

**POLICY RECOMMENDATIONS FOR MEXICAN  
CONSULATES IN THE UNITED STATES REGARDING  
THE LGBT COMMUNITY**

Master of Arts Capstone Project

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## **Index**

- I. Executive Summary**
- II. Introduction**
- III. Characteristics of the Mexican community**
- IV. The Mexican consular network**
- V. The U.S. v. Windsor ruling and its impact on LGBT rights**
- VI. Towards a more strategic approach to the Mexican LGBT community:  
recommendations for Mexican consulates**
- VII. Conclusion**
- VIII. Bibliography**

## **I. EXECUTIVE SUMMARY**

The following investigation paper will address the recent changes and momentum on marriage equality and Lesbian, Gay, Bisexual and Transgender (LGBT) rights in the United States as an opportunity to develop strategic consular protection and community outreach policies to engage with the Mexican LGBT community. The largest concentration of Mexicans living abroad resides in the U.S., generating a particular social and cultural reality that is reflected in the dynamic work carried out by the Mexican diplomatic and consular network in the country, providing various services and implementing a wide-ranging array of programs and activities.

The recognition of same-sex marriage by the U.S. federal government has spurred policy and regulation adaptation to this new legal reality. Due to the nature and characteristics of consular functions, the Mexican government has to take into account these new circumstances and seize the opportunity to develop and expand its programs and services to better address the necessities of its LGBT population in the U.S. This paper will analyze how the progressive situation involving marriage equality and LGBT rights has triggered social and legal changes, including federal and state benefits, programs and services. Stemming from this overview, we will present policy recommendations regarding consular programs and services to incorporate more purposefully the interests and needs of the Mexican LGBT community to reflect the current social and legal reality in the country.

## **II. INTRODUCTION**

The bilateral relationship between Mexico and the United States is unique. Bound by geography and history, they share a border 2,000 miles long with 300,000 daily vehicle border crossings and representing 500 billion dollars in trade each year, equivalent to a million dollars in trade per

minute.<sup>1</sup> This exceptional bond is also reflected in the 33.5 million of people of Mexican origin that live in the U.S., accounting for the largest community living abroad, and the approximately 1 million U.S. citizens living in Mexico.<sup>2</sup>

The Mexican Government has established the largest consular network of any single nation in another country in the world in the U.S., working through 50 consulates in 25 states and the District of Columbia. The characteristics of the Mexican community have led these representations to engage not only in traditional consular functions, but to expand and create initiatives in education, health, sports, culture and economic areas. Consuls have become more active in establishing links with their conationals, community partners, as well as local and state actors covering a broad agenda that affects the Mexican-born community and Mexican-Americans<sup>3</sup>. Over the years, knowledge and expertise in consular programs and services has been strengthened and has increased substantially, evolving into one of the most professional and dynamic systems in the world.

In order to adequately carry out its objectives, consular representations need to maintain permanent contact with local and state actors, and acknowledge the economic, political, social and cultural realities of the communities they serve. Recent events in the U.S. regarding marriage equality reinforced and elevated a robust debate on Lesbian, Gay, Bisexual and Transgender

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<sup>1</sup> Message of Ambassador Eduardo Medina Mora on the occasion of the “Managing Borders in North America: Charging the Future” event at the Migration Policy Institute in Washington, D.C. on (February 7<sup>th</sup> 2014). Accessed February 23, 2014. Available from <http://goo.gl/i9QWf5>.

<sup>2</sup> U.S. Relations with Mexico, *U.S. Department of State*, September 5, 2013. Accessed on February 16, 2014. Available from <http://goo.gl/i5U9L>.

<sup>3</sup> We define “Mexican-Americans” as the U.S. born children of at least one Mexican-born parent, and hence could be subject to consular assistance by the Mexican Government. In the present research we will use the term “Mexicans” to allude to both Mexican-born and Mexican-Americans.

(LGBT) <sup>4</sup> rights, extending to different sectors in society and elevating the topic to the forefront of the political and civil rights agenda. Moreover, such debates made their way to federal and district courts, and even to the Supreme Court of Justice of the United States (SCOTUS), transferring the discussion into the legal arena. In a noteworthy moment during an interview with ABC news on May 9<sup>th</sup> 2012, President Barack Obama expressed his support for gay couples to have the right to marry. This launched the discussion to another level in which politicians, officials, personalities and different organizations began commenting on marriage equality and LGBT rights.

On June 6<sup>th</sup> 2013, SCOTUS presented its landmark decision on the U.S. v. Windsor case in which Section 3 of the Defense of Marriage Act (DOMA), which defined “marriage as a union between a man and a woman”, was ruled unconstitutional under the Due Process Clause of the Fifth Amendment. This decision was a turning point for the LGBT community and impacted federal programs, services and benefits; it also influenced certain state legislations that had previously existed regarding same-sex marriage. One notable outcome was the possibility for same-sex couples to request immigration benefits for their spouses, allowing them to remain in the country as permanent legal residents and eventually begin the process of obtaining U.S. citizenship.

Judiciary rulings on this subject have also seen important advances in Mexico. On December 21<sup>st</sup> 2009, the Mexico City Legislature reformed Article 146 of the Civil Code to define marriage between two people (instead of between a man a woman). On August 5<sup>th</sup> 2010, the Mexican Supreme Court ruled that the reform to the above mentioned article was not unconstitutional and

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<sup>4</sup> In the last years there has been an important movement to include other gender and sexual identities alongside the Lesbian, Gay, Bisexual and Transgender identities, such as the Queer and Intersex denominations and it has become more common to see the acronym LGBTQI, or even other acronyms to reflect other identities. Providing visibility to all gender and sexual identities is of great importance, however the majority of the research accessed still focuses on the LGBT community.

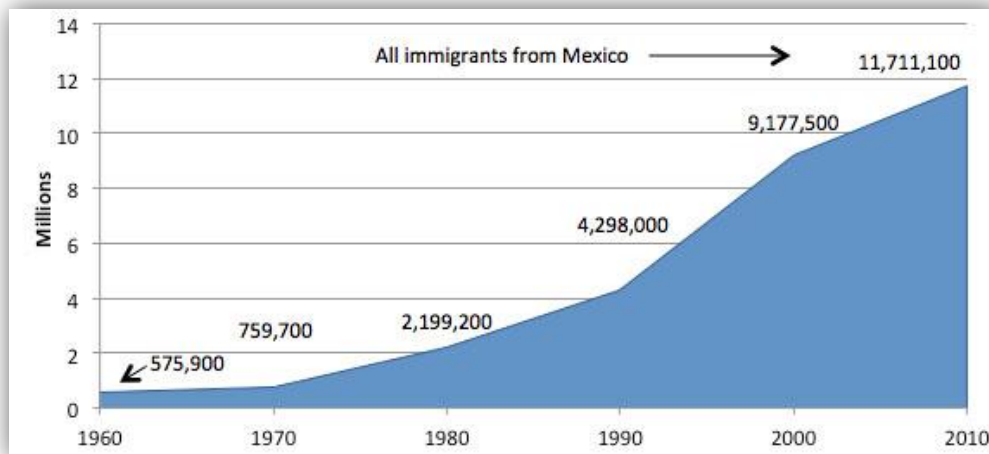
determined that same-sex marriages celebrated in Mexico City had to be recognized in the 32 Mexican states. Even though same-sex marriage is only allowed in Mexico City and the state of Quintana Roo, further reviews by the Supreme Court have opened the door for additional constitutional challenges regarding state laws on marriage equality. On March 22<sup>nd</sup> 2013, a lesbian couple married in the state of Oaxaca and on December 14<sup>th</sup> of the same year another same-sex couple married in the state of Jalisco.

Consular protection entails traditional components of facilitating information and guidance regarding the rights and obligation the sending country's nationals are entitled to in a foreign country, as well as innovative alliances with authorities in critical areas like health, education and immigration to better serve the needs of the community in the context in which they live. The recent ruling on DOMA and the changes in state's legislation regarding marriage equality and their effect on LGBT rights are to due to impact the large Mexican community in the U.S. Furthermore, as the conversation leans more towards a general discussion of civil and human rights, there are new challenges and opportunities that have to be addressed and taken into account when developing consular protection and community outreach policies. Mexico needs to recognize the evolution of LGBT rights in the U.S. and to develop a systematic and permanent approach to the needs of the Mexican LGBT community so they can be incorporated in the general goals and objectives of its consular policy.

### **III. CHARACTERISTICS OF THE MEXICAN COMMUNITY IN THE UNITED STATES**

In 2011 there were 11.7 million Mexican born individuals living in the U.S., representing approximately 4% of the total population in the country.<sup>5</sup>

#### Number of Mexican Born in the United States: 1960 to 2010<sup>6</sup>



The majority of Mexicans live in the states of California (37%, 4.3 million) and Texas (21%, 2.5 million); the cities with the largest concentration are Los Angeles (15%, 1.7 million), Chicago (6%, 684,000) and Dallas (5%, 610,000).<sup>7</sup> Mexicans also account for the largest population among those that are in the country undocumented – out of the 11.7 undocumented immigrants in 2012, 52% are from Mexico.<sup>8</sup> Furthermore, according to the Pew Research Center's calculations of the 2011 American Community Survey, 64.6% of Hispanics<sup>9</sup>, approximately 33.5 million, identified as

<sup>5</sup> Sierra Stoney and Jeanne Batalova, "Mexican Immigrants in the United States", *Migration Policy Institute*, February 28, 2013. Accessed on January 26, 2014. Available from <http://goo.gl/GXmd76>.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Jeffrey S. Passel, D'Vera Cohn and Ana Gonzalez-Barrera, "Population Decline of Unauthorized Immigrants Stalls, May Have Reversed", *Pew Research Center*, September 23, 2013. Accessed on January 25, 2013. Available from <http://goo.gl/BcSi0e>.

<sup>9</sup> The U.S. government officially uses both "Hispanic" and "Latino" interchangeably to describe people who trace their roots to one of the Spanish speaking countries of Latin American and to Spain (Brazil and Portugal are excluded in this definition).

having a Mexican origin.<sup>10</sup> The following results of a survey conducted by the Pew Research Center in 2011 present the latest and most applicable social characteristics of the Mexican community:

#### HISPANICS OF MEXICAN ORIGIN IN THE UNITED STATES<sup>11</sup>

AREA	CHARACTERISTICS	OBSERVATIONS
Immigration status	<ul style="list-style-type: none"> <li>35% of Mexicans are foreign born</li> <li>65% arrived in the U.S. in 1990 or later</li> <li>24% are U.S. citizens</li> </ul>	In 1998 Mexico enacted a law to allow double nationality to its citizens
Language	<ul style="list-style-type: none"> <li>66% ages 5 and older speak English proficiently.</li> <li>34% report speaking English less than very well, equal to the share among all Hispanics.</li> </ul>	
Age	<ul style="list-style-type: none"> <li>The median age of Mexicans is 25</li> </ul>	<ul style="list-style-type: none"> <li>The median ages of the U.S. population and all Hispanics are 37 and 27, respectively</li> </ul>
Marital status	<ul style="list-style-type: none"> <li>Mexicans ages 15 and older are slightly more likely (45%) to be married than Hispanics overall (43%) but less likely than the U.S. population overall (48%)</li> </ul>	
Fertility	<ul style="list-style-type: none"> <li>8% of women ages 15 to 44 gave birth in the 12 months prior to this survey.</li> <li>45% of women ages 15 to 44 who gave birth in the 12 months prior to the survey were unmarried.</li> </ul>	<ul style="list-style-type: none"> <li>That was the same as the rate for all Hispanic women—8%—and slightly higher than the overall rate for U.S. women—6%.</li> <li>That was similar to the rate for all Hispanic women—47%—and greater than the</li> </ul>

<sup>10</sup> Mark Hugo Lopez, Ana Gonzalez-Barrera and Danielle Cuddington, "Diverse Origins: The Nation's 14 Largest Hispanic-Origin Groups", *Pew Research Center*, June 19, 2013. Accessed on January 25, 2014. Available from <http://goo.gl/Op66lY>.

<sup>11</sup> Anna Brown and Eileen Patten, "Hispanics of Mexican Origin in the United States, 2011" *Pew Research Center*, June 19, 2013. Accessed on January 25, 2014. Available from <http://goo.gl/m8yGvG>.



		overall rate for U.S. women—38%.
Educational attainment	<ul style="list-style-type: none"> <li>• 10% ages 25 and older—compared with 13% of all U.S. Hispanics and 29% among the entire U.S. population—have obtained at least a bachelor's degree.</li> </ul>	<ul style="list-style-type: none"> <li>• Mexicans have lower levels of education than the Hispanic population overall and the U.S. population overall.</li> </ul>
Income	<ul style="list-style-type: none"> <li>• The median annual personal earnings for Mexicans ages 16 and older were \$20,000 in the year prior to the survey, the same as for U.S. Hispanics in total</li> </ul>	<ul style="list-style-type: none"> <li>• The median earnings for the U.S. population were \$29,000.</li> </ul>
Poverty status	<ul style="list-style-type: none"> <li>• 28% live in poverty</li> </ul>	<ul style="list-style-type: none"> <li>• This is higher than the rate for the general U.S. population (16%) and slightly higher than the rate for Hispanics overall (26%).</li> </ul>
Health insurance	<ul style="list-style-type: none"> <li>• 33% do not have health insurance</li> <li>• 14% of Mexicans younger than 18 are uninsured</li> </ul>	<ul style="list-style-type: none"> <li>• In comparison with 30% of all Hispanics and 15% of the general U.S. population.</li> </ul>
Homeownership	<ul style="list-style-type: none"> <li>• The rate of Mexican homeownership (49%) is higher than the rate for all Hispanics (46%) but lower than the 65% rate for the U.S. population as a whole.</li> </ul>	

*Hispanics of Mexican Origin in the United States, 2011*

One of the aspects that is not pointed out with more frequency and relevance is the contribution of Mexicans to the U.S. economy. BBVA Bancomer Foundation and Mexico Economic Studies Department of BBVA Research presented in their Mexico Migration Outlook that “Mexican immigrants contribute 4% of total US GDP. If 2nd and 3rd generation Mexicans in the United

States are included, their contribution to GDP is 8%”.<sup>12</sup> A study conducted by the Partnership for a New American Economy pointed out that in 2011 immigrants owned 28% of business (employing 10% of U.S. workers); 12% of these immigrants are Mexicans, and of the 570,000 business in the country, 1 in 25 are owned by a Mexican immigrant, generating over 17 billion in revenue per year.<sup>13</sup>

Mexicans maintain a strong link with their communities of origin. The social and economic well-being of family members and the community in general have been influencing factors to organize in groups to contribute economically to their hometowns. A large number of hometown associations have proliferated in the last few years (although some of them have been working for more than 20 years), engaging in broad array of initiatives to improve the quality of life and conditions of their conationals in Mexico. Through “*clubes de oriundos*” as they are commonly known, they have created a vast and elaborate volunteer network that gathers members from the same hometown or state to organize social and cultural events to celebrate their heritage, and to raise funds that can be channelized through federal and state programs to their communities in Mexico.

The collaboration that has been developed between *clubes* and consulates has been of tremendous importance for both actors in creating innovating programs to strengthen, institutionalize and formalize participation opportunities for communities abroad in Mexican programs.<sup>14</sup> Both in the U.S. and Mexico, these groups have demonstrated a significant influence

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<sup>12</sup> Mexico Migration Outlook, *Fundación BBVA Bancomer*, July 2012. Accessed on January 26, 2014. Available from <http://goo.gl/AZ9rbg>.

<sup>13</sup> Fact Sheet, Mexicans in the United States: The Importance of Their Contributions, *Mexican Ministry of Foreign Affairs*. Accessed on January 26, 2014. Available from <http://goo.gl/ZYaDBF>.

<sup>14</sup> One of the most important and successful programs in this area is the “*Programa 3x1*”. For further information you can visit <http://goo.gl/VTMR39>.

and contribution towards a united agenda that recognizes the opportunities for a better understanding of our community abroad. We anticipate they will continue to engage in a richer and more ambitious bilateral agenda and have to be contemplated, particularly by the Mexican Government, as an essential ally in its strategy of outreach, assimilation and protection of its nationals in the U.S.

The evident predominance of Mexicans has led people and authorities to equate their interests and challenges in areas such as immigration, education, health and civil rights, as representative of the Hispanic community. This demographic reality can open numerous opportunities for their leaders and allies to develop an agenda to improve its quality of life and representation in the country. However, it also poses challenges because its perceived that all immigrants, mainly the ones that are in the country undocumented, are from Mexico. Thus the “Mexican agenda” is always tied to (or even kidnapped by) immigration, and although the need for reform has been recognized by both U.S. and Mexican authorities and societies, it’s not the only area that needs to be addressed.

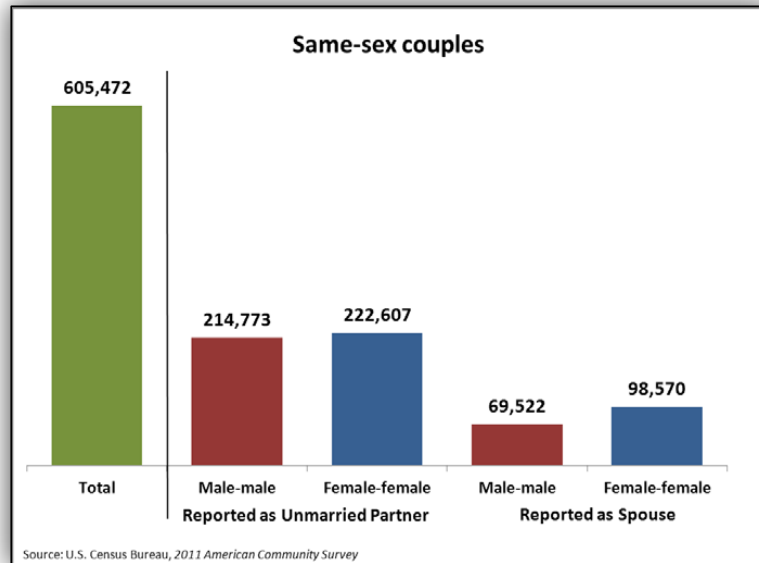
#### **i. The Mexican Lesbian, Gay, Bisexual and Transgender community**

We will present the available statistics regarding the LGBT community in the U.S. It is important to mention that there are still few reports and surveys on this community, particularly those of the Mexican origin so we will use the data available on the Latino community as a reference. To provide further insight on the challenges they face, we will include comments and opinions based on the interactions with members of this community while I was posted in the Consulate General in Los Angeles.<sup>15</sup>

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<sup>15</sup> From April 2004 to February 2012 I served as Consul for Community Affairs in Los Angeles.

The U.S. Census Bureau estimates from the 2011 American Community Survey that there are 605,472 same-sex couple households.<sup>16</sup>



*Same Sex Couples, US Census Bureau*

Regarding the Latino community, it is estimated that: a) 4.3% identify as LGBT; b) there are 1,419,200 LGBT adults in the U.S.; c) 146,100 individuals are in a same-sex couples; d) 29.1% same-sex couples are raising children, and; e) 1/3 of same-sex couples live in the states of New Mexico, California and Texas.<sup>17</sup> 80% of same-sex couples “are more likely to be a US citizen”<sup>18</sup> and 1 in every 7 couples is binational.<sup>19</sup>

<sup>16</sup> Frequently Asked Questions About Same-Sex Couple Households, *US Census Bureau*. Accessed on January 26, 2014. Available from <http://goo.gl/wuCt3e>.

<sup>17</sup> Angeliki Kastanis and Gary J. Gates, “LGBT Latino/a Individual and Latino/a Same-sex Couples”, *The Williams Institute*, October 2013. Accessed on January 16, 2014. Available from <http://goo.gl/SfPtgE>.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

#### Top 10 States: % LGBT Latino/a Individuals (Gallup 2012)

State	Estimated LGBT Latino/a Adults	% LGBT among Latino/a Adults	% LGBT Latinos/as Among All Adults
Texas	283,300	4.6%	1.55%
Nevada	30,000	6.6%	1.47%
California	350,100	3.8%	1.25%
Arizona	53,600	4.5%	1.12%
Wyoming	4,600	14.4%	1.07%
Colorado	31,200	4.7%	0.82%
New Jersey	49,900	4.6%	0.74%
Kansas	15,800	8.9%	0.74%
Florida	108,000	3.5%	0.73%
New York	102,900	4.2%	0.68%

#### Top 10 States: Same-sex Couples with Latino/a Householder

State Rank	State	Same-sex couples with Latino/a Householder (adjusted)	Same-sex couples with Latino/a Householder per 1,000 Households (adjusted)
1	New Mexico	1,900	2.40
2	California	18,831	1.50
3	Texas	11,511	1.29
4	District of Colombia	340	1.28
5	Nevada	1,174	1.17
6	Arizona	2,640	1.11
7	Florida	7,286	0.98
8	Colorado	1,755	0.89
9	New York	6,187	0.85
10	New Jersey	2,425	0.75

#### *LGBT Latino/a Individuals and Latino/a Same-sex Couples*

In the recent survey “Latino LGBT Youth” conducted by the Human Rights Campaign (HRC)<sup>20</sup> and The League of United Latin American Citizens (LULAC)<sup>21</sup> in 2012, out of 10,000 participants 19% identified as LGBT. Although this survey focuses on youth, it is worth highlighting the following findings, which we believe can be applied to the broader Latino LGBT community:

<sup>20</sup> HRC “advocates on behalf of LGBT Americans, mobilizes grassroots actions in diverse communities, invests strategically to elect fair-minded individuals to office and educates the public about LGBT issues” (Human Rights Campaign). For more information please visit <http://goo.gl/x3p1Rt>.

<sup>21</sup> Established in 1929, LULAC is the oldest and one of the most influential Latino organizations in the US. They have different programs and activities to support marriage equality and LGBT rights in the U.S. For more information please visit <http://goo.gl/lprXiK>.

- One of the greatest preoccupations is the concern of not being accepted by their families - this was identified as a crucial factor impacting other areas in their lives. The study mentions the importance of religion in Latino families as a component that could impact their reactions and responses to the LGBT community. 53% are open about their sexual and gender identity to their immediate families and 29% are out to their extended families.
- Other preoccupations involved being out or open about their sexuality and problems at school like bullying (81% believe they have been the target of harassment or assault because of their sexual orientation or gender identity).
- 6 in 10 expressed that their families are accepting of LGBT people, while 1/3 reported a lack of family support.
- 53% mentioned that they hear negative messages about being LGBT from their family compared to 26% that hear positive messages.
- Less than half expressed having an adult in their families they can turn to if facing personal problems or difficulties.
- They are more likely to face harassment and violence in the community than non-LGBT Latino peers.
- 41% identified as “bisexual”, 29% as “gay”, 18% as “lesbian”, 2% as “queer” and 10% as “other”.

In conversations with adult LGBT Mexicans, an important number expressed that they had left their hometowns because of a lack of acceptance, many of them citing aggressive and even violent reactions from their families and communities. Due to their state of vulnerability when arriving to the U.S., some of them were homeless and faced economic difficulties that at times led them to engage in prostitution and other illegal activities. Some were victims of sexual abuse and assault,

and felt that the authorities would not assist them or were embarrassed to come forward. Without attempting to present this as the general situation, the aspect that needs to be highlighted is that many of them did not feel they could live openly if they remained in their communities of origin and therefore opted to move to more accepting environments. The 2010 National Survey on Discrimination in Mexico showed that 4 out of 10 Mexicans would not be willing to share their household with a LGBT individual, while 83.4% of LGBT members expressed that their rights have not been respected due to their sexual preference.<sup>22</sup>

We expect that as LGBT rights continue to progress, there will be further demographical analysis on this community to further expand on our understanding.

#### **IV. MEXICAN CONSULAR NETWORK**

Mexico's consular network in the U.S. has expanded over the years to address the demographic changes its community has undergone in the country. Based on the information previously presented regarding the distribution of the Mexican community, the largest concentration of consulates<sup>23</sup> is in the states of California and Texas (with 10 Consulates in each), followed by Arizona (with 5 Consulates) and Miami (with 2 Consulates). The largest Mexican consulate in the world is in Los Angeles, California, which provides attention to approximately 3.5 million Mexicans

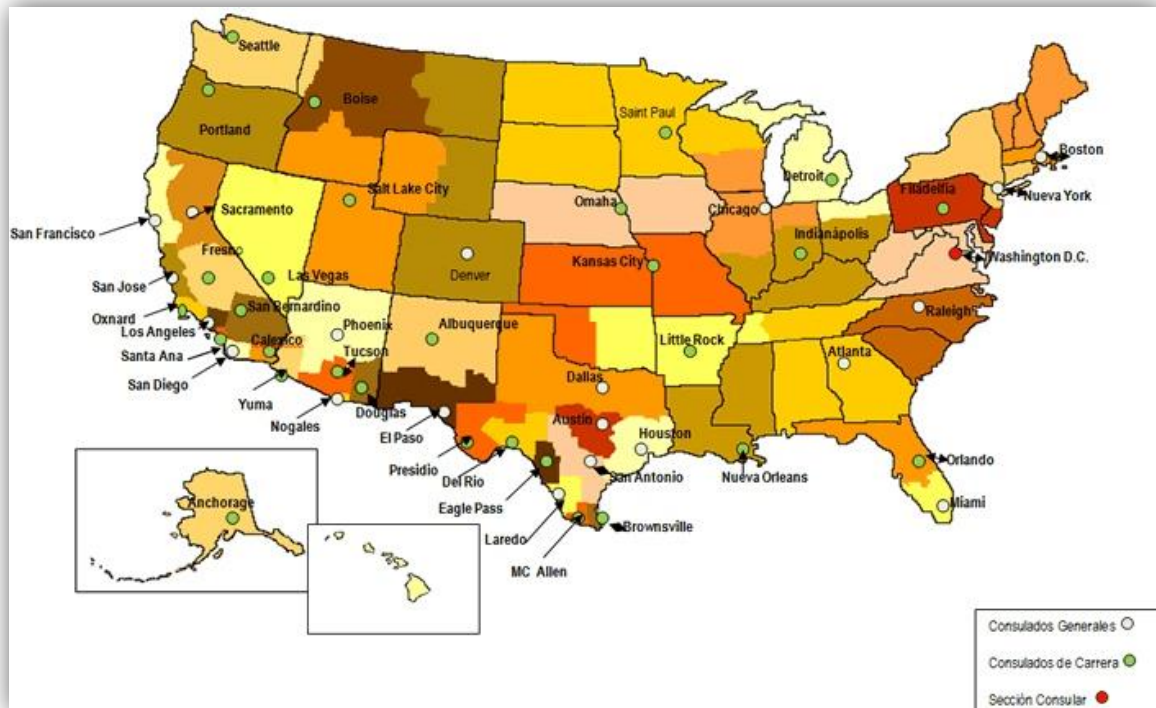
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<sup>22</sup> El Combate a la Homofobia: entre avances y desafíos, *Consejo Nacional para Prevenir la Discriminación*, 2012. Accessed on February 16, 2014. Available from <http://goo.gl/vDPRtK>.

<sup>23</sup> Article 1, paragraph 'a' of the Vienna Convention on Consular Relations of 1963 provides the definitions of consular post as "any consulate-general, consulate, vice-consulate or consular agency". Throughout the report we will use the term consulate to refer as consulate generals and consulates, which have different limitations in its functions and structure.

and Mexican-Americans in Los Angeles County.<sup>24</sup> Each consular jurisdiction varies and reflects the demographic distribution of the Mexican community in the region.

### MEXICAN CONSULATES IN THE U.S.<sup>25</sup>



International treaties, the domestic law of the sending country and the law of the receiving country determine consular functions.<sup>26</sup> Mexican consulates in the U.S. perform the following services:

- Issue of passports and consular identification cards.<sup>27</sup>
- Visas for foreigners.

<sup>24</sup> Seth Mottel and Eileen Patten, "The 10 Largest Hispanic Origin Groups: Characteristics, Rankings, Top Counties", *Pew Research Center*, June 27, 2012. Accessed on February 23, 2014. Available from <http://goo.gl/YwRM1>.

<sup>25</sup> Estadísticas de Mexicanos en Estados Unidos, *Instituto de los Mexicanos en el Exterior*. Accessed on January 28, 2014. Available from <http://goo.gl/RXSnQb>.

<sup>26</sup> Marco Normativo de la Secretaría de Relaciones Exteriores, *Secretaría de Relaciones Exteriores México*. Accessed on March 1, 2014. Available from <http://goo.gl/EylDoa>

<sup>27</sup> For more information on the Mexican consular ID or *Matrícula Consular* please visit <http://goo.gl/bYvSgB>.



- Civil registry and notary public (these include: power of attorney, birth, marriage and death certificates, testaments, and; dual citizenship).
- Household certificates.
- Consular assistance and protection on legal, civil, immigration, labor, family and criminal law. This area is extensive and covers any type of issues in which a Mexican citizen is involved with a U.S. authority or agency.
- Additionally, the majority of the Mexican consulates also have programs and offices to engage in economic, political, cultural and community affairs.

We will briefly concentrate in the consular protection and community affairs areas to provide further details of their functions and the important role they can play to address LGBT rights.

Consular assistance and protection reflects the obligation of the state to safeguard the rights of Mexicans abroad.<sup>28</sup> Through the intricate and elaborate network of consulates coordinated by the Embassy at Washington, D.C., consular assistance and protection has rapidly evolved and expanded due to the large number of Mexicans living in the U.S. This complex and dynamic area combines the traditional aspects of providing information about the rights and obligations of Mexicans in accordance to local, state and federal laws, as well as programs to aid in their integration and coexistence in their residing society. Moreover, some of the main situations that are addressed aim to protect the integrity and the rights of Mexicans in situations ranging from lost or stolen identification documents, detention or arrest by an authority, if they were victims of a crime, or if they are in a vulnerable situation (i.e. indigence, illness, if they are underage or if they want to

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<sup>28</sup> Protección a Mexicanos en el Exterior, *Secretaría de Relaciones Exteriores de México*. Accessed on March 2, 2014. Available from <http://goo.gl/ExQi0z>.

return to Mexico and don't have the means to do so).<sup>29</sup> In order to provide assistance in these situations, consulates have established collaboration mechanisms with U.S. authorities (like sheriff's departments, the U.S. Department of Labor, Immigration and Customs Enforcement and Customs and Border Patrol, to name a few) to provide a more agile and rapid response. Furthermore, strategic alliances with organizations that focus on labor, family, criminal, immigration and civil rights areas also provide valuable resources and assets to complement the programs consulates implement in the U.S.

Critical to the consular assistance and protection area, the community department represents the link between the consulate, the Mexican community and the broad array of local partners with whom they work and collaborate. This area engages in constant and permanent feedback with the Mexican population and other local actors to better understand the region in which the consulate operates. Unlike other consular areas that are more delimited because of regulations and/or procedures, community affairs is more adaptable and allows for more inventive actions that are designed based on local interests and resources. Furthermore, this area acts as a nexus between other areas in the consulate and interacts with all of them in order to share with community leaders and partners' information on the programs and services offered by the representation.

Another of the important functions that are carried out by community affairs is implementing the programs designed by the Institute of Mexicans Abroad (IME), a unique component in Mexico's consular policy. Created on April 16<sup>th</sup> 2003 by a Presidential mandate, IME is an independent body within the Undersecretary for North America in the Ministry of Foreign Affairs (SRE) in charge of

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<sup>29</sup> Asistencia y servicios a los mexicanos en el exterior, *Secretaría de Relaciones Exteriores de México*. Accessed on March 2, 2014. Available from <http://goo.gl/fILpgM>.

coordinating efforts by the federal government in areas such as health, education, financial education, culture, sports and community empowerment.<sup>30</sup> Working alongside community organizations, civil society, the private sector, universities and U.S. and Mexican authorities, it has established a sophisticated structure to address a broad agenda and to translate it into programs and policies for the consular network in North America.<sup>31</sup> Although IME's policies are implemented directly by the community affairs department, they influence every substantial area in each consulate by providing the framework and guidelines of the relationship between the Mexican government and its diaspora.

IME's objectives focus on: a) support the organization, consolidation and cohesion of Mexican communities to enhance their participation in the political, economic and social settings where they reside; b) promote the integration and empowerment of Mexicans in their host country while maintaining and strengthening their links to Mexico, and; c) design public policies to increase the quality of life of Mexicans abroad. Through networking activities with the Mexican diaspora, authorities, academia, and community partners, IME aims to build strategic partnerships to implement and further develop its agenda. IME is a sophisticated public policy design platform for programs in key areas as education, health, culture, sports, financial education, and economic development, creating a transnational network with multiple actors to address the needs of Mexicans abroad. The use of technological tools has allowed IME the opportunity to be inside every consulate in North America through information program called *Salas de Espera* (Waiting Room). Through the operation of television screens in every consulate, IME promotes activities,

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<sup>30</sup> For more information on the history, mission and programs of IME please visit <http://goo.gl/hOFWE>.

<sup>31</sup> The main region of attention and development has focused on the US and now Canada due to the large Mexican concentration in these countries. However, IME has also developed programs to outreach the Mexican diaspora in other countries. For more information please visit <http://goo.gl/hOFWE>.

research and other useful information to consulate users; additionally, each consulate can include their own content to keep the Mexican population informed on local news.

An important and unique component of IME is its Advisory Council composed of Mexican and Mexican-American immigrants called the *Consejo Consultivo* (CCIME). The CCIME aims to give voice to the Mexican community in North America and present recommendations for the federal government regarding its diaspora policies. Through the IME, the SRE channelizes the recommendations presented to the corresponding Ministry in order to evaluate the possibility of a policy change or creation, and to include them in the government's development plan. *Consejeros* are elected by the community they represent as they correspond to a consulate's jurisdiction - thus the *Consejeros* from Chicago represent the community that is contemplated under the consular jurisdiction of the Consulate in Chicago. They participate with no remuneration and do not represent the Mexican Government or consulates. They work through one of nine committees on: Media and Outreach; Economic and Social Affairs; Education; Border Affairs; Legal Affairs; Political Affairs; Health, and; Canadian Affairs. The Operating Guidelines of the CCIME establish its objectives, responsibilities, obligations, working methods and electing procedures.<sup>32</sup> The current Council is the fourth generation of CCIME (2012-2014) with 121 *Consejeros* participating, 10 of them voted by the Plenary Session due to their Merits and Trajectory. Also comprising the CCIME are U.S. national Latino organizations (which are pre-selected by the SRE via IME), Mexican NGO's and representative from Mexican state governments that wish to do so.

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<sup>32</sup> Lineamientos de Organización y Funcionamiento del Consejo Consultivo, en Referencia al Decreto Presidencial Publicado en el Diario Oficial de la Federación, 16 de Abril 2003. *Instituto de los Mexicanos en el Exterior*. Available at <http://goo.gl/hFhaJf>.

Mexico has been lauded as one of the few countries – if not the only one- that has a structure like IME and a participation mechanism like the CCIME for the design of public policies related to its diaspora. Although there have been questions on its effectiveness and operations, it has established a significant precedent in creating innovative programs and policies to engage its communities abroad.<sup>33</sup> Furthermore, the CCIME has constructed an elaborate network across the U.S. and in Mexico between actors with common interests, opening the possibility of further alliances beyond the scope of IME and/or government related activities and in other countries as well. There have been several studies on IME's evolution, serving as a model and reference for other countries especially in Central and South America and thus crafting further cooperation activities not only between states but between their communities in the U.S.

Taking into account the particular characteristics of the Mexican community and its jurisdiction, each consulate tailors IME's initiatives and implements them through the community affairs department with the assistance of its local network, ranging from hometown associations to authorities, businessmen, universities, media and religious organizations. It's important to mention that although consulates' responsibilities are towards their own nationals, the type of activities, campaigns and efforts they conduct – mainly in Spanish – are also useful to other Spanish-speaking communities (for example, how to open a bank account, health or immigration information). Thus, it's not uncommon for Mexican consulates, especially in new immigrant communities like the Midwest, to assume a leadership and guidance role for other nationalities. Additionally, there has also been a strategic alliance and collaboration with consulates from Central

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<sup>33</sup> The report by Laureen Laglagaron "Protection through Integration: The Mexican Government's Efforts to Aid Migrants in the United States", January 2010, from the Migration Policy Institute presents an interesting analysis of IME's history and impact in the government-diaspora relationship. Available from <http://goo.gl/zbDch6>.

and Latin American countries with which Mexico shares common agenda and interests. The so-called Group of Latin American Consuls (GRULAC) work in different cities and have joined efforts in community and protection programs mainly, strengthening each other's resources and capabilities of reaching their community. Most notably, this initiative sends an important and powerful united message echoing each other's presence and value to its own community and others.

The leadership role that consulate have acquired over the years puts them at a key position to construct a pro-active agenda to safeguard the rights of Mexicans and to strengthen the ties between Mexico and its diaspora. The opportunity to engage with a variety of actors provides valuable elements and resources to be creative and innovative, highlighting the importance of cooperation not only to safeguard the rights of the Mexican population but of the community as a whole. The complex and extensive bilateral agenda between these countries calls for a more inclusive and dynamic approach to consular functions and services, taking into account the current social and legal settings that provide the framework to develop and implement programs.

## **V. THE U.S. v WINDSOR RULING AND ITS IMPACT ON LGBT RIGHTS**

We will briefly present the contents of the Defense of Marriage (DOMA), the timeline of the actions behind the U.S. v. Windsor ruling and the after effects of the ruling on LGBT rights in the country.

President William Clinton signed DOMA on September 21<sup>st</sup>, 1996. Section 2, Powers Reserved to the States, and Section 3, Definition of Marriage, amended Chapters 115 of title 28 and Chapter 1 of title 1 of the United States Code. Section 2 establishes: "No State, territory, or possession of the

United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship”.<sup>34</sup> Section 3 amended of the United States Code, by defining ‘marriage’ and ‘spouse’, establishing that: “In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife”.<sup>35</sup> This effectively denied recognition of same-sex marriage at the federal level and in states in which it was prohibited or did not exist. It also refused any type of federal benefits and services to same-sex couples, even if they had legally married in another state or country that recognized marriage equality.

Edie Windsor, a resident on the state of New York, and the American Civil Liberties Union (ACLU) filed suit against DOMA in the U.S. District Court for the Southern District of New York on November 9<sup>th</sup> 2010. Mrs. Windsor was legally married to Thea Spyer in Canada in 2007; when Mrs. Spyer passed away and left her estate to Mrs. Windsor, she was forced to pay \$363,000 dollars in federal taxes on the inheritance. She alleged that if her marriage had had the same status under the federal law, she would not have to pay any federal taxes as her spouse. The lawsuit argued “DOMA violates the equal protection guarantee of the US Constitution by recognizing and honoring marriages of different-sex couples but not honoring the legal marriages

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<sup>34</sup> Defense of Marriage Act, *U.S. Congress*, 1996. Accessed on February 8, 2014. Available from <http://goo.gl/dKsNd>.

<sup>35</sup> Ibid.

of same-sex couples”.<sup>36</sup> The initial lawsuit was followed by subsequent rulings and announcements:<sup>37</sup>

- February 23<sup>rd</sup> 2011: President Barack Obama announces that the Department of Justice (DoJ) would no longer defend Section 3 of DOMA because it found the law unconstitutional.
- March 4<sup>th</sup> 2011: House Speaker John Boehner (R, OH) convened the Bipartisan Legal Advocacy Group (BLAG) to intervene in the case and defend Section 3 of DOMA.
- June 6<sup>th</sup> 2012: U.S. District Court Judge Barbara Jones rules Section 3 of DOMA unconstitutional.
- June 14<sup>th</sup> 2012: BLAG appeals Judge Jones’s ruling.
- July 16<sup>th</sup> 2012: Edie Windsor requests the SCOTUS to hear her case.
- October 18<sup>th</sup> 2012: the U.S. Court of Appeals for the Second Circuit in New York upholds Judge Jones’ ruling.
- December 7<sup>th</sup> 2012: the SCOTUS announces that it will review U.S. v. Windsor.
- March 27<sup>th</sup> 2013: the SCOTUS hears oral arguments on the case.

On June 26<sup>th</sup> 2013, the Supreme Court of Justice issued in a 5-4 ruling that Section 3 of DOMA is “unconstitutional under the Due Process Clause of the Fifth Amendment”.<sup>38</sup> Thus, the definition of marriage no longer applied to only heterosexual couples and obliged the federal government to

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<sup>36</sup> Legal Progress Toolkit: Marriage Equality at the U.S. Supreme Court, *Center for American Progress*. Accessed on February 8, 2014. Available from <http://goo.gl/LUw3WQ>.

<sup>37</sup> Ibid.

<sup>38</sup> United States v. Windsor can be accessed at <http://goo.gl/yIh7O>.



recognize same-sex marriages recognized by states. It's important to point out that this ruling does not affect the marriage laws of states.<sup>39</sup>

The result of this decision had immediate effects on the eligibility of same-sex couples for services and benefits the federal government provides in the following programs: Bankruptcy, federal taxes, social security, veteran spousal benefits, Medicaid, Medicare, military spousal benefits and immigration.<sup>40</sup> On July 1<sup>st</sup> 2013, former Secretary of Homeland Security Janet Napolitano issued a statement in which she announced that the U.S. Citizenship and Immigration Services (USCIS) would “review immigration visa petitions filed on behalf of a same-sex spouse in the same manner as those filed on behalf of an opposite-sex spouse.”<sup>41</sup> Furthermore, on August 2<sup>nd</sup> 2013 Secretary of State John Kerry announced that consular posts would also comply with the recent Supreme Court ruling and issued a set of guidelines regarding visas.<sup>42</sup> Thus, a U.S. citizen can now sponsor his or her spouse for a green card; depending on their current immigration status, the state where they were married or will be married, the USCIS would then review their case based on the general criteria established for “marriage-based immigration”.<sup>43</sup>

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<sup>39</sup> On that same day, the US Supreme Court also ruled on the case *Hollingsworth v. Perry* regarding the California ballot known as “Proposition 8” that eliminated the rights of same-sex couples to marry in that state. SCOTUS determined that “the proponents of California’s ban on same-sex marriage did not have standing to appeal the district court’s order invalidating the ban.” Although this was an important decision that further added to the momentum of LGBT rights, we will only address the *US v. Windsor* ruling since it had a national impact, unlike the *Hollingsworth v. Perry* one that only applies in California.

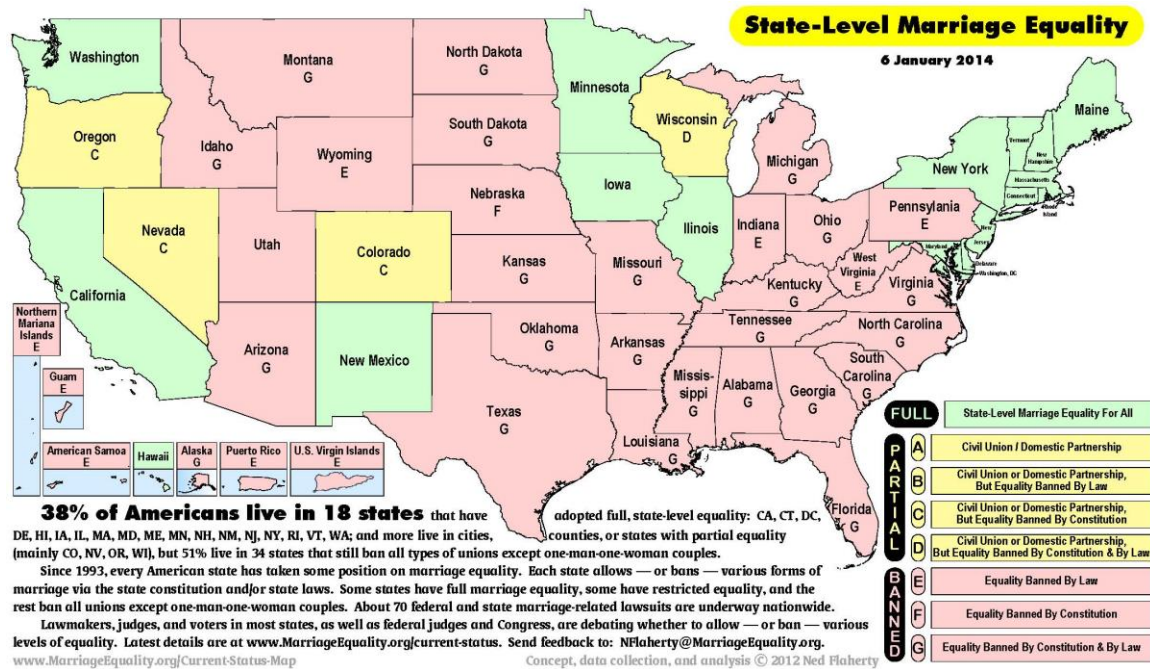
<sup>40</sup> DOMA: Get the Facts, *LGBT Organizations*. Accessed on February 8, 2014. Available from <http://goo.gl/RDoUXl>.

<sup>41</sup> Statement by Secretary of Homeland Security Janet Napolitano on the Implementation of the Supreme Court Ruling on the Defense of Marriage Act, July 1, 2013. Accessed on February 8, 2014. Available from <http://goo.gl/wofhri> and <http://goo.gl/FF8HWm>.

<sup>42</sup> Secretary of State John Kerry, Announcement on Visa Changes for Same-Sex Couples, August 2, 2013. Accessed on February 8, 2014. Available from <http://goo.gl/3M0x0B> and <http://goo.gl/QdDh90>.

<sup>43</sup> After DOMA: What It Means For You – Immigration Fact Sheet. *LGBT Organizations*. Accessed on February 8, 2014. Available from <http://goo.gl/RDoUXl>.

After Section 3 was struck down, challenges have been presented in states that banned same-sex marriage, like Utah, Virginia, Kentucky and Oklahoma.<sup>44</sup> Up to January 6<sup>th</sup> 2014, the status of marriage equality in the U.S. is as follows:<sup>45</sup>



The status of marriage equality has been rapidly evolving – the latest and most notable change occurred in Texas where the ban on same-sex marriage has been ruled unconstitutional.<sup>46</sup> It is important to point out that out that five of the states in which the largest concentration of Mexicans live in the U.S. recognize full or partial marriage equality (California, Illinois, Texas, New York and Colorado).

<sup>44</sup> Reid Wilson, “Gay marriage fight shifts to federal courts, 2014 set to be tipping-point year”, *The Washington Post*, December 24, 2013. Accessed on February 8, 2014. Available from <http://goo.gl/nmxO8J>.

<sup>45</sup> Marriage Equality USA, *Marriage Equality*, January 6 2014. Accessed on February 8, 2014. Available from <http://goo.gl/zvJQYS>.

<sup>46</sup> Manny Fernandez, “Federal Judge Strikes Down Texas’ Ban on Same-Sex Marriage,” *The New York Times*, February 26, 2014. Accessed on February 8, 2014. Available from <http://goo.gl/oU8rj9>.

The aftermath of this ruling is still on its way; not only are bans against same-sex legislations challenged, but a broad set of programs, services and benefits have been expanded. Citing the ruling by the Supreme Court on DOMA, the U.S. Court of Appeals for the Ninth Circuit ruled that sexual orientation is not a valid argument for a person to be excluded from a jury.<sup>47</sup> On February 8 2014, Attorney General Eric Holder announced that he would instruct the DoJ “to give lawful same-sex marriages sweeping equal protection under the law in every program it administers”.<sup>48</sup> Some of the dispositions include the right not to provide testimony that could incriminate one’s spouse and inmate related rights.

It is important to highlight that after President’s Obamas support for marriage equality, the National Council of La Raza (NCLR) and LULAC, the two main national Latino organizations, publicly endorsed same-sex marriage and have included LGBT issues as part of their agendas.<sup>49</sup> Furthermore, they recognized these rights are “an important part of its civil rights work”<sup>50</sup> and inadvertently triggered a discussion among other state and local Latino organizations on this subject, which until recently had not received the attention it deserved. By stressing that LGBT issues are a matter of civil and legal rights, they were able to allude to the similarities they share with the immigrant undocumented community in terms of the discrimination they face, as well as the family separation binational same-sex couples suffer since they were unable to request immigration benefits for their spouses. These organizations represent the main voices at the

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<sup>47</sup> Adam Liptak, “Sexual Orientation Is No Basis for Jury Exclusion, a Federal Appeals Court Rules,” *The New York Times*, January 21, 2014. Accessed on February 16, 2014. Available from <http://goo.gl/Nv6lNv>.

<sup>48</sup> Sari Horwitz, “Justice Department to give married same-sex couples equal protection,” *The Washington Post*, February 8 2014. Accessed on February 16, 2014. Available from <http://goo.gl/idBKDN>.

<sup>49</sup> Even though LULAC expressed its opposition to DOMA when it came into law, it gained national attention by joining the alliance of national LGBT organizations supporting marriage equality.

<sup>50</sup> LGBT Rights, Hispanic Community. *National Council of La Raza*. Accessed on March 2, 2014. Available from <http://goo.gl/DzNs1d>.

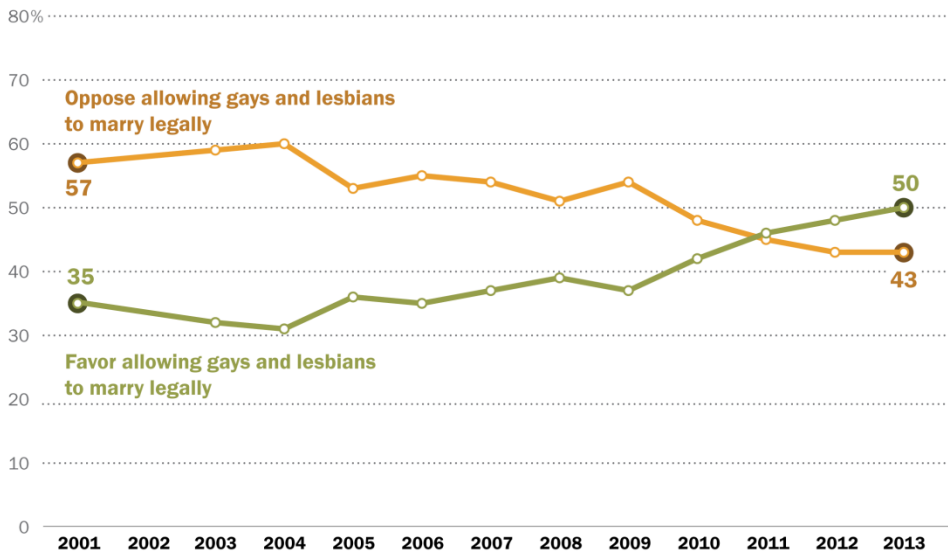
national level regarding Latinos and the opportunities and challenges they face in the U.S. Thus, by acknowledging the importance and need to address LGBT issues as an integral part of their general objectives, they took a significant step forward in stating that discrimination, whether it is against the immigrant or the LGBT community, is the same and should be rejected.

The ramifications of the U.S. v. Windsor continue to be analyzed. However, it is evident this decision altered the legal and thus the social fabric in the U.S. Recent polls show that the majority of Americans are in favor of marriage equality, and analysts expect these numbers to continue growing. This change in attitude can also be witnessed in the more public insertion of LGBT issues in politics, entertainments, culture and sports. We can now observe a larger number of openly gay public officials, sports or entertainment celebrities, a subject that just a couple of years ago was considered taboo. These actions continue to influence society's views on marriage equality and LGBT rights, further promoting an inclusive dialogue on the challenges this community faces and how to adequately address them.

Debates continue throughout political, religious and social sectors against and in favor of marriage equality; however, it's evident that there is momentum-supporting LGBT rights and we can argue that the legal changes we are witnessing in the U.S. will have an impact in other societies in the world due to their significant presence in international affairs.

## Changing Attitudes on Same-Sex Marriage

Percent of general public who...



Source: Aggregated data from Pew Research Center polls conducted in each year.

Pew Research Center • Updated June 2013

## VI. TOWARDS A MORE STRATEGIC APPROACH TO THE MEXICAN LGBT COMMUNITY: RECOMMENDATIONS FOR MEXICAN CONSULATES

After presenting the context of the current situation of marriage equality and its impact on LGBT rights in the U.S., as well as the relevance of the Mexican community and the dynamic role of Mexico's consular network, we will now make the following recommendations to better serve the Mexican LGBT community. While some of the recommendations that will be presented can be implemented directly by consulates, some will have to be initiated by the SRE.<sup>51</sup>

### i. Alliances with Mexican institutions

<sup>51</sup> In order to illustrate some of these recommendations, certain examples of actions implemented while I served as Consul for Community Affairs in Los Angeles will be included.

The first step is to promote awareness and respect towards the members of the community and for consular officials to be informed of the current legal rights and benefits this population has in Mexico. This can be achieved through the following actions:

- Establish a strategic alliance between the SRE and the National Council to Prevent Discrimination in Mexico (CONAPRED) to conduct awareness training for consular staff. An adequate construction of more inclusive policies needs to start with an analysis of the current situation of the Mexican LGBT community and addressing myths, misconceptions and stereotypes that are harmful and discriminatory. Some of the actions that could arise from this collaboration are:
  - Distribution of the “Protocol to judge with gender perspective”<sup>52</sup> elaborated by the Supreme Court of Justice of Mexico to “eliminate stereotypes that promote gender discrimination in the most ample definition, revert inequality and the systematic exclusion of historically vulnerable groups”.<sup>53</sup> This protocol makes reference to constitutional and international norms that safeguard human rights and thus are obligatory for all Mexican authorities. SRE and CONAPRED could identify the cases and situations that serve and allude to consulates and consular staff.
  - Request that CONAPRED conduct an initial review of the language used in the information and pamphlets distributed by consulates regarding programs and services to assess whether they convey an inclusive gender perspective message

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<sup>52</sup> Protocolo para Juzgar con Perspectiva de Género, July 2013, *Suprema Corte de Justicia de la Nación de México*. Accessed on March 2, 2014. Available from <http://goo.gl/0PZkY9>.

<sup>53</sup> “Suprema Corte presenta protocolo para juzgar con perspectiva de género”, *Notimex*, 26 de agosto 2013. Accessed on March 2, 2014. Available from <http://goo.gl/9VOKLb>.

(e.g. avoiding terms in Spanish that could be disrespectful or make specific references to gender roles like assuming a child has parents of opposite sex).

- Schedule presentations by CONAPRED's staff at the yearly meetings organized by the Office of Protection to Mexicans Abroad for Protection Consuls to provide guidelines for an effective and respectful assistance to the community (e.g. situation of domestic violence that involve same-sex couples, discrimination because of their sexual or gender identity at the workforce or child custody cases involving same-sex couples). Through these meetings, Protection Consuls can become more aware of the discrimination environment and practices the LGBT community is facing in Mexico, and that could continue to permeate within the Mexican community in the U.S. More importantly, as it has occurred with other topics, these meetings allow for a rich and valuable dialogue and assessment of the current challenges that the Mexican community is facing and that require the involvement of consular authorities (e.g. human rights violations in immigration detention facilities). With the guidance of CONAPRED's staff, these exchanges could identify challenges and good practices for potential consular practices or policies.
- Schedule the participation of CONAPRED's staff at the yearly evaluation and review meetings conducted by the IME for Community Affairs Consuls to receive proper sensitivity training on the issues affecting the Mexican LGBT community. More importantly, they can identify good practices that have been implemented in Mexico so they can evaluate and re-design them for their own jurisdictions. CONAPRED could also provide useful educational material in Spanish that can be available at the consular premises and community events. As explained before,

the constant contact and communication of this area with local partners is essential to transmit a respectful and inclusive message regarding LGBT issues and against discriminatory practices.

- On-going training by CONAPRED staff to the personnel in civil registry and notary public to be informed of the current federal and state legislations in Mexico regarding marriage equality and LGBT rights, as well as the resources available to provide accurate guidance pertaining to legal processes.
- Disseminate educational PSA's and/or content produced by CONAPRED against discrimination at every consular facility via the “*Salas de Espera*” program. This material could also be shared and distributed among community partners and via the social networks tools each consulate uses.
- Conduct a particular sensitivity training on transgender rights. CONAPRED can provide valuable information on the adequate language and behavior to use, particularly in the case of transgender women or men. On this same note, they can also receive proper instruction and steps regarding the legal process in Mexico to initiate a legal gender identity change, a question that has become more frequent at consular representations.

ii. **Alliances with U.S. organizations**

- Establish strategic alliances with U.S. national LGBT organizations like the HRC<sup>54</sup> and GLAAD.
  - Establish a Collaboration Agreement between the SRE via the Embassy of Mexico with these organizations to express common areas of interests, highlighting

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<sup>54</sup> This recommendation is currently in process. While I was serving as Deputy Officer for Political Affairs, Embassy officials met with HRC staff on April 29<sup>th</sup> 2013 and began discussing this collaboration framework.



activities against discrimination, civil and human rights promotion and anti-bullying campaigns. Even though each consulate has to tailor and respond to the local needs of its community, a national collaboration agreement will provide them with an action framework and empower them to act based on the general coincided ideas.

- Develop an agenda with each organization in according to their objectives to complement consular protection and community outreach activities.
- Collaborate with these organizations to strengthen their Latino and/or Spanish-speaking programs by providing cultural insight and assistance to establish a better relationship with the Mexican and Latino community.
- Establish pilot programs with selected consulates to design particular actions involving community meetings, distribution of educational information and other pamphlets about their ideals, activities and programs. Consulates can play a key role in exhorting the creation of alliances between the local chapters of these organizations and the local actors they work with by identifying common areas of interests, such as immigration reform, anti-discrimination practices, civil rights, and education related area pursued by Dreamers.<sup>55</sup> Particularly, consulates through their community affairs departments can organize meetings with community leaders and members of the CCIME to address questions and raise awareness on LGBT rights. The experiences, knowledge and

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<sup>55</sup> The Dreamers term is used to refer to “unauthorized youth who were brought to this country as children” and have received immigration benefits through the Deferred Action for Childhood Arrivals (DACA) enacted by President Barack Obama on June 15<sup>th</sup> 2012. Information on DACA can be accessed at <http://goo.gl/8PJj8>.

experiences acquired through these pilot programs would act as groundwork for a general and national collaboration strategy with the consular network.

- Identify cities and/or regions of interests to conduct surveys at consular facilities regarding LGBT related issues. As previously mentioned, information about the Mexican LGBT community is still scarce or is encompassed as part of the Latino community. The opportunity to query consulate users – which represents a diverse population in terms of age, education, place of birth, immigration status and years living in the U.S., would provide valuable data to identify possible concerns or the type of issues that need to be addressed more (e.g. religious concerns regarding marriage equality, cultural factors behind LGBT discrimination). Furthermore, the information gathered could be used by community partners to develop activities and outreach strategies that are more attune to the Mexican community, as well as Mexican authorities in the design of potential consular policies.
- Participation by the Embassy and the consular network in anti-discrimination, anti-bullying and other educational campaigns conducted by these organizations as a strategic partner to echo their messages among the Mexican community and allies, both in English and Spanish.
- Invite representatives from these organizations to the biannual meetings of the CCIME to raise awareness and provide information on LGBT issue to develop collaboration activities on common areas of interests (e.g. immigration reform and human rights topics).

- Invite representatives from these organizations to be part of the CCIME as a key national partner to include their experiences not only because of their knowledge on LGBT issues and civil rights, but also due to their experience in fundraising events, grassroots activities and media outreach strategies. Furthermore, they could also act as liaison with other national and local community partners with whom the Embassy and consulates could collaborate in social, economic, political and cultural actions.
- Provide assistance with the translation into Spanish of print, electronic and visual material to convey the message adequately and taking into account cultural terminologies and concepts.
- Expand the current collaboration with Latino national organizations like the NCLR and LULAC to include LGBT issues, focusing on the Mexican population. Additionally, exchanging information and good practices that have been identified on key messages and activities to incorporate and/or complement current protection and community affairs strategies could strengthen this.

### **iii. Consular protection and assistance**

Consular protection is the backbone of consular functions – to assist its nationals vis-à-vis the different authorities and agencies of the host government. In order to implement the following suggestions, as pointed out before, is to generate awareness among consular protection personnel in order for them to implement an inclusive gender perspective in all of the activities they do.

- Explicitly acknowledge the Mexican LGBT community in the consular protection strategy of consulates. Publicly recognizing members of this community brings visibility to their causes and affirms they are a part of a society that has rights and obligations. Even though the

current laws establish that consulates are obligated to provide consular assistance and services to any Mexican national, by using inclusive gender perspective message they are asserting this responsibility. More importantly, it lays down elements to build trust with the LGBT community and for them to see the consulate as a safe space where they will be treated with respect and professionalism.

- Example: during conversations with transgender women who had been victims of sexual abuse, they shared that the fear of being treated disrespectfully or being “laughed at” by consular staff stopped them from requesting assistance. In many cases this also applied to local police and religious organizations. This left them in an extremely vulnerable situation that made them prone to further abuse and discrimination.
- Establish constant sensitivity training by Mexican and U.S. organizations regarding LGBT rights and the challenges this community faces so they can provide more humane and respectful attention when dealing with issues such as domestic violence, sexual abuse, human trafficking and discrimination. Consular protection staff could accompany and participate with community affairs personnel in community meetings and other activities to be informed on local resources and partners to use and collaborate with.
- Have information on the regulations and process to request immigration benefits for same-sex couples. Depending on the jurisdiction of each consulate – whether it encompasses a state that has full, partial or no marriage equality – they can identify immigration attorneys to incorporate into their Legal Assistance Program (*Programa de Asistencia Legal*, PALE) so they can provide legal advice for same-sex couples.

#### **iv. Community affairs**

Acting as a node between all consular programs and services, this would be the main area for innovative and creative alliances with local and state groups to achieve a better understanding on the necessities of the Mexican LGBT community. This in turn would be shared and transmitted to the other substantial areas in the consulate – press, consular services, civil registry and notary public, and cultural affairs – so that the information and feedback received can permeate in all consulate functions. This area maintains the ‘pulse’ of the community and has a vantage point in assessing potential partnerships based on similarities shared between the diverse groups of local actors they engage with. The active interaction they establish with key players in their jurisdiction – religious groups, schools, media, community leaders and authorities provides an ambitious work agenda through which they can participate directly or act as liaison or facilitators among partners for them to engage in particular collaboration schemes. The following suggestions stem from good practices that have been implemented in engaging new community partners, however it’s important to encourage novel activities and measures based on the particular characteristics of the communities they serve.

- Identify Mexican and/or Latino LGBT organizations to include them as community partners in consular services and functions, IME-related programs, and in the community network in their jurisdiction.
  - Example: the consulate organized training sessions with the local chapter of the Anti-Defamation League (ADL) regarding practices against bullying at schools with community leaders and schools districts. ADL representatives were invited to the consulate’s weekly radio program to talk about these issues and the training programs they have for promoting tolerant and safe environment at schools and other social settings. Furthermore, the consulate assisted with the translation of

education material into Spanish that was distributed at the consulate's premises and community events.

- Engage in constant and permanent dialogue with Mexican and/or Latino LGBT organizations regarding their interests and challenges, particularly in regards with the services they are receiving from the consulate.
  - Example: through a health partner who offered preventive information on HIV/AIDS testing via their mobile unit at the consulate, contact was established with a group of Latina transgender women in Los Angeles. Many of them had gone through bad experiences and disrespectful treatment from consular personnel while requesting a passport; they argued that those types of reactions did not made them want to approach the consulate at all, regardless of whether they needed legal or consular protection. Their complaints were presented to the corresponding officials in charge and monthly follow-up meeting were programmed.
- Promote a better understanding within their local networks of the objectives and interests each partner has to identify common elements and similarities that can potentially develop into partnerships.
  - Example: by informing hometown associations of the programs and services of health partners, these organizations began inviting them for information talks to their monthly meetings. Hometown associations began including them as part of their benefits and strategic plans health-related activities and information. This could be the case regarding anti-discrimination and anti-bullying initiatives.

These recommendations can lay down legal and social components for a better understanding of the Mexican LGBT community and the resources that are already available in the U.S. to benefit from the good practices that have developed over the years. The suggestions presented involve the construction of a national action framework via the Embassy, complemented with the local adaptability and implementation by each consulate. By reinforcing and expanding consular assistance protection activities, and broadening community outreach by identifying new local partners, consulates will be better prepared to address the social and legal changes involving LGBT rights.

Nonetheless, the most substantial step is to recognize that there has been a change in the discourse on LGBT rights that has derived in the expansion of federal, state and local rights. In that sense, the LGBT Mexican community has to be acknowledged and included in consular and outreach policies to reflect this evolution and to comply more effectively with the obligation of the state to safeguard the rights of its nationals abroad. The leadership role consulates have in their jurisdictions can influence not only Mexicans, but also local partners and the community as a whole. The distinct Mexican diplomatic and consular network system in the U.S represents a vital asset to promote an inclusive and respectful perspective towards all Mexicans - regardless of their immigration, religious, gender or sexual identity - to strengthen its current policies and continue developing innovative diaspora-related programs and activities to observe the current U.S. and Mexican legislation.

## **VII. CONCLUSION**

The evolution regarding LGBT rights in the U.S., particularly marriage equality has triggered various changes at the federal and state levels that need to be taken into consideration by the

Mexican government through its diplomatic and consular network. This momentum presents an opportunity to develop a strategic approach towards the Mexican LGBT community by promoting an inclusive gender perspective through its consular protection and community outreach policies.

Collaborating with Mexican and U.S. organizations that promote non-discrimination measures and support LGBT rights, and conduct training and/or educational seminars will raise awareness among consular staff on the challenges faced by this population. Establishing formal collaboration agreements with the Mexican diplomatic and consular network will allow the design of pilot programs focusing on consular assistance and protection and community outreach, engaging not only consular personnel but also its local network of partners.

Moreover, the first and foremost action is to recognize that in order to implement a comprehensive and effective consular policy, consulates need to adequately outreach and engage with all sectors of the community they serve, regardless of their gender or sexual identity. The Mexican government through its diplomatic and consular grid need to not only expand certain programs or services, but the overall outlook of its policies towards a more inclusive environment.

Mexico has crafted an innovative consular policy spearheading various initiatives to champion the rights of its national's abroad, and has constructed a complex and sophisticated network of partners and resources to engage with its diaspora. The advancement of LGBT rights is an intricate component of human rights and therefore has to be included in forthcoming consular objectives and policies in order to address the changing social and legal situation inside and outside the country.



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