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In my letter of 26 January 2018, I undertook to respond to the Foreign Affairs Committee's questions about same sex marriage in Bermuda, and following on from the Adjournment Debate on the issue in the House of Commons on 29 January.

As Minister Duncan stated during the debate, in May last year, the Bermuda Supreme Court found that the established definition of marriage as between a man and a woman was inconsistent with Bermuda's Human Rights Act. The Court therefore declared that same sex couples should also be entitled to be married. The first same sex marriage in Bermuda took place that month.

Following Bermuda's election last year, the governing party introduced the Domestic Partnership Bill which was passed by the Parliament of Bermuda on 13 December 2017. The Bill withdraws the entitlement for same sex couples to marry and replaces it with a provision for domestic partnerships for all couples, regardless of gender. The intent of the Bill is to provide 'domestic partners' with the same benefits as married couples, including provision for pensions, inheritance, healthcare, tax and immigration. Regrettably, same sex marriage rights have been removed and we therefore needed to consider the implications on our collective responsibilities fully.

When I gave evidence to the Foreign Affairs Committee on 16 January 2018, Chris Bryant MP asked if the Governor would be signing the Bill. I can now inform you that after careful consideration in regard to Bermuda's constitutional and international obligations, the Secretary of State decided not to intervene on this matter. The Governor took the decision to give his assent to the Bill on 7 February 2018.

I realise that members of the Foreign Affairs Committee will share my disappointment that Bermuda has taken this course of action. However I would like to further reiterate the points raised in the Adjournment Debate of 29 January, that this government remains strongly committed to promoting LGBT equality rights. I continue firmly to believe that the strongest, safest and most prosperous societies are those that are the most open and inclusive. I am proud that in 2016-2018 the FCO's Magna Carta Fund for Human Rights and Democracy is providing approximately £1.6million in funding to projects promoting and protecting the rights of LGBT people.

In engaging with the British Overseas Territories, we do however have to respect that they are separate, self-governing jurisdictions with their own democratically-elected representatives that have the right to self-government. Any intervention in the legislative process in any British Overseas Territory without their consent would be an exceptional step.

In response to Chris Bryant's question on whether the UK could intervene on this issue, I would like to be clear that the Secretary of State, acting on behalf of Her Majesty, can only instruct the Governor to withhold assent in the most exceptional circumstances, and where there is a legal and constitutional basis for doing so. An intervention from the Secretary of State in this case would have been unprecedented.

It is important to recognise that Bermuda's position on domestic partnerships meets the European Court of Human Rights' requirement for legal recognition of same sex relationships. Bermudians who have been legally married in Bermuda since the Supreme Court decision will retain their married status and enjoy the same legal rights as those in domestic partnerships, but the Bill will ensure that this is put on a statutory footing – this was not the case less than a year ago.

More widely, in the Overseas Territories where same-sex marriage is not currently recognised, Ministers have been clear with Overseas Territory Governments that they must respect their international obligations. We will continue to encourage and engage with all of the Overseas Territories on these matters with both governments and civil society, so they can drive their own lasting legislative change.

LORD AHMAD OF WIMBLEDON

Minister of State for the Overseas Territories

Prime Minister's Special Representative for Preventing Sexual Violence in Conflict