. See also PBI, p. 5.
64 JS3, pp. 8 and 15; JS4, pp. 5–9; JS7, pp. 12–13; JS10, pp. 4 and 6–7; JS11, pp. 2–4; JS14, pp. 3–5; JS16, p. 15; CS, pp. 5–6; CPJ, pp. 1 and 3; PBI, p. 2; and IACHR, pp. 1 and 14.
65 JS10, p. 5; CPR, p. 3; and PBI, p. 2.
66 JS16, p. 15. See also CS, p. 1.
67 JS4, p. 8.
68 JS11, p. 6; CS, p. 2; CPJ, pp. 1 and 4; and IACHR, p. 12.
69 JS3, pp. 15–16. See also JS11, p. 7.
70 PBI, p. 4.
71 CPJ, p. 4; PBI, p. 6; and IACHR, p. 12.
72 JS11, pp. 6–7. See also PBI, p. 4.
73 JS7, p. 13; and PBI, p. 5. See also IACHR, p. 14.
74 PBI, p. 2. See also, JS7, p. 13; and JS10, p. 5.
75 JS7, p. 13; and JS14, p. 7.
76 JS4, p. 10; and CPJ, p. 2.
77 CPJ, pp. 2 and 4. See also JS1, p. 2; JS3, p. 9; and JS4, pp. 15–16.
78 JS1, p. 4; JS4, p. 16; and CPJ, p. 4. See also CS, p. 6.
79 JS10, p. 9. See also JS3, p. 18.
80 CS, p. 4.
81 For relevant recommendations see A/HRC/30/11, paras. 124.38, 125.22, and 125.23.
82 See JS9, p. 8. See also JS3, p. 18.
83 CJCLI, p. 2.
84 JS9, p. 8; and CJCLI, p. 3.
85 JS9, p. 9. See also JS7, p. 5; JS17, p. 12; and CJCLI, p. 3.
86 JS15, p. 9; AHC, pp. 3–4; and Cattrachas, pp. 4–5.
87 JS1, p. 4.
88 For relevant recommendations see A/HRC/30/11, paras. 125.26 and 125.68.
89 JS3, pp. 10 and 17.
For relevant recommendations see A/HRC/30/11, para. 125.63.

92 JS15, p. 5.

For relevant recommendations see A/HRC/30/11, paras. 125.64, and 125.68–125.71.

94 JS3, p. 10. See also JS10, p. 4; and JS15, p. 5.

95 JS3, p. 17; and JS7, p. 9.

96 JS5, p. 4. See also JS3, p. 11.

97 JS10, pp. 2–4.

98 See also JS3, pp. 14 and 19.

99 JS, p. 19.

For relevant recommendations see A/HRC/30/11, paras. 125.65, 125.72, and 126.7.

100 JS5, p. 4. See also JS7, p. 10.

101 JS5, pp. 4–5 and 10. See also JS3, pp. 14 and 19.

102 JS17, p. 12. See also JS7, p. 12.

103 JS15, p. 8.

104 JS3, pp. 12 and 18; JS7, pp. 10–12; JS15, pp. 7–8; and CPR, pp. 1–2 and 8. See also JS17, p. 11; and IACHR, p. 14.

105 CPR, pp. 2 and 4.

106 JS2, pp. 1, 4–6 and 9. See also CPR, pp. 5–6.

107 For relevant recommendations see A/HRC/30/11, paras. 125.6, 125.18, 125.20, 125.61, and 125.73–125.75.

108 JS9, p. 2. See also JS8, p. 3; JS17, pp. 4–5; and CPJ, p. 4.

109 JS8, p. 3.

110 JS9, p. 3. See also JS8, p. 12.

111 JS15, p. 3. See also JS7, p. 11.

112 JS17, p. 11.

For relevant recommendations see A/HRC/30/11, paras. 124.9, 124.14, 124.19, 124.24–124.28, 124.30–124.34, 124.46, 125.12, 125.13, 125.37, 125.38, 125.62, 125.66, and 125.67.

113 JS3, p. 12. See also AHC, pp. 4–5.

114 JS3, p. 12; JS7, pp. 1 and 3; JS9, p. 6; JS15, p. 12; CPR, p. 2; and GICJ, p. 4.

115 IACHR, p. 13.

116 JS7, p. 2. See also AHC, p. 6.

117 JS15, p. 15. See also JS3, p. 17; and JS7, p. 3.

118 JS7, p. 5; JS15, pp. 9 and 15; and CPR, p. 8.

119 JS7, p. 4.

For relevant recommendations see A/HRC/30/11, paras. 124.17, 124.36, 124.37, 124.58, 125.15, 125.16, 125.17, 125.18, 125.21, 125.62, 125.66, and 125.67.

122 JS9, p. 5.

123 JS17, pp. 3 and 10. See also JS3, p. 18.

124 JS 3, p. 18.

125 JS3, p. 12; JS8, p. 3; and JS9, p. 2. See also Red COIPRODEN, pp. 1–2.

126 JS9, p. 2.

127 JS17, p. 11.

128 JS9, pp. 4–5.

129 JS17, p. 8. See also JS9, p. 7.

For relevant recommendations see A/HRC/30/11, paras. 124.8, 124.57, 124.59, and 125.76.

131 CS, pp. 1 and 6. See also JS3, p. 15; JS14, p. 1; and IACHR, p. 14.

132 JS3, p. 19; JS13, p. 6; JS14, p. 7; and CS, p. 7.

133 JS13, pp. 2 and 4. See also JS9, p. 8; and IACHR, p. 14.

134 JS14, pp. 3–7. See also CS, pp. 5–6; and IACHR, pp. 1–2.

135 JS10, p. 9.

For relevant recommendations see A/HRC/30/11, paras. 125.19, and 125.77–125.81.

137 JS6, pp. 4–6. See also JS8, pp. 3–5.

138 JS8, pp. 12 and 14. See also JS3, p. 19; JS6, p. 11; and JS17, p. 12.

139 JS10, p. 5; JS5, p. 3; and JS8, pp. 1–2. See also Red COIPRODEN, pp. 1–2.

140 JS8, pp. 5–6. See also IACHR, pp. 3–4.

141 JS3, p. 6. See also JS8, p. 6.

142 JS9, p. 5.

143 JS8, pp. 7–8.
JS8, pp. 9–10 and 13.
JS6, p. 8.
JS17, p. 12.
JS3, p. 19.
JS17, p. 13. See also JS8, pp. 6–7.
TAB 6
Situation of Human Rights in Honduras
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Human Rights Situation in Honduras

OEA/Ser.L/V/II.
Doc. 146
27 August 2019
Original: Spanish
order the integration of 50% of women in the selection lists of all public levels.\footnote{La Tribuna, \textit{This is how the regulation of parity of men and women for public office was established}, September 12, 2016.} According to the information transmitted by the State, in 2017 all political parties that participated in the primary elections held in March 2017 met the participation requirement;\footnote{According to information provided by the State, the following were proposed: 1 woman for the office of president, 18 for presidential appointees, 924 for deputies, 1,017 for alternate deputies, 553 for mayors, 2,410 for vice-mayor and 10,771 for councilors. However, the results of the elections do not express the same figures for the inclusion of women, given that 1 woman was elected president, 5 women appointees, 143 women proprietary deputies, 170 women alternate deputies, 95 women mayors, 799 women vice-mayors and 2,622 women councilors. State of Honduras, \textit{Observations on the draft Chapter IV of the IACHR Annual Report 2017}, communication to the IACHR, February 9, 2018.} the Supreme Electoral Tribunal (TSE) has also trained women from political parties under the methodology of Candidate Academy and Parliamentary Academy in different regions of the country. The participation of women in judicial instances, such as the Supreme Court of Justice (out of 15 judges, 5 are women) and the Executive Branch (out of 3 presidential appointees, 2 are women; out of 641 decision-making positions, 299 are occupied by women; out of the total of 24,912, 15,603 are women) is also noted.\footnote{State of Honduras, \textit{Observations on the draft Chapter IV of the IACHR Annual Report 2017}, communication to the IACHR, February 9, 2018.}

273. Without prejudice to these developments, the Commission is concerned about the many obstacles women continue to face in participating in the political life of their country, in particular the political violence of which they are victims. According to information received by the Commission during its visit to the country, at least 40 acts of violence against women candidates, including harassment, armed aggressions, tear gas attacks, threats on social networks, beatings, illegal detentions and threats to their lives, were reported during the 2017 electoral period.\footnote{Women’s Political Observatory N26, \textit{Participation and political violence against women. Analysis 2017-2018}, Tegucigalpa, February 2018.}

274. The IACHR calls upon the State to take the necessary actions to promote the political participation of all women without discrimination and free from violence, and to adopt and implement appropriate measures to encourage political parties to ensure that all women have fair and equal opportunities to compete for and be elected to all public offices.

\section*{E. LGBTI Persons}

275. As part of the on-site visit to Honduras, the Commission received information on the situation of violence and discrimination against LGBTI persons in the country. In this regard, the Commission was informed about the number of cases of murders based on sexual orientation and gender identity, as well as about the high degree of impunity in these cases. It also obtained information on structural discrimination committed by State agents and legislative changes that generated possible discriminatory situations against LGBTI persons. In spite of the challenges, the IACHR also learned of important advances in favor of equality and non-
discrimination, in the areas of education with sexual diversity and gender perspective towards a cultural change, in addition to the work of State institutions aimed at investigating and sanctioning crimes committed against LGBTI persons.

276. Four years gone by since the issuance of the Report on the Situation of Human Rights in Honduras, the IACHR notes that LGBTI persons in the country continue to live in contexts characterized by frequent physical, psychological and sexual violence. Furthermore, these persons do not have effective access to justice. In that sense, their claims to justice face obstacles and the respective cases result in widespread impunity. In this regard, despite some convictions in judicial cases of violence against LGBTI persons, rulings are scarce and do not take into account possible motivations based on prejudice as a factor for the commission of crimes. This transmits a social message that legitimizes discrimination and hatred against LGBTI persons.

277. The Commission likewise continues to receive information from civil society on acts of violence committed against persons of diverse sexual orientation and gender identity and expression. The IACHR notes with concern the 155 murders of gays, lesbians, and transgender people in the last five years, including two cases that occurred during the time the IACHR was conducting its on-site visit on June 30 and July 7, 2018. According to data provided on cases of violence, most of the killings occurred against gay men and trans women. Likewise, regarding trans women, the IACHR notes with concern that according to the information received, all the victims were under 34 years, which reinforces the low average life expectancy of this population in the hemisphere.

278. In addition, the IACHR emphasizes that in many of the cases of violence there were high levels of viciousness and cruelty, such as stabbing, riddling, execution, asphyxiation by strangulation, beating, calcination, and beheading. In this regard, the Commission highlights the case of Michelle Hernandez, a 24-year-old trans woman whose body was burned after being beaten to death in the municipality of Villanueva, department of Cortés, in early 2019. According to what has been reported in the media, to date no suspect has been identified or punished.

279. The IACHR also expresses concern regarding the murders committed against human rights defenders of LGBTI people. Between 2015 and 2016, the Commission had knowledge of the following murders: Juan Carlos Cruz Andara, Angy Ferreira, Violeta Rivas, Jorge Alberto Castillo, Gloria Carolina Hernández Vásquez, Paola

491 Information provided by civil society as part of the on-site visit on the murder of two gay men on August 2, 2018.
494 Information provided by civil society.
495 Radio America, LGBT community members beaten to death and burned in northern Honduras, March 24, 2019.
Barraza\textsuperscript{496} and René Martínez Izaguirre.\textsuperscript{497} Similarly, the case of David Valle, whom, in 2017, was stabbed by an unknown man in his home in Tegucigalpa.\textsuperscript{498} The IACHR stresses that women human rights defenders face increased vulnerability to violence due to a combination of factors related to their perceived sexual orientation and gender identity, their advocacy role, and the issues they advocate for and work on,\textsuperscript{499} which is why states must ensure their safety. At the same time, the IACHR learned that the violence suffered by LGBTI persons in Honduras is a factor in several cases of forced displacement, both internal and international. According to the information received, LGBTI persons, who through different intersections of vulnerability are more likely to be victims of violence, are forced to seek safer spaces, which often means fleeing and leaving their place of origin. In this sense, violence, death threats, insecurity and impunity force people whose sexual orientation and diverse gender identity and/or expression to consider the possibility of leaving their homes as the only alternative to protect their life and physical integrity.\textsuperscript{500}

280. For its part, the State of Honduras informed the IACHR about several measures taken in recent years to guarantee the safety of LGBTI persons in the country. In this regard, they highlighted the plan to prioritize the investigation of homicide cases against “vulnerable populations”, including LGBTI persons. This plan is developed through the creation of the Special Unit “task force” or “Operative Force” on Violent Crimes, which is in line with the protocols and the Police Investigation Directorate.

281. The State also provided information indicating that the Public Prosecutor’s Office of the Republic of Honduras has registered, in the last five years, a total of 92 cases of attempts and murders of members of the LGTBI community, of which, until 2018, only eight rulings have resulted in convictions and five acquittals. In addition, according to the information provided, the institution included social workers and psychologists in the investigation team for cases of violence against LGBTI persons, with the aim of forming a multidisciplinary team to determine the motives and the possible presence of elements of hatred in these crimes.

282. The IACHR takes note of the efforts undertaken by the State to investigate and punish those responsible for acts of violence and discrimination against LGBTI persons. However, it also highlights that according to information provided by the Commissioner for Human Rights (CONADEH), more than 90% of these crimes remain unpunished.\textsuperscript{501} In addition, civil society denounced to the IACHR that in the

\textsuperscript{496} IACHR, IACHR condemns killings and other acts of violence against human rights defenders of LGBT persons in Honduras, March 7, 2016.

\textsuperscript{497} IACHR, IACHR Condemns Killing of LGBT Rights Defender in Honduras, June 15, 2016.

\textsuperscript{498} IACHR, IACHR condemns attack on LGBTI rights defender David Valle in Honduras, August 9, 2017.

\textsuperscript{499} IACHR, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OEA/Ser.L/V/II. Rev.2.Doc. 36, para. 335.

\textsuperscript{500} CONADEH, Forced Internal Displacement in Honduras, December 2007, p. 48.

\textsuperscript{501} CONADEH, Actions of Violence against Members of Sexual Diversity Prevail in Impunity, May 17, 2018.
last five years, only 65 cases involving the murder LGTBI persons were prosecuted out of the total of cases.502

283. The IACHR emphasizes that due to the absence of official statistics on victims of violence based on sexual orientation or gender identity, the numbers provided by civil society to vary from those presented by the State. In this regard, the Commission stresses that, in order to generate statistics on violence due to prejudice, the State must take steps towards the creation of information and reporting systems that expressly incorporate variables on sexual orientation and gender identity. Likewise, the IACHR urges the State to create effective and coordinated inter-institutional mechanisms to train members of the security forces, justice operators and professionals who collect and analyze data on crimes and violence so that they can generate reliable statistics on the situation of violence against LGBTI persons.

284. The Commission further takes note of the concern expressed by civil society, indicating that the "hatred" was deleted in May 2019 from the aggravating grounds of Article 32.8 of the Criminal Code, which has been considered a step backwards in the framework of legal protection,503 This situation would leave without defense the legal protection against discrimination based on sexual orientation and gender identity.504

285. In this context, the Commission reminds the State of Honduras that the right to personal integrity and access to justice are fundamental principles of the democratic rule of law. In this regard, given the figures of murdered LGBTI persons, the IACHR calls on the State of Honduras to move forward with thorough and impartial investigations into cases of violence based on sexual orientation, gender identity or expression in its territory, adopting effective measures to try, sanction and redress violence against LGBTI persons. The Commission reiterates that impunity for crimes committed against LGBTI persons conveys a strong social message of legitimization of such acts of violence, which generates more violence.

286. Furthermore, the IACHR recalls that acts of violence and discrimination experienced by LGBTI persons reflect the prejudice rooted in society and, therefore, cultural change through educational processes plays a fundamental role in modifying sociocultural patterns of behavior, including the development of education programs - formal and non-formal - adapted to all levels of the educational process, seeking to counteract prejudices and all types of discriminatory situations against LGBTI persons;505 as well as to adopt legislative measures that promote equality and protect people against discrimination.

503 Proceso Digital, Published in La Gaceta the new Penal Code, May 14, 2019.
504 Information provided by civil society as part of the on-site visit.
505 IACHR, Advances and Challenges towards the Recognition of the Rights of LGBTI Persons, December 7, 2015, para. 36.
1. Discrimination

287. With regard to the widespread context of discrimination against LGBTI persons, the Commission received information from civil society indicating that in 2004, the right to marriage was restricted only between men and women “who have the quality of such naturally”, forbidding thereby marriage and de facto union between persons of the same sex and trans persons. Article 116 also prohibited adoption by same-sex couples. With respect to the foregoing, the IACHR learned of the statement of the Public Prosecutor’s Office within the framework of the action of unconstitutionality that analyzes marriage in light of the principles of equality and non-discrimination. In particular, it expressed its opinion on the possibility of granting LGBTI persons “unequal” treatment regarding the right to marry. The Commission considers that such an opinion may in itself constitute an act of institutional discrimination and recalls that, in order for a restriction on human rights to be based on a prohibited or “suspect” category, State agents cannot base their actions on prejudice and/or stereotypes, they must also comply with the principles of necessity and proportionality.

288. The IACHR reiterates that the right to equality and non-discrimination is a fundamental principle that obliges the State of Honduras to provide equal protection to all persons under its jurisdiction and to adopt measures to eliminate and combat discriminatory practices. In this sense, on several occasions the Commission has asked the authorities to refrain from spreading stigmatizing messages against LGBTI persons, as well as to contribute strongly to the construction of a climate of tolerance and respect.

289. The Commission also learned of the approval of the change to article 22 of the Act on Adoption by the National Congress of Honduras, which expressly prohibits the adoption of children into marriages or de facto unions formed by persons of the same sex, even though such marriages or unions are not legal in the country. In this regard, the IACHR notes that this reform represents a form of differentiated treatment of same-sex couples, representing a violation in the light of the principles of equality and non-discrimination, and considers that this article may in itself constitute an act of discrimination. On this issue, the Commission has repeatedly stated that the limited and stereotyped understanding of the concept of the family ignores current international standards in this area and arbitrarily excludes diverse families.

506 Constitution of Honduras, art. 112.
507 Information provided by civil society as part of the on-site visit.
508 IACHR, Advances and Challenges towards the Recognition of the Rights of LGBTI Persons, December 7, 2015, para. 36.
510 IACHR, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, November 12, 2015, para. 255.
290. For its part, the State of Honduras informed the IACHR of 224 training workshops against discrimination based on sexual orientation or gender identity, for public health agents and the police carried out by the National Human Rights Commissioner (CONADEH) between 2015 and 2017.\textsuperscript{512}

291. In addition, civil society informed the Commission that important steps have been taken in the health system in terms of access to health services free of stigma and discrimination for LGBTI persons, including the creation of specialized clinics on sexual diversity, such as the Sentinel Surveillance Clinics for Sexually Transmitted Infections (VICITS).\textsuperscript{513}

292. The Commission notes with concern the information received that in the country, 11.9% of trans women live with the immunodeficiency virus (HIV).\textsuperscript{514} The Commission takes note of the discrimination faced by trans people, in particular, exposing them to a process of exclusion, which in turn makes them more vulnerable, among other causes, because they are more susceptible to HIV infection.

293. Regarding public perceptions of LGBTI persons, civil society organizations denounced to the IACHR that in the framework of the 2017 general elections some media used discriminatory expressions, images, cartoons, and polls against LGBTI candidates who participated in the elections.\textsuperscript{515}

294. At the same time, the Commission takes note of the information received from the State of Honduras on the development of a component that prioritizes the teaching of gender and sexual diversity in schools, within the framework of the Public Policy and National Plan of Action on Human Rights (2013).\textsuperscript{516} The IACHR highlights that discrimination against LGBTI persons, or those perceived as such, is closely linked to the existence of social and cultural prejudices rooted in the American continent societies.\textsuperscript{517} In this sense, the IACHR welcomes the initiative of the project and reaffirms that human rights education, particularly the one that contains a gender perspective, plays a transformative role towards cultural changes in society in order to eliminate structural prejudices, historical discrimination, stereotypes and false concepts about LGBTI persons, contributing to a more just, egalitarian and inclusive society.\textsuperscript{518}

295. In light of the foregoing considerations, the IACHR urges the State to move forward with a legal framework that specifically guarantees comprehensive protection for people against discrimination based on sexual orientation, gender identity or body diversity, including the adoption of a gender identity law, the reform of institutions

\textsuperscript{512} Information provided by the State as part of the on-site visit.
\textsuperscript{513} Information provided by the State as part of the on-site visit.
\textsuperscript{514} UNAIDS, Honduras Overview, 2019.
\textsuperscript{515} Information provided by civil society.
\textsuperscript{516} Information provided by the State as part of the on-site visit.
\textsuperscript{517} IACHR, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, November 12, 2015, para. 428.
\textsuperscript{518} IACHR, Advances and Challenges towards the Recognition of the Rights of LGBTI Persons, December 7, 2015, para. 66.
and the implementation of policies to combat discrimination and that guarantee the effective inclusion of LGBTI persons. The Commission reminds the State, within the framework of its international human rights commitments, to refrain from introducing into its legal system laws that generate discriminatory practices against LGBTI persons based on prejudice. The Commission therefore also recommends that the State repeal discriminatory laws such as the Adoption Act and, in the meantime, impose an explicit and formal moratorium on the application of that law.

F. Internally displaced persons

296. Honduras is a country of origin, transit, destination and return of migrants. Internal displacement and migration to other countries are the predominant trend in the country. Throughout the visit, the IACHR received abundant information on how, in recent years, various factors have forced tens of thousands of people to flee their homes both within Honduras and to other countries in the region, contributing to the exodus of displaced persons and refugees from the Northern Triangle of Central America.

297. According to the Inter-Institutional Commission for the Protection of Persons Displaced by Violence, in November 2017, there were approximately 174,000 internally displaced persons in Honduras. For its part, the report by the Network of Civil Society Organizations for the Protection of Displaced Persons indicates that until 2018 the number of internally displaced persons (IDPs) would be 264,481, which could even be higher.

298. During the visit, the IACHR gathered 27 testimonies from people who were forced to move internally as a result of various forms of violence, including maras and gang violence; gender and intra-family violence; violence based on sexual orientation and gender identity; violence by state actors in the post-election context; displacement caused by the implementation of extractive industries; as well as displacement caused by climate change and natural disasters.

299. Moreover, the study of characterization of internal displacement in Honduras indicates that the main causes of displacement are the persecution and insecurity of the community (67.9%), threats (20%), murders (17%), personal injuries (12%),

---

519 Inter-institutional Commission for the Protection of Persons Displaced by Violence, Characterization of Internal Displacement in Honduras, November 2015, p. 12

520 Based on the interpretation of the statistics obtained from UNHCR concerning Honduran asylum seekers, the IDMC and NRC report, data from the statistical report prepared by the organization Cristosal Honduras, and cases handled by the organizations Pastoral de Movilidad Humana, Casa Alianza Honduras, Red Contra la Violencia Sindical and CIPRODEH. Document prepared by the Network of Civil Society Organizations for the Protection of Internally Displaced Persons (Red OSC), received by the IACHR on the occasion of its on-site visit to Honduras.
TAB 7
Human Rights Council
Forty-first session
24 June–12 July 2019
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Visit to Honduras

Report of the Working Group on the issue of discrimination against women in law and in practice *

Summary

The Working Group on the issue of discrimination against women in law and in practice conducted a visit to Honduras from 1 to 14 November 2018. In the present report, the Working Group assesses the situation regarding the human rights of women in the country, noting achievements and challenges. It examines the legal, institutional and policy framework for promoting gender equality and the participation and empowerment of women in family, economic, social, political and public life, paying particular attention to women who experience intersecting forms of discrimination. The Working Group also presents recommendations for further progress in eliminating discrimination and promoting equality.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and Spanish only.

** Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter’s control.
Annex

Report of the Working Group on the issue of discrimination against women in law and in practice on its visit to Honduras

I. Introduction

A. Visit

1. The Working Group on the issue of discrimination against women in law and in practice visited Honduras from 1 to 14 November 2018 at the invitation of the Government. The delegation of experts from the Working Group met with various concerned stakeholders in Tegucigalpa, La Esperanza, San Pedro Sula, El Progreso and La Ceiba. They wish to thank the authorities, in particular the National Institute for Women, for their remarkable level of cooperation and support in the organization of the visit. They are grateful to all their interlocutors – public officials, health professionals, representatives of civil society and academia, the United Nations country team and representatives of the private sector – for all the fruitful exchanges. They are particularly grateful to the women human rights defenders, many of whom travelled long hours to meet with them.

2. In the capital, the experts met with the First Lady, representatives of the Ministry of General Government Coordination, the Ministry of Foreign Affairs, the Ministry of Human Rights, the National Institute for Women, the Ministry of Governance, Justice and Decentralization, the Ministry of Security, the Ministry of Development and Social Inclusion, the Ministry of Education, the Ministry of Health, the Ministry of Labour and Social Security, the Ministry of Economic Development, the Monitoring Centre on Violence, the National Statistics Institute and the Ministry of Infrastructure and Public Services. The experts also met with the President of the Supreme Court, the Attorney General’s Office, the Office of the National Commissioner for Human Rights, the Inter-Agency Commission to Monitor Investigations into Violent Deaths of Women and Femicide, the national mechanism for the protection of human rights defenders, and representatives of Congress. In San Pedro Sula and La Ceiba, the experts met with the governors, mayors, representatives of the municipal offices for women and of local human rights institutions, local justice officials, public defenders and the police.

3. The experts visited the women’s prison, the Ciudad Mujer initiative and a school in Tegucigalpa, and a shelter for women victims of violence and a hospital in San Pedro Sula. They met with numerous women’s organizations and women human rights defenders. The experts also met with the Honduran Private Enterprise Council.

B. Context

4. With a population of 9,023,838 people, Honduras is considered to have a medium level of development, ranking 133 of 189 States in terms of the human development index. Although poverty has been reduced since 2013 and currently stands at 59.6 per cent, the country has the highest level of economic inequality in the continent. It continues to

---

struggle with crime and violence and has one of the highest rates of murders in the world,\(^4\) including an alarming rate of femicide. Furthermore, Honduras suffers from acute environmental vulnerability, and is prone to hurricanes, floods and droughts, worsened by the State’s inadequate responses to climate change. Since the coup in 2009, the country has been facing a governance crisis with fragile institutions. Widespread structural impunity, corruption and the militarization of national security also affect prospects for ensuring fully fledged democratic governance and sustainable development. Moreover, some aspects of development policies, which include the granting of concessions to extractive industries and energy companies, pose a serious risk to the livelihood and culture of indigenous, Garífuna and rural populations and a threat to the environment. Increased privatization of public services has also amplified the vulnerability of the most disadvantaged groups of the population, such as women living in poverty.

5. The country is still marked by the 2017 post-electoral polarization and social distrust. The Working Group carried out this visit at a moment of severe migration crisis,\(^5\) in which, according to information received from the Government, more than 7,000 people (among them approximately 1,500 women and girls) had left the country, fleeing widespread violence, poverty and a lack of economic opportunities. The Working Group hopes that the Government will take measures to support and protect returnees and to address the root causes of migration. It also hopes that government security policies shift the focus from militarization to human security.

II. Legal, institutional and policy framework for women’s equality and human rights

6. The Working Group notes the significant efforts by Honduras to strengthen its legal, institutional and policy framework for the promotion and protection of women’s human rights and also notes remaining gaps where further steps could be taken.

A. Legal framework

1. Ratification of international instruments and cooperation with human rights mechanisms

7. The Working Group welcomes the ratification by the State of all core human rights instruments and its strong commitment to cooperate with United Nations human rights mechanisms, as shown by its engagement with the treaty bodies and the universal periodic review and its standing invitation to the special procedures of the Human Rights Council. Honduras ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1983, with no reservations. However, the Working Group regrets that the Government has so far failed to ratify the Optional Protocol to that Convention. The Working Group also regrets that the Government has not ratified relevant conventions of the International Labour Organization (ILO), including the Domestic Workers Convention, 2011 (No. 189).

2. Main achievements in promoting women’s rights and gender equality in the law

8. The Working Group commends the efforts by Honduras to strengthen its legal framework for the promotion and protection of women’s human rights and gender equality. The prohibition of discrimination including on the basis of sex is enshrined in the Honduran Constitution, article 60 of which states that all Hondurans are equal before the law, and that


\(^{5}\) In a preliminary report detailing its prevention and protection action in this migration crisis (starting on 12 October), the Office of the National Commissioner for Human Rights stressed that the root causes of this forced migration were poverty, unemployment, inflation, increased costs of public services and their lack of quality and accessibility, as well as insecurity stemming from violence, in particular from gangs and organized crime.
any discrimination based on sex, race, class and any other reason that is harmful to human dignity is punishable. In the past decades, a number of laws relevant to women’s rights and gender equality were adopted, including the Equal Opportunities for Women Act (2000), the Domestic Violence Act (2006), Decree No. 54-2012 amending the Elections and Political Organizations Act and establishing quotas to increase the political participation of women (2012), Decree No. 23-2013 criminalizing femicide (2013), the Responsible Parenting Act (2013), the Act for the Protection of Earnings and Regularization of Informal Employment (2013), Decree No. 27-2015 on equal pay (2015) and the Act on the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials (2015).

9. During the visit, the experts were informed that several relevant draft laws were scheduled in Congress, such as bills regulating domestic work, agrarian reform, violence against women in politics, transgender peoples’ rights and shelter houses for victims of violence and a comprehensive law on violence against women. The Working Group hopes that any shortcomings in these bills will be remedied (see relevant sections below) and that they will be passed without undue delay.

3. Challenges

10. However, according to the information received during the visit, this solid legal framework is not systematically implemented in practice and there is a need for better coordination between the relevant actors for it to be effective. Furthermore, there is still room for the improvement of laws and policies, such as on the political participation of women and domestic work (as detailed in para. 29 and 42 respectively). As for the legal framework on gender-based violence, the numerous provisions applicable might create some lack of clarity (see paras. 56). The very restrictive legislation on sexual and reproductive rights represents a major gap in the State’s fulfilment of its international obligations (see paras. 50–51).

B. Institutional and policy framework

11. The Working Group welcomes the adoption of numerous policies aimed at promoting women’s rights and gender equality, such as the second plan for gender equality and equity (2010–2022), the national plan against violence towards women (2014–2022) and the policy and national action plan against commercial sexual exploitation and trafficking in persons (2016–2022).

12. The Working Group welcomes the considerable efforts deployed by the National Institute for Women, which is responsible for promoting and coordinating the implementation of policies on gender equality and the integration of women into sustainable development efforts. It regrets that the Institute was downgraded from a ministry to a directorate under the Social Inclusion Office. The State has to reinforce the national machinery promoting and protecting women’s rights and allocate the necessary financial and human resources to ensure the effective implementation of gender equality policies, in line with its international obligations. It is essential that the Institute’s role in promoting and coordinating gender equality policies be reinforced and that its mandate be strengthened vis-à-vis other entities of the executive.

13. The Working Group notes with appreciation the Ciudad Mujer initiative, launched in 2016. The initiative, led by the National Institute for Women, provides for a network of services offered by 16 relevant agencies in relation to protection from violence, economic empowerment, sexual and reproductive health and community education focused on human rights. These comprehensive services are provided free of charge to any woman who needs them, and childcare is provided while women use services that they need. However, the initiative is not used as much as expected by women survivors of violence, one of its limitations being that it does not operate around the clock. The experts hope that this
initiative, which they consider a promising practice, will be implemented throughout
Honduras and be given sufficient resources.6

14. The experts are pleased that in 2017 the Ministry of Human Rights was created as an
autonomous institution, which undertakes significant efforts to secure the mainstreaming of
human rights standards. The ministry is coordinating the Inter-Agency Commission to
Monitor Investigations into Violent Deaths of Women and Femicide, established in August
2018, as well as the protection mechanism for human rights defenders and the Inter-Agency
Commission to Combat Commercial Sexual Exploitation and Trafficking in Persons. This
ministry and its mechanisms also need to be strengthened to ensure the enforcement of
human rights and gender equality in the country.

15. The experts welcome the creation of gender units in the central Government and
hope that they will be soon operational in all ministries, that they are given the appropriate
budget and that they focus on the needs of all women. The experts also welcome the
establishment of municipal offices for women. However, the experts were informed during
the visit that not all the municipal offices had received their budget from the central
Government. In addition, a number of women have raised concerns that the offices are
staffed and funded according to party loyalties rather than according to the professional
expertise and merits of the programmes.

16. The experts also appreciate the work done by the Office of the National
Commissioner for Human Rights, which has regional offices in all departments of
Honduras. They hope that in the near future the Office will be able to comply with the
requirements of the principles relating to the status of national institutions for the promotion
and protection of human rights (the Paris Principles), in particular with regard to its
financial resources, cooperation with other entities, pluralism and independence, and regain
its A status.

C. Administration and access to justice

17. The Working Group acknowledges that the Government has adopted multiple
initiatives to improve access to justice and accountability for discrimination and violence
against women. These improvements include upgrading the Ministry of Human Rights;
establishing 10 Special Prosecutors’ Offices, including one for human rights; doubling the
number of prosecutors and the budget of the Attorney General’s Office; establishing a
vetting process to identify corrupt police officers; and opening new courts in rural areas.
There are also plans under way to establish a new competitive process for the selection of
judges and to adopt a plan aimed at reducing delays in judicial proceedings. The experts
stress the importance of these plans incorporating a gender focus.

18. Moreover, efforts were made to modernize the administration of justice, including
the installation of a gender unit within the Supreme Court, training and awareness-raising
for court personnel on gender and reforms to criminal and civil procedures. However,
significant gaps persist, such as in relation to the pursuit of a judicial career and the
adoption of legislation on the Council of the Judiciary and Judicial Service. Moreover, a
more targeted focus on improving women’s access to justice needs to be included.

19. The experts note persistent failings concerning women’s access to justice, which is
essential for the realization of all their rights and is a fundamental element of the rule of law
and good governance, together with the independence, impartiality, integrity and credibility
of the judiciary, the fight against impunity and corruption, and the equal participation of
women in the judiciary and other law implementation mechanisms. Many of the
components of the right to access to justice7 are not guaranteed to most women in Honduras.

---

6 More resources (human, financial and material) are needed, in particular from the Ministry of Health.
Health services are the most sought after under the initiative.

7 See Committee on the Elimination of Discrimination against Women, general recommendation 33
(2015) on women’s access to justice.
20. The experts also note that the justice system, including the courts and other institutions, does not offer realistic solutions to overcome the barriers that women face in accessing justice. These obstacles occur in a context of structural discrimination and inequality, due to factors such as gender stereotyping, discriminatory laws, intersecting discrimination, procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible to all women. Furthermore, obtaining effective legal solutions requires costly legal representation, which most women in Honduras cannot afford. Although some civil society organizations and legal clinics at the public universities offer free legal assistance, they cannot cover the legal needs of most women.

21. According to the testimonies and information received, factors such as socioeconomic status, residence in rural areas, ethnicity and age strongly influence women’s real possibilities of accessing effective legal remedies. During the visit, the experts received multiple testimonies regarding the lack of access to justice by women facing intersecting forms of discrimination, all of whom decried the impunity that existed (see para. 32) for the high rate of femicide and other forms of gender-based violence and their profound lack of trust in the legal system, which was also acknowledged by some government and police officials. Machismo, misogyny and gender stereotypes, coupled with the poverty or lack of financial independence of most women, increase the risks to which women are exposed and prevent them from fully exercising their right to access justice. More efforts should be made to secure effective access to justice for women.

III. Participation of women in family and cultural life, political and public life and economic and social life, and access to health

22. Despite efforts by the State and feminist activists in the country to promote women’s empowerment and gender equality, discrimination against women persists in all spheres of their lives. This systemic and structural discrimination, nurtured by patriarchy and discriminatory gender roles, affects all women in Honduras, but women living in poverty, indigenous, Garífuna and Afro-Honduran women, lesbian, bisexual, transgender, queer and intersex women and women with disabilities, inter alia, are particularly disadvantaged.

A. Family and cultural life

23. Patriarchal patterns of behaviour, attitudes, expectations, beliefs and practices discriminating against and denigrating girls and women remain widespread. It was emphasized by many interlocutors during the visit, including government officials, that there is a culture of machismo in Honduras. Patriarchal attitudes in the country perpetuate inequality, as well as domestic violence and other forms of violence committed outside the home, and limit women’s participation in civil, political, economic and social life and a more egalitarian family environment.

24. Honduras legally recognizes only heterosexual marriage, sexual minorities’ rights to enjoy family and private life being severely limited. Moreover, deep-rooted social norms impose on men the role of family breadwinners (although there are more and more women heads of households; see para. 38), while women are expected to do the housework, raise the children and look after other dependants. Women in Honduras spend about 30.2 hours per week in unpaid work, while men spend only 7.8 hours (see para. 40). The experts noted during the visit that even some government programmes sometimes perpetuated gender stereotypes or focused primarily on women’s role in the family. Laws and policies must be developed to reduce and redistribute women’s unpaid care work and provide equal opportunities for women to develop personally and professionally. In this respect, the

experts commend the recruitment of women in construction and public work undertaken by
the Gender Unit in the Ministry of Infrastructure and Public Services. The experts
encourage more initiatives to provide jobs for women and challenge stereotypes. More
efforts are needed to address men’s discriminatory attitudes and behaviours and positively
transform masculinity. Furthermore, different family forms should be legally recognized.

25. In addition to the entrenched patriarchal culture, family life and women’s
reproductive health are highly conditioned by a conservative society, influenced by the
Church. The experts learned from various interlocutors that both Catholic and evangelical
churches have significant influence over political decision-making bodies and public
opinion, including in the discussion of the decriminalization of abortion in three
circumstances and lifting the prohibition on emergency contraception. These policies
should be premised on human rights standards and not on any particular religious doctrine.
The Working Group joins other international human rights expert mechanisms in reiterating
that freedom of religion or belief should never be used to justify discrimination against
women (see A/HRC/38/46).

26. The media also play a key role in perpetuating harmful gender stereotypes,
reinforcing gender inequality. Television channels and advertising in general continue to
reinforce sexist gender stereotypes, as was pointed to by many interlocutors. Sensational
cases tend to receive excessive media coverage at the expense of positive portrayal of
women, and women (including victims of violence) are often depicted in a disrespectful
manner, which may further fuel violence against them. The media must take on their role in
promoting gender equality.

B. Political and public life

27. The Working Group welcomes the improvement in the number of women in public
offices, such as the increase in the percentage of women in the police force (from 3 to 19
per cent) and judiciary (54 per cent of all judges are women), and was pleased to meet with
women in high-level positions, including the Minister of Human Rights and the Director of
the National Institute for Women. However, women, particularly those experienc-
ing intersecting forms of discrimination, remain significantly underrepresented in all areas of
political and public life. The low level of participation of women in public life is reflected
at all decision-making levels: national, regional and community.

28. Women constitute 21.1 per cent of Congress, marking a decrease from the previous
elections (25.7 per cent). Women constitute only 12 per cent of the Board of Directors of
the National Congress (2 out of 17 members) and some of the Congress’s commissions
have no women members (such as the Budget Commission). In 2017, women made up 21.7
per cent of ministers, 7.4 per cent of mayors and 30.7 per cent of city councillors. To date,
there has never been an indigenous or Afro-Honduran minister. In the Supreme Court, 5 of
the 15 judges are women.

29. In political parties, the highest positions are generally held by men. In 2012, Decree
No. 54-2012 raised the quota for the inclusion of women candidates to 40 per cent for
positions of authority and within parties, as well as candidates to popularly elected
positions. It established that the principle of parity (50 per cent women) would be applied
beginning with the 2015 electoral period. Moreover, a parity pact signed by Honduran
political parties indicates that ballots should alternate in displaying the names of women
and men candidates. However, the experts regretted to learn that recently adopted
regulations, which stipulated that the names had to alternate further down the list of
candidates only, had actually contributed to decreased numbers of women in office.

30. The experts were also informed of additional barriers to the participation of women
in political life, such as the fact that women candidates for office were often discouraged
from putting themselves forward by communities and partners, and that they had become

---

10 Gender Equality Observatory for Latin America and the Caribbean, “Honduras: country profile”.
targets of political violence. Moreover, women politicians generally have less financial resources to fund campaigns. The Working Group calls on the Government to take further measures to support women’s participation and address violence in politics.

**Women human rights defenders**

31. Although Honduras has made efforts to establish a mechanism for the protection of human rights defenders, there still seems to be little understanding of the specificities and needs of women human rights defenders and the hurdles that they face. All the women human rights defenders met during the visit – who were working in areas of violence against women, including trafficking, discrimination, gender equality and sexuality education, reproductive rights, environmental and land rights, labour rights, rights of lesbian, bisexual, transgender, queer and intersex women and the rights of women engaged in sex work/prostitution – stated that they were not able to operate in a safe and enabling environment. They told the experts that they faced numerous attacks and threats, as well as the criminalization of their activities and lack of access to justice.

32. Several interlocutors, including family members, expressed great dissatisfaction with the trial for the murder of Berta Cáceres, a Lenca feminist leader. The experts were informed that the family had been denied access to reports and evidence during the investigation phase, which had lasted more than two years and was marred by numerous irregularities, and that the lawyers representing the family had been excluded from the trial without a legitimate reason. The Working Group welcomes the ruling by the trial court in Tegucigalpa in November 2018, which resulted in the conviction of seven men, but remains concerned that those masterminding and funding the crime have still not been sanctioned. Any irregularities reflect poorly on the judiciary as a whole, which is already mistrusted for its lack of accountability.

33. The mistrust in the judiciary is further fuelled by the practice of criminalizing human rights defenders. Not only does this have a disproportionate effect on women human rights defenders, who often do not have enough resources to pay for legal defence or travel to judicial or police stations, but it further erodes women’s already fragile trust in the judiciary or police. During the visit, representatives of women’s organizations from La Paz, La Esperanza, El Progreso, Bajo Aguán, San Pedro Sula, Tegucigalpa, Tela, La Ceiba and Santa Bárbara informed the experts about arrests, prosecutions and legal proceedings initiated against women human rights defenders as a means of intimidating them and hindering their work.

34. Stigmatization of women human rights defenders by officials, and also by their own organizations, families, communities and the media, not only disempowers them but also exposes them to heightened risks. They face smear campaigns aimed at discrediting their work, and are often accused of being opposed to the development of Honduras, of being “unnatural” mothers and wives or even of being criminals. One defender shared her painful experience of not only being criminalized and attacked by members of her own community, but also being constantly harassed and insulted by members of her family, who accused her of being a bad mother, while she explained that she had been defending her land precisely to secure her children’s future.

35. In most cases, women defending the environment and land rights face criminal charges, including coercion, trespassing and unlawful seizure, and land encroachment. The experts are concerned that the incorporation in January 2018 of the crime of illegal trespassing and appropriation of land into the list of crimes that may be committed by organized criminal groups, along with offences such as money laundering and terrorism, may generate a stigmatizing effect on women land defenders. For some, criminalization also entails prison. Even alternative measures given in response to criminal proceedings have apparently been abused as a tool of control and humiliation. For example, some defenders have been required to report regularly and for an extended period of time to the police or the courts to sign a document, which is seen by defenders as the form of judicial harassment. One woman revealed that she had been raped on her way to report to the police, which she was required to do weekly.
36. The experts also received testimonies of women human rights defenders facing legal action for defamation and slander, as well as the threat thereof. Others have reported that their organizations are subjected to unreasonable tax supervision and registration requirements. The experts were also informed that women who were more vocal, or worked on contested issues such as the rights of sexual minorities or sexual and reproductive rights, were at risk of harsher treatment, including excessive use of force and even murder. Often, women human rights defenders do not have sufficient protection. Some women said that they had to pay for the food and transportation costs for the security officers, and other pointed to the issue of the protection system focusing on the main person at risk only, sometimes leaving family members at risk. While the experts learned from the representatives of the protection mechanism that they were committed to ensuring a gender perspective, more should be done to ensure that there truly is such a gender focus.\(^{11}\)

C. Economic and social life

37. The Working Group notes that the State has been making efforts to enhance women’s economic empowerment and social inclusion, such as through the creation of the “Better Life” programme and the adoption of the Act on the National Solidarity Loan Programme for Rural Women. The experts welcome the recent accession by Honduras to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, having observed first-hand how poverty and inequality affect the everyday lives of women around the country. While 34.5 per cent of households depend on the woman’s income,\(^{12}\) women’s participation in economic life remains very low. The rate of participation by women in the paid labour force is 50.9 per cent, compared to 85.8 per cent by men.\(^{13}\) Some 75.5 per cent of women work in the informal sector, which often implies a considerably precarious situation and no protection. The unemployment rate among women is 10.7 per cent, against 5.1 per cent among men.\(^{14}\)

38. The feminization of poverty is of great concern to the Working Group: 44.4 per cent of households headed by women live in extreme poverty (against 41.9 per cent of those headed by men).\(^{15}\) Subemployment, unemployment and lack of access to land, credit and technology represent critical challenges for women, also preventing them from responding to their family needs. The organizations of peasant farmer women have documented that only 8 per cent of rural women possess land titles. Women’s organizations have attributed the lack of women’s access to credit, including agricultural financing, to high interest rates, the high deposits required, cumbersome procedures and discriminatory practices.

39. Limited access to land and credit severely restricts women’s economic prospects and autonomy. According to information received, women wishing to set up their own businesses are often precluded from doing so because of the need for capital, or because they are unable to meet the regulatory requirements (some women do not even have bank accounts). The patchwork of economic and community development programmes available has apparently variable outcomes. Some programmes are dismissed by women as politicized and thus not effective in improving the situation of women living in poverty; others appear to be inaccessible, even to the communities at which they are targeted.

40. The experts also received information about the problem of unpaid care work in Honduras, which represents a considerable additional burden, in particular for those who face heavy workdays. This situation is normalized by a lack of gender-sensitive education and is reinforced in the family, in social life and at work. It is crucial to adopt a process of education that is focused on a gender perspective. Alliances between women and men

\(^{11}\) See also A/HRC/40/60/Add.2.


\(^{15}\) Polétikah, “Feminización de la pobreza”.

should be created to generate positive changes. Laws and policies should be developed that recognize, reduce and redistribute women’s unpaid care work and provide adequate social protection, including childcare facilities.

41. The experts noted that in the maquila sector, concerning the delocalized manufacturing of garments, and where labour rights violations have been widely reported, workers are predominantly women: they are therefore predominantly affected by the work hazards of the sector, including repetitive physical tasks that, when carried out over an extended length of time, lead to physical strain and injury. The experts were informed that the pressure under which workers were asked to perform caused mental distress and that the regular granting of temporary contracts for that type of work prevented them from enjoying the same legal protections and social benefits as other workers. At the same time, rural women’s travel to urban areas in order to perform this work can cut them off from extended family networks and other forms of social support. In addition, in a country where violence against women is an ever-present reality, travel to and from work before and after a long shift places maquila workers’ personal security at risk. The experts also received allegations that the salaries in maquilas were below the minimum national salary, that employees often suffered from harassment, exploitation, psychological pressure based on high production objectives, longer working hours, few resting times, little time to eat and no access to drinking water. The weak unions, the lack of knowledge about laws and labour rights (such as the laws on collective contracts and on social insurance and the Labour Code) do not help the situation.

42. The experts are also concerned about the rights of domestic workers, who reportedly receive low pay for long hours of work and often face bad working and living conditions. The nature of domestic work, which is carried out in private rather than in public spaces, renders domestic workers vulnerable to abuse and exploitation. In this respect, the experts take note of a pending domestic workers’ bill, which seeks to provide greater protection to domestic workers. However, they are concerned that this draft law falls short in some respects, as it fails, inter alia, to expressly stipulate a minimum wage and require mandatory social protection. The experts hope that the law that is adopted will be in compliance with international standards, such as with respect to a minimum wage, access to the State social security system, decent working hours, resting time and paid leave.

43. According to the Honduran Private Enterprise Council, despite some progress made, the rate of women in business leadership positions remains very low: only 27 per cent of presidents of executive boards are women. A recent study by the Honduran Private Enterprise Council concluded that there was still a long way to go before attaining inclusive and gender-sensitive management of businesses, stressing that the corporate culture was still very male-dominated. Domestic care work seems to be one of the major barriers for women’s empowerment and promotion to the highest levels of leadership. Honduras has the lowest rate of public childcare provision in Latin America.

Education

44. While the rates of progress and completion of education among girls are slightly higher than among boys, girls face significant obstacles in accessing quality

---

16 See, for example, A/HRC/29/27/Add.1 and Inter-American Commission on Human Rights, Situation of Human Rights in Honduras (Washington, D.C., 2015); see also concluding observations of the Human Rights Committee (CCPR/C/HND/CO/2) and the Committee on Economic, Social and Cultural Rights (E/C.12/HND/CO/2).
17 The previous Government issued a decree granting access for domestic workers to the services of the Honduran Social Security Institute, but on an optional basis only, depending on the will of the employer.
18 Honduran Private Enterprise Council, “Mujeres en la gestión empresarial en Honduras”.
education. Due to education-related costs, which apparently vary, access to education is restricted in a country where most of the population lives in poverty. Illiteracy remains a problem, at 18.7 per cent of women in rural areas and 7.6 per cent in urban areas. The education sector has been increasingly privatized, and the closure or inaccessibility of public educational institutions limits access to education for rural women and women living in poverty. According to information received, the quality of education provided in public schools is also unsatisfactory.

45. The Equal Opportunities for Women Act sets solid ground for gender-sensitive education, but according to the information received, the reality is quite different. While there are certain civic education programmes, the teachers themselves acknowledged that there should be more comprehensive programmes on gender equality in schools. Other interlocutors also expressed the view that awareness-raising about gender equality should start in schools. The experts concur with this view: the topics of gender equality, stereotypes and violence against women should be integrated in core curricula, and a safe and respectful educational environment should be ensured for girls in schools free from military or religious influence.

46. In view of the very high rates of adolescent pregnancy, the Government should ensure that comprehensive and science-based sexuality education is systematically provided in schools. Adolescent pregnancy remains a major factor leading to maternal and child mortality, and to intergenerational cycles of ill health and poverty. Adolescent pregnancy can also have a negative social and economic impact on girls, their families and communities, limiting girls’ access to education and employment opportunities. The experts were informed that pregnant girls often cannot pursue their education; the Government should deploy all possible efforts to secure school enrolment of pregnant girls and ensure they have support after giving birth. The experts also express concerns about the security of girls on their way to school. Many parents reportedly hesitate to send their daughters to school for fear of violence, including sexual violence, particularly around mining areas.

D. Health

1. General access to health care

47. Despite the National Health Plan (2014–2018), which is aimed at improving access to health-care services, the coverage of public health remains weak. According to the Office of the National Commissioner for Human Rights, hospitals do not have the capacity to attend to the large number of patients or provide for the necessary services, including medicines. The privatization of health services has reduced access to health care for many women. According to the latest National Population and Health Survey, only 10 per cent of Honduran women are affiliated to the Honduran Social Security Institute, which provides health insurance. The most common causes of death in women are breast and uterine cancer, but there are no free prevention programmes.

48. The experts welcome the establishment of a government commission to examine gaps in the health-care system, which disproportionately affect women. Access to health care varies for women around the country, with women living in poverty and rural women having less access than others. The experts were informed that in rural areas, hospitals were too far away, of poor quality or lacking medication. Further, lesbian, bisexual, transgender, queer and intersex women, women engaged in sex work/prostitution and women living with HIV have reportedly less access to quality health care due to stigmatization and discriminatory attitudes. Women have reported severe cases of discrimination against women living with HIV, including forced sterilization. The experts were also informed that

24 Honduras, “Programa presidencial Ciudad Mujer”.
such violations also applied to women with intellectual and psychosocial disabilities, whose health needs are generally not sufficiently addressed. There are no targeted health programmes for women engaged in sex work/prostitution.

2. Sexual and reproductive health

49. The experts acknowledge the State’s intention to reduce maternal mortality in Honduras – which is still very high, at 129 deaths of women per 100,000 live births\textsuperscript{25} – as reflected in a public health campaign that seeks to encourage pregnant women to give birth in hospitals. However, they have received numerous reports that women are being forced to give birth in hospitals and that the failure to do so results in fines. The experts were also informed that midwives who assisted in delivering babies in the community were threatened with fines or incarceration. The experts consider this practice problematic as it does not respect women’s autonomy. In addition, it does not take into account other structural factors that prevent women from visiting the hospital, including transportation costs that are often prohibitive for women living in poverty and rural women. In the light of this, the experts encourage the Government to consider ways to work together with midwives and women in communities in order to develop a common, culturally sensitive approach to the reduction of maternal mortality.

50. Fertility rates in Honduras vary from 2.5 children in urban areas to 3.5 in rural areas (4.1 children for women without a university degree and 1.7 for those with a university degree). Many interlocutors pointed to the lack of accessibility of contraception, particularly in rural areas, which, together with the prohibition of emergency contraception, contributes to a high rate of unwanted pregnancy, including adolescent pregnancy.\textsuperscript{26} According to the United Nations Population Fund (UNFPA), Honduras has the second highest rate of adolescent pregnancy among countries in Latin America. One out of four girls has been pregnant at least once before reaching the age of 19 years, and 18 per cent of adolescents’ needs in contraception are not met. In rural areas, the rate of adolescent pregnancy reaches 30 per cent.\textsuperscript{27} The experts were informed that many early pregnancies were the result of the crimes of rape and incest. The experts regret that proposed protocols and amendments to the law, which would have enabled exceptions to the absolute bans on abortion and emergency contraception and which could take into account the needs of victims of sexual violence, including child victims, have not been put in place.

51. The Working Group echoes the concerns of the Committee on the Elimination of Discrimination against Women (CEDAW/C/HND/CO/7\textsuperscript{-}8), the Inter-American Commission on Human Rights,\textsuperscript{28} and special procedures mandate holders that women’s sexual and reproductive rights are seriously restricted in the country. Honduras is one of the very few States in the world that prohibit abortion in all circumstances, including in cases of rape or incest, where the life and/or health of pregnant women is at risk and in cases of severe fetal impairment. The use, sale, distribution and purchase of emergency contraception is also prohibited and carries the same penalties as abortion itself. As shown by data from the World Health Organization (WHO), restrictive laws on abortion increase maternal mortality and morbidity rates due to unsafe abortions, and are not efficient in reducing the rate of abortion.\textsuperscript{29} The Working Group has called for women to be allowed to terminate the pregnancy on request during the first trimester.\textsuperscript{30} According to information

\textsuperscript{26} The adolescent birth rate is 70.8 births per 1,000 women aged 15 to 19 years (UNDP, “Human development indices and indicators: 2018 Statistical Update – briefing note for countries on the 2018 Statistical Update: Honduras”).
\textsuperscript{27} UNFPA, “Transformando retos en oportunidades”, 20 April 2016.
\textsuperscript{28} Organization of American States, “CIDH concluye su visita a Honduras y presenta sus observaciones preliminares”, 3 August 2018.
provided by the Ministry of Health, in 2017 approximately 15,000 women were hospitalized with a diagnosis of abortion. However, some women’s organizations have documented a much higher number: since only one in six women seek medical attention, the number of unsafe abortions could be between 51,000 and 82,000 per year.\textsuperscript{31}

52. Further, the criminalization of abortion and the obligation of medical professionals to report cases of women whose injuries appear related to unsafe abortions have led to women being incarcerated. These denunciations by medical professionals may dissuade women suffering from a miscarriage or complications from abortion to seek the necessary medical attention, thereby putting their lives in danger. The Working Group regrets that recent efforts to amend the Criminal Code with a view to decriminalizing abortion have failed, and recalls that criminalizing women for abortion is against international human rights standards. The Working Group reiterates that criminalizing the termination of pregnancy is one of the most damaging ways of instrumentalizing and politicizing women’s bodies and lives, subjecting them to risks to their lives or health and depriving them of autonomy in decision-making. The Working Group also regrets the detrimental influence of religious lobbies on matters of public health and that there is no political will to review the national legislation on abortion and emergency contraception to bring it into line with international standards (see A/HRC/32/44).

IV. Gender-based violence against women and women experiencing intersecting forms of discrimination

A. Gender-based violence against women

53. During the visit, the experts were informed that violence against women is rampant in the country, fuelled by inequality, insecurity and impunity, and the lack of socioeconomic opportunities. A permissive regulation on the possession of firearms also contribute to the problem: in 2017, 62 per cent of femicides were committed with the use of firearms.\textsuperscript{32} The forms of violence include exploitation, psychological, physical and sexual violence, trafficking and femicide, as well as legally unregulated cyberviolence (e.g., cyberharassment and publication of intimate images without consent, including of public and political personalities). The perpetrators include partners and family and community members, as well as other private actors and State agents. Certain groups of women are particularly vulnerable, such as women human rights defenders, lesbian, bisexual, transgender, queer and intersex women, women engaged in sex work/prostitution, and young girls. According to the interlocutors met, there has been a rise in the brutality of violence, as well as the number of cases of disappearance of women. Violence has been one of the root causes of migration by women.

54. Domestic and sexual violence are among the most reported crimes in the country, and the rate of femicide is very high. According to data from the Monitoring Centre on Violence, 5,347 women were murdered between 2005 and 2017.\textsuperscript{33} While between 2014 and 2017 there were 1,944 registered cases of femicide, only 33 were tried in that period. The conviction rate has been very low.\textsuperscript{34} Indeed, according to the interlocutors met, 95 per cent of femicides go unpunished. Moreover, the interlocutors were concerned at the fact that


\textsuperscript{32} National Autonomous University of Honduras, “Boletín especial sobre muerte violenta de mujeres”, March 2018.


\textsuperscript{34} According to the annual report of the Office of the National Commissioner for Human Rights of 2017, 19 cases of femicide were presented before the courts, out of which 4 ended with a conviction, 1 was provisionally dismissed and 7 are being tried (see http://app.conadeh.hn/descargas/INFORME%20ANUAL%20COMPLETO%202017.pdf).
crimes are often attributed to maras (gangs), even though such murders constitute a small amount of the overall number of femicides. It appears that in such cases even less investigative effort is made.

55. This impunity is symptomatic of a pattern of structural discrimination against women. While the problem of impunity was obvious to all the interlocutors met, criminal justice officials mostly considered that it was often due to victims withdrawing the complaints. Little understanding was shown of the victims’ lack of trust in the system and the inadequate protection against the risks to their security that they often faced when denouncing offenders, as well the obstacles that their economic dependence on the perpetrators created in terms of pursuing legal remedies. According to international human rights standards, the State is not absolved from the obligation to investigate serious incidents of violence if the victim withdraws the complaint: investigative efforts must be focused on all relevant evidence.

56. The Working Group notes that the Government took some measures to reduce impunity for violence against women. The Domestic Violence Act, which regulates intimate partner violence against women (when acts do not constitute criminal offences) was reformed in 2006. It provides for a range of security, protection and precautionary measures, as well as procedural rights for the victim, which is to be commended. The Criminal Code criminalizes violence within the family, femicide and sexual crimes.

57. The experts are concerned that there seems to be a lack of clarity in the legislative framework on violence against women that can result in cases of a criminal nature being subject to civil jurisdiction only. The interlocutors from the relevant State agencies placed significant emphasis on the preventive function of the Domestic Violence Act, but it is questionable whether civil law, which provides for community service as a sanction, does indeed fulfill this function. The 24-hour detention periods provided as a measure under this law might be insufficient for protecting victims and preventing violence, as noted by one of the police officers met. The experts were also informed of delays during legal proceedings, which jeopardized the protection of the victims. Moreover, there seems to be a problem with respect to the implementation of protection measures. According to international human rights standards, protection orders should be available to all victims, regardless of how the act of violence is classified, and independent of any other legal proceedings. The experts hope that all serious acts of gender-based violence are indeed treated as criminal offences, and recommend an integrated, comprehensive approach to violence against women that reflects the seriousness of the problem.

58. The experts welcome the establishment in August 2018 of the Inter-Agency Commission to Monitor Investigations into Violent Deaths of Women and Femicide, but express concern at its lack of funding, which jeopardizes its proper functioning. Some interlocutors expressed the need for better data collection, more investigators and an appropriate budget for the Office of the National Commissioner for Human Rights and the Ministry of Security. Moreover, a number of interlocutors pointed to problems with respect to the interpretation of the definition of femicide, which may reduce the number of charges brought for the crime, in particular when the crime of femicide is reclassified by the judge as murder or homicide. Concern was also expressed by non-governmental organizations about the insufficient services for children of femicide victims.

59. The experts commend the Government for establishing a specialized unit for women within the Attorney General’s Office and within the police and specialized courts on domestic violence, as well as for undertaking training and campaigns on gender-based violence. However, according to the information received, these units are not properly funded or staffed, and there are only three specialized courts in the whole country. The experts were informed that in some municipalities there is a lack of prosecutors in domestic violence cases, meaning that public defenders represent both the perpetrator and the victim, as well as a shortage of judges to supervise the execution of measures. Moreover, some

victims complained of insufficient coordination between the relevant authorities. Concern was also expressed about changes in the rotation of judges.

60. The experts are concerned at the low number of shelters, of which there are only four in the whole country (see A/HRC/WG.6/22/HND/1), and their lack of resources as observed during the visit. One of the shelters was actually closed during the visit due to inability to pay rent. The Working Group urges the Government to finance the shelters and services for victims and provide support to women who leave the shelters, as they often have nowhere to go.

B. Women experiencing intersecting forms of discrimination

61. There is lack of data on women experiencing intersecting forms of discrimination. Moreover, there is a lack of targeted policies and laws, and research on the needs of these women. During the visit, the experts met with the representatives of indigenous, Garífuna and Afro-Honduran women, peasant farmers and rural women, transgender women, women engaged in sex work/prostitution and women living with HIV. They also visited women’s prison in Tegucigalpa. All these women recounted stories of discrimination, marginalization and exclusion. Lesbian, bisexual, transgender, queer and intersex women and women engaged in sex work/prostitution have been particularly vulnerable to violence, and transgender women, women engaged in sex work/prostitution and women living with HIV complained in particular of obstacles to accessing quality health services. The experts have tried to reflect these concerns throughout the report, and the focus in this section is on indigenous, Garífuna and Afro-Honduran women, rural women and incarcerated women.

1. Indigenous, Garífuna, Afro-Honduran and rural women

62. Despite the constitutional guarantee to preserve native cultures, the historic exclusion of indigenous, Garífuna and Afro-Honduran people underlies the current violations of their human rights, including their precarious socioeconomic situation, privatization of their lands, militarization of their territories, repression of their leaders and violence in isolated areas. For women, this is exacerbated by gender-based discrimination in society at large and within their own communities. They have less access to decent work, land ownership, credit, housing, education and health. However, there is no data disaggregated by ethnicity, which would provide the basis for targeted policies addressing the needs of these communities, and specifically women.

63. The main challenges that these women face are access to and control of land: they constitute only 4 per cent of beneficiaries of a 30-year agrarian reform process and 22 per cent of beneficiaries of the land title programme (A/HRC/37/3/Add.2, para. 10). They struggle with the lack of guarantee of economic and social rights, including in the context of development projects, and high rates of poverty. Rural women and women belonging to indigenous and communities of African descent have routinely recounted their frustration at the absence or inadequacy of consultations by the Government before undertaking large-scale development projects, granting concessions to international corporations or developing laws and policies that affect them, such as the bill on patenting Lenca designs. Their land, livelihoods and traditional way of life remain under acute threat by these activities, which often result in the displacement of the Garífuna and indigenous populations as well as denial of access to natural resources.

2. Incarcerated women

64. In 2018, the number of incarcerated adults reached 20,583, including 1,240 women. Overall detention rates increased by 8.33 per cent, while for women the rate increased by 17.31 per cent. While pretrial detention decreased overall, it increased among the female population, from 63 to 68 per cent (A/HRC/40/3/Add.2). According to information received, there has been an increase in the number of charges brought against women for crimes that

36 There are nine recognized ethnic minorities in Honduras: seven indigenous groups and two groups of African descent.
automatically include pretrial detention. The experts recall that, pursuant to resolution 1/08 of the Inter-American Commission on Human Rights relating to principles and best practices on the protection of persons deprived of liberty in the Americas, preventive deprivation of liberty must be applied only within the strictly necessary limits.

65. According to the information received during the visit, most women in the prison in Tegucigalpa come from a precarious socioeconomic background and have been incarcerated for drug-related crimes. The experts observed poor conditions of detention, such as substandard infrastructure, unsanitary conditions, insufficient rehabilitation programmes, poor medical care and serious overcrowding, including in the “home” where children are placed with their mothers. Honduran law provides that children of women prisoners have the right to be cared for by their mothers inside the prison during their first two years of life. A court resolution can extend that period for up to two additional years when it is in the child’s best interests to do so. The experts recall that international standards encourage the use of alternatives to imprisonment for crimes carrying short prison sentences and for incarcerated mothers of small children.37

66. The experts were informed during the visit that women requesting conjugal visits were subjected to various invasive procedures and medical checks, including tests for HIV and forced contraception, which often effectively prevented them from exercising that right. More stringent requirements for unmarried partners, coupled with the prohibition of same-sex marriage, has discriminatory effects on unmarried and lesbian, bisexual, transgender, queer and intersex women prisoners. Furthermore, the experts were informed of a new set of rules of procedure for visiting people in prison adopted in 2016.38 Visitors need to obtain several documents and fulfil numerous requirements to obtain a permit that lasts for only a few months and then has to be renewed. These documents are costly – they can amount to 3,000 lempiras ($124) yearly – and disproportionately affect people living in poverty.

V. Conclusions and recommendations

A. Conclusions

67. The State has shown efforts to improve the situation of women in the country, and has instituted measures at the legislative, policy and institutional levels. The experts met a number of committed individuals, both in the central Government and at the local level, and were particularly impressed by the considerable contribution of the women’s rights and feminist movement in Honduras in the elaboration of public policies integrating a gender perspective. The experts were also encouraged by the Ciudad Mujer initiative, which is promising as long as further supported by all necessary resources and developed across the country.

68. Despite all these efforts, gender inequality persists. Women’s living conditions have not improved and poverty, violence, insecurity and social exclusion still affect them significantly. Women are underrepresented in political and economic spheres, girls face significant barriers to access to quality education (including sexuality education) and there are many obstacles to access to quality and comprehensive health care. In particular, access to sexual and reproductive health is very restrictive; abortion is prohibited in all circumstances, as is emergency contraception. Certain categories of women are in a particularly disadvantageous position, such as indigenous, Garífuna and Afro-Honduran women, lesbian, bisexual, transgender, queer and intersex women, rural women, women with disabilities and women living in poverty. Women in prison also face poor conditions and women human rights defenders are subjected to criminalization, violence, stigmatization and intimidation.

37 See the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).
38 National Prison Institute Agreement No. 001-2016 on regulations governing visits to establishments of the national prison system.
69. In order to address all the persisting challenges that stand in the way of the realization of women’s rights, the State must accelerate its efforts. It must tackle the problem of gender inequality in a coordinated and systematic way and take comprehensive measures in all spheres of life, including the transformation of patriarchal attitudes. Particular attention should be paid to women experiencing intersecting forms of discrimination.

B. Recommendations

70. In a spirit of cooperation, the Working Group has formulated the following recommendations to the State with a view to strengthening measures designed to guarantee gender equality, the empowerment of women and the promotion and protection of women’s human rights.

71. With regard to the legal framework, the Working Group recommends that the State:

(a) Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

(b) Ratify the relevant ILO Conventions, including the Domestic Workers Convention, 2011 (No. 189), and duly implement the Domestic Workers Recommendation, 2011 (No. 201);

(c) Adopt the laws pending in Congress relevant to women’s rights and ensure their compatibility with international human rights standards;

(d) Repeal laws prohibiting access to emergency contraception and liberalize abortion law so as to ensure access at least in cases where the pregnancy poses a threat to the life or health of the woman, where it is the result of sexual violence or in case of severe foetal impairment, as the first step;

(e) Review the permissive legislation on firearms with a view to their eventual prohibition;

(f) Keep the legal framework under regular and well-informed review, ensuring its compliance with international standards, to ensure a positive impact on women.

72. With regard to the institutional and policy framework, the Working Group recommends that the State:

(a) Ensure the effective implementation of legislation;

(b) Strengthen the autonomy, role and position of the National Institute for Women vis-à-vis other State bodies, ensuring that it obtains the necessary support and cooperation from all the relevant ministries and receives enough resources to fulfil its mandate;

(c) Ensure that municipal offices for women and gender units in ministries are sufficiently funded and staffed by competent and trained personnel;

(d) Allocate sufficient resources (human and financial) to programmes under the Ciudad Mujer initiative and secure their availability across the country;

(e) Ensure better coordination among all concerned stakeholders so that laws and policies on women’s rights and gender equality are effective;

(f) Ensure that all State entities include gender indicators in their strategic planning, with dedicated budgets;

(g) Increase the budget and strengthen the human resources of the Ministry of Human Rights, which coordinates the Inter-Agency Commission to Monitor Investigations into Violent Deaths of Women and Femicide, and of the protection mechanism for human rights defenders and the Inter-Agency Commission to Combat
Commercial Sexual Exploitation and Trafficking in Persons, to ensure the enforcement of human rights and gender equality in the country;

(h) Take all necessary measures to ensure that the Office of the National Commissioner for Human Rights regains its A status;

(i) Shift the focus of security policies from militarization to human security.

73. With regard to access to justice, the Working Group recommends that the State:

(a) Ensure women’s access to justice, addressing the gaps stressed in the present report;

(b) Ensure that free and quality legal aid is provided to women who do not have the necessary financial resources;

(c) Ensure that all the current reforms within the justice system duly incorporate a gender focus.

74. With respect to family and cultural life, the Working Group recommends that the State:

(a) Undertake sustainable educational strategies and awareness-raising campaigns aimed at addressing gender stereotypes and discriminatory attitudes and beliefs;

(b) Ensure that the media do not promote stereotypes and gender-based violence, and raise their awareness on violence against women and human rights defenders;

(c) Ensure that health policies are not under the undue influence of any particular religious doctrine or a set of beliefs;

(d) Recognize diverse family forms.

75. With respect to political and public life, the Working Group recommends that the State:

(a) Ensure the effective implementation of the law on quotas;

(b) Provide the necessary support to women candidates, address political violence against women and promote women’s participation in political life;

(c) Conduct sustainable awareness-raising campaigns to prevent violence against women in politics and effectively investigate cases;

(d) End the criminalization and judicial harassment of women human rights defenders, protect them from violence (including by private actors) and investigate crimes against them;

(e) Ensure that the protection mechanism established by the State duly integrates a gender perspective and addresses the particular needs of women human rights defenders;

(f) Take all necessary measures to secure justice for Berta Cáceres and her family, in accordance with international standards, and duly sentence the main instigators of the crime.

76. With respect to economic and social life, the Working Group recommends that the State:

(a) Take measures to increase labour participation by women, particularly of women experiencing intersecting forms of discrimination, including measures to ensure work-life balance;

(b) Take measures to recognize, reduce and redistribute unpaid care work and provide for adequate social protection;

(c) Measure the impact of measures such as the Better Life programme and the National Solidarity Loan Programme for Rural Women to check that they do
improve the living conditions of women, and ensure that they are accessible to women facing intersecting and multiple forms of discrimination;

(d) Ensure the respect for labour rights in the maquila industry and for domestic workers, in accordance with international standards;

(e) Ensure that labour inspectors conduct thorough and independent investigations in maquilas into working, safety and health conditions and that effective referral mechanisms are available to all, including domestic workers;

(f) Support campaigns to raise awareness about the importance of women’s membership of trade unions;

(g) Promote women’s entrepreneurship and establish quotas in corporate boards to ensure due representation of women in leadership positions;

(h) Ensure full accessibility of quality education for all girls;

(i) Ensure that human rights education is taught in all public schools, covering women’s rights and gender equality, with a focus on prevention of gender-based violence;

(j) Ensure that comprehensive and science-based sexuality education is included in core curricula and systematically taught in all public schools;

(k) Ensure that pregnant girls remain in school and that they are supported in pursuing their education after giving birth.

77. With regard to access to health, the Working Group recommends that the State:

(a) Ensure full and appropriate access to quality health care to all women across the country, including in remote areas and with particular attention to the needs of women experiencing intersecting forms of discrimination, such as women living with HIV, women engaged in sex work/prostitution and women with disabilities;

(b) Expand the coverage of prevention services, in particular for breast and uterine cancer;

(c) Ensure unimpeded access to reproductive health services and contraception, in particular for adolescents and women with limited financial means, particularly in rural areas, and redouble efforts to prevent adolescent pregnancy;

(d) End the penalization of women and midwives for home births and ensure that health authorities establish cooperation with midwives to ensure that women have access to the highest standards of health care, while respecting their autonomous decision-making;

(e) Ensure that legislation on abortion and emergency contraception is in compliance with international human rights standards.

78. With regard to gender-based violence, the Working Group recommends that the State:

(a) Take all necessary steps to address the high levels of impunity, ensuring that all cases are effectively prosecuted and sentenced and that serious acts of gender-based violence are treated as criminal offences, while systematically respecting survivors’ rights;

(b) Ensure that legislation is fully compatible with international standards and adopt an integrated, comprehensive approach to combating violence against women;

(c) Strengthen and secure sufficient human and financial resources for the specialized units and courts, improve coordination among the relevant actors and secure further training for the relevant personnel;

(d) Ensure the effectiveness of restraining orders and a sufficient number of duly funded shelters, and improve rehabilitation measures;
(e) Ensure consistent interpretation of the definition of the crime of femicide;
(f) Ensure sufficient services for children of femicide victims;
(g) Document and duly investigate cases of women’s disappearance in a systematic manner;
(h) Continue conducting sustainable awareness-raising campaigns, including among the media;
(i) Establish a centralized data-collection system.

79. With regard to women experiencing intersecting forms of discrimination, the Working Group recommends that the State:

(a) Establish a system for collecting disaggregated data on women facing intersecting discrimination, with a view to better identifying the challenges that they face and tailoring policies accordingly in consultation with communities;
(b) Systematically consult indigenous, Garifuna and Afro-Honduran women on the design of policies affecting their lives, as well as other groups of women experiencing intersecting forms of discrimination;
(c) Regarding indigenous and Garifuna women guarantee their access and full participation in decision-making; prevent and combat violence against them; guarantee adequate health care, including sexual and reproductive health care and respecting the practice of traditional medicine; and ensure their access to quality education, respecting their languages and culture;
(d) Ensure equal access to decent employment, entrepreneurship, loans and financial services, as well as the possession of their lands and means of production;
(e) Eliminate violence, discrimination and stigmatization against lesbian, bisexual, transgender, queer and intersex women, women with disabilities, women engaged in sex work/prostitution and women living with HIV and ensure their effective participation in political, civil, economic and social life and access to quality health services;
(f) Improve detention conditions and duly implement regional and international standards on detention, in particular with regard to alternatives to imprisonment for crimes carrying short prison sentences and for incarcerated mothers of small children, as set out in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);
(g) Simplify prison visiting procedures;
(h) Take measures to support and protect migrant returnees and to address the root causes of migration.

80. The Working Group also recommends that the international community in Honduras, in both the United Nations system and the diplomatic community, ensure that their actions for the promotion of women’s rights and gender equality are coordinated, are based on international human rights standards and entail sustainable strategies rather than being limited to short-term projects. The Working Group further recommends the creation of a constructive space for dialogue involving the authorities and civil society organizations, even on issues deemed controversial.
TAB 8
Country of Origin Report: Sexual Orientation and Gender Identity and Expression in Honduras

ORAM - Organization for Refugee, Asylum and Migration

The University of Minnesata
About This Report

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

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

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

About ORAM

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

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

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

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

Acknowledgements

This report is the result of a partnership between ORAM and the University of Minnesota’s Human Rights Clinic.
The project was managed by Anja Limon. Research, analysis and writing were provided by Anna Somberg, Katherine D Bolander and Lauren Russ. Additional research and finalization of the report was done by Kristina Tester. The report edited by Prof. Stephen Meili. The cover was designed by Bella Stevens.
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>2.</td>
<td>LEGAL FRAMEWORK</td>
<td>2</td>
</tr>
<tr>
<td>2.1.</td>
<td>LAWS SPECIFICALLY CONCERNING SAME-SEX ACTS AND &quot;HOMOSEXUAL&quot; BEHAVIOR</td>
<td>2</td>
</tr>
<tr>
<td>2.2.</td>
<td>LAWS GRANTING RIGHTS/SPECIFICALLY DENYING RIGHTS TO SAME-SEX COUPLES</td>
<td>3</td>
</tr>
<tr>
<td>2.3.</td>
<td>LAWS RELATING TO THE LEGAL RECOGNITION OF THE GENDER IDENTITY OF TRANSGENDER PERSONS</td>
<td>4</td>
</tr>
<tr>
<td>2.4.</td>
<td>LAWS PROTECTING LGBT PEOPLE</td>
<td>5</td>
</tr>
<tr>
<td>2.5.</td>
<td>LAWS CONCERNING LGBT ORGANIZATIONS</td>
<td>8</td>
</tr>
<tr>
<td>2.6.</td>
<td>DISCUSSION ON CRIMINALIZATION/DECriminalIZATION OF LGBT RIGHTS</td>
<td>10</td>
</tr>
<tr>
<td>2.7.</td>
<td>IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS</td>
<td>11</td>
</tr>
<tr>
<td>2.7.1.</td>
<td>International Covenant on Civil and Political Rights (ICCPR)</td>
<td>11</td>
</tr>
<tr>
<td>3.</td>
<td>APPLICATION OF THE LAW</td>
<td>12</td>
</tr>
<tr>
<td>3.1.</td>
<td>DISCRIMINATORY APPLICATION OF LAWS AGAINST LGBT PEOPLE</td>
<td>12</td>
</tr>
<tr>
<td>3.2.</td>
<td>SOCIAL IMPACT OF LAWS AGAINST LGBT</td>
<td>13</td>
</tr>
<tr>
<td>3.3.</td>
<td>INADEQUACY OF STATE PROTECTION</td>
<td>14</td>
</tr>
<tr>
<td>3.4.</td>
<td>POLITICAL CLIMATE TOWARD LGBT</td>
<td>18</td>
</tr>
<tr>
<td>4.</td>
<td>TREATMENT BY NON-STATE ACTORS</td>
<td>20</td>
</tr>
<tr>
<td>4.1.</td>
<td>GENERAL SOCIETAL ATTITUDES</td>
<td>20</td>
</tr>
<tr>
<td>4.1.1.</td>
<td>Economic Development and Public Approval of LGBT</td>
<td>20</td>
</tr>
<tr>
<td>4.1.2.</td>
<td>Machismo and the Patriarchal Structure of Society</td>
<td>21</td>
</tr>
<tr>
<td>4.2.</td>
<td>THE ROLE OF RELIGION AND THE POSITION OF ORGANIZED RELIGIONS AND RELIGIOUS LEADERS</td>
<td>22</td>
</tr>
<tr>
<td>4.3.</td>
<td>DEPICTION OF HOMOSEXUALITY AND LGBT IN THE MEDIA</td>
<td>24</td>
</tr>
<tr>
<td>4.4.</td>
<td>TREATMENT OF LGBT BY FELLOW CITIZENS</td>
<td>26</td>
</tr>
<tr>
<td>4.4.1.</td>
<td>The Public</td>
<td>26</td>
</tr>
<tr>
<td>4.4.2.</td>
<td>Family, School, and Work</td>
<td>27</td>
</tr>
<tr>
<td>4.4.3.</td>
<td>Organized Crime and the LGBT Community</td>
<td>29</td>
</tr>
<tr>
<td>4.5.</td>
<td>ACCESS TO HEALTHCARE</td>
<td>30</td>
</tr>
<tr>
<td>5.</td>
<td>SOCIAL LIFE</td>
<td>31</td>
</tr>
<tr>
<td>5.1.</td>
<td>GENERAL CLIMATE AND OPENNESS AROUND LGBT</td>
<td>31</td>
</tr>
<tr>
<td>5.2.</td>
<td>LGBT ACTIVISTS AND ORGANIZATIONS</td>
<td>33</td>
</tr>
<tr>
<td>6.</td>
<td>CONCLUSION</td>
<td>35</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

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

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

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

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

---

⁴ Id.
⁵ Id at 21.
⁷ Penal Code of Honduras. S. 321 (text amended by Decree No. 23-2013) see Section 2.4.1 of this Report.
the concept of machismo fuels controlling masculine behavior and violence against the general population. The religious beliefs of the Christian majority bolster the violent actions of individuals by confirming and demanding adherence to traditional gender and heterosexual standards. The mixture of these traditional values and homophobic beliefs has created extremely dangerous conditions for the LGBT community in Honduras.

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

2. LEGAL FRAMEWORK

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

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

Same-sex sexual activity and behavior are not criminalized in Honduras. Same-sex sexual activity between individuals able to consent has been legal under the Penal Code of Honduras since 1899. The age of consent in Honduras does not differ depending on the gender or sexual orientation of an individual. However, legality of same-sex sexual acts is not necessarily

---

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

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

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

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

---

15 Id. at p. 277.
16 Id. at p. 277.
17 Id.
from being in a state-recognized relationship. This lack of access and recognition further marginalizing the LGBT community.

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

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

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

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

---

21 Id at p. 530.
25 Id.
26 *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*, REDLACTRANS 12, (2012).
The application process includes a photograph, which can be changed over time, and fingerprinting. While the ability to be photographed at the age of 18 and change that photograph in the future may appear to benefit the transgender community, a gender-conforming photograph without the ability to change one’s legal gender on identity documents to match that photograph can lead to discrimination and harassment when officials note the discrepancy.

2.4. Laws protecting LGBT people

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

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

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

---

28 Id.
32 Id. at 100.
33 Id. at 101.
34 Id. at 101.
This amendment is significant because it expressly incorporates gender identity and sexual orientation into the protected classes of discrimination, which previously was not included. However, there is still no legal framework that specifically addresses the LGBT population’s unique needs. In the same 2013 Penal Code Reform, Honduras adopted Article 321-A in Chapter III of Title XI, making it an offense to:

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

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

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

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

---

35 For an example of such a framework, see, e.g., Law on Equal Opportunities for Women, 2000. https://pdba.georgetown.edu/Parties/Honduras/Leyes/LeyMujer.pdf
38 Código del Trabajo [Labor Code], Art. 12, available at: https://www.ilo.org/dyn/natlex/docs/WEBTEXT/29076/64849/S59HND01.htm#1
39 Código del Trabajo [Labor Code], Art. 12, available at: https://www.ilo.org/dyn/natlex/docs/WEBTEXT/29076/64849/S59HND01.htm#1
sex, gender, religion, national origin, belonging to indigenous or Afro-descendant populations, sexual orientation or gender identity, age, marital status or disability, ideology or political opinion of the victim.” These amendments are important steps forward in the codification of LGBT protections in Honduras, but have not effectuated change. However, despite the passing of these protective measures in 201, LGBT organizations in Honduras report that there is no practical application of these laws on the ground. One example of this is the discrepancy between reports of violence against the LGBT community and formal investigations of those crimes by Honduran authorities. In August of 2018, the Inter-American Commission on Human Rights (IACHR) reported that, according to information provided by civil society organizations, there were 177 murders of LGBT people in the previous five years, which resulted in only 65 investigations and no convictions.

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

---

41 Id at 12.
45 Id.
47 Id at 7-8.
48 Id.
Additionally, LGBT victims fear they will suffer harassment from police officials if they report crimes.49 There is also growing concern regarding police collusion and other forms of involvement with gang activities, which further erodes the LGBT community’s and general public’s trust in government authorities.50

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

2.5. Laws concerning LGBT organizations

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

49 Id.
50 Id.
51 Id.
53 Id.
54 Id.
In August of 2000, the Ministry of Interior and Justice denied LGBT organization Grupo Prisma’s application because group’s statutes and articles of association “... breach morality, public order, and proper behavior.”

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

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

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

---

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

2.6. Discussion on criminalization/decriminalization of LGBT rights

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

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

63 Id.
65 Id.
66 Case description: In May 2016, the Republic of Costa Rica requested that the IACHR clarify what amounts to discrimination after observing that the protection of LGBT rights vary significantly amongst countries that belong to the Organization of American States. Full opinion available at: http://www.corteidh.or.cr/docs/opiniones/seriea_24_eng.pdf
68 Id.
69 Id.
70 Sala de lo Constitucional admite nuevo recurso que permita matrimonio gay, PROCESO DIGITAL (Feb. 6, 2019, 19:56), https://proceso.hn/mas-noticias/32-m%C3%A1s-noticias/sala-de-lo-constitucional-admite-nuevo-recurso-que-permita-matrimonio-gay.html.
President of the Evangelical Brotherhood of Honduras, Alberto Solorzano, personally presented to the Court opposing the claim.\textsuperscript{71}

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

\textbf{2.7. Implementation of International Human Rights Obligations}

\textbf{2.7.1. International Covenant on Civil and Political Rights (ICCPR)}

Honduras ratified the ICCPR on August 25, 1997.\textsuperscript{76} Articles 2(1) and 26 set out non-discrimination standards which prohibit discrimination based on sexual orientation.\textsuperscript{77} However, the Honduran government continues to engage in widespread discrimination against the LGBT community both directly and indirectly.\textsuperscript{78} Honduras is also in violation of Article 3, Gender Equality.\textsuperscript{79}

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

\textsuperscript{71} Id.\textsuperscript{72} Mirte Postema, \textit{LGBT Hondurans March Against Hate}, HUMAN RIGHTS WATCH (Mar. 23, 2019), https://www.hrw.org/news/2019/05/23/lgbt-hondurans-march-against-hate#.\textsuperscript{73} Id.\textsuperscript{74} Id.\textsuperscript{75} Id.\textsuperscript{76} Status of Ratification of International Covenant on Civil and Political Rights: United Nations Human Rights Office of the High Commissioner: https://indicators.ohchr.org. Accessed: June 7, 2020.\textsuperscript{77} Id. at 3, (In Toonen v. Australia, Human Rights Committee made clear that sexual orientation is included in the reference to sex in the ICCPR).\textsuperscript{78} Id. at 4.\textsuperscript{79} Id. at 5.\textsuperscript{80} Status of Ratification of International Covenant on Civil and Political Rights: United Nations Human Rights Office of the High Commissioner: https://indicators.ohchr.org. Accessed: June 7, 2020.\textsuperscript{81} Id. at 6.
LGBT community has been documented since the 1980s, and instances of cruel, unusual, or degrading punishment by state actors continue, in violation of Article 7 of the ICCPR.\textsuperscript{82} Additionally, these arbitrary arrests and many of the human rights abuses discussed in this section violate Article 9 of the ICCPR, Right to Liberty and Security of Person.\textsuperscript{83} While detained, whether justified or arbitrarily, LGBT prisoners are routinely victimized.\textsuperscript{84} This is in violation of Article 10 of the ICCPR, Treatment of Individuals Deprived of Their Liberty.\textsuperscript{85}

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

3. APPLICATION OF THE LAW

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

3.1. Discriminatory application of laws against LGBT people

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

\textsuperscript{82} Id. at 8.
\textsuperscript{83} Id. at 9.
\textsuperscript{84} Id. at 11.
\textsuperscript{85} Id.
eliminate disturbances to tranquility, public morality, and proper conduct.” Article 142 gives police the power to arrest anyone who “exhibits total nudity or goes against modesty, proper conduct and public morals . . . and disturbs the neighbors’ tranquility with their immoral conduct.” Article 99 of the law includes sanctions against “people who have no honest means of living” including “beggars, street prostitutes, drug addicts, drunkards, and gamblers.”

There are no definitions of these subjective terms nor is there jurisprudence to clarify the law’s meaning. According to Human Rights Watch (HRW), this ambiguity gives the police the power and discretion to arbitrarily arrest LGBT people. HRW reports that the police justify their actions using the vague language in provisions of the statute such as “public morality” and “public scandal.” For example, an outreach worker told HRW that police officers accused her of stealing, and then proceeded to smash her head against a glass door while accusing her of “public scandal.” Furthermore, the National Police use this law to justify raiding and closing places they know LGBT people socialize. These actions related to public morality are vague, not shown to be necessary, and applied disproportionately to the LGBT community.

3.2. Social impact of laws against LGBT

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

---

89 Id.
90 Id. (It is estimated that 90% of cases of police abuse are not investigated).
92 Id.
93 Id. (It is estimated that 90% of cases of police abuse are not investigated).
95 Id.
The lack of recognition of the right of gender identity and the impossibility of rectifying one’s documents to reflect their gender identity creates impediments in accessing basic rights such as education, work, health, and housing, among others.\textsuperscript{98}

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

The lack of legal protections and recognition afforded to Honduras’s LGBT population, coupled with the lack of state protection, has led to the increased displacement of LGBT people both within Honduras and abroad.\textsuperscript{102} For example, The United Nations High Commissioner for Refugees (UNCHR) reported a substantial increase in the percentage of LGBT asylum cases attended by its office in Tapachula, Mexico. While in 2014, LGBT cases accounted for 1.6% of the total cases attended that figure had increased to 10% by 2016.\textsuperscript{103}

3.3. Inadequacy of State Protection

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

\begin{thebibliography}{99}
\bibitem{99}Id. at 49.
\bibitem{100}Id.
\bibitem{101}Id.
\bibitem{103}LGBTI Asylum Seekers and Refugees from a Legal and Political Perspective, p. 96
\bibitem{104}Violence and Protection in the North of Central America, The impact of violence on LGBTI people in the North of Central America, REDLAC (SNAPSHOT # 6, September 2019), 6, available at https://reliefweb.int/sites/reliefweb.int/files/resources/Protection%20Snapshot%206-%20LGBTI%20Protection%20in%20the%20North%20of%20Central%20America.pdf.
\end{thebibliography}
recent years the number of overall murders in Honduras has decreased, the number of LGBT
murders has increased.\textsuperscript{105} Between 2010 and 2017, the annual number of homicides in Honduras
declined from 6,239 to 3,866.\textsuperscript{106} In contrast, murders of LGBT people increased from 18 to 35
during the same period.\textsuperscript{107}

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

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

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

\begin{footnotesize}
\begin{enumerate}
\item Informe Sobre Muertes Violentas de la comunidad LGTTBI Cattrachas 1994 – 2018, CATTRACHAS (2018), 18,
\item Alianza por la Paz y Justicia. Segundo informe de Impunidad en Homicidios, Periodo de estudio 2010-2017;
https://www.dropbox.com/s/5wno9aqg9tjdik/Homicidios%202010\textsuperscript{11}\textsuperscript{2017_impunidad.pptx?dl=0}.
\item Informe Sobre Muertes Violentas de la comunidad LGTTBI Cattrachas 1994 – 2018, CATTRACHAS (2018), 18,
\item Amnesty International Report 2017/18 – Honduras, AMNESTY INTERNATIONAL (Feb. 2018), available at
https://www.refworld.org/docid/5a9938efa.html.
\item Amnesty International Report 2017/18 – Honduras, AMNESTY INTERNATIONAL (Feb. 2018), available at
https://www.refworld.org/docid/5a9938efa.html.
\item Andrea Fernández Aponte, Left in the Dark: Violence Against Women and LGBTI Persons in Honduras and El Salvador, LATIN AMERICAN
\item Id.
\item Id.
\item Id.
\item Id.
\end{enumerate}
\end{footnotesize}
IACHR has received a number of reports of human rights violations by security forces that include torture, demeaning or inhumane treatment, excessive use of force, and illegal detentions.\textsuperscript{115} There have also been reports of authorities extorting people in exchange for “protection,” as well as subjecting arbitrary detainees to blackmail and sexual violence.\textsuperscript{116}

The government has a police investigative unit dedicated to investigating violent crimes against LGBT and other vulnerable communities.\textsuperscript{117} The unit is comprised of Public Ministry prosecutors, members of the prosecutor’s investigative agency, and the National Police.\textsuperscript{118} While the existence of a unit is a step forward, the limited resources and small geographic scope of operation undermine its utility\textsuperscript{119}

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

\textsuperscript{116} Id.
\textsuperscript{117} Honduras 2019 Crime and Safety Report, United States Department of State Overseas Security Advisory Council (2019), available at: https://www.osac.gov/Country/Honduras/Content/Detail/Report/ff459385-017d-4ff2-8a02-15f4aece15a69
\textsuperscript{118} Id.
\textsuperscript{119} Id.
\textsuperscript{121} Michel Forst, UN Special Rapporteur on the Situation of Human Rights Defenders on His Visit to Honduras UN OFFICE OF THE HIGH COMMISSIONER (May 12, 2018), available at https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23063&LangID=E.
and three adjudicated cases (10 percent).\textsuperscript{123} In 2019, there were 40 reported LGBT murders and just three adjudicated cases (8 percent).\textsuperscript{124}

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

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

\textsuperscript{124} Id.
\textsuperscript{125} Id.
\textsuperscript{126} Id.
\textsuperscript{129} Id.
3.4. Political climate toward LGBT

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

The Honduran coup in 2009 served as the fulcrum for a political shift in LGBT violence and anti-LGBT sentiment. Activists reported that homophobic violence increased drastically after the 2009 overthrow of President Manual Zelaya in a military coup d’état. The following year, Hondurans elected right-wing candidate Porfirio Lobo Sosa, which was followed by a noticeable suppression of human rights.\(^{134}\) Records from LGBT organizations indicate that on average fewer than two LGBT people were murdered in Honduras each year from 1994 to 2008.\(^{135}\) After the coup in 2009, the number increased to an average of thirty-one murders of LGBT individuals annually between 2009 and 2018.\(^{136}\) This number increased in 2019, with a total of 40 reported murders of LGBT individuals.\(^{137}\)

\(^{133}\) Id.
\(^{137}\) Id.
Since the 2009 coup, leaders in the LGBT community have advocated for political action.\textsuperscript{138} Movement of Diversity in Resistance (MDR), an organization founded in the wake of the coup, decided to create a political arm to participate in the Honduran general elections.\textsuperscript{139} MDR established a political party with the Liberty and Refoundation (LIBRE) party, an umbrella organization for different groups.\textsuperscript{140} While LIBRE risked votes by supporting the LGBT movement, they have now built a relationship of trust and cooperation with the LGBT community.\textsuperscript{141} One of the first LGBT individuals nominated as a candidate by MDR and LIBRE, Erick Alex Martinez Avila was a leader within the LGBT community and a radio journalist.\textsuperscript{142} Two weeks after his nomination, he was found strangled to death in his home. His death sent international shockwaves.\textsuperscript{143}

Avila’s violent murder did not deter MDR and LIBRE. In 2012, four LGBT candidates ran in the party’s primary elections, and 12 LGBT candidates ran in 2017.\textsuperscript{144} Candidates, such as Erick Martinez, a Gay man, and Claudia Spellman, a transgender woman, experienced insults and taunts throughout their campaign.\textsuperscript{145} While no LGBT candidate has won a position in Congress, both Martinez and Spellman’s campaigns succeeded in expanding LGBT visibility and rose public awareness of the LGBT movement.\textsuperscript{146}

\textsuperscript{141}Id.
\textsuperscript{143}Id.
\textsuperscript{145}Id.
\textsuperscript{146}Id.
4. TREATMENT BY NON-STATE ACTORS

4.1. General societal attitudes

4.1.1. Economic Development and Public Approval of LGBT

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

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

---


148 Id.


150 Id.

151 Id.


may be well-founded: the Mexican Supreme Court announcement that the 2015 ban on same sex marriage was unconstitutional coincided with a noticeable increase in LGBT deaths in Honduras. Although the motives for these killings remain unclear, Honduran LGBT activists are concerned that they may have been retaliation by the public for the legislative advancement of LGBT rights, and that it could be repeated in Honduras.

4.1.2. Machismo and the Patriarchal Structure of Society

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

---

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

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

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

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

\footnotesize
\begin{itemize}
\item \textsuperscript{165} Id.
\item \textsuperscript{166} Id.
\item \textsuperscript{167} Id.
\item \textsuperscript{168} Robert Pantzer, \textit{This is Not a Game: Education, Machismo, and Violence}, SIN MIEDOS (June 19, 2018), https://blogs.iadb.org/seguidad-ciudadana/en/this-is-not-a-game-education-machismo-and-violence/.
\item \textsuperscript{169} Id.
\item \textsuperscript{172} Honduras – Religion, GLOBAL SECURITY, https://www.globalsecurity.org/military/world/centam/ho-religion.htm.
\item \textsuperscript{174} Id.
\end{itemize}
tend to take an active opposition to LGBT rights. The religious shift in Honduras towards Evangelicalism has led to a harsh pushback against the LGBT movement.

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

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


\[176\] Id.

\[177\] Id.


Pastor Reyes explained that his commitment stems from his belief that sexual orientation is not a right.\textsuperscript{184} According to human rights defender Indryna Mendoza, religious fundamentalists closed doors for the LGBT community in Honduras and continue to actively preach against them.\textsuperscript{185} Evangelical Churches argue that their anti-LGBT messages are in defense of traditional family beliefs, which they believe the LGBT movement threatens.\textsuperscript{186} While the influence of religious institutions over the public’s opinion is difficult to quantify, 74\% of Hondurans who are not religious oppose same-sex marriage, showing that anti-LGBT sentiment is not strictly associated with religion.\textsuperscript{187} Religious institutions build upon a foundation of negative sentiment surrounding the LGBT community, bringing it to the forefront of the nation’s attention with vocal opposition to any progress in the LGBT movement.\textsuperscript{188} In summary, the entrenchment of both machismo culture and conservative religious values combined create high levels of public discrimination against LGBT individuals.\textsuperscript{189} Societal tolerance and approval of this discrimination against the LGBT community leads to targeted violence motivated by prejudice.\textsuperscript{190}

4.3. Depiction of homosexuality and LGBT in the media

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

\textsuperscript{184} Id.
\textsuperscript{188} Id.
\textsuperscript{190} Inter-American Commission on Human Rights: Situation of Human Rights in Honduras (2015).
\textsuperscript{191} Duncan Tucker, Homophobia in Honduras: growing attacks on LGBT activists, INDEX ON CENSORSHIP (Apr. 20, 2016), https://www.indexoncensorship.org/2016/04/magazine-honduras-rainbow-warriors-the-dangers-of-being-an-lgbt-activist/; Sorcha Pollak,
by carrying out surveys on “whether same sex marriage would destroy the values of society.”\textsuperscript{192} The Honduran media’s use of hate speech against the LGBT community drew the concern of the UN Human Rights Special Rapporteur Michel Forst in 2018, who learned of TV programs broadcasting moral debates in which religion is used to discriminate and generate hatred against these communities.\textsuperscript{193} Forst admonished the Honduran government’s inaction to reduce this hate speech which directly targets human rights defenders and LGBT individuals.\textsuperscript{194}

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

\textsuperscript{193} Id.
\textsuperscript{194} Michel Forst, UN Special Rapporteur on the Situation of Human Rights Defenders on His Visit to Honduras.
\textsuperscript{195} Id.
\textsuperscript{197} Id.
\textsuperscript{198} Id.
\textsuperscript{199} Id.
4.4. Treatment of LGBT by fellow citizens

4.4.1. The Public

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

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

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

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

4.4.2. Family, School, and Work

Those within the LGBT community face discrimination not only from the public, but also within their daily lives through family, work and school.\textsuperscript{213} For many LGBT Hondurans, the violence began in the home.\textsuperscript{214} In these familial settings, abuse from fathers and brothers is regarded as a typical part of life.\textsuperscript{215} As described by Karen Paz, a domestic abuse survivor from Honduras, hitting a woman is as normal to a man as eating a tortilla from a food stand on the way to work.\textsuperscript{216} Paz explains her abuse from her husband that substantially impacted her and her children’s lives.\textsuperscript{217} Women and children in Honduras are especially vulnerable to sexual and gender based violence at home and in their neighborhoods. According to a March 2015 UN report, domestic violence was the leading reported crime in Honduras.\textsuperscript{218}
For those in the LGBT community, when relatives learn of a family member’s sexual orientation or gender identity, they may shun them and force this individual onto the streets.\textsuperscript{219} Those who have gone through this say they flee their homes at a young age because their families punish them in cruel ways, and this has severe psychological impacts on their lives.\textsuperscript{220} Carlos, a 25 year old gay man from Honduras, explains that it is difficult to endure your family members being ashamed of you, beating you, and eventually chasing you out of your home.\textsuperscript{221} Alexandra, a transgender woman from Santa Barbara in Honduras, was harassed by her father when she came out as gay and transitioned to identifying as transgender.\textsuperscript{222} If Alexandra passed him on the street, her father would verbally abuse and even publicly beat her.\textsuperscript{223}

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

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

\textsuperscript{221} Id.
\textsuperscript{222} Alisa Winton, \textit{I’ve Got to Go Somewhere’: Queer Displacement in Northern Central America and Southern Mexico}, in LGBTI ASYLUM SEEKERS AND REFUGEES FROM A LEGAL AND POLITICAL PERSPECTIVE 95, 102 (2019).
engage in discriminatory hiring practices.\textsuperscript{228} Individuals identifying as transgender are vulnerable to this type of discrimination.\textsuperscript{229} Many are unable to find suitable and safe employment.\textsuperscript{230} Without alternative employment, transgender women often turn to sex work, which increases their risk in being attacked.\textsuperscript{231} In addition to discrimination in employment, transgender individuals are prevented by the government from updating identity documents to reflect their gender identity which can lead to being “outed” when applying for employment.\textsuperscript{232}

\textbf{4.4.3. Organized Crime and the LGBT Community}

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

As visible members of a socially vilified minority, the LGBT community runs extra risk of gang related violence.\textsuperscript{238} LGBT individuals who live in gang controlled areas are likely to
experience brutal forms of gender based violence. The gang’s threats towards the community to “Join Us or Die” can result in the attempted recruitment and harassment of gay men. This can result in abuse for not being a “real man,” or gangs may exile the individual from the gang controlled area because of their noncompliance with societal norms.

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

4.5. Access to healthcare

The government of Honduras has expressed a need to prevent discrimination towards LGBT individuals within the medical field because of health professionals’ religious beliefs. Many health professionals in Honduras have generated a great number of complaints due to their
mistreatment of transgender patients, who the health professionals deem a “sin in the eyes of god.” 250 For example, three transgender women who suffered an accident in public transport, were taken to the hospital and refused access to healthcare. 251 In another incident a transgender sex worker had been shot and was taken to Hospital Mario Catarino Rivas. 252 When medical staff noticed she was a transgender woman, they refused to give her healthcare, and she died from her wounds. 253

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

5. SOCIAL LIFE
5.1. General climate and openness around LGBT

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

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

\textsuperscript{261} Id.
\textsuperscript{262} Id.
\textsuperscript{263} Id.
\textsuperscript{264} Id.
\textsuperscript{265} Id.
\textsuperscript{266} Id.
\textsuperscript{267} Ramiro Sebastián Fúnez, Honduras: Human Rights Five Years after the Coup, AMERICAS QUARTERLY, https://www.americasquarterly.org/content/honduras-human-rights-five-years-after-coup.
\textsuperscript{268} Id.
\textsuperscript{269} Id.

32
the increasing violence after 2009.\textsuperscript{270} Funez, an LGBT activist, says that 8 out of 10 LGBT people in San Pedro Sula want to migrate to the United States, a country viewed as respecting human rights.\textsuperscript{271} While many in the LGBT movement continue to advocate for their rights, one activist acknowledges that nothing has changed in the city despite the years of work, because individuals could still be killed at any moment.\textsuperscript{272} The only identifiable difference to activists is the increase in LGBT individuals migrating out of Honduras.\textsuperscript{273}

\textbf{5.2. LGBT Activists and Organizations}

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

\textsuperscript{271} \textit{Id.}
\textsuperscript{272} \textit{Id.}
\textsuperscript{273} \textit{Id.}
\textsuperscript{274} Ramiro Sebastián Fúnez, \textit{Honduras: Human Rights Five Years after the Coup}, \textsc{Americas Quarterly}, https://www.americasquarterly.org/content/honduras-human-rights-five-years-after-coup.
\textsuperscript{276} \textit{Id.}
\textsuperscript{277} \textit{Id.}
incidents in the second half of 2015 alone. Over the course of one year, five LGBT defenders who were members of Arcoiris were killed because of their work. 278

At another organization, Colectivo Unidad Color Rosa, men entered their office with guns, took documents, and threatened to kill everyone. 279 On multiple occasions, the organization’s colleagues have experienced kidnapping attempts outside their office. 280 These attacks are evidence of growing numbers of targeted attacks and killings of LGBT defenders in Honduras. The intended effect of these attacks is to intimidate the LGBT activist community. 281

While these threats and deaths seriously affect the work of LGBT defenders and organizations and reduce their availability to continue advocating, many activists remain unmoved in their commitment to their cause. 282 Josué Hernandez, an LGBT activist, refuses to leave Honduras until transgender women no longer face human rights violations. 283 José Rodolfo Palacios echoes this sentiment: “in every revolution there are casualties, but we know we can’t stop.” 284

---

280 Id.
282 Id.
6. CONCLUSION

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

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

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

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


42. Sala de lo Constitucional admite nuevo recurso que permita matrimonio gay, PROCESO DIGITAL (Feb. 6, 2019, 19:56), https://proceso.hn/mas-noticias/32-m%C3%A1s-noticias/sala-de-lo-constitucional-admite-nuevo-recurso-que-permita-matrimonio-gay.html.
47. THe night is another country: Impunity and violence against transgender women human rights defenders in Latin America, REDLACTRANS 12, (2012).


TAB 9
Marginalized Hondurans Find Supportive Care – and Friendships – at a Local Clinic

For HIV positive patients, sex workers, LGBTQ community members, and other vulnerable Hondurans, the organization Siempre Unidos provides health services, education, and a safe place to be.

Rony Araque’s HIV test result was bad enough. He wasn’t expecting to be humiliated in the process.

But when Araque, who works the night shift at a meat processing plant, went to a public hospital in Honduras to get his lab results, he said, a nurse shouted at him that he was a sinner and his disease was a punishment.
In conservative Honduras, being HIV positive – or a sex worker, prisoner, or member of the LGBTQ community – is “horribly stigmatized,” said Denise Main, a doctor and activist. “Commercial sex workers, gay men, and then transsexual women are...the lowest that you can be.” These groups experience widespread violence, discrimination, and stigma.

They also – along with poor people, members of the Garifuna community (an indigenous group), and soldiers – have particularly high incidences of HIV, in a country that’s long been battling an epidemic. Although rates have improved since the 1990s, the medical nonprofit Siempre Unidos estimates that one in 50 Hondurans is HIV positive.

**STARTING OUT, BRANCHING OUT**

As far back as 2000, Dr. Main and a colleague, Pascual Torres, a lawyer, reverend, and now chancellor of the Episcopal Diocese of Honduras, saw that there was a tremendous need for medical treatment and other support for vulnerable Hondurans living with HIV.

They started by creating a support space staffed by a nurse, where HIV positive people could be treated with IV fluids or medications for secondary infections. In 2003, they began importing antiretroviral medications. They named the program “Siempre Unidos” – Spanish for “always united.”

But the need for primary medical care – not just for HIV positive patients – was strong. More than two-thirds of the population lives at or below the poverty line, and Dr. Main explained that prescription medication is difficult to obtain in Honduras, since it is often either expensive or unavailable.

And for already marginalized populations, like sex workers and trans people, help was badly needed. “There’s a real sense of desperation that has just occurred over the last 10 or 11 years,” Dr. Main said.

Today, Siempre Unidos provides clinical care, including mental health services, to patients of all ages in clinics located in Siguatepeque and San Pedro Sula, an industrial
center with extraordinarily high murder rates – violence that’s too often directed against already marginalized groups.

“We work with the most vulnerable people in Honduran society,” said Torres. Their patients are “those who cannot afford any kind of medical services.”

Direct Relief supplies a range of medicines and supplies to Siempre Unidos.

MORE THAN MEDICINE

But Siempre Unidos doesn’t stop at clinical services. The organization offers free meals, support groups, in-house visits, and even educational stipends, which they see as essential to improving the lives of their patients.

A large part of the organization’s work is reaching out to new patients, who may be hesitant to seek out care. Staff members spend six nights a week walking the streets, educating the people they encounter about sexual health, distributing condoms, and simply providing coffee and snacks.

They also work with juvenile prisoners, soldiers, and the Garifuna people to educate them about HIV transmission, prevention, and treatment, and provide antiretrovirals and other medical care.

The clinic itself, which offers coffee and breakfast to patients in the mornings, has become a kind of sanctuary. “People come to the clinic to hang out as a place that’s safe during the day,” Dr. Main said. “Everybody’s kind of in this together, and there’s a sense of camaraderie and respect.”
Araque said that Siempre Unidos isn’t just a place where he gets the healthcare he needs. He’s also gained friendships and been able to take better care of himself. After he told his parents about the organization, his father told him, “Wow, they treat you better than I do!”

For Nehun Ricarte, Araque’s friend and roommate, the clinic has been a revelation. Also HIV positive, he’d been suffering from gastroenteritis, fever, and headaches. After
starting antiretroviral treatment at Siempre Unidos, he said through a translator, his symptoms have largely disappeared.

Everyone’s kind and patient, he said. The pharmacist regularly checks in to make sure he’s taking his pills.

Not everyone who walks through the door at Siempre Unidos feels comfortable seeking care. “Some patients are a bit rebelling or uncooperative,” he said. “The staff are patient and helpful with them.”

Dr. Main worries that it’s hard to effect vital change. “You try to help people as much as possible in the setting they’re in, but you can’t change the setting,” she said.

But Siempre Unidos is working to do just that. Staff members also see advocacy – whether it’s marching in solidarity during demonstration, or arranging legal representation for people experiencing violence or discrimination – as a vital part of their work. “Human rights are not respected,” Torres said.

With Siempre Unidos’s support, Araque recently went back to the public clinic where he got his first results, and filed a formal complaint against the nurse, which gave him a sense of closure. “There’s a lot of discrimination, so it’s really nice to be around people who support me,” he said.
TAB 10
Baseline Assessment - Honduras

Scaling up Programs to Reduce Human Rights-Related Barriers to HIV Services

November 2018
Geneva, Switzerland
provided/people to be reached/trained will be multiplied by the intervention-level cost to provide an annual cost for each activity. Annual costs are required because some activities only take place every few years, such as the PLHIV Stigma Index, and others require capacity building or other activities in the first year that are not needed in later years. Comment boxes to the right of each activity in these calculation tables show where the data came from to construct the calculation. These calculation tables were used to provide overall Program Area and Activity sub-activity budgets (see Annex 3), for each of five years as well as a five-year total. To account for the underestimation of the costing of activities by program area due to underreporting of some program-related costs, we have added a percentage share of program management (15%) costs to the total prospective costing calculation for each of the seven program areas (applying the assumptions GF uses for the reporting on the share of its investments in key populations services and programs to address human rights-related barriers, as mandated by KPI 9b), as well as specific activities of monitoring and evaluating and investigating to measure stigma and discrimination in HIV and key populations. These budgets were used to construct the five-year totals provided at the end of the HIV section of this report.

Furthermore, the rate of inflation was utilized and other elements were considered, such as previous costing estimates and average unit costs for necessary supplies for activities, all with the objective of unifying and standardizing unit costs.

Limitations
With regards to the retrospective costing, it should be noted that the tool for data collection was sent to a wide range of organizations, including key population networks, UN agencies (notably WHO, UNFPA UNAIDS), and INGOs involved in the response to HIV. This often involved visiting these organizations repeatedly for orientations on the tool and follow-up, as well as telephone conversations. Many organizations were not comfortable providing financial information, so the cost estimate of existing programs is likely an underestimate. Though unit costs for many outputs have been calculated, it was not possible for a number of activities, as it was extremely difficult to separate out the expenditures incurred for each of these activities because many headings including salary, utilities, transportations, and communications were shared by other interventions also. Moreover, many interventions also have multiple outputs at the same time. Further costing considerations are described in detail in Annex 4.

3. Findings: HIV

3.1 Overview of epidemiological context and key populations and populations in vulnerable situations
According to estimates and epidemiological projections by the Secretary of Health and UNAIDS in 2015, the adult prevalence of HIV for Hondurans ages 15-49 is 0.4%. While the registration system in Honduras has a breadth of challenges that make it difficult to know the actual numbers of all people living with HIV in Honduras, Honduras registered an accumulated 34,258 cases of people living with HIV between 1984 and 2016. In 2016, 755 new infections were reported, 65% male and 35% female, with the most advanced infections occurring in the regions of Cortes, Francisco Morazan, and Atlantida. Sexual transmission is the

---

most common path by which transmission takes place in Honduras. In recent years, according to one study of Honduras in 2015, over 90% of new HIV infections are transmitted through heterosexual intercourse, with women accounting for a majority of these new infections. At the end of 2016, there were 10,848 people taking antiretroviral therapy, which is estimated to be about half of those living with HIV.

Honduras has a concentrated HIV epidemic among the following key populations: men who have sex with men, transgender people/transvestites/transsexuals, and female sex workers. Populations in vulnerable situations also report higher prevalence. These groups include incarcerated populations, as well as in the Afro-Honduran population, an ethnic minority in Honduras.

The Inter-American Commission on Human Rights notes in a 2015 report that the dramatic increases in the prison population in the past decade have contributed to “serious structural deficiencies...in which the fundamental rights of prisoners are systematically violated.” The majority of prison facilities rely on a “self-governance” system authorities have limited control over many day-to-day functions within prisons. As a consequence, Lesbian, Gay, Bisexual, Transgender/Transsexual and Intersexed people are often particularly discriminated against. This is exacerbated by the failure of some prison facilities fail to effectively segregate male and female inmates or effectively classify the prison population, increasing the chances of sexual assault discrimination on the basis of sexual identity.

The provision of health services, especially for populations in vulnerable situations, is extremely poor in the prison system – a 2013 report found that the average number of inmates per physician was 1,446, with one large prison having a medical doctor visit only for three hours a day. In this context, where even basic health care needs are not met, inmates with HIV-specific health concerns are especially unlikely to have their needs met, despite the presence of Integrated Attention Centers (CAI) in some prisons. The PENSIDA IV report notes that there continue to be difficulties in providing condoms to inmates in some prisons due to concerns that these be used for violence or suicide attempts.

In 2012, the HIV prevalence among sex workers was 3.3% in Tegucigalpa, 6.7% in San Pedro Sula, and 15.3% in La Ceiba. For men who have sex with men, the prevalence was 6.9% in Tegucigalpa, 10.7% in San Pedro Sula, and 11.7% in La Ceiba. In the urban Garifuna population, men had an HIV prevalence of 4.4%, and women had a prevalence of 4.6%. As for rural Garifuna, men’s prevalence was 1.6%, and women’s was 4.9%. In terms of geographic distribution, reported prevalence is highest in the departments of

---

15 CONASIDA, Gobierno de la República Honduras, ONUSIDA. (2015). Resultados del Informe Nacional de Progreso de la Respuesta contra el VIH y el Sida.
16 Gandhi AD; Pettifor A; Barrington C; Marshall SW; Behets F; Guardado ME; Farach N; Ardon E; Paz-Bailey G. (2015). Migration, Multiple Sexual Partners, and Sexual Concurrency in the Garifuna population in Honduras. AIDS Behavior 19(9), 1559-1570.
22 CONASIDA, Gobierno de la República Honduras, ONUSIDA. (2015). Resultados del Informe Nacional de Progreso de la Respuesta contra el VIH y el Sida.
Atlantic coast and in the Sula Valley, though the highest numbers of people living with HIV are in the urban areas of Tegucigalpa, San Pedro Sula and La Ceiba. The PENSIDA IV report noted an alarming increase in HIV incidence between 2006 and 2012 in HIV prevalence among key populations,\textsuperscript{23} though the reasons for these increases are not entirely clear.

3.2 Overview of the policy, political and social context relevant to human rights-related barriers to HIV services

3.2.1 Protective laws (with challenges of enforcement)

Honduras has a relatively progressive legal framework with regards to the rights of people living with HIV, though overall protections of human rights are less developed.

The Optional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (Protocol of San Salvador) was ratified by Honduras on November 10\textsuperscript{th}, 2011. The State presented the National Reports corresponding to the First and Second Groups of Rights in June 2017, in accordance with its international commitments, a process that was carried out in coordination with the relevant institutions from the Special Response Group on Human Rights. These reports were evaluated by the Protocol of San Salvador Working Group, who commended the State for having included the majority of the indicators in their reports and urged for compliance on the missing indicators in time for the next State report.

In 1999, a “Special Law about HIV/AIDS” (Ley Especial sobre VIH/Sida (Decree No. 147-99)) was approved, with the main objectives of establishing mechanisms for inter-institutional coordination of efforts, assigning duties to government entities and roles for civil society in the context of HIV, and to solidify the rights and duties of people living with HIV. The law explicitly acknowledged the right of people living with HIV, including those who are incarcerated, to access timely and appropriate health care, and established anti-discrimination regulations for health care professionals, employers, and within educational settings. The law also formally led to the formation of the National Council on HIV/AIDS, known as CONASIDA (La Comisión Nacional de Sida), which is responsible for coordinating the national response to HIV and integrating it into the government institutions in which it is relevant.\textsuperscript{24} This was followed by the development of the Plan Estratégico Nacional de Sida (PENSIDA), with the goal of developing a coordinated, national-level governmental response to the epidemic. At this time, PENSIDA IV is the most current version of this plan. The response advocates not only for prevention, but also treatment and support for people living with HIV. The enforcement of the human rights components of these laws is enforced through the National Commission of Human Rights (CONADEH – Comisionado Nacional de los Derechos Humanos).

As of 2013, the reform of the Penal Code, Article 321, prohibits discrimination based on sex, gender, age, sexual orientation, gender identity, party membership or political views, marital status, being a member of an indigenous or Afro-descendant group, language, nationality, religion, family status, economic or social status, different abilities or disability, health conditions, physical appearance or any other factor that


violates the human dignity of the victim and establishes such discrimination as a potentially aggravating factor in a range of crimes.\textsuperscript{25} in reality, however, it does not seem to afford much protection.

At the sub-national level, individual cities and municipalities have considered legislation to protect the rights of people living with HIV and other key populations. In 2014, San Pedro Sula was the first city in Honduras to put in place a policy that would increase the rights and dignity of people living with HIV with relation to workplace policy. The act recognizes the response to the epidemic as a corporate social responsibility, meaning that the dismissal of employees living with HIV, hiring discrimination, and mandatory HIV testing are violations that are prohibited in the workplace. Further, status confidentiality between employer and employee was stressed. However, since 2014, no other cities have moved forward significantly on employees' rights in the context of HIV.\textsuperscript{26}

In 2017, the Government of Honduras Secretary of Health set out a proposal plan for an integrated and sustainable health system plan, known as the Plan de Sostenibilidad. This plan focuses on TB, Malaria, and HIV, and the integration of a national system that encompasses health and social problems associated with them. This includes implementing an integrated information system of health (SIIS) for HIV, malaria, and TB, and to develop an advocacy resource to assure sustainable reporting of the diseases and contribute to an analysis in risk reduction. Specifically for HIV, the focus is in lowering cases and transmission rates, and making an emphasis on key populations, human rights, and gender equity. This plan has yet to be finalized.\textsuperscript{27} How the punitive legal environment acts as a barrier to HIV services in Honduras will be examined in section 2.5.

\textit{Challenges of enforcement and other gaps:}

While this legal framework provides a robust system for the protection of the human rights of people living with HIV, enforcement and implementation of these legal protections remain poor. The failure to operationalize legislative protection in part reflects broader challenges within the Honduran legal system, including more broadly around human rights, though there are a number of particular features related to HIV. Generally, research participants reported that these laws provided little in the way of direct protection, with a general culture of impunity regarding violations of the rights of key populations (KII1, KII3, KII12, FGD1,3). This is supported by evidence of prosecutions or resolutions of reported cases of human rights abuses. In 2016, CONADEH reported 58 complaints related to HIV and AIDS received nationally which corresponded to the following issues: 10 on the right to personal integrity, 11 regarding the right to work, 1 regarding the right to life, 3 regarding the right to due process, twenty-seven regarding the right to health, and 5 regarding the right to personal security and privacy.

Although CONADEH has attended a considerable number of cases, the focus group informants have mentioned that the actual incidence of discrimination would be much higher if there were more effective


\textsuperscript{27} Secretaría de Salud, Gobierno de la República de Honduras. (2016). Plan de Sostenibilidad de las Subvenciones de Malaria, Tuberculosis y VIH/SIDA, Propuesta.
implementation mechanisms in place. The relative impunity that arises due to the ineffective mechanisms enabled was broadly acknowledged by virtually all research participants as a point of frustration (e.g. KII1, KII3, KII12, KII16), though many also viewed this as part of a general challenge with the implementation of laws regarding human rights and law enforcement generally. Finally, the Special Law itself includes no specific protections for Lesbian, Gay, Bisexual, transgender people/transvestites/transsexuals and Intersexed people, including their broader right to treatment or health care— the exception being for HIV (KII6, KII18).

The age of consent to HIV testing and other health services is 18, limiting the ability of adolescents and children to access services without parental consent.

3.3 Human rights-related barriers to access, uptake and retention in HIV services

The major barriers to the full realization of human rights identified through the Desk Review and confirmed by the key informants and focus groups were:

- Stigma and discrimination against key populations and populations in vulnerable situations, including people living with HIV, is pervasive and includes continued stigma and discrimination in relation to HIV generally, specific stigma related to belonging to certain populations, and significant self-stigma.
- The lack of effective implementation of legal protections and punitive regulations for people living with HIV represents a persistent barrier to access for key populations, particularly female sex workers, men who have sex with men, transgender people/transvestites/transsexuals, and people who use drugs.
- Gender inequalities and power dynamics create vulnerabilities for women and adolescent girls, particularly in the context of intimate relationships.
- Sociocultural, physical and economic barriers— including the inability to pay for health insurance, transportation and physical travel to ART centers and laboratory tests for monitoring treatment— is a salient barrier for people living with HIV to access, enroll, and remain in services.
- Inconsistent quality of service in the health care settings, including stigmatizing and discriminatory treatment and a lack of empathetic and holistic approaches to care represents a significant barrier to effective use of available services.

It is important to also note that many other barriers to services were identified— including a lack of facilities for assessing viral load, leaving people uncertain about effective treatment options; and limited HIV and/or ART centers, which mean people living with HIV may have to travel on difficult roads and/or long distances for treatment (especially in rural areas). While these barriers do not fit squarely under any of the headings below, they all affect standards of availability, accessibility, acceptability, and quality of services, and thus the realization of the right to health. Furthermore, there are a number of broader contextual factors related to human rights that impede access to services that are beyond the scope of this assessment but merit discussion. These include the extremely high rates of violence in Honduras; high rates of poverty, especially in rural areas; unequal gender norms and practices, which in turn influence the very high rates of gender-based violence in the country; corruption; and the impunity that results from a legal system that is unable to cope with the level of criminal behavior.
3.4 Stigma and discrimination

Despite the right to live free from discrimination being an immediate legal obligation in all human rights instruments to which Honduras is a party, participants in interviews and focus groups described stigma and discrimination against key populations and populations in vulnerable situations, including people with HIV generally, as pervasive, confirming findings from the desk review. Low level of knowledge, attitudes, and social norms negatively contribute to the formation and resiliency of stigma in all levels of society. In the country’s Global AIDS Monitoring progress report28-29, it was reported that only half of respondents in a survey would buy fresh fruits from a vendor with HIV. One recent report stated that the level of stigma experienced is higher among the following groups: older people, transgender people/transvestites/transsexuals, those with lower levels of education; people who have migrated to another country, bisexuals, and those whose self-perception of their health is particularly low.30 High levels of discriminatory attitudes were also found in a public opinion survey conducted by USAID in 2016, with 35.5% of Hondurans believing that God punishes sex workers and gay men with HIV for their way of life; 33.3% agreeing that employers should have the right to test prospective employees for HIV; only 41% agreeing that women living with HIV have the right to become pregnant; almost 70% agreeing that children living with HIV should have to receive a separate education from the general population of children; and only 85.6% of respondents agreeing that people living with HIV should have access to public spaces.31 Overall, 40.3% of people living with HIV said they had encountered forms of stigma and discrimination, and only 15% of people living with HIV felt they could comfortably disclose their HIV status beyond their close friends and families. Even within the healthcare settings, issues with confidentiality, stigma and discrimination are relatively commonplace for people living with HIV in Honduras.32

The high level of stigma experienced by people living HIV has a number of negative impacts on the utilization of services, rapid diagnosis and treatment, adherence to treatment, and the realization of the rights to quality care that Hondurans are entitled to.33 Because of actual and feared stigmatization by the community as well as service providers and the fear associated with being diagnosed as HIV-positive, individuals are often reluctant to get tested. As a result, many people living with HIV are not aware of their HIV status and less than half of people living with HIV in Honduras are receiving antiretroviral treatment.34 In one report, 11.8% of those interviewed reported mistreatment in health services, and 20.5% considered it necessary to hide their diagnosis of HIV from health providers.35 Not only do stigma and discrimination violate the human rights of those who suffer, they also obstruct the efforts of public health in the prevention

33Ciudad, JM, González RA, LLAVES. (2014). Informe Ejecutivo: Índice de Estigma en Personas que Viven con VIH.
of new HIV infections and the reduction of impact of the epidemic on individuals, families, and communities.\textsuperscript{36} This is true within the health-care system itself, where experience with stigmatizing attitudes and behaviors can have strong effects on a person’s likelihood to search out testing, participate in treatment, and become adherent to treatment\textsuperscript{37}, a pattern confirmed by respondents in both the KIIS and FGDs (e.g. KII1, KII2, KII3, KII8, KII11, KII15, FGD1, FGD4).

There was strong consensus among research participants regarding the importance of HIV-related stigma and discrimination as a barrier to the realization of the rights of individuals. For example, fear of a positive diagnosis and the resulting stigmatization was listed by multiple respondents as resulting in avoidance of testing (KII11; KII3); others mentioned the risk of being recognized while attending specialized services and then being labelled as being HIV-positive as a barrier to seeking care (KII2, KII11; FGD1); and others reported that employers commonly require individuals to undergo HIV-testing (often disguised as part of a general health check) prior to being considered for employment (KII10, KII11, FGD1, FGD2).

\textbf{Stigma related to key populations and populations in vulnerable situations}

Key populations and populations in vulnerable situations often encounter multi-layered forms of stigma and discrimination that are based both on their identification as members of these populations and because of the assumed relationship this identity has with HIV, as exemplified by a focus group participant who said:

\begin{quote}
\textit{“if they [health system personnel] see a trans girl who was stabbed, they don’t even want to touch her because of the stigmatization, that all the homosexual people and trans have HIV...so what do they do? They wait to have her tested to see if she has HIV or not...they won’t attend to her because there might be contact and the medical staff might get infected” (FGD1)}
\end{quote}

Research participants reported high levels of stigmatization and discrimination based on sexual orientation, with both \textbf{men who have sex with men} and \textbf{transgender people/transvestites/transsexuals} being particularly vulnerable in this regard (KII18, FGD1). As in other settings, non-hetero-normative sexual orientations are considered by many in Honduras to be immoral and sinful, creating psychosocial pressures that are particularly acute when paired with a positive HIV diagnosis (KII18, FGD3). The consequences of this can be severe - in some cases, participants reported cases where individuals were denied the right to basic health care due to suspicion of their HIV status (KII18), as recounted by an FGD participant in San Pedro Sula:

A similar dynamic is true for \textbf{female sex workers}, who occupy an uncertain legal position in Honduras. They simultaneously experience the stigma and discrimination associated with being women in a society where women are very disadvantaged and being a sex worker. Women in their profession are often viewed as promoters of immorality and are assumed to be HIV-positive (KII2). While not mentioned as often by research participants, other populations such as \textbf{incarcerated people} and \textbf{people who inject drugs}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{36} ONUSIDA, UNODC. (2007). Manual sobre el VIH y los Derechos Humanos para las Instituciones Nacionales de Derechos Humanos.
\item \textsuperscript{37} USAID (AIDSTAR-One). (2009). Diagnóstico de los servicios de VIH/SIDA ofrecidos en los centros de atención integral en Honduras.
\end{itemize}
\end{footnotesize}
also faced multiple forms of stigma and discrimination, again often because of the assumed links these groups have to HIV.

Direct impacts of stigma on accessing services

Fear of disclosure of HIV-status

Research participants reported the fear of disclosure of HIV-status (or the assumption of being HIV-positive) as being a significant barrier to the use of HIV services for all key population groups. In particular, participants reported that being seen using services would effectively ‘label’ them as someone living with HIV (KII, FDG1). This fear was particularly acute when referring to centers dedicated to or specializing in providing HIV care, such as the VICITS (Vigilancia Centinela de las Infecciones de Transmisión Sexual) and SAI (Servicios Atención Integral) centers, where research participants described how being seen resulted in assumptions and gossip about their HIV status (FDG1). This fear was also true in more integrated or mixed health settings, however – several research participants noted that the lack of confidentiality within the medical system allowed access to medical information to a wide range of staff members and increased the chances that others also being attended would assume HIV status based on the types of medication or treatments being prescribed, or the particular doctor who was attending them (KII1, KII2, KII3, KII8, KII11, KII16, FDG1). As one FGD participant described it “that is why they won’t want to go to a VICIT clinic, because of fear of ‘signaling’, the signal that because she goes there, she has an infection” (FGD1).

Poor quality service in health-care settings

Research participants reported wide variations in the quality of the service in health care settings, particularly as this relates to stigmatizing behaviors, confirming findings from the desk review.3839 Often, participants discussed individual doctors or groups of staff members who were trusted and viewed as creating safe and comfortable environments, but the system as a whole was not viewed as being empathetic to the needs of patients or respectful of their needs (KII, FDG). Several participants noted that doctors viewed them solely as HIV patients, often largely ignoring other health needs and failing to provide holistic and comprehensive care (KII, FDG). As one FGD participant described her visit to the clinic, “on one occasion I went with stomach pain and problems with hemorrhoids and the first things she [the doctor] did was check if I needed an HIV test...in the end she didn’t do anything, she made me waste my time because she checked my throat and pelvis, but nothing for the stomach” (FGD1). Participants reported feeling labelled solely as HIV patients rather than being treated as an individual with particular health needs – as one female sex worker described it, the health staff only considered her “from the waist down” (KII2), echoing the findings of earlier studies.40

These issues with treatment were often compounded by explicit experience with stigma in the health setting itself. Focus group participants discussed experiences with health care providers, including a counsellor, where the providers explicitly blamed clients’ immoral behavior for their infection and suggested religious conversions or treatments (FGD4). In some cases, participants reported medical staff enquiring about

---

39 Key Informant Interview with Mirta Leticia Valle at CEPROSAF, Oct 13, 2017.
future plans to have children and suggesting women living with HIV not have children (KII12, KII18, FGD2). Even more common was a disregard for confidentiality and privacy, with health records commonly shared among staff and medical students routinely attending or conducting examinations without the prior consent of the patient (FDG1, FGD4). In more extreme cases, as described above, respondents reported knowing of cases where patients suspected of being HIV-positive were refused prompt treatment (KII18, FGD1).

Overall, there was general consensus among participants that the medical system in its current form was failing to treat people living with HIV with any significant degree of empathy or humanity, creating an environment where patients have little choice in their treatment and are often treated in a judgmental fashion (KII6, KII9, KII11, FGD3). This lack of empathy and the dehumanization of people living with HIV and other key populations was reported as taking multiple forms. In addition to feeling largely viewed from the perspective of their status as members of key populations and their serostatus, respondents reported numerous indignities they experienced within the medical setting. This ranged from the violations of confidentiality and privacy described above to open discrimination from medical personnel. One example of the latter was an insistence of many medical staff on calling transgender people/transvestites/transsexuals by their male or ‘birth’ name rather than their preferred ‘assumed’ name and continuing to refer to them using male pronouns (KII18, FGD1). Multiple respondents reported being asked to be at the clinic early in the morning, only to wait hours for treatment, while others reported punitive practices related to inflexible application of clinical guidelines. One key informant described missing her appointment by a day as the result of a scheduling mistake, which led to her being given only one week of medication and required to consult with a psychologist before returning for another appointment where she was given her medication (KII6). This pattern was confirmed by the accounts other people living HIV in focus groups, who also viewed this process as representing a punishment rather than as a safeguard against discontinuation (FGD3).

The failure of the medical system to provide services in a humane manner was viewed as a major barrier to the effective use of these services, dissuading individuals from continued use of services (KII4, KII8, KII9, KII11, KII18, FGD3). These barriers are especially problematic for those for whom accessing services is already difficult – for example, potentially having to return twice in the space of a week is especially difficult for people from rural areas who have to travel long distances, navigate dangerous and unfamiliar neighborhoods, and for whom cost is a major factor (KII11). Other practices, such as setting up appointments in the early morning, pose problems for key populations, such as sex workers, who often are working at night (KII1,2, FGD1). Unfortunately, respondents reported that in many regards the lack of humane treatment has worsened in recent years, despite efforts to sensitize medical staff. When asked why this is the case, numerous respondents pointed to recent changes to the health system that have increased the rotation of staff, meaning that efforts to sensitize individual doctors or staff members to the needs of specific populations are often wasted when the individual is required to move to another center (KII3, KII5, KII7, KII8, KII12, KII13, FGD1).

3.5 Punitive policies, laws and practices

Criminal laws
The legal environment surrounding HIV in Honduras carries both positive and negative laws and policies that affect people living with HIV, including key populations and populations in vulnerable situations affected by the disease. Throughout the legal framework in Honduras, there is a strong emphasis on wording in the language that describes not only the “rights” of people living with HIV defined and pushed as necessary to be protected, but also their “duties.” With regard to HIV, these ‘duties’ are often linked to punitive laws or policies that potentially represent barriers to the access individuals and groups have to health services and the level to which these services are used.

One prominent example of this is Articles 180, 184 and 186 of the Criminal Code of Honduras (Decree No. 144-83), which require compulsory disclosure of serostatus to intimate partners and criminalize intentional transmission. Article 180 declares that: to anyone who intentionally spreads a dangerous illness or causes an epidemic through the spread of pathogens, there will be imposed an imprisonment for 3 to 6 years. Article 184 states: If the configured crimes from the preceding articles prove the death of a person, they are liable to be punished with a sentence of homicide, depending on the circumstances of the incident. And finally, article 186 declares that anyone who violates the provisioned measures may be punished with imprisonment of six months to two years in order to prevent the introduction or spreading of an epidemic.41

While both key informants and key population groups interviewed as part of FDGs were aware of the broad legal framework, including the more punitive aspects, few mentioned them as very significant barriers to their use of HIV services specifically—rather, as described above, most simply viewed the laws and policies designed to protect their rights as poorly implemented and enforced (KII1, KII3, KII5, KII6, KII10, KII11), or in the context of broader stigmatization or discrimination against particular key populations. A general lack of knowledge about these laws, both in the general population and within key population groups, was also seen as contributing to an acceptance of violations of rights, even when these were linked to lower use of services by key population groups (e.g. KII2, KII3, KII15). Among the key populations research participants mentioned as having particularly fewer legal protections, on paper or in practice, were female or transgender sex workers, transgender people/transvestites/transsexuals and Lesbian, Gay, Bisexual, Transgender/Transvestites/Transsexual and Intersexed people.

The concerns of female sex workers and, to a lesser extent, transgender people/transvestites/transsexuals sex workers, centered primarily on the ambiguity of the legal status of sex work in Honduras. While sex work is not penalized, the law of Citizenship Coexistence prohibits the presence of sex workers in the night-time hours, creating situations where sex workers are particularly vulnerable to police harassment (KII2). This ambiguity also makes it much more difficult to seek protection from police in the event of abuse on the parts of clients, street gangs and others – as both key informants and focus group participants described it, the only applicable rules for much of their work is the ‘law of the streets’ (KII2, FGD1). Furthermore, because sex work is not officially recognized as a legal profession, sex workers cannot take advantage of legal protections in the workplace, contribute to pension plans, or use their employment as justification for bank loans, all of which contribute to the economic vulnerability many commercial sex workers face (KII2, FGD1).

The reforms to the Penal Code (Article 321), enacted in 2013, prohibit discrimination based on sexual orientation and establishes such discrimination as a potentially aggravating factor in a range of

41 Código Penal de Honduras. Decreto 144-83 de 26 septiembre de 1983.
crimes, but in reality it has not seemed to afford much protection for the Lesbian, Gay, Bisexual, Transgender people/Transvestites/Transsexuals and Intersexed population. Numerous observers in the baseline assessment noted high levels of violence and hate crimes against Lesbian, Gay, Bisexual and Lesbian, Gay, Bisexual, Transgender people/Transvestites/Transsexuals and Intersexed people, which has also been documented by the Inter-American Commission on Human Rights, among others. While violence, included gang violence and violence perpetrated by organized crime networks, is generally among the highest in the world per capita in Honduras, Lesbian, Gay, Bisexual, Transgender people/Transvestites/Transsexuals and Intersexed people are particularly targeted because of widespread stereotyping and discriminatory attitudes. Efforts to address the violence (including stronger language in the proposed Law of Gender Identity) have encountered particularly strong opposition from religious and cultural groups – these discriminatory views have even led civil society organizations to avoid using the terms ‘gay’ or ‘LGBTI’ in their names or statutes, as this is viewed as attracting greater opposition (KII18). When asked about specific vulnerabilities faced by different groups, however, a number of focus group discussants spoke of the specific difficulties the transgender population faced, in part because they are unable to ‘hide’ their identity in the way that a gay man, for example, may be able to (FDG4).

Health policies and practices
In addition to specific components of the legal framework that pose human rights-related barriers to the access and use of services by key populations and populations in vulnerable situations, research participants also pointed to specific policies and practices within the health sector as being significant obstacles to their use of health services. As noted above, everyday practices within clinics may contribute significantly to the stigma patients may feel and to the quality of the care they feel they receive. In particular, respondents reported specific practices (some described in more detail above) that they viewed as especially problematic:

- A lack of empathy and understanding of the constraints faced in accessing health care. While this was particularly clearly described in terms of the policies around missed appointments for ART monitoring, as described above, this was a consistent concern for all groups included in the research.
- In some cases, respondents reported feeling that care was at times driven by core indicators that the health system or service provider was being assessed by (such as the number of new cases identified). As one FGD participant described “they are just numbers, what matters to them is numbers...the human being becomes dehumanized to turn them into numbers, and that is where there is a lack of focus on human rights” (FGD4). This was true also for civil society organizations – for example, respondents in two different locations reported that a civil society organization that they worked with had a policy of providing them with only 17 condoms and seven lubricants per year, numbers that were clearly insufficient for many of them. While commercial sex workers were provided with larger quantities (130 condoms per year), this also was much less than required, meaning that a visit to a health center was required in order to

44 Ibid.
access affordable condoms. Respondents reported suspecting that this was because the organization had committed to a target number of individuals to whom condoms and lubricants would be distributed, rather than a genuine attempt to appropriately provide for their needs (KII9, FGD1, FGD4).

- As noted above, the persistent use of ‘birth names’ for transgender people/transvestites/transsexual individuals in the medical setting, even when it was requested that the social name be used, was of particular concern to this group, particularly as the law does not provide the option of easily changing names or gender on formal identification documentation.

- While medical services for people living with HIV are by law provided free of cost, it is clear that in some cases people living with HIV face pressure to pay for services or medication – this is particularly the case for more specialized treatments (KII14).

- A further policy mentioned by both key informants and focus group participants related to how the needs of youth were catered for within the health system, including by civil society organizations (KII6, KII8, KII13, FGD1). According to these accounts, minors, including those separated from their families, require parental permission to access most services, and civil society organizations are unable to provide them with any form of service. This means that even street children or children victims of sexual exploitation have few options to access critical components of prevention services, such as access to harm reduction, condoms or lubricants, or testing and treatment.

- Finally, there was virtually complete consensus among research participants that recent changes to the health system, particularly in shorter term contracting of health workers and much more frequent rotation of staff, were problematic (KII3, KII5, KII7, KII8, KII12, KII13). From the perspective of individual clients, these policy changes have disrupted established relationships with individual doctors and staff members who are viewed as particularly sensitive to the needs of key populations. From the perspective of civil society and government organizations that focus on capacity building and sensitization of medical personnel, this means that significant investments in building relationships and understanding with staff must effectively start over once individuals are rotated out and new staff is introduced. In the absence of standardized and institutionalized capacity-building programs for health staff, this creates considerable variations in the quality of the service experienced at health centers and may lead to lower utilization of services. This is particularly an issue because doctors and nurses in the SAIs do not have to be HIV specialists or even necessarily receive specialized training in HIV treatment, especially outside of the major urban centers.

- The organization of healthcare facilities can be confusing and frustrating for patients. In particular, the fragmentation of services, which requires that patients sometimes have to move between sections of hospitals or attend different facilities for different types of services, such as testing and counselling or laboratory analyses. While respondents did feel that the integrated systems were easier to navigate, this challenge remained for some (FGD1).

---

3.6 Gender inequality and gender-based violence

Gender inequalities exacerbate women’s risk of acquiring HIV around the world, making it a key component of commitments to end the epidemic. Gender inequality in the context of HIV shapes the health and well-being of women with HIV through harmful gender norms and violence, stigma and discrimination, lack of decision-making power and control over economic resources, and limitations of sexual and reproductive freedoms. Honduras also has one of the highest murder rates in the world, as well as one of the highest femicide rates. USAID reports that violence and crime, including gender-based violence, is the most destructive social problem in Honduras. Data presented by the National Observatory of Violence in 2017 reported that between 2009 and 2016, 3,962 women were murdered. In 2016 there were 463 cases of femicide and 388 in 2017, with impunity in the resolution of cases as high as 95%. An estimated average of 3077 reports of sexual crimes against women and girls have been made over the past five years, with only 25% reaching the courts. Prior research found that in 60% of cases where women were murdered, the alleged aggressors were partners, ex-partners, or relatives, suggesting a high level of intimate partner violence. Recent research in Honduras found a direct relationship between HIV infection and accounts of power inequality, physical abuse, psychological, sexual, and verbal abuse, as well as the inability to decline sexual relations with their partner, or negotiate for safe sex for one-third of women. This reality was noted by research participants as well, who noted both that women in abusive relationships were less likely to be able to take steps to protect themselves from infection or seek effective treatment (often the result of fear of stigma associated with the husband’s status being disclosed) and that women living with HIV were also subject to higher rates of violence as a result of their condition (KII, FGD).

Women living with HIV also face specific violations of their reproductive rights. Women living with HIV in Honduras have experiences of forced or coerced sterilization, often a feature of the HIV experience in Latin America, with the Inter-American Commission on Human Rights (IACHR) expressing concern for the consequences of limitations on sexual and reproductive rights in the country. This was also the experience of some of the research participants – as one FGD participant described, “when they [women living with HIV] have found they are pregnant, they have the right to be mothers, so what has happened is that the doctor that is on duty doesn’t want to attend to her and the clinic closes, and he doesn’t attend to her” (FGD2). Others reported that it was more challenging for women living with HIV to get gynecological services (KII12).

Finally, the role of social norms of masculinity and femininity in shaping broader debates around HIV and sexuality in ways that contributed to other barriers, particularly stigma and discrimination, was raised by a

---

48 Boletín Muerte Violenta de Mujeres y Femicidios, del Observatorio de la Violencia del Instituto Universitario de Democracia, Paz y Seguridad (IUDPAS) de la Universidad Nacional Autónoma de Honduras (UNAH) https://iudpas.unah.edu.hn/observatorio-de-la-violencia/boletines-del-observatorio-2/unidad-de-genero/
number of the respondents. These were seen as contributing to bias against the LGTBI population in particular, but also as placing women at particular risk, as these norms disempower women, make it challenging to negotiate safe sex in relationships, and create situations where actions by their male partners, such as having multiple sexual partners, place women at particular vulnerability (KII10). These norms were also seen as contributing to the stigmatization of women living with HIV, who are often assumed to have been infected through immoral sexual behavior and therefore experience what one key informant termed a “double stigma” (KII10). Finally, women bear the burden of caring for family members living with HIV and often make up the majority of volunteers for HIV-related activities, roles that are often overlooked in the national debate on HIV (KII10).

3.7 Sociocultural, economic, and physical barriers to health services

In addition to the barriers described above, many of the participants also made reference to more macro-level factors that are barriers to access or use of services. In particular, economic costs, lack of access to services in rural areas, cultural/religious opposition, migration patterns, and the marginalization of the Garifuna population were raised in multiple conversations.

In economic terms, there was broad consensus among research participants about the importance of poverty and geographical isolation as barriers to accessing services. While HIV services are provided free of charge in most cases, many respondents described in detail the economic challenges associated with having to travel long distances to services, which typically required taking a day away from employment, significant transportation costs, and often costs associated with accommodation (KII1, KII6). As a result, poverty remains a major barrier for many. The economic challenges rural residents face also contribute to high rates of migration, both within Honduras and internationally – contributing to new infections through separating families and exposing migrants to environments where infection may be more likely. As most of these migrants are men, the increased exposure to potential infection via migration is something that places women at higher risk as migrant men return to Honduras (KII10). Further, evidence suggests that people living with HIV in Honduras typically have a low education level and limited job opportunities.

Cultural and religious values, particularly conservative religious values within the Catholic and evangelical churches, were also raised in a number of interviews and discussions. These were seen as underlying many of the broader values that lead to the stigmatization of people living with HIV and Lesbian, Gay, Bisexual, Transgender people/Transvestites/Transsexuals and Intersexed populations, inequitable gender norms, and the lack of the development or implementation of further legal protections of the human rights of key populations (e.g. KII4, KII18, FGD1, FGD4). The political influence of these religious bodies is significant, posing significant challenges to the passage of legislation protecting key population groups or the extension of comprehensive sexuality education to youth.

Finally, as described in the desk review, the Garifuna population is affected by economic, social, and physical barriers to services. The rural locations where the majority of the Garifuna live make access to services particularly challenging, as do the higher rates of poverty in the population. Social norms within the Garifuna, particularly a high acceptance of multiple sexual partnerships and very low levels of condom
use, also were seen as representing unique challenges, particularly in terms of developing effective programmatic interventions (KII11). Multiple respondents also reported discrimination against the Garifuna population, creating a situation of dual discrimination for Garifuna living with HIV (KII6, KII11).

The geography of Garifuna populations can also be a contributor to the experience and risk of HIV. One research study determined that, after adjusting for other variables and confounders, poor Garifuna in urban areas had higher rates of HIV infection than those in rural areas. A key informant at CEPROSAF stated that medical services were not typically available in rural areas, and people living with HIV who live in rural areas are forced to spend money and time to travel for services. Further, violence and sexual abuse continue to be major problems, which limits the ability of Garifuna women to protect themselves against HIV, other STIs, and unwanted pregnancy.

3.8 Description of the main interventions used to address barriers and recommendations for a comprehensive approach

Overview
The importance of human rights in achieving Honduras’ ‘three zero’ goals for HIV (zero new HIV infections, zero discrimination, and zero AIDS-related deaths) is clear in PENSIDA IV, underpinning the first of the four national-level proposed strategies for combatting the epidemic in the country. This strategy (“public policy and social action with a focus on human rights and gender equity”) focuses on the importance of following international guidelines in response to HIV, and carrying out work through all sectors of society, such as nongovernmental organizations, government offices and ministries, and civil society. While the implementation of the recommendations included in PENSIDA IV has been uneven, Honduras does have a relatively robust public health infrastructure and range of services available through both governmental and non-governmental and community-based entities.

As Honduras has increased the services available to key populations and populations in vulnerable situations and those living with HIV, the budget allocated to these has generally increased over time, though recent strains on the health system have also impacted budgets available for HIV. In 2016, USD$32.3 million was spent on HIV programming, representing the equivalent of 5.49% of the national health budget. At that point, over 25% of the overall AIDS resources came from foreign donors. As a part of this, the Global Fund has disbursed $122,777,370 for HIV-related work in Honduras, some of which supported the seven human rights program areas, either directly or as a part of broader programmatic efforts.

Many key informants referred to the important role that NGOs have played in working with key populations, especially in advocacy for the reduction of human rights-related barriers to services. Many of

---

54 Key Informant Interview with Mirta Leticia Valle at CEPROSAF, Oct 13, 2017.
TAB 11
Secretariat of the Committee on the Elimination of Racial Discrimination
Office of United Nations High Commissioner for Human Rights
Palais Wilson
52, rue des Pâquis
CH-1201 Geneva 10
Switzerland

Re: Supplementary information on Honduras, submitted for consideration by the Committee on the Elimination of Racial Discrimination for 97th Session

Distinguished members of the Committee:

1. The Center for Reproductive Rights (the “Center”) is an independent non-governmental organization that promotes gender equality and the fulfilment of women’s reproductive rights. The Center seeks to contribute to the Committee’s work by providing independent information concerning Honduras’ obligations to guarantee the rights and freedoms protected under the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”).

2. Under article 1 of the ICERD, the term "racial discrimination" is defined as any distinction, exclusion, restriction or preference based, among other things, on color, descent, or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.¹ In Honduras, 99 per cent of the population fall within this definition, with 90 per cent of the population identifying as mestizo (or mixed race).² The Center believes that due to their intersecting identities, women of color experience discrimination in unique and cumulative ways.³ The Center is reporting to the Committee because it believes that: (1) there needs to be an intersectional approach to recognize the discrimination faced by women of color; and (2) there needs to be visibility of the reproductive needs and rights of women of color in Honduras and in Central America.

3. This letter highlights Honduras’ failure to comply with its obligations under ICERD to: prohibit and eliminate racial discrimination in the enjoyment of women’s right to reproductive health; the right to security of the person and protection by the State against violence or bodily-harm; the right to equal treatment before tribunals and justice institutions; and other human rights and fundamental freedoms. Honduras violates is obligations by: (a) denying victims of sexual and domestic violence access to justice; (ii) criminalizing abortion in all cases; (iii) banning emergency contraception, denying women autonomy and self-determination to their reproductive health; and (iv) forcibly sterilizing women HIV positive.
4. This letter is presented as follows: first, we set out the legislative background to Honduras’ total criminalization of abortion and ban on access to emergency contraceptives; second, we set out the background on sexual violence against women of color in Honduras; third, we set out the background on the high adolescent fertility rate in Honduras which exacerbates the poverty cycle of women of color; fourthly, we explain the consequences of the total criminalization of abortion in Honduras; fifthly, we present the context of Zika and its link with the government restrictions on reproductive rights; six, we explain the violations to women’s dignity and autonomy with HIV that go through forced sterilizations without their informed consent; seventh, we include a list of recommendations that we respectfully propose the Committee make to Honduras.

I. Legislative Background to the Total Criminalization of Abortion in Honduras and Ban on Emergency Contraceptives

5. Abortion in Honduras is criminalized in all cases. Under Honduran law, abortion is defined as “the murder of a human being during pregnancy or at the moment of delivery”. This means that abortion-related crimes are considered homicide. Women who consensually undergo an abortion procedure face between three to six years of imprisonment, as does the person who performed the procedure. Where there is no consent to the abortion the person performing it faces between six to eight years of imprisonment. In circumstances where violence, intimidation or deceit is used, a person may be imprisoned for eight to ten years.

6. The main victims of the total ban on abortion are sexual assault victims, adolescent girls, and poor women and adolescent girls who live in rural areas. The highest number of discharges from hospital associated with an abortion are from women living in rural areas who are illiterate or only have primary level education. The Committee itself has noted that indigenous people and Afro-Honduran communities are particularly affected by poverty. This means that the criminalization of abortion disproportionately affects those poor indigenous and Afro-Honduran women who live in rural areas.

7. Access to contraceptives is often critical in countries where access to an abortion to prevent an unwanted pregnancy is criminalized. The World Health Organization (“WHO”) recognizes that all women and girls at risk of unintended pregnancy have a right to access emergency contraception. Emergency contraception can prevent pregnancy in approximately 95 percent of situations and is especially effective if taken within 5 days of sexual intercourse. WHO recommends that the use of emergency contraception be integrated into healthcare services for populations most at risk of exposure to unprotected sex, namely women and girls who are victims of sexual assault. In Honduras, there is a ban on contraceptives, including emergency contraceptives. In 2009 the Secretary of Health issued an administrative regulation which prohibits the sale, distributions, and use of contraceptives based on the misunderstanding of the mechanism of action of emergency contraception equating it to an early abortion. The ban on emergency contraceptives, which also imposes punishment on anyone who breaches it, was upheld by the Honduras Supreme Court in 2012.
8. In May 2017, the Honduran government rejected the opportunity to amend the law to legalize abortion in cases of rape, fetal disability or where continuing the pregnancy would pose a risk to the life of the mother, despite significant international pressure on Honduras to amend its laws. Honduras instead reauthorized the Penal Code. This decision ignores the desperate need of Honduran women to access a safe abortion in a country that has significantly high rates of gender based violence.

II. Background on high rates of violence, including sexual violence in Honduras

9. Honduras continues to rank as one of the most dangerous countries in the world. In 2015 there were 5,148 recorded intentional homicides in the country. Gender-based violence is also a significant problem in the country, with Honduras recording one of the highest femicide rates in the world. In 2012, femicide was considered the second-highest cause of death for women of reproductive age. Women of color are the main targets of domestic violence as a result of machismo cultural power dynamics. Of the 20,000 complaints received by the Public Prosecutor in 2012 related to gender-based violence, 74.6 per cent concerned domestic and intrafamily violence. Rates of sexual violence likewise remain high and stories of sexual abuse are common.

10. In 2015, there were 18.38 rates of sexual violence per 100,000 of the population recorded by police. Local civil society actors, allege that in 2015 alone, 2,774 women and girls reported a sexual crime to the Public Ministry. In the capital, Tegucigalpa, a reported 78 per cent of women have experienced some form of violence, including sexual assault in just two neighborhoods.

11. There is no data that breaks down the ethnic or cultural background of women in Honduras who have been subject to violence, including sexual violence. However, there is evidence to suggest that violence, including gender-based violence affects indigenous women in Honduras in unique ways. Indigenous women not only experience gender discrimination but also racial discrimination due to their membership of a particular racial or ethnic group. As a result of this, indigenous women experience violence in contexts unique from those of non-indigenous women. For example, indigenous women face violence in the context of defending human rights. According to Victoria Tauli Corpuz, the Special Rapporteur on the rights of indigenous peoples, the murder of indigenous leaders who defend their land is a common cause of complaint to the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage. In fact, violence against indigenous women gives rise to some of the highest number of complaints to the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage.

12. In March 2016, the indigenous and environmental rights campaigner, Berta Caceres, was murdered in her home, with accusations that the perpetrators were connected to the Honduran hydroelectric company Caceres was campaigning against. Before her assassination, Caceres had faced smear campaigns, sexual harassment and numerous death threats. Sexual threats and
acts of violence against female indigenous land rights activists have also been reported in connection with dam development projects such as the Agua Zarca project in the Río Blanco region.26

13. The existing culture of impunity in Honduras compounds the problem of gender-based violence. Between 2012 and 2014 there were almost 5,000 sexual violence complaints filed by the Special Prosecutor for Women, of which only 134 resulted in a conviction.27 According to Rashida Manjoo, the U.N. Special Rapporteur on violence against women, the impunity rate for sexual violence and femicide crimes may be as high as 95 per cent.28 Access to justice is also a problem, with local civil society actors noting that while most victims do not generally report cases of sexual violence, those that do usually withdraw a complaint due to a lack of financial means as well as fear of reprisals.29

14. The systematic and historical racism and discrimination faced by indigenous women and women of color specifically affecting access to justice for this group. This is compounded by the problem that justice officials are often unaware of the languages and cultures of the indigenous peoples in Honduras.30 While Honduras has established the Office of the Special Prosecutor for Ethnic Groups and Cultural Heritage, a lack of financial and human resources effects the ability of the Office to carry out its functions effectively.31

15. The prevalence of violence against women of color in Honduras and the lack of accountability for the crimes committed against them violates Article 5(b) and Article 6 of ICERD.

III. High fertility rates among adolescent girls of color in Honduras

16. Unmet need for contraception among adolescent girls remains high in Honduras. The rate of unmet need for contraception among sexually active unmarried adolescent girls was at 4 per cent in 2014.32 While up to 79.5 per cent of unmarried, sexually active adolescent girls report not wanting to have a child in the next couple of years only 46.2 per cent use a method to prevent pregnancy.33 The lack of public discussion and education on family planning among adolescents contributes to the high levels of adolescent pregnancy and childbearing. This has a detrimental socio-economic effect on young women in Honduras.

17. Honduras has one of the highest fertility rate among adolescents in Latin America.34 The mean age of a mother at first birth is only 20.4 years.35 Furthermore, up to 26 per cent of women give birth before the age of 18.36 In 2015, the adolescent fertility rate stood at 65 births per 1000 live births for girls aged between 15 and 19.37 According to the think tank, Guttmacher Institute, up to 45 per cent of births for women under 20 were unplanned.38

18. While there is little analysis in this area from a human rights-based perspective, it is well documented that adolescent pregnancy exacerbates poverty and illiteracy among future generations.39 Poverty and illiteracy also correlate with high rates of adolescent pregnancy,
thus reinforcing the poverty cycle. Poverty and illiteracy also disproportionately affects women of color and indigenous women in Honduras.

19. According to the Special Rapporteur on the rights of indigenous peoples, illiteracy levels among the Pech and Chortí indigenous women are as high as 36 per cent and 39.6 per cent respectively. This is significantly higher than the rest of the population at 14.9 per cent. The high illiteracy levels can be attributed to many factors, including a lack of access to adequate education due to a shortage of materials, staff, lack of access to health care, and lack of infrastructure in indigenous communities.

IV. The Consequences of the Total Criminalization of Abortion in Honduras

20. The criminalization of abortion and the ban on emergency contraceptives disproportionately affects, victims of sexual abuse, adolescent girls, and poor women. According to Centro de Derechos de Mujeres, the largest reproductive rights organization monitoring the situation in the country, despite the criminalization of abortion there are between 50,749 to 82,135 abortions still taking place every year in Honduras. Furthermore, estimates put clandestine abortions obtained by women and girls who are victims of rape as high as 17 per cent. In countries where abortion is criminalized, women are forced to undergo unsafe procedures. In Honduras up to five per cent of maternal deaths are associated with unsafe abortions. This means that the criminalization of abortion and the ban on emergency contraceptives has led to preventable deaths of Honduran women.

21. The criminalization of abortion of women of color and indigenous women in Honduras violates Article 2(2) and Article 5(e)(iv) of ICERD.

V. Reproductive rights in the context of Zika

22. With more than 32,385 suspected cases registered in Honduras as of January 2018 according to the Pan American Health Organization (“PAHO”), Honduras has maintained its stance against abortion and reproductive rights even in the face of the Zika virus outbreak, which the Centers for Disease Control and Prevention concluded is a cause of neurological disorders (including microcephaly) in foetuses. Existing high rates of clandestine unsafe abortion in affected countries have risen correspondingly, thereby further increasing risks of complications and related maternal mortality and morbidity. The New England Journal of Medicine published a report in June 2016 showing that requests for abortion pills increased 36 to 108 percent in many Central American countries, including by 75.7 percent in Honduras, following the PAHO’s November 2015 epidemiologic alert for Zika. Although Honduras’s February 2016 declaration of a state of emergency was a step in the right direction, protecting women’s reproductive rights is a permanent concern particularly in the context of emergency contraception.
23. Honduras should adopt a human rights-based response to the Zika virus that respects, protects and fulfills women’s human rights in accordance with international human rights law and standards and international public health guidance and good practice. This response should take a holistic and comprehensive approach to the provision of sexual and reproductive health services by ensuring that such services and information are widely available and accessible throughout rural and urban areas. It also should include measures to reform laws and policies that criminalize and restrict access to safe abortion services and emergency contraception.

VI. Reproductive Rights Violations and Forced Sterilization for Women HIV Positive

24. A woman’s right to make informed decisions regarding her sexual and reproductive health—free from any kind of coercion, discrimination, or violence—is paramount. Specifically, denying women access to complete information regarding health risks during pregnancy and childbirth is a clear and flagrant violation of their reproductive rights, which is only aggravated when these violations are the result of discrimination against women living with HIV. In Honduras, women living with HIV do not have adequate access to reproductive health information. As a result, these women have become the subject of forced sterilization. Rather than inform these women about contraception in order to preserve their health, they are pressured to use contraceptives or told that sterilization is their only option.49

25. Women living with HIV in Honduras are reportedly pressured or forced to use contraceptives. Despite the fact that science and medicine have progressed to prevent mother-to-child transmission of HIV,50 healthcare providers in Honduras continue to misinform these women about the probability of such transfer. According to a recent study, 11 percent of the women living with HIV who participated in the study indicated they had been pressured by healthcare providers to use contraceptives due to being HIV positive.51

26. A thin line exists between pressuring women to use contraceptives on the one hand and campaigns for the prevention of HIV transmission and unplanned pregnancy on the other. However, in Honduras, healthcare providers specifically and explicitly pressure women who are HIV positive to use contraception when they seek medical attention.52

27. Women living with HIV in Honduras also have reported pressure to undergo sterilization once they discover they are HIV positive.53 Such cases range from basic intimidation to forced sterilization—and healthcare providers play a key role. Healthcare providers tell these women that due to their condition as HIV-positive patients, they cannot have children and therefore must consent to sterilization.54 Twenty percent of Honduran women living with HIV who participated in a Central American-focused study reported being victims of forced sterilization due to misinformation or lack of informed consent.55 Additionally, women living with HIV have been subject to sterilization without their consent during caesarean procedures. This position has been rejected by the International Federation of Gynecology & Obstetrics, which highlights the importance of informed consent prior to undergoing sterilization and the obligation to respect a woman’s decision, even in cases where refusal could be harmful to her
Forced sterilization has been widely condemned and rejected worldwide in all circumstances and under all conditions.

As a result of the lack of public sources of information and sexual and reproductive education in Honduras, women living with HIV rely on information provided by healthcare providers about their condition as HIV positive and their alternatives concerning reproduction and prevention of mother-to-child transmission of HIV. Healthcare providers’ responsibility is even more critical, as the lack of complete information or the communication of erroneous information becomes a key factor in these women’s decisions to undergo sterilization. This should be a cause of concern for the Committee and necessitates the design and implementation of public health policies to inform the population about HIV and reproductive options, including policies targeted specifically at women.

V. International calls on Honduras to reform its restrictive reproductive laws and policies

In August 2017, the U.N. Human Rights Committee recommended to Honduras:

“The State party should, as a matter of urgency, amend its legislation to help women prevent unwanted pregnancies and to ensure that they do not have to seek clandestine abortions that could endanger their lives and health. In this connection, the State party should ensure access to safe, legal abortions, particularly in cases where the woman’s life or health is in danger and in cases of rape, incest or fetal unviability due to an abnormality, and consider decriminalizing abortion. The State party should lift the ban on the emergency contraceptive pill. It should also keep precise statistics regarding the impact of restrictions on abortion and the emergency contraceptive pill on the life and health of women and girls and increase the number of programmes designed to provide full access to sexual and reproductive health services and contraceptives and raise awareness of sexual and reproductive health among men, women and children throughout the country.”

In November 2016, the U.N. Committee on Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recommended that Honduras look into positive experiences and practices of countries in the region that have reviewed their restrictive interpretations of therapeutic abortions and accepted abortions be decriminalized in cases of rape or incest, threats to the life and/or health of the mother and severe fetal impairment. The CEDAW Committee also expressed concern on:

“the prohibition of the promotion, use, sale and purchase of emergency contraception, any policy or programme related thereto and the free or paid distribution and commercialization of emergency contraception, including when pregnancy results from rape or incest, and that the Supreme Court declared the constitutionality of this prohibition in 2012.”
31. In July 2016, the U.N. Committee on Economic, Social and Cultural Rights, expressed concern that the criminalization of abortion, and the ban on emergency contraceptives effects Honduran women and adolescent girl’s rights to exercise their sexual and reproductive health. It recommended that Honduras:

“[r]econsider its ban on abortion with a view to ensuring compatibility with other fundamental rights, such as women’s right to health and life, and to respecting women’s dignity, in particular within the framework of the Criminal Code reform that is currently under discussion... [l]ift the ban on the distribution of emergency contraceptives and take the necessary steps to ensure the accessibility, availability and affordability of emergency contraception to all women and adolescents in the State party”.59

32. At Honduras’ last U.N. Human Rights Council Universal Periodic Review in May 2015, Norway recommended that Honduras consider legalizing abortion in cases of rape or incest.60

33. In 2015, the Special Rapporteur on violence against women expressed concern that the absolute prohibition of abortion has led to women and girls who become pregnant as a consequence of rape or incest to resort to unsafe and clandestine abortions. 61 In some instances this has led to fatal consequences.

34. Despite the international clamor for change, Honduras’ discriminatory laws remain in place.

VI. Recommendations for Honduras

35. We respectfully suggest that the Committee make the following recommendations to Honduras:

1. To rapidly amend and approve legislation that would reform its law imposing a total abortion ban to recognize and guarantee access to abortions at least in the following exceptions:

   a. When pregnancy endangers a woman’s life or health;
   b. When pregnancy is the result of rape or artificial insemination without the woman’s consent.

2. To rapidly approve legislation granting access to comprehensive reproductive health care services, including access to emergency contraception.

3. To approve and to implement legislation enhancing effective protection for female victims of domestic and sexual violence and improving access to the justice system.
4. To formulate and actively implement policies to provide widespread dissemination of accurate family planning to allow women (and in particular adolescent girls and women HIV positive) to exercise their reproductive rights without discrimination.

5. To improve data collection and analysis of incidents of violence against women, including sexual violence, and to also include in that data information related to the race and ethnic origin of victims.

6. To effectively protect human rights defenders and investigate all complaints of crimes perpetrated against them.

36. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

Catalina Martínez Coral
Regional Director for Latin America and the Caribbean, Global Legal Program
Center for Reproductive Rights
Cmartinez@reprorights.org
Carrera 6 No. 26-85, Piso 9.
Bogotá, Colombia

Sebastián Rodríguez Alarcón
Program Manager for Latin America and the Caribbean, Global Legal Program
Center for Reproductive Rights
Srodriguez@reprorights.org
199 Water St. 22nd Floor
New York, NY, 10038


5 Código Penal de Honduras [Hond. Penal Code], art. 126, 127, 128, 132 (Hond.) [hereinafter Penal Code]


7 Committee on the Elimination of Racial Discrimination, Concluding observation on the combined initial and second to fifth periodic reports of Honduras, U.N. Doc CERD/C/HND/CO/1-5 (March 13, 2014).


9 Emergency Contraception, supra 8.

10 Id.

11 Secretaría de Salud, Acuerdo No. 2744 (Honduras) (2009), [Secretariat of Health, Agreement No. 2744 of 2009].


18 Manjoo, supra 15.

19 UNODC, supra 16.


24 Id.

26 Tauli Corpuz, supra 24, Annex Observation on the situation in Rio Blanco, para 19.
27 Manjoo, supra 15.
30 Tauli Corpuz, supra 26, Annex Observation on the situation in Rio Blanco, para 30
31 Id., para 32.
35 CIA, supra 2.
38 Sexual and Reproductive Health of Young Women in Honduras, supra 24.
40 Tauli Corpuz, supra 26, para 66.
41 Id., para 69.
42 Abortions in Honduras, supra 6.
45 Abortions in Honduras, supra 6.
46 PAN AMERICAN HEALTH ORGANIZATION (PAHO), Zika cases and congenital syndrome associated with Zika virus reported by countries and territories in the Americas, 2015-2018 (Jan, 4, 2018).
48 Abigail Aiken, R.A., M.D., Ph.D. ET AL., Requests for Abortion in Latin American Related to Concern about Zika Virus Exposure, NEW. ENG. J. MED. 375;4 (July 28, 2016).
51 Avalos Capin, supra note 47.
52 Id.
53 Id.
55 Avalos Capin, supra note 47. The 20% of women living with HIV have reported being victims of forced sterilization due to misinformation or lack of informed consent represents eight reported cases.
58 Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eight periodic reports on Honduras, U.N. Doc. CEDAW/C/HND/CO/7-8 (Nov. 25, 2016), 12.
61 Manjoo, supra 15, 14.
TAB 12
Evidence Brief

HIV Stigma and Discrimination in the World of Work: Findings from the People Living with HIV Stigma Index

Published July 2018
**Country: South Africa**

Constitutional Court of South Africa, Jacques Charl Hoffmann v. South African Airways, Case CCT 17/00, Judgement of 28 September 2000

“... [People living with HIV] have been subjected to systemic disadvantage and discrimination. ... [T]hey have been denied employment because of their HIV positive status without regard to their ability to perform the duties of the position from which they have been excluded. Society’s response to them has forced many of them not to reveal their HIV status for fear of prejudice. This in turn has deprived them of the help they would otherwise have received. ... Notwithstanding the availability of compelling medical evidence as to how this disease is transmitted, the prejudices and stereotypes against HIV positive people still persist. ... The impact of discrimination on HIV positive people is devastating. It is even more so when it occurs in the context of employment. It denies them the right to earn a living...” (paragraph 28)

Unfortunately, there has been little improvement since 2000.

Although access to effective HIV antiretroviral treatments has improved significantly – enabling people living with HIV to live long and productive lives including working and contributing to society in many different ways – people living with HIV continue to face discrimination in relation to work in terms of finding employment, keeping jobs and furthering career progression.

Antiretroviral treatments have been life-changing but people need decent work, both to afford daily necessities and to live productive and dignified lives. Almost four decades into the HIV epidemic, the prevalence of HIV-related discrimination in employment is staggering, and it is unacceptable.

This brief provides a snapshot of the prevalence of discrimination against people living with HIV in workplace settings: a practice that is evident across countries and regions.

We hope that stakeholders in the world of work will find this brief useful to strengthen responses to HIV and AIDS; strengthening implementation of the principles, policies and programmes of the *ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200).*
The Global Network of People living with HIV (GNP+) would like to thank the International Labour Organization (ILO) who supported production of this brief.

This report was written on the basis of information provided by thirteen country teams who implemented the People Living with HIV Stigma Index (PLHIV Stigma Index). Thank you particularly to the lead organisations and champions of the PLHIV Stigma Index:

<table>
<thead>
<tr>
<th>Country</th>
<th>Lead Organisations and Champions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
<td>The Collaborative Network for Persons Living with HIV (C-NET+), Eric Jovanni Castellanos Evelio Com, Reynaldo D’Aubuisson Arrieta</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Réseau Camerounais des Associations de Personnes Vivant avec le VIH (RéCAP+)</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>Hogar de la esperanza, Orlando Navarro and Mario Rojas</td>
</tr>
<tr>
<td>Fiji</td>
<td>Fiji Network of People Living with HIV (FJN+), Tubere Catí, Emosi Raitini, Dr G. Roberts, Jokapeci Tuberi Catí and Liz Tremlett</td>
</tr>
<tr>
<td>Greece</td>
<td>Positive Voice - the Greek Association of PLHIV, Rafail Bilidas</td>
</tr>
<tr>
<td>Honduras</td>
<td>Fundación Llaves, Rosa Amelia González, Valor y Esfuerzo</td>
</tr>
<tr>
<td>Korea</td>
<td>Korean Network for People Living with HIV/AIDS (KNP+)</td>
</tr>
<tr>
<td>Malawi</td>
<td>Malawi Network of People Living With HIV/AIDS (MANET+), Eddie Banda and Safari Mbwew</td>
</tr>
<tr>
<td>Senegal</td>
<td>Réseau National des Associations de PVVIH du Sénégal (RNP+), Ibrahima Ba</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>Asociación Nicaragüense de Personas Positivas Luchando por la Vida (ANICP+VIDA), Julio Mena</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>The National Network for People Living with HIV (Estrela+), Ines Lopes and Courtney Wilson</td>
</tr>
<tr>
<td>Uganda</td>
<td>National Forum of People Living with HIV Networks in Uganda (NAFOPHANU), Stella Kentutsi</td>
</tr>
<tr>
<td>Ukraine</td>
<td>All Ukrainian Network of PLWH, Denys Dmytriiev, Oksana Bryzhovata and Olga Gvozdetska</td>
</tr>
</tbody>
</table>

We would like to formally recognise your enormous efforts in your communities, coordinating and collecting the PLHIV Stigma Index data and to thank you for allowing us access to that data. We would also like to acknowledge and thank the other organisations and funding partners who made these studies possible.

Most importantly, we take this opportunity to acknowledge the central role played by people living with HIV who drove delivery of the PLHIV Stigma Index, who undertook and participated in interviews, and who collected, collated and analysed the PLHIV Stigma Index research data. Thank you for your time and for sharing your stories.

We hope this Evidence Brief contributes to a better understanding of HIV-related stigma and discrimination in the workplace, and builds on your work to promote discussion and action to improve your lives and the lives of many people living with HIV.
Contents

03 Acknowledgements

05 Introduction

07 The People Living with HIV Stigma Index

08 Methodology

10 Findings
10 1. Employment
14 2. Job security
18 3. Retaining employment and career advancement
21 4. Access to employment
23 5. Disclosure of HIV status without consent
24 6. Reactions of employers and coworkers

26 Recommendations
HIV-related stigma remains pervasive and its effects debilitating. Stigma and discrimination deny people living with HIV the right to fully participate in their communities, affecting all aspects of people’s lives, including access to treatment and care,¹ and access to work.

All people have the right to earn a living and to social participation through work as enshrined at Article 23 of the *Universal Declaration of Human Rights*,² and also in the *International Covenant on Economic, Social and Cultural Rights*.³ Stigma and discrimination undermine the capacity of people living with HIV to secure and keep employment, to progress their employment prospects according to merit, and “to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential”.⁴

The 2016 *UN Political Declaration on HIV and AIDS⁵* (the UN Political Declaration) affirms States’ commitment to intensify efforts to create enabling legal, social and policy frameworks to eliminate HIV-related stigma and discrimination, including promoting non-discriminatory access to employment (63(c)). It also underscores:

> the need to mitigate the impact of the epidemic on workers and their families and dependants, workplaces and economies, including by taking into account all relevant conventions of the International Labour Organization, as well as the guidance provided by the relevant International Labour Organization recommendations, including the Recommendation on HIV and AIDS and the World of Work, 2010 (No. 200)⁶ and call upon employers, trade and labour unions, employees and volunteers to take measures to eliminate stigma and discrimination, protect, promote and respect human rights and facilitate access to HIV prevention, treatment, care and support (63(d)).

HIV-related stigma may manifest as internalised stigma, where people have a generalised fear of discrimination occurring and modify their behaviours accordingly. Or, more often than not, it manifests in the discriminatory practices of employers, co-workers, clients and customers. Often, these manifestations intersect to exacerbate stigma and discrimination. People living with HIV experience discrimination and bias enacted by others and may restrict their employment and educational activities and goals to protect their dignity and safety.

---

HIV intersects with employment at individual, community and national levels. Individuals may be unable to find work or to continue working as a result of ill health or discrimination. Families and communities manage the burden of decreased income and capital. National economies suffer from depleted national workforces, including people not working to their full potential, and the cost of healthcare and other support for those unable to work. Consequences extend far beyond economies as people living with HIV are socially excluded and their social standing and capacity to contribute to their communities is undermined at significant psychological and social cost.

UN member states have pledged to develop national legal and policy frameworks that protect the workplace rights and dignity of people living with and affected by HIV and AIDS. Greater effort is required to ensure:

no discrimination against or stigmatization of workers, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection.7

Sustainable Development Goal 8 includes a target to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value by 2030 (8.5).8 This target cannot be realized as long as HIV-related stigma and discrimination continues to undermine the right of people living with HIV to find and obtain decent work.

---

### The People Living with HIV Stigma Index

The People Living with HIV Stigma Index (PLHIV Stigma Index) provides a tool that identifies and measures stigma and discrimination against people living with HIV. Research findings offer quantitative and qualitative evidence of stigma and discrimination in national settings. Over time, these findings can be compared to detect changing national trends or regional differences related to HIV-related stigma and discrimination. That evidence-base means policy and programmatic interventions can be developed in response to what is occurring on the ground.

Central to the PLHIV Stigma Index is the process: operationalizing the greater involvement of people living with HIV (the GIPA principle). The process of implementation in each country responds to cultural contexts and to the strengths and diversity of partners. Rollout of the PLHIV Stigma Index is driven by people living with HIV and their networks. People living with HIV involved in the implementation phase receive training and other technical support to develop greater understanding of stigma and discrimination and its impact, as well as training in interview techniques and data analysis. Further support facilitates a strong communication strategy and advocacy at programmatic and policy level. That process of empowerment means the PLHIV Stigma Index can act as a catalyst for change both within and for the communities in which it is used.

### Since the project began in 2008:

- the PLHIV Stigma index questionnaire and accompanying materials have been translated into 54 languages
- more than 2,000 PLHIV have been trained as interviewers
- more than 100,000 PLHIV have been interviewed
- more than 90 countries have completed the study

Originally developed as a joint initiative of several organizations, the PLHIV Stigma Index is now managed by the Global Network of People living with HIV (GNP+), the International Community of Women Living with HIV/AIDS (ICW), and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

Preparation and publication of this report, which focuses on stigma and discrimination against people living with HIV in the context of work, has been funded by the International Labour Organization.

---

6 Including the Global Network of People living with HIV (GNP+), the International Community of Women Living with HIV/AIDS (ICW), the International Planned Parenthood Federation (IPPF) and the Joint United Nations Programme on HIV/AIDS (UNAIDS).
This report highlights PLHIV Stigma Index findings from 13 countries in four regions: Malawi, Senegal, Cameroon, Uganda (Africa), Belize, Costa Rica, Honduras, Nicaragua (Americas), Fiji, Republic of Korea, Timor-Leste (Asia Pacific), Greece and Ukraine (Europe). Surveys were undertaken between 2014 and 2017.

The PLHIV Stigma Index questionnaire includes more than 100 questions about experiences and understanding of stigma and discrimination. This report is based on answers to nine of those questions which directly relate to work. Not all respondents answered all questions in the PLHIV Stigma Index questionnaire so statistical analysis (particularly percentages) is based on answers from more than 10,000 people who answered questions about employment. At times, analysis relates to smaller subset of respondents as identified throughout the report.

Data from all 13 countries were reviewed and disaggregated across gender: male, female and transgender. Countries have been grouped by region. Comment on gender disaggregated data, is usually restricted to instances where a difference of more than 10% has been noted.

Gaining entry to the work force can be particularly challenging for young people, so responses to the question about unemployment have been particularly disaggregated to show results from respondents aged under 30.

<table>
<thead>
<tr>
<th>Country</th>
<th>Female</th>
<th>Male</th>
<th>Transgender</th>
<th>Age under 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latin America</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belize</td>
<td>208</td>
<td>210</td>
<td>7</td>
<td>174</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>118</td>
<td>263</td>
<td>12</td>
<td>75</td>
</tr>
<tr>
<td>Honduras</td>
<td>421</td>
<td>278</td>
<td>11</td>
<td>127</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>249</td>
<td>518</td>
<td>28</td>
<td>274</td>
</tr>
<tr>
<td>Europe</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greece</td>
<td>36</td>
<td>358</td>
<td>Less than 6</td>
<td>145</td>
</tr>
<tr>
<td>Ukraine</td>
<td>721</td>
<td>779</td>
<td>Not marked</td>
<td>235</td>
</tr>
<tr>
<td>Africa</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cameroon</td>
<td>279</td>
<td>100</td>
<td>21</td>
<td>95</td>
</tr>
<tr>
<td>Malawi</td>
<td>3317</td>
<td>1032</td>
<td>Less than 6</td>
<td>687</td>
</tr>
<tr>
<td>Senegal</td>
<td>309</td>
<td>78</td>
<td>17</td>
<td>60</td>
</tr>
<tr>
<td>Uganda</td>
<td>238</td>
<td>136</td>
<td>27</td>
<td>121</td>
</tr>
<tr>
<td>Asia Pacific</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Korea</td>
<td>Less than 6</td>
<td>102</td>
<td>Less than 6</td>
<td>9</td>
</tr>
<tr>
<td>Fiji</td>
<td>42</td>
<td>40</td>
<td>Less than 6</td>
<td>25</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>39</td>
<td>38</td>
<td>Less than 6</td>
<td>30</td>
</tr>
<tr>
<td>Total</td>
<td>5978</td>
<td>3932</td>
<td>&gt;123</td>
<td>2057</td>
</tr>
</tbody>
</table>
A number of limitations inform the analysis of the data as shown below:

- **Sample size:** In some instances, the number of respondents was too small to be a representative sample so that data is not included in charts. The clearest example is that of Korea, which included only one woman in the overall sample. Where relevant, her experience is described in text but data is excluded from gender disaggregated charts. In other cases, sub-samples involved very few people. Again, their experience is referenced in text under the chart. For transgender people, employment results are described when the number of transgender respondents was six or more. For other questions, the number of transgender respondents was too low to be meaningfully shared as statistical data.

- **Country sampling varied:** Not all countries collected data on all questions as some country teams prioritized certain issues over others (noting, some country teams also collected additional data on particular issues). Where no data was collected, countries are not included in the relevant chart.

The PLHIV Stigma Index data records work-related stigma and discrimination experienced by those interviewed and provides an indication of the country situation. However, care should be exercised when comparing data across countries or regions. For example, higher levels of reported discrimination might result from better sampling of hard-to-reach communities or from an increase in the willingness of people living with HIV to disclose their status. The results need to be understood as one part of the holistic context of stigma and support within which people with HIV live.
Findings

1. Employment

A large proportion of people living with HIV were noted as unemployed, ranging from 7% in Uganda to 61% in Honduras. Ten of the 13 countries recorded unemployment rates of respondents at 30% or higher. A number of countries recorded rates of unemployment of young people at 50% or more including Timor-Leste (50%), Fiji (56%), Greece (61%) and Honduras (60%).

Importantly, a new version of the PLHIV Stigma Index (PLHIV Stigma Index 2.0) expanded the number of categories related to employment status to include response options for people who are students, homemakers, on childcare leave or retired. Four countries included in this report used the revised PLHIV Stigma Index questionnaire. To enable comparison with the other countries, these responses were grouped as “other” with substantial percentages of respondents falling into this category: Cameroon (21%), Senegal (22%), Uganda (16%) and Ukraine (23%). For all other countries, the category “unemployed” is likely to include some people who were students, homemakers, on childcare leave and those who were retired.

Patterns of employment varied by gender. It may be that women’s higher rates of ‘unemployment’ reflect greater responsibility for unpaid work, including care of children and other family members. Certainly responsibility for childcare and household work remains highly gendered in many settings. For example, in Ukraine, within the category “other”, 177 women were engaged in household duties or on childcare leave compared to four men.
Whether counted as “unemployed” or included under “other” and receiving no income, the lack of independent income among women means women living with HIV do not enjoy economic autonomy to the same extent as their male counterparts. It also means that many women and their families experienced genuine hardships, particularly single-parent families and others who struggle to subsist.

In all countries, unemployment among transgender PLHIV remained high, although in Belize, Cameroon, Nicaragua and Uganda, the majority of (or all) transgender respondents were working either full time or part time.
Data was disaggregated to consider the employment status of respondents aged under 30 years.

In most locations, young people (aged less than 30 years) reported higher rates of unemployment than their older counterparts: from 11% (Korea) to 61% in Greece. A number of countries recorded rates of unemployment of young people at 50% or more in Timor-Leste (50%), Fiji (56%), Greece (61%) and Honduras (60%).
Unemployment data for all countries other than Cameroon, Senegal, Uganda and Ukraine may include those who were students, homemakers, or on childcare leave but are otherwise not earning any income. Consequently, the data shows significant proportions of people living with HIV aged under 30 years who are without independent income.

When reviewing these findings on employment, and those that follow, it is important to consider work in a very pragmatic sense. In the first instance, work provides the means to secure income. Often that income is vital to allow people the means to meet their basic daily needs, including food, shelter and for people living with HIV, life-saving antiretroviral therapies.

Access to work takes on particular significance when people are living in poverty. Notably, when the PLHIV Stigma Index asked all respondents whether all members of their household had enough food to eat each day during the previous month, many respondents said that they had not, ranging from 9% in Timor-Leste to 62% in Malawi.

Some respondents had been without enough food every single day during that month. Respondents who went without food included people working full time, people working part time, and those who were unemployed.
2. Job security

When people at work learned about my HIV status I lost my job. My employer said that she didn’t need HIV positive people. The company reputation was more important for her.

Ukraine

Many people living with HIV are forced to manage their HIV infection in a context of insecure employment or unemployment. The PLHIV Stigma Index shows that many respondents had lost a job or source of income during the preceding 12 months: ranging from 5% (Senegal and Timor-Leste) to 40% (Belize) because of HIV or for other reasons.

<table>
<thead>
<tr>
<th>Lost a job or other source of income: previous 12 months (as a result of HIV or other reason)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
</tr>
<tr>
<td>Costa Rica</td>
</tr>
<tr>
<td>Honduras</td>
</tr>
<tr>
<td>Nicaragua</td>
</tr>
<tr>
<td>Greece</td>
</tr>
<tr>
<td>Ukraine</td>
</tr>
<tr>
<td>Cameroon</td>
</tr>
<tr>
<td>Malawi</td>
</tr>
<tr>
<td>Senegal</td>
</tr>
<tr>
<td>Uganda</td>
</tr>
<tr>
<td>Fiji</td>
</tr>
<tr>
<td>Korea</td>
</tr>
<tr>
<td>Timor-Leste</td>
</tr>
</tbody>
</table>

Those who had lost a job or other source of income were asked whether HIV had played a role. The PLHIV Stigma Index found that having HIV had been a significant factor undermining security of employment. Of those who had lost a job or source of income during the previous 12 months, many lost their jobs either in part or wholly as a result of their HIV status: ranging from 15% (Ukraine) to 80% (Belize).

Rates of job loss because of HIV status during the previous 12 months appeared to show some variance by region, with rates generally higher in Latin America and lower in Europe, although notably the data represents responses from only a few of the many countries in each region.

<table>
<thead>
<tr>
<th>Lost a job or opportunity to earn income because of HIV status*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
</tr>
<tr>
<td>Costa Rica</td>
</tr>
<tr>
<td>Honduras</td>
</tr>
<tr>
<td>Nicaragua</td>
</tr>
<tr>
<td>Greece</td>
</tr>
<tr>
<td>Ukraine</td>
</tr>
<tr>
<td>Malawi</td>
</tr>
<tr>
<td>Fiji</td>
</tr>
<tr>
<td>Korea</td>
</tr>
<tr>
<td>Timor-Leste</td>
</tr>
</tbody>
</table>

* Percentages of people who lost a job or had to stop working (not percentage of all answering questions on employment)
Both ill health and HIV-related discrimination played a role in people losing their job or having to stop working. Some people lost work as a result of discrimination, some lost work as a result of ill health, and some lost work as a result of a combination of the two factors. In many countries, discrimination was a more common cause or factor in job loss than ill health.

**Lost a job or opportunity to earn due to ill health or discrimination related to HIV***

*Percentages of people who lost a job or had to stop working as a result of HIV status (not percentage of all answering questions on employment) wholly or partly because of i) discrimination and/or ii) ill health

**Lost a job or stopped working because of HIV-related discrimination**

*When information about my status reached my manager, he called me to his office. First he told me that I was working badly – doing too little work. Then he asked me to submit my resignation, without any serious explanation - as if I were resigning voluntarily.*

Ukraine

Of those who lost a job or had to stop working because of their HIV-status, discrimination was a factor or the sole cause of job loss in a significant proportion of cases (exempt for Korea where no one lost their job due to discrimination, although notably the sample size was small). Importantly, job loss related to discrimination can only occur when HIV-status is known by the employer. The proportion of people who had been working but had lost a job or sources of income as a result of discrimination ranged from 13% (Fiji) to 100% in Timor-Leste. It was also a major factor in Belize and Greece, where discrimination caused or contributed to job loss in more than 50% of cases in seven of 11 countries. Discrimination remains a significant cause or factor in job loss.

**Lost a job or opportunity to earn income because of discrimination (by employer or coworkers) related to HIV status***

*Percentage of people who lost a job or had to stop working as a result of HIV status (not percentage of all answering questions on employment) wholly or partly because of discrimination*
Gender disaggregated data showed some minor variation, although a higher percentage of women lost their job or sources of income because of discrimination in Greece (100% women: 79% men), and a higher proportion of men lost their job or sources of income because of discrimination in in Ukraine (31% women: 48% men).

In fact, HIV may contribute even more to employment loss than reflected in the data because the above charts:

- exclude cases where employers were not aware of respondents’ HIV-positive status, suggesting HIV-related discrimination would have been higher if all employees’ HIV positive status were known, and
- exclude data from those who may have been dismissed as a result of discrimination based on their HIV status, but were unaware that was the basis of the decision.

Consequently, that data likely underrepresents potential job loss based on HIV-related discrimination. High rates of HIV-discrimination related job loss make it abundantly clear why many people living with HIV are hesitant to let their HIV status become known to employers or coworkers. Given how effectively gossip travels within communities, efforts to keep HIV status secret often extends to friends and even to family. In turn, such practices can exacerbate internalized stigma or and can contribute to a heightened sense of stigma among confidantes, which again exacerbates the sense that there is something problematic about living with HIV. Efforts to decrease stigma and discrimination, to prevent workplace discrimination, to ensure equal opportunities, and to assure recourse when discrimination occurs, for people living with HIV in the workplace remain vital, both to deliver stronger outcomes related to work and to enable a higher quality of life for people living with HIV.

- **Lost a job or stopped working because of ill health**

  Of those who lost a job or had to stop working because of their HIV-status, ill health was a factor or the sole cause of job loss in a significant proportion of cases, ranging from 23% (Malawi) to 100% (both Korea and Timor-Leste). It was also a major factor in Fiji and Honduras, where HIV-related ill health caused or contributed to job loss in 88% of cases in both countries. In many countries (Fiji, Honduras, Korea, Nicaragua, Timor-Leste and Ukraine), ill health was a factor or the sole cause of job loss for more than half those who had lost their job because of their HIV status.
Gender disaggregated data showed some variation with women more likely to lose their job or source of income as a result of ill health in numerous countries including Fiji (100% women: 80% men) and Nicaragua (67% women: 44% men. Of the 15 women from Greece included in the sample, none had lost their job as a result of HIV-related discrimination but a third had lost their job because of ill health. A greater proportion of men had lost employment or their source of income in Malawi (18% women: 48% men) and in Ukraine (50% women: 76% men).

These findings reveal the crucial inter-relationship of access to effective antiretroviral treatment, health care and employment security because most people living with HIV on effective treatment can maintain or regain their health and are able to continue working, as well as enjoying many other life activities that are important to them.
3. Retaining employment and career advancement

Many have lost their job and feel that it is because of discrimination by their bosses and co-workers. This situation puts them in a position of social and economic vulnerability. They have even been denied a promotion because of their diagnosis among other reasons. Belize

The PLHIV Stigma Index found that during the previous 12 months, many respondents had had their job description changed, the nature of their work changed, or had been refused promotion as a result of having HIV. This ranged from 1% (Timor-Leste) to 35% (Belize).

**Job description / nature of work changed / refused promotion (as a result of HIV status)**

In most countries, changes to the nature of a person’s work or refusal of promotional opportunity varied little by gender. However, in Belize women were a lot more likely to have experienced changes to the nature of their work or been refused the opportunity for promotion (44% women:27% men). In Greece, no women reported changes to the nature of their work or had been refused the opportunity for promotion.

**Job description / nature of work changed / refused promotion (as a result of HIV status)**

*Percentages reflect the percentage of people whose job changed or were refused promotion as a result of HIV status (not percentage of all answering questions on employment)*

*Percentage of people whose job description or nature of work changed or refused promotion as a result of HIV status (not percentage of all answering questions on employment)*
People experienced changes to their job description, to the nature of their work and/or were refused the opportunity for promotion for a range of reasons including ill health, discrimination and/or other factors.

**Job description or nature of work changed or refused promotion as a result of HIV status because of ill health or discrimination**

<table>
<thead>
<tr>
<th>Country</th>
<th>Discrimination</th>
<th>Ill health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>Honduras</td>
<td>80%</td>
<td>20%</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>70%</td>
<td>30%</td>
</tr>
<tr>
<td>Greece</td>
<td>90%</td>
<td>10%</td>
</tr>
<tr>
<td>Ukraine</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Malawi</td>
<td>40%</td>
<td>60%</td>
</tr>
<tr>
<td>Fiji</td>
<td>20%</td>
<td>80%</td>
</tr>
<tr>
<td>Korea</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Timor Leste</td>
<td>100%</td>
<td>0%</td>
</tr>
</tbody>
</table>

* Percentage of people whose job description or nature of work changed or refused promotion as a result of HIV status (not percentage of all answering questions on employment) wholly or partly because of i) discrimination and/or ii) ill health

**Job changed or refused promotion because of discrimination**

HIV-related discrimination remained a major cause of change to job descriptions/nature of work or loss of promotional opportunity. Of those people whose job description or nature of work changed or who were refused promotion as a result of HIV status, HIV-related discrimination was the cause or a contributing factor in 20% (Fiji) to 100% (Timor Leste) of cases.

Rates of HIV-related discrimination resulting in a change to work or refusal of job promotion did not show clear variation across regions. Note, three of the four African countries (Cameroon, Senegal and Uganda) did not report on this data because the question is not part of the PLHIV Stigma Index 2.0.
Gender disaggregated data showed some variation with women far more likely to be affected in Costa Rica (76% women: 31% men), and men far more likely to be affected in Honduras (18% women: 33% men), Nicaragua (48% women: 78% men), and Ukraine (28% women: 50% men). In Fiji and Greece no women reported changes to the nature of their work or having been refused the opportunity for promotion due to HIV-related discrimination. These results should be considered cautiously given the relatively low sample size.

<table>
<thead>
<tr>
<th>Job description / nature of work changed / refused promotion solely or partly resulting from HIV-related discrimination*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
</tr>
<tr>
<td>Female</td>
</tr>
<tr>
<td>Male</td>
</tr>
</tbody>
</table>

* Percentage of people whose job description or nature of work changed or refused promotion as a result of HIV status (not percentage of all answering questions on employment) wholly or partly because of discrimination

• **Job changed or promotion refused because of ill health**

Ill health was a leading cause of change to job description/nature of work or loss of promotional opportunity, suggesting the urgency of increasing access to modern HIV treatment regimens. Of those people whose job description or nature of work changed or who were refused promotion as a result of HIV status, ill health as the cause or a contributing factor ranged from 25% (Ukraine) to 100% (Korea) of cases.

<table>
<thead>
<tr>
<th>Job description / nature of work changed / refused promotion solely or partly as a result of ill health*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
</tr>
<tr>
<td>39%</td>
</tr>
</tbody>
</table>

* Percentage of people whose job description or nature of work changed or refused promotion as a result of HIV status (not percentage of all answering questions on employment) wholly or partly because of ill health
Gender disaggregated data showed some variation, with ill health a more likely cause of job disruption for women in Fiji (100% women: 33% men) and Ukraine (women 33%: men 10%). Men were more likely to be affected in Belize (27% women: 56% men), Costa Rica (33%: 50%), and Nicaragua (43% women: 81% men). These results should be considered cautiously given the relatively low sample size.

<table>
<thead>
<tr>
<th>Job description / nature of work changed / refused promotion solely or partly as a result of ill health*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belize</td>
</tr>
<tr>
<td>Costa Rica</td>
</tr>
<tr>
<td>Honduras</td>
</tr>
<tr>
<td>Nicaragua</td>
</tr>
<tr>
<td>Greece</td>
</tr>
<tr>
<td>Ukraine</td>
</tr>
<tr>
<td>Malawi</td>
</tr>
<tr>
<td>Fiji</td>
</tr>
<tr>
<td>Korea</td>
</tr>
<tr>
<td>Timor-Leste</td>
</tr>
</tbody>
</table>

* Percentage of people whose job description or nature of work changed or refused promotion as a result of HIV status (not percentage of all answering questions on employment) wholly or partly because of discrimination

### 4. Access to employment

I went to pick my appointment letter only to be told that I had to undergo a medical examination. I already knew my sero-status which I told the human resources officer. She said I had to do the examination which confirmed to them my HIV-positive status. That marked the end of getting the job as they could not recruit me even though I had passed the interview.

Cameroon

Many people living with HIV had been unable to secure employment during the previous 12 months, once their HIV status became known, ranging from 1% (Senegal) to 28% (Belize). While it would be reasonable to expect only a small proportion of respondents to be refused employment or a work opportunity because of their HIV status - because most employers would have no reason to know the HIV status of their prospective employees - the high numbers of respondents reporting this form of employment discrimination highlights the need for both anti-discrimination and privacy protections in all countries and for the abolition of pre-employment HIV testing.

Rates of refusal of employment or work opportunity because of HIV status during the previous 12 months appeared to show some variance by region, with rates generally higher in Latin America and lower in Europe and Asia Pacific, although notably the data represents responses from only a few of the many countries in each region.
In most countries there was minimal variance by gender, with men and women reporting similar rates of refusal of employment or work opportunity because of HIV status during the previous 12 months. The two countries reporting the greatest variance reflected very different gendered experiences. In Honduras, women were almost twice as likely as men to have been refused employment/work opportunity (3% of men: 7% of women), while in Cameroon men were almost twice as likely as women to have been refused employment/work opportunity (13% of men: 7% of women). Notably in both countries percentages were relatively small. In Belize, where more than a quarter of respondents had been refused employment or work because of their HIV status, some gendered variance was also observed (35% women: 23% men).
5. Disclosure of HIV status

Confidentiality of HIV status, including loss of confidentiality as a result of mandatory testing, remains a central workplace issue. Many respondents reported having their HIV-positive status disclosed to employers or coworkers without their consent. Such disclosures by a third party to an employer or a coworker without the respondent’s consent ranged from 2% (Honduras and Malawi) to 18% (Belize). Of course this data relates only to instances of disclosure by third parties of which respondents are aware.

Disaggregated by region, the frequency of disclosure to an employer or coworker without consent did not show a clear pattern.

In most countries there was limited variation by gender, however in both Belize and Senegal, men were far more likely to have their HIV status disclosed: Belize (13% women: 22% men, Senegal 4% women: 30% men). In Costa Rica, Fiji and Uganda too, men were far more likely to have their HIV status disclosed although percentages of people who had had their status disclosed without consent were very small. In Timor-Leste women were more likely to have had their status disclosed without consent (15% women:8% men).
People living with HIV should be able to choose the circumstances in which they disclose their HIV-positive status. In this context, confidentiality of HIV status remains an important issue because the negative consequences of HIV disclosure can extend beyond poor treatment in the workplace or job loss (as outlined above) because workplaces are not isolated from the broader community. Once a person’s HIV status is disclosed, wherever it is disclosed, information about the individual’s HIV-positive status can and does travel back into their communities. In these same PLHIV Stigma Index surveys, individuals reported loss of respect and isolation from families and friends, excommunication from church, physical assault and social segregation.

6. Reaction of employers and coworkers on learning of HIV status

Respondents were asked how employers and coworkers responded upon learning of their HIV-positive status. Many respondents did not answer as the question was not applicable to their circumstances; for example, they were self-employed, unemployed, or their employers or coworkers did not know their HIV status. Of those who responded, experiences varied but discrimination remained commonplace.

Fiji showed the highest rate of discrimination by employers (38%) although discrimination by coworkers in Fiji was lower than in many other countries (11%). Most countries reported similar rates of discrimination by employers and coworkers. More than 10% of respondents from Belize, Uganda and Ukraine reported discriminatory reactions of employers. By comparison, the country reporting the highest rate of discriminatory reaction by coworkers was Belize (18%). Generally, coworkers tended to be less discriminatory than employers in their responses.

The relatively low number of respondents answering this question suggests that people living with HIV may be guarded about who they disclose their HIV status to in the workplace, possibly choosing to disclose only when they gauge it is necessary and/or when they hope to receive support.

### Reactions of employers or coworkers on learning respondents’ HIV-positive status

![Bar chart showing reactions of employers and coworkers on learning respondents’ HIV-positive status across different countries.](Image)
Most employers were supportive or very supportive of respondents upon learning of their HIV status. Some countries reported high levels of support: Cameroon (76%), Uganda (81%), and Senegal (96%). This may be because people living with HIV try to disclose to employers only when they anticipate a supportive response, but it may also reflect the benefits of effective education programs and increased understanding among employers that HIV status is no impairment to work. Although discriminatory or very discriminatory attitudes were not the norm, in many countries, discriminatory attitudes remained high, up to 38% (Fiji). Notably, countries across Africa recorded higher responses, suggesting HIV-status is more likely to be known by employers in that region.

Reactions of employers or coworkers on learning respondents’ HIV-positive status

Most coworkers were supportive or very supportive of respondents upon learning of their HIV status. Some countries reported high levels of support: Cameroon (60%), Uganda (69%), Fiji (78%), and Senegal (93%). However, in most countries, some coworkers displayed discriminatory or very discriminatory responses, ranging from 2% (Costa Rica and Nicaragua) to approximately 18% in Belize. In Honduras, 3 respondents reported discriminatory responses by an employer: less than 0.5%. Similarly to the responses provided relating to employers (above), African countries generally recorded higher responses, suggesting HIV-status is more likely to be known by employers in that region.
The UN Political Declaration on HIV/AIDS recognizes that addressing the holistic needs and rights of people living with, at risk of and affected by HIV requires close collaboration with efforts to provide for decent work and economic empowerment for all. The Political Declaration on HIV/AIDS also underscores:

the need to mitigate the impact of the epidemic on workers and their families and dependents, workplaces and economies, including by taking into account all relevant conventions of the International Labour Organization, as well as the guidance provided by the relevant International Labour Organization recommendations, including the Recommendation on HIV and AIDS and the World of Work, 2010 (No. 200), and call upon employers, trade and labour unions, employees and volunteers to take measures to eliminate stigma and discrimination, protect, promote and respect human rights and facilitate access to HIV prevention, treatment, care and support.

The PLHIV Stigma Index findings drawn from 13 national settings clearly demonstrate that HIV-related stigma and discrimination remain a barrier to people living with HIV accessing full and productive employment and decent work. The actions prescribed by the Political Declaration on HIV/AIDS are as pressing as ever.

Interventions to reduce work-based stigma and discrimination and deliver more supportive workplaces have the potential to deliver far reaching results. Of course, income is vital to allow people to meet their basic daily needs, and for those who are fortunate, to increase skills and self-esteem, and to meet aspirational goals to improve their and their families’ circumstances. But work-based interventions have the potential to be far more wide-ranging than that. The workplace can be an effective entry point to facilitate access to HIV prevention, treatment, care and support services. It can also be a key site to enforce human rights obligations by ensuring HIV stigma is minimized and discrimination does not occur.

In light of these findings, GNP+ recommends that:

1. Governments and international agencies increase efforts to deliver human rights based on the ILO Recommendation and the World of Work, 2010 (No.200), enabling access to full and productive employment and decent work for people living with HIV. Areas of focus should include the introduction or review of work based anti-discrimination laws or other mechanisms for resolving work based disputes, including effective restitution processes;

---

11 Ibid.
2. Governments and international agencies strengthen access to justice by increasing funding for community-based legal support services, and by supporting PLHIV networks and human rights organizations to monitor workplace discrimination and bring forward issues for adjudication or resolution on behalf of individuals who are wronged; ensuring people with HIV can report discrimination and have their complaints investigated without their names being made public;

3. Governments, international and local HIV agencies review and modify HIV programming to more effectively promote human rights obligations, including the right to full and productive employment and decent work for people living with HIV;

4. Governments and international agencies support education campaigns led by employers and/or labour organizations working with people living with HIV to address myths and beliefs that drive stigma and discrimination in workplace settings;

5. Governments and international agencies support PLHIV agencies and programmes to provide psychological and practical support to people living with HIV to address the impact of stigma and discrimination on their capacity to work or to look for work;

6. People living with HIV, their representative organisations and advocates include stable employment with a living wage among the human rights issues they champion and fight for;

7. Employers, trade unions and PLHIV organisations support the active participation of people living with HIV to develop and review of policies addressing HIV, including issues of employment-related stigma and discrimination;

8. Employers adopt, promote and apply anti-discrimination policies in the workplace, involving people living with HIV and their representative organisations in their development, promotion and application;

9. Business and labour leaders be encouraged to champion HIV anti-discrimination measures and stigma-free workplaces, the delivery of HIV education in work settings, and other measures needed to support the employment of people living with HIV;

10. Governments, international agencies and academic institutions support research into the ways that unfair labour practices based on gender, sexual orientation, age, race and origin, intersect with HIV-related stigma in the lived experiences of PLHIV; ensuring funding and support for communities to come together across differences with a shared agenda and advocacy to end unfair practices;

11. Governments, international agencies, trade unions and employer organisations commit to work together with communities of women living with HIV, men living with HIV, including gay, bisexual and MSM, sex workers, people who use drugs, transgender people and young people living with HIV to ensure employment anti-discrimination and recourse programs fit their specific needs;

12. Governments, international agencies and academic institutions undertake qualitative studies to improve the evidence base on work-related stigma and discrimination so that targeted and effective intervention strategies may be devised.
TAB 13
Involuntary Sterilization Among HIV-positive Garifuna Women from Honduras Seeking Asylum in the United States: Two Case Reports

Holly G. Atkinson  
*CUNY City College*

Deborah Ottenheimer  
*Icahn School of Medicine at Mount Sinai*

How does access to this work benefit you? Let us know!

More information about this work at: https://academicworks.cuny.edu/cc_pubs/495
Discover additional works at: https://academicworks.cuny.edu

This work is made publicly available by the City University of New York (CUNY).  
Contact: AcademicWorks@cuny.edu
Involuntary sterilization among HIV-positive Garifuna women from Honduras seeking asylum in the United States: Two case reports

Holly G. Atkinson, Deborah Ottenheimer

ARTICLE INFO

Keywords:
Involuntary sterilization
Asylum
HIV/AIDS
Sexual/reproductive rights
Garifuna
Honduras

ABSTRACT

Involuntary sterilization is one of the most widely used forms of contraception by women worldwide; however, involuntary sterilization is considered a violation of multiple human rights and grounds for asylum in the United States. Women have been disproportionately affected by this practice. We report two cases of involuntary sterilization in HIV-positive Garifuna women from Honduras who sought asylum in America and were medically evaluated at the request of their attorneys. Key lessons can be drawn from these cases with regard to the importance of medical evaluations in establishing persecution. These include the need for a detailed account of the events surrounding sterilization, radiologic proof of tubal blockage if at all possible, and confirmation of significant and enduring mental distress as a result of the involuntary sterilization. Immigration attorneys and medical evaluators need to be attuned to the possibility of a history of involuntary sterilization among at risk women seeking asylum in the United States.

1. Introduction

Sterilization is one of the most widely used forms of contraception around the world. When provided with full, free and informed consent, sterilization is a safe and effective means of controlling fertility. However, when sterilization is involuntary – either coerced or forced — it is considered a violation of a number of fundamental human rights, including the right to health, the right to information, the right to privacy, the right to decide on the number and spacing of children, the right to found a family, the right to be free from discrimination. It is also a grave breach of medical ethics. In some countries (including in Asia, Europe and Latin America), coercive sterilization has been used as a means of population control, targeting certain groups, including people living with HIV, people living in poverty, transgender people, ethnic or racial minorities, and women and girls with disabilities. Women and girls with intellectual disabilities have been, and continue to be, particularly targeted by the practice of forced sterilization. Overall, women have been disproportionately affected by involuntary sterilization and often face discrimination based on a number of intersecting grounds, including gender, disability, ethnicity/race, and HIV status.

Numerous reports have documented that women living with HIV (WLHIV) in Africa, Asia, Central America and South America have undergone coerced or forced sterilizations. In some cases, women agree to undergo sterilization based on lack of information or on misinformation purposely provided to them by healthcare providers about their choices. In other cases, women have been coerced to sign consent forms for sterilization procedures as a condition for receiving medical care, including medication for HIV treatment, ongoing prenatal services, or obstetrical care during labor and delivery. Forcible sterilization has been practiced during cesarean delivery without women knowing. There are also reports of parents or spouses giving consent to sterilize women without their knowledge or consent. The practice of coerced or forced sterilization has been well documented in a number of Central and South America countries, including the Dominican Republic, Venezuela, Chile, El Salvador, Honduras, Mexico and Nicaragua. Kendall and Albert, in a 2015 study of 285 women living with HIV from four Central American countries (El Salvador, Honduras, Mexico and Nicaragua), found that about 25% reported that their healthcare providers pressured them to undergo sterilization. Women who were either diagnosed with HIV during prenatal care or had a pregnancy after diagnosis were almost six times more likely to be pressured by their healthcare providers to undergo the procedure. To coerce sterilization, healthcare providers reportedly told the women that their HIV status annulled their right to choose their...
contraceptive method as well as the number and spacing of their children; used misinformation about the consequences of a subsequent pregnancy on the women’s and children’s health; and initially denied them medical services necessary to prevent vertical HIV transmission. Healthcare providers also sometimes undertook sterilizations during cesarean delivery without the women’s knowledge.

In Central America, Honduras has the highest concentration of HIV/AIDS cases with an estimated adult HIV prevalence of 1.5%. Recently, the HIV/AIDS epidemic has intensified along Honduras’ northern coast, particularly affecting the Garifuna, an ethnic minority group of African descent, who have a reported prevalence of 8%. The Garifuna are widely discriminated against and have suffered ongoing systemic human rights violations and abuses—including issues related to land rights, housing, water, health care and education, as well as attacks and intimidation in reprisal for their efforts to defend their human rights—by the Honduran government. Honduran women, despite the enactment of national laws that accord them the same legal rights and status as men, still experience extensive discrimination and are subject to various forms of violence and violations of their sexual and reproductive rights. In particular, Garifuna women face multiple forms of discrimination across all aspects of social, political and economic life. Garifuna women who are living with HIV (WLHIV) suffer the additional burden of stigmatization and discrimination.

We report two cases of involuntary sterilization in HIV-positive Garifuna women from Honduras who sought asylum in the United States and were medically evaluated at the request of their attorneys.

<table>
<thead>
<tr>
<th>Hysterosalpingograms</th>
<th>Radiographic Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Image A: Normal HSG</td>
<td>Image A</td>
</tr>
<tr>
<td><img src="image" alt="Image A: Normal HSG" /></td>
<td>Findings show a normal HSG. The uterine cavity is filled with delineation of the both fallopian tubes, including the fimbriated ends. The contrast dye is shown spilling into the intra-abdominal cavity, indicating patency of the both tubes.</td>
</tr>
<tr>
<td>Image B: HSG of Ms. A</td>
<td>Image B</td>
</tr>
<tr>
<td><img src="image" alt="Image B: HSG of Ms. A" /></td>
<td>Findings: The right fallopian tube fills almost completely to the fimbriated end. The distal ¼ of the tube is dilated suggesting a mild hydrosalpinx. There is no intraperitoneal spill of contrast from the right tube. The left fallopian tube is foreshortened, however it is normal in caliber. There is no evidence of intra-peritoneal spill on the left. Impression: Capacious uterine cavity, multiple persistent filling defects in the endometrial cavity suspicious for polyps. Bilateral tubal obstruction. The fimbriated end of the right tube is dilated compatible with a mild hydrosalpinx. The left tube is foreshortened and has a blunted end.</td>
</tr>
<tr>
<td>Image C: HSG of Ms. B</td>
<td>Image C</td>
</tr>
<tr>
<td><img src="image" alt="Image C: HSG of Ms. B" /></td>
<td>Findings: Approximately 2.5 cm of the right tube fills and demonstrates a blunted end and is suspicious for a previous salpingectomy. The left fallopian tube fills for approximately 4 cm however there is no evidence of spill from the left tube. There is venous intravasation of contrast seen bilaterally, however around the left tube there is lymphatic intravasation. Impression: Capacious uterine cavity. Probable bilateral tubal ligations. There is venous and lymphatic intravasation bilaterally.</td>
</tr>
</tbody>
</table>

Fig. 1. Images A, B & C: Compared to normal findings on hysterosalpingogram (Image A), HSGs studies on both Ms. A (Image B) and Ms. B (Image C) revealed bilateral tubal obstructions, substantiating their history of involuntary sterilization. Images provided courtesy of Richard Katz, MD of East River Medical Imaging, PC, New York, NY.

---

95
2. Case reports

2.1. Case 1

2.1.1. History

Ms. A, a 34-year-old woman of Garifuna descent, came to the US from Honduras in 2014 to escape extreme discrimination based on her ethnicity and HIV-positive status, and her inability to obtain appropriate medical care, as well as in hopes of reversing her involuntary sterilization. Since her arrival in the U.S., Ms. A has been taking antiretroviral medications and her HIV disease has subsequently improved on all measures.

Ms. A contracted HIV at age 17 from her first sexual partner Mr. X, and was diagnosed at age 22 when she became symptomatic. Mr. X knew he was HIV + when he began his relationship with Ms. A, but chose not to tell her and did not use condoms. Ms. A went to the local doctor after showing signs of extreme weight loss, at which time testing revealed her HIV + status. Prior to exhibiting weight loss, Ms. A had noticed intermittent fevers, recurrent skin rashes and vaginal symptoms consistent with candidiasis. Ms. A reports she had great difficulty in obtaining proper care for her HIV disease. She was often unable to afford the medications or tests for frequent monitoring and, as a result, received only intermittent treatment. Ms. A reports she was unable to finish high school and was repeatedly denied employment based on widespread discrimination against WLHIV in Honduras.

In 2011, Ms. A met Mr. G. He was HIV negative and aware of Ms. A’s HIV + status. Nonetheless, he did not use condoms during sexual intercourse, and Ms. A became pregnant. Ms. A continued to struggle to afford antiretroviral medications, and travelled for several hours each week to obtain medical care. Ms. A had scheduled a cesarean delivery with her usual clinic provider, however she went into early labor. She went to two local hospitals before finding one that was equipped to do a cesarean section, which was recommended in her case due to unknown viral loads and inadequate access to consistent antiretroviral treatment during pregnancy.21 The doctor on duty refused to do the procedure unless she also gave consent for tubal sterilization. In order to protect her child, Ms. A agreed to sign a document while in active labor and under duress, though she was and remains devastated by her sterilization.

2.1.2. Findings

Physical exam was significant only for a well-healed, 8-cm vertical, infra-umbilical scar consistent with her history of cesarean section. Hysterosalpingogram confirmed bilateral tubal blockage (see Fig. 1, Image B). Ms. A completed the Hopkins Symptom Checklist-25 (HSCL-25), a widely used screening instrument that measures symptoms of anxiety and depression.22 Individuals with a score of > 1.75 in three domains (anxiety, depression and overall) are considered to be symptomatic. Ms. A had positive anxiety score of 3.1, a positive depression score of 2.47, and a positive overall score of 2.72. On review of her Hopkins 25 responses, she reported a number of symptoms that she experienced either “quite a bit” or “extremely” (choices are recorded on a 4 point scale, 1 = not at all, 2 = a little, 3 = quite a bit, and 4 = extremely). These included: suddenly scared for no reason; feeling fearful; faintness, dizziness, weakness; heart pounding or racing; trembling; spells of terror or panic; blaming herself for things; crying easily; feeling blue; feeling lonely; feeling of being trapped or caught; and worrying too much about things.

2.1.3. Defensive case

Ms. A was apprehended at the US border by agents when she attempted to cross without documentation and was placed immediately into removal proceedings. Her defensive case was argued on the grounds of persecution based on race (Garifuna), membership in a particular social group (gender and HIV-status) and political opinion, for having undergone forced sterilization. In Ms. A’s trial, the focus was on whether the sterilization process involved “force.” Ms. A testified that it did. The judge granted asylum and the government waived appeal.

2.2. Case 2

2.2.1. History

Ms. B, a 38-year-old woman of Garifuna descent, came to the US from Honduras in 2014 to escape extreme physical and sexual domestic violence. Ms. B contracted HIV from her abusive partner Mr. Y, who she believes knew he was HIV + but failed to disclose his status to her. Ms. B reports that she was diagnosed with HIV at the time of a routine prenatal exam during her second pregnancy. Ms. B faced significant difficulties in obtaining adequate care for her HIV infection because she lacked the money to pay the fees for the required blood tests and antiretroviral medications. In addition, Ms. B faced overt discrimination in the community as a result of her HIV status and was reportedly fired from her job as well.

Upon the advice of her physician due to her HIV status, Ms. B scheduled a cesarean section for the delivery of her son. She describes her experience as follows: “When D was born, I had to go to the ... Hospital to have the child. I told the doctor there that I planned to have at least one more child after D. The doctor said that he could “tie my tubes,” which would be an easily reversible procedure. The doctor had me sign a paper that said that the procedure I would undergo was to tie my tubes. Later, I went to a gynecologist, who told me that the doctor lied and I had actually been sterilized. I talked to other HIV positive women, who said that they had also suffered from the same procedure. The doctors violated our right as women to have children.”

Ms. B was reassured by the doctor that tubal ligation was a completely reversible procedure and that it was in her best interest to avoid a pregnancy in the near future. It was not until she sought care for infertility from a gynecologist in the US, after her arrival in 2014, that Ms. B learned that her sterilization was permanent.

2.2.2. Findings

Physical exam was significant for several scars and a broken tooth consistent with her reported history of severe domestic violence at the hands of her partner. Ms. B was noted to have a well-healed, 7-cm vertical infra-umbilical scar consistent with her history of cesarean section. Bilateral tubal blockage was confirmed on HSG conducted as part of her asylum medical evaluation (Fig. 1, Image C). Ms. B also completed the Hopkins Symptom Checklist-25 (HSCL-25). Ms. L-M had positive anxiety score of 2.8, a positive depression score of 2.4, and a positive overall score of 2.56. On review of her Hopkins 25 responses, she reported a number of symptoms that she experienced either “quite a bit” or “extremely”. These included: suddenly scared for no reason; feeling fearful; faintness, dizziness, weakness; heart pounding or racing; trembling; spells of terror or panic; blaming herself for things; crying easily; feeling blue; feeling lonely; feeling of being trapped or caught; and worrying too much about things.

2.2.3. Defensive case

Ms. B had crossed the US-Mexico border without documents, was apprehended by the authorities and placed in removal proceedings. Her defensive case was argued on the grounds of persecution based on 1) membership in a particular social group (both severe domestic violence and HIV-status), 2) race (Garifuna), 3) political opinion (feminism and forced sterilization), and 4) Convention against Torture. In her testimony before the immigration judge, she relayed her experience of severe domestic/sexual violence, her history of HIV infection and lack of adequate treatment, and her experience of having undergone forced sterilization. The judge issued a short order granting asylum.

3. Discussion

3.1. Hondurans fleeing human rights violations

Over the past several years, the United States has been experiencing a renewed influx of migrants from the Northern Triangle Countries—El
Salvador, Guatemala, and Honduras. Honduras continues to be plagued with serious human rights problems, including corruption, intimidation, and a weak justice system following the 2009 coup, which lead to widespread impunity. Both state and non-state actors (including street gangs, transnational drug cartels and multi-national companies) contribute to the pervasive societal violence. Given the deteriorated conditions in the country, increasing numbers of Hondurans fleeing north have claimed refugee status through the U.S. asylum process. Honduran asylum claims have increase from 1157 in 2011, to 8322 in 2015. According to the 2016 U.S. State Department figures, more individuals had sought affirmative asylum from the Northern Triangle Countries (El Salvador, Guatemala, and Honduras) in the previous three years than the prior 15 years combined. In 2015, Honduras ranked number five in the leading countries of nationality of persons granted either affirmative or defensive asylum: granted claims increased from only 199 in 2013 to 1416 in 2015.

While the number of granted claims for Hondurans has increased recently, historically, Honduran claims for asylum have been granted at a much lower rate than those from other countries around the world because the legal framework for asylum claims heavily favors those who have been clearly persecuted by state actors on account of “traditional grounds” such as race, nationality or religion. In countries like Honduras where there is a weak rule of law and widespread violence, “proving that an individual has been specifically targeted on account of a particular trait can be difficult, since motives for violence are complex.” Because it may be harder for Hondurans to show that they have both a well-founded fear of persecution in their country and are a member of one of the groups protected under the 1980 U.S. Refugee Act, they often have been denied asylum by U.S. courts. A late 2017 analysis of more than 370,000 cases (which excluded defensive cases) heard in all 58 U.S. immigration courts over the past 10 years showed that individuals from Honduras had the highest deportation rates compared to all other countries, at 83.60%.

3.2. Forced sterilization as grounds for asylum

Forced sterilization has been recognized as grounds for asylum in the United States, having been defined as political persecution in 1996. It arose out of the U.S.’s recognition of China’s politically contentious “one child” rule. The American Immigration and Nationality Act (INA), which states a person is eligible for asylum if she/he is a “refugee” as defined by the Act, was amended through § 601 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) to include the following sentence:

“For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.”

The amended refugee definition thus created four new, specific categories of refugees in the U.S: persons who have 1) been forced to abort a pregnancy; 2) been forced to undergo involuntary sterilization; 3) been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program; and 4) a well-founded fear that they will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance.

Given there may be difficulties in establishing grounds for asylum from populations fleeing generalized violence such as that occurring the Northern Triangle, it is particularly important to explore the whether or not HIV-positive, asylum-seeking women have experienced involuntary sterilization. A history of involuntary sterilization may be easily overlooked or completely missed while conducting asylum medical evaluations, especially when the primary legal strategy may focus on membership in social group, defined by gender (e.g., history of severe domestic violence, or feminist beliefs), or on race as grounds for asylum. Many of the women who are fleeing the Northern Triangle have extensive histories of physical and sexual violence, and the medical evaluator often focuses the history and physical on the details of interpersonal or social violence, not on the women’s interactions with healthcare providers regarding maternal health services.

3.3. Probing for a history of involuntary sterilization

Medical evaluators need to explore an applicant’s reproductive, obstetrical and surgical history, as well as gather details regarding the interaction with the medical team especially around the time of the applicant’s labor and delivery. It is important to probe for any indications that, first, the woman might have been sterilized and second, whether the procedure was forced or coerced. Forced sterilization allows for an asylum claim to be made solely on the basis of persecution based on political opinion, without having to substantiate other forms of persecution (such as membership in a social group). Further, because the change in law in 1996 made forced sterilization per se harm on account of political opinion, these cases probably require less proof of the persecutor’s motivation to harm on account of a protected ground.

A procedure is “forced” within the meaning of the Immigration and Nationality Act when a reasonable person 1) would objectively view the threats for refusing the procedure to be genuine, and 2) the threatened harm, if carried out, would rise to the level of persecution. The threats need not be just physical harm, as “persecution” is not limited to only physical harm. “Forced” is a much broader concept that includes being compelled, obliged or constrained by mental, moral or circumstantial means, in addition to possible physical restraint or harm. However, just using pressure or persuasion to submit to an unwanted action is not “force” unless the harm suffered or feared rises to the level of persecution. Thus, if a woman was just given inaccurate or faulty information and then agreed to sterilization, the case might not rise to the level of persecution. However, if she were coerced under abusive circumstances and suffered mental harm, the case may rise to the level of persecution. Thus, documenting extensive details in a case of involuntary sterilization is paramount in establishing persecution and building a strong case for asylum.

On history, the evaluator should probe for details about what the applicant, if HIV positive, was told when initially diagnosed with HIV infection. What did healthcare providers tell her about her condition and the availability of HIV care? What did doctors and nurses explain about sequelae, treatments options, and, importantly, were any threats issued? What was the applicant told during prenatal care visits? And what transferred during labor and delivery? Was she required to sign a document, and what was she told would happen to her or her infant if she refused? It is also very important to document any emotional distress suffered by the applicant and any symptomology she may have had or continues to experience. Evaluators can utilize the Hopkins 25 Symptom Checklist to screen for symptoms of depression and anxiety. In our two cases, both women had evidence of anxiety and depression, although displayed different symptomatology. This highlights that, while anxiety and depression may be present, specific symptoms may vary between individuals and specific symptom patterns are not related to credibility.

If the history suggests the applicant underwent sterilization, the evaluator should consider obtaining a hysterosalpingogram (HSG) to document it. In both these cases, an HSG was obtained on a pro bono basis.
basis and confirmed bilateral tubal blockages. Images of the radiographic studies can be included as appendices in the medical affidavit, as they were in these two cases.

4. Conclusion

Clinicians conducting asylum evaluations for women seeking asylum need to be alert to the possible history of involuntary sterilization, particularly in HIV-positive women from marginalized and oppressed ethnic groups. Suspcion of sterilization should be documented with a hysterosalpingogram if at all possible; the events surrounding the involuntary sterilization, particularly the interactions with the healthcare provider(s), should be explored in detail during the history taking; and the psychological harm suffered by the asylee should be accessed and clearly recorded in the affidavit. Attorneys should be attuned to the history of involuntary sterilization as well, and communicate any suspicion of such to medical evaluators. Given that involuntary sterilization has been established in US law as grounds for asylum based on political opinion, documentation of such an experience may strengthen both affirmative and defensive cases of individuals seeking immigration relief in the United States.

Declarations of interest

None.

Acknowledgements

The authors would like to thank Richard Katz, MD and Andrew Wuerele, FACHE, Chief Administrative Officer of East River Medical Imaging, PC in New York City for performing the two HSGs on our clients, as a professional courtesy. The clients do not have health insurance, and these pro bono procedures were critical in objectively documenting the clients’ personal narratives of involuntary sterilization. We would also like to thank attorneys Dan Smulian, J.D., Associate Professor of Clinical Law, Brooklyn Law School for reviewing the legal aspects discussed in this paper. We would also like to extend our appreciation to Dave Wilkins, Justice Fellow, Immigrant Justice Corps, Central American Legal Assistance; Karla Marie Ostolaza, Esq., Immigration Justice Corps Fellow, Civil Action Practice, The Bronx Defenders; and Sarah D. Oshiro, Managing Director, Immigration Practice, The Bronx Defenders for their work on behalf of Ms. A and Ms. B and their cooperation in the writing of this paper. Finally, we would like to express our deep gratitude to Ms. A and Ms. B for allowing us to share their stories.

No grants were associated with this scholarly project.

References


She told the U.S. immigration agent she was HIV-positive and requested asylum. She was sent back to Mexico, without medication.

By Kevin Sieff

March 24, 2020 at 9:56 a.m. EDT

CIUDAD JUÁREZ, Mexico — When it was Fernanda’s turn to speak to the immigration agent, she told him everything. She was HIV-positive, she said, and had gone months without her drugs in Mexico, her immune system slowly deteriorating while she waited for her U.S. asylum hearing.

The 21-year-old Honduran woman received the same response as other asylum seekers with HIV/AIDS along the U.S.-Mexico border: She was sent back to Mexico to await her next hearing, several months away, even though her access to medication in Ciudad Juárez would be precarious.

“I’m just sitting here getting sicker without help,” Fernanda said last month from a migrant shelter on the outskirts of this border city.

Until January 2019, the U.S. government allowed applicants for asylum to stay in the United States, where they could access urgent medical care while their cases were reviewed. Then the Trump administration introduced the Migrant Protection Protocols (MPP) — known as “Remain in Mexico” — and began turning asylum seekers back at the border to wait outside the United States for their hearings.

U.S. Customs and Border Protection said exemptions would be available for asylum seekers with severe medical conditions. But some critically ill migrants still are sent back to Mexico. Others are put on planes to Guatemala to apply for refuge there; still others are swiftly deported under a new, expedited removal program.

The U.S. Court of Appeals for the 9th Circuit struck down MPP last month, but the Supreme Court has ruled that the administration may continue to enforce it while its appeal is considered. The policy continues despite the coronavirus, though immigration attorneys say that at least some hearings have been canceled.

The experience of asylum seekers with HIV/AIDS shows just how unevenly enforced — and how dangerous — the new policy is for those in fragile health, with lifelong, terminal diseases. They’re often shunted off by immigration agents.
asylum infrastructure is for migrants with life-threatening diseases. They’re often rebuffed by immigration agents upon presenting their medical papers.

“The screening process completely disregards physical and mental health needs,” said Kathryn Hampton, an officer with the asylum program at Physicians for Human Rights. “These are medical conditions that can deteriorate until someone dies because they don’t get the care they need.”

For some with HIV/AIDS, the disease and the stigma around it were major reasons they fled their home countries in the first place. In several cases, they’ve waited in Mexico for their hearings as their immune systems weakened.

A spokesman for U.S. Customs and Border Protection said the agency determines whether “an alien is amenable for the Migrant Protection Protocols” on a “holistic case-by-case basis, to include medical considerations as appropriate.”

“CBP consults with medical professionals where appropriate in making such determinations,” spokesman Matthew Dyman said. “There are different levels of granularity, facts and circumstances that are unique to each case.”

“If specific medical issues guaranteeing exemptions were to be standardized and made public,” Dyman said, “they would be exploited by human smugglers.”

Daniel, a 20-year-old man with HIV, was threatened in his native Venezuela for his opposition to the government of President Nicolás Maduro — a government the United States also opposes. By 2017, as Venezuela descended into political and economic turmoil, his antiretroviral drugs were no longer reliably available. Without medicine, his T-cell count dropped below 200, the threshold from HIV to AIDS. He tried to get medication in neighboring Colombia, but failed.

Daniel, who like Fernanda used only one name for fear of discrimination, arrived at the U.S. border at Eagle Pass, Tex., in October. He showed an immigration officer a pile of his medical paperwork, including a document that showed his fragile T-cell count. Under the Migrant Protection Protocols, he was sent back to Mexico with a court date. Waiting in the city of Piedras Negras, he searched for two months for HIV medication. He lost weight. His skin yellowed.

The Mexican Health Ministry says it provides HIV medication to migrants for three months while they await their U.S. asylum hearings. But in border cities, treatment can be difficult for migrants to find. And for many, three months isn’t nearly enough. Many asylum seekers wait in Mexico for twice that time for their cases to be resolved.

U.S. immigration agents don’t provide any information to asylum seekers about where to obtain medical care before they are returned to Mexico, advocates say.

“Many of the [migrants] do not know that they can access treatment,” said María Elena Ramos Rodríguez, director of Programa Compañeros, a program in Ciudad Juárez that has treated several asylum seekers with HIV.

Daniel hired an attorney last month, who put together a “parole packet” pleading that he be allowed into the United States on medical grounds. In a letter, Daniel asked Customs and Border Protection for “support to continue my treatment so I can live a normal life.”

His attorney, Scott Weaver, wrote more bluntly: “The applicant seeks parole because he is HIV positive and can no longer obtain the medication he needs to survive in Mexico.”

Immigration officials declined in October and again last month to parole Daniel in the United States. He managed to find a short-term prescription for antiretrovirals, but it expired at the end of last month. He then found another short-term prescription.
“The officers just said, ‘No, go back to Mexico,’ ” Weaver said. “They don’t seem to care about their fellow human beings.”

Another Honduran asylum seeker in Ciudad Juárez ran into the same problem. She was initially able to access HIV medication through Mexico’s Seguro Popular, a public insurance program. But the program was canceled in January; migrants say a new program has made it harder to access medical services.

“After that, she struggled to get even limited medical attention,” said Luis Guerra, a staff member with the Catholic Legal Immigration Network.

Public health analysts here say President Andrés Manuel López Obrador’s cuts to the country’s health budget could impact HIV/AIDS prevention and treatment.

“HIV in Mexico is once again a time bomb that will explode,” Aram Barra of Open Society Foundations told the International AIDS Society conference last year in Mexico City. Last month, HIV patients in Mexico City protested a shortage of antiretroviral drugs in front of the national palace.

The United States is now sending some asylum seekers, including those with medical conditions, to seek refuge in Guatemala. Those migrants have almost no access to legal assistance, and their cases are difficult to document. Immigration lawyers have identified ailing pregnant women put on planes to Guatemala City under the program. Doctors and immigration attorneys worry that more-severe cases are being kept from them.

“There’s no way to know who is placed in these programs,” said Linda Rivas, executive director of Las Americas Immigrant Advocacy Center in El Paso. “That’s the terrifying thing to me. We aren’t even able to fight for them.”

In its “MPP Guiding Principles,” Custom and Border Protection says “aliens” with “known physical/mental health issues” are “not amenable” to the program — that is, they should not be sent back to wait in Mexico.

But lawyers and advocates say the standard is vague and enforced arbitrarily. Even migrants with HIV/AIDS who had attorneys have been sent back to wait in Mexican migrant shelters.

More than 60,000 asylum seekers have been processed under the program since it began in January 2019.

“It’s like throwing darts in the dark,” said Nicolas Palazzo, a staff attorney at Las Americas who helps asylum seekers request medical exemptions.

Fernanda, the 21-year-old Honduran woman, is waiting at a shelter on the outskirts of Ciudad Juárez with her young daughter. They sleep on a mattress in a living room with several other migrant families.

Fernanda recently fell ill with flu-like symptoms. She ran out of her HIV medication months ago and worries that her immune system is starting to fail.

“It symbolizes the hollow protection that MPP offers,” said Alexis Lucero, her lawyer.

She fled Honduras after her HIV status was made public and she was accused falsely of trying to infect members of the community. Local criminal groups showed up at her house, threatening to kill her.

In fact, she said, she contracted the disease from her first and only sexual partner, the father of her child.
When she arrived in Mexico, she was afraid to share her HIV status at the migrant shelter. U.S. immigration officials didn’t explain where she could find treatment in Mexico after she disclosed her condition. She’s afraid to ask around about where she can refill her antiretroviral drugs.

“I’m worried that people here will find out that I have HIV, and then what will happen? Will they kick me out or come after me?

“I thought the U.S. agents would understand, that they would allow me to get help in America. But they sent me back here and I didn’t know what to do.”

This article was initially published on Feb. 28, 2020. It has been updated to include subsequent rulings by the U.S. Court of Appeals for the 9th Circuit and the Supreme Court.

Gabriela Martínez in Mexico City and Nick Miroff in Washington contributed to this report.
TAB 15
An LGBTI advocacy group in San Pedro Sula, Honduras, honors Roxsana Hernández, a transgender woman with HIV who died in a New Mexico hospital on May 25, 2018, while in U.S. Immigration and Customs Enforcement custody.

WASHINGTON Blade photo by Michael K. Lavers

Tegucigalpa, Honduras — Roxsana Hernández was a transgender woman with HIV from Comayagua, a city that is roughly 50 miles northwest of the Honduran capital of Tegucigalpa.

Hernández on May 9, 2018, asked for asylum in the U.S. at the San Ysidro Port of Entry in San Diego after she joined a migrant caravan that left Honduras a few months earlier. Hernández died at a New Mexico hospital 16 days later while in U.S. Immigration and Customs Enforcement custody.

The New Mexico Office of the Medical Investigator last April announced an autopsy it performed on Hernández found she died from Castleman disease associated with AIDS. The Transgender Law Center, which represents Hernández’s family in a wrongful death lawsuit, released the findings of a second autopsy that found Hernández suffered “physical abuse.”

The second autopsy also concluded the cause of death was “most probably severe complications of dehydration superimposed upon HIV infection, with the probable presence of one or more opportunistic infections.”

Rihanna Ferrera, director of Asociación de Derechos Humanos Cozumel Trans, a trans Honduran advocacy group, on Jan. 22 told the Washington Blade during an interview in
Tegucigalpa that Hernández decided to leave Honduras, in part, because she wanted access to better antiretroviral drugs.

“She left in search of a better life, a better quality of life, better medications,” said Ferrera.

Hernández’s case underscores the precarious situation in which many Hondurans with HIV face because of a combination of factors that include poverty and a lack of access to treatment. It also highlights the plight of LGBTQ Hondurans who have decided to leave their country.

A UNAIDS report notes an estimated 23,000 Hondurans were living with HIV in 2018, and 50 percent of them were receiving antiretroviral drugs. The report notes 42 percent of Hondurans with HIV had suppressed viral loads.

The report identifies trans Hondurans as one of “the key populations most affected by HIV” in the country. It notes 8.2 percent of trans Hondurans lived with HIV in 2018.

The Honduran Congress in 1999 passed the Special Law on HIV/AIDS in response to the epidemic. It also created the National AIDS Commission in order to help protect the rights of Hondurans with HIV/AIDS.

A Honduran government spokesperson on Tuesday provided the Blade a copy of a guide for civil servants on human rights-related issues. The document notes Honduras’ Public Policy and National Action Plan on Human Rights includes an advisory council with members who include representatives of groups that advocate on behalf of “people with or affected by HIV,” migrants, LGBTQ people, Hondurans of indigenous and African descent and other vulnerable groups.

Ferrera said many Hondurans with HIV/AIDS remain vulnerable, despite the aforementioned efforts.

“The people living with HIV are people,” she said.


Ferrera’s trans sister murdered in 2019

Ferrera in 2017 ran for the Honduran congress as a candidate for the center-left Innovation and Unity Party (PINU).

Ferrera’s sister, Bessy Ferrera, who was also trans, was murdered in Comayagua, which borders Tegucigalpa in Honduras’ Central District, on July 8, 2019. Ferrera spoke with the Blade hours after she attended a court hearing for the two men who have been charged with her sister’s death.
Ferrera told the Blade one of the two people who witnessed her sister's murder “had to leave the country because of fear that something may happen to them,” even though the Honduran government placed them under protection. Ferrera said the other witness “does not” want to testify in court.

Ferrera said none of her relatives attended the hearing because they rejected her and her sister over their gender identity.

Ferrera told the Blade “the first thing” that members of her family told her when she arrived at the cemetery after her sister’s murder is “we don’t want to bury a faggot in front of all of my relatives.” Ferrera said Cattrachas, a Tegucigalpa-based lesbian feminist network that documents the murders of LGBTQ Hondurans, offered to pay for her sister’s funeral.

“There was a change — a dramatic change — in my life on July 8, 2019,” Ferrera told the Blade.

“Now I am alone in this country because I don’t have any family,” she added.

Honduras continues to have one of the world’s highest per capita murder rates because of violence frequently associated with gangs and drug traffickers. Violence based on sexual orientation and gender identity remains one of the main factors that prompts LGBTQ Hondurans to leave the country.

President Juan Orlando Hernández in 2017 was declared the winner of Honduras’ presidential election, despite irregularities and widespread protests across the country that left dozens of people dead.

A New York jury last October found Juan Orlando Hernández’s brother, former Honduran Congressman Juan Antonio Hernández, guilty of trafficking drugs into the U.S. Honduran LGBTQ activists have cited this case in their public comments against Juan Orlando Hernández and his government.

Ferrera told the Blade she was planning to leave Honduras before her sister’s murder.

“What happened happened and I decided that I could not go,” she said.

Ferrera said she would like to come to the U.S. and work with American LGBTQ organizations on immigration-related issues.

Ferrera told the Blade she would like to seek asylum, but “not while in detention.” She added she has a visa that would allow her to enter the U.S. at a legal port of entry without entering custody.

“It is the best option,” said Ferrera.
TAB 16
Discriminated against for his ethnicity, HIV-positive status, Honduran man seeks refuge in Columbus

By Danae King
The Columbus Dispatch
Posted Jul 25, 2019 at 6:32 AM
Updated Jul 25, 2019 at 10:07 AM

A gang chased Eduin Ballestero out of Honduras. Unable to stay in the Central American country’s capital, his hometown, where he had been discriminated against because of his ethnicity and HIV status, Ballestero set out for America.

The 20-year-old migrant said he made the treacherous journey north in search of safety, acceptance and a better life.

A member of a small group of Afro-indigenous people called the Garifuna, Ballestero said he has found a long-dreamed-of kind of support in the Columbus area since arriving in late May.

“I said hope is the last thing I’d lose,” he said recently in Spanish through a translator.

Avanza Together, a local nonprofit group that helps support and connect immigrants to resources, has raised more than $5,000 for Ballestero’s legal fees through a Facebook fundraiser. He has recently hired an attorney to help him file his asylum claim, as he was allowed into the country to pursue it.

>> Read more: Advocates worry number of refugees resettled in U.S. could be slashed again this year

Much of the support he has received has come from people connected to Montana de Luz, a faith-based organization in Worthington that operates a children’s home in rural Honduras for those with HIV or AIDS. Many central Ohioans have traveled to the home as part of service and mission trips to help HIV-positive children such as Ballestero, who lived there for a few years.
“It has a huge connection with local churches,” said Virginia Nunes Gutierrez, Avanza Together’s executive director. “(Volunteers) see what it’s like for kids there ... and then they see someone trying to escape that.”

There is much misunderstanding surrounding HIV in Honduras, and “the stigma is mind-blowing,” said Nicole Felice Lopez, director of development and communications for Montana de Luz.

Although the organization is working to educate Hondurans on how HIV is spread, many there believe that just being around HIV-positive people or something they touched could infect them with AIDS virus, Lopez said. The stigma is so great, she said, that some people aren’t able to get jobs or housing because of their HIV status.

The Garifuna people, who were originally from the Caribbean island of St. Vincent and were exiled to the Honduran coast in the 18th century, are especially at risk of discrimination because of their high HIV-infection rate and dark skin color, Ballestero said.

Jordan Chepke was a 19-year old student at Ohio University when her church took a mission trip to Montana de Luz in 2011.

>> Read more: Honduran family lives in Northwest Side church while awaiting asylum

“Not only do the kids not have the support of family, but they’re completely ostracized by their culture and their community,” said Chepke, now 27 and living in Pittsburgh. “... It just has such an effect on the spirit and minds of kids, feeling like they’re untouchable. I wanted to go to be able to hug on these kids and listen to their stories and let them know somebody cares.”

Founded in 2000, the home sits on a mountain in rural Honduras. Ballestero said he learned to grow melons, coffee and sugarcane and how they are processed.

“We played with the kids all week,” said Chepke, who was quite taken with Ballestero, who was 12 at the time. “Eduin was with us all week. He just wanted to help and be around people. He had a big impact on me; he just had a very sweet spirit and a joy about him. He was helpful and silly.”
She said she can’t imagine the hardships that Ballestero faced during his journey from his homeland’s capital, Tegucigalpa, to Grandview Heights, where he is staying with a former director of Montana de Luz.

“It’s a miracle he got (to the Columbus area) safely,” said Chepke, who made a donation to his legal fund.

Ballestero said he left his job as a cook and fled the capital after he witnessed an attack on a woman who sold drugs for a local gang. He said the gang started questioning him, thinking he was working undercover for a rival gang because he was new to the area. He said the gang killed the woman and began threatening him.

“I really wasn’t safe anymore ... Bad people could operate with the help of the police; they bribe government officials,” he said. “I just knew they weren’t going to rest.”

>>Read more: More churches choosing to house asylum-seeking migrants

Ballestero said he walked for miles, hitchhiked through neighboring Guatemala, walked more and jumped on a moving freight train that traverses the length of Mexico and is known as “The Beast” because of the number of migrants who have died or lost limbs falling from the train, all in attempt to avoid Mexican police raids and make it to the U.S. border.

Despite blisters on his feet, not knowing where he was going to sleep each night, and worrying about having enough HIV medication, Ballestero said he kept going because of his faith in God.

After weeks of traveling, he arrived in the United States by crossing the Rio Grande on March 26.

Ballestero said he was caught and detained for two months — spending most of that time in a Georgia facility in solitary confinement — because he entered the country illegally. He was released when officials contacted his sponsor, the former director of Montaña de Luz with whom he now lives.

He arrived in Columbus on May 23 and had his first immigration hearing in Cleveland on July 11. His next hearing isn’t until November.
“It’s like having a new start, trying to forget everything that’s happened to me,” Ballester said of being in the U.S. “To suffer with a disease, to lose my mother (from AIDS in 2016), I just learned everything in life has a price.”

Ballester is grateful for an opportunity at a new life and hopes to get a job.

“I just always had the thought that someday my life was going to change,” he said. “I paid the price for my life to change.”

dking@dispatch.com

@DanaeKing
TAB 17
A Mother and Daughter Both Have H.I.V. The U.S. Lets in Only One.
A woman and her daughter flee persecution in Honduras. Despite identical circumstances, the mother is granted entry, while her daughter is deported. And there is little to be done about it.

By Beth Fertig  Photographs by Victor J. Blue
March 6, 2019

Even after more than six months, Kirad wasn’t used to sharing a bed with her mother. She was now 17, and ever since they arrived in New York after fleeing Honduras, they were stuck in the same room.

They were staying in a tiny bungalow in Far Rockaway, Queens, that belonged to Kirad’s aunt. The only common space was a kitchen just big enough to squeeze in a love seat and a small table. Every surface was covered with pots and pans, cereal boxes and bags of food.

“We fight sometimes over the TV,” Kirad said, “because my mom wants to watch something and I want to watch something different so I go to my aunt’s room.”

For the most part, they have made it work.

As cramped as it is in this tiny room, Kirad had hoped to have one more family member sharing this space: her older sister, Susan. She and her mother last saw Susan in July, when they crossed the Mexican border into Eagle Pass, Tex. The family of three was seeking asylum.

Kirad and her mother, Ana Batiz, were allowed to pursue their case in immigration court, and went on to New York. But Susan was not. She was sent back to Honduras by herself.

“I’m sure my mother would sleep on the couch or on the floor or whatever for the three of us to be together,” Kirad said.

“I have never been away from them,” Ms. Batiz said of her daughters.

This is a story about the brutal math that asylum seekers face at the border today. In this case, a mother and a daughter with virtually identical circumstances try to immigrate to the United States. Each has an interview with an asylum officer that could alter their lives forever.

[Read about a family’s experiences in the hours before the father of five children is deported.]

One persuades her interviewer that returning to Honduras was too dangerous; she enters the country to pursue an asylum claim.

The other, an 18-year-old, fails that same test. As a result, she is separated from her only family and sent back, alone, to an environment where she feels threatened every day.
When Ana Batiz and her daughters arrived at the border, she did not even realize they had crossed illegally. She said she did not know there was an official point of entry at Eagle Pass, she said, so they waded across the dangerous waters of the Rio Grande with other migrants.

Ms. Batiz left her small village on the Atlantic coast of Honduras with plans to seek asylum, because she was persecuted for having H.I.V. “I don’t think it’s right,” she said, “for someone to tell you, ‘You should die.’”

The family did not join a caravan. She said they hitched rides with other Hondurans heading north. It all fell apart when they got to the Texas border. Ms. Batiz and her two daughters were taken to what immigrants call a hielera, Spanish for “icebox,” a processing center run by Customs and Border Protection.

That night of their arrival at Eagle Pass, according to Kirad, border agents took Susan, along with about 10 others, all young men, out of the room. “They told my mother that they were going to take me out and bring me right back,” Susan recalled.

But she didn’t return.

Long before the Trump administration’s recent policy of separating migrant children from their parents, Customs and Border Protection agents have been taking children ages 18 and over away from their parents. This is because the agency considers them to be legal adults, who should be sent to adult detention centers instead of staying with families.

With the current surge in families crossing the border, this means even more 18-year-olds could find themselves separated from their parents.

But there’s a paradox here. Although Susan was considered an adult at the border, she would have been considered a child in the United States as an immigrant seeking asylum.

That’s because older teens like Susan fall into conflicting categories under U.S. immigration policies. The Immigration and Nationality Act defines anyone under 21 and unmarried as a child. U.S. Citizenship and Immigration Services also uses this definition and allows children under 21 to accompany their parents to asylum interviews. These interviews are crucial because they determine whether a migrant can stay in the country and pursue their case in immigration court.
As an adult at the border, Susan had been separated from her family, so she couldn’t attend her mother’s asylum interview. She would have to fend for herself.

H.I.V. Persecution

Until 2010, people with H.I.V. were actually banned from entering the United States. When that changed, people with H.I.V. could also seek asylum in the U.S. if they were persecuted for it in their home country. Ms. Batiz and her daughters made a strong case that they were. She has asked that we not use the last names of her daughters out of fear for their safety.

In their small Honduran town, Ms. Batiz’s family was part of the Garifuna community, descendants of enslaved Africans and indigenous Central Americans. The Garifuna tend to be extremely poor, and they have the highest rate of H.I.V. transmissions in Honduras.

Ms. Batiz said she learned she was infected only after Kirad was born. She felt ill and went to a doctor, who told her the news: She was H.I.V. positive and had been for years. Her boyfriend, who most likely infected her, left. “He abandoned us,” she said. He’s the father of her three youngest daughters (she has two older children from a previous relationship). She had the girls tested. Susan, the middle child, was H.I.V. positive too.

Ms. Batiz turned to a nongovernmental organization in Honduras that helps people with H.I.V. She became an H.I.V. educator. Soon, Ms. Batiz was working for the organization, attending protests to demand more medicine. One time, she said, police used tear gas and hoses on demonstrators. She was also featured in a 2013 video by the Pulitzer Center about what it’s like to be Garifuna and living with H.I.V.
Her descriptions are reminiscent of AIDS activists in the U.S. during the 1980s who were part of the protest movement Act Up. Ms. Batiz said this activity made her an easy target in Honduras. She was a black woman with H.I.V., protesting for better conditions, and living in a place where people are terrified of AIDS.

“Sometimes I was walking down the street and some people would see me and say, ‘Here comes the one with SIDA,’” she said, using the Spanish word for AIDS. “It’s very difficult situation to be there as an activist.”

Officially, Honduras has stronger protections for people with H.I.V. than some of its neighbors. But the reality, according to Amnesty International and the U.S. State Department, is that people with H.I.V. are routinely denied access to jobs, education and health services.

“The women who are infected are considered to be dirty,” said Deborah Ottenheimer, a Manhattan-based gynecologist who does exams for women seeking asylum because of human rights abuses. She has met Honduran women with H.I.V. who experienced all types of persecution, including forced sterilization.

“They can't get jobs, they often are attacked. Their children — especially if their children are thought to be, not even known to be, but thought to be H.I.V. positive — will also be discriminated against. They won't be allowed to go to school.”

Ms. Batiz’s daughters suffered at school, especially Susan. “Everybody, all my classmates, knew about my mother and my sister, too,” Kirad recalled. She said they called Susan “sidosa,” a slur against people with AIDS.

There were also vicious attacks. “They would take her to the bathroom and would put her head in the toilet,” Kirad said, adding that these were filthy toilets without modern plumbing.

Kirad said she saw students push her sister’s head into a toilet on about five different occasions, and that she would try to fight the other kids in the bathroom. Susan didn’t want to tell their mother, but Kirad did. When Ms. Batiz confronted the school, she said the director behaved as though it was no big deal. At some point around 2016, things got so bad that she took both of her girls out of school and kept them at home.

The next year, Ms. Batiz said her house was burned down under mysterious circumstances. No one was home at the time. She didn't know who did it, and she didn't contact the police because she was certain they wouldn't investigate. But she said she knew it was arson because she smelled the gasoline. “I think they were trying to get me to leave,” she said.

The family moved in with neighboring friends, but Ms. Batiz started making plans to take Kirad and Susan to stay with her sister in New York.

The Credible Fear Interview
When asylum officers conduct a credible fear interview, they ask basic questions about how a migrant was persecuted and what role the authorities played. The Trump Administration claims the bar is too low because most easily pass, even though less than a quarter actually wind up getting asylum. Migrants who pass the test can wait years for their asylum cases to go to immigration court, because of an enormous backlog. In the meantime they can qualify for working papers. The president has criticized this as "catch and release."

Ms. Batiz said her interview happened the same day she arrived at the "icebox." She recalled the two officers who questioned her gasping when she told them how she faced discrimination for having H.I.V. "I think that's why they took me out quickly," she said.

The next morning, Ms. Batiz and Kirad were released to go on to New York. They didn't know what happened to Susan, only that she had been taken away hours earlier. Kirad said they asked people at the processing center but were told only that Susan was taken to a different place. "My mother started crying," she recalled. With no additional information, they took a bus to San Antonio where they got assistance from a Catholic aid organization, which paid for them to fly to New York.

Soon after arriving at her sister's home in Far Rockaway, Ms. Batiz got a call from Susan. She was 1,900 miles away at an adult detention center in Pearsall, Tex., run by Immigration and Customs Enforcement. She was examined by a doctor and given H.I.V. medications. But it took three weeks for her to get her credible fear interview.

During that waiting period, Susan said a doctor told her that the H.I.V. drugs she was given in Honduras were not working well. She said she was also under great distress, begging other detainees in her room to let her sleep on the bottom bunk because she was afraid of heights. She had never been away from her mother before and said she was scared of the women who worked at the detention center, claiming they said cruel things to her because she was black and from Honduras.

The credible fear interview took place on Aug. 8, with an asylum officer speaking English in person and a Spanish interpreter on the phone. When we spoke in January, Susan recalled telling the officer about the persecution she suffered at school. She said she described how classmates would abuse her in the bathrooms. "They would put my head in the toilet and urinate on me."

The transcript of Susan's credible fear interview does not include this graphic incident. Regardless, it shows that Susan clearly stated that she was threatened and discriminated against, and that students wanted to kill her. "Because I am H.I.V.-positive," she said, "and because I am black." She said students feared she would "contaminate" them.
Susan also described an episode in which her classmates beat her legs with a stick so badly that she was taken to a hospital. There, she said, the nurses gave her “dirty looks” because they “discriminate against black girls.”

Police officers spoke with Susan at the hospital. She said she told them about the attack, and that they helped her by talking to the school. When asked by the asylum officer how the police treated black people and those with H.I.V., Susan answered, “They treat them well.”

The asylum officer found Susan’s overall account credible. But she made a distinction that prevented Susan from moving forward with her asylum case. She checked a box that said “credible fear of persecution NOT established.” She left unchecked all of the boxes designating asylum eligibility because of persecution. These are race, religion, political activity, nationality and membership in a particular social group. This last category could include people with H.I.V.

A couple of immigration and asylum experts who viewed the transcript said Susan was rightfully rejected because she said the police were helpful. Stan Weber, an immigration lawyer in Brooklyn who previously worked for ICE, said he could see that argument, in part.

Mr. Weber explained that the persecution Susan described was not from “a government actor or an agent of the government.” He added, “The parties that were inflicting the persecution or the threat of persecution were private actors.”

In other words, Susan was being bullied by her classmates. Nonetheless, Mr. Weber is among several experts who believe the asylum officer was unfair to Susan, noting her youth, the possibility of a language barrier and her emotional state.

Early in the transcript it notes “applicant is crying.” Shortly after, there's another red flag.

“Interpreter notes that the applicant doesn't seem to connect terms in Spanish,” the transcript read, adding that the interpreter and applicant “might not be able to understand each other clearly.”
Susan speaks both Spanish and Garifuna. She was asked if she preferred a Garifuna interpreter but she responded that she was fine continuing in Spanish. Mr. Weber said that should have given the asylum officer pause.

“You have an 18-year-old child separated from her parent that doesn’t speak a primary language that you’re conversing in, that the interpreter’s indicated that there’s problems understanding, and she’s crying and she has a very stigmatized condition, H.I.V. positive,” he said. “The officer, I think, blew it.”

He said the asylum officer also missed an obvious opportunity to ask about Susan’s mother, because Susan stated that they came together and that her mother had gone on to New York.

Susan now claims the asylum officer pressured her to say the police were helpful. Within the transcript, she also said she was threatened at school by students about 20 times and never reported these incidents to the police “out of fear, because they told me they would hurt me more if I reported it.”

Later in August, Susan asked an immigration judge to review the asylum officer’s decision. But she had no lawyer, and the hearing was conducted by video. The judge denied her appeal. Susan’s family then scraped up the money to hire Elizabeth Caballero, a lawyer in Texas, who asked U.S. Citizenship and Immigration Services for a new credible fear interview.

Despite additional written testimony from Susan’s mother and sister about her persecution, she was deported. Susan was put on a plane back to Honduras in November without any advance notice, Ms. Caballero said, giving her no chance to legally intervene. In her 12 years practicing immigration law, she said, only one other client was deported without any warning. She’s still angry about it.

“Here we have somebody that can actually be considered part of a particular social group,” Ms. Caballero said. “And she got denied.”

A spokeswoman with the U.S. Citizenship and Immigration Services said it can't comment on individual cases. But she noted the 2010 law that allowed people with H.I.V. to enter the country. She also said the agency reviews each case on its own merit, with decisions based on relevant laws and evidence.

“They didn’t want her here,” Ms. Caballero concluded, adding she suspects it’s because Susan has H.I.V. “They’re just as ignorant as the people who discriminate against her over there, in her home country.”

Adults or Children?
In Queens, Ms. Batiz describes feeling at ease without the discrimination she suffered in Honduras. But she constantly worries about Susan. In January, Ms. Batiz met with her lawyer, Cristina Velez, at the Jamaica office of Queens Legal Services. They sat at a small table in a sparsely furnished conference room and made a video call to Susan in Honduras, so Ms. Velez could learn more about what happened to prepare for Ms. Batiz's asylum claim.

Susan's oval face filled the screen of her mother's cellphone. Now 19, she is staying with the same friends who put her family up after the 2017 fire. The two-room house is crowded, with a bedroom where seven people are sleeping. It’s crammed with belongings, and the windows are covered by wooden shutters and fabric.

Susan pointed the phone to show her mother and lawyer the bright blue Caribbean sky and the bed where she sleeps. A paralegal who is fluent in Spanish was translating for Ms. Velez and everyone wanted to know one thing: Is she safe?

“I do not feel safe,” Susan said through the interpreter, her voice growing animated. When Ms. Velez asked why, she described people coming to the house and threatening her.

“They wear ski masks on their head and they told me that they’re going to kill me if they see me alone, and why did I come back here? I should have stayed with my mother where I was.”

Susan said it has happened about six times since she returned in November, and that they sometimes pointed guns at her. “They want to kill me because I have H.I.V.,” she said. She locks herself in the house when they come. She said she doesn't know who they are, but speculated that the men could be members of the local gangs, so common in Honduras, who have threatened her family and others in the past for refusing to cooperate with them. Susan said she only goes out with a friend occasionally, or to take a taxi to the hospital once a month for her H.I.V. medicine.
After listening to this account, Ms. Velez said that Ms. Batiz has a very strong case for asylum and that Susan would have, as well. She can't understand the logic in separating the mother and daughter.

“I haven't seen a case in which a family member who is really still dependent on the parent and whose cases overlap so entirely be separated from the family unit and not permitted to make her case,” she said.

Kirad is now starting over as a freshman at a public high school in Queens with a bilingual program. She has a backpack filled with notebooks for math, history, biology and English. She thinks Susan would love the high school, and wishes they could go together.

But the odds are against Susan ever joining her sister. Because she failed to persuade an asylum officer of her credible fear, and her appeal to a judge was then denied, Susan can't try seeking asylum again.

Even if she were somehow able to make the trek by herself from Honduras to the border, she would face a different process for being allowed to stay in the country because of her prior removal. The bar for passing this test would be much higher, making that “a risky proposition” according to Ms. Velez, her mother’s lawyer.

Now Susan’s only hope of coming to the U.S. lies with her mother’s case. If Ms. Batiz is granted asylum, she could bring her daughter here as a dependent. Her next court date is in May, but it’s just a procedural hearing. The immigration court in New York is so backlogged it could take another year or more for her trial.

Speaking from Honduras, Susan said she's not giving up hope. She hasn't been able to go to school for about three years. But if she makes it to the U.S., she said, she wants to go to a technical school and become a nurse. “I want to keep studying and doing something with my life,” she said.

José Olivares of WNYC contributed translation assistance and research, and Lidia Hernandez contributed translation assistance.

Beth Fertig (@bethfertig) is a reporter for WNYC.
The Changing Needs of Children, Youth, and Families Affected by HIV in Honduras

By Morgan Brown, Executive Director, Montaña de Luz.

This is the first installment of a series of blog posts entitled “Building a Future.” We will highlight the role of Montaña de Luz in building a better future for families affected by HIV in Honduras.
In the year 2000, leaders of 191 nations met at the United Nations in New York and agreed upon eight ambitious “Millennium Development Goals,” with the vision of setting a standard for human rights and greatly enhancing the well-being of individuals throughout the world by 2015.

Every UN member state agreed, under Millennium Development Goal number six, to combat HIV/AIDS—specifically, to achieve universal access to treatment for HIV/AIDS for all those who need it by 2010, and to halt and begin to reverse the spread of HIV/AIDS by 2015.

In the year 2000, HIV/AIDS was still a death sentence for millions of people around the world. There simply was not a strong enough infrastructure in many countries to combat the spread of HIV. Millions of people suffered agonizing deaths from AIDS, the most severe phase of HIV infection. Access to anti-retroviral treatment, or ART— the medication needed to suppress the HIV virus and stop the progression of HIV disease—was extremely limited in many countries around the world.

Montaña de Luz formed in 1998 as a refuge for children living with HIV/AIDS in Honduras. At the time, over 60 percent of new HIV infections in Central America were reported in Honduras, despite the country only containing 17 percent of the region’s population. Mother-to-child transmission of HIV was extremely high compared with other countries, and stigma of the disease
was rampant. Montaña de Luz began as a respite care facility. It was a place for children with HIV to live the rest of their days on Earth with dignity, free from stigma and poverty, in the best care possible, on a beautiful mountain of light.

In many ways, the progression of Montaña de Luz over the past 18 years charts the course of HIV/AIDS in Honduras and the world. When antiretroviral treatment became available in 2003, we went from “hospice” to “home.” Our kids were able to go to school, to run, to play, to dream like any other child. The same happened incrementally throughout developing countries that had previously lacked access to ARV treatment.

Thanks to the hardworking nurses of Montaña de Luz, our children attended doctor visits, took their anti-retroviral medication, and learned to manage their care. Globally, by June 2014, an estimated 13.6 million people living with HIV were receiving antiretroviral therapy (ART), an increase from 800,000 in 2003 (UN Development Goals, 2018). In Honduras, a new HIV law and better coordination between the Ministry of Health, hospitals, and clinics led to reduced rates of HIV transmission—down 29 percent since 2010. There have been pronounced reductions in mother-to-child transmission in Honduras. Each pregnant mother served in a clinic or hospital must now have an HIV test, leading to more focused care.

We are on the precipice of a new era, both at Montaña de Luz and in broader HIV/AIDS care. Treatments are improving, allowing us to manage HIV as a chronic condition. The CDC just announced that when the viral load of an HIV positive individual is “undetectable,” (this generally happens when an individual takes his or her ARV therapy according to plan), there is 0% chance of passing HIV on to another individual. Just twenty years ago, this milestone would have been unimaginable. In the United States, we are pioneering HIV
prevention medication, called pre-exposure prophylaxis, or PrEP. It is a way for people who do not have HIV but who are at substantial risk of getting it to prevent HIV infection by taking one pill every day. These are just a few of many exciting developments in HIV care.

In spite of all this progress, only 42% of HIV positive individuals in Honduras are receiving anti-retroviral treatment (CONASIDA Plan Estratégico Nacional, 2014). 58% are not receiving even the baseline anti-retroviral treatment! Among people living with HIV in Honduras, only 39% had suppressed viral loads as of 2016 (UNAIDS – Honduras, 2018). While progress has been made in mother-to-child transmission, only 51% of HIV positive mothers receive the appropriate ARV treatment to reduce the risk of passing on HIV to their child (UNAIDS – Honduras, 2018).

The actual prevalence of HIV in Honduras could also be worse than what is reported. Only 12.6% of individuals between 15 and 49 have been tested for HIV and know their results (CONASIDA, 2014). Many HIV positive individuals do not know about HIV, are unsure how to get tested, or are afraid to get tested. Rural areas are extremely hard to document, census data is less reliable, and many hospitals still use handwritten documentation systems. All of these factors affect the reliability of our baseline statistics on HIV in Honduras.

There are reasons why HIV has remained so difficult to eradicate in Honduras. There are many "barriers to care" which lead to lower rates of testing, diagnosis, treatment, and adherence, despite commendable efforts from the government.

The biggest barrier to care is the stigma that still surrounds HIV in Honduras. Many people in the country still believe you can contract HIV by kissing or eating from the same plate as someone who is HIV positive. This is categorically false. HIV positive individuals are often cruelly termed “sidosos,” roughly translating to “AIDS-ridden,” and are persecuted in school or the workplace. Children from Montaña de Luz, just from being associated with MdL, have been bullied in school. Adults living with HIV have lost their jobs, even though they pose no threat at all to their coworkers or clients. We have served families where stigma is pervasive within the family unit. Children are
thrown out on the streets, or mothers are afraid to tell their spouses about their condition—afraid the father will leave the family.

Stigma surrounding HIV in Honduras has led to lower rates of testing, diagnosis, and follow-up care. At Montaña de Luz, we are actively working to break down stigma through our "Charla Luz" or "Light Talks" program in which our youth ambassadors go out and teach communities about HIV. Our mission is currently expanding to serve families "off the mountain" through home visiting, with the objective of reducing stigma within families. We want to help more individuals get tested. We want families to easily locate and access HIV resources within the healthcare system. Ultimately, we want to greatly enhance adherence to ART and lower incidence of HIV within vulnerable communities. Our caregivers and interdisciplinary staff have over 16 years of experience breaking down this stigma within the extended families of our children. We want to utilize this knowledge and skillset, go beyond our walls, and change the perceptions of HIV for entire communities.

There are many other barriers to HIV care in Honduras—many of which our children and their families face on a daily basis. Honduras has the second highest poverty rate in the Western Hemisphere behind Haiti, high rates of crime, and political instability. Vulnerable populations have much higher rates of HIV in Honduras, including men who have sex with men (prevalence of 11.9%), sex workers (prevalence of 5.3%), transgender people (prevalence of 11.9%), the Garifuna population, and minority communities (UNAIDS – Honduras, 2018).

In addition, there are still access issues—rural and impoverished areas may not have a clinic close by, individuals lack safe public transportation to get to their medical visits. Co-pays for supplemental medications are high, so individuals stop treatment all together. Clinics and hospitals have funding to provide direct care, but often lack the resources to provide in-person social service support for HIV+ individuals who stop care due to one of these barriers.

MdL staff are ready for the next stage of HIV care in Honduras.

In the coming years, Montaña de Luz hopes to meet children, youth, and families where they are and address their individual barriers to care. We want to go beyond our walls and be something greater— to walk the path of Jesus Christ, to reach out to the most vulnerable, who have been left behind or thrown out by society—even if this is not the most popular or surest path. We
want to become a coordinated care provider—the "glue" between vulnerable children, youth, and families affected by HIV and the public health system. This is the gap in services—it is what the country needs.

HIV care has advanced so much in the past twenty years, and it will continue to do so in Honduras in the years to come. The focus will shift from the ART medicines themselves—they will become even more accessible and effective—to reducing stigma, improving access, and adherence to care. At MdL, we want to be at the forefront of this change and shift the paradigm in HIV care. We want to put the focus on individuals and families, giving them a voice in their care and sowing the seeds of deeper change.

ABOUT POST AUTHOR

Anna Jackson

2 RESPONSES

Vicki Storms

January 31, 2018 at 7:28 pm

This is a very informative article. I have gained a great deal of knowledge about new advances in HIV, the progress that has been made in available treatment, and barriers to care in countries like Honduras. The initiative to spread education and support for individuals and families in Honduras affected by AIDS is of great value. The work of Montana de Luz is to be commended.

Morgan
Thank you for your feedback, Vicki!