

Forcibly displaced LGBT persons face exacerbated challenges in search of safe haven

Statement by human rights experts on the International Day against Homophobia, Transphobia and Biphobia
(to be held on 17 May 2022)

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On the eve of the International Day Against Homophobia, Transphobia and Biphobia (IDAHOBIT), which will be held on 17 May 2022, a group of United Nations and international human rights experts* urges States to ensure that lesbian, gay, bisexual, trans and gender diverse (LGBT) persons fleeing persecution are protected against violence and treated with dignity. We call on States to tackle the root causes of forced displacement around the planet.

Persecution from State and non-State actors, as well as socio-economic exclusion fueled by stigma, discrimination, armed conflict, natural disasters, and climate change force many persons of diverse sexual orientation and gender identity (SOGI) to flee their homes in search of a safe environment where they can live authentically and fully exercise their rights. Among the 84 million people who are currently forcibly displaced worldwide, LGBT persons are among the most vulnerable and marginalized.

Although there is not yet accurate data on the number of LGBT forcibly displaced persons globally, many reside in countries that do not provide strong human rights protections, or that actively discriminate at the structural and institutional level on the basis of SOGI. The number of LGBT people in forced displacement is likely to increase in coming years, due to factors such as adverse climate impacts and intensifying socioeconomic fragility.

The structural vulnerabilities that LGBT persons face are intensified by their situation as migrants, asylum seekers, refugees or internally displaced persons. They may be fleeing persecution linked specifically to their SOGI or other additional factors, such as their ethnicity, nationality, political opinions, faith or these combined. These intersectional forms of social stigma and institutionalized exclusion, leave LGBT persons without adequate access to protection and justice from the patterns of violence that compelled them to seek safety in the first place and that are often reproduced in displacement settings.

Over 2/3 of the world's forcibly displaced people have not crossed a national border in their search for safety. LGBT persons who are internally displaced in countries that criminalize consensual same-sex relations and/or diverse gender identities are rarely systematically acknowledged and addressed by institutions that support internally displaced persons, most typically in fragile or conflict-affected areas. They may not have recourse to assistance and support services - including access to adequate health care services, offered by organizations whose mandates focus primarily on supporting asylum seekers arriving from other countries.

Many LGBT persons in forced displacement who do cross an international border arrive in countries where they encounter similar or higher risks of violence, as well as xenophobia, racism, misogyny, ageism, socioeconomic marginalization, and isolation from traditional support networks. At all stages of their journey, they may be at particular risk of violence, abuse and exploitation from numerous actors, including though not limited to immigration and security authorities, traffickers, and smugglers, as well as from fellow displaced people and not infrequently from actors who are responsible for their security and wellbeing upon arrival in asylum locations. After relocating, in jurisdictions where family composition is defined solely according to heteronormative standards, LGBT persons on the move are often unable to exercise their right to family reunification.

Abuse of LGBT displaced persons can take the form of gender-based violence, as well as of exclusion from essential services, such as safe and appropriate accommodation and housing, safe access to the distribution of food and essential non-food items, including hygiene products, medical care, mental health care, and psychosocial services (including but not limited to sexual and reproductive health services and, where applicable, rehabilitation services for survivors of torture), financial services, and livelihoods support. Structural exclusion from the formal economy, including access to the labor market, increases their exposure to risk, sexual and/or labor exploitation and pressure to participate in high-risk livelihoods. They frequently face continued discrimination and abuse from other displaced persons and may be excluded from decision-making structures

that are established to serve forcibly displaced communities at large. And, while these conditions existed prior to the onset of the COVID-19 pandemic, they are documented to have worsened since then.

Stigmatization creates highly unsafe conditions for many LGBT persons to disclose their SOGI status to authorities upon their arrival in a country where they seek protection, particularly if they are not informed that they can apply for protected status based on these grounds. Even though persecution on the basis of one's real or perceived SOGI is considered a potential ground for claiming asylum according to the 1951 Refugee Convention and 1967 Protocol¹, stigmatization creates highly unsafe conditions for many LGBT persons to disclose their SOGI to authorities immediately upon their arrival in an asylum location or afterwards. Some applicants are not even informed that they can apply for protected status based on these grounds. Moreover, criteria to undertake credibility assessments of such claims are not always clearly established - and because of that, decisions are often heavily influenced by stereotypes. Unfortunately, late disclosure of their SOGI status as a persecution driver also frequently adversely affects the outcomes of LGBT persons' asylum claims.

Trans and gender-diverse refugees, asylum seekers, migrants, internally displaced and stateless people are among those facing the highest risk of physical and emotional mistreatment, beatings, rape, torture, and murder, because their visible gender expression is often perceived as a direct challenge to prevailing social norms in countries or areas of origin, transit, and destination. Thus, while seeking protection in what is hoped to be a safer environment, a response they frequently encounter is an effort to render them less visible and/or to punish them based on their SOGI. In jurisdictions where legal gender recognition of trans persons is not a reality or not accessible to people whose migration status is irregular, misgendering based on one's sex assigned at birth is common and can create acutely harmful challenges throughout their entire protection seeking experience.

With the number of forcibly displaced persons continuing to rise, States, businesses, and humanitarian and civil society organizations must invest in developing human rights-based policies and programs that take into full account the intersectional dimensions of forced displacement and sexual orientation and gender identity, fostering stronger collaboration and coordination among *all* actors responsible for the protection of displaced LGBT individuals.

Some of the immediate issues that need to be addressed are: establishing programs that take into consideration the specific needs of displaced LGBT persons across all stages of their journey; improving reception conditions including for groups with special needs, like older persons and persons with disabilities, and ensuring safe accommodation and adequate access to health care services; ensuring adequate access to protection, asylum and refugee status determination; facilitating durable solutions of their choice, including options for resettlement; and building a thorough evidence-based ethical data collection, management and reporting. Furthermore, all efforts must be made to involve them in the design, implementation and monitoring of programs and policies that target them and that ultimately seek their protection, ensuring their enjoyment of their fundamental rights, and assistance.

Ultimately, the fundamental step to address the rising number of forcibly displaced LGBT persons around the world is to tackle the root causes of forced displacement and ensure LGBT persons can live free from violence and discrimination in their communities, implementing laws and public policies that can transform the vicious spiral of abuse which forces them to seek protection elsewhere in the first place.

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¹ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 23 October 2012, HCR/GIP/12/01. <https://www.refworld.org/docid/50348afc2.html>

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