

CANBERRA STATEMENT

on the access to safety and justice for LGBTIQ+ asylum seekers, refugees and other forcibly displaced persons

November 2019

Preamble:

- 1.** The Canberra Statement sets out the outcomes of the Queer Displacements: Sexuality, Migration and Exile¹ (Queer Displacements) conference held on the 13-15 November 2019 in Canberra, Australia.
- 2.** Queer Displacements was the first conference in Australia to address and discuss the issues of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) forced displacement in its complexity. It was attended by academics, non-government organisations (NGO), policy makers, government agencies, activists, asylum seekers and refugees.
- 3.** Queer Displacements championed the voices and the lived experience of LGBTIQ+ asylum seekers, refugees, former refugees and otherwise forcibly displaced people. The conference was organised by two queer refugee women. Financial scholarships were provided to LGBTIQ+ asylum seekers and refugees to fully cover their participation.
- 4.** LGBTIQ+ experiences of forced displacement were mainstreamed throughout 2.5 conference days. LGBTIQ+ refugees organised plenary sessions sharing their experiences that transcended sharing a stereotypical 'refugee story' embedded only in the past persecution to instead critically address the gaps in protection, support and solutions while living in Australia.
- 5.** Queer Displacements has created a space for awareness raising, solidarity, building alliances and engaging the whole of society in ensuring justice, protection and solutions for LGBTIQ+ people in forced displacement.
- 6.** Making this statement, we recognise the international human rights obligations of the host country Australia and all States that have signed the 1951 Refugee Convention and the Global Compact on Refugees, the Convention against all Forms of Discrimination Against Women (CEDAW), the Convention against Torture (CAT), the Convention on the Rights of Persons with Disabilities (CRPD) and other international human rights treaties.
- 7.** We acknowledge that the Queer Displacements conference took place on the Traditional lands of the Ngannawal and Ngambri people in Canberra. We acknowledge that the sovereignty was never ceded.
- 8.** The text of this statement has been developed by Tina Dixson (co-founder of the Queer Sisterhood Project, co-convenor of the Queer Displacements conference), Renee Dixson (creator of the Assembling Digital Archive of LGBTIQ oral histories about forced displacement, co-founder of the Queer Sisterhood Project, co-convenor of the Queer Displacements conference) and Eliana Rubashkyn (co-founder of Rainbow Path New Zealand), drawing on the discussions at the Queer Displacements conference and in consultation with the conference attendees.

¹ Queer Displacements conference thanks the following organisations and individuals for their support: Humanities Research Centre at the Australian National University (ANU), the ACT Government Office for LGBTIQ+ Affairs; ANU Research School of Humanities, ANU Gender Institute, UNHCR Regional Representation in Canberra, AIDS Action Council and Canberra Inclusive Partnership, the Herbert and Valmae Freilich Project for the Study of Bigotry, Settlement Services International, Asylum Seekers Centre, Miles of Love, Planet Ally and 25 individual donors.

9. The Canberra statement is a policy document that can be signed on to by individuals and organisations affirming a need for a set of reforms to ensure access to safety and justice for LGBTIQ+ asylum seekers, refugees and other forcibly displaced persons.

We acknowledge:

10. As conference attendees, who are LGBTIQ+ asylum seekers, refugees, LGBTIQ+ migrants, other forcibly displaced LGBTIQ+ persons, academics, policy makers, NGOs workers, government officials, activists and other allies, we recognise the urgent need to respond appropriately to LGBTIQ+ persons in forced displacement. Thus, we acknowledge that:
- a. LGBTIQ+ people have existed in all cultures and societies throughout history.²
 - b. LGBTIQ+ people in forced displacement experience compounding challenges and have acute protection needs. These challenges and protection needs arise not from the fact that people have diverse sex characteristics, gender identity and/or sexual orientation. Instead they arise from structures and systems that may be inherently homophobic, biphobic, transphobic, intersexphobic, ableist, classist, racist and xenophobic, or that fail to ensure that LGBTIQ+ people have equal access to available support including through lack of training or professional development on the experiences of LGBTIQ+ in forced displacement.
 - c. Sexual and gender-based violence perpetrated against LGBTIQ+ people is used as a heteronormative, endonormative³, transphobic and patriarchal tool of control and coercion to enforce gender and bodily conformity.
 - d. Harmful and unnecessary medical procedures and genital mutilations are still inflicted on intersex people. This violates their bodily integrity and autonomy.
 - e. Refugee determination process often operates through rigid gender binary and heteronormative assumptions which creates additional challenges for LGBTIQ+ women, men, non-binary and gender diverse people in proving their claims for protection.
 - f. As of March 2019, there are 70 UN Member States that criminalise consensual same-sex sexual acts. Of the 70 UN States, 26 specifically criminalise only such acts between men. The rest of the 44 criminalising UN States criminalise consensual same-sex sexual acts among all genders.⁴
 - g. 6 UN Member States impose the death penalty on consensual same-sex sexual acts: Iran, Saudi Arabia, Yemen, Nigeria, Sudan, and Somalia. In addition, the death penalty is a possible punishment in five UN Member States: Mauritania, United Arab Emirates, Qatar, Pakistan and Afghanistan.⁵
 - h. 31 UN Member States impose up to eight years' imprisonment while the remaining 26 Member States impose even harsher penalties: between 10 years and life imprisonment.⁶

² Adapted from the 2018 Darlington Statement

³ An assumption that non-intersex people are the norm.

⁴ International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019)

⁵ Ibid.

⁶ Ibid.

- i. LGBTIQ+ women (and trans, non-binary and intersex people assigned a female sex at birth) face additional barriers to seek safety, where in many countries their freedom of movement is restricted by societal or legal rules and where they are forced to marry men.
- j. Violence is heightened and continues to be perpetrated against LGBTIQ+ people en route, in the refugee camps, in transit countries and in host countries that are supposed to be safe.
- k. LGBTIQ+ asylum seekers, refugees and other forcibly displaced LGBTIQ+ people experience ongoing discrimination in all areas of public and private life including in the employment and education settings as well as (sometimes) from their ethnic or religious communities.
- l. Decision makers tasked with refugee determination in many cases still lack comprehensive training and guidelines on the assessment of protection claims based on gender identity and expression, and sexual orientation. While we note the existence of the UNHCR guidelines on international protection no. 9⁷, these guidelines are not inclusive of protection claims based on intersex status / sex characteristics. This remains a major gap.
- m. Identity documents remain one of the major challenges for transgender people in the forced displacement, who are often denied the right to change their sex marker and/or name based on their self-identification in either their country of origin or once they seek asylum.
- n. Access to identity documents remains a crucial necessity as it impacts people's ability to secure their livelihoods, such as finding employment or opening bank accounts and exposes transgender people to ongoing violence, discrimination and exclusion.
- o. Mental health services are lacking in their capacity to respond appropriately and timely to the mental health needs of LGBTIQ+ people who are considered to be in the most vulnerable situations;
- p. Lack of appropriate and inclusive housing for LGBTIQ+ asylum seekers, refugees and other forcibly displaced people is driving people into homelessness and increases the risks of sexual and gender-based violence and exploitation, including survival sex.
- q. Existing support services are not properly resourced or trained to meet the needs of LGBTIQ+ people in forced displacement. There is a general lack of specialised refugee or LGBTIQ+ services beyond metropolitan areas.
- r. Many services remain gender-blind in their service provision, that further makes lesbian, bisexual, trans, intersex and queer women invisible and marginalised. Some LGBTIQ+ services have been historically funded to work with more visible groups (frequently but not always gay men), thus are not meeting the needs of less visible or marginalised groups.
- s. A lack of free legal advice and representation for LGBTIQ+ asylum seekers limits their access to justice.
- t. The lack of LGBTIQ+ specialist services and information about LGBTIQ+ forced displacement, including culturally and linguistically appropriate resources, makes it difficult for LGBTIQ+ asylum seekers, refugees and other forcibly displaced people to seek support, find their community and live their lives to the fullest potential celebrating who they are with pride.
- u. LGBTIQ+ refugee-led work remains unfunded.

⁷ UNHCR (2012) 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.

Needed reforms:

11. Thus, we reinforce the following and urgently needed reforms and changes:

- a. Mandatory detention must be abolished; where it is unavoidable, time limits of detention must be in places with appropriate support for LGBTIQ+ asylum seekers, refugees and other forcibly displaced people. If LGBTIQ+ people are in detention, risk assessments around where they are placed must respect the individual's self-defined gender and assessment of their safety needs.
- b. Those providing translation and interpreting services need to be LGBTIQ+ sensitive, trained and aware of both derogatory and positive identity terms. These services must be provided free of charge and treat LGBTIQ+ asylum seekers, refugees and other forcibly displaced people with dignity and respect.
- c. Health services must be culturally competent, including about the health needs of LGBTIQ+ people and work as a wrap-around service system in which every dimension of wellbeing is considered and gaps in healthcare due to forced displacement are addressed.
- d. Gender-reaffirming health care, mental health, community support, financial support, HIV/AIDS, STI services, legal services, disability support services and other relevant services must be free, available, fully resourced and staff trained to work with LGBTIQ+ asylum seekers, refugees and other forcibly displaced people regardless of their migration and/or legal status.
- e. Identity documents must be provided in a timely manner to allow and enable a self-identification of name and gender from the time an LGBTIQ+ person claims asylum.
- f. Prior education and employment must be recognised for all refugees.
- g. LGBTIQ+ and refugee organisations must be fully resourced to provide tailored support for LGBTIQ+ asylum seekers, refugees and other forcibly displaced people. Such support and programs need to be developed in consultation with and ideally led by LGBTIQ+ asylum seekers, refugees and other forcibly displaced people.
- h. Intersectionality that considers all elements of a person's identity in a holistic way as well as how multiple disadvantage and oppression shapes their experiences, must be an underpinning lens across policy, research and support pertaining to LGBTIQ+ forced displacement.
- i. LGBTIQ+ refugee-led initiatives and organisations need to be supported and resourced to champion the work on the issues of LGBTIQ+ forced displacement.
- j. The principle of non-refoulement, which prohibits the return of a refugee to a territory where their life or freedom is threatened must be implemented effectively, taken into consideration the specific threats faced by LGBTIQ+ individuals seeking asylum.
- k. Durable solutions such as resettlement must be recognised as the only viable solution for LGBTIQ+ asylum seekers, refugees and other forcibly displaced people. This requires continual evaluation of resettlement mechanisms to ensure that they are sensitively implemented, paying attention to language and context in particular.

Call for action and solidarity

- 12.** We, all gathered at the Queer Displacements Conference, call on organisations working in areas of health, legal, housing, refugee and settlement, disability, LGBTIQ and other services to ensure ongoing training and professional development for all their staff from top to bottom meeting the needs of LGBTIQ+ forcibly displaced people including by addressing the impact of discrimination and violence and other human rights violations based on one's gender identity or expression, sexual orientation, or sex characteristics.
- 13.** We, all gathered at the Queer Displacements Conference, call on the government to ensure mandatory and ongoing training and professional development for all decision makers who deal with LGBTIQ+ asylum seekers, refugees and other forcibly displaced people, on addressing discrimination, violence and other human rights violations based on a person's gender identity or expression, sexual orientation, or sex characteristics.
- 14.** We, all gathered at the Queer Displacements Conference, call on the global community to join us in solidarity with lesbian, gay, bisexual, transgender, intersex and queer asylum seekers, refugees and other forcibly displaced people to make sure justice, equal treatment and protection are afforded to them.
- 15.** We, all gathered at the Queer Displacements Conference, encourage other organisations to support the issues raised and policy and practice reforms of the Canberra statement.
- 16.** We, lesbian, gay, bisexual, transgender, intersex and queer asylum seekers, refugees and other forcibly displaced people, call on supporters and allies to commit to centring and privileging our lived experience in all your work. **Nothing about us without us! Actions not just words!**

For more information about the Queer Displacements Conference and to sign on to the Canberra Statement visit: <http://bit.ly/queer-displacements>