



PROTECTING PERSONS WITH DIVERSE SEXUAL ORIENTATIONS AND GENDER IDENTITIES

A Global Report on UNHCR's Efforts to Protect
Lesbian, Gay, Bisexual, Transgender, and Intersex
Asylum-Seekers and Refugees





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Asylum-Seekers and Refugees

Division of International Protection
December 2015

Cover Photo: ©UNHCR/Bradley Secker
F., from a country in the MENA region, sought asylum
in a country in the Europe region after persecution
due to his sexual orientation.

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Photos (left and below): UNHCR celebration of the 2014 International Day against Homophobia, Transphobia, and Biphobia (IDAHOT) in a country in the Americas region

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ACRONYMS

AGD: Age, Gender, and Diversity

CJEU: Court of Justice of the European Union

COI: Country of Origin Information

DIP: Division of International Protection

GIP9: UNHCR's Guidelines for International Protection No. 9

IDP: Internally Displaced Person

IOM: International Organisation for Migration

LGBTI: Lesbian, Gay, Bisexual, Transgender, and Intersex

MENA: Middle East and North Africa

NGO: Non-governmental Organisation

NHRI: National Human Rights Institutions

OHCHR: Office of the United Nations High Commissioner for Human Rights

RSD: Refugee Status Determination

SGBV: Sexual and Gender-based Violence

SOGI: Sexual Orientation and Gender Identity

SOP: Standard Operating Procedure

UN: United Nations

UNHCR: United Nations High Commissioner for Refugees

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UNHCR wishes to express its gratitude to the lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons of concern around the world whose courage and resilience have inspired us to critically examine UNHCR's work to protect and assist them. Some of these remarkable people are featured in this report, including in the pictures generously donated by photographer Matthew Sherwood. His pictures give this report a human face, reminding us that beyond the statistics and the key findings, this report is about real individuals who continue to face persecution for the expression of their fundamental human rights.

UNHCR also extends its gratitude to Nishin Nathwani for his commitment to designing the global assessment, assisting with its implementation, analysing the data, and authoring this report, as well as to Lea Piccot for assisting with the data analysis and the design of this report.

This report was made possible by UNHCR staff in the field who, in many cases, spent days collecting data, completing the assessment, and providing extensive narrative information about the situation in their countries and regions of operation.

NOTE ON TERMINOLOGY

A wide variety of terms are currently in use to refer to the populations studied in this report.¹ While acknowledging that the use of terminology is evolving, for the sake of internal consistency, this report adopts several key terms to represent the issue and populations it discusses.

Following UNHCR's *Guidelines on International Protection No. 9*, this report defines sexual orientation as "each person's capacity for emotional, affective and sexual attraction to, and intimate relations with, individuals of the same gender or more than one gender."² Gender identity, on the other hand, refers to "each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth."³ The acronym *sexual orientation and gender identity* (SOGI) represents these two identity axes when discussed together as a single topic. The collective term *individuals with a diverse sexual orientation or gender identity* (diverse SOGI) refers to the broad groups of individuals discussed under the topic of SOGI.

The collective term *lesbian, gay, bisexual, transgender, and intersex* (LGBTI) refers to the specific sub-groups of individuals with a diverse SOGI discussed in the report. Following the *Yogyakarta Principles*⁴ and UNHCR's *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*,⁵ the report uses the acronym LGBTI to describe diverse groups of people who do not conform to conventional or traditional notions of male and female gender roles.⁶ More specifically, the report adopts the following definitions:

- A *lesbian* is a woman whose enduring physical, romantic, and/or emotional attraction is to other women.
- *Gay* is often used to describe a man whose enduring physical, romantic, and/or emotional attraction is to other men, although the term can be used to describe both gay men and lesbians.
- *Bisexual* describes an individual who is physically, romantically, and/or emotionally attracted to both men and women.
- *Transgender* describes people whose gender identity and/or gender expression differs from the sex they were assigned at birth.
- The term *intersex* covers bodily variations with regard to culturally established standards of maleness and femaleness, including variations at the level of chromosomes, gonads, and genitals.

While recognising that the term *intersex* pertains to biological sex, rather than to sexual orientation and/or gender identity, the report follows convention in including intersex persons under the terms *individuals with a diverse SOGI* and *LGBTI persons*.

In using the above terminology, the report takes no position on which acronyms, terms, and definitions most fairly and accurately represent the populations discussed.

¹ Commonly used terms include, but are not limited to, the following: lesbian, gay, bisexual, transgender, and intersex persons (LGBTI); individuals with a diverse sexual orientation and/or gender identity (diverse SOGI); individuals with a minority sexual orientation and/or gender identity (minority SOGI); sexual and gender minorities; and, sexual and/or gender non-conforming individuals (SGN).

² UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 2012.

³ *Ibid.*

⁴ Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, 2007.

⁵ UNHCR, *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*, 2011.

⁶ *Ibid.*



EXECUTIVE SUMMARY

The document at hand presents key findings from a project undertaken globally between July 2014 and May 2015 to assess progress made by UNHCR country and regional operations to effectively protect lesbian, gay, bisexual, and transgender, and intersex (LGBTI) asylum-seekers and refugees. Globally, 106 offices, or roughly 90% of eligible country and regional operations, participated in the assessment. The key findings are presented along the following axes: legal, cultural and social context; outreach activities; displacement conditions; asylum and durable solutions; training on issues related to sexual orientation and gender identity (SOGI); operational guidelines and advocacy efforts.

Offices reported that legislative, social, and cultural discrimination against LGBTI persons is pervasive globally, and that such discrimination significantly impedes UNHCR's LGBTI-focused protection efforts. While laws criminalising LGBTI identity, expression, and association were most frequently noted in Africa, Asia-Pacific, and the Middle East and North Africa (MENA), social exclusion and other forms of violence were reported by offices in all five regions. In countries where discriminatory laws exist but are not enforced, offices discussed instances where such laws nonetheless offer social sanction for harassment and violence against LGBTI persons, including blackmail, extortion, and intimidation by authorities. Offices also reported that laws of general application, including laws pertaining to public decency, marriage, and sex work, may be disproportionately applied to target LGBTI persons. Even where legal protections exist for LGBTI persons, some offices noted these protections may not be guaranteed in practice.

Almost two thirds of participating offices indicated having implemented reception or registration measures specifically targeting LGBTI persons of concern to UNHCR. Among these offices, the most common measures in place include (a) ensuring that registration forms are gender neutral and do not assume a particular sexual orientation and (b) creating 'safe spaces,' such as secure waiting areas and special times for LGBTI persons to register. Although only one third of participating offices reported formal partnerships to assist with outreach to LGBTI persons of concern, two thirds indicated having established referral pathways to and from external organisations for SOGI-related issues. In countries with widespread hostility toward LGBTI persons, offices called for further support in developing culturally sensitive training materials and standard outreach materials that take into account challenging operational contexts.

Offices expressed that LGBTI asylum-seekers and refugees are subject to severe social exclusion and violence in countries of asylum by both the host community and the broader asylum-seeker and refugee community. While the degree of acceptance of LGBTI persons was reported as very low in all accommodation settings, the lowest degrees of acceptance, across all respondents, were noted in camp settings. Similarly, of the 39 offices that indicated efforts to specifically track the situation of LGBTI persons of concern in immigration detention facilities, most indicated that LGBTI persons are frequently subject to abuse and/or exploitation by both detention authorities and other inmates. Almost one third of participating offices indicated having supported LGBTI persons to access justice mechanisms in countries of asylum. Many offices, however, noted the limitations of providing such assistance due to widespread prejudice among law enforcement and judicial bodies against LGBTI persons.

Over 60% of participating offices involved in healthcare arrangements for persons of concern reported having assisted LGBTI persons of concern to access health services. In addition, of the offices that reported having conducted participatory assessments or focus groups with persons of concern, 60% indicated that they have included LGBTI persons. Over half of these offices further noted that they have directly engaged SOGI issues in participatory assessments. Three offices also reported having undertaken protection activities developed specifically for LGBTI youth in forced displacement.

Roughly 60% of participating offices reported having either a formal or an informal focal point to provide support for the determination of asylum claims related to SOGI. Offices often reported difficulties in tracking SOGI-based asylum claims, partly due to limitations in the current

version of UNHCR's electronic registration system, *proGres*. Similarly, many offices in countries where the national government exclusively administers RSD procedures reported challenges in accessing data on asylum claims related to SOGI.

On the other hand, over 70% of participating offices involved in the identification or facilitation of durable solutions for refugees reported having worked with LGBTI refugees. While a few of these offices indicated having successfully facilitated local integration for LGBTI refugees, no office reported having facilitated voluntary repatriation due to the continued risk of persecution in countries of origin. Almost 80% of participating offices indicated that they prioritise LGBTI refugees for resettlement. Of these offices, roughly 70% reported having actually facilitated resettlement for LGBTI refugees. The limited number of resettlement countries viable for LGBTI refugees was frequently cited as a significant impediment to facilitating resettlement for LGBTI refugees.

While many primary respondents indicated that some refugee status determination (RSD) and durable solutions staff in their respective offices have received training on SOGI-related issues, less than one fifth of respondents indicated that *most* or *all* of such staff have been adequately trained to handle SOGI-related cases. Still, primary respondents perceived UNHCR's government partners as having had the least training on SOGI-related issues when compared to UNHCR staff, operational partners, and implementing partners. Offices in which primary respondents indicated that RSD and durable staff are highly familiar with UNHCR's key SOGI-related documents were generally found to have implemented a greater number of concrete, LGBTI-focused protection measures.

Over one fifth of participating offices indicated having either formal or informal operational guidelines in place pertaining to SOGI issues or to LGBTI persons of concern.

Over one third of participating offices indicated having reported the general human rights situation of LGBTI persons in the country of operation to national, regional, or international human rights monitoring mechanisms. Among these offices, the most common reporting channels mentioned include: the Universal Periodic Review, the Committee on the Elimination of Discrimination against Women, and national human rights institutions (NHRIs). Some offices similarly indicated having provided human rights information to human rights monitoring bodies through UNHCR headquarters and the United Nations Resident Coordinator. Several offices requested sample standard operating procedures (SOPs) and sample submissions to human rights monitoring bodies on SOGI-related issues to strengthen their operational guidelines and advocacy efforts.

Almost all participating offices repeatedly called for more extensive training led by UNHCR on SOGI issues. Many emphasised that such trainings should explicitly take into account the difficult cultural, religious, and legal contexts in which the offices operate. Some offices called for a 'training of trainers' model to allow SOGI-related information to be more widely disseminated among offices, with others calling for the creation of a platform for offices working in similar cultural and legal contexts to share best practices on SOGI-related issues.

The report concludes, *inter alia*, that a large majority of the challenges surrounding protection work focused on LGBTI persons of concern stem from the criminalisation of LGBTI identity, expression, and association in many countries of operation. It also notes that although UNHCR has published several policy, procedural, and operational guidelines relating to LGBTI persons of concern and asylum claims related to SOGI, offices need to be better supported and trained to translate these macro-level guidelines into concrete, implementable protection measures. The report further calls for an expansion of participatory engagement with LGBTI persons of concern to more fully map protection challenges, as well as targeted trainings addressing reception and registration staff. It also calls for stronger technical support to assist offices with the development of partnerships, referral pathways, and SOPs for LGBTI persons of concern at all stages of the process, as well as training on confidential advocacy through human rights bodies. The report offers a series of concrete suggestions for a way forward, including training recommendations, to strengthen UNHCR's efforts to protect LGBTI asylum-seekers and refugees.

UNHCR celebration of the 2014 International Day against Homophobia, Transphobia, and Biphobia (IDAHOT) in a country in the Americas region



1 | INTRODUCTION



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B., an actor and photographer from a country in the MENA region, spent seven years in two different countries of asylum due to persecution based on his sexual orientation. He was ultimately resettled. In describing the status quo in his country of origin for LGBTI people, B. explained, "Both the old and new governments killed our great thinkers, writers, poets, and artists." B., however, remains optimistic about his future. "I am trying to enjoy things. I don't know what will happen," he explained, "but I don't think it will be like it was in [the first country of transit] where I was jumping from the pan to the fire."

1.1 TOPIC BACKGROUND

Asylum-seekers and refugees with a diverse sexual orientation or gender identity (SOGI), such as lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals, face distinct vulnerabilities.⁷ In addition to severe discrimination and violence in their countries of origin – including sexual abuse, lack of police protection, exclusion from access to basic services, arbitrary detention and social and familial ostracism and exclusion – LGBTI asylum-seekers and refugees are frequently subject to continued harm while in forced displacement.⁸ In the country of asylum, these harms may include the following:

- violence and harassment by members of the asylum-seeker and refugee community, including by family members who may also be in forced displacement;⁹
- insensitive and inappropriate questioning at various stages of the refugee status determination (RSD) procedure;¹⁰
- intolerance, harassment, and violence by State and non-State agents in countries of first asylum, undermining the possibility of local integration as a durable solution;¹¹
- discrimination and safety threats in accommodation, healthcare, and employment by State and non-State agents;¹² and,
- subjection to sexual and gender-based violence (SGBV)¹³ or survival sex in forced displacement.¹⁴

In addition, a lack of SOGI-specific country of origin information (COI), as well as inadequate understandings of diverse SOGI experiences in different cultural contexts, may seriously affect the assessment of the protection needs of LGBTI persons of concern, including by negatively impacting the examination and assessment of the credibility of individual asylum claims.¹⁵ These risks are often exacerbated by the difficulty claimants may face in discussing their SOGI experiences, especially if they have been subjected to SGBV.¹⁶

Although these obstacles pose significant challenges to risk assessment, UNHCR's guidance note on the subject clearly affirms that it is "important for UNHCR to ensure that the rights of LGBTI persons of concern to the Office are met without discrimination. This places an onus on offices to develop a thorough understanding of the circumstances of LGBTI persons under their care."¹⁷

The Office's responsibility toward LGBTI persons of concern is further substantiated in UNHCR's *Age, Gender and Diversity (AGD)*

Policy, which highlights the importance of targeted actions and mainstreaming of issues pertinent to several populations under the protection of UNHCR, including LGBTI persons of concern.¹⁸ It is also in line with several regional and international resolutions, including the following:

- the United Nations Human Rights Council's July 2011 Resolution 17/19 which expresses "grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity;"
- Resolution 275 adopted by the African Commission on Human and Peoples' Rights in May 2014 which condemns violence by State and non-State actors on the basis of SOGI and calls for stronger protection of persons targeted on the basis of SOGI in the Africa region;²⁰
- the 2010 Reference by the Advisory Council of Jurists to the Asia Pacific Forum which recommends that national human rights institutions "promote the consideration of human rights issues in relation to sexual orientation or gender identity at the international level, including through inclusion of these issues where relevant in reports;"²¹
- Resolution 2721 adopted by the General Assembly of the Organisation of American States in June 2012 which resolves to condemn discrimination against persons by reason of their sexual orientation and gender identity;²²
- Resolution 1728 adopted by the Parliamentary Assembly of the Council of Europe in April 2010 which calls on Member States to "recognise persecution of LGBT persons as a ground for granting asylum;"²³ and,
- the September 2011 and February 2014 resolutions by the European Parliament which recall, respectively, the "obligation to protect or grant asylum to third country nationals escaping or risking persecution in their country of origin on the basis of their sexual orientation"²⁴ and the need to "include specific issues linked to sexual orientation and gender identity in the implementation and monitoring of asylum legislation."²⁵

⁷ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 2012.

⁸ UNHCR, *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*, 2011.

⁹ Ibid.

¹⁰ UNHCR, *Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity*, 2010.

¹¹ Ibid.

¹² Ibid.

¹³ The acronym SGBV refers to sexual and gender-based violence. Following UNHCR's *Action against Sexual and Gender-Based Violence: An Updated Strategy*, 2011, the term is defined as "any harmful act that is perpetrated against one person's will and that is based on socially ascribed (gender) differences between males and females."

¹⁴ UNHCR, *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*, 2011.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ UNHCR, *Age, Gender and Diversity Policy: Working with People and Communities for Equality and Protection*, 2011.

¹⁹ United Nations Human Rights Council, *Resolution 17/19: Human Rights, Sexual Orientation and Gender Identity*, 2011.

²⁰ African Commission on Human and Peoples' Rights, *Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*, 2014.

²¹ Asia Pacific Forum, *Advisory Council of Jurists Report: Human Rights, Sexual Orientation and Gender Identity*, 2010.

²² General Assembly of the Organisation of American States, *Resolution 2721: Human Rights, Sexual Orientation and Gender Identity*, 2012.

²³ Council of Europe, *Discrimination on the Basis of Sexual Orientation and Gender Identity*, 2010.

²⁴ European Parliament, *Sexual Orientation and Gender Identity at the UN Human Rights Council*, 2011.

²⁵ European Parliament, *European Union Roadmap against Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity*, 2014.

1.2 OBJECTIVE

With a view to ensuring that the rights of LGBTI persons of concern to UNHCR are met without discrimination, the Division of International Protection (DIP) presents this report to fill the information gap about the situation of LGBTI persons of concern globally, and to contribute to the policy and resource development of UNHCR, other United Nations (UN) agencies, States, and partners in civil society.

This report serves as the culmination of a global assessment undertaken between July 2014 and May 2015 by DIP in collaboration with each of UNHCR's five regional bureaux. The exercise was designed to assess progress made by UNHCR operations to effectively and appropriately:

- a. identify LGBTI persons of concern;
- b. conduct refugee status determination (RSD) and assess durable solutions for LGBTI asylum-seekers;
- c. address unique protection challenges confronting LGBTI persons of concern;
- d. identify and implement appropriate durable solutions for LGBTI refugees; and,
- e. advocate for a favourable protection environment for LGBTI persons of concern.

The goal of the assessment, and ultimately of this report, is to assist UNHCR to identify strengths and gaps and to develop relevant training, toolkits, and other resources to support operations in protecting LGBTI persons of concern.



UNHCR celebration of the 2014 International Day against Homophobia, Transphobia, and Biphobia (IDAHOT) in a country in the Americas region

²⁶ To encourage respondents to report candidly and openly, participating offices and staff were guaranteed confidentiality. The report therefore does not refer to any specific individuals or countries at any point in its discussion, but instead provides a broad, global overview with cross-regional discussion where relevant.

²⁷ UNHCR's regional bureaux cover the five global regions recognised by UNHCR: the Africa, Americas, Asia-Pacific, Europe, and the Middle East and North Africa.

²⁸ 106 offices globally, or 89% of expected offices, participated in the assessment by submitting the completed baseline questionnaire.

1.3 METHODOLOGICAL NOTE

The findings presented in this report are derived from an analysis of the results of a broad questionnaire administered to country and regional operations globally.²⁶ The questionnaire's primary aim was to capture specific information about protection issues pertaining to LGBTI persons of concern, with an emphasis on the following topics: legal, social, and cultural context, outreach activities, displacement conditions, and durable solutions. The questions in these sections requested specific qualitative and quantitative data, while also calling for broader narrative reporting. In addition, the questionnaire requested information pertaining to standard operating procedures (SOPs) and human rights monitoring mechanisms as they relate to LGBTI persons of concern.

The mandatory exercise was administered by DIP and the respective directors of each of UNHCR's regional bureaux²⁷ to country and regional operations globally, with a requirement that a senior protection officer in each operation be tasked with completing and submitting the questionnaire. 106 UNHCR operations participated in the project globally. The information that they provided for the global exercise serves as the basis for this report.

It should be noted that the report has some limitations. First, not all offices participated.²⁸ The key findings, therefore, although significant and indicative, should not be read as conclusive. Second, while the author attempted to present a balanced analysis of qualitative, open-text responses, the perspective of each office for every question could not be conveyed in a report aimed at providing a broad, cross-regional overview. Third, while primary respondents were generally senior UNHCR staff with extensive knowledge about the protection issues covered in the questionnaire, their perspectives may not necessarily represent those of other staff members or the official positions of their respective offices.

Notably, although the assessment covered a wide spectrum of protection activities, not all participating offices are involved in each activity assessed. To account for the various types of participating offices in the findings, the baseline number of offices assessed under a particular LGBTI-related topic reflects *only* those offices that indicated some involvement in that broader aspect of protection. For example, in discussing healthcare, the proportion of offices involved in arranging LGBTI-sensitive healthcare services is considered in relation to the number of offices that reported *any* involvement in healthcare, rather than in relation to the total number of participating offices.

Furthermore, although bisexual, transgender, and intersex persons are included in the umbrella acronym LGBTI, the findings of this report may not adequately represent their plight. Over 60% of participating offices noted that bisexual and transgender persons are not represented in the data that they reported, while almost 70%

of offices indicated the same about intersex persons. While lesbian women were slightly more represented, roughly half of participating offices nonetheless noted that they were not represented at all in the reported data. The findings presented in the report should be interpreted accordingly. It is clear that there is a need for further targeted research on underrepresented populations of persons of concern with a diverse SOGI.

Similarly, although the global assessment underlying this report sought information on LGBTI *persons of concern*²⁹ to UNHCR, the questions were written primarily to capture information related specifically to the protection of asylum-seekers and refugees. Therefore, while the information provided by UNHCR offices may in some instances be based on experiences working with internally displaced persons (IDPs) and returnees, the report and its findings should be read as pertaining primarily to LGBTI asylum-seekers and refugees.

Finally, the contents of this report do not represent UNHCR's official position on issues pertaining to the protection of LGBTI asylum-seekers and refugees. Rather, the report serves as an overview and an analysis of the perspectives of respondents in participating UNHCR operations globally. Moreover, this report takes no position on which LGBTI-specific protection measures are appropriate in particular circumstances, but rather aims to survey a wide variety of LGBTI-specific and LGBTI-inclusive protection mechanisms in use by UNHCR operations.

Even with these qualifications, the significance of the findings should not be understated. This report provides the first global overview of concrete measures taken by UNHCR at the operational level to protect LGBTI asylum-seekers and refugees, and reveals significant opportunities to strengthen training, protection programming, monitoring, and reporting efforts undertaken by operations. The conclusions drawn in this report are formulated directly from the experiences of UNHCR operations as conveyed through their responses to the questionnaire. These conclusions should be read broadly, as general guidance for policy and resource development, rather than as prescriptive blanket solutions for every protection challenge.

²⁹ Following UNHCR's Statistical Online Population Database, 2013, the population of concern to UNHCR is "composed of various groups of people including refugees, asylum-seekers, internally displaced persons (IDPs) protected/assisted by UNHCR, stateless persons and returnees (returned refugees and IDPs)."



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A., from a country in the Asia-Pacific region, left his homeland where he had been imprisoned due to his activism for LGBTI rights. He sought asylum in a country in the Europe region and has since been resettled to a third country. "Nobody sponsors me financially to help with my LGBT activism," A. explained while in transit. "In [the country of origin] I was worried each time I was leaving the house because of my appearance."

2 | GENERAL SITUATION OF LGBTI PERSONS

M., from a country in the MENA region, stands on the roof of his home in the country of asylum in the same region. A high-ranking police officer in his country of origin, M. fled as he felt targeted by violent extremists after he freed several LGBTI men criminalised for same-sex sexual activity. He spent three years in the country of asylum awaiting resettlement in a third country. He spent three years in the country of asylum waiting for resettlement in a third country.

GENERAL SITUATION OF LGBTI PERSONS

KEY FINDINGS

- While legislative hostility toward LGBTI persons is most concentrated in Africa, MENA, and Asia-Pacific, social exclusion and other forms of violence are pervasive globally.
- Laws of general application, including laws pertaining to public decency, marriage, and sex work, may be disproportionately applied to target LGBTI persons.
- The criminalisation of same-sex sexual activity does not necessarily entail the criminalisation of transgender identity and expression in some contexts.
- In some countries, the criminalisation of LGBTI behaviour extends beyond same-sex sexual activity to the broader identities of persons with a diverse SOGI and forms of LGBTI association.
- Significant protection concerns may exist even where laws criminalising LGBTI activity and expression are non-existent or not enforced.

Hostility, violence, and discrimination directed toward LGBTI persons in countries of operation significantly affect UNHCR's ability to carry out its protection mandate. It is therefore important to broadly understand the global legislative, social, and cultural contexts in which LGBTI persons live to better frame the challenges and successes of UNHCR operations in carrying out LGBTI-focused protection work.

2.1 LEGAL SITUATION

The majority of laws criminalising same-sex sexual activity were noted by respondents in countries in Africa, Asia-Pacific, and MENA, with a few offices also highlighting similar laws targeting transgender identity. While many respondents in the Americas and Europe reported significant progress to ensure adequate legal protection of the human rights of LGBTI persons, there nonetheless remain some countries in these regions with laws that criminalise core aspects of LGBTI expression.

Some respondents reported the existence of laws that *directly* criminalise same-sex sexual activity. An office in Asia-Pacific, for example, noted that “homosexual acts can be punished by whipping, imprisonment, or the death penalty,” while another respondent in Africa cited legislation that “criminalises every Muslim [man] who commits sodomy [with an individual of the same-sex] by death (stoning).” Although the severity of punishments and enforcement levels vary drastically between countries and regions, same-sex sexual activity is illegal in 75 countries globally as of May 2015.³⁰

While laws targeting LGBTI persons may be written to criminalise specific sexual acts rather than the broader identities of persons with a diverse SOGI, some offices noted that such laws may nonetheless be used to prosecute individuals who identify as LGBTI. A respondent in a country in MENA reported, for instance, that “some LGBTI people have been convicted by the [...] authorities solely for their presumed sexual orientation” despite the fact that only same-sex sexual activity, rather than LGBTI identity, is criminalised in the country of operation. Another office in the same region elaborated on this claim by providing two accounts of the identity-based application of laws criminalising same-sex sexual activity: a mass arrest of individuals in a movie theatre known to cater to gay men and a mass arrest of

individuals at a gay nightclub. A similar case of a mass arrest at a gay nightclub was noted by an office in Europe.

Laws criminalising same-sex sexual activity are also frequently gendered, with men often more explicitly targeted or more harshly penalised in many countries. One respondent cited laws in several countries in the Americas that explicitly criminalise “indecent practices between males, whether in public or private” but do not criminalise same-sex relations between women. Another office in Asia-Pacific discussed a law that criminalises “carnal intercourse against the order of nature” which is used to target same-sex sexual activity specifically between men. In countries where both female and male same-sex sexual activity is illegal, there is often a disparity in the severity of punishment applied to males and females. In one African country, for example, a respondent noted that the death penalty is prescribed for “sodomy,” interpreted as male same-sex sexual activity, whereas “the penalty for [female same-sex sexual activity] is imprisonment for three months to two years, including paying a fine.”

Other respondents discussed laws that are used *indirectly* to target LGBTI persons. In some cases, as one office in MENA highlighted, even where “there are no legislative provisions that criminalise same-sex relations, [...] the protection of public morals and public order, which can be elastic concepts, are used as reasons to limit the rights of LGBTI persons.” A participant from a country in Africa illustrated this type of persecution by discussing the use of indecent exposure laws in the country of operation to criminalise behaviour “against the order of nature,” including public expressions of same-sex affection. Another office similarly reported that “LGBTI individuals are subject to arrest by the security forces [...] on the charges of violating public morality.”

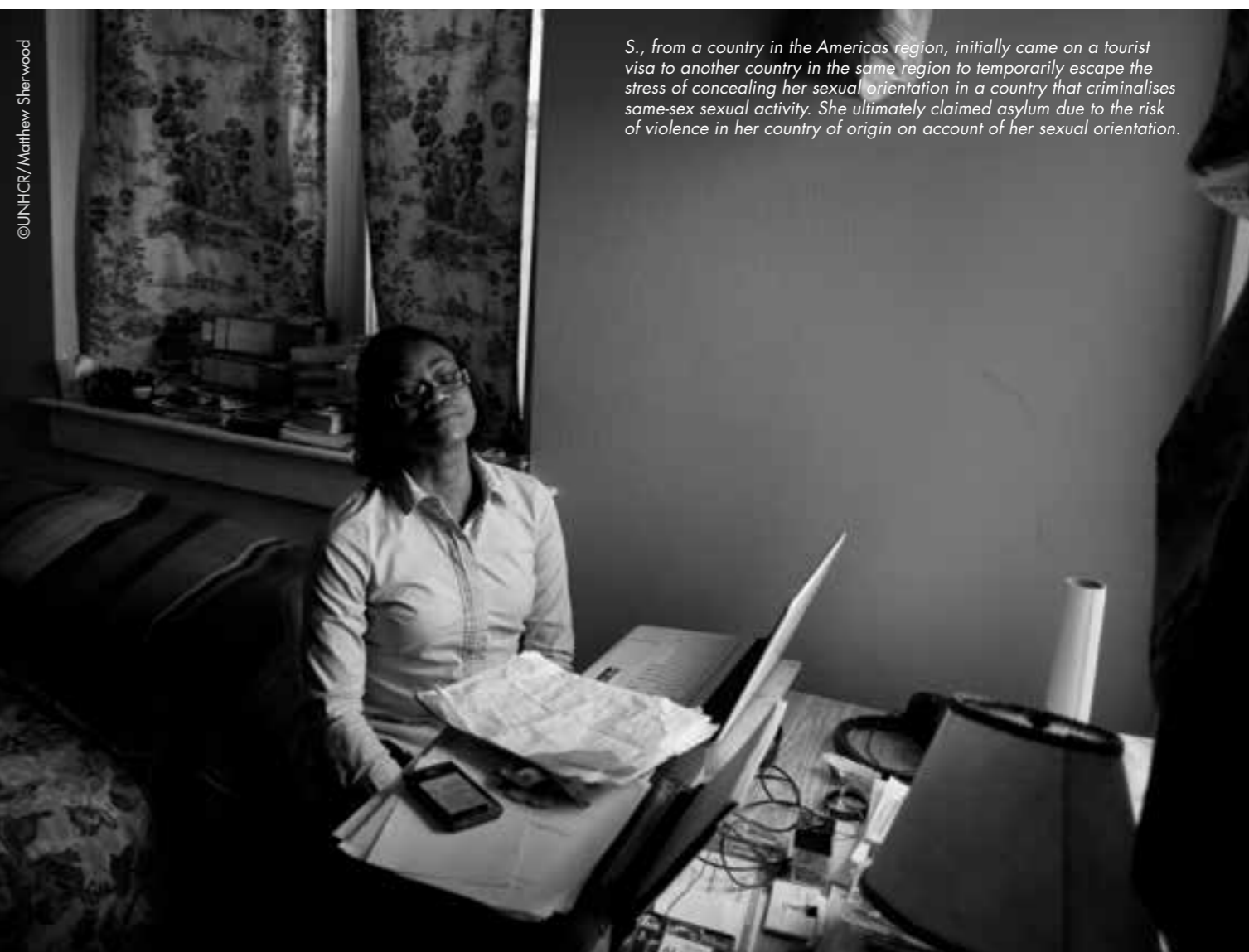
Similar laws that criminalise but do not necessarily define “unnatural sexual acts” or “acts against the order of nature” are often applied to LGBTI persons. A staff member in Asia-Pacific, for example, pointed to a law criminalising bestiality that may also criminalise same-sex sexual activity because its parameters extend to “unnatural sexual activities.” Similar laws were noted by several respondents in each of the five regions covered by the assessment.

Even more indirectly, laws of general application may be disproportionately applied to target LGBTI persons. Laws criminalising sex work, for example, may be applied more severely to LGBTI sex workers or applied in conjunction with other legislation focused on “unnatural sex acts.” An office in Africa discussed the case of a male sex worker who was convicted and sentenced to a three year prison sentence without parole after having been sexually assaulted by a male client. Similar cases were noted by other offices in Africa. Two offices also discussed examples of child molestation and rape laws that are more severely applied when the perpetrator and the victim are of the same sex.

Legislation may also be deployed to limit the freedom of movement or association of LGBTI persons or of groups addressing LGBTI-

related issues. Respondents in four of the five regions, for example, mentioned the existence of laws that prohibit LGBTI persons from entering the country; however, most indicated that, to the best of their knowledge, such laws are rarely, if ever, enforced. Some offices also indicated that marriage-focused legislation is sometimes deployed to limit types of LGBTI association. A respondent in a country in Africa reported a case in which two individuals were convicted of “committing acts of gross indecency and initially sentenced to 14 years of hard labour” after they “affirmed their relationship in a traditional engagement ceremony.”

Finally, it is important to note that even where some legal protections exist for LGBTI identity, expression, and association, these protections may not necessarily be accessible. An office in a country in Europe noted, for example, that although “there is a general anti-discrimination law” that was amended to “theoretically facilitate the possibility of overcoming unequal treatment towards LGBT [persons]” the amendment has “led to no significant changes in the law’s practical application” in protecting LGBTI persons. The existence of legislative protections, while indicative, should therefore not be automatically understood as a proxy for the absence of legal discrimination.



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S., from a country in the Americas region, initially came on a tourist visa to another country in the same region to temporarily escape the stress of concealing her sexual orientation in a country that criminalises same-sex sexual activity. She ultimately claimed asylum due to the risk of violence in her country of origin on account of her sexual orientation.

³⁰ International Lesbian, Gay, Bisexual, Trans, and Intersex Association, *State-sponsored Homophobia: A World Survey of Laws: Criminalisation, Protection and Recognition of Same-Sex Love*, 2015.

2.2 SOCIAL AND CULTURAL SITUATION

Even where legislation criminalising or limiting core aspects of LGBTI expression is non-existent or not enforced, LGBTI persons frequently face a high degree of social exclusion and violence globally.

As one office in the Americas discussed, although prosecutions under LGBTI criminalisation laws may be rarely pursued, the laws may nonetheless “offer social sanction to discrimination against sexual and gender minorities [...] and help to create a context in which hostility and violence is directed against LGBT people.” An office in MENA, in a similar vein, wrote that many LGBTI victims of sexual and gender-based violence (SGBV) in the country “decline to report cases of homophobic abuse and rape for fear of reprisal by authorities.” Another office in the same region likewise noted reported that a law criminalising sexual intercourse “contrary to the order of nature” is widely used to “blackmail and intimidate LGBTI individuals.” This claim was reiterated by another respondent in Asia-Pacific, who explained that although “the authorities rarely prosecute cases [for ‘sodomy’ and extra-marital sexual activity], [...] police reportedly use the laws for harassment and extortion.”

In countries without discriminatory legislation targeting LGBTI persons, the broader social and cultural climate can nonetheless be hostile. Offices across regions cited a number of forms of discrimination that disproportionately affect LGBTI persons, including but not limited to the following: discrimination in “access to work [and] housing;” “arbitrary detention;” “sexual violence by inmates” in detention; “denial of the right to assembly or expression;” discrimination in family life; and, “torture and inhuman and degrading treatment.” Almost all respondents that reported social hostility toward LGBTI persons in their countries of operation attributed such hostility to broader contextual factors, such as “patriarchy,” “conservatism,” “cultural taboos,” “religion,” and/or traditional practices. As one office in Asia-Pacific noted, “factors such as caste, class, and gender play a major role in shaping attitudes towards sexuality.”

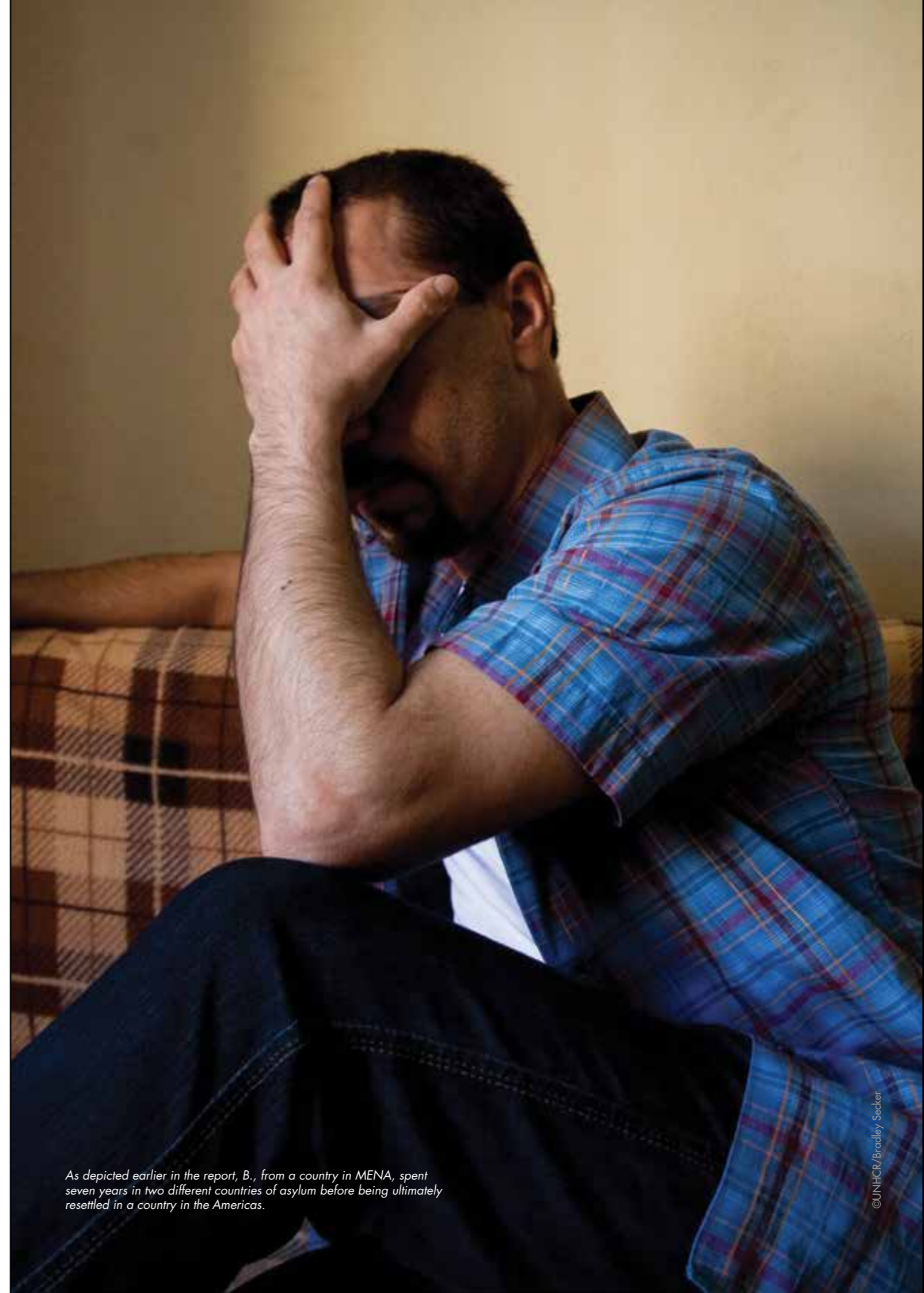
The situation for LGBTI persons may be significantly worsened in situations of armed conflict. As one respondent explained, “although there is no legal prohibition to specific identities, participation, access to services, and/or activities, including same-sex sexual [activity], the LGBTI community in the country does not equally enjoy legal advances.” The office elaborated that “parties to the armed conflict, former paramilitaries, and emerging armed structures disproportionately subject LGBTI persons to discrimination, homicide, torture, displacement, sexual violence, among other grave violations.” Such discrimination, the respondent indicated, includes “anti-gay pamphleteering; beating and murdering LGBTI protesters and their defenders; [...] the sexual exploitation of transgender individuals; and, police attacks.”

LGBTI youth may also be at heightened risk of discrimination and violence by family members, peers, and the broader community. One office in Europe discussed cases reported by a local NGO of LGBTI teenagers who had been “sexually abused by relatives, confined to their homes, banished from their homes, or referred to ‘sorcerers’ to help them ‘fix’ their sexual orientation or gender identity.” Another office in the same region described two cases in which, respectively, “seven young persons were assaulted [...] after attending an academic debate about the history of homosexuality” and “a group of young people were attacked in the subway [...] after the [LGBTI] pride parade.”

In some contexts, transgender and intersex individuals may also be subject to greater degrees of hostility than others of a diverse SOGI.

One office in the Americas discussed that although “homosexuality is tolerated, [...] discrimination against trans[gender] persons is more prevalent” and that local LGBTI organisations noted that SOGI-related hate crimes are frequently directed toward the transgender community. Another respondent in the same region noted that a disproportionately high number of murders of transgender persons around the world occur in the respondent’s country of operation. A third respondent in the Americas similarly wrote that transgender persons are particular targets for violence against LGBTI persons. While most respondents in the Americas noted significant recent improvements in the social climate for lesbian, gay, and bisexual persons, responses nonetheless revealed a gap in progress for transgender persons.

The insights of UNHCR staff globally reveal that no single mitigating factor, whether legal, social, or cultural, is fully indicative that LGBTI persons are free from persecution for the exercise of their fundamental human rights. Even in countries without any immediately apparent forms of legal discrimination, or where laws criminalising LGBTI identity and expression are not enforced, LGBTI persons may nonetheless be subject to hostility, violence, and discrimination.



As depicted earlier in the report, B., from a country in MENA, spent seven years in two different countries of asylum before being ultimately resettled in a country in the Americas.

3 IDENTIFICATION AND OUTREACH TO LGBTI PERSONS OF CONCERN



K., a transgender woman from a country in Asia-Pacific, sought asylum in a country in the Americas region after having been conscripted into the military because the state would not recognise her gender identity. She was forced to choose between getting a sex change, joining the military, or facing imprisonment.

IDENTIFICATION AND OUTREACH TO LGBTI PERSONS OF CONCERN

KEY FINDINGS

- Almost two thirds of participating offices indicated having LGBTI-specific reception or registration measures in place.
- Although one third of offices reported formal partnerships to assist with outreach to LGBTI persons of concern, two thirds indicated having established referral pathways to or from external organisations for SOGI-related issues.
- The most common LGBTI-specific reception and registration measures taken by offices are (a) to ensure that registration forms are gender neutral and do not assume a particular sexual orientation, and (b) to create 'safe spaces,' such as secure waiting areas and special times for LGBTI persons to register.
- Offices called for the development of culturally sensitive training materials and standard outreach materials that take into account challenging operational contexts.

LGBTI persons in forced displacement are at a high risk of remaining invisible in countries of asylum due to the fear of further persecution by State and non-State agents. For some LGBTI persons of concern, a lack of awareness about the availability of protection services and the difficulty of expressing SOGI experiences in commonly recognisable terminology may exacerbate their invisibility. Targeted identification and outreach measures by UNHCR are therefore important to ensure that LGBTI persons in forced displacement are afforded fair access to protection and assistance programmes in the country of asylum.

Following UNHCR's definitions, identification³¹ of persons of concern primarily includes the following activities:

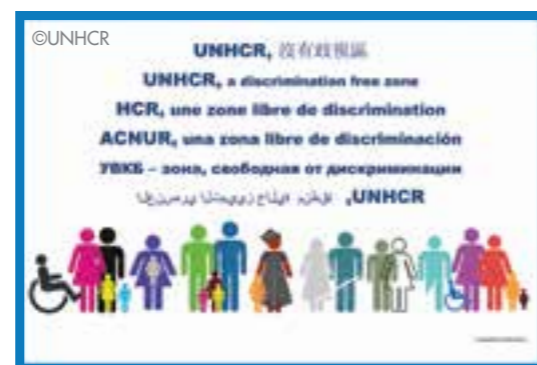
- *Reception* refers to the processes that "enable new arrivals [of persons of concern to UNHCR] to be registered and provided with temporary documentation."³² It includes "measures related to the treatment of asylum-seekers from the time they make their claims [...] until either a transfer is affected to the State deemed to be responsible for the examination of their claims or a final decision is taken as regards the substance of the claims."³³
- *Registration* refers to the process of "recording, verifying, and updating information on persons of concern to UNHCR with the aim of protecting and documenting them and of implementing durable solutions."³⁴ UNHCR's position is that access to registration is a right to all persons who may be of concern the Office,³⁵ including LGBTI asylum-seekers.

This section discusses trends among UNHCR operations to establish: (a) registration and reception measures to convey that persecution and fear of persecution because of SOGI are legitimate grounds for asylum claims and to ensure safe environments for potential LGBTI asylum-seekers; (b) partnerships to assist with outreach to potential LGBTI asylum-seekers, and (c) referral pathways to assist asylum-seekers with SOGI-specific concerns.

3.1 RECEPTION AND REGISTRATION

Globally, 64% of participating offices indicated having at least one LGBTI-specific reception or registration measure in place, including the following:

- Ensuring that registration forms and other relevant means of collecting biodata have gender neutral options and do not assume a particular sexual orientation (25%);
- Creating 'safe spaces' for LGBTI persons of concern, such as secure waiting areas, special days or times for LGBTI asylum-seekers to register, or an asylum call-in support line with SOGI-trained operators (14%);



Discrimination free zone poster

³¹ In this context, identification refers to measures to detect the presence of persons of concern to UNHCR. Persons of concern may be identified in UNHCR's reception areas, through outreach in areas where persons of concern reside and work, or through referrals from partners, individuals, or other authorities.

³² UNHCR, Refugee Protection and Mixed Migration: The 10-Point Plan in Action, 2010.

³³ UNHCR, Reception Standards for Asylum-Seekers in the European Union, 2000.

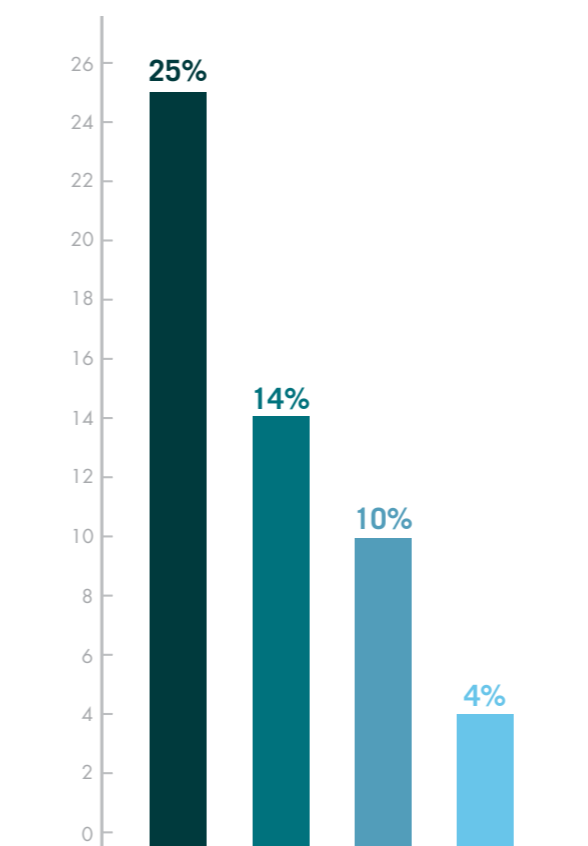
³⁴ UNHCR, Handbook for Registration, 2003.

³⁵ Ibid.

- Displaying printed pictorial or written information in relevant languages, including posters, pamphlets, murals or other visual materials on SOGI issues in waiting or registration areas (10%);
- Conducting mobile registration in areas where LGBTI persons of concern live and work (4%).

LGBTI-specific reception and registration measures in place by offices are depicted in Figure 3.1.

Figure 3.1: LGBTI-specific reception and registration measures in place by participating offices



- Registration forms with gender neutral options that do not assume a particular sexual orientation
- Safe spaces for LGBTI persons of concern
- Pictorial or written information on SOGI
- Mobile registration in areas where LGBTI persons live and work

Anecdotally, offices also discussed other reception and registration measures in place, including (a) displaying the rainbow flag in counselling and interview rooms, (b) including anonymous comment and complaint boxes in refugee camps, and (c) arranging visits by community services staff to areas assumed to have denser LGBTI populations.



Rainbow lapel pins³⁶

Best practice

A UNHCR office in MENA reported having "developed an in-house network of LGBTI-sensitised staff members in all field offices" who are "identifiable by LGBTI persons of concern through a specific and discrete rainbow pin attached to the UNHCR ID badge."



Safe space poster in Arabic displayed in the reception area of a MENA office Translation: "You are safe here. This place welcomes and respects all people, regardless of their race, religion, sexual orientation, or gender identity."

Best practice

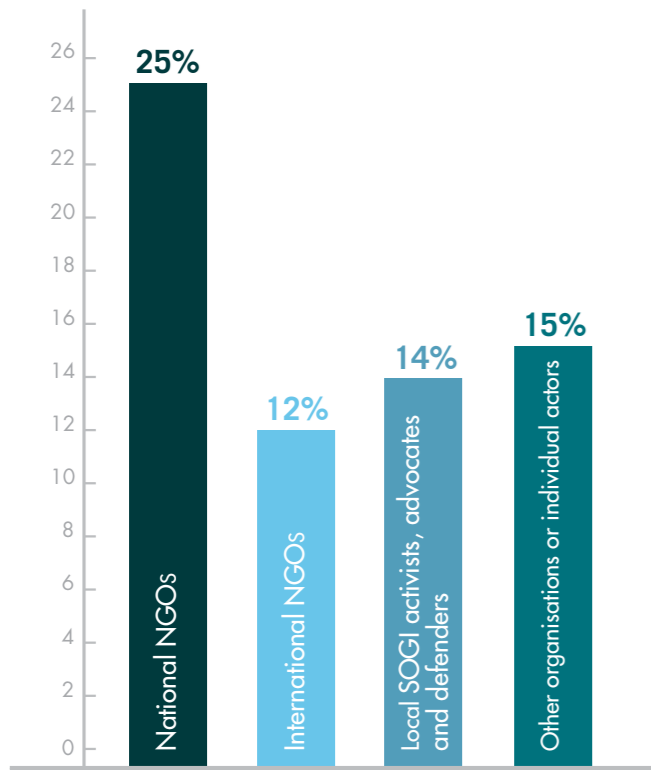
In MENA, an office reported having trained LGBTI volunteers under its broader refugee volunteer outreach programme. After training partner organisations on LGBTI issues, the "LGBTI refugee outreach volunteer along with other volunteers conduct a [...] visit to the organisation to assess whether [it is] indeed LGBTI friendly. The organisation is then provided with a [safe space] sign." In elaborating, the office noted that the "training material does not simply include examples of safe space signs, but also recommendations on the process to adopt and use the sign."

³⁶ Note that the rainbow pins are inspired by an original design by the Organisation for Refuge, Asylum, and Migration (ORAM).

3.2 PARTNERSHIPS

Over one third of participating offices reported having ongoing collaborative arrangements with external organisations or actors conducting outreach to LGBTI persons of concern. The types of collaborative arrangements in place are depicted in Figure 3.2.

Figure 3.2: Collaborative measures in place by participating offices to conduct outreach to LGBTI persons of concern



Graphic in a UNHCR-produced magazine in the Americas region, "Protección y esperanza," explaining SOGI-based persecution

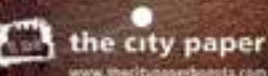
Offices that did not indicate any SOGI-specific outreach partnerships frequently cited "competing priorities," a high turnover of UNHCR staff, the criminalisation of LGBTI identity, expression, or association, cultural or religious barriers, the lack of an LGBTI caseload, and the lack of SOGI-trained external actors in the country of operation as explanations for the absence of partnerships. One office in Africa in a country that criminalises same-sex sexual activity expressed that it could be "detrimental to the plight of refugees generally in the country if UNHCR were to take a lead role in advocating the rights of LGBTIs." Another office in the same region noted that because of the barriers facing SOGI-focused NGOs in registering with the government, "it is difficult to anticipate how a collaboration would be possible." Analogous concerns were raised by several offices in MENA, with one respondent expressing that there may be a risk in formally establishing LGBTI-specific outreach partnerships because "laws on decency may be used to punish individuals associated with LGBTI associations with imprisonment and there are no associations known to the office."

Best practice

In an effort to strengthen outreach efforts, a UNHCR office in the Americas region launched a public campaign in 2013 "to highlight the plight of LGBTI persons" in forced displacement and sought "direct involvement of the LGBTI community in the campaign." In collaboration with several UN and non-governmental partners, the campaign materials were presented through a wide variety of audio-visual platforms, including television advertisements, radio messages, posters, and social media posts.

LA IGUALDAD ES UN DERECHO LA ACEPTACIÓN UNA DECISIÓN

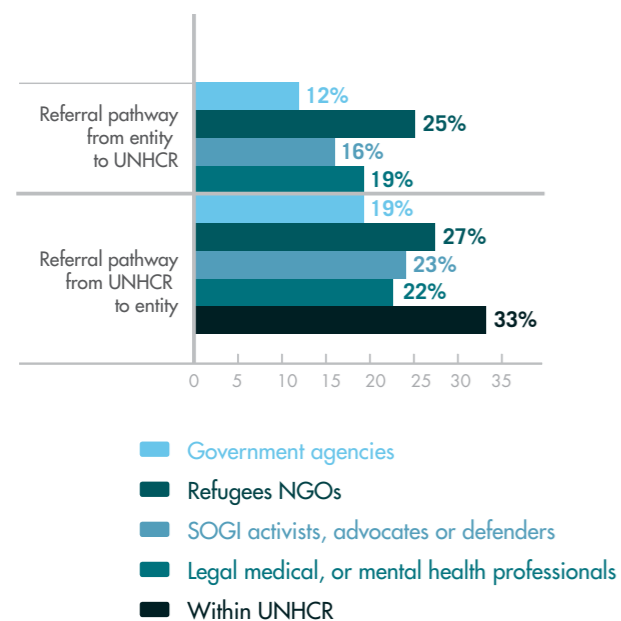
2013 UNHCR campaign to raise awareness about discrimination on the basis of SOGI and to promote the protection of the rights of LGBTI persons who are victims of violence and persecution



3.3 REFERRAL PATHWAYS

Although relatively few offices reported formal, LGBTI-specific outreach partnerships, 65% of participating offices indicated having established at least one referral pathway to or from UNHCR for SOGI-related concerns. SOGI-related referral pathways in place by offices are depicted in Figure 3.3.

Figure 3.3: Referral pathways to and from UNHCR in place by participating offices for SOGI-related issues



Some offices noted that the lack of SOGI-specific referral pathways does not necessarily indicate a lack of preparedness to address SOGI concerns. One office in Africa wrote that “UNHCR would use the same referral system that is in place for refugees and other persons of concern if confronted with such an issue [SOGI-related issue] – i.e. in the area of RSD [refugee status determination], health counselling, education.” Another office similarly highlighted that “assistance channels already in place could benefit LGBTI individuals should such a case be encountered by the operation.” A respondent in the Americas concurred, noting that although the referral pathways for LGBTI persons of concern are “the same as those [...] that exist for all asylum-seekers,” the office nonetheless works “with local partners to provide assistance to asylum-seekers and refugees as needed [...] where specific needs are identified.”

Best practice

An office in MENA explained that it “works with a network of LGBTI-sensitised staff members who are referring cases to specific focal points” for specialised “mental health and psychosocial support via one of UNHCR’s partners.” The office also highlighted their emphasis on ensuring confidentiality during such referrals to avoid jeopardising the safety of LGBTI persons in a difficult operational context.

3.4 CHALLENGES AND CALLS FOR SUPPORT

The global assessment underlying the findings of this report provided the opportunity for respondents to highlight, in narrative form, challenges and calls for support in each thematic area. Possible responses to these are elaborated in the Conclusion and Way Forward (Sections 8.1 and 8.2) at the end of this report.

Five key challenges were commonly mentioned by respondents in the area of LGBTI-specific identification measures:

- Respondents frequently indicated that **laws criminalising LGBTI identity, expression, and association** pose a significant challenge to establishing partnerships and referral pathways with NGOs and other actors to assist with LGBTI-specific outreach.
- Other offices cited the **low levels of awareness** among UNHCR staff and partners regarding the particular challenges of identifying, receiving, and registering LGBTI persons of concern and pointed to the need for targeted outreach.
- Given that LGBTI persons of concern are frequently in urban centres, some offices noted the general challenge of **outreach in urban contexts** to persons who may not independently disclose their SOGI.
- **Traditional cultural conception of gender and sexuality** were occasionally cited as an impediment to discussing SOGI issues openly with persons of concern, staff, and partners.
- A few offices also expressed concern that LGBTI-specific outreach efforts may pose a **risk to UNHCR staff and partners** in contexts where such activities may be perceived as promoting illegal activity.

Offices called for further support in the following areas:

- Several offices suggested creating a **regional forum to share best practices** between offices on SOGI reception and registration. Respondents noted the importance of sharing practices between offices working in similar political and cultural contexts that take into account difficult operational environments.
- Many offices requested the development of **standard materials**, such as posters, case studies, and sample standard operating procedures (SOPs) to bolster their efforts for SOGI-specific outreach initiatives.
- Almost all respondents emphasised the needs for nuanced and **culturally sensitive trainings** to assist offices to sensitively engage reception, registration, and outreach staff on SOGI issues given the particular operational context.



As depicted earlier in the report, B., from a country in MENA, spent seven years in two different countries of asylum before he was resettled in a country in the Americas.

4

DISPLACEMENT CONDITIONS OF LGBTI PERSONS OF CONCERN

E., fled from a country in the Americas region to escape sexual and physical abuse from a former male partner after years of harassment from her community due to her sexual orientation. In the country of asylum, after having been assaulted by a man who had agreed to help her with a visa extension, she found shelter in a safe house provided by an NGO. While there, she learned about the possibility of filing an application for refugee status on the basis of persecution due to sexual orientation. Her claim was recognised in 2014.

DISPLACEMENT CONDITIONS OF LGBTI PERSONS OF CONCERN

KEY FINDINGS

- LGBTI persons of concern are subject to severe social exclusion and violence in various accommodation settings in countries of asylum by both the host community and the broader community of asylum-seekers and refugees. While the degree of acceptance of was reported as very low in all accommodation settings, the lowest degrees of acceptance were noted in camp settings.
- Over half of participating offices that monitor immigration detention facilities specifically track the situation of LGBTI persons of concern in such facilities. Responses reveal that LGBTI persons of concern are frequently subject to abuse and exploitation by both detention authorities and other inmates.
- Almost one third of participating offices indicated having supported LGBTI persons to access justice mechanisms in countries of asylum. Many offices noted the limitations of providing such assistance due to widespread prejudice among law enforcement and judicial bodies against LGBTI persons.
- Over 60% of offices involved in healthcare arrangements for persons of concern reported having assisted LGBTI persons of concern to access health services.
- Over 60% of offices that reported on their participatory assessments or focus groups with persons of concern reported having included LGBTI persons. Of these offices, over half have directly engaged SOGI issues in these contexts.
- Three offices indicated having undertaken protection activities developed specifically for LGBTI youth in forced displacement.

LGBTI persons of concern face a wide variety of protection risks in countries of asylum, including further persecution by authorities, host communities, family members, and other asylum-seekers and refugees.

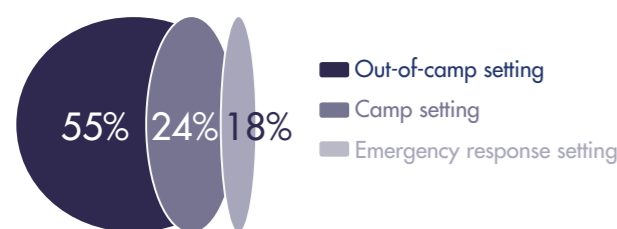
These threats extend to areas where LGBTI persons live, work, and convene, and implicate various aspects of their lives, including their rights to fairly avail of local law enforcement and judicial services, arrange appropriate living arrangements, access health services, and remain free from subjection to violence on account of their SOGI.

This section discusses efforts by UNHCR to ensure safe and appropriate conditions for LGBTI persons of concern in countries of asylum. The findings are presented along six axes, covering key protection-related themes: accommodation, detention, access to justice, health and sexual and gender-based violence (SGBV), participatory engagement, and youth programmes.

4.1 ACCOMMODATION

Of the 38 participating offices that reported direct or indirect involvement in arranging or maintaining accommodation for persons of concern, 66% (25 offices) indicated having worked with at-risk³⁷ LGBTI persons of concern. The accommodation settings in which these 25 offices operate are depicted in Figure 4.1.

Figure 4.1: Accommodation settings of participating offices involved in arranging and/or maintaining accommodation for at-risk LGBTI persons of concern³⁸



Offices involved in arranging accommodation for LGBTI persons of concern reported several types of arrangements, including private accommodation rented on an individual basis and, when financial constraints are an impediment, temporary LGBTI-specific accommodation in transit centres. One office in Africa noted that it seeks accommodation for LGBTI persons of concern in urban settings with “[t]he most adequate neighbourhoods in terms of acceptance and anonymity.” Although only one office reported working with LGBTI support organisations to accommodate at-risk persons in LGBTI-specific safe houses,³⁹ three other offices globally indicated having arranged accommodation in non-LGBTI-specific safe houses along with other persons at heightened risk.

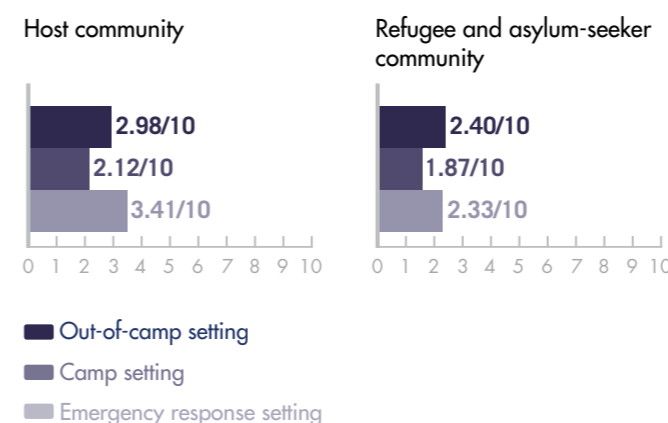
³⁷ As per UNHCR’s Heightened Risk Identification Tool: User Guide, individuals at heightened risk are “people in the community who have experienced violence, lack of protection and trauma [and] may require close monitoring and direct intervention. While many persons in a displaced community may find themselves at risk, the challenge is to identify those individuals who are at ‘heightened risk’ requiring early intervention.”

³⁸ Note that offices that operate in multiple accommodation settings may be represented more than once in Figure 4.1. Throughout the report, where data is depicted in graphic form, offices may similarly be represented more than once under the various categories included in a given graph.

4.2 DETENTION

Offices also commented on the degree of acceptance by the host community and the larger asylum-seeker and refugee community toward LGBTI persons of concern in each accommodation setting. As depicted in Figure 4.2, the lowest levels of acceptance were noted by the larger asylum-seeker and refugee community in camp settings.

Figure 4.2: Degree of acceptance of LGBTI persons in various accommodation settings by:



In elaborating on the generally low degree of acceptance by both the host and refugee communities, offices pointed to a variety of factors. One office in Africa explained that “the degree of acceptance depends on whether the LGBTI person shows [or] hide[s] her/his sexual orientation. External signs attributed to LGBTI persons lead to social exclusion and could be prosecuted under [criminal law].” Others in the same region noted a more ambiguous situation, with one office explaining that the “degree of social exclusion that LGBTI [persons] face within the host community, just as the legal environment suggests, is neither explicitly discriminatory [nor] accepting.” Another office expressed a similar sentiment, noting that the degree of acceptance is “likely to reflect the prevailing national attitudes towards LGBTI persons in the country.”

Some offices, however, observed a more severe degree of social exclusion, with one office in Africa revealing that there have been “a few cases of physical abuse reported at our office.” This same office noted that “most members of the LGBTI group who were placed in the transit centre were reported to the authorities by their [...] neighbours who saw most of them arrested and relocated to the camps.” An office in Europe similarly explained that LGBTI persons have been “threatened with violence [by] compatriots, therefore residence in reception centres could be dangerous for them.” Anecdotal reports from one refugee, according to a primary respondent in Africa, suggested that “he has been severely mocked and ostracised by the refugee community in particular the refugee youth in the camp who are aware of his sexual orientation.” Similarly, an office in MENA in a country that criminalises same-sex sexual activity noted that LGBTI persons of concern are subject to “verbal and physical violence, harassment, stigmatisation and exclusion,” and may, in some instances, resort to “survival sex [as] a coping mechanism” because of discrimination in employment and accommodation.

³⁹ UNHCR’s Manual on Security of Persons of Concern defines safe houses as “facilities to which a person of concern is internally relocated (sometimes within the same refugee camp or settlement), where he or she can be physically protected for a limited period of time.”

Seventy-six participating offices, or 72%, reported some degree of involvement in monitoring immigration detention facilities in their countries of operation, either directly or through implementing partners and other bodies, such as international committees, regional human rights commissions, and national human rights commissions. The channels through which immigration detention facilities are monitored are depicted Figure 4.3.

Figure 4.3: Channels through which immigration detention facilities are monitored



Just over half of offices (51%) involved in detention monitoring activities reported efforts to monitor whether any LGBTI persons of concern are in detention. These activities include monitoring the following conditions:

- **Safety and security**, including (a) solitary confinement or administrative segregation of LGBTI persons, (b) transgender placements based on preferred gender, (c) conditions of release, or (d) instances of physical or psychological violence or abuse (78%);
- **Medical care and counselling**, including HIV/AIDS information and medication (63%).

Responses revealed that LGBTI individuals are frequently at risk while held in immigration detention facilities. The general situation was summarised by a respondent in MENA who expressed that “LGBTI persons of concern in detention face abuse and exploitation by other inmates, especially those who have obvious physical attributes.” Exemplifying this claim, one office in the Americas discussed the case of an LGBTI asylum-seeker who “expressed concerns about possible SGBV attacks against him if his SOGI were to be discovered or confirmed [...] by other detainees and officials at the centre.” A second office in the same region similarly noted that in 2013, “UNHCR documented a case on sexual violence against a gay asylum-seeker who was sexually assaulted by a migrant also hosted in a migration detention centre.” In Europe, one respondent further elaborated that although there are “no particular concerns, [...] transgender placements based on preferred gender are not always granted upon arrival.”

Nevertheless, some progress on health-related issues was reported by some respondents, with two offices in Africa noting, respectively, that persons of concern in detention have access to “antiretroviral [medications for HIV] and hormone therapy” and that a person of concern “had an HIV/AIDS test performed while detained, funded by the government.”

4.3 ACCESS TO JUSTICE

Thirty-one participating offices, or 35%, indicated having supported an LGBTI person of concern to access national, provincial, or municipal justice mechanisms, including law enforcement and judiciary mechanisms, for SOGI-related grievances. This statistic, however, does not necessarily reflect a lack of programming in place for such assistance. Rather, as several offices noted, it may reflect a precautionary aversion to providing such support due to the unfavourable legal environments for LGBTI persons in many countries of operation. An office in Africa explained that “LGBTI refugees and asylum-seekers would be reluctant to seek access to justice systems for SOGI-related grievances, even with UNHCR support.” Several other respondents concurred, with an office in Asia-Pacific noting that while “in principle access to justice [for LGBTI persons] exists without discrimination,” there are nonetheless “serious doubts about the likelihood of a positive outcome owing to the conservative views of most of the judges.” A respondent in Europe further substantiated these perspectives, explaining that although “the office has received complaints by LGBTI applicants about rape or sexual assault incidents, most of the LGBTI survivors prefer not to raise the issue with the national judicial authorities.”

Of the offices that reported providing assistance to LGBTI persons to access justice mechanisms, most indicated that such support is provided in collaboration with implementing partners. For example, an office in Africa disclosed that it “has represented an LGBTI [person of concern] in court through [an international NGO and a local NGO], however the charges against the [individual] were not SOGI related.” Another office in the same region discussed that “UNHCR’s legal partners have provided support to LGBTI [persons of concern] to access their documentation.” Some offices indicated having focal points in external organisations to assist LGBTI persons to access justice mechanisms. An office in MENA, for example, reported that “LGBTI persons of concern are assisted by a lawyer (UNHCR partner) in lodging complaints, and [are] represented in courts.” Another respondent in MENA explained that the office collaborates with the government, noting that it has a “focal point within the Ministry of Interior to work on specific LGBTI cases.”

Non-judicial advocacy efforts on issues pertaining to LGBTI persons of concern were also noted by a few offices. A respondent in MENA, for instance, described efforts by the office to “liaise and advocate with authorities to ensure that safety mechanisms [are] put in place in relation to raids on gay friendly spaces, which refugees often frequent,” in addition to “other advocacy attempts to remove the law criminalising LGBTI [activities].”

Notably, UNHCR has also made significant, broader legal interventions on issues pertinent to LGBTI persons of concern. An office in Europe, for example, discussed an intervention by UNHCR in a Supreme Court case in which the Court ultimately ruled that LGBTI asylum-seekers facing persecution due to their SOGI could not be expected to conceal their sexual orientation in their countries of origin. The possibility of ‘discretion,’ the Court ruled, is, by itself, an illegitimate basis to deny SOGI-based asylum claims. The office noted that “the outcome [...] fundamentally changed asylum decision making for this [SOGI-related] caseload.” Similarly, another respondent in the same region cited a 2012 intervention by UNHCR in a case in the Court of Justice of the European Union (CJEU) “concerning the ‘membership of a particular social group’ [MPSG] ground [of the 1951 Convention Relating to the Status of Refugees] to a gay man.” The Court likewise ruled *inter alia* that the possibility of ‘discretion’ in the country of origin is not in itself sufficient as a basis to deny SOGI-based asylum claims.

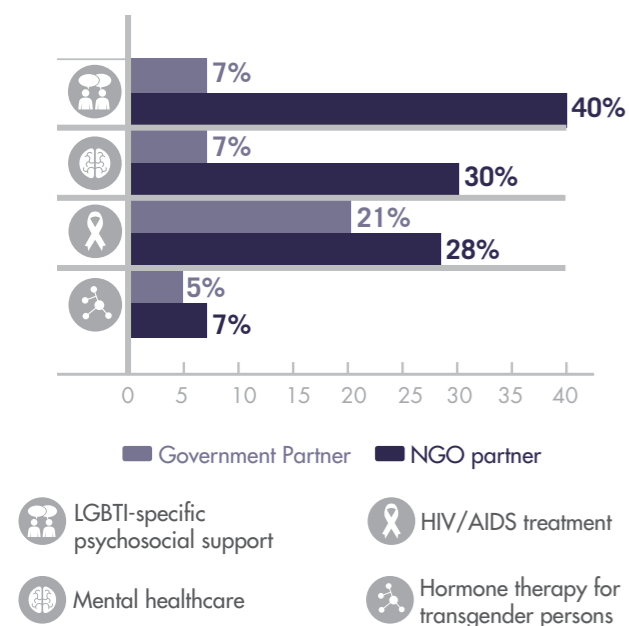
J., 19, was raised in a country in the Europe region and sought asylum in a country in the Americas region. He was bullied for years in school due to his sexual orientation and arrested by police for protesting laws criminalising LGBTI expression and association in his country of origin.



4.4 HEALTHCARE

Of the 43 participating offices that reported some involvement in arranging or subsidising healthcare for persons of concern, 27 offices, or 63%, reported having worked with LGBTI persons of concern. The types of LGBTI-specific and LGBTI-sensitive healthcare supported by UNHCR through NGO and governmental partners are depicted in Figure 4.4.

Figure 4.4: Provision of LGBTI-specific or LGBTI-sensitive healthcare by UNHCR's partners



Some respondents reporting from countries in which healthcare for persons of concern is provided through national healthcare systems indicated that LGBTI individuals may face difficulties in accessing care. One MENA office, for example, noted that "some LGBTI [persons of concern] of sub-Saharan origins reported being denied medical assistance at public hospitals due to their sexual orientation and sub-Saharan origins." Even where the risk of overt discrimination in accessing healthcare is lower, LGBTI persons of concern in need of care may remain unidentified. An office in the Americas explained that although "LGBTI-sensitive public treatments for HIV/AIDS are available as well as for SGBV related injuries, [...] accessibility for the [LGBTI] population could be limited due to weak identification mechanisms."

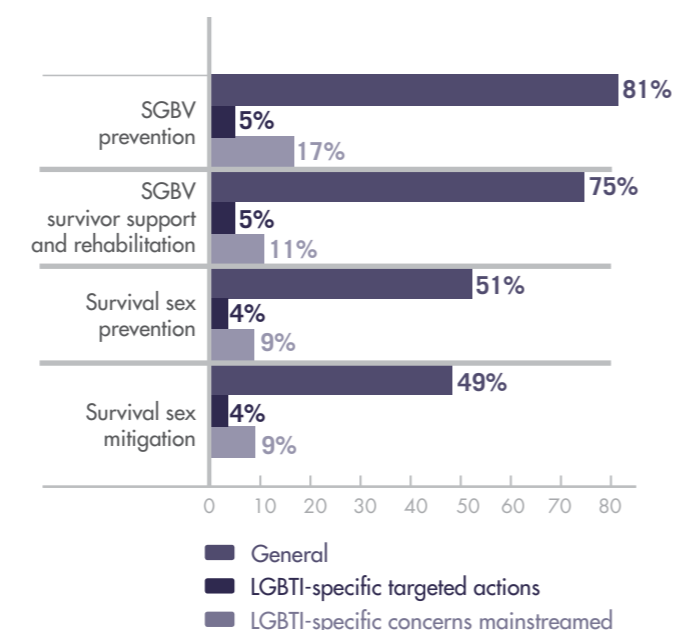
Best practice

Between 2013 and 2014, in collaboration with a national NGO partner, an office in the Americas carried out "trainings on HIV and other sexually transmitted infections, SGBV prevention, and survival sex prevention addressed to LGBTI migrants and people with potential need of international protection." The training programme is unique in that it focuses not only on those who have already resorted to survival sex, but also on strategies to prevent survival sex among at-risk LGBTI persons of concern.

4.5 SEXUAL AND GENDER BASED-VIOLENCE (SGBV)

Respondents were also queried on actions undertaken to prevent sexual and gender-based violence (SGBV) and to support survivors. Offices were also queried on efforts to prevent survival sex and to support those who have previously engaged in survival sex. The assessment requested information on both (a) SGBV-focused activities in which concerns specific to LGBTI persons of concern have been mainstreamed into general programming and (b) LGBTI-focused targeted actions related to SGBV. The forms of SGBV programming indicated by participating offices is depicted in Figure 4.5.

Figure 4.5: SGBV programming addressing issues specific to LGBTI persons of concern⁴⁰

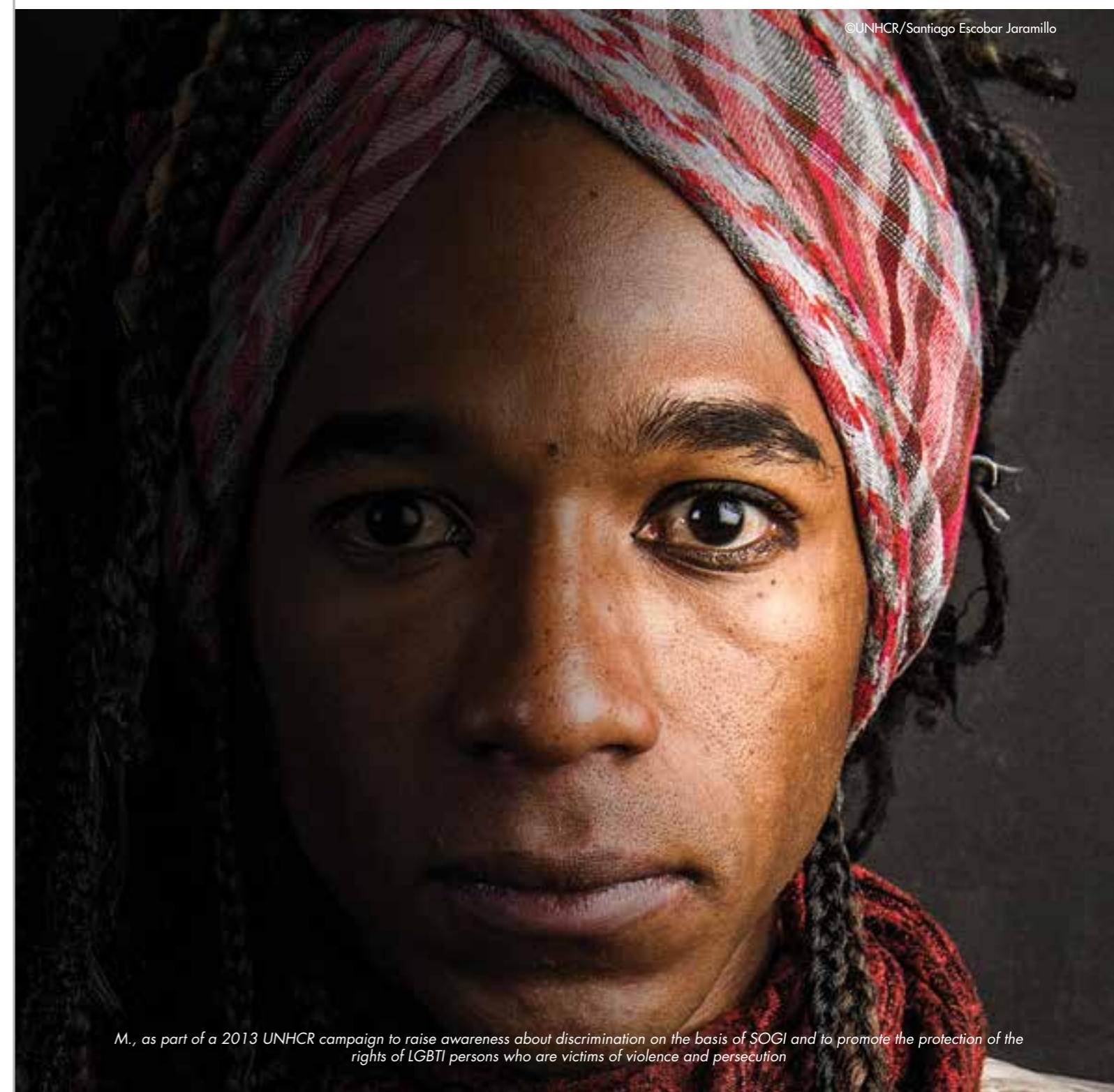


A few offices provided examples of LGBTI-specific SGBV programming. An office in Africa noted that a process is currently underway to revise SGBV standard operating procedures to take into account the specific protection needs of LGBTI persons of concern. Similarly, another office in the same region elaborated that it is developing a compilation of resources related to "SGBV that includes information for LGBTI persons of concern." An office in Asia-Pacific reported that the office provides "specific support for survivors of SGBV" where the victim and the perpetrator are of the same sex, including "medical and psychosocial support [with a] particular emphasis on minor male survivors." In Europe, one respondent noted that the office's five-year SGBV prevention and response strategy "includes LGBTI specific objectives and activities. UNHCR and a partner organisation successfully implement the strategy country-wide."

Other offices discussed examples in which SGBV issues related to LGBTI persons of concern are addressed concurrently with issues pertinent to all persons, regardless of SOGI. As one respondent in Africa noted, according to the Age, Gender, and Diversity (AGD) lens promoted by UNHCR, "all should be targeted irrespective of sexual orientation or gender identity. It is an all-inclusive outreach and support process." An office in the Americas, for example, discussed a "project [that] targets sex workers (men and women), providing specific health assistance (HIV/STI [sexually transmitted infection] prevention and testing), psychosocial [support], and vocational training."

Best practice

Recognising the difficulties that LGBTI persons may face in accessing government-administered healthcare services, an office in the Americas in a country where "[a]ll refugees are granted free healthcare" supplements such services for at-risk LGBTI persons of concern. The office reported that if "LGBTI persons of concern are determined to have heightened vulnerabilities, they receive psychosocial counselling from UNHCR's [NGO] partner." In doing so, the office directly links its heightened risk assessment mechanism with the provision of psychosocial support through partners to ensure that LGBTI persons of concern have access to appropriate care.



M., as part of a 2013 UNHCR campaign to raise awareness about discrimination on the basis of SOGI and to promote the protection of the rights of LGBTI persons who are victims of violence and persecution

⁴⁰ Note that in Figure 4.5, the label 'general' refers to SGBV-focused activities in which LGBTI-specific SGBV concerns have neither been mainstreamed into the general programming nor addressed through LGBTI-focused targeted actions.

4.6 PARTICIPATORY ENGAGEMENT

Of the 36 offices that reported on their participatory assessments⁴¹ or focus groups with persons of concern, 23 offices, or 64%, reported having included LGBTI persons of concern in such activities. Twelve out of those 23 offices, or 52%, further indicated that such assessments have addressed SOGI-specific protection concerns.

Several offices elaborated on the context and outcomes of such participatory assessments, with one in Africa indicating the existence of a refugee support group coordinated by a partner specifically for LGBTI persons of concern. According to the respondent, “UNHCR also has direct access to the group.” Another office in the same region drew a link between participatory assessments conducted with LGBTI persons of concern and the revision of protection programming. The office wrote that

“[f]ocus group discussions highlight[ed] the particular protection needs of the community and the limited access to livelihoods. The subsequent result of the assessment has been [the] creation of [a] peer support group, inclusive service provision including medical [and] legal [support], [...] as well as psychosocial support, referral and networking between agencies on LGBTI persons of concern, [and] mainstreaming of LGBTI into general service provision and sensitisation to mitigate negative perceptions, fear, addressing cultural/religious beliefs.”

A respondent in MENA similarly reported that the office conducts biannual focus group discussions with LGBTI persons of concern and organises regular meetings with LGBTI organisations. In Europe, one respondent noted that the “office has invited and involved local LGBTI NGOs and activists to participate in focus group meetings [with persons of concern].” The respondent elaborated that the involvement of these partners serves “as a first step for the further establishment of referral mechanisms for [...] LGBTI persons between UNHCR’s implementing partners and relevant LGBTI organisations.” An office in Asia-Pacific reported having conducted more informal consultations with LGBTI persons of concern, noting that although the office has only “worked with four cases of LGBTI affiliation,” it has “maintained direct contact with all of them.”

Best practice

An office in Europe, in collaboration with UNHCR’s Regional Bureau for Europe and local NGO partners, launched “an Age, Gender, and Diversity project to identify and analyse local existing gaps and capacities, with the aim to develop methodologies that can contribute towards improving the protection environment further for all persons of concern.” As a result of the assessment, which was implemented “through direct engagement with people of concern,” three target areas were identified, one of which focused specifically on “the provision of individual support to LGBTI persons of concern.” Based on the findings, “UNHCR and other partners agreed to initiate three small-scale pilot activities to respond to specific needs of persons of concern on the basis on an AGD sensitive approach.” The pilot activities are currently in development.

4.7 YOUTH

Three offices globally discussed protection activities specifically for LGBTI youth. In a country in the Americas, one office reported having “developed and carried out training and awareness raising sessions on SOGI-related issues for displaced girls, boys, and adolescents” in collaboration with a local NGO partner. Another office in the same region noted that the office has planned to “collect relevant information regarding reception, accommodation, medical, psychosocial, and education services provided to unaccompanied refugee adolescents hosted in the organisation.” The partner, as the office elaborated, “has lodged more than 70% of all LGBTI unaccompanied children granted refugee status in [the country] in the last five years.” In Europe, one office discussed having developed a “leaflet with info on [the] asylum procedure, where it is specified, in child-friendly language, that a person could be persecuted on the basis of SOGI.”

Best practice

In MENA, a UNHCR office designed a project targeting unemployed LGBTI youth between the ages of 15 and 25 to provide peer-to-peer support and to run capacity building trainings on SOGI-related topics for humanitarian workers. The office reported that it also scheduled “a handicraft and recycling course with a professional instructor and English courses” for the youth in the group.

4.8 CHALLENGES AND CALL FOR SUPPORT

The global assessment underlying the findings of this report provided the opportunity for respondents to highlight, in narrative form, challenges and calls for support in each thematic area. Possible responses to these are elaborated in the Conclusion and Way Forward (Sections 8.1 and 8.2) at the end of this report.

The challenges identified by offices in addressing protection concerns facing LGBTI persons of concern in displacement were generally convergent with challenges reported in other sections of the assessment. Frequently cited challenges include the following:

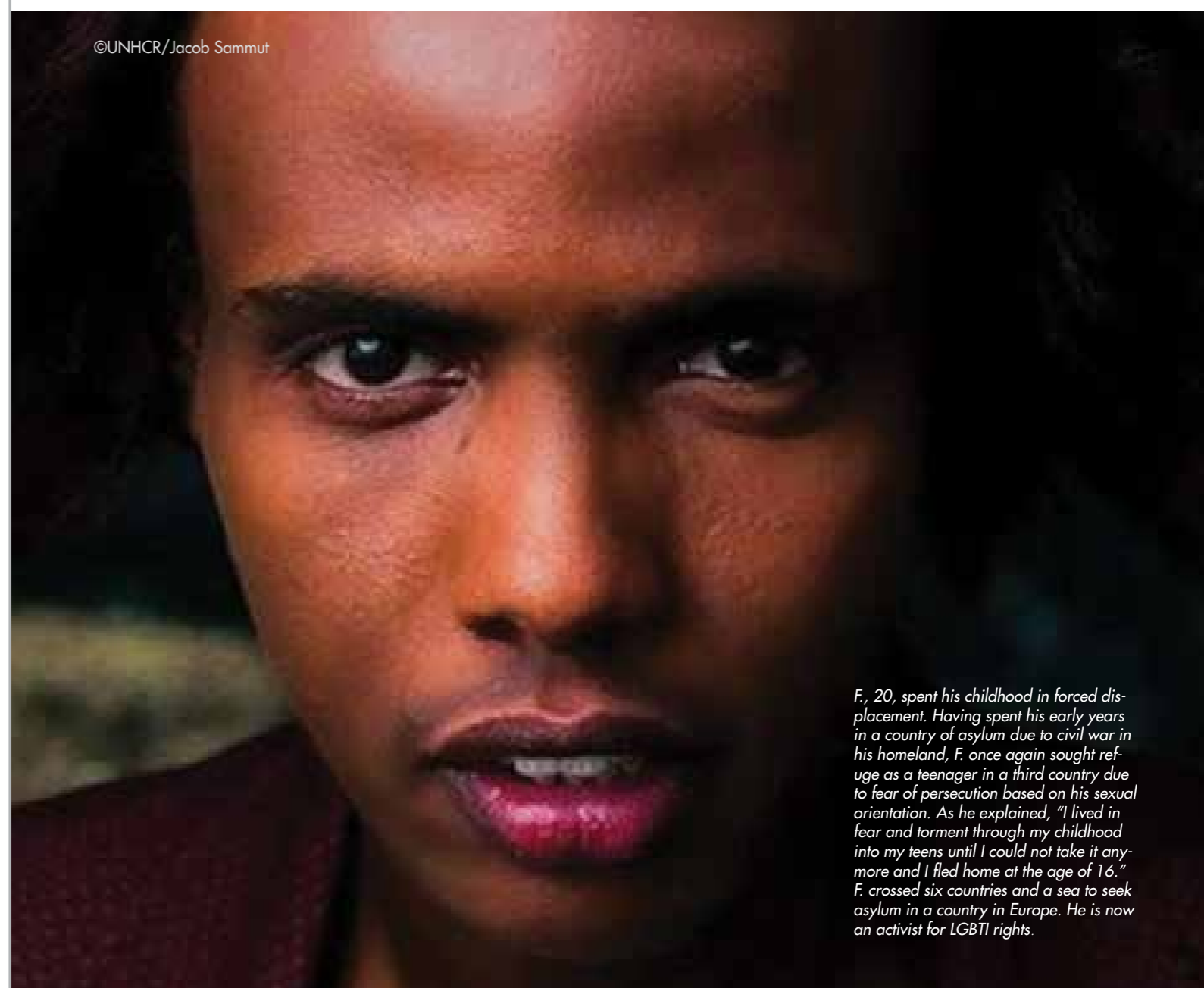
- **Criminalisation of LGBTI identity, expression, and association** were the most commonly cited impediments to effectively protecting LGBTI persons of concern
- The **lack of open disclosure of LGBTI persons of concern about their SOGI** due to safety concerns was also cited as a factor in contributing to difficult asylum conditions.

- **Indifference or hostility by the broader population of persons of concern** toward LGBTI persons was also mentioned as a key challenge.

Calls for support by offices to bolster their protection efforts for LGBTI persons of concern include the following:

- Offices reiterated their call for **more extensive SOGI-focused training for UNHCR staff, NGO partners, and government partners**. A few offices elaborated that best practices from other offices should be included in trainings.
- **Support to report the broader situation of LGBTI persons** to appropriate advocacy bodies was also discussed, with one office highlighting the effectiveness of submitting confidential reports to human rights monitoring mechanisms to “discourage authorities from taking abusive measures against LGBTI persons.”

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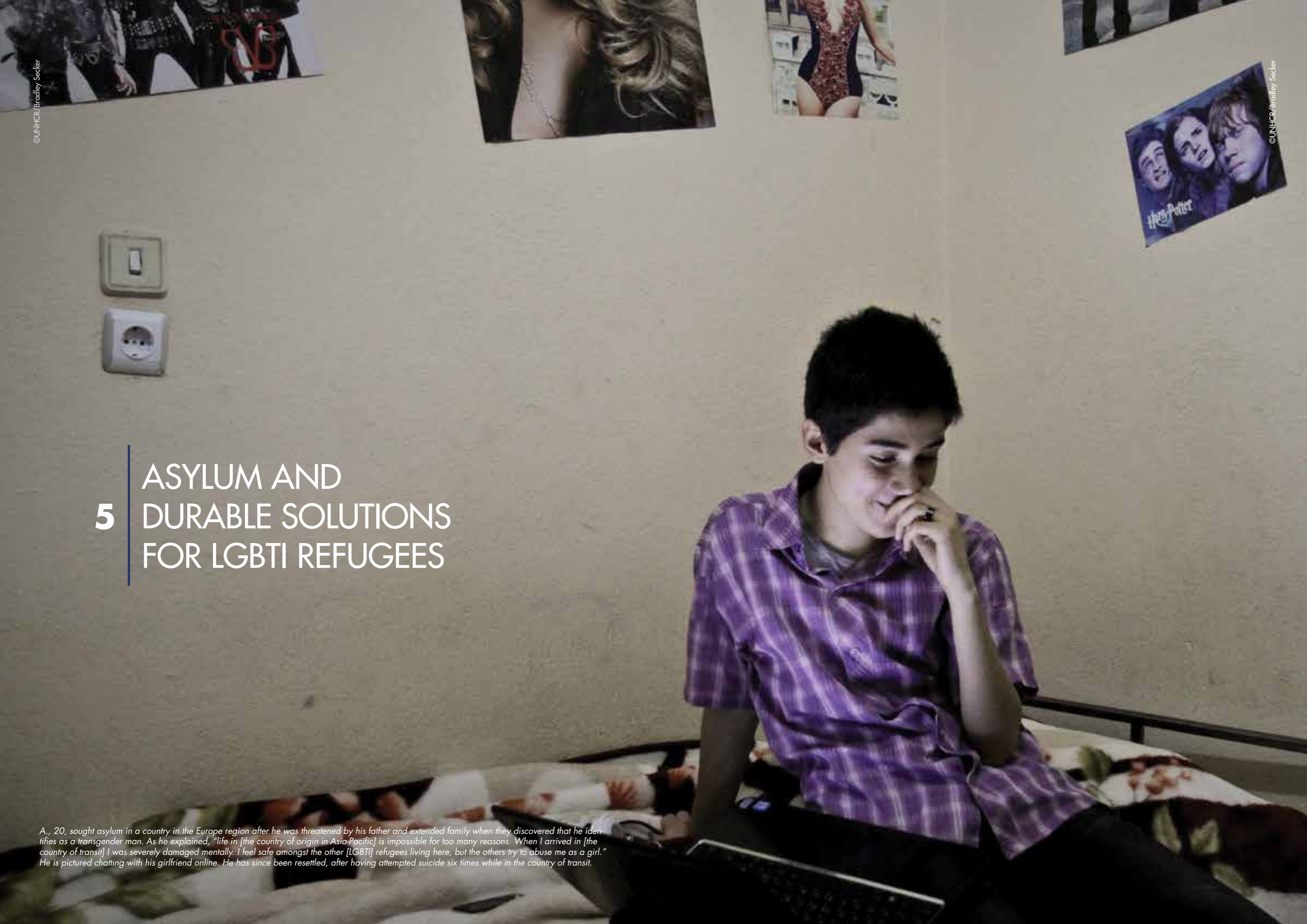


F., 20, spent his childhood in forced displacement. Having spent his early years in a country of asylum due to civil war in his homeland, F. once again sought refuge as a teenager in a third country due to fear of persecution based on his sexual orientation. As he explained, “I lived in fear and torment through my childhood into my teens until I could not take it anymore and I fled home at the age of 16.” F. crossed six countries and a sea to seek asylum in a country in Europe. He is now an activist for LGBTI rights.

⁴¹ A participatory assessment is defined in UNHCR’s Tool for Participatory Assessment as “a process of building partnerships with refugees of all ages and backgrounds by promoting meaningful participation through structured dialogue. Participatory assessments involve holding separate discussions with [persons] of concern [...] in order to gather accurate information on the specific protection risks they face and the underlying causes, to understand their capacities, and to hear their proposed solutions.”

5 ASYLUM AND DURABLE SOLUTIONS FOR LGBTI REFUGEES

A., 20, sought asylum in a country in the Europe region after he was threatened by his father and extended family when they discovered that he identifies as a transgender man. As he explained, "life in [the country of origin in Asia-Pacific] is impossible for too many reasons. When I arrived in [the country of transit] I was severely damaged mentally. I feel safe amongst the other [LGBTI] refugees living here, but the others try to abuse me as a girl." He is pictured chatting with his girlfriend online. He has since been resettled, after having attempted suicide six times while in the country of transit.



ASYLUM AND DURABLE SOLUTIONS FOR LGBTI REFUGEES

KEY FINDINGS

- Almost 40% of participating offices globally reported that they either collect or have access to data on asylum claims related to SOGI; however, many offices indicated that collecting and consolidating data on SOGI-based claims is frequently a challenge.
- Roughly 60% of participating offices reported having either a formal or an informal focal point to provide support for the determination of SOGI-based claims.
- Over 70% of participating offices involved in the identification or facilitation of durable solutions assessment for refugees reported having worked with LGBTI refugees.
- While a few participating offices indicated having successfully facilitated local integration for LGBTI refugees, no office indicated having facilitated voluntary repatriation due to the continued risk of persecution in countries of origin.
- Almost 80% of participating offices indicated that they prioritise LGBTI refugees for resettlement. Of the offices with such prioritisation measures, 67% reported having successfully facilitated resettlement for LGBTI refugees.
- The limited number of resettlement countries viable for LGBTI refugees was frequently cited as an impediment to facilitating durable solutions for LGBTI refugees.

It is important to ensure that LGBTI asylum-seekers are afforded access to a fair and efficient assessment of their claims for refugee status and that their dignity is upheld throughout the refugee status determination (RSD) procedure.

Furthermore, given the extensive protection risks that LGBTI refugees may face in both their homelands and the countries to which they flee, it is important to identify and provide access to appropriate durable solutions. Often, the only realistic durable solution available to LGBTI refugees is resettlement to a third country, although in some instances, local integration or voluntary repatriation may be appropriate measures.

Refugee status determination (RSD), refers to the “legal and administrative procedures undertaken by States and/or UNHCR to determine whether an individual is considered a refugee in accordance with national and international law.”⁴² Many national governments conduct RSD procedures independently; however, UNHCR may also conduct RSD under its mandate in countries where national asylum systems are not in place or where States are unable or unwilling to assess asylum claims in a fair or efficient manner.⁴³ In some countries, UNHCR and the national government conduct RSD procedures jointly or in parallel processes.

Durable solutions are defined by UNHCR as long-term strategies to allow refugees to rebuild their lives in dignity and peace.⁴⁴ The three traditional durable solutions recognised by UNHCR include voluntary repatriation to the country of origin, local integration in the country of asylum, and resettlement to a third country. Following UNHCR’s definitions:

- *Voluntary repatriation* refers to “the free and voluntary return to [a refugee’s] country of origin in safety and dignity.”⁴⁵
- *Local integration* refers to the “integration of refugees in the host community”⁴⁶ in the country of asylum.
- *Resettlement* refers to “the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status.”⁴⁷

This section discusses RSD procedures, the collection and recording of asylum data related to SOGI, the assessment of durable solutions for LGBTI refugees, and efforts to prioritise LGBTI refugees for resettlement.

⁴² UNHCR, Refugee Status and Resettlement.
⁴³ UNHCR, Global Trends: World at War, 2014.
⁴⁴ UNHCR, Durable Solutions.
⁴⁵ UNHCR, Handbook for Repatriation and Reintegration Activities, 2004.
⁴⁶ UNHCR, Durable Solutions.
⁴⁷ UNHCR, Resettlement Handbook, 2011.

5.1 REFUGEE STATUS DETERMINATION (RSD)

Thirty-six participating national offices characterised the RSD procedure in their countries of operation as one of the following:

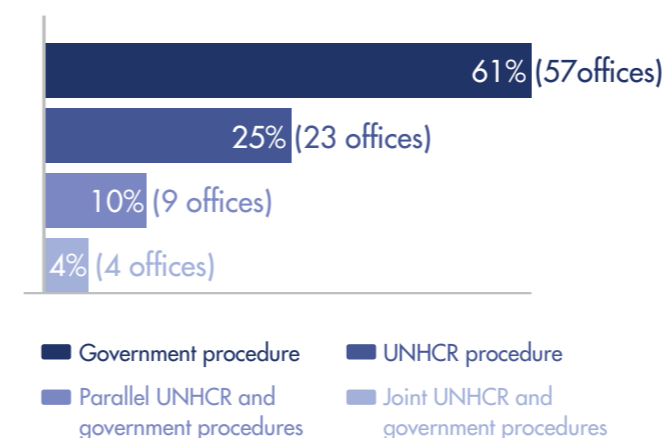
- Procedure administered by UNHCR under its *mandate* (mandate RSD);
- Procedure conducted *jointly* by UNHCR and the national government (joint RSD);⁴⁸
- Procedure administered by UNHCR under its *mandate in parallel* with a procedure administered separately by the national government (parallel RSD).

Of these 36 offices, 15 offices, or 42%, reported that they collect data on the number of SOGI-based asylum claims.⁴⁹

Another 57 participating national offices indicated that they operate in countries with national asylum systems where the RSD procedure is administered exclusively by the national government.⁵⁰ Of these offices, 21 offices, or 37%, reported having access to government data on SOGI-based asylum claims.

The types of RSD procedures in the countries of operation reported by participating national operations are depicted in Figure 5.1.

Figure 5.1: Types of RSD procedures reported by participating national operations⁵¹



Of the 93 participating national operations, 21 offices were able to disclose the number of SOGI-based asylum claims in their countries of operation during the assessment. However, because the methods of collecting the data and the time frames covered vary widely, the accuracy of the data cannot be fully verified.

Moreover, the global assessment underlying the findings in the report prompted respondents to report information on both (a) asylum claims on the basis of SOGI and (b) asylum claims of LGBTI asylum-seekers on bases other than SOGI. However, information on the latter group was generally scarce due to the general lack of open disclosure by claimants where their diverse SOGI is not relevant to their claims.

⁴⁸ For the purposes of this report, joint RSD refers to RSD procedures where UNHCR and the national government have a joint role in assessing and in determining the outcomes of individual asylum claims. It does not, however, include RSD procedures conducted by the national government where UNHCR has an advisory or observational role without any direct vote in the determination of individual claims.
⁴⁹ For the purposes of this report, an asylum claim on the basis of SOGI (a SOGI-based claim) refers to a claim based on persecution and/or a well-founded fear of persecution due to an asylum-seeker’s SOGI, and assessed on the basis of one or more of the five recognised grounds of the 1951 Convention Relating to the Status of Refugees.
⁵⁰ Note that for the purposes of this report, this category includes RSD procedures where UNHCR has an advisory or observational role without any direct decision-making capacity in the determination of individual claims.
⁵¹ The data in this graph reflects only participating country operations. The data for the types of RSD procedures in all countries globally varies by ±10% per RSD type from the data presented in this graph, and can be found in Global Trends: World at War, 2014.
⁵² UNHCR, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 2012.

5.2 COLLECTION AND RECORDING OF ASYLUM DATA

Because SOGI is not directly listed as one of the five grounds for granting refugee status in the *1951 Convention Relating to the Status of Refugees*, it may be difficult to isolate data on asylum claims made for reasons related to persecution or fear of persecution due to SOGI. The five grounds for refugee status listed in Article 1A(2) of the Convention are the following: race, religion, nationality, membership of a particular social group, and political opinion. According to UNHCR’s *Guidelines for International Protection No. 9*, asylum claims on the basis of SOGI are “most commonly recognized under the ‘membership of a particular social group’ ground,” although “[o]ther grounds may though also be relevant depending on the political, religious and cultural context of the claim.”⁵² As such, tracking SOGI-based asylum claims can frequently be difficult.

Nevertheless, where UNHCR administers RSD procedures under its mandate, jointly with the national government, or in a parallel procedure, offices noted some innovations in addressing data collection challenges. Offices reiterated the difficulty of tracking SOGI-based claims in *proGres*, UNHCR’s electronic registration database, with one respondent noting the limitations posed by the fact that “*proGres* is based on the [Convention] ground for recognition.” Another office similarly noted that “there no option in *proGres* to record information about SOGI/LGBTI.” The same respondent, however, also reported creating custom profiles in *proGres* to more easily search for SOGI-based claims – a notable innovation that could be shared with other offices. Most offices, however, cited manual tracking of key SOGI-related terms as the only method available to track SOGI-based claims.

Offices also reported a variety of means to access data on SOGI-based claims in instances where the government administers the RSD procedure and UNHCR is not involved in a decision-making capacity. In arrangements where UNHCR has an advisory role in RSD procedures, some offices noted having “access to eligibility opinions but not to systematised data on [...] SOGI asylum applications,” although one office indicated that the office manually enters SOGI-related claims into *proGres* through reports from national eligibility commissions as they are received by UNHCR. Other respondents, however, indicated that UNHCR is extremely limited in its ability to access data, especially where UNHCR has no observational or advisory role. A respondent in Europe, for example, wrote that “if the Government does not approach UNHCR for advice on such cases, UNHCR may not know about some rejections made in SOGI claims if the person [asylum-seeker] has not approached UNHCR for assistance.” Several offices likewise emphasised a heavier reliance on anecdotal information from asylum-seekers and refugees themselves.

To mitigate challenges associated with processing SOGI-based asylum claims, some offices have appointed a focal point to provide RSD expertise and track claims. In total, 43 participating offices, or over 40%, reported having an informal focal point for SOGI-based asylum claims, while 21 offices, or roughly 20%, reported having a formal focal point.

5.3 DURABLE SOLUTIONS ASSESSMENT

Of the 68 participating offices that reported involvement in the identification or facilitation of durable solutions for refugees, 48 offices, or 71%, reported such involvement for LGBTI refugees. Of those offices, 10 offices indicated having successfully facilitated local integration as a durable solution for refugees who have been granted asylum on the basis of SOGI. In regions with widespread criminalisation of LGBTI identity, expression, and association, however, it is frequently the case, as a respondent in Africa noted, that “no repatriation and local integration is viable.”

Though rare, two offices elaborated on instances where local integration has been an effective durable solution for LGBTI refugees. In the Americas, one office reported having implemented a “Graduation Model⁵³ local integration project which is inclusive of any person at risk and/or survivors of SGBV and HIV. One of the beneficiaries of such a project is a LGBTI community member.” Another office in Europe noted “mixed results” in its two attempts at local integration for LGBTI refugees, explaining that “one person has been quite successful in terms of employment, education, and even self-reliance. The other person was referred for resettlement due to the particular circumstances of his situation.” No office indicated having facilitated voluntary repatriation for an LGBTI refugee.

5.4 RESETTLEMENT

Sixty-one participating offices, or 77%, indicated that LGBTI refugees are prioritised for resettlement. More specifically, 47% clearly indicated that their offices prioritise LGBTI refugees for resettlement, while another 6% clarified that they have measures or SOPs in place to prioritise LGBTI refugees for resettlement, but have not yet referred an LGBTI case for resettlement. A further 24% of respondents noted that their offices only prioritise refugees for resettlement in certain situations, and another 23% indicated that they do *not* prioritise LGBTI refugees for resettlement.

Of the offices that indicated that they prioritise either all or some LGBTI refugees for resettlement, 67% indicated that they had actually facilitated resettlement as a durable solution for refugees who have been granted asylum on the basis of SOGI.

In elaborating on resettlement prioritisation challenges, offices outlined two primary concerns. First, offices expressed concern that partners involved in facilitating resettlement might be resistant to SOGI issues and might impede resettlement efforts. One office in Africa, for example, wrote that “there is a likelihood that some LGBTI [...] refugees could be denied protection or access to services on the part of humanitarian workers or authorities who would perceive them as being involved in criminal activities.” Similarly, another office in Europe noted that “the resettlement need is still questioned internally [among staff and partners]” and that “partners are not at all aware of the prioritisation of LGBTI for resettlement.” Second, offices pointed to credibility issues with SOGI-based claims for the purposes of resettlement, with one office in Africa stating that the “risk of creating bogus claims for resettlement purposes exists.”

In addition, offices were asked to comment on measures in place to ensure that resettlement is appropriate for SOGI-specific security threats in the country of resettlement. Many offices affirmed that LGBTI refugees are referred for resettlement only to countries with, in the words of one respondent, a “favourable environment for LGBTI [persons].” Some offices mentioned consulting UNHCR regional operations and headquarters to assist with the resettlement of at-risk LGBTI refugees, while others indicated having established relationships with certain resettlement countries to process urgent submissions for SOGI-related cases. In MENA, one respondent noted that “LGBTI refugees are usually resettled to countries which have expressly indicated their readiness to receive refugees whose claims are based on SOGI.” An office in Asia-Pacific stated that “detailed research is conducted on the treatment of LGBTI persons and support networks in the country of resettlement.” Many offices, however, noted that there are generally very few options when considering resettlement countries for LGBTI refugees.



J., from a country in the Africa region, fled from his home country after he was subjected to violence by his family because of his sexual orientation.

5.5 CHALLENGES AND CALLS FOR SUPPORT

The global assessment underlying the findings of this report provided the opportunity for respondents to highlight, in narrative form, challenges and calls for support in each thematic area. Possible responses to these are elaborated in the Conclusion and Way Forward (Sections 8.1 and 8.2) at the end of this report.

Challenges outlined by offices in the areas of asylum and durable solutions resembled challenges reported in other sections of the assessment including, most notably, the following:

- Offices emphasised the **criminalisation of LGBTI identity, expression, and association** in many countries as impediments to the open disclosure of SOGI by asylum-seekers during the RSD interview process. Many offices also noted the difficulty such criminalisation poses in facilitating local integration for LGBTI refugees.
- Some respondents highlighted **bias in government-administered RSD procedures**, pointing to examples of prejudiced statements by officials in national eligibility commissions and the risk of untrained adjudicators, counsellors, and judges.
- A general **lack of training on credibility assessment and interview techniques** for SOGI-related asylum claims was also frequently mentioned as a significant challenge.
- A few offices also noted **delays in resettlement** due to lengthy procedures and the limited number of resettlement countries that are suitable for LGBTI refugees.
- **Maintaining family structures** was also cited as another challenge, with one office noting specifically, for example, that although many “resettlement countries now regularly recognise SOGI as a basis for refugee status, many of these countries do not recognise same-sex couples when determining family composition.”

- Some offices also mentioned that the **lack of disclosure of security threats** by LGBTI persons in countries of asylum might lead to situations where they may not be immediately referred for resettlement.

When prompted to suggest forms of support to improve the identification and facilitation of durable solutions for LGBTI refugees, offices requested the following:

- A few offices requested **training on credibility assessment and interview techniques** tailored to the regional context, with one office noting that it would be helpful to develop audiovisual instructional presentations for relevant staff and partners, including UNHCR staff, government partners, implementing partners, legal representatives, and other actors involved in the asylum process.
- Offices also suggested trainings to more broadly **sensitise UNHCR staff, partners, and governments** on SOGI-related issues, with a couple of offices emphasising the importance that such trainings be presented with reference to local terminology and common cultural preconceptions.
- The development of various **regional fora for sharing best practices for LGBTI-related RSD and durable solutions** was also noted, with one office elaborating that “regular cross-fertilisation among UNHCR offices in the region through webinars and training could prove useful as done with SGBV by the regional protection officer on gender issues.” Another office similarly noted that “that a “repository of best practices [...] would help prepare the office to identify and facilitate durable solutions for LGBTI refugees.”
- Support to **negotiate additional slots for resettlement** for LGBTI refugees was highlighted by several offices, given that few countries are currently viable resettlement options.

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J. fled from his home country in the Africa region after his mother, a pastor, tried to kill him because of his sexual orientation. He explained that she denounced him as evil and, along with his family, tied him up and tortured him. Faced with threat and antipathy in his country of origin on account of his sexual orientation, he eventually sought asylum in a neighbouring country. In the country of asylum, J. continued to face discrimination, including regular homophobic taunting by his landlord. This picture was taken on the day of his departure for resettlement. He aspires to become a human rights lawyer.

⁵³ According to UNHCR’s Graduation Model Information Sheet, “Graduation Model is a project that aims to support the most vulnerable people to overcome poverty permanently. Applying a combination of interventions related to social assistance, livelihoods support and microfinance, the model promotes the dignity and self-reliance of participants. [...] The objective of the project is that people who successfully complete the Graduation Model are self-reliant as a result of having obtained a decent job, support networks in their communities and their self-esteem strengthened.”

6

TRAINING ON LGBTI PERSONS OF CONCERN



UNHCR celebration of the 2014 International Day against Homophobia, Transphobia, and Biphobia (IDAHOT) in a country in the Americas region

TRAINING ON LGBTI PERSONS OF CONCERN

KEY FINDINGS

- Primary respondents perceived UNCHR's government partners as having had the least training on SOGI-related issues when compared to UNHCR staff, operational partners, and implementing partners.
- While many primary respondents indicated that some refugee status determination (RSD) and durable solutions staff in their respective offices have received training on SOGI-related issues, less than one fifth of respondents indicated that most or all of such staff have been adequately trained to handle SOGI-related cases.
- Offices in which primary respondents indicated that RSD and durable staff are highly familiar with UNHCR's key SOGI-related documents were generally found to have implemented a greater number of concrete, LGBTI-focused protection measures.
- Many respondents requested further UNHCR-facilitated trainings on SOGI issues that are adapted to diverse cultural and legal contexts.

Training UNHCR staff, partners, and governments on SOGI-related issues is important to ensure that protection and advocacy activities undertaken by humanitarian actors are appropriate and sensitive to the particular needs of LGBTI persons of concern.

The levels of training received by UNHCR staff, partners, and governments were assessed in relation to (a) general SOGI-related issues and (b) key UNHCR policy documents, procedural guidelines, tools, and other resources on SOGI. References to the following documents featured centrally in the assessment:

- UNHCR's *Guidelines for International Protection No. 9* provides "substantive and procedural guidance on the determination of refugee status of individuals on the basis of their sexual orientation and/or gender identity."⁵⁴
- UNHCR's *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement* provides UNHCR staff with operational "guidance on a range of issues" when working with LGBTI persons under UNHCR's protection "to ensure that the rights of LGBTI persons of concern to the Office are met without discrimination."⁵⁵
- UNHCR's *Heightened Risk Identification Tool* assists UNHCR to "enhance the identification of persons at risk by asking a series of questions to a person of concern" and was "designed for use by UNHCR staff involved in community services and/or protection activities (including resettlement) and partner agencies."⁵⁶
- UNHCR's *Resettlement Assessment Tool: LGBTI Refugees* provides "a step by step guide for conducting an assessment of LGBTI refugees to determine whether resettlement is the most appropriate durable solution and to identify the resettlement needs of individual LGBTI refugees."⁵⁷

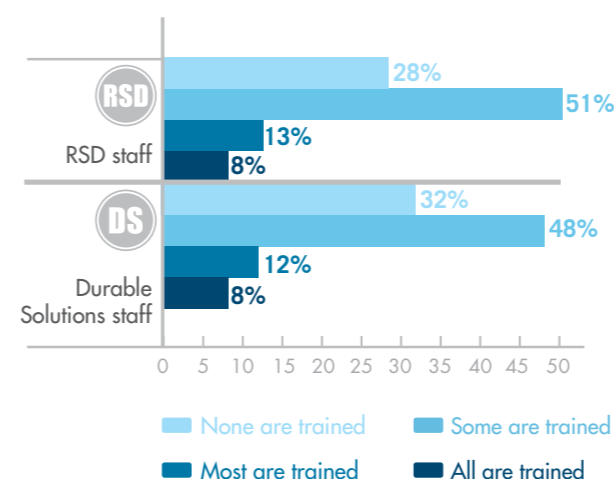
This section discusses key findings on the degree of SOGI-related training received by various types of UNHCR staff, partners, and governments as assessed by primary respondents. The findings also highlight links between the degree of SOGI-related training and concrete protection measures implemented by offices.

⁵⁴ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 2012.
⁵⁵ UNHCR, *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement*, 2011.
⁵⁶ UNHCR, *Heightened Risk Identification Tool*, 2010.
⁵⁷ UNHCR, *Resettlement Assessment Tool: LGBTI Refugees*, 2013.

6.1 REFUGEE STATUS DETERMINATION (RSD) AND DURABLE SOLUTIONS TRAINING

Almost 47% of primary respondents reported that they had received some refugee status determination (RSD) training on SOGI issues, while 28% indicated having received durable solutions training on SOGI-specific considerations. The perceptions of primary respondents about the number of RSD and durable solutions staff in their respective offices who have been adequately trained to handle SOGI-related cases is depicted in Figure 6.1.

Figure 6.1: Perceptions of primary respondents about number of RSD and durable solutions staff who have been trained on SOGI



Notably, while only 21% of participating respondents indicated that most or all RSD staff in their respective offices have been adequately trained to handle SOGI-related cases, 100% of the 69 respondents who reported that their offices have established at least one referral pathway to or from UNHCR for SOGI-related concerns also indicated that most or all RSD staff have been adequately trained.⁵⁸



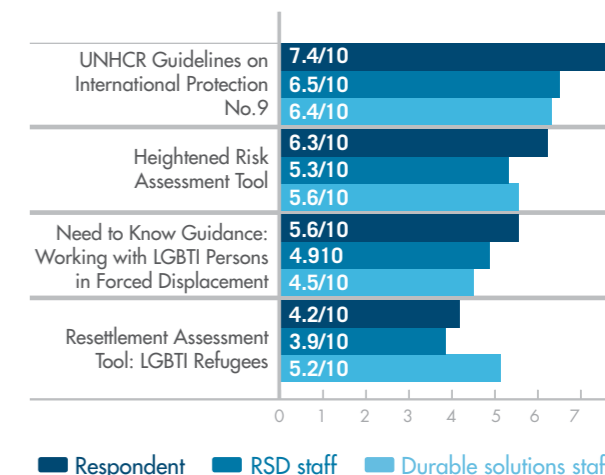
UNHCR-IOM joint training on SOGI issues for UNHCR staff and partners in the Africa region, June 2015

⁵⁸ Note that only offices that indicated having RSD staff were factored in when calculating these proportions.
⁵⁹ Highly familiar is defined as an 8-10 on the familiarity scale.

6.2 SPECIALISED TRAINING OF STAFF ON KEY DOCUMENTS

The average degrees of familiarity globally of RSD and durable solutions staff with key SOGI-related UNHCR documents are depicted in Figure 6.2. The responses are recorded on a scale of zero to ten, where zero indicates never having read the document and ten indicates complete competency in the procedures and positions outlined in the document. Note that the levels of familiarity represent the judgments of primary respondents about staff members in their respective offices.

Figure 6.2: Perceptions of primary respondents about familiarity of RSD and durable solutions staff with key SOGI-related UNHCR documents



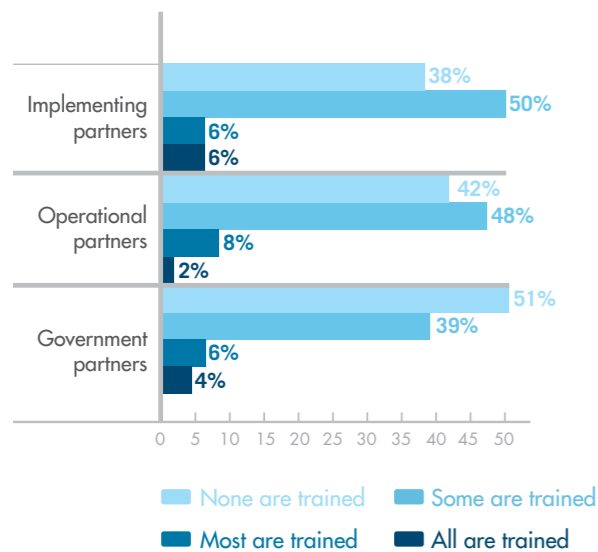
Several links were found between familiarity with key documents and concrete protection measures implemented by offices:

- While only 53% of participating offices reported that they prioritise LGBTI refugees for resettlement, 67% of the offices that indicated that durable solutions staff are highly familiar⁵⁹ with UNHCR's *Resettlement Assessment Tool: LGBTI Refugees* prioritise LGBTI refugees for resettlement.
- While 59% of participating offices reported having an RSD focal point for SOGI-related cases, 92% of offices that indicated that RSD staff are highly familiar with UNHCR's *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement* reported having an RSD focal point for SOGI-related cases. Similarly, 86% of offices that indicated that RSD staff are familiar with UNHCR's *Guidelines for International Protection No. 9* also reported having an RSD focal point for SOGI-related cases.
- While 22% of participating offices reported having conducted participatory assessments with LGBTI persons of concern, 52% of offices where the primary respondent reported being highly familiar with UNHCR's *Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement* indicated having conducted participatory assessments with LGBTI persons of concern.

6.3 TRAINING OF OTHER STAFF AND PARTNERS

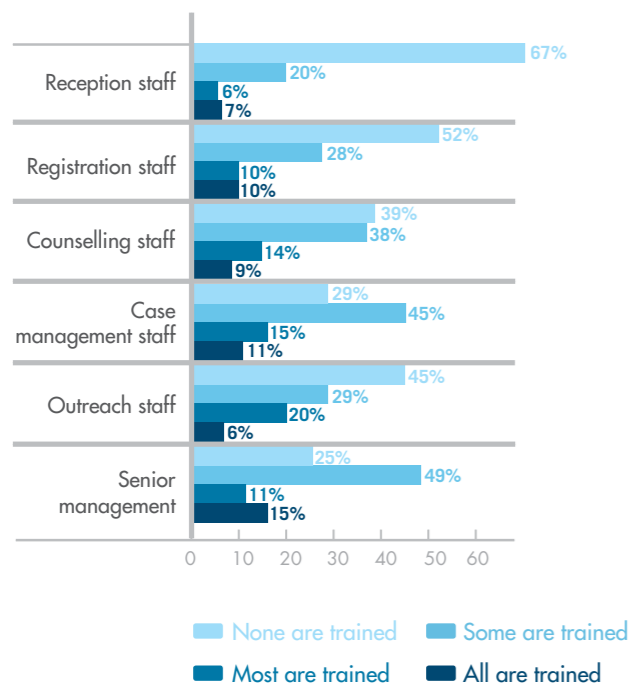
The degree of training of UNHCR's partners on SOGI-specific issues was rated, in general, much lower by primary respondents, with government partners ranked as having had the least SOGI-related training. The degrees of training received by UNHCR's partners as assessed by primary respondents are depicted in Figure 6.3.

Figure 6.3: Perceptions of primary respondents about number of partners who have been trained on SOGI



When queried about the level of training of other staff on appropriate and specific methods to interact with LGBTI persons of concern, responses by primary respondents reveal a generally low degree of training. The degrees of training received by UNHCR's other staff as assessed by primary respondents are depicted in Figure 6.4.

Figure 6.4: Perceptions of primary respondents about number of other staff who have been trained on SOGI



6.4 CHALLENGES AND CALLS FOR SUPPORT

The global assessment underlying the findings of this report provided the opportunity for respondents to highlight, in narrative form, challenges and calls for support in each thematic area. Possible responses to these are elaborated in the Conclusion and Way Forward (Sections 8.1 and 8.2) at the end of this report.

While staff listed training as a challenge in almost all sections of the assessment, the training-specific responses emphasised the following key areas of concern in carrying out SOGI-related trainings:

- **Cultural and religious resistance** among national staff, international staff, and partners was emphasised by many offices. Nonetheless, most offices concurred that the greatest amount of resistance to SOGI-related trainings is among government partners.
- The **lack of training materials adapted to particular cultural, linguistic, and legal contexts** was also highlighted as a challenge, with an office in MENA noting, for example, the difficulty of "develop[ing] a concise and locally adapted material in Arabic and [having] local trainers."
- **Reluctance to organise formal trainings** in countries where LGBTI identity, expression, or association is criminalised was also mentioned as a major challenge by many respondents.
- A few offices noted **limitations in trainings led by external facilitators**, elaborating that although such trainings might be broadly informative, they are frequently not sufficiently tailored to UNHCR's policies and internal procedures.

Offices requested several forms of support to increase levels of training on SOGI-related issues, including the following:

- **SOGI-related trainings led by UNHCR** were requested by many respondents, with some also requesting that such trainings be tailored to the local cultural context.
- Several offices requested a **'training of trainers' model** to disseminate information on SOGI issues more organically, with one office in Africa suggesting, for example, appointing and training SOGI focal points to then serve as "in-house trainers."
- The development of **webinars and online trainings** on SOGI issues with powerful visuals and narratives to impart information was also requested by some respondents.
- Some offices requested **mainstreaming SOGI-specific issues** into broader trainings to avoid alienating partners and UNHCR staff who might otherwise be disinclined to attend SOGI-specific sessions.
- **Advocacy efforts** in countries that criminalise LGBTI identity, expression, or association were also requested, with one respondent explaining, for example, that "while [SOGI-related] training may be needed for UNHCR staff, its impact insofar as processing of asylum claims is concerned will only go so far, not least because the government RSD body will hear none of it."



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N., as part of a 2013 UNHCR campaign to raise awareness about discrimination on the basis of SOGI and to promote the protection of the rights of LGBTI persons who are victims of violence and persecution

7

OPERATIONAL GUIDELINES AND ADVOCACY EFFORTS



D., 23, explained that the cultural and religious environment in his country of origin in the Asia-Pacific region made it difficult to live as a gay man. D. fled to another country and was granted asylum. He is pictured under a poster advertising a 2012 LGBTI pride event in the place where he resided while awaiting resettlement.

OPERATIONAL GUIDELINES AND ADVOCACY EFFORTS

KEY FINDINGS

- Over one fifth of participating offices indicated having either formal or informal operational guidelines in place addressing issues related to SOGI or to LGBTI persons of concern.
- Over one third of participating offices indicated having reported the general human rights situation of LGBTI persons in the country of operation to national, regional, or international human rights monitoring mechanisms.
- Several offices requested sample SOPs and sample submissions to human rights monitoring bodies on SOGI-related issues to strengthen their operational guidelines and advocacy efforts.

Given the challenges of addressing the protection concerns of LGBTI persons of concern in diverse operational contexts, the development of SOGI-related operational guidelines, such as standard operating procedures (SOPs), may contribute to ensuring a consistent and adequate application of protection services across UNHCR operations.

Moreover, reporting the general situation of LGBTI persons of concern to national, regional, and international human rights monitoring mechanisms may strengthen UNHCR's larger advocacy efforts to promote a safer environment for LGBTI persons in forced displacement.

In the context of the assessment, operational guidelines refer to any informal or formal procedures established by offices to address SOGI issues or to work with LGBTI persons of concern. Operational guidelines, such as standard operating procedures (SOPs), may pertain to various areas of UNCHR's work, including identification, reception, registration, referrals, RSD, durable solutions and complaint mechanisms.

Human rights monitoring mechanisms refer to national, regional, or international bodies that monitor human rights situations.⁶⁰ In some instances, these bodies offer individual complaint mechanisms accessible to individuals in case human right grievances are not adequately addressed by established local justice mechanisms.

This section discusses efforts by offices to establish informal and formal operational guidelines focused on SOGI issues and LGBTI persons of concern. It also discusses the use of rights monitoring mechanisms by offices to (a) report the general human rights situation of LGBTI persons in the country of operation and (b) assist persons of concern in accessing individual complaint mechanisms of regional or international human rights treaty bodies for SOGI-related grievances.



29th session of the UN Human Rights Council, a human rights monitoring body, July 2015. During the session, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, presented his report, "Discrimination and violence against individuals based on their sexual orientation and gender identity," which drew on recent findings of UN human rights bodies, regional organisations and NGOs, and information submitted by governments.

⁶⁰ International human rights monitoring mechanisms include but are not limited to the following: Human Rights Committee (CCPR), Committee on Economic, Social and Cultural Rights (CESCR), Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Discrimination against Women (CEDAW), Committee against Torture (CAT), Subcommittee on Prevention of Torture (SPT), Committee on the Rights of the Child (CRC), Committee on Migrant Workers (CMW), Committee on the Rights of Persons with Disabilities (CRPD), Committee on Enforced Disappearances (CED), Human Rights Council (HRC) and Universal Periodic Review (UPR).

7.1 OPERATIONAL GUIDELINES

Twenty-two participating offices, or over 20%, reported having either formal or informal operational guidelines in place addressing issues relating to SOGI or to LGBTI persons of concern. The types of guidelines reported by these 22 offices included the following:

- **Informal guidelines** (59%): The SOPs do not explicitly mention SOGI or LGBTI persons of concern, but the office has informal, non-written guidelines in place covering SOGI and/or LGBTI persons of concern.
- **LGBTI-mainstreamed SOPs** (37%): SOGI or issues directly pertaining to LGBTI persons of concern are mainstreamed in the office's various SOPs.
- **LGBTI-specific SOPs** (4%): The office has at least one SOP dedicated specifically to SOGI or to LGBTI persons of concern.

Twenty-one of these offices, or 95%, further specified that the guidelines provide the opportunity for anonymity or confidentiality for LGBTI persons of concern to report SOGI-related issues, such as a complaints box or a call-in support line. Of the offices that reported guidelines, the majority elaborated that such guidelines pertain to resettlement. A few offices, however, also reported having established guidelines on SGBV, reception, and registration into which SOGI-related concerns have been mainstreamed.

7.2 HUMAN RIGHTS MONITORING MECHANISMS

Thirty-eight offices, or 36%, indicated having reported the general human rights situation of LGBTI persons in the country of operation to national, regional, or international human rights monitoring mechanisms, either through UNHCR regional bureaux, country offices, regional legal advisors, independently, or through another organisational channel.

The information contributed includes reports of physical violence against LGBTI persons, legal and law enforcement realities for LGBTI persons, and the status of LGBTI rights in countries of operation. The following reporting channels were most frequently referenced in the responses: the Universal Periodic Review, the Committee on the Elimination of Discrimination against Women, and national human rights institutions (NHRIs). Some offices similarly indicated having provided human rights information to human rights monitoring bodies through UNHCR headquarters and the United Nations Resident Coordinator. Offices discussed a variety of submissions ranging from "sexual violence in armed conflict" to "the burdens faced by persons of concern [in] having access to HIV treatments." An office in a country in Africa that criminalises same-sex sexual activity reported having explicitly included a recommendation to a human rights treaty body on LGBTI rights, while another office in the same region discussed reporting incidences of physical violence against LGBTI persons of concern to a national human rights commission.

Offices that do not report to human rights monitoring mechanisms on SOGI-related issues were asked to elaborate on challenges faced in reporting such information and support mechanisms that could assist with such reporting. The answers varied significantly. One office in Asia-Pacific noted that "it is very hard to obtain such information [on the human rights situation for LGBTI person] with the stigma and denial in communities of our concern. We would be reporting what comes through the press but then OHCHR [Office of the United Nations High Commissioner for Human Rights] is better placed to report on the general human rights situation for LGBTI [persons]." Several other offices globally noted that reporting is limited to the situation of asylum-seekers and refugees and does not include the general human rights situation.

One office reported having supported an LGBTI person of concern to access an individual complaint mechanism of a regional or international human rights treaty body for SOGI-related grievances.

7.3 CALLS FOR SUPPORT

Offices were generally consistent in their requests for support with issues pertaining to operational guidelines and human rights monitoring mechanisms for SOGI-related issues. The most common requests include the following:

- **Sample SOPs** to address the various protection concerns pertinent to LGBTI persons of concern were requested by many offices.
- Several offices also requested **trainings and workshops** focused on drafting SOGI-specific SOPs, with one office suggesting that such trainings focus on “how to maximise the use of national/regional/sub-regional and international human rights monitoring mechanisms on LGBTI and minority SOGI issues through advocacy, strategic ‘judicial’ or pre-judicial involvement of UNCHR.”
- A compilation of **sample interventions and submissions** to human rights bodies for SOGI-related issues was also mentioned as a tool that could assist offices with reporting activities.



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A., fled his home country in the MENA region because of fear of persecution due to his sexual orientation. In a neighbouring country, he continued to face threats due to militia groups known to specifically target LGBTI persons. He filed a claim for refugee status and was ultimately resettled. A. is currently trying to save money for an important operation on one of his legs which was severely injured by a car bomb in his hometown on the way to university.

8 | THE WAY FORWARD

M., a 27 year old writer and poet, left his country in the Asia-Pacific region due to persecution based on his sexual orientation. He had initially filed an application for refugee status in a country in the Europe region, but was ultimately resettled in a country in the Americas region. As the photographer explained, "We were talking in his room about his life in [the country of origin] and now [in the country of transit] and suddenly he said he wants to find someone to share things with. He picked up his pillow and cuddled it like his lover."

8.1 CONCLUSION

Although offices have made clear strides to address protection issues pertaining to LGBTI persons of concern to UNHCR, significant challenges remain. This section summarises key challenges and calls for support presented in the report, and culminates with a blueprint of a way forward for UNHCR offices globally. It is important to note, however, that these conclusions are not intended to reflect UNHCR's official position on issues related to the protection of LGBTI asylum-seekers and refugees. Rather, they are grounded in the experiences of the offices that participated in the assessment, and are offered as a field perspective to guide UNHCR as the agency further develops policies, tools, and other resources to strengthen efforts to protect LGBTI asylum-seekers and refugees.

It is apparent that a large majority of the challenges surrounding protection work focused on LGBTI persons of concern stem from the criminalisation of LGBTI identity, expression, and association in many countries of operation. It is therefore clear, as frequently expressed by offices, that advocacy must play a central role in a long-term strategy to ensure the well-being of LGBTI asylum-seekers and refugees. Considering the political sensitivities required in advocacy work and the need to ensure that UNHCR's broader protection programming is not jeopardised, it is important to provide strong training and guidance to offices to sensitise governments on this subject, possibly through the use of existing national, regional, and international human rights monitoring mechanisms to report the situation of LGBTI persons of concern in countries of operation. As one office highlighted, confidential reports may be effective "to discourage authorities from taking abusive measures against the LGBTI persons," underscoring the central role that UNHCR-led advocacy must play in working with governments and other partners to alter the political and legal context most commonly cited as a challenge to UNHCR's LGBTI-focused protection work.

While over two thirds of participating offices indicated having LGBTI-specific reception or registration measures in place, some offices continue to face difficulties in conducting targeted outreach in areas where LGBTI persons live, work, and convene. Although many offices noted that legislative and cultural hostility toward LGBTI persons may pose significant risks to staff and partners conducting outreach activities, the population risks remaining invisible without targeted efforts to reach them in the areas where they are most vulnerable. Future trainings, therefore, should include a component on strategies to establish referral pathways and external partnerships to reach LGBTI persons of concern in light of legislative and cultural constraints. A resource package with concrete tools, such as posters, pamphlets for distribution to partners, and sample standard operating procedures [SOPs], would also be useful to assist offices with LGBTI-specific outreach, registration, partnerships, and referral activities.

Although UNHCR's *Guidelines for International Protection No. 9* provide thorough guidance for processing asylum claims on the basis of SOGI and related resettlement cases, the findings indicate that some offices require further support and training to effectively implement these guidelines in areas such as interview techniques, credibility assessment, and durable solutions assessment. Future trainings may wish to address in particular the role of future risk, in addition to past persecution, in refugee status eligibility for LGBTI asylum-seekers. Importantly, as repeated frequently by offices, such trainings should specifically address how the examination and assessment of asylum claims related to SOGI should be conducted considering the cultural, religious, legal, and linguistic contexts of the countries of operation. Furthermore, it is advised that the subsequent

version of UNHCR's electronic registration system, *proGres*, simplify the process of tagging asylum claims related to SOGI to ensure that changing regional trends can be more easily tracked to guide future policy and training development.

It is also important to note that many offices found UNCHR-facilitated trainings to be especially helpful because they tend to reflect an understanding of UNCHR's internal procedures. In light of the difficulty of conducting a wide array of UNHCR-led trainings globally, UNHCR may wish to consider a 'training of trainers' model, as suggested by some respondents. This may, for example, include providing extensive regional trainings for staff specifically identified to serve as focal points within each office, who would then be tasked with providing support to their respective offices for SOGI-related issues. UNHCR may furthermore wish to consider supporting the creation of region-specific fora, either online or in-person, to allow offices with similar operational environments to share best practices and collaboratively address common challenges. Such fora may also serve to contribute to the creation of a repository of best practices for offices to strengthen their LGBTI-focused protection work, as some offices requested.

While over 60% of offices that reported having conducted participatory assessments indicated having included LGBTI persons of concern, consultations with persons of concern can be further strengthened to explicitly address SOGI issues. Without a wider programme of participatory assessments, offices will continue to face difficulties in mapping the full spectrum of protection concerns facing an already marginalised population, and many challenges will remain unaddressed. The expansion of participatory assessments may further serve to illuminate the difficult displacement conditions of LGBTI persons discussed in the report, such as limited access to LGBTI-sensitive healthcare and LGBTI-sensitive survival sex prevention programming. In conjunction with efforts to map the range of local, external actors addressing SOGI issues, participatory assessments can assist offices to both map challenges and identify existing resources to bolster LGBTI-focused protection programming.

The report also reveals an opportunity to strengthen operational guidelines outlining norms for engaging with LGBTI persons of concern and SOGI-related issues. On one hand, as offices noted, the development of sample SOPs to distribute to offices may serve as an effective strategy to address multiple challenges facing LGBTI persons of concern and to ensure greater consistency across operations in the provision of LGBTI-inclusive protection services. On the other hand, given the large degree of variation among the different legislative, social, and cultural contexts in which UNHCR operates, SOPs may have limitations in their ability to provide nuanced guidance tailored to restrictive operational environments. Nonetheless, UNHCR may wish to explore the possibility of developing broad, sample SOPs to serve as a starting point for offices seeking to expand LGBTI-focused protection efforts. UNHCR may also wish to consider, as several offices suggested, coupling a set of standard SOPs with a compilation of best practices on SOGI issues.

Finally, further efforts to understand the plight of transgender and intersex persons of concern are necessary, considering that the majority of offices indicated that these two categories are not represented in the data disclosed in the assessment.

UNHCR celebration of the 2014 International Day against Homophobia, Transphobia, and Biphobia (IDAHOT) in a country in the Americas region



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8.2 THE WAY FORWARD

Identification and Outreach to LGBTI Persons of Concern

- Provide guidance and support to offices to assist in their efforts to make reception and registration areas 'safe spaces,' where persons of concern feel supported to express their sexual orientation and gender identity.
- Provide guidance and support to offices – particularly those working in operational contexts where core aspects of LGBTI identity, expression, or association are criminalised – to assist in conducting mobile registration in areas where LGBTI persons of concern live, work, and convene.
- Provide support to offices to establish partnerships and referral pathways with local actors addressing SOGI issues, including LGBTI people themselves.

Displacement Conditions of LGBTI Persons of Concern

- Provide guidance to offices in countries where core aspects of LGBTI identity, expression, or association are criminalised to support them in (a) sensitising government partners and (b) advocating for the repeal of discriminatory laws, such as those that criminalise same-sex conduct between consenting adults; those that criminalise transgender people on the basis of their gender expression; and other laws used to arrest, punish, or discriminate against people on the basis of their sexual orientation and gender identity.
- Promote appropriate and safe accommodation models for at-risk LGBTI asylum-seekers and refugees, such as, but not limited to, 'safe houses' or scattered safe accommodation for country operations to consider implementing.
- Raise awareness among UNHCR protection staff engaged in detention monitoring of the particular vulnerabilities of LGBTI persons of concern who are in detention, and the need to ensure that adequate measures are in place to ensure their safety, in line with UNHCR's *Detention Guidelines*.
- Remind staff and partners that persons with a diverse sexual orientation or gender identity constitute 'diversity,' as defined in the Age, Gender and Diversity Policy, and as such, should be included in participatory assessments to ensure that their perspectives inform UNHCR's programming.
- Highlight that the protection concerns of LGBTI asylum-seekers and refugees are already part of existing strategies, such as UNHCR's sexual and gender-based violence strategy, and strengthen existing recommendations related to sexual orientation and gender identity.
- Promote and support the development of partnerships with national and international LGBTI organisations and networks and with LGBTI people from refugee and host communities.

Durable Solutions for LGBTI Refugees

- Explore possibilities to systematically collect data on asylum claims on the basis of sexual orientation and gender identity for UNHCR offices conducting refugee status determination under UNHCR's mandate, whether exclusively, in a joint capacity with the national government, or in a parallel process.
- Encourage operations to appoint focal points to provide expertise on asylum claims on the basis of sexual orientation and gender identity.
- Establish norms for prioritising LGBTI refugees for resettlement, and ensure that LGBTI refugees are included in discussions with resettlement countries.

Capacity Building

- Train UNHCR's partners on sexual orientation and gender identity.
- Expand UNHCR-facilitated trainings on sexual orientation and gender identity, and engage external partners with SOGI expertise in such trainings in a supporting capacity.
- Explore the possibility of a 'training of trainers' model for designated focal points to disseminate information more broadly throughout offices.
- Develop material resources concerning sexual orientation and gender identity, such as posters and pamphlets, targeting persons of concern and UNHCR's partners.
- Include strategies to establish referral pathways and external partnerships to address sexual orientation and gender identity in light of legal, social, and cultural constraints in future trainings.
- Conduct further research on the plight of transgender and intersex persons of concern to UNHCR globally.

Operational Guidelines

- Develop a sample set of standard operating procedures covering various aspects of protection work pertaining to LGBTI persons of concern and provide support to integrate LGBTI-specific concerns into existing standard operating procedures.
- Establish regional platforms for offices to share best practices for protection work pertaining to LGBTI persons of concern.

Human Rights Monitoring Mechanisms

- Establish templates for offices to report information on the general situation of LGBTI persons of concern to national, regional, and international human rights monitoring mechanisms, and encourage operations to make greater use of these mechanisms.
- Promote the systematic use of collaborative schemes with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to ensure transference of information between offices on the human rights situation of LGBTI persons of concern in the countries of operations.



UNHCR celebration of the 2014 International Day against Homophobia, Transphobia, and Biphobia (IDAHOT) in a country in the Americas region



UNHCR Resources on Sexual Orientation and Gender Identity

Age, Gender and Diversity: UNHCR Accountability Report 2014, July 2015
<http://www.refworld.org/docid/55a61f794.html>

Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement, September 2011
<http://www.refworld.org/docid/4e6073972.html>

Need to Know Guidance: Working with Men and Boy Survivors of Sexual and Gender-based Violence in Forced Displacement, July 2012
<http://www.refworld.org/docid/5006aa262.html>

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

Summary Report: Informal Meeting of Experts on Refugee Claims relating to Sexual Orientation and Gender Identity, September 2011
<http://www.refworld.org/docid/4fa910f92.html>

Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity, November 2010
<http://www.refworld.org/docid/4cff99a42.html>

Discussion Paper: The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees, September 2010
<http://www.refworld.org/docid/4cff9a8f2.html>

The Heightened Risk Identification Tool (Second Edition), June 2010
<http://www.refworld.org/docid/4c46c6860.html>

Resettlement Assessment Tool: Lesbian, Gay, Bisexual, Transgender and Intersex Refugees, April 2013
<http://www.refworld.org/docid/5163f3ee4.html>



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