



UNITED NATIONS ASSOCIATION
OF THE UNITED STATES OF AMERICA
Greater Detroit Chapter



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OF THE UNITED STATES OF AMERICA

UN Universal Periodic Review

Joint Stakeholder Report:

United States of America

“Combating Violence and Discrimination Based on Sexual Orientation and Gender Identity”

Submitted: September 21, 2019

The United Nations Association-Greater Detroit (UNA-Greater Detroit) is a proud and thriving local chapter of the United Nations Association of the USA (UNA-USA). We have about 100 members from Southeastern Michigan, and we partner with local NGOs, particularly those serving marginalized communities, to increase the fluency and support of the work of the United Nations. For more information, please visit: <http://www.unadetroit.org/>.

The United Nations Association-New York (UNA-New York) is dedicated to educating, inspiring, and mobilizing the NYC community to support the principles and vital work of the United Nations. We seek to strengthen the UN system, and promote constructive United States leadership at the UN. For more information, please visit: <http://www.unanyc.org/index.html>.

The United Nations Association of the United States of America (UNA-USA), a program of the UN Foundation, is a membership organization dedicated to informing, inspiring and mobilizing the American people to support the ideals and vital work of the United Nations. For more than 70 years, UNA-USA has worked to accomplish its mission through its national network of 200+ chapters, youth engagement, advocacy efforts, education programs and public events. For more information, please visit: <https://unausa.org/>.

Contact: Ann Nicol, Executive Director: United Nations Association-New York, anicol@unanyc.org

United Nations Association of New York

380 Lexington Avenue 17th Floor

New York, NY 10168

Tel +1 212-907-1353

A. Introduction: Combating Violence and Discrimination Based on Sexual Orientation and Gender Identity in the United States

(A1) With the objective of providing constructive primary-source input for the Universal Periodic Review of the United States in May 2020, UNA-Greater Detroit, UNA-New York, and UNA-USA submit this joint stakeholder report with a focus on combatting violence and discrimination based on sexual orientation and gender identity in the United States. To compile this report, our organizations relied the inputs of grassroots advocates they engage and work with to connect to the UN. Specifically, this report addresses four issues:

- Civil Rights Protections;
- Protection of LGBTI Refugees, Migrants, and Asylum Seekers;
- Access to Physical Health, Mental Health, and General Wellbeing Services and Resources; and
- Relations with Law Enforcement.

(A2) UNA-Greater Detroit¹ is a proud and thriving local chapter of UNA-USA. We have about 100 members from Southeastern Michigan, and we partner with local NGOs, particularly those serving marginalized communities, to increase the fluency and support of the work of the United Nations. We also serve as a platform for local communities to express concerns for human rights issues affecting them. Our chapter is in strong support of youth, young adults, and education. Each year, we honor a young person working to uphold human rights and social justice with our Dr. Chrystal G. Tibbs Humanitarian Youth Award; an award named in honor of the late Dr. Chrystal G. Tibbs, one of UNA- Greater Detroit's founding board members. In 2019 we partnered with NGOs in metro Detroit to take a group of youth to the United Nations for UNA-USA's Global Engagement Summit. Finally, we have the Robert Edward Lang Scholarship Program, named in honor of the late Robert Edward Lang, our UNA-Greater Detroit Chapter Founder.

(A3) UNA-New York² is dedicated to educating, inspiring, and mobilizing the NYC community to support the principles and vital work of the United Nations. We seek to strengthen the UN system, and promote constructive United States leadership at the UN. As a convener for a wide variety of groups (business, academic, diplomatic, government, grassroots), UNA-USA provides a bipartisan forum for analysis and discussion on a wide range of global issues important to America's role in the world. These unique programs position UNA-New York as an incubator of new ideas and approaches for a more effective United Nations. UNA-New York's Board of Directors is comprised of interested citizens from all over New York City who volunteer their time and effort to advance the work of the United Nations. UNA-New York has three committees: The Education Committee, Program Committee, and Advocacy Committee.

(A4) The United Nations Association of the USA³ (UNA-USA), a program of the UN Foundation, is a membership organization dedicated to informing, inspiring and mobilizing the American people to support the ideals and vital work of the United Nations. For 70 years, UNA-USA has worked to accomplish its mission through its national network of chapters, youth engagement, advocacy efforts, education programs and public events. Independent from the U.S. government, UNA-USA and its sister organization the Better World Campaign represent the single largest network of advocates and supporters of the United Nations in the world. UNA-USA is proud to have had Eleanor Roosevelt, a leader in drafting the Universal Declaration on Human Rights, among its earliest leaders and human rights champions. UNA-USA advances principled U.S. engagement on universal human rights within local communities and college campuses; the UN Human Rights Council; the broader UN human rights system; U.S. Department of State; and Congress. UNA-USA was also an official partner of the 2018 OHCHR "Stand Up for Human Rights" campaign.

B. Methodology

(B1) This joint stakeholder report was compiled through a national consultation process that took place among the three organizations from June to August 2019. The process involved three UPR community consultations events in Washington DC, New York, and Detroit. Collectively, the community consultation events featured over one hundred participants contributing both in person and via online communication platforms (for example, see the methodology of UNA-New York consultation). Participants were asked to share their firsthand experiences on the domestic U.S. human rights record pertaining to sexual orientation and gender identity and to offer constructive ideas, suggestions and recommendations. Participants included a diverse group of American and non-American college and high school students, community leaders, non-profit leaders, private sector entrepreneurs, human rights advocates, human rights defenders, public sector retirees, and legal professionals.⁴ A rapporteur was present to record, consolidate, and synthesize output from each meeting. To compile this report, the three organizations identified prominent trends, recommendations, and other content emerging from the three consultations. The findings, conclusions, and recommendations therein are submitted with the goal of constructively advancing human rights in the U.S.⁵

(B2) UNA-Greater Detroit conducted its community UPR consultation the Affirmations Gay & Lesbian Center⁶ on August 15, 2019. Participating organizations included Pride at Work; Ruth Ellis Center, The Center for Lesbian and Queer Women and Girls at Kofi House; Trans Sistas of Color; Freedom House Detroit; LGBT Freedom and Asylum Network; UNIFIED – HIV Health and Beyond, Mothering Justice; and Mosaic Collective Consulting, LLC. UNA-Greater Detroit’s consultation and report are in memory and honor of the following people we have lost in our LGBTI community: Jay Dor, Amir Thomas, Lavish Prodigy, Shayla Bangs, Kelly Stough, Ciara, Shelly, Roxanna Hernandez, Joanna Medina Leon, Camila Diaz Cordova, and Nathan Strickland.

(B3) UNA-New York conducted its community UPR consultation on August 8, 2019. Its community consultation was supplemented by an online survey⁷ pertaining to violence and discrimination based on sexual orientation and gender identity that the chapter targeted to the Greater New York Area from June – August 2019. The consultation included representatives from Outright Action International, the Office of the UN High Commissioner for Human Rights, and the LGBT Community Center.

(B4) UNA-USA conducted a community UPR consultation during the 2019 Global Leadership Summit in Washington DC on June 10, 2019. Participants from all fifty U.S. states⁸ as well as from a wide diversity of populations – including marginalized groups – attended the Global Leadership Summit. A representative from the Human Rights Campaign also briefed participants prior to the consultation.

C. Legal Framework

(C1) Article 1 of the Universal Declaration of Rights reads that “All human beings are born free and equal in dignity and rights.” This encompasses the human rights of the LGBTI individuals, including protection from violence and discrimination. The treaty bodies associated with the the core human rights treaties that the United State Senate has ratified – including the Convention Against Torture, International Covenant on Civil and Political Rights, and Convention on the Elimination of Racial Discrimination – have all affirmed that LGBTI rights are human rights.

(C2) At the United Nations, the United States has consistently voted in favor of resolutions at the UN Human Rights Council on combatting violence and discrimination based on sexual orientation and gender identity. The United States was also a reliable supporter of the mandate for the Independent Expert on the Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity.⁹ The U.S. is also a member of the UN LGBTI Core Group. During previous UPR cycles, the U.S. accepted recommendations¹⁰ pertaining to advancement of LGBTI human rights domestically. This includes commitments to promote LGBTI non-discrimination; promoting progress on LGBTI equality; and undertaking awareness raising campaigns on combatting stereotypes against LGBTI individuals.

(C3) Despite this record, momentum toward the advancement of LGBTI equality has unequivocally stalled at the national level. Not only has the current administration opposed comprehensive, domestic LGBTI non-discrimination legislation, it has also instituted policies that have negatively impacted the civil and political and well as economic and social rights of LGBTI individuals in the country on multiple levels.¹¹ Hate crimes¹² targeting the LGBTI community have risen. National legal reforms, resources, and policy planning critically relevant to fulfilling the human rights of LGBTI individuals nationwide have also stalled.

(C4) A notable exception to this negative trend since the last U.S. UPR in 2015 was the nationwide institution of marriage equality in June 2015 following a ruling by the U.S. Supreme Court. Similarly, some U.S. states and cities have since passed legislation or undertaken other initiatives proactively combatting violence and discrimination based on sexual orientation and gender identity. For example, in August 2019, Illinois successfully passed legislation integrating LGBTI history in school curriculums.¹³ New York state also passed the Gender Expression Non-Discrimination Act (GENDA). Taking effect in the state in 2019, “GENDA bars discrimination, harassment, and retaliation on the basis of ‘gender identity or expression,’ which is defined as ‘a person’s actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.’”¹⁴ Similarly, New York City’s 2019 “Voluntary Local Review” (VLR) report detailing the city’s efforts to implement the Sustainable Development Goals (SDGs) explicitly referenced its work to advance LGBTI equality. Despite this progress, substantial work remains to be done to ensure LGBTI individuals in the U.S. are free and equal.

D. Civil Rights

(D1) Title VII of the Federal Civil Rights Act does not explicitly include sexual orientation and gender identity as protected classes. The Equal Opportunity Employment Commission has interpreted discrimination against sexual orientation and gender identity based on sex discrimination – a protected class. But it is not enough for the EEOC to interpret SOGI to be protected under sex discrimination. Explicit language is needed in the statute, given the enactment of policies such as the ban on transgender individuals from serving in the U.S. military announced by the administration in July 2017. Nevertheless, the current administration has publicly opposed comprehensive LGBTI non-discrimination legislation that has already passed the U.S. House of Representatives.

(D2) Many states also have civil rights protections for sexual orientation and gender identity. The state of Michigan, however, does not. Specifically, Michigan’s Eliot Larsen Act has not been modified to extend its protected classes to include SOGI. Nationwide the LGBTI community faces discrimination in employment, housing, and more. In Mississippi, for instance, legislation has passed permitting the denial of medical services to transgender individuals, along with other inherently discriminatory provisions.¹⁵ There is also a heightened level of violence committed against the community nationally and locally.¹⁶

(D3) Heightened challenges to civil rights also exist in rural communities. One consultation participant in Washington DC, noted, “I grew up in rural community and did not express my LGBTI identity until college to protect myself from violence.” Individuals in rural community and of minority groups are often unable to find access to comprehensive LGBTI-relevant programs that others in more urban areas are able to access.

(D4) Recommendations to the United States:

- Pass comprehensive national legislation to ensure that sexual orientation and gender identity are considered protected classes (for example, the Equality Act).
- Remove the ability for entities that are funded by taxpayer dollars to use erroneous claims of religious liberty to justify discrimination against the LGBTI community.
- Reverse immediately the ban on transgender individuals seeking employment in the U.S. military.

E. Protection of LGBTI Refugee, Migrants, and Asylum Seekers

(E1) In the last two years there have been three documented cases of the deaths of transgender women of color seeking protection in the United States. Roxanna Hernandez (Honduras) and Johana Medina Leon (El Salvador) died in Immigration and Customs Enforcement (ICE) custody. Camila Diaz Cordova was denied asylum and deported back to El Salvador from the United States. Three months after being sent back to El Salvador, she was found dead outside city limits. “The intersection between immigrant rights and LGBTQ rights need to be examined more closely,” said Thomas Rogers with Freedom House Detroit and the LGBT Freedom and Asylum Network. Another serious challenge for transgender immigrants and refugees is gaining access to hormone therapy.

(E2) The United States also needs to better track data for those seeking asylum under the “membership of a particular social group” claim in order to provide local NGOs with this data. It is hard for NGOs in the U.S. to demonstrate the need for funding for services for LGBTQ refugees and asylees, as well as other groups seeking protection under this Asylum law claim if there is no data to support it.

(E3) Rather than policies resulting in detention upon arrival, the United States should invest more funding and resources for Alternative to Detention Programs. This would be beneficial for people who meet the threshold to be released under the Risk Management Assessment. Through Alternative to Detention programs, those seeking protection in the U.S. can receive holistic services – access to medical care, legal assistance, other mechanisms of support. Though Freedom House Detroit is not an official Alternative to Detention program, its holistic approach to caring for asylum seekers could serve as a model program.

(E4) Recommendations to the United States

- Implement additional cultural sensitivity trainings for immigration officers inclusive of ensuring the fair treatment and equal rights of LGBTI asylum seekers and refugees.
- Expand resource and requirements for disaggregated data gathering and ensure findings are publicly accessible.

- Grow financing for “Alternative to Detention” programs.
- Ensure safe, sanitary, and dignified conditions for all asylum seekers, migrants, and refugees.

(E5) Questions for the United States:

- Typically, once an asylum seeker requests protection and meets the threshold under a credible fear interview, there can be another assessment done called the “Risk Classification Assessment.” This is to determine if the person is a flight risk or threat to the community. Is the “Risk Classification Assessment” currently being used? If so, is the policy being used appropriately? Are there proper internal monitoring protocols in place to determine whether the people that qualify under the policy are being released?

F. Access to Physical Health, Mental Health, and General Wellbeing Services and Resources

(F1) Ka’Juan Hill, Community Outreach Specialist for HIV and STD testing for UNIFIED HIV Health and Beyond and a young professional, stated that his organization works primarily with youth and young adults aged 13-25 to promote and advance sexual health. He works in HIV and STD risk reduction through education on safer sex and pre-exposure prophylaxis. Specifically, Ka’Juan is most concerned about young people and the lack of access to mental healthcare services. Many young people in the LGBTI community face rejection from families, homelessness, depression, other forms of mental illness and risk of death by suicide. The U.S. does not provide adequate resources for young people in need of mental health care.

(F2) Pamela Alexander, Deputy Director, Ruth Ellis Center, and the Ruth Ellis Center for Lesbian and Queer Women and Girls at Kofi House stated that there is a shortage of mental health services and behavioral health services in the United States. There are only five psychiatric hospitals in Michigan, this equals to roughly 900 available beds to accommodate a state population of over 11 million people. “Access to mental health care is a human right, and without access to mental health care, the United States has created a direct pipeline to the prison and juvenile justice systems,” said Ms. Alexander.

(F3) Quality of LGBTI health and wellness services must also be improved. When consulting with a healthcare provider about intimate partner violence, conversations can be heteronormative and overwhelmingly focused heavily on a couple’s sexual interactions, rather than addressing the domestic violence. According to one participant who reported domestic partner violence, a doctor’s note even read that the patient was engaged in “highly risky sexual behavior, [and] highly bisexual.” The conversation around such a vulnerable experience was “tormenting and horrendous.” Another participant, attending the consultation in Washington DC, highlighted additional serious health gaps. “I was set to undergo brain surgery but received a delayed treatment after the doctors learned I was gay, so that they could run additional blood tests. This delay caused lasting damages to my health,” said the participant.

(F4) There is also urgency in addressing the phenomenon of double discrimination in terms of ensuring wellbeing. “I want to be able to seek a career without having to hide my identity and the fact that I am living with Autism,” said one consultation attendee in Detroit. Trans women and Bisexual women of color have higher rates of sexual assault. In the last month in Detroit, four young lesbian women of color have died



either by suicide, violence, or illness and it did not make the news at all. Lesbian, bi-sexual and queer women feel invisible in Detroit and around the country. There have been changes in funding streams, and businesses and NGOs are no longer focusing on the needs of this population. Women and girls are marginalized even within the LGBTI community and there are no safe spaces for them. Lesbian, bisexual, and queer women are at higher risks of depression, addiction, autoimmune diseases, domestic violence, sexual assault, isolation, suicide, and early death.

(F5) LGBTI parents often feel that they are not recognized in the community. LGBTI parents face health disparities due to sexual orientation and gender identity, and then many black women within the LGBTI community also face challenges in delivering a baby safely due high rates of maternal death among black women in the U.S. “Bisexual women often risk losing their children or have them taken by the state at a higher rate,” said Nicole Denson a black queer bisexual woman and mother and staff member of Mothering Justice. “A lot of funding going to organizations is white gay male centered,” added Ms. Denson.

(F6) LGBTI youth also face heightened challenges to their wellbeing. Nearly half of the homeless youth in America (estimates indicate 40%) identify as “LGBTQ” When youth can access safe and permanent housing, the rates of health issues tend to decline. Housing disparities also increase the risk of youth being trafficked or participating in commercial sex work. One participant in Washington DC also referenced the need to combat the practice of conversion therapy. “My community is very faith based, and children are being lured into conversion therapy at faith -based summer camps,” the participant said. Conversion therapy's deleterious effects on personal identity and harmful impact on psychological and physical well-being were also discussed at the consultation in New York.¹⁷ Additionally, the physical and emotional harm intersex individuals experience following nonconsensual gender-assignment surgeries¹⁸ necessitates the immediate prohibition of genital “normalizing” surgeries on youth and the implementation of greater health protections for this population.

(F7) Recommendations to the United States:

- Increase its investment in funding for mental health care for people in general, and particularly youth, young adults, and people in the LGBTI community. This should include resources for trauma-informed care services.
- Eliminate restrictions and barriers on federal funding to increase culturally sensitive and specific services for women and girls in the LGBTI community – particularly those of color.
- Pass a nationwide ban on conversion therapy.
- Encourage schools to add LGBTI history as part of their curriculums.
- Commit to specific, comprehensive data collection on LGBTI communities to ensure accurate representation on census reports and other data collection forms.
- Accelerate national efforts to combat LGBTI youth homelessness.

G. Relations with Law Enforcement

(G1) A consultation participant in Detroit, Lilianna Angel Reyes, provided detailed evidence of significant gaps in law enforcement's relationship with the LGBTI community. In one case, a black trans woman named Shelly was working with the Madison Heights Police Department in Metro Detroit to identify gang members in the area. When she was assigned the officer charged with protecting her during this process, the officer revealed her identity to the gang members. As a result, Shelly was kidnapped, brutally murdered and dismembered. Parts of her body were found on the eastside of Detroit. The officer in charge of protecting her was merely fired, and then rehired by the Warren Police Department, another local law enforcement agency. The Madison Heights police department paid a two-million-dollar settlement to her family.

(G2) Detroit's experience could offer a case study in effective and mutually beneficial engagement between the LGBTQ community and law enforcement. In response to the community's fear and discomfort with interaction with law enforcement the Detroit Police Department created an LGBTQ Advisory Board and appointed Corporal Dani Woods its liaison. Corporal Dani Woods is an out lesbian within the Detroit Police Department and has increased the visibility of the LGBTQ community inside and outside of the department. She and the advisory group have also developed a best practice model for cultural sensitivity when engaging the LGBTQ community for police departments across the nation. Lilianna Angel Reyes and Pamela Alexander were the first members of this advisory board.

(G3) Recommendations to the United States:

- Ensure law enforcement officers receive training to end police brutality, prevent arbitrary arrest, and combat discrimination against LGBTI individuals in both public settings and detainment facilities.
- Pass legislation creating a nationwide ban on the "gay and trans panic defense" in federal court (for example, the "Gay and Trans Panic Defense Prohibition Act").
- Pass legislation which assigns transgender people to prisons which coincide with their gender identity and to ensure those individuals are adequately protected within those penitentiaries.
- Ensure there are protocols and up to date policies to protect the privacy of inmates living with HIV in prison and their access to HIV medication.
- Reauthorize the Violence Against Women Act and Adopt the International Violence Against Women Act.
- Ratify the CRC, CEDAW, and CRPD.

Endnotes

¹ The United Nations Association-Greater Detroit is a 501(c)(3) not-for-profit organization. For more information visit, <http://www.unadetroit.org/>.

² The United Nations Association-New York is a 501(c)(3) not-for-profit organization. For more information visit, <http://www.unanyc.org/index.html>.

³ The United Nations Association of the United States of America (USA-USA) is a 501(c)(3) non-profit. For more information please visit www.unausa.org.

⁴ For example, the UNA-USA 2019 Leadership Summit in Washington DC included six UPR breakout sessions. The summit included more than 500 participants from all fifty U.S. states. For more information visit <https://unausa.org/events/leadership-summit/>.

⁵ The order of the issues presented in this report does not imply a prioritization of observations or recommendations.

⁶ UNA-Greater Detroit would like to sincerely thank Affirmations Gay & Lesbian Center and its Executive Director Antonio David Garcia for hosting and supporting our UPR Consultation Session.

⁷ The UNA-New York online survey is available here:

https://docs.google.com/forms/d/e/1FAIpQLSdJ7TP46uweV5zxP5KzINa6n8wikNymN9QvLW_McqMmjeHZ7Q/viewform

⁸ The UNA-USA 2019 Leadership Summit in Washington DC included six UPR breakout sessions. The summit included more than 500 participants from all fifty U.S. states. For more information visit <https://unausa.org/events/leadership-summit/>

⁹ Regretfully, the U.S. gave up its seat on the UN Human Rights Council in June 2018. Prior to this announcement, the U.S. delegation to the UN Human Rights Council in Geneva gave a statement endorsing the report of the Independent Expert on Sexual Orientation and Gender Identity. See Jason Mack, “Statement by the United States of America: Independent Expert on Sexual Orientation and Identity; and Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association,” U.S. Mission to International Organizations in Geneva, June 18, 2018. See <https://geneva.usmission.gov/2018/06/18/hrc38-clustered-interactive-dialogue-on-sexual-orientation-and-identity-and-on-the-rights-to-freedom-of-peaceful-assembly-and-association/>.

¹⁰ These include recommendations during cycle two from South Africa and Israel as well as recommendations from cycle one from Uruguay and Australia.

¹¹ The consultations discussed many examples of these actions. See also, “The Discrimination Administration: Trump’s record of action against transgender people,” National Center for Transgender Equality, last updated August 16, 2019, <https://transequality.org/the-discrimination-administration>. See also “Trump Targets LGBTQ Populations,” Axios, May 24, 2019, <https://www.axios.com/trump-targets-lgbtq-protections-b8713231-aa72-4f26-a598-24a18000457d.html>. See also, Michelangelo Signorile, “Trump has a devastating record on LGBTQ rights. Don’t deny the truth,” Washington Post, August 20, 2019.

¹² “Anti-LGBT Hate Crimes Are Rising, the FBI Says: But it Gets Worse,” *USA Today*, June 28, 2019.

¹³ Hannah Leone, “New Law Requires Illinois Schools teach contributions of gay, transgender people: ‘It’s past time children know the names of LGBTQ pioneers,” Chicago Tribune, September 3, 2019. See <https://www.chicagotribune.com/news/breaking/ct-lgbtq-history-illinois-schools-law-20190826-m2k4qtpiifhkzp5a76dwtwlbwystory.html>.

¹⁴ “Gender-Expression Non-Discrimination Act (GENDA) Takes Effect in New York,” The National Law Review, February 28, 2019. See <https://www.natlawreview.com/article/gender-expression-non-discrimination-act-genda-takes-effect-new-york>

¹⁵ See “Protecting Freedom of Conscience from Government Discrimination Act,” HB 1523,

<http://billstatus.ls.state.ms.us/documents/2016/pdf/HB/1500-1599/HB1523SG.pdf>.

¹⁶ “Anti-LGBT Hate Crimes Are Rising, the FBI Says: But it Gets Worse,” *USA Today*, June 28, 2019.

¹⁷ Human Rights Campaign, “The Lies and Dangers of Efforts to Change Sexual Orientation or Gender Identity”

<https://www.hrc.org/resources/the-lies-and-dangers-of-reparative-therapy>

¹⁸ Human Rights Watch, “‘I Want to Be Like Nature Made Me’ Medically Unnecessary Surgeries on Intersex Children in the US” Human Rights Watch, 27 July 2017. <https://www.hrw.org/report/2017/07/25/i-want-be-nature-made-me/medically-unnecessary-surgeries-intersex-children-us>