



March 26, 2019

The Honorable Michael Pompeo, Secretary of State
 The Honorable William Barr, Attorney General
 The Honorable Kirstjen Nielsen, Secretary of Homeland Security

Dear Secretary Pompeo, Attorney General Barr, and Secretary Nielsen:

We write as civil society organizations and as concerned lesbian, gay, bisexual, transgender and intersex (LGBTI) citizens of the United States to urge the Trump Administration to provide additional security and humanitarian support to LGBTI asylum seekers at the U.S.-Mexican border. This could be a matter of life and death for LGBTI asylum seekers.

As a priority, we ask you to issue additional guidance to ensure that LGBTI asylum seekers fall under the category of “vulnerable populations” that may be excluded from the “return to Mexico” policy under the Migration Protection Protocols. We also call for a presumption of parole for LGBTI asylum seekers, given the unique dangers they face in immigration detention. Policy decisions implemented by the Trump administration already have endangered this vulnerable community, and at least one transgender woman, Roxsana Hernández Rodríguez, has died in U.S. immigration detention. We call for these actions to prevent ongoing suffering and future death.

The vast majority of LGBTI asylum seekers at the border are fleeing persecution in Central America. REDLACTRANS, a regional human rights organization, reports extreme levels of violence and discrimination, with a particularly alarming impact on the health and life expectancy of transgender women. Those who flee often do so based on a rational decision to choose life over an early and violent death. In flight, they must then struggle against life-threatening insecurity and violence throughout their journey. And, to our great shame and concern, they ultimately face additional danger and even violence at the hands of U.S. and Mexican authorities.

To break this dangerous cycle, we respectfully ask you to take immediate actions within your jurisdictions to protect the human rights of LGBTI asylum seekers at the border:

- Under no circumstance should LGBTI asylum seekers be returned from the United States to Mexico to wait, possibly for months or years, while their asylum applications are considered in the United States. This new “return to Mexico” policy, under the Migration Protection Protocols, poses significant risks for all asylum seekers, but the dangers to LGBTI asylum seekers are acute, and may constitute violations of *non-refoulement* obligations. The United States has a legal obligation to admit all asylum applicants who have a credible fear of persecution to allow them to pursue their full asylum claims in the United States, with assistance from U.S. lawyers and refugee support organizations based in the United States.
- U.S. efforts to create transgender-specific immigration “pods” in existing detention facilities have improved safety and security in some U.S. facilities, including the detention facility in Cibola, New Mexico, but any decision to detain an LGBTI asylum applicant must be considered against the life-threatening dangers he or she will inevitably face in any detention site. The U.S. reliance on immigration detention for the processing of asylum seekers is unnecessary and runs counter to international human rights norms. A strong presumption against the incarceration of LGBTI asylum seekers must guide all immigration detention decisions, and the United States must develop a continuum of alternatives to detention that is community-based and designed to support rather than deter asylum seekers. LGBTI organizations already have identified families in the United States that are willing to support LGBTI asylum seekers who are released on parole, pending the adjudication of their asylum claims. Despite this, we are extremely concerned that parole determinations are inconsistent, and that detainees at the Pearsall detention facility in Texas find it particularly difficult, if not impossible, to obtain favorable parole decisions.
- As long as the United States continues to detain LGBTI individuals, additional efforts are needed to improve safety, security and medical care in existing facilities. Transgender individuals must have access to transgender-informed healthcare, including appropriate access to affirming hormones and other medications. Medical conditions in U.S. detention facilities remain a significant concern and contributed to the death of Roxsana Hernández Rodríguez last year. Alarming reports also suggest that some HIV-positive detainees are not receiving appropriate care and treatment.
- The current years-long backlog of asylum cases in the United States and the persistent attacks on access to counsel and due process in the U.S. immigration system represent a legal travesty that must be addressed to bring adjudication delays to a reasonable level. Justice delayed is justice denied.
- The United States should agree to accept more refugees through UNHCR referrals. In the face of the greatest refugee crisis since the Second World War, it is unconscionable that the United States has reduced its refugee cap to 30,000 individuals this year, representing the lowest cap in the history of our modern refugee program. Worse yet, even those limited slots are not being filled.

- Finally, we encourage the United States to provide additional diplomatic and development resources to address the root causes of insecurity and violence that are driving LGBTI refugees from their homes in the first place. The long-term response to this crisis must ultimately be found in a renewed commitment to democracy, security and opportunity in Central America itself.

With appreciation for your attention to this issue, we are,

Sincerely,

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