



Immigration and
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3 March 2004

SLV42327.E

El Salvador: Treatment of homosexuals by the authorities and general public 2002-2004
(Replaces SLV40008.FE of 20 September 2002)
Research Directorate, Immigration and Refugee Board, Ottawa

In an opinion article published by the San Salvador newspaper *El Faro*, Omar Baños, an AIDS activist born in El Salvador who currently serves as the editor of the AIDS Project Los Angeles (APLA) magazine *Impacto* (APLA n.d.), claimed that Salvadoran homosexuals remain largely closeted (*en el armario*) and invisible because of stigma, homophobia and violence (*El Faro* 9 June 2003). Baños added that while there is a degree of societal acceptance of male cross dressers and homosexual men who play an active role in sexual intercourse, men who allow or enjoy being penetrated tend to be the target of attacks and the most extreme forms of homophobia (*ibid.*).

The attitude of the general public towards homosexuals was also addressed by the Executive Director of Entre Amigos, a San Salvador-based organization that defends and promotes homosexuals' rights, who noted on 12 January 2004 that homosexuality continues to be the subject of great contempt by some individuals. As an example, he cited a recent campaign to discredit the leading conservative candidate of the Nationalist Republican Alliance (Alianza Republicana Nacionalista, ARENA) by claiming that he was homosexual (Entre Amigos 12 Jan. 2004). Although corruption is widely perceived to be the ARENA's greatest weakness, being gay is seen by many as the worst insult possible, which is why the smear campaign focused on this issue rather than levelling accusations of corrupt practices (*ibid.*).

In late December 2003, Entre Amigos was reportedly preparing a complaint for consideration by the Ministry of Education on behalf of a 17-year old student who was allegedly discriminated against by staff at the private school she attended because of her sexual orientation (*Country Reports 2003* 25 Feb. 2004). No additional information on this incident could be found among the sources consulted by the Research Directorate.

A number of reports published since mid-2003 refer to the treatment of homosexuals by state security forces (*ibid.*; *OpusGay* 7 Feb. 2004; Corazongay 31 July 2003). For example, according to a NotieSe news agency report published on the Spanish Website Corazongay, homosexual and transgendered individuals have been detained on various occasions on the grounds that they were violating the Contraventional Ordinance (Ordenanza Contravencional), which prohibits scandalous behaviour (*conductas escandalosas*) in public places (*ibid.*). The reports adds that only 2 of approximately 30 homophobic hate crimes reported to the authorities between 1998 and 2000 have been investigated and the alleged perpetrators brought before the authorities (*ibid.*).

The International Gay and Lesbian Human Rights Commission (IGLHRC) stated that three homosexuals were killed in El Salvador in 2003 (*OpusGay* 7 Feb. 2004).

Speaking on behalf of the IGLHRC, Alejandra Sardá claimed that the number of reported cases of homophobic violence would have been higher if local groups had more resources to document such crimes (ibid.).

In addition to referring to attacks in July and October 2003 in which a total of four transvestites were killed by unidentified individuals, *Country Reports 2003* noted that in June 2003,

before a Sexual Diversity Celebration, which commemorated people who had died from attacks associated with their sexual orientation or from HIV/AIDS, members of the municipal and National Civilian Police [Policía Nacional Civil, PNC] detained and harassed homosexuals and transvestites when they were out at night, although they were not engaged in criminal activity (25 Feb. 2004).

No charges were laid against anyone involved in this incident (*Country Reports 2003* 25 Feb. 2004).

In the view of the Entre Amigos Executive Director, while there have been some advances during the past year, in other respects the situation for homosexuals has remained the same or worsened (12 Jan. 2004). Positive developments that he cited include the provision of sensitivity training to PNC officers and the fact the police force in general has been quite supportive of this training initiative (Entre Amigos 12 Jan. 2004). As well, victims of abuse have sought legal recourse more frequently than in previous years, although the Executive Director added that this has led some police officers to act in violent and illegal ways that are difficult to investigate or prosecute (ibid.). Additionally, the Executive Director claimed that there are locales where abuse, particularly of transvestite sex workers, is routine (ibid.).

In previous correspondence to the Research Directorate, dated 3 September 2002, the Executive Director provided the following information regarding the treatment of homosexuals:

[Note: The following English translation is based on a French translation by the Multilingual Translation Directorate of the Translation Bureau, Public Works and Government Services Canada.]

... [T]he living conditions for homosexuals in our country are very harsh, since the main human rights offenders are fathers and mothers. There is also no legal framework to support them, and thus they easily become victims of discrimination and abandonment by their families and by Salvadoran authorities.

Among the civil and military authorities, members of the junior ranks are clearly and openly embarrassed and react in a negative way; among members of the senior ranks, the issue is not even raised. [Thus, they subject homosexuals to:]

- unjustified arrests;
- gay bashings;
- insults;
- rape;
- harassment of young homosexuals in certain locations.

With regard to home environment, young people are thrown out on the street, which forces them to find other means of livelihood that are very dangerous, both in terms of their personal safety and their exposure to infection by the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS). [Homosexuals are thus faced with:]

- death threats if they come out of the closet;
- loss of freedom;
- physical and psychological violence;
- punishments similar to the torture inflicted in wartime (beatings to the testicles, electric shocks, threats to burn the face with acid).

In San Salvador, there is a law requiring cross-dressing homosexuals and women to pay fines for practising prostitution; this law is progressively being implemented in other cities.

The law is unjustly applied by the municipality's police officers because it stipulates that anyone selling and buying sexual services on the street is committing an offence. The illegal act was not proven in any instance, but the guilty parties had to pay money and were illegally detained.

The only authority with the power to arrest someone is the National Civil Police [by] means of a court order or in cases where the person is caught in the act.

With regard to formal education, the Constitution provides for universal and free education for everyone throughout the country, but the following has been observed:

- Young people, who are not necessarily gay, are expelled from their schools because of their effeminate behaviour.
- If the authorities decide that certain students are gay, they call the parents to inform them and decide on expulsion.

As for the legal system, our office has filed complaints for theft on four occasions but as of yet the investigations have been unsuccessful.

It should be mentioned that the items stolen in the thefts committed at various times on our premises were documents, photographs and videocassettes of our educational activities, and very few objects of value. We are still worried by the fact that these practices are the same as those used by the death squads against civil organizations in the 1980s.

In 1999 and 2000, more than 24 murders were reported; the victims were members of our community, from sex-trade workers to academics; as of yet, none of these murders has been solved.

When members of the community want to make a statement, the people in charge frustrate their efforts; those who have come forward continue to expose violations of their rights.

In the area of health, especially with regard to homosexuals gaining access to health services, it is difficult for them to openly state their sexual orientation for fear of not receiving the best possible care, in some cases, or being automatically treated as HIV carriers.

According to our national statistics, there are at present over 5 000 AIDS carriers and over 4 000 HIV carriers, of which only about 600 nation-wide have access to the antiretroviral treatments [required] for an HIV-infected person to live with a [certain] quality of life.

Transgendered persons or transsexuals are not well-received in health centres.

Children are forced to see their doctor or a psychiatrist to correct their sexual orientation.

In the media, particularly on television's channel 8, which is a Catholic channel, a propaganda campaign advertises psychological services to cure sexuality problems, including homosexuality, which is considered to be a disease.

Many parents and health professionals consider homosexuality to be a shameful disease or an abnormal health condition.

The Entre Amigos association carries out a considerable amount of work to combat the various forms of violence directed at our community, but there are few results because there is no political will to discuss the problem.

Entre Amigos has worked extensively in coordination with:

- the Human Rights Unit and the Public Security Academy of the National Civil Police (PNC);
- the Office of the Human Rights Ombudsman;
- the Human Rights Institute of the Universidad Centroamericana;
- the National AIDS Program of the Ministry of Public Health and Social Assistance;
- the Prisons Department of the Ministry of the Interior;
- the national coordinator of NGOs working for the prevention of AIDS, PREVENSIDA; this year, Entre Amigos will undertake the national coordination of PREVENSIDA.

Numerous high-profile activities were carried out but progress in terms of policy was minimal.

As Executive Director, I receive death threats because of my high-profile work, and I have bodyguards around the clock.

On various occasions, I have been subjected to physical and verbal assaults for being our association's spokesperson.

Evangelical churches and some Catholic authorities openly discriminate against our activities by calling us anti-life groups and claiming that we are a threat to values and the human race; they encourage people to commit acts of violence against us and ban us from living at home until we have sought help and been treated.

One of our main difficulties is the systematization of information because, without a secure location (not even our office is secure), we cannot disseminate much information (Entre Amigos 3 Sept. 2002).

Andrew Reding's December 2003 report *Sexual Orientation and Human Rights in the Americas* contains no information on the treatment of gays or lesbians in El Salvador subsequent to July 2002.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please find below the list of additional sources consulted in researching this Information Request.

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Internet sites, including: Amnesty International; Human Rights Watch; Enlaces Gay; Gay Costa Rica; Gay Guide; GayLawNet; International Gay and Lesbian Human Rights Commission (IGLHRC); International Lesbian and Gay Association (ILGA); *La Prensa Gráfica* [San Salvador]; Reding, Andrew. Dec. 2003. *Sexual Orientation and Human Rights in the Americas*; Sitios Gay; Wockner News

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