

References in relation to LGBTI persons in forced displacement with relevant excerpts

1. UNHCR (2011) Age, Gender and Diversity Policy

<https://cms.emergency.unhcr.org/documents/11982/51766/UNHCR+Age%2C+Gender+and+Diversity+Policy+%282011%29/0a07fef0-38ed-4370-81cf-1744e8dbc764>

Diversity refers to different values, attitudes, cultural perspectives, beliefs, ethnic background, nationality, sexual orientation, gender identity, ability, health, social status, skill and other specific personal characteristics.

2. UNHCR Emergency Handbook, Identifying Persons with Specific Needs (PWSN), 4th edition, 1. Overview <https://emergency.unhcr.org/>

“The following are groups generally considered to have specific needs: girls and boys at risk, including unaccompanied and separated children, persons with serious health conditions, persons with special legal or physical protection needs, single women, women-headed households, older persons, persons with disabilities, and persons with a diverse sexual orientation or gender identity.”

3. UNHCR (2012) Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity <http://www.unhcr.org/refworld/docid/50348afc2.html>

4. UNCHR (2008) Guidance Note On Refugee Claims Relating To Sexual Orientation And Gender Identity <http://www.refworld.org/pdfid/48abd5660.pdf>

5. UNHCR (2011) Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement <http://www.refworld.org/pdfid/4e6073972.pdf>

6. UNHCR Discussion Paper (2010) The Protection of Lesbian, Gay, Bisexual, Transgender and Intersex Asylum-Seekers and Refugees <http://www.refworld.org/pdfid/4cff9a8f2.pdf>

The right to non-discrimination is essential for the international protection of LGBTI asylum-seekers and refugees.

Transgender asylum-seekers and refugees suffer multiple discrimination based on their gender identity or gender expression. It is reported that transgender persons seem to experience particularly severe marginalization because they are subject to sexual abuse and violence, discrimination, extreme poverty, lack of access to education, health and psychological care, work and housing. It is reported that this marginalization leads many transgender persons to engage in sex work in order to survive. Transgender persons experience difficulties in transit and at borders when their legal documents do not match their identities. This often leads to searches, detention and incidents of abuse.

Resettlement in a third country may be the most likely scenario for many LGBTI refugees who have sought protection. Further efforts are needed to identify and address the risk factors that could potentially indicate resettlement as the only viable option for some LGBTI refugees, including through the use of the revised HRIT and referral mechanisms.

7. UNHCR Division of International Protection (2015) 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. <http://www.refworld.org/pdfid/566140454.pdf>

Training UNHCR staff, partners, and governments on SOGI-related issues (sexual orientation and gender identity) 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.

8. UNHCR, Division of International Protection (2013) Resettlement Assessment Tool: Lesbian, Gay, Bisexual, Transgender and Intersex Refugees. <http://www.refworld.org/pdfid/5163f3ee4.pdf>

9. UNHCR Resettlement Handbook, 5.2.5 Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) refugees <http://www.unhcr.org/en-au/protection/resettlement/46f7c0ee2/unhcr-resettlement-handbook-complete-publication.html>

An understanding of the multiple forms of harm and discrimination experienced by LGBTI persons throughout the displacement cycle is vital in order for States, NGOs and UNHCR to adequately respond to their protection needs.

Resettlement may be the only viable durable solution for LGBTI refugees facing intolerance and heightened risk in countries of first asylum, and emergency processing or evacuation may be required as lengthy processing can exacerbate the security risks.

10. UNCHR Division of International Protection (2011) Action against Sexual and Gender-Based Violence: An Updated Strategy. Section 5. Protecting LGBTI persons of concern against SGBV. <https://cms.emergency.unhcr.org/documents/11982/51689/UNHCR%2C+Action+Against+Sexual+and+Gender-based+Violence.+An+Updated+Strategy%2C+2011/4f9d2a1c-280e-4ac8-a832-1a789de63d46>

UNHCR continues to strengthen the protection available to LGBTI persons of concern. Its efforts focus on collaborating with LGBTI organisations and NGOs and developing LGBTI-related legal and operational guidance.

- Include LGBTI persons of concern in all programmes, including outreach activities.
- Inform and train staff on matters relating to sexual orientation and gender identity to ensure that all persons of concern to UNHCR are treated with respect, without discrimination and in accordance with their right to confidentiality.
- Ensure application of the UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity.
- Raise awareness among legal, psychosocial and health service providers about the prevalence of sexual violence against LGBTI persons and their obligation to act inclusively and without discrimination, thereby preserving dignity and confidentiality in their dealings with LGBTI sexual-abuse survivors.
- Refine procedures for refugee status determination on grounds of sexual orientation. Develop training materials to support implementation of the UNHCR Guidance Note on LGBTI Claims, and the UNHCR Guidance Note on Working with LGBTI Persons in Forced Displacement.
- Train resettlement staff and partners on the specific needs of LGBTI persons

11. Human Rights Council 19 Session (2011) Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf

12. UNHCR Training package on the protection of LGBTI persons in forced displacement. <http://www.unhcrexchange.org/old/topics/15810/contents?PHPSESSID>

13. Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity http://www.yogyakartaprinciples.org/principles_en.htm

14. UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 27 on older women and protection of their human rights, 16 December 2010, CEDAW/C/GC/27 <http://www.refworld.org/docid/4ed3528b2.html>

15. UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>

16. Other resolutions related to the protections of LGBTI persons:

- The United Nations Human Rights Council's Jul 2016 Resolution 32/2 on the protection against violence and discrimination based on sexual orientation and gender identity.
- 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;" (United Nations Human Rights Council, Resolution 17/19: Human Rights, Sexual Orientation and Gender Identity, 2011);
- 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 (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);
- 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;" (Asia Pacific Forum, Advisory Council of Jurists Report: Human Rights, Sexual Orientation and Gender Identity, 2010);
- 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 (General Assembly of the Organisation of American States, Resolution 2721: Human Rights, Sexual Orientation and Gender Identity, 2012);
- 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;" (Council of Europe, Discrimination on the Basis of Sexual Orientation and Gender Identity, 2010) 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" and the need to "include specific issues linked to sexual orientation and gender identity in the implementation and monitoring of asylum legislation." (European Parliament, Sexual Orientation and Gender Identity at the UN Human Rights Council, 2011. European Parliament, European Union Roadmap against Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity, 2014).

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