

Scott Busby, Acting Principal Deputy Assistant Secretary, Bureau of Democracy, Human Rights, and Labor

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Advancing and Protecting LGBTQI+ Rights Abroad

Chairman Meeks, Ranking Member McCaul, and distinguished Members of the Committee, thank you for the opportunity to appear before you today to testify on advancing and protecting the human rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) persons abroad. I would like to thank the Committee for its continued leadership in advancing U.S. interests and values, which we view as inseparable, and supporting and promoting human rights and fundamental freedoms across the globe. Your work and this hearing help to demonstrate that the protection of human rights and fundamental freedoms for all, including LGBTQI+ persons, remains central to American foreign policy.

As President Biden has stated, it is the “the policy of the United States to pursue an end to violence and discrimination on the basis of sexual orientation, gender identity or expression, or sex characteristics, and to lead by the power of our example in the cause of advancing the human rights of LGBTQI+ persons around the world.” Although the United States still has important work of our own to do, we will continue to strive to lead by example in the promotion of the human rights of LGBTQI+ persons, and all persons.

The Department of State recognizes that clear and consistent leadership in the promotion and protection of the human rights of LGBTQI+ persons around the world is critical. As such, we endeavor to combat the violence and abuse, criminalization, discrimination, and stigma targeting LGBTQI+ persons abroad. We believe that supporting and empowering local LGBTQI+ movements and persons is crucial to this effort. The democratic backsliding currently occurring around the world not only threatens global security but disproportionately affects vulnerable and marginalized populations, including LGBTQI+ persons. The COVID-19 pandemic has also brought new challenges for LGBTQI+ persons and members of other marginalized groups who have become frequent targets of scapegoating, disinformation, and violence while they are also disproportionately impacted by the pandemic itself.

As emphasized by President Biden and Secretary Blinken, the protection and promotion of the human rights of LGBTQI+ persons is a U.S. foreign policy priority. The U.S. Government advances this work with a broad range of diplomatic engagement and programmatic support. These efforts take place in partnership with global civil society in the spirit of “do no harm” and “nothing about us, without us” to ensure efforts do not contribute to backlash or negative repercussions for members of local LGBTQI+ communities.

The Presidential Memorandum

On February 4, President Biden issued the Presidential Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) Persons Around the World. Building on a similar memorandum issued by President Obama in 2011, this memorandum directs executive departments and agencies engaged abroad to ensure that United States diplomacy and foreign assistance promote and protect the human rights of LGBTQI+ persons everywhere.

The policy goals laid out in the memorandum include advancing the human rights of LGBTQI+ persons through combating criminalization of individuals on the basis of LGBTQI+ status or conduct; protecting vulnerable LGBTQI+ refugees and asylum seekers; leveraging foreign assistance to protect the human rights of and advance nondiscrimination against LGBTQI+ persons; bolstering multilateral engagement; and rescinding policies inconsistent with the memorandum. Beyond implementing these lines of effort, the Department of State has also supported the mainstreaming of LGBTQI+ issues into policy priorities across the Department, including with the Offices of Global Women's Issues, International Religious Freedom, and the U.S. Global AIDS Coordinator. The Department also works with the National Security Council (NSC) and the interagency to advance these objectives and leads global reporting, including from U.S. missions abroad, as specified in the memorandum.

Global Areas of Concern

The Department is committed to addressing the persistence of, and lack of accountability for, violence and abuse perpetrated against LGBTQI+ persons--which include women, girls, and gender diverse persons, members of racial, ethnic, and religious minority groups, migrants, refugees, older persons, and persons with disabilities--around the world. This violence, abuse and impunity often correspond with political developments curtailing the human rights of LGBTQI+ persons, the erosion of space for civil society, and the undermining of judicial independence and respect for rule of law. U.S. engagement on these issues is informed by local contexts and the recommendations of local civil society and community members. The Department leads both public and private diplomacy and funds programs to advance the human rights of LGBTQI+ persons.

I will spotlight concerns in a number of countries across the globe although the countries described below are just examples of broader concerns in many more countries :

Middle East and North Africa

The Middle East and North Africa is one of the regions of the world where the rights of LGBTQI+ are most under threat. In **Iran**, for example, the law criminalizes consensual same-sex sexual activity, which is punishable by death, flogging, or a lesser punishment. The law does not distinguish between consensual and nonconsensual same-sex intercourse, leading to reports of survivors being punished under the law in cases of assault. Those accused of "sodomy" often face summary trials. NGOs report that individuals arrested under such charges are subjected to forced anal or sodomy examinations. Security forces harass, arrest, and detain individuals they suspect of

being LGBTQI+. Civil society has also reported cases of forced and coerced gender reassignment surgery for transgender and cisgender persons.

In **Saudi Arabia**, consensual same-sex sexual conduct is illegal and, in some cases, is punishable by death or flogging. There are severe restrictions on gender expression that impact LGBTQI+ persons, and transgender persons in particular. LGBTQI+ organizations cannot operate openly. Reports continue of physical violence and harassment based on sexual orientation or gender identity, as well as of official and societal discrimination in employment, housing, access to education, and health care.

In **Egypt**, while the law does not explicitly criminalize consensual same-sex sexual activity, police sometimes arrest LGBTQI+ persons on charges such as “debauchery,” and “violating the family values.” Egyptian law provides for prison sentences of up to 10 years for those violations through accumulation of charges. There are instances of law enforcement actively targeting LGBTQI+ people under such provisions. Discrimination and social stigma impose barriers to LGBTQI+ persons’ organizing and advocating publicly in defense of their rights. Advocacy groups have reported cases of forced anal exams, and there continue to be reports of arrests, harassment, and abuse of LGBTQI+ individuals by security forces.

Tunisia criminalizes same-sex sexual acts under its penal code and continues to prosecute and imprison LGBTQI+ individuals for so-called “morality crimes,” sometimes using coerced anal examinations against individuals charged under the penal code. Media frequently reports incidents of violence or abuse against LGBTQI+ individuals committed or left unpunished by police officers. We are heartened that Tunisia recently allowed the UN Independent Expert on Sexual Orientation & Gender Identity to visit the country and recommend changes, and we are working closely with that government to encourage such changes.

Sub-Saharan Africa

The rights of LGBTQI+ persons are also under threat in a number of African countries.

In **Cameroon**, for instance, consensual same-sex sexual conduct is illegal. Over the course of the past year, nongovernmental stakeholders have reported an apparent uptick in arrests of, and police activity against, LGBTQI+ persons, including reports of forced anal examinations. In May, two transgender women were sentenced to five years in prison and fined for “attempted homosexuality,” the maximum sentence in a troubling case.

In **Ghana**, same-sex sexual conduct is criminalized but infrequently prosecuted. Nevertheless, 2021 has seen a crackdown on LGBTQI+ human rights defenders and a spike in protests against the community. Earlier this year, some senior government officials and religious leaders made inflammatory statements. Local LGBTQI+ groups and persons have reported harassment, arrests, and raids of their offices by police. On May 20, 2021 police arrested 21 LGBTQI+ defenders who were attending a private conference in the city of Ho on potentially serious charges including unlawful assembly, conspiracy to commit a crime, and acts of “unnatural carnal knowledge.” They were repeatedly denied bail for three weeks until the High Court approved bail on June 11. The case remains pending.

In **Uganda**, same-sex sexual conduct is criminalized, and this year Parliament passed a new law that, if signed, could increase the punishment for such acts. On May 31, 2021, 44 persons at a LGBTQI+ shelter were arrested for violating covid restrictions. Some of them were subjected to forced anal exams. They were later released on bail.

In **Kenya**, same sex sexual activity is criminalized under the Penal Code. Police continue to arrest LGBTQI+ persons under these provisions as well as public order laws. At the same time, Kenya is the only country in the region to offer refugee protections based on sexual orientation or gender identity. While the majority of LGBTQI+ refugees and asylum seekers live in relative safety and security, there have been reports of violence and harassment of LGBTQI+ refugees, particularly at Kakuma refugee camp.

Western Hemisphere

In the Western hemisphere, there has been significant progress in protecting and promoting the rights of LGBTQI+ person but challenges remain in some parts of the region. For instance, consensual same-sex relations between adults are criminalized in most **Caribbean** countries including **St. Lucia, Barbados** and **Guyana**, although such laws are not always enforced. In Guyana, in 2018, civil society's advocacy efforts helped overturn a law against cross dressing that was aimed at transgender individuals.

In **Brazil**, violence and discrimination against LGBTQI+ persons persists, particularly for transgender and other gender diverse people, as well as LGBTQI+ persons of African descent. Civil society reports that in 2020 the number of transgender people killed rose by 70%. Despite political and policy gains—including a 2020 ruling by the Supreme Court that made transphobia and homophobia criminal offenses and the election of the most openly LGBTQI+ candidates in Brazil's history during the last municipal elections -- LGBTQI+ human rights defenders, including elected officials, remain under threat.

East Asia and the Pacific

Challenges to the rights of LGBTQI+ persons also continue in parts of East Asia and the Pacific. In **Indonesia**, for example, same-sex relations are not criminalized at the national level, nevertheless law enforcement officials have used vague legal provisions to target LGBTQI+ persons, and local and subregional campaigns have sought to advance the use of conversion therapy. In some provinces, same-sex sexual relations are illegal. Public caning has been used in Aceh province as recently as January 2021 as punishment for the violation of such prohibitions. LGBTQI+ persons widely report experiencing violence and a fear of reporting such incidents to law enforcement. Civil society and human rights defenders advocating for the rights of LGBTQI+ persons have bravely called for tolerance and an end to violence, discrimination, and stigmatization.

Singapore criminalizes consensual same-sex relations and has no laws that explicitly protect LGBTQI+ persons from discrimination based on gender identity or expression and sexual orientation. Media censorship of LGBTQI+ persons continues to result in underrepresentation, negative stereotypes, and stigmatization of the LGBTQI+ community. The government of

Singapore restricts public statements that it contends undermine social or religious harmony, as well as public gatherings, which limits the ability of Singaporeans, including LGBTQI+ persons, to organize and advocate for their rights.

Central Asia

In **Kazakhstan**, while the legal framework is generally tolerant of LGBTQI+ persons, the Department is concerned about continued cases of abuse and violence against such persons. These include the recent reports of verbal and physical attacks against LGBTQI+ activists in Shymkent in late May 2021 by both citizens and uniformed police, and the subsequent litany of death threats that these persons, and other members of the LGBTQI+ community, received thereafter. LGBTQI+ persons are reluctant to report such issues to law enforcement agencies as they fear hostility, ridicule, and violence.

In **Uzbekistan**, consensual same-sex sexual conduct between men is criminalized and punishable by up to three years' imprisonment if convicted. In addition to criminalization, the Department remains concerned about the absence of anti-discrimination legislation to protect members of the LGBTQI+ community from housing, employment, and other types of discrimination. LGBTQI+ activists continue to report harassment from police and extortion through blackmail schemes. Members of the community face deeply negative social attitudes related to sexual orientation and gender identity, which limits their freedom of expression and leads to further discrimination. This includes the violence from anti-LGBTQI+ Tashkent protestors in late March 2021 and the discriminatory rhetoric from some government officials that followed.

Europe and Eurasia

In **Russia**, we remain concerned by the application of a law banning so-called LGBTQI+ “propaganda,” which continues to be used as a pretext to restrict freedom of expression and assembly rights for LGBTQI+ persons. The Department continues to play a leading role in the response to the ongoing human rights crisis in the Russian Federation's Republic of **Chechnya**, where campaigns of torture and extrajudicial killings, including against LGBTQI+ persons, and abductions targeting those perceived as critical of Chechen authorities continue with impunity. We continue to press the issue at the Organization for Security and Cooperation in Europe following the December 2018 Moscow Mechanism expert report cataloguing these abuses. We make robust use of sanctions authorities to impose costs on the Kadyrov regime in Chechnya for its abuses, including the December 2020 Global Magnitsky designations of Kadyrov's foundation, fight clubs, soccer team, and affiliated individuals and entities.

In **Turkey**, LGBTQI+ individuals face discrimination, intimidation, and violent crimes. Last year, human rights groups reported that police and prosecutors frequently failed to pursue cases of violence against LGBTQI+ persons or accepted justification for perpetrators' actions. Judges routinely applied the law to reduce the sentences of persons who killed LGBTQI+ individuals. Hate speech from senior government officials has increased. After a Bogazici University student art exhibit showed an image of the Ka'aba with rainbows, President Erdogan and other high-level officials made anti-LGBTQI+ statements, erroneously portraying student protests as LGBTQI+ rallies in an effort to reduce public support.

In **Azerbaijan**, LGBTQI+ individuals experience discrimination, incidents of police brutality, and violent crimes, including family-based violence. In previous years, there were also reports that men who acknowledged or were suspected of being LGBTQI+ during medical examinations for conscription were sometimes subjected to rectal examinations and often found unqualified for military service on the grounds that they were mentally ill. There were recent reports about street attacks against LGBTQI+ individuals in Baku.

With regard to European Union member states, in **Hungary** the Department has expressed deep concern that the **Hungarian** parliament on June 15 passed a law prohibiting so-called “LGBTI propaganda.” The law bans public discussion and portrayals of LGBTQI+ persons. In **Poland**, several senior government officials made public homophobic or anti-LGBTQI+ statements during the 2020 presidential election. Since 2019 more than 90 local governments have passed legally nonbinding “Family Rights Charters” or “anti-LGBTI ideology” resolutions which frame “family values” in a way that excludes LGBTQI+ persons.

Challenges Facing Transgender Persons

While progress has been made, human rights abuses against transgender persons, particularly trans women of color and non-binary persons, remain all too common in many countries around the world. In 2020, there was a marked increase in the number of murders of transgender persons globally, with the majority happening in Central and South America, and the highest number of murders in a single country reported in Brazil. The Department is deeply concerned by the unique challenges faced by transgender communities, which include threats and acts of violence based on individuals’ gender identity and/or expression (particularly for transgender women of color), a lack of legal recognition, protections and access to justice, and limited support for safe livelihoods. In many countries, transgender persons face high barriers to legally changing their name and/or gender marker and are subjected to forced sterilization and compulsory psychological treatment. In its efforts to promote and protect the human rights of transgender and other gender diverse persons, the Department has consulted LGBTQI+ rights groups to better understand the priority needs of the community and has supported increased visibility and empowerment of transgender persons, including through the Department’s first public statement recognizing International Transgender Day of Visibility on March 31, 2021. (President Biden issued a similar statement.) The Department is also hosting a side event on Combatting Violence Against Transgender Women on June 23, at the UN Human Rights Council.

The Department, through DRL, also supports programming that addresses the distinct needs of transgender and other gender diverse people and that mainstreams consideration of gender identity and expression across programming.

State Department’s Policy Responses

Diplomatically, the United States advances the human rights of LGBTQI+ persons through bilateral and multilateral channels—raising official concerns with governments both publicly and privately—and coordinates policy messaging with like-minded countries. To further reaffirm the U.S. government’s commitment to advancing respect for the dignity and human rights of all, the Biden administration will appoint a Special Envoy on the Human Rights of LGBTQI+ persons to

focus U.S. efforts and strengthen partnerships with civil society and like-minded governments to address violence and discrimination against LGBTQI+ communities abroad.

As reflected in the presidential memorandum, a priority of the Department has been working with governments across the globe to encourage the repeal or elimination of laws in the roughly 71 countries that criminalize LGBTQI+ status and/or conduct. Our global approach to decriminalization is also done in direct consultation with civil society so as not to do harm to those we seek to help.

Multilaterally, the Department supports and amplifies the work of the UN Independent Expert on Sexual Orientation and Gender Identity, participates in the New York-based UN LGBTI Core Group, the new Group of Friends on Sexual Orientation & Gender Identity in Geneva, and the Organization of American State's LGBTI Core Group, utilizing these and other coordinating bodies to build strong cross-regional support for and attention to the human rights of LGBTQI+ persons across the multilateral system. The Department, through the Bureau of International Organization Affairs (IO), USUN, and U.S. Mission Geneva works with like-minded states to encourage and support specific actions including joint statements, declarations, side events, reports, and resolutions in various multilateral fora, including at UN bodies and regional organizations, as appropriate. Our decision to seek membership once again in the UN Human Rights Council will give us greater ability to do so. At the 57-nation Organization for Security and Cooperation in Europe, the United States and likeminded other participating States deliver interventions and engage in other activities in defense and promotion of the dignity and human rights of LGBTQI+ persons in meetings of the Permanent Council, the annual Human Dimension Implementation Meeting, and other OSCE events.

The Department, through DRL and IO, also represents the U.S. as a member of, and works with, the leadership of the Equal Rights Coalition—an intergovernmental coalition that protects the rights of LGBTQI+ persons, and promotes inclusive development in both member and non-member countries—to strengthen its capacity and increase its membership. The United Kingdom and Argentina currently co-chair the ERC, whose members include 42 governments from Africa, Europe, Asia, Oceania, and the Americas. ERC members undertake joint demarches and public events in support of the human rights of LGBTQI+ persons. Under President Biden, we are looking to strengthen our engagement in this body.

State Department's Programming Responses

In support of the Biden Administration's foreign policy, DRL and USAID programming empowers local LGBTQI+ movements and addresses the barriers to full human rights created by violence and human rights abuse, discrimination, exclusion, and criminalization based on sexual orientation, gender identity and expression, and sex characteristics.

Present across 100+ countries, DRL programming is demand-driven, locally led, and leverages common strategies used by civil society to prevent and respond to human rights violations and

abuses. DRL provides support and empowerment while civil society leads and shapes programs according to the needs of local communities navigating complex and challenging contexts. DRL supports intersectional programming and requires all its programming to demonstrate deliberate analysis, integration, and investment in LGBTQI+ individuals and communities. DRL provides support for increased visibility and empowerment of queer women, transgender and other gender diverse people, intersex people, and members of other marginalized LGBTQI+ communities. Through the Collaborative Migration Management Strategy, the United States will also support protections for vulnerable displaced persons in the Northern Triangle, including LGBTQI+ individuals, through targeted programming with our international organizations partners.

The United States will continue to lead and administer the Global Equality Fund, a unique and effective public private partnership of government, corporate, and foundation partners who support emergency assistance to LGBTQI+ organizations and persons under threat and human rights programming for grassroots LGBTQI+ organizations to catalyze positive change in more than 100 countries. With the generous support provided by the Congress, the Department will provide \$10 million in Fiscal Year 2021 funds for the Global Equality Fund to support emergency assistance, small grants to local organizations, and longer term human rights programming in its 10th anniversary year.

USAID reflects its commitment to protect LGBTQI+ people from violence and discrimination and advance their human rights through programming and research. The Multi-Donor LGBTI Global Human Rights Initiative (GHRI) leverages the financial and technical contributions of bilateral donors, foundations, nongovernmental organizations, and universities to help protect LGBTQI+ people from violence, discrimination, stigma, and criminalization in nine developing countries. Through the Human Rights Grants Program, USAID/Washington provides funds to Missions to respond to human rights challenges and opportunities faced by LGBTQI+ people. USAID also supports two global research efforts: the LGBT Global Acceptance Index, which analyzes survey data on stigma against LGBT people across time and geography; and the Global Barometer of Gay Rights and Global Barometer of Transgender Rights, which measure the extent to which countries protect or persecute LGBT people across time and geography.

There is clear demand for additional funding to support this programming. According to the Global Philanthropy Project, global LGBTQI+ funding from donor governments accounts for less than .04 percent of international development assistance. Increased foreign assistance and integration of support through existing foreign assistance streams is necessary to meet the current and growing needs of human rights defenders from the global LGBTQI+ community who are increasingly under attack as evidenced by the Department providing 46% more emergency assistance to LGBTQI+ persons over the past year than the one prior.

Conclusion

As we celebrate Pride Month, it is important to observe how far we have come in the fight for LGBTQI+ human rights at home and abroad, while also acknowledging the distance we still have to go. We are proud of our work with local and international partners to build a more inclusive global society for all and to increase the visibility of and address the acute human rights challenges

faced on a daily basis by LGBTQI+ persons. Thank you for the opportunity to speak with you today, and, happy Pride.

