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Undocumented Transgenders Fear Getting Sent Back Home Where They Were Discriminated

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Denisse Moreno

When Bianey Garcia revealed that he was a gay 13-year-old boy in Veracruz, Mexico, he was bullied by other boys and was rejected by his own family.

“There were many occasions when other boys would strip me from my clothes or they could shower me with cold water,” said Garcia, “They would tell me horrible things.”

Now a 24-year-old transgender woman living in the United States, Garcia remembers the horrors she lived through after admitting that she was part of the Lesbian, Gay, Bi-sexual, Transgender community in her home country.

“Being LGBT is a crime there,” she said, “you may even get killed.”

Garcia had a transgender friend in Mexico that had been murdered because of her sexual orientation, an event that traumatized her.

At age 14 she left for Tijuana after she revealed her sexuality to her family, who kicked her out of the house without a chance to pack clothes, money or documents. She didn't know anyone in Tijuana, so she lived on the streets, worked for months and made her way to the U.S. border.

“I knew that the United States was a place where one has freedom of expression,” said Garcia, “a person can be what he or she wants.”

However, coming to the U.S. was not easy. She crossed the border illegally and without knowing any family or friends except one person she met along her voyage, another young man who was also gay.

“He was also alone,” said Garcia, “we stuck together like good friends and that's how we managed to survive here.”

Garcia made her way from San Diego to New Jersey, with her new friend. Years later, she was lucky enough to obtain an immigration lawyer who helped her get political asylum because she faced dangers for being a transgender woman if she was deported back home. However, she mainly got her documents because she was a minor when she entered the country. Her friend went back to Mexico because of an emergency and was not able to return to the U.S..

“He tells me that life over there is nothing in comparison to here. Here we suffer from discrimination but in Mexico it's much more difficult,” said Garcia about her friend who was recently beaten and stoned for being gay and wearing a pink shirt in Mexico.

Garcia now lives in New York City and works in Jackson Heights for the organization Make the Road NY where she helps immigrants from Latin American countries like

Honduras, Ecuador and Colombia, where discrimination against the LGBT community is extremely high. Many of the people she helps are facing deportation to their home countries where they are not welcomed.

According to Immigration Equality, an organization that supports and provides legal services to LGBT immigrants, there are 77 countries in the world that criminalize people for being gay. Organizations like Immigration Equality argue that LGBT persons who are deported could potentially face death in their home country.

As of now there are 11.7 million undocumented immigrants in the United States, and an estimated 267,000 identify themselves as LGBT. The Obama administration has deported over two million undocumented immigrants.

This past June, the LGBT and immigrant community held a protest against the deportations under President Obama's term outside of a Democratic National Committee LGBT Leadership Committee fundraiser event in New York where he was the keynote speaker.

"At the same time that President Obama is raising millions of dollars from the LGBTQ community, he's directly hurting LGBTQ immigrants," said Heather Cronk, the co-director of GetEqual in Washington D.C., an organization that empowers the lesbian, gay, bisexual, transgender and queer community

According to Cronk, LGBTQ donors contribute millions of dollars to the Democratic National Committee and help elect democrats that are pro-LGBT. However, LGBT persons are still getting deported.

On Nov. 20, President Barack Obama took executive action on the country's broken immigration system. According to the Migration Policy Institute, the new law will benefit about 4 million undocumented immigrants.

The law will offer a legal stay to the undocumented parents of U.S. citizens and permanent residents who have been living in the country for the past five years, removing the threat of separation of families through deportations. Many of these undocumented immigrants could also qualify for work permits. The executive action will also expand the 2012 Deferred Action for Childhood Arrivals (DACA) program that allowed young immigrants, under 30 years old, who arrived as children to apply for a deportation deferral and who are now here legally; People older than 30 now qualify. The executive action will also include a program to facilitate visas for people who invest in the United States and for those who pursue degrees in science, technology, engineering and math.

Although the law will give millions of undocumented immigrants a chance to fix their immigration status, 6.2 million undocumented immigrants in the country will not benefit from President Obama's executive action, including the LGBT community.

Local communities have also taken action to prevent deportations. In New York City, the city council recently passed a bill where the New York Police Department and Department of Correction will no longer handover information from its database to Immigration Customs Enforcement, ICE, without a warrant from a federal judge. The detainer request may only be honored if a person was convicted of a violent or serious crime within the last five years, or is found to be a possible match on the terrorist watch list.

“We set the national standard for the treatment of our immigrant population,” said City Council Speaker Melissa Mark-Viverito in a press release, “If congress won’t act, then we must.”

Nonetheless, many LGBT immigrants are still sent back to their country and end up staying at detention centers, “for months on end with no legal representation and horrible conditions,” according to Cronk.

Bianey Garcia receives phone calls almost daily from LGBT persons who are detained and afraid of being deported back home.

“A week ago I received a call from a young man who was telling me ‘I beg you please help me,’ and I swear it broke my heart because those words I always said,” remembers Garcia, “Listening to those words, ‘They’re going to deport me, I don’t know what’s going to happen to me,’ it’s very difficult.”

Carlos Padilla, is the program coordinator for the Queer Undocumented Immigrant Project (QUIP) under the organization United We Dream. The program focuses specifically on how immigration impacts queer folks. They pick up cases at detention centers and help those with the detention process.

“The biggest challenge LGBT folks face is the treatment,” said Padilla. “Transgender women are being placed in male facilities.”

LGBT people who face deportation go under a risk classification assessment by ICE. Through this assessment, housing for detainees is not decided on self-assessed gender, but rather on physical anatomy or legal documentation. According to Padilla, the transgender community is often put at risk of physical and psychological abuse when placed in all male or female facilities that do not reflect their gender identity. Due to the abuses, LGBT detainees are often put in solitary confinement for their safety. The time that people wait to have their detention case processed is also a problem, leading detainees to remain in solitary confinement for months. According to Padilla, 15 days or more in such custody may lead to irreversible psychological damage.

“LGBT folks are most likely to get sexually assaulted,” said Padilla, “not only by fellow detainees but also guards.”

Health is also an issue for the LGBT in detention centers. According to Padilla, LGBTQ and HIV positive individuals are especially at risk of lacking access to health treatment. There have been many cases of denial of hormone treatment, which is needed for those who have undergone a sexual reassignment surgery. The denial of treatment for HIV positive individuals has caused deaths in detention facilities.

However, the trauma from detention centers is accompanied by the high probability of getting sent back to a country where LGBT persons are criminalized.

“If you are someone who is heterosexual it’s not as risky as someone who is LGBT,” said Garcia, “we know that it’s difficult to be separated from our families but in our case we can suffer violence or murder.”

“Being in our country of origin one can lose his or her life,” said Garcia.
