To establish in the Bureau of Democracy, Human Rights, and Labor of the Department of State a Special Envoy for the Human Rights of LGBTQI Peoples, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “International Human Rights Defense Act of 2021”.

SEC. 2. DEFINITIONS.

In this Act:
(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(2) GENDER IDENTITY.—The term “gender identity” means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, regardless of the individual’s designated sex at birth.

(3) INTERSEX.—The term “intersex” means individuals born with sex characteristics (including genitals, gonads, or chromosome patterns) that vary from typical binary notions of male or female bodies and is an umbrella term used to describe a wide range of natural bodily variations.

(4) LGBTQI.—The term “LGBTQI” means lesbian, gay, bisexual, transgender, queer, or intersex.
(5) SEXUAL ORIENTATION.—The term “sexual orientation” means actual or perceived homosexuality, heterosexuality, or bisexuality.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Around the world, LGBTQI people face violence, discrimination, hatred, and bigotry.

(2) Sixty-nine countries criminalize same-sex relations and at least three countries prohibit the public support of the LGBTQI community. That is equal to 35 percent of United Nations member states.

(3) In several countries, homosexuality is a crime that is punishable by death.

(4) Intersex people experience prejudice and discrimination, including the common performance of medically unnecessary surgeries without their consent or approval, because their bodies do not conform to other people’s expectations about sex and gender.

(5) Violence and discrimination based on sexual orientation and gender identity are documented in the Department of State’s annual Human Rights Report to Congress. The 2019 report continues to show a clear pattern of human rights violations in
every region of the world based on sexual orientation and gender identity. These violations include murder, rape, torture, death threats, extortion, and imprisonment, as well as loss of employment, housing, access to health care, and other forms of societal stigma and discrimination. The report further documents LGBTQI-specific restrictions on basic freedoms of assembly, press, and speech in every region of the world.

(6) In 2013, the Russian Duma passed a law banning so-called “homosexual propaganda”, which effectively makes it a crime to publicly support LGBTQI equality or even discuss homosexuality. This pernicious law is the basis for similar so-called “anti-propaganda” legislation in countries across Eastern Europe and Central Asia, including in Moldova, Kyrgyzstan, and Belarus.

(7) On April 1, 2017, the Russian newspaper Novaya Gazeta reported that the government of the autonomous republic of Chechnya had been arresting, detaining, and torturing gay and bisexual men in secret prisons since early 2017. An Organization for Security and Co-operation in Europe (OSCE) fact-finding report released in December 2018 confirmed the atrocities, documenting “several waves of
violations of human rights abuses of persons based on their sexual orientation and gender identity”. Reports throughout 2020 suggest the purge has continued.

(8) In May 2020, the Hungarian Parliament voted to eliminate the ability for transgender and intersex Hungarians to legally change their gender on official documents. In June 2020, Poland’s president pledged to ban the “propagation of LGBT ideology,” and nearly a third of Polish towns and municipalities have now declared themselves to be “LGBT-free zones”.

(9) In December 2013, under the guise of prohibiting marriage equality through the Same Sex Marriage (Prohibition) Act, the Government of Nigeria adopted a law that further criminalized same-sex relations and support for LGBTQI people, endangering neighbors, friends, doctors, and landlords of LGBTQI people. In August 2018, 57 men at a party in Lagos were arrested under this law and 47 were later charged in December 2019 for “public show of same sex amorous relationship”. While the case was thrown out in October 2020 due to deficiencies in the prosecution, the men suffered significant harm over the course of the two-year trial.
Several countries in South Asia continue to have draconian laws that criminalize homosexual acts, which place LGBTQI people in danger and undermine their ability to live free from persecution.

In February 2014, the Government of Uganda adopted a law making “aggravated homosexuality” a crime punishable with life imprisonment and concurrently, the Government of Uganda also passed laws severely limiting the basic freedoms of speech and assembly for LGBTQI citizens. Although the Constitutional Court overturned the Anti-Homosexuality Act on a technicality in August 2014, LGBTQI Ugandans continue to be subjected to discrimination and violence, and their government has in recent years forcibly shut down even private Pride celebrations in Kampala.

In November 2016, the Government of Tanzania banned all HIV and AIDS outreach projects aimed at gay men, including those funded by the President’s Emergency Plan for AIDS Relief (PEPFAR), forcing the closure of United States-funded programs providing testing, condoms, and care to gay men, exacerbating the health needs of gay men in Tanzania, about 30 percent of whom are HIV positive. In 2018, various government officials...
announced crackdowns on the LGBTQI community, including a threat by the governor of the largest city, who announced a purge on LGBTQI individuals and asked the public to report them.

(13) A 2020 report by Human Rights Watch found that in the Northern Triangle countries of El Salvador, Guatemala, and Honduras, “gangs specifically target LGBT people, killing, assaulting, threatening or extorting them”. A 2016 report noted that transgender women in El Salvador have an average life expectancy of less than 35 years due to violence, discrimination, and femicide.

(14) Extreme violence in El Salvador, Nicaragua, Guatemala, and Honduras has driven LGBTQI people to flee their countries or origin to the United States for protection. At the United States border with Mexico, LGBTQI asylum seekers face additional violence and many have been returned to face persecution in their home countries or in third countries that are not safe.

(15) On May 23, 2017, and again on July 13, 2018, gay men were publicly caned in the Indonesian province of Aceh, while thousands of spectators snapped pictures outside a mosque. More recently, including in August 2020, police in Indonesia
have arrested men at private parties, sometimes releasing their photographs to the news media, endangering their lives. The August 2020 raid fits a disturbing pattern of Indonesian authorities using the pornography law as a weapon to target LGBTQI people.

(16) The Department of State Human Rights Report for 2019 notes that Egyptian police arrest LGBTQI persons on charges such as “debauchery”, “prostitution”, and “violating the teachings of religion”, leading to prison sentences of up to 10 years. According to a local group, there have been more than 250 arrests since 2013. Arrests have continued apace in 2020. Rights groups also have reported on the discredited use of “virginity” and “anal tests” by Egyptian authorities to attempt to prove sexual activity, assaults that may constitute cruel, degrading, and inhuman treatment that can rise to the level of torture under international human rights law.

(17) Anti-LGBTQI laws not only endanger all LGBTQI individuals, but also pose serious risks for those associated with or caring for LGBTQI people. Studies have shown that when LGBTQI people, especially LGBTQI youth, face discrimination, they
are less likely to seek HIV testing, prevention, and treatment services.

(18) According to the Trans Murder Monitoring Project, which monitors homicides of transgender individuals, 350 trans and gender-diverse were killed between October 1, 2019, and September 30, 2020, representing a 6 percent increase in reported murders from the 2019 update.

(19) According to the International Guidelines on HIV/AIDS and Human Rights, as published by the United Nations High Commissioner for Human Rights, and according to the reports of the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, countries should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused or targeted against vulnerable groups.

(20) Removing institutionalized discrimination and targeted persecution against LGBTQI people around the world is a critical step in the promotion of human rights and global health internationally.

(21) Anti-LGBTQI laws and discrimination pose significant risks for LGBTQI youth who come
out to their family or community and often face re-
duction, homelessness, and limited educational and
economic opportunities. These factors contribute to
increased risks of substance abuse, suicide, and HIV
infection among LGBTQI youth.

(22) On December 6, 2011, President Barack
Obama released the “Presidential Memorandum—
International Initiatives to Advance the Human
Rights of Lesbian, Gay, Bisexual, and Transgender
Persons”. The memorandum directed all Federal
agencies engaged abroad to ensure that United
States diplomacy and foreign assistance promote and
protect the human rights of LGBTQI persons.

(23) On February 23, 2015, Secretary of State
John Kerry appointed senior diplomat Randy Berry
as the Department of State’s first-ever Special
Envoy for the Human Rights of LGBTI Persons.
No person was named to that position during the
Trump Administration.

(24) On June 30, 2016, the United Nations
Human Rights Council passed a resolution cospon-
sored by the United States that established an Inde-
dependent Expert on violence and discrimination based
on sexual orientation and gender identity to help
monitor and track discrimination and violence experienced by LGBTQI persons around the world.

(25) At the annual Summit of Commonwealth Nations in April 2018, United Kingdom Prime Minister Theresa May issued an apology for discriminatory laws criminalizing same-sex relationships that were imposed on British colonies around the world. She also announced the creation of a fund to support legal reform efforts.

(26) In April 2018, Trinidad and Tobago's High Court of Justice issued a landmark ruling declaring that laws which criminalize same-sex relationships between consenting adults are unconstitutional.

(27) In September 2018, the Supreme Court of India decriminalized same-sex relationships. The same court also has affirmed the rights of transgender people as a protected “third gender” under the Constitution of India.

(28) Angola decriminalized same-sex relationships in January 2019, and prohibited discrimination against people on the basis of sexual orientation. In December 2020, the parliament of Bhutan voted to decriminalize same-sex relationships.
(29) In January 2018, the Inter-American Court of Human Rights issued an advisory opinion declaring that the American Convention on Human Rights, adopted at San Jose November 22, 1969, grants the right of transgender people to change their name and gender on public documents, and that same-sex couples must be granted full legal rights, including the right to marriage. This ruling is animating legal reforms and human rights cases across the Americas.

(30) In September 2018, the legislature in Chile passed a groundbreaking legal gender recognition law, which allows transgender individuals to self-determine their legal gender in official documents without a judicial determination or medical interventions. The Government of Uruguay passed a similarly expansive gender recognition law in 2018.

(31) In May 2020, the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity released a report on so-called “conversion therapy,” which is an umbrella term used to describe interventions based on a belief that a person’s sexual orientation or gender identity can and should be changed. The report concludes that such practices
represent significant violations of rights to bodily autonomy, health, and free expression, and can breach the prohibition against torture and ill-treatment. The Independent Expert concludes by calling for a global ban on conversion therapy, noting that “the psychological pain and suffering inflicted by practices of ‘conversion therapy’ are deep and long-lasting and often exacerbate the risk of suicide”.

(32) The global COVID–19 pandemic has exacerbated inequalities that LGBTQI individuals face, including access to healthcare, stigma, and discrimination.

(33) Some governments have enacted measures that target or discriminate against LGBTQI individuals and communities under the guise of COVID–19 public health precautions.

(34) In March 2020, Ugandan police arbitrarily arrested 20 LGBTQI people living in a homeless shelter, charging them with “a negligent act likely to spread infection of disease”. They were released and all charges were dropped after nearly two months in prison.

(35) Gender-based quarantine rules have resulted in increased violence against transgender individuals and reports indicate an increase in
transphobic and homophobic rhetoric, as religious leaders and others scapegoat LGBTQI people for the spread of the disease.

(36) COVID–19 has also increased barriers to access health care for LGBTQI individuals. In addition to discrimination in care, the health needs of LGBTQI people may be deprioritized. For example, HIV prevention activities have largely ceased due to the pandemic, elevating risks for transmission among key population groups.

(37) Due to stay-at-home restrictions, LGBTQI people may be confined to hostile households, putting them at increased risk for gender-based violence and compounding mental health challenges.

(38) LGBTQI individuals may be unable to access a government’s COVID support services due to discrimination. In response, LGBTQI-led civil society organizations have been forced to shift their programs to provide humanitarian support to their communities, sidelining other programs previously performed in their communities.

**SEC. 4. STATEMENT OF POLICY.**

It is the policy of the United States—

(1) to take effective action to prevent and respond to discrimination and violence against all peo-
ple on any basis internationally, including sexual orientation, gender identity, and sex characteristics, and that human rights policy includes attention to criminalization, hate crimes, and other discrimination against LGBTQI people;

(2) to systematically integrate and coordinate into United States foreign policy efforts to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(3) to support and build local capacity in countries around the world, including of governments at all levels and nongovernmental organizations, to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(4) to consult, cooperate, coordinate, and collaborate with a wide variety of nongovernmental partners, including faith-based organizations and LGBTQI-led organizations, with demonstrated experience in preventing and responding to criminalization, discrimination, and violence against LGBTQI people internationally;

(5) to employ a multisectoral approach to preventing and responding to criminalization, discrimination, and violence against LGBTQI people internationally;
nationally, including activities in the economic, education, health, nutrition, legal, and judicial sectors;

(6) to work at all levels, from the individual to the family, community, local, national, and international levels, to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(7) to enhance training by United States personnel of professional foreign military and police forces and judicial officials to include appropriate and thorough LGBTQI-specific instruction on preventing and responding to criminalization, discrimination, and violence based on sexual orientation and gender identity;

(8) to engage non-LGBTQI people as allies and partners, as an essential element of making sustained reductions in criminalization, discrimination, and violence against LGBTQI people internationally;

(9) to require that all Federal contractors and grant recipients in the United States Government’s international programs establish appropriate policies and take effective measures to ensure the protection and safety of their staff and workplace, including from discrimination and violence directed against
LGBTQI people and those who provide services to them;

(10) to exert sustained international leadership, including in bilateral and multilateral fora, to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(11) to fully implement and expand upon the policies outlined in the “Presidential Memorandum—International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons”;

(12) to ensure that international efforts to combat HIV/AIDS take all appropriate measures to support at-risk communities, including LGBTQI people, and to create enabling legal environments for these communities;

(13) to work with governments and nongovernmental partners around the world to develop and implement regional strategies to decriminalize homosexuality and to counteract the prohibition of public support of LGBTQI people; and

(14) to ensure that those who have a well-founded fear of persecution on account of being LGBTQI or supporting LGBTQI rights have the opportunity to seek protection in the United States.
SEC. 5. SPECIAL ENVOY FOR THE HUMAN RIGHTS OF LGBTQI PEOPLE.

(a) Establishment.—

(1) In general.—The Secretary of State shall establish in the Bureau of Democracy, Human Rights, and Labor (DRL) of the Department of State a permanent Special Envoy for the Human Rights of LGBTQI Peoples (in this section referred to as the “Special Envoy”), who shall be appointed by the President. The Special Envoy shall report directly to the Assistant Secretary for Democracy, Human Rights, and Labor.

(2) Rank.—The Special Envoy may be appointed at the rank of Ambassador.

(b) Purpose.—In addition to the duties described in subsection (c) and those duties determined by the Secretary of State, the Special Envoy shall direct efforts of the United States Government relating to United States foreign policy, as directed by the Secretary, regarding human rights abuses against LGBTQI people and communities internationally and the advancement of human rights for LGBTQI people, and shall represent the United States internationally in bilateral and multilateral engagement on such matters.

(c) Duties.—

(1) In general.—The Special Envoy—
(A) shall serve as the principal advisor to
the Secretary of State regarding human rights
for LGBTQI people internationally;

(B) shall, notwithstanding any other provi-
sion of law, direct activities, policies, programs,
and funding relating to the human rights of
LGBTQI people and the advancement of
LGBTQI equality initiatives internationally, for
all bureaus and offices of the Department of
State, and shall lead the coordination of rel-
evant international programs for all other Fed-
eral agencies relating to such matters;

(C) shall represent the United States in
diplomatic matters relevant to the human rights
of LGBTQI people, including criminalization,
discrimination, and violence against LGBTQI
people internationally;

(D) shall direct, as appropriate, United
States Government resources to respond to
needs for protection, integration, resettlement,
and empowerment of LGBTQI people in United
States Government policies and international
programs, including to prevent and respond to
criminalization, discrimination, and violence
against LGBTQI people internationally;
(E) shall design, support, and implement activities regarding support, education, resettlement, and empowerment of LGBTQI people internationally, including for the prevention and response to criminalization, discrimination, and violence against LGBTQI people internationally;

(F) shall lead interagency coordination between the foreign policy priorities related to the human rights of LGBTQI people and the development assistance priorities of the LGBTQI Coordinator of the United States Agency for International Development;

(G) shall conduct regular consultation with nongovernmental organizations working to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally;

(H) shall ensure that programs, projects, and activities of the Department of State and the United States Agency for International Development designed to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally are subject to rigorous monitoring and evaluation, and
that there is a uniform set of indicators and standards for such monitoring and evaluation that is used across international programs in Federal agencies; and

(I) is authorized to represent the United States in bilateral and multilateral fora on matters relevant to the human rights of LGBTQI people internationally, including criminalization, discrimination, and violence against LGBTQI people internationally.

(2) DATA REPOSITORY.—The Bureau of Democracy, Human Rights, and Labor shall—

(A) be the central repository of data on all United States programs, projects, and activities that relate to prevention and response to criminalization, discrimination, and violence against LGBTQI people internationally; and

(B) produce—

(i) a full accounting of United States Government spending on such programs, projects, and activities; and

(ii) evaluations of the effectiveness of such programs, projects, and activities.
(d) Briefings and Assessments.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Special Envoy shall—

(1) brief the appropriate congressional committees on the status of the human rights of LGBTQI people internationally, as well as on the status of programs and response strategies to address criminalization, discrimination, and violence against LGBTQI people internationally; and

(2) submit to the appropriate congressional committees an assessment of human and financial resources necessary to fulfill the purposes and duties of this Act.

(e) United States Policy to Prevent and Respond to Criminalization, Discrimination, and Violence against LGBTQI People Globally.—

(1) Global Strategy Requirement.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter for each of the following five years, the Special Envoy shall develop or update, as the case may be, a United States global strategy to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally. The Special Envoy shall submit the global strategy to the appropriate congres-
sional committees and, if practicable, make the global strategy available to the public.

(2) Collaboration and Coordination.—In developing the global strategy required under paragraph (1), the Special Envoy shall consult with—

(A) mid- and high-level officials of relevant Federal agencies; and

(B) representatives of nongovernmental organizations with demonstrated experience in addressing criminalization, discrimination, and violence against LGBTQI people internationally or promoting equal rights for LGBTQI people internationally.

(f) Monitoring the United States Strategy to Prevent and Respond to Criminalization, Discrimination, and Violence Against LGBTQI People and Communities Internationally.—

(1) In General.—In each global strategy submitted under subsection (e), the Special Envoy shall include an analysis of best practices for preventing and addressing criminalization, discrimination, and violence against LGBTQI people and communities internationally, including—

(A) a description of successful efforts by foreign governments and nongovernmental or-
ganizations to prevent and respond to criminal-
ization, discrimination, and violence against
LGBTQI people and communities internation-
ally;

(B) recommendations related to best prac-
tices, effective strategies, and improvements to
enhance the impact of such prevention and re-
sponse efforts; and

(C) the impact of activities funded by the
global strategy in preventing and reducing
criminalization, discrimination, and violence
against LGBTQI people and communities inter-
nationally.

(2) INFORMATION REQUIRED TO BE INCLUDED
IN ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES.—

(A) Section 116.—Section 116(d) of the
Foreign Assistance Act of 1961 (22 U.S.C.
2151n(d)) is amended—

(i) in paragraph (11)(C), by striking
“; and” and inserting a semicolon;

(ii) in paragraph (12)(C)(ii), by strik-
ing the period at the end and inserting “;
and”; and
(iii) by adding at the end the following new paragraph:

“(13) wherever applicable, the nature and extent of criminalization, discrimination, and violence based on sexual orientation and gender identity, including an identification of those countries that have adopted laws or constitutional provisions that criminalize or discriminate based on sexual orientation or gender identity (as those terms are defined in section 2 of the International Human Rights Defense Act of 2018), including detailed descriptions of such laws and provisions.”.

(B) SECTION 502B.—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended—

(i) by redesignating the second subsection (i) (relating to child marriage status) as subsection (j); and

(ii) by adding at the end the following new subsection:

“(k) SEXUAL ORIENTATION AND GENDER IDENTITY.—The report required under subsection (b) shall include, wherever applicable, the nature and extent of criminalization, discrimination, and violence based on sexual orientation and gender identity, including an identification
of those countries that have adopted laws or constitutional provisions that criminalize or discriminate based on sexual orientation or gender identity (as those terms are defined in section 2 of the International Human Rights Defense Act of 2021), including detailed descriptions of such laws and provisions.”.

SEC. 6. IMPLEMENTATION OF THE UNITED STATES STRATEGY TO PREVENT AND RESPOND TO CRIMINALIZATION, DISCRIMINATION, AND VIOLENCE AGAINST LGBTQI PEOPLE AND COMMUNITIES INTERNATIONALLY.

The Secretary of State and the Administrator of the United States Agency for International Development are authorized to provide assistance to prevent and respond to criminalization, discrimination, and violence against LGBTQI people internationally. Such assistance may include the following activities:

(1) Development and implementation of programs, such as the Global Equality Fund of the Department of State, that respond to human rights abuses and economic exclusion of LGBTQI people in the workplace and in public.

(2) Development and enforcement of civil and criminal legal and judicial sanctions, protection, training, and capacity.
(3) Enhancement of health sector capacity to detect, prevent, and respond to violence against LGBTQI people and communities internationally, and to combat HIV/AIDS in the LGBTQI community internationally, in close coordination with the Office of the Global AIDS Coordinator and Health Diplomacy of the Department of State.

(4) Development of a leadership program for international LGBTQI activists that will foster collaboration and knowledge sharing across the world.