



Event report¹

Lunch Debate on LGBTI and human rights in Honduras: Can the EU help overcome impunity of crimes against human rights defenders and LGBTI activists?

Homophobia, discrimination and social exclusion are part of the day-to-day life of LGBTI persons in Honduras due to cultural background, religious fundamentalism and impunity. Discrimination, however, is not limited to the societal sphere; it is also practiced by governmental and institutional officials. Impunity and violence by civil servants limit the access of LGBTI persons to basic human and citizen rights and endanger their integrity and life.

Situation of LGBTI rights in Honduras

With these words, Honduras together with 35 other Member States of the Organisation of American States (OAS), expressed in 2012 its concern about LGBTI human rights violations and its willingness to act on them.

“The General Assembly, (...) resolves (...) (to) condemn discrimination against persons by reason of their sexual orientation and gender identity; and to urge the states within the parameters of the legal institutions of their domestic systems to eliminate, where they exist, barriers faced by lesbians, gays, and bisexual, transsexual, and intersex (LGBTI) persons in access to political participation and in other areas of public life, as well as to avoid interferences with their private life.”²

¹ The event took place on 23 May 2016. Guest speakers were: Frenessys Sahory Reyes, Trans*woman, Activist for LGBTI-rights from Arcoiris Honduras; Andreu Bassols, Deputy Head of Division Mexico, Central America and Caribbean, European External Action Service; Ernest Urtasun, Member of the European Parliament, Green Party. The event was moderated by Patricia Jimenez, Director Global Dialogue Programme, Heinrich-Böll-Stiftung European Union. The opinions expressed do not necessarily represent the opinions of the Heinrich-Böll-Stiftung.

² Organisation of American States (4th of June 2012): Resolution on Human Rights, Sexual Orientation and Gender Identity.

https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj9qeC4sM3NAhUGnBoKHYHsDUMQFggiMAA&url=https%3A%2F%2Fwww.oas.org%2Fen%2Fiachr%2Figtbi%2Fdocs%2FAGA%2520Res%2520%25202721.pdf&usq=AFQjCNGtY1Oco6icMc_ThnN3IjgYspivpQ

Although this was the first declaration with commitments for concrete action by the OAS Member States, it technically speaking only reinforced its resolution of 2008 and the acknowledgement of equal human rights for LGBTI individuals which Honduras had already approved as early as 1948 through the Universal Declaration of Human Rights of the United Nations.

Both statements lead to suggest that LGBTI human rights in Honduras are guaranteed. In reality the situation of basic rights and freedoms which LGBTI individuals in Honduras enjoy are far from the international provisions which the Honduran state officially subscribed to.

Since 2013, Article 321 of the Criminal Code specifies the illegal character of discrimination due to gender identity or sexual orientation. While respective article can be considered an important step towards LGBTI human rights, it has on its downside first of all been in danger of abolishment and is secondly not being implemented by the authorities. Similar drawbacks and supportive factors can also be seen in different other legislations. While on the one hand, since 2015 LGBTI human rights defenders are being protected in their tasks of advocacy, they are on the other hand hindered in their self-determination by the general prohibition of sex reassignment. While the legal situation equally consists of opportunities and threats for LGBTI human rights, impunity and simply non application of human rights guarantee to lead to a discouraging and dangerous attitude towards the LGBTI community.

Taking a step back, this situation is first of all directly linked to the general human rights and security situation in Honduras. Rated the country with the highest number of murders in 2014, Honduras is widely known for its inability to provide public security to its citizens.³ The high rate of general crimes is thereby accompanied by crimes committed by state officials coupled with impunity for human rights abuse and the strategic limitation of basic freedoms.

Most vulnerable in this situation of frequent human right violations is the LGBTI community and their most visible members i.e. transgender persons. Homo- and transphobic state-practises and reluctance in prosecuting crimes against LGBTI individuals deprive the LGBTI community from general public services, namely education, health services and access to the labour market. The refusal to acknowledge the different gender identity of a child may lead to its exclusion from school education. Doctors decline their disposition to treat transgender patients or lack specialised qualifications regarding treatment which poses their health situation at risk. This is especially worrying for transgender women working in the sex industry. The proportion of respective transgender women is extremely high due to extensive discrimination on the job market, which leaves little other options to earn ones living than as a transgender woman.

In addition, this reluctance by the State in providing basic services, the LGBTI community is also suffering crimes which are being precisely directed towards persons of different gender identity or sexual orientation. Generalizing the violence against LGBTI in different patterns shows a wide range of perpetrators across different groups of stakeholders. One of the earliest threats for young people experiencing their different gender identity is their family. Many of them suffer psychological and physical violence by family members or even find themselves excluded from home. Another group is the national police which poses a threat to respective individuals due to the law obliging everyone to dress according to the gender indicated in their official documents. This threat is complemented by undercover police officers who pretend to be clients of sexual services. They thereby take advantage of the vulnerable situation of LGBTI sex workers for further crimes. The last group of perpetrators practise the so called "social-cleansing". This mostly by drug gangs conducted crime is aimed at provoking fear within the population, while using transgender victims of crime as drug runners.

³ According to Human Rights Watch: <https://www.hrw.org/world-report/2015/country-chapters/honduras>

A societal attitude towards LGBTI individuals that seem unbelievable in the context of Western-European value system is in fact deeply rooted in culture and tradition: machismo and religious fundamentalism constitute an overarching normative aversion against the LGBTI community. Resulting intolerance, discrimination, crimes or even arbitrary law are being ignored or even approved by the juridical authorities. Deliberate administrative obstacles and unfavourable legislation hinder advocacy work as well as the defence of human rights.

The culture of machismo and religious fundamentalism thereby constitutes an overarching normative belief leading to arbitrary law, which is being ignored or even approved by the juridical authorities. This also affects all different kinds of civil society movements which suffer from limited freedoms of expression or demonstration and systematic intimidation. Most attention is currently drawn to the reform of the Criminal Code which started at the end of 2015. Human rights organizations active in different fields are thereby trying to advocate a more favourable criminal code for the most vulnerable members of society. Thus they are at the same time fearing to lose rights already being granted, due to worrying hints about executive plans to derail the final draft of the Code.

Arcoiris, the biggest approved LGBTI organisation of Honduras, established in 2009, is one of the few that succeeded in fulfilling the enormous requirements to become an officially recognized NGO. While still suffering from no national support or funding it managed to gain a certain visibility. The result of its analyses on crimes and verdicts related to LGBTI speak for themselves. 222 LGBTI individuals have been killed since the coup d'état in 2009, which describes a rise from a single-digit number of cases per year before 2009 to more than 30 since this date. Arcoiris initiative of keeping track of judicial trials have shown that in 92 percent of these murders the cases have not been sufficiently investigated and resolved.

The European Union's efforts to strengthen human rights in general and in Honduras particularly

The Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons⁴ from 2013 constitute the EUs foremost interest to support LGBTI human rights in its relations with third countries.

With the European Parliaments Resolution on the protection of human rights defenders in Honduras⁵ in early 2016, the European Union officially reacted not only to the murder of Berta Cárceres, a human rights activist for indigenes rights, but also to the general vulnerable situation of human rights defenders working on topics such as LGBTI.

In its work approach in Honduras the European Union is trying to use different channels in order to improve the human right situation. It is supporting initiatives to push LGBTI-favourable legislation, e.g. in the current drafting process of the new Criminal Code which is being assisted by Spanish experts. Legislative measures have however proven to be no guarantee for improvement, as the lacking application of the anti-discrimination law in Honduras unfortunately shows. In order to change day to day reality for LGBTI individuals the development towards a more consistent implementation of the legal instruments which already exist is needed.

⁴ https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf

⁵ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+B8-2016-0473+0+DOC+PDF+V0//EN>

By serving as a speaker, EU institutions reinforce the requests put forward by NGOs. Through public means of diplomacy, civil society organisations (CSOs) obtain a broader reputation, security provisions and an access to European public attention. This thereby raised interest in human rights issues and current cases.

One current example is the case of Berta Cárceres, where international public attention led to further investigations by the State and a general Honduran perception of accountability. The EU Delegation's structural dialogue with CSOs in Honduras, about the general human rights situation and especially the previously mentioned case, provides first-hand information to the EU.

Apart from encounters of EU Delegation members in order to improve LGBTI human rights, financial incentives are also being strategically placed. The Delegations' restriction to grant cooperation agreements and financial funding to projects that are at least not deteriorating the human rights situation is an appreciated method used for cultural and societal projects.

Despite the variety of measures and stakeholders involved in the human rights support by the EU, it has to be made clear that political influence, diplomatic pressure and incentives interfering in the sovereignty of another state are always difficult and limited in their impact. The EU-Honduras relations are thereby no exception. The success of European efforts to strengthen the human rights situation in Honduras depends on the means and efforts which it is willing to invest, as well as on its credibility and importance for Honduras. The lack of an action plan to promote common LGBTI policy in Europe points out the different approaches of EU Member States. Their inability to talk with one voice concerning same-sex marriage and anti-discrimination laws in European internal policy impedes a powerful position in international initiatives. Despite the good intentions, the EU has to simultaneously engage in achieving a common internal legislation on LGBTI human rights in order to obtain more credibility in its external work towards that goal.

Conclusion

The upcoming months are going to be crucial indicators of how advanced human rights and LGBTI human rights in Honduras already are. This country is still suffering from instability, its recent political transition and non-consolidated civil society is living its most shaping moment apart from the revolutionary movements of 2009. The investigations of the Berta Cárceres case and the adoption of the current liberal Criminal Code could be considered vital signs for a more democratic and human rights respecting future of Honduras. Impunity and the tremendous discrepancy between existing legislation and its current non-application however show the difficulty of long-term development. While international initiatives cannot lead to a change of political culture or elite structures, it might be able to make a small step towards future spaces of security and protection for LGBTI individuals and human rights defenders.