

Nos. 18-587, 18-588, 18-589

IN THE
Supreme Court of the United States

DEPARTMENT OF HOMELAND SECURITY, *et al.*, *Petitioners*,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, *Respondents*.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, *et al.*,

Petitioners,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et al.*, *Respondents*.

KEVIN K. MCALEENAN, ACTING SECRETARY OF
HOMELAND SECURITY, *et al.*, *Petitioners*,

v.

MARTIN JONATHAN BATALLA VIDAL, *et al.*, *Respondents*.

**On Writs of Certiorari to the
United States Courts of Appeals for the
Ninth, District of Columbia, and Second Circuits**

**BRIEF OF *AMICUS CURIAE* NATIONAL
QUEER ASIAN PACIFIC ISLANDER
ALLIANCE IN SUPPORT OF RESPONDENTS**

GLENN D. MAGPANTAY

*Executive Director
and Counsel*

NATIONAL QUEER ASIAN
PACIFIC ISLANDER
ALLIANCE, INC.

P.O. Box 1277
Old Chelsea Station
New York, NY 10113

217 West 18th Street, #1277
New York, NY 10011
(917) 439-3158

SUSAN M. FINEGAN

Counsel of Record

MEREDITH M. LEARY

KAITLYN A. CROWE

ANGEL FENG

GEOFFREY A. FRIEDMAN

RITHIKA KULATHILA

MARGUERITE MCCONIHIE

MINTZ, LEVIN, COHN,

FERRIS, GLOVSKY AND

POPEO, P.C.

One Financial Center

Boston, MA 02111

(617) 542-6000

SMFinegan@Mintz.com

Counsel for Amici Curiae

QUESTIONS PRESENTED

1. Whether DHS's decision to wind down the Deferred Action for Childhood Arrivals ("DACA") policy is judicially reviewable.
2. Whether DHS's decision to wind down the DACA policy is lawful.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLES OF AUTHORITIES.....	iv
INTEREST OF <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT	3
ARGUMENT.....	5
I. Asian American and Pacific Islander LGBTQ DACA recipients will face discrimination, criminal prohibitions and particularly dangerous conditions, includ- ing death, if they are removed to their countries of birth.....	5
II. Tens of Thousands of LGBTQ DACA Recipients, especially those who publi- cally identified themselves as such, will be at increased risk for discrimination and mistreatment if DACA is rescinded...	21
CONCLUSION	32
APPENDIX	
List of <i>Amici Curiae</i>	1a

TABLE OF AUTHORITIES

CASES	Page(s)
<i>Hively v. Ivy Tech Community College of Indiana</i> , 853 F.3d 339 (7th Cir. 2017).....	23
<i>Lawrence v. Texas</i> , 539 U.S. 558 (2003).....	7, 11, 12, 23
<i>Li v. Ashcroft</i> , 356 F.3d 1153 (9th Cir. 2004).....	30
<i>Nelson v. INS</i> , 232 F.3d 258 (1st Cir. 2000)	30
<i>Obergefell v. Hodges</i> , 576 U.S. ___, 135 S. Ct. 2584 (2015)	<i>passim</i>
<i>Regents of the University of Calif. v. U.S. Dep’t Homeland Security</i> , 908 F.3d 476 (9th Cir. 2018).....	32
<i>Zarda v. Altitude Express, Inc.</i> , Docket No. 15-3775, 2017 U.S. App. LEXIS 13127 (2d Cir. May 25, 2017)	23
STATUTES AND REGULATIONS	
8 U.S.C. § 101	x
8 U.S.C. § 1158	x
18 U.S.C. § 249 <i>et. seq.</i>	x
Executive Order No. 13087, 63 Fed. Reg. 30097 (May 28, 1998).....	x
Cal Health & Saf Code Div. 104, Pt. 5, Art. 5 (2016)	x

TABLE OF AUTHORITIES—Continued

	Page(s)
N.J. Stat. § 18A:35-4.36 (2019)	x
N.Y. Exec. Law § 296 (Consol. 2019)	x
FOREIGN STATUTES	
AFGHANISTAN PENAL CODE, Ch. 646–48 (Feb. 14, 2018).....	x
BANGL. PENAL CODE, Act No. XLV of 1860, § 377 (Oct. 6, 1860)	7
BHUTAN PENAL CODE, Act of 2004, §§ 213–14.....	9
BRUNEI PENAL CODE, Ch. 22 of 1951 (Revised Ed. 2001), § 377.....	9
INDONESIA LAW NO. 1/1974	19
ISLAMIC PENAL CODE, Art. 233–40 (Apr. 21, 2013).....	8
MALAYSIA PENAL CODE, Act No. 574, § 377A of 1998	8
MALAYSIA PENAL CODE, Act No. 574, § 377B of 1998	8
MALDIVES PENAL CODE, Law No. 6/2014, §411	9
MYANMAR PENAL CODE, Act 45/1850, Revised Edition, § 377	9
PAK. PENAL CODE, Act No. XLV of 1860, § 294 (Oct. 6, 1860)	7
PAK. PENAL CODE, Act No. XLV of 1860, § 377 (Oct. 6, 1860)	8

TABLE OF AUTHORITIES—Continued

	Page(s)
SINGAPORE PENAL CODE, No. 2 of 2008 (Revised Ed.), § 295 (Jan. 28, 2008).....	9
SINGAPORE PENAL CODE, No. 2 of 2008 (Revised Ed.), § 354 (Jan. 28, 2008).....	9
SINGAPORE PENAL CODE, No. 2 of 2008 (Revised Ed.), § 377a (Jan. 28, 2008).....	9
SOUTH KOREA MILITARY CODE, Act No. 92-6	30
SRI LANKA PENAL CODE, Act No. 22 of 1995, § 365	9
SRI LANKA PENAL CODE, Act No. 22 of 1995, § 365A.....	9
UAE PENAL CODE, Law No. 3/1987, Art. 356.....	8
YEMEN PENAL CODE, Law No. 12 for 1994, Art. 264, Art. 268	8
OTHER AUTHORITIES	
<i>#Outlawed the Love That Dare Not Speak its Name</i> , HUMAN RIGHTS WATCH, http:// internap.hrw.org/features/features/lgbt_ laws/ (last visited Sept. 24, 2019).....	6, 8
<i>13th Annual LGBTQ Community Survey, USA Summary Report</i> , COMMUNITY MARKETING & INSIGHTS (July 2019).....	26
<i>A Survey of LGBT Americans</i> , PEW RES. CTR. SOC. & DEMOGRAPHIC TRENDS (June 13, 2013), https://www.pewsocialtrends.org/ 2013/06/13/a-survey-of-lgbt-americans/ ...	27

TABLE OF AUTHORITIES—Continued

	Page(s)
Aengus Carroll & Lucas Ramón Mendos, <i>State-Sponsored Homophobia: A world survey of sexual orientation laws: criminalization, protection and recognition</i> , International Lesbian, Gay, Bisexual, Trans and Intersex Association, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf ... <i>passim</i>	
Anamika Singh, <i>More LGBT people are expressing their love openly, however they are also being targeted</i> , FIJIVILLAGE (Nov. 20, 2017), https://fijivillage.com/news-feature/More-LGBT-people-are-expressing-their-love-openly-however-they-are-also-being-targeted-k9s25r/ (last visited Sept. 24, 2019).....	15
Annie Banerji, <i>Mind your own business: Small firms opt out as India Inc races to be LGBT-friendly</i> REUTERS (Feb. 12, 2019, 5:16 AM), https://www.reuters.com/article/us-india-lgbt-business/mind-your-own-business-small-firms-opt-out-as-india-inc-races-to-be-lgbt-friendly-idUSKCN1Q113D (last visited Sept. 24, 2019).....	13
Ben Bavinton et al., <i>Secret Lives, Other Voices: A community-based study exploring male-to-male sex, gender identity and HIV transmission risk in Fiji</i> , AIDS TASK FORCE OF FIJI (2011)	15

TABLE OF AUTHORITIES—Continued

	Page(s)
Cai Wilkinson et al., <i>LGBT Rights in Southeast Asia: One Step Forward, Two Steps Back?</i> , IAFOR J. OF ASIAN STUD. (2017).....	17, 20
Chris Horton, <i>After a Long Fight, Taiwan’s Same-Sex Couples Celebrate New Marriages</i> , N.Y. TIMES, May 25, 2019.....	19
DACA Stories, <i>Bupendra (Bupen) Ram</i> , SAALT, http://saalt.org/policy-change/migrant-rights/daca-stories/bupendra-bupen-ram/	25
Editorial Board, <i>A Win for L.G.B.T. Rights in India</i> , N.Y. TIMES, Sept. 21, 2018.....	13
Executive Order No. 13087 (1998).....	23
Feifei Sun, <i>Behind the Cover: America’s Undocumented Immigrants</i> , TIME (June 14, 2012), https://time.com/3789293/behind-the-cover-americas-undocumented-immigrants/	25
<i>Fiji PM’s gay marriage comments shock</i> , RNZ (Jan. 6, 2016 7:31 PM), https://www.rnz.co.nz/international/pacific-news/293597/fiji-pm’s-gay-marriage-comments-shock (last visited Sept. 24, 2019).....	31
Gustavo López & Jens Krogstad, <i>Key facts about unauthorized immigrants enrolled in DACA</i> , PEW RES. CTR. (Sep. 25, 2017), http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/	26

TABLE OF AUTHORITIES—Continued

	Page(s)
<i>Halt the Hate</i> , AMNESTY INTERNATIONAL INDIA (Mar. 5 2019 10:49 AM), https://amnesty.org.in/news-update/over-200-alleged-hate-crimes-in-2018-reveals-halt-the-hate-website/ (last visited Sept. 24, 2019)...	14
<i>Indonesia’s Aceh Resumes Public Caning Despite Pledge to Curb Access</i> , REUTERS (July 13, 2018, 7:58 AM), https://www.reuters.com/article/us-indonesia-aceh-caning/indonesias-aceh-resumes-public-caning-despite-pledge-to-curb-access-idUSKBN1K31N1 (last visited Sept. 24, 2019)...	10
<i>Indonesia: Draft Criminal Code Disastrous for Rights</i> , HUMAN RIGHTS WATCH (Sept. 18, 2019), https://www.hrw.org/news/2019/09/18/indonesia-draft-criminal-code-disastrous-rights	11
Jeffrey Gettleman, Kai Schultz and Suhasini Raj, <i>India Gay Sex Ban Is Struck Down. ‘Indefensible,’ Court Says</i> , N.Y. TIMES, Sept. 7, 2018.....	14
Jon Emont, <i>2 Men in Indonesia Sentenced to Caning for Having Gay Sex</i> , N.Y. TIMES, May 18, 2018.....	10
Jon Emont, <i>Indonesia Police Arrest 141 Men Accused of Having Gay Sex Party</i> , N.Y. TIMES, May 23, 2017.....	11

TABLE OF AUTHORITIES—Continued

	Page(s)
Kerith Conron & Taylor N.T. Brown, <i>There are Over 75,000 LGBT DREAMers; 36,000 Have Participated in DACA</i> , THE WILLIAMS INST., UCLA School of Law, n.3 (Feb. 2017), williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-DREAMers-and-DACA-February-2017.pdf	21
Kyle Knight, <i>Indonesia’s anti-LGBT drive should concern all Asia</i> , HUMAN RIGHTS WATCH (Feb. 20, 2018 1:42 PM), https://www.hrw.org/news/2018/02/20/indonesia-s-anti-lgbt-drive-should-concern-all-asia ...	18
Kyle Knight , <i>Indonesian Militant Islamists, Police Raid Gay Gathering</i> , HUMAN RIGHTS WATCH (Nov. 29, 2016), https://www.hrw.org/news/2016/11/29/indonesian-militant-islamists-police-raid-gay-gathering...	10
<i>LGBT Rights in South Korea</i> , EQUALDEX, https://www.equaldex.com/region/south-korea (last visited Sept. 24, 2019).....	19
<i>LGBTI Rights</i> , AMNESTY INTERNATIONAL, https://www.amnesty.org/en/what-we-do/discrimination/lgbt-rights/ (last visited Sept. 24, 2019).....	7, 8
Liam Fox, <i>Murdered on International day against Transphobia: fears Fiji killing is a hate crime</i> , ABC NEWS (July 23, 2018 5:06 AM), https://www.abc.net.au/news/2018-07-23/trans-woman-murdered-in-fiji-in-suspected-hate-crime/10026188	14-15, 30

TABLE OF AUTHORITIES—Continued

	Page(s)
<i>Lim Meng Suang et. al v. Attorney General</i> , Court of Appeal of Republic of Singapore (decided 29 October 2014), https://www.supremecourt.gov.sg/docs/default-source/module-document/judgement/-2014-sgca-53-pdf.pdf	18
Lucas Ramón Mendos, <i>State-Sponsored Homophobia 2019</i> , International Lesbian, Gay, Bisexual, Trans and Intersex Association, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019_light.pdf (last visited Sept. 24, 2019) <i>passim</i>	
<i>Malaysia: Two Women Face Caning for Same-Sex Conduct</i> , HUMAN RIGHTS WATCH (Aug. 21, 2018), https://www.hrw.org/news/2018/08/21/malaysia-two-women-face-caning-same-sex-conduct (last visited Sept. 24, 2019).....	8-9
M.V. Lee Badgett, et al., <i>LGBT Exclusion in Indonesia and Its Economic Effects</i> , THE WILLIAMS INSTITUTE (2017)..... <i>passim</i>	
Neela Ghosal & Thilaga Sulathireh, “ <i>The Deceased Can’t Speak for Herself:” Violence Against LGBT People in Malaysia</i> , GEO. J. OF INT’L AFF. (2019)	16

TABLE OF AUTHORITIES—Continued

	Page(s)
Nicole Svajlenka, <i>What We Know About DACA Recipients in the United States</i> , CTR. FOR AMERICAN PROGRESS (Sept. 5, 2019 9:00 AM), https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/ (last visited Sept. 24, 2019)	23
Nicole Svajlenka & Audrey Singer, <i>Immigration Facts: Deferred Action for Childhood Arrivals (DACA)</i> , BROOKINGS METRO. POL'Y PROGRAM (Aug. 14, 2013) https://www.brookings.edu/research/immigration-facts-deferred-action-for-childhood-arrivals-daca/ (last visited Sept. 24, 2019)	22
RAINBOW RIGHTS PROJECT, <i>Kwentong Bebot: Lived Experiences of Lesbians, Bisexual and Transgender Women in the Philippines</i> , at 14, outrightinternational.org/sites/default/files/philippinescc.pdf (DATE?)	16
Sam Hananel, <i>Release: LGBT Immigrants in Detention Centers at Severe Risk of Sexual Abuse, CAP Analysis Says</i> , CTR. FOR AMERICAN PROGRESS (May 30, 2018), https://www.americanprogress.org/press/release/2018/05/30/451380/release-lgbt-immigrants-detention-centers-severe-risk-sexual-abuse-cap-analysis-says/	29

TABLE OF AUTHORITIES—Continued

	Page(s)
Sharita Gruberg, <i>ICE’s Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse</i> , CTR. FOR AMERICAN PROGRESS (May 30 2018 12:00 PM), https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/	28
Sharita Gruberg, <i>What Ending DACA Means for LGBTQ Dreamers</i> , CTR. FOR AMERICAN PROGRESS (Oct. 11, 2017 11:08 AM), https://www.americanprogress.org/issues/lgbt/news/2017/10/11/440450/ending-daca-means-lgbtq-dreamers/	22
<i>Social Media Fact Sheet</i> , PEW RES. CTR., INTERNET & TECH., (June 12, 2019), https://www.pewinternet.org/fact-sheet/social-media/	26
Sushmita Pathak & Furkan Latif Khan, <i>India’s Anti-Gay Law Is History. Next Challenge: Treat LGBTQ Patients with Respect</i> , NPR (Sept. 17, 2018 1:26 PM), https://www.npr.org/sections/goatsandsofa/2018/09/17/645279722/indias-anti-gay-law-is-history-next-challenge-treat-lgbtq-patients-with-respect (last visited Sept. 24, 2019)	13

TABLE OF AUTHORITIES—Continued

	Page(s)
Suva Shahani Mala, <i>Attack On Gay Men Condemned</i> , FIJI SUN (Feb. 7, 2017), http://fjिसun.com.fj/2017/02/07/attack-on-gay-men-condemned/ (last visited Sept. 24, 2019)	15, 16
<i>Tan Eng Hong, Lim Meng Suang, and Kenneth Chee Mun-Leon v. Attorney General</i> , Court of Appeal of Republic of Singapore, 29 October 2014	
Timothy Rich & Isabel Eliassen, <i>What’s Behind South Korea’s Persistent LGBT Intolerance?</i> THE DIPLOMAT (March 19, 2019), https://thediplomat.com/2019/03/whats-behind-south-koreas-persistent-lgbt-intolerance/	14
Tokada Rainima, <i>No arrest yet on Vesida murder</i> , FBC NEWS (Oct. 12, 2017 1:20 AM), https://www.fbcnews.com.fj/news/no-arrests-yet-on-vesida-murder/ (last visited Sept. 24, 2019).....	15, 30
Tom K. Wong, et al., 2017 <i>National DACA Study</i> , https://cdn.americanprogress.org/content/uploads/2017/11/02125251/2017_DACA_study_economic_report_updated.pdf	22
Tom K. Wong, et al., 2019 <i>National DACA Study</i> , https://cdn.americanprogress.org/content/uploads/2019/09/18122133/New-DACA-Survey-2019-Final-1.pdf . (last visited Sept. 23, 2019)	6, 22

TABLE OF AUTHORITIES—Continued

	Page(s)
<i>Uncovering Our Stories: Bupendra Ram</i> , National Queer Asian Pacific Islander Alliance (Aug. 24, 2013), https://www.nqapia.org/wpp/uncovering-our-stories-bupendra/ (last visited Sept. 24, 2019).....	25
<i>Uncovering Our Stories: Tony Choi</i> , National Queer Asian Pacific Islander Alliance (Oct. 11, 2013), https://www.nqapia.org/wpp/uncovering-our-stories-tony-choi/ (last visited Sept. 24, 2019)	24
U.N. Dev. Programme & U.S. Agency Int’l Dev., <i>Being LGBT in Asia: Cambodia Country Report</i> , (2014).....	11
U.N. Dev. Programme & U.S. Agency Int’l Dev., <i>Being LGBT in Asia: China Country Report</i> , (2014).....	12
U.N. Dev. Programme & U.S. Agency Int’l Dev., <i>Being LGBT in Asia: Indonesia Country Report</i> , (2014).....	10
U.N. Dev. Programme & U.S. Agency Int’l Dev., <i>Being LGBT in Asia: Thailand Country Report</i> , (2014).....	18
U.S. CITIZENSHIP & IMMIGRATION SERVS., <i>Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction</i> (July 17, 2019)	5, 22

TABLE OF AUTHORITIES—Continued

	Page(s)
U.S. CITIZENSHIP & IMMIGRATION SERVS., <i>Number of Form I-821D, Consideration of Deferred Action for Childhood Arri- vals, by Fiscal Year, Quarter, Intake and Case Status Fiscal Year 2012-2019</i> (June 30, 2019)	21
U.S. CITIZENSHIP & IMMIGRATION SERVS., QUESTIONS AND ANSWERS: ASYLUM ELIGI- BILITY AND APPLICATIONS, https://www. uscis.gov/humanitarian/refugees-asylum/ asylum/questions-and-answers-asylum-eli- gibility-and-applications (last visited Sept. 23, 2019)	5
U.S. DEP’T OF STATE, BUREAU OF CONSULAR AFF., U.S. PASSPORTS AND INT’L TRAVEL, https://travel.state.gov/content/passports /en/country/bhutan.html (last visited Sept. 24, 2019)	9
U.S. DEP’T OF STATE, BUREAU OF DEMOC- RACY, H.R. AND LAB., <i>Malaysia 2018 Human Rights Report</i> (2018) https:// www.state.gov/wp-content/uploads/2019/ 03/MALAYSIA-2018.pdf	9, 17
<i>What is LGBTQ?</i> , THE LESBIAN, GAY, BISEXUAL & TRANSGENDER COMMUNITY CENTER, https://gaycenter.org/about/lgbtq/ #queer (last visited Sept. 24, 2019)	1, 24

TABLE OF AUTHORITIES—Continued

	Page(s)
Yvette Tan, <i>Brunei implements stoning to death under anti-LGBT laws</i> , BBC (Apr. 3, 2019), https://www.bbc.com/news/world-asia-47769964 (last visited Sept. 24, 2019).....	9
Zenén Jaimes Pérez, <i>A Portrait of Deferred Action for Childhood Arrivals Recipients: Challenges and Opportunities Three-Years Later</i> , UNITED WE DREAM (Oct. 2015), https://unitedwedream.org/wp-content/uploads/2015/10/DACA-report-final-1.pdf ..	21

INTEREST OF *AMICI CURIAE*¹

The National Queer Asian Pacific Islander Alliance (“NQAPIA”) is a federation of LGBTQ Asian American, South Asian, Southeast Asian, and Pacific Islander organizations. NQAPIA unites local lesbian, gay, bisexual, transgender and queer or questioning (“LGBTQ”)² API groups, develops leadership, promotes visibility, educates the community, invigorates grassroots organizing, encourages collaboration, and challenges anti-LGBTQ bias and racism. NQAPIA spearheads educational and advocacy campaigns in support of LGBTQ immigrants’ rights.

NQAPIA member groups and ally LGBTQ organizations are deeply troubled by the Trump Administration’s attempt to rescind DACA and the significant risk that LGBTQ undocumented immigrants will face removal to countries that criminalize homosexuality, discriminate and marginalize LGBTQ individuals, and put them at undue risk of violence and/or persecution because of their LGBTQ status.

The following NQAPIA member groups and ally LGBTQ organizations join this brief as *amici curiae* and a statement of interest from each organization is attached as an Appendix to this brief:

¹ Pursuant to Supreme Court Rule 37.6, counsel for *amici* certify that they authored this brief in its entirety and that no party or its counsel, nor any other person or entity other than *amici* or their counsel, made a monetary contribution to this brief’s preparation or submission. The parties have consented to the filing of this brief.

² “LGBTQ is an acronym for lesbian, gay, bisexual, transgender and queer or questioning. These terms are used to describe a person’s sexual orientation or gender identity.” *What is LGBTQ?*, THE LESBIAN, GAY, BISEXUAL & TRANSGENDER COMMUNITY CENTER, <https://gaycenter.org/about/lgbtq/#queer> (last visited Sept. 24, 2019).

- API Equality – Northern California (APIENC);
- API Rainbow Parents of PFLAG NYC;
- APICHA Community Health Center – New York City;
- Asian and Pacific Islander Queers United for Action (AQUA);
- Asian Pacific American Labor Alliance (AFL-CIO);
- Asian Pacific Islander Queer Women and Transgender Community- San Francisco;
- ATL Q+A – Atlanta;
- Equality Federation;
- Gay Asian and Pacific Islander Men of New York (GAPIMNY);
- Gay Asian Pacific Alliance (GAPA) – San Francisco;
- GLBT Fund of America, Philadelphia;
- GLBTQ Legal Advocates & Defenders (GLAD);
- Invisible to Invincible Asian Pacific Pride of Chicago (i2i);
- KhuskATX;
- Korean American Rainbow Parents – Washington D.C. (KARP);
- Korean Queer and Transgender Organization of Washington D.C. (KQT DC);
- Lambda Legal;
- Los Angeles LGBT Center;
- National Black Justice Coalition;
- National LGBTQ Task Force;

- Our Space LGBT Youth Center;
- OutRight Action International;
- PFLAG Asian Pacific Islanders San Gabriel Valley Chapter;
- Philadelphia Asian & Queer (PAC);
- Queer South Asian Collective Community – Boston;
- Q-WAVE;
- SAGE NYC;
- SALGA NYC;
- San Francisco LGBT Center;
- Satrang Los Angeles;
- Transgender Legal Defense and Education Fund;
- Trikone; and
- UTOPIA Seattle.

SUMMARY OF ARGUMENT

There are tens of thousands of individuals who are DACA program recipients who also identify as LGBTQ, many of whom were born in Asian and Pacific Island (“API”) nations. Without the protection afforded by DACA, those children, many of whom have now grown to be young adults who have only ever known the United States as home, will be subject to removal proceedings to their countries of birth. These children often have no memory of their birth countries nor have they visited since their families fled in their infancy or young childhood. They may not know anyone there. Should they be removed, they would have no shelter, no resources, no ability to earn income, nor even an

ability to speak the local language. In sum, should DACA be rescinded, these children and young adults will be unceremoniously dispatched with no safety net to a country wholly unknown to them.

Moreover, if DACA is rescinded, many LGBTQ DACA recipients from API nations are almost certain to face harassment, discrimination, criminal prosecution, violence and even death by virtue of their sexual orientation or gender identity. API LGBTQ DACA recipients from these nations will also lose substantial civil protections afforded them in the United States, including the right to marry, the ability to seek medical care, and/or to earn a living without discrimination.

Many LGBTQ DACA recipients have been open and transparent about their sexual orientation or gender identity while living in the United States, have engaged in LGBTQ activism, and have publicly disclosed their LGBTQ status in their communities, through their online identities and otherwise. In this digital age, if these openly LGBTQ DACA recipients are removed, there is no realistic way to put this “genie back in the bottle.” The rescission of DACA will unavoidably put these individuals in danger of criminal prosecution, discrimination, violence and even death in their country of birth because of their sexual orientation and/or gender identity. The great promise of DACA was the freedom from fear of removal, and the liberating sense of security that permitted DACA recipients to build their lives in America authentically, including vis-à-vis their sexual orientation and/or gender identity, without shame of being “undocumented.” Rescinding DACA not only puts a lie to that promise but even more cruelly, puts some of the most vulnerable DACA recipients in even greater danger than they may have been in had DACA never been in place.

ARGUMENT

I. Asian American and Pacific Islander LGBTQ DACA recipients will face discrimination, criminal prohibitions and particularly dangerous conditions, including death, if they are removed to their countries of birth

For LGBTQ children and young adults who (1) have been prevented from applying for DACA as a result of halting the program, or (2) are current DACA recipients who may lose their ability to renew their status if the program is ended, the rescission of the program means the risk of immediate removal to a detention facility followed by removal to their country of birth.³

Many undocumented immigrants who qualify for or have received DACA share a tangible, and realistic, fear of just what being removed to their birth countries – countries that their families fled for fear of persecution, poverty, and/or violence – would mean. In a recent survey of DACA recipients, approximately 80% of surveyed respondents indicated concern for their physical safety, and the physical safety of their families, were they to return to their countries of birth.⁴

³ See U.S. CITIZENSHIP & IMMIGRATION SERVS., *Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction* (July 17, 2019). Further, many of these individuals have been in the United States for over 1 year, making them ineligible for asylum protections. 8 U.S.C. § 1158 (2)(B).

⁴ Tom K. Wong, et al., *2019 National DACA Study* at 7, <https://cdn.americanprogress.org/content/uploads/2019/09/18122133/New-DACA-Survey-2019-Final-1.pdf>. (hereinafter Wong, *2019 National DACA Study*) (last visited Sept. 23, 2019).

For LGBTQ DACA recipients, that fear is even more acute. Approximately seventy countries of the world still criminalize and punish same-sex relationships and same-sex sexual activity and impose extensive penalties, including up to life in prison.⁵ Numerous countries sentence people engaged in consensual same-sex relationships to death as punishment.⁶ Further, and as discussed below, the circumstances can be dire even in the absence of criminal prosecution due to rampant discrimination, bias, and significantly increased rates of violence by private actors against LGBTQ individuals. In such countries, the removal of deferred action can be tantamount to a death sentence.

The cruelty of reversing DACA for this vulnerable population is evident from the laws and customs in the API nations where DACA recipients may be forced to return if the repeal of DACA is upheld. A brief survey of several of these countries reveals the deep-seated prejudices against, and legal impediments to, LGBTQ API's safety and exercise of their fundamental rights.

Criminal Prohibitions and the Death Penalty:

Many countries in the Asia and Pacific Island region still criminalize same-sex sexual activity and relationships, posing a grave threat to the LGBTQ DACA

⁵ International Lesbian, Gay, Bisexual, Trans and Intersex Association (“ILGA”): Lucas Ramón Mendos, *State-Sponsored Homophobia 2019*, at 15, available at https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf [hereinafter *State-Sponsored Homophobia 2019*]; Human Rights Watch, #*Outlawed: The Love That Dare Not Speak its Name*, http://internap.hrw.org/features/features/lgbt_laws/

⁶ *State-Sponsored Homophobia 2019*, supra note 5, at 15-16; Human Rights Watch, #*Outlawed: The Love That Dare Not Speak its Name*, available at http://internap.hrw.org/features/features/lgbt_laws/

recipients from these countries if they are forced to return, especially where they are not closeted. The mere fact that such laws exist significantly impairs the liberty and “autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct” for LGBTQ individuals in these countries. *Lawrence v. Texas*, 539 U.S. 558, 560 (2003).

For example, Bangladesh—a country of over 150 million people—criminalizes all sexual activity between men, with a punishment of 10 years and up to life in prison.⁷ Pakistan criminalizes a broadly-worded category of “obscene acts” and same-sex activity.⁸ Punishment is severe: two to ten years imprisonment⁹ and possible penalty by death.¹⁰ In Afghanistan, United Arab Emirates, Yemen, Iran, Brunei, and Saudi Arabia, homosexuality is also punishable by death.¹¹

⁷ BANGL. PENAL CODE, Act No. XLV of 1860, § 377 (Oct. 6, 1860).

⁸ PAK. PENAL CODE, Act No. XLV of 1860, § 294 (Oct. 6, 1860); see also International Lesbian, Gay, Bisexual, Trans and Intersex Association: Aengus Carroll & Lucas Ramón Mendos, *State-Sponsored Homophobia: A world survey of sexual orientation laws: criminalization, protection and recognition* (May 2017) at 133, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf [hereinafter *State-Sponsored Homophobia* (2017)].

⁹ PAK. PENAL CODE, Act No. XLV of 1860, §§ 294, 377 (Oct. 6, 1860).

¹⁰ *Id.*, 2019 *State Sponsored Homophobia*, *supra* note 5, at 15–16; *LGBTI Rights*, AMNESTY INTERNATIONAL, <https://www.amnesty.org/en/what-we-do/discrimination/lgbt-rights/> (last visited Sept. 24, 2019).

¹¹ 2019 *State Sponsored Homophobia*, *supra* note 5, at 15–16; see also BRUNEI SYARIAH PENAL CODE ORDER, Part IV Ch. 1 §§ 69, 82 (2013).

Malaysia criminalizes certain same-sex sexual activity with punishment of up to twenty years' imprisonment, and punish consensual same-sex intercourse with lashings.¹² In September of 2018, two women were sentenced to caning in Malaysia after allegedly attempting to engage in same-sex relations.¹³ There are also many reports of state-sanctioned violence and discrimination against LGBTQ individuals who are found to violate Malaysian law. In 2018, U.S. State Department's Malaysia 2018 Human Rights Report includes reports from local advocates that "imprisoned transgender women served their sentences in prisons designated for men and that police and inmates often abused them verbally and sexually."¹⁴ LGBTQ Cambodians also face documented discrimination as a result of laws giving police broad authority to enforce security and public order.¹⁵

Bhutan criminalizes same-sex sexual activity as "unnatural" with imprisonment, as does Singapore and the Maldives.¹⁶ Myanmar punishes same-sex

¹² MALAYSIA PENAL CODE, Act No. 574, §§ 377A, 377B (2015).

¹³ *State-Sponsored Homophobia* (2017), *supra* note 8, at 131; *Malaysia: Two Women Face Caning for Same-Sex Conduct*, HUMAN RIGHTS WATCH (Aug. 21, 2018), <https://www.hrw.org/news/2018/08/21/malaysia-two-women-face-caning-same-sex-conduct> (last visited Sept. 24, 2019).

¹⁴ U.S. DEP'T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., *Malaysia 2018 Human Rights Report* 29 (2018) <https://www.state.gov/wp-content/uploads/2019/03/MALAYSIA-2018.pdf> (last visited Sept. 24, 2019).

¹⁵ U.N. Dev. Programme & U.S. Agency for Int'l Dev., *Being LGBT in Asia: Cambodia Country Report*, at 8, 21, 31-32 (2014).

¹⁶ BHUTAN PENAL CODE, Act of 2004, §§ 213-14; SINGAPORE PENAL CODE, No. 2 of 2008 (Revised Ed.), §§ 295, 354, 377a (Jan. 28, 2008); MALDIVES PENAL CODE, Law No. 6/2014, § 411.

relations with imprisonment for up to 10 years, as does Sri Lanka.¹⁷ Brunei's penal code also provides for imprisonment for up to ten years.¹⁸ However, in April 2019, the government of Brunei fully implemented the Syariah Penal Code.¹⁹ Now, individuals in Brunei may also face the death penalty by stoning, whipping and/or imprisonment.²⁰

In Indonesia, recent changes in Indonesian law appeared to ostensibly protect the rights of LGBTQ individuals at the national level, but 2019 proposed revisions to the Indonesian criminal code includes a number of changes that, if passed, could be used to violate the rights of LGBTQ individuals.²¹ Indonesia also has local provinces and cities that criminalize homosexuality.²² In one such province in May 2017, two men were sentenced to 85 lashes in a public caning after being accused of having sex with each other.²³

¹⁷ MYANMAR PENAL CODE, Act 45/1850, Revised Edition, § 377; Mendos, *2019 State Sponsored Homophobia*, at 531–32; SRI LANKA PENAL CODE, Act No. 22 of 1995, §§ 365, 365A.

¹⁸ BRUNEI PENAL CODE, Ch. 22 of 1951 (Revised Ed. 2001), §377 (Oct. 1, 2001).

¹⁹ Press Statement, Brunei Prime Minister's Office, 30 March 2019.

²⁰ BRUNEI SYARIAH PENAL CODE ORDER, Part IV, Ch. 1, §§ 69, 82 (2013); Yvette Tan, *Brunei implements stoning to death under anti-LGBT laws*, BBC (Apr. 3, 2019), <https://www.bbc.com/news/world-asia-47769964> (last visited Sept. 24, 2019).

²¹ *Indonesia: Draft Criminal Code Disastrous for Rights*, HUMAN RIGHTS WATCH (Sept. 18, 2019), <https://www.hrw.org/news/2019/09/18/indonesia-draft-criminal-code-disastrous-rights> (last visited Sept. 24, 2019).

²² M.V. Lee Badgett, et al., *LGBT Exclusion in Indonesia and Its Economic Effects*, THE WILLIAMS INSTITUTE, at 5 (2017).

²³ Jon Emont, *2 Men in Indonesia Sentenced to Caning for Having Gay Sex*, N.Y. TIMES, May 18, 2018, § A at 7; *Indonesia's*

State-sanctioned discrimination and violence against LGBTQ individuals in Indonesia is also prevalent. According to a 2014 United Nations Development Programme (UNDP) report on Indonesia, police often fail to protect or intervene on behalf of LGBTQ individuals and commonplace police roundups often target, and potentially abuse, the population.²⁴ Law enforcement and militant groups in the country sometimes even work together to achieve these ends. For example, in late 2016, the Indonesian militant group, the Islamic Defenders Front, tipped off local police about an alleged sex party in Jakarta. Police on the scene rounded up individuals in the private home.²⁵ Just a few months later in May 2017, a similar raid also took place in Jakarta and 150 men were arrested.²⁶

Criminalizing same-sex relations effectively makes it illegal to be LGBTQ in these countries. Unlike in the United States, these countries can and do “demea[n] the lives of homosexual persons” and “demean their existence or control their destiny by making their private sexual conduct a crime.” *Lawrence v. Texas*,

Aceh Resumes Public Caning Despite Pledge to Curb Access, REUTERS (July 13, 2018, 7:58 AM), <https://www.reuters.com/article/us-indonesia-aceh-caning/indonesias-aceh-resumes-public-caning-despite-pledge-to-curb-access-idUSKBN1K31N1> (last visited Sept. 24, 2019).

²⁴ U.N. Dev. Programme & U.S. Agency for Int’l Dev., *Being LGBT in Asia: Indonesia Country Report*, at 8, 10, 27 (2014).

²⁵ Kyle Knight, *Indonesian Militant Islamists, Police Raid Gay Gathering*, HUMAN RIGHTS WATCH (Nov. 29, 2016), <https://www.hrw.org/news/2016/11/29/indonesian-militant-islamists-police-raid-gay-gathering> (last visited Sept. 24, 2019).

²⁶ Jon Emont, *Indonesia Police Arrest 141 Men Accused of Having Gay Sex Party*, N.Y. TIMES, May 23, 2017, § A at 7.

539 U.S. 558, 575, 578 (2003).²⁷ Beyond the significant threat of criminal detention or even death, such laws have a dramatic chilling effect on the “autonomy of self” to which all individuals should be entitled in a free society; as the Court has recognized, the “stigma” of such criminal statutes is “not trivial.” *Lawrence v. Texas*, 539 U.S. 558, 575 (2003).

Discrimination and Hate Crimes:

Discrimination against LGBTQ individuals in API nations is deeply-rooted and pervasive, and there can be no question that LGBTQ DACA recipients would face discrimination in their personal and professional life if they were expelled from this country. Just as was the case in America for many years, LGBTQ persons in many Asian countries are “barred from military service, excluded under immigration laws, targeted by police, and burdened in their rights to associate.” *Obergefell*, 135 S. Ct. at 2596. Rampant discrimination in these countries denies LGBTQ individuals “dignity in their own distinct identity.” *Id.* It remains true in many countries that “the argument that gays and lesbians [have] a just claim to dignity [is] in conflict with both law and widespread social conventions.” *Id.*

In country after country outside of the United States, LGBTQ individuals are marginalized or repressed. In China, LGBTQ discrimination and stigma is omni-

²⁷ This Court has recognized how in this country as well, “[u]ntil the mid-20th century, same-sex intimacy long had been condemned as immoral by the state itself . . . , a belief often embodied in the criminal law.” *Obergefell v. Hodges*, 576 U.S. ___, 135 S. Ct. 2584, 2596 (2015).

present, including from one's family and friends.²⁸ In a 2012 poll of residents of the Beijing, Shanghai, and Guangzhou provinces, only 31% of participants said they accepted people who identify as gay, and only 27% said that there should be legal protections for sexual minorities.²⁹ Likewise, in India, there remains immense cultural prejudice against LGBTQ individuals, and not surprisingly so, given that the Supreme Court of India only recently decriminalized same-sex sexual activities.³⁰

In Indonesia, public acceptance of LGBTQ individuals remains very low and has changed little over the past decade; media coverage remains generally negative.³¹ LGBTQ individuals are denied educational opportunities,³² employment opportunities,³³ and face

²⁸ U.N. Dev. Programme & U.S. Agency for Int'l Dev., *Being LGBT in Asia: China Country Report*, at 27 (2014).

²⁹ *Id.*

³⁰ Jeffrey Gettleman et al., *India Gay Sex Ban Is Struck Down. 'Indefensible,' Court Says*, N.Y. Times, Sept. 7, 2018, § A at 1; see also Sushmita Pathak & Furkan Latif Khan, *India's Anti-Gay Law Is History. Next Challenge: Treat LGBTQ Patients with Respect*, NPR (Sept. 17, 2018 1:26 PM), <https://www.npr.org/sections/goatsandsoda/2018/09/17/645279722/indias-anti-gay-law-is-history-next-challenge-treat-lgbtq-patients-with-respect> (last visited Sept. 24, 2019); Annie Banerji, *Mind your own business: Small firms opt out as India Inc races to be LGBT-friendly* REUTERS (Feb. 12, 2019, 5:16 AM), <https://www.reuters.com/article/us-india-lgbt-business/mind-your-own-business-small-firms-opt-out-as-india-inc-races-to-be-lgbt-friendly-idUSKCN1Q113D> (last visited Sept. 24, 2019).

³¹ Badgett *et al.*, *supra* note 19, at 5-7.

³² *Id.*, at 8-12.

³³ *Id.*, at 13-16.

physical, psychological, cultural and sexual violence.³⁴ Even in an advanced democracy like South Korea, there are no antidiscrimination laws in place to protect LGBTQ individuals, and efforts to implement such protections have repeatedly failed.³⁵

As a result of discrimination and marginalization, numerous API nations report increased rates of hate crimes and/or interpersonal violence against individuals identifying as LGBTQ even in API nations that have decriminalized same-sex relationships. In 2018, when India decriminalized same-sex sexual activity, the country reported 218 hate crimes, with 8 attacks on individuals identifying as transgender, and the majority of attacks on women of marginalized groups (sexual orientation was not specified).³⁶ In Fiji, a 2011 community-based survey funded by the UNDP and conducted by the AIDS Task Force of Fiji found that LGBTQ individuals experience high rates of discrimination and violence. 65.7% of those individuals surveyed reported feeling unsafe expressing their sexuality, 30.3% of respondents reported being physically hurt in the prior six months, and 26.8% of respondents reported

³⁴ *Id.*, at 16–22.

³⁵ Timothy Rich & Isabel Eliassen, *What's Behind South Korea's Persistent LGBT Intolerance?*, THE DIPLOMAT (March 19, 2019), <https://thediplomat.com/2019/03/whats-behind-south-koreas-persistent-lgbt-intolerance/>; *South Korea: Military 'Sodomy' Law Violates Rights*, HUMAN RIGHTS WATCH (March 7, 2019 1:00 AM), <https://www.hrw.org/news/2019/03/07/south-korea-military-sodomy-law-violates-rights> (last visited Sept. 24, 2019).

³⁶ *Halt the Hate*, AMNESTY INTERNATIONAL INDIA (Mar. 5 2019 10:49 AM), <https://amnesty.org.in/news-update/over-200-alleged-hate-crimes-in-2018-reveals-halt-the-hate-website/> (last visited Sept. 24, 2019).

being sexually abused or assaulted.³⁷ These statistics are corroborated by media reports of LGBTQ individuals in Fiji who have been victims of physical violence on the island. In Fiji, there were a number of violent murders of LGBTQ individuals in 2017 and 2018 that were identified as hate crimes.³⁸ Activist groups in Fiji consistently reported high levels of violence and discrimination against members of the LGBTQ community.³⁹ In 2017, two gay men were physically assaulted in Fiji by teenagers, but did not report the assault to the police because they had “fear of reprisals from the people who allegedly attacked them.”⁴⁰ The two men also refused to reveal their identities to the media because “they feared for their lives.”⁴¹ Similar

³⁷ Ben Bavinton et al., *Secret Lives, Other Voices: A community-based study exploring male-to-male sex, gender identity and HIV transmission risk in Fiji*, AIDS TASK FORCE OF FIJI at 9 (2011).

³⁸ *2019 State Sponsored Homophobia*, supra note 5, at 168-169; see also, e.g., Liam Fox, Murdered on International day against Transphobia: fears Fiji killing is a hate crime, ABC NEWS (July 23, 2018 5:06 AM), <https://www.abc.net.au/news/2018-07-23/trans-woman-murdered-in-fiji-in-suspected-hate-crime/10026188> (last visited Sept. 24, 2019) (murder by blunt force trauma of individual identifying as transgender); Tokada Rainima, *No arrest yet on Vesida murder*, FBC NEWS (Oct. 12, 2017 1:20 AM), <https://www.fbcnews.com.fj/news/no-arrests-yet-on-vesida-murder/> (last visited Sept. 24, 2019) (mutilation and murder of student who identified as gay).

³⁹ Anamika Singh, *More LGBT people are expressing their love openly, however they are also being targeted*, FIJIVILLAGE (Nov. 20, 2017), <https://fjivillage.com/news-feature/More-LGBT-people-are-expressing-their-love-openly-however-they-are-also-being-targeted-k9s25r/> (last visited Sept. 24, 2019).

⁴⁰ Suva Shahani Mala, *Attack On Gay Men Condemned*, FIJI SUN (Feb. 7, 2017), <http://fjijisun.com.fj/2017/02/07/attack-on-gay-men-condemned/> (last visited Sept. 24, 2019).

⁴¹ *Id.*

hate crimes have been reported against individuals identifying as transgender in Malaysia as well.⁴²

In Philippines, in the first half of 2011 alone, at least 28 people were killed on the basis of identifying as LGBTQ.⁴³ Moreover, LGBTQ individuals in the Philippines report physical violence within their own family. A 2012 report highlighting different manifestations of violence against the LGBTQ community in the Philippines points to family-based violence as a form of physical abuse against this community:

Most of those interviewed said family members within a nuclear family unit, predominantly male members of family or clan, including fathers, brothers, uncles and stepfathers, had inflicted most of the physical violence. Most incidents of violence occurred immediately after a person voluntarily disclosed her sexual orientation and/or gender identity was ‘outed’ or suspected of being non-heteronormative.⁴⁴

These acts of violence are not isolated incidents, and a lack of reporting does not indicate a lack of violence where there are potentially severe repercussions for reporting.⁴⁵ Violence against LGBTQ individuals

⁴² Neela Ghosal & Thilaga Sulathireh, “*The Deceased Can’t Speak for Herself*,” *Violence Against LGBT People in Malaysia*, GEO. J. OF INT’L AFF. (2019).

⁴³ p. 8, file:///C:/Users/SAMoralesNunez/Downloads/Philippines%2520Report_Final.pdf [NEEDS TO BE UPDATED]

⁴⁴ RAINBOW RIGHTS PROJECT, *Kwentong Bebot: Lived Experiences of Lesbians, Bisexual and Transgender Women in the Philippines*, at 14, outrightinternational.org/sites/default/files/phillipinescc.pdf.

⁴⁵ U.S. State Department reports on human rights in Laos and the Maldives both highlight the fact that even where “there were no reports of discrimination . . . observers believed societal stigma

remains a real risk across API nations. These attacks are exacerbated by the fact that only two out of over 40 API nations (East Timor and Mongolia) have enacted legislation aimed at curbing violence motivated by sexual orientation.⁴⁶

Despite what appears to be some modest increasing legal protections in Southeast Asia, scholars have noted that the continued “discrimination, marginalisation and violence experienced by LGBTQ people in the countries of Southeast Asia, point to the reality that, in practice, recognition of LGBTQ people’s human rights is uneven, incomplete and frequently contradictory and arbitrary, reflecting national, regional and international politics, as well as multiple intersecting dynamics of privilege and marginalisation.”⁴⁷

And, as was formerly the case in the United States, homosexuality is still “treated as an illness” in many API countries. *Obergefell*, 135 S. Ct. at 2596. While psychiatrists and others in the United States now recognize that “sexual orientation is both a normal expression of human sexuality and immutable,” *id.*,

and concern about repercussions led some to withhold reporting incidents of abuse.” U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., Laos 2017 Human Rights Report, at § 6 (2017); U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, H.R. AND LAB., Maldives 2018 Human Rights Report, at § 6, (“There were no reports of officials complicit in abuses against LGBTI persons, although societal stigma likely discouraged individuals from reporting such problems. Local citizens who expressed support for LGBTI rights on social media reportedly were targeted for online harassment . . .”)

⁴⁶ 2019 State Sponsored Homophobia, *supra* note 5, at 257–59.

⁴⁷ Cai Wilkinson et al., *LGBT Rights in Southeast Asia: One Step Forward, Two Steps Back?*, IAFOR J. OF ASIAN STUD at 7 (2017).

the citizens of many API nations do not. In Indonesia, for example, Government Regulation 61/2014 on Reproductive Health defines a healthy sexual life as free from “sexual orientation dysfunction or deviance.”⁴⁸ The country has become increasingly intolerant in the last several years, with new prosecutions of LGBTQ people under the Pornography Law, which refers to same-sex conduct as “deviant behavior.”⁴⁹ In Thailand, until 2011, LGBTQ individuals were banned from serving in the military, branded as individuals of “permanent mental disorder.”⁵⁰ The Supreme Court in Singapore has declared that there is “no definitive conclusion” on the “supposed immutability” of homosexuality and upheld antiquated, discriminatory laws from legal challenge.⁵¹ For LGBTQ DACA recipients, a return to the numerous API countries that embrace these harmful and hurtful ideologies would deny them the “lawful realm, to define and express their identity” that they enjoy in this country. *Obergefell*, 135 S. Ct. at 2593.

The Fundamental Right to Marry:

Unlike in the United States, same-sex individuals have little to no access to the fundamental right to marry in nearly every API country. Thus, despite the “utmost importance” of the “fundamental right” to

⁴⁸ *State-Sponsored Homophobia* (2017), *supra* note 8, at 125.

⁴⁹ Kyle Knight, *Indonesia’s anti-LGBT drive should concern all Asia*, HUMAN RIGHTS WATCH (Feb. 20, 2018 1:42 PM), <https://www.hrw.org/news/2018/02/20/indonesias-anti-lgbt-drive-should-concern-all-asia>; Badgett *et al.*, *supra* note 19, at 5.

⁵⁰ UNDP & USAID, *Being LGBT in Asia: Thailand Country Report*, at 23 (2014).

⁵¹ *Lim Meng Suang et. al v. Attorney General*, Court of Appeal of Republic of Singapore (decided 29 October 2014).

marry, LGBTQ DACA recipients would be denied this right entirely if forced to return to their country of birth. *Obergefell*, 135 S. Ct. at 2589-90. Only in May of this year did Taiwan become the very first country in Asia to recognize same-sex marriage.⁵² Thus, countries that collectively have billions of citizens deny this fundamental right to same-sex couples, including China, India, Indonesia and South Korea. In all of the many countries that do not recognize same-sex marriage, DACA recipients would be “demean[ed] or stigmatize[ed]” by laws that would, if they are removed to one of these many countries, “disparage their choices and diminish their personhood.” *Obergefell*, 135 S.Ct. at 2602. Marriages recognized in the United States would not be recognized in their countries of birth, a pernicious and cruel result and insult to personhood.

Public Expression and Freedom of Association:

In addition to criminalization and discrimination in society at large, the right to free expression and association is severely reduced in many API countries. In Indonesia, for example, broadcasting standards limit LGBTQ expression on TV, with the logic of protecting children, and factions in the country are seeking bans on LGBTQ -focused apps and websites.⁵³ In Pakistan, the media has depicted an admitted serial killer of gay men as the “epitome of righteousness.”⁵⁴ In the countries that still criminalize same-sex sexual

⁵² Chris Horton, *After a Long Fight, Taiwan’s Same-Sex Couples Celebrate New Marriages*, N.Y. TIMES, May 25, 2019, § A at 7; *2019 State Sponsored Homophobia*, *supra* note 5, at 27.

⁵³ *State-Sponsored Homophobia* (2017), *supra* note 8, at 41; Badgett *et al.*, *supra* note 19, at 8.

⁵⁴ *State-Sponsored Homophobia* (2017), *supra* note 8, at 134.

activities, freedom of expression and association for LGBTQ individuals is often curtailed, if not eliminated altogether. Social scientists have described how actors in various Southeast Asian countries have used “political homophobia”—that is, “overt claims to political legitimacy through homophobia”—to advance their political goals in culturally and religiously-conservative countries.⁵⁵ For LGBTQ people, such political opportunism has, as its devastating side-effect, “the perpetuation of a ‘chilly’ socio-political climate in which there is little or no protection from scapegoating, exclusion, marginalisation, discrimination and violence, even in the absence of criminalization.”⁵⁶

In short, LGBTQ individuals would be denied basic freedoms that they have obtained and relied on in America if the rescission of DACA is upheld and LGBTQ, API-DACA recipients are forced returned to their country of birth. Worse, they would be subject to physical, psychological, cultural and sexual violence simply for being who they are, and who they are allowed to be in the United States.

⁵⁵ Wilkinson, *supra* note 47, at 13 (internal quotations omitted).

⁵⁶ *Id.*, at 14.

II. Tens of Thousands of LGBTQ DACA Recipients, especially those who publically identified themselves as such, will be at increased risk for discrimination and mistreatment if DACA is rescinded

Over 800,000 young people have received protection through DACA since the program's creation.⁵⁷ The Williams Institute at the UCLA School of Law estimates that, as of March 2016, "over 36,000" of these recipients identify as LGBTQ "including 24,000 who renewed in the program" based on a "conservative estimate of the percentage of LGBTQ individuals among 15 to 34 year olds eligible for or participating in DACA."⁵⁸ Surveys of LGBTQ DACA recipients indicate the rates of identification as LGBTQ are higher than the national average. In a 2015 survey conducted by United We Dream, 8.6% of respondents "identified as LGBTQ, a rate higher than the national average and higher for the 18 to 29 age group."⁵⁹ Similarly, the authors of a 2017 survey of DACA recipients reported that up to 10 percent of all DACA recipients who participated in the survey

⁵⁷ U.S. CITIZENSHIP & IMMIGRATION SERVS., *Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake and Case Status Fiscal Year 2012-2019* (June 30, 2019).

⁵⁸ Kerith Conron & Taylor N.T. Brown, *There are Over 75,000 LGBTQ DREAMers; 36,000 Have Participated in DACA*, THE WILLIAMS INST., UCLA School of Law, n.3 (Feb. 2017), [williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-DREAMers-and-DACA-February-2017.pdf](http://iamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-DREAMers-and-DACA-February-2017.pdf).

⁵⁹ Zenén Jaimes Pérez, *A Portrait of Deferred Action for Childhood Arrivals Recipients: Challenges and Opportunities Three-Years Later*, UNITED WE DREAM, at 7 (Oct. 2015), <https://unitedwedream.org/wp-content/uploads/2015/10/DACA-report-final-1.pdf>.

identified as LGBTQ.⁶⁰ In the 2019 update to that survey, 6.3% of respondents identified as gay or lesbian, 7.6% identified as bisexual, and .3% responded as transgender or gender non-conforming – indicating the rate of LGBTQ DACA recipients may be substantially higher than in the general population, and amount to over 100,000 individuals.⁶¹

In order to be eligible for DACA, an undocumented immigrant must have entered the United States prior to age 16.⁶² The parents of many DACA recipients brought them to this country by at very young ages, and the children have spent their formative years in the United States. Surveys of DACA recipients have suggested that the average age of entry to this country is just 6.1-6.5 years old.⁶³ Importantly, LGBTQ DACA recipients have grown up in a country that provides

⁶⁰ Sharita Gruberg, *What Ending DACA Means for LGBTQ Dreamers*, CTR. FOR AMERICAN PROGRESS (Oct. 11, 2017 11:08 AM), <https://www.americanprogress.org/issues/lgbt/news/2017/10/11/440450/ending-daca-means-lgbtq-dreamers/>.

⁶¹ Wong *et al.*, *supra* note 4, at 16.

⁶² U.S. CITIZENSHIP & IMMIGRATION SERVS., *Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction* (July 17, 2019, Update).

⁶³ Tom K. Wong, et al., *2017 National DACA Study*, at 13, https://cdn.americanprogress.org/content/uploads/2017/11/02125251/2017_DACA_study_economic_report_updated.pdf; Wong *et al.*, *supra* note 4, at 15; *see also* Nicole Svajlenka & Audrey Singer, *Immigration Facts: Deferred Action for Childhood Arrivals (DACA)*, BROOKINGS METRO. POL'Y PROGRAM (Aug. 14, 2013) <https://www.brookings.edu/research/immigration-facts-deferred-action-for-childhood-arrivals-daca/> (last visited Sept. 24, 2019). The most common age at arrival was eight, however almost one-third (31 percent) were five or younger and more than two-thirds (69 percent) were 10 or younger when they arrived.

significant rights and protections to LGBTQ individuals and where opportunities for LGBTQ activism and community are ample.⁶⁴ In building their lives here, especially in reliance on the continued expectation of DACA protection, they have often elected to live public “out” lives on social media and otherwise. Those expressions of identity, made in reliance on the continued expectation of DACA, cannot be undone and could result in serious repercussions in their countries of birth, as outlined *infra*, Section I.

Tony Choi is one such individual. Mr. Choi is a twenty-eight year old DACA recipient who lives in Bergen County, New Jersey. Tony was born in Korea, but his family moved to the United States after the Asian financial crisis in 1996 when he was eight years

⁶⁴ See, e.g., *Obergefell v. Hodges*, 576 U.S. ___, 135 S. Ct. 2584 (2015) (recognizing same-sex marriage); *Lawrence v. Texas*, 539 U.S. 558 (2003) (decriminalizing sodomy); *Hively v. Ivy Tech Community College of Indiana*, 853 F.3d 339, 340 (7th Cir. 2017) (extending the protections of Title VII of the Civil Rights Act of 1964 to discrimination based on sexual orientation); *Zarda v. Altitude Express, Inc.*, Docket No. 15-3775, 2017 U.S. App. LEXIS 13127 (2d Cir. May 25, 2017) (same); see also 18 U.S.C. § 249 (criminalizing hate crimes on the basis of actual or perceived sexual orientation); Executive Order No. 13087, 63 Fed. Reg. 30097 (May 28, 1998) (prohibiting discrimination in the federal government on the basis of sexual orientation); N.Y. Exec. Law § 296 (Consol. 2019) (prohibiting discrimination on the basis of sexual orientation in many forums); N.J. Stat. § 18A:35-4.36 (2019) (requiring public schools to teach LGBTQ-inclusive materials); Cal Health & Saf Code Div. 104, Pt. 5, Art. 5 (2016) (requiring that single-occupancy restrooms in California businesses, government buildings, and places of public accommodation be universally accessible to all genders).

old.⁶⁵ Tony identifies as gay, and has become an outspoken advocate for undocumented and LGBTQ individuals. In Mr. Choi's own words:

In 2010, after the failure of the DREAM Act and my mother's cancer diagnosis, I had lost hope. The choices ahead of me were to live a closeted life taking care of my mother or to return to Korea where my LGBTQ identity would subject me to harsh hazing for two years in the mandatory military service in an unfamiliar cultural environment echoes away from my home here in New Jersey. Instead, I chose to speak out and find my community. Finding my voice in advocating for, and then in receiving DACA protection, has given me the ability to live a fuller life out of the closet, and allowed me to find a community both online and in New Jersey.

Mr. Choi has a prominent online presence as an LGBTQ activist and organizer. In 2012, Mr. Choi appeared on the cover of TIME Magazine alongside Jose Antonio Vargas, a nationally recognized immigrant rights activist and journalist who is undocumented.⁶⁶

Bupendra Ram is another such individual. Mr. Ram is a thirty-two year old DACA recipient who lives and works in Los Angeles, California, and identifies as

⁶⁵ *Uncovering Our Stories: Tony Choi*, NQAPIA (Oct. 11, 2013), <https://www.nqapia.org/wpp/uncovering-our-stories-tony-choi/> (last visited Sept. 24, 2019).

⁶⁶ Feifei Sun, *Behind the Cover: America's Undocumented Immigrants*, TIME (June 14, 2012), <https://time.com/3789293/behind-the-cover-americas-undocumented-immigrants/>.

queer.⁶⁷ He is ethnically Indian but was born in Fiji, and came to the United States when he was two years old.⁶⁸ His family fled Fiji as a result of a political coup.⁶⁹ His family was granted political asylum in the United States, but through an error of counsel, Mr. Ram's name was never included on the application and he remains undocumented. In recent years, Mr. Ram is "out" on social media and online" and "started to become more public about his identity" as a queer, undocumented South Asian immigrant, and became involved in activism and promotion online and in the LGBTQ community. Mr. Ram is a vocal advocate for immigration reform.⁷⁰ In short, DACA allowed Mr. Ram to be more open about his identity as both undocumented and queer.

Like Mr. Ram and Mr. Choi, many young people who identify as LGBTQ are open about their sexual orientation and/or gender identity in ways that are publicly accessible, such as through activism and social media. On average, DACA recipients are 24 years old, 29% of recipients are between the ages of 16 and 20 years old, and 37% were between the ages of 21 and 25 years old.⁷¹ Social media use is almost ubiquitous

⁶⁷ "Queer" is typically used to denote "people, particularly younger people, whose sexual orientation is not exclusively heterosexual." *What is LGBTQ?*, *supra* note 2.

⁶⁸ *Uncovering Our Stories: Bupendra Ram*, NQAPIA (Aug. 24, 2013), <https://www.nqapia.org/wpp/uncovering-our-stories-bupendra/> (last visited Sept. 24, 2019).

⁶⁹ *DACA Stories, Bupendra (Bupen) Ram*, SAALT, <http://saalt.org/policy-change/immigrant-rights/daca-stories/bupendra-bupen-ram/> (last visited Sept. 17, 2019).

⁷⁰ *Id.*

⁷¹ Gustavo López & Jens Krogstad, *Key facts about unauthorized immigrants enrolled in DACA*, PEW RES. CTR. (Sep. 25, 2017),

within this age group: 90% of people between the ages of 18 and 29 years old report they use at least one social media platform.⁷² These social media platforms are widely used amongst young people who identify as LGBTQ to convey their unique stories with others and to build community. In a survey of LGBTQ adults, 55% say they “have met new LGBTQ friends online” and 43% “have revealed their sexual and/or gender identity on a social networking site.”⁷³ Both Mr. Ram and Mr. Choi use social media in order to convey their story about being undocumented and identifying as queer. They also use social media to connect with similarly situated individuals and organizations like NQAPIA, and to provide support to other undocumented Asians who self-identify as LGBTQ.

This use of social media, or more generally being identified as “out” online, is significant. It means that DACA recipients’ sexual orientation is publically and readily available. This information is not limited to individuals residing in the United States but is readily available to both governmental and private actors here *and abroad*, putting them at *increased* risk for discrimination and mistreatment, for the reasons set forth *supra*. Even without social media, it is not unreasonable to expect that the news of being “out”, especially in countries that criminalize or demonize individuals for their sexual orientation and/or gender

<http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about- unauthorized-immigrants-enrolled-in-daca/>.

⁷² *Social Media Fact Sheet*, PEW RES. CTR., INTERNET & TECH., (June 12, 2019), <https://www.pewinternet.org/fact-sheet/social-media/>.

⁷³ *A Survey of LGBT American*, PEW RES. CTR. SOC. & DEMOGRAPHIC TRENDS (June 13, 2013), <https://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.

identity, will follow DACA recipients to their countries of birth.

There is no question that many LGBTQ DACA recipients from Asian and Pacific Island nations will face harassment, persecution, violence and possible criminal prosecution by virtue of their sexual orientation and/or gender identity if DACA is rescinded and they are removed to their country of birth. This risk is compounded to the extent that among the tens of thousands of DACA recipients, there are individuals who are “out” – a decision undoubtedly guided and informed in reliance on the continued expectation of DACA and the protections of this country – they will be at higher risk of danger if and when removed to their countries of origin. This creates a serious risk for Mr. Choi, Mr. Ram and those similarly situated if detained and/or removed.

If DACA is repealed, many LGBTQ undocumented immigrants will be subject to removal proceedings under United States immigration law. Unless an individual is able to apply for another type of protection, or agrees to voluntarily return to their country of birth, such undocumented immigrants could be sent to an immigration detention center for days or even months during these proceedings. For LGBTQ undocumented immigrants, immigration detention centers in the United States are also particularly violent. According to an analysis by the Center for American Progress, the Immigration, Customs and Enforcement (“ICE”) sexual assault reporting data released pursuant to the Prison Rape Elimination Act demonstrates that, in 2017, “although LGBT people were 0.14 percent of the people ICE detained in FY2017, they accounted for 12 percent of victims of

sexual abuse and assault in ICE detention that year.”⁷⁴ This means that “assuming each report of sexual violence is substantiated and involves a separate victim, LGBTQ people in ICE custody are 97 times more likely to be sexually victimized than non-LGBTQ people in detention.”⁷⁵ Further, the “ICE data show[s] that 1 in 8 transgender people detained in FY 2017 were placed in solitary confinement” which is “considered a form of torture by the United Nations.”⁷⁶

The risks and violence continue if an individual is removed. As Mr. Choi has stated,

For many of us, going back to our home countries is a scary proposition because of our queerness. I worry about my safety, and the safety of my fellow undocumented DACA recipients. I have serious concerns about being forced to return to Korea as a gay man, including forced conscription to a military that openly criminalizes, and punishes, homosexual acts. Further, I am deeply concerned that I will be unable to adjust to an unfamiliar culture after two decades of life here in the United States.

⁷⁴ Sharita Gruberg, *ICE’s Rejection of Its Own Rules Is Placing LGBT Immigrants at Severe Risk of Sexual Abuse*, CTR. FOR AMERICAN PROGRESS (May 30 2018 12:00 PM), <https://www.americanprogress.org/issues/lgbt/news/2018/05/30/451294/ices-rejection-rules-placing-lgbt-immigrants-severe-risk-sexual-abuse/>.

⁷⁵ *Id.*

⁷⁶ Sam Hananel, *Release: LGBT Immigrants in Detention Centers at Severe Risk of Sexual Abuse, CAP Analysis Says*, CTR. FOR AMERICAN PROGRESS (May 30, 2018), <https://www.americanprogress.org/press/release/2018/05/30/451380/release-lgbt-immigrants-detention-centers-severe-risk-sexual-abuse-cap-analysis-says/>.

As Mr. Choi has recognized, removal to Korea would have a severe impact on his life. Korea's mandatory conscription mandates that he serve in a military which outlaws and could prosecute him for "sodomy or other disgraceful conduct"⁷⁷ (a provision that was upheld as constitutional as recently as July 2016).⁷⁸

Mr. Ram would also be put at risk for societal discrimination and violent hate crimes solely on the basis of his sexual orientation.⁷⁹ In fact, he reports hearing even "close family members make anti-LGBTQ comments about how they would hurt members of my community. . . . Going back to Fiji would mean going back in the closet for safety reasons." Further, Mr. Ram's family left Fiji because of the political climate, which was severe enough and dangerous enough for his family members as ethnic Indians to be granted asylum in the United States.⁸⁰ That danger and discrimination could be compounded by his LGBTQ status.

Both men would lose these civil protections afforded in the United States, including the fundamental right to marry. In fact, in Fiji, the prime minister has explicitly stated that his government would never allow same-sex marriage in his lifetimes, and called

⁷⁷ Article 92-6, Military Criminal Act (South Korea).

⁷⁸ *2019 State Sponsored Homophobia*, *supra* note 5, at 132.

⁷⁹ *See supra* note 5.

⁸⁰ To be eligible for asylum in the U.S., Mr. Ram's family must have faced demonstrated "persecution" in Fiji. *See* 8 U.S.C. § 101(a)(42). "Persecution" must "rise above unpleasantness, harassment and even basic suffering." *Nelson v. INS*, 232 F.3d 258, 263 (1st Cir. 2000) Rather, persecution in asylum jurisprudence is "an extreme concept, marked by the infliction of suffering or harm . . . in a way regarded as offensive." *Li v. Ashcroft*, 356 F.3d 1153, 1158 (9th Cir. 2004).

same-sex marriage “rubbish”.⁸¹ Neither man could engage in any LGBTQ advocacy without real risk of repercussions and possible violence.⁸²

LGBTQ DACA recipients who have built their lives in this country should not be arbitrarily forced to return to face near-certain discrimination and mistreatment in a country that for many recipients, will be entirely foreign. As Mr. Ram has stated:

Receiving DACA allowed me for the first time to breathe easier. I can live, I can take care of myself, and I have some stability. Removal would take all that I have worked for away and place me without any support in a country I do not even remember. I would also be separated from my family and friends who live in America.

Rescinding DACA for Mr. Choi, Mr. Ram and other LGBTQ recipients would be the perfect embodiment of what the Court of Appeals deemed “the cruelty and wastefulness of deporting productive young people to countries with which they have no ties.” *Regents of the University of Calif. v. U.S. Dep’t Homeland Security*, 908 F.3d 476, 485 (9th Cir. 2018). Removal to countries of birth is exceptionally cruel under these circumstances.

⁸¹ *Fiji PM’s gay marriage comments shock*, RNZ (Jan. 6, 2016 7:31 PM), <https://www.rnz.co.nz/international/pacific-news/293597/fiji-pm’s-gay-marriage-comments-shock> (last visited Sept. 24, 2019).

⁸² Further, both Mr. Ram and Mr. Choi are very active in the Asian LGBTQ community, and if DACA is rescinded, their removal will be an irreparable loss to the community and NQAPIA.

CONCLUSION

For the foregoing reasons and those in the briefs of Respondents and other *amici curiae* supporting them, the National Queer Asian Pacific Islander Alliance, Inc., and the other *amici curiae* on this brief urge the Court to uphold the judgments of the Ninth Circuit and the District Court for the District of Columbia, as well as the orders of the Eastern District of New York.

Respectfully submitted,

GLENN D. MAGPANTAY
*Executive Director
and Counsel*

NATIONAL QUEER ASIAN
PACIFIC ISLANDER
ALLIANCE, INC.

P.O. Box 1277
Old Chelsea Station
New York, NY 10113
217 West 18th Street, #1277
New York, NY 10011
(917) 439-3158

SUSAN M. FINEGAN
Counsel of Record
MEREDITH M. LEARY
KAITLYN A. CROWE
ANGEL FENG
GEOFFREY A. FRIEDMAN
RITHIKA KULATHILA
MARGUERITE MCCONIHIE
MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY AND
POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000
SMFinegan@Mintz.com

Counsel for Amici Curiae

September 30, 2019

APPENDIX

APPENDIX

List of *Amici Curiae*

API Equality – Northern California (APIENC) builds queer and transgender Asian and Pacific Islander power to amplify our voices and increase the visibility of our communities. Through organizing, the organization inspires and trains leaders, establishes intergenerational connections, and documents and disseminates queer and transgender Asian and Pacific Islander histories.

API Rainbow Parents of PFLAG NYC provides information and support to Asian Pacific Islander families with LGBTQ family members.

APICHA Community Health Center's mission is to improve the health of our community and to increase access to comprehensive primary care, preventive health services, mental health, and supportive services for underserved and vulnerable people, especially Asians and Pacific Islanders, the LGBT Community and individuals living with and affected by HIV/AIDS.

Asian and Pacific Islander Queers United for Action (AQUA) promotes the positive identity and general welfare of the LGBTQ+ members of the Asian and Pacific Islander communities in the DC metro area, through advocacy, coalition building, education, networking, outreach, and support.

Founded in 1992, **Asian Pacific American Labor Alliance (AFL-CIO)**, is the first and only national organization of Asian American and Pacific Islander (AAPI) workers, most of who are union members, and our allies advancing worker, immigrant and civil rights.

Asian Pacific Islander Queer Women and Transgender Community- San Francisco,

ATL Q+A – Atlanta supports and respects Queer/ Trans Asian folx living in the Atlanta area.

Equality Federation is the movement builder and strategic partner to state-based organizations advocating for LGBTQ people.

The **Gay Asian and Pacific Islander Men of New York (“GAPIMNY”)** was founded on 1990 and is an all-volunteer, membership-based community organization that provides a range of political, social, educational, and cultural programming. GAPIMNY works in coalition with other community organizations to help educate its communities on issues of race, sexuality, gender, and health. Its mission is to empower LGBT Asian and Pacific Islander people to create positive change.

The **Gay Asian Pacific Alliance (“GAPA”)** in San Francisco Bay Area is an organization dedicated to furthering the interests of LGBT Asian and Pacific Islanders by creating awareness, developing a positive collective identity, and establishing a supportive community. GAPA envisions a powerful Queer Trans Asian and Pacific Islander community that is seen, heard, and celebrated.

The **GLBT Fund of America, Philadelphia** was established in 2007 to support the community in the areas of social justice, health needs and civil rights.

Through strategic litigation, public policy advocacy, and education, **GLBTQ Legal Advocates & Defenders (GLAD)** works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and

sexual orientation. GLAD has litigated widely in both state and federal courts in all areas of the law in order to protect and advance the rights of lesbians, gay men, bisexuals, transgender individuals and people living with HIV and AIDS. GLAD has an enduring interest in affirming the right of all LGBTQ individuals to live in a free and just society.

Invisible to Invincible Asian Pacific Pride of Chicago (i2i) is a community-based organization that celebrates and affirms Asians & Pacific Islanders who identify as Lesbian, Gay, Bisexual, Transgender, Questioning, and Queer in the Chicago area.

KhushATX, is an active South Asian gay, lesbian, bisexual, and transgender group based in Austin, Texas.

Korean American Rainbow Parents (KARP), aims to build compassion on queer issues within the Korean American community, on behalf of our LGBTQ loved ones.

Korean Queer and Transgender Organization of Washington, DC (KQT DC) is comprised of LGBTQ individuals, parents, and allies of Korean descent committed to promote a welcoming space and advocating for LGBTQ rights.

Lambda Legal Defense and Education Fund, Inc. (“Lambda Legal”) is the nation’s oldest and largest non-profit legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender, and queer (“LGBTQ”) people and everyone living with HIV through impact litigation, education, and public policy work. Lambda Legal’s advocacy on behalf of youth and adult immigrants includes, in addition to direct representation to secure legal protections, educating the public and courts regarding the emotional and physical harm and

state-sponsored, government-sanctioned discrimination faced by LGBTQ people and people living with HIV, or those perceived to be, in countries around the world and the life or death consequences if forced to return to their home countries.

Since 1969, the **Los Angeles LGBT Center** has cared for, championed, and celebrated LGBT individuals and families in Los Angeles and around the world. Today, the organization's nearly 750 employees provide services for more LGBT people than any other organization in the world, offering programs, services, and global advocacy that span four broad categories: health, social services and housing, culture and education, and leadership and advocacy.

National Black Justice Coalition is a civil rights organization dedicated to empowering Black lesbian, gay, bisexual, and transgender people.

Founded in 1973, the **National LGBTQ Task Force** is a progressive social justice organization that works to build power, take action, and create change to achieve freedom and justice for LGBTQ people and our families. The Task Force works toward a society that values and respects the diversity of human expression and identity and achieves equity for all.

Our Space is an LGBT Youth Center is a vibrant safe space for LGBTQ youth ages 11-23 in Alameda County which served over 500 queer and trans youth each year. LGBTQ young people experience significantly higher rates of harassment and abuse – as well as poverty, homelessness, and involvement in the child welfare and juvenile justice systems – than their straight peers. Our Space provides the much-needed safe space where LGBTQ youth can express their authentic selves and feel seen, accepted, and celebrated.

Comprehensive services for youth include: peer support groups in schools, community-based mental health and case management, intergenerational community building activities, paid youth leadership opportunities, as well as a community center with drop-in hours and a gender affirming clothing closet and food pantry. Our Space also offers specialized support services for adult caregivers and families, as well as trainings for staff from schools, clinics, and other service providers working with LGBTQ youth. At its heart, Our Space is working to create a world where LGBTQ youth are empowered to show fierce love for themselves and their community.

OutRight Action International seeks to advance human rights and opportunities for LGBTIQ people around the world by developing partnerships at global, regional, and national levels to build capacity, document human rights violations, advocate for inclusion and equality, and hold leaders accountable for protecting the rights of LGBTIQ people.

Philadelphia Asian & Queer (PAQ) is a volunteer, social organization that strives to engage queer (LGBTQIA+), Asian Pacific Islander (API) folx within the greater Philadelphia area. Through a range of advocacy, social and supportive programming, PAQ commits to building and uniting our collective voices as a queer, API community.

The **PFLAG San Gabriel Valley Asian Pacific Islander** accomplishes the vision and mission of PFLAG National in promoting the health and well-being of LGBT individuals, their families, and friends through: support, education and advocacy. The organization addresses the culture-specific needs of the Asian-American, Pacific-Islander, East Asian, and South Asian people and fosters inter-generational dialogue.

Queer South Asian Collective Community – Boston is a collective community of LGBTQIA folx, residing in the Greater Boston Area of API descent.

Q-WAVE is a community organization based in New York City, founded in 2004. It is dedicated to strengthening the voices of lesbian / bisexual / queer women and transgender / gender variant people of Asian & Pacific Islander descent.

SAGE leads in addressing issues related to lesbian, gay, bisexual and transgender (LGBT) aging. In partnership with its constituents and allies, SAGE works to achieve a high quality of life for LGBT older people, supports and advocates for their rights, fosters a greater understanding of aging in all communities, and promotes positive images of LGBT life in later years.

SALGA NYC, New York City, serves to promote awareness, acceptance, empowerment, and safe inclusive spaces for people of all sexual orientation and/or gender identity, who trace their heritage to South Asia or who identify as South Asian. SALGA-NYC is a not-for-profit, all-volunteer organization, serving the South Asian LGBT community. Its mission is to enable community members to establish cultural visibility and take a stand against oppression and discrimination in all its forms.

San Francisco LGBT Center is San Francisco's only organization serving the full spectrum of LGBT communities. The Center innovates powerful human service programs to meet changing community needs, to address problems that have been neglected, and to shine light on our culture and community in new ways. The Center's major program areas are economic devel-

opment, youth programming, community programming and building services.

Satrang Los Angeles, serves the South Asian LGBTQ community by promoting awareness, acceptance, and empowerment through social, educational, and advocacy-related events. It envisions and works towards an inclusive and visible community in which South Asian LGBTQ-identified people feel whole and heard.

Transgender Legal Defense and Education Fund is an American civil rights organization that focuses on transgender equality through impact litigation and public policy work.

Trikone offers a supportive, empowering and non-judgmental environment where LGBTQ South Asians and their allies can meet, make connections, and proudly promote awareness and acceptance of their sexual identity.

UTOPIA Seattle's mission is to provide sacred spaces to strengthen the minds and bodies of QTPIs (Queer and Trans Pacific Islanders) through community organizing, community care, civic engagement, and cultural stewardship.