

UNVEILING THE UNSPOKEN LENS OF REALITY.

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Pride Equality International (PEI) is a legally registered non-profitable, non religious and non-governmental organization working to promote and protect the human rights of Sexual Orientation, Gender Identity and Expression (SOGIE) within the Mano River Union countries (Guinea, Liberia and Sierra Leone) and Africans in Europe. We are committed towards creating a world that is free from discrimination and violence on the grounds of sexual orientation, gender identity and expression. PEI was established 2007 in Freetown, Sierra Leone, 2014 in Spain and Guinea with regional groups in Belgium and France.

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TABLE OF CONTENTS

	Pages
FOREWORD	5
LIST OF ACRONYMS.....	6
EXECUTIVE SUMMARY.....	7
METHODOLOGY & LIMITATIONS	9
PART I: EXPERIENCES IN COUNTRY OF ORIGIN	10
PART II: EXPERIENCES IN SPAIN	
Accommodation	12
Employment.....	13
Safety.....	14
Integration.....	15
Documentation	15
Immigration Detention.....	17
Healthcare.....	18
PART III: TESTIMONIES	19
PART IV: CONCLUSION.....	23
PART V: RECOMMENDATIONS.....	24
PART VI: ADDITIONAL INFORMATION	
International Instruments.....	26
Organogram of Asylum Process in Spain	28
OAR Statistics for Asylum Seekers & Refugees	29
Jargon Busters.....	31
Useful Addresses.....	35
REFERENCES	37
APPENDIX: SURVEY QUESTIONNAIRES FOR ASYLUM SEEKERS & REFUGEES	38

FOREWORD

I am thrilled to share with you the result of much hard work – from workshops, focus group discussions, peer interactions, meetings in different communities in Barcelona, and discussions in the days and late into the nights. I have been privileged to be part of this transformative process as this is the first report in Spain revealing the actual situation of African Asylum Seekers & Refugees. What struck me most as someone who has worked many years on equal rights for all regardless of sexual orientation, gender identity and expression is the enthusiasm and interest shown by African asylum seekers, migrants and refugees on this project as we struggled to make the issues real and relevant to our lives and those of our generation. Pride Equality International representing African asylum seekers, migrants and refugee's voices in Spain stand in solidarity to demand respect and fair treatment for all people, regardless of their skin colour, age, ethnicity, race, gender, religion, creed, religion, sex, sexual orientation, gender identity and expression.

In 2014, more than 3,400 people died trying to cross the Mediterranean, most of them asylum seekers from Syria, Eritrea and other parts of Africa. So far in 2015, more than 1,750 migrants have died. The number of victims is growing every year while European leaders turn a blind eye and give military solutions to the problem. Between 2007 and 2013, the European Union spent 93 million Euros in assisting asylum seekers and refugees against the 2,984 million Euros used in the EU agency (Frontex) for border control; which is more than 32 times the cost spent on asylum seekers and refugees. It's worth mentioning that after the Mare Nostrum was cancelled after the operation started by Italy after the Lampedusa's tragedy and stopped one year later due to Europe's denial to fund. There is not any coordinated European operation to rescue people in migratory transit.

Catalan and Spanish society understood the drama of involuntary forced migration, as many Spanish and Catalans were forced to emigrate during the civil war and the fascist dictatorship period, as well as in the 50's and 60's with the successive economic crisis experienced in the state. Civil society is not an obstacle to the integration of refugees, but political authorities and economic powers use migrant workforce when it suits them, while applying policies that promote xenophobia and all other forms of discrimination against African asylum seekers and refugees. It is easy though to see why this report is called **"Unveiling the Unspoken Lens of Reality"**. It truly has been a journey for African asylum seekers, migrants and refugees in Spain; we encounter discrimination in every facet of society and this has been ignored and swept under the carpet. In Spain, asylum seekers and refugees are left out in the national agenda, we are not a priority for the government; we live on the street, go hungry and find it difficult to get a job. The Spanish government in general is not doing enough to provide access to basic food and affordable housing as enshrined in the United Nations Refugee Convention. Asylum seekers, migrants and refugees want to work, pay taxes and integrate within the Spanish society. Should we sit down and allow this trend to continue? No. That is why we are calling on the government and everyone to debunk the negative myths, misconceptions and strive to embrace equal rights, diversity and inclusion for all asylum seekers, migrants and refugees.



George Reginald Freeman
Researcher, Founder & Director
Pride Equality International

LIST OF ACRONYMS

PEI	Pride Equality International
TPP	The Pollination Project
UNHCR	United Nations High Commission for Refugees
ACNUR	Alto Comisión de las Naciones Unidas para los Refugiados
OAR	Oficina de Asilo y Refugio
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
GBM	Gay, Bisexual and Men Who Have Sex With Men
MSM	Men Who Have Sex With Men
UDHR	Universal Declaration of Human Rights
INGOs	International Non Governmental Organizations
CSOs	Civil Society Organizations
SOGI	Sexual Orientation and Gender Identity
ECHR	European Convention on Human Rights
CEAR	Comisión Española Ayuda al Refugiados
CIE	Centros de Internamiento de Extranjeros
ACCEM	Asociación Comisión Católica Española de Migración
UK	United Kingdom
EU	European Union
NGO	Non Government Organization

EXECUTIVE SUMMARY

In many African countries, Lesbians, Gays, Bisexuals, Transgender, Queer and Intersex (LGBTQI) people and at times heterosexuals perceived to be LGBTQI people are persecuted because of their sexual orientation, gender identity and expression. Numerous studies have shown that homosexuality is illegal in 38 of the 54 African countries, with Nigeria, Egypt and Botswana allowing for the death penalty. Even in some countries where there is no death penalty, religious intolerance is igniting people by giving them the right to kill through homophobic and trans-phobic comments. Homophobia, expressed by social attitudes and legal provision, has made this social group outcast and isolated from their families, communities and societies.

Due to the high rate of poverty, political strife, religious intolerance and access to job opportunities, most Africans have to travel to Europe to find greener pastures and make their lives successful. As a result, many are fleeing their country of origin to Europe through Spain where they hope to find greater safety, freedom and happiness. Upon arrival in Spain, a nation characterised by the co-existence of progressive legislation upholding human rights for all. African migrants, refugees and asylum seekers are faced with new challenges: discrimination in the work place, stigma, homophobia, xenophobia, discrimination and at times verbal abuse. Thus, the gap between the reality and the regulation is huge. Spain is at best an ambivalent case study in terms of the enforcement of human rights. The present report aims to describe different human rights violations faced by this vulnerable type of African refugees, migrants and asylum seekers more often shunned and forgotten by the society.

PEI's African asylum seekers and refugee project, conducted a survey in order to determine the kind of difficulties faced by African asylum seekers and refugees from across Africa in Barcelona, Spain. Below is a summary of the findings from these surveys made from February to August 2017 gathered from 50 African asylum seekers, migrants and refugees including LGBTQI people from different countries of Africa, living in Barcelona, Spain or transiting in Barcelona to other European countries. This survey targeted African asylum seekers, migrants and refugees between the ages of 18 to 50 years. The present report is based on the in-depth interviews with this selection of African asylum seekers, migrants and refugees living in Barcelona, most of which are from Burkina Faso, Guinea, Liberia, Sierra Leone, Nigeria, Ghana, Senegal, Cameroon, Kenya, Tanzania, Ivory Coast, Sudan and Morocco etc.

Regarding accommodation and shelter, the report highlights the fact that many African Refugees and asylum seekers face discrimination from landlords. Those who reported these discriminatory experiences to organizations working on asylum seekers and refugee rights felt disappointed at the lack of responsiveness. Most times, landlords are unwilling to rent to Africans due to the stereotypes, myths and misconception that exist within the Barcelonan society. As confirmed by the survey, 96% of African Refugees are unemployed. Of the 4% surveyed who hold jobs, only 2% work full-time and 2% work part-time. Most do not have access to the kind of employment that is suitable to their skill set or corresponds to their area of studies as their qualifications are not recognized in Spain.

On one hand, the report indicates that one of the two main reasons for unemployment for many African asylum seekers and refugees are discrimination on the basis of their skin colour and in some cases sexual orientation, gender identity and expression. Further, 60% of unemployment is due to the lack of documentation, which is the second main reason. This statistic reveals that most still have issues with the Office of Asylum and Refuge (OAR) with regards to their expired documents, temporary permits and the mass delays by government officials in addressing their claims. On the other hand, 80% of those surveyed continue to be unemployed due to lack of necessary skills or qualification. 4% succeed in gaining employment, but report being fired as soon as their contract ends due to the economic situation and in most cases based on reasons unknown to them.

The report indicates that it remains difficult for African LGBTQI refugees to find jobs even among some gay-friendly businesses, such as clubs, restaurants and hotels. While some of these businesses do not have vacant positions, other owners simply outright refuse to hire an employee who is black, a refugee and lesbian, gay or transgender. The access to some gay clubs and restaurants where LGBTQI people could socialize with other LGBTQI Spanish citizens are exclusive and sometimes expensive because many LGBTQI refugees and asylum seekers cannot afford the access to these places. The report reveals that integration into broader society for LGBTQI refugees, migrants and asylum seekers remains elusive because of homophobic attitudes expressed more often by other African immigrants and coloured people.

Additionally, some African migrants, refugees and asylum seekers also display homophobic attitudes towards LGBTQI asylum seekers and refugees. Finally, regarding the issue of documentation, many of the interviewees reported that they were not comfortable with officials, security personnel and interpreters during their interviews when they applied for asylum and to renew their permits. Of the 50 African people interviewed, only five of them have received refugee status, while the remainder are still seeking asylum or hold a temporary permit. The report includes a range of recommendations for various actors and stakeholders dealing with asylum seekers and refugee issues in Spain.

It is our hope that through these findings and subsequent recommendations, every stakeholder will be better equipped to make every effort to curb human rights violations and minimize the plight of this particularly vulnerable and oft-forgotten group.

METHODOLOGY

The survey was conducted in the city of Barcelona from February 24th to August 25th 2017. The research volunteers used several tools to collect data, including questionnaires, desk reviews, text messaging, phone calls, emails, focus group discussions and in-person interviews. The research was able to reach interviewees only in urban communities in Barcelona who were willing to participate in the research project. We were able to document 50 cases out of 150 people we contacted for the survey. The investigations were unbiased as it cut across victims, eye witnesses and other people involved ascertaining that the incident occurred.

LIMITATIONS WITH DATA COLLECTION

The volunteers used several communication channels to collect the data, including text messaging, phone calls, emails and in-person interviews. Most volunteers worked within their communities, reaching other African people who were visible and willing to participate in the research.

The volunteers were only able to reach respondents who were known to them or referred by other African asylum seekers, refugees and migrants who were willing to participate in this research. The results of this research therefore do not have the pretention to sum up the entire African asylum seekers and refugees population in Spain.

Getting African migrants, asylum seekers and refugees to respond to the questionnaires was quite challenging as they are afraid of being deported. However, we built a network of support and trust which helped us to get 50 respondents.

Language barrier was a major issue, because we have few volunteer translators to assist with the survey.

Because of limited funding it was decided to administer the survey in urban areas, where the target audience was somehow more visible.

PART I: EXPERIENCES IN COUNTRY OF ORIGIN

Many of the African refugees and asylum seekers left their home countries either because of a well-founded fear of persecution or past persecution due to their religion, political strife, war, sexual orientation, gender identity and other human rights violations which are not protected. These fears reflect the multiplicity of forces which together makes daily life for many African countries unliveable. The sites and forms of persecution are varied, ranging from general societal attitudes influenced by religion and traditional values to rejection by close friends and families. Moreover, legal and political institutions often reinforce these attitudes through apathy or active persecution, which often culminates in threats of physical violence, and sometimes experiences of physical assaults.

Often in African countries where homophobia is particularly strong, fundamentalist religious values play a formidable role in shaping public beliefs. One of the gay asylum seekers interviewed from Nigeria described the views propagated by Christian forces in which portray homosexuals as “outcasts; our fate is similar to Sodom and Gomorrah in the Bible.” He described how in his own life these pervasive attitudes led to violent action—“My partner was killed by unknown assassins who left a note pointing to his sexuality. If I had been there that night, there is no doubt that I would be killed also.” Beyond the hardships and near-fatalities which arise at a broader level, LGBTQI persons also experience the unparalleled psychological pain of rejection and alienation by family members and friends. The attitudes displayed by these close relations are often reflective of the broader societal stance. A MTF transgender woman from Kenya noted the following in her interview: “The family agrees with the community every time. According to them, the death of a family member who is homosexual is much better than the shame of the family.” Another asylum seeker from Sierra Leone told us, “Family, friends and neighbours shun those who are gays or lesbians to avoid divine punishment,” revealing that religious morals fuelled a high degree of homophobia. Often, difficulty arises when the desires to live one’s life as an LGBTQI person comes into conflict with the family’s values. A FTM transgender refugee from Liberia relayed the following: “I am a transgender and my father wanted me to marry a man, whom I contested. I refused, stole money, and travelled to Morocco and then entered Spain.” A gay asylum seeker from Sierra Leone recounted the following negative experience with his own family: “My mother and my sisters took me to church for exorcism because they assumed that I was a man possessed by a supposed evil supernatural force that led me to debauchery. The pastor hit me pretending that he was chasing away the evil spirit from me. I was even forced to fast for three days and nights without food and water.” Another lesbian from Senegal told us that “my family accepted for a man to rape me in order to cure me from the disease of homosexuality to heterosexuality.” Another gay respondent from Mali told us that “I was severely beaten when caught having sex in a predominantly Islamic community.” He further stated “Had it not being the Police who came to rescued me I should have been stoned to death as it is “Haram” in the Quran to be homosexual”. With regards to homophobia, there is a complex relationship between the pervasive attitudes of the public and the official institutional stance in the same country. For some interviewees, homosexuality is not illegal in their home country but in others, the trend towards criminalization is increasing. While there may not be any formal law or regulation that forbids homosexuality, community attitudes, Mosques and churches’ stance have led many LGBTQI people to be arbitrarily arrested and detained by the police. Some of those interviewed were harassed and others arrested and arbitrarily detained

because of their gender identity or sexual orientation in their home countries. A gay asylum seeker from the Burkina Faso stated: "Homosexuality is not illegal; there are no laws about it. But, they use 'public indecency' as an excuse to prosecute gay people. If you go to the police saying that you were harassed for being gay, they won't do anything about it because they claim they don't know anything about it." Not only do LGBTQI Africans experience resistance from police in acknowledging their plights. A gay migrant from Guinea confirmed the following: "There are no human rights NGOs that protect LGBTQI persons in my country, because it's forbidden in our constitution. Anyone who tries to help can be arrested and the NGO closed. Can you imagine that even the use of lubricants is not allowed in my country?" Another gay man from Guinea added: "There was nowhere to go because in Guinea if you go to the police you could be arrested or stoned especially if you are caught having sexual intercourse in a predominant Islamic community because it is "Haram". The police are not trained to handle cases on sexual orientation, gender identity and expression. Being homosexual is taboo in Guinea. I tried to contact several human rights organizations in Guinea and sent them several emails explaining my situation to them, but being gay was not an issue they were interested in. In fact they told me that gay rights are not human rights as it is a sin in the Bible and the Quran."

Thus, LGBTQI persons in Africa face discrimination from a wide variety of social forces: general societal attitudes fuelled by religion or tradition, rejection by families and friends, and apathy or active persecution by legal and political institutions. This satellite of oppressive forces serves to make an honest existence untenable and impels many to actively change their circumstances by fleeing their country of origin.

For most, Europe presents itself as the most realistic place to seek freedom from oppression. Many of those interviewed said that they came to Spain because they were persecuted in their country and could not live the kind of life they wanted or dreamt of living. Only few African people fled their country by fear of future persecution.

PART II: EXPERIENCES IN SPAIN

The group of 50 interviewees all have unique stories and came from all across the African continent. In this section, we aim to understand the commonalities in their individual and collective experiences as migrants, refugees and asylum seekers here in Spain - particularly in Barcelona where we are based. We examined several areas of life in order to paint a fuller picture of the experiences of African migrants, asylum seekers and refugees in Spain, ranging from housing to employment, from health care to detention, from general safety to integration. This section concludes with a central concern for this particular demographic: documentation and the struggles particular to this subset of asylum seekers and refugees trying to gain access to the resources which should be available to Spanish people. The underlying goal propelling this section of the report is to understand the quality of daily experiences, particularly for newcomers, which make life in Spain as an African migrant, refugee or asylum seeker particularly hard.

Another factor is that there are lots of myths and misconceptions attached to being an asylum seeker or refugee; in most cases people perceive them to be thieves, beggars and lazy people who just want to reap economic and other social benefits. On some occasions, people view asylum seekers and refugees as people coming from poor countries fleeing hunger and starvation to find greener pastures and better their lives in Europe.

A: SHELTER OR ACCOMMODATION

Unlike the situation of refugees and asylum seekers in other European countries such as the United Kingdom, Germany or France, in Spain most refugees and asylum seekers do not have access to shelter programs. The few who do have access to temporal homeless or reception centers can only stay for a period of six months because there are not enough accommodation programs available. On the other hand there are homeless hostels provided by the Barcelona City Council, but many asylum seekers and refugees have to queue and if they are lucky they will have a place to sleep. It is very difficult to have shelter in winter as most homeless people use the services more in winter than any other seasons. The experiences most of the respondents faced in these accommodations was restricting their movement and made most of them feel like prisoners due to this restriction. Most Asylum seekers and refugees prefer to stay in abandoned houses, sleep on the metro stations, parks and in some cases banks. Most asylum seekers and refugees had to move from Spain to other countries in Europe where they can apply for asylum in order to gain access to shelter programs.

Among the 50 interviewees, the length of stay in Barcelona ranged from one month to ten years. The majority of African migrants, refugees and asylum seekers reported facing discrimination in the process of seeking housing. Most of them stated that they experienced difficulties with getting a housing contract with their job contracts as most landlords are not willing to rent Africans as they perceive they will not be able to pay because of the myths and misconceptions. On the other hand, the problem of racial discrimination and xenophobia is also perpetrated by the attitudes of house rental agencies and landlords. In some cases landlords will openly tell African people that they cannot rent to black people.

As a result, many of those interviewed move frequently in the efforts of finding a place to stay. A refugee from Tanzania said: *"Most landlords and rental agencies told me that they cannot rent me as they do not have guarantee that I will pay my rent and in some cases some of them will tell me they do not have houses for rent. When my colleague from the UK whom I worked with called the housing*

agencies they told him that they have a place and he can come and sign the contract and move in at any time he wishes". He further explained that "I have to ask my colleague from the UK whom I have the same contract with to rent the house which I am staying now for the past 6 months".

Although the **Law of Urban Lettings** (*Ley de Arrendamientos Urbanos*) 1994 exists in Spain to protect the rights of tenants and landlords, few of the respondents report their grievances to organizations working on asylum seekers and refugees rights when they face instances of discrimination in renting. These organizations do not work on housing rights issues and cannot assist in these cases. Most asylum seekers and refugees revealed to us they do not know where to file housing complaints when they face discrimination nor how the procedure works. While the majority of those interviewed fear reporting such problems to the police station for them not to be deported, others simply give up because they are not aware of their rights. Even those who did report these discriminatory experiences to the police felt disappointed by the lack of responsiveness. Often, the police never followed up on their case or it remained unsolved for years.

B: EMPLOYMENT

According to the 50 interviews we conducted, issues surrounding employment were regarded nearly unanimously as the most pressing concern for African migrants, asylum seekers and refugees in Spain. Employment difficulties and discrimination can be broken into two distinct categories: difficulty in gaining employment in the first place and workplace discrimination. Of those interviewed, most continue to encounter obstacles in acquiring gainful employment, and of those who have succeeded in finding a job, many have experienced discrimination in their workplaces due to both xenophobia and racial discrimination and in some cases homophobia and transphobia.

Even though the Spanish Employment guarantees equal rights for everyone regardless of skin color, race, ethnicity, gender, sex, sexual orientation, gender identity and expression - five people of those interviewed experienced a need to remain discreet about their sexual orientation or gender identity during job interviews in order to be considered for hiring due to the fact that some interviewers are not comfortable with openly Lesbian, Gay and Transgender people. This experience was particularly prevalent in industries such as the food services, entertainment, bars, customer services and tourism sector, etc, where appearances are closely scrutinized and are often part of the hiring process. One transgender person recalled the following experience: *"I can remember last week, I applied for work and after sending my CV and motivation letter, I was selected for the job after a telephone interview. I received an email to start my induction training. When I got to the office, I was shocked when they told me that the position has already been taken and their facial impression was not welcoming. They told me if something comes up I will be contacted since then, they have never called me."*

Some African refugees and asylum seekers prefer working in other European countries either without papers or using someone else's document in order for them to take care of themselves and support their families back home. An African man revealed to us that *"I prefer to work in France without papers than staying in Spain where I cannot have a job with papers"*.

Beyond the initial hardships in getting a job reported by nearly every single interviewee, African asylum seekers, migrants and refugees struggles around employment are exacerbated by workplace harassment and discrimination from bosses and managers, colleagues, and clients. Such behaviors often result in their termination from the jobs they so desperately need to survive in

Spain. The few who did find employment reported that gossiping and speculation about skin color, sexual orientation or gender identity may lead to termination. One gay refugee from Kenya told us the following: *"I faced difficulties in keeping my last job although I was called a hard worker by my boss. Some of my colleagues were gossiping about me and some customers refused to be served by me. I was fired, but I cannot report because I don't know where to file complaint."*

The difficult truth remains that over half of the interviewees confessed their failure to get any employment due to lack of appropriate documentation. Unfortunately, without a source of income and bills to be paid, two African women said they had to trade sexual favors in exchange for money necessary to fund daily existence. An asylum seeker from Ivory Coast revealed the following: *"I am unemployed. Sometimes I don't have money to pay my rent or even to buy my food. What can I do if someone wants to have sex with me in exchange for money? I don't have a choice; I have to do sex work to survive. Sometimes I am lucky when I find a sugar daddy who gives enough money..."* Thus, based on the data we gathered, employment (or lack thereof) remains the most pressing issue for African migrants, asylum seekers and refugees in Spain.

C: SAFETY

Although nearly all of those interviews fled their home countries to escape various forms of danger and persecution, they unanimously declared that they feel unsafe in Spain because they are afraid of being deported if caught by the police. Despite a general feeling of insecurity, they described degrees of difference among different areas of the city as well as among different population and racial groups. They described the suburbs as the most discriminatory places where they face lots of discrimination such as having food thrown at them while walking on the street; in some cases people spat on black people and also made monkey noises at them. Most interviewees who live in rural areas told us that because of their visibility it's easier for the residents to call the police who will arrest and deport them especially when they are undocumented.

A young man from Senegal illustrates these general findings: *"The rural areas are not comfortable for me; I cannot go there. It's much better in the city centre, because I can be easily caught and deported back to my country because my asylum claims was denied."* Another interviewee, a trans man who resides in a rural community outside Barcelona reported the following: *"I stay in a community where most times people see me as an outcast and I am constantly pointed out as a foreigner based on the color of my skin. They call me names like 'extranjero negro' which means black stranger and when I moved to another rural community I was also called 'medianoche negro' which means mid night black".*

Most of those interviewed noticed a discrepancy in discriminatory attitudes among varying racial groups. A majority reported feeling that black African residents are more homophobic. Most reported that they have not experienced any issues with regard to their LGBTQI identity among white people in the community. A transgender asylum seeker said: *"If you are walking and come across white people, they just pass. They don't care who you are and they mind their own business. But many black people will swear at you, laugh and sometimes threaten you to change from the disgusting act."* So, in direct contrast to the dreams of safety and security that brought many African asylum seekers and refugees to Spain, many actually experienced a continued sense of insecurity to their person because of the color of their skin color or sexuality.

D: INTEGRATION

Another issue facing African asylum seekers and refugees broadly and afflicting this demographic in particular is that of integration. In recent years, Spain has regrettably been home to strong anti-foreigner sentiments, making integration into broader Spanish society especially hard for African asylum seekers and refugees. During our interviews, this sentiment was confirmed by experience and was deepened by a general lack of integration within Spain. However, it is nearly impossible to disentangle feelings of rejection and alienation on account of nationality rather than skin color and in some cases sexual orientation, gender identity and expression. At least half of those interviewed reported that they were not even aware of the existence of a gay community in Barcelona. A portion of those who were aware of Barcelona's gay community reported feeling unwelcomed by this subset of the Spanish population, while others felt excluded due to their nationality. Aside from the explicit exclusion they felt, others noted the indirect measures which prevent them from gaining access to Barcelona's gay community. A number of interviewees mentioned the restrictive cost of access into many of Barcelona's gay institutions such as bars or nightclubs, which led to feelings of exclusion as well.

With respect to general acceptance and societal attitudes in Barcelona, a significant number of interviewees reported that they were verbally attacked and most times get non-verbal attacks because of their skin color. In order to deal with these instances of discrimination, only one person of those interviewed reported such incidents to the Spanish police station; however this resort does little to resolve these issues. An African refugee reported the following: *"When I got mocked, I went to the police. They cannot help me because of the language barrier."* Many of those we interviewed noted that ever since they have found out about the work of Pride Equality International, they have increasingly began to turn towards this organization to aid them in any difficulties ranging from labor issues, documentation and legal aid to housing matters to general feelings of discrimination.

E: DOCUMENTATION

One indispensable issue for asylum seekers and undocumented migrants in the world is that of documentation and the process of achieving legal status in a country. In nearly every case, documentation is paramount to many functions of daily life from opening a bank account to being remunerated for work. Aside from the problems of ingrained societal prejudices which cannot be directly addressed by the political and legal system, documentation often represents the sole technical obstacle to quality of life for asylum seekers and refugees in a new country. One of our primary goals in conducting these interviews and putting forth this report was to understand the particular difficulties faced by African migrants, asylum seekers and refugees with regard to documentation in Spain. The asylum seekers and refugees interviewed widely reported that they are still using the "Red Card" which is a temporary permit showing that they are applying for asylum and awaiting a decision. With the Red Card you cannot travel outside Spain; you cannot open a bank account; you cannot have work permission for the first 3 to 6 months depending on the country you are coming from.

Only four of the 50 people interviewed have received either refugee status or subsidiary protection in Spain. While persecution on the grounds of political, religious, sexual orientation, gender identity and other forms of discrimination is a recognized basis for seeking asylum, this legal truth looks more like a real-life fiction. For the vast majority of our interviewees, the experience at "**Oficina de Asilo y Refugio (OAR)**" which means **Office of Asylum and Refuge** was very negative. An African asylum seeker said: *"Before I was finally attended to I had to wait on the queue for hours, the security*

guard kept pushing me to the back of the queue while allowing other white people to gain access into the building”.

Despite their primary stated reason for fleeing to Spain, in the asylum application process, almost half of those interviewed did not know how to present their claims and were unaware that they could claim asylum for political persecution, religious reasons, sexual orientation, gender identity and other inhumane and degrading treatment they experienced in their home countries. Additionally, a smaller fraction reported feeling ashamed or scared of the officials or interpreters as most of the interpreters are from the same countries as them. The problems of not speaking Spanish well and requiring an interpreter to move through the asylum application process intensified these feelings. For those unable to explain their claim in Spanish, an interpreter was provided but was limited by the brief interview time slots. A transgender refugee stated the following: *“No, I didn’t [seek asylum on the grounds of sexual orientation] because I couldn’t speak Spanish at the time and I was afraid of the interpreter. He could spread the news and hate me. I applied on the grounds of civil war. I was not aware that I could get refugee status because of my sexual orientation.”*

Unfortunately, even in being honest about a potentially sensitive subject, OAR officials asked them to provide supporting evidence because of lack of trust. Some of the others who “look gay” based on their appearance were asked inappropriate interview questions by OAR officials. One lesbian told us the following about her experience at OAR: *“Sometimes they behave homophobic as they asked questions to persuade me to cease being lesbian. They wanted to know more about how I felt being attracted to people of the same sex as me.”* Another trans asylum seeker said: *“they ask me disgusting questions regarding my sex life and I was told by the person interviewing me why can’t I change my sexuality and being straight so that I can live a normal life.. I said I left my country because I faced persecution in my country for being trans”.* Based on these experiences, it seems reasonable to conclude that the level of professionalism among OAR officials was not always exemplary or conducive to most African asylum seekers during their asylum interview revolving around deeply personal, sensitive matters of identity.

After the initial interview, only four cases of those interviewed were granted refugee status and subsidiary protection. The rest are pending asylum seekers and undocumented migrants who continue to wait for another interview or a decision. Often, the reason for rejection is written on the OAR’s decision in this way: For most of them, the OAR evoke the principle of relocation into another place in the country of origin before they move in another country, or they just say that persecution based on sexual orientation and gender identity in their country is still an isolated case, lack of persecution when some time a partner was arrested, kidnapped and killed. Another rejection reason is the lack of evidence and unable to prove their sexuality as most interviewers perceived that most African asylum seekers and migrants are using sexual orientation and gender identity as basis of getting refugee status or subsidiary protection faster. Another school of thought is that most economic migrants who are heterosexual claim asylum based on homosexuality are not eligible for asylum as they do not face threats which is making the system to grant the wrong people refugee status and rejecting the right people who face persecution and does not know how to explain their situation very well.

The majority of the refugees interviewed reported that after their failed interview, the OAR explained the next step to them and they appealed, but they had difficulties identifying where and from whom to seek assistance in making an affidavit to appeal. Most asylum seekers and refugees receive legal assistance from organizations such as CEAR, ACCEM and Cruz Roja in Spain. Forty

(40) of the Fifty (50) interviewees are still waiting for the second interview and have been waiting between anywhere from ten months to two years or more.

F: IMMIGRATION DETENTION

According to Global Detention Project, Spain's immigration detention facilities have faced intense criticism and opposition, including from detainees, local officials, and civil society organizations. The poor treatment of detainees in some facilities and the perceived inadequacy of detention as a response to migration, asylum seekers and refugee challenges have spurred doubts about the need to maintain Spain's large network of detention centres (called *centros de internamiento de extranjeros*, or CIEs), and a broad-based civil society campaign demanding closure has gained momentum. Local authorities in several cities—including Madrid, Barcelona, and Valencia—have been key supporters of this campaign, resulting in a rare confluence of activists and officials. Recent court rulings have also found that immigration officials failed to implement regulations for CIEs during 2015.

Between 2011 - 2015, the number of people placed in immigration detention fell by 50 percent and occupancy rates at CIEs dropped to 35 percent. According to Spain's National Mechanism for the Prevention of Torture, in 2015 only 2,871 of the country's 6,930 detainees were deported. The percentage of detainees who are deported has been below 50 percent for several years. This low deportation rate is due to the high number of *inexpulsables* (non-deportable persons) placed in detention, which observers argue demonstrates that detention has become an arbitrary form of punishment that "criminalizes migrants."

According to the National Police, the drop in detention numbers is due to the use of improved criteria to assess the need for detention and increased police cooperation with countries of origin and transit. This has led to a drop in mass identification controls, from 90,406 in 2011 to 30,306 in 2015. However, parallel to the decline in detention numbers has been an increase in summary expulsions (*expulsiones exprés*), involving removal from Spanish territory directly from police stations within 72 hours of apprehension. This form of expedited removal bypasses the intervention of the juridical power, raising concerns about the protection needs of those deported. The lower level of detention might also be correlated to another set of figures. Eurostat reports that 56.6% of non-EU citizens (168,345 persons) "refused entry at EU-28 external borders by Member States in 2015" were recorded in Spain. By comparison, the second top EU member for such entry refusal was Poland, at 10.2%.

The CIE in Barcelona illustrates the political and bureaucratic struggles over immigration detention that have been exasperated in Spain because of the disjuncture between its centralized immigration authority (under the Interior Ministry) and decentralized governance system. The CIE was temporarily closed for repairs in October 2015 and was due to re-open in June 2016. However, the re-opening was postponed because of a dispute between local and national authorities. The city council, the local government (Generalitat) and civil society demanded the permanent closure of the facility. Federal authorities responded that the local government had no jurisdiction and therefore had no competence for preventing the reopening. The facility reopened in July 2016 after a judge argued that she did not have competency.

Spain has been notable for its efforts to "externalize" immigration controls to nearby countries in Africa. It has worked with the EU and Frontex to interdict migrant boats en route to the Canary Islands, helped operate a detention centre in Mauritania, and collaborated closely with police forces from Senegal to Morocco, providing those ships and training to monitor coasts and intercept boats.

While Spanish authorities have hailed external control efforts a success, observers have noted that the growing populations of undocumented migrants and asylum seekers in Spain's two enclaves in Morocco (Ceuta and Melilla) are a consequence of these externalization policies. According to UNHCR, from January to October 2015, 5,000 people entered Ceuta and Melilla, including 2,000 persons fleeing Syria, 70 percent of which were women and children. The land borders surrounding these enclaves have for many years experienced violent confrontations as Spanish and Moroccan police attempt to stop people from crossing into Spanish territory. The deaths of asylum seekers during these confrontations have drawn attention to the practice of summary returns known as "hot returns" or "push-backs" (*devoluciones en caliente*). The government eventually adopted a law legalizing push-backs despite criticism from both UNHCR and the Spanish ombudsman (*Defensor del Pueblo*).

In March 2014 the government approved for the first time regulations on operations at CIEs (Royal Decree 162/2014). The regulations have been criticized by NGOs and academics for failing to establish norms that would improve living conditions and guarantee full access to rights. Detainees and advocates continue to frequently denounce poor conditions of detention, inadequate legal and medical assistance, lack of information, impunity in cases of abuse, and little or no follow up to complaints lodged by detainees. Notably, none of the cases of deaths in detention from 2011- 2013 had been fully investigated as of mid 2016.

G: HEALTHCARE

Spanish law foresees full access to the public health care system for all asylum seekers, undocumented migrants and refugees. Through this legal provision, they are entitled to the same level of health care as nationals and documented third-country nationals residing in Spain, including access to more specialized treatment for persons who have suffered torture, severe physical or psychological abuses or traumatizing circumstances.

Although access to special treatment and the possibility to receive treatment from psychologists and psychiatrists is free and guaranteed, it should be highlighted that in Spain there are no specialized structures for victims of severe violations and abuses like the ones faced by asylum seekers escaping war, indiscriminate violence or torture. There are no specialized medical centers that exclusively and extensively treat these particular health problems.

The only existing structure that works with asylum seekers suffering from mental health problems is coordinated by ACCEM in collaboration with Arbeyal, a private company. In fact, since 2012, they jointly manage the "Hevia Accem-Arbeyal" centre, specialized in disability and mental health. The purpose of the residential centre is to offer a space for assistance, care and coexistence to people whose mental illness impedes their integration. The centre reserves places for asylum seekers, although it is not specialized in asylum-related experiences.

It is important to know that the public healthcare system and social security does not cover dental and eye care, except in emergency cases. Some Africans revealed that their doctors informed them that eye care is not guaranteed, but they can book appointments which will take several months before their eyes get checked. Social security does not cover dental and eye care medication as they should be paid for by the patients. A young woman from Sudan told us that her doctor told her *"I will have loved to help you, but I am sorry, eye care is not covered by the government. I advise you go to a private clinic and get treatment as soon as possible"*.

PART III: TESTIMONIES FROM ASYLUM SEEKERS & REFUGEES

All the stories contained in this section of the report are testimonies shared by African asylum seekers, migrants and refugees in Spain or transiting to other EU countries. The interviews conducted targeted African asylum seekers and refugees including LGBTQI people between the ages of 18 – 50 years. Most of the participants declined for their stories to be published as they are afraid of deportation and negative backlash. After the workshops, interviews and focus group discussions we had a validation meeting wherein the interviewers and contributors made amendments to the final draft with key recommendations prepared by the committee and agreed for their testimonies to be published.

Based on the testimonies documented we observed that African migrants, asylum seekers and refugees are subjected to inhumane and degrading treatment which is a violation of Article 3 of the European Convention on Human Rights, Article 5 of the Universal Declaration of Human Rights and other international instruments listed on this report.

By documenting the lived realities of African asylum seekers and refugees in terms of the experiences of human rights violations perpetrated against them, this report adopts the multi-pronged approach of raising awareness on key issues affecting African people, while seeking to influence policy makers and human rights bodies to take action by way of effectuating policies that advance the interests and rights of Africans.

Ajoke's Story

Being an asylum seeker is not an easy life. I was a nurse in Nigeria, working in the local hospital in Delta State. I had to leave Nigeria because I was constantly beaten by my husband and also forced to be mutilated. In 2007 I fled Nigeria, because my family and community people were supporting my husband to lynch me simply for refusing sex when I am tired. When I explained my situation to the police at the airport, they didn't believe me. It's so frustrating; as an asylum seeker you're not allowed to work, you're not allowed to do full-time courses... it can make you crazy.

Most times, I face discrimination from people based on the colour of my skin. At times in the metro people refrain from seating closer to me. When I wanted to ask people for direction they open told me "I don't have money" and they did not even allow me to talk. In public buses, most white people will get up when I sit closer to them and their body languages is negative most of the times. After spending couple of months in and out of detention, I came to Barcelona.

I have been rejected asylum so I decided never to re-appeal as I am afraid of deportation.

Jay's Story

I left Cameroon, because homosexuality is illegal and the community is hostile for LGBT people. I travelled to Morocco and started my journey to enter Spain. I spent 3 years in Morocco to jump the fence and was tortured by the police and being treated brutally.

The Moroccan police attack our camps and flogged us with sticks and other objects. I had to hide in the booth of a car in order for me to enter Spain. I was caught and arrested by the police at the border and then I claimed asylum. I was detained at the border and was denied and I appealed and was granted access to enter Spain. When I arrived in Spain I moved to Madrid and I asked for asylum and to get shelter was a problem.

I spent one year roaming different cities in Spain in search of shelter and food. In the homeless shelter asylum seekers can only stay for 3 months. After 1 year, I did not receive any information from the Spanish government concerning my asylum application. I decided to move to France. I stayed for a year in the asylum centre and they detected I have asked for asylum in Spain. I have been arrested by the police several occasion and returned to Spain and I always return back to France. In France I never faced discrimination based on the colour of my skin like in Spain. I am now working without papers in France.

Bilkisu's Story

My partner and I left my country because homosexuality is illegal and we suffered torture and other forms of violence. When we arrived at the airport we were detained for couple of weeks. I felt like I was guilty of committing a crime by being a lesbian seeking refuge in Europe.

When I applied for asylum I was separated from my partner throughout my asylum process, but we usually visited each other which was quite challenging for me. At the asylum centre we are not allowed to bring our partners which does not gives us right to privacy. I was also told to behave normal and stop doing things like men by other residents. I refused to complain as I was so worried and impatient with the bureaucratic asylum procedure.

I remember one morning on my way to language school; an elderly man spat on me from the window and started making comments in Spanish, which I did not understand. So I brushed it aside, but it was not ok for me. Even in the language school, most people will change their seats and treat me as if I am a disgusting person, even though they never made a comment, but I can sense the discrimination based on their facial expression and body language.

Pride Equality International is a family that creates the platform for me to interact and meet with other African LGBTI people in Barcelona through programs and events. PEI also wrote an attestation letter to support our asylum applications and we are granted refugee status.

Anonymous Kenyan bisexual woman's story

I am a bisexual woman from Kenya where same-sex relationships are illegal and LGBT people face serious violence. I have been living in Spain for one year and never knew I could claim asylum, because I thought being a refugee you need to be poor or coming from a war country. I went to the police and claimed asylum and got arrested. I was released after 3 months and then moved in again with my partner. I told the asylum office that I am a bisexual and I am not a lesbian. During my interview they asked me why can't I refrain from being with women and stick to men? I was so angry and I replied them this is who I am and I am comfortable to be bisexual woman. I left Kenya

because; I've already received death threats on social media, people say I'm making the country look bad. If I go back I will be tortured and killed, because my case has been covered in the media which puts my life at high risk. Immigration officials refused to accept that I am bisexual, despite currently being in a relationship with a woman, because I told them I had a son and was a victim of force marriage. It was extremely disappointing for the authorities not to believe me.

In my neighbourhood, people spat on me several times from their windows and make comments that I should go home back. The facial expression of people in public is quite devastating in my work place they give me more work and get paid less simply because I do not have legal papers. I had to work to earn my living. My boss usually called me black baboon and I have nowhere to report as I will be at risk of being deported.

Papy's Story

I am Papy Valerie from Mali. I am a fashion designer by profession. I left my country because I suffered aggression and violence to live in Spain. I live in Valencia and currently involved in fashion designing and also marketing my products in festivals and exhibitions across Spain.

The challenges I faced are people discouraging me that I am not good enough as I do not study in Europe so I am not a professional.

Even in the asylum centre where I stayed for couple of months, the social workers advised me to be more focused and choose another career that will earn me money like cleaning or farming.

I constantly being discriminated against during fashion exhibitions, but I always ignore them and concentrate in promoting my designs. People make racist and xenophobic comments against me, but I don't care, because I am proud of whom I am. I am awaiting my decision on my asylum. I am also a human rights activist for PEI advocating and defending the rights of African immigrants including LGBTI people in Valencia.

Regie's Story

I left Sierra Leone where sexual orientation was persecuted and landed on a continent where the colour of my skin was not always welcoming. In 2013, I was severely beaten and attacked several times after a newspaper publication revealed my sexuality without my consent. In August 2013 came to Spain via Ghana with the support of Fundacion Triangulo, Frontline Human Rights Defenders and the Spanish Ministry of Foreign Affairs. I applied for asylum in Madrid and was sent to an asylum centre in Las Palmas. I was so confused because I heard several stories like "I will be deported for submitting my passport" etc.... At the asylum centre I met good social workers who were friendly, but I was struggling with so many things like language barrier, customs and traditions. After staying in the asylum centre for 6 months I was asked to leave the centre and I moved to Barcelona in search of a new life. On my way to Barcelona, I was interrogated by the police as they do not know what an asylum seekers' Red Card is. When I arrived in Barcelona, I encounter series of discrimination and xenophobia, for instance, in public spaces most people behave very offensive whenever I want to ask questions or request for assistance with directions. Finding a job was very challenging as most employers are unwilling to employ refugees and African

people. On several job interviews I am always asked the question “what is refugee status”? On few occasions employers have to call the police to verify if my refugee identity card is valid as most employers have never seen a refugee ID card. I had to queue on the street to get a social house to sleep for several months and if you are lucky you will get a place to sleep and very early in the morning they will ask you out of the centre. I was so frustrated and stopped sleeping at the Albergue (social hostel) and slept on the metro stations, banks and streets.

I went to several organizations for support and they keep turning down my requests, while some gave me long appointments and request for so many documents. After submitting the documents the social workers will say “sorry to inform you, you are not qualified for the funds and we don’t have any support from the government”.

It’s a pathetic situation being a refugee has a lot of negative myths and misconceptions such as considered being lazy, uneducated, thieves, beggars, drug peddlers, job snatchers etc....

I was motivated to start PEI to create a platform for African migrants, asylum seekers and refugees including LGBTQI people’s voices to be heard by advocating, building capacities, defending and demanding the recognition of equal rights.

PART IV: CONCLUSION

As illustrated by Section I, all of those we interviewed sought refuge in Spain because they were persecuted in their country and could not live the kind of life they wanted or dreamt of living. However, based on the data and experience gathered in Section II (detailing the experiences of African asylum seekers and refugees in Spain) there seems to be a lingering gap between the dreams and expectation that fuelled asylum seekers and refugees' journeys to Spain and the lived experiences that they have encountered here. They arrived with big hopes and dreams; however, for many those dreams have not yet been fulfilled. They anticipated a better life in Spain; free of xenophobia, discrimination and hate crimes, but that has not been the case. An asylum seeker from Liberia recalled: *"I came to Spain to get rid of the harassment and so that I would be free to live the lifestyle I wanted. But some people are homophobic here too, especially amongst African people."* Another lesbian from Guinea described her experiences of being verbally attacked in Spain by other homophobic Africans who usually told her to reframe from lesbianism as it is disgusting, unreligious and un-African. Another asylum seeker said that, *"I realised that human rights in Spain are only written in legal texts and the constitution but are not practiced in real life. That's why I was so disappointed, upset and shocked by what I experience every day, then I swear that I can't apply for asylum in such country which is unable to protect me."*

In light of these experiences, the fulfilment of the Equality in Spanish's Constitution, hailed globally for its progressiveness, appears elusive if not outright false. It is because of human rights violations and discrimination in their home countries that African asylum seekers, refugees and migrants come to Spain, seeking freedom, yet even here they continue to face many of the difficulties they hoped to leave behind in their countries of origin. According to our data and as demonstrated by this report, African asylum seekers, migrants and refugees including LGBTQI people in Spain continue to face inhumane and degrading treatment which violates their basic human rights across all sectors of society and at both general as well as official bureaucratic level.

PART V: RECOMMENDATIONS

In this final section, we aim to address the concerns and data from Sections I, II and III by putting forth a number of recommendations for action and further research for various actors and stakeholders dealing with migrants, asylum and refugee issues in Spain. Each subsection is addressed towards a different actor or set of stakeholders.

A. SPANISH GOVERNMENT & OFICINA DE ASILO Y REFUGIO (OFFICE FOR ASYLUM & REFUGE)

As detailed in Section II, many of the difficulties asylum seekers and refugees face originate with the OAR in impeding the asylum seeking process. Furthermore, when other abuses occur and claims are filed within official institutions, little is done at the governmental level to sufficiently address these grievances. It is the responsibility of a government to uphold its constitution and work to further the human rights of all. As such, the following are a list of recommendations addressed to the Spanish government broadly and in particular, to the Office of Asylum and Refuge.

- Take affirmative measure to prevent, stop and prosecute acts of violence against asylum seekers and refugees.
- Take seriously and address claims lodged or reported by African migrants, refugees and asylum seekers in order to decrease violence against them.
- Make no distinction in applying the Equity to African people including LGBTQI persons residing in Spain, whether they are citizens or refugees, undocumented migrants or asylum seekers.
- Outlaw discriminatory provisions forbidding asylum seekers and refugees to access employment.
- Treat African asylum seekers and refugees humanely and grant them refugee status in a timely manner in order for them to avoid unemployment and the accompanying pitfalls.
- Adjudicate properly and timely the asylum claims of persons according to the Refugee Act and the UNHCR convention.
- Provide training to OAR officials about sensitivity and tolerance towards issues particular to African refugees and asylum seekers.
- Provide training to security guards, police, prison officers, border guards, immigration officers and other law enforcement personnel, and support public information campaigns to counter racial discrimination, xenophobia, homophobia and trans-phobia among the general public and targeted anti-discrimination campaigns in schools.
- Ensure that no asylum seeker or refugee is deported or returned to a territory where his or her life or freedom would be threatened, and that asylum laws and policies recognize that persecution on account of one's political persecution, religious discrimination, sexual orientation or gender identity is fully implemented by the OAR officials as a valid basis for an asylum claim.

- Support to integration programs by providing access to educational and professional training courses for asylum seekers and refugees.
- Allow African migrants and refugees to validate their diplomas, degrees and other educational qualifications from their home countries or create access to further educational trainings or refresher courses before validating their qualifications.
- Access to internship opportunities after studying and more job opportunities for immigrants and refugees in order for us to be independent and pay taxes that will contribute to the economy of Spain.

B. CIVIL SOCIETY & NGO SECTOR

While governments aim to provide for their people, there are often gaps between the real and ideal, between what the law states and what happens in practice. Most often, non-governmental organizations work to fill in these gaps and serve the needs of populations often overlooked or issues that remain unacknowledged or insufficiently addressed by governments. As such, there is a big role for NGOs to play in working to remedy many of the issues identified in this report. Here we suggest few starting points for various NGOs, dealing with asylum seekers and refugees' human rights including our own, to take on.

- Train and advice staff to avail their services to African asylum seekers and refugees including LGBTQI people.
- Create job opportunities for African asylum seekers, migrants and refugees.
- Involve the press media in advocating for African asylum seekers and refugees' human rights.
- Use the power of the media to engage debate in society and raise awareness over the plight of African asylum seekers and refugees.
- Hold and organize workshops, seminars and conferences with churches, schools, parents and other community groups to educate people and change behavior and attitudes towards African asylum seekers and refugees including LGBTQI people.
- Encourage the integration of African asylum seekers and refugees into places and organizations already concerned with asylum seekers and refugee issues broadly.

C. ASYLUM SEEKERS & REFUGEES

It is important that even in the face of difficulty, African migrants, refugees and asylum seekers take control over their own lives and advocate for their own rights. The following recommendations are ways for African refugees and asylum seekers themselves to change their own experiences of hardship and difficulties in Spain.

- Make an effort to know their basic human rights and responsibilities as well as the asylum processes.
- Respect the timeline required to renew their permits at Government Delegation in the police.
- Report any kind of abuses and human rights violations whenever it may happen.
- Report to the Labour and Ombudsman Office when they are victims of unfair dismissal or any kind of discrimination in the work place and to follow up until the end of the procedure.
- Build a support network in order to overcome loneliness by participating in other African community or solidarity networks.

PART VI: ADDITIONAL INFORMATION

INTERNATIONAL INSTRUMENTS THAT CAN BE USED TO PROTECT THE HUMAN RIGHTS OF ASYLUM SEEKERS & REFUGEES

1. Right to Life

Universal Declaration of Human Rights

- **Article 3:** Everyone has the right to life, liberty and the security of person.

International Covenant on Civil and Political Rights

- **Article 6:** Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- **Article 9:** Everyone has the right to liberty and security of person.

European Convention on Human Rights

- **Article 2:** Everyone's right to life shall be protected by law.

Convention relating to the Status of Refugees

- **Article 33(1) :** No Contracting State shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. Prevent torture and cruel, inhumane and degrading treatment

Universal Declaration of Human Rights

- **Article 5:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

International Covenant on Civil and Political Rights

- **Article 7:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

European Convention on Human Rights

- **Article 3:** *No one shall be subjected to torture or to inhuman or degrading treatment or punishment.*

Convention against Torture

- **Article 1(1):** For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent or incidental to lawful sanctions.

- **Article 2(1):** Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

3. Prohibit discrimination based on sexual orientation and gender identity

Universal Declaration of Human Rights

- **Article 2:** Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.
- **Article 7:** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

International Covenant on Civil and Political Rights

- **Article 2(1):** Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- **Article 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

International Covenant on Economic, Social and Cultural Rights

- **Article 2:** The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

4. Respect freedom of expression, association and peaceful assembly born free and equal

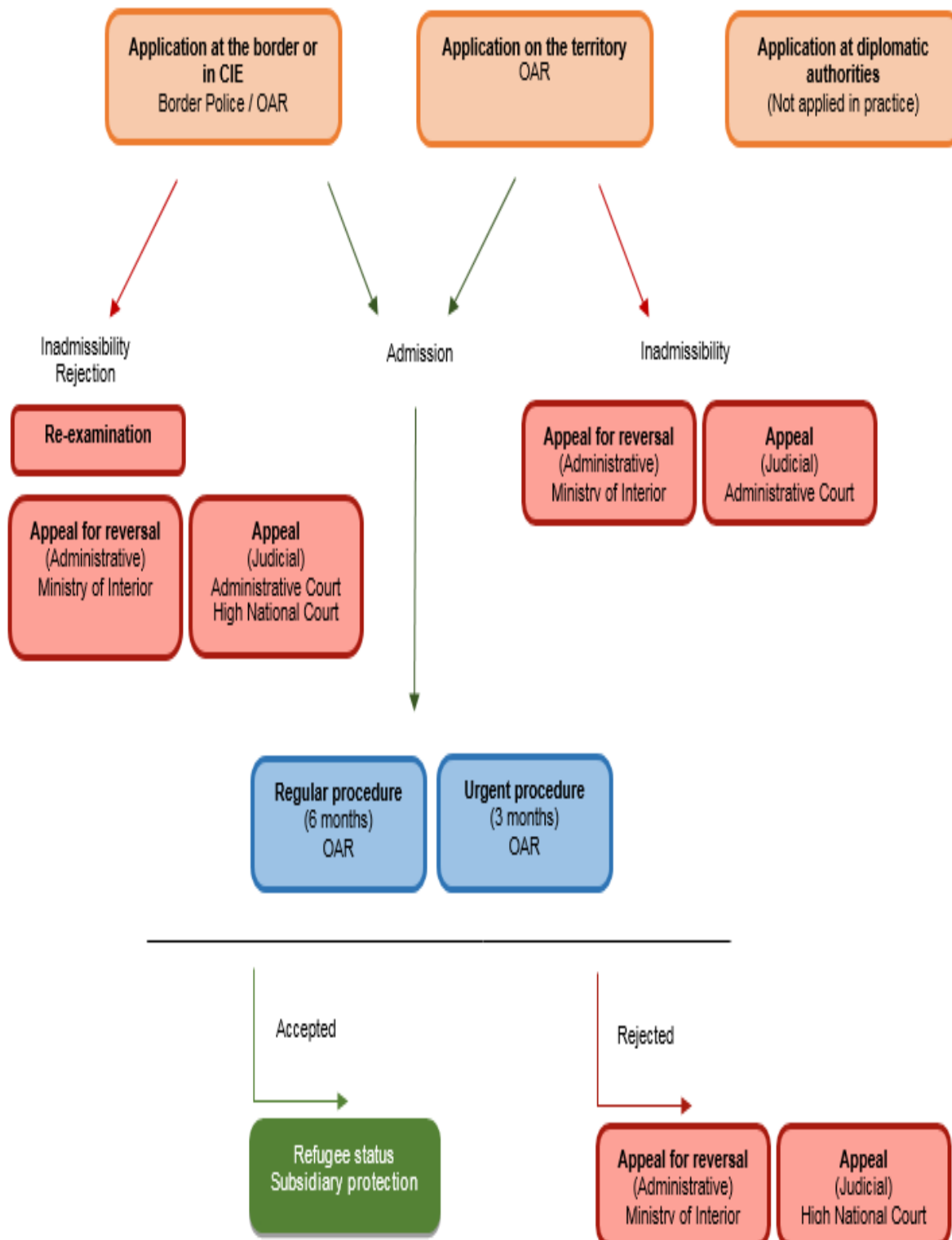
Universal Declaration of Human Rights

- **Article 19:** Everyone has the right to freedom of thought and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas.
- **Article 20(1):** Everyone has the right to freedom of peaceful assembly and association.

International Covenant on Civil and Political Rights

- **Article 19(2):** Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- **Article 21:** The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.
- **Article 22(1):** Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

ORGANOGRAM OF ASYLUM PROCESS IN SPAIN



ASYLUM SEEKERS & REFUGEES STATISTICS

Overview of statistical practice

Statistics in Spain are collected by the Office on Asylum and Refuge (OAR), and published on an annual basis by the Ministry of Interior. The latest available annual statistics by the Ministry of Interior referring to 2016 were published at the end of January 2017.

	Applicants in 2016	Pending applications in 2016	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	16,544	20,365	355	6,500	3,395	3.5%	63.4%	33.1%
Breakdown by countries of origin of the total numbers								
Venezuela	4,196	4,435	0	0	40	0%	0%	100%
Syria	3,069	1,600	55	6,160	115	0.9%	97.3%	1.8%
Ukraine	2,764	5,555	15	50	355	3.6%	11.9%	84.5%
Algeria	761	400	5	0	720	0.7%	0%	99.3%
Colombia	656	755	0	0	120	0%	0%	100%
El Salvador	444	555	0	0	20	0%	0%	100%
Honduras	399	535	0	0	10	0%	0%	100%
Palestine	368	825	30	65	25	25%	54.1%	20.9%
Morocco	345	385	10	0	205	4.6%	0%	99.4%
Nigeria	294	705	20	0	45	30.8%	0%	69.2%
Iraq	:	250	25	55	0	31.2%	68.8%	0%
Somalia	:	145	10	90	10	9.1%	81.8%	9.1%
Afghanistan	:	115	15	15	5	42.9%	42.9%	14.2%
Eritrea	:	15	40	5	0	88.8%	11.1%	0%

Source applicants: OAR, Information provided on 28 February 2017.

Gender/age breakdown of the total number of applicants: 2016

	Number	Percentage
Total number of applicants	16,544	100%
Men	9,826	59.4%
Women	6,718	40.6%
Children	3,998	24.2%
Unaccompanied children	28	0.2%

Source: OAR, Information provided on 28 February 2017.

JARGON BUSTERS

An asylum seeker is someone who left their country of origin and is requesting protection by filing an application for international protection. No final decision has yet been taken by the potential host country, i.e. it has not been established yet whether the asylum seeker meets the condition required for obtaining refugee status or subsidiary protection status. Consequently, not every asylum seeker is recognized as a refugee at the end of the procedure, but every refugee was initially an asylum seeker.

A refugee is an asylum seeker who has been granted refugee status and thus granted protection by a state. The refugee meets the conditions stipulated in the Geneva Convention, i.e. a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.

Subsidiary Protection is granted to individuals who are unable to return to their country of origin as they would face a real risk of suffering serious harm, such as the death penalty or execution, torture or inhuman or degrading treatment or serious threats to life and limb, owing to a situation of indiscriminate violence caused by circumstances of internal or international conflict. This protection can be granted to a foreign national who does not meet the conditions to be recognized as a refugee.

Family Reunification is a procedure that enables a foreign nation, for example a recognized refugee or a beneficiary of subsidiary protection to bring certain members of her/his family to Spain under certain conditions. Under Spanish law right to asylum or subsidiary protection covers the spouse or partner of any beneficiary of international protection, children under the age of 18 years and parents, providing the latter have proof of dependency and the same nationality. It may also be granted to other families where there is proof of dependency and previous co-habitation in their country of origin. Family unification applications are processed by the Immigration Department.

Regularization is a procedure for applying for a residence permit of more than 3 months. Regularization falls within the remit of the Immigration Department

Undocumented Immigrant/Migrant is a person without a valid residence permit in the country in which she/he is, or who is staying there without authorization, either because the person entered the country without authorization or because the person entered legally and became irregular subsequently.

EU Member States: The European Union (EU) is a political and economic union, consisting of 28 member states that are subject to the obligations and the privileges of the membership. Every member state is part of the founding treaties of the union and is subjected to binding laws within the common legislative and judicial institutions. In order for the EU to adopt policies that concern defence and foreign affairs, all member states must agree unanimously. The following countries are EU Member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

The 1951 Refugee Convention / Geneva Convention: is the key legal document that forms the basis of our work. Ratified by 145 State parties, it defines the term 'refugee' and outlines the rights of the displaced, as well as the legal obligations of States to protect them. The core principle is non-refoulement, which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom. This is now considered a rule of customary international law. UNHCR serves as the 'guardian' of the 1951 Convention and its 1967 Protocol. According to the legislation, States are expected to cooperate with us in ensuring that the rights of refugees are respected and protected.

The Dublin Regulation (Regulation No. 604/2013; sometimes the **Dublin III Regulation**; previously the **Dublin II Regulation** and **Dublin Convention**) is a European Union (EU) law that determines the EU Member State responsible to examine an application for asylum seekers seeking international protection under the Geneva Convention and the **EU Qualification Directive**, within the European Union. It is the cornerstone of the Dublin System, which consists of the Dublin Regulation and the **EURODAC** Regulation, which establishes a Europe-wide fingerprinting database for unauthorised entrants to the EU. The Dublin Regulation aims to "determine rapidly the Member State responsible for an asylum claim and provides for the transfer of an asylum seeker or refugee to that Member State. Usually, the responsible Member State will be the state through which the asylum seeker first entered in the EU.

A Refugee Travel Document (also called a **1951 Convention travel document** or Geneva passport) is a travel document issued to a refugee by the state in which she or he normally resides allowing him or her to travel outside that state and to return there. Refugees are unlikely to be able to obtain passports from their state of nationality (from which they have sought asylum) and therefore need travel document so that they might engage in international travel. The 145 states which are parties to the 1951 Convention Relating to the Status of Refugees are obliged to issue travel documents to refugees lawfully resident in their territory. Refugee travel documents are blue passport-like booklets. Their cover bears the words "Travel Document" in English, Spanish and French (and often in the language of the issuing state), as well as the date of the convention: 28 July 1951. The documents were originally grey, though some countries now issue them in other colors with two diagonal lines in the upper left corner of the front cover.

Bisexual refers to an individual who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with people regardless of their gender or sex.

Gender Identity is each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

Gay refers to a self-identifying man who has the capacity for profound emotional, affectional and/or sexual attraction to and/or intimate sexual relations primarily with other men.

Homophobia refers to a hatred or fear of homosexuals – that is, lesbians and gay men sometimes leading to acts of violence and expressions of hostility.

Intersex refers to a person who is born with reproductive or sexual anatomy and/or chromosome patterns that do not fit typical definitions of male or female.

Lesbian refers to a self-identifying woman who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations primarily with other women.

LGBTI is the acronym for “lesbian, gay, bisexual, transgender, and/or intersex.”

Sexual Orientation refers to a person’s capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with individuals of a different gender, the same gender, or more than one gender.

Sexually and Gender Non-conforming (SGN) is an umbrella term used to refer to individuals whose sexual practices, attractions, and/or gender expression are different from the societal expectations based on their assigned sex at birth.

Transgender is “[a]n umbrella term for people whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth.”

A transgender woman is a person who was assigned male at birth but identifies as a woman.

A transgender man is a person who was assigned female at birth but identifies as a man.

Transphobia refers to negative attitudes and feelings toward transgender people. Transgender people feel that their gender identity (self-identification) does not correspond to one’s assigned

Sex is the biological definition of who we are, as male or female. At birth boys are identified by the presence of a penis, while girls are identified by the presence of the vulva.

A transsexual person is someone who experience conflict between biological sex and gender identity. A transsexual person may undergo sex reassignment surgery so that his/her physical sex correspondents to his/her gender identity.

Transvestite is an out of date description most often referring to men who wear cloths conventionally associated with another gender.

WSW is an acronym used for women who have sex with women. Generic reference to same – sex sexual conducts between women, which may or may not imply lesbian identity or emotional attraction.

MSM is an acronym used for men who have sex with men, generic reference to same – sex sexual conducts between men, which may or may not imply gay identity or emotional attraction.

Cross-Dresser is a person who occasionally chooses to wear clothing conventionally associated with another gender. They may or may not adopt a different gender identity when crossing – dressing.

Gender refers to social construction of femininity or masculinity that varies in time and places and is constructed through learned, rather than innate, behaviour. Gender and sex do not have the same meaning.

Gender expression refers to the expression through clothing and behaviour, or the inner sense of identification and self – awareness, that manifests person's fundamental senses of themselves as masculine or feminine, and male or female. This can include dress, posture, hairstyle, jewellery, vocal inflection, speech patterns, and social interactions.

Heterosexual is a person who is sexually and emotionally attracted primarily to people of the opposite sex.

Homosexual is a person who is sexually and emotionally attracted primarily to people of the same sex.

Queer is an umbrella terms for a range of sexual orientations and gender identities that include lesbian, gay, and bisexual and transgender. The term can have a more political connotation than gay, lesbian, bisexual or transgender.

Autoeroticism is sexual pleasure derived by an individual without the participation of another person. Any other person is considered an intrusion and is not welcomed

Masculinity refers to the state of being a man. It is also used to describe those traditional qualities that are conventionally supposed to belong to a man such as physical strength and courage.

Femininity refers to the quality of looking and behaving in ways conventionally thought to be appropriate for a woman or girl.

Pansexuality or omnisexuality refers to the sexual, romantic or emotional attraction towards people regardless of their sex or gender identity. Pansexual people may refer to themselves as gender-blind, asserting that gender and sex are not determining factors in their romantic or sexual attraction to others.

Sugar Daddy refers to a wealthy older man who offers money in exchange of/for sex.

USEFUL ADDRESSES

Oficina de Asilo y Refugio (OAR) (Office of Asylum and Refuge)

Calle Pradillo, 40 – 28002 Madrid
Tel: 91 537 21 70 060 (toll free line)
Metro: Alfonso XIII
www.mir.es

Alto Comisionado De Las Naciones Unidas Para Los Refugiados (UNHCR/ACNUR)

Avda. General Peron, 32 2º Izq, 28020 Madrid
Tel: 91 556 36 49 / 35 03 Metro: Santiago Bernabeu
www.acnur.org

Comitè Català Alto Comisionado De Las Naciones Unidas Para Los Refugiados (UNHCR/ACNUR)

c/ Trafalgar, 6 principal 3ª, 08010 Barcelona
Tel: 93 301 20 35
Fax: 93 301 03 96
Email: catalunya@eacnur.org
www.eacnur.org

Comisión Española de Ayuda al Refugiado (CEAR)

C/ Hermanos García Noblejas 41. 8º Izq. 28037 Madrid
Tel. 91 555 06 98
www.cear.es

Comissió Catalana d'Ajuda al Refugiat (CCAR)

C/ Junta de Comerç, 26, baixos, 08001 Barcelona
Telf. 93 301 25 39 Metro :Liceu Line 3
www.ccar.cat

Cruz Roja / Red Cross Madrid

C/ Valdecanillas, 112, 28037 MADRID
Tel.: 91 440 07 98
www.cruzroja.es

Creu Roja /Red Cross Barcelona

C/ Joan d'Àustria, 120-124, 08018 Barcelona
Email : informacio@creuroja.org
Tel : 93 300 65 65 Metro : Marina
www.creuroja.org

Servei d'Atenció a Immigrants, Emigrants i Refugiats (SAIER)

Avinguda Paral·lel, 202 08015 Barcelona
Tel. 932 562 700 Metro: L1 and L3 Plaça Espanya

Subdelegación Del Gobierno en Barcelona

Calle Mallorca, 278 08037- Barcelona

Tel: 93 520 90 00

Metro L3 : Passeig de Gracia>, RENFE estación Paseo de Gracia

Autobuses: 20,43,44,45,47,

Oficina de Extranjería Barcelona

Passeig de Sant Joan, 189-193, 08037 Barcelona

Tel: 935 20 14 10

Asociación Comisión Católica Española De Migración (ACCEM)

Plaza Santa María Soledad Torres Acosta, 2, 28004 Madrid

Tel: 91 532 74 78

Email: accem@accem.es

www.accem.es

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Calle Casp 118-3^ª i 4^a 08013 Barcelona

Email: catalunya@accem.es

<http://www.accem.es>

Tel: 934099074 Metro L1 Arc de Triomf & L2 Tetuan

Fundación Associació Catalana de Solidaritat i Ajuda als Refugiats (ACSAR)

Via Laietana, 16, 1^a Planta, despatx 123, 08003, Barcelona

Tel: 93 304 30 23

Email: facsar@fundacioacsar.org

<http://www.fundacioacsar.org>

Càritas Diocesana de Barcelona (St. Andreu)

Calle Alexandre Galí 46-48, 8003 Barcelona

Tel: 93 344 69 00 / 93 344 16 50

www.caritas.es

Síndic De Greuges De Catalunya**Defensor del pueblo en Barcelona (Office of the Ombudsman)**

Pg. Lluís Companys, 7. 08003. Barcelona

Tel: +34 933 018 075 / 900 124 124 (free within the Catalan territory)

Fax: +34 933 013 187

Email: sindic@sindic.cat

For other regions or cities of Spain please send an email to: info@prideequality.org

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<http://www.un.org/en/universal-declaration-human-rights/>

International Covenant on Economic, Social and Cultural Rights

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

European Convention on Human Rights

http://www.echr.coe.int/Documents/Convention_ENG.pdf

The 1951 Refugee Convention

<http://www.unhcr.org/4ca34be29.pdf>

Convention Against Torture

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www.unhcr.org

<http://ciutatrefugi.barcelona/>

<http://www.asylumineurope.org/>

<https://www.globaldetentionproject.org/>

<http://www.masquecifras.org/>

www.eacnur.org

www.cear.es

www.ccar.cat

APPENDIX: SURVEY QUESTIONNAIRE FOR AFRICAN ASYLUM SEEKERS & REFUGEES

Basic Information

Name (optional):

Age:

Country of Origin:

Highest qualifications achieved?

Are you currently employed?

Are you out of the closet?

When people see you on the street, do they realize that you are asylum seekers or refugee from your appearance/voice/the way you act?

Experience in Home Country

- 1) Why did you leave your home country?
- 2) Can you describe the social, cultural & religious environment in your home country? For example, to what extent is it tolerated in your community to be LGBTI or practice your religion (family, friends, neighbours, etc.)?
- 3) Is homosexuality illegal in your home country? Were you ever harassed or even arrested by police/authorities because of your sexual orientation or gender identity? Explain
- 4) Can you tell me a little more about your personal experience in your home country?
- 5) When you were living in your home country, where did you go for help if you faced problems due to human rights violations? Did you go to the police? To human rights organizations? Anywhere else? Did you receive sufficient help? Do you think your country is doing enough in protecting and defending human rights for everyone?
- 6) Why did you come to Europe (Spain)? What were your hopes when you decided to come here?

Experience in Europe

- 7) How long have you been in Europe? (Choose one)
 - Less than 6 months
 - 6 months-1 year;
 - 1-2 years
 - 2-5 years
 - 5-10 years
 - 10 years +

8) HOUSING: How many places have you lived in the last year? If more than 2, why did you move so often? Have you ever been discriminated against by a landlord because of your skin colour?

9) EMPLOYMENT: Have you ever faced difficulties finding or keeping a job due to your skin colour, gender identity, religion, sexual orientation, etc? Explain.

10) EMPLOYMENT: How do you manage to pay your bills here in Spain? (Have you ever had to trade sexual favours or any other activities in exchange for money?)

11) What are some other difficulties you have faced?

12a) Do you feel safe in Spain? Yes/ No

b) With regards to your national origin? Yes/No

If no, please explain:

13) Do you feel accepted in Spain with regards to your nationality, religion, sexuality, race, etc.? Yes / No. If no, please explain:

14) Do you feel more or less accepted by a certain race/nationality/community of people?

15) Do you feel equally accepted or safe in the city centre, and the rural areas, or is there a difference in acceptance or safety depending on location?

16) Do you feel integrated in Spain?

17) Have you ever felt excluded due to your national origin, skin colour, religion, sexuality, etc?

18a) Have you ever been verbally attacked because of your skin colour, race, sexuality, religion etc?

b) Have you ever been attacked physically?

c) Were you verbally or physically attacked mainly by European, immigrants, or both?

Specify nationality of foreigners if known.

19) How have you dealt with the difficulties you've faced on the basis of your sexuality, religion, skin colour, etc? Where have you sought assistance? What strategies have you tried?

DOCUMENTATION: Refugee Commission, Office of Asylum and Refuge, UNHCR, Office of the Ombudsman, etc....

20) What documentation status do you have?

- Not documented
- Expired documents
- Asylum Seeker Red Card
- Refugee Status
- Humanitarian protection
- Subsidiary protection
- Work Permit
- Study Permit
- Other: Please specify

21a) If you applied for asylum, what was your experience at the OAR, Police, Border Post, Refugee or Reception Centre?

- b) How many times did you have to go before attended?
- c) Were you being intimidated by security guards, officials, or other people while waiting?

22a) If you applied for asylum, in your claim, did you state sexual orientation/gender identity / political/ religious/war or any other situation as a reason for applying for refugee status or asylum? Yes/No

b) If no, on what basis did you seek refugee status? Was there a reason you did not apply because of your sexual orientation /gender identity / political/ religious situation? Were you aware that that is a valid reason for applying for asylum?

23a) What type of questions were you asked during your interviews at the asylum office?

b) what was the environment like? Was the officer interviewing you professional?

c) Did you feel comfortable talking to them about your situation?

24a) Were you fluent in Spanish at the time of your interview? Yes /No

b) If not, did you have an interpreter? Yes / No

25) Do you feel you were able to explain what happened to you in detail?

26) What was the outcome of the first interview? Accepted / Rejected

27a) If rejected, do you know why you were rejected?

b) Did you appeal?

28a) Have you had your second interview? Yes No

b) If no, how long have you been waiting?

c) If yes, what was the outcome? Accepted / Rejected

29) Do you have any other information you would like to share with us?

NOTES



Lined area for notes, consisting of 20 horizontal lines.



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