

“It is premature to gauge the full impact of the developed West’s effort to sell gay rights to the developing world, but the early returns are not auspicious . . .”

## The Troubled Rise of Gay Rights Diplomacy

OMAR G. ENCARNACIÓN

On May 17, 2014, in recognition of the International Day Against Homophobia and Transphobia, a rainbow flag flew over the US embassy in Madrid. This action raised eyebrows in both Madrid and Washington. There were no previous instances of an American embassy displaying so prominently a universal symbol of gay pride.

US Ambassador to Spain James Costos, an openly gay former television executive and prodigious fund-raiser for President Barack Obama’s 2012 reelection campaign, is credited for this breakthrough in American diplomatic history. Since arriving in the Spanish capital with his husband, Michael S. Smith (another Obama fundraiser and Michelle Obama’s interior decorator), Costos has been making headlines. A long profile in *El País* cheekily titled “El Embajador y el Señor Smith” (The Ambassador and Mr. Smith) notes that the couple has transformed the Madrid embassy into the epicenter of what the newspaper called *diplomacia alternativa* by opening its doors “to Americans and Spaniards of all walks of life to enjoy art, conversation, and work.”

This novel approach in Madrid is a signal of one of the most striking but least noticed turns in US foreign policy under Obama: putting American diplomacy at the service of the global promotion of gay rights. According to the *Guardian*, as of 2014 the State Department had spent \$12 million on efforts to promote events supporting gay rights and gay activism at some fifty US embassies, seven of them headed by an openly gay ambassador. These events are financed through the Global Equality Fund, an initiative started in 2011 by then-Secretary of State Hillary Rodham Clinton

to support the activities of organizations working on behalf of gay rights worldwide. Clinton’s successor, John Kerry, has further elevated American promotion of gay rights abroad with the appointment in February 2015 of a “gay czar” within the State Department to advocate for the rights of lesbian, gay, bisexual, and transgender (LGBT) people overseas.

Obama’s strong advocacy of gay rights at home (which earned him the honorary title of America’s “first gay president” in a May 2012 *Newsweek* cover story by Andrew Sullivan) has served as the platform for his bold advocacy for gay rights abroad. Under his presidency, Congress repealed “don’t ask, don’t tell,” the policy that prevented homosexuals from serving openly in the military, and expanded federal hate-crimes law to include attacks based on the victim’s actual or perceived sexual orientation or gender identity. Obama also ordered the Justice Department to stop defending the Defense of Marriage Act, a 1996 law that prohibited the federal government from recognizing same-sex marriages. The US Supreme Court declared the law unconstitutional in 2013.

During the 2012 presidential campaign, Obama became the first sitting US president to publicly endorse same-sex marriage. There was little doubt that he considered the June 26, 2015, decision by the Supreme Court that declared same-sex marriage a constitutionally guaranteed right, *Obergefell v. Hodges*, a huge win for his administration. The White House was lit up in rainbow colors in celebration of the ruling.

The American experience is far from unique. Across Western Europe, gay rights victories at home are also pushing governments to press for gay rights abroad. Europe’s former colonial powers are among the most forceful advocates of global LGBT rights. After Spain legalized same-sex marriage in 2005, becoming the first Roman Catholic nation to do so, Prime Minister José Luís

---

OMAR G. ENCARNACIÓN is a professor of political studies at Bard College. He is the author of *Out in the Periphery: Latin America’s Gay Rights Revolution* (Oxford University Press, 2016).

Rodríguez Zapatero made LGBT rights a priority of his foreign policy in Latin America. In 2013, soon after Britain legalized same-sex marriage, Prime Minister David Cameron said he intended to “export” it around the world.

## POLITICS OF PERSUASION

Attempts by the West to promote gay rights at the global level are anchored on one grand strategy: promoting gay rights as human rights, notwithstanding the fact that the 1948 Universal Declaration of Human Rights makes no reference whatsoever to sexual orientation. As with the selling of human rights to many parts of the non-Western world in the postwar years, the key mechanism for the promotion of gay rights as human rights is “international socialization.” This process, generally understood by political scientists as the means by which nations are induced into accepting human rights norms, first employs persuasion to press its goals before shifting to more coercive measures such as shaming and sanctions. Obama appears to have eagerly embraced the job of international socializer in chief when it comes to spreading the virtues of LGBT equality.

A speech that Obama delivered before the United Nations General Assembly in October 2011 is usually cited as the opening move in his administration’s attempt to make gay rights a universal human rights norm. In that address, which was the first time that a US president mentioned gay rights in a speech to the General Assembly, Obama stated: “No country should deny people their rights to freedom of speech and freedom of religion, but also no country should deny people their rights because of who they love, which is why we must stand up for the rights of gays and lesbians everywhere.”

Obama followed up his speech with an executive order mandating that all government agencies engaged abroad “ensure that US diplomacy and foreign assistance promote and protect the human rights of LGBT persons.” The order further directed them to combat criminalization of LGBT status or conduct and to protect vulnerable refugees and asylum seekers. It assigned the State Department to lead other agencies in engaging international organizations in the fight against LGBT discrimination and formulating decisive US

responses to human rights abuses of LGBT people in other countries.

Following the UN address, the Obama administration turned its attention to an international accord, the UN Resolution on Human Rights, Sexual Orientation, and Gender Identity, which is intended to serve as the foundation for ending anti-gay discrimination around the globe. With the support of the European Union and several Latin American countries, Clinton laid the groundwork for the resolution, which was signed in November 2011. The document expresses “grave concern at acts of violence and discrimination in all regions of the world committed against individuals because of their sexual orientation and gender identity.” It also establishes a protocol for documenting human rights abuses against gays.

This resolution was the first time a UN body formally recognized gay rights as human rights. It also signaled a sea change in American policy. In 2008, during the administration of President

George W. Bush, the United States joined Russia, China, the Vatican, and most of the Muslim world to defeat an earlier gay rights resolution. Concerns over what the resolution might mean for gay rights in the United States (for example, that

it could force the government into recognizing same-sex marriages) led the Bush administration to oppose it.

To mark the occasion of the UN resolution’s signing, Clinton gave what is today regarded as a landmark speech on gay rights. Speaking in Geneva at the UN Human Rights Council’s headquarters, Clinton declared: “Like being a woman, like being a racial, religious, tribal, or ethnic minority, being LGBT does not make you less human. Gay rights are human rights, and human rights are gay rights . . . no practice or tradition trumps the human rights that belong to all of us.” She condemned anti-gay discrimination and violence, and dismissed those who view gay rights as a Western invention.

Upon her return to Washington, Clinton announced that the State Department would extend pride celebrations from Washington to US embassies across the world. She also formally recognized existing gay organizations within the department, such as Gays and Lesbians in Foreign Affairs Agencies (GLIFAA). In 2012, on the twen-

---

*The spate of setbacks for gay rights across the world is for the most part a reaction to the pressure being exerted by the West.*

---

tieth anniversary of its formation, GLIFAA was recognized at a gathering hosted by Clinton. She thanked the members for their “courageous actions in the face of historic discrimination,” referring to a former ban on openly gay personnel in the US Foreign Service, which had remained in effect until 1992. Clinton also encouraged American diplomats to go out into the world and promote gay rights even if this ruffled some feathers in their host countries.

But the 2011 UN gay rights resolution was not cheered everywhere. It is telling that the bulk of African and Muslim nations voted as a single bloc against the resolution, which they regarded as a form of cultural imperialism. A statement from the UN Islamic group, comprising some 50 nations, denounced the resolution as an attempt by Western nations to assign “fundamental human rights status” to “abnormal sexual behavior.” This attitude suggests that persuasion alone is unlikely to bring the world to accept gay rights as human rights, especially in those countries where the idea of human rights itself remains contested.

## LATIN TRANSFORMATION

It is premature to gauge the full impact of the developed West’s effort to sell gay rights to the developing world, but the early returns are not auspicious. The most positive response has come from Latin America, where a gay rights revolution is afoot.

Since 2010, Argentina, Brazil, Uruguay, and several Mexican states have legalized same-sex marriage, while Chile, Colombia, Bolivia, and Ecuador have legalized same-sex civil unions. Perhaps more importantly, since 2008, when Panama rescinded its anti-sodomy law, the region has completely decriminalized homosexuality. Most countries in the region now have laws against anti-gay discrimination on their books—even Cuba, historically Latin America’s most hostile country for homosexuals. These advances, according to the Pew Research Center, make the Americas, together with Western Europe, the most advanced regions of the world when it comes to LGBT rights.

Latin America’s progress reflects efforts by Spain in recent years to promote LGBT rights across the Spanish-speaking world. In what some have referred to as “progressive colonialism,” between 2004 and 2008 the Spanish government, under the Socialist administration of Zapatero, spent more than \$2 million promoting LGBT

rights in Latin America, including some \$100,000 backing a successful campaign to legalize same-sex marriage in Argentina. Not by accident, the campaigns for same-sex marriage in Spain and Argentina shared a slogan: “The same name with the same rights.”

Since 2008, the United States has also become active in Latin America with initiatives such as one, started under Clinton’s auspices, that links gay activists with their US counterparts in hopes that this would improve the effectiveness of gay rights activism in the region. It would be erroneous, however, to see Latin America’s recent progress on LGBT rights as a consequence primarily of external influence from either Europe or the United States. For one thing, most of Latin America decriminalized homosexuality in the late nineteenth century (influenced by France’s Napoleonic civil code), more than a century ahead of the United States and Britain. Unlike Africans, therefore, Latin Americans did not have to start the contemporary struggle for gay rights from scratch by fighting for decriminalization.

In fact, gay rights began to develop in Latin America well before Spain exerted any pressure on the region to advance the cause. Latin America’s first gay rights ordinance, a clause in the municipal constitution of Buenos Aires banning anti-gay discrimination, was introduced in 1996 without any external interference. This achievement was part of the struggle for human rights in Argentina that arose from the horrors of that country’s Dirty War in the 1970s and early 1980s, when thousands were killed under the military dictatorship. Other gay rights advances, including same-sex marriage legalization, have come as a result of favorable region-wide trends, such as the deepening of democracy, the growing independence of the courts, the increasing secularization of the general public, and the rise of a vibrant civil society (including a thriving gay rights movement).

## AFRICAN BACKLASH

Beyond Latin America, efforts by the developed West to promote gay rights appear to have had very little positive impact. Indeed, the picture for gay rights elsewhere has darkened dramatically since Western nations began their gay rights crusade. Since 2013, the world has witnessed an unprecedented wave of homophobic legislation.

Nowhere is this backlash more evident than in Africa, where a serious push against gay rights is underway. (The exception is South Africa, which

legalized same-sex marriage in 2005, in compliance with the 1996 post-apartheid constitution's ban on all forms of discrimination.) The front line of this African backlash is Uganda, whose parliament debated in 2009 an infamous "kill the gays bill," which called for the death penalty for gays and sentences of up to seven years in prison for family and friends who failed to report them to the authorities. Copycat versions of the bill soon appeared in other African nations, including Senegal, Nigeria, Malawi, and Mali.

By and large, the West's response to this odious bill—eventually signed into law in 2014, though without the capital punishment provision—was to shame and coerce the Ugandans into changing their minds. Obama denounced the legislation as "a serious setback for anyone committed to freedom, justice, and human rights." Cameron threatened to cut off all foreign aid to Uganda, a step already taken by Denmark, Sweden, Norway, and the Netherlands. The World Bank put on hold a \$90 million loan pending a review of Uganda's gay rights record, while the European Parliament voted to deny visas to Ugandan politicians and to recommend economic sanctions amounting to some 460 million euros, though these never went into effect.

In visits to the African continent, Obama has lectured leaders about their failure to respect the dignity of gay people and has urged them to give gays the same civil protections as other citizens. He has often prefaced his comments by comparing oppressive anti-LGBT laws in Africa with the history of institutionalized racism in the United States. More often than not, Obama's comments on gay rights have drawn rebukes from African leaders. One notable clash took place during his 2013 visit to Senegal, when President Macky Sall told him that the country was in no hurry to decriminalize homosexuality, alluding to Obama's own slow evolution toward endorsing gay marriage rights. Before traveling to Kenya in July 2015, Obama was advised not to raise the issue of gay rights with his Kenyan hosts, but he ignored the warning.

### SPREADING SETBACKS

The backlash is not restricted to Africa. In 2013, Russian President Vladimir Putin signed a law that punishes with arrest and fines anyone who promotes homosexuality, bisexuality, or transgenderism. The law is written so broadly that, in principle, it outlaws pride parades, public

displays of affection, and the rainbow flag. Even a public acknowledgment of one's sexual orientation, unless made in a way that casts homosexuality in a negative light, could be regarded as a violation of the Russian law.

Also in 2013, India's Supreme Court reinstated a colonial-era prohibition on homosexual sex. This ruling alone nearly doubled the number of gay people in the world who can be imprisoned for their sexuality. It is also significant because it stands in striking contrast to numerous recent rulings around the world expanding gay rights, such as those of the high courts in Brazil, Mexico, and the United States that have established a constitutional right to same-sex marriage.

In 2014, Iran conducted a series of public hangings of gay men, resuming enforcement of laws that deem homosexuality a crime punishable by death. Sharia judges in Iraq and Nigeria began sentencing people to death for engaging in homosexual behavior. In Egypt, eight gay men were convicted and sentenced to three years in prison for "inciting debauchery" after the authorities identified them in an Internet video of an alleged gay wedding on a cruise down the Nile. Nigeria and Gambia enacted anti-gay laws virtually identical to Uganda's. These new laws have brought the number of African countries that classify homosexuality as a crime to 38, more than ever before.

This spate of setbacks for gay rights across the world is for the most part a reaction to the pressure being exerted by the West. When defending their harsh anti-gay legislation, Ugandan legislators claim to be protecting children from Western influence, contending, without any evidence, that foreigners were coming into Uganda and spending millions of dollars to recruit children into homosexuality. Russia's leaders, too, defended their attack on homosexuality as a necessary action to protect Russian values from the baleful influence of Western liberalism.

### GAY DIPLOMACY'S CRITICS

The increasingly troubled picture for gay rights in many parts of the world provides much fodder for critics of international rights promotion policies. Some conservatives have questioned whether gay rights deserve to be elevated to the upper echelons of US foreign policy priorities. Critics point to the possibility that pressuring developing nations on the issue of LGBT rights could push them into the arms of China, which places no

human rights conditions whatsoever on its economic aid.

Peter Sprigg, a senior fellow at the Family Research Council, a Christian conservative group, has accused the Obama administration of engaging in “cultural imperialism.” In a 2011 interview with Reuters, Sprigg said, “It is startling that President Obama is prepared to throw the full weight and reputation of the United States behind the promotion overseas of the radical ideology of the sexual revolution.”

This view chimes with the pushback that has come from other countries. In 2011, after the US ambassador to El Salvador, Mari Carmen Aponte, wrote a letter to a local paper urging Salvadorans to support LGBT rights, local politicians complained to Washington that she was “disregarding our profound Christian values rooted in natural law by trying to impose a new vision of foreign and bizarre values, completely alien to our moral fiber, intending to disguise this as human rights.”

On the left, critics have raised concerns over “pink washing,” or the convenient use of gay rights to distract attention from illiberal behavior on other fronts. Columbia law professor Kathleen Franke made this case in a 2012 piece for *Tikkun* magazine: “As some states expand their laws protecting the rights of LGBT people, pink washing has become an effective tool to portray a progressive reputation when their other policies relating to national security, immigration, income inequality, and militarism are anything but progressive.” The Obama administration, in her view, has utilized this strategy to deflect attention from policies such as the use of drones overseas to kill US citizens deemed terrorist threats.

## UNINTENDED CONSEQUENCES

The most damning criticism of gay rights diplomacy, however, is based on what is actually taking place on the ground. There is little question that the West’s good intentions have unintentionally exposed gay people abroad to unprecedented levels of discrimination and even lethal violence.

Human rights organizations have reported a spike in violence toward homosexuals in the very places where Obama, Clinton, and Cameron have been pressing their gay rights agenda. In January 2011, amid the parliamentary debate over Uganda’s

anti-gay bill, a prominent Ugandan gay activist, David Kato, was bludgeoned to death in his home after a local tabloid accused him of being part of a group of homosexuals involved in an international plot to corrupt Ugandan society. The article ran under a headline demanding, “Hang Them.”

Less apparent, but no less serious, is the reality that in many African countries international gay rights advocacy has lifted the veil from an issue long regarded as taboo. This has come at the expense of disrupting a social environment that, while lacking in civil rights protections for gays, allowed them to exist without fearing for their lives and livelihoods.

Following her December 2011 Geneva speech, Clinton said that American foreign aid would be conditioned on recipient countries’ LGBT rights record. This unleashed a debate about homosexuality across Africa that for the most part was counterproductive. In Liberia, for example, within days of Clinton’s remarks a flurry of anti-gay bills was introduced in the parliament—including one

that would make gay marriage a first-degree felony—and there were reports of anti-gay violence across the country.

While homosexuality was already illegal in Liberia, no convictions had been handed

down in recent years and the State Department had no data on any previous instances of anti-gay violence in the country. According to a 2012 article in the *Atlantic*, Liberia’s LGBT community was “dismayed at how their world has been turned upside down by the good intentions of the West. . . . [F]or the most part, they had previously been able to live in peace—unaccepted to be sure, but underground and unmolested. They now wonder if the American plan to help them will leave them worse off.”

## A TOXIC EXPORT

Gay rights diplomacy is also helping export America’s toxic culture wars to the developing world. US diplomats increasingly find themselves battling local groups backed by US-based anti-gay organizations that have recently extended their reach into parts of Africa, Latin America, and Asia. Having suffered major setbacks at home, especially on the issue of same-sex marriage, these groups are now in search of greener pastures and new audiences for their message.

---

*Persuasion alone is unlikely to bring the world to accept gay rights as human rights.*

---

Behind the anti-gay laws recently enacted in Uganda and Russia are American evangelical missionaries who for several years have been fanning the flames of homophobia around the globe. The most notorious of these missionaries is Scott Douglas Lively, an evangelical pastor from Springfield, Massachusetts. He is the president of Abiding Truth Ministries, an organization known mostly for its opposition to LGBT rights and its promotion of “ex-gay” conversion therapy. Before the spate of harsh new laws in 2013, Lively traveled extensively throughout Russia and Africa warning locals about the coming of “an international gay conspiracy.” He is being sued by gay activists in a US federal court for alleged crimes against humanity.

### A NEW APPROACH

Barely a decade old, the global effort to promote gay rights is in need of retooling. Two corrective measures are worth considering. First, the United States should not be the face of the effort to sell gay rights to the developing world, given its history of colonialism and imperialism, and the fact that until recently it was not known for its liberal outlook on homosexuality. The United States did not eliminate sodomy laws until 2003, when the Supreme Court struck down the last of them in *Lawrence v. Texas*, and a federal ban on same-sex marriage was in place until 2013. More importantly, the United States is intimately associated these days with international homophobic activism by religious groups, undercutting its gay-friendly image.

Developing countries where gay rights have taken root might be better suited to lead the

global struggle. This is already happening. It was Brazil that spearheaded the UN gay rights resolution. But such efforts need to be strengthened, especially when it comes to calling out countries for their embrace of overtly homophobic policies. Countries like Argentina and Brazil would find it easier to confront the likes of Russia and Uganda on gay rights, if only because the issue of “cultural imperialism” would be defused.

A less direct approach to promoting gay rights is also in order. It is clear that the heavy-handedness of recent years is not working. On the contrary, it is emboldening countries to flaunt their worst homophobic tendencies.

In this regard, the recent Latin American experience is instructive. The climate for homosexuality in Latin America was one of the world’s darkest during the Cold War, when gays were targeted by bloodthirsty military dictatorships for their sexuality as much as for their politics. Today the region is much more tolerant. Neither pressure nor encouragement from abroad brought that about. It was the advent of democracy, and the strengthening of civil society and the rule of law, that had the biggest impact. The lesson from Latin America is that as long as the West remains invested in supporting democracy and civil society abroad, it will also be nurturing the development of gay rights.

To be sure, democracy promotion is hardly immune from the accusation that it is a form of external meddling, or worse yet, Western imperialism. But it is less likely to be resisted than out-right gay rights advocacy. It is also more likely to be effective at promoting gay rights. ■