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RESEARCH THAT MATTERS

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# LGBTQI+ REFUGEES AND ASYLUM SEEKERS

A Review of Research  
and Data Needs

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## EXECUTIVE SUMMARY

According to the United Nations Refugee Agency, there are 26.6 million refugees and 4.4 million asylum seekers worldwide (UNHCR 2021a). However, the precise number who identify as lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) is unknown. Likewise, we do not have rigorous data on the number of persons seeking asylum due to persecution on the basis of their sexual orientation or gender identity (SOGI). Only 37 countries formally grant asylum to individuals due to a well-founded fear of persecution on the basis of sexual orientation or gender identity (UNHCR 2019), and few countries to our knowledge regularly and systematically collect demographic data that are inclusive of SOGI measures. As a result, there is limited generalizable research on the characteristics and experiences of LGBTQI+ refugees and asylum seekers.

As LGBTQI+ people face less acceptance and more discrimination in many parts of the world, the U.S. and other host countries are likely to see more LGBTQI+ people seeking refuge. Nearly 70 countries maintain laws that criminalize consensual same-sex activity (Mendos et al. 2020). Despite legal advances in many parts of the world, LGBTQI+ people continue to face social and economic exclusion, discrimination, and stigma that can have significant effects on their health and well-being (Flores 2021). The majority of LGBTQI+ people seeking asylum in the U.S. came from the Northern Triangle region of Central America (Honduras, Guatemala, and El Salvador) (Shaw et al. 2021), which have all seen declines in acceptance of LGBTQI+ people (Flores 2021). President Biden has explicitly identified the rights of LGBTQI+ refugees and asylum seekers as priority for U.S. foreign policy and development assistance (The White House 2021). Yet, without research and data specific to this population, we cannot fully know how and to what extent policies are in place that protect and promote the human rights of all refugees and asylum seekers.

This report collects and synthesizes literature on LGBTQI+ refugees and asylum seekers worldwide in order to provide a baseline understanding, identify knowledge gaps, and strengthen the call for expanded and improved data collection and research. We review more than 130 empirical studies, from 2000 to the present, on issues impacting LGBTQI+ refugees and asylum seekers. Key findings from this review include the following:

### Root Causes of LGBTQI+ Migration

- LGBTQI+ people are disproportionately subject to violence by private citizens, family members, and government agents in their country of origin (Bennett and Thomas 2013; Grungras et al. 2009; Hopkinson et al. 2017).
- Transgender refugees and asylum seekers are often visible in their gender nonconformity and therefore particularly vulnerable to violence and persecution (Cerezo 2014).
- LGBTQI+ refugees experience multiple forms of victimization in their country of origin, including rape, torture, sexual orientation and gender identity change practices (i.e., so-called “conversion therapy”), physical and sexual assault, and imprisonment (Alessi 2017; Alessi 2016; Cheney et al. 2017).
- Internalized shame and forced concealment of one’s sexual orientation or gender identity often arise because LGBTQI+ persons are pressured by families or communities to adopt socially acceptable roles (Grungras et al. 2009) or forcibly enter heterosexual marriages (Piwowarczyk et al. 2017).

## Challenges Facing LGBTQI+ Migrants in Transit and Awaiting Asylum

- LGBTQI+ asylum seekers often face particularized difficulties navigating transit zones, where they face daily exposure to harassment, violence, and discrimination (Yarwood et al. 2022). In many cases, LGBTQI+ migrants attempt to conceal their identity to avoid abuse or violence (Grungras et al. 2009).
- One study found that asylum-seekers lacking financial resources faced severe financial strain (Alessi 2016). Likewise, asylum seekers often face difficulties obtaining residence permits necessary to begin employment (Grungras et al. 2009).
- Even where support services may exist, migrants report difficulty accessing them or facing discrimination in attempting to seek various forms of care (Yarwood et al. 2022; Chynoweth 2021).
- Restrictions and border closures due to the COVID-19 pandemic have exacerbated pre-existing vulnerabilities and put LGBTQI+ asylum seekers at great risk of violence and harassment (Kizuka et al. 2021).

## Barriers to Claiming Asylum or Refugee Status

- Studies show that a main obstacle to seeking asylum appears to be lack of awareness that sexual orientation and gender identity constitute viable grounds for an asylum claim (LaViolette 2004; Berg and Millbank 2009; O’Leary 2008; Andrade et al. 2020).
- Research shows that the process of applying for asylum can itself have deleterious effects on LGBTQI+ persons. One recent study found that asylum applicants experience negative mental and physical health outcomes and economic insecurity as they wait in a precarious state of uncertainty (Llewelyn 2021).
- A number of studies show how the requirements for a successful asylum claim require that LGBTQI+ migrants “come out” to present themselves as a sexual or gender minority, but do so in a way that is “credible” and “legible” to asylum adjudicators (Kahn and Alessi 2018). One study attributed the cause of most denied SOGI claims to “disbelief of sexual orientation” or “lack of credibility,” which are typically predicated on heteronormative and Western conceptions of sexuality and expectations of queer lifestyles often rooted in stereotypes or prejudice (Rehaag 2017).
- A number of studies point to the challenge posed by adjudicators who may conflate sex with sexuality to the extent that sexual behavior forms a key part of the claimant’s narrative about their sexual orientation (Gaucher and DeGagne 2016). Applicants without sexual or romantic histories are therefore routinely discredited (Akin 2015).
- “Proving” one’s identity is particularly challenging for transgender asylum seekers. Adjudicators often rely on outdated medicalized notions of what it means to be transgender in which, to be deemed “valid” and “real,” transgender people must desire and seek out medical intervention (Vogler 2019).
- Bisexual claimants are often denied asylum due to understandings of bisexuality based on stereotype, that is, the notion that bisexual migrants can simply choose partners of the opposite sex (Sin 2015; Dustin and Held 2018).

- Documentation of country conditions is critical evidence to demonstrate a fear of persecution. However, in many contexts, there is little information available and can be difficult to obtain (Dauvergne and Millbank 2003; O’Leary 2008; Rehaag 2017).
- The experience of “coming out under the gun” in the course of applying for asylum can be actively retraumatizing for vulnerable migrants (Kahn and Alessi 2018; Liinason 2020; Jordan 2009).

## Experiences of Arrival and Resettlement

- Many LGBTQI+ refugees and asylum seekers are forced to spend time in detention centers in both transit and host countries. Research shows that the conditions in detention centers can be particularly difficult for LGBTQI+ migrants, who are often placed in jails or jail-like facilities and experience negative health consequences (Lewis 2019; Gerena 2022), including sexual and physical abuse (Anderson 2010).
- Transgender refugees and asylum seekers may be particularly affected by punitive or harmful practices in detention, such as being denied access to hormone treatment and other gender-affirming medical care (Singer 2021; Gruberg 2013).
- Unlike many migrants, LGBTQI+ asylum seekers and refugees may not have the support of their diasporic or ethnic communities because of homophobia or transphobia that reflects persecutory conditions in the country of origin (Shidlo and Ahola 2013, Piwowarczyk et al. 2017).
- Research suggests that LGBTQI+ refugees and asylum seekers may continue to experience negative mental health outcomes given the multiple and compounded traumas they experience in their countries of origin and throughout the asylum and resettlement processes (Alessi 2017; Logie et al. 2016). Common diagnoses from this “lifetime of cumulative trauma” include depression, PTSD, dissociative disorders, panic disorder, generalized anxiety disorder, social anxiety, traumatic brain injury and substance abuse (Shidlo and Ahola 2013).
- While LGBTQI+ refugees face challenges throughout the migratory process, including violence, harassment, and discrimination, many are able to also mount resistance, forming solidarity and networks with migrant activists and community-based organizations to mobilize on behalf of migrant rights and LGBTQI+ rights more broadly.

## Research and Data Needs Regarding LGBTQI+ Refugees and Asylum Seekers

Findings in this review suggest a number of gaps in our knowledge that would be strengthened by research on the following:

- Rigorous analyses of conditions in countries of origin that demonstrate persecution on the basis of sexual orientation and gender identity. This includes examination of how country-specific laws and policies may differentially impact LGBTQI+ subpopulations and their decision to flee or seek refugee status;
- Demographic characteristics of LGBTQI+ refugees and asylum seekers;

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- The unique challenges and vulnerabilities of transgender migrants, particularly those facing intersecting forms of discrimination on basis of race;
  - The unique challenges and vulnerabilities of intersex migrants;
  - Experiences of LGBTQI+ migrant youth and children of LGBTQI+ migrants;
  - Experiences of LGBTQI+ refugees along the migratory route, including in transit countries;
  - The impact of country-specific policies (such as “metering” or Title 42 in the United States) on the health and well-being of LGBTQI+ migrants;
  - Experiences of LGBTQI+ migrants in refugee camps and other sites of temporary accommodation;
  - Migration dynamics and resettlement within the Global South (rather than assuming transit from the Global South to North);
  - Patterns of outcomes of asylum adjudication and refugee status determination processes;
  - Large, mixed-method studies on resettlement and social integration, including impact on health, well-being, economic livelihood, and experiences with violence and discrimination. Studies should include examination of intersecting forms of discrimination on the basis of sexual orientation, gender identity, race, religion, and immigration status, among others;
  - Resilience and resistance among LGBTQI+ refugees and asylum seekers in transit and in host countries;
  - Evaluations of programs and interventions to support LGBTQI+ refugee resettlement and social integration.

This review suggests that concrete measures should be taken to enhance data collection related to LGBTQI+ refugees and asylum seekers:

- Demographic questions about sexual orientation, gender identity, and sex assigned at birth should be integrated through the application process, *explicitly subject to change without negative repercussions for the asylum seeker*. In the US, this should include intake forms I-870 (Record of Determination/ Credible Fear Worksheet), I-899 (Record of Determination/Reasonable Fear Worksheet), and I-589 (Application for Asylum and for Withholding of Removal);
- Agencies responsible for asylum adjudication should record the grounds for asylum claims in a case file electronic database and release these data to the public;
- UNHCR staff, national authorities such as asylum officers and border agents, immigration judges, and other frontline workers who engage with migrants should be adequately trained in competent interview methods for LGBTQI+ people and in registering sensitive data;
- Sexual orientation, gender identity, and sex assigned at birth data should be integrated into registration and data management systems operated by UNHCR, as well as national government agencies that process refugee status determinations.

## INTRODUCTION

The 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol to the Convention define a refugee as any person “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country....” According to the United Nations Refugee Agency, there are 26.6 million refugees and 4.4 million asylum seekers worldwide (UNHCR 2021a). However, the precise number who identify as lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) is unknown; likewise, we do not have rigorous data on the number of persons seeking asylum due to persecution on the basis of their sexual orientation or gender identity (SOGI). Only 37 countries formally grant asylum to individuals due to a well-founded fear of persecution on the basis of sexual orientation or gender identity (UNHCR 2019), and few governments regularly and systematically collect demographic data that are inclusive of SOGI measures.<sup>1</sup> As a result, there is limited generalizable research on the characteristics and experiences of LGBTQI+ refugees and asylum seekers. We also do not know the full extent to which geography, race/ethnicity, age, gender, economic status, disability, language, and other characteristics affect the experiences of LGBTQI+ refugees and asylum seekers.

According to a recent analysis by the Williams Institute, an estimated 30,900 LGBT people applied for asylum in the United States between 2012 and 2017, with nearly 4,000 seeking asylum due to fear of persecution on the basis of SOGI (Shaw et al. 2021). This study was based on data from asylum pre-screening interviews coded by the US Citizenship and Immigration Service (USCIS) as pertaining to sexual orientation or gender identity. However, these data likely represent only a fraction of the broader universe of LGBTQI+ asylum claims. As discussed in more detail in this report, many LGBTQI+ migrants may not list their sexual orientation or gender identity as a reason for seeking asylum or may be reluctant to disclose their identity out a fear of discrimination or harassment from asylum officers, border agents, or other refugees.<sup>2</sup>

Nearly 70 countries maintain laws that criminalize consensual same-sex activity (Mendos et al. 2020). Despite legal advances in many parts of the world, LGBTQI+ people continue to face social and economic exclusion, discrimination, and stigma that can have significant effects on their health and well-being (Flores 2021). The majority of LGBTQI+ people seeking asylum in the U.S. came from the Northern Triangle region of Central America (Honduras, Guatemala, and El Salvador) (Shaw et al. 2021), which have all seen declines in acceptance of LGBTQI+ people (Flores 2021).

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<sup>1</sup>Danisi et al. (2021) note that, as of 2011, the UK Home Office began flagging asylum claims based on sexual orientation. However, they note that cases were not consistently or accurately coded. The Home Office does not code claims based on gender identity (Danisi et al. 2021, 121). As of 2015, the UK began collecting data on asylum claims where sexual orientation formed some basis of the asylum claim.

<sup>2</sup>Additionally, this study did not include data on asylum seekers who were turned away at the border without having a chance to appear before USCIS officials, or individuals whose claims were not coded as LGBT by asylum officers. For those claimants who may disclose information related to their sexual orientation or gender identity, we do not have information about how USCIS codes the narrative fields data to flag “other social group” claims based on that information, nor the extent to which the variety of terminology used around the world to describe being LGBT has been incorporated into the USCIS coding system. And there may be some asylum seekers placed into removal proceedings who make LGBT claims without going through a fear interview.

As LGBTQI+ people face less acceptance and more discrimination in many parts of the world, the U.S. and other host countries are likely to see more LGBTQI+ people seeking refuge. Indeed, President Biden has explicitly identified the rights of LGBTQI+ refugees and asylum seekers as a priority for U.S. foreign policy and development assistance (The White House 2021). Yet, without research and data specific to this population, we cannot fully know how and to what extent policies are in place that protect and promote the human rights of all refugees and asylum seekers.

## REPORT TERMS, ORGANIZATION, AND METHODOLOGY

This report collects and synthesizes literature on LGBTQI+ refugees and asylum seekers worldwide in order to provide a baseline understanding, establish a research agenda, and strengthen the call for expanded and improved data collection and research. We use the term LGBTQI+ to encompass the range of identities of people with diverse sexual orientations, gender identities, gender expressions, and sex characteristics (SOGIESC) who are likely to be seeking refugee status or claiming asylum due to persecution on the basis of sexual orientation or gender identity. While we recognize that people with diverse SOGIESC may not necessarily identify with prescribed categories within the LGBTQI+ acronym or may identify with categories that are culturally or linguistically specific, we use this broad term to align with the practice of international refugee and asylum organizations such as UNHCR, the U.S. Department of State, and major nongovernmental organizations. Where referring to specific studies or sources of data that are limited to certain subgroups (e.g. LGBT), we use the acronym that reflects those specific subgroups.

In this report, we limit the broader category of LGBTQI+ migrants to refugees and asylum seekers, though we use the terms interchangeably or defer to the categories employed by specific studies referenced. As previously noted, refugees are persons who have fled their country of origin because they fear persecution on the basis of race, religion, nationality, membership of a particular social group (e.g. sexual orientation or gender identity-based persecution), or political opinion. An asylum seeker is a refugee who has fled their country of origin but has not yet been legally recognized as a refugee and awaits adjudication of their asylum claim. We recognize that the definition of refugees and asylum seekers has been critiqued by scholars and activists for failing to encapsulate the myriad of reasons why people migrate, and we acknowledge the limitations of discussions centered specifically on this population as defined within domestic and international law. That said, this report aims to meet the urgent need for research and data on LGBTQI+ refugees and asylum seekers by focusing on what is currently known within the terms of current policy and legal debates.

The research is presented according to stages in the migratory process, from root causes of migration, to challenges during transit, to barriers to claiming asylum through the legal process, to resettlement and social integration. Within each section, key challenges and disparities are highlighted, as well as gaps in our understanding of the unique vulnerabilities and experiences of LGBTQI+ migrants. We conclude by identifying knowledge gaps and making recommendations for further research and data collection.

To identify relevant research, we comprehensively searched legal and social science research databases including Lexis Advance, Westlaw, EBSCOhost, Melvyl, JSTOR, Hein Online, PsycINFO, ScienceDirect, and Google Scholar. We also searched the websites of international organizations, national governments, and prominent civil society organizations that work with LGBTQI+ refugees



and asylum seekers. Further, we used citation tracing to identify influential and otherwise widely cited studies. We generally excluded studies published prior to 2000 and legal studies that did not rely on original empirical research, and searches were limited to English-language publications.

In addition, we convened 25 experts for a one-day conference in February 2022 to discuss what is known and not known about LGBTQI+ refugees and asylum seekers. Participants included academics, researchers, community members, advocates, and leaders from international refugee and asylum agencies. These individuals were based in or conduct research in Sub-Saharan Africa, Middle East/North Africa, the Americas, and Europe, and collectively participants brought deep expertise on research and issues impacting LGBTQI+ migrants and experience working with refugees and asylum seekers in a myriad of political, social, and geographical contexts. Participants were provided an early draft of our literature review in advance of the convening and were invited to provide written and oral feedback.

## FINDINGS

### ROOT CAUSES OF MIGRATION AMONG LGBTQI+ REFUGEES AND ASYLUM SEEKERS

LGBTQI+ migrants who seek refugee status and claim asylum seek protection from various forms of persecution. Scholars define persecutory harm in terms of both exogenous harm, such as systemic violence and discrimination, and endogenous harm, including internalized shame, stigma, fear, trauma, and forced concealment of identity (Hathaway and Popjoy 2012).<sup>3</sup>

LGBTQI+ people are disproportionately “subject to violence—including rape, torture, and murder—both by private citizens and government agents” in their country of origin (Bennett and Thomas 2013; Grungras et al. 2009, 43; Hopkinson et al. 2017). Extant literature suggests that LGBTQI+ forced migrants experience multiple forms of victimization, including “psychological abuse, blackmail, shunning, pressure to participate in conversion therapy, corrective rape, and physical and sexual assault” (Alessi 2017, 937). In one study of transgender refugees, all participants reported experiencing some form of assault (Gowin et al., 2017), and in another all LGBTQI+ participants relayed childhood experiences of abuse (Alessi 2016). A study of lesbian migrants revealed that all the women interviewed “had experienced physical and sexual violence in their home countries, and described “being targeted and experiencing ‘corrective rape,’ torture, imprisonment and family abuse because of their same-sex relationships” (Bennett and Thomas 2013, 26).

A 2020 study by Human Rights Watch documented the experiences of violence among 116 LGBT asylum seekers from Guatemala, El Salvador, and Honduras (Ghoshal 2020). Interviewees reported fleeing gang violence, which is particularly threatening among economically marginalized LGBT people who live in low-income areas controlled by gangs. In some instances, researchers found “gangs targeted LGBT people, killing, assaulting, threatening or extorting them for reasons that...might be linked to personal anti-LGBT animus; to assert social control or dominance; or because gangs recognize that LGBT people, particularly those who are poor, may have weak social support systems to protect them” (Ghoshal 2020).

Research shows that persecutory violence is often state-sanctioned and codified into law. Indeed, 69 countries still criminalize consensual same-sex relations (Grungras et al. 2009; Mendos et al., 2020), and 13 explicitly criminalize gender minorities through so-called “cross dressing” laws (Chiam et al. 2020). LGBTQI+ people in these contexts have limited options for legal recourse. State institutions, such as the police, may be apathetic or even complicit in homophobic and transphobic violence (Ghoshal 2020). A study of Iranian LGBTQ refugees highlighted that many “report police abuse, rape, and various forms of torture” (Grungras et al. 2009, 45). In another study, many migrants reported that government actors dismissed them by saying that the migrants “were responsible for the abuse because they did not conform to gender norms or behave in certain ways, and they were instructed to change their behaviors if they wanted the abuse to stop” (Alessi 2016). Police target visibly queer

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<sup>3</sup>While forms of endogenous harm do not necessarily meet the standard for claiming asylum in various legal jurisdictions, we include research that examines such persecution to the extent it motivates the decision by LGBTQI+ people to seek refugee status or asylum. We also recognize that the definition of refugee/asylum-seeker under international law has been validly critiqued by scholars for failing to encapsulate the myriad and interconnected reasons that people migrate, often operating to exclude racialized or other marginalized migrants.

and transgender people; raids of LGBTQI+ spaces are not uncommon, as are arrests for sex work and gender non-conformity (Alessi et al. 2017). In a study on transgender Mexican asylum seekers, a majority of participants “reported multiple instances of false arrest, being picked up and taken to jail and held under charges that were later dropped or [held] without charges” (Cheney et al. 2017). They also noted that physical and sexual assault by the police was common (Cheney et al. 2017).

Besides state-level persecution, a number of studies show that LGBTQI+ refugees and asylum seekers experience violence and persecution at the hands of individual family members, community leaders, and even government officials in their countries of origin (Alessi et al. 2021; Alessi et al. 2016; Alessi et al. 2017; Gowin et al. 2017; Hopkinson et al. 2017; Piwowarczyk et al. 2017). Refugees and asylum seekers reported experiencing physical assault, harassment, blackmail, mob and gang violence, forced exposure to so-called “conversion therapy” and other efforts to change their sexual orientation, and property crimes, among others. Research also shows that LGBT migrants are more likely to experience sexual violence prior to migration than non-LGBT migrants (Hopkinson et al. 2017). In a survey of gay and bisexual migrants to the United States from Africa, respondents reported experiencing “forced sex” prior to migration (Ogunbajo et al. 2019; Sandfort et al. 2017), and a study of transgender asylum seekers in Mexico found that nearly all respondents had experienced sexual assault (Cheney et al. 2017).

### Endogenous Persecutory Harm

Endogenous factors, such as internalized shame and forced concealment of one’s sexual orientation or gender identity, often arise because LGBTQI+ persons are pressured by families or communities to adopt “socially accepted gender identities or heterosexual relationships” in order to “avoid social ostracism, violence, and even execution” (Grungras et al. 2009, 43). In one study, forty-six percent of participants reported being forced into heterosexual marriages or relationships (Piwowarczyk et al. 2017). Another study found that people who are forced to conceal their identities “struggled with loneliness and lived in constant fear for their lives should someone discover their identity” (Alessi 2018, 813). Participants also “grappled with the knowledge that they risked shaming their families should they choose to embrace their authentic selves” (Alessi 2018, 813).

Such endogenous harm is associated with negative health outcomes, including suicidality and depression (Hopkinson et al. 2017). Despite the evident dangers of endogenous harm, it may not rise to the threshold of asylum protections, which necessitates a “well-founded fear of persecution” (Vogler 2018). Many scholars note that, by focusing on exogenous harms, adjudicators overlook the impact of endogenous harm, including the emotional and psychological harm endured by LGBTQI+ applicants forced to conceal their identities (Hathaway and Popjoy 2012).

### Other Motivations for Migration

While the focus of this review is on LGBTQI+ migrants forcibly displaced and fleeing persecution, we note that research also shows that LGBTQI+ people migrate due to economic marginalization caused or exacerbated by widespread and systemic discrimination (Grungras et al. 2009; Ghoshal 2020). Though systematic data collection on the lived experiences of LGBTQI+ people varies across and within countries, decades of research shows that LGBTQI+ people are negatively affected by discrimination in employment, education, housing, and other sectors of society (Badgett 2020).

Discrimination on the basis of sexual orientation or gender identity can leave many LGBTQI+ people without stable livelihoods and further subject to exploitation or extortion by gangs (Ghoshal 2020). This is particularly salient among transgender women who, “often unable to obtain other employment, do sex work: a business that requires frequent interactions with gang members and police and sometimes exposes them to violence” (Ghoshal 2020).

One study of Iranian migrants noted that many queer and transgender Iranians in its dataset sought asylum due to the imposition of economic sanctions by the United State and European Union against Iran (Shakhsari 2014). LGBTQI+ Iranians are often more vulnerable to the consequences of economic downturns, due to the imbrications of their marginalities, and many lost their jobs, experienced homelessness, and lived in poverty. Study participants indicated that they left Iran not due to homophobic violence, but “in hopes of a better life” (Shakhsari 2014, 1006).

### Transgender Migrants

While all LGBTQI+ migrants are vulnerable to persecution and violence, which may lead them to seek refuge in another country, transgender migrants can be “especially visible” in their gender nonconformity, and therefore conspicuous targets (Cerezo 2014). Violent expressions of transphobia may be sanctioned even in countries that explicitly provide protections against homophobic discrimination: most countries with legal protections for gay and lesbian citizens do not have similar laws for transgender people (Cerezo 2014; Vogler 2019).

Due to such intersecting forms of violence and persecution, many transgender people—and, in particular, transgender women—are “internally displaced,” or “forced from their homes by pervasive discrimination, harassment, and gender-based violence” (Munir 2019). In one study, almost all transgender asylum seekers “reported being kicked out of their family homes and living on the streets or with anyone who would take them in” (Gowin et al. 2017, 334). Moreover, transgender migrants frequently experience homelessness and live in poverty. This can force them into unsafe or potentially exploitative contexts, such as sex work (Munir 2019). Transgender people may have narrow options for legal recourse; they are frequently unable to turn to the police, who can be “agents of persecution” (Munir 2019).

## CHALLENGES FACING LGBTQI+ MIGRANTS IN TRANSIT AND AT BORDERS

### Precarity in Transit

Many migrants spend years in limbo, sometimes in host countries and sometimes in “transit” countries that are not their final destinations (Sari 2020). Research shows that LGBTQI+ asylum seekers face particularized difficulties navigating these transit zones, where they face daily exposure to harassment, violence, and discrimination (Yarwood et al. 2022). Migrants in South Africa, for example, reported fearing sexual assault and social isolation (ORAM 2013), while studies show migrants endured abuse and discrimination by local residents in Turkey, Mauritania, and Mexico (Yarwood et al. 2022; Broqua et al. 2021). In Lebanon, sexual minority Syrian refugees reported higher rates of discrimination and assault compared to non-sexual minority Syrians (Clark et al. 2021; Tohme et al. 2016). In many cases, LGBTQI+ migrants attempt to conceal their identity to avoid abuse or violence. This was particularly true for people who are visibly gender-nonconforming, so many

are advised to be as inconspicuous as possible (Grungras et al. 2009). However, as discussed below, migrants are often caught in a double bind, where they must simultaneously be “visible” to the eyes and legal understanding of asylum adjudicators yet invisible to those who would threaten them.

In the United States, the practice of “metering” (i.e., limiting the number of asylum seekers who could cross the border on any given day) led to backlogs and substantial delays for many migrants seeking to claim asylum at the U.S. southern border (Ghoshal 2020). Similarly, the Migrant Protection Protocol (or so-called “Remain in Mexico” policy) forced asylum seekers to remain in Mexico while waiting for their asylum hearings (Ghoshal 2020). Human rights groups have documented how asylum seekers are forced to wait in areas of Mexico at great risk of extortion, kidnapping, and violence (Neusner et al. 2022); however, there is little research that systematically tracks the impact of these policies on LGBTQI+ refugees and asylum seekers specifically.

While in such states of limbo, studies show how asylum seekers must pay their own expenses, including housing, food, and medical expenses (ORAM 2013; Grungras et al. 2009; Giametta 2020). One study found that “participants who did not have the resources to support themselves suffered severe financial strain while waiting to find out whether they could stay in the United States or Canada” (Alessi 2016, 210). Asylum seekers often face difficulties obtaining work in these liminal zones; many will not be able to receive the residence permits necessary to begin employment, and even those who start work report workplace harassment and discrimination (Grungras et al. 2009). While some are able to find jobs in the formal sector, many LGBTQI+ migrants are forced to find employment in the informal economy, such as sex work. One migrant noted, “I worked in a restaurant for four months when I first came to Isparta. But when the boss realized that I was gay, he fired me. Now I work as a sex worker in Eğirdir and Isparta. I have to because I have no money and I have to survive somehow” (Grungras et al. 2009, 51). In another study, migrants expressed doing “whatever was necessary to survive,” including engaging in sex work, living in shelters, and accepting jobs that “did not align with their level of education and/or work experience” (Alessi 2016, 208).

Even where support services may exist, migrants report difficulty accessing them or facing discrimination in attempting to seek various forms of care. Research in Kenya showed that LGBTQI+ migrants feared that they might be deported if using sexual assault services, and transgender women reported being rejected from accessing services provided by women’s organizations (Yarwood et al. 2022; Chynoweth 2021).

## COVID-19

While the COVID-19 pandemic has had profound implications across all communities and geographies, including migrants and other forcibly displaced persons, there is limited research on the specific impact of the pandemic on LGBTQI+ refugees and asylum seekers. Some research has attempted to evaluate the impact on LGBTQI+ persons generally (Bishop 2020; Sears et al. 2021), but data on LGBTQI+ migrants is more scarce. Cowper-Smith et al. (2021) conducted interviews with LGBTQI+ Venezuelan asylum seekers in Brazil and found that the pandemic exacerbated vulnerabilities that migrants already faced. Many lost access to livelihoods due to restrictions on movement, while interviewees also reported increases in fears of violence and discrimination, particularly in accessing safe housing. Another study found that strict lockdown measures in South Africa similarly limited LGBTQI+ asylum seekers’ access to housing food, employment, and medicine (Reid and Ritholtz 2020).

Other research has looked at the impact of the pandemic on newly closed borders. Camminga (2021) noted the impact of border closures on efforts to resettle LGBTQI+ refugees in the Global North. UNHCR (2019) indicated that such closures will have an impact on resettlement of refugees at “heightened risk,” including LGBTQI+ persons, but there is no readily available data on the number of LGBTQI+ refugees affected. Some research in the United States has examined the impact of Title 42, which allows the government to expel asylum seekers and prevent them from seeking asylum under the pretext of a public health emergency caused by the COVID-19 pandemic. A 2021 study by Human Rights First found that “81 percent of LGBTQ asylum seekers reported that they were subjected to an attack or an attempted attack” in the prior month (Kizuka et al. 2021). The study was based on interviews with 110 asylum seekers in Tijuana, in addition to survey data from 1,200 asylum seekers in response to a survey conducted by Al Otro Lado. Further, it finds that LGBTQI+ asylum seekers stranded in Mexico due to policies such as Title 42, including those from countries such as Jamaica, Haiti, and El Salvador, experience violence and discrimination that compounds the trauma they have already experienced in their country of origin (Kizuka et al., 2021).

## Refugee Camps

We found limited research on the experiences of LGBTQI+ refugees and asylum seekers in refugee camps. This may be due, in part, to the particular vulnerabilities that LGBTQI+ refugees face in conditions of forced displacement, as visibility could make them targets for violence, discrimination, or exploitation. LGBTQI+ refugees may be reluctant to disclose their identities to humanitarian workers and researchers alike. Indeed, UNHCR guidelines for *Working with Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ+) Persons in Forced Displacement* make specific recommendations to create safe environments for self-disclosure of SOGIESC, including seeking consultation with local NGOs, training LGBTQI+ outreach volunteers, and creating information materials that explain how LGBTQI+ persons can seek assistance from UNHCR (2021, 23).

A recent study from ORAM and Rainbow Railroad examined the experiences of LGBTQI+ refugees in the Kukuma Refugee camp in Kenya (Ndiritu 2021). The study drew on interviews from 58 LGBTQI+ asylum seekers and 18 key informants to estimate that 350 LGBTQI+ asylum claimants are seeking refuge in the Kakuma Refugee Camp and Kalobeyei Integrated Settlement. Interviewees reported experiencing physical violence, verbal insults, and discrimination in the camp. According to the study, 83 percent of those interviewed reported being denied services in shops or markets, 55 percent were unable to participate in religious activities and, 88 percent were refused assistance by police on the basis of their sexual orientation. Furthermore, interviewees reported experiencing sexual violence including “rape perpetrated by fellow refugees with a stated goal of attempting to change the victim’s sexual orientation” (Ndiritu 2021, 23).

Additionally, the study found that LGBTQI+ refugees in the camp were unable to access livelihood programs due to persistent homophobia and transphobia of other refugees and the community more broadly. This included vocational training, financial inclusion training, and business development services.

## BARRIERS TO CLAIMING ASYLUM OR REFUGEE STATUS

### An Opaque and Costly Process

Studies show that a main obstacle to seeking asylum appears to be migrants' lack of awareness that sexual orientation and gender identity constitute viable grounds for an asylum claim (LaViolette 2004; Berg and Millbank 2009; O'Leary 2008). Many LGBTQI+ people "do not know, or simply do not believe, that they are entitled to protection due to their fears [of SOGI-based persecution]" (O'Leary 2008). In one study, no participants knew of the asylum process prior to arriving in the U.S. through other channels (Kahn 2015). Another study, based on data from two surveys totaling 82 LGBTQI+ asylum seekers in Europe, found that one third of the respondents did not know they could claim asylum on the basis of SOGI persecution (Andrade et al. 2020). Even potential migrants who are aware of their eligibility may feel skepticism at the "notion that they would receive help from governmental authorities on the grounds that they have suffered persecution based on SOGI" (Shidlo and Ahola 2013, 10). Therefore, many individuals who seek to migrate for other reasons, such as economic motivations, may only later claim their group membership as the basis for refugee status (Berg and Millbank 2009).

Research shows that the process of applying for asylum can itself have deleterious effects on LGBTQI+ persons. One recent study, drawn from interviews with 18 LGBTQ asylum applicants from the Caribbean and African countries, found that asylum applicants experience both negative mental and physical health outcomes as they wait for a decision in their case (Llewelyn 2021). In particular, interviewees reported feelings of "isolation and loneliness" amidst the uncertainty of "waiting for their cases to be heard" as they lacked access to broader immigrant networks due to homophobia and transphobia (206). Periods of "prolonged uncertainty" meant that they could not fully express their sexual or gender identities and remained in a state of "captivity" (207). Unable to find work given a precarious immigration status, some LGBTQ asylum applicants reported existing in a state of "economic insecurity" that required them to take jobs or seek support that exposed them to physical violence (207).

Indeed, financial burdens pose a significant challenge to LGBTQI+ asylum seekers and refugees. The asylum application itself is expensive, and, in conjunction with extra expenses—including legal fees, country of origin resource fees, identification cards, and resident permits—the cost burden may be prohibitive (Shakhsari 2014). Moreover, many migrants will wait months, if not years, before being permanently resettled, during which time many must pay for their own expenses, including housing, food, transportation, and healthcare (Shakhsari 2014). Despite confronting such costs, most migrants struggle to find work, work illegally, or are paid extremely low wages (Shakhsari 2014). Cumulatively, scholars argue, such measures constitute a form of "legal violence" that imposes "trauma and suffering... by the very system that is supposed to protect [asylum seekers]" (Llewelyn 2021; Menjivar and Abrego 2012).

Asymmetries of gender, class, and race can further encumber the process of claiming asylum. As discussed above, the process of seeking asylum can be costly, and class barriers often impede potential migration. One study noted that "mobility was facilitated by access to education or career," and that "the men who had pursued training or work that enabled them to obtain travel documents and cross borders...on board ships, in tourism, or in IT" were more successful (Jordan 2009, 171). Indeed, in many contexts women have less mobility than men; some countries impose social and

legal sanctions against women travelling. A lawyer specializing in queer refugee law indicated that “lesbian clients from countries with these types of sanctions had often undertaken elaborate and dangerous schemes to obtain travel documents and leave their homes in secrecy” (Johnson 2009, 171). The same impediment likely impacts nonbinary individuals, people assigned female at birth, and transgender men, as well.

For transgender asylum seekers, the process of merely registering for refugee status creates complicating and sometimes dangerous barriers to seeking asylum. In South Africa, for example, asylum seekers are forced to wait in line to obtain an initial interview at a Refugee Reception Office, which can often take longer than the two weeks afforded them under their preliminary visa (Camminga 2017). While all asylum seekers in South Africa face such challenges, transgender asylum seekers must choose between a line for “men” and one for “women,” which for those applicants who are “living in stealth in South Africa—living outside their country-of-origin communities in South Africa—or are living in country-of-origin communities in South Africa because they provide support but are not out to them, there is very real concern about being seen” (Camminga 2017, 65). What’s more, certain lines may only be processed on certain days, leading to confusion and anxiety about which “gender” to select and whether an application will be processed according to a petitioner’s gender identity.

## The Burden of Proving Identity

A “credible” SOGI asylum claim hinges on two prongs: 1) proving a SOGI identity, and 2) proving past or reasonably anticipated persecution on the basis of that identity (Vogler 2016). A number of studies show how these requirements situate migrants in a fraught liminal space, in which they must not only “come out,” but also come out in a way that is “credible” and “legible” to asylum adjudicators (Kahn and Alessi 2018). One study attributed the cause of most denied SOGI claims to “disbelief of sexual orientation” or “lack of credibility” (Rehaag 2017).

### Western Identity Categories

Research demonstrates how models of sexual identity that are legible to adjudicators in host countries are typically predicated on heteronormative and Western conceptions of sexuality. Such conceptions often traffic in stereotypes (such as gay men being feminine and lesbians being masculine) and require a cogent “coming out narrative” in order to be persuasive (Gaucher and DeGagne 2016). However, this is not necessarily how many migrants experience their sexuality; Western stereotypes are not universal, and coming out narratives are not monolithic (Vogler 2019). Applicants often feel the need to lie about their narratives or present differently in their appearance to be successful in their claims; indeed, their advocates often encourage them to do so (Shakhsari 2014; Sari 2020). One researcher who served as an advocate for lesbian asylum seekers noted how she would coach them to look stereotypically “butch,” because feminine-presenting lesbians are assumed to be inauthentic (Sari 2020). One lesbian claimant’s application was denied because she was “articulate, professional, well-groomed, and attractive,” thus rendering her “not visibly gay” (Millbank 2003, 102). LGBTQI+ asylum seekers are therefore typically coached to “try to become as visible as possible in order to be believed by adjudicators” (Akin 2017, 469).



### Expectations of Queer Lifestyles

The demand to reproduce legible Western categories does not end with a coming-out narrative or stereotypical gender presentation. Several studies demonstrate how migrants are expected to conform to particular expectations of what an “authentic” queer lifestyle looks like (Rehaag 2017). In many cases, this lifestyle—dubbed a “gay reality”—demands that migrants “enthusiastically” frequent “gay bars or discotheques” and other public queer spaces (Gaucher and DeGagne 2016, 471). One claimant, for instance, was denied asylum for “failing to participate in Pride” (Rehaag 2017). Likewise, a large, multi-method study of European asylum systems found that “SOGI claimants are presumed to be gay men, with no family or intimate relationships” (Danisi and Ferreira 2022, 9). That said, the lack of a “credible” intimate relationship, past or present, could further weigh against an asylum claim (Danisi and Ferreira 2022; Andrade et al. 2020). Adjudicators’ insistence on conforming to queer stereotypes or assimilation into queer spaces elides the plethora of reasons migrants may choose not to enter them—including barriers of race, class, language, and culture, as well as personal preference and comfort—and ignores that there exist many and varied “gay realities” across the globe (Gaucher and DeGagne 2016). In one study, several participants noted that they experienced Western queer communities “unwelcoming because of racism, or isolating due to lack of understanding of refugee experiences” (Jordan 2009, 176). Moreover, “struggling financially, working several part-time jobs, and living on the outskirts of the city also constrained queer refugees’ participation in local LGBTQ communities” (Jordan 2009, 176). Despite these barriers, claimants reported feeling forced to engage in such visibly queer activities and spaces, even if they are not able, ready, or interested in doing so (Kahn and Alessi 2018).

At the same time, the family structures that LGBTQI+ refugees form in practice can go unrecognized in processes of refugee status determination or asylum adjudication. Ritholz and Buxton (2021) note that the traditional or “cisheteronormative” family relationship is often “fraught” for many LGBTQI+ people who suffer violence and rejection from blood relatives. Instead, many LGBTQI+ people form “chosen families” with non-blood relatives who “provide each other with basic human needs and mutual support” (Ritholz and Buxton 2021). Such non-traditional bonds, however, are not recognized as family units in application for asylum or refugee resettlement procedures.

### Conflation of Sex and Sexuality

A number of studies point to the challenge posed by adjudicators who may conflate sex with sexuality due to the Western understanding that “sexual orientations are affirmed through sexual relations” (Gaucher and DeGagne 2016, 469). Sexual history thus constitutes “a key point of evidence in hearings based on sexual orientation,” creating “a great deal of anxiety prior to and during hearings for participants” (Jordan 2009, 176). Studies show that adjudicators expect narratives of “love and romance,” a “sexual norm” based on “heteronormative families and long-lasting marriages”; applicants without sexual or romantic histories, therefore, can be discredited (Akin 2015, 36).

This conflation can result in invasive questioning about the most intimate aspects of claimants’ lives, including “whether, and how often” the claimant has engaged in same-sex activity, and “pointed questions about sexual experiences, names and contact information of past lovers, or numbers of partners” (Gaucher and DeGagne 2016, 469; Hersh 2015; Jordan 2009, 176; Grungras 2009). One lesbian asylum seeker was asked, “How much noise do you and your partner make in the shower? Was it loving sex or rough?” (Lewis 2014, 965). Another study found that it was “rather common” for

gay men to be asked about “who was acting more female or male during sex, who was more active during the act, and whether or not anal penetration was painful” (Tschalaer 2020). Preparing for hearings therefore “requires claimants to mentally revisit sexual experiences that were often steeped in intense feelings of shame and fear of being discovered” (Jordan 2009, 176).

Research finds that the legal standard for the appropriate engagement in same-sex relations is guided by the assumption that LGBTQI+ claimants are “naturally promiscuous and should therefore engage in multiple sexual experiences” (Gaucher and DeGagne 2016, 470). This elevates the threshold of a viable application; one claimant, for instance, was denied on the grounds that his two same-sex experiences “hardly” constituted a “pattern of active homosexual activity” (Gaucher and DeGagne 2016, 470). Thus, the burden of proof for many can become daunting. Applicants can be asked to produce details about their sexual encounters and partners, and report feeling compelled to produce “pornographic evidence of sexual orientation” that forces “gay and lesbian asylum seekers to film themselves” engaging in sexual activities (Lewis 2014, 959). Claimants in one study “struggled with the awkwardness of asking past or current lovers for letters or to serve as witnesses” (Jordan 2009, 176).

### **Lack of Standardization**

There is no singular way to “prove” a sexuality. Therefore, an adjudicator’s assessment is deeply subjective, and may be informed by personal biases (Vogler 2016). Questioning may be arbitrary, unpredictable, or inappropriate. Studies show that claimants are disbelieved for “absurd” reasons, such as “forgetting the year of birth of a girlfriend” and “using the word ‘often’ to describe the frequency of homophobic attacks when the claimant ‘only’ experienced two physical attacks and several verbal attacks” (Rehaag 2017).

### **Migrants with Children or Past Opposite-Sex Partners**

A number of studies reveal how migrants with children or with histories of heterosexual relationships may be deemed incredible or feigning their sexual identity (Dustin and Held 2018). Asylum adjudicators may view sexuality as “intrinsic” and “fixed,” suggesting that any evolution in sexuality undermines an applicants’ credibility (Dustin and Held 2018, 81). Studies show how this can directly impact queer women with evidenced past heterosexual relationships (Shidlo and Ahola 2013). One lesbian with children from a prior marriage was told, “You can’t be a heterosexual one day and a lesbian the next day. Just as you can’t change your race” (Dustin and Held 2018, 82).

Furthermore, studies of bisexual applicants demonstrate how their claims may be denied because adjudicators may restrict their views of “authentic” queer sexualities to homosexuality. In one study, an applicant was denied on the grounds that he was actually heterosexual and just “experimenting” with men (Dustin and Held 2018, 82). If bisexual claimants do not immediately engage in same-sex relations while in the host country, this could count against their “authenticity; one bisexual claimant was denied because he “did not have a current partner and had not had any partner in Toronto since he arrived” (Gaucher and DeGagne 2016, 471). Extant scholarship suggests that bisexual claimants are disbelieved at the highest rates (Jordan 2009; Rehaag 2009; Rehaag 2017). One study found that the “pattern of bisexuals (and especially female bisexuals) being less likely than other sexual minority groups to secure refugee protection” is a “persistent feature” of Canada’s asylum process (Rehaag 2017). Bisexual refugee claimants are therefore “in the impossible position of having to substantiate

their sexual identity to adjudicators who might not believe that bisexuality exists, and who do not have a sense of what bisexuals might look like if they do exist" (Rehaag 2008, 87).

### **Transgender Migrants**

A number of studies describe how "proving" one's transgender identity is particularly challenging for transgender asylum seekers. Adjudicators may rely on outdated medicalized notions of transnormativity in which, to be deemed "valid" and "real," transgender people must desire and seek out medical intervention (Vogler 2019). Transgender identities may be categorized in medical, psychiatric, or psychological terms in order to lend them "credibility" in the eyes of adjudicators (Avigeri 2021; Jansen and Spijkerboer 2011). Successful applicants, according to research, "required some form of gender-confirming medicine" (Vogler 2019). Thus, "becoming legible as transgender often requires applicants to frame the story through gender reassignment surgery, gender dysphoria, and hormones" (Aizura 2012; DasGupta 2019).

Despite this reliance on medicalization, medical documentation can be difficult to receive due to economic access barriers to healthcare and because many mental health professionals do not take seriously the "role of bias and discrimination in the lives of many transgender people" (Cerezo 2014; Avgeri 2021). Physicians act as "gatekeepers for transgender people to access care," even though most doctors have not received training in trans-specific healthcare. Thus, medicalization of transgender identity is particularly harmful for transgender people who do not want or cannot access medical transition care, as well as for nonbinary people, who may have to downplay the fluidity of their identities to fit more prevailing understandings of gender and sexuality (Vogler 2019). Finally, transgender migrants face difficulty accessing healthcare in liminal transit zones, where they must bear all the expenses of any procedures (Grungras et al. 2009).

### **LGBTQI+ Children**

We found limited research on LGBTQI+ children seeking refugee status or asylum, though one study demonstrated that they are held to the same standards as adult migrants. Hedlund and Wimark (2018) found that asylum officers routinely "expect children to engage in long-term relationships similar to adults (Hedlund and Wimark 2018, 257). Despite their age, then, "only when children state that relationships are lasting and serious can they be regarded as credible. Conversely, when they only narrate sexual encounters that have fewer details, they are not believed and are thoroughly questioned" (Hedlund and Wimark 2018, 271).

### **Intersectionality**

Multiple marginalities can often harm LGBTQI+ refugees and asylum seekers. For instance, one study found that Black lesbians are less likely than white lesbians to obtain asylum; all six participants' claims were denied, perhaps because, as the researcher posits, they are not the archetypal "white woman" victim, and because their suffering is seen as more palatable due to the stereotypes associated with their countries of origin (Tschalaer 2020). Another study found that religiosity can also harm migrants, particularly if those religions are stereotypically associated with homophobia, such as the Abrahamic faiths (Giametta 2013).

## The Burden of Proving Persecution

The second prong of a SOGI asylum claim assessment is proving past or anticipated future persecution on account of a claimant's sexuality or gender identity (Vogler 2016). The standard for anticipated future harm is typically the "well-founded fear" test (Vogler 2016, 863). Claimants must demonstrate that the harm they experienced or anticipate experiencing amounts to persecution rather than discrimination (Rehaag 2017). The archetypal successful SOGI applicant will have experienced persecution in a public space, such as a political demonstration for LGBTQI+ rights, and claims are typically assessed against this paradigmatic one (Shuman and Bohmer 2014; Rehaag 2017). There is no clear standard for what amounts to persecution; for instance, decision-makers in the UK are "extremely reluctant to hold that criminal sanctions for gay sex are themselves persecutory and have frequently failed to appreciate the relationship between violence against lesbians and gay men and the existence of criminal provisions," although their counterparts in Canada and Australia typically acknowledge that criminal sanctions rise to the level of sexual persecution (Millbank 2005, 115).

"Bodily harm" is typically privileged as proof, while other forms of persecution, such as forced concealment, are discounted (Llewellyn 2016, 690). If an applicant's narrative "can be endorsed by the scars of torture and other medical reports, then this strengthens the claim and posits the claimant as a reliable witness" (Johnson 2011, 69). However, verbal testimony of bodily harm may not suffice; applicants may be denied if they cannot "provide corroborating medical evidence" of such harm (Llewellyn 2016, 694). As research shows, this "presents an unfair evidentiary burden to applicants who may not have access to medical care in their country of origin or who may fear retaliation if they report their crimes to a hospital" (Llewellyn 2016, 695).

### Private vs. Public Persecution

Research finds that the imperative to prove persecution according to some measure of "public display, exposure, and/or recognition" can trap lesbians and bisexual women, because the persecutory harm they suffer is "less likely to take place in public" (Shuman and Bohmer 2014, 947). Instead, the harm they experience tends to take place in the private sphere at the hands of non-state actors, such as spouses or family members (Rehaag 2017). Women are therefore "less likely than men to be seen as subjects of persecution" (Shuman and Bohmer 2014, 950). Rather, their experiences may be dismissed as instances of private discrimination (Rehaag 2017). Indeed, in the asylum process, lesbian claimants are "remarkable for their absence" (Millbank 2003, 74). Due to the difficulty of proving their claims, they bring fewer claims forward than gay men, and are typically less successful (Millbank 2003; Rehaag 2017). One study of 155 LGBTQ asylum cases revealed that only 14 were filed by women (Tschalaer 2020).

Importantly, however, even though it is "easier for gay men to make out the public aspects of their cases," this, too, can prove challenging: one study found that "the cases concerning gay men suggested a constant theme of decision-makers finding gay men were 'too' public" (Millbank 2003, 87). For instance, "gay men who experienced persecution as a result of their presence in gay cruising locales or 'beats' such as parks, public toilets or other public or semi-public locations, were in danger of being characterized by decisionmakers as the deserving objects of neutral criminal law" (Millbank 2003, 87). Thus, the public/private divide "trap[s] applicants in a tightly woven paradox: if they are too public, they are transgressive, repellant, and in danger of being rejected as deserving of the abuse

they have experienced. If they are too private, they run the risk that their claims will not qualify as persecution and will be regarded as merely private and/or readily avoided” (Millbank 2002, 144).

### **Bisexual Migrants**

As previously noted, studies of bisexual asylum claimants evidence the misguided belief that bisexual migrants can simply choose partners of the opposite sex and therefore avoid persecution (Sin 2015). In other words, adjudicators may deem bisexual migrants “just not gay enough” to warrant asylum protections (Sin 2015). Many bisexual claimants therefore feel forced to “claim on the grounds of homosexuality,” rather than bisexuality (Dustin and Held 2018, 84).

### **Lack of Standardization**

Much like there is no one way to prove identity, there is also no standard way to prove persecution. Few guidelines exist for decision-makers to reference. In Australia, for instance, one study found that there were “no internal or external guidelines available to assist decision-makers in sexual orientation cases in Australia” and that the “Australian gender guidelines, introduced in 1996 and not revised since, do not include any reference to sexual orientation” (Millbank 2009, 403). Even standards within countries can vary: in the U.S., for instance, different Federal judicial circuits analyze asylum claims differently, and some allow instances of “rape or burglary” to amount to persecution, whereas others do not (Birdsong 2007, 370).

Thus, asylum assessments are necessarily subjective and may be susceptible to bias. Adjudicators rely on instinct and personal beliefs in determining the credibility of individual claims (Shuman and Bohmer 2014). Research shows that their assessments of “real” persecution may be guided by cultural expectations of how violence should be narrated (Shuman and Bohmer 2014). For example, they typically expect “visible displays of emotion” in such narratives; one woman was told, “I don’t think this is the way a woman who has been raped acts” (Shuman and Bohmer 2014, 950). Subjective assessments of “demeanor”—such as an applicant’s “frankness and spontaneity”—are also critical to a credibility assessment (Hersh 2015, 548).

### **Exhaustion of Alternative Protections/Internal Relocation Alternatives**

To fulfill this prong of the assessment (i.e. proving persecution), claimants in many jurisdictions must also prove that they have exhausted all available protective resources and services in their countries of origin (Gaucher and DeGagne 2016). Asylum protection “will be denied if a claimant did not exhaust all possibilities of reaching safety in an area within the claimant’s own country before seeking international protection” (LaViolette 2009, 460). In other words, LGBTQI+ asylum seekers must prove that their country of origin is fundamentally “unable to protect them from persecution” (Gaucher and DeGagne 2016, 474). If they cannot prove this, their persecution is attributed to their lack of action to protect themselves (Gaucher and Degagne 2016).

However, research shows that many putatively protective institutions are complicit in violence against LGBTQI+ individuals, such as police that may be “agents of persecution” (Munir 2019, 61). Claimants also may not know about available resources beyond the police, particularly in countries with few legal protections for LGBTQI+ people, where such resources and organizations may be deliberately

underground or just emerging (Gaucher and DeGagne 2016). For many LGBTQI+ refugees and asylum seekers, there is limited available information about what in-flight alternatives are available within their country of origin (LaViolette 2009).

### **The Discretion Standard and the Paradox of Proving Persecution**

Studies reveal that asylum adjudicators assume that claimants can—and should—conceal their sexual identities or gender orientations in contexts hostile to sexual and gender minorities (Millbank 2002; Millbank 2005; O’Leary 2008). In the UK, for instance, decision-makers have “repeatedly held that asylum seekers are under a duty to protect themselves by hiding their sexuality” (Millbank 2005, 115). One study found that, “[i]n many cases, tribunals have held that gay and lesbian claimants could escape persecution by avoiding public notice through being ‘discreet’” (Millbank 2002, 171). For example, in a study of Australian cases, this “discretion” theme arose in 33% of cases, and was expressly required of the applicant in 21% of cases (Millbank 2002). There is a strong correlation between “discretion” reasoning and negative outcomes for applicants (Millbank 2009).

Indeed, the failure to live “discreetly” could impact the success of LGBTQI+ refugees’ and asylum seekers’ claims: one study found that the “failure to fly under the homophobic radar typically leads to the claimant’s testimony being deemed non-credible” (Gaucher and DeGagne 2016, 473). In Australia, for instance, adjudicators “considered whether an applicant could avoid a risk of persecution through being ‘discreet,’” suggesting that they applicants can simply “avoid persecution by living closeted lives” (Dauvergne and Millbank 2003, 314). This is particularly salient for lesbian applicants, because “female sexuality ... is constructed as passive and readily suppressed” (Millbank 2002, 174). In one Australian decision, the Refugee Review Tribunal “held that the lesbian applicant would face no hardship if forced to return to China and lead a celibate life” (Millbank 2002:174).

However, the discretion mandate produces a paradox: claimants are “expected to prove they have experienced physical violence—or at the very least, a serious threat of physical violence—as a result of their homosexuality; however, they are simultaneously expected to keep their sexual orientation private in order to avoid encounters of this nature” (Gaucher and DeGagne 2016, 473). The contradictory discretion and persecution requirements erect “insurmountable barriers for asylum applicants, whose range of sexual expression must necessarily be public in order to have come to the attention of the agents of persecution” (Millbank 2005, 134). Scholars argue that it is therefore difficult, if not impossible, for claimants to substantiate their claims of sexual persecution.

In recent years, courts have largely shifted away “from discretion to disbelief as the major area of contest in decisions” (Millbank 2009, 292). Adjudicators “disbelieve” applicants who fall outside “highly stereotyped and Westernized notions of ‘gayness’” and have “severely constricted the grounds of review ... such that even highly dubious initial decisions are not overturned” (Millbank 2009, 392). However, other studies suggest that the discretion requirement simply shapeshifted, and actually “remains deeply entrenched” in Western asylum systems (Wessels 2017).

### **Country Information Documentation**

As numerous studies indicate, much of the burden of proof lies not just in individual experiences of persecution but in country-level information documenting human rights abuses against sexual

and gender minorities (LaViolette 2009; O’Leary 2008; Rehaag 2017). However, in many contexts, there is little information available on human rights violations against sexual and gender minorities (Dauvergne and Millbank 2003). Moreover, this information can be difficult to obtain, due to problems ranging from continued stigma that discourages academic researchers or human rights organizations from working on SOGI issues, to the desire to note and celebrate progress in LGBTQI+ rights, which may give the mistaken impression that conditions in particular countries are now safe (O’Leary 2008; Rehaag 2017). Despite these challenges, adjudicators typically interpret a lack of information as evidence of an absence of persecution (Dauvergne and Millbank 2003). Andrade et al. (2020) found that 40% of respondents in their European surveys reported that their claims were denied because the adjudicator did not believe they were at risk of persecution in their country of origin. Ultimately, claimants bear the burden of proof, and “it is difficult to rebut the presumption of state protection when human rights documentation is unavailable or provides little information on attitudes and actual practice” (LaViolette 2009, 455).

To the degree that country information exists, it can often be misleading or even inaccurate. For instance, an Australia Department of Foreign Affairs and Trade cable on Lebanon “stated that prosecutions for homosexual sex under the criminal law were ‘rare,’ but this was directly contradicted by Lebanese press reports” (Dauvergne and Millbank 2003, 314). Some adjudicators rely on inappropriate sources of country information, such as a popular travel guide aimed at gay men, and then cite the existence of queer institutions in these sources (e.g. gay bars) as evidence of a “thriving” gay scene, while ignoring warnings that such venues were “dangerous or commonly subject to police harassment” (Dauvergne and Millbank 2003, 326).

Furthermore, most documentation focuses on cisgender gay men, overlooking the experiences of other groups—namely lesbians, bisexual people, transgender, and intersex people (Millbank 2003; O’Leary 2008; Rehaag 2017). Many country information sources refer “exclusively to gay male support groups or venues,” such as “outdoor cruising locales” (Millbank 2003, 84). One study found that a Lebanese lesbian’s claim was denied because of the existence of one pornographic theater and a few “gay cruising areas,” which were used as evidence “to find that there was no risk of future persecution for a lesbian asylum seeker” (Millbank 2003, 85).

## The Burden of Constructing an Asylum Narrative

The most critical element of an asylum claim is the “refugee narrative.” The more “demonstrative and expressive an individual is in providing a chronologically accurate, ‘factual’ and realistic linear narrative of persecutory [behavior], the greater their chances of being granted asylum” (Johnson 2011, 69). Thus, the “refugee narrative” is supposed to provide a cohesive, legible account of a sexual or gender minority’s “journey” from oppressed in the country of origin to openly and visibly out in the host country (Murray 2014). Research demonstrates that success in making asylum claims is contingent on knowing the ‘right’ terminology, identifying with Western identity and gender categories, and telling a clear and coherent narrative” (Dhoest 2019, 24). A persuasive refugee narrative forms the crux of a successful asylum claim; however, studies show that constructing this narrative is not without its challenges.

### **The Power Differential**

Asylum assessments vest adjudicators with “the power to name, the authority to decide who the applicant ‘really’ is and what sexuality ‘really’ means” (Berg and Millbank 2009, 218). Many adjudicators lack awareness of the nuances of gender and sexual identities, and may even harbor homophobic or transphobic biases (Tschalaer 2020; Hersh 2015). Due to the lack of uniform, codified standards, decision-makers can believe or disbelieve claimants based on a range of subjective factors, including personal bias (Cerezo 2014). The act of recounting a refugee narrative, therefore, amounts to migrants “plead[ing] their case to an authority figure who may hold anti-LGBT bias” (Cerezo 2014, 211). The “sense that the interviewer is not receptive to, or is skeptical about, the applicant’s homosexuality will also weigh in the applicant’s risk assessment as to the prudence of revealing their sexuality” (Berg and Millbank 2009, 217).

### **Narrative Expectations**

Although each migrant has a unique narrative, “when seeking refugee protection, queer refugees are evaluated against expected narratives of refugee flight and of LGBT identity” (Jordan 2009, 165). For migrants “who do not perform or conform to the apparatus’ definitions and perceptions of what an authentic, credible SOGIE refugee and their story should look and sound like...or those who cannot produce adequate documentation demonstrating their identity and/or persecution based on their membership in this particular social group, the risk of rejection, deportation and/or incarceration... increases dramatically” (Murray 2020, 75).

Studies show that migrants must therefore learn and perform codified narratives to be deemed “authentic” refugees (Sari 2020; Murray 2014; Murray 2020). This may force them to tailor their experiences to fit certain expectations that are acceptable to adjudicators; for instance, lesbians who have children or prior marriages are taught to reframe their positionalities as “victims of forced marriage” (Sari 2020, 151). On occasion, advocates will even encourage migrants to lie to conform to expected narratives (Sari 2020). Fabricating stories of homophobic violence strengthens claims to SOGI identity (because self-identification often is insufficient for a successful claim), proves a “well-founded fear of persecution,” and meets the “asylum system’s desire to hear stories of ‘homophobic violence’ enacted by a ‘native Other’” (Sari 2020, 152). In one study, a participant noted that “the majority of people have to lie,” and that some even “resorted to ‘self-injury’ to raise the stakes of the game, a tactic which [the participant] confesses having used when he overdosed before slitting his wrists in order to get admitted into the medical system and receive mental health treatment” (McNeal 2019, 196).

### **Internalized Shame**

Many LGBTQI+ refugees and asylum seekers experience internalized shame about their identities (Shidlo and Ahola 2013). Research indicates that relaying intimate details “about sexual desire, sexual relationships, and sacred parts of their bodies” can “prove exceedingly difficult for participants, for whom disclosure is tainted by stigma and shame” (Kahn 2015, 68). In many contexts, LGBTQI+ individuals have been closeted for years and “adopt strategies to evade or manage the stigma of being labelled as homosexual which involve selectively disowning their sexual orientation to themselves and to others” (Berg and Millbank 2009, 221). Thus, applicants “may display vestiges of



past or current denial about their homosexual feelings, extreme ambivalence about their sexuality, or use terminology that is redolent of homophobia” (Berg and Millbank 2009, 221).

Studies show that claimants may experience anxiety or fear at the prospect of divulging the most intimate aspects of their identity and “find it difficult to publicly admit their sexual orientation right away or provide humiliating details of their experiences of persecution in their countries of origin” (Gaucher and DeGagne 2016, 476). Such disclosure is particularly fraught when recounting traumatic instances for the purpose of proving persecution, such as sexual or physical violence on the basis of their sexual or gender identities (Shidlo and Ahola 2013). In one study, migrants reported feeling too traumatized or ashamed to speak at all or tell all details in these early stages, noting that in their culture it was considered wrong to discuss them (Berg and Millbank 2009). One factor exacerbating the difficulty of recounting traumatic experiences and divulging details about sexuality can be “the lack of privacy available to [claimants] during the screening interview and their anxiety that their conversation could be overheard” (Bennett and Thomas 2013, 26).

Scholars show that “the effect that these strong formulaic factors have is that those who are unable to speak of certain instances and are unable to provide a clear trajectory of their story can be deemed liars, fraudsters or so-called economic migrants, using a story to get ahead” (Johnson 2011, 69). Because adjudicators typically treat internalized homophobia as though it undermines claimants’ credibility, “though some sexual minorities may have never been able to positively view and describe their sexual orientation, they are nevertheless expected to do so during a refugee-status determination hearing” (Hersh 2015, 547).

### **Memory and Trauma**

Although adjudicators expect coherent, chronological, and legible narratives, many refugees’ “survival of persecution sometimes necessitates amnesia and denial of the impact and severity of traumatic events” (Shidlo and Ahola 2013, 9). Traumatic memories are often “stored as fragments—images, sounds, smells and physical sensations—rather than as a verbal narrative, and this poses challenges to recounting a history of persecution” (Shidlo and Ahola 2013, 9; Jordan 2009). It is not uncommon that applicants are not just unable to talk about a traumatic experience, but actually unable to recall it (Berg and Millbank 2009).

Moreover, research shows that LGBTQI+ refugees and asylum seekers disproportionately experience negative mental health outcomes, including depression, anxiety, and PTSD (Shidlo and Ahola 2013). These conditions rupture memory processing and storing, rendering it “difficult for forced migrants to recount a history of traumatic events” (Shidlo and Ahola 2013:10). The asylum interview is also an extraordinarily high-stakes, high-stress situation, in which “dissociation regularly manifests as a protective mechanism” (Berg and Millbank 2009, 230). Even among applicants who can recall their traumatic experiences, “emotional distancing and numbing is a common coping response—producing a very flat affect while recounting traumatic incidents,” which undermines claimants’ credibility (Jordan 2009, 178). However, “the legal implications of an inability or unwillingness to vocalize trauma in a manner intelligible to the court can lead to the labelling of testimony as lacking credibility and thereby undermine the claim to asylum” (Johnson 2011, 69). Fundamentally, “psychological barriers impede many sexual minority refugees from conveying their story without contradictions, inconsistencies, omissions or implausibility, all of which potentially undermine credibility” (Hersh 2015, 544).

### Retraumatization and Health Outcomes

The experience of “coming out under the gun” in the course of applying for asylum can be actively retraumatizing for vulnerable migrants (Kahn and Alessi 2018; Liinason 2020; Jordan 2009). They are not only required to disclose their identities “before they may be psychologically stable and physically safe,” but also have to “relive the experiences that precipitated the initial trauma” (Kahn and Alessi 2018, 24). The repeated and systematic “forced retelling of stories of persecution” can “trigger profound psychological consequences and retraumatization,” as well as the “structural heterosexist violence imposed through the repeated, forced ‘coming out’ of sexual minority refugees throughout the refugee determination process” (Lee and Brotman 2011, 266). A migrant in one study noted, “You have to repeat your story over and over and over and it’s so re-traumatizing ... I was kind of running away from my own story when I was telling my own story” (Lee and Brotman 2013:166).

This repeated coming out “happens the minute individuals apply for refugee status,” such as “when speaking to border officials and airport authorities or when meeting lawyers, doctors, psychologists, social workers, or employers” (Lee and Brotman 2013, 166). It can be particularly fraught to disclose identities and trauma to officials, because many LGBTQI+ migrants have past negative experiences with government actors, and providing their accounts to adjudicators “can be a counter-intuitive and terrifying experience” (O’Leary 2008). One study found that, “given that the participants had experienced sexuality-related violence in their home countries (including, for some, by police officers or while in police custody), disclosing their sexuality to people in a position of authority was stressful” (Bennett and Thomas 2013, 26). Migrants also have to grapple with adjudicators’ potential homophobia and transphobia during these forced “coming outs” (Lee and Brotman 2013).

Moreover, LGBTQI+ asylum seekers and refugees may have to produce evidence of their sexual or gender identities through witness testimony, sometimes from friends and family members. Such a requirement can place emotional and psychological strain on individuals, especially if they fear that “public affiliation may place them at risk of violence by members of their diaspora communities,” or that “family members in their country of origin could be targeted for having an LGBT family member” (Kahn and Alessi 2018, 25). In sum, narrating experiences of abuse, trauma, discrimination, violence, and victimization may produce “significant distress,” contribute to a “loss of autonomy” and feelings of powerlessness, and ultimately yield negative health outcomes (Kahn and Alessi 2018, 32).

### Translation Gaps

Research attests to the power that attorneys and translators can wield during adjudication hearings. Lawyers often coach their clients into producing particular types of formulaic “refugee narratives” that perpetuate stereotypes because they are seen as more efficacious. They decide “what to include and exclude” about a refugee’s life experiences (Johnson 2011, 65). Similarly, translators “bear the burden of making the claimant’s story accessible and intelligible to the court” (Johnson 2011, 65). The project of translation is inherently complex and especially fraught in this context, where translators often have to give voice to experiences that have no counterpart in the host country’s language, as well as translate an applicants’ experiences to terms familiar to adjudicators (Johnson 2011). The problem of “distorted communication”—that is, “words which won’t translate, emotions that don’t get transmitted”—has a “dampening effect” on the claimant’s narrative. A study of European asylum

seekers found that nearly two-thirds of respondents felt that interpreting services were “inappropriate and inadequate” (Andrade et al. 2020).

### “Happy Migrant” Narratives

Studies show that refugee narratives, in many cases, must not only include a legible coming out story, but also a “migration to liberation” narrative, in which migrants flee an oppressive, homophobic country of origin to a liberated, tolerant Western society (Giametta 2013; Murray 2014; Rinaldi and Fernando 2019). These narratives elide discrimination present in Western countries and “uphold a binary dichotomy that pits ‘civilized’ against ‘uncivilized’ nations” (Berg 2009, 681). Migrants must “reproduce a mythic image of a benevolent ‘country of asylum’ that is the bastion of sexual rights and freedoms, in opposition to a ‘country of origin’ that is barbaric and oppressive” (Sari 2020, 151). One migrant noted, “Canadians want to say, ‘well, you are not even allowed to be gay in your country. We gave you that so be very grateful and thankful’ . . . you can’t speak up or be as active and complete as everybody else because you always have to be grateful and just be thankful and shut up and live your life because we gave you something” (Lee and Brotman 2013, 168). Such a performance bolsters an applicant’s chances of success, rendering migrants “authentic, deserving, and legitimate subjects within established tropes” (Sari 2020:140). However, it is unrealistic: many applicants “continue to be closeted in the receiving country,” “struggle to form relationships,” and “oscillate in their self-identity through the process” (Berg and Millbank 2009, 214).

## EXPERIENCES OF ARRIVAL AND RESETTLEMENT

### Detention Centers

Many LGBTQI+ refugees and asylum seekers are forced to spend time in detention centers in both transit and host countries. Research shows that the conditions in detention centers can be particularly difficult for LGBTQI+ migrants, who are often placed in jails or jail-like facilities and experience negative health consequences (Lewis 2019; Gerena 2022), including sexual and physical abuse (Anderson 2010). Sexual minority men and women in jail are more likely than straight men and women to be sexually victimized by both staff and other inmates. Meyer et al. (2017) analyzed data from the National Inmate Survey and found that gay and bisexual men are eight times more likely than straight men to have been assaulted by another detainee or staff, and lesbian and bisexual women were nearly twice as likely to have been assaulted by another detainee or staff. Data are limited on the experiences of LGBTQI+ persons in immigration detention specifically, but such patterns are likely to hold. Indeed, in the United States immigrants are held in county and private jails in addition to immigration detention facilities (Gruberg 2013).

An analysis of U.S. Immigration and Customs Enforcement (ICE) Data from 2008-2013 found that LGBT detainees in ICE custody were subjected to “sexual assault by guards and fellow detainees, withholding of medical treatment, verbal and physical abuse by guards and fellow detainees, the use of solitary confinement based solely on the sexual orientation or gender identity of the immigrant, incidents of LGBT immigrants being humiliated by guards in front of other detainees, and inappropriate use of restraints in violation of ICE’s Performance-Based National Detention Standards, or PBNDS” (Gruberg 2013, 5). As the report notes, neither ICE nor the USCIS keeps data on the sexual orientation or gender identity of persons in custody, so this analysis of instances of abuse are limited to those where an

immigrant's sexual orientation or gender identity were mentioned and where the issue was reported by an immigrant's attorney. A more recent study by the Center for American Progress found that LGBT people in ICE custody "are 97 times more likely to be sexually victimized than non-LGBT people in detention" (Gruberg 2018). Data were obtained in response to a Congressional letter from Rep. Kathleen Rice to the Secretary of the Department of Homeland Security.

Research has also examined the experiences of LGBTQI+ migrants in detention outside the United States. One study of LGBT asylum seekers in detention in the UK found that all participants in the study reported "feelings of intimidation and fear when placed in detention" (Singer 2021, 245). The study was based on 22 interviews with migrants from 11 countries. Participants described harassment and discrimination from other detainees, and many felt forced to conceal their identity to avoid abuse. Transgender detainees described "ridicule and hostility" from detention facility staff (Singer 2021, 247)

## TRANSGENDER MIGRANTS IN DETENTION

Transgender refugees and asylum seekers may be particularly affected by punitive or harmful practices in detention. In detention, LGBTQI+ migrants may be denied access to much-needed medical treatment, as all medication is taken away from migrants upon arrival at detention centers, and it can take weeks to receive replacement medications (Lewis 2019). Data reveal that transgender migrants are particularly vulnerable to this because they are denied access to hormone treatment and other gender affirming medical care (Singer 2021; Gruberg 2013). Depriving transgender migrants of essential medical treatment while in detention can result in death, as in the case of Victoria Arellano, who was denied access to HIV medication needed to save her life (Lewis 2019).

Furthermore, transgender migrants are typically placed according to their sex assigned at birth, and therefore must live in facilities that do not match their gender identity (Lewis 2019). This mismatch is particularly harmful for transgender women because a detention camp "is a hyper-masculine space that harshly disciplines trans-feminine people" (DasGupta 2019). This can be traumatic for transgender women, who are "subjected to relentless sexual abuse both from cisgender male detainees and from male prison officers" (DasGupta 2019, 8). Transgender women experience harassment and sexual assault at "rates much higher than the general population" (Anderson 2010), yet efforts to mitigate against this risk by isolating them from the general population can put transgender people at even greater risk. Gruberg (2018) found that 1 in 8 transgender people detained by ICE in FY 2017 were placed in solitary confinement, despite the risks of lasting psychological harm and ICE's own internal policies that solitary confinement be used as a last resort.

## Social Integration

Although many migrants seek refuge from violence and persecution in their countries of origin, research shows that many continue to face discrimination and exclusion in their host countries as well (Kahn 2015; Logie et al. 2016, Golembe et al., 2020; Gowin et al. 2017). In fact, many LGBTQI+ refugees and asylum seekers face intersectional discrimination due to their multiple marginalities, such as sexual orientation, gender identity, ethnic backgrounds, skin color, religion, and status as refugees (Golembe et al. 2020). One study found that many migrants still fear disclosing their LGBTQI+ identities due to homophobia and transphobia, and therefore report "continuously needing to conceal their sexual orientation/gender identity in Germany, for example, from friends, co-workers,

or family, in order to protect themselves” (Golembe et al. 2020). Similarly, in another study focused on the United States, a majority of participants noted having to conceal their sexual orientations after arriving in the U.S. (Piwowarczyk et al. 2017). Conversely, countries with laws supportive of sexual and gender diversity can promote feelings of inclusion among LGBTQI+ refugees. In a study of 50 LGBT migrants from Eastern Europe in Scotland, Stella et al. (2018) found that the presence of LGBT-affirmative legislation, including nondiscrimination protections, is seen by participants as helping to normalize LGBT identity and support feelings of equality.

Despite supportive legal contexts, LGBTQI+ refugees may struggle to find support and community once in their host countries. In many host countries, studies show, LGBTQI+ migrants must adhere to Western categories, norms, and ideologies that “may not precisely [reflect] their authentic personal or cultural identities”; therefore, “embracing the Western constructs embedded in the process further alienated them from their diaspora communities” (Kahn 2015, 74). Moreover, unlike other migrants, LGBTQI+ asylum seekers and refugees may not have the support of their ethnic communities because “their compatriots remind them of the very people that they have fled from and are fearful of. In their contact with members of their ethnic community they will often not disclose their sexual orientation and/or gender identity” (Shidlo and Ahola 2013, 10; Piwowarczyk et al. 2017). New social situations can “reactivate traumatic memories,” and studies show that LGBTQI+ refugees and asylum seekers are “hyper-vigilant and fearful” and may “miss out on potential sources of social support and sometimes experience great isolation” (Shidlo and Ahola 2013, 10; Piwowarczyk et al. 2017).

Muslim migrants are “arguably the most vulnerable” to prejudice and bias, because anti-Islamic prejudice and even violence has been well documented in the West” (Kahn 2015, 59). A qualitative study of 38 LGBTQ refugees from Islamic societies in Europe found that refugees experienced discrimination and lacked connection to their diaspora communities (Alessi et al. 2018). Such pervasive Islamophobia can “jeopardize positive adjustment and mental health outcomes for Muslim refugees in resettlement” (Kahn 2015, 73). In another study of Muslim migrants in European countries, almost all participants reported anti-Muslim racial discrimination, including refusal by landlords to rent housing to LGBTQI+ Muslims (Alessi et al. 2020). At the same time, LGBTQI+ migrants may fear interacting with refugees from their diaspora community due to harassment or threats of violence on the basis of their sexual orientation or gender identity, further adding to feelings of exclusion and barriers to accessing critical resources (Alessi et al. 2018). In the 2015 study by Kahn, “the majority of gay respondents coped with intransigent homophobia in diaspora compatriots by avoiding coethnic heteronormative communities altogether” (74).

In the United States, many urban centers are home to community-based organizations and service providers targeting LGBTQI+ immigrants, which may include refugees and asylum seekers (Gruberg et al. 2018). These can include legal services, medical care, housing, job training, and language access (Gruberg et al. 2018). Nevertheless, research shows that experiences of discrimination and exclusion can restrict access to resources and services, with broad implications for whether and to what extent LGBTQI+ refugees feel integrated into the host country community. Studies find that many LGBTQ migrants have difficulty overcoming barriers to the job market and finding housing (Golembe et al. 2020). They also report “experiences of homophobia and racism, on individual and institutional levels (e.g., within local LGBTQ communities; accessing social services)” and feeling “excluded from co-ethnic communities as well as general society” (Golembe et al. 2020) that may prevent them from

even accessing immigration and refugee-specific services (Munro et al. 2013). Many note that the discrimination they face was “worse than before flight” (Golembe et al., 2020). Karimi (2020) found that among gay Iranian refugees in Canada, the need to live in state-provided housing created a stigma of poverty that undermined social capital and opportunities for networking or pursuing more satisfying employment. In another study, participants “even thought about returning to their countries of origin because of the hardships associated with resettlement” (Alessi 2016, 210).

## Health Outcomes

Research suggests that LGBTQI+ refugees and asylum seekers may continue to experience negative mental health outcomes given the multiple and compounded traumas they experience in their countries of origin and throughout the asylum and resettlement processes (Alessi 2017; Logie et al. 2016). Common diagnoses from this “lifetime of cumulative trauma” include depression, PTSD, dissociative disorders, panic disorder, generalized anxiety disorder, social anxiety, traumatic brain injury and substance abuse (Shidlo and Ahola 2013). Migrants “who have a history of cumulative trauma may suffer from the symptoms not only of PTSD but also of complex PTSD, which include self-destructive behaviour, amnesia, intense shame, difficulties with intimacy, experiencing bodily pains in response to psychological distress, and despair about finding loving relationships” (Shidlo and Ahola 2013, 9). One study found that every single transgender migrant interviewed was professionally diagnosed with PTSD, and 93% of them were diagnosed with depression (Gowin et al. 2017). Another survey of LGBTQ asylum seekers found that respondents scored disproportionately high on indicators of loneliness, which is associated with more than three times the odds of screening positive for mental distress (Fox et al. 2020). Additionally, LGBTQI+ migrants have “disproportionately low social and emotional support compared to U.S. population norms” (Fox et al. 2020). In one study, every migrant interviewed expressed “grief over strained or estranged relationships with kin in home and/or host countries persisted over time” (Kahn 2015, 65).

Several participants in one study “emphasized that their well-being has not improved in comparison with pre-migration,” and “others even reported that their mental health has worsened in [the host country]” (Golembe et al. 2020). Data also show that LGBTQI+ migrants disproportionately experience suicidal ideation (Gowin et al. 2017). Some cope with these conditions through substance abuse and self-harm; a participant in the aforementioned study noted, “Whatever drug I find I take, so I’d forget I’m living this life” (Golembe et al. 2020).

Despite their health needs, many migrants face difficulties accessing medical services due to expense and bias (Gowin et al. 2017). One study found that “access and utilization of the healthcare system by LGB migrants is known to be reduced due to the fear of providers’ homophobia or heterosexism” (Piwowarczyk et al. 2017). Another noted that “persistent discrimination leads some LGBTQ people to avoid seeking any treatment, while others decide against full disclosure of sexual orientation or sexual practice in order to avoid practitioners’ homophobia, transphobia, and heterosexism” (Chávez 2011, 192).

## Activism and Agency

While LGBTQI+ refugees face challenges throughout the migratory process, including violence, harassment, and discrimination, many are able to also mount resistance, forming solidarity and networks with migrant activists and community-based organizations to mobilize on behalf of migrant rights and LGBTQI+ rights more broadly. LGBTQI+ migrants, particularly queer youth, have been at

the vanguard of advocacy on behalf of migrants, both documented and undocumented (Ramirez Solorzano 2020). Similarly, refugee-led organizations like TransLatin@ Coalition provide services and advocate for policies that support the needs of transgender people, including asylum seekers (Caraves and Salcedo 2020). One study of queer refugees in South Africa documented how migrants embodied individualized and collective acts of resistance in newfound pride and strength that comes with leaving a stigmatizing and oppressive context (Marnell et al. 2021). Such research provides a counter to the narrative of LGBTQI+ refugees and asylum seekers as singularly victimized.

Furthermore, research shows how migration by LGBTQI+ persons can in fact be beneficial for the advancement of LGBTQI+ rights in both host countries and countries of origin. Ayoub and Bauman (2018) examine queer migration flows in Europe and find that the movement of LGBTQI+ activists from restrictive to more accepting countries creates new bonds across borders that strengthen transnational solidarity and bring material, human, and symbolic resources to local and transnational activism. Far from remaining victims, LGBTQI+ migrants can, in some circumstances, leverage their newfound acceptance and feelings of empowerment to connect with other LGBTQI+ activists and bolster their political participation both in the host country and transnationally (Ayoub and Bauman 2018). While some research has examined LGBTQI+ migrant solidarity in contexts outside the U.S. and Europe (e.g. Lai 2018), more research is needed to understand how such opportunities can manifest or be constrained for migrants.

## CONCLUSION

### RESEARCH AND DATA NEEDS REGARDING LGBTQI+ REFUGEES AND ASYLUM SEEKERS

This report has described existing research on LGBTQI+ refugees and asylum seekers across the migratory process. We have sought to identify and synthesize empirical studies that document the experiences, health, and well-being of LGBTQI+ migrants in deciding to leave their country of origin, in transit across borders, and in host countries. While existing academic and grey literature highlight the challenges faced by many LGBTQI+ migrants, findings in this review suggest a number of gaps in our knowledge that would be strengthened by research on the following:

- Rigorous analyses of conditions in countries of origin that demonstrate persecution on the basis of sexual orientation and gender identity. This includes examination of how country-specific laws and policies may differentially impact LGBTQI+ subpopulations and their decision to flee or seek refugee status;
- Demographic characteristics of LGBTQI+ refugees and asylum seekers;
- The unique challenges and vulnerabilities of transgender migrants, particularly those facing intersecting forms of discrimination on basis of race;
- The unique challenges and vulnerabilities of intersex migrants;
- Experiences of LGBTQI+ migrant youth and children of LGBTQI+ migrants;
- Experiences of LGBTQI+ refugees along the migratory route, including in transit countries;
- The impact of country-specific policies (such as “metering” or Title 42 in the United States) on the health and well-being of LGBTQI+ migrants;
- Experiences of LGBTQI+ migrants in refugee camps and other sites of temporary accommodation;
- Migration dynamics and resettlement within the Global South (rather than assuming transit from the Global South to North);
- Analyses of outcomes of asylum adjudication and refugee status determination processes;
- Large, mixed-method studies on resettlement and social integration, including impact on health, well-being, economic livelihood, and experiences with violence and discrimination. Studies should include examination of intersecting forms of discrimination on the basis of sexual orientation, gender identity, race, religion, and immigration status, among others;
- Resilience and resistance among LGBTQI+ refugees and asylum seekers in transit and in host countries;
- Evaluations of programs and interventions to support LGBTQI+ refugee resettlement and social integration

In many cases, opportunities for research, including that recommended above, have been limited by the dearth of data available. Countries and agencies that work with refugees do not systematically collect data that include measures of sexual orientation or gender identity (UNHCR 2021b). Likewise, migrants often fear disclosing their identity to government personnel, agency staff, or researchers.



As Yarwood et al. (2022) notes, researchers have used a number of data sources and methodological approaches to generate data, including sworn asylum declarations and psychological evaluations, intake assessments, chart reviews, and personal interviews with migrants. However, much existing research on this topic has necessarily relied upon interviews and small-N surveys that make findings more difficult to generalize and inform policies. This review suggests that concrete measures should be taken to enhance data collection related to LGBTQI+ refugees and asylum seekers:

- Demographic questions about sexual orientation, gender identity, and sex assigned at birth should be integrated through the application process, explicitly subject to change without negative repercussions for the asylum seeker. In the US, this should include intake forms I-870 (Record of Determination/ Credible Fear Worksheet), I-899 (Record of Determination/ Reasonable Fear Worksheet), and I-589 (Application for Asylum and for Withholding of Removal).
- Agencies responsible for asylum adjudication should record the grounds for asylum claims in a case file electronic database and release these data to the public
- UNHCR staff, national authorities such as asylum officers and border agents, immigration judges, and other frontline workers who engage with migrants should be adequately trained in competent interview methods for LGBTQI+ people and in registering sensitive data.
- Sexual orientation, gender identity, and sex assigned at birth data should be integrated into registration and data management systems operated by UNHCR, as well as national government agencies that process refugee status determinations.

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