

WORKING WITH LESBIAN, GAY, BISEXUAL, TRANSGENDER & INTERSEX PERSONS IN FORCED DISPLACEMENT



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objective

Due to the discrimination and abuse they experience, many LGBTI people, including adolescents, flee their home countries and seek protection abroad. The multiple vulnerabilities that LGBTI refugees¹ may face in all stages of the displacement cycle is an increasing protection concern. It is important for UNHCR to ensure that the rights of LGBTI persons of concern to the Office are met without discrimination. This places an onus on offices to develop a thorough understanding of the circumstances of LGBTI persons under their care. This note provides staff with guidance on a range of issues when working to meet these responsibilities.

1 The focus of this note is on refugees, and this term is used throughout the document, but the guidance provided is applicable to asylum-seekers and, depending on the context, stateless and other persons and groups of concern to UNHCR.

overview

In many societies lesbian, gay, bisexual, transgender and intersex (LGBTI)² people are subject to serious human rights abuses because they do not conform with culturally established gender norms. As a result of their real or perceived sexual orientation, gender identity, gender expression or sexed bodies,³ they often experience:

- Violence, including sexual abuse, torture or murder at the hands of state actors or community and family members
- Lack of police protection

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- 2 The acronym **LGBTI** describes a diverse group of people who do not conform to conventional or traditional notions of male and female gender roles. LGBTI people are also sometimes referred to as “sexual, gender and bodily minorities”. A **lesbian** is a woman whose enduring physical, romantic and/or emotional attraction is to other women. **Gay** is often used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although the term can be used to describe both gay men and lesbians. **Bisexual** describes an individual who is physically, romantically and/or emotionally attracted to both men and women. **Transgender** describes people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term **intersex** covers bodily variations in regard to culturally established standards of maleness and femaleness, including variations at the level of chromosomes, gonads and genitals. **Homosexual** refers to women or men who are attracted primarily to people of the same sex. The term is considered by many to be derogatory.
- 3 **Sexual orientation** refers to each person’s capacity for emotional, affective and sexual attraction to, and intimate relations with, individuals of a different or the same gender or more than one gender. **Gender identity** refers to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth. **Gender expression** refers to each person’s external manifestation of gender, which can correspond or not with culturally normative expectations in terms of masculinity or femininity. **Sexed bodies** (defined broadly by each person’s chromosomes, genitals and gonads) may vary from culturally established standards of maleness and femaleness, and constitute a key component of **bodily diversity**.

- Severe discrimination and exclusion from access to health care, housing, education, employment and other social services
- Arbitrary arrest, detention or extortion, especially in countries that criminalize same-sex relations
- Social banishment from their family and community and other support mechanisms

LGBTI refugees may be subject to continued harm while they are in transit or once they arrive in countries of asylum. Many attempt to hide their sexual orientation or gender identities in an effort to avoid abuse, making it difficult for UNHCR to identify them or provide access to asylum procedures and humanitarian services. They may also require specific additional assistance, including:

- Reception or care arrangements, including for applicants who are adolescents
- Assistance in accessing asylum procedures and humanitarian programmes
- Protection from physical harm or sexual violence, both generally and in detention
- Legal counseling or representation
- Safe housing and other social services, including psychosocial support
- Specific protection actions when they are at heightened risk, sometimes including expedited resettlement
- Medical care (such as gender affirming hormone treatment or surgery or treatment for HIV-related problems)

distinct vulnerabilities of LGBTI refugees

LGBTI groups experience persecution and discrimination in distinct ways.⁴

- **Lesbians** may suffer persecution based on both their gender and sexual orientation and may be exposed more frequently to honour crimes and rape at the hands of private actors, including family and community members. Their social and economic status may obstruct their access to asylum procedures, police, and other forms of protection and support in countries of asylum.
- **Gay men** tend to live more public lives and, as a result, are often at more immediate risk of harm, especially from state actors in countries where male same-sex conduct is a criminal offence. Gay men may be reluctant to reveal to authorities or service providers the sexual abuse they may have endured.
- **Bisexuality** is not well understood in many countries. Bisexual persons are attracted to people of the opposite as well as the same sex, but are persecuted because of their same-sex conduct. They consider their sexual orientation to be fluid and flexible, creating the misperception that their sexuality is a matter of choice, not identity.

⁴ Note: these descriptions are meant as an overview only and do not capture all possible situations of potential abuse.

- **Transgender persons** are often severely marginalized. They frequently experience abuse and discrimination from state authorities and hatred by family and community members; they are often subject to sexual abuse, by state as well as non-state actors. Frequently excluded from education and access to housing and employment, they may engage in survival sex work.
- **Intersex individuals** may endure persecution because they do not conform to gender expectations, or are viewed as having a physical disability related to their atypical sexual anatomy. Family members of intersex persons are sometimes also abused. Intersex individuals may be subject to unwanted surgery to “correct” their anatomy or have ongoing medical needs related to their condition.

action

- Raise awareness of the common protection challenges that LGBTI individuals face, and the distinct risks of each group, in countries of origin, in transit, and in host countries.

non-discrimination and participation: keys to protection

All people who are forcibly displaced face challenges. However, LGBTI refugees are at particular risk because they often face targeted discrimination and violence in countries of asylum. Many avoid seeking protection out of fear of further harm. Their protection needs often go unmet, and they are unable to participate in activities or access support that could benefit them.

To ensure that LGBTI refugees are protected throughout the displacement cycle, UNHCR and NGO partner staff need to make themselves aware of their own preconceptions or discriminatory attitudes towards sexual orientation, gender identity, and bodily diversity and ensure that programmes are inclusive and participatory. Prejudice may stem from lack of knowledge about this group or their rights. Exclusion of LGBTI persons during displacement can be inadvertent or purposeful: in either case, it is discriminatory.

action

- Make sure all staff and partners are aware of what is and is not appropriate behaviour when working with LGBTI persons. UNHCR's Code of Conduct sets out clear norms and requires managers to take action when inappropriate behaviour is identified. Staff sensitization training will often be necessary.

The participation of LGBTI refugees in humanitarian programming and assistance is key to identifying and developing appropriate solutions to challenges they experience during displacement. Achieving a high standard of protection is only possible if LGBTI people are included and participate actively.

action

- Consult and involve LGBTI persons in decision making throughout the operation cycle.
- Give them the means to voice their opinion and participate fully in humanitarian activities and assistance.

Introduce rights-based protection and inclusive programming

LGBTI people should have the same opportunity as other refugees to enjoy the full range of their human rights without discrimination, including access to asylum procedures and humanitarian programmes. LGBTI people are covered by UNHCR's Age, Gender and Diversity (AGD) policy, which staff can use to guide them in providing assistance and protection. The particular vulnerabilities they face and UNHCR's responsibility to ensure their protection were set out in a broadcast message in 2010 and again in May 2011.

action

- Ensure that staff are aware of international and national guidelines for protecting LGBTI persons.
- Work to mainstream LGBTI individuals into protection programmes and consultations with refugees.

Create a safe identification and registration environment and reach out

LGBTI persons often live in hiding, both in camps and urban areas. They are at high risk of abusive treatment by other refugees, at or near reception facilities. If they are in detention, they are often afraid to reveal their sexual orientation, gender identity or non-standard body anatomy to staff.

They should be included explicitly and appropriately in identification and registration processes. To gain their trust and confidence, staff should create a safe and confidential registration environment. It is important to consult NGOs and other civil society organizations that work with LGBTI persons to help identify and reach out to those who need assistance. It is likely to be helpful to hold separate meetings, to provide information in places that LGBTI persons consider safe, and to place posters addressed to them in reception areas.

The privacy of LGBTI refugees should be respected at all times, and a person's sexual orientation, gender identity or bodily status should be recorded in a manner that respects this. Care should be taken to ensure that outreach and registration activities do not increase the risks that LGBTI persons face.

action

Identify and reach out to LGBTI persons by taking the following steps:

- Seek out and consult with civil society actors, NGOs or other civic organizations to identify and connect with LGBTI refugees. Confidentiality and the safety of those identified are vital.
- Provide information in different forms and locations about how and where LGBTI individuals can seek assistance.
- Ensure the office reception provides a safe and welcoming environment and that registration is conducted in a non-discriminatory manner. Specific arrangements may need to be made for registration.

Ensure physical security: prevention and response to abuse and exploitation, including Sexual and Gender-Based Violence (SGBV)

Security during the asylum process is a major concern for LGBTI persons. They may be attacked and harassed by family members, local people, or other refugees; if they are detained, they may be attacked by other inmates or guards. In countries where same-sex conduct, cross-dressing or sex work is criminalized or negative attitudes to sexual minorities are widespread, the authorities may not be able or willing to protect them. They may require specific assistance where such laws still exist. Security issues exist both in camps and in urban environments. Housing LGBTI refugees safely can be difficult. Risks from the community may make it hard for them to leave home, and sometimes they are attacked if their location is known. Scattered housing may work better than communal housing; sex-segregated housing may not work for all, especially for transgender or intersex persons whose identity documents may not conform to their expressed gender identity. Housing in close proximity to local LGBTI infrastructure, where it exists, is vital for safety and support.

LGBTI persons are also at high risk of sexual violence and exploitation, particularly in situations of detention. SGBV increases vulnerability to HIV/AIDS; and individuals with HIV/AIDS are very likely to suffer *refoulement* from countries that have discriminatory HIV policies. Some severely marginalized LGBTI groups, particularly transgender persons, may have to engage in sex work to survive. These individuals can be abused and exploited by the local population and may not be protected by the authorities.

action

Protect LGBTI persons from physical and sexual violence by taking the following steps:

- Work with all partners to identify LGBTI refugees who need specific protection, guided by the Heightened Risk Identification Tool (HRIT).
- Integrate them in all protection programming. Specific arrangements may need to be made in some situations.
- Include them in SGBV prevention and response mechanisms, working with partners where applicable.
- Work with partners, authorities where feasible, and other actors to identify appropriate and safe housing arrangements.

Build partnerships with civil society actors

Some NGOs and other actors are unaware of the particular needs of this group or may be hesitant to help them. It is useful to develop appropriate partnerships and confidential referral systems with NGOs, women's groups, community-based organizations and, where applicable, government partners, to ensure that the specific needs and rights of LGBTI refugees are met. Mainstream their issues into existing awareness-raising and training activities with partners.

action

- Seek out and create confidential and effective referral systems and partnerships by mapping LGBTI needs in liaison with LGBTI-sensitive NGOs and other relevant service providers.
- Assist service providers to make their programmes inclusive and accessible to LGBTI people.

Provide access to services

LGBTI refugees frequently experience discrimination when they access housing, employment, health, psychosocial and other services in host countries. They are often exposed to mistreatment and exclusion from employment and educational programmes. A lack of financial, social and other support from family and refugee communities leaves many LGBTI persons particularly vulnerable. Lesbians may be especially at risk where women have inferior social and economic status.

Because of the abuse, social isolation, and homophobia/transphobia they experience, many LGBTI individuals experience mental health issues. They may also be at risk of HIV/AIDS, and tend to have less access to critical prevention and care services. Those who are HIV positive suffer a double stigma. Transgender and intersex persons may require medical treatment or medication that they cannot receive or cannot afford to pay for.

Staff should make a particular effort to put qualified and professional service providers in contact with LGBTI persons. UNHCR may promote the following forms of support:

- Subsidized health care, including treatment for HIV and SGBV-related injuries, and to meet the specific needs of transgender and intersex persons (e.g. hormones or surgery)
- LGBTI sensitive psychosocial support and mental health care
- SGBV programming
- Specialized housing
- Vocational (re)training and access to livelihood programmes
- Inclusive and non-discriminatory education

action

- Ensure that LGBTI persons have access to social services and programmes. Make sure these are sensitive, non-discriminatory and confidential.
- Work with supportive local NGOs wherever possible.

Durable solutions and heightened risk assessment

Intolerance of LGBTI individuals is evident in many countries of asylum. LGBTI refugees also experience a high risk of *refoulement* and abuse in some countries. Resettlement in a third country is often the only viable durable solution for LGBTI refugees at heightened risk.⁵

UNHCR can work with NGOs and other actors to identify and refer LGBTI persons with specific protection needs who require resettlement. Staff can use the Heightened Risk Identification Tool (HRIT)⁶ when they undertake priority processing for resettlement.

Like other groups, resettled LGBTI persons have specific needs. Some continue to face discrimination because of their sexual orientation, gender identity or bodily diversity and are not accepted by refugee or local communities in their new country. Some will require ongoing mental health care and financial assistance. Transgender and intersex refugees often need medical treatment that not all resettlement countries provide. When resettling LGBTI refugees, care should be taken to place them in supportive environments with the help of qualified NGOs and other service providers. When applicable, it is important to resettle same-sex partners and their children together.

⁵ The revised UNHCR Resettlement Handbook includes guidance on resettling LGBTI persons.

⁶ The risk factors for LGBTI persons are primarily contained in the Legal and Physical Protection section of the HRIT. However, sections on children, the elderly, survivors of violence and torture, and women may also be relevant, as may some other indicators.

action

Ensure that durable solutions for LGBTI persons are appropriate by taking these steps:

- Work with NGOs and other actors to identify LGBTI individuals at heightened risk.
- Use the HRIT and other risk assessment mechanisms for priority processing and resettlement.
- Take care that LGBTI people are resettled in safe and supportive environments and have proper access to social services, including medical and mental health care.

key resources

- UNHCR, Age, Gender and Diversity Policy, Working with People and Communities for equality and Protection (2011), at: <http://www.unhcr.org/refworld/docid/4def34f6887.html>
- UNHCR, Broadcast message of 1 December, 2010, Summary Conclusions of the Roundtable on Asylum-Seekers and Refugees Seeking Protection on Account of Their Sexual Orientation and Gender Identity, held in Geneva from 30 September - 1 October 2010, at: <http://www.unhcr.org/refworld/docid/4cff99a42.html>
- UNHCR, Discussion Paper, The Protection of Lesbian, Gay, Transgender and Intersex Asylum-Seekers and Refugees (2010), at: <http://www.unhcr.org/refworld/pdfid/4cff9a8f2.pdf>
- The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (2006), at: <http://www.yogyakartaprinciples.org>
- UNHCR, Heightened Risk Identification Tool (HRIT)(2010), at: <http://www.unhcr.org/refworld/pdfid/4c46c6860.pdf>
- UNHCR, Practical Guide to Working to Protect Refugees Living in Urban Environments, 2011 version (forthcoming)
- UNHCR, Resettlement Handbook (2011 version), at: <http://www.unhcr.org/4a2ccf4c6.html>
- UNHCR, Code of Conduct (2004), at: <http://www.unhcr.org/422dbc89a.html>

NEED TO KNOW GUIDANCE

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