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Hope Will Prevail

Advancing the Human Rights of
LGBT People in the Dominican Republic

December 2015



ON HUMAN RIGHTS, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

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Human Rights First has historically worked to combat discrimination and violence against LGBT people around the world. Current work on the human rights of LGBT people focuses on homophobia, violence, and discrimination in the Caribbean and on the sweep of anti-LGBT propaganda laws in the former Soviet Union.

This report is the result of interviews with civil society activists, the U.S. Ambassador and embassy staff, Dominican officials, and members of the LGBT community during June and August 2015 trips to the Dominican Republic by Human Rights First staff Shawn Gaylord and Mariel Perez-Santiago. The report also involved extensive research and consultation with civil society activists as well as U.S. government officials and staff in the Dominican Republic and the United States.

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—Shawn Gaylord and Mariel Perez-Santiago

Cover photo by Gustavo Dion: Activists and members of the Dominican LGBT community participating in the 2015 LGBT Pride parade in Santo Domingo pass in front of the mural "Allegory to Liberty," painted on the obelisk of El Malecón. The mural pays homage to the Mirabal sisters, who were killed by Dominican dictator Rafael Trujillo because of their work to advance justice and democracy in the Dominican Republic.

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“June is LGBT Pride Month around the world and we are proud to celebrate with the millions of LGBT individuals, along with democratic governments and citizens of many cities and countries throughout the world, celebrating life, diversity, inclusion, compassion, and equality.”

–James “Wally” Brewster, U.S. Ambassador to the Dominican Republic

*“Remember, all people have the right to equal treatment under the law. Be kind to your enemies and through your kindness and acceptance of them, **hope will prevail**. And one day, inequality will not be a focus of the human race because inequality will be a subject of the past.”*

–Bob Satawake, husband of Ambassador Brewster

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Executive Summary

Human Rights First traveled to the Dominican Republic in June and August of 2015 and spoke to activists, Dominican officials, and the U.S. Ambassador about the state of the human rights of lesbian, gay, bisexual, and transgender (LGBT) people in the country. Despite systematic violence and discrimination against LGBT Dominicans, activists are working to advance the human rights of LGBT people through direct services, advocacy, and efforts to transform societal attitudes. The arrival of openly gay U.S. Ambassador James “Wally” Brewster in 2013 opened dialogue. The United States should take the opportunity this opening represents to bolster its support for civil society and take concrete actions to advance the human rights of LGBT Dominicans.

Background

LGBT Dominicans face a range of human rights concerns including violence, discrimination, hate crimes, lack of access to justice, impunity for perpetrators, and societal homophobia and transphobia. Some sections of Dominican law explicitly protect segments of the LGBT community, including youth and those living with HIV/AIDS. The Dominican Constitution purports to protect all Dominican citizens from discrimination and this protection necessarily extends to members of the LGBT community. International instruments to which the country is party have also been interpreted to protect the LGBT community.

Nonetheless, certain domestic laws directly contradict the protections offered through the constitution, the domestic legal system, and international law. A police regulation criminalizes same-sex sexual activity among the police force and the Dominican government does not allow

same-sex marriage. The country also lacks comprehensive nondiscrimination and hate crime laws. Transgender people also lack legal recognition of their gender identity. Despite legal obstacles and vacuums, pending legal changes and initiatives show promise for change if enacted and fully implemented.

LGBT Dominicans face the threat of violence and discrimination because of their sexual orientation and/or gender identity. Transgender people are particularly vulnerable to violence and civil society groups have documented dozens of cases of possible hate crime murders of transgender women since 2006. Many transgender women feel forced into sex work given their limited opportunities and marginalization. In this context, they are even more vulnerable to violence. Lesbians and transgender people also face the threat of gender-based violence and so-called “corrective” rape.

LGBT Dominicans also experience discrimination in accessing services including housing, employment, education, and healthcare. Many LGBT Dominicans—and transgender people in particular—do not visit hospitals and health centers given prior experiences of ridicule and stigmatization by healthcare professionals and administrative staff.

Activists denounce the police’s complicity in many cases of violence and discrimination against LGBT Dominicans. Members of the police force have been responsible for arbitrary arrests of LGBT Dominicans and violence and extortion of those in custody. Institutionalized homophobia in the police force and police involvement in violence and discrimination against LGBT people create serious obstacles to justice for LGBT Dominicans. Many do not report violations due to lack of trust in the police and justice system. In many cases, impunity is the norm.

Members of the LGBT community also face societal homophobia and transphobia. Prominent religious leaders and certain religious groups vocally opposed Ambassador Brewster's appointment. Many used his arrival to speak out against the LGBT community. Activists note that the political power of the Catholic Church and the negative discourse of some prominent religious leaders contribute to lack of will among politicians to support the human rights of LGBT people. Nonetheless, activists note that media coverage of Brewster's arrival and leaders' reactions have ultimately opened dialogue and raised the visibility of the LGBT movement.

Civil Society Activism

Civil society activists have been working for decades to advance the human rights of LGBT people. They provide legal, healthcare, and other direct services to LGBT Dominicans. Local activists and organizations also conduct domestic and international advocacy to call for enhanced legal protections for LGBT people and accountability for violations. Many others engage in media and other campaigns to counter societal homophobia, transphobia, and stigmatization of LGBT people.

U.S. Action: Transforming Dialogue into Change

The arrival of Ambassador Brewster spurred important dialogue on the human rights of LGBT people, one that continues even two years after his appointment. The U.S. government should seize this opportunity to implement policies that further support LGBT activists. U.S. actions to combat violence and discrimination should support civil society efforts around comprehensive nondiscrimination laws and policies. This report includes recommendations to U.S. policymakers, lawmakers, and agencies to bolster civil society through technical support, financial assistance,

and increased dialogue and interaction with activists and Dominican government officials.

Introduction

In 2013 President Barack Obama nominated James "Wally" Brewster, an openly gay man, to serve as the new U.S. Ambassador to the Dominican Republic. The announcement stirred up controversy in the predominantly Roman Catholic island nation, with many vocally opposing the appointment. But Ambassador Brewster's nomination also catalyzed an important national dialogue on the human rights of lesbian, gay, bisexual, and transgender (LGBT) people in the Dominican Republic—one that continues more than two years after his confirmation.

Human Rights First traveled to Santo Domingo, Dominican Republic in June and August of 2015 to meet with civil society organizations, activists, Dominican officials, and Ambassador Brewster and his staff to discuss the human rights of LGBT people.¹ This report outlines the challenges that LGBT Dominicans face, including bias-motivated violence and discrimination. It also examines the legal, social, and political landscape as it currently impacts the ability of LGBT people to assert their rights. The report documents the vital efforts of civil society to advance the human rights of LGBT people through direct services, national and international advocacy, and initiatives to promote positive societal change. Through their decades of work, Dominican activists set the stage for the recent opening sparked by Ambassador Brewster's arrival. The United States should support the efforts of civil society to advance the rights of LGBT people, helping to transform dialogue into concrete actions and policies that institutionalize the protection of LGBT people from violence and discrimination.

Legal Landscape

Same-sex sexual activity is not explicitly criminalized in the Dominican Republic, setting the country apart from many of its Caribbean neighbors. Nonetheless, members of the LGBT community suffer institutionalized and private discrimination and violence due to their sexual orientation and/or gender identity. Some sections of the Dominican Constitution and other laws implicitly and explicitly protect the rights of LGBT people. However, significant legal obstacles and vacuums contribute to a permissive climate for violence and discrimination. Pending legal initiatives and policies that may specifically protect LGBT people, among other groups, could reduce violence and discrimination if they are enacted and fully implemented.

Legal Protections Applicable to Members of the LGBT Community

Article 39 of the 2010 Dominican Constitution enshrines the right to equality, affirming that all persons are “free and equal before the law, receive the same protection and treatment from institutions, the authorities, and other persons and enjoy the same rights, liberties, and opportunities.”² The document does not specifically include sexual orientation and gender identity in its list of enumerated categories, but does prohibit discrimination on the basis of “social or personal condition.” During the 2010 constitutional reform process, LGBT activists participated in public forums and spoke before the constitutional committee to advocate for the inclusion of explicit protections based on sexual orientation and gender identity.³ A 2013 report by the Dominican LGBTTI (Lesbian, Gay, Bisexual, Transsexual, Transvestite, and Intersex) Coalition explains that the term “sexual orientation” was intentionally excluded due to pressures from

powerful sectors and replaced by “personal condition.” The report describes this exclusion as a deliberate strategy to render the LGBT population invisible.⁴ In an October 2015 report presented to the Inter-American Commission on Human Rights, Dominican activists affirmed that the prohibition on discrimination based on “social or personal condition” opens the door to protection of other categories not specifically enumerated, given the reigning principles of international human rights law.⁵ The Dominican state has affirmed the inclusion of LGBT people within the more general “social or personal condition” categories protected from discrimination. During the Dominican Republic’s Universal Periodic Review,⁶ the country’s delegation asserted its protection of the rights of LGBT people through Article 39 of the constitution and Article 8, which establishes the state’s essential function to effectively protect the rights of all people.⁷

Two sections of Dominican law explicitly protect certain segments of the LGBT population. Article 2 of the General Youth Law of 2000 outlines the law’s aim of promoting “the holistic development of youth” without regards to “gender, religion, politics, race, ethnicity, sexual orientation, and nationality.”⁸ The Dominican Republic’s 2011 HIV/AIDS law seeks to “create a legal framework that guarantees the full exercise of rights of persons with HIV or AIDS.”⁹ Article 2 of that law prohibits discrimination, including on the grounds of sexual orientation, sexual conduct, and sexual and gender identity.

Legal Obstacles

An internal police regulation criminalizes same-sex sexual activity by members of the police force. This criminalization is interpreted as a prohibition on LGBT people serving as police officers. In June 2014, Dominican Police Chief Manuel Castro Castillo publicly reinforced this

interpretation. Activists requested further information about the legal basis for Castro Castillo's declaration and received a formal response from the legal director of the police force. The director cited Law 285-66, which prohibits police officers from engaging in sodomy, punishable by up to two years in prison.¹⁰ For many local activists, Castro Castillo's declaration reaffirmed perceptions of the police force as a homophobic and discriminatory institution.

The Dominican Republic's labor code outlines various categories protected from employment discrimination. However, sexual orientation and gender identity are not listed as part of these protected classes. Activists note that the code does not leave any opening for protections of other unlisted categories, meaning that there are currently no direct or indirect protections for LGBT people or other vulnerable groups not listed in the protected categories of the country's labor code.¹¹

On December 30, 2014, the Embassy of the United Kingdom in the Dominican capital of Santo Domingo published a photo of a same-sex wedding at the U.K. Ambassador's residence. This wedding, between a Dominican and a U.K. citizen, was the first in the country under a new set of U.K. rules "allowing U.K. nationals in same-sex relationships to marry at British consulates in 24 countries around the world."¹²

The U.K. Embassy's announcement generated a larger conversation about the rights of LGBT people in the Dominican Republic and the country's prohibition on same-sex marriage. The spokesperson for the Dominican Foreign Affairs Ministry stated that the Dominican government would not recognize the union. He cited the constitution, saying it establishes that marriage is between a man and a woman.¹³ Article 55 of the Dominican Constitution describes the state's duty to protect and promote "the organization of the family on the foundation of the institution of marriage between a man and a woman."¹⁴ LGBT

groups describe this prohibition on same-sex marriage as one of the most blatant expressions of discrimination against LGBT people in the country.¹⁵

Some constitutional scholars dispute the prevailing interpretation of Article 55 as a prohibition of same-sex marriage. Legal scholar Eduardo Jorge Prats argues that the article establishes the state's preference for heterosexual marriage, but it is not a prohibition of same-sex marriage.¹⁶ While the constitutional text continues to spark debate, same-sex marriage is prohibited in practice.

The Dominican Republic's International Legal Obligations

Article 26 of the Dominican Constitution grants recognition to international laws that the country has adopted. The Dominican Republic is party to the International Covenant on Civil and Political Rights (ICCPR), which states, "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law."¹⁷ The law goes on to "prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The U.N. Human Rights Committee ruled in the 1994 case *Toonen v. Australia* that states must protect individuals from discrimination based on sexual orientation.¹⁸ In a 2011 report, the U.N. High Commissioner for Human Rights asserted that "all people, including...LGBT persons, are entitled to enjoy the protections provided for by international human rights law."¹⁹

The Dominican Republic is also party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In 2010, the CEDAW Committee adopted a general

recommendation affirming “discrimination of women based on sex and gender is inextricably linked with other factors” including sexual orientation and gender identity.²⁰

The Dominican Republic's legal vacuums and lack of specificity in many sections of domestic law on protections for LGBT people, the explicit discrimination in the police regulation, and the failure to prevent, investigate, and punish violence targeting LGBT people directly conflict with the official interpretation of these two important international legal instruments.

Opportunities for Legal Change

The country's lawmakers recently developed a new penal code that explicitly prohibits discrimination based on “sexual preference or orientation.”²¹ The code would establish penalties for discrimination and these would be more severe for public officials, such as judges and members of the police force. Gender identity is notably absent from the categories of protection from discrimination. In December 2015, the new penal code was struck down by the Dominican Constitutional Court on procedural grounds.²² It remains to be seen whether the code will be reintroduced and eventually passed into law.

The Consejo Nacional para el VIH y el SIDA (CONAVIHSIDA), the state entity charged with the country's response to HIV/AIDS, is leading civil society consultations to draft comprehensive nondiscrimination legislation. The commitment to draft a nondiscrimination law stemmed from a forum on gender-based violence, human rights, and sex work organized by local civil society organizations, with the participation and support of the U.N. Development Programme and Dominican government institutions.²³ At a roundtable discussion with Human Rights First, advocates underscored the importance of comprehensive nondiscrimination legislation to guaranteeing the human rights of all LGBT people.

The Dominican Foreign Affairs Ministry is drafting the National Action Plan for Human Rights, which lays out a human rights agenda for the 2015-2020 time period. The ministry consulted with Dominican civil society organizations in the plan's development.²⁴ The final plan has yet to be released. LGBT activists were not included in the early consultations, but were later able to participate and submit recommendations.²⁵ Throughout the process, these activists have tirelessly advocated for including steps to prevent violence and discrimination against LGBT people. The October 2015 report by Dominican activists presented to the Inter-American Commission notes with favor the latest draft's inclusion of certain measures that promote the rights of LGBT people. However, activists express concern about other ambiguous measures that could further exacerbate discrimination against LGBT people in the country if ultimately implemented.²⁶

While many projects are underway to fill gaps in protection for LGBT people, Dominican LGBT human rights groups assert that the absence of hate crime laws in the country is an ongoing challenge.²⁷ LGBT activists document many cases of possible hate crimes against LGBT people. Activists denounce impunity in cases of possible hate crimes, and in cases of violence and discrimination against LGBT people in general.²⁸

Human Rights Violations against LGBT People

Violence

At an August 2015 forum on hate crimes and discrimination against members of the LGBT community, activists cited 32 cases of possible hate-motivated murders of transgender people since 2006.²⁹ Cristian King, Executive Director of the transgender organization Trans Siempre

Amigas (TRANSSA), informed Human Rights First of yet another killing since that forum, bringing the total to 33. While the motives are unclear in many of these cases, King believes these transgender people were “assassinated by the social exclusion to which they are subjected.” In Human Rights First’s discussions with LGBT activists, many highlighted the particular vulnerability and exclusion that transgender people face. The Observatorio de Derechos Humanos para Grupos Vulnerabilizados (Observatorio), a local NGO that documents violations against marginalized groups, cited 17 cases of police violence and discrimination against transgender women sex workers between December 2013 and October 2014.³⁰ Many transgender people feel forced into sex work—where they face greater vulnerability—because of societal rejection and lack of opportunities due to their gender identity.

LGBT people also face the threat of violence within their families due to sexual orientation or gender identity. According to the 2013 report by the Dominican LGBTTI Coalition, LGBT people face “psychological, physical, and verbal” violence within their families.³¹ Lesbians and transgender people additionally face the threat of gender-based violence and so-called “corrective” rape.³²

Discrimination

According to a 2014 poll, 73 percent of Dominican citizens believe there is discrimination against LGBT people.³³ Discrimination in access to services and opportunities is a daily challenge for LGBT Dominicans. A 2014 survey of healthcare workers, administrators, and support staff in three hospitals found that 29.8 percent would prefer not to provide services to “men who have sex with men” (MSM), a term used to describe men who engage in same-sex sexual activity but may not identify as gay.³⁴ Nearly one-third of personnel surveyed agreed with the assertion that MSM engage in immoral conduct.³⁵ Dr. Cesar

Castellanos, psychologist and the former country director of the USAID-funded Health Policy Project—which sponsored the study—noted that even if providers will render services to LGBT people, the quality of care is not the same as that provided to heterosexual people.³⁶

Problems of stigma and discrimination in healthcare are exacerbated for transgender people. Activist Nairovi Castillo asserted, “trans people are dying” in hospitals and healthcare centers due to lack of proper care.³⁷ During a meeting with Human Rights First, Ambassador Brewster expressed concern over the discrimination facing transgender Dominicans, saying “lack of adequate healthcare is a major issue for members of the transgender community. They are often turned away from healthcare centers, leaving them without access to essential medications and care.”³⁸ Discrimination in access to healthcare contributes to the high rate of HIV—currently 17.2 percent—among transgender people in the Dominican Republic.³⁹ Dr. Victor Terrero, Executive Director of CONAVIHSIDA, recognizes the problems transgender people face in accessing quality healthcare, and has called for the integration of transgender people into public health programs.⁴⁰

Bethania Betances, country director of UNAIDS, highlights the general problem of heteronormative care in health centers; medical questionnaires and standards of care do not contemplate the particular needs of members of the LGBT community.⁴¹ Activist Rosanna Marzan, Executive Director of Diversidad Dominicana, expressed concern about the lack of treatment for mental health issues confronting many lesbians, bisexual women, and transgender (LBT) people, and the need for health programs that address this issue.⁴²

Transgender people also face barriers in receiving legal recognition of their gender identity. These barriers were recently evidenced by discriminatory

guidelines for renewal of national identity cards outlined by the country's Junta Central Electoral, the state entity charged with overseeing the electoral process. Guidelines posted outside of ID renewal centers prohibited applicants from being dressed in a way that makes them "appear to be of the opposite sex."⁴³ Activists decried the disproportionate impact of this policy on transgender people, and labeled it a violation of the constitution's prohibition on discrimination.⁴⁴ Activists also highlighted concerns that transgender people would be denied the right to vote, given difficulties in obtaining documents that reflect their gender identity.⁴⁵ Recently, transgender TV personality Mia Cepeda became the first transgender person to legally change her name. She did so via a presidential decree authorized under the country's Law 659, which allows name changes on identity documents.⁴⁶

At a Human Rights First roundtable discussion with activists, a transgender man expressed his frustration with access to employment. He is a college graduate, but is unable to find employment within his chosen career given stigma and discrimination based on his gender identity. His story is part of the larger problem of discrimination and lack of employment opportunities for LGBT Dominicans. According to survey data, over 60 percent of LGBT activists in Santo Domingo do not have fixed employment. The survey found that transgender women face the highest rates of unemployment or underemployment, forcing many to find work in the informal sector, and particularly in sex work.⁴⁷ Ambassador Brewster expressed a concern over the lack of opportunities for transgender Dominicans, saying "many transgender women in particular feel forced into sex work because of discrimination and an absence of employment opportunities due to stigma based on their gender identity."⁴⁸

Discrimination in housing is yet another manifestation of discrimination against LGBT people. Activists report struggles to find housing by LGBT couples and individuals, who encounter discrimination by sales representatives, homeowners, and neighbors.⁴⁹

In a June 2015 speech, Ambassador Brewster called on the Dominican Republic to implement measures to prevent bullying against LGBT youth.⁵⁰ Homophobia and discrimination against LGBT people lead many LGBT youth to leave the education system. Activists report that transgender women "become sex workers because they are unable to finish their schooling" given the extent of transphobia and homophobia they face in schools.⁵¹

Police Complicity

Dominican police are often complicit in violence and discrimination against LGBT people by action and omission. Activists report instances of violence and discrimination against members of the LGBT community by members of the Cuerpo Especializado de Seguridad Turística (CESTUR), charged with security in all of the country's tourist areas and regions. The Observatorio collected 21 reports of human rights violations by CESTUR in the historic Colonial Zone of Santo Domingo between November 2014 and July 2015. LGBT people, MSM, and sex workers are among those victimized by these violations, which include arbitrary arrests and detention as well as violence.⁵²

In a meeting with Human Rights First, Executive Director of the Observatorio Guillermo Peña described a recent case of discrimination against members of the LGBT community by CESTUR.⁵³ Two gay men were arrested for kissing in public, an act not criminalized in Dominican law. One of the individuals was a U.S. citizen, and friends of the couple contacted both the U.S. Embassy and the Observatorio. Peña and a local prosecutor

intervened, and the two men were ultimately released, though Peña had to sign a document assuming responsibility for the couple despite the absence of any evidence of wrongdoing.

In October 2015, transgender women in the city of Santiago denounced systematic persecution by local police.⁵⁴ They alleged that a police general ordered agents to arrest sex workers—although prostitution is not criminalized in the country—and transgender women transiting through the city in the evening and nighttime. Some have suffered violence and extortion while in custody. Activists note that men who appear to be gay have also been arrested and that in spaces where sex workers congregate only transgender women are arrested, evidencing the homophobic and transphobic nature of these arbitrary arrests.

Access to Justice

Police involvement in violence against LGBT people, combined with an institutional culture of impunity and homophobia, result in a generalized lack of access to justice for LGBT people. Cristian King of TRANSSA notes that many transgender people do not denounce violations out of fear and mistrust of the authorities.⁵⁵ Guillermo Peña of the Observatorio asserts that “lack of understanding of human rights and [lack of] respect for sexual orientation on the part of police agents is generalized.”⁵⁶ According to King, official documentation of murder cases does not acknowledge gender identity, making it difficult to determine whether gender identity was a motive in the crime.⁵⁷ King explained that crimes against transgender women are generally listed as crimes against men and descriptions of the victims generally identify transgender women as men dressed in women’s clothing.

In the October 2015 report presented to the Inter-American Commission, activists highlighted this problem more generally. They note that the police force does not apply due diligence in determining

whether crimes are intrinsically related to the victim’s sexual orientation and/or gender identity.⁵⁸ Activists assert that hate crimes against LGBT people are a reality, but are not sanctioned. Perpetrators are treated with impunity due to “lack of codification and subsequent prosecution.”⁵⁹ In general, impunity is common in cases of violence and possible hate crimes against LGBT people. Only three out of the 33 reported killings of transgender women have resulted in prosecution and sentencing of the perpetrators.⁶⁰

Sociopolitical and Cultural Context

Right to Nationality

During Human Rights First’s visits to the Dominican Republic in June and August 2015, the country was grappling with national and international outrage and debate over the treatment of Haitians and Dominicans of Haitian descent. This was the dominant topic of conversation in mass media as well as within the government and non-profit sectors. One activist explained to us at the time that the term “human rights” was “synonymous with the rights of Haitians and Dominicans of Haitian descent.”

In 2013, a Constitutional Court decision essentially revoked nationality from Dominicans born to foreign parents since 1929. The court extended an existing constitutional statute declaring that anyone born to foreigners ‘in transit’ was not a Dominican citizen by birth to “anyone born to undocumented residents of the Dominican Republic.”⁶¹ The court ordered the Junta Central Electoral to audit its birth registry and transfer those deemed to be improperly registered as Dominican nationals to a foreign birth registry.⁶² In observations from a December 2013 visit to the country, members of the Inter-American

Commission on Human Rights determined that the Constitutional Court decision “implies an arbitrary deprivation of nationality” and “has a discriminatory effect, given that it primarily impacts Dominicans of Haitian descent, who are Afro-descendant persons; strips nationality retroactively; and leads to statelessness when it comes to those individuals who are not considered by any State to be their own nationals, under their laws.”⁶³

Responding to international outrage, the Dominican government announced a law that would create systems for registration for those affected by the ruling. The first system would reissue identity documents and recognize as Dominican citizens those born to undocumented foreign parents who had been previously registered as Dominicans in the civil registry. The law also created a second system that allowed a path to citizenship for those born to undocumented foreign parents who were never registered. They would be able to apply for naturalization after two years.⁶⁴ Individuals who can prove identity and entry into the country before October 2011 are also eligible for residency permits under another system.⁶⁵

Nonetheless, reports show that registration under these systems has been slow and onerous and that many petitioners have been unable to obtain all necessary documentation. Many are also resisting the registration process because they were born in the Dominican Republic, believe they are entitled to Dominican nationality, and believe that they should not be forced to register as foreigners.⁶⁶ Many Haitians and Dominicans of Haitian descent live in fear of deportation, though the Dominican government has assured the media and international community that they will not deport those who can prove birth in the country. Many have expressed concern that historic racism in the country could incite deportations.⁶⁷ The U.S. Department of State

cites “significant evidence of racial prejudice and discrimination against persons of dark complexion” and “strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian descent.”⁶⁸ Many undocumented Dominicans of Haitian descent and Haitian migrants have decided to leave the Dominican Republic for Haiti, given an atmosphere of fear and hostility in the Dominican Republic.⁶⁹ While the full implications and consequences of the 2013 ruling continue to develop, there is evidence that the current context has exacerbated the already vulnerable human rights situation of Dominicans of Haitian descent and Haitians living in the country.

Vulnerable Populations

Haitians, Dominicans of Haitian descent, persons with disabilities, women, and those living with HIV/AIDS are—along with LGBT people—some of the most vulnerable populations in the Dominican Republic. Violence against women is a major issue; over 1,331 women were killed because of gender-based violence from January 2008 to October 2014, according to the National Police.⁷⁰ Persons with disabilities also face discrimination in access to services and in employment.⁷¹ According to LGBT activist Mirla Hernandez of the Coordinadora Lésbica y de Hombres Trans (COLEHT), discrimination based on sexual orientation and/or gender identity is exacerbated for those who face discrimination based on other factors, including race, class, and gender.⁷²

Religion

When President Barack Obama announced Ambassador Brewster’s nomination, religious groups and institutions expressed outrage. Cardinal Nicolás de Jesús López Rodríguez, archbishop of Santo Domingo, expressed disapproval of the nominee at a press conference along with general opposition to the goals he believes LGBT people want to achieve. When

journalists changed the subject, the Cardinal used a homophobic slur to refer to Brewster saying, “We jump from f---ts and lesbians to this.”⁷³ The Auxiliary Bishop of Santo Domingo, Pablo Cedeño, argued that Brewster’s nomination aimed to “exert influence in Dominican society around same-sex marriage and export the rights of homosexuals.”⁷⁴

Protestations against Ambassador Brewster and the local LGBT movement have persisted since his arrival in November 2013. In July 2014, members of 70 evangelical churches marched against marriage equality and the LGBT movement. Protesters called for replacing Ambassador Brewster, claiming he is violating the constitution by promoting an agenda of “gay activism.”⁷⁵ During the event, Bishop Nelson Luna, a member of the International Evangelical Commission for Human Rights, declared: “it is not a human right to be gay.”⁷⁶

Many Dominican LGBT activists cite the power and influence of religious groups, and their vocal homophobia, as obstacles to the full realization of the human rights of LGBT people. The Catholic Church has historically exerted significant influence on political leadership. The State Department’s 2013 Dominican Republic International Religious Freedom Report notes the disproportionate power of the Catholic Church, citing an agreement with the Vatican that “designates Catholicism as the official religion and extends special privileges to the Catholic Church not granted to other religious groups.”⁷⁷ According to political expert Olaya Dotel, church elites have significant sway over politicians, who adopt a less inclusive discourse because they fear rejection from religious leaders.⁷⁸

Media Influence

In a meeting with Human Rights First, Ambassador Brewster expressed optimism on the advancement of the human rights of LGBT people

in the Dominican Republic. He noted that “headlines have been transformed” in recent years.⁷⁹ At the roundtable with Human Rights First, activists generally agreed that the presence of the openly gay U.S. ambassador sparked dialogue on LGBT issues and increased the visibility of the local LGBT movement. Bob Satawake, Ambassador Brewster’s husband, told international media that the negative reception of church leaders to Brewster’s nomination actually had the positive effect of placing LGBT issues “on the front page of the newspapers.”⁸⁰

More than two years into Brewster’s tenure, LGBT issues continue to be featured prominently in the local media. Newspaper *Diario Libre* published an interview with Randy Berry, U.S. Special Envoy for the Human Rights of LGBTI Persons, when he visited the country in June 2015. Berry was asked about the issues facing LGBT Dominicans and how to change the general societal rejection of LGBT people in the Caribbean.⁸¹ Major newspapers also covered the LGBT Pride parades held in August 2015.

In August 2015, activist Rosanna Marzan was featured as a guest on “Ser Humano,” a weekly television program transmitted throughout the nation.⁸² When asked about her experience as a lesbian in Dominican society and about some of the issues facing LGBT people, Marzan mentioned cases of suicide due to rejection and lack of employment opportunities. She addressed negative stereotypes about LGBT people and cited progress evidenced by increasingly balanced media recognition of the LGBT community. Marzan’s lengthy interview on a nationally televised program is an example of the key role of media in increasing the visibility of the country’s LGBT community and the human rights issues they face. The segment was also an important example of efforts to humanize LGBT people, which many activists cite as key to combatting societal homophobia.

Civil Society Activism in the Dominican Republic

Dominican LGBT activists are leading the movement for full LGBT inclusion and human rights protection, providing direct services to LGBT people, conducting national and international legal advocacy, demanding accountability for violations, and partnering to promote respect for the rights of LGBT people.

Direct Services for the LGBT Population

From health services, to access to justice, to community empowerment, local organizations provide essential support to the LGBT community. Diversidad Dominicana works at the grassroots level to empower and educate LGBT people, with a particular emphasis on lesbians, bisexual women, and transgender women. The group organizes workshops, dialogues, and forums on gender-based violence, human rights, and the vulnerable status of LGBT people. The Coordinadora Lésbica y de Hombres Trans (COLEHT) encourages leadership and promotes empowerment of lesbians, bisexual women, and transgender men. In June 2015, COLEHT hosted a gathering of lesbians, bisexual women, and transgender men and resolved to focus on leadership development within this community and on human rights advocacy.⁸³ COLEHT and Diversidad Dominicana amplify the voices of the LGBT community and cater to their specific needs.

Founded in 1989, Amigos Siempre Amigos provides essential health and counseling services to the LGBT community. They focus particularly on HIV/AIDS prevention and care. The Amigos Siempre Amigos Network of Volunteers is an advocacy organization founded by Amigos Siempre Amigos. The organization educates members of the LGBT community on their rights

and contributes to “the creation of a favorable social climate for the LGBT population from a human rights framework.”⁸⁴ The Centro de Orientación e Investigación Integral (COIN) provides preventative healthcare and treatment for members of vulnerable communities, including LGBT people, with the mission of “improving the quality of life of groups marginalized by society.”⁸⁵

Trans Siempre Amigas (TRANSSA) provides health education on HIV/AIDS to transgender Dominicans, in addition to other programs to empower members of the transgender community. The Comunidad de Trans-Travestis Trabajadoras Sexuales Dominicana (COTRAVETD) is an organization of transgender sex workers with the mission of meeting the health and psychosocial needs of this population. Their work includes education on HIV/AIDS prevention. Both TRANSSA and COTRAVETD offer psychosocial support to transgender Dominicans.

Local organizations are partnering with the Dominican government and international organizations to ensure access to justice for members of the LGBT community. In September 2015, CONAVIHSIDA, COIN, The U.N. Development Programme, and Dominican law firm IURISCORP signed an agreement to provide direct legal services to those living with HIV and others victimized by human rights violations.⁸⁶ The program will assist those with grievances regarding access to healthcare and employment, among other issues.

Documentation of Violations and Accountability

The Observatorio documents violations against LGBT people, sex workers, and those living with HIV/AIDS, among other vulnerable populations. The organization also conducts police trainings on the rights of vulnerable groups and works with

other civil society groups to report human rights violations and demand accountability from justice and law enforcement officials. TRANSSA works closely with the Observatorio, documenting violence, discrimination, and murders of transgender people, while denouncing impunity. Guillermo Peña highlighted a recent case in which documentation and partnership between the Observatorio and other civil society groups led to a five-year sentence for an individual who murdered a transgender woman.⁸⁷ In December 2015, partnership and calls for justice by TRANSSA, the Observatorio, and the Attorney General's office resulted in a 30-year prison sentence for a man accused of killing a transgender woman in 2011.⁸⁸ Nonetheless Peña noted the continued urgency of combatting impunity, citing dozens of unsolved cases of murders of transgender people.

National and International Advocacy

Many organizations providing direct services to members of the LGBT community also engage in important national and international advocacy efforts. At the conclusion of COLEHT's first-ever meeting of lesbians, bisexual women, and transgender men, participants petitioned the state to guarantee life free from discrimination and violence for the LGBT community.⁸⁹ COLEHT, along with many other LGBT organizations, has called for comprehensive nondiscrimination laws inclusive of protections for LGBT people.

During the Dominican Republic's 2014 Universal Periodic Review (UPR) process, LGBT organizations—including Diversidad Dominicana, COLEHT, and TRANSSA—authored a coalition report on the rights of members of the LGBT community. In the days prior to the UPR, Diversidad Dominicana represented Dominican LGBT organizations in Geneva. The organization advocated before diplomatic delegations to press

the Dominican government to advance the rights of LGBT people. These efforts were successful; the Dominican Republic accepted three international recommendations on LGBT issues. The state agreed to implement measures to prevent arbitrary detentions, including those based on perceived LGBT status. The country also agreed to enact legislation to protect members of the LGBT community from gender-based violence and discrimination. Finally, the Dominican government agreed to enact policies and initiatives to confront discrimination based on sexual orientation and gender identity.⁹⁰

In October 2015, Dominican activists participated in a thematic hearing on LGBT issues in the Dominican Republic at the Inter-American Commission on Human Rights in Washington, D.C. It was the first-ever thematic hearing focusing solely on the rights of LGBT people in the Dominican Republic. Activists presented a report on the major challenges of violence and discrimination facing LGBT people. They discussed impunity and lack of state protection for LGBT people as well as the legal vacuums in nondiscrimination and hate crime laws that breed a permissive climate for violence and discrimination against LGBT people.⁹¹

Transforming Societal Attitudes

Local activists also engage in important efforts to change societal attitudes about LGBT people. COIN recently launched a project titled "Tolerance through Tourism." COIN is partnering with private sector tourism and hospitality companies to promote LGBT tourism to the Dominican Republic, increase employment opportunities for local LGBT people in the tourism industry, and create meaningful interactions among LGBT tourists and their families, local civil society organizations, and individual members of the LGBT community.⁹² Dr. John Waters of COIN explains that the project will ultimately "put some

formidable human rights wheels in motion” by promoting private sector understanding that “the LGBT tourist is a quality tourist, who spends money and sets trends, and... personal safety and general public openness to LGBT visitors are basic requirements for making a destination gay friendly.”⁹³ In effect, the project aims to harness the Dominican Republic’s importance as a tourist destination to promote the human rights of the country’s LGBT population.

Dr. Cesar Castellanos cited the burgeoning political involvement of members of the LGBT community as a testament to recent social progress and an opportunity to further challenge societal homophobia. Four openly gay men are currently running for election to public office. Alex Mundaray, a candidate for City Council in Santo Domingo, sees his candidacy as an opportunity to increase the visibility of members of the LGBT community and a chance to assert the political rights of LGBT people.⁹⁴

Despite recent advancements evidenced by these candidacies, surveys indicate a general lack of acceptance of LGBT people in public office. A 2014 AmericasBarometer survey shows only a 34.5 score on a 100-point scale of “support for homosexuals running for public office.”⁹⁵ However, this measure has increased by 10 points since 2006, indicating steady progress on societal recognition of the political rights of LGBT people.

U.S. Engagement in the Dominican Republic

Dominican migration to the United States is a prominent aspect of the U.S. bilateral relationship with the country. Nearly one million Dominican immigrants resided in the United States in 2012 according to the Migration Policy Institute.⁹⁶ The

Department of State describes the Dominican Republic as “an important partner in hemispheric affairs” given that it is the largest economy in the Caribbean. The United States is the Dominican Republic’s most important partner in trade and the two countries cooperate on a variety of issues, including “trafficking in illegal substances.”⁹⁷ In 2014, the United States obligated over 35 million dollars in foreign assistance to the country.⁹⁸

Support for the LGBT Community

Approximately 44 percent of the 35 million dollars of 2014 foreign assistance was for health initiatives, of which 91 percent was allocated to HIV/AIDS programming.⁹⁹ The U.S. Agency for International Development’s (USAID) 2014-2018 Strategy for Development and Cooperation in the Dominican Republic includes the goal of advancing toward an AIDS-free generation. Within the strategy, USAID aims to reduce stigma and discrimination against members of the LGBT community.¹⁰⁰ Efforts include an initiative through the Health Policy Project to sensitize healthcare workers to the needs of the transgender community. Through this project, USAID worked with local civil society to develop a toolkit that “teaches providers effective and client-friendly consultation skills [and] introduces them to medical problems common among transgender clients.”¹⁰¹

The USAID mission in the Dominican Republic is working with three organizations to implement projects through the LGBT Global Development Partnership, an initiative aimed at promoting “human rights, equality, and economic empowerment.”¹⁰² With a one million dollar budget, USAID and its partners will implement capacity-building programs for LGBT activists and organizations, encourage LGBT entrepreneurship and economic empowerment, and foster greater

civic participation and democratic inclusion of LGBT people.

During 2015 LGBT Pride Month, the U.S. Embassy in Santo Domingo hosted a series of events to highlight the issues facing the country's LGBT community and underscore the important social and economic benefits of tolerance and inclusion. Initiatives included an event on diversity in the workplace and an LGBT Pride Month breakfast with local NGOs, members of the business community, local media, and Dominican officials. U.S. Special Envoy for the Human Rights of LGBTI Persons Randy Berry spoke about his global work.

Opportunities for U.S. Action

While Ambassador Brewster's arrival and his unwavering support for the human rights of LGBT people was key to opening an important national dialogue, local groups laid the groundwork for this moment. For decades, LGBT activists and civil society organizations have provided direct services to the LGBT community, worked to challenge homophobia and stigma, and advocated at the national and international level for the human rights of LGBT people. The United States should take steps to ensure that this dialogue translates to concrete action that reinforces the efforts of civil society and promotes respect for the human rights of LGBT people.

U.S. initiatives to advance the human rights of the LGBT community should focus on supporting civil society efforts on nondiscrimination. U.S. officials should raise with their Dominican counterparts the local civil society calls for comprehensive nondiscrimination and hate crime laws. The United States should also provide technical assistance drafting these laws. U.S. agencies should share experiences and provide technical and financial assistance to ensure the implementation of policies and initiatives that

support these frameworks and the general principle of nondiscrimination.

The U.S. Embassy and agencies should more widely disseminate information about programs designed to support civil society, ensuring these reach smaller groups and those working with subsets of the LGBT community. The U.S. Embassy should also continue to diversify its partnerships and consultations with local civil society organizations, taking care to include groups that work with lesbians, bisexual women, and transgender (LBT) people, smaller organizations, and those outside of the capital city of Santo Domingo.

Recommendations for U.S. Government Action

Department of State

John F. Kerry, Secretary of State

- **Convene a regional dialogue with Caribbean government officials to discuss initiatives to counter discrimination and hate crimes against vulnerable groups, including members of the LGBT community.** Secretary Kerry should involve other high-level State Department officials in such a dialogue, including Special Envoy Randy Berry.

Randy Berry, Special Envoy for the Human Rights of LGBTI Persons

- **Convene a regional meeting of Caribbean civil society organizations advocating comprehensive nondiscrimination and hate crime laws and policies.** The meeting would be an opportunity to discuss ways in which the United States can engage with and support these efforts.

Shaun Casey, Special Representative for Religion and Global Affairs

- **Organize a discussion with Dominican religious leaders on human rights issues facing vulnerable groups in the Dominican Republic, including violence and discrimination.** The United States should also involve U.S. religious leaders in such a dialogue.

James “Wally” Brewster, U.S. Ambassador to the Dominican Republic

- **Continue and diversify interactions with Dominican civil society groups working on behalf of the LGBT community.** Ambassador Brewster and his staff should continue regular consultations and interactions with activists, taking care to include smaller groups, those that cater to LBT people, and those that operate outside of the country's capital.
- **Conduct regular follow-up with Dominican authorities on the investigation and prosecution of cases of violence against members of vulnerable groups, including LGBT people.** Ambassador Brewster and embassy staff should work with local organizations that monitor killings and possible hate crimes against members of the LGBT community and other vulnerable groups, and communicate with Dominican authorities to ensure these cases are fully investigated and prosecuted.

Bureau of International Narcotics and Law Enforcement Affairs (INL)

- **Incorporate diversity and human rights training, including on the rights of LGBT people, in all INL trainings with the Dominican police force.** INL should collaborate with local civil society groups

already engaged in similar efforts on the design and execution of such trainings.

International Law Enforcement Academy (ILEA)

- **Include Dominican law enforcement personnel as participants in ILEA's next hate crime training.** For the last two years, ILEA has conducted week-long trainings on hate crimes in its academy in El Salvador, in which participants learn to recognize and investigate these crimes.¹⁰³ Dominican law enforcement officials and personnel have not yet participated in these trainings, and ILEA should prioritize Dominican candidates in planning its 2016 program.
- **Conduct regular follow-up with all training participants, focusing on any commitments made by participants at these trainings.** ILEA should also work with U.S. embassies to connect participants to local civil society organizations that represent members of vulnerable populations, including LGBT people.

Bureau of Educational and Cultural Affairs

- **Continue to work with the U.S. Embassy in Santo Domingo and local civil society organizations to identify and engage Dominican LGBT activists in the International Visitors Leadership Program (IVLP).** The Department of State should further engage Dominican LGBT leaders in this program, including those working in diverse sectors of civil society to advance the human rights of LGBT people. The U.S. Embassy and State Department should work with local organizations to identify potential participants, taking care to consider individuals within smaller organizations, groups that cater to LBT people, and those working outside the country's capital.

- **Design and execute an inclusive IVLP program on hate crimes against vulnerable groups.** The IVLP program should involve other U.S. agencies, such as the Department of Justice, and should include portions on the U.S. experience with hate crime laws, the definition of hate crimes, and an emphasis on U.S. support for comprehensive hate crime laws abroad. IVLP should invite Dominican officials, legislators, and NGO representatives to participate in such a program.

United States Agency for International Development (USAID)

- **Systematize regular trainings on diversity and human rights for all staff in the U.S. Embassy and consulates in the Dominican Republic as well as local USAID grantees.** USAID has conducted staff trainings on diversity, inclusive of LGBT issues. The USAID mission in Santo Domingo should expand trainings so they become part of the standard curriculum for all new U.S. Embassy staff and USAID grantees.
- **Incorporate diversity and human rights training, including on the rights of LGBT people, in all USAID trainings with the Dominican police force.** USAID conducts professionalization trainings with the Dominican police, and should ensure that it is integrating diversity and human rights into its existing trainings. USAID should collaborate with local civil society groups engaged in similar efforts on the design and execution of trainings.
- **Fund NGO data collection on hate crimes.** USAID should provide funding to organizations collecting information on killings and possible hate crimes against members of the LGBT community. Financial support should also include technical assistance on the classification of hate crimes and monitoring of government investigation and prosecution of these cases.

- **Conduct systematic training of healthcare professionals on proper care and treatment of members of the LGBT community.** Such a measure would help counter the problems of stigma in healthcare that many LGBT people face. As part of these efforts, USAID should follow up on the implementation of the transgender care toolkit developed through the Health Policy Project and consider the development of a similar toolkit to sensitize healthcare professionals to the care of all members of the LGBT community.

Department of Justice (DOJ)

International Criminal Investigative Training Assistance Program (ICITAP)

- **Develop curriculum and instructor training on human rights and diversity for Dominican law enforcement, inclusive of the rights of LGBT people, and in partnership with Dominican officials.** Curriculum should include the identification and documentation of human rights violations and hate crimes against vulnerable groups.
- **Partner with Dominican law enforcement in development of mechanisms to document human rights violations and hate crimes, including violations against members of the LGBT community.** ICITAP should use its expertise in development of criminal databases and information systems to assist Dominican law enforcement in proper documentation of violence and discrimination against vulnerable groups.

Office of Overseas Prosecutorial Development Assistance and Training (OPDAT)

- **Provide technical assistance in the development and drafting of comprehensive nondiscrimination legislation.** As part of its mandate “to strengthen foreign criminal justice sector institutions and enhance the administration of justice abroad,” OPDAT works to promote “the rule of law and regard for human rights.”¹⁰⁴ OPDAT should connect with CONAVIHSIDA, the institution leading the process to draft a nondiscrimination law, and local civil society organizations participating in the process in order to provide technical assistance.
- **Discuss with local civil society, U.S. Embassy staff, and Dominican officials and legislators the possibility of drafting and implementing hate crime laws.** OPDAT should involve the Civil Rights Division within the Department of Justice in these discussions and offer to provide technical assistance in the drafting process.
- **Consider establishing a resident legal advisor position within the U.S. Embassy in Santo Domingo.** Currently there is only one resident legal advisor charged with covering the entire Caribbean region. Given U.S. interests and investment in the Caribbean on transnational crime, as well as the severity of challenges to the rights of vulnerable groups and concerns of inefficiency in the Dominican judicial system, OPDAT should consider placing a resident legal advisor in the country.

Congress

- **Engage in legislator-to-legislator outreach with Dominican counterparts in support of civil society calls for nondiscrimination and hate crime laws.** Members of the Congressional LGBT Equality Caucus, the Congressional Hispanic Caucus, and the Caribbean Caucus should, in particular, prioritize outreach to Dominican counterparts on these issues.
- **Raise concerns around violence and discrimination against LGBT people in relevant committee hearings, particularly in the Senate Foreign Relations and House Foreign Affairs Committees.** Congress should partner with NGOs for regular updates on the situation of LGBT people in the Dominican Republic.
- **Meet with Dominican LGBT activists traveling to Washington, D.C. to discuss the challenges on the island, learn about the current work of civil society, and discuss ways that Congress can further engage on these issues.** Congress should consult regularly with NGOs and the IVLP in the State Department to identify activists traveling to Washington.

Conclusion

Since Human Rights First visited the Dominican Republic, LGBT issues have continued to be a prominent topic of discussion with both highs and lows. In October 2015, activists representing a broad cross-section of the Dominican LGBT community flew to Washington, D.C. to make their case before the Inter-American Commission on Human Rights. This was an historic moment of triumph for the community and an opportunity to raise on the international stage the human rights

issues LGBT Dominicans are facing. Yet just weeks later, Cardinal López Rodríguez once again pointedly used an anti-LGBT slur to describe Ambassador Brewster. For the time being, these disparate snapshots exist side-by-side in the Dominican Republic.

Ambassador Brewster dismissed the Cardinal's comments and appears steadfast in his desire to continue to advance the shared interests of the United States and the Dominican Republic. He is fortunate to have many supporters in the Dominican Republic and the backing of an administration that has made LGBT issues a central tenet of its foreign policy. In response to Cardinal López Rodríguez, the State Department affirmed: "U.S. policy is dedicated to eliminating barriers to equality, fighting discrimination based on sexual orientation and gender identity, and engaging LGBTI communities around the world...

Ambassador Brewster, like all U.S. ambassadors, advances this policy along with many other aspects of our bilateral relationship. That there may be those opposed to the promotion of human rights in various societies around the world is not surprising, but it does underscore why this work is so important."¹⁰⁵

While it is likely that this will not be the last expression of homophobia against Brewster and LGBT Dominicans, the LGBT community has gained power and visibility. Tireless activists will continue their work to combat homophobia and advance human rights for all in the Dominican Republic. The U.S. role in spurring the current dialogue is indicative of the level of U.S. influence in the island nation, an influence that should be fully harnessed to bolster the important work of activists working to transform their society and cement full inclusion for LGBT Dominicans.■

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