Malini Prasad

Program Associate - The Osgood Center for International Studies

June 2022

**Questions**

- What has the United States done so far for LGBTQ+ Afghan refugees, and what are some policies that the United States could enact to further protection for LGBTQ+ refugees?

- How does the way LGBTQ+ individuals are treated in neighboring countries impact their ability to flee Afghanistan?

**Background**

In August 2021, the Taliban took over Afghanistan’s government, resulting in drastic changes for Afghan citizens and many fleeing as refugees. Women and girls saw their rights disappear almost overnight; LGBTQ+ people lost what little protection and support they had. LGBTQ+ refugees face a different set of challenges compared to their non-LGBTQ+ counterparts. It is important to focus on how LGBTQ+ refugees are treated in their home and host countries, as well as how the United States can continue to protect these vulnerable individuals.

The Taliban gained control of Afghanistan in 1995, held onto it until 2001, and regained control in August 2021. The United States had a military presence and set up a government during those 20 years the Taliban was not in power. When the United States pulled out all military support in August of 2021, the Taliban quickly took over and implemented laws that were in place before their downfall. Before the Taliban regained power, there is anecdotal evidence of a queer scene and individuals starting to come out, and a possibility for some social change.[[1]](#footnote-1)

Although the Taliban is not categorized as a terrorist group by the State Department, they have provided a safe harbor for terrorist organizations in the past, like Al-Qaeda and ISIS. Due to their specific interpretation of Islam, the Taliban has explicitly criminalized same-sex relations and are unwilling to change its stance. Neighboring countries, such as Iran and Pakistan, hold similar views and policies on LGBTQ+ individuals with punishments including death.

LGBTQ+ individuals are not protected in many other Middle Eastern countries either; queer individuals have difficulty obtaining a safe path out of Afghanistan. LGBTQ+ individuals must leave Afghanistan because they are targeted by the Taliban, including for physical and sexual violence. However, laws are not the only barriers that LGBTQ+ individuals face; society is not accepting of queer individuals, and citizens are willing to inform the Taliban of suspected illicit behavior by their neighbors. As a result, LGBTQ+ Afghans face both legal and societal discrimination. When looking at homosexuality from a religious view, Islam is not supportive of sodomy, but homosexual acts and tendencies were more socially acceptable before the European occupation. While Afghanistan was never formally colonized by European nations, it was a British protectorate throughout the 19th century up until World War I and under their sphere of influence. Due to the relative social isolation of queer civilians in Afghanistan, LGBTQ+ citizens do not have a lot of social support from family or like-minded individuals, which hampers their ability to seek help or refuge.

The physical location of Afghanistan significantly impacts the ability of LGBTQ+ Afghans to seek refuge in nearby states. Afghanistan is a landlocked state neighbored by Iran, Pakistan, Turkmenistan, Uzbekistan, Tajikistan, and China. Tajikistan is the only state that does not criminalize LGBTQ+ existence, but there are not any protections for queer people.[[2]](#footnote-2) China is also not a viable escape route because of its current ethnic cleansing and human rights violations of Uighur Muslims. LGBTQ+ Afghan refugees face a different set of challenges than their non-LGBTQ+ refugees, including what states are safe to seek refuge in. Repatriation is the UN’s goal for most refugees, not for LGBTQ+ individuals because their difficulties extend beyond the current conflict with the Taliban.

The United Nations has passed resolutions intended to recognize the rights of LGBTQ+ individuals and their vulnerability as a group. However, the UN does not hold the power to make states uphold resolutions, nor can it enforce its protections for LGBTQ+ individuals. The UN can only express its support for LGBTQ+ civilians and call out discrimination against the community, but that is the extent of its influence. Although the United States has not released an explicit policy for protecting LGBTQ+ Afghan refugees, Canada has pledged to take in 20,000 LGBTQ+ Afghan refugees. NGOs such as the Rainbow Railroad, a Canadian-based LGBTQ+ resettlement agency, have provided some support to queer Afghan refugees both materially and psychologically. Upon the Russian invasion of Ukraine, President Biden pledged to take up to 20,000 LGBTQ+ Ukrainian refugees, which is a policy that could easily be extended to queer Afghan refugees.

The United Nations condemns violence against vulnerable groups and minorities, but its stance remains unclear on whether members of the LGBTQ+ community are part of a marginalized group. The Yogyakarta Principles, issued in 2006 and updated in 2017, state the need for the protection of queer refugees and the right of LGBTQ+ civilians to seek refuge when fleeing homophobia and anti-LGBTQ+ laws[[3]](#footnote-3). Because the Yogyakarta Principles were not a United Nations mandate and member states are often split on the issue of LGBTQ+ rights, protections are not always extended to LGBTQ+ civilians and vary between states. Anti-LGBTQ+ laws also differ from laws excluding other minorities because they are explicit in their language about excluding LGBTQ+ people from society and punishment for existing. Additionally, the Taliban perceives the promotion of human rights, particularly for women and LGBTQ+ individuals, as an imposition of Western values and a violation of Afghanistan’s sovereignty.

**Policy Recommendations to the United States State Department**

Listed below are some ways the US State Department can help safely resettle LGBTQ+ Afghan refugees in the United States. The UN Human Rights Council has issued the UNHCR Integration Handbook, a [document](https://www.unhcr.org/handbooks/ih/age-gender-diversity/lgbtiq-refugees) that outlines how governments should resettle LGBTQ+ refugees.[[4]](#footnote-4)

Homophobia in the United States affects where the government can safely resettle LGBTQ+ refugees. Allocating part of the refugee budget to finding safe places and resettling LGBTQ+ refugees in these safe locations is a recommendation. The US government should compile a list of hate crime locations against LGBTQ+ individuals and Muslim refugees. The government should then present the list to refugees so they can make an informed decision on where they would like to resettle. The United States could delegate this task to the refugee settlement department within the State Department or the task force on domestic terrorism.

Utilizing the UN Human Rights Council Integration Handbook, resettlement needs to prioritize the safety of LGBTQ+ refugees. Recognizing the cultural differences between ethnic groups in Afghanistan is important in deciding where to resettle refugees. One of the best refugee policies is to allow refugees agency with where and whom they want to resettle. Additionally, the United States needs to ensure refugees in non-heterosexual partnerships have equal access to resources and ensure they can stay with their partners. Listening to what LGBTQ+ refugees want is the best policy because it affirms their autonomy.

In addition to these resettlement services and opportunities, NGOs and government organizations need to reach out to LGBTQ+ refugees to document their experiences with leaving Afghanistan and what they faced with the Taliban. The Taliban is under scrutiny for human rights abuses and crimes against humanity, so the testimonies collected from these refugees can serve as evidence for indictment and punitive measures. The Taliban has also committed acts of sexual violence against members of the LGBTQ+ community[[5]](#footnote-5). Majority of LGBTQ+ Afghans are closeted for fear of death, The United Nations and member states can prosecute the Taliban for acts of sexual violence and rape because they are considered a weapon of war. Building a case against the Taliban is one way to seek justice for victims of sexual violence. Trained professionals, such as psychologists who specialize in sexual violence and trauma, should document these crimes by obtaining testimony in a way that would not retraumatize victims. The atrocities committed by the Taliban require documentation for historical purposes to prevent them from happening again.

**Conclusion**

LGBTQ+ Afghans are facing death and difficulties leaving the country since the Taliban took control of the Afghan government in August 2021. The United States was a stable presence in Afghanistan for twenty years, and LGBTQ+ people were able to be a little more open about their identity. Unfortunately, their openness immediately put their lives in danger as soon as the Taliban retook power. The conflict in Afghanistan has negatively impacted many citizens’ lives and placed them in mortal danger.

US refugee resettlement policies have the goal of placing refugees in safe locations. As a host country, the United States needs dedicated resources for LGBTQ+ refugees due to their different needs compared to their non-LGBTQ+ counterparts. These LGBTQ+ refugees are not only fleeing violence in Afghanistan, but also societal homophobia and have a right to safety in their country of refuge. Documentation of refugees’ stories is another way to listen to LGBTQ+ refugees. Additionally, documentation can be used as evidence to build a case against members of the Taliban for committing war crimes and crimes against humanity with their treatment of LGBTQ+ Afghans.

The policy recommendations for the United States government are based on the evidence and anecdotes I have found on governmental, intergovernmental, and non-governmental organizations’ websites. A couple of organizations I relied on for how LGBTQ+ Afghans are treated include, the Human Rights Campaign, the Human Rights Watch, the UN Human Rights Council, and the United States Institute of Peace. I also recognize the best way to help LGBTQ+ Afghan refugees is to listen to what they see their biggest needs as and then go from there.

Bibliography

*10 ways the U.N. has protected LGBTQ Human Rights*. Human Rights Campaign. (2017,

September 18). Retrieved June 30, 2022, from

<https://www.hrc.org/news/ten-ways-the-united-nations-has-protected-lgbtq-human-rights>.

*Afghanistan: Taliban target LGBT Afghans - human rights watch*. Human Rights Watch. (2022,

January 26). Retrieved June 30, 2022, from

<https://www.hrw.org/news/2022/01/26/afghanistan-taliban-target-lgbt-afghans>.

Angelo, P. J., & Bocci, D. (2021, January 29). *The changing landscape of Global LGBTQ+*

*rights*. Council on Foreign Relations. Retrieved June 30, 2022, from

<https://www.cfr.org/article/changing-landscape-global-lgbtq-rights>.

Barr, H. (2022, January 26). *"Even if You Go to the Skies, We'll Find You"*. Human Rights Watch.

Retrieved June 22, 2022, from

<https://www.hrw.org/report/2022/01/26/even-if-you-go-skies-well-find-you/lgbt-people-afghanistan-after-taliban-takeover>.

Desk, N. (2011, May 4). *A historical timeline of Afghanistan*. PBS. Retrieved June 30, 2022,

from <https://www.pbs.org/newshour/politics/asia-jan-june11-timeline-afghanistan>.

HRC Foundation. (2022). *Stances of faiths on LGBTQ issues: Islam*. Human Rights Campaign.

Retrieved June 22, 2022, from

<https://www.hrc.org/resources/stances-of-faiths-on-lgbt-issues-islam>.

International Commission of Jurists. (2017, November 10). *The Yogyakarta Principles plus 10*.

The Yogyakarta Principles. Retrieved June 30, 2022, from

<https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf>.

International Lesbian, Gay, Bisexual, Trans, and Intersex Association. (n.d.). *Maps - sexual*

*orientation laws | ILGA*. ILGA. Retrieved June 30, 2022, from

<https://ilga.org/maps-sexual-orientation-laws>.

United Nations. (2002). *LGBTIQ+ refugees*. UNHCR. Retrieved June 30, 2022, from

<https://www.unhcr.org/handbooks/ih/age-gender-diversity/lgbtiq-refugees>.

*US: LGBT asylum seekers in danger at the border*. Human Rights Watch. (2022, June 25).

Retrieved June 30, 2022, from

<https://www.hrw.org/news/2022/05/31/us-lgbt-asylum-seekers-danger-border>.

1. Information gathered at a US Peace Institute panel of LGBTQ+ Afghan refugees with panelists coming from Rainbow Railroad, an Afghan refugee, and NGO members. The discussant was a reporter who left Afghanistan because he feared for his life as an LGBTQ+ man. [↑](#footnote-ref-1)
2. International Lesbian, Gay, Bisexual, Trans, and Intersex Association. (n.d.). *Maps - sexual orientation laws*  [↑](#footnote-ref-2)
3. International Commission of Jurists. (2017, November 10). *The Yogyakarta Principles plus 10*. [↑](#footnote-ref-3)
4. <https://www.unhcr.org/handbooks/ih/age-gender-diversity/lgbtiq-refugees> [↑](#footnote-ref-4)
5. The Taliban has a history of committing acts of sexual violence against women, however they do not allow a lot of documentation [↑](#footnote-ref-5)