

Howard H. Baker Jr. Center for Public Policy, University of Tennessee
Report to the U. S. Department of State's *Diplomacy Lab* Program [Fall 2015]

Project No. and Title: *Project 10*: Global Survey of Protections for LGBTI Inmates.

Title: International Correction Reform and Human Rights Protections for Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI) Inmates in Africa and Latin America

Participating Faculty: Dr. Bharat Mehra, Associate Professor, School of Information Sciences, University of Tennessee, 454 Communication Building, 1345 Circle Park Drive, Knoxville, TN 37996. Phone: 865-566-5593; Email: bmehra@utk.edu.

Participating Students (alphabetical list): Christin Burwell, Taylor Hixson, Paul A. Lemieux III, Robert P. Partee II, Nicole E. Wood: School of Information Sciences, University of Tennessee.

Program Support Specialists: Leonid Lantsman, Justin Showalter, U. S. Department of State.

Program Coordinator: Nissa Dahlin-Brown, Howard Baker Center, University of Tennessee.

Submitted on: January 18, 2016.

All material in this report is subject to the [Creative Commons license](#).
The Creative Commons Attribution license allows re-distribution and re-use of a licensed work
on the condition that the creator is appropriately credited.

TABLE OF CONTENTS

I. Executive Summary -- 3

II. Case Studies of Select Countries

II.A Africa

1. Ghana -- 5
2. Liberia -- 12
3. Mali -- 16
4. Morocco -- 18
5. Niger -- 23
6. Nigeria -- 25
7. Senegal -- 31
8. South Sudan -- 35
9. Tunisia -- 38

II.B South America

1. Costa Rica -- 43
2. El Salvador -- 50
3. Guatemala -- 55
4. Guyana -- 59
5. Mexico -- 63
6. Panama -- 67
7. Paraguay -- 70
8. Suriname -- 72
9. Uruguay -- 74

III. Select Bibliography

Available at URL:

http://heramac.cci.utk.edu/~bmehra/Bibliography_LGBTI_DLP_2015_Mehraetal.pdf

I. EXECUTIVE SUMMARY

Project Description: This project adopted the Independent Study Model to implement a *Diplomacy Lab* with five information science graduate students and a faculty mentor to identify baseline protections provided to LGBTI inmates and others in the following select countries of the region:

Africa: Ghana, Liberia, Mali, Morocco, Niger, Nigeria, Senegal, South Sudan, Tunisia.

Latin America: Costa Rica, El Salvador, Guyana, Guatemala, Mexico, Panama, Paraguay, Suriname, Uruguay.

Students developed research deliverables (e.g., literature review, interactive map visualizations using GIS) explicating areas with crimes against LGBTI prisoners, areas needing correction reform, and level of best practices employed (from none-to-acceptable). The work will inform U.S. international correction reform to further human rights protections for LGBTI inmates and others in the countries of Africa and Latin America, especially those that have laws that criminalize an already marginalized population.

Summary: The project focused on the development of the LGBTI Integrated Cartographic Information System (ICIS) that included interactive maps, visual information analysis, and application of severity scales to the select area study regions in Africa and Latin America in terms of: Conditions of the Law, Condition in the Prisons, and Human Rights Protections for LGBTI Inmates. The ICIS and the summarizing report may serve as a proof of concept and prototype demonstration solution to serve as a useful tool to assist policy makers in INL correction reform and other areas of concern.

The LGBTI Integrated Cartographic Information System is available at URL: https://www.google.com/maps/d/u/0/viewer?hl=en&authuser=0&mid=z-_Y0KEOy-NE.k5UTQYAtUD2g.

The ICIS allows the user to navigate through three layers (i.e., Conditions of the Law, Condition in the Prisons, and Human Rights Protections) by checking the select country and finding the relevant information. Users can also explore by clicking on the map in the right frame to find detailed information about a particular country. Clicking on the “i” icon shows the severity scale legend and color code that is used to represent the conditions for LGB populations. The severity scale color codes for TI populations have not been applied to the map, but are utilized in the details for select countries where available. Transgender people are referred to by the gender they identify with unless otherwise noted. Clicking on the purple "heart-in-hand" icon shows a list of International Advocacy Organizations.

The Integrated Cartographic Information System is part of a project that was submitted by the Howard H. Baker Jr. Center for Public Policy at the University of Tennessee and got selected in the U. S. Department of State’s Diplomacy Lab Program (<https://tiny.utk.edu/SIS-DOS>). Proposed by faculty advisor Dr. Bharat Mehra in the UT's School of Information Sciences the project adopted the Independent Study Model to implement a Diplomacy Lab with SIS

graduate students (Christin Burwell, Taylor Hixson, Paul A. Lemieux III, Robert P. Partee II, Nicole E. Wood) to identify baseline protections provided to LGBTI inmates and others in select countries of the region.

This report summarizes the literature review and research conducted as part of the project. It presents the findings in the case study format for each selected country in Africa and Latin America representing the conditions of the law, condition in the prisons, and the human rights protections for LGBTI inmates. The report is available at URL:
http://heramac.cci.utk.edu/~bmehra/Report_LGBTI_DLP_2015_Mehraetal.pdf

For more information, contact: Dr. Bharat Mehra, Associate Professor, School of Information Sciences, University of Tennessee, 454 Communication Building, 1345 Circle Park Drive, Knoxville, TN 37996. Phone: 865-566-5593; Email: bmehra@utk.edu.

II. CASE STUDIES OF SELECT COUNTRIES

II.A AFRICA

1. Ghana

The environment for those identifying or perceived as LGBTI in Ghana is not welcoming. Even youth are targeted by society and the law when suspected of same-sex relationships. In fact, 34 Ghanaian school girls were expelled in 2013 for “suspected lesbianism.”

[<http://www.ishr.ch/news/international-community-must-condemn-homophobic-violence-harassment-and-discrimination#sthash.PTz096DY.dpuf>]. At least 20 people have been imprisoned for real or perceived LGBTI orientation [“Homophobia and Building Queer Community in Urban Ghana,”

<https://libopenprod.geneseo.edu/index.php/praxis/article/viewFile/550/381>]. [Hilda Ewoama, H. (2011). *Wedding Behind Bars: The Emic Perspectives of Male Prisoners on Same-Sex Sexual Practices in Ghana*. (Amsterdam Master's in Medical Anthropology manuscript), Univeriteit van Amsterdam, Amsterdam. Retrieved from <http://dare.uva.nl/cgi/arno/show.cgi?fid=516167>].

Conditions of the Law

Under the current law, LGBTI relationships are not illegal, but “unnatural carnal knowledge” is illegal, which is interpreted under the law male-male relationships. (Sabin, L., Beard, J., <http://www.bu.edu/cghd/files/2013/04/MSM-1-report-March-28-FINAL.pdf>).

Societally LGBTI relationships and associations are not accepted, and some reports exist of police brutality toward perceived LGBTI population. [The Global Divide on Homosexuality. (2013): Pew Research Center. <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>] [Ghana 2014 Human Rights Report (U. S. D. o. State, Trans.). (2014). In H. R. a. L. Bureau of Democracy (Ed.), *Country Reports on Human Rights Practices for 2014*.

See article “Governance through power sharing in Ghanaian prisons”

http://rudar.ruc.dk:8080/bitstream/1800/14929/1/PSJ_212_March_2014.pdf].

In addition, Ghanaian leaders have gone on the record stating homosexuality is “a threat to national security.” [“Press Release on Homosexuality in Ghana” 2011, International Gay & Lesbian Human Rights Commission, <http://iglhrc.org/content/press-release-homosexuality-ghana>].

As recently as 2014, the legislative branch of the Ghanaian government was drafting laws that would further restrict the LGBTI community from expressing their identity, which is similar to other African countries’ legislations under consideration. [Beyrer, C. (2014). The Current Wave of Anti-Homosexuality Laws and Impacts on Health. *PLoS Med*, 11(6). <http://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1001658>].

In 2014, President Mahamba refused to address the status of the LGBTI population in Ghana, and this is not the first instance of a President or executive leader skirting around the issue or outright condemning LGBTI. The judicial branch is known to try someone more harshly when tried for committing “unnatural carnal knowledge” or generally perceived as a member of the LGBTI population. [<http://blogs.cuit.columbia.edu/rightsviews/files/2015/03/Being-LGBT-in-West-Africa-Project.pdf>].

Condition in the Prisons

The most recent State Department Human Rights Report (2014) describes Ghanaian prison conditions as “harsh and life-threatening.” The UN reports Ghanaian prisons have been found to

exceed capacity by 500% (http://www.instituteforscienceandhumanvalues.com/pdf/HP_V4-2_Sorgaard_Violations%20of%20Childrens%20Human%20Rights.pdf). Often time basic needs are not met, and prison torture and abuse by both inmates and guards has occurred in Ghana (ibid). One UN prison expert stressed that over-crowding is the leading cause of human rights violations such as lack of health care and hygiene (<http://www.un.org/apps/news/story.asp?NewsID=46524#.VhFyfhNViko>). In addition, one report found that in a few instances children were found incarcerated with adults (ibid). Overall, the conditions of Ghanaian prisons are “grim” and “dismal” (http://www.instituteforscienceandhumanvalues.com/pdf/HP_V4-2_Sorgaard_Violations%20of%20Childrens%20Human%20Rights.pdf).

One in depth study of a major Ghanaian prison found that many prisoners engage in same-sex relationships as a mutual exchange for protection and survival; however, the researcher found those engaging in consensual male-male relationships often did not identify as LGBTI (Ewoama, 2011). In addition to these relationships, prison staff create hierarchical leadership positions within the prisoner population. These prisoner positions assist in the control of the more-often overcrowded prisons, and the prisoners receive benefits such as extra food rations or a larger cell. One researcher found these prisoner leadership positions are essential to maintaining order (Ewoama, 2011).

HIV is more common in prisons among the prison inmate population and the prison staff (Adjei et al., 2006). One source states this is possible because prisoners often lack the knowledge of how HIV spreads (<http://ugspace.ug.edu.gh/handle/123456789/5882>). Many Ghanaian prisons are still in the same structure as during British Colonialism: “high walls and barbed wire” [State Department Human Rights Report. (2014). Retrieved November 20, 2015, from <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236364>]. The current conditions of prisons in Ghana are “grim,” and degradation, humiliation, and abuse are commonplace among inmates [http://www.instituteforscienceandhumanvalues.com/pdf/HP_V4-2_Sorgaard_Violations%20of%20Childrens%20Human%20Rights.pdf]. Data pertaining to the conditions related to LGBTI prisoners is limited and conflicting. A Ghanaian funded study found same-sex practices are not common [<http://ugspace.ug.edu.gh/handle/123456789/5882>], while a ethnography found same-sex practices common in one major Ghanaian prison. [Hilda Ewoama, H. (2011). *Wedding Behind Bars: The Emic Perspectives of Male Prisoners on Same-Sex Sexual Practices in Ghana*. (Amsterdam Master's in Medical Anthropology manuscript), Univeriteit van Amsterdam, Amsterdam. Retrieved from <http://dare.uva.nl/cgi/arno/show.cgi?fid=516167>].

List of References

1. Hilda Ewoama, H. (2011). *Wedding Behind Bars: The Emic Perspectives of Male Prisoners on Same-Sex Sexual Practices in Ghana*. (Amsterdam Master's in Medical Anthropology manuscript), Univeriteit van Amsterdam, Amsterdam. Retrieved from <http://dare.uva.nl/cgi/arno/show.cgi?fid=516167>
 - Very in depth and good case-study report on prison male-male relationships and why some people engage in male-male relationships to survive in the poor prison conditions in Ghana. The study takes place in a “central prison in Ghana” and states there are 16 people imprisoned for “homosexual activity,” (10). Other key points: Ghanaians do not often talk about sexuality, especially LGBTI relationships; inmates caught having male-

male relationship can be sent to court for additional sentencing. The author had no suggestions for best practices, but this report could be reviewed for punishments for LGBTI people as well as prison conditions. Possibly one of the best resources.

2. “Homophobia and Building Queer Community in Urban Ghana”
<https://libopenprod.geneseo.edu/index.php/praxis/article/viewFile/550/381>.
 - Article states that at least 4 men were imprisoned for same-sex relationships/actions/associations. Also covers that coming out as LGBTI can incite rejection from family and imprisonment.
3. Rodenbough, P. P. (2014). On Being LGBT in West Africa: A Virtual Student Foreign Service Project and Independent Report Exploring Regional Sexual Orientation and Gender Identity Issues: Columbia University.
<http://blogs.cuit.columbia.edu/rightsviews/files/2015/03/Being-LGBT-in-West-Africa-Project.pdf>.
 - Covers legality under executive, legislative and judicial branches of government if available for Ghana, Liberia and Mali. Also covers societal implications of real or perceived associations as LGBTI.
4. Sabin, L., Beard, J., Agyarko-Poku, T., DeSilva Bachman, M., Green, K., Wambugu, S., Adu-Sarkodie, Y. (2013). Exploring the beliefs, attitudes, and behaviors of MSM engaged in substance use and transactional sex in Ghana (M.-O. N. I. f. R. M. Program, Trans.). Boston, Massachusetts. <http://www.bu.edu/cghd/files/2013/04/MSM-1-report-March-28-FINAL.pdf>.
 - The report was funded through USAID and provides data about LGBTI populations, particularly male-male relationships. The article states LGBTI relationships and sex are not criminalized, but the act of male-male sex is illegal. The report also outlines 7 types of self-identification for LGBTI men in Ghana. The report also brings up the idea of transactional sex, which other resources found also address through the lens of prison relationships.
5. Ghana 2014 Human Rights Report (U. S. D. o. State, Trans.). (2014). In H. R. a. L. Bureau of Democracy (Ed.), *Country Reports on Human Rights Practices for 2014*.
 - Societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals and an implication of undocumented reports of police abuse toward LGBTI population.
6. The Global Divide on Homosexuality. (2013): Pew Research Center.
<http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>.
 - According to the Pew research report, 96% (9/10) of population believe homosexuality should NOT be accepted by society.
7. World Factbook of Criminal Justice Systems.
<http://www.bjs.gov/content/pub/ascii/WFBCJGHA.TXT>
 - Report outlines the criminal justice system and prisons in Ghana. This report gives a very detailed—but dated (1993)—look at the prison conditions in Ghana. This report does not mention anything about LGBTI or sexuality, but it is good for its detailed description.

8. “Press Release on Homosexuality in Ghana” 2011, International Gay & Lesbian Human Rights Commission, <http://iglhrc.org/content/press-release-homosexuality-ghana>.
 - Overview of the state of LGBTI population in Ghana. States leaders—religious and government (including President)—view homosexuality as “a threat to national security.”

9. “Nowhere to Turn: Blackmail and Extortion in Sub-Saharan Africa” 2011, International Gay & Lesbian Human Rights Commission <http://iglhrc.org/content/nowhere-turn-blackmail-and-extortion-lgbt-people-sub-saharan-africa>.
 - Report from IGLHRC states Ghana still has antiquated laws making MSM and WSW illegal, and these populations face police abuse and harassment. The chapter “Because of You” has interviews with LGBTI (real or perceived) community who tell their stories about blackmail and extortion based on their identities. This report furthers the notion that society plays a big role in the opposition of same-sex relationships and LGBTI identification. These instances among other assaults are more often unreported to the police for fear of imprisonment.

10. “Ghana: Gay and Lesbian Association of Ghana Speaks out on Recent Attacks”, 2006, <http://iglhrc.org/content/ghana-gay-and-lesbian-association-ghana-speaks-out-recent-attacks>. Further: <http://iglhrc.org/content/ghana-gays-and-lesbians-under-attack>.
 - In 2006, an alleged “gay convention” was to be held in Ghana. This was not true, but people and the local media were in an uproar. The press release states: “While “unnatural carnal knowledge” is still a crime in Ghana punishable by up to five years imprisonment, talking about “unnatural carnal knowledge” is not.“ This situation proves that it is not safe to identify or be perceived as a member of the LGBTI community in Ghana.

11. “Global community must act against homophobic violence and discrimination,” International Service for Human Rights, 2013, <http://www.ishr.ch/news/international-community-must-condemn-homophobic-violence-harassment-and-discrimination#sthash.PTz096DY.dpuf>.
 - Condemnation of real or perceived relation with the LGBTI community is common even among youth in Ghana—34 students were expelled in 2013 “for suspected lesbianism.” While they were not imprisoned they were still punished. <http://jmm.sgmjournals.org/content/journal/jmm/10.1099/jmm.0.46414-0>

12. Quote: “The data indicate a higher prevalence of HIV and HCV in correctional facilities (both prison inmates and officers) than in the general population in Ghana, suggesting their probable transmission in prisons in Ghana through intravenous drug use, unsafe sexual behaviour and tattooing as pertains to prisons worldwide.” <http://ugspace.ug.edu.gh/handle/123456789/5882>.
 - This quote from a medical journal article contrasts what other researchers and reports have found about Ghanaian prison: “Injection drug use and homosexual behaviours are rarely practiced inside the prisons with only two (0.2%) inmates indulging in injection drug use and ten (0.9%) engaging in anal sex.” The report is Ghanaian, so it is possibly skewed toward the societal norm that same-sex activities are rare. Also, as most other reports mention, same-sex relationships (especially those in prisons) are more often unreported.

13. http://www.instituteforscienceandhumanvalues.com/pdf/HP_V4-2_Sorgaard_Violations%20of%20Childrens%20Human%20Rights.pdf
- Article about children in prisons, but still relevant. Calls the prison situation “Grim” “Inmates, with the permission of the officers, have humiliated, degraded, and physically and/ or sexually abused suspects.”
14. “My turn: the homosexuality debate in Ghana”
<http://mail.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=226077>
- Use this article for chart of protections under law---that is, criminal on all accounts constitutionally for “unnatural carnal knowledge”
15. Beyrer, C. (2014). The Current Wave of Anti-Homosexuality Laws and Impacts on Health. *PLoS Med*, 11(6). doi: 10.1371/journal.pmed.1001658.
<http://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1001658>.
- Used article for chart to show legality under current and upcoming legislation: “Similarly restrictive laws have been drafted or are under debate in 2014 in Kenya, DR Congo, Ghana, and Zimbabwe, among others, suggesting the current period of rights limitations is gaining rather than losing traction across Africa.”
16. See article “Governance through power sharing in Ghanaian prisons”
http://rudar.ruc.dk:8080/bitstream/1800/14929/1/PSJ_212_March_2014.pdf.
- Several articles talk about the prison conditions in Ghana—could use this journal to find information about conditions of other African prisons.

Human Rights Protections

UN Record

Ghana did not sign the December 2008 UN declaration in support of LGBT rights, but neither did it sign the opposition statement, which expresses disapproval towards the idea of LGBT rights. Ghana was part of the committee that decided whether the UN should commission a study on global LGBT rights. It voted no.

Ghana faced a U.N.’s Universal Periodic Review in 2008 and again in 2012. In the 2008 Stakeholder Summary, IGLA, ILGA-Europe, Pan Africa ILGA, the International Gay and Lesbian Human Rights Commission, and ARC International made note of the country’s legislation against LGBTI persons.

In the 2012 Compilation of UN Information, UNAIDS called for the creation of laws and policies to address “ostracized groups, including MSM (men who have sex with men) and certain professions such as commercial sex work.” In the 2012 Stakeholder Summary, stakeholders noted that sexual activity between consenting adults remained criminalized under Chapter 6, Article 104 of the Criminal Code. Stakeholders also noted the influence of Ghanaian church organizations, which “publicly called for the strengthening of the laws” against LGBTI persons.

Social Climate

In 2011, LGBT persons were reported to face widespread discrimination, as well as police harassment and extortion attempts. Gay men in prison were often subjected to sexual and other physical abuse (Global Equality).

In June 2010 more than 1,000 protesters in Takoradi, Western Region, participated in a rally against reports of gay and lesbian activities in their city (Department of State).

Activist Groups

1. Coalition Against Homophobia in Ghana: Email: coalition.homophobia.gh@gmail.com.
2. Centre for Popular Education and Human Rights, P. O. Box AD 107, Adabraka, Accra Ghana. Telephone: 0289 108829 or 0277 754247. Email: cepehrg@gmail.com or info@cepehrg.net.

Other NGOs exist but choose not to have the organization names published in press releases for security reasons.

Best Practices /Recommendations

In the 2008 Universal Periodic Review, the Czech Republic, Romania, and Slovenia called on Ghana to decriminalize same-sex activity between consenting adults.

In the 2012 Universal Period Review, Canada called on Ghana to take action to prevent acts of violence against individuals based on sexuality. Belgium and Norway supported this recommendation, adding a call for investigations into allegations of threats against individuals based on their sexuality. France, Slovenia, Spain, and the Czech Republic called on Ghana to decriminalize same-sex relations between consenting adults. Slovenia, Belgium, Portugal, and the Netherlands called on Ghana to adopt measures to combat homophobia. The United States recommended training police, first responders, and justice system and social services officials to “respect and fully protect all human rights of every Ghanaian, including those who are lesbian, gay, bisexual, and transgender.

Relevant recommendation from Human Rights Watch include revoking existing laws criminalizing same-sex activities. Relevant recommendation from 2013 Country Report include investigating and documenting reports of harassment and extortion by police forces.

List of References

“Country Reports on Human Rights Practices for 2011”

2011, <http://www.state.gov/documents/organization/186412.pdf> .

“Country Reports on Human Rights Practices for 2013”

2013, <http://www.globalequality.org/storage/documents/pdf/human%20rights%20reports-2013-africa.pdf>.

“It’s Nature, Not a Crime” 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Ghana*, 13 August 2012, A/HRC/WG.6/14/GHA/2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/160/10/PDF/G1216010.pdf?OpenElement>.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Ghana*, 29 May 2008, A/HRC/8/36, available

at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/GH/A_HRC_8_36_Ghana_E.pdf.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Ghana*, 13 December 2012, A/HRC/22/6, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/187/36/PDF/G1218736.pdf?OpenElement>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (c) of the Annex to Human Rights Council Resolution 5/1: Ghana*, 2 April 2008, A/HRC/WG.6/2/GHA/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/125/16/PDF/G0812516.pdf?OpenElement>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21*, 20 July 2012, A/HRC/WG.6/14/GHA/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/155/59/PDF/G1215559.pdf?OpenElement>

2. Liberia

Conditions of the law

To date, President Sirleaf has not signed anything to legalize or outlaw “same-sex conduct.” [Tabengwa, M. (2012, 2012-04-17). Being Tolerant Is African, Too! Retrieved 2015-09-21, 2015, from <https://www.hrw.org/news/2012/04/17/being-tolerant-african-too>]. Even though Sirleaf is not stripping rights from LGBTI population she is also not helping the current situation to make strides toward acceptance. In 2012, President Sirleaf did veto a law that would outlaw gay marriage.[ibid].

The Liberian penal codes outlines several forms of sodomy, including voluntary, as a sexual offense. [https://www.unodc.org/res/cld/document/lbr/1976/penal_law_html/Penal_Law.pdf]. In addition to what is already in the penal codes the legislative branch is considering more restrictive laws. [<http://blogs.cuit.columbia.edu/rightsviews/files/2015/03/Being-LGBT-in-West-Africa-Project.pdf>]. The judicial branch has also tried LGBTI cases more harshly than others.[ibid] According to the State Department Human Rights Report, there is evidence “arbitrary detention” in Liberia, which one could speculate is due to bias toward LGBTI orientation.[Department of State Annual Human Rights Report to Congress (2010), <http://www.heinonline.org/HOL/Page?handle=hein.intyb/huhelsnk4053&id=465>].

Condition in the Prisons

Prison conditions in Liberia are “harsh and sometimes life-threatening,” according to the Department of State Human Rights Report. Other cruel conditions include overcrowding; insufficient food, sanitation, ventilation; lack of health care provisions; prison rape. The Red Cross has provided hygiene products to some Liberian prisons. [<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236374>].

Prison reform starts with prison guards and law enforcement, and Liberia is actually quite progressive in providing a police officers’ union to address workplace grievances. [https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf].

While this does not address prison conditions or treatment of LGBTI prisoners, it does imply a move toward better overall criminal justice conditions. In 2004, Liberia ratified the Optional Protocol to the Conventional against Torture, making it the first African country to do so. [Human Rights Treaties Division Newsletter No. 10, Oct.-Dec. 2010, United National Human Rights Office of the High Commissioner, <http://www.ohchr.org/EN/HRBodies/HRTDNewsletter/No.10,October-December2010.doc>]. Prison conditions in Liberia are dismal.[ibid]. Prison reform starts with prison guards and law enforcement, and Liberia is actually quite progressive in providing a police officers’ union to address workplace grievances.[https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf]. While this does not address prison conditions or treatment of LGBTI prisoners, it does imply a move toward better overall criminal justice conditions.

List of References

1. Tabengwa, M. (2012, 2012-04-17). Being Tolerant Is African, Too! Retrieved 2015-09-21,

2015, from <https://www.hrw.org/news/2012/04/17/being-tolerant-african-too>.

- This 2012 article discusses societal views toward the LGBTI community in Liberia. The author states President Sirleaf—the country’s first elected female head of state—is not signing any legislation for or against the “same-sex conduct.”

2. Liberian Penal Codes

(https://www.unodc.org/res/cld/document/lbr/1976/penal_law_html/Penal_Law.pdf).

- This United Nations document provides legal insight as to how one being tried for LGBTI association in Liberia may be sentenced. Subchapter D. Sexual Offenses has sections on voluntary, involuntary, and aggravated involuntary sodomy (§ 14.71, 14.70, 14.73) as well as sections on “sexual crimes” (§ 14.78, 14.79). Voluntary sodomy is categorized as a first degree misdemeanor (§ 14.74). § 14.76 (Sexual abuse of ward) concludes that sex between prison officials and prisoners is a first degree misdemeanor.

3. Handbook on police accountability, oversight and integrity

https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf.

- This handbook published by the UN can be used to study best practices already in place. The handbook includes Liberia for its National Law Enforcement Association that works similar to how a police union in the U.S. would work. The handbook does not specifically address anything about treatment of LGBTI prisoners or arresting someone for real or perceived LGBTI identity, but it is a start for best practices and reforms.

4. “Securing a Safe Place for All Liberians” 2012, <http://iglhrc.org/content/securing-safe-place-all-liberians>.

- This blog post (originally seen in Huffington Post) provides a brief overview of the legislative, executive and judicial branches of Liberian government and their current actions in trying to change or keep laws that oppress the LGBTI community.

5. “Social Constructions of Masculinity and Male Survivors of Wartime Sexual Violence: an Analytical Review” DOI:10.1080/19317611.2011.608415.

- This article does not fully meet the scope of the project, but some of the ideas about sexual abuse in male-male relationships could be put toward best practices for dealing with any physical harm toward LGBTI prison populations.

6. “From ‘Kill the Gays’ to ‘Kill the Gay rights Movement’: The Future of Homosexuality Legislation in Africa”,

http://heinonline.org/HOL/Page?handle=hein.journals/jihr11&g_sent=1&id=216.

- This article covers many African countries and provides seven stages to describe the state of LGBTI populations in Africa, including “total marginalization” as stage 1, “criminalization of status and behavior” as stage 2, “decriminalization” as stage 3, “anti-discrimination laws” as stage 4, all the way up to a stage 7 of “cultural integration.” We could use this to show a range of severity and acceptance of LGBTI populations. Also see this footnote “In July 2012, the Liberian Senate voted to constitutionalize a ban on same-sex marriage, though President Ellen Johnson Sirleaf, who had vowed to the international

community that she would veto any legislation increasing penalties for homosexual activity, vetoed the bill. Liberian Senate Votes to Ban Gay Marriage in Constitution, RADIO NETHERLANDS WORLDWIDE AFRICA (July 20, 2012), <http://www.rnw.nl/africa/bulletin/liberian-senate-votes-ban-gay-marriage-constitution.>”

7. “The Security Sector and Gender in West Africa” DCAF, [http://issat.dcaf.ch/index.php/content/download/5846/49332/file/00_Complete_West%20Africa_gender_survey\[1\].pdf#page=15](http://issat.dcaf.ch/index.php/content/download/5846/49332/file/00_Complete_West%20Africa_gender_survey[1].pdf#page=15).
 - Mostly talks about gender based violence against women but can look at for best practices for all West African countries (including Liberia) to see if it mentions anything the branches of government are doing to protect or deny LGBTI rights.
8. “Mapping Study on Gender and Security Sector reform Actors and activities” DCAF, http://www.issat.ch/content/download/4946/43644/file/Gender_mapping_Liberia_August2011.pdf.
 - Talks about gender separation of prisoners—I wonder how this affects any prisoner that identifies as transgender.
9. Department of State Annual Human Rights Report to Congress (2010) <http://www.heinonline.org/HOL/Page?handle=hein.intyb/huhelsnk4053&id=465>.
 - “Principle human rights problems include arbitrary or unlawful deprivation of life, police abuse of civilians, poor prison conditions, arbitrary detention...(a lot of other violations)...discrimination based on sexual orientation.”

Human Rights Protections

UN Record

Liberia did not sign the December 2008 UN declaration in support of LGBT rights, but neither did it sign the opposition statement which expresses disapproval towards the idea of LGBT rights.

Liberia was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.

Liberia faced a U.N.’s Universal Periodic Review in 2010 and again in 2015. In the 2010 review, the Human Rights Council noted that Liberia criminalized same-sex relations between consenting adults, violating the rights to privacy and non-discrimination and called for the repeal of the laws; one request was made by a joint group of international activist organizations. No mention of the recommendations were made in the follow-up or in Liberia's response.

Social Climate

In 2012, Liberia passed legislation that prohibited marriage between individuals of the same sex. Additional bills were introduced which, if passed, would make the practice of same-sex relations punishable by up to 5 years in prison (Amnesty International).

In 2013, Human Rights Watch published a report titled "It's Nature, Not a Crime: Discriminatory Laws and LGBT People in Liberia." In this report, members of the LGBTI community stated that the pending legislation had amplified already prevalent discrimination and harassment. Stephen McGill, the director of Stop AIDS Liberia (SAIL), stated:

"Before these laws, LGBT persons had few problems, they were able to come and go freely, even had gay parties without interference from the public. There was public harassment here and there but hardly ever anything to the degree that it is experienced today. Since the [proposed] laws were introduced, SAIL has had more and more cases of public harassment, violent attacks, families disowning their children, and even evictions from rented spaces."

Activist Groups

1. ActionAid Liberia (AAL). Website: www.actionaid.org/liberia. Email: info.liberia@actionaid.org. Facebook: ActionAid Liberia. Twitter: AALiberia.
2. The Coalition of LGBT Liberians and Allies. Website: <http://coalitionlgbtiliberiansallies.blogspot.com/>. Email: coalitionlgbtiliberiansallies@gmail.com.
3. Liberian Initiative for the Promotion of Rights, Identity, and Diversity (LIPRID). Website: <http://liprid-liberia.org/>. Address: Liberia's Initiative for the Promotion of Rights, Identity, Diversity and Equality (LIPRIDE), Actionaid Compound, Congo Town, Paynesville, Liberia.
4. Stop AIDS in Liberia (SAIL). Director: <https://www.linkedin.com/in/stephen-mcgill-82788711>. No other published contact information.

Best Practices/Recommendations

In the 2015 "Report of the Working Group," Uruguay called for the amendment of discriminatory practices, particularly in regard to "equality of access to services and public office." Brazil, France, Poland, Spain, Ireland, Canada, and Columbia called for the decriminalization of same-sex relations, particularly 14.74 of the Penal Code.

Relevant recommendations from Human Rights Watch include:

- Providing appropriate training for police on human rights and violence based on sexual orientation and gender identity.
- Assessing the connection between laws criminalizing same-sex activities and the HIV epidemic.

List of References

"It's Nature, Not a Crime: Discriminatory Laws and LGBT People in Liberia"

2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

"Making Love a Crime: Criminalization of Same-Sex Conduct in Sub-Saharan Africa"

2013, https://www.amnestyusa.org/sites/default/files/making_love_a_crime_-_africa_lgbti_report_emb_6.24.13_0.pdf.

UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1: Liberia*, 23 August 2010,

A/HRC/WG.6/9/LBR/1, available

at: http://lib.ohchr.org/HRBodies/UPR/Documents/session9/LR/A_HRC_WG.6_9_LBR_1_Liberia-eng.pdf.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review:*

Liberia, 13 July 2015, A/HRC/30/4, available at: [http://daccess-dds-](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/155/37/PDF/G1515537.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G15/155/37/PDF/G1515537.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/155/37/PDF/G1515537.pdf?OpenElement).

3. Mali

In Mali, sexual minorities are often forced into hiding due to strong societal discrimination.

[Bleck, J. (2011). Countries at the Crossroads 2011:

Mali. https://freedomhouse.org/sites/default/files/inline_images/MALIFINAL.pdf].

The public often takes it upon themselves to *correct* anyone identifying or perceived as LGBTI, and the police rarely intervene. [Mali 2014 Human Rights Report (U. S. D. o. State, Trans.). In H. R. a. L. Bureau of Democracy (Ed.), *Country Reports on Human Rights Practices for 2014*]. With that understanding, it is difficult to identify the prison conditions for LGBTI population because of the society-induced punishment.

Conditions of the Law

Overall, it is not illegal to participate in same-sex relationships in Mali. [Bleck, J. (2011). Countries at the Crossroads 2011:

Mali. https://freedomhouse.org/sites/default/files/inline_images/MALIFINAL.pdf]. In fact before 2011, Mali had particularly “good governance” toward diverse populations; however, the government decisions do not often reflect the society views. [Soares, B. F. (2006). Islam in Mali in the Neoliberal Era. *African Affairs*, 105(418), 77-95.

<http://afraf.oxfordjournals.org/content/105/418/77.full>]. However, the law gets fuzzy when *association* is illegal, and no laws are in place making it illegal to *discriminate* the LGBTI population as well. [Mali 2014 Human Rights Report (U. S. D. o. State, Trans.). In H. R. a. L. Bureau of Democracy (Ed.), *Country Reports on Human Rights Practices for 2014*].

Condition in the Prisons

The Department of State Human Rights Report (2014) describes Malian prison conditions as “harsh” and inadequate in providing basic security and administration.

[<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236380>].

Malian prisons are overcrowded and do not provide essential health care or food to prisoners, who are often held for years before facing a trial. The report describes Mali as “lawless” in some regions, which reinforces the notion that acts against LGBTI populations in and out of prison is often unreported. [Bleck, J. (2011). Countries at the Crossroads 2011: Mali. https://freedomhouse.org/sites/default/files/inline_images/MALIFINAL.pdf].

On another note, Mali is building better practices in regards to supporting female prison guard and justice system leadership. [“The Security Sector and Gender in West Africa: A Survey of police, defence, justice and justice in penal services in ECOWAS states,” Miranda Gaanderse and Kristin Valasek. Accessed via Google Scholar. DCAF 2011]. Prisons are overcrowded and often lack basic health care and food. Parts of Mali are described as “lawless.” [Bleck, J. (2011). Countries at the Crossroads 2011: Mali. *Critical incidents*].

List of References

1. Soares, B. F. (2006). Islam in Mali in the Neoliberal Era. *African Affairs*, 105(418), 77-95. <http://afraf.oxfordjournals.org/content/105/418/77.full>.
 - Mali has had considerably “good governance” (78) before 2011 toward diverse populations. However, this article identifies the push towards Islamic and conservative religious values has made it harder for LGBTI populations to be open about their sexual orientation in public due to societal condemnation stemming from religious leaders. The

Malian people tend to follow the values of the religious leaders more than the government leaders.

2. The journal the article was published in, *African Affairs*, could serve as a key journal for finding current evidence-based research about LGBTI populations and prison conditions.
 - Quote: “Many saw Western values such as the social acceptance of homosexuality as repugnant, as they did the active promotion of the use of the condom against HIV/AIDS and family planning, more generally, by the Malian government, including President Konaré, Western donors, international organizations and local NGOs,” (p 90).
3. Bleck, J. (2011). Countries at the Crossroads 2011: Mali.
https://freedomhouse.org/sites/default/files/inline_images/MALIFINAL.pdf
 - The report from Freedom House further reinforces that homosexuality is legal but not accepted within greater Malian society. The report also details some information on prison conditions. Malian prisons are overcrowded and do not provide essential health care or food to prisoners, who are often held for years before facing a trial. The report describes Mali as “lawless” in some regions, which again reinforces the notion that acts against LGBTI populations in and out of prison is often unreported.
4. Mali 2014 Human Rights Report (U. S. D. o. State, Trans.). In H. R. a. L. Bureau of Democracy (Ed.), *Country Reports on Human Rights Practices for 2014*.
 - Quote: “The government generally respected freedom of association except for members of the lesbian, gay, bisexual, and transgender (LGBT) community. The law prohibits association “for an immoral purpose,” and there were no laws specifically prohibiting discrimination based on sexual orientation or gender identity.... Credible NGOs reported LGBT individuals experienced physical, psychological, and sexual violence, which society viewed as corrective punishment. Family members, neighbors, and groups of strangers in public places committed the majority of violent acts, and police frequently refused to intervene. Most LGBT individuals isolated themselves and kept their sexual identity hidden.”
[<http://www.heinonline.org/HOL/Page?handle=hein.jessup/ilsaqrly0021&id=294>].
Source states as of 2013, Mali was in a state of emergency and near collapse, so data may be very hard to find.

Human Rights Protections

UN Record

Mali did not sign the December 2008 UN declaration in support of LGBT rights, but Mali did sign the opposition statement which expresses disapproval towards the idea of LGBT rights. Mali was not a part of committees to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation and a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation.

4. Morocco

Conditions of the Law

At least 14 men were tried in the past decade for engaging in same-sex relationships. Article 489 is what anyone tried for LGBTI associations or relationships is tried under, which outlaws sex between the same gender [“The Security Sector and Gender in West Africa: A Survey of police, defence, justice and justice in penal services in ECOWAS states,” Miranda Gaanderse and Kristin Valasek. Accessed via Google Scholar. DCAF 2011]. The judicial system is by far the harshest branch of Moroccan government when it comes to discriminating against LGBTI. Discrimination or approval of LGBTI reform is unknown currently from other branches of government.

Condition in the Prisons

Despite harsh laws against LGBTI population, Morocco has been quite open about its prison reform (mostly juvenile centers) in recent years. The Moroccan government’s path to reform transparency could serve as a model of best practices for other countries in the North African region. One aspect that helped the most in prison reform in Morocco was prison staff training. Moroccan prisons are “still a long way from respecting human rights and international standards and principles.” [See “Supporting Penal and Prison Reform in North Africa: Algeria and Morocco,” p. 72, Providing Security for People: Enhancing Security through Police, Justice, and Intelligence Reform in Africa.

http://www.africansecuritynetwork.org/site/components/com_medialibrary/emedialibrary/Providing%20Security%20for%20People%20Enhancing%20Security%20through%20Police%20Justice%20and%20Intelligence%20Reform%20in%20Africa.pdf#page=72].

However, the Moroccan government is making large efforts in improving human rights. [http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/100/00/PDF/G1410000.pdf?OpenElement]. One UNOHCHR states a “culture of human rights is emerging in Morocco” and with that includes many new prisons and prison renovations to improve on the current substandard conditions. [http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12569&LangID=E].

Overcrowding is an issue in Moroccan prisons, and addressing this issue would help develop better human rights practices in the prisons. [http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/100/00/PDF/G1410000.pdf?OpenElement]. Other issues to address in Moroccan prisons include better health care practices to prevent the deteriorating health of prisoners [ibid].

The Department of State Human Rights Report describes Moroccan prison conditions as “substandard,” and a UN report found torture prevalent even though it is prohibited under the Moroccan constitution. [http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236614]. The UN Report from the Working Group on Arbitrary Detention details best practices for improving the prison conditions in Morocco.

Despite harsh LGBTI laws and judicial actions, Morocco has been quite open about its prison reform. [See page 62, http://www.africansecuritynetwork.org/site/components/com_medialibrary/emedialibrary/Providing%20Security%20for%20People%20Enhancing%20Security%20through%20Police%20Justice%20and%20Intelligence%20Reform%20in%20Africa.pdf#page=72]. Most reforms went toward

training staff [“International Gay and Lesbian Human Rights Commission Calls on Morocco to Stop Persecuting Individuals based on Claims of Homosexuality” 2015, <http://iglhrc.org/content/international-gay-and-lesbian-human-rights-commission-calls-morocco-stop-persecuting>].

List of References

1. “International Gay and Lesbian Human Rights Commission Calls on Morocco to Stop Persecuting Individuals based on Claims of Homosexuality” 2015, <http://iglhrc.org/content/international-gay-and-lesbian-human-rights-commission-calls-morocco-stop-persecuting>.
 - This article calls for the release of two men awaiting trial for alleged same-sex activities. The men are being tried under Article 489 of the Moroccan Penal Code. This article is a good source for a singular data point of LGBTI punishment under law.
2. “Groundbreaking Video series Breaks LGBTI Silence in Morocco,” 2014, <http://iglhrc.org/content/groundbreaking-video-series-breaks-lgbti-silence-morocco>.
 - The video is in Arabic with subtitles, and it highlights one man identifying as gay and the discrimination of LGBTI population under the law and in society. At one point, the interviewee states “There are no laws to protect me.” Link to the video creator’s YouTube channel, which could have more insight into Moroccan laws: <https://www.youtube.com/channel/UCJqg2NbZ2-pvbzrdoc5zrg>.
3. Presentation: “A Comparative Study of the Legal Status of Gay, Lesbian, and Transgender people in Iran, Turkey and Morocco” 2010, PPT, <http://iglhrc.org/content/comparative-study-legal-status-gay-lesbian-and-transgender-people-iran-turkey-and-morocco>.
 - Again identifies Article 489 of the Moroccan Criminal Law (Penal Code?) that used to discriminate against the LGBTI population—“unnatural sexual acts with a member of the same gender.”
4. “Morocco/ Western Sahara: Drop charges of homosexuality against six men and ensure their safety” 2008, <http://iglhrc.org/content/morocco-updates-convictions-gay-men>.
 - 6 men imprisoned and convicted of “practising homosexuality” after a video was released alleging the men were holding a “gay marriage,” despite the video not showing any same-sex acts.
5. “Morocco: Two Sentenced on Homosexuality Charge” <https://www.hrw.org/news/2015/03/04/morocco-two-sentenced-homosexuality-charge>.
 - Another two men were charged under Article 489 criminalizing same-sex relationships. The defendants claimed “Right to private life” in Moroccan law. The article states the judicial system denies the right to a fair trial. The article is a good resource to identify that the court system (judicial) discriminates against the real or perceived LGBTI population.
6. “Morocco: Homosexuality Convictions Upheld” <https://www.hrw.org/news/2014/07/08/morocco-homosexuality-convictions-upheld>.

- Another case of 6 men alleged and tried for same-sex activities. The article includes the punishment each man was given. Punishment: “On May 12, the court of first instance in Fqih Bensalah convicted the men of homosexual acts, along with incitement to prostitution, and public drunkenness or driving under the influence. It sentenced one of the men to three years in prison, another to two-and-a-half years, and the other four to shorter sentences. The court also banished several and perhaps all six defendants from the region, a punishment that article 504 of the penal code provides for “moral” crimes. In its July 2 ruling, the appeals court shortened the two prison terms for two defendants, converted the others to suspended sentences, and cancelled the banishment orders.”
7. “Morocco: Protect Rights to Privacy and Fair Trial”
<https://www.hrw.org/news/2008/02/25/morocco-protect-rights-privacy-and-fair-trial>.
 - Another article calling for a right to fair trial to everyone despite sexual orientation.
 8. “Morocco: Overturn Verdicts for Homosexual Conduct”
<https://www.hrw.org/news/2007/12/11/morocco-overturn-verdicts-homosexual-conduct>.
 - This article is shaming the Moroccan government, namely the court system, for convicting adult men of consensual sex in private.
 9. “Ksar el-Kbir Case Prompts Moroccan Association for Human Rights” <https://www.hrw.org/news/2008/02/15/ksar-el-kbir-case-prompts-moroccan-association-human-rights>.
 - One more article to back up the fact that anyone convicted under Article 489 will likely not receive a fair trial.
 10. See “Supporting Penal and Prison Reform in North Africa: Algeria and Morocco,” p. 62, *Providing Security for People: Enhancing Security through Police, Justice, and Intelligence Reform in Africa*.
http://www.africansecuritynetwork.org/site/components/com_medialibrary/emedialibrary/Providing%20Security%20for%20People%20Enhancing%20Security%20through%20Police%20Justice%20and%20Intelligence%20Reform%20in%20Africa.pdf#page=72.
 - This is a good source for understanding the prison system in Morocco. Despite harsh laws against LGBTI population, Morocco has been quite open about its prison reform (mostly juvenile centers). The Moroccan government’s path to reform transparency could serve as a model of best practices for other countries in the North African region. One aspect that helped the most in prison reform in Morocco was prison staff training. We can use this report to further investigate prison reforms in other Africa countries as well—the report primarily covers South Africa, Morocco, and Algeria.
 11. See Ch. “Supporting Penal and Prison Reform in North Africa: Algeria and Morocco,” p. 62, *Providing Security for People: Enhancing Security through Police, Justice, and Intelligence Reform in Africa*.
 - This is a good source for understanding the prison system in Morocco. Despite harsh laws against LGBTI population, Morocco has been quite open about its prison reform (mostly juvenile centers but also the prison system as a whole). The Moroccan government’s path to reform transparency could serve as a model of best practices for

other countries in the North African region. One aspect that helped the most in prison reform in Morocco was prison staff training. We can use this report to further investigate prison reforms in other Africa countries as well—the report primarily covers South Africa, Morocco, and Algeria.

Human Rights Protections

UN Record

Morocco did not sign the December 2008 UN declaration in support of LGBT rights, but Morocco did sign the opposition statement which expresses disapproval towards the idea of LGBT rights.

Morocco was not a part of committees to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation, and Morocco voted against a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation.

Morocco faced a U.N.'s Universal Periodic Review in 2008 and again in 2012. In 2008, the International Lesbian and Gay Association (ILGA), in a joint submission with others, noted that same sex relations are criminalized in Morocco, and this was classified as a violation of the right to privacy. No mention of decriminalization or LGBTI rights was made in the 2012 review.

Social Climate

According to a UNHCR report, Morocco: Treatment of Homosexuals, "Moroccan society does not even translation 'suspect' that lesbians exist."

Due to traditional Islamic morality and traditional gender roles, homosexuality is stigmatized and viewed as immoral (The Guardian).

In April 2010, the Moroccan LGBTI community launched the first Moroccan gay magazine, "Mithly." The magazine does not have a distribution license from the Moroccan government, and writers must keep a low profile to avoid persecution (The Guardian). Kif Kif, the organization that publishes "Mithly," occasionally holds education seminars (Al Arabiya News).

Activist Groups

Kif Kif. Website: <http://www.kifkif.info/p/sobre-kifkif.html>. Email: correo@kifkif.info
Facebook: Kifkif. Phone: 34 915 21 11 74.

Best Practices/Recommendations

Relevant recommendations from Human Rights Watch includes:

- Taking measures to assure that LGBTI persons have the right to freedom of expression without discrimination.
- Protecting expression of the experiences of vulnerable groups in the media.

List of References

"Fear for Life: Violence Against Gay Men and Men Perceived as Gay in Senegal"
2010, <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.

“Gay Magazine Launched in Morocco”

2010, <http://www.theguardian.com/world/2010/may/20/gay-magazine-launch-morocco-rights>.

“Gay Seminar Stirs Outrage in Morocco”

2009, <http://www.alarabiya.net/articles/2009/03/19/68776.html>.

“It’s Nature, Not a Crime” 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

“Morocco: The Treatment of Homosexuals, Including Protection Offered by the State and the Attitude of the Population” 2007, <http://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=publisher&publisher=IRBC&type=&coi=MAR&docid=469cd6af0&skip=0>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1: Morocco*, 11 March 2008, A/HRC/WG.6/1/MAR/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/116/00/PDF/G0811600.pdf?OpenElement>

5. Niger

While same sex relationships in Niger are legal, there is a strong stigma attached to being LGBTI. A books on Hausa communities in Niamey described LGBTI culture there as being underground and existing “in the shadows of city social life” (Rodenbough, 2014). A USAID report, speaking about health issues stated “sexual minorities, or LGBT are poorly documented in Niger and HIV rate among men having sex with other men (MSM) is not known” (Rodenbough, 2014).

Conditions of the Law

Both Male/Male and Female/Female relationships are legal in Niger. There is however a law against committing an “unnatural act” with a person of the same sex if they are under 21 (USDS, 2014). Penalties include a sentence of six months to three years and fines of 10,000 to 100,000 CFA francs (USDS, 2014). Anti-discrimination laws do not cover sexual orientation or gender identity (USDS, 2014). While there are no documented instances of violence or discrimination, this is most likely due to low reporting caused by fear and stigma (USDS, 2014). Niger is a signatory to the opposition statement against the 2008 UN declaration supporting LGBT rights (Rodenbough, 2014).

Condition in the Prisons

While there is no information available on the specific conditions of LGBTI inmates, the 2014 State Department Human Rights Report described prison conditions in Niger as “harsh and life threatening” (USDS, 2014). Overcrowding, poor sanitation, and inadequate medical care were all noted as problems (USDS, 2014). Women and minors were typically held separately from men and adults. However, trafficking victims were often held with traffickers (USDS, 2014). A large number (53.4%) of those imprisoned were pretrial detainees (ICPR, 2014). Families are able to bring in food and medicine but otherwise nutrition is poor (USDS, 2014). In 2013 authorities partnered with international groups to reform the prisons. This included training on inmate rights and medical care as well as construction (USDS, 2014).

According to the Institute for Criminal Policy Research there are 38 penal institutions in Niger, with a total of population of 7,424. This puts the rate of incarceration at 39 people per 100,000 (ICPR, 2014). The Ministry responsible in the Ministère de la Justice and the Prison administration is the Administration Penitentiaire et des Grâces (ICPR, 2014).

Critical Incidents

- 2002: Barka Hara, arrested for prostitution with other men seeks asylum in Holland, alleges threat to life after other inmates hung (Henk, 2002).
- 2013: authorities partnered with international groups to reform the prisons. This included training on inmate rights and medical care as well as construction (USDS, 2014).
- 2014: On March 6th Niger extradited Al-Saadi Qadhafi, an adult son of the late Libyan leader Muammar Qadhafi, to Libyan authorities (USDS, 2014). He had been under house arrest in Niamey, seeking asylum since 2011 (USDS, 2014). There has been some indication that he is gay (Rodenbough, 2014). However, he was not the only person connected to Muammar Qadhafi to be extradited (USDS, 2014).

List of References

- Institute for Criminal Policy Research. (2014). *Niger. World Prison Brief*. Retrieved from <http://www.prisonstudies.org/country/niger>.
- Krol, Henk. (2002). *From Niger to the Netherlands: Bakar, between hope and fear*. LGBT Asylum News. Retrieved from http://madikazemi.blogspot.com/2002_11_01_archive.html.
- Rodenbough, Philip P. (2014). *On Being LGBT in West Africa*. Retrieved from <http://blogs.cuit.columbia.edu/rightsviews/files/2015/03/Being-LGBT-in-West-Africa-Project.pdf>.
- United States Department of State. (2014). *Country Reports on Human Rights Practices for 2014 - Niger*. Retrieved from <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236390>.

Human Rights Conditions

UN Record

Niger did not sign the December 2008 UN declaration in support of LGBT rights, but Niger did sign the opposition statement which expresses disapproval towards the idea of LGBT rights. Niger faced a U.N.'S Universal Periodic Review in 2011. Passing mention is made to Niger's recognition of only opposite-sex marriages, but no LGBTI rights issues are raised or advocated for.

Social Climate

Same-sex relations between consenting adults has not been criminalized in Niger; however, there is a stigma against the LGBTI community. According to a U.S. Department of State report, in January 2013, two men were arrested and briefly jailed after being found naked together in a parked car.

Activist Groups

LGBTI activist organizations exist in secret.

Best Practices/Recommendations

Relevant recommendations from Human Rights Watch include a call upon lawmakers and influential individuals to publicly condemn attacks or violence expressed against LGBTI persons.

List of References

- “It’s Nature, Not a Crime” 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.
- “Niger 2013 Human Rights Report” 2013, <http://www.state.gov/documents/organization/220356.pdf>

6. Nigeria

The situation for LGBTI people in Nigeria is dire. Since the passing of the Same Sex Marriage (Prohibition) Act in January 2014, anti-gay violence has gone up. Other types of discrimination have also increased, resulting in homelessness, unemployment for LGBTI people or those perceived to be (Eichelberger, 2014). There has also been a decrease in support for HIV/AIDS in caused by fears of being associated with anything even remotely connected with being gay (Eichelberger, 2014). Familial support of those arrested under the law is often limited because of social stigma (Nigerian court, 2014).

Conditions of the Law

Both Male/Male and Female/Female relationships are illegal in Nigeria under the Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990.2, Section 214, 215, and 217. The official offence primarily breaks down to “carnal knowledge against the order of nature/or attempt; gross indecency. (IGLA, 2015).”

In addition, on 17 December 2013, the Same-Sex Marriage (Prohibition) Act was passed by the Senate and the House of Representatives. It was signed by the President Goodluck Jonathan on 7 January 2014. The Act, also dubbed the “Jail the Gays Law” has already resulted in numerous arrests (Stewart, 2014). The bill not only reinforces the illegality of same sex relationships but also makes any type of support illegal. It lays out penalties as follows (Kaleidoscope Trust, 2014):

- Up to 14 years imprisonment for anyone who enters into a same sex marriage contract or civil union. For the purposes of the Act a ‘civil union’ covers co-habiting relationships between partners of the same sex.
- Up to 10 years imprisonment for anyone who witnesses or supports a same-sex wedding.
- Up to 10 years imprisonment for anyone who “registers, operates or participates in gay clubs, societies and organizations.”
- Up to 10 years imprisonment for “direct or indirect” public displays of affection for same-sex couples.

Furthermore, the following Northern Nigerian states have adopted Islamic Sharia laws, criminalising sexual activities between persons of the same sex: 267 Bauchi (the year 2001), Borno (2000), Gombe (2001), Jigawa (2000), Kaduna (2001), Kano (2000), Katsina (2000), Kebbi (2000), Niger (2000), Sokoto (2000), Yobe (2001) and Zamfara (2000) (IGLA, 2015). The penalties in these states include death for men and whipping and/or imprisonment for women. It is this set of laws that specifically deals with same sex relationships between women (IGLA, 2015).

In Nigeria it is not possible for people who are transgender to get a legal name or gender change. Additionally there is noted criminalization and prosecution of both transgender people and cross-dressing (Transgender Europe, 2015). In the Northern States for example “Any person being a male gender who acts, behaves or dresses in a manner which imitate the behavioral attitude of women shall be guilty of an offence and upon conviction, be sentenced to 1 year imprisonment or a fine of N10,000 or both” (Ostien, 2007).

Condition in the Prisons

While there is little information available on the specific conditions of LGBTI inmates, the 2014 State Department Human Rights Report described prison conditions in Nigeria as “harsh and

life-threatening” (USDS, 2014). In a 2014 report on the conditions in Nigerian prisons, police stations, and military detention centers, Amnesty International found rampant human rights abuses, including torture (Amnesty International, 2014). According to the report, torture is often used to gain confessions. Even at the point of signing a confession, detainees may not be told what they have been arrested for (Amnesty International, 2014).

There is also a high amount of corruption in the police force, where officers will detain people in order to extract bribes (Amnesty International, 2014). It was noted that “a wide range of torture methods are used by both military and police, including beatings; shootings; nail and teeth extractions; and rape and other sexual violence” (Amnesty International, 2014).

Overcrowding is a major issue and there is no adequate medical care, food, or water. Staff were poorly paid (sometimes not paid) and there was little infrastructural support. “Between January and June 2008, not fewer than 600 officers of the Nigerian Prisons Service (NPS) resigned their appointments from the service due to poor conditions of service” (Chukwuemeka, 2010).

Security officials often operate with impunity and mass arrests are common (Amnesty International, 2014). Those arrested, either by police or the military, often have no access to lawyers or family (Amnesty International, 2014). Detention while awaiting trial is long, sometimes taking years. Pretrial detainees make up 70% of the prison population (State Department, 2014). Rape, particularly of women inmates is a large problem (Chukwuemeka, 2010). Reports of children being tortured in detention were also noted, as was juveniles being put in cells with adults (Amnesty International, 2014). There were also instances of men, women, and children all being housed together (USDS, 2014).

The Amnesty report also noted a blurring of the line between the military and police, despite the military supposedly not having the ability to arrest non-military people except in emergency situations. Most victims are poor or from otherwise vulnerable groups (Amnesty International, 2014).

According to the Institute for Criminal Policy Research there are 240 penal institutions in Nigeria, with a total of population of 56,620. This puts the rate of incarceration at 31 people per 100,000 (ICPR, 2014). The Ministry responsible in the Ministry of Internal Affairs and the Prison administration is the Nigerian Prisons Service (ICPR, 2014).

Critical Incidents

- 2013: Seven men, all between the ages of 18 and 25 years old, were arrested in Jigawa State for “alleged homosexuality.” One of the men arrested had been reported by his parents. (NSCDC, 2013).
- 2013: On April 2nd three men (Armstrong Ihua, 40, of Ikorodu, Lagos State; Collins Ejike, 30, of Lugbe, Abuja, and Pius Bamayi, 25, of Masaka, Nasarawa State) were jailed on charges of engaging in homosexual activity. The trial date was set for April 23rd. All three pleaded not guilty (Stewart, 2013).
- 2014: After the new law was signed it was reported that 38 gay people had been arrested. Their resulting torture was used to create a list of 168 more LGBT people (Rodenbough, 2014).
- 2014: In February in Abuja 14 men were dragged out of bed and beaten by people on a stated mission “to cleanse” the neighborhood of gays (Anti-gay, 2014). Four of the men assaulted were taken to the police station where officers also beat them and threatened them with 14 years in prison, the maximum penalty under the new law (Anti-gay,

2014). However, they were released for lack of evidence. No law enforcement responded to calls made for help. Ifeanyi Orazulike of the International Center on Advocacy for the Right to Health, who spoke to some of the men said "they were told 'If you come back, we will kill you'" (Anti-gay, 2014).

- 2014: In March, Four men who were arrested in the crackdown following the passage of the Same Sex Marriage (Prohibition) Act in January 2014 were sentenced to public whipping of 15 strokes each by an Islamic court in Bauchi City in the north. They also must pay a fine of \$120 and will go to jail if they cannot. Dorothy Aken'Ova, the convenor of the Coalition for the Defence of Sexual Rights Network stated that their confessions were the result of beatings. The families refused to offer legal representation because of the stigma and a mob outside tried to stone the men, calling for the death penalty, which is a possibility under the law. The judge said he was being lenient "because the men had promised that the homosexual acts occurred in the past and that they had since changed their ways" (Nigerian court, 2014).

List of References

- Amnesty International. (2014). *'Welcome To Hell Fire' Torture and Other Ill-Treatment in Nigeria*. Retrieved from https://www.amnesty.org.uk/sites/default/files/p4334_nigeria_report_complete_web.pdf.
- Anti-gay violence hits Nigerian capital*. (2014). Aljazeera America. Retrieved from <http://america.aljazeera.com/articles/2014/2/15/mob-attacks-allegedgaysinnigeriancapital.html>.
- Chukwuemeka, Eze Malachy. (2010). *Institutional reforms and the development of Nigeria Prisons Service, 1999 - 2007*. Journal of African Studies and Development Vol. 2(5), pp. 114-121, August 2010. Retrieved from http://admin.ppja.org/countries/nigeria/Nig_ref.pdf.
- Eichelberger, Erika. (2014). *You Thought It Was Tough Being Gay in Uganda. "It's Hell in Nigeria."* Mother Jones. Retrieved from <http://www.motherjones.com/politics/2014/03/nigeria-anti-gay-law-hiv>.
- Institute for Criminal Policy Research. (2014). *Nigeria. World Prison Brief*. Retrieved from <http://www.prisonstudies.org/country/nigeria>.
- International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carrol, A & Itaborathy, L.P. (2015) *State Sponsored Homophobia 2015: A world survey of laws: criminalization, protections and recognition of same-sex love* (Geneva; ILGA, May 2015).
- Kaleidoscope Trust. (2014). *Nigeria: Same Sex Marriage (Prohibition) Act*. Kaleidoscope Trust Briefing, January 2014. Retrieved from <http://kaleidoscopetrust.com/usr/library/documents/main/2014-02-nigeria.pdf>.
- Nigeria court orders men whipped for gay sex*. (2014). Aljazeera America. Retrieved from <http://www.aljazeera.com/news/africa/2014/03/nigerian-court-whips-4-men-accused-gay-sex-201436143555638773.html>.
- NSCDC arrests seven gay men in Jigawa*. (2013). Nigerian Eye. Retrieved from <http://www.nigerianeye.com/2013/12/nscdc-arrests-seven-gay-men-in-jigawa.html>.
- Ostien, Philip. (2007). *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook*. Spectrum Books Limited, Ibadan, Nigeria, 2007, volume III, chapter 3, part IV. Retrieved from http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol_3_5_chapter_3_part_IV.pdf.

- Rodenbough, Philip P. (2014). *On Being LGBT in West Africa*. Retrieved from <http://blogs.cuit.columbia.edu/rightsviews/files/2015/03/Being-LGBT-in-West-Africa-Project.pdf>.
- Stewart, Colin. (2013). *Three Men Jailed in Nigeria on Gay Sex Charges*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2013/04/04/three-men-jailed-in-nigeria-on-gay-sex-charges/>.
- Stewart, Colin. (2014). *Nigerian mob demands death for gay prisoners*. Erasing 76 Crimes. Accessed 10/25/15 at <http://76crimes.com/2014/01/22/nigerian-mob-demands-death-for-gay-prisoners/>.
- Transgender Europe. (2015). *Trans Respect Versus Transphobia Worldwide*. Retrieved from <http://transrespect.org/en/>.
- United States Department of State. (2014). *Country Reports on Human Rights Practices for 2014 - Nigeria*. Retrieved from <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236392>.

Human Rights Conditions

UN Record

Nigeria did not sign the December 2008 UN declaration in support of LGBT rights, but Nigeria did sign the opposition statement which expresses disapproval towards the idea of LGBT rights. Nigeria was a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. It voted no. Nigeria was not a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation. Nigeria faced a U.N.'S Universal Periodic Review in 2009 and again in 2013. In Nigeria's 2009 National Report, the country stated that, though same-sex marriage is illegal, it is not a human-rights issue and states that "like every democracy, those who want a change in the existing laws have to come out and lobby for the change they desire."

In the Compilation of UN Information, Nigeria's "Bill for an Act to Make Provisions for the Prohibition of Relationships between Persons of the Same Sex, Celebration of Marriage by Them, and for Other Matters Connected Therewith" is declared an infringement of freedoms of assembly and association and the freedoms of expression and opinion.

Social Climate

The Same Sex Marriage Prohibition Act 2013 was signed into law by signed by President Goodluck Jonathan in January 2014. A consequence of the law is the criminalization of "gay clubs, societies and organizations," which could limit access to organizations providing HIV and health services for the LGBTI community (Kaleidoscope Trust Briefing).

In early 2014, men accused of forming a homosexual association and hunted down by Islamic police. Members of the community cooperated with the police; Jibrin Danlami Hassan, Head of Bauchi's Hisbah, stated "We did not arrest them, it was the community that did it" (BBC News). According to a 2013 PEW Research survey, 98% of Nigerians do not believe that homosexuality should be accepted by society.

Activist Groups

1. Alliance Rights Nigeria. Website: <http://msmnigeria.page.tl/ARN-Profile.htm>. Address: #4 Jaba crescent, Area 11, Garki 234001, Nigeria. Phone: +234-807-2306477.

2. House of Rainbow. Website: <http://www.houseofrainbow.org/index.html#2>. Address: PO BOX 1854 Mushin, Lagos, Nigeria. Phone: +2348052567170 +447507510357.
3. Queer Alliance Nigeria. Website: <http://queeralliancennigeria.blogspot.com/>. Facebook: Queer Alliance Nigeria. Phone: +2348136137852. Email: rashwilliams@gmail.com.
4. The Initiative for Equal Rights (TIER). Website: <http://www.initiative4equality.org>. Email: info@initiative4equality.org. Address: 20, Olowu Street, Lagos 234, Nigeria. Phone:+234-8125549015.

Due to the Same Sex Marriage Prohibition Act, many local activist organizations must exist in secret.

Best Practices/Recommendations

In the 2009 “Report of the Working Group,” Canada recommended that the Nigerian President and National Assembly reject the “Same Gender Marriage Bill” and repeal legislation that discriminates on the basis of gender or sexual orientation. Nigeria did not support the recommendations.

In the 2013 “Report of the Working Group,” Austria recommended the review of the Same-Sex Marriage Bill with the ultimate goal of decriminalization. The Czech Republic, Canada, France, Argentina and Uruguay recommended the revision of laws discriminating against LGBTI persons. The United States called for the creation of policies offering protection for the human rights and security “of all Nigerian including LGBT persons, their families and associates.” Sweden also recommended taking measures to ensure universal human rights to all Nigerians, including LGBTI persons.

Relevant recommendations from Human Rights Watch include:

- Creating programs to increase public awareness of human rights standards and principles of equality.
- Calling upon leaders of religious groups to preach tolerance and acceptance.

List of References

- “Fear for Life: Violence Against Gay Men and Men Perceived as Gay in Senegal” 2010, <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.
- “It’s Nature, Not a Crime” 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.
- “Nigeria: Same Sex Marriage (Prohibition) Act” 2014, <http://kaleidoscopetrust.com/usr/library/documents/main/2014-02-nigeria.pdf>.
- “Nigerian Gay People Being Haunted Down” 2014, <http://www.bbc.com/news/world-africa-26065392>.
- “The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries” 2013, <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>
- UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1: Nigeria*, 5 January 2009, A/HRC/WG.6/4/NGA/2, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/A_HRC_WG6_4_NGA_2_E.pdf.
- UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1: Nigeria*, 5 January 2009,

A/HRC/WG.6/4/NGA/1, available

at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/A_HRC_WG6_4_NGA_1_E.pdf.

UN Human Rights Council, *Report of the Working Group: Nigeria*, 20 March 2014,

A/HRC/25/6, available at: <http://www.upr->

[info.org/sites/default/files/document/nigeria/session_17_-](http://www.upr-info.org/sites/default/files/document/nigeria/session_17_-_october_2013/recommendations_and_pledges_nigeria_2014.pdf)

[_october_2013/recommendations_and_pledges_nigeria_2014.pdf](http://www.upr-info.org/sites/default/files/document/nigeria/session_17_-_october_2013/recommendations_and_pledges_nigeria_2014.pdf).

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review:*

Nigeria, 5 October 2009, A/HRC/11/26, available at: [http://daccess-dds-](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/163/12/PDF/G0916312.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G09/163/12/PDF/G0916312.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/163/12/PDF/G0916312.pdf?OpenElement)

7. Senegal

The situation for LGBTI people in Senegal is extremely difficult. There have been numerous high profile arrests of people based on sexual orientation (Rodenbough, 2014). Although the HIV rate in Senegal is less than 1% according to UNAIDS, the rate for MSM is over 20% (Rodenbough, 2014). HIV positive people often experience discrimination based on resulting assumptions about their sexual orientation and some MSM do not take antiretroviral drugs for fear of discovery (USDS, 2014). In general the level of stigma and violence against LGBTI people is high (USDS, 2014).

Conditions of the Law

Both Male/Male and Female/Female relationships are illegal in Senegal under the Penal Code of 1965, Article 319, which criminalizes the committing of “an improper or unnatural act with a person of the same sex” (IGLA, 2015). Penalties include 1-5 years of imprisonment and fines of 100,000 to 1,500,000 francs. If the other person is below the age of 21 “the maximum penalty will always be applied” (IGLA, 2015). At a meeting with President Obama in June of 2013, Senegalese President Macky Sall stated that the country was “not ready to decriminalize homosexuality” (Kutch, 2013). Peter Tatchell, director of the human-rights organization the Peter Tatchell Foundation, pointed out that “Senegal’s anti-gay laws violate the country’s own constitution and the African Charter on Human and People’s Rights, both of which guarantee equal treatment and nondiscrimination to all citizens” (Kutch, 2013). According to Aboubacry Mbodji, the secretary general of the African Rally for Human Rights (RADDHO), fear of backlash keeps many politicians from supporting gay rights (IRIN, 2013).

Condition in the Prisons

While there is little information available on the specific conditions of LGBTI inmates, the 2014 State Department Human Rights Report described prison conditions in Nigeria as “harsh and sometimes life-threatening” (USDS, 2014). Overcrowding and poor sanitation are major problems. (USDS, 2014). There are also issues with insufficient nutrition, high temperatures, and insect infestations (USDS, 2014).

Local organizations have reported that LGBT people are often harassed by police and arbitrarily arrested. Additionally they are specifically subject to poor treatment in detention (USDS, 2014).

According to the Institute for Criminal Policy Research there are 37 penal institutions in Senegal, with a total of population of 8,630. This puts the rate of incarceration at 62 people per 100,000 (ICPR, 2014). The Ministry responsible in the Ministère de la Justice and the Prison administration is the Direction de l'Administration Pénitentiaire (ICPR, 2014).

Critical Incidents

- 2008: In February Icone printed pictures of what it alleged was a gay wedding, leading to mass arrests. This was deemed the “gay marriage scandal” (Human Rights Watch, 2010).
- 2008: In December police arrested nine members of AIDES Senegal, an HIV/AIDS association carrying out education and outreach among men who have sex with men (Human Rights Watch, 2010).
- 2013: In November of five women were charged under the country's law prohibiting homosexual acts. One of them is a member of Women’s Smile, the only lesbian organization working in Senegal (Kutsch, 2013).

- 2015: On July 31st journalist Tamsir Jupiter Ndiaye was imprisoned for a six month sentence for homosexual acts (Stewart, 2015a). In 2012 he was sentenced to four years for homosexual acts and assault, but was released in 2013 (Stewart, 2015a). Kéba Nar Sy, whose age has been given as anywhere between 13 and 25, was one of the other people involved. Both have given different accounts of what happened, with the judge rejecting Ndiaye's version (Stewart, 2015a).
- 2015: In August seven men all under 30, (Manga Thiam, Ndaraw Mboup, Diogomaye Sène, Mamadou Lamine Sow, Jérôme Do Santos, Massamba Bassène and Seydou Diagne) were sentenced to six months in prison. The court was told "police caught the men having sex during a raid." However, the defense said that they were not found engaged in sexual acts (Stewart, 2015b).

List of References

- Human Rights Watch. (2010). *Fear for Life; Violence Against Gay Men and Men Perceived as Gay in Senegal*. Retrieved from <https://www.hrw.org/sites/default/files/reports/senegal1110webwcover.pdf>.
- Institute for Criminal Policy Research. (2014). *Senegal. World Prison Brief*. Retrieved from <http://www.prisonstudies.org/country/senegal>.
- International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carrol, A & Itaborathy, L.P. (2015). *State Sponsored Homophobia 2015: A world survey of laws: criminalization, protections and recognition of same-sex love* (Geneva; ILGA, May 2015).
- IRIN. (2013). *Political Cost of Defending Gay Rights in Africa*. Retrieved from <http://www.irinnews.org/report/98436/political-cost-of-defending-gay-rights-in-africa>.
- Kutsch, Tom. (2013). *Homosexuality Still a Crime in 38 African Countries*. Al Jazeera America. Retrieved from <http://america.aljazeera.com/articles/2013/11/14/senegala-s-criminalizationofhomosexualitypartofaregionaltrend.html>.
- Rodenbough, Philip P. (2014). *On Being LGBT in West Africa*. Retrieved from <http://blogs.cuit.columbia.edu/rightsviews/files/2015/03/Being-LGBT-in-West-Africa-Project.pdf>.
- Stewart, Colin. (2015a). *Senegal's anti-gay law sends journalist back to prison*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2015/08/03/senegals-anti-gay-law-sends-journalist-back-to-prison/>.
- Stewart, Colin. (2015b). *Senegal: No 'anti-homosexuality' law? Jail for 7 gay sex*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2015/08/23/senegal-jails-7-for-private-gay-sex-after-telling-u-n-it-wont/>.
- United States Department of State. (2014). *Country Reports on Human Rights Practices for 2014 - Senegal*. Retrieved from <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236398>.

Human Rights Conditions

UN Record

Senegal did not sign the December 2008 UN declaration in support of LGBT rights, but Senegal did sign the opposition statement which expresses disapproval towards the idea of LGBT rights. Senegal was a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. It voted no. Senegal was

not a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation. Senegal faced a U.N.'S Universal Periodic Review in 2009 and again in 2013. In Senegal's 2009 report, stakeholders and other UN member countries called for the decriminalization of same-sex relations between consenting adults. The head of the Senegalese delegation responded by stating "that homosexuality is a purely private matter . . . and is not in itself a cause for prosecution. The prosecutions referred to occurred only when the homosexual relations took place in public and were of an obtrusive nature, therefore placing them in conflict with morality and religion." In Senegal's 2013 National Report, Senegal states that the National Strategic Plan to Combat AIDS (2007–2011) prioritizes the prevention of AIDS in high-risk vulnerable groups, such as "men having sex with men." Additionally, the report refers back to the country's response to the 2009 U.N.'S Universal Periodic Review by reaffirming that Senegal does not criminalize homosexuality, though article 319 of the Criminal Code punishes unnatural acts committed in public.

Following a 2009 visit from the UN Working Group on Arbitrary Detention, the Working Group "stressed that the Government pay particular attention to detentions on the grounds of offending decency or public morality, with a view to avoiding any possible discrimination against persons of a different sexual orientation."

Social Climate

During its 2009 visit, the Working Group on Arbitrary Detention learned that officers of the National Police had detained four men arrested in the town of Darou Mousty, in the Louga region, on 19 June 2009 on allegations of committing "unnatural sexual acts" (Human Rights Watch).

The working group also learned of a 2008 case in which the Dakar Court of Appeal had reversed a previous ruling on allegations against nine health activists who had been accused of homosexuality, with accusers using condoms and lubricants from the activists' HIV/AIDS prevention training as evidence. The activists were released, and the Working Group claimed that "no one was being detained for reasons of sexual orientation at the time of the Working Group's visit" (Human Rights Watch).

Activist Groups

LGBTI activist organizations exist in secret.

Best Practices/Recommendations

In the 2009 "Report of the Working Group on the Universal Periodic Review," the United Kingdom, Belgium, Canada cited the provisions of ICCPR, particularly articles 2 and 26, and the Netherlands cited the Universal Declaration of Human Rights as means for Senegal to decriminalize homosexual activity.

Slovenia called for the revision of legislation with results in "discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity." The Czech Republic and Belgium called for the release of prisoners imprisoned for their sexual orientation, and the Czech Republic stated that tolerance towards homosexuality could "facilitate more effective educational programmes for HIV/AIDS prevention." Ireland called for a national debate to facilitate the decriminalization of homosexuality.

In the 2013 “Report of the Working Group on the Universal Periodic Review,” Uruguay, Argentina, Austria, Belgium, Brazil, Greece, Paraguay, Thailand, Germany, Ireland, the Netherlands, Switzerland, and Mexico recommended that Senegal take measures to prevent discrimination against the LGBTI community, particularly by changing Article 319 of the Penal Code.

Relevant recommendations from Human Rights Watch include:

- Police should desist investigating sexual activities pursued in private.
- The National Human Rights Commission should investigate reports of violence against LGBTI persons and monitor speech that incites violence against LGBTI persons and activists.

List of References

“Fear for Life: Violence Against Gay Men and Men Perceived as Gay in Senegal”

2010, <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.

“Senegal: Quash Conviction of 7 for ‘Acts Against Nature’”

2015, <https://www.hrw.org/news/2015/08/28/senegal-quash-conviction-7-acts-against-nature>.

UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Senegal*, 5 August 2013, A/HCR/WG.6/17/SEN/2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/161/02/PDF/G1316102.pdf?OpenElement>.

UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Senegal*, 23 July 2013, A/HCR/WG.6/17/SEN/1, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/157/12/PDF/G1315712.pdf?OpenElement>.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Senegal*, 5 October 2009, A/HRC/11/24, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/162/80/PDF/G0916280.pdf?OpenElement>.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Senegal*, 11 December 2013, A/HRC/25/4, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/189/35/PDF/G1318935.pdf?OpenElement>

8. South Sudan

In South Sudan societal stigma and discrimination of LGBT people is a common occurrence and there are no known LGBT organizations. This stigma often leads to an under reporting of problems (USDS, 2014). Rainbow Sudan, an anti-AIDS, pro-human rights group operating in Sudan said that since the 60s (when South Sudan was still a part of Sudan) there was a definite LGBTQI community with a measure of acceptance. However, that changed when Islamic law was imposed by President Jafar An-Numeri in September 1983 (Stewart, 2014).

Conditions of the Law

Both Male/Male and Female/Female relationships are illegal in South Sudan. Pertinent laws include Penal Code Act 2008, Section 248 and the Penal Code of 1991, Act No. 8 1991, Section 148 and Section 151 (IGLA, 2015). These involve “unnatural offences” and “sodomy,” and indecent acts” respectively (IGLA, 2015). Sentences include up to 10 years in prison, as well as possible fines and/or corporal punishment (IGLA, 2015). Sentencing is harsher for non-consensual same sex acts, going up to 14 years (USDS, 2014).

Anti-discrimination laws prohibit discrimination based on race, gender, disability, language, and social status but do not apply to sexual orientation or gender identity (USDS, 2014). Additionally, even in cases where anti-discrimination law does apply it is generally not enforced (USDS, 2014).

Condition in the Prisons

While there is no information available on the specific conditions of LGBTI inmates, the 2014 State Department Human Rights Report described prison conditions in South Sudan as “harsh and life-threatening” (USDS, 2014). A 2012 Human Rights Watch report found overcrowding, lack of access to medical care, lack of food, extended pretrial detention, lack of legal aid and therefore legal representation, proxy detention, imprisonment for debt, and the incarceration of minors and the people with mental health problems to be major problems (Human Rights Watch, 2012).

Though there was no information on LGBTI prisoners it was noted that a large number of people were incarcerated for “sexual offences”, mainly dealing with adultery or refusal to marry (Human Rights Watch, 2012). This shows a strict adherence to sexual control by the law. There is also a large scale problem with beatings and corporal punishment that amounts to torture under international law (Human Rights Watch, 2012).

Despite the fact that Prisons Service Act, art. 77 states that prisoners have a right to “regular and adequate medical care”; and the The Prisons Service’s Standing Orders (No. 2, art. 3.5.1.) states, “Sick prisoners who require medical specialist or dental treatment shall be transferred to civil hospitals or placed in the prison clinic,” incarcerated people often have no access to medical care (Human Rights Watch, 2012). The report found that “voluntary HIV counseling and testing is rarely offered to prisoners in South Sudan, and the prevalence rate among inmates is unknown.” HIV positive patients often do not have access to medication (Human Rights Watch, 2012).

In 2013 the Cabinet approved \$270,000 for prison reforms. A spokesperson stated the money would be used for “for quick reforms of the prisons like for women prisons and the treatment of mentally ill individuals in the prisons” (Wudu, 2013). Human rights activists have decried conditions, which include men, women, and children being housed together, or just women and children together (Wudu, 2013). Vice President Dr Riek Machar stated that the

Human Rights Watch report would be used to assist them in improving prison conditions (Wudu, 2013). However, according to the 2014 State Department Human Rights Report the prisons still had “gross overcrowding” and inadequate sanitary conditions and medical care. There were also “occasional reports of abuse by prison guards” (USDS, 2014). Police jails were said to be better, with less overcrowding and better access to food and medical attention. Local detention centers were “uniformly harsh and life threatening” (USDS, 2014).

According to the Institute for Criminal Policy Research there are 80 penal institutions in South Sudan, with a total of population of approximately 7,500. This puts the rate of incarceration at 65 people per 100,000 (ICPR, 2014). The Ministry responsible in the Ministry of Internal Affairs and the Prison administration is the South Sudan Prisons Service (ICPR, 2014).

List of References

- Human Rights Watch. (2012). “*Prison is Not for Me,*” *Arbitrary Detention in South Sudan*. Retrieved from http://www.hrw.org/sites/default/files/reports/southsudan0612_forinsert4Upload.pdf.
- Institute for Criminal Policy Research. (2014). *South Sudan. World Prison Brief*. Retrieved from <http://www.prisonstudies.org/country/south-sudan>.
- International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carrol, A & Itaborathy, L.P. (2015). *State Sponsored Homophobia 2015: A world survey of laws: criminalization, protections and recognition of same-sex love* (Geneva; ILGA, May 2015).
- Stewart, Colin. (2014). *Rainbow Sudan seeks LGBTI rights in Sudan*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2014/09/16/rainbow-sudan-sogi-news/>.
- United States Department of State. (2014). *Country Reports on Human Rights Practices for 2014 - South Sudan*. Retrieved from <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236408>.
- Wudu, Waakhe Simon. (2013). *Cabinet Approves \$270,000 For Prison Reforms in South Sudan*. Oye! Times, Toronto, Canada. Retrieved from <http://www.oyetimes.com/news/africa/41388-cabinet-approves-270-000-for-prison-reforms-in-south-sudan>.

Human Rights Conditions

UN Record

South Sudan did not sign the December 2008 UN declaration in support of LGBT rights, but neither did it sign the opposition statement which expresses disapproval towards the idea of LGBT rights. South Sudan was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.

South Sudan will face its first U.N.’s Universal Periodic Review as an independent state in 2016.

Social Climate

In 2010, before South Sudan became an independent state, future president Salva Kiir Mayardit declared that homosexuals in South Sudan would be “condemned by everybody” (San Diego Gay & Lesbian News).

Unlike Sudan, in which a majority of citizens are Muslim and follow Islamic Sharia law, a majority of South Sudan’s citizens are either Christian or ascribe to indigenous belief systems (The Embassy of South Sudan). In 2006, the Sudan Tribune released an article in which Abraham Mayom Athiaan, head of the Anglican Church of South Sudan asserted that “we, the bishops together with our congregation of the Anglican Church of the Sudan (ACS) strongly

condemn the practice of homosexuality ... which is being practiced in Episcopal Church of Sudan (ECS) leaderships."

Activist Groups

No information could be found on local activist organizations in South Sudan.

Best Practices/Recommendations

Relevant recommendations from Human Rights Watch:

- Avoid discrimination when dispersing public funding for non-government organizations.
- Call upon local religious leaders to practice and preach tolerance and acceptance.

List of References

"Fear for Life: Violence Against Gay Men and Men Perceived as Gay in Senegal"

2010, <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.

"It's Nature, Not a Crime" 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

"Religion" <http://www.southsudanembassydc.org/inner.asp?z=5D58>.

"South Sudan, World's Newest Country, Off to a Bad Start on LGBT Rights"

2011, <http://sdgln.com/news/2011/07/14/south-sudan-worlds-newest-country-bad-start-lgbt-rights#sthash.cCLE5F9E.dpbs>.

"South Sudan Anglican Church Rejects Tribalism and Homosexuality"

2006, http://www.sudantribune.com/spip.php?page=imprimable&id_article=18177

9. Tunisia

Although relationships between men are illegal in Tunisia, organizations dealing with LGBTI rights are making gains. In May 2014, following a gay-pride type of event, Shams, a major anti-homophobia organization was officially recognized by the government (Sheils, 2014). The group's Vice President, Ahmed Ben Amor stated "There is absolutely no denying that we exist and we are not going anywhere" (Sheils, 2014).

Conditions of the Law

In Tunisia Male/Male relationships are illegal, while Female/Female relationships are legal. The law comes from the modified Penal Code of 1913, Article 230, which states "sodomy that is not covered by any of the other previous articles, is punished with imprisonment for three years" (IGLA, 2015). Additionally transgender people are at times arrested under Article 226 or "outrages against public decency" (HuffPost Tunisia, 2014).

On September 28th 2015 Mohamed Salah Ben Aissa, Tunisia's justice minister called for the repeal of Article 230. He said that it is at odds with the new progressive Constitution. This came amid international scrutiny following the September 22nd one year sentencing of a 22 year old convicted of sodomy. While Mohamed Salah Ben Aissa is a member of the progressive left party, others have made similar statements (Stewart, 2015b).

Condition in the Prisons

While there is no information available on the specific conditions of LGBTI inmates, the 2014 State Department Human Rights Report described prison conditions in Tunisia as "below international standards" (USDS, 2014). Since the 2011 revolution there have been periodic amnesties but prisons remain overcrowded (USDS, 2014). Lack of infrastructure is also a problem and much of the overcrowding stems from the large amount (54%) of pretrial detainees (USDS, 2014).

A Human Rights Watch report in 2013 examined the conditions of pre-charge detainees. Under the law people can be held in a pre-charge detention centers (centres de garde à vue) for up to six days (Human Rights Watch, 2013). At which point they should be either charged or released. However, the report found that this is not always true in practice (Human Rights Watch, 2013). These centers are run by the Ministry of the Interior rather than the Ministry of Justice, which is in charge of general prisons.

The authorities that stepped in after the overthrow of President Zine el Abidine Ben Ali in 2011 were more open to investigation of conditions by human rights groups (Human Rights Watch, 2013). However, Human Rights Watch also found that there were problems with laws regarding pre-charge detention, the physical conditions of the detention centers, violations of due process and abuse (Human Rights Watch, 2013). While there were less reported issues of abuse by guards than police, there were still some cases at individual centers. "40 out of 70 of the detainees Human Rights Watch interviewed reported that police mistreated them during arrest and interrogation" (Human Rights Watch, 2013). Additionally 27 of the 70 stated they had signed confessions without reading them "either because the police prevented them from reading them or because they said that they dared not ask to read them" (Human Rights Watch, 2013). The fourth draft constitution, presented on June 1, 2013 provides certain rights for detainees. These include "the presumption of innocence, a prohibition on torture, and the right to a lawyer, to be informed of rights upon arrest, and to be treated humanely and in a way that preserves dignity" (Human Rights Watch, 2013).

The Human Rights Watch report found that people who have been arrested do not have access to a lawyer before they are brought before the investigative judge. In detention the food was described as “insufficient,” and “food in name only” (Human Rights Watch, 2013). There is also inadequate access to running water and general sanitary conditions were poor. Minors were sometimes kept with adults. Overcrowding is also a problem (Human Rights Watch, 2013). Human Rights Watch visited “Bouchoucha detention center three times, and counted on the first visit 21 detainees in one cell measuring nine meters long and six meters wide, 45 on the second visit, and 50 on the third visit” (Human Rights Watch, 2013). Detention centers also lacked medical facilities or doctors.

According to the Institute for Criminal Policy Research there are 27 penal institutions in Tunisia, with a total of population of 23,686. This puts the rate of incarceration at 212 people per 100,000 (ICPR, 2014). The Ministry responsible in the Ministère de la Justice and the Prison administration is the Direction Générale des Prisons et de la Rééducation (ICPR, 2014).

Critical Incidents

- 2013: In March lawyer Baatour Mounir, head of the Liberal Party of Tunisia, was arrested after hotel staff reportedly “found him and another man engaging in sex” (Stewart, 2015a). The Association for the Support of Minorities (ATSM), a Tunisian human rights organization, stated that this was used as a method of political intimidation (Stewart, 2015a).
- 2015: In January a transgender man going by Jalel appeared on the popular show "I Have Something To Tell You" and talked about his struggle to have gender reassignment surgery, which he currently illegal. He stated “From the outside, I am a man. But inside, I am a woman. But deeper inside, I am a man” (Ajroudi, 2015).
- 2015: On February 4th a Swedish man was sentenced to two years for “homosexual acts.” The sentence was condemned by Swedish diplomats. The sentence was also protested by Association for the Support of Minorities (ATSM), a Tunisian human rights organization (Stewart, 2015a).
- 2015: In March two members of Chouf, lesbian, bisexual and trans Tunisians fighting discrimination against women were assaulted in two separate attacks (Stewart, 2015c). One was raped at knife point and the other was beaten by a group of men who said she needed to “show how she could fight if she wanted to marry a woman” (Stewart, 2015c). Although the first women led police to the scene of her rape, they collected no evidence. At the hospital she met with delays and hostility (Stewart, 2015c). According to Tunisian Association of Democratic Women, women who have been raped often encounter blame and stigma (Stewart, 2015c).

List of References

- Ajroudi, Asma. (2015). *Tunisian transsexual sparks debate after appearing on popular TV show*. Al Arabiya News. Retrieved from <http://english.alarabiya.net/en/perspective/features/2015/01/11/Tunisian-transsexual-sparks-debate-after-appearing-on-popular-TV-show-.html>.
- HuffPost Tunisia. (2014.) *Tunisia’s New Gay Rights Fight*. The Huffington Post. Retrieved from http://www.huffingtonpost.com/2014/12/11/tunisia-gay-rights_n_6304872.html.
- Human Rights Watch. (2013). *Crack’s In The System; Conditions of Pre-Charge Detainees in Tunisia*. Retrieved from <http://www.hrw.org/sites/default/files/reports/tunisia1113.pdf>.

- International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carrol, A & Itaborathy, L.P. (2015). *State Sponsored Homophobia 2015: A world survey of laws: criminalization, protections and recognition of same-sex love* (Geneva; ILGA, May 2015).
- Institute for Criminal Policy Research. (2014). *Tunisia. World Prison Brief*. Retrieved from <http://www.prisonstudies.org/country/tunisia>.
- Sheils, Conor. (2014). *Is it Finally OK to Be Gay in Tunisia?* TunisiaLive. Retrieved from <http://www.tunisia-live.net/2015/05/24/gay-rights-tunisia/>.
- Stewart, Colin. (2015a). *Over Swedish protest, Tunisia imposes 2-year sentence*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2015/02/09/over-swedish-protest-tunisia-imposes-2-year-sentence/>.
- Stewart, Colin. (2015b). *Tunisian justice minister seeks repeal of gay sex ban*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2015/09/29/tunisian-justice-minister-seeks-repeal-of-gay-sex-ban/>.
- Stewart, Colin. (2015c). *Assaults in Tunisia: 'daily violence remains unpunished'*. Erasing 76 Crimes. Retrieved from <http://76crimes.com/2015/03/17/assaults-in-tunisia-daily-violence-remains-unpunished/>.
- United States Department of State. (2014). *Country Reports on Human Rights Practices for 2014 - Tunisia*. Retrieved from <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236408.#wrapper>.

Human Rights Protections

UN Record

Tunisia did not sign the December 2008 UN declaration in support of LGBT rights, but Tunisia did sign the opposition statement which expresses disapproval towards the idea of LGBT rights.

Tunisia was a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. It voted no. Tunisia was not a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation.

Tunisia faced a U.N.'s Universal Periodic Review in 2008 and again in 2012. In Tunisia's 2008 report, the International Lesbian and Gay Association (ILGA) in a joint submission with other organizations noted that same-sex activity between consenting adults is illegal and punishable by up to three years in prison. Additionally, in an addendum, Iceland called for the decriminalization of sexual relations between consenting adults of the same sex.

In 2012, the Joint United Nations Programme on HIV/AIDS (UNAIDS) noted that discrimination against members of the LGBTI community prevented an at-risk population from receiving proper medical and social services. The 2012 Report of the Working Group on the Universal Periodic Review recommended the abolition of a law discriminating against members of the LGBTI community. Tunisia stated that " it would be possible to conduct an objective and transparent national dialogue on the subject. However, it was not ready at this stage to adopt a decision."

Tunisia has accepted invitations from the Working Groups on Assembly and Association, Torture, and Opinion and Expression.

Social Climate

According to the Immigration and Refugee Board of Canada, homosexuals are highly stigmatized and are often accused of being the cause of the spread of illnesses, such as AIDS.

According to an article in GayDay Magazine, "the first gay magazine from Tunisia," the adopted motto of members of the LGBTI community in Tunisia is "we live happy, we live hidden," with members of the community preferring to hide their sexual orientation to avoid discrimination.

After the Tunisian Revolution in 2011, the new Islamist-led government's declared that it would not legally pursue the use of alcohol or punish atheism or homosexuality. Riad Chaibi, a spokesman for the government, stated that "individual freedoms and human rights are enshrined" in Tunisia and recognized that atheists and homosexuals were already living in the country and "have a right to exist." However, laws discriminating against the LGBTI community have yet to be changed. Additionally, a 2013 Pew Research survey revealed that 93% of Tunisians believed that homosexuality should be rejected (Spanish News Agency EFE).

Activist Groups

Shams. Website: <http://www.shams-tunisie.com>. Email: contact@shams-tunisie.com
Phone: 31550060. Facebook: [lgbtrightstunisia](https://www.facebook.com/lgbtrightstunisia).

Best Practices/Recommendations

In the 2012 U.N.'s Universal Periodic Review, Spain and Austria recommended Tunisia repeal laws supporting discrimination on the basis of sexual orientation, particularly Article 230 of the Penal Code.

Relevant recommendations from Human Rights Watch:

- Set up HIV testing centers in unserved areas.
- Provide educational programs to train healthcare providers to better reach out to vulnerable populations.

List of References

"Fear for Life: Violence Against Gay Men and Men Perceived as Gay in Senegal"

2010, <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.

"Islamist Leader Says Will Not Punish Alcohol, Atheism, and Homosexuality"

2011, <http://agencias.abc.es/agencias/noticia.asp?noticia=972056>.

"It's Nature, Not a Crime" 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

"Live Happy, Live Hidden: Tunisian True Story"

2011, <http://gaydaymagazine.com/2011/12/17/live-happy-live-hidden-tunisian-true-story/>.

"The Global Divide on Homosexuality: Greater Acceptance in More Secular and Affluent Countries" 2013, <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>.

"Tunisia: The Status of Homosexual Men and Women Including Their Treatment; The Laws Dealing with Homosexuality, Protection Offered by the State and the Availability of Support Services" 2009, <http://www.refworld.org/cgi->

bin/teXis/vtx/rwmain?page=topic&tocid=4565c22547&toid=4565c25f55d&publisher=&type=&coi=TUN&docid=4b20f04ac&skip=0.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Tunisia*, 9 July 2012, A/HCR/21/5, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/150/63/PDF/G1215063.pdf?OpenElement>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(C) of the Annex to Human Rights Council Resolution 5/1: Tunisia*, 11 March 2008, A/HRC/WG.6/1/TUN/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/115/51/PDF/G0811551.pdf?OpenElement>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Tunisia*, 9 March 2012, A/HRC/WG.6/13/TUN/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/117/91/PDF/G1211791.pdf?OpenElement>.

II. CASE STUDIES OF SELECT COUNTRIES

II.B LATIN AMERICA

1. *Costa Rica*

Conditions of the Law

Severity Ratings

- Overall Severity Rating: -2
- Legal Conditions Severity Rating: +3
 - Negative Legal Conditions (-1)
 - No ability to legally change gender
 - Positive Legal Conditions (+4)
 - M/M relationships legal
 - F/F relationships legal
 - Equal age of consent for same sex relationships
 - No laws used against TI or assumed TI people

Legislative Information

Legal Summary: In Costa Rica same-sex sexual activity has been legal since 1971 and same-sex civil unions are recognized, allowing for same-sex conjugal visits for inmates. However, same-sex marriage is not allowed. While same-sex couples are not allowed to adopt, LGBT individuals may. Costa Rica bans all anti-gay discrimination but do not have any laws concerning gender identity or expression.

Legal Critical Incident: On June 2nd, 2015 a court judge granted the first common-law marriage.

- 1998: The Supreme Court (Sala IV) In September 1998, the Supreme Court of Costa Rica added two important articles of freedom to the Constitution. Article 20 of the Constitution effectively says: "All people are free in the Republic, [whether] male or female [and are] under the protection of the [Republic's] laws".
- 1998: Article 33 of the Constitution effectively says: "all people are equal under the law, and cannot be discriminated [against] in any way that is against her or his humanity". This is an addition of a non-discrimination provision for all Gays, Lesbians, Bisexuals and Transgenders. An explanation of the anti-discrimination law reads: "Whoever practices any form of discrimination, based on race, nationality, gender, age, political option, sexual orientation, social position, or economic situation, marriage status, or diseases (this includes HIV/AIDS) [may] be [subject] by law to twenty to sixty days in jail."
- April 10th, 2002: Article 382 in the Penal Code was rewritten by Law No 8250 of 17 April 2002, and the previous provision which criminalized "scandalous sodomy" was repealed (Source: http://www.gaylawnet.com/ezone/crime/ilga_2009.pdf).
- April 2003: A transwoman has been granted "provisional custody" of the 9 year old child she had been taking care of since he was a baby. (Source: <http://www.gaylawnet.com/news/2003/ch0304.htm#genderwoman>).
- 2006: Costa Rica's Supreme Court ruled gay marriage as unconstitutional
- August 2008: The Constitutional Tribunal ruled that gay felons in the Costa Rican prison system would not be allowed conjugal visits (Source: <http://www.gaylawnet.com/laws/cr.htm>).

- August 2008: Consensual sex between same-sex couples was reportedly lawful at age eighteen (18) years (Source: http://www.therealcostarica.com/travel_costa_rica/gay_costa_rica_tourist.html).
- August 2010: The Court ruled against a referendum which would have allowed citizens to decide on same-sex unions
- May 2011: Judge Arturo Marcheno Rosabal in the Juzgado Segundo de la Familia (Family Court) in San José found that paragraph 6 of Article 14 of the Código de Familia (Family Code) states that marriage is legally impossible for same-sex couples and that he had no other alternative but to reject the marriage application of Antonio Rodríguez and Eliécer Bermúdez (Source: <http://www.insidecostarica.com/dailynews/2011/may/25/costarica11052502.htm>).
- October 13th, 2011: The Costa Rican Supreme Court legalized same-sex conjugal visits (Source: <http://latindispatch.com/2011/10/13/conjugal-visits-for-gay-couples-legalized-in-costa-rica/>)
- May 2006: The Supreme Court ruled "the concept of marriage embraced by the political constitution stems historically from a context where it is understood to be between a man and a woman" (Source: <https://www.lifesitenews.com/news/costa-rican-supreme-court-says-no-to-homosexual-marriage>).
- June 2012: In a 4–2 vote initiated by evangelical Justo Orozco, the Human Rights Commission buried a bill on sociedades de convivencia, or coexistence partnerships, during its first session since the panel was formed the previous week. The Bill guaranteed economic benefits similar to what heterosexual couples receive (Source: http://www.as-coa.org/articles/explainer-lgbt-rights-latin-america-and-caribbean#Costa_Rica & <http://www.gaylawnet.com/laws/cr.htm>).
- August 6th, 2012: The government announced that President Laura Chinchilla would support same-sex unions and propose legislation that would give economic rights to gay couples in Costa Rica (Source: <http://www.gaylawnet.com/laws/cr.htm>).
- July 3rd, 2013: 45 MPs approved an amendment to Article 242 of the Family Code, which previously only recognized legal partnerships as between a man and a woman, to recognize “the right to recognition without discrimination contrary to human dignity, social and economic effects of domestic partnerships that constitute publicly, notoriously unique and stable, with legal capacity for marriage for more than three years”, perhaps inadvertently making same-sex unions lawful (Source: <http://www.gaylawnet.com/laws/cr.htm>).
- July 4th, 2013: A bill was written by liberal politician and passed that had controversially hidden a statement legalizing same-sex unions. The bill seemed widely accepted and President Chinchilla signed the bill amending Article 242 of the Family Code into law that could establish common-law marriages for gay and lesbian couples in Costa Rica (Source: <http://www.independent.co.uk/news/world/americas/costa-rica-accidentally-legalises-gay-marriage-8691185.html>).
- May 22nd, 2014: The social security administration was reported to have agreed to allow same-sex couples to share health and pension benefits effective in 90 days, even though the conservative Central American country bans gay marriage (Source: <http://www.gaylawnet.com/laws/cr.htm>).
- April 30th, 2015: The Constitutional Chamber of the Supreme Court (Sala IV) recognized that it was illegal to discriminate on the basis of sexual orientation and upheld a similar

2014 decision, ruling that the Costa Rican Doctors and Surgeons Association discriminated against gay and lesbian members by refusing to let them sponsor their same-sex partners for membership at the association's recreational facilities (Source: <http://www.ticotimes.net/2015/05/06/costa-rican-court-upholds-gay-rights-in-professional-associations>).

- June 2nd, 2015: A court judge granted the first common-law marriage. Bill 18.483 would amend several articles of the family code to formally recognize 'stable' relationships of more than three years between two people, regardless of their 'sex, identity, sexual orientation or choice' with all the personal and property protections of legal marriage. (Source: <http://www.ticotimes.net/2015/06/02/costa-rica-grants-first-gay-common-law-marriage-central-america>)
- June 16th, 2015: Costa Rica's Constitutional Court has dismissed an appeal by a person who identifies as a woman that sought coverage from Costa Rica's public health system (CCSS) to transform her male genitalia into that of a woman (Source: <http://insidecostarica.com/2015/06/16/constitutional-court-dismisses-appeal-transsexual-seeking-gender-reassignment-surgery-public-health/>).

Executive Information

President is supportive of the gay community.

Source: <http://www.pinknews.co.uk/2008/05/01/costa-rica-to-mark-international-day-against-homophobia/>.

Condition in the Prisons

Prison Summary: Fairly poor prison conditions caused by: lack of healthcare for all inmates, overcrowding, inadequate food, lack of care for HIV/AIDs infected inmates, lack of hormones for gender reassignment surgery, transgender inmates kept with birth gender, no protections in place for LGBTI inmates, no policies in place for LGBTI issues, and specific abuse of LGBTI inmates.

Prison Statistics

- Prison Conditions: Low
- Estimated LGBTI Prison Population: N/A
- Incarceration Rate Per 100,000 Citizens: 352
- Capacity Based Occupation: 139.4%

Prison Severity Ratings

- Prison Conditions Severity Rating: -5
 - Negative Prison Conditions (-9)
 - Lack of healthcare for all inmates
 - Overcrowding for all inmates
 - Lack of adequate food for all inmates
 - Lack of care for HIV/AIDS
 - Lack of access to hormones/gender reassignment surgery
 - Trans inmates kept with birth gender
 - No protections in place for LGBTI inmates

- No policy existing on LGBTI issues
- Specific abuse of LGBTI inmates
- Positive Prison Conditions (+4)
 - No incarceration as a result of being or being assumed to be LGBTI
 - Separate facilities for juveniles
 - LGBTI organizations operational in prison
 - Conjugal visits allowed for same sex couples

Prison Critical Incident

Claims of police brutality against the gay community.

Source: <http://www.state.gov/documents/organization/220644.pdf>.

Prisons are ridden with transphobia and the transgender population is often sent to prisons that house their birth gender where they are verbally harassed.

Source: <http://www.ticotimes.net/2015/09/07/rules-govern-treatment-transgender-prisoners-costa-rica>.

- August 2008: The Costa Rican Constitutional Tribunal rejected a man's appeal in a lawsuit against prison authorities who stopped his conjugal visits to his male partner, a current inmate, ruling that gay inmates do not have the right to conjugal visits. The court recently rejected this ruling and now allows same-sex conjugal visits. (Source: <http://latindispatch.com/2011/10/13/conjugal-visits-for-gay-couples-legalized-in-costa-rica/>).
- October 2011: The Supreme Court ruled against sexual orientation as grounds for discrimination by overturning a regulation that had prohibited same-sex conjugal visits for prisoners.
- The constitution prohibits discrimination based on race, gender, disability, language, sexual orientation and gender identity, or social status, and the government effectively enforced these prohibitions. This was a statement made by a government source (Source: <http://www.state.gov/documents/organization/220644.pdf>).
- February 2013: The Ministry of Justice issued a circular to all prison centers explicitly ordering to allow conjugal visits for same- sex partners (Source: <http://www.state.gov/documents/organization/220644.pdf>).
- [They] are often considered as a sub-category of prisoners and detained in worse conditions of detention than the larger prison population.
- A study conducted in Costa Rica by the UN Office on Drugs and Crime (UNODC) and the Joint United Nations Programme on HIV/AIDS (UNAIDS) has observed that in women's prisons where lesbian couples are formed, sexual diversity is more visible; it is tolerated (although not accepted by the detaining authorities); and gender identities are less questioned. In facilities for men, there are almost no gay couples (except in some cases where a transgender detainee is in a relationship with a male detainee) and the majority of detainees feel that their virility is questioned by homosexual relationships. In this situation, there is an increase of homophobia and transphobia compared to outside prisons, and instances of sex are often characterised by violence (Source: UNAIDS/UNODC, *Diversidad Sexual, Derechos Humanos y VIH en el Sistema Penitenciario de Costa Rica*, 2012, pp. 42-45).
- In Costa Rica, UNODC and UNAIDS have observed that homosexual practices result in physical punishments in some prison units and not in others, and concluded that the risk

faced by LGBTI detainees of being exposed to violence depended on the penitentiary personnel concerned (Source: UNAIDS/UNODC, *Diversidad Sexual, Derechos Humanos y VIH en el Sistema Penitenciario de Costa Rica*, 2012, pp. 42-45).

- October 2011: The Supreme Court of Costa Rica ruled in favour of a detainee who had lodged a complaint about discrimination in the rules of the penitentiary system, which stated that 'intimate visits' could take place only with a person of a different sex. Homosexual detainees in Costa Rica now have the possibility of intimate visits on an equal basis with heterosexual detainees (Source: *Acción de inconstitucionalidad contra el artículo 66 del Reglamento Técnico Penitenciario*, Decreto Ejecutivo Número 33876-J, Exp: 08-002849-0007-CO, Res. No. 2011013800)

Human Rights Conditions

UN Record

Costa Rica signed December 2008 UN declaration in support of LGBT rights.

Costa Rica was not a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. Costa Rica was a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation. It voted yes.

Costa Rica faced a U.N.'S UNIVERSAL PERIODIC REVIEW in 2009 and again in 2014. In the 2009 Compilation of UN Information, Committee against Torture (CAT) expressed concern at reports of sexual abuse and physical violence against homosexual and transsexual prisoners.

In the 2014 National Report, Costa Rica noted efforts undertaken to ensure the property rights of LGBTI persons. Additionally, Costa Rica noted the creation of an institutional policy to promote non-discrimination on the basis of sexual orientation of persons facing criminal prosecution and judicial personnel.

Social Climate

In June 2015, a Costa Rican Judge granted the country's first same-sex common-law marriage based on an amendment to the Youth Code in 2013, which decreed that common-law marriage should exist regardless of gender, making Costa Rica the first Central American country to recognize same-sex relationships (International Business Times).

In Costa Rican prisons, there are little criteria to regulate the treatment of transgender inmates. Transgender prisoners are assigned to a male or female prison based on the sex assigned by the court system. Prisoners are not isolated from other inmates. Monica Navarro, a transgender inmate who was born male, stated: "There's a lot of homophobia, transphobia... We just have to keep quiet, just let them yell at us, treat us like they do. We can't do anything" (The Tico Times)

Activist Groups

1. Agua Buena Human Rights Association. Website: www.aguabuena.org. Phone: (506)2280-3548. P.O. Box: 366-2200 Coronado. Director's email: rastern@racsa.co.cr.
2. Centro de Investigacion y Promocion para America Central de Derechos Humanos. Website: <http://www.cipacdh.org/>. Facebook: [Cipac-Derechos-328091523942706/](https://www.facebook.com/Cipac-Derechos-328091523942706/). Email: cipacdh@racsa.co.cr. Phone: (506)2280-7821. Fax: (506)2225-5062.

Best Practices/Recommendations

In the 2009 Universal Periodic Review, France called for Costa Rica to join the 67 States that have signed the joint statement on human rights, sexual orientation, and gender identity. The Czech Republic called upon Costa Rica to strengthen the process for “independent investigation of alleged cases of torture and for effective access of victims to remedies with special attention to protection of...persons of minority sexual orientation or gender identity.” Spain and Austria called for the undertaking of educational initiatives to protect sexual orientation and identity; Spain also called for the facilitation of documentation for transsexual persons to match their preferred identity and allow access to public services without discrimination.

In the 2014 Universal Periodic Review, the Netherlands recommended the creation of awareness-raising policies and programs to prevent discrimination of LGBT persons and provide equal rights:

In practical terms this means providing better access to justice for people whose rights have been infringed because of their gender identity, gender expression or sexual orientation; it also means allowing same-sex couples to enter into cohabitation contracts in order to remove inequalities relating to inheritance, health care social security; and finally it means removing discriminatory provisions from the Criminal Code and other laws and regulations.

Relevant recommendation from UCB’s International Human Rights Law Clinic includes providing training about the LGBTI community for educators and administrators and encourage educators and administrators to provide “a safe learning environment ofr students, regardless of their sexual orientation, gender identity, or HIV status, or that of their family members.”

List of References

“Costa Rica Recognizes First Gay Common-Law Marriage with Central America’s First Legally Recognized Same-Sex Relationship” 2015, <http://www.ibtimes.com/costa-rica-recognizes-first-gay-common-law-marriage-central-americas-first-legally-1951221>.

“Few Rules Govern Treatment of Transgender Prisoners in Costa Rica” 2015, <http://www.ticotimes.net/2015/09/07/rules-govern-treatment-transgender-prisoners-costa-rica>.

“Sexual Diversity in El Salvador: A Report on the Human Rights Situation of the LGBT Community” 2012, https://www.law.berkeley.edu/files/IHRLC/LGBT_Report_English_Final_120705.pdf.

UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1: Costa Rica*, 18 September 2009, A/HRC/WG.6/6/CRI/2, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CR/A_HRC_WG6_6_CRI_2_E_S.pdf.

UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Costa Rica*, 20 February 2014, A/HRC/WG.6/19/CRI/1, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/111/37/PDF/G1411137.pdf?OpenElement>.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Costa Rica*, 4 January 2010, A/HRC/13/15, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/101/26/PDF/G1010126.pdf?OpenElement>.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Costa Rica*, 7 July 2014, A/HRC/27/12, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/075/65/PDF/G1407565.pdf?OpenElement>

2. *El Salvador*

Conditions of the Law

Severity Ratings

- Overall Severity Rating: +1
- Legal Conditions Severity Rating: +8
 - Negative Legal Conditions (0)
 - Positive Legal Conditions (+8)
 - M/M relationships legal
 - F/F relationships legal
 - Equal age of consent for same sex relationships
 - Legal protections from discrimination in place for LGBTI people
 - Ability to legally change gender
 - No laws used against TI or assumed TI people
 - Legal right to serve in military
 - Hate crime legislation that includes LGBTI people

Legislative Information

Legal Summary: In El Salvador same-sex activity has been legal since the 1800s however they do not recognize same-sex civil unions. There is however a pending ban on same-sex marriage. No same-sex adoptions are allowed but LGB are allowed to serve in the military. Fortunately, El Salvador has bans on both anti-gay discrimination and on hate crimes based on gender identity.

Legal Critical Incidents

In February 2012 legislators defeated a constitutional reform to prohibit gay marriage. June 27th, 2015: Police followed the San Salvador Gay Pride march and brutally beat Alex Pena, the leader of the Association of Transgender Men of the Salvador.

(Source: <http://www.aljazeera.com/indepth/features/2015/08/lgbt-el-salvador-beatings-intolerance-death-150805075132892.html>).

- April 2006: Congress passed a law banning same-sex marriage and same-sex couples from adopting children, though the legislation was not ratified
- 2009: 24 members of the LGBT community were murdered in El Salvador and of these, 14 were transgender women. The transgender population is particularly vulnerable and faces the most extreme forms of discrimination and violence. It is common for police officers to decline to take formal reports regarding crimes committed against gay and transgender individuals. When reports are taken, a formal investigation rarely follows. The police themselves are sometimes involved in the assaults and murders.
- May 2010: Implementation of Executive Decree 56, which prohibits discrimination in the public sector for reasons of sexual orientation or gender identity. However, despite the Funes administration's apparent intentions, the track record on violence and impunity against LGBTI citizens has not improved.
- February 2012: Legislators defeated a constitutional reform to prohibit gay marriage (Source: http://www.as-coa.org/articles/explainer-lgbt-rights-latin-america-and-caribbean#El_Salvador)
- 2015: Communicating and Training of Trans Women with HIV in El Salvador (COMCAVIS), an NGO, has documented at least 500 cases of murder and assault against LGBT people since 1993. They say many more cases go unreported. Already in 2015, 14

trans women have been murdered and another 13 have survived attempted murders, as compared with 14 murders in 2014 and 16 in 2013, according to COMCAVIS, which documents the crimes. Many of the victims were shot in the head and their bodies brutally mutilated. No one has ever been jailed (Source: <http://www.aljazeera.com/indepth/features/2015/08/lgbt-el-salvador-beatings-intolerance-death-150805075132892.html>)

Executive Information

- On 4 May 2010, President Mauricio Funes issued a presidential decree banning discrimination based on sexual orientation and gender identity in the public service. Source: <https://www.outrightinternational.org/sites/default/files/439-1.pdf>.
- At the same time, President Funes created a Sexual Diversity Division within the Secretary of Social Inclusion, which was headed by a member of the lesbian community. Source: <http://www.glaad.org/blog/solidarity-actions-exclusive-interview-young-lesbian-activists-el-salvador-part-1>.
- Although there have been gains on removing discrimination, activists report that outside of the government and administrative areas, discrimination is still ongoing. Source: <http://www.glaad.org/blog/solidarity-actions-exclusive-interview-young-lesbian-activists-el-salvador-part-1>.

Condition in the Prisons

Prison Summary: Fairly poor prison conditions caused by: lack of healthcare for all inmates, overcrowding, lack of care for HIV/AIDS infected prisoners, lack of access to hormones for gender reassignment surgery, transgender prisoners kept with birth gender, no protections for LGBTI inmates, no LGBTI organizations in functional in the prisons, torture and abuse of all inmates, specific abuse of LGBTI inmates, and conjugal visits prohibited for LGBTI inmates.

Prison Statistics

- Prison Conditions: Low
- Estimated LGBTI Prison Population: N/A
- Incarceration Rate Per 100,000 Citizens: 465
- Capacity Based Occupation: 325.5%

Prison Severity Ratings

- Prison Conditions Severity Rating: -7
 - Negative Prison Conditions (-10)
 - Lack of healthcare for all inmates
 - Overcrowding for all inmates
 - Lack of care for HIV/AIDS
 - Lack of access to hormones/gender reassignment surgery
 - Trans inmates kept with birth gender
 - No protections in place for LGBTI inmates
 - No LGBTI organizations operational in prison
 - Torture and abuse of all inmates
 - Specific abuse of LGBTI inmates
 - No conjugal visits allowed for same sex couples

- Positive Prison Conditions (+3)
 - No incarceration as a result of being or being assumed to be LGBTI
 - Specific healthcare provided for HIV/AIDS inmates
 - Separate facilities for juveniles

Prison Critical Incidents: President Funes recently signed an order, which prohibits discrimination based on sexual orientation and gender identity by state officials. While the order marked an important step toward providing the public policies necessary to protect LGBT rights, it appears to have been primarily symbolic. Since the president signed the order the police have increased attacks against transgender women, despite the fact that they themselves are obligated to follow Executive Order 56. Source: <http://clas.berkeley.edu/research/el-salvador-outflanking-discrimination>.

- June 27th, 2015: Police followed the San Salvador Gay Pride march and brutally beat Alex Pena, the leader of the Association of Transgender Men of the Salvador. Source: <http://www.aljazeera.com/indepth/features/2015/08/lgbt-el-salvador-beatings-intolerance-death-150805075132892.html>.
- 2011: One transgender lady stated she was raped more than 80 times in one year. Source: [http://www.law.gwu.edu/Academics/EL/clinics/IHRC/Documents/LGBT%20Guatemala%20Joint%20Submission%20\(English\)%20FINAL.pdf](http://www.law.gwu.edu/Academics/EL/clinics/IHRC/Documents/LGBT%20Guatemala%20Joint%20Submission%20(English)%20FINAL.pdf).
- **Other Related Document:** Report on the Human Rights Situation of the LGBT Community in El Salvador (URL: <http://www.aljazeera.com/indepth/features/2015/08/lgbt-el-salvador-beatings-intolerance-death-150805075132892.html>).

Human Rights Protections

UN Record

- El Salvador signed December 2008 UN declaration in support of LGBT rights.
- El Salvador was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.
- El Salvador faced a UNIVERSAL PERIODIC REVIEW in 2010 and again in 2014. In the 2010 Compilation of UN Information, the Human Rights Committee “expressed concern at the incidents of people being attacked, or even killed, on account of their sexual orientation, and at the small number of investigation mounted into such illegal acts.” In the 2010 Stakeholder Summary, La Fundacion Mundial Dejame Viver en Paz reported the murders of at least 12 members of the LGBTI community in El Salvador.
- In the 2014 National Report, El Salvador announced the creation of the Directorate for Sexual Diversity in 2010. Additionally, El Salvador reported that, in areas of health care, transgender women are treated separately from men, and “steps have been taken to ensure respect for gender expression when requesting information.” Additionally, recruitment of transgender individuals in State institutions is encouraged. Police and municipal officials had received training on sexual diversity, and a sexual-diversity help care line had been created for “legal assistance and psychological counseling.”
- However, in the 2014 Compilation of UN Information, the United Nations system in El Salvador noted that discrimination against the LGBTI community “remained very strong,” and in the 2014 Stakeholder Summary, stakeholders noted incidences of hate crimes motivated by sexual orientation.

Social Climate

A 2012 report by the University of California's International Human Rights Law Clinic quoted an El Salvadorian transgender activist:

“The relationship between the police and [the transgender community] is complete chaos. Abuse of authority, abuse of human rights, violent abuse, sexual violence...In the police, there are people who assault us, who insult us, who rape us, who harass us, who extort us, and everything. Why? Because for them, we are delinquents and have no rights. Simple and straightforward, we have no rights.”

In a personal testimony, Nicole Santamaria, an LGBTQI Human Rights Defender, stated:

"I came to the United States in 2013 through the Inter-American Commission of Human Rights to denounce the El Salvadorian state for the lack of compromise for us, particular for the transgender community...At the end of the hearing, they asked if we wanted any kind of protections, I said to them that I didn't want any kind of protection from the state because they are the ones who are murdering us. They are the ones who are hating us. They are the ones who are prosecuting us. I won't let my murderer come to my home and know my home, know my people, know my family, know my friends" (humanrightsfirst).

In May 2015, Francela Mendez Rodriguez, a transgender human rights activist and board member of Collective Alexandria El Salvador, was murdered while visiting a friend in Sonsonate, a small town west of San Salvador (Human Rights Campaign). Frontline Defenders noted that Rodriguez was the 10th transgender woman to be murdered in El Salvador since the beginning of 2015.

Activist Groups

1. Asociacion Entre Amigos. Website: <http://entreamigoslgbt.org/>. Facebook: [asociacionentreamigoslgbtdeelsalvador](https://www.facebook.com/asociacionentreamigoslgbtdeelsalvador). Phone: +503 2206 8400.
Email: entreamigosgay@gmail.com.

2. Collective Alexandria El Salvador. Website: <http://colectivoalejandria.blogspot.com/>. Facebook: [AsociacionColectivoAlejandriaElSalvador](https://www.facebook.com/AsociacionColectivoAlejandriaElSalvador). Twitter: [colectivoalejandria](https://twitter.com/colectivoalejandria). Phone: +503 2131 2332.

Best Practices/Recommendations

In the 2010 Universal Periodic Review, Columbia called upon El Salvador to continue to include anti-discrimination measures and programs in its social policies. The United Kingdom called upon El Salvador to “identify concrete measures to combat social and cultural attitudes leading to discrimination” and to “increase the inclusion” of LGBT persons in public and private sectors.

In the 2014 Universal Periodic Review, Argentina and Ireland called upon El Salvador to guarantee the protection women discriminated against on the grounds of sexual orientation or gender condition. Canada called for new legislation that prohibits discrimination on the grounds of sexual orientation.

Relevant recommendations from UCB's International Human Rights Law Clinic include:

- Amending Article 3 of the Constitution to include the protection LGBTI individuals .
- Passing anti-discrimination legislation giving LGBTI persons explicit protection from any form of discrimination in the public and private sectors.

List of References

- “El Salvador—Killing of Transgender Human Rights Defender Francela Mendez”
2015, <https://www.frontlinedefenders.org/node/28858>.
- “LGBT Voices for Equality: El Salvador” 2015, <http://www.humanrightsfirst.org/blog/lgbt-voices-equality-el-salvador>.
- “Sexual Diversity in El Salvador: A Report on the Human Rights Situation of the LGBT Community”
2012, https://www.law.berkeley.edu/files/IHRLC/LGBT_Report_English_Final_120705.pdf.
- “Transgender Human Rights Activist Murdered in El Salvador”
2015, <http://www.hrc.org/blog/transgender-human-rights-activist-murdered-in-el-salvador>.
- UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1*, 26 November 2009, A/HRC/WG.6/7/SLV/2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/173/76/PDF/G0917376.pdf?OpenElement>.
- UN Human Rights Council, *Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21*, 15 August 2014, A/HRC/WG.6/20/SLV/2, available at: http://www.upr-info.org/sites/default/files/document/el_salvador/session_20_-_october_2014/a_hrc_wg.6_20_slv_2_e.pdf.
- UN Human Rights Council, *Draft Report of the Working Group on the Universal Periodic Review: El Salvador*, 29 October 2014, A/HRC/WG.6/20/L.2, available at: http://www.upr-info.org/sites/default/files/document/el_salvador/session_20_-_october_2014/a_hrc_wg.6_20_l.2.pdf.
- UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: El Salvador*, 18 August 2014, A/HRC/WG.6/20/SLV/1, available at: http://www.upr-info.org/sites/default/files/document/el_salvador/session_20_-_october_2014/a_hrc_wg.6_20_slv_1_e.pdf.
- UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: El Salvador*, 18 March 2010, A/HRC/14/5, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/121/79/PDF/G1012179.pdf?OpenElement>.
- UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights, In Accordance with Paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1*, 25 November 2009, A/HRC/WG.6/7/SLV/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/172/43/PDF/G0917243.pdf?OpenElement>.
- UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of Council Resolution 16/21*, 21 July 2014, A/HRC/WG.6/20/SLV/3, available at: http://www.upr-info.org/sites/default/files/document/el_salvador/session_20_-_october_2014/a_hrc_wg.6_20_slv_3_e.pdf.

3. *Guatemala*

Conditions of the Law

Severity Ratings

- Overall Severity Rating: -10
- Legal Conditions Severity Rating: +1
 - Negative Legal Conditions (-2)
 - No legal protections from discrimination for LGBTI people
 - No ability to legally change gender
 - Positive Legal Conditions (+3)
 - M/M relationships legal
 - F/F relationships legal
 - Equal age of consent for same sex relationships

Legislative Information

Legal Summary: In Guatemala same-sex activity has been legal since the 1800s, however there are no other same-sex practices allowed. These illegal practices include recognition of same-sex civil unions, recognition of same-sex marriage, and adoption by same-sex couples. Also, there are no bans on discrimination regarding sexual orientation, identification, or expression.

Legal Critical Incident: Discrimination against gays is commonplace and a spate of murders of transgendered people occurred.

- 1997: Code on Childhood and Youth, included a ban on discrimination against minors based on sexual orientation.
- 2004 – 2006: Discrimination against gays is commonplace and a spate of murders of transgendered people occurred. (Source: <http://www.as-coa.org/articles/explainer-lgbt-rights-latin-america-and-caribbean#Guatemala>).

Executive Information

June 20, 2013 Guatemalan President Otto Pérez Molina has rejected an attempt by the Organization of American States (OAS) to reach agreements that pro-family activists would lead to the legalization of same-sex “marriage.”

Source: <https://www.lifesitenews.com/news/guatemala-rejects-organization-of-american-states-attempt-to-impose-homosex>.

Condition in the Prisons

Prison Summary: Critically poor prison conditions due to: lack of healthcare for all inmates, overcrowding, lack of adequate food, lack of care for HIV/AIDS infected inmates, lack of access to gender reassignment hormones, transgender inmates kept with birth gender inmates, no protections in place for LGBTI inmates, no existing policy on LGBTI issues, no LGBTI organizations operating within the prisons, torture and abuse of all inmates, specific abuse of LGBTI inmates, and no conjugal visits allowed for LGBTI inmates.

Prison Statistics

- Prison Conditions: Critical
- Estimated LGBTI Prison Population: N/A
- Incarceration Rate Per 100,000 Citizens: 121

- Capacity Based Occupation: 270.6%

Prison Severity Ratings

- Prison Conditions Severity Rating: -11
 - Negative Prison Conditions (-12)
 - Lack of healthcare for all inmates
 - Overcrowding for all inmates
 - Lack of adequate food for all inmates
 - Lack of care for HIV/AIDS
 - Lack of access to hormones/gender reassignment surgery
 - Trans inmates kept with birth gender
 - No protections in place for LGBTI inmates
 - No policy existing on LGBTI issues
 - No LGBTI organizations operational in prison
 - Torture and abuse of all inmates
 - Specific abuse of LGBTI inmates
 - No conjugal visits allowed for same sex couples
 - Positive Prison Conditions (+1)
 - Separate facilities for juveniles

Prison Critical Incidents

- In February 2006, four men on national police motorcycles in police uniforms stopped two transgender people at an intersection in Guatemala City's Zone. The assailants shot both of the transgender people, killing one immediately and seriously injuring the other. Source: <https://www.hrw.org/news/2006/02/20/guatemala-transgender-people-face-deadly-attacks>.
- Current laws prohibit cross-dressing; "acts of gross indecency with male person," which carries a sentence of up to two years in prison; attempted "unnatural offenses," up to 10 years in prison; and buggery, up to a life sentence. Source: <http://76crimes.com/2012/08/07/guyana-might-free-south-america-of-its-last-anti-lgbt-law/>.

Human Rights Protection

UN Record

- Guatemala signed December 2008 UN declaration in support of LGBT rights.
- Guatemala was a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. It voted yes. Guatemala was not a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation.
- Guatemala faced a U.N.'s Universal Periodic Review in 2008 and again in 2012. In 2008, the Special Rapporteur on extrajudicial, summary and arbitrary executions noted reported a concern about the killing of persons for their sexual identity or orientation and the killing of human rights defenders. In the Summary of Stakeholders, Human Rights Watch

mentioned the pending “Integral Protection for Marriage and Family Act,” which would prevent same-sex couples and single parents from the definition of “family.”

- In 2012, the Human Rights Committee expressed concern about hate crimes and discrimination against lesbians, gays, bisexuals and transsexuals. The Colectiva de Mujeres en Resistencia expressed a need for increased awareness of femicide against lesbian women.

Social Climate

Though same-sex activity is legal in Guatemala, members of the LGBTI community are at risk for discrimination, particularly for employment, housing, education and health care.

LGBTI persons are often extorted by the police. A report by the US Department of State revealed allegations that members of the police regularly waited “outside clubs and bars frequented by LGBT persons to demand that those engaged in sexual activities pay protection money or pay to avoid jail.” Additionally, in January 2012, police arrested four transgender activists, stripped them of their clothes, cut their hair, and left them outside exposed to cold temperatures overnight.

Activist Groups

1. Organization to Support an Integral Sexuality in the Face of AIDS (OASIS).

Website: <http://www.wiserearth.org/organization/view/10b05187491d48ad257e3d36d95898b9>.

2. Lesbiradas. Website: <http://lesbiradas.blogspot.com/>.

Email: blog.lesbiradas@gmail.com; escuela.lesbiradas@gmail.com; lesbiradas@gmail.com.

Phone: 2230 4336.

Best Practices/Recommendations

In the 2008 Universal Periodic Review, Switzerland called upon Guatemala to take all necessary measures to combat the lynching and killing of persons on the grounds of sexual orientation. Slovenia called upon Guatemala to put an end to reported attacks against persons on the grounds of sexual orientation and gender identity. The Czech Republic echoed Slovenia, adding the need for “specific education and awareness raising programs for law enforcement, judicial and other authorities.”

In the 2012 Universal Periodic Review, Argentina called upon Guatemala to consider strengthening the measures for protecting and integrating LGBT persons.

Relevant recommendation from UCB’s International Human Rights Law Clinic:
Implement a training program on sexual diversity for police and other government employees.

List of References

“2012 Country Reports on Human Rights Practices: Guatemala” 2013, <http://refworld.org/cgi-bin/tehis/vtx/rwmain?page=search&docid=517e6e2f42&skip=0&query=lgbt%20guatemala>.

“Sexual Diversity in El Salvador: A Report on the Human Rights Situation of the LGBT Community”

2012, https://www.law.berkeley.edu/files/IHRLC/LGBT_Report_English_Final_120705.pdf.

UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1: Guatemala*, 10 April 2008, A/HRC/WG.6/2/GTM/2, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/127/41/PDF/G0812741.pdf?OpenElement>.

- UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Guatemala*, 13 August 2012, A/HRC/WG.6/14/GTM/2, available: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/159/83/PDF/G1215983.pdf?OpenElement>.
- UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Guatemala*, 29 May 2008, A/HRC/8/38, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/GT/A_HRC_8_38_Guatemala_E.pdf.
- UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Guatemala*, 31 December 2012, A/HRC/22/8, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/100/33/PDF/G1310033.pdf?OpenElement>.
- UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Guatemala*, 25 July 2012, A/HRC/WG.6/14/GTM/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/155/52/PDF/G1215552.pdf?OpenElement>.

4. Guyana

Conditions of the Law

Severity Ratings

- Overall Severity Rating: -15
- Legal Conditions Severity Rating: -6
 - Negative Legal Condition (-7)
 - M/M relationships illegal
 - F/F relationships illegal
 - Laws against LGBTI organizations
 - Ten plus years in prison
 - Prison up to 9 years
 - No legal protections from discrimination for LGBTI people
 - No ability to legally change gender
 - Positive Legal condition (+1)
 - Legal right to serve in military

Legislative Information

Legal Summary: In Guyana same-sex activity is punishable by up to life in prison, however it is not enforced. Civil unions by same-sex couples are not recognized nor are same-sex marriages. Same-sex couples are not allowed to adopt either. LGB are allowed to serve in the military though. Sadly, there are no bans on discrimination concerning sexual orientation, expression, or identity.

Legal Critical Incident: It is illegal for any male person who, in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of any act of gross indecency with any other male person shall be guilty of a misdemeanor and liable to imprisonment for two years.

Condition in the Prisons

Prison Summary: Critically low prison conditions caused by: overcrowding, people being incarcerated for being or being assumed gay, lack of care for HIV/AIDs patients, lack of access to hormones for gender reassignment surgery, transgender inmates kept with birth gender inmates, no policy existing on LGBTI inmates, no LGBTI organizations in place in prisons, torture and abuse of all inmates, specific abuse of LGBTI inmates, and no conjugal visits allowed for LGBTI inmates.

Prison Statistics

- Prison Conditions: Critical
- Estimated LGBTI Prison Population: N/A
- Incarceration Rate Per 100,000 Citizens: 264
- Capacity Based Occupation: 129.2%

Prison Severity Ratings

- Prison Conditions Severity Rating: -9
 - Negative Prison Condition (-11)
 - Overcrowding for all inmates

- People incarcerated for being or being assumed LGBTI
- Lack of care for HIV/AIDS
- Lack of access to hormones/gender reassignment surgery
- Trans inmates kept with birth gender
- No protections in place for LGBTI inmates
- No policy existing on LGBTI issues
- No LGBTI organizations operational in prison
- Torture and abuse of all inmates
- Specific abuse of LGBTI inmates
- No conjugal visits allowed for same sex couples
- Positive Prison Condition (+2)
 - Adequate provision of food
 - Separate facilities for juveniles

Prison Critical Incidents: Members of the lesbian, gay, bisexual, and transgender (LGBT) community face targeted acts of societal violence and harassment. Some members reported that public officials ridiculed them when attempting to access medical care or file reports with the police. Source: <http://www.inewsguyana.com/us-concerned-with-police-brutality-in-guyana-calls-on-govt-to-decriminalize-same-sex-conduct/>.

Human Rights Protections

UN Record

Guyana did not sign the December 2008 UN declaration in support of LGBT rights, but neither did it sign the opposition statement, which expresses disapproval towards the idea of LGBT rights.

Guyana was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.

Guyana faced a U.N.'s Universal Periodic Review in 2010 and again in 2015. In 2010, stakeholders recommended Guyana make many changes, including amending the constitution to include gender identity and sexual orientation as grounds for discrimination, allowing LGBTI persons to pursue legal recourse. Guyana responded by stating that these issues would take time to address and would require widespread consultation.

In the 2015 National Report, Guyana reported having looked into the recommendations to decriminalize consensual same sex adult sexual relations and discrimination against LGBTI persons.

Many stakeholders expressed concern about the violence against LGBT persons, fueled by socio-cultural norms and discriminatory laws. Evidence of discrimination on the basis of sexual orientation and gender identity was found in employment, education and healthcare sectors.

Social Climate

- Same-sex relations are criminalized in Guyana, fueling discrimination and intolerance.
- According to a 2010 study sponsored by Vanderbilt University, 7.2% of Guyanese respondents supported same-sex marriage.
- In a 2012 report sponsored by the University of the West Indies, interviewees stated that LGBTI persons who had been attacked or harassed because of their sexual orientation

they generally do not report crimes to the police because "[the police] give the other person (not the victim) the rights . . . the police would take the straight person's side, even if they're in the wrong."

Activist Groups

1. Guyana Trans United. Facebook: Guyana-Trans-United-GTU-148525782006659. Phone: +15926748741.

2. The Society Against Sexual Orientation Discrimination (SASOD).

Website: www.sasod.org.gy. Blog: <http://sasod.blogspot.com/>. Facebook: sasodguyana. Phone: (592)225-7283.

Best Practices/Recommendations

In the 2010 Universal Periodic Review, Australia, Slovenia, Italy, Sweden, France, and Spain called upon Guyana to repeal legislation that discriminated against individuals on the grounds of sexual orientation or gender identity. The Netherlands echoed this recommendation, adding the need to promote dialogue in society to prevent the justification of discrimination the grounds of "culture, religion or tradition."

In the 2015 Universal Periodic Review, Brazil called upon Guyana to strengthen to protection shown to LGBT persons. The United States of America, Argentina, and Uruguay called upon Guyana to take measures to guarantee that hate crimes and discrimination on the grounds of sexual orientation or gender identity are investigated and prosecuted. Thailand, Ireland, Italy, the Netherlands, Slovenia, Switzerland, the United States of America, Argentina, Canada, Chile, Norway, Spain, the United Kingdom of Great Britain and Northern Ireland, Uruguay, and Columbia called for the repeal of legislation that discriminated against LGBT persons.

Relevant recommendations from Human Rights Watch includes:

- Monitoring and documenting cases of LGBTI discrimination to raise awareness.
- Supporting public education programs on sexual rights and sexual orientation, specifically targeting civil service, health service, and educational institutions.

List of References

"Collateral Damage: The Social Impact of Laws Affecting LGBT Persons in Guyana"

2012, <http://www.sasod.org.gy/sites/default/files/resources/CollateralDamage.pdf>.

"It's Nature, Not a Crime" 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

"Support for Same-Sex Marriage in Latin America"

2010, <http://vanderbilt.edu/lapop/insights/I0844.enrevised.pdf>.

UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Guyana*, 19 January 2015,

A/HRC/WG.6/21/GUY/1, available at: [http://daccess-dds-](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/005/59/PDF/G1500559.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G15/005/59/PDF/G1500559.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/005/59/PDF/G1500559.pdf?OpenElement).

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review:*

Guyana, 21 June 2010, A/HRC/15/14, available at: [http://daccess-dds-](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/145/14/PDF/G1014514.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G10/145/14/PDF/G1014514.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/145/14/PDF/G1014514.pdf?OpenElement).

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Guyana*, 13 April 2015, A/HRC/29/16, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/076/27/PDF/G1507627.pdf?OpenElement>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1: Guyana*, 22 February 2010, A/HRC/WG.6/8/GUY/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/111/17/PDF/G1011117.pdf?OpenElement>

5. Mexico

Conditions of the Law

Severity Ratings

- Overall Severity Rating: -2
- Legal Conditions Severity Rating: +6
 - Negative Legal Conditions (-1)
 - Differing consent laws for same sex relationships
 - Positive Legal Conditions (+7)
 - M/M relationships legal
 - F/F relationships legal
 - Legal protections from discrimination in place for LGBTI people
 - Ability to legally change gender
 - No laws used against TI or assumed TI people
 - Legal right to adopt
 - Hate crime legislation that includes LGBTI people

Legislative Information

Legal Summary: In Mexico same-sex activity has been legal since 1871. Civil unions are somewhat legal but only in Mexico City, Coahuila, Colima, Campeche, Jalisco, and Michoacán. As for same-sex marriage, all states are obliged to honor same-sex marriage that has been performed in a state where it is legal. Those states are Mexico City, Quintana Roo, Coahuila, Chihuahua, and Guerrero. In 2015, adoption by same-sex couples became legal. There is no explicit ban on LGB serving in the military but there have been reports of discharge for sexual orientation. There is a countrywide constitutional ban on all anti-gay discrimination and transgender persons can change their legal gender and name in Mexico City.

Legal Critical Incidents: In 2013 several gay couples were able to marry in the Colima state. This stirred up activists to promote reforming the state's civil code to allow gay marriage.

- 2003: Mexico became the second country in Latin America to extend protection from discrimination to LGBT citizens when they passed the Federal Law to Prevent and Eliminate Discrimination.
- 2007: Same-sex civil unions and adoption rights were legalized by the northern state of Coahuila.
- 2009: The federal District of Mexico City legalized gay marriage and granted gay couples the right to adopt
- 2010: The Mexican Supreme Court ruled that the validity of same-sex civil unions must be recognized nationwide, though Mexican states can decide whether or not to perform them.
- May 2012: The Quintana Roo secretary of state reversed the annulment of two gay marriages and validated future same-sex marriages.
- December 2012: Mexico's Supreme Court ruled article 143 of Oaxaca state's civil code unconstitutional, allowing same sex marriage.
- 2013: Several gay couples were able to marry in the Colima state. This stirred up activists to promote reforming the state's civil code to allow gay marriage.
- May 2012: The Chamber of Deputies passed legislation guaranteeing social security benefits to same-sex couples.

- March 2013: Mexico's Supreme Court ruled that derogatory terms for gays constitute hate speech and are not protected by freedom of speech.
- May 2013: The Institute for Social Security and Services for State Workers began allowing same-sex couples to receive benefits (Source: <http://www.as-coa.org/articles/explainer-lgbt-rights-latin-america-and-caribbean#Mexico>).

Executive Information

President is supportive of the gay community.

Condition in the Prisons

Prison Summary: Critically poor prison conditions caused by: lack of adequate food for all inmates, lack of care for HIV/AIDs inmates, lack of access to hormones for gender reassignment surgery, transgender inmates kept with birth gender, no protections in place for LGBTI inmates, no policy regarding LGBTI inmates, no LGBTI organizations active in prisons, torture and abuse of all inmates, and specific abuse of LGBTI inmates.

Prison Statistics

- Prison Conditions: Critical
- Estimated LGBTI Prison Population: N/A
- Incarceration Rate Per 100,000 Citizens: 212
- Capacity Based Occupation: 125.7%

Prison Severity Ratings

Prison Conditions Severity Rating: -9

- Negative Prison Conditions (-11)
 - Lack of healthcare for all inmates
 - Overcrowding for all inmates
 - Lack of adequate food for all inmates
 - Lack of care for HIV/AIDS
 - Lack of access to hormones/gender reassignment surgery
 - Trans inmates kept with birth gender
 - No protections in place for LGBTI inmates
 - No policy existing on LGBTI issues
 - No LGBTI organizations operational in prison
 - Torture and abuse of all inmates
 - Specific abuse of LGBTI inmates
- Positive Prison Conditions (+2)
 - No incarceration as a result of being or being assumed to be LGBTI
 - Separate facilities for juveniles

Prison Critical Incidents: In January of 2014 a gay man had his eyes gouged out by his cellmate while prison guards watched. Source: <http://www.lgbtqnation.com/2014/01/gay-prisoner-in-mexico-blinded-following-attack-by-cellmate-who-gouged-his-eyes/>.

Human Rights Conditions

UN Record

- Mexico signed December 2008 UN declaration in support of LGBT rights.
- Mexico was a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. It voted yes. Mexico was a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation. It voted yes.
- Mexico faced a U.N.'s Universal Periodic Review in 2009 and again in 2013. No mention of LGBTI issues or rights were raised in the 2009 U.N.'s Universal Periodic Review.
- In the 2013 Compilation of UN Information, the Human Rights Committee voiced concern about discrimination based on sexual orientation.
- Additionally, stakeholders noted that, though discrimination based on sexual preference had been constitutionally prohibited in 2011, the law had not yet been translated into policies that promote the full exercise of human rights by the LGBTI community.

Social Climate

In June 2015, the Supreme Court of Justice of the Nation released a "jurisprudential thesis" in which the legal definition of marriage was changed to encompass same-sex couples. The articles in the constitution restricting marriage to a man and a woman were deemed unconstitutional by the court and thus every justice provider in the nation must validate same-sex unions, thus legalizing gay marriage. However, the process is lengthy as couples must request a jurisdiction from a judge, a process that can take significantly longer than the process for an opposite-sex wedding.

Activist Groups

Letter S. Website: <http://www.letraese.org.mx/wp-content/uploads/2010/05/Informe.pdf>.

Facebook: [agencianotieseoficial](https://www.facebook.com/agencianotieseoficial). Twitter: [Agencia_NotieSe](https://twitter.com/Agencia_NotieSe). Phone: 5532-2751.

Best Practices/Recommendations

Relevant recommendations from Human Rights Watch include providing appropriate police training to ensure that new anti-discrimination laws are carried out in civil society. Other recommendation include taking steps to streamline the processing of same-sex weddings so that the process is equivalent to that of opposite-sex weddings.

List of References

"It's Nature, Not a Crime" 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.

UN Human Rights Council, *Compilation Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Mexico*, 12 August 2013, A/HRC/WG.6/17/MEX/2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/161/69/PDF/G1316169.pdf?OpenElement>.

UN Human Rights Council, *Summary Prepared by the Office of the High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council*

Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21, 31 July 2013, A/HRC/WG.6/17/MEX/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/160/14/PDF/G1316014.pdf?OpenElement>

6. Panama

Based on the research conducted, there are no protections available for LGBTI persons in Panama prisons. The prison populations are not separated and there are reports of violence against LGBTI individuals in prisons.

Conditions of the Law

In 2008, penal code updated to legalize same-sex relations (Encarnación, 2011). Same-sex marriage is unrecognized (Article 58 of 1972 constitution via EqualDex). No protections against discrimination (via EqualDex). Harrasment of LGBTI persons by police was a major complaint of the Association of New Men & Women, they say however that formal complaints are rare because of the perception that the reports would not be taken seriously (U.S. State Dept Human Rights Report, 2012, <http://www.state.gov/documents/organization/204679.pdf>). President is openly opposed to gay marriage and recently signed a marriage protection bill into law (PanAmPost, 2014, <http://panampost.com/panam-staff/2014/05/12/panama-controversy-erupts-over-gay-marriage-ban/>).

Condition in the Prisons

A 2013 State Department report described overall prison conditions as “harsh and in some cases life threatening.” Problems include: overcrowding, lack of medical care, shortage of potable water, and deteriorating sewer systems. (U.S. State Dept Human Rights Report, 2005, <http://www.state.gov/j/drl/rls/hrrpt/2005/61736.htm>).

Critical Incidents

Association of New Men & Women of Panama reported at least two attempted killings of gay inmates by other inmates; it is unclear whether these incidents were ever investigated (U.S. State Dept Human Rights Report, 2005, <http://www.state.gov/j/drl/rls/hrrpt/2005/61736.htm>).

Human Rights Protections

UN Record

Panama signed December 2008 UN declaration in support of LGBT rights.

Panama was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.

Panama faced a U.N.’s Universal Periodic Review in 2010 and again in 2015. No mention of LGBTI issues or rights was made in the initial .N.’s Universal Periodic Review.

In the 2015 National Report, Panama recognized the existence of discrimination against LGBTI persons, and asserted that a representative had joined the National Commission against Discrimination, talks had "been held with public officials from various State bodies in order to examine alleged discriminatory treatment by law enforcement officials," and an awareness-raising campaign had been initiated to promote tolerance.

In the 2015 Compilation of UN information, the UN Country Team asserted that Panama did not have legislation to prevent discrimination against LGBTI persons, same-sex unions were not recognized, and "according to the National Police regulations homosexuality is a serious offense." The Country Team also noted that it is only possible to "request a change of identity in official documents if the person has undergone genital reconstruction surgery."

In the Summary of Stakeholder information, Panama was called out multiple times to decriminalize same-sex marriage and to create anti-discrimination laws.

Social Climate

Panama was the last Spanish-speaking Latin American country to repeal its anti-sodomy law in 2008.

Ricardo Beteta, an activist who played a key role in the repeal, is currently working on a petition for anti-discrimination laws said that the church was proving to be a major obstacle. In an article by the Latin Correspondent, Beteta stated: “There’s no separation between the state and the church . . . and now you have the Catholic Church and the evangelical churches getting involved in public issues.”

Activist Groups

1. Association of New Men and Women of Panama. Website: www.ahmnp.org. Facebook: AHMNPCH. Phone: +507 6101-1530.
2. United and Strong. Website: <https://unitedandstrongstlucia.wordpress.com/tag/panama/>. Facebook: UnitedandStrongStLucia. Twitter: UnitedStrongSlu. Email: unitedandstrongslu@yahoo.com. Phone: 1(758)450 0976

Best Practices/Recommendations

In the 2015 Universal Periodic Review, Canada, Ireland, the Netherlands, Uruguay, and Chile called for legislation that would prohibit discrimination on the basis of sexual orientation. Argentina recommended the adoption of judicial and administrative measures to guarantee, “the investigation and punishment of cases of discriminatory treatment by law enforcement officers” against LGBTI persons. Slovenia echoed this call, adding the need to abolish Executive Decree No. 204/1997, which determines “homosexuality as a serious misconduct for members of the national police.” Columbia called on Panama to promote the right to health of LGBTI persons. Other recommendations include continuing to develop programs to promote tolerance with added emphases on tolerance towards the trans community and striving to create a distinction between church and state to promote political tolerance.

List of References

- “Despite Progress, Still a Long Way to go for LGBT Rights in Latin America”
2015, <http://latin correspondent.com/2015/07/despite-progress-still-long-way-go-lgbt-rights-latin-america/>.
- UN Human Rights Council, *Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Panama*, 23 February 2015, A/HRC/WG.6/22/PAN/2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/032/28/PDF/G1503228.pdf?OpenElement>.
- UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Panama*, 11 February 2015, A/HRC/WG.6/22/PAN/1, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/022/51/PDF/G1502251.pdf?OpenElement>.
- UN Human Rights Council, *Reports of the Working Group on the Universal Periodic Review: Panama*, 8 July 2015, A/HRC/30/7, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/152/22/PDF/G1515222.pdf?OpenElement>.
- UN Human Rights Council, *Summary Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15 (c) of the Annex to*

Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Panama, 5 February 2015, A/HRC/2G.6/22/PAN/3, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/019/76/PDF/G1501976.pdf?OpenElement>

7. *Paraguay*

There appear to be no protections afforded to LGBTI in Paraguay prisons. Critical incidents of violence against LGBTI persons while in police custody are highlighted below. Also were found instances of discrimination against LGBTI inmates.

Conditions of the Law

Paraguay president is openly opposed to gay marriage (NYTimes, 2013, http://www.nytimes.com/2013/04/17/world/americas/candidate-in-paraguay-stirs-controversy-with-remarks-on-gay-marriage.html?_r=0).

Condition in the Prisons

Paraguay prisons are actively denying requests by LGBTI inmates for conjugal visits with their partners despite having laws that permit this right to incarcerated individuals (Heartland Alliance, 2013, <http://www.heartlandalliance.org/gishr/publications/shadow-report-paraguay.pdf>). Prison conditions described by the U.N. as exceptionally poor with overcrowding, lack of medical care, and consumption of drugs and alcohol being contributing factors (U.N. Office on Drugs and Crime, 2014, <https://www.unodc.org/lpo-brazil/en/frontpage/2014/01/15-paraguai-busca-desenvolver-um-plano-para-auxiliar-prisoneiros.html>).

Critical Incidents

“On January 21, 2012, M.A., a young lesbian woman was robbed while at a lesbian karaoke locale. Upon realizing that her belongings were stolen, she reported this to the manager of the locale, who in turn asked her to leave. When she left the locale, she was approached by a patrol car of the 1st Police Station and was asked to get in the car. M.A. believed that she would be taken to the station in order to report the robbery. Instead, the police car took a different route and drove to Carlos A. Lopez Park, where M.A. was raped by two male police officers while a female police officer filmed it with M.A.’s cellular phone. As the victim was being raped, the police officers told her that they were going to “enseñar lo que era un hombre” [“teach her what a man is”] (Posa Guinea & Robledo Desh, 2012: 174). The victim later denounced the case at the prosecutor’s office. She suffered telephone threats and harassment on the part of the assumed perpetrators. The press reported on the case but the coverage has not resulted in any resolution” (Heartland Alliance Report, 2013, p. 7, <http://www.heartlandalliance.org/gishr/publications/shadow-report-paraguay.pdf>).

Human Rights Protections

UN Record

Paraguay signed December 2008 UN declaration in support of LGBT rights.

Paraguay was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.

Paraguay faced a U.N.’s Universal Periodic Review in 2011. The National Report featured steps the country was taking to educate members of the civil service about LGBTI issues, such as creating a guide to inclusive and non-discriminatory practices, initiating the Police Free from Homophobia – Paraguay for All campaign, and carrying out “Acá no se discrimina” (We don’t discriminate here) campaign to prevent discrimination against lesbians.

Social Climate

According to a Pew Research Center report, 80% a Paraguayans opposed same-sex marriage in 2014.

In 2014, a clash occurred between LGBT advocates and the Paraguayan police during a protest in the country's capital while the police tried to protect both anti-gay protestors and LGBT rights advocates.

On July 2015, Simon Cazal, a Paraguayan gay rights activist, was technically the first LGBTI political activist to meet with the Pope Francis, though the two men did not actually interact during a meeting with 2,600 representatives of Paraguay's civil society.

Paraguay's affiliation with the Roman Catholic Church has traditionally been a source of isolation for members of the LGBTI community, but Cazal hopes that the new pope's non-judgemental stance will help alter minds in Paraguay.

Activist Groups

SOMOSGAY. Website: <http://somosgay.org/en>. Email: HOLA@SOMOSGAY.ORG. Phone: +595986173200.

Best Practices/Recommendations

In the 2011 Universal Periodic Review, Columbia, Sweden, and France called for the undertaking of measures to prevent discrimination based on sexual orientation. Other recommendations include: Consulting with non-governmental organizations defending LGBTI persons before passing legislation that will affect the rights of this population.

List of References

- “Invitation for Gay-Rights Activist to Hear Pope Spurs Hope for Paraguay’s LGBT Community”
2015, <http://www.wsj.com/articles/invitation-for-gay-rights-activist-to-hear-pope-spurs-hope-for-paraguays-lgbt-community-1436656303>.
- “Paraguayan Gay Rights Activist Takes Part in Meeting with Pope”
2015, <http://www.cruxnow.com/church/2015/07/11/paraguayan-gay-rights-activist-takes-part-in-meeting-with-pope/>.
- “Paraguayan Police Clash with LGBT Advocates”
2014, <http://www.washingtonblade.com/2014/06/03/paraguayan-police-clash-lgbt-advocates/>.
- “Religion in Latin America, Chapter 5: Social Attitudes”
2014, <http://www.pewforum.org/2014/11/13/chapter-5-social-attitudes/>.
- UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1: Paraguay*, 15 November 2010, A/HRC/WG.6/10/PRY/1, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/174/95/PDF/G1017495.pdf?OpenElement>.
- UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Paraguay*, 28 March 2011, A/HRC/17/18, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/44/PDF/G1112344.pdf?OpenElement>

8. *Suriname*

There appears to be no protections for LGBTI individuals in Suriname prisons.

Conditions of the Law

According to a report by the States News Service, the government of Suriname feels that the constitution provides adequate protection from discrimination to all, however, any attempt to embed specific rights of LGBTI persons was doomed to failure without the support of Parliament (States News Service, 2011).

Condition in the Prisons

Prison conditions have been described as generally clean and well kept. Prisoner interviews confirmed this, but not much out there on LGBTI specific conditions in prisons (U.S. State Dept Human Rights Report, 2014).

Prison conditions described as generally clean and well kept. Prisoner interviews confirmed this (U.S. State Dept Human Rights Report, 2014, Uploaded to BB under my folder), but not much of anything on LGBTI specifics regarding inmates. Still researching on this. President is neutral on gay marriage and doesn't openly support or oppose it (Stabroek News, 2011, <http://www.stabroeknews.com/2011/archives/10/11/gay-rights-appears-to-be-no-priority-for-bouterse/>). No specific legislative protections from discrimination against LGBT persons.

Critical Incidents

“Every weekend evening, in Paramaribo city, there are regular ‘cleanups’ : gay and transgendered sex workers are arrested and deported to police stations where they suffer rude, degrading and humiliating treatment. The sex workers are regularly hauled into the station and held for hours without reason and are not taken serious when they try to file reports about beatings and rapes” (Heartland Alliance, 2014, p. 4, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SUR/INT_CCPR_ICO_SUR_19176_E.pdf).

“In September 2014, two transgendered sex-workers were arrested and brutally beaten by Police Officers after a complaint of theft was filled by one of their ‘clients.’ Among other cruel practices, they were kicked and slapped, ordered to strip and then beaten with batons and a cricket bat. The Police Commissioner and officials only took actions against the police officers in question after the incident was reported to LGBTI organizations” (Heartland Alliance, 2014, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SUR/INT_CCPR_ICO_SUR_19176_E.pdf).

Human Rights Protections

UN Record

Suriname did not sign the December 2008 UN declaration in support of LGBT rights, but neither did it sign the opposition statement which expresses disapproval towards the idea of LGBT rights.

Suriname was not a part of the committee that decided whether the UN should commission a study on global LGBT rights.

Suriname faced a U.N.'s Universal Periodic Review in 2011. In an addendum, Norway and the Netherlands noted Suriname's silence on LGBTI issues.

Social Climate

According to a report prepared by the University of North Carolina, Chapel Hill's LGBT Representation and Rights Research Initiative, in 2012 22.5% of Suriname citizens supported the legalization of same-sex marriage.

Suriname held its first gay rights march on October 11, 2011. Two members of parliament took part in the march. Harish Monorath, one of two members of parliament to take part, stated that "the taboo still exists . . . too many members of parliament are still having a retarded attitude toward homosexuality."

Activist Groups

Suriname Men United. Website: www.surinamemenunited.com.

Email: info@surinamemenunited.com.

Best Practices/Recommendations

In the 2011 Universal Periodic Review, Norway and the Netherlands called upon Suriname to equalize the age of consent for opposite and same-sex conduct in addition to adopting legislation to prevent discrimination on the grounds of sexual orientation.

Relevant recommendation from Human Rights Watch includes educating public officials on the importance of refraining from intolerant statements, particularly when talking to the media.

List of References

"Fear for Life: Violence Against Gay Men and Men Perceived as Gay in Senegal"

2010, <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.

"LGBT Rights and Representation in Latin America and the Caribbean: The Influence of Structure, Movements, Institutions, and Culture"

2015, https://globalstudies.unc.edu/files/2015/04/LGBT_Report_LatAm_v8-copy.pdf.

"Questions to Suriname: Addendum 1"

2011, <http://lib.ohchr.org/HRBodies/UPR/Documents/session11/SR/AdvanceQuestionsSurinameAdd1.pdf>.

"Suriname Holds First Gay Rights March"

2011, <http://www.news24.com/World/News/Suriname-holds-first-gay-rights-march-20111012>.

UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Suriname*, 11 July 2011, A/HRC/18/12, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/145/97/PDF/G1114597.pdf?OpenElement>.

9. Uruguay

There appears to be no protections afforded to LGBTI inmates. Instances of violence against transgendered individuals while incarcerated were noted. There are reports of violence stemming from homophobia against transgendered individuals but not within the context of the criminal justice system.

Conditions of the Law

“In 2007, Uruguay became the first Latin American country to enact nationwide legislation permitting gay civil unions” (Encarnación, 2011, p. 104). Homosexual activity, change of legal gender, and same-sex adoption are all legal in Uruguay. Uruguay also has passed anti-discrimination bills to protect LGBTI individuals from all forms of discrimination (via EqualDex). President is openly supportive of LGBTI rights (Huffington Post, 2014, http://www.huffingtonpost.com/medea-benjamin/10-reasons-to-love-urugua_b_5326481.html).

The ex-president is openly supportive of gay marriage, so much so that under his tenure he legalized gay marriage and adoption (Huffington Post, 2014, http://www.huffingtonpost.com/medea-benjamin/10-reasons-to-love-urugua_b_5326481.html).

Condition in the Prisons

Despite the progressive nature of gay marriage support, the U.N. has found the prison conditions in Uruguay to be exceptionally poor. Overcrowding is the root cause of the problem.

Critical Incidents

One state department report noted alleged cases of sexual abuse at detention centers of transgendered individuals (U.S. State Department Human Rights Report, 2013).

Human Rights Protections

UN Record

Uruguay signed December 2008 UN declaration in support of LGBT rights.

Uruguay was a part of a committee to decide whether the UN should commission a 2011 resolution proposing a report on discrimination and sexual orientation. It voted yes. Uruguay was not a part of a committee to decide whether the UN should commission a 2014 resolution proposing a report on best practices for combating discrimination based on sexual orientation.

Uruguay faced a U.N.'s Universal Periodic Review in 2009 and again in 2014. In 2009, Uruguay's National Report cited the country's 2003 adoption of the amendment to article 149 of the Criminal Code "penalizing public incitement to hatred, contempt and other forms of physical or moral violence by reason of skin colour, race, religion, national or ethnic origin or sexual orientation and/or identity."

The report also asserts that Uruguay was the first Latin American country to have legislated for the union of same-sex couples with the Concubinary Union Act of 2007, and, at the time, a bill was being passed in Parliament to protect the rights of the trans population. In 2014, Uruguay's National Report cited the approval of the “Social Uruguay” card for the trans population, which recognizes their status as a particularly socially vulnerable group, and the implementation of Act No. 18,620, which enables a person to change the name on their identity card and in all public registers.

Additionally, the report asserts that on 10 April 2013, the Equal Marriage Act was passed, defining marriage as "the permanent union of two persons, regardless of their sex or gender identity."

Despite this, in the 2014 Compilation of UN Information, the CESCR reported a concern about widespread discrimination against the LGBTI community, particularly in regards to "health care, education, employment and access to housing."

In a 2009 report, the UN's Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment noted that LGBTI inmates in Uruguay were housed separately from the general prison population because they required more security.

Social Climate

According to a report by Amnesty International, five transsexual women were killed between 2011 and 2012.

In August 2014, marking the one-year anniversary of the legalization of same-sex marriage in Uruguay, 134 same-sex couples had tied the knot (OnTop Magazine).

In April 2016, the Uruguayan government will host an LGBT rights conference that is expected to draw advocates from around the world (Washington Blade).

Activist Groups

1. Alianza Gay Uruguay. Website: <http://www.alianzagayuruguay.com/>. Email: info@lapuertanegrabay.com.
2. Marcha Por La Diversidad. Email: coordinadoramarchadiversidad@gmail.com.
3. Ovejas Negras. Email: ovejasnegras.uy@gmail.com. Facebook: [colectivoovejasnegras](#). Twitter: [covejasnegras](#).

Best Practices/Recommendations

In the 2012 Universal Periodic Review, the Netherlands recommended the continuation of educational programs to raise awareness of sexual diversity and enhance sensitivity to sexual orientation and gender issues among health personnel.

The United Kingdom of Great Britain and Northern Ireland recommended enforcing regulations to protect against "all forms of discrimination, violence and harassment related to sexual and gender identity," and taking action to ensure that accounts of such violence are investigated with perpetrators being held accountable.

Relevant recommendation from Human Rights Watch includes creating monitoring systems to evaluate public tolerance of vulnerable populations, particularly the trans population. Other recommendations involve creating marketing programs to increase public awareness of human rights standards and promote tolerance.

List of References

- "It's Nature, Not a Crime" 2013, <https://www.hrw.org/report/2013/12/03/its-nature-not-crime/discriminatory-laws-and-lgbt-people-liberia>.
- UN Human Rights Council, *Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Uruguay*, 7 November 2013, A/HRC/WG.6/18/URY/2, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/184/38/PDF/G1318438.pdf?OpenElement>.

- UN Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of Annex to Human Rights Council Resolution 16/21: Uruguay*, 12 November 2013, A/HRC/WG.6/18/URY/1, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/186/12/PDF/G1318612.pdf?OpenElement>.
- UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum*, 21 December 2009, A/HRC/13/39/Add. 2, available at: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-39-Add2.pdf>.
- UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Uruguay*, 4 April 2014, A/HRC/26/7, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/129/59/PDF/G1412959.pdf?OpenElement>.
- “Uruguay Celebrates First Anniversary of Marriage Equality”
2014, http://www.ontopmag.com/article/19207/Uruguay_Celebrates_First_Anniversary_Of_Marriage_Equality.
- “Uruguay Joins Global LGBT Rights Initiative”
2015, <http://www.washingtonblade.com/2015/11/14/uruguay-joins-global-lgbt-rights-initiative/>.
- “Uruguay: Key Human Rights Concerns”
2014, <https://www.amnesty.org/download/Documents/12000/amr520012013en.pdf>.