

HONDURAS

Human rights violations against lesbian, gay, bisexual and transgender people

Lesbian, gay, bisexual and transgender (LGBT) people have been subjected to grave human rights violations in Honduras for many years, including killings and discrimination in the exercise of their civil, political, social and economic rights.

Amnesty International believes that the persecution of people for their sexual and/or gender identity is a violation of their fundamental human rights. LGBT organizations, working to protect people from abuses and discrimination because of their sexual orientation and/or gender identity should be able to carry out their work without fear or unjustifiable restrictions.

The Universal Declaration of Human Rights states that “all members of the human family have equal and inalienable rights”, and that all are entitled to all the rights and freedoms it contains, “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Human rights standards and mechanisms created since the UDHR was adopted have long recognized and affirmed the principle of non-discrimination on grounds of sexual orientation.¹

Article 60 of the Honduran Constitution states that all Hondurans are equal before the law and that discrimination on the grounds of sex, race, class or any discrimination that is detrimental to human dignity is punishable by law. In practice, however, LGBT people continue to be subjected to the most violent forms of discrimination, including violations of the right to life.

The security of LGBT people was included in the report of the visit to Honduras in August 2001 by the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, published in June 2002. The Special Rapporteur acknowledges receiving allegations of the murder of members of sexual minorities and notes the lack of investigations into the killings.²

¹ See for example the 1994 decision of the UN Human Rights Committee in *Toonen v. Australia*, in which laws criminalizing homosexuality were found to be in violation of the privacy and non-discrimination provisions of the International Covenant on Civil and Political Rights. More recently, the Human Rights Committee found that the denial of pension benefits to same-sex partners violated the right to equal protection before the law under the ICCPR (Case 941/2000: *Young v. Australia*).

² UN, Mission to Honduras, E/CN/4/2003/Add.2, p 23.

Recent cases

According to NGO sources, some 200 homosexual and transsexual sex workers were murdered between 1991 and 2003. Few cases have been officially registered; fewer still have been investigated or those responsible brought to justice.

Erick David Yáñez, known as Ericka, a transgender member of the non-governmental organization *Comunidad Gay Sampedrana* (San Pedro Sula's Gay Community)³ was murdered on 15 July 2003 in the city of San Pedro Sula. This was the latest in a series of attacks against LGBT members that have occurred in the city in recent years. The shooting took place in the area where Ericka and others work as sex workers.

Nineteen-year-old Ericka was attacked by two policemen who, despite travelling in an official police vehicle had been in the area "apparently looking for the services of a prostitute".⁴ When the policemen realized that Ericka, was a transvestite they became involved in an argument with her which led to one of them shooting Ericka with his service weapon. The transgender community close to Ericka demanded that the police carry out a thorough investigation.

Some days later, following investigations by the Attorney General's Office, the two policemen were arrested and charged, one with homicide and the other as an accomplice.

Threats to witness

Witness protection is of vital importance in order to ensure that judicial proceedings reach their objective of punishing those responsible for human rights violations. Equally important is that human rights defenders can carry out their work of protecting the human rights of others.

Elkyn Suárez Mejía, a transgender person also known as China, a member of *Comunidad Gay Sampedrana* and LGBT rights defender, had vital information about the killing of Erick David Yáñez/Ericka and those involved in it, which she reported to authorities, and has played a key role in the investigation opened afterwards. China's testimony led to the arrest of the two police officers and charges of homicide against Carlos Iván Contreras and complicity to murder against Sub Inspector Jairo Antonio Mejía in late July.

For these actions China became the target of threats. According to a statement given to the *Dirección General de Investigación Criminal* (General Directorate of Criminal Investigations), DGIC, in the early hours of 5 August China and other transgender people

³ Established in 1992, the *Comunidad Gay Sampedrana* is a non-governmental organization based in San Pedro Sula covering the city and surrounding areas, to defend the rights of LGBT people.

⁴ Tiempo newspaper, 25 July 2003.

were in the street where they work when a white vehicle, Isuzu Trooper, with no identification plates, and another three police patrol vehicles from the Preventive Police arrived near them. Someone called Elkyn/China over; it was Sub Inspector Jairo Antonio Mejía, charged as an accomplice to the murder of Erick David Yáñez/Ericka, who told Elkyn 'you messed me up' (*me hundiste*) for reporting his involvement in Ericka's death. He told China she had 24 hours to withdraw the complaint or she would not live another day ([que]'*del día de hoy no pasaba*'); he would go to her flat later in the day to get a reply. The police officer visited the flat at 6.15 pm and insisted on his demand and that he wanted a reply that night. Elkyn/La China said she would go to withdraw the allegation on her own, but has not done so.

Following these threats the Office of the Attorney General requested the Police Commissioner in San Pedro Sula to provide witness protection to Elkyn Suárez, also known as China. Twenty-four hour police protection was then granted.

However, police agent Carlos Iván Contreras, charged with homicide, escaped custody in mid-August which has made Elkyn Suárez/China's safety more precarious.

Subsequently, Amnesty International learned that on 28 August, Elkyn Suárez was informed by the Office of the Special Human Rights Prosecutor in the Attorney General's Office that the police protection would be withdrawn, reportedly at the request of local police officials. The withdrawal of police protection puts Elkyn/La China at further risk and could have a detrimental effect on bringing those responsible for the death of Erick David Yáñez/Ericka to justice.

Amnesty International welcomes the initial police protection given to witness Elkyn Suárez Mejía/China, but urges the authorities to take further steps and appropriate measures to protect her safety. We call for such protection to last for as long as necessary, which may be beyond the period of the investigation and judicial proceedings on the murder of transgender person Erick David Yáñez, also known as Ericka.

The *Comunidad Gay Sampedrana* has also received anonymous telephone calls where threats have been made of planting a bomb at the organization's office, because of their support for Elkyn Suárez/China.

Amnesty International reminds the government of its obligation to support human rights defenders in their work for the protection and promotion of the respect for human rights, as set out in the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, of 9 December 1998, and the equivalent resolution by the Organization of American States of 7 June 1999.

LGBT organizations denied legal status

LGBT groups in Honduras have also been subjected to discriminatory actions by the authorities.

In Honduras, legal status has not been granted to organizations which represent lesbian, gay, bisexual and transgender persons. This has a negative impact on the activities that these organizations can undertake. It also represents a violation of the right of LGBT people to freedom of association and assembly, set out in the International Covenant on Civil and Political Rights and the American Convention on Human Rights, to which Honduras is a State Party. This means that persons at risk are forced to seek protection as individuals, which makes them more vulnerable, instead of as an organization.

On 4 April 2000 LGBT organization *Grupo Prisma* submitted a request for *personería jurídica*, official registration, and approval of the statutes of the organization to the Ministry of the Interior and Justice, as required by law. The application outlined the aims of the association which included bringing together the LGBT community in the capital, Tegucigalpa, in order to, among others, undertake activities leading to increase the self-esteem of this group to create its own space. The application stated this would be a not-for-profit organization.

On 2 August the Head of the Department of Legal Services issued a decision (*dictamen*) on the application, denying the petition because ‘the Statutes breach morality, public order, proper behaviour...’ (los Estatutos violentan la moral, el orden público, las buenas costumbres ...). Amnesty International believes that basic rights of freedom of association cannot be limited on such subjective and discriminatory grounds.

Amnesty International considers that Honduran authorities must allow the registration and effective functioning of any organizations working to defend the rights of LGBT people in accordance with requirements of international law concerning the right to freedom of association and respect for the work of Human Rights Defenders.

WHAT YOU CAN DO

You can take action to protect, get justice and improve the situation of LGBT people in Honduras.

Please write to the authorities listed below including some or all of the following suggestions:

noting that LGBT people have been subjected to grave human rights violations in Honduras for many years, including killings and discrimination in the exercise of their civil, political, social and economic rights.

welcoming the initial police protection given to witness Elkyn Suárez Mejía, a transgender person known as China, but urging the authorities to take further steps and appropriate measures to protect the safety of Elkyn Suárez Mejía/China, in accordance with her wishes and needs;

stressing the fact that such protection should last for as long as necessary, which may be beyond the period of the investigation and judicial proceedings on the murder of transgender person Erick David Yáñez, also known as Ericka;

expressing concern for the safety of other members of *Comunidad Gay Sampedrana* (San Pedro Sula's Gay Community) in view of the threats against the organization, and urging the authorities to take the necessary measures to guarantee their safety;

calling on the authorities to ensure that the murder of Erick David Yáñez is fully investigated and those found to be responsible are brought to justice as soon as possible;

urging the authorities to ensure that the rights of lesbians, gays, bisexuals and transgender persons are protected and that they are not subjected to discrimination on account of their sexual orientation or gender identity, including the provision of legal status for organizations working to defend their rights.

APPEALS TO:

Minister of Security

Dr. Oscar Alvarez

Ministro de Seguridad Pública

Ministerio de Seguridad Pública

Edificio Poujol, 4o piso, Col. Palmira (Blvd. Morazán)

Tegucigalpa, Honduras

Fax: + 504 220 4352

Salutation: Dear Minister/Señor Ministro

Attorney General

Dr. Roy Edmundo Medina

Fiscal General de la República

Fiscalía General de la República, Colonia Loma del Guijaro

Tegucigalpa, Honduras

Fax: + 504 221 5666

Salutation: Dear Attorney General/ Señor Fiscal General

Minister of Interior and Justice (His ministry deals with applications for legal status)

Lic. Ramón Hernández Alcerro

Ministro de Gobernación y Justicia

Ministerio de Gobernación y Justicia

Palacio de los Ministerios, 21 Piso

Tegucigalpa, Honduras

Salutation: Dear Minister/Señor Ministro

Tel: +504 232 6370

Fax: +504 232 1894

COPIES TO:

National Commissioner for the Protection of Human Rights

Comisionado Nacional de Protección de los Derechos Humanos

Dr Ramón Custodio López

Avda. La Paz No. 2444, Contiguo a Galerías La Paz

Tegucigalpa, Honduras

Salutation: Dear Commissioner/Señor Comisionado

Fax: + 504 232 6894

Comunidad Gay Sampedrana

Fax: + 504 553 4362

E-mail: comunidadgay@123.hn