

Anti-LGBT persecution in El Salvador, Guatemala, Honduras

US barriers to asylum block path to safety.

HRW (07.10.2020) – <https://bit.ly/33Urfc> – The governments of El Salvador, Guatemala, and Honduras have failed to effectively address violence and entrenched discrimination against lesbian, gay, bisexual, and transgender (LGBT) people, leading many to seek asylum in the United States, Human Rights Watch said in a report released today. Yet policies by the administration of US President Donald Trump have made it almost impossible for them to obtain asylum.

The 138-page report, “‘Every Day I Live in Fear’: Violence and Discrimination against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States,” documents violence experienced by LGBT people in the three Northern Central American countries collectively known as the Northern Triangle, including at the hands of gangs, law enforcement officials, and their own families. Human Rights Watch found that Northern Triangle governments fail to adequately protect LGBT people against violence and discrimination, and that they face major obstacles if they attempt to seek asylum in the United States.

“LGBT people in the Northern Triangle face high levels of violence that their own governments appear unable or unwilling to address,” said Neela Ghoshal, senior LGBT rights researcher at Human Rights Watch. “For some LGBT people in the region, seeking asylum in the United States is the only hope of

safety, but the Trump administration has blocked them at every turn.”

Human Rights Watch interviewed 116 LGBT people from the three countries. Some described violence by family members, leading them to flee home as young as at age 8. Others described bullying and discrimination that drove them out of school. Many said family rejection and discrimination led to economic marginalization, particularly for trans women, and poverty was likely to increase the risk of violence.

LGBT people sometimes face violence and discrimination from the very law enforcement agents charged with keeping them safe. Carlos G., a gay refugee who traveled to the United States from Honduras in 2018, said that gang members there shot him, telling him: “Today you’re going to die, faggot.” He was afraid to report the incident to the police, who had previously harassed him for being gay and demanded sexual favors. Carlitos B., a non-binary person from Guatemala, fled after their brother assaulted and threatened to rape them. When Carlitos reported to the police, they laughed at Carlitos’s gender expression.

Pricila P., a trans woman from El Salvador, said police forced her off a bus and beat her. “One of the police officers grabbed my testicles and squeezed,” she said. “He said, ‘You’re realizing you’re a man because you feel pain.’ He said that I would become a man by force.” She fled to the United States in 2019, after gang members assaulted her, abducted her gay friend, and warned her that she would be next.

Both Honduras and El Salvador have passed hate crimes legislation in the last 10 years, but neither country has convicted anyone on hate crimes charges. In a landmark ruling in July 2020, a court in El Salvador convicted three police officers of murdering Camila Díaz, a trans woman who had been deported in 2018 after attempting to seek protection in the United States, but a judge dismissed hate crimes charges against them.

None of the three countries has comprehensive civil law protections against discrimination, Human Rights Watch said. While Honduras outlaws employment discrimination on the grounds of sexual orientation and gender identity, activists said they know of no cases in which the law had been enforced. In Guatemala, a pending Life and Family Protection Bill could be used to justify discriminatory denial of services on “freedom of conscience” grounds.

Given the persecution that many LGBT people face in the Northern Triangle, the US government should rigorously protect their ability to safely enter the United States and apply for asylum. Instead, the US government has increasingly closed doors to them with a series of policies that restrict access to asylum and that narrowly interpret the refugee definition in ways that exclude LGBT people from protections they previously enjoyed.

In March 2020, the US government entirely closed its land borders to asylum seekers based on the pretext of Covid-19, leaving them to suffer persecution in their home countries or be stranded in Mexico. In June, the US Departments of Justice and Homeland Security proposed a major regulatory change to the US asylum system that would severely restrict LGBT

people's ability to be granted asylum by barring asylum on the basis of "gender." In September, the Justice Department issued yet another regulation that puts asylum even further beyond their reach, tightening time limits on asylum applications and allowing immigration judges to introduce their own evidence into asylum cases, even if such evidence reflects biases such as anti-LGBT prejudice.

These policies followed other severe measures the Trump administration has taken to prevent asylum seekers from ever reaching the United States and to limit their access to asylum if they do, including family separation; prolonged detention; the "Remain in Mexico" program; an expedited asylum review process allowing for little or no contact with lawyers; an attempt to bar asylum seekers who transited through third countries before arriving at the US border; and a policy of transferring Salvadoran and Honduran asylum seekers to Guatemala, where they lack effective protection. Among the asylum seekers affected by all these measures are LGBT people, who may be particularly at risk of violence and discrimination in northern Mexico.

"The governments of El Salvador, Guatemala, and Honduras need to stem rampant anti-LGBT violence and ensure that laws and policies protect LGBT people from persecution, including by police," Ghoshal said. "As long as LGBT people continue to experience threats to their lives and safety based on their identity in their countries of origin, the US should welcome them with open arms, rather than slamming the door on them."

GUATEMALA: Discriminatory law puts at risk the lives and rights of thousands of women, girls and LGBTI people

Amnesty International (05.09.2018) – <https://bit.ly/2PHn5Wm> – Guatemala's Congress must reject proposed law 5272, also known as the "Law for the Protection of Life and Family," because it would violate the rights of thousands of women, girls and LGBTI, Amnesty International said today.

"This bill actually threatens what it claims to protect: life and families," said Erika Guevara-Rosas, Amnesty International Director for the Americas.

"We demand that the Guatemalan Congress reject this absurd bill that puts at risk the lives and the rights of women, girls and LGBTI people, and that it dedicate its resources to protecting them through laws and policies that guarantee real equality."

Among other concerning changes, the bill would modify the penal code to criminalize miscarriages, impose prison sentences on women who suffer them and impose prison sentences on anyone who "promotes or facilitates access to abortion." These regulations put at risk the lives of women and girls and their access to medical services.

Guatemalan law currently permits abortion only when pregnancies threaten the lives of women and girls. This violates their reproductive autonomy. The criminalization of abortion, miscarriages and providing information about abortion services violates the rights of women, girls and people who can become pregnant. The Guatemalan government must completely decriminalize abortion and guarantee access to legal and safe abortion as well as information about abortion services.

The bill also directly discriminates against LGBTI people by expressly prohibiting same-sex marriage and legal recognition for same sex couples, and by proposing a discriminatory and excluding definition of family.

Furthermore, the bill dangerously formulates a supposed "right" to "not accept sexual diversity or gender ideology as normal," effectively legalizing discrimination that may foment violence against LGBTI people.

The bill also violates the rights of children to have access to comprehensive sex education because it prohibits "teaching sexual conduct that differs from heterosexuality as normal."

In the context of persistent discrimination and negative reactions to gender equality and the rights of women, girls and LGBTI people, it is vital that Guatemala not promote damaging stereotypes and that the country guarantee the right of all people not to face discrimination, including for their sexual orientation or gender identity.

Additional information

The World Health Organization (WHO) as well as the UN Human Rights Committee have recognized the causal link between maternal mortality and laws that restrict or criminalize abortion. The WHO has stated that restriction of access to legal abortion does not decrease the need for abortion, and likely increases the number of women who seek illegal and unsafe abortions. This leads to higher morbidity and mortality rates and creates social inequities.

According to international treaties that Guatemala has signed, the Guatemalan government is obligated to guarantee people's rights without discrimination, including discrimination based on sexual orientation or gender identity.

In its recent observations about the Guatemalan government, the Human Rights Committee highlighted its concern about discrimination and violence motivated by victims' sexual orientation or gender identity, the criminalization of abortion and miscarriage and a lack of adequate reproductive health services. It demands that the Guatemalan government "ensure unimpeded access to sexual and reproductive health services, emergency contraceptives and comprehensive sex education for men, women, boys and girls throughout the country."

For its part, the UN Committee on the Rights of the Child expressly recommended that the Guatemalan government "ensure that sexual and reproductive health education is part of the mandatory school curriculum, and that it is developed with the

involvement of adolescent girls and boys, with special attention paid to preventing early pregnancy and sexually transmitted infections.”

The bill 5272 was presented before Congress on 27 April 2017. On 28 August 2018 it was approved for a second reading. It now needs a third reading in a plenary session, which could take place in the next few days, and if it is approved there it will proceed to final article-by-article approval.

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GUATEMALA: Child marriage persists despite ban, experts

say

By Anastasia Moloney

Thomson Reuters Foundation (13.08.2018) – <https://tmsnrt.rs/2Mqu9cJ> – A year after Guatemala banned child marriage, girls are getting married in rural indigenous communities that are unaware of the ban and see the practice as acceptable, experts said on Monday.

Guatemala outlawed child marriage in August 2017, making it illegal for anyone under age 18 to wed under any circumstances.

No data exists to show how many girls have married since then, but anecdotal evidence gathered by groups working with rural indigenous communities suggests the practice persists.

Nearly a third of girls in Guatemala are currently married by 18, and many girls live with partners in informal unions.

Many of Guatemala's poor Mayan indigenous communities, where child marriage is most common, remain unaware of the outright ban, experts and advocates say.

“From what we've been hearing in the communities is that not much has changed since the law was passed,” said Emma Puig, head of gender equality in Latin America at the children's

charity Plan International.

“The big challenge is working on changing mindsets, social norms that find it normal to see a girl under 18 living with a man who most of the time could be her grandfather,” she told the Thomson Reuters Foundation.

Driven by poverty and cultural traditions in a country with one of the highest rates of child malnutrition in Latin America, indigenous girls are often married off so families have one less mouth to feed.

According to rights group Women’s Justice Initiative (WJI), in the village of Chuiquel alone in western Guatemala at least 30 girls, most aged 15 and 16, have been reported to be in informal unions since the marriage ban.

WJI hosts workshops in isolated communities led by local Mayan women who spread the message about the marriage ban and educate girls about their rights.

“It’s key for girls to know they have other options and can do other things than just thinking their only option is to get married and have children,” said Viviana Patal, a lawyer at WJI.

“The impact of the workshops among families has been to question and re-think the importance of study and sending their daughters to school, the idea that going to school can

be a tool to having a better quality of life.”

While rates of child marriage have been slowly declining worldwide, each year 12 million girls are married before age 18, according to campaign group Girls Not Brides.

Latin America is the only region not to have seen a significant drop in child marriage in the past three decades, with the highest prevalence in Nicaragua, the Dominican Republic and Brazil.

Most Latin American countries ban marriage until age 18, but many make exceptions with permission of parents or a judge.

Getting boys and young men to question traditional gender roles and what it means to be a man is key to the solution, Patal said.

“Young men have social pressures too. They feel if I don’t have a wife and children then I’m not a man,” Patal said.

Child marriage typically deprives girls of education, keeps them in poverty and puts them at risk of domestic and sexual violence, experts say.

“Girls are trapped in a life of violence for the rest of the lives,” said Alejandra Colom, Guatemala country director for

the Population Council, a U.S.-based research charity.

An under-age bride's first pregnancy is in fact the product of rape but "this is rape that is condoned because it happens under a union that is accepted by the community," she said.

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