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Inclusive of Sexual Orientation and Gender Identity



American ideals. Universal values.

# How to Protect LGBTI Persons around the World from Violence

BLUEPRINT FOR THE NEXT ADMINISTRATION

December 2012

BLUEPRINT  
FOR THE NEXT U.S.  
ADMINISTRATION

## ABOUT HUMAN RIGHTS FIRST

On human rights, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding.

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## ABOUT COUNCIL FOR GLOBAL EQUALITY

Representing a coalition of organizations, the Council for Global Equality encourages a clearer and stronger American voice in response to lesbian, gay, bisexual and transgender (LGBT) issues globally. We insist that those who represent our country—including Congress, the White House, U.S. embassies and U.S. corporations—use the diplomatic, political and economic leverage available to them to oppose human rights abuses that are too often directed at individuals because of their sexual orientation or gender identity. The Council also seeks to increase support for foreign LGBT organizations as vital contributors to our country's national interest through the development of free and vibrant civil societies abroad.

# How to Protect LGBTI Persons around the World from Violence

## BLUEPRINT FOR THE NEXT ADMINISTRATION

*“I want to talk about the work we have left to do to protect one group of people whose human rights are still denied in too many parts of the world today. In many ways, they are an invisible minority. They are arrested, beaten, terrorized, even executed. Many are treated with contempt and violence by their fellow citizens while authorities empowered to protect them look the other way or, too often, even join in the abuse. They are denied opportunities to work and learn, driven from their homes and countries, and forced to suppress or deny who they are to protect themselves from harm. I am talking about gay, lesbian, bisexual and transgender people, human beings born free and given bestowed equality and dignity, who have a right to claim that, which is now one of the remaining human rights challenges of our time.”*

**Secretary of State Hillary Clinton,**  
International Human Rights Day,  
Dec 10, 2011

## Introduction

The United States has unique experience fighting violent hate crime and discrimination, and the protection of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people has become a signature human rights initiative of the Obama Administration.

In 2009, Congress passed the Matthew Shepherd and James Byrd Hate Crime Prevention Act, with bipartisan support and the endorsement of a wide range of constituencies with differing views on LGBTI equality. The law—and the coalition that supported it—is a model of how to marshal the range of U.S. resources to improve responses to all hate crime, including acts of violence based on sexual orientation and gender identity bias.

Secretary of State Hillary Clinton has boldly asserted, “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.” This framework should be used to fight discrimination and hate crimes to address fundamental violations of the rights of LGBTI persons. On December 6, 2011, President Obama transformed those principles into policy by issuing a memorandum that instructs U.S. government agencies engaged abroad to take steps to promote the rights of LGBTI people. It is an important milestone for U.S. leadership on advancing the rights of LGBTI persons, because it engages the full resources of the U.S. government and signals to human rights activists and governments around the world that the United States is prioritizing this issue.

The memorandum calls on U.S. government agencies to take action in five areas:

- **Section 1: Combating criminalization of LGBT status or conduct abroad;**
- **Section 2: Protecting vulnerable LGBT refugees and asylum seekers;**
- **Section 3: Foreign assistance to protect human rights and advance nondiscrimination;**

- **Section 4: Swift and meaningful U.S. responses to human rights abuses of LGBT persons abroad;**
- **Section 5: Engaging international organizations in the fight against LGBT discrimination.**

In his remarks, President Obama noted that he is “deeply concerned about the violence and discrimination targeting LGBT persons around the world—whether it is passing laws that criminalize LGBT status, beating citizens simply for joining peaceful LGBT pride celebrations, or killing men, women, and children for their perceived sexual orientation.”

The president’s concern is well-placed. In many parts of the world LGBTI people suffer discrimination, abuse, and violence. It can be instigated by state actors, particularly in countries that criminalize homosexuality, or by individuals perpetrating assaults and engaged in mob violence. Hate crime violence may be targeted against a specific individual or group, but it has a chilling effect on anyone living in the margins, such as other LGBTI people, refugees and migrants, and other human rights activists, and it often sets off a cascade of other rights violations as well. LGBTI people, including LGBTI refugees, often face unique challenges because of a lack of sensitivity or awareness of their needs within the protection system to access support. Yet, a government’s ability to protect its society from violence is a core benchmark of political and economic development.

The United States has invested in global hate crime prevention efforts because of the moral, political and economic damage caused by spates of targeted violence. In the short-term, it risks tourism, trade, and a focus on positive and inclusive development. Over the longer term, it could expand and erupt, threatening stability. It is important to pay particular attention to LGBTI people, including LGBTI refugees, because of specific obstacles they can face in accessing protection.

The administration is expected to further operationalize and institutionalize the memorandum in the next term, and its strategy to protect LGBTI people from violence should be threefold: focusing on long-term protection mechanisms led by states; collaborating on immediate

protection needs with local civil society organizations; and strengthening U.S. government coordination.

The U.S. experience in creating the framework to tackle hate crimes is instructive.

Globally, the U.S. government has long prioritized the fight against violence and discrimination against religious, ethnic, and other minorities and has sought more recently to use the same human rights framework to address violence and discrimination against LGBTI people. On December 6, 2011, Secretary of State Hillary Clinton spoke in Geneva of the need to “reach a global consensus that recognizes the human rights of LGBT citizens everywhere.”

Implicit in this message is the imperative to combat violence against LGBTI individuals around the world, among other serious rights abuses. Therefore, it is important that global hate crime prevention efforts include strategies to protect all targeted groups, and in some countries, namely LGBTI people. Particular concern for LGBTI refugees is warranted because they may face additional hurdles in accessing protection from authorities.

Partnerships with civil society, including human rights defenders, are a key component of a U.S. government strategy, as Secretary Clinton has championed. By strengthening the role of civil society to conduct advocacy on the protection of LGBTI people, the United States will be helping to advance political development in a way that is cognizant and inclusive of the human rights of LGBTI people.

This blueprint aims to realize some of the objectives of the memorandum by offering concrete recommendations to implement these strategies by addressing both the immediate threats of violence to LGBTI persons, as well as the longer-term challenges of strengthening state responses to this problem.

# How to Protect LGBTI Persons around the World from Violence

## Summary

In issuing the Memorandum on International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual and Transgender Persons, President Obama created a clear policy framework for combating serious rights violations against LGBTI persons. Below is a summary of recommendations for the administration, for operationalizing and institutionalizing the provisions of the memorandum that will help protect LGBTI communities from violence.

### STRENGTHEN PROTECTION BY STATES

- **Challenge laws that criminalize same-sex relations** by: 1) developing individual country strategies, in conjunction with local human rights defenders, to assist states to decriminalize homosexuality; 2) actively discouraging attempts by parliaments to introduce new legislation; 3) encouraging debate and free speech around decriminalization by engaging broad segments of civil society, such as faith, political, human rights, civic, and other influential leaders; 4) supporting efforts to provide legal and other assistance to those whose rights are undermined by such laws; and 5) supporting efforts to document the ways in which such laws violate rights as well as undermine development-related goals.
- **Address impunity for violent acts** by 1) monitoring and raising specific incidents and patterns of hate crime against LGBTI people in the context of bilateral and multilateral engagement; and 2) offering appropriate technical assistance to host countries through bilateral and multilateral programs.

### PROTECT LGBTI PEOPLE FROM IMMEDIATE RISKS OF HARM

- **Support increased capacity for civil society and other local actors to assist LGBTI people with emergency protection needs** by: 1) identifying high risk countries for LGBTI people and developing joint protection strategies with civil society and other partners, including other embassies; 2) building strong relationships with civil society; 3) investing in protection mechanisms such as safe shelter, as identified in the joint protection strategy; and 4) working with U.N. agencies and international partners on strengthening efforts to ensure that LGBTI people have equal access to protection and assistance in their programs.
- **Provide direct assistance to LGBTI people facing immediate risks of violence** by 1) developing a referral system for emergency protection at each embassy; and 2) providing direct assistance, such as financial support for emergency safe shelter, to LGBTI people in imminent danger where no other local capacity exists.
- **Assist individuals who cannot be protected within the country** by: 1) developing a contingency plan to grant access to resettlement or evacuation for LGBTI people facing high risks within their country of origin; 2) strengthening “urgent resettlement” measures, including by developing guidelines for U.S. Refugee Admissions Program (USRAP) partners in each region with target time frames for each step in the resettlement process in order to provide rapid resettlement in as close to two months as possible; 3) strengthening protection mechanisms for LGBTI refugees while they wait to be resettled; and 4) encouraging other countries to grant international protection to individuals fleeing persecution due to sexual orientation and/or gender identity.

## COORDINATING AND MAINSTREAMING ACTION ACROSS AGENCIES

- **Operationalize the “standing group” mandated by the memorandum to be fully functional, meeting regularly, and taking action to protect against violence targeting LGBTI persons.** This standing group would facilitate systematic and regular information-sharing and collaboration among relevant bureaus at the Department of State, Department of Justice, the Agency for International Development, and related agencies “to help ensure the federal government’s swift and meaningful response to serious incidents that threaten the human rights of LGBT persons abroad” as outlined in the memorandum.
- **Task a senior-level official in each of the agencies referenced in the memorandum to lead implementation** so that there is consistent engagement and adequate responses on issues of LGBTI protection.
- **Mainstream the protection of LGBTI people into related U.S. government initiatives** including efforts to combat violence against women. The administration should oversee the inclusion of efforts to protect LGBTI people from violence in relevant initiatives such as the work under the National Action Plan on Women, Peace and Security and the United States Strategy to Prevent and Respond to Gender-Based Violence Globally.
- **Leverage successful U.S. development programs** on police training, economic development, and democratization to strengthen support for LGBTI populations as well. The objectives of many U.S. development assistance programs through the State Department, USAID, the Justice Department, and other agencies are consistent with—and sometimes necessary for—the development of the resources required for states to protect LGBTI people and others from violence. Allocations of U.S. program monies should be consistent with the goals of the memorandum.

# How to Protect LGBTI Persons around the World from Violence

## DETAILS

### STRENGTHEN PROTECTION BY STATES AND INTERNATIONAL ORGANIZATIONS

Approximately 76 countries criminalize same-sex relations. The mere existence of such laws constitutes a grave human rights concern. Where the laws are enforced, they expose victims to violence at every stage of the criminal investigation and adjudication process—often intentionally so in the case of pretrial detention. And even where the laws are not routinely enforced, they still serve to encourage violence as a result of the legal stigmatization of LGBTI individuals, while creating a culture of impunity in response to violence.

A 2011 study by the Office of the High Commissioner for Human Rights noted that:

Special procedures mandate holders have emphasized the link between criminalization and homophobic hate crimes, police abuse, torture, and family and community violence, as well as constraints that criminalization places on work of human rights defenders working to protect the rights of LGBT persons. The Special Rapporteur on health noted that “sanctioned punishment by States reinforces existing prejudices, and legitimizes community violence and police brutality directed at affected individuals.” The Special Rapporteur on extrajudicial executions noted that criminalization increases social stigmatization and made people “more vulnerable to violence and human rights abuses, including death threats and violations of the right to life, which are often committed in a climate of impunity.”

In order to combat criminalization of LGBTI status the administration should:

- **Develop individual country strategies**, in consultation with local stakeholders, to challenge laws that criminalize same-sex relations. Such strategies should be based on analyses of existing discriminatory laws and consider opportunities for changes through legislative, administrative, or executive reform processes.
- **Challenge attempts to introduce new or strengthen existing legislation** that criminalizes same-sex relations. The U.S. government can raise concerns during bilateral engagements, issue consistent press statements focusing on the pending legislation, fund local groups objecting to the legislation as appropriate, and encourage other countries and international bodies to raise concerns.
- **Support the strengthening of local and international political support for decriminalization** by engaging faith, political, human rights, civic, and other influential voices that are willing to voice their opposition to criminalization. Expand efforts by the White House Office of Faith-Based and Neighborhood Initiatives to engage on these issues by encouraging American and other faith leaders to voice their concern about discrimination and violence against LGBTI persons globally.
- **Support legal clinics** that aim to provide legal and other support to those who have been charged under, or whose rights have otherwise been violated in connection with, laws that criminalize same-sex relations.
- **Support documentation efforts** with a view to highlighting the way in which laws that criminalize same-sex relations undermine the human rights of LGBTI people, limit public health and development-related investments, and undermine public trust in the law enforcement and other authorities.

## CHALLENGE IMPUNITY FOR HATE CRIME VIOLENCE

Addressing impunity means improving access to justice for victims of hate crime violence as well as sending a clear public message that hate crime<sup>1</sup> perpetrators will be held accountable. Thus, U.S. efforts to protect LGBTI people around the world need to include measures to strengthen the responses of governments to hate crimes targeting LGBTI people.

Though the manifestations and roots of violence targeting LGBTI persons are unique, efforts to protect LGBTI individuals from targeted violence can in some cases be best advanced through a broader hate crime framework. This approach seeks to strengthen responses to all forms of hate crime violence and involves the collaboration of human rights activists with a wide range of communities.

The essential elements of a comprehensive framework for action for governments to respond to all forms of hate crime are:

- **Acknowledge and condemn acts of hate crime violence whenever they occur;**
- **Strengthen law enforcement and prosecute offenders;**
- **Monitor and report on attacks; and**
- **Reach out to communities affected by violence to reduce fear, assist victims, and improve reporting of incidents.**

These and other important steps are spelled out in Human Rights First's Ten-Point Plan for Combating Hate Crime, which was developed based on years of experience monitoring hate crimes.

The United States can best assist states to implement the provisions of this plan by leveraging the various foreign policy mechanisms at its disposal.

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<sup>1</sup> Hate crimes are acts of violence motivated by bias based on race, religion, ethnicity, national origin, sexual orientation, gender, gender identity, disability, or other similar attributes, or a combination thereof. Hate crimes include acts of defacing property, desecrating graves and places of worship, assault, murder, and intimidation—when verbal threats or threatening behavior place a person or a group of people in fear of harm.

## RECOMMENDATIONS

- **Strengthen monitoring and reporting of incidents of hate crime against LGBTI people.** With accurate reporting, the United States and its civil society partners are better able to demonstrate to host governments the nature and patterns of hate crime violence against LGBTI people.
- **Collaborate closely with local activists and human rights defenders:** Embassy staff should develop relationships with local LGBTI and other human rights organizations to share information on violent hate crimes and the Department of State should continue to include such incidents and patterns of violence in the annual Human Rights Reports. U.S. embassy officials should monitor the course of justice in those cases of particular resonance, including by sending observers to the trials to monitor the court proceedings.
- **Strengthen Department of State monitoring and reporting on hate crime violence:** The Department of State should maintain strong and inclusive monitoring and public reporting on homophobic violence, alongside its work on antisemitic, racist and xenophobic, anti-Muslim, anti-Roma, and other hate crime violence.
- **Raise specific incidents and patterns of hate crime against LGBTI people in bilateral discussions.** Senior State Department officials and embassy staff should press governments through statements and meetings to regularly speak out against hate crimes, in general, condemn hate crimes when they occur, and ensure that perpetrators are held accountable in cases of violent hate crime.
- **Offer appropriate technical assistance and other forms of cooperation to states.** This support may include training of police and prosecutors to investigate, record, report, and prosecute violent hate crimes, and organizing international visitors programs to the United States for representatives of law enforcement, victim communities and legal advocates to facilitate an exchange of skills and expertise in



addressing hate crimes, with a component on LGBTI-specific concerns. USAID programs on police and judicial reform, too, should address the challenges of combating hate crimes, including those targeting LGBTI persons.

- **Increase and expand existing international hate crimes training programs.** The Department of Justice should expand international efforts of the International Criminal Investigative Training Assistance Program (ICITAP) and Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) programming to include regular hate crime-tailored training initiatives for foreign law enforcement and criminal justice personnel. The State Department should work with relevant agencies to expand curricula of the International Law Enforcement Academies to include specific training courses on combating hate crime and related forms of intolerance.

## ENGAGE INTERNATIONAL ORGANIZATIONS IN THE FIGHT AGAINST LGBTI DISCRIMINATION

In March 2011, eighty-five U.N. member states signed a declaration entitled “Ending Violence based on Sexual Orientation and Gender Identity,” which paved the way for a June 2011 Human Rights Council resolution supporting equal rights for all, regardless of sexual orientation or gender identity. On the basis of that resolution, the Office of the High Commissioner for Human Rights produced a ground-breaking report in December 2011 highlighting the need to address discrimination and violence on the basis of sexual orientation and gender identity.

At the same time there have been several resolutions and initiatives at the United Nations aiming to advance “traditional values” at the expense of fundamental human rights, particularly those of women and LGBTI persons. The United States should fight these initiatives.

In multilateral forums, the Department of State should continue to demonstrate international leadership by:

### AT THE UNITED NATIONS:

- Work to expand the coalition of countries that oppose resolutions at the Human Rights Council and the General Assembly that undermine the rights of LGBTI persons under the guise of promoting traditional values;
- Seek the support of new countries to the commitments outlined in the General Assembly declaration on sexual orientation and gender identity as well as the Human Rights Council resolution on sexual orientation and gender identity. Support the process leading to a follow-up resolution at the Human Rights Council in the coming year.
- Continue to seek the inclusion of “sexual orientation and gender identity” language into key U.N. resolutions, such as those on extrajudicial executions.
- Continue to incorporate into the U.N. Human Rights Council’s Universal Periodic Review process (UPR) for each country specific concerns about hate crimes—including those targeting LGBTI persons—and present recommendations for combating them.

### AT THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE):

- Press member states to comply with OSCE commitments on tolerance and nondiscrimination, in particular with the 2009 Decision on Combating Hate Crime.
- Seek formal inclusion of LGBTI equality goals within the human dimension framework of the OSCE.
- Maintain strong support for the organization’s hate crime technical assistance programs.
- Use the recent appointment of the Justice Department’s Civil Rights Division as the designated Hate Crime National Point of Contact to strengthen engagement and leadership in regular meetings of the NPCs and in other related initiatives.

■ Continue to support and monitor UNHCR’s efforts to:

- **Revise its policies and guidance documents to include measures to address the protection challenges faced by LGBTI refugees, internally displaced persons (IDPs), and other persons of concern to UNHCR.** This will increase staff knowledge of the specific challenges LGBTI refugees face and provide practical guidance on steps to take in a range of technical areas such as registration, resettlement, outreach, and protection to address these challenges.
- **Train UNHCR staff and implementing partners** on the protection and assistance of LGBTI refugees and persons of concern.
- **Effectively incorporate LGBTI refugees and other vulnerable groups identified as part of its Age, Gender and Diversity (AGD) approach within its protection and assistance activities in each country.** This includes operationalizing existing UNHCR guidance such as the Need to Know Guidance on Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement to improve access to services, improve physical safety, and strengthen access to durable solutions such as resettlement.

## **PROTECT LGBTI PEOPLE FROM IMMEDIATE RISKS OF HARM**

**Support increased capacity for civil society and other local actors to assist LGBTI people with emergency protection needs.**

When individuals are threatened with violence on account of their sexual orientation or gender identity, the strongest response may come from the local community. These actors may include local civil society organizations, national human rights institutions, government structures, and, in certain circumstances, the United Nations offices. In many countries the government may be unwilling or unable to address major protection gaps, and thus civil society leaders are called upon to provide support.

The United States can play a catalytic role by articulating and funding a strategy that increases the capacity of local actors to protect LGBTI people facing immediate threats of harm. However, the U.S. government can be a complicated partner for local NGOs or human rights defenders. It is important that, in all of its interactions with and on behalf of LGBTI people, the U.S. government commit itself first and foremost to "do no harm," the notion that its work is guided and approved by those it seeks to support, and that it is reinforced—indeed, not undermined—by U.S. government programs as well as public and private diplomacy. U.S. government officials should give particular consideration to the role of public diplomacy and related activities in countries where sexual orientation and gender identity are widely described as “Western” imports.

When such a civil society strategy is engaged, it begins by building robust partnerships among all components of the embassy and local civil society activists to support their advocacy for increased protection from their government. The second phase involves strengthening capacity for local protection mechanisms for survivors of hate crime violence or for people facing high risks of violence. In order for partners to be more effective, U.S. support must be directed to the priorities they identify. These may include access to safe shelter in cases where people have been forced to leave their homes; access to emergency medical treatment; access to legal assistance in seeking recourse; and access to evacuation mechanisms where no safety is possible within the country. Such protection should be available to all LGBTI people, regardless of their legal status in the country. The third part of the strategy involves engaging with local representatives of U.N. agencies and other international organizations to encourage the effective inclusion of LGBTI people at risk in their protection plans.

## RECOMMENDATIONS

- **Identify high risk countries and work through embassies and civil society to develop joint protection strategies.** The State Department, USAID, Department of Justice Resident Legal Advisers in embassies where available, and others should identify the countries where LGBTI people frequently face high risks of violence and work with the embassies in those countries to develop protection strategies for individuals. Partnering with local organizations, human rights defenders and other embassies is key to this approach.<sup>2</sup> This strategy should assess the current local protection capacity for LGBTI people facing imminent risks of violence, and identify additional needed capacity, describing how best the United States, donors, and other states can help address protection gaps, including tools such as safe shelter, relocation assistance, subsistence assistance, and urgent medical assistance.
- **Develop a donor coordination strategy with other government and private donors on LGBTI protection.** The development of a donor coordination forum and coordination strategy, including regarding emergency assistance to LGBTI people at risk of violence, is critical to maximizing the impact of the limited funding available from private and state donors for LGBTI rights and protection.
- **Review responses to past incidents and identify lessons learned.** The Department of State should work with other agencies to review and identify lessons from the administration's responses to serious incidents in the recent past that have impacted on the human rights of LGBTI people. The lessons from these responses should be integrated into the joint protection strategies in high risk countries to improve future responses, and reinforced in USAID's programming.
- **Establish strong relationships with civil society.** Local human rights organizations, LGBTI organizations, refugee service providers, and human

rights defenders are generally better situated than embassies to obtain information regarding LGBTI people at risk of violence, conduct advocacy with local authorities for protection, and offer immediate assistance where protection from the state is lacking. To support the role of civil society, the administration should:

- **Designate points of contact in each embassy to assist LGBTI people at risk and inform partners of assistance mechanisms.** Each embassy should designate a point of contact on its staff (such as the political officer or human rights officer) for the referral of LGBTI individuals at high risk directly to the embassy for consideration of further direct assistance. USAID should be given the same direction. Embassies should also inform key partners of its existing assistance mechanisms, including emergency grants for individuals through the "Dignity for All" fund, or organizations or other assistance such as the Global Equality Fund.
- **Engage LGBTI organizations and human rights defenders at the embassy level.** This outreach should be conducted by both the State Department and USAID points of contact, and extend beyond the nation's largest or most visible groups and individuals, to include a broad spectrum of organizations, including from transgender communities and LGBTI refugee groups. It includes hosting leaders at the embassy, visiting the offices of LGBTI organizations, and reaching out to families of those at risk, if invited.
- **Increase embassy support for small grant programs for LGBTI civil society groups, across all geographic regions.** Small grants programs such as those implemented through the Democracy and Human Rights or Global Equality Funds, especially when administered with minimal bureaucracy at the local level by the embassy or an embassy partner, can be lifelines for small organizations with limited resources, often allowing them to provide essential services to victims of hate crime and related violence.

<sup>2</sup> The Local Implementation Strategy for the E.U. Guidelines on Human Rights Defenders in Uganda is an example of such a strategy.

■ **Invest in local protection mechanisms as identified in the joint protection strategy for survivors of violence, or those at high risk of violence.** Survivors of hate crime violence may need access to emergency medical assistance that is sometimes not available through government facilities, as well as legal assistance in reporting their case and holding perpetrators accountable. Those facing high risks of violence may need access to safe shelter—sometimes on an emergency basis. To provide such support, the administration should:

■ **Strengthen safe shelter capacity.** LGBTI persons who have been attacked or are at risk of violence may no longer be able to safely stay in their homes, and may be in dire need of a safe place to stay. The State Department should increase support for safe shelter mechanisms such as safe houses or “scattered site housing.” In addition to increasing funding for existing safe shelter mechanisms, the State Department should also develop new safe shelter partners in locations where no current capacity exists. Providing support for safe shelter may also serve as life-saving protection in cases where people face imminent risks of danger, including for LGBTI refugees who may be in danger as they wait to be resettled.

■ **Identify local legal and medical service provider partners.** LGBTI people suffering violent attacks require specialized legal and medical advice not available in countries that criminalize same-sex relations. To support these needs, U.S. embassies should identify a point of contact in civil society to develop an effective referral network to provide legal or medical assistance to LGBTI people who have survived or are at risk of an act of violence.

■ **Support local organizations to combat hate crime violence.** U.S. program funds, development assistance and technical assistance programs should be directed to local organizations working to combat bias-motivated violence. For example, a national human rights institution could be funded to record and

document incidents of violence against LGBTI people and other organizations could be trained to advocate with government officials for effective responses. The administration should also utilize the Department of State’s International Visitor Leadership Program to facilitate the exchange of skills between local actors working to protect LGBTI people and organizations with expertise in the United States.

■ **Work with international partners on inclusive services.** International partners such as the U.N. Refugee Agency (UNHCR) provide direct protection services to refugees and other “persons of concern” and have policies that mandate the inclusion of LGBTI refugees and other vulnerable people in its operations. Other U.N. agencies and humanitarian service providers may also have an important role to play by including LGBTI people in their protection and assistance activities. In support of this, the administration should:

■ **Work with UNHCR and other PRM operational partners on the protection of LGBTI refugees and persons of concern.** PRM, the embassy’s point of contact, and the Regional Refugee Coordinator (where applicable), should encourage UNHCR and other PRM operational partners to include LGBTI refugees and other persons of concern, including internally displaced persons, stateless persons, and asylum seekers in protection and assistance programs in accordance with UNHCR’s Age, Gender and Diversity policy and principles of nondiscrimination, and monitor this inclusion. This inclusion would help enable LGBTI refugees to access crucial services such as health care, education, livelihoods initiatives, and gender-based violence interventions. UNHCR should, for example, submit LGBTI refugee cases from urban and camp/settlement settings for resettlement where these refugees face high risks of violence, build links with local LGBTI organizations to improve outreach and assistance to often marginalized LGBTI refugees, and include LGBTI refugees and

persons of concern in all UNHCR protection and assistance programming. PRM should monitor the inclusion of LGBTI persons of concern and others outlined in UNHCR’s 2011 Age, Gender and Diversity policy in UNHCR programs in specific countries where LGBTI people are known to face high risks and strongly encourage all PRM operational partners to include LGBTI persons of concern and others with specific vulnerabilities in their programs.

- **Work with other U.N. agencies and international organizations to ensure that attention is paid to the protection of groups with specific needs, including LGBTI people, in protection planning. Embassies should encourage U.N. agencies and international organizations with a local presence to consider groups with specific needs, including LGBTI people, in their interventions.** Where embassies become aware of specific barriers to protection services, embassies should raise these directly with relevant local representatives, with the U.N. resident coordinator, or with the Protection Working Group lead, as appropriate.

## PROVIDE DIRECT ASSISTANCE TO LGBTI PEOPLE FACING IMMEDIATE RISKS OF VIOLENCE

In some countries, there may be times when no local actors have adequate capacity to provide emergency protection. In such extreme cases, the U.S. embassy could facilitate connections between the individual at risk and longer term protection options.

### RECOMMENDATIONS

- **Develop a referral system for emergency protection at each embassy.** Each embassy should have an emergency procedure to receive information on cases of individuals facing imminent danger on account of their sexual orientation or gender identity. This includes the designation of a responsible point of contact at the embassy for emergency assistance and would entail reliance on

a trusted civil society partner. Where trusted local partners exist with sufficient protection capacity, embassies should provide referrals for immediate assistance such as safe shelter and/or medical or legal assistance for LGBTI people facing high risks of violence. Where no local capacity exists, the embassy focal point should provide information on how to apply for financial assistance through the available emergency grants.

- **Provide rapid financial support to LGBTI people in imminent danger where no other local capacity exists.** Where no local partners exist with capacity for the above assistance for LGBTI people, the U.S. embassy should provide information on how to apply for assistance through the existing emergency grants and should facilitate the processing of such applications within 24 hours. This financial assistance can then be used to find emergency shelter as well as used for other forms of protection.
- **Develop measures to assess long term protection options for individuals at risk.** Work with local partners and the individual at risk to assess the options available for longer term safety, including the likelihood of further violence. Where it is not possible to remain in the country, the embassy should assist those facing high risks of violence to depart the country as outlined below.

## ASSIST INDIVIDUALS WHO CANNOT BE PROTECTED WITHIN THE COUNTRY

In some circumstances, individuals who face persecution because of their sexual orientation or gender identity may not be able to safely remain in the country. When their home countries are unwilling or unable to protect them, they may choose to flee across national borders and seek asylum in a neighboring country. The U.N. Refugee Agency has provided updated guidance to states confirming that individuals who face persecution on the basis of sexual orientation and/or gender identity can be eligible for asylum. However, people persecuted due to sexual orientation and/or gender identity frequently face the same persecution once they have crossed borders—sometimes from citizens (especially where neighboring

countries also criminalize same-sex conduct and share the same prejudices) and sometimes from other refugees. Some LGBTI refugees face imminent risks of harm in these countries as was noted in Human Rights First's report, *The Road to Safety; Strengthening Protection of LGBTI Refugees in Uganda and Kenya*.

In some cases, LGBTI individuals may face serious risks of violence in their country of origin but may not have means to leave the country and seek protection elsewhere. Section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) and Presidential Determination 2012-17 enable "in exceptional circumstances, persons identified by a United States Embassy in any location" to be considered "refugees for the purpose of admission to the United States within their countries of nationality or habitual residence." In cases of where LGBTI people face imminent risks of violence, the United States has an interest in making P1 embassy referrals for resettlement. In certain circumstances, embassies may also decide to make use of humanitarian parole for resettlement.

Because of the high risks of violence they can face, LGBTI refugees may need to access expedited resettlement. The presidential memorandum directs agencies to take steps to ensure that the federal government "has the ability to identify and expedite resettlement of highly vulnerable persons with urgent protection needs." The administration has taken some steps to enable expedited processing on a case-by-case basis but more needs to be done to reduce the time that expedited processing takes, from four months to as close as possible to two months in urgent cases and to make expedited processing more consistent and efficient. The Department of Homeland Security (DHS) and the Bureau of Population, Refugees, and Migration (PRM) have previously indicated that their goal is to be able to process urgent expedited resettlement cases within two months. However, this goal will not be met unless steps are taken to speed up the coordination of the multiple steps in the U.S. resettlement process. Two months is still a long time to wait for individuals facing imminent risk of severe harm, and the U.S. government should maintain the capability to react even more quickly if required. A number of U.S.-based LGBTI and refugee

advocacy groups have highlighted the need for further improvements to expedited resettlement mechanisms.

## RECOMMENDATIONS

- **Develop a contingency plan to evacuate LGBTI individuals at high risk from their country of origin if needed.** The administration should develop a clear joint strategy for the evacuation of LGBTI individuals who face ongoing high risks within their country of origin. This plan should include specific guidance on the types of cases to submit as P1 referrals as well as when to make use of humanitarian parole if submission for resettlement is not an option.
- **Strengthen measures to enable urgent resettlement in as close to two months as possible.**
  - **Develop regional guidelines to strengthen "urgent resettlement" processing.** PRM should work with the Resettlement Support Centers (RSCs) and other stakeholders to develop regional guidelines for "urgent resettlement" processing for LGBTI and other people facing high risk of violence so that expedited processing is more consistent, transparent, efficient, and utilizes fewer staff resources. These guidelines would also help ensure continuity as staff rotates. "Urgent" processing should be utilized for a limited number of LGBTI and other refugees facing high risk of physical violence, but with a lower degree of risk than those requiring "emergency" processing. As far as possible, "urgent" guidelines should identify target time frames for each step in the resettlement process to improve the coordination of the multiple steps required. These guidelines should make note of any particular locations where rapid processing is not possible.
  - **Strengthen the coordination of the multiple steps in the resettlement process.** PRM, U.S. Citizenship and Immigration Services (USCIS), and RSC staff should continue to work to address frequent sources of delay that impact

on expedited processing, such as delays relating to security background checks or T.B. testing. PRM and USCIS should continue to work with security vetting agencies to increase the number of cases where security background checks can be expedited. In addition, PRM should hire expedite specialists at RSCs to help with case management; and USCIS should continue to strengthen its ability to provide prompt interviews (including in cases where no circuit ride is planned.) As a last option, videoconferencing should be considered in limited situations where it is not possible to conduct a rapid face to face interview.

- **Develop an effective “emergency resettlement” mechanism for a limited number of cases.** The administration should develop an “emergency resettlement” mechanism capable of rapidly resettling a very limited number of LGBTI and other people facing imminent risks of physical harm in less than two months. PRM and its partners should develop a pilot emergency resettlement program in a location that offers fewer obstacles to rapid processing.

- **Strengthen protection measures for LGBTI refugees while waiting for resettlement.** LGBTI refugees often face specific risks of violence in their country of asylum while waiting to be resettled. U.S. personnel should identify protection mechanisms for LGBTI refugees during this period. Support may include access to safe shelter, or evacuation to an Emergency Transit Facility (ETF). PRM should also provide financial support for UNHCR to train ETF staff so that they develop plans to protect LGBTI and other refugees with specific needs while staying at an ETF.
- **Encourage other countries to grant refugee status on the basis of sexual orientation and/or gender identity.** Approximately 40 countries currently grant refugee status on this basis. In October 2012, UNHCR issued new International Guidelines on Claims to Refugee Status based on Sexual Orientation and/or Gender Identity. The United States should encourage other countries to grant international protection to those fleeing persecution due to their sexual orientation and/or gender identity.

