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EL SALVADOR

Marchers take shelter under rainbow umbrellas during a June 2010 gay pride parade in San Salvador.

Outflanking Discrimination

by Allison Davenport

El Salvador. For many in the United States, the name conjures up memories of the bloody civil war that ravaged the country from 1980 until 1992, leaving 75,000 dead and resulting in the migration of nearly a fifth of the population. More recently, it triggers images of earthquakes and devastating natural disasters or of a crime-ridden country, where violent gangs terrorize the population with relative impunity.

But as with all countries, there are many important stories to be told beyond those captured by U.S. headlines. One of those stories is the lesbian, gay, bisexual and transgender (LGBT) community's struggle to secure human rights protections. Since 1994, William Hernández has been at the forefront of that struggle, fighting for the rights of the Salvadoran LGBT and HIV-positive community, at great personal risk.

Hernández is the founder and executive director of Asociación Entre Amigos (Among Friends Association),

the leading LGBT and HIV advocacy organization in El Salvador. Entre Amigos' work centers around its policy reform advocacy and HIV-prevention activities. Its members educate the public about preventing infection, help them to be tested and assist them in accessing needed treatment and support services. The emphasis on serving HIV-positive individuals is due, in part, to the fact that four out of every six new infections from sexual activity in El Salvador are within the LGBT community. Despite this statistic, health services and other resources are not directed to meet its members' particular needs. Hernández says that by addressing the HIV issue, his organization is able to empower those it could not reach otherwise because "LGBT human rights are still not recognized in El Salvador."

While the LGBT and HIV-positive communities in El Salvador are not one and the same — a large percentage of HIV-positive Salvadorans are straight — there is significant overlap and common concerns between the

two. Hernández points to the marginalization of the LGBT community, which leads to a lack of social and familial support and employment opportunities. As a result, many members are forced into underground employment, including sex work, where they are vulnerable to HIV infection. HIV-positive gay and transgender persons then face discrimination in seeking out needed health and other services. This double marginalization is what compels Hernández and Entre Amigos to work on both issues.

Hernández's awareness of the intersection of social issues also drives Entre Amigos to work in solidarity with other civil society groups in El Salvador, supporting worker rights, women's rights and other social movements. However, Hernández says, Entre Amigos and those it represents do not always receive such support in return. "Our human rights are still questioned, even by human rights organizations in El Salvador."

While the Salvadoran legal community working on human rights has bravely and tirelessly advocated for justice for atrocities committed during the civil war, it has been largely silent on issues facing the LGBT community. "Human rights organizations have become frozen in time, and their work remains focused on war crimes," Hernández explains. "But we have not been at war for 20 years. They don't want to recognize... the human rights associated with sexual diversity." The marginalization of these issues within human rights circles shows just how much work lies ahead for Entre Amigos.

In the 16 years since Entre Amigos was founded, however, there have been signs of progress. In 2009, Mauricio Funes was elected president, marking a historic political shift in the country. As the first president from the left-leaning Farabundo Martí National Liberation Front (FMLN), the former guerrilla group turned political party, there have been some gestures of support from the government. The Secretary of Social Inclusion, directed by the First Lady of El Salvador, Vanda Pignato, now hosts a Sexual Diversity Division to address issues affecting the LGBT community and works closely with advocates. Another sign of hope is Executive Order 56, signed by President Funes, which prohibits discrimination based on sexual orientation and gender identity by state officials. While the order marked an important step toward providing the public policies necessary to protect LGBT rights, it appears to have been primarily symbolic. "Since the president signed the order," says Hernández, "the police have increased attacks against transgender women, despite the fact that they themselves are obligated to follow Executive Order 56." For Hernández, the goal is to move the anti-discrimination initiative from an

executive order to a law. A national law would extend beyond government officials and provide much-needed enforcement mechanisms that could truly prevent discrimination and abuse.

While some political gains have been made, Hernández stresses that much work remains to be done, both in the political and social realms. According to World Bank statistics, 54 percent of the Salvadoran population believes that HIV/AIDS is God's way of punishing prostitutes and homosexuals for their lifestyle. Salvadoran society remains deeply rooted in religion, with the Catholic Church and a growing Christian evangelical movement exercising a great deal of influence on both politicians and the general population.

The significant role that religious groups play in Salvadoran political life was highlighted in 2009, when the Congress considered legislation backed by religious organizations and a right-wing group called Red Familia (Family Network) to outlaw both gay marriage and adoption by members of the LGBT community. During the heated debate, the Catholic Church presented Congress with a petition containing 300,000 signatures in support of the ban. In the days before the vote, the Archbishop of El Salvador suggested that blocking the measure would have political consequences for the FMLN in the form of conservative legislators withholding votes on key pieces of legislation. Entre Amigos and other organizations intervened, and the proposed constitutional amendment ultimately failed. "We were able to defeat the proposal... by being clear that the constitution cannot be amended based on myths and prejudices." However, given the gravity of the human rights situation, Hernández says the issue of gay marriage is not a priority for advocates. "It is useless to get married if we die of AIDS. There are many more important things in El Salvador to talk about than marriage."

Police brutality and the failure to investigate crimes against LGBT community members are among the more pressing concerns for Entre Amigos. The transgender population is particularly vulnerable and faces the most extreme forms of discrimination and violence. In 2009, 24 members of the LGBT community were murdered in El Salvador and of these, 14 were transgender women. It is common for police officers to decline to take formal reports regarding crimes committed against gay and transgender individuals. When reports are taken, a formal investigation rarely follows. The police themselves are sometimes involved in the assaults and murders. Hernández argues that more resources should be devoted to training the police force, given that the current level of violence against LGBT individuals and people perceived to

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be members of this community is at unacceptable levels. Hernández himself has faced death threats and physical assaults as a result of his advocacy work, and the Entre Amigos office in San Salvador has had to relocate several times due to repeated raids and burglaries.

To address the pressing issues facing the LGBT and HIV-positive communities, Hernández is working to establish a legal services component to the work of Entre Amigos. His organization has done successful public education campaigns and advocacy work but sees a need to provide direct legal services. Many existing legal service organizations offer free or low-cost consultations but do not provide actual legal representation to individual clients. Hernández hopes to create a legal clinic that works in conjunction with a Salvadoran law school and U.S. lawyers to provide much-needed direct legal services as well as to begin to address policy reform issues.

Many times individuals require legal representation to gain access to certain courts or government offices where their legal issues could be resolved, Hernández notes. Because the social exclusion suffered by the LBGT community frequently results in poverty, it also translates into legal exclusion for those who can't afford lawyers, which further perpetuates marginalization. "Just the fact

of having someone standing with us who would say, 'I will work with you,' would change the landscape for achieving LGBT human rights." But social exclusion can also extend to the lawyers themselves. If a lawyer were to come out as gay, Hernández says, it would lead to "social death." Similarly, "immoral" behavior, such as homosexual acts, can be used as the basis to revoke a lawyer's license to practice. Hernández points to this as part of the reason that so many professionals leave the country and seek asylum elsewhere.

As the wounds from the civil war continue to heal in El Salvador, Hernández works to shine a light on the human rights abuses currently taking place in the country. It is an uphill battle in a country struggling with poverty and crime and where homosexuality carries a heavy social stigma. However, it is a necessary step in moving El Salvador to an era of equality and peace.

William Hernández is the co-founder and executive director of the Asociación Entre Amigos. He spoke for CLAS on October 25, 2010.

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A man gets tested for HIV/AIDS test at a San Salvador health clinic.



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