

Congress of the United States

Washington, DC 20515

June 30, 2023

President Joe Biden
President of the United States
The White House
1600 Pennsylvania Ave, N.W.
Washington, DC 20500

Secretary Antony Blinken
United States Secretary of State
U.S. Department of State
2201 C St. N.W.
Washington, DC 20520

Secretary Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2702 Martin Luther King Jr Ave SE
Washington, DC 20528

Dear President Biden, Secretary Blinken, and Secretary Mayorkas,

This past June marked the celebration of Pride Month, a time to recognize the progress that our society has made towards equality for all and dedicate ourselves to the challenges that lie ahead. We admire your Administration's unprecedented emphasis on championing LGBTQI+ rights beyond our borders, from investing in the Global Equality Fund to issuing a first-ever *Memorandum on Advancing the Human Rights of LGBTQI+ Individuals Around the World*.

We appreciate that you have endeavored to reverse the damage done to our immigration system by the previous president. While we welcome your commitment to expanding refugee resettlement and other legal pathways, we fear that some actions directed at facilitating migrant processing have caused harm to LGBTQI+ refugees.¹ As such, we write to bring attention to aspects of your immigration policy that must be reformed to adequately protect these groups.

The situation for LGBTQI+ people in Latin America and the Caribbean remains dire, driving many individuals to seek refuge from countries that enforce bigoted laws or turn a blind eye to brutal violence and discrimination. At least twenty Western Hemisphere nations outlaw same-sex marriage, adoption by same-sex couples, or both.²

Queer people throughout the region are targeted by their governments and neighbors alike, facing high rates of rape, torture, and murder. LGBTQI+ people across the region are up to 300% more likely to be murdered.³ A trans person was murdered nearly every day between 2021 and 2022.⁴ Anti-LGBTQI+ violence is particularly acute in common transit countries for migrants,⁵ meaning that queer people who are forced from their homes face similar threats on the way to our border, with some reporting continued harassment in U.S. immigration detention once they arrive.^{6 7}

While we support your Administration's efforts to expand alternative legal pathways, they cannot serve as a substitute for a functioning asylum system, especially for marginalized LGBTQI+ people. The recently announced family reunification parole program promises to allow vetted individuals with sponsors in the U.S. to be paroled on a case-by-case basis.⁸ However, the requirements may exclude queer families from countries

¹ <https://www.federalregister.gov/d/2023-10146/p-233>

² <https://www.equaldex.com>

³ <http://www.oas.org/es/cidh/informes/pdfs/ViolenciaPersonasLGBTI.pdf>

⁴ <https://www.forbes.com/sites/jamiewareham/2021/11/11/375-transgender-people-murdered-in-2021-deadliest-year-since-records-began/?sh=2734f976321c>

⁵ <https://www.wola.org/analysis/lgbt-rights-and-peace-in-colombia-the-paradox-between-law-and-practice>

⁶ <https://humanrightsfirst.org/library/a-line-that-barely-budges-u-s-limiting-access-to-asylum/>

⁷ <https://humanrightsfirst.org/wp-content/uploads/2023/05/Barriers-and-Harms-As-Biden-Asylum-Ban-Takes-Effect31.pdf>

⁸ <https://www.uscis.gov/FRP>

where LGBTQI+ marriage or adoption are barred.⁹ It is critical to amend these qualifications to clarify that permanent partners and children adopted by queer parents are eligible.

While we appreciate your work to protect refugees from the treacherous journey northward by opening regional processing centers, the announced locations are in countries that are deadly for LGBTQI+ people. Real and perceived queerphobia could deter queer people from admitting their sexual orientation, gender identity, or sex characteristics, undercutting their ability to seek protection.¹⁰

We remain deeply concerned about your Administration’s “Circumvention of Lawful Pathways” rule,¹¹ which renders asylum seekers, including LGBTQI+ asylum seekers, presumptively ineligible if they do not first seek asylum in notoriously dangerous transit countries or wait in Mexico – where queer refugees are routinely brutalized – for an appointment with immigration officials. It is not humane to ask LGBTQI+ individuals to seek asylum or wait in countries where they will face violence, kidnapping, or sex trafficking based on their sexual orientation, gender identity, or sex characteristics.¹²

We are also deeply concerned by the ongoing practice of conducting eligibility interviews in Customs and Border Protection custody, where LGBTQI+ and HIV-positive refugees face mistreatment, abuse and lack meaningful access to counsel.¹³

We recognize the necessity of a flexible transition, given the situation that your Administration inherited and the refusal of Congressional Republicans to engage on immigration reform. We do not discount the urgency and difficulty of helping as many LGBTQI+ individuals as possible.

But temporary parole programs cannot replace our moral and legal obligation to protect the most vulnerable, universally marginalized groups, such as queer people. As such, our primary recommendation is to end restrictions that turn away LGBTQI+ asylum seekers or force them to apply from third countries where they will be harmed.¹⁴ We also ask that you take action to prevent the removal of LGBTQI+ migrants to countries that engage in or tolerate discrimination.

We recommend that you prioritize diplomatic efforts to push Western Hemisphere governments to respect LGBTQI+ rights and ensure that U.S. security and law enforcement assistance are not funding discrimination and targeted violence.

Additionally, we ask that you provide enhanced training to USCIS, CBP, and ICE personnel, as well as foreign nationals working in regional processing centers, on best practices for interviewing LGBTQI+ asylum seekers with sensitivity and cultural competency. The U.S. should notify refugees of their rights to nondiscrimination and confidentiality in their native language so they can comfortably admit to the fears that have driven them to pursue asylum.

Finally, it is crucial to clarify, reinforce, or tailor your Administration’s parole programs to include vulnerable LGBTQI+ migrants and families.

⁹ <https://www.uscis.gov/i-130>

¹⁰ <https://www.unhcr.org/media/39410>

¹¹ <https://www.dhs.gov/news/2023/04/27/fact-sheet-us-government-announces-sweeping-new-actions-manage-regional-migration>

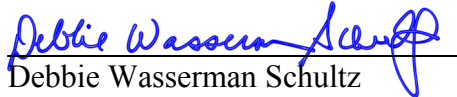
¹² <https://immigrantjustice.org/staff/blog/explainer-biden-administration-plans-rapid-deportation-asylum-seekers-detained-border>


¹³ <https://immigrantjustice.org/staff/blog/obstructed-legal-access-june-2023-update>

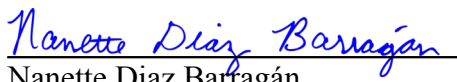
¹⁴ <https://immigrantjustice.org/staff/blog/explainer-biden-administration-plans-rapid-deportation-asylum-seekers-detained-border>

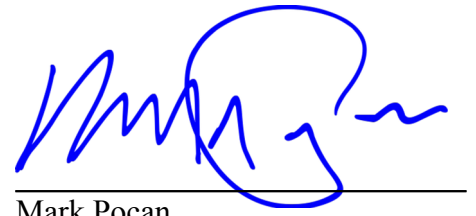
We appreciate your continued attention to the condition of LGBTQI+ people in the Western Hemisphere and around the world and look forward to collaborating with your Administration to firmly establish the fundamental right to asylum for queer people.


Sincerely,

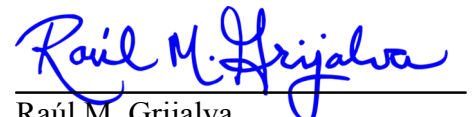

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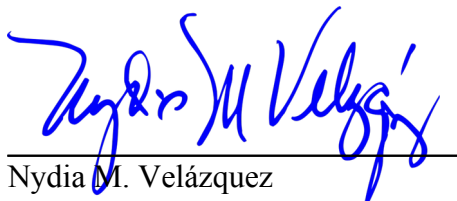

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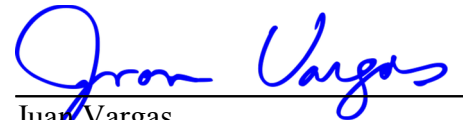
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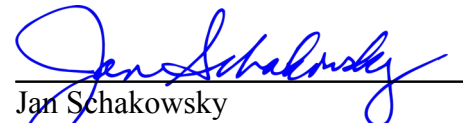
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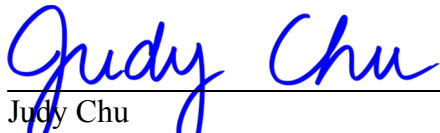
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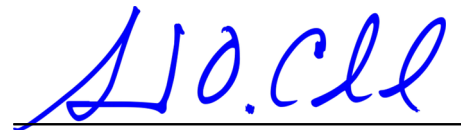
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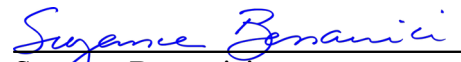
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