

**Response to Hearing Take Back Question**  
**Tom Lantos Human Rights Commission**  
**“Burma: Human Rights in the Aftermath of the Coup”**  
**September 13, 2023**

**Co-Chair McGovern:** Can you say anything about the situation of the LGBTQ+ community in Burma? How are their rights and their wellbeing being affected by the war?

**DRL Acting Assistant Secretary Barclay:** In many places and certainly in many conflicts, the most marginalized people are the most at risk. And that is certainly the case in this context. I’m happy to go back to the team and get specifics on LGBTI issues if that’s something would be helpful.

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**Response:**

Preserving and advancing the human rights of marginalized populations, including LGBTQI+ persons in Burma, is essential to upholding the ideals of freedom, justice, and democracy for which the United States stands. Since assuming office, President Biden has taken executive actions demonstrating the Administration’s commitment to the promotion and protection of human rights of LGBTQI+ persons. On February 4, 2021, President Biden signed Presidential Memorandum NSM-4 on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the Globe, which directs "all agencies engaged abroad to ensure that United States diplomacy and foreign assistance promote and protect the human rights of LGBTQI+ persons."

As I shared during the hearing, in many places and certainly in many conflicts, the most marginalized people are the most at risk. This is very much the situation we are seeing in Burma.

As detailed in the Department’s 2022 Human Rights Report, over the last year, consensual sexual activity “against the order of nature” remained a

criminal offense in Burma, punishable by up to 20 years in prison and a fine. In addition, LGBTQI+ persons were often subjected to detention or threatened with arrest under section 35 of the Police Act, which punishes persons found between sunset and sunrise with their “face covered or otherwise disguised.”

Reports of violence and harassment against LGBTQI+ persons continue unabated. According to media reports, eyewitness accounts, and social media posts, regime officials deliberately humiliated LGBTQI+ pro-democracy supporters after arrest, employing tactics such as sexual insults, taunts, mocking of clothing, and physical abuse at rates greater than those endured by other prisoners.

Last year, the opposition National Unity Government Minister of Human Rights claimed at least seven LGBTQI+ community members died and another 37 were arrested while peacefully protesting against the regime. Radio Free Asia reported on June 29 of this year the regime convicted Justin Min Hein, president of the LGBTQ Union in Mandalay city, for violating the Counter-Terrorism Act as the LGBTQ Union Mandalay had documented and publicized the sexual assault that a particular transgender prisoner was experiencing in Monywa Prison. Justin Min Hein reportedly experienced beatings and denial of food and water while awaiting trial in the Yay Kyi Ai Interrogation Center since his arrest in 2022.

Discrimination, stigma, and a lack of acceptance among the general population towards LGBTQI+ persons persisted in 2022. Transgender persons, for example, were subject to police harassment, and their identity was not recognized. There were reports of discrimination based on sexual orientation and gender identity in employment. Many LGBTQI+ individuals faced significant barriers to education and employment if they were vocal or visible about their status. LGBTQI+ persons reported facing discrimination from health-care providers, including public shaming. Some members of the LGBTQI+ community were reportedly denied access to HIV treatment while in prison.

There is no mechanism for legal gender recognition or to change the gender assigned at birth on civil or identification documents. There is no ban on so-called conversion therapy practices or on medically unnecessary “gender normalization” surgeries on intersex children. The regime did not permit LGBTQI+ persons or groups to participate in LGBTQI+ related public events, although members of the community continued to support the prodemocracy movement including participation in flash protests.

Thank you for your question and your continuing support in the fight for equality for all persons regardless of gender identity or sexual orientation.