

March 18, 2022

Prosecutor Karim A.A. Khan QC
Special Adviser Lisa Davis
Office of the Prosecutor
The International Criminal Court
Via Email: OTP.Policies@icc-cpi.int

Dear Prosecutor Khan and Special Adviser Davis,

As lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) human rights organizations, defenders and activists, we, the undersigned 177 organizations and 67 independent activists from at least 69 countries in all regions of the world, write to you regarding the Office of the Prosecutor's (OTP) gender persecution policy initiative. Your office has called for civil society comments on the substance of your upcoming policy paper on gender persecution. The undersigned organizations and individuals, all of whom work to advance the human rights of and end violence against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people, are cognizant of the multiple forms of persecution that may impact people because of their sexual orientation, gender identity, gender expression or sex characteristics (SOGIESC). It is imperative that the ICC articulate that these forms of violence may qualify as gender persecution and may be prosecuted as crimes against humanity.

To account for violence against persons of diverse SOGIESC under the crime of gender persecution, the Office of the Prosecutor must bring further transparency and predictability to the term "gender" under the Rome Statute. The Office of the Prosecutor has recognized the social construction of gender. Article 7(3) of the Rome Statute defines "gender" as referring to "the two sexes, male and female, within the context of society." The [OTP clarified](#) that this definition "acknowledges the social construction of gender and the accompanying roles, behaviours, activities, and attributes assigned to women and men, and girls and boys."

Persons of diverse SOGIESC are subjected to gender-based violence as a punishment for noncompliance with prescribed gender behaviors and attributes. As such, the definition of gender is inseparable from the experience of persons of diverse SOGIESC.

Therefore, in the forthcoming policy paper on gender persecution, we strongly advise the OTP to articulate that the socially constructed nature of gender puts people of diverse sexual orientations, gender identities and expressions, and sex characteristics at a heightened risk of persecution.

In addition to clarifying the definition of gender, we urge the OTP to define gender-based crimes to include crimes against persons of diverse SOGIESC. In a [2014 policy paper](#), your office stated:

... the Office considers gender-based crimes as those committed against persons, whether male or female, because of their sex and/or socially constructed gender roles. Gender based crimes are not always manifested as a form of sexual violence. These crimes may include non-sexual attacks on women and girls, and men and boys, because of their gender, such as

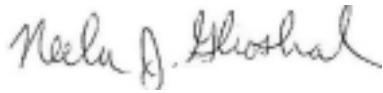
persecution on the grounds of gender.

The OTP's 2014 policy paper sheds light on the ways gender persecution is committed based on socially constructed gender roles. In the policy paper on gender persecution, we urge the OTP to further emphasize that persons of diverse sexual orientations, gender identities, gender expressions and sex characteristics are targeted for gender persecution due to the perception that they are violating socially constructed gender roles, attributes and behaviors.

People of diverse SOGIESC have been subjected to [gender persecution in conflicts throughout history, and around the globe](#). Despite the ubiquity of egregious crimes against these communities, [perpetrators are hardly ever held accountable](#). The OTP's policy paper on gender persecution presents a unique opportunity to increase survivors' access to accountability for gender persecution, reduce impunity for perpetrators of gender-based crimes, and protect the rights of persons of diverse sexual orientations, gender identities and expressions, and sex characteristics.

We therefore recommend that the OTP clearly define gender and gender persecution as inclusive of persons of diverse sexual orientations, gender identities and expressions, and sex characteristics.

Sincerely,



Neela Ghoshal, Senior Director of Law, Policy and Research
OutRight Action International

Organizational Signers:

Achievers Improved Health Initiative (AIHI Nigeria), Nigeria

ACIGV, Haiti

Actions pour la Lutte Contre les Injustices Sociales (ALCIS), Democratic Republic of the Congo

Agrupacion Lesbica Rompiendo El Silencio, Chile

Aireana, Grupo Por Los Derechos De Las Lesbianas, Paraguay

Aliança Nacional Lgbti+, Brazil

Alianza Política Sector de Mujeres (APSM), Guatemala

All Survivors Project, Global

Alliance for Equality

Alliance for Equality and Diversity, Ghana

América Diversa Inc., United States of America

Amnesty International, Global

Anonymous Organization, Americas

Anonymous Organization, Honduras

Anonymous Organization, Nigeria

Anonymous Organization, Nigeria

Anonymous Organization, Peru

Anonymous organization, Uganda

Anonymous organization, Yemen

Anonymous Organization, Zimbabwe

Arab Network for Knowledge about Human Rights (ANKH), France and MENA

Artemisa Honduras, Honduras

Article 19, Global

Asean SOGIE Caucus, Southeast Asia

Asia Pacific Alliance for Sexual and Reproductive Health and Rights (APA), Asia Pacific

Asociación Civil Divas de Venezuela, Venezuela

Asociación Española contra las Terapias de Conversión, Spain

Asociación Nacional de Comadronas Tradicionales de Guatemala, Guatemala

Asociación Pacto Ribereño, Colombia

Asociación Transcolombia, Colombia

Association De Defense Des Droits Identitaires, Republic of the Congo

Association LGBTI United Tetovo, North Macedonia

AsylumConnect, Global

Athlete Ally, Global

Beyond Beijing Committee, Nepal

Caribe Afirmativo, Colombia

Casa das Pretas, Brazil

Casa Nem, Brazil

CEL Kosova, Kosovo

Centro de Integración y Recuperación Jardín de las Mariposas A.C, Mexico

COALIBOL LGBTI, Bolivia

Coalición LGTTTBI & TS de Incidencia ante la Organización de Estados Americanos (OEA), Latin America and the Caribbean

Coalición Mexicana LGTTTTI+, Mexico

COC Nederland, Global

Colectiva La Maricada, Central America

Colectiva pringamosa, Colombia

Colectivo Alejandria, El Salvador

Colectivo Michoacán es Diversidad, Mexico

Colectivo Ovejas Negras, Uruguay

Colectivo Trans del Uruguay (CTU), Uruguay

Colectivo Vallarta LGBT, Mexico

Corporación CONPAZES, Colombia

Derechos Humanos Integrales en Acción, A.C. (DHIA), Mexico

Diversidad Dominicana, Dominican Republic

East Africa Trans Health & Advocacy Network (EATHAN), East Africa

Eastern Caribbean Alliance for Diversity and Equality (ECADE), Saint Lucia

Edge Effect, Global

Egale Canada, Canada

Equal Asia Foundation (Stichting EqualA Foundation), Asia

Escuela de Artes y Oficios Personas Transgéneros las 7 a las 7 , Colombia

Familias: Ahora, Chile and Colombia

Fem Alliance, Uganda

Femme en Action Contre la Stigmatisation et la Discrimination Sexuelle (FACSDIS), Haiti
Force Féminine du Bénin, Bénin

Forum for Women and Development (FOKUS), Global

Fòs Feminista, Global

Foundation for LBQ Refugees, Kenya

Fundacion Arcoiris por el Respeto a la Diversidad Sexual, Mexico

Fundación Féminas Latinas, Chile

Fundacion Gente Positiva CR, Costa Rica

Fundación Grupo de Acción y Apoyo a personas Trans (GAAT), Colombia

Fundación Rostros Diversos LGBTI+H, Colombia

Gay and Lesbian Coalition of Kenya (GALCK), Kenya

GAYa NUSANTARA Fondation, Indonesia

Gays Without Borders, Thailand

Género, Etica y Salud Sexual AC, Mexico

Global Justice Center, Global

Global Justice Institute, United States of America

Global Rights for Women, United States of America

Glorious Interfaith Initiative, Ghana

HealthPlus 4 Men, Eswatini

Healthy Black Communities, Inc., Global

HIV Justice Network, Global

Hombres Trans Panamá, Panama

House of Our Pride, Eswatini

HPLGBT, Ukraine and Eastern Partnership Region

Human Dignity Trust, Global

Human Rights Campaign, United States of America and Global

Iloilo Pride Team, Philippines

Inclusive Bangladesh, Bangladesh

Initiative for Access to Health and Youth Development, Nigeria

Initiative for highlighting Equitable Access to Rights (I-HEAR), Nigeria

Interfaith Diversity Network of West Africa, West Africa

International Centre for Total Health and Rights Advocacy Empowerment (ICTHARAE), Nigeria

International Commission of Jurists, Global

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA Europe), Europe and Central Asia

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World), Global

Intersex Ghana Movement, Ghana

Iranti, South Africa

Justice for Sisters, Malaysia

Kaos Gay and Lesbian Cultural Studies and Solidarity Association (Kaos GL), Turkey

Key Watch Ghana, Ghana

KHANA, Cambodia

Kifkif, Spain

Kilombo Brujas Transfeministas -Mujeres Prácticantes de la Santería- Religión Yoruba, Colombia

Kodera Trans Women Group, Kenya

Kolkata Rista, India

Komunitas Sehati Makassar, Indonesia

Lambda Warszawa Association, Poland and Eastern Europe

Last Hope Refugee Association, Burundi

Lesbian and Gay Federation in Germany (LSVD), Germany

LGBT+ Rights Ghana, Ghana

LGBTI por la Paz, Colombia

LGBTQ Human Right & General Well Being Supp.& Dev't Org, Ethiopia

LGBTQ Rights Activist of Iraq @gayofiraq, Iraq

Liberia's Initiative for the Promotion of Rights, Identity, Diversity and Equality (LIPRIDE), Liberia

Life Building Awareness Initiative (LIBAI), Nigeria

MAG Jeunes LGBT+, France

Manodiversa, Bolivia
Meeting Emotional and Social Needs Holistically (Mesh. Inc), Antigua and Barbuda
Mesa de Jóvenes LGBTI de Bogotá, Colombia
Miluska Luzquiños Tafur, Peru
MPact: Global Action for Gay Health & Rights, Global
Namibia Diverse Women's Association (NDWA), Namibia
Nijiuro Diversity, Japan
Noboprobhaat, Bangladesh
Organização Cultural e de Promoção da Cidadania Coletivo MultipliCidade, Brazil
OTD Chile, Chile
OTRANS-RN, Guatemala
Our Circle, Belize
Our Right Movment (ORM), Burundi and Democratic Republic of the Congo
OutRight Action International, global
PASSOP, South Africa
PLUHO, People Like Us Hang Out!, Malaysia LGBTQ organisation, Malaysia
Pondok pesantren waria Alfatah Yogyakarta Indonesia, Indonesia Proud To
Be Trans, Guyana
Quality Access to Health and Rights, Nigeria
Queer Hindu Alliance, India
Rainbow Apps Ghana, Ghana
Raise Your Voice Saint Lucia Inc., Saint Lucia
Red Distrital y Red Nacional de Mujeres y Colectivos Transfeministas, Colombia
Red Gay de Nicaragua, Nicaragua
Red Multicultural de Mujeres Trans de Guatemala, Guatemala
REDTRANS de Nicaragua, Nicaragua
ReportOUT, Global

Response to Health and Right Initiatives, Nigeria

Rightify Ghana, Ghana
Robert F. Kennedy Human Rights, Global

San Aelredo A.C., Mexico

SEED Malaysia, Malaysia

Sexuality Policy Watch, Global

Sociedad Intersexual Nicaraguense, Nicaragua

Society of Transsexual Women of the Philippines (STRAP), Philippines SouthWest
Organizing Project's Con Mujeres Gender Justice, United States of America Synergía,
Initiatives for Human Rights, Latin America, Caribbean and Africa Taiwan Equality
Campaign, Taiwan

The Alliance of Queer Egyptian Organizations, Egypt

The International Institute on Race, Equality and Human Rights (Race and Equality), Latin
America

The International LGBTQI Youth & Student Organisation (IGLYO), Europe

The Lesbians, Gays and Bisexuals of Botswana (LEGABIBO), Botswana The

Norwegian Organisation for Sexual and Gender Diversity (FRI), Norway The

Rainbow Alive Hub Initiative, Nigeria

The Robust Initiative For Promoting Human Rights (TRIUMPH UGANDA), Uganda The

Swedish Association for Sexuality Education (RFSU), Sweden and Global The Swedish

Federation for LGBTQI Rights (RFSL), Sweden and Global Tito Anthony / Key Affected

& Vulnerable Population Advocacy Network, South Sudan Ubuntu Law and Justice

Centre, Uganda

UCLA School of Law, South Africa

United Church of Christ, United States of America

Universidad EAFIT Consultorio Jurídico, Colombia

Urgent Action Fund for Women's Human Rights (UAF), Global

Venezuela Diversa AC, Venezuela

Vusa Institute for Transitional Justice, South Africa

Wavemakers Initiative for Health and Youth Empowerment, Nigeria

Waves Ahead Puerto Rico, Puerto Rico

Yayasan Penyintas Bersatu Indonesia, Indonesia

Young Women Initiatives (YouWIn), Philippines

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Alex Tenkorang, Ghana

Alexandra Wong, Antigua and Barbuda

Amar Alfikar, Indonesia

Anonymous Independent Activist

Anonymous Independent Activist

Anonymous Independent Activist

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Anonymous Independent Activist, Colombia

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Anonymous Independent Activist, Ghana

Anonymous Independent Activist, Ghana

Anonymous Independent Activist, Global

Anonymous Independent Activist, Lebanon

Anonymous Independent Activist, Netherlands

Anonymous Independent Activist, Nigeria

Anonymous Independent Activist, Provinsi Aceh

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Azusa Yamashita, Japan

Caine Youngman, Botswana
Cardew Jackson-Cole, United Kingdom
Carmen Pulido, Spain
Claudia Patricia Morales, Colombia
Curro Peña Diaz, Spain
Daniel Berezowsky Ramirez
Debbie Frempong
Denuka Jayasinghe, Sri Lanka
Dhalie, Kenya
Diana Paola López Bojacá, Colombia
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Elizabeth Mc Guinness, Global
Elkin Usuga Cano, Colombia
Ging Cristobal, Philippines
Iván Chanis Barahona, Panama
Ivan Danilo Donato Castillo, Colombia
Jairo Fernando Rodriguez Mendez, Colombia
James Alvarado Camargo, Colombia
Jane M. Oxenbury, Canada
Jose Arturo Brito Alonso, Venezuela
Jose Fernando Salcedo Martinez, Colombia
Josué Canú Granados, Guatemala
Julián Andrés García Valero, Colombia
Julius Kaggwa, Uganda
Kai Cotiangco, Philippines
Laila Yahaya, Ghana
Manuela Gómez Duque, Colombia

Maria Janina Belen

María Ramirez, Guatemala

Mariam Mannai, Tunisie, Maghreb, Moyen-Orient, and Canada

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Noah Mirembe

Nurul M. Azmi, Malaysia

Ohotuowo Ogbeche, Global

Phietra Laidens

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Holder-McClean-Ramirez, Barbados

Richard Burzynski

Sarah Kihika Kasande, Uganda

Sendian Hasan, Lebanon

Shawn Mugisha, Uganda

Sophia Morrissette

Thanh Tung, Vietnam

Tisha Ylaya, Philippines

Valentino Enrique Ramos, Colombia

Yannick Joël Feudijo, Cameroon