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Protection against violence and discrimination based on sexual orientation and gender identity in relation to forced displacement

Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Graeme Reid

Summary

The present report is submitted to the Human Rights Council pursuant to Council resolutions 32/2, 41/18 and 50/10. In the report, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Graeme Reid, examines the human rights situation of lesbian, gay, bisexual, transgender and other gender-diverse (LGBT) persons in the context of forced displacement. LGBT persons are disproportionately affected by drivers of displacement, including conflict, violence, persecution, repression, disaster and climate-related crises. Across all stages of displacement, forcibly displaced LGBT persons face heightened risks of violence, exclusion and neglect. Structural barriers and discriminatory practices hinder access to protection, legal recognition and essential services. The continuation of such harms leads to multiple cycles of displacement, leaving LGBT persons vulnerable to grave human rights violations. The Independent Expert concludes the report with a number of recommendations to States on how to uphold international obligations and ensure inclusive, rights-based responses.

I. Conceptual framework

1. In the current context, forcibly displaced lesbian, gay, bisexual, transgender and other gender-diverse (LGBT) persons[1] are faced by a "double bind" of intensified attacks on their rights and rising, xenophobic, anti-migrant sentiments in many parts of the world. The confluence of hostile attacks directed against forcibly displaced LGBT persons has deep and discernible effects on individuals, who face distinct forms of violence and discrimination based on sexual orientation and gender identity. As conflict, natural disasters, climate change and other crises push individuals from their homes, many States have also rolled back protections for LGBT people, introduced openly anti-LGBT laws and continued to criminalize consensual same-sex intimacy and other forms of gender expression. In many countries, LGBT persons are used as scapegoats for socioeconomic or political shortcomings and are subjected to State-sanctioned attacks, often amplified by the media.

2. These factors have resulted in the forced displacement of many LGBT people, who are disproportionately affected as a result of discriminatory laws, hostile social attitudes and specific challenges in forced displacement.[2] Despite the severity of these experiences, the collection of disaggregated data on displacement of LGBT persons remains limited.

3. Against this backdrop, the report explores the vulnerabilities faced by forcibly displaced LGBT persons at different stages of their journey – whether internally displaced, in transit or upon arrival in a new country. Nearly two-thirds of the world's forcibly displaced population has not crossed an international border. LGBT persons who are forcibly displaced inside their countries of origin owing to discrimination or violence based on sexual orientation and gender identity and by more generalized crisis conditions are acknowledged only to a limited extent within the overall scope of the displaced population and often struggle to gain access to support from organizations mandated to serve internally displaced persons. LGBT persons forcibly displaced outside their countries of origin face heightened risk of physical and sexual abuse, extortion and arbitrary detention. Abuses are often perpetrated by States and by non-State actors, including armed groups, and even take place at the community level. Transgender and gender-diverse individuals, whose legal documents do not match their gender identity, are at particular risk.[3]

4. Immigration detention should be a last resort for people seeking international protection.[4] Detention conditions that fail to take the specific circumstances of LGBT persons into account (for example, separation along binary gender classifications; lack of privacy and safety; or the use of legal gender identity) are of particular concern and place LGBT persons at a higher risk of psychological harm, violence and isolation, which may, in certain situations, amount to torture, cruel or inhuman treatment.[5] Violations are often severe for transgender, gender-diverse and perceivably LGBT persons, who may encounter increased harassment and violence.[6] Detention conditions are often substandard; in some places disease is prevalent and individuals have limited access to adequate and non-discriminatory healthcare.[7]

5. Upon arrival in countries of temporary or permanent settlement, LGBT persons face multiple obstacles that compound the struggles of displaced populations. In situations of displacement, LGBT persons may not receive protections owing to a lack of an assessment based on sexual orientation and gender identity or the incorrect classification of their home

[1] Throughout the present report, the acronym "LGBT" should be read as inclusive of all gender-diverse persons.
[2] Submissions by University of Bristol and University of Oxford.
[3] Submissions by the Procurador of Guatemala, Visibles Venezuela, Observatorio Venezolano de Violencias LGBTIQ+ and People in Need.
[4] Office of the United Nation High Commissioner for Refugees (UNHCR) Detention Guidelines (https://www.unhcr.org/us/media/unhcr-detention-guidelines).
[5] Submissions by Kaos Gay and Lesbian Cultural Research and Solidarity Associations (Kaos GL) and Visibles Venezuela and others.
[6] Submissions by International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) Europe, Organization for Refuge, Asylum & Migration (ORAM) and Visibles Venezuela and others.
[7] Submission by Kaos GL.

country as “safe” by national asylum authorities. Their situation may be worsened by discriminatory practices of some officers during the legal process and the need for LGBT persons to “prove” their claims (including sexual orientation and gender identity status and/or threat of violence) with conflicting or absent documentation. Displaced LGBT persons also face disproportionate levels of exploitation and general lack of access to opportunities and resources compared to other refugees and asylum-seekers. They often encounter inaccessible and inadequate healthcare, non-inclusive housing and limited access to family reunification programmes. These conditions hinder LGBT persons from integrating into communities and gaining a level of socioeconomic stability. This situation is worsened by the frequent lack of access to informal support through LGBT networks due to failures of host country governments to notify displaced persons of local resources, as well as their placement in remote or conservative regions. These challenges are exacerbated by a drastic reduction of funding in the humanitarian sector.

6. The report aims to address the legal, normative and protective gaps for forcibly displaced LGBT persons throughout multiple cycles of displacement. The report offers observations on good practices and recommendations that may contribute to positive changes on the part of States and relevant actors to address issues faced by displaced LGBT persons. The report urges States and all relevant stakeholders to undertake meaningful engagement with affected communities and to remedy past forms of exclusion. The Independent Expert is grateful for the over 70 written submissions received from a range of sources, including national human rights institutions, civil society organizations (CSOs), intergovernmental organizations and scholars. Input was also received during an expert consultation held in February 2025.

II International legal framework

7. The obligation of States to protect, respect and fulfil the rights of forcibly displaced persons emanate from a variety of normative frameworks and include obligations not only to refrain from acts that lead to forcible displacement but also to ensure, inter alia, physical and legal protection, social protection, non-discrimination, respect for dignity and humane treatment, adequate living standards, humanitarian assistance and the right to family life.[8] Ensuring that forcibly displaced people can live free from discrimination, abuse and persecution, including as related to their real or perceived sexual orientation and gender identity, is central to these international legal frameworks.

8. The Guiding Principles on Internal Displacement provide a dedicated framework for the protection and promotion of the rights of internally displaced peoples. The General Assembly recognized the Guiding Principles by its unanimous adoption of resolution 78/205, in which it called for their continued use and dissemination.. The Guiding Principles, which derive from existing international human rights, humanitarian and refugee law, establish a robust framework for State protection. States are to apply the principles without discrimination, including from “race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or on any other similar criteria”.[9] States have reinforced the principles through binding regional instruments, for example, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). While internally displaced persons do not have a distinct legal status under international law, national authorities, under international human rights and humanitarian obligations, are bound to ensure their protection.

[8] Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention, 1949); Additional Protocols I and II to the Geneva Conventions of 1949 (1977); International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Rights of the Child; International Convention of the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women; and Convention on the Rights of Persons with Disabilities.

[9] E/CN.4/1998/53/Add.2, annex, Principle 4 (1).

9. States have universally recognized the right of persons to seek and enjoy asylum from persecution, as codified in article 14 of the Universal Declaration of Human Rights. The 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees provide an internationally recognized definition of refugees and outline the legal protection, rights and assistance that refugees are entitled to receive. Numerous national jurisdictions have recognized and upheld claims for refugee status based on sexual orientation and gender identity, recognizing discrimination based on sexual orientation and gender identity as grounds for persecution.[10] The Office of the United Nations High Commissioner for Refugees (UNHCR), the agency responsible for "supervising the application of the provisions" of the Convention [11] and monitoring State compliance, also recognizes persecution based on sexual orientation and gender identity as legitimate grounds for asserting an asylum claim. [12] Furthermore, under several international human rights instruments, interpretive bodies include sexual orientation and gender identity under prohibitions on discrimination. [13] States have committed themselves to the protection of refugees from persecution and discrimination in accordance with human rights law and humanitarian law.

10. The principle of non-refoulement prohibits States from returning, in any manner whatsoever, including by turning away people arriving at their borders, any person to their country of origin or any other country when there are substantial grounds for believing they would be at risk of being subjected to serious human rights violations.[14] The principle of non-refoulement is included in the 1951 Refugee Convention, which is recognized as a norm of customary international law and, as such, binding on all States even those not party to the Convention. The principle of non-refoulement is also included in other instruments of international human rights law, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Broadly speaking, the principle of non-refoulement is absolute, allowing no restrictions, derogations or reservations.[15]

III. Previous international action

11. United Nations bodies and Member States have long expressed grave concern over persistent human rights violations perpetuated against LGBT persons, which contribute to their forced displacement. The Human Rights Council has passed resolutions and released joint statements condemning violations based on sexual orientation and gender identity.[16] In the General Assembly, States have also condemned the use of the death penalty, torture and other cruel, inhuman or degrading treatment or punishment, including arbitrary arrest and detention, and the denial of rights for LGBT persons. [17] In addition, the Assembly has affirmed a non-discrimination framework regarding displacement, emphasizing the importance of gender and diversity considerations, as well as of addressing gender-based and sexual violence.[18] The Security Council has met twice to discuss the rights of LGBT persons

[10] See, for example, https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/1023/index.do; https://www.refworld.org/jurisprudence/caselaw/nzlrsaa/1995/en/39408; and https://www.refworld.org/jurisprudence/caselaw/aushc/2003/en/30034.

[11] Convention on the Status of Refugees, art. 35.

[12] UNHCR, Guidelines on International Protection, No. 9 (HCR/GIP/12/09).

[13] See, for example, Human Rights Committee, Communication No. 488/1992, *Toonen v. Australia* (CCPR/C/50/D/488/1992); Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009), para. 32; Committee on the Elimination of Discrimination against Women, general comment No. 28 (2010), para. 18; and Committee on the Rights of the Child, general comment No. 4 (2003), para. 2.

[14] See Declaration of States Parties to the 1951 Convention and or its 1967 Protocol relating to the Status of Refugees (https://www.refworld.org/legal/resolution/2002/en/30933); see also General Assembly resolution 57/187, para. 4.

[15] Convention Relating to the Status of Refugees, art. 33 (1); see also UNHCR, «Introductory Note:, Convention Relating to the Status of Refugees" (https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf).

[16] Resolutions 27/32 and 32/2.

[17] See https://arc-international.net/global-advocacy/sogi-statements/2008-joint-statement/.

[18] General Assembly resolutions 76/167 and 78/205.

in the context of conflicts and international peace and security.[19] At a meeting of the Security Council in 2023, States called for guaranteeing non-discriminatory access to humanitarian assistance for LGBT persons.[20] These developments reflect a growing recognition of the drivers of forced displacement of LGBT persons, and the need for inclusive responses.

12. United Nations mechanisms and entities, including UNHCR, have consistently recognized the increased vulnerabilities faced by LGBT persons in forced displacement. In 2015, UNHCR launched the first global overview of measures taken to protect LGBT asylum-seekers and refugees.[21] Along with the efforts of UNCHR, the Independent Expert has emphasized the importance of considering the rights of LGBT persons within human rights and legal frameworks.[22] In 2021, UNHCR and the Independent Expert convened a global round table, with over 600 participants from various parts of the civil, private and public sector, focused on the protection and solutions for LGBTIQ+ persons in forced displacement.[23] A stocktaking on progress and a follow-up discussion with key participants of the 2021 round table was held in June 2023.[24] In addition, the Independent Expert has repeatedly expressed concern over the situation of LGBT persons who have been forcibly displaced persons in thematic reports,[25] statements[26] and country reports.[27] Similarly, the Independent Expert has also sent letters to governments, including to the United States of America, in response to hostile political actions against LGBT persons serving as a driver for migration.[28] Furthermore, in his 2022 report on the rights of LGBT persons, the Independent Expert highlighted that LGBT refugees and internally displaced persons face severe challenges, including stigmatization, gender-based violence, lack of protections or access and arbitrary detention.[29] Other mandate holders have also called on States to address the challenges faced by forcibly displaced LGBT persons.[30]

IV. Drivers of displacement

13. There are multiple drivers of forced displacement affecting broader populations, such as armed conflict, persecution, natural disasters and statelessness. These root causes force individuals and communities to flee in search of safety. While these drivers affect all populations, LGBT persons may be disproportionately impacted because of systemic violence, persecution and discrimination.[31]

14. Intersecting factors contribute to and compound the effects of violence and discrimination against LGBT persons, including sex, gender, age, nationality, ethnicity/race,

[19] See https://www.securitycouncilreport.org/whatsinblue/2023/03/arria-formula-meeting-on-integrating-the-human-rights-of-lgbti-persons-into-the-work-of-the-security-council.php.

[20] See https://outrightinternational.org/UN-Arria#:~:text=The%20first%20time%20the%20Council,homosexuality%20and%20other%20LGBTIQ%20people.

[21] See https://www.refworld.org/reference/themreport/unhcr/2015/en/108207.

[22] See https://www.unhcr.org/news/press-releases/un-rights-experts-urge-more-protection-lgbti-refugees.

[23] See https://www.refworld.org/docid/611e20c77.html.

[24] See https://www.unhcr.org/media/protecting-lgbtiq-people-situations-forced-displacement-stocktaking-unhcr-progress-2021.

[25] A/75/258, para. 9; and A/74/181, paras. 52–58.

[26] See https://www.ohchr.org/en/press-releases/2022/03/ukraine-protection-lgbti-and-gender-diverse-refugees-remains-critical-un; and https://www.ohchr.org/en/press-releases/2019/06/un-rights-experts-urge-more-protection-lgbti-refugees.

[27] A/HRC/50/27/Add.1 and A/HRC/50/27/Add.2.

[28] See communication USA 9/2025. All communications mentioned in the present report are available at https://spcommreports.ohchr.org/TMSearch/TMdocuments.

[29] A/77/235, para. 52.

[30] See https://www.ohchr.org/en/press-releases/2024/06/more-68-million-people-were-internally-displaced-2023-due-violence-and; and https://www.ohchr.org/en/statements/2022/05/forcibly-displaced-lgbt-persons-face-major-challenges-search-safe-haven.

[31] Submissions by Forcibly Displaced People Network, University of Bristol and University of Oxford.

social or economic status, religion, disability and HIV status.[32] Due to multiple layers of discrimination, LGBT persons may be highly marginalized and isolated from their communities and families. The experiences of LGBT persons vary greatly and are influenced by the broader context in which they live.

A. Political and legal drivers of forced displacement

15. LGBT persons may flee their home countries because of persecution, stigma and discrimination related to their sexual orientation and gender identity. LGBT persons have been the targets of killings, sexual and gender-based violence, physical attacks, torture, arbitrary detention, accusations of immoral or deviant behaviour and denial of the rights to assembly and expression, as well as discrimination in employment, health and education in all regions.[33]

16. To date, 65 States still criminalize same-sex relations and 14 criminalize gender expression with punishment, including imprisonment, corporal punishment and, in 12 countries, the death penalty.[34] These numbers include States with de jure as well as de facto criminalization, where States may use broader laws to repress LGBT persons. Criminalization facilitates abuse by State security forces and other government officials, including gross violations of privacy, such as illegal raids of private dwellings and digital entrapment techniques.[35] In these contexts, LGBT persons cannot rely on law enforcement for protection or accountability.[36] Moreover, those authorities may be unwilling or unable to protect individuals from persecution, even by non-State actors, resulting in impunity for perpetrators and implicit if not explicit tolerance of such abuse.

17. Such persecution is unfortunately a contemporary occurrence. In 2023, the Anti-Homosexuality Act was passed in Uganda;[37] the act sanctions capital punishment for persistent same-sex relations. With the passing of the act, there was an increase in both State and community-led persecution against LGBT persons, including widespread arrests, forced evictions and public outings leading to mob violence.[38] In Afghanistan, the takeover of the Government by the Taliban in 2021 has led to a renewed years-long crackdown against LGBT persons.[39] In response to such persecution, many flee.

18. Repression is not limited to contexts of criminalization. Throughout the world, LGBT persons have been scapegoated in the wake of political instability and crisis. During crises, the scapegoating of LGBT persons allows political leaders to deflect attention from broader State failure.[40]

19. The politicization of LGBT identities during periods of political instability has a direct effect on the discrimination experienced by LGBT persons. Shrinking space for civil society and far-right counter-movements have had a profound effect on the rights of LGBT persons, leading to a rollback in protections in some countries.[41] Many rollbacks occur through discriminatory laws that prohibit "LGBT propaganda" and the perceived "promotion" of LGBT persons, including the labelling of international LGBT movements as extremist or the banning of

[32] See https://www.cambridge.org/core/journals/politics-and-gender/article/abs/queer-approach-to-understanding-lgbt-vulnerability-during-the-covid19-pandemic/F92EDBB629B51EA6338027E94A0F5478.
[33] See A/HRC/19/41.
[34] See https://www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation.
[35] Submissions by African LGBTQI+ Migration Research Network (ALMN), Coming Out, Crisis Group, "Marem", NC SOS Crisis Group; Sphere Foundation, Hivos, ILGA World, Society for Gender Professionals (SGP), Institute for Migration Studies (IMS), Lebanese American University (LAU), MENA Organization for Services, Advocacy, Integration & Capacity Development (MOSAIC MENA) and ReportOUT.
[36] Submission by ALMN.
[37] See communication UGA 1/2025.
[38] Submissions by ALMN and Hivos.
[39] See A/79/330; see also submission by Equal Asia Foundation.
[40] Submissions by Commission on Human Rights of the Philippine; Equal Asia Foundation; Out for Sustainability; and ReportOUT.
[41] Submission by ILGA Europe.

foreign funding for CSOs. Such laws criminalize any discussion of the subject of LGBT rights in public, justifying the closure of LGBT organizations and the detention of activists. The closure of LGBT organizations often means the loss of vital services for LGBT persons. Since 2022, such "propaganda" laws have become prominent in countries in Eastern Europe and Central Asia, including in Belarus, Bulgaria, Georgia, Kyrgyzstan and the Russian Federation,[42] and there have been attempts to adopt such laws in Kazakhstan[43], Romania and Uzbekistan.[44] In the United States,[45] legislative efforts have disproportionately focused on transgender persons, who remain vulnerable to scapegoating, discrimination and violence.[46]

20. Unscrupulous politicians may scapegoat LGBT persons to appeal to their base. Political scapegoating involves incorrectly framing respect for LGBT persons as contradictory to moral and family values, sometimes by introducing anti-LGBT bills to "promote family values" as well as the use of hate speech.[47,48]

21. Certain religious leaders contribute to this persecutory environment through their use of hostile and demeaning rhetoric that denounces LGBT persons as immoral, fuelling both community violence and social ostracism.[49] Moral outrage produced by hate speech can lead to violent outcomes.[50] In some cases, violence is led by non-State actors, including civilians; in other cases, hate speech facilitates persecutory behaviour on the part of governments, particularly towards activists.[51]

22 The Independent Expert has publicly condemned the use of capital punishment as a gross violation of human rights and has condemned anti-LGBT acts of political repression that may prevent the enjoyment of freedom of association, including the right to participate in CSOs.[52] The Independent Expert has also denounced the political scapegoating of LGBT persons during elections.[53]

23. Political persecution of LGBT persons is an urgent concern during wartime, when a range of armed actors may seize the opportunity to target them. For example, during the ongoing civil war in Colombia, guerrilla, neo-paramilitary and narco-trafficking groups target LGBT persons through the use of "social cleansing" campaigns, in which they use lethal violence and public torture to forcibly displace LGBT persons.[54] Similarly, in the Syrian Arab Republic, LGBT persons have been targeted with extreme violence by terrorist groups such as ISIL.[55] Such targeted violence has caused large-scale displacement, both internally and internationally. Forced conscription during conflicts can be problematic for LGBT persons, as those with non-hegemonic sexual orientation or gender identity may be abused within military organizations.[56]

24. In conflicts where LGBT persons are not directly targeted by armed actors, they may still face additional challenges as pre-existing discrimination can make them more vulnerable to the shocks associated with crisis, in particular the breakdown of solidarity networks as well as their possible exclusion from humanitarian efforts.

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[42] See communication RUS 28/2023.
[43] See communication KAZ 3/2024.
[44] Ibid.
[45] See communication USA 9/2025.
[46] Submissions by Trans Resistance Network; Pink Haven Coalition; Trans Formations Project; and Trans Genocide Watch.
[47] Submissions by Hivos and the Procurador of Guatemala.
[48] See Samuel Ritholtz, *The Transnational Force of Anti-LGBT+ Politics in Latin America*, Oxford University Press (2023); see also submission by Visibles Venezuela and others.
[49] See A/HRC/53/37; see also submission by Hivos.
[50] Submissions by Caribe Afirmativo, Colombia Diversa, Human Rights Commission of Mexico City, Fundacion para la Democracia, Hivos, ILGA Europe, ILGA World, Iranian Lesbian & Transgender Network (ILTN), Kaos GL, Procurador of Guatemala, ReportOUT and Sarajevo Open Centre.
[51] See submissions by ILTN, Transgender Europe (TGEU), TG House, Qün Jelesi and TEMIDA.
[52] See OHCHR, Joint statement on the death penalty and same-sex conduct by independent experts and special rapporteurs of the Human Rights Council; see also A/HRC/56/49.
[53] See A/79/151.
[54] Submissions by Caribe Afirmativo and Colombia Diversa.
[55] Submission by Equal Asia Foundation.
[56] Submission by CAN Myanmar.

B. Social, economic and cultural drivers of displacement

25. Social, economic and cultural drivers of displacement result from situations of intolerance, religious persecution and political instability.[57] The discrimination that results from these factors leads to the systematic exclusion of LGBT persons. Exclusion produces structural inequality, which is exacerbated during crises, producing displacement.

26. Family rejection and related intrafamilial harm is a key driver for LGBT displacement globally. Familial rejection has direct effects on an individual's mental health, leading to losses of economic and social support.[58] In such a situation, many LGBT persons turn to each other through informal networks of support.[59] In crises, those with fewer formal support networks are more affected.

27. Family rejection involves harmful practices that drive displacement, including conversion practices and honour violence.[60] Moreover, intrafamilial harms have an disproportionate effect on lesbian, bisexual and queer (LBQ) women, who can be marginalized socioeconomically both by their sexual orientation and gender identity, often facing forced marriage and subsequent marital rape.[61]

28. In order to avoid detection, many LGBT persons are compelled to leave their own communities and to move elsewhere, usually to urban settings, where networks of support with other LGBT persons and organizations may be found. Being uprooted from family and community, even if they remain within the country, leaves internally displaced LGBT persons in a precarious socioeconomic situation, especially when the possibility of accessing social services is limited because of discrimination and/or criminalization.

29. LGBT persons experience discrimination in employment, exacerbating their marginalization and increasing their vulnerability. In many settings, LGBT persons are effectively barred from the formal economy as employers refuse to hire them. This is a particularly serious issue for transgender and gender-diverse persons, who oftentimes cannot easily hide their identity. The secondary effects of this discrimination are severe as it pushes LGBT populations to work in the informal economy, including in sex work, in order to survive. Informal economies are vulnerable to shocks during crisis, with no legal protections and high risks of exploitation.[62]

30. Many LGBT persons are discriminated against and blocked from access to healthcare services both during crises and apart from crises. For populations living with HIV, this is a dire situation. In Venezuela, with the deterioration of the national healthcare system and shortages of life-saving medicines, LGBT persons living with HIV were among the first to leave the country.[63] For transgender people, access to gender-affirming care can affect displacement trajectories.[64] Following legal and/or medical transition, transgender persons may not have access to identification cards that reflect their gender identity, severely inhibiting their access to rights.[65]

31. Discrimination in the delivery of humanitarian aid during crises is not uncommon: LGBT persons may be unable to access care because of discriminatory behaviour on the part of aid workers or because of structural discrimination.[66] Aid is often provided to family units,

[57] Submissions by ALMN and Forcibly Displaced People Network (FDPN).

[58] Submissions by Colombia Diversa, FDPN, Equal Asia Foundation, Equal PostOst, Hivos, Hester Moore, ILGA World, IMS and others, Procurador of Guatemala, Rainbow Path Steering Committee, Sexual Orientation and Gender Identity Claims of Asylum (SOGICA), United Nations Free & Equal and Young Queer Alliance.

[59] Submission by Colombia Diversa.

[60] Submissions by ALMN, Coming Out, Crisis Group and others and Equal Asia Foundation.

[61] Submissions by Hester Moore, ILGA World, University of Bristol and University of Oxford.

[62] Submissions by Asia Pacific Trans Network, Caribe Afirmativo, Global Action for Trans Equality (GATE), Unbreakable Love and Fruit Basket.

[63] Submission by Visibles Venezuela and others.

[64] Submission by TGEU and others.

[65] Submission by Young Queer Alliance.

[66] See https://humanitarianadvisorygroup.org/insight/taking-sexual-and-gender-minorities-out-of-the-too-hard-basket/.

meaning that those affected by family rejection, or same-sex headed households not recognized as nuclear families, are left without the provision of aid.[67] Transgender persons are often refused aid because of discrepancies in their documentation, as well from general transphobia.[68] In the context of the criminalization of same-sex relations, when State agents are key facilitators of humanitarian aid, LGBT persons may be left without access to support as they avoid interactions with persecuting State authorities.[69]

32. This vulnerability underscores how LGBT persons are affected by crises in unique ways, even when they are not intentionally targeted. This applies to established contexts of conflict and natural disasters, but also in less recognized contexts, such as climate change and international sanctions regimes In such settings, marginalization resulting from intersecting discrimination prevents LGBT persons from accessing support in times of deprivation.[70]

V. Issues during displacement for LGBT persons

33. Forcibly displaced LGBT persons face critical issues in their search for safety. The closure of many legal pathways for asylum forces asylum-seekers to navigate perilous journeys, making them vulnerable to further violence, exploitation and abuse, additional to that faced in the context from which they have escaped.

34. For forcibly displaced LGBT persons, leaving their original place of discrimination is not enough to guarantee their safety. Identity-based harms that drive displacement will often be present during transit, both within their country of origin and elsewhere. In cases of LGBT-related persecution, individuals face complex patterns of interconnected structural, physical, psychological and sexual violence, affecting multiple cycles of displacement. The intersecting forms of marginalization experienced by LGBT persons produce barriers to essential services and support systems, exacerbating their vulnerability to harms during displacement.[71]

A. Lack of safe routes and mobility

35. States routinely deny visas, promote carrier sanctions against transport companies that facilitate migration and push people back from borders without facilitating the right to asylum.[72] With limited options, LGBT persons seeking asylum often take informal routes, heightening the risk of exploitation and violence.

36. When travelling, many LGBT persons conceal their identities to protect themselves.[73] In contexts of discrimination, concealment is a form of protection, but it also means that such individuals are harder to identify for needs assessments. While allowing persons seeking international protection to avoid discrimination based on sexual orientation and gender identity, concealment can also cause them to be excluded from essential services.

[67] Roth, D., Blackwell, A., Canavera, M. and Falb, K., "Cycles of displacement", New York, International Rescue Committee (2021), p. 25 (https://www.rescue.org/sites/default/files/document/5961/irccyclesofdisplacementfinaljune2021.pdf).

[68] Submission by Visibles Venezuela and others.

[69] See Outright International, *The Impact of the COVID-19 Pandemic on LGBTIQ People* (2021) (https://outrightinternational.org/sites/default/files/2023-04/COVIDReportMay_Revised_OutrightInternational_V2_3.pdf); see also submission by LSVD+ – Federation Queer Diversity.

[70] Submissions by ALMN and ILGA World.

[71] Submission by Hester Moore.

[72] Submissions by Conflict Kitchen and Queer Without Borders; Fruit Basket; Rainbow Railroad.

[73] Submissions by César Oscar Jiménez Alegria, Institute Novact of Nonviolence (NOVACT), Irídia and the Catalan Commission for Refugee Action.

37. Many transgender persons do not carry updated documents that reflect their gender identity and thus may be denied the right to travel across borders because of improper documentation, as well as owing to prejudice.[74]

38. Many LGBT persons fleeing persecution in their countries of origin seek asylum in countries that have discriminatory legislation and that also manage national asylum systems, including registration and refugee status determination. This situation may preclude LGBT persons from registering or claiming asylum on grounds of sexual orientation or gender identity, or they may choose not to engage with authorities out of fear of falling foul of the law. Resettlement, as a durable solution facilitated by UNHCR, is limited to recognized refugees. Thus, LGBT persons who are forcibly displaced outside their country of origin and who may not benefit from prima facie refugee status or recognition of eligibility for international protection on other grounds may be unable to access effective protection. This is a key protection challenge.[75]

39. The lack of effective protections in the first country of asylum leads many LGBT persons to undertake hazardous onward movements, even travelling towards conflict zones, in search of a durable solution.[76]

B. Targeted harassment and violence

40. When travelling along irregular routes, forcibly displaced LGBT persons confront a range of safety risks. Irregular routes may be controlled by non-State actors or criminal groups who exploit migrants; State agents who take advantage of their undocumented status to carry out extortion; and host communities with discriminatory beliefs.[77] Furthermore, given the form of harm that LGBT persons face both in intimate social networks and general societal contexts, many are obliged to travel quickly, placing them at risk of exploitation and trafficking.[78]

41. Many LGBT persons fleeing their countries of origin through irregular routes rely on smugglers and traffickers to make their journey. These non-State actors exploit the vulnerability of LGBT persons on the move, taking advantage of their precarious situation. Many LGBT persons reported sexual violence during their overland travel to the United Kingdom of Great Britain and Northern Ireland through Europe.[79] Those risks were exacerbated by ethnic identity, with persons of colour reporting higher levels of abuse.[80]

42. Reports document abusive practices in the Darien Gap connecting South and Central America, where asylum-seekers and migrants require the support of smugglers to navigate the jungle, as well in the broader pathway through Central America. The smugglers are connected to criminal organizations, with documented histories of abusing migrant LGBT persons seeking asylum, including, in particular, acts of sexual assault and forced labour.[81] Similar experiences of sexual violence and robbery have been reported by LGBT persons on their way to South Africa.[82]

43. A number of statements received documented how State authorities, including border guards, police and military personnel, have engaged in harassment and extortion against

[74] Submissions by Asia Pacific Trans Network, National Human Rights Commission of Mexico, Conflict Kitchen and Queer Without Border and ILGA World; see also https://www.theguardian.com/global-development/2022/mar/22/i-will-not-be-held-prisoner-the-trans-women-turned-back-at-ukraines-borders.

[75] See https://ammodi.com/2021/06/16/encamped-within-a-camp-transgender-refugees-and-kakuma-refugee-camp-kenya/.

[76] Submission by ALMN.

[77] Submissions by Asia Pacific Trans Network,; Caribe Afirmativo, Fruit Basket, Hivos and People's Advocate of Albania.

[78] Submission by ILGA World.

[79] Submission by University of Birmingham.

[80] Ibid.

[81] Submissions by Caribe Afirmativo.

[82] Submission by Fruit Basket.

LGBT persons. Reports indicate that some border agents have violated international law by preventing people from entering their territory.[83]

44. These threats persist for LGBT persons through multiple cycles of displacement. Globally, the majority of asylum-seekers are currently located in countries with criminalization or heightened stigma.[84] Eight of the 10 countries with the highest number of internally displaced persons criminalize consensual same-sex relations.[85]

45. As homophobia and transphobia do not respect borders, many LGBT persons face continued prejudice from other displaced persons with whom they travel.[86] While asylum-seekers often travel together to protect themselves from the perils of moving irregularly in the Americas, refugee LGBT persons often self-segregate to protect themselves from others.[87] The harm encountered within transit can occur from a range of actors, including fellow asylum-seekers[88]

C. Lack of protection and humanitarian exclusion

46. During displacement, LGBT persons often find themselves excluded from humanitarian services and protection.[89]

47. Moreover, many displaced LGBT persons face barriers to accessing safe accommodations and essential healthcare services, including gender-affirming care, HIV treatment and other sexual and reproductive health services, even in the absence of a crisis.[90]

48. Exclusion from humanitarian assistance can be intentional, but it can also be structural, given that humanitarian providers are not always equipped to recognize and address the unique vulnerabilities of LGBT persons and their specific needs.[91]

VI. Issues in encampment, transit shelters and detention settings

49. In their search for safety, LGBT persons seeking asylum face significant risks in encampment, temporary shelters and detention settings, underscoring a significant gap in the provision of safe, supportive environments for their specific vulnerabilities.

A. Unsafe housing in camps and temporary shelters

50. LGBT persons seeking asylum frequently encounter unsafe housing conditions in refugee camps. In many parts of the world, they are hosted in camps with limited freedom of movement, with co-nationals and other refugee populations with strong anti-LGBT sentiments.[92] While encampment policies adopted by host countries are detrimental to all displaced populations, LGBT persons become particular targets of abuse by other displaced populations or camp security staff, who abuse LGBT persons or fail to respond to complaints.

[83] Submissions by Human Rights Commission of Mexico City, Conflict Kitchen and Queer Without Borders, Fruit Basket, Kaos GL and Procurador of Guatemala.
[84] Submission by Rainbow Railroad.
[85] Submission by ReportOut.
[86] Submissions by ALMN, Coming Out, Crisis Group and others, IMS and others, EQUAL PostOst, People's Advocate of Albania and ORAM (https://www.rainbowrailroad.org/wp-content/uploads/2021/10/Rainbow-Railroad-and-ORAM-Report-on-Kakuma-2021.pdf).
[87] See https://edition.cnn.com/2018/11/15/americas/migrants-tijuana/index.html.
[88] Submission by ReportOut.
[89] Submissions by FDPN and ReportOut.
[90] Submission by Hivos.
[91] See https://outrightinternational.org/sites/default/files/2024-07/LGBTIQ_Inclusion_Humanitarian_Action.pdf; see also submissions by Eirene Chen and Hester Moore.
[92] Submissions by Hivos and Report Out.

In Kakuma camp in Kenya,[93] displaced LGBT persons have been harassed and subjected to violence by camp members and security staff.[94]

51. Like other displaced peoples, LGBT persons, when placed in temporary accommodation, do not have a choice in their housing arrangements. Problematically, they are placed with co-nationals or other displaced populations with strong anti-LGBT sentiments.[95] This lack of choice exacerbates the likelihood of harm in such settings.[96]

B. Abuse in detention

52. Detention for LGBT persons seeking asylum should be a last resort, with conditions in compliance with minimum rights standards. Abuse in detention practices reflects other temporary accommodations where LGBT persons seeking asylum are placed with the general population, often removed from urban centres, with limited oversight.[97] Violence, particularly rape, has been reported in these detention centres and is attributed to both other detainees and staff.[98]

53. Detention is a particularly grave issue for transgender and gender-diverse asylum-seekers as most detention settings are segregated by gender.[99] Many asylum systems assign accommodation based solely on legally documented gender markers instead of self-identified gender identities. This practice has severe implications, including abuse from other detainees or guards as well as during extended periods of solitary confinement, which has long been considered a form of torture, but can be presented as punishment or as "protection".[100]

C. Exclusion from complaint mechanisms and retaliation

54. LGBT persons disclose their discomfort in reporting mistreatment in temporary accommodation owing to fears of retaliation, particularly in the absence of formal mechanisms for the reporting of concerns.[101]

VII. Refugee status determination by State authorities

55. States are primarily responsible for refugee status determination, although UNHCR may undertake the process under its own mandate when States are not signatories to the 1951 Geneva Convention and/or do not have a fair and efficient national asylum procedure in place. In some contexts, this process involves an initial interview (gathering basic information), followed by a substantive interview that leads to the formal assessment of the claim, along with country-of-origin information and other evidence. In many countries, LGBT persons cannot register to make asylum claims to State authorities based on sexual orientation and gender identity. In such countries, host States might criminalize or discriminate against LGBT persons, possibly leading to secondary displacement or to onward movement in search of international protection and third country solutions. This section focuses on contexts where refugee status determination based on sexual orientation and gender identity is available in national asylum systems. LGBT persons claiming asylum face multiple barriers before, during and after the refugee status determination process, sometimes

[93] See communication KEN 9/2018.
[94] Submission by Hester Moore.
[95] Submission by Hivos.
[96] Submission by Sarajevo Open Center.
[97] Submissions by Conflict Kitchen and Queer without Borders, ILGA Europe and TGEU and others.
[98] Submissions by Asia Pacific Trans Network; Hivos; FDPN; University of New South Wales and University of Technology Sydney, Faculty of Law.
[99] Submissions by Black Diaspora Liberty Initiative, Black LGBTIA+ Migrant Project, Immigration Equality, Robert F. Kennedy Human Rights, Rocky Mountain Immigrant Advocacy Network, Sanctuary New Orleans Abolition Project, Transgender Law Center, FDPN and La Resistencia.
[100] Submission by Black Diaspora Liberty Initiative and others.
[101] Submissions by Kaos GL and La Resistencia.

leading to a de facto limitation on their access to asylum. Many may therefore lack any legal status in their host State.[102]

A. Pre-interview and disclosure

56. When formally seeking international protection and asylum, many LGBT persons do not know that they are permitted to make a claim on the basis of sexual orientation and gender identity.[103] When aware of this right, LGBT persons may still fear disclosing their diverse identity due to previous persecution by State authorities in their country of origin or negative experiences with authorities during transit.[104] Both factors increase the likelihood of late disclosure and the possibility of an initial application based on asylum claims on other grounds. Late disclosure is often taken as evidence of fabrication or lack of credibility when assessing claims.[105]

57. Limited available information on first arrival or specialized legal support at the initial stage compounds this problem.[106] In some contexts, asylum-seekers do not receive any legal support prior to lodging their asylum claim. In others, CSOs may facilitate legal advice, or asylum-seekers may receiver support from international organizations or from UNHCR. Legal advice is in short supply, but LGBT persons may be disproportionately affected owing to the complexity of their cases and the need for specialized knowledge required for claims related to sexual orientation and gender identity.[107] Further, persistent perceptions about the kind of claims that are most likely to succeed can frustrate access to asylum. For instance, there is an assumption that bisexual claimants are less likely to be believed, leading some asylum applicants to conceal their identities until late in the application process.[108]

58. Proceedings during early stages of refugee status determination can be delayed by a lack of proper documentation. This is a particular problem for displaced LGBT persons as they may lack documentation that formally recognizes their gender identity, or they may have been misgendered on official documentation on first arrival. Such issues with documentation can lead to administrative delays.[109]

59. There are often extremely long waiting times for asylum claims of all kinds in many contexts, which can be particularly problematic for members of marginalized communities, who may not be able to access key essential services during this lengthy process.[110]

B. Interview procedure and questioning

60. Prejudice and a lack of appropriate training for interpreters often have an impact on the refugee status determination interview. Insensitive questioning persists, including lines of inquiry about explicit sexual behaviour.[111] Many interview questions rely on stereotypical perceptions of LGBT persons.[112] In countries in Europe, questions may rely on culturally specific perceptions of sexual orientation and gender identity, such as “coming out” stories or specific emotional narratives.[113] Adjudicators often fail to use a trauma-informed approach

[102] See submission by Rainbow Railroad, In 2023, 73 per cent of individuals seeking assistance from Rainbow Railroad had no legal status.
[103] Submissions by CAN Myanmar and Hester Moore.
[104] Submission by Human Rights Commission of Mexico City.
[105] Submissions by Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights (RFSL) and Queer Youth Sweden.
[106] Submission by Queer Base.
[107] Submissions by CAN Myanmar; RFSL and Queer Youth Sweden.
[108] Submission by Negotiating Queer Identities Following Forced Migration.
[109] Submission by GATE and others.
[110] Submissions by ILGA World, LGBT Health and Wellbeing, NOVACT and others and Negotiating Queer Identities Following Forced Migration.
[111] Submission by Kaos GL.
[112] Submission by Striking Sirens Coalition.
[113] Submissions by NOVACT and others, Rosa Asyl 2.0 and Striking Sirens Coalition.

to questioning and ask claimants to recount experiences of sexual violence.[114] This is a particular problem for LBQ women, where refugee status determination procedures can fail to account for the impact of trauma on memory and information retrieval.[115] Guidance from UNCHR recommends avoiding these lines of questioning as much as possible.[116]

61. One noted issue is the fact that registration interviews conducted by State authorities often take place in public. The lack of privacy limits the possibility of disclosure during interviews, compounded by the presence of co-national interpreters who can negatively impact the ability of claimants to present their cases.[117]

62. The "particular social group" category tends to be central to asylum claims by LGBT persons, rather than other applicable grounds. The European Commission has adopted a particularly high standard for claims on the part of members of particular social groups, extending a focus on innate characteristics to the requirement of proof that asylum-seekers have a perceivable "distinct identity" within society in their country of origin.[118] This is difficult for people who have been forced to live discretely due to criminalization and abuse and who may continue to live discretely even in their country of asylum.[119]

C. Decision-making and outcomes

63. Decision-making on asylum claims by LGBT persons is inconsistent, depending heavily on the attitudes or knowledge of the asylum adjudicator.[120] There is a lack of clear guidance on how to assess claims related to sexual orientation and gender identity in some countries[121] and evidence that decision makers often do not understand claims by LGBT persons.[122]

64. Many LGBT persons seeking asylum face rejection due to difficulties in demonstrating "credibility", as revealed in the *Pride or Shame* report undertaken by COC Netherlands, which found that 85 per cent of interviewees were rejected because of "incredibility".[123] A failure to take multiple driver of flight into account, and an overreliance on "emotional journeys" and cultural stereotypes, worsens these outcomes.[124] Rates of acceptance are often lower in certain subgroups, particularly among LBQ women.[125] Heterosexual marriages and the existence of children are often taken as evidence of non-credibility in the case of LBQ women as asylum adjudicators fail to take the possibility of coerced marriage into account. In addition, young people often struggle to articulate their experiences of sexual orientation and gender identity during their interviews and therefore may not be found to be credible by assessors.[126]

65. Country of origin information reports do not always include specific vulnerabilities for LGBT persons. In many cases, claimants are denied refugee status because decision makers did not believe that they were at risk of persecution owing to limited or low-quality country of origin information.[127] "Safe country" designations also place LGBT persons at

[114] Submission by Hester Moore.
[115] Submission by Daisy Vaughan Liñero.
[116] See https://www.unhcr.org/us/media/unhcr-guidelines-international-protection-no-9-claims-refugee-status-based-sexual-orientation.
[117] Submissions by Micro Rainbow, NOVACT and others and Negotiating Queer Identities Following Forced Migration (NQIfFM).
[118] European Union, directive 2011/95/EU, art. 10 (1) (d) (https://eur-lex.europa.eu/eli/dir/2011/95/oj/eng).
[119] Submission by SOGICA.
[120] Submission by EQUAL PostOst.
[121] Submission by Commission on Human Rights of the Philippines.
[122] Submission by ALMN.
[123] Submissions by African Rainbow Family and COC Netherlands.
[124] Submissions by Hester Moore and Striking Sirens Coalition.
[125] Submissions by University of Bristol (https://research-information.bris.ac.uk/files/247501344/Accepted_Manuscript_Victimhood_and_Femininities_Author_Details.pdf) and University of Oxford.
[126] Submissions by RFSL and Queer Youth Sweden.
[127] Submission by SOGICA.

heightened risk, as the specifics of their claim may not be considered. For instance, safe country designations might lead to expedited removal without a proper consideration for individual vulnerability.[128]

66. Despite UNHCR guidance that LGBT refugees should not be forced to live "discretely" in their country of origin, possible "discretion" is still used as a grounds to refuse claimants in some countries.[129]

67. Some countries have good policies and guidance on refugee status determination interviews in the case of LGBT persons claiming asylum, including working with LGBT-led groups to develop best practices.[130] However, interviewers often lack appropriate training. In 2021, UNHCR and the International Organization for Migration (IOM) updated their training package on working with LGBT persons experiencing forced displacement. The Council of Europe also has an online training course on LGBTIQ+ Persons in the Asylum Procedure.[131] States are partnering with CSOs to develop training for their staff members to promote safe interactions with displaced LGBT persons. In Austria, the non-governmental organization (NGO) Queer Base has developed expert recommendations for answering questions during initial screening interviews in order to make them more inclusive for persons claiming asylum on the grounds of sexual orientation and gender identity and to allow for earlier disclosure.[132] In Poland, CSOs have trained staff of the Office for Foreigners and refugee centres on sexual orientation and gender identity in the context of asylum procedures, legislative frameworks, credibility assessments and sensitivity training to the challenges faced by LGBT persons worldwide.[133]

D. Resettlement

68. Resettlement allows refugees to access international protection and permanent resident status by relocating from one State to another, often facilitated by UNHCR as a concrete measure for "burden-sharing" in the spirit of the Global Compact on Refugees. The destination State may have a specific resettlement pathway from countries of first asylum (also referred to as host countries) or directly from the country of origin. Resettlement is rarely a genuine option for refugees, given the limited numbers of places available. At the end of 2023, there were 31.6 million registered refugees under the mandate of UNHCR, although only 158,700 resettlement places were offered during that year.[134] Despite this, resettlement is often viewed as the most appropriate durable solution for refugee LGBT persons who live in countries where criminalization and hostile attitudes prevail.[135]

69. In some contexts, there are specific pathways for displaced LGBT persons. Sometimes these are streams within broader resettlement efforts, such as programmes assisting movement from Afghanistan or Ukraine to the United Kingdom.[136] Canada has a more targeted LGBT-specific resettlement programme, the Canada Rainbow Refugee Assistance Partnership.[137] Other potential routes available to LGBT refugees exist, including private sponsorship schemes or complementary pathways. Complementary pathways, including labour migration or broader humanitarian admission programmes, can provide an alternative

[128] Ibid.
[129] Submissions by NQIfFM, RFSL and Queer Youth Sweden; see also https://www.unhcr.org/us/media/unhcr-guidelines-international-protection-no-9-claims-refugee-status-based-sexual-orientation.
[130] Submissions by RFSL and Queer Youth Sweden.
[131] See Council of Europe, "LGBTI Persons in the Asylum Procedure" (2023) (https://rm.coe.int/lgbti-in-asylum-procedure-course-brief-english/1680ad1ab7).
[132] Submission by Queer Base.
[133] Submissions by Conflict Kitchen and Queer without Borders.
[134] UNHCR, "Global trends: forced displacement in 2023" (https://www.unhcr.org/global-trends-report-2023).
[135] Submission by Micro Rainbow.
[136] Ibid.
[137] Submission by Rainbow Railroad.

route to durable solutions, but should not be viewed as a replacement for traditional resettlement programmes.[138]

70. Cooperation between governments, NGOs and civil society is essential in order to safely resettle refugee LGBT persons and to address the material conditions that continue to perpetuate their displacement. In 2023, the Canadian Government worked with CSOs that directly referred at-risk refugees to its Government-Assisted Refugees programme.[139] CSOs also partnered with the Governments of the Canada and the United States to resettle nearly 250 LGBT persons from Afghanistan.[140] Other private-public partnerships have enabled CSOs working with LGBT persons to identify refugees and connect them with volunteer groups and support their settlement in third countries.[141] Despite these positive examples, the fragility of these successes has become increasingly visible. The United States, for example, has since discontinued its CSO partnership programme to resettle urgent cases of refugee LGBT persons.[142] Furthermore, a suspension of resettlement programmes in the United States significantly has reduced resettlement opportunities globally.

VIII. Access to services

71. Displaced LGBT persons face barriers in accessing basic services. These barriers occur before, during and after a formal application for asylum. General difficulties across all services include legal barriers faced while awaiting determination decisions on refugee status, discrimination by service providers, lack of co-ordination between Governments and NGOs and lack of funding. Owing to limited government-led services, many LGBT-led organizations critically supplement such protection and service gaps.[143] Unfortunately, this vital support is threatened in the current global context and by related funding shortfalls for the entire humanitarian system.

A. Housing

72. Some States provide asylum-seekers with temporary accommodations while they wait for their claim to be adjudicated and/or after their assessment is complete. There is a lack of LGBT-inclusive accommodation, however, which often leads to claimants being placed in facilities in which they do not feel safe. Some LGBT persons face discrimination and harassment, both from fellow applicants and from staff.[144] In this way, host-State accommodations may replicate the harms that drove people to flee.[145] Asylum-seekers are not always taken seriously when they report problems, and procedures to relocate people with claims related to sexual orientation and gender identity to more appropriate accommodation sometimes occur only when harassment has already taken place. The lack of suitable housing and effective risk mitigation measures means that CSOs become the primary providers of inclusive and LGBT-sensitive housing for refugees.[146]

73. Many asylum applicants are placed in rural settings. This creates specific problems for LGBT persons, as support networks and relevant services are most often located in urban centres.[147] Asylum-seekers are sometimes held a long distance from critical medical services, such as HIV treatment.[148] LGBT asylum-seekers are also sometimes dispersed to communities that are actively hostile towards LGBT persons.[149]

[138] Submission by Hester Moore.
[139] Submission by Rainbow Railroad.
[140] Ibid.
[141] Submissions by CAN Myanmar and Rainbow Railroad
[142] Submission by Rainbow Railroad.
[143] Submission by Queer Base.
[144] Submissions by Caribe Afirmativo, Colectivo Juvenil LGBT and Rainbow Migration.
[145] Submissions by University of Nottingham and Rainbow Migration.
[146] Submission by Micro Rainbow.
[147] Submission by LGBT Health and Wellbeing.
[148] Submission by Rainbow Migration.
[149] Submissions by La Resistencia and NOVACT and others.

74. When attempting to access other forms of housing, anti-LGBT attitudes can often frustrate access,[150] leading to refusals and evictions by private landlords, as reported in Kenya.[151] Even in countries with protections for LGBT persons, such as Thailand and the Philippines, LGBT activists find it difficult to secure private housing. Those facing intersectional discrimination face greater barriers. For instance, displaced LGBT Uyghurs have reported discrimination based on ethnicity and sexual orientation and gender identity.[152]

75. The potential for such discrimination is compounded by general instability in the housing market in some contexts, where LGBT refugees and asylum-seekers are particularly vulnerable owing to the limited number of support networks.[153] Homelessness is a particular problem for LGBT refugees. In Hungary, the lack of housing for LGBT persons, mixed with discriminatory legislation, means that many displaced LGBT persons are homeless.[154] Homelessness is also common just after individuals have received refugee status when they are no longer entitled to asylum-seeker support. In the United Kingdom, 39 per cent of surveyed refugee LGBT persons had become homeless after receiving a positive decision on their asylum claims.[155]

76. Thus, while many States face challenges hosting displaced populations more broadly, refugee LGBT persons are generally more vulnerable and are denied appropriate support and protection.

B. Employment

77. Many asylum-seekers face barriers to employment, particularly before the proceedings on their refugee status determination have been completed. During that time, they lack legal access to labour markets, which makes them dependent on State support or aid for the entire period of their claim, which can often take many years. Alternatively, they may rely on informal – and at times exploitative – labour, putting them at further risk. In some contexts, asylum-seekers can apply for work permits after a certain period but are constrained to a particular list of occupations.[156] Even in States where asylum-seekers can formally access work permits, they face barriers, including a lack of opportunities, restrictions or explicit discrimination.[157] In Lebanon, 40 per cent of refugee LGBT persons from the Syrian Arab Republic surveyed reported obstacles to finding work opportunities, despite specific work programmes for displaced people. In particular, they reported fearing gender-based violence or discrimination during attempts to find employment.[158] In certain contexts, there is a lack of comprehensive employment protection for marginalized groups, sometimes leading to discrimination and wrongful termination. This leads to a de facto lack of access to employment opportunities for LGBT asylum-seekers and refugees.

C. Healthcare

78. Lack of access to healthcare in country of origin, which is often a key driver of displacement, can also remain a barrier to integration and success in host States. There is limited access to both State-funded and private healthcare in some host States, especially for transgender persons and those living with HIV.[159] LGBT persons with disabilities face compounded discrimination and find it even harder to access appropriate support.[160]

[150] Submission by ORAM.
[151] Submission by Hester Moore.
[152] Submission by Equal Asia Foundation.
[153] Submission by Trans Resistance Network and others.
[154] Submission by ORAM.
[155] Submission by Micro Rainbow.
[156] In the United States of America, those waiting for an initial decision for more than 12 months can apply for a work permit within specific occupations.
[157] Submission by ORAM.
[158] Submission by IMS and others.
[159] Submissions by ALMN, Asia Pacific Trans Network, Caribe Afirmativo, Kaos GL, ORAM, Queerstation Media and ReportOUT.
[160] Submission by EQUAL PostOst.

Providers do not always have a good understanding of how to work with non-nationals, especially regarding sexual and reproductive health.[161]

79. Active discrimination among healthcare providers prevents the provision of gender affirming care and HIV treatment. Likewise, in several settings, refugee LGBT persons report breaches of confidentiality by healthcare workers who disclose their sexual orientation and gender identity to other authorities or the broader community.[162] Such disclosures leads to further marginalization and risk of violence, further exacerbating fear of disclosure, and may prevent LGBT persons from seeking medical assistance.

80. There is also evidence that secondary trauma among LGBT persons seeking asylum is widespread resulting from their experiences of persecution and violence. Mental health support is in limited supply for all asylum-seekers and may disproportionately impact LGBT persons due to a lack of informed services.[163] Extended waiting times for refugee status determination can lead to long-term mental health problems and acute distress.[164]

81. Given these gaps in the provision of healthcare, LGBT organizations take on service provision, particularly mental health support and psychosocial care.[165] Local governments have also become instrumental in supporting LGBT displaced persons. In Mexico City, individuals are guaranteed public health services, including HIV and sexual and reproductive care, support services and gender affirming care for transgender individuals regardless of their immigration status.[166]

D. Social and community support

82. Refugee LGBT persons are often at heightened risk of isolation due to lack of family and community support. In host States, support networks are often provided by LGBT-led groups that help to improve integration by facilitating access to social networks, online communities, social spaces and mentoring.[167] Such support is often inaccessible owing to the location of asylum housing, practices that limit mobility and a lack of financial resources. CSOs, supported by international actors, often lack sufficient funding to undertake this work and rely instead on volunteers or donations.[168] Declines in the funding of the humanitarian system will further undermine such support.

E. Family reunification

83. Refugees are entitled to family reunification in many contexts, although there are specific barriers faced by LGBT persons that often, de facto, makes reunification inaccessible. Many countries of origin do not permit or even actively criminalize same-sex marriage and civil partnerships, creating barriers to reunification in the host State owing to lack of evidence or documentation.[169] In some contexts there are high evidentiary standards, such as documentation demonstrating shared bank accounts or joint residency, which are very difficult to meet when fleeing a hostile setting.[170] Family reunification is also more difficult if people do not access formal status under the 1951 Convention but are given temporary protected status or another form of complementary protection.[171] This means that while LGBT refugees are formally entitled to family reunification in some host States, they

[161] Submissions by Fundación Arcoiris por el Respeto a la Diversidad Sexual and Institute for Women in Migration (IMUMI).
[162] Submissions by Hivos and NQIfFM.
[163] Submissions by GATE and others and ORAM.
[164] Submissions by African Rainbow Family and ILGA World.
[165] Submissions by FDPN and Red Regional por la Movilidad Humana LBGTQ+.
[166] Submission by Human Rights Commission of Mexico City.
[167] Submission by Rosa Asyl 2.0.
[168] Submissions by Eirene Chen; FDPN; ORAM; and ReportOUT.
[169] Submission by Kaos GL.
[170] Submission by Coming Out, Crisis Group and others.
[171] Submission by Micro Rainbow.

face additional barriers that make the presentation of evidence to support the existence of family relationships especially complex.

IX. Data challenges

84. To date, limited data exists on sexual orientation and gender identity in the context of displacement as most States do not collect data on those characteristics of refugee populations. Data collected often relies on binary masculine/feminine gender markers, without reference to sexual orientation.[172] The lack of inclusive State-led data collection practiced makes standardization difficult.[173] Further, displaced LGBT persons themselves might not feel comfortable disclosing their sexual orientation or gender identity, particularly to States, thereby complicating data collection.[174] There is a need to improve data-sharing efforts between United Nations agencies, governments and CSOs to better understand and attend to the needs of forcibly displaced LGBT persons.[175]

X. Conclusion

85. **LGBT persons face complex patterns of forced displacement. driven both by discriminatory practices and systemic violence at multiple levels. The displacement journey is not linear but rather cyclical, as individuals encounter persecution, harm and discrimination, not only in their countries of origin, but also during transit and in destination countries. Both State and non-State actors perpetuate violence and exclusion. Protection efforts must acknowledge how intersecting factors compound vulnerabilities, creating unique challenges for different individuals. The systematic invisibility of LGBT persons in both data collection and legal frameworks enables continued impunity and prevents the development of durable solutions.**

86 **States play a foundational role in protecting the rights of LGBT persons affected by forced displacement. Currently 37 States grant asylum based on claims related to sexual orientation and gender identity.** [176] **Some States have incorporated LGBT-inclusive approaches into their disaster management programmes, for example, in the newly-revised long-term climate strategy and resilience planning process in Mexico.**[177] **However, displaced LGBT persons seeking asylum in many States, even those where progress has been made, continue to face discrimination and lack of adequate support in accessing basic necessities, such as housing and employment, and in fully integrating into their new communities.**[178] **Furthermore, some States have rolled back protections and support for asylum-seekers as well as LGBT persons, increasing the discrimination and risks that displaced LGBT persons may face.**

87. **CSOs are key critical actors in protecting, providing access to key services and promoting the rights of displaced LGBT persons. Regrettably, their work is undermined by current global efforts to cut humanitarian and development aid.**[179] **In this context, cross-sectoral collaborations between international humanitarian NGOs and LGBT-rights organizations will continue to be critical sources of support for**

[172] Submissions by Hivos and ILGA World.

[173] ORAM, *An Overview of the Displacement Context in Central and Eastern Europe* (2024) (https://413ec0e2-e6a5-4637-92ec-8d0c4c7ba9a7.usrfiles.com/ugd/413ec0_389f27f9b67440499555a0382eb81987.pdf).

[174] Submissions by Caribe Afirmativo, Rainbow Railroad and Rosa Asyl 2.0.

[175] Submission by FDPN.

[176] See https://www.unhcr.org/hk/en/news/press-releases/un-rights-experts-urge-more-protection-lgbti-refugees; see also submissions by ALMN, Commission on Human Rights of the Philippines, Coming Out, Crisis Group and others, ILTN, LSVD+ – Federation Queer Diversity and Queerstation Media.

[177] Submission by Out for Sustainability, sponsored by AnchorBridge Environmental (Barbados) and Youth for Change and Development (Malawi).

[178] Submissions by ILTN and Queerstation Media.

[179] Submissions by Fundación Arco Iris and IMUMI.

displaced LGBT persons.[180] **Furthermore, there are growing opportunities to identify suitable countries in regions across the globe to safely receive LGBT persons. The resettlement needs of LGBT persons are context-dependent, based on their unique situations and the suitability of host environments. If countries are able to safely receive LGBT persons and to respect non-discrimination and the inclusion of refugees in national systems, the need for resettlement as the "sole" solution will be significantly decreased. Resettlement would not be needed if host countries were safely receiving LGBT persons seeking asylum.**

XI. Recommendations

88. **With regard to the drivers of displacement and the subsequent harms in transit for LGBT persons, States should:**

(a) **End the practices of de jure and de facto criminalization, as well as scapegoating policies and rhetoric;**

(b) **Challenge social and cultural prejudices that marginalize LGBT persons;**

(c) **Ensure safe and legal routes to seek asylum;**

(d) **Provide accountability mechanisms to address cases in which authorities exploit forcibly displaced LGBT persons.**

89. **With regard to shelter, accommodation and detention facilities for LGBT persons, States should:**

(a) **Develop and maintain more inclusive strategies to ensure safe housing;**

(b) **Ensure safe, gender-appropriate accommodation for transgender and gender-diverse persons;**

(c) **Strengthen oversight and management mechanisms of accommodations, shelters and detention facilities run by third parties;**

(d) **Adopt alternatives to detention facilities;**

(e) **Avoid encampment policies that deny freedom of movement;**

(f) **Create safe spaces and protection mechanisms for LGBT persons within refugee camps.**

90. **With regard to improved access to asylum and refugee status determinations for LGBT persons, States should:**

(a) **Accord refugee protection to LGBT persons facing a well-founded fear of persecution based on sexual orientation or gender identity;**

(b) **Ensure that status determination and registration processes are gender-responsive and sensitive to needs specifically related to sexual orientation and gender identity;**

(c) **Adopt a "reasonable degree of likelihood" standard of proof for asylum claims by LGBT persons;**

(d) **Adopt the use of gender identity and preferred names as identifiers rather than only sex and name at birth;**

(e) **Ensure access to accurate documentation for refugee and asylum-seeking transgender persons;**

(f) **Ensure that credibility assessments recognize the diverse ways in which LGBT persons claiming refugee and/or asylum articulate their experiences;**

[180] Submissions by Conflict Kitchen and Queer without Border, Eirene Chen and EQUAL PostOst.

(g) **Improve the abilities and competencies of personnel who encounter forcibly displaced LGBT persons through professional orientation and continuous training to mitigate stigma and discrimination.**

91. **With regard to improving the livelihoods and ensuring the inclusion of forcibly displaced LGBT persons in host countries, States should:**

(a) **Complement existing integration programmes with individual support to mitigate protection risks that may undermine economic activities;**

(b) **Ensure the right to work for LGBT persons seeking asylum from the start of the asylum process;**

(c) **Ensure that LGBT persons seeking asylum can exercise their rights, including to health, education and housing;**

(d) **Ensure that LGBT persons are housed in areas where they can build community and access essential services;**

(e) **Ensure that national policies and legal systems guarantee non-discrimination on all grounds, including sexual orientation and gender identity.**

92. **With regard to the protection of forcibly displaced LGBT persons during and after resettlement processes, States should:**

(a) **Provide early access to comprehensive legal, health and psychological services;**

(b) **Ensure the continuity, accessibility and quality of healthcare services for LGBT persons seeking asylum;**

(c) **Establish programmes to help LGBT refugees integrate into society.**

93. **With regard to improving capacity to attend to the needs of forcibly displaced LGBT persons, States should:**

(a) **Involve refugee LGBT persons in all levels of decision-making processes directly affecting them;**

(b) **Develop data collection systems that capture experiences of displacement, including data disaggregated by sexual orientation and gender identity, nationality and other markers;**

(c) **Keep in mind the need for care for the safety of individuals and the security of their personal information;**

(d) **Include CSOs working with LGBT persons in international coordination mechanisms to improve understanding and ensure that the needs of displaced LGBT persons are adequately considered in humanitarian responses;**

(e) **Continue to support humanitarian programmes, including those that provide specialized support to CSOs working with LGBT persons, and other initiatives that build the capacity of national asylum institutions.**