

American Jewish World Service · Asylum Access · The Council for Global Equality · Heartland Alliance for Human Needs and Human Rights · Immigration Equality · International Gay and Lesbian Human Rights Commission · International Rescue Committee · The Hebrew Immigrant Aid Society (HIAS) · Human Rights Campaign · Human Rights First · Mapendo International · Metropolitan Community Churches · The National Center for Lesbian Rights · The National Gay and Lesbian Task Force Action Fund · ORAM – Organization for Refugee, Asylum and Migration · U.S. Committee for Refugees and Immigrants · Women's Refugee Commission

Secretary of State Hillary Rodham Clinton
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

VIA FACSIMILE

31 March 2010

Re: Steps to address the urgent protection needs of LGBTI refugees

Dear Secretary Clinton,

As a diverse group of civil society organizations, we are writing to urge the Department of State to take concrete steps to ensure the protection of individuals who flee persecution due to their sexual orientation or gender identity. We also gratefully acknowledge your personal leadership in advancing the rights of these persecuted individuals.

Over the last year, human rights organizations and the media have documented the serious risks facing lesbian, gay, bisexual, transgender and intersex (LGBTI) refugees – not only the persecution from which they fled, but also the dangers they face in the countries to which they flee in search of refuge. In many countries, LGBTI people face serious violations of their fundamental human rights, including executions, violent attacks and imprisonment because of their sexual orientation or gender identity. In Iraq, LGBTI people are targeted for kidnappings and torture. In Iran, consensual sexual activity between men is punishable by death. The State Department's Annual Human Rights Report this year documents several extreme cases of persecution directed at LGBTI individuals based on their identity alone. Senior State Department officials have recently expressed concern about increased harassment and intimidation of LGBTI persons in Uganda following the introduction of the proposed Anti-Homosexuality Bill. Throughout many parts of Africa, including in Kenya and Malawi, LGBTI people are subject to violence, harassment and arbitrary arrest, making it virtually impossible for them to live openly and without discrimination. In Honduras, nineteen LGBTI people were recently attacked and murdered in the context of the military coup, suggesting a targeted campaign of violence directed toward the LGBTI community.

As LGBTI people flee danger in their own countries and seek safe refuge across national borders, they often find themselves in neighboring countries that criminalize same-sex conduct or condone high levels of violence and discrimination against LGBTI people. Many governments are unable or unwilling to respond to violence directed toward the LGBTI community. As a result, LGBTI refugees often remain underground and face particular barriers when attempting to access refugee status determination procedures as

well as assistance and protection. Recent reports have documented the brutal violence and persecution that LGBTI refugees from Iraq and Iran have faced after fleeing to other countries, such as Turkey, in search of protection. For too long, too little has been done to address the urgent protection needs of these at-risk refugees.

We urge the Department of State to take a number of concrete steps in the four areas outlined below to ensure that LGBTI refugees are adequately protected.

1. Ensure LGBTI refugees can access refugee protection, assistance, and status determination procedures.

- Designate LGBTI refugee protection as a “protection priority” of the Migration and Refugee Assistance Program, enabling the Department to allocate resources and attention to addressing the protection concerns of LGBTI refugees, including through undertaking the following set of actions:
- Provide support to the United Nations High Commissioner for Refugees (UNHCR) to ensure that its protection guidelines, implementing partners and staff identify and are sensitive in responding to the specific vulnerabilities of LGBTI refugees. While UNHCR has begun this process by issuing its 2008 Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity, this Note requires full dissemination and implementation. Additional guidelines are required to ensure LGBTI refugees are protected in practice. UNHCR will likely require additional staff capacity to address these needs;
- Support UNHCR’s recently proposed Roundtable on LGBTI refugees to take place in 2010. Such support will be required to ensure that this consultation is productive, collaborative and leads to useful recommendations;
- Include LGBTI refugee protection concerns in bilateral discussions between the U.S. government and UNHCR, as well as in bilateral discussions with other donor states; and
- Address refugee protection concerns within broader State Department efforts to combat hate crime and homophobia, for example by including activities to promote LGBTI refugee protection in any tool kits or guidance provided to U.S. Embassies on LGBTI rights.

2. Ensure LGBTI refugees are able to access resettlement.

- Support and encourage UNHCR to revise its resettlement handbook and other global resettlement guidelines, which currently do not include any reference to sexual orientation or gender identity-based persecution;
- Provide specific support and guidance to overseas processing entities (OPEs) to enable them to proactively identify and respond to the protection

needs of LGBTI refugees. Ensure that OPE staff are trained on the vulnerabilities of LGBTI people and that they provide environments in which LGBTI applicants feel safe to express their refugee claims; and

- Include concerns of LGBTI refugees in the UNHCR Annual Tripartite Consultations on Resettlement. Encourage other resettlement countries to recognize the protection concerns of LGBTI refugees and ensure that their procedures facilitate the resettlement of this group.

3. Ensure that LGBTI refugees facing imminent harm or danger are safely resettled through expedited processing mechanisms.

- Encourage UNHCR to expedite registration and status determination processing for LGBTI refugees who face imminent harm or danger in locations with known hostility or violence directed towards LGBTI communities;
- Support and encourage UNHCR efforts to develop a tool kit for its field offices and NGOs to utilize UNHCR implementing and operational partners to identify and refer refugees, including LGBTI refugees, with urgent protection needs for resettlement to UNHCR or the U.S. resettlement program (USRAP);
- Provide LGBTI refugees at imminent risk of harm with access to a “fast-track” resettlement process. In this regard, a formal and transparent fast-track process should be put in place to ensure the safety and protection of a range of other refugees, such as potential trafficking victims, who face imminent harm or danger in their countries of first asylum. One potential model is the procedure in place for Iranian religious minorities such as the Baha’i in Turkey;
- In specific situations, such as Iraq, identify LGBTI Iraqis who face imminent risks of harm as eligible to apply for Priority 2 (P2) access to the USRAP without a UNHCR or Embassy referral. For LGBTI individuals targeted within Iraq, this mechanism could serve as a vital protection tool. The Department should also consider whether priority access should also be provided to other persecuted groups in Iraq;
- Ensure that U.S. Embassies, when appropriate, exercise their authority to make refugee resettlement referrals directly to the United States, and that at-risk LGBTI refugees, advocates, and attorneys are aware of this potential access to the USRAP; and
- Identify and support mechanisms to facilitate transport of LGBTI refugees facing imminent danger to safe transit countries or UNHCR emergency transit centers where they can be processed for resettlement in safety, through qualified NGOs. Assess existing UNHCR emergency transit centers to ensure they are sensitive to the protection needs of LGBTI refugees. When an emergency transit center is not practicable, work with the

Department of Homeland Security to initiate humanitarian parole into the United States for individual LGBTI refugees who face imminent risk of harm.

4. Upon resettlement to the United States, ensure that LGBTI refugees are provided with adequate and non-discriminatory support.

- Work with the Office of Refugee Resettlement in the Department of Health and Human Services to encourage national voluntary agencies to identify local affiliates that are equipped to address the particular needs of LGBTI refugees, particularly those who are victims of sexual or gender-based violence, and allow refugees to request placement with such affiliates;
- Enable NGOs to effectively facilitate the resettlement of LGBTI refugees to specific resettlement sites equipped and willing to secure their safe and successful integration; and
- Provide all refugees—regardless of sexual orientation or gender identity—with greater freedom to mutually request resettlement together in the same household with another refugee.

The protection concerns of LGBTI refugees are evident throughout all stages of the refugee identification and resettlement process. In recognition of this reality, we look forward to the opportunity to work with the Bureau of Population, Refugees and Migration to develop a pilot project to resettle LGBTI refugee cases with urgent protection needs. We look forward to discussing this pilot project with your staff at their convenience.

We believe that these measures will address an urgent need by increasing protection for highly vulnerable LGBTI refugees, many of whom face well-documented barriers to existing protection and assistance programs. We are grateful for your leadership in committing the United States as a signatory to the UN Statement on Human Rights, Sexual Orientation and Gender Identity. This provides a unique new opportunity to lead the international community on this issue by taking meaningful steps to protect an increasingly vulnerable refugee population. We look forward to working with you and your staff to make effective protection of LGBTI refugees a reality.

Sincerely,

Ruth Messinger, President
American Jewish World Service

Michael Kagan, Policy Director
Asylum Access

Mark Bromley, Council Chair
The Council for Global Equality

Sid Mohn, President
Heartland Alliance for Human Needs and Human Rights

Rachel B. Tiven, Executive Director
Immigration Equality

Cary Alan Johnson, Executive Director
International Gay and Lesbian Human Rights Commission

George Rupp, President
International Rescue Committee

Gideon Aronoff, President and CEO
The Hebrew Immigrant Aid Society (HIAS)

Joe Solmonese, President
Human Rights Campaign

Elisa Massimino, President and CEO
Human Rights First

Sasha Chanoff, Executive Director
Mapendo International

The Rev. Elder Nancy Wilson, Moderator
Metropolitan Community Churches

Kate Kendell, Executive Director
The National Center for Lesbian Rights

Rea Carey, Executive Director
The National Gay and Lesbian Task Force Action Fund

Neil Grungras, Executive Director
ORAM – Organization for Refuge, Asylum and Migration

Lavinia Limon, President and CEO
U.S. Committee for Refugees and Immigrants

Carolyn Makinson, Executive Director
The Women's Refugee Commission

CC:

Janet Napolitano, Secretary, Department of Homeland Security

Eskinder Negash, Director, Office of Refugee Resettlement

Eric Schwartz, Assistant Secretary of State for Population, Refugees and Migration

Michael H. Posner, Assistant Secretary of State for Democracy, Human Rights and Labor

Samantha Power, Senior Director, Multilateral Affairs and Human Rights, National Security Council

Scott Busby, Director for Human Rights, Office of Multilateral Affairs and Human Rights, National Security Council