

Blind Alleys

PART I

***Guidance for NGOs, Governments,
UNHCR & Program Funders***

February 2013

The Unseen Struggles
of Lesbian, Gay, Bisexual,
Transgender and Intersex
Urban Refugees in Mexico,
Uganda and South Africa



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Cover art is by **Marconi Calindas**, an accomplished Filipino artist based in San Francisco. His paintings use vibrant colors and lines to express social and environmental concerns. The cover art, "To Carry You," emphasizes the support that LGBTI refugees desperately need on the complex path to safety. More information about the artist is available at www.marconicalindas.com.

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SIGRID RAUSING TRUST



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PART I

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Glossary of Terms

SEXUAL ORIENTATION AND GENDER IDENTITY

Bisexual refers to an individual who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with people regardless of their gender or sex.¹

Gender Identity is each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.²

Gay refers to a self-identifying man who has the capacity for profound emotional, affectional and/or sexual attraction to and/or intimate sexual relations primarily with other men.³

Homophobia refers to a hatred or fear of homosexuals – that is, lesbians and gay men – sometimes leading to acts of violence and expressions of hostility.⁴

Intersex refers to a person who is born with reproductive or sexual anatomy and/or chromosome patterns that do not fit typical definitions of male or female.⁵

Lesbian refers to a self-identifying woman who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations primarily with other women.⁶

LGBTI is the acronym for “lesbian, gay, bisexual, transgender, and/or intersex.”

Sexual Orientation refers to a person's capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with individuals of a different gender, the same gender, or more than one gender.⁷

Sexually and Gender Non-conforming (SGN) is an umbrella term used to refer to individuals whose sexual practices, attractions, and/or gender expression are different from the societal expectations based on their assigned sex at birth.⁸

Transgender is “[a]n umbrella term for people whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth.”⁹

A **transgender woman** is a person who was assigned male at birth but identifies as a woman.¹⁰

A **transgender man** is a person who was assigned female at birth but identifies as a man.¹¹

Transphobia refers to negative attitudes and feelings toward transgender people. Transgender people feel that their gender identity (self-identification) does not correspond to one's assigned sex (identification by others as male or female based on genetic sex).¹²

1 See *Media Reference Guide – Transgender Glossary of Terms*, GAY & LESBIAN ALLIANCE AGAINST DEFAMATION (GLAAD), [hereinafter *GLAAD Guide*] <http://www.glaad.org/reference/lgb> (last visited Nov. 5, 2012).

2 INT'L COMM'N OF JURISTS, THE YOGYAKARTA PRINCIPLES: PRINCIPLES ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION AND GENDER IDENTITY 6 n.2 (2007), available at http://yogyakartaprinciples.org/principles_en.pdf (last visited Nov. 5, 2012).

3 *GLAAD Guide*, *supra* note 1.

4 *Homophobia*, ANTI-DEFAMATION LEAGUE, <http://www.adl.org/hatepatrol/homophobia.asp>

5 *FAQ, ADVOCATES FOR INFORMED CHOICE*, <http://aiclegal.org/faq> (last visited June 6, 2012)

6 *GLAAD Guide*, *supra* note 1.

7 INT'L COMM'N OF JURISTS, THE YOGYAKARTA PRINCIPLES: PRINCIPLES ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION AND GENDER IDENTITY 6 n.1 (2007), available at http://yogyakartaprinciples.org/principles_en.pdf.

8 See *Trans Basics: Glossary of Terms*, GENDER IDENTITY PROJECT OF THE LESBIAN, GAY, BISEXUAL, & TRANSGENDER COMMUNITY CENTER, <http://www.gaycenter.org/gip/transbasics/glossary> (last visited Nov. 5, 2012).

9 NAT'L CTR. FOR TRANSGENDER EQUAL., TRANSGENDER TERMINOLOGY 1 (2009), available at http://transequality.org/Resources/NCTE_Trans-Terminology.pdf.

10 *Id.* at 1.

11 *Id.*

12 *GLAAD Guide*, *supra* note 1.

REFUGEES AND ASYLUM

An **asylum seeker** is someone who has applied for or is in the process of seeking asylum from the government of the country of asylum, but who has not yet been granted that status.

Information Systems refer to the combination of people, processes, data, and technology. A website with job postings is an example of an information system.

Persecution, for the purposes of this report, refers to serious harm or threats of harm perpetrated on account of race, religion, nationality, political opinion, or membership of a particular social group. There is no universally accepted definition of “persecution.” Threats to life or freedom and/or other serious human rights abuses always amount to persecution; however, lesser harms or threats may cumulatively constitute persecution. Adjudicators should generally apply a totality-of-the-circumstances test to assess persecution.¹³

A **refugee** is a person “who owing to a 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.”¹⁴

Refugee Status Determination (RSD) is the process through which state officials in the country of asylum or UNHCR determine if an asylum seeker is a refugee based on “eligibility criteria under international or regional refugee instruments, national legislation or UNHCR's mandate.”¹⁵

Social Network refers to a group of individuals who share a commonality. The common element of the social networks discussed in this report is the bond between refugees based on their common SGN status.

ACRONYMS

AIDS Acquired Immunodeficiency Syndrome

COO Country of Origin

COI Country of Origin Information

HIV Human Immunodeficiency Virus

LGBTI Lesbian, Gay, Bisexual, Transgender, and Intersex

NGO Nongovernmental Organization

ORAM Organization for Refuge, Asylum & Migration

PRM U.S. Department of State's Bureau of Population, Refugees and Migration

RLP Refugee Law Project

RSD Refugee Status Determination

SGN Sexual and Gender Nonconforming

SGBV/P Sexual and Gender Based Violence or Persecution

UNHCR United Nations High Commissioner for Refugees

13 UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, ¶ 51, U.N. Doc. HCR/IP/4/Eng/REV.1 (1992).

14 Convention Relating to the Status of Refugees art. 1 § 2, July 28, 1951, 189 U.N.T.S. 150.

15 UNHCR, Self-Study Module on Refugee Status Determination 2 (Sept. 1, 2005), <http://www.unhcr.org/refworld/pdfid/43141f5d4.pdf>.

I. Executive Summary

In this guide, ORAM offers key recommendations relevant to narrowing the protection gaps plaguing urban SGN¹⁶ refugees. Based on our research findings in the disparate protection environments of Uganda, South Africa and Mexico, as well as on ORAM's extensive work with this population in other locations, these recommendations include:

- Training agencies, protection officers, RSD staff, and NGOs which provide refugee assistance (e.g., information on SOGI claims and sensitive interviewing techniques);
- Including sexual and gender nonconformity at each stage of refugee processing (e.g., adopting intake and RSD forms which allow full articulation of claims based on sexual orientation, gender identity, and gender expression);
- Encouraging domestic protection authorities to recognize SGN claims;
- Providing UNHCR mandate protection where domestic protection is unavailable;
- Expediting consideration of vulnerable SGN persons' claims;
- Forming information networks to improve SGN refugees' access to information systems;
- Fast-tracking resettlement of particularly vulnerable SGN refugees;
- Increasing the numbers of SGN refugees accepted for resettlement;
- Forming partnerships with organizations focused on sexual and gender minorities; and
- Conducting comprehensive advocacy and service efforts that connect organizations working in legal aid, sex and gender based violence, human rights issues, and refugee support.

We recommend that refugee-serving NGOs conduct trainings within their organizations to hone awareness, sensitization and expertise. We recommend that the same NGOs train other stakeholders including government agencies and community groups. This approach will help build knowledge in the field about SGN refugees, dispel stereotypes, and introduce best practices, procedures, and tools.

In addition to conducting sensitization trainings, this guide suggests that NGOs focus training on the implementation of procedures including codes of conduct prohibiting discrimination on the basis of sexual orientation and gender identity, best practices in the field and tools such as SGN-sensitive interview guides. The combination of these efforts will help to create non-threatening, affirmatively accepting environments that signal safety and inclusion to SGN refugees.

We strongly recommend that refugee service providers develop partnerships and coalitions with local LGBTI organizations, faith-based community groups, diverse human rights groups, and other refugee-focused NGOs. These partnerships will open referral channels, build service capacity, and create a sense of community designed specifically to address the needs of SGN refugees.

Finally, we urge NGO service providers to create comprehensive and holistic advocacy and service programs. Key elements of a multi-faceted approach can include community and governmental advocacy efforts, direct legal aid, SGN-friendly and specific health services, education and vocational trainings.



This publication introduces the term “sexually and gender nonconforming” (“SGN”) to refer to refugees of variant sexual orientations and gender identities. “SGN” is offered as an alternative to the prevalent Western agglomeration “LGBTI” (Lesbian, Gay, Bisexual, Transgender, and Intersex). While the LGBTI rubric has been adopted in many communities worldwide, most members of sexual and gender minorities are either unaware of the terminology or actively avoid such self-identification. “SGN” is an attempt to encompass all sexual and gender minority refugees, including those who do not conform to Western constructs.

¹⁶ The acronym “LGBTI” is used increasingly in the refugee field to refer collectively to individuals of variant sexual orientations or gender identities. See, e.g., U.N. High Comm’r for Refugees, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, U.N. Doc. HCR/GIP/12/01 (Oct. 23, 2012), available at <http://www.unhcr.org/refworld/docid/50348afc2.html>. The “LGBTI” agglomeration is based on modern Western constructs which are unknown or are avoided in many areas of the world. “LGBTI” further presumes that members of its constituent groups identify within the fixed categories of “lesbian,” “gay,” “bisexual,” “transgender,” and “intersex.” In actuality, SGN persons worldwide are largely unfamiliar with or decline to adopt these identities. When refugee adjudicators and others require conformance to these narrow categories in order to qualify applicants as “members of a particular social group,” those who do not conform may be excluded from protection. See Laurie Berg & Jenni Millbank, Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants, 22 J. REFUGEE STUD. 195 (2009).

II. Introduction



This guide is intended as a road map for NGOs and other stakeholders providing services to SGN refugees in countries of first asylum. The recommendations are derived from ORAM’s study of SGN urban refugees in the disparate protection environments of Uganda, South Africa, and Mexico. To yield these recommendations, ORAM interviewed a total of 147 refugees and protection stakeholders between 2011 and 2012.

This guide is intended to help refugee-serving organizations and decision makers fill key gaps in protecting and empowering this highly marginalized and vulnerable refugee population. The recommendations were constructed with extensive input from all the stakeholders we interviewed, especially SGN refugees themselves.

Ameliorating discrimination, homophobia,¹⁷ gender-based violence, and criminalization of same-sex sexual acts and gender nonconformity is beyond the scope of these recommendations. Nevertheless, the trainings, advocacy efforts, coalition building, and service enhancements we propose will lend critically-lacking support to SGN refugees in their displacement cycle.

III. Recommendations



Based on our research in Uganda, South Africa, and Mexico and on ORAM’s extensive experience with SGN refugees in other locations, we developed recommendations in five key areas. These are intended to guide NGO refugee service providers, funders, governments and UNHCR on how best to address the needs of SGN refugees surviving in urban environments. Our recommendations in Sections A – E encompass the following:

- Training, education, and sensitization of agencies, NGOs, and community groups engaged in refugee protection;
- Outreach and creation of information networks to improve SGN refugee access to resources;
- Forming SGN support coalitions and partnering with organizations rooted in and focused specifically on the LGBTI community;
- Comprehensive advocacy and legal efforts; and
- Comprehensive service efforts involving sexual and gender-based violence units, specialized health care, and refugee support groups.

These general recommendations are supplemented in Section F with provisions specific to UNHCR and governments of resettlement countries.

¹⁷ Homophobia refers to negative attitudes and feelings towards lesbians and gay men. See GAY & LESBIAN ALLIANCE AGAINST DEFAMATION, MEDIA REFERENCE GUIDE (8th ed. 2010), available at <http://www.glaad.org/files/MediaReferenceGuide2010.pdf?id=99> (last visited Nov. 5, 2012).

A handful of countries have recently sought to enact draconian laws that attempt to prevent the discussion of homosexuality. For example, a draft bill in Russia would establish nationwide administrative penalties and fines for “propaganda of homosexuality among minors.”¹⁸ In Ukraine, a draft law would criminalize pro-LGBT speech.¹⁹ Widely decried by the human rights community, these laws represent efforts to eradicate the mere attempt to expose basic facts about nonconforming sexuality and gender identity or to protect rights for SGN individuals.

The infamous Ugandan Anti-Homosexuality Bill (AHB), first proposed in 2009 and reintroduced in 2012, includes a number of additional penalties for same-sex conduct and would criminalize any persons or organizations providing support to LGBTI individuals. Known versions of the bill could create a chilling environment where any support for LGBTI issues or individuals would be penalized as “promotion of homosexuality.”²⁰ It is unclear whether the AHB would encompass transgender or intersex people in its defined offenses because its primary focus is on homosexuality. Nevertheless, the drafters indicated that the AHB should not be interpreted as legitimizing “gender identity disorders.”²¹

The AHB not only criminalizes homosexuality; it also attempts to render criminal the failure of medical and other service providers to disclose their knowledge of a person’s homosexuality.²² If the AHB is passed as proposed, providing assistance to LGBTI refugees is likely to become considerably more difficult because many of the approaches contemplated in this report could be targeted on legal grounds. Individuals and organizations serving LGBTI refugees in Uganda are advised to continue monitoring the status of the AHB closely.

If the Anti-Homosexuality Bill is passed as proposed, providing assistance to LGBTI refugees is likely to become considerably more difficult because many of the approaches contemplated in this report could be targeted on legal grounds.

IMPORTANT: None of the recommendations in this report should be understood to advocate for NGO activities that violate the laws of any country. NGOs working in hostile environments are urged to be mindful of potential state or non-state hostility or targeted legal action against those undertaking SGN-identified protection activities. NGOs are advised to confer with trusted legal counsel during program planning stages and to develop activities and materials accordingly.

¹⁸ Amnesty International, *Russia's Anti-Gay 'Propaganda Law' Assault on Freedom of Expression*, Jan. 25, 2013, available at <http://www.amnesty.org/en/for-media/press-releases/russia-s-anti-gay-propaganda-law-assault-freedom-expression-2013-01-25>; Miriam Elder, *Russian Parliament to Consider Federal Anti-Gay Law*, THE GUARDIAN, Nov. 30, 2011, available at <http://www.guardian.co.uk/world/2011/nov/30/russian-parliament-federal-anti-gay-law>.

¹⁹ Sunnive Brydum, *Ukraine Parliament OK's Bill Criminalizing Gay 'Propaganda'*, Oct. 2, 2012, available at <http://www.advocate.com/news/world-news/2012/10/02/ukraine-parliament-oks-bill-criminalizing-gay-propaganda>.

²⁰ Anti-Homosexuality Bill, 2009, Parl. Bill [18] cl. 13(1)(e) (Ug.).

²¹ Anti-Homosexuality Bill, 2009, Parl. Bill [18] cl. 18(2) (Ug.).

²² Anti-Homosexuality Bill, 2009, Parl. Bill [18] cl. 14 (Ug.).

A. TRAIN, SENSITIZE & EDUCATE

“Specialized training on the particular aspects of LGBTI refugee claims for decision makers, interviewers, interpreters, advocates and legal representatives is crucial.”

Based on our observations and the suggestions we received in Uganda, South Africa, and Mexico, as well as ORAM’s experience with SGN refugees elsewhere, we recommend that refugee-serving NGOs prioritize internal and external trainings that build the knowledge base about these refugees, dispel stereotypes, and introduce best practices and tools.

Advocates interviewed in all three of the countries studied believed that increased education, awareness, and trainings for adjudicators, NGO service providers, and others charged with refugee protection would help to close protection gaps for SGN refugees. Many refugees and stakeholders suggested conducting trainings with groups including broad-based service organizations, local police and government agencies, and the community at large, as well as with organizations that specifically focus on refugees.

These recommendations are consistent with a separate study which ORAM conducted with directors and managers at several hundred NGOs worldwide. Published in 2012, that research found that virtually all refugee NGO directors and managers are committed to serving all refugees, without regard to sexual orientation or gender identity. At the same time, NGOs lack the knowledge and subject matter comfort needed to work effectively with SGN persons.²³

UNHCR has recognized that “LGBTI individuals require a supportive environment throughout the refugee status determination procedure” and that [a] safe environment is equally important during consultations with legal representatives.” The Refugee agency urges that “specialized training on the particular aspects of LGBTI refugee claims for decision makers, interviewers, interpreters, advocates

and legal representatives is crucial.”²⁴This report and ORAM’s earlier research provide strong support for these conclusions, and indicate that much training is required to create tangible and long-lasting change in the field.

i. Educate SGN Refugees on Laws & Procedures Affecting Them

Interviews in all the countries examined indicated that many of the protection gaps SGN refugees endure are due to a lack of awareness of the relevant laws and procedures in countries of transit. Since the majority of SGN refugees interviewed expressed extreme isolation and discrimination, obtaining information on how to successfully navigate their way through legal procedures and day-to-day living in these countries proved extremely challenging. As a result, many are unaware that sexual orientation or gender identity based persecution can be grounds for protection. Others do not understand the process of applying for refugee status as an SGN individual. Many are unable to exercise their rights to employment, housing, or medical care.

To overcome these types of difficulties, NGO service providers and governments are advised to implement plans to widely disseminate information on the laws and procedures that affect SGN refugees. Such information must be thorough, yet easily accessible. It should encompass RSD procedures, national criminalization laws or rights affecting LGBTI persons, how to file formal police complaints and requests for protection, and procedures for obtaining government benefits afforded to refugees. When deciding upon methods of disseminating this information, NGOs and governments are advised

²³ ORAM, OPENING DOORS: A GLOBAL SURVEY OF NGO ATTITUDES TOWARDS LGBTI REFUGEES AND ASYLUM SEEKERS 16 (2012) [hereinafter OPENING DOORS], available at <http://oraminternational.org/en/publications>.

²⁴ UN High Comm’r for Refugees, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, ¶¶ 58-60, HCR/GIP/12/01 (October 23, 2012), available at <http://www.unhcr.org/refworld/docid/50348afc2.html>.

to consider the particular vulnerabilities and often destitute socioeconomic status of SGN refugees. Possible methods of disseminating information include the following:

- Conducting educational seminars targeted specifically at SGN refugees;
- Making printed materials freely available in the waiting areas of service providers and government offices;
- Traveling to areas frequented by LGBTI individuals to pass out information; and
- Utilizing online forums and websites

ii. *Assess Staff & Management Attitudes and Training Needs*

Most SGN refugees fear that seeking out protection will only make them more vulnerable. Many of our interviewees reported having encountered transphobia,²⁵ homophobia, xenophobia, stigma, and discrimination in attempting to access services. The abuse, mistreatment and marginalization they face deprive them of physical security and can prevent them from developing trust. Staff must be shown how to serve these refugees appropriately. They must also learn how to create environments in which SGN refugees feel safe.

Refugee-focused organizations and agencies require sensitization trainings to increase awareness and understanding of SGN refugees and their needs. At the outset, NGO service providers and government agencies are advised to assess employee knowledge and attitudes toward SGN individuals using a survey tool. This assessment will enable trainers to develop more tailored and useful trainings.

²⁵ Transphobia refers to negative attitudes and feelings toward transgender people. Transgender people feel that their gender identity (self-identification) does not correspond to one's assigned sex (identification by others as male or female based on genetic sex). See *Media Reference Guide – Transgender Glossary of Terms*, GAY & LESBIAN ALLIANCE AGAINST DEFAMATION (GLAAD), <http://www.glaad.org/reference/transgender> (last visited Nov. 5, 2012).

DESIGNING AND ADMINISTERING AN ASSESSMENT SURVEY

Assure respondents' anonymity

Embed SGN-related questions within wider issues to prevent respondents' avoidance of LGBTI-related items

Include a wide range of topics. Inquire about the organization itself, services and population served; attitudes and opinions about SGN individuals and positions of interviewees.

Disseminate the survey to all staff and management

iii. *Train Staff & Management*

After assessing the attitudes and knowledge of their employees, NGOs are advised to hold awareness, understanding, and sensitization trainings for both staff and management. Where possible, NGOs are encouraged to include openly SGN-identified individuals as trainers. Research has consistently shown that contact and personal engagement with persons who are openly lesbian, gay, bisexual, or transgender is the most reliable method of deconstructing stereotypes.²⁶ NGOs can also seek input from SGN experts to ensure that their curricula include basic identity-related terminology. Staff and external interpreters should be made aware of appropriate and in-offensive terminology in their operating language as well as languages spoken by refugee populations they serve.

Staff members at all levels, particularly for those who interact directly with refugees, need sensitization training. These trainings should be offered on a regular basis, both for reinforcement and to account for staff turnover. Between trainings, NGO administrators should encourage further dialogue

²⁶ See e.g., L. Marvin Overby & Jay Barth, *Contact, Community Context, and Public Attitudes Toward Gay Men and Lesbians*, 34 POLITY 434 (2002).

“What we need is policy and advocacy... A lot of times it’s just round working with departments, training officials, making sure they have a level of awareness.”

among colleagues through SGN-specific discussions, events, and workshops. Open discussion will cultivate cooperation and a sense of collective mission among the staff, as well as helping to augment the lessons from the sensitization trainings.

ORAM recommends that refugee-serving organizations focus trainings on the implementation of procedures, including codes of conduct prohibiting discrimination on the basis of sexual orientation and gender identity, best practices in the field, and interview guides. The combination of these efforts will help create non-threatening and accepting environments signaling safety and inclusion to SGN refugees.

For more detailed staff training and capacity building recommendations, see the ORAM publication *Opening Doors: A Global Survey of NGO Attitudes Towards LGBTI Refugees & Asylum Seekers*,²⁷ and APPENDIX I – Internal Training Recommendations Checklist.

iv. Educate Other Institutions

Unlike refugees in camps, those in urban settings do – or potentially could – receive services from a broad range of organizations and agencies that serve the general public. These include hospitals, homeless shelters, the police and job training agencies. Accessing services presents challenges for all urban refugees; particularly to those vulnerable to targeting in the host community. Many of the interviewees in our study stressed the importance of conducting trainings on LGBTI and refugee issues for the broad range of organizations that do, or could, help urban refugees. In all three countries SGN refugees need constant protection from violence and harassment by neighbors and landlords.

Service-providers in South Africa de-

scribed how and why they conduct external trainings, and which benefits they reap from doing so. One activist in South Africa explained that her organization attempts to overcome the barriers posed by unawareness and discrimination through public education and trainings. “We organized public hearings... focusing on the implemented equity acts on companies and government to see whether they are actually achieving them... What we need is policy and advocacy... A lot of times it’s just round working with departments, training officials, making sure they have a level of awareness.”

Organizations that have learned how to work effectively with SGN refugees can share their knowledge and tools with others through external trainings, and these can be carried out in particular countries of first asylum. Efforts to spread this knowledge are currently being encouraged and facilitated by refugee agencies and organizations including UNHCR, PRM and international service providers. These efforts should be augmented and intensified.

For training tools and more detailed recommendations, see APPENDIX I – Internal Training Recommendations Checklist.

v. Train & Sensitize Government

In addition to conducting external trainings with community groups and services providers, we recommend that NGOs that have learned to work effectively with SGN refugees offer to train and sensitize government agencies. The need for these trainings was clear in all three of the countries examined. For example, an activist in Mexico stated that “[many Mexicans] are accustomed to the idea that lesbians and gays have no rights.... A lot of training is needed for the staff, the immigration officers, police and the army.” He added

²⁷ OPENING DOORS, supra note 23, at 4, 26.

that “[t]here should be good training practices for the administrative staff. The authorities do not know the law.”²⁸

In South Africa, the importance of training was similarly emphasized. One organization works with staff in prisons to train them about sexual identity and tolerance.²⁹ Yet another emphasized the significance of training police, social workers, refugee reception officers and government officials.³⁰

vi. *Sensitize & Train Faith-Based Institutions and Congregants*

NGOs that partner with faith-based groups are encouraged to develop special curricula which account for the beliefs and sensitivities of their SGN congregants and of refugees. Ideally the training should address differing religious attitudes around sexual orientation and gender identity, and should be specially designed to form safe spaces where SGN refugees can enter into welcoming communities.

vii. *Encourage Contact with People Who are Openly SGN*

The social science literature is clear that increased contact with SGN people is the most powerful tool in dispelling prejudices toward other SGN persons. A 2011 study by ORAM found that over 90 percent of NGO respondents who said they personally knew LGBTI individuals were willing to serve LGBTI refugees. Those who had no contact with LGBTI persons were significantly less willing to work with LGBTI refugees.³¹ We urge that NGOs encourage exposure of staff to openly-identified SGN individuals to the greatest extent possible.

²⁸ Interview by ORAM with MX - S11.

²⁹ Interview by ORAM with SA - S19.

³⁰ Interview by ORAM with SA - S47.

³¹ OPENING DOORS, *supra* note 23, at 23.

STEP 1 Develop & Implement Sensitization Trainings

Develop and implement sensitization trainings to increase awareness about SGN refugees and their needs, and to foster positive attitudes. Effective trainings:

- Are context-specific and adapted to local and regional conditions facing SGN refugee populations
- Account for NGO staff attitudes and knowledge levels (these may be assessed by survey)
- Educate staff including interpreters on appropriate and inoffensive terminology for use with SGN individuals in a variety of languages
- Use openly SGN trainers where safe to do so, preferably from the local culture
- Employ inclusive, non-judgmental, and non-confrontational approaches
- Are given with the perspectives of the trainees
- Foster an atmosphere of good will and shared mission
- Incorporate personal and emotional components building empathy and understanding
- Include testimony of SGN refugees themselves as well as hands-on exercises
- Utilize a cross-cultural competency model aimed at developing appropriate attitudes, knowledge, and skills
- Use “training of trainer” (TOT) models and other sustainable learning structures
- Are ongoing and repeated
- Reinforce written and visual material and accounting for employee turnover

STEP 2 Implement Codes of Conduct

Implement codes of conduct prohibiting discrimination based on sexual orientation or gender identity. Administrators are encouraged to:

- Develop codes of conduct in consultation with SGN experts and NGOs
- Disseminate and convey codes of conduct to all staff
- Ensure that relevant provisions are enforced

STEP 3 Create Inclusive Environments

Deliberately create non-threatening, affirmatively accepting environments that signal safety and inclusion to SGN people. Stakeholders are advised to:

- Foster ongoing dialogue of SGN refugee issues and needs in between trainings via discussions, events, presentations, etc.
- Discourage silence and taboo around sexual orientation and gender identity
- Encourage staff to discuss SGN matters and use appropriate SGN terms openly and matter-of-factly
- Encourage assumptions that trainees and refugees are sexually and gender-diverse
- Adopt intake and referral forms that avoid assuming heterosexuality and/or normative gender identity
- Challenge and discourage any stereotypes about SGN individuals
- Use SGN individuals’ stories in written and promotional materials
- Include visual cues signaling acceptance in professional settings, such as the display of culturally relevant SGN artwork or posters
- Employ openly-SGN staff
- Create working environments which are secure and safe for SGN staff

STEP 4 Build Coalitions

Develop ties and build coalitions with SGN organizations, individuals, and allies.

Stakeholders are advised to:

- Build relationships across different sectors and issue areas, especially where the target client population intersects differing communities
- Increase referral pathways to SGN-focused or SGN-friendly legal aid organizations, medical professionals, social service organizations, employment agencies, etc.
- Seek out the support of local UNHCR offices and international NGOs to identify and protect SGN refugees

B. FORM & INFORM SGN INFORMATION NETWORKS

Because SGN refugees are often isolated and unable to access the services they need to survive, it is important to foster robust information networks. When coupled with existing technologies like the Internet or telephone texting, these networks not only allow refugees to support one another in their struggles for survival, but also enable NGOs to effectively connect refugees with the resources available to assist them.

i. *Create & Inform SGN Access into Existing Information Networks*

We recommend that NGOs increase awareness and disseminate information through existing NGO forums and information networks, including those of faith-based communities. Most countries where SGN refugees seek protection have NGO forums encompassing hate-crimes, refugees, sexual and gender based violence, and/or sex trafficking and sex work. Issues of particular relevance to SGN refugees can be raised within these existing frameworks to facilitate increased awareness among diverse stakeholders.

ii. *Utilize Existing Technologies and Social Networks to Reduce Isolation*

Interviews with SGN refugees in all three countries examined revealed that social networks constitute an important part of SGN refugees' lives, both in the host country and prior to arrival. Before arriving in the host country, SGN refugees utilize social networks to connect with other SGN individuals who have successfully navigated the RSD process. Both in-person and technology-based communication are used in these networks. Once in the country of first asylum, SGN refugees often rely on social networks and technology to find other refugees, emotional support, employment, housing, and access to services.

As refugees begin exploring the use of technological and digital innovations to

enhance their social and information networks, NGOs and service providers are advised to do the same in order to outreach to SGN communities that are largely invisible. Existing technologies and social networks, including online forums, Facebook, and websites, can be employed to disseminate information about relevant laws and procedures and local LGBTI-friendly organizations and service providers. Technology can also be used to connect SGN persons with one another and to yield information on survival and emotional support; even when physically separated. This is especially important for those in areas with few or no other openly LGBTI people. For example, the ORAM Information Center for South Africa (ORAMIC), currently available at www.oramsouthafrica.org, provides a safe online space for refugees, attorneys, and policy advocates to support and inform each other, disseminate important news, or collaborate on advocacy efforts.³²

While modern technology can be a powerful information and communication channel for SGN refugees, the high cost of access prevents many from being able to use a computer on a regular basis. As the cost of accessing these technologies decreases, it will be easier for the refugees to rely on them for their needs. Meanwhile, NGO service providers are encouraged to facilitate free access to computers as much as possible. NGOs which are able to provide access to computers are strongly encouraged to set aside times specifically for SGN refugees: Most interviewees SGN refugees will not reveal their sexual orientation or gender identity on computer screens which can be viewed by strangers.

NGOs which cannot provide comput-

³² ORAM, ORAM INFORMATION CENTER FOR SOUTH AFRICA, www.oramsouthafrica.org (last visited Nov. 7, 2012).

er access are advised to consider utilizing mobile telephones as a way of disseminating information. In all three of the countries examined, most interviewees had cellular telephones. Although face-to-face interaction is still more common, the telephone appears to be the next most popular method for refugees to stay connected to social networks.

iii. Conduct Special Outreach to Target LGBTI Populations

NGOs are encouraged to reach out to SGN refugees in targeted areas of vulnerability (typically in city centers, prisons, squatter buildings, slum areas, and homeless communities). SGN refugees are usually isolated from their national, ethnic, linguistic and religious communities of origin, as the latter often carry with them the attitudes and prejudices of those countries. Similarly, host countries often share the attitudes of the country of origin toward sexual and gender nonconformity. Isolation and inability to network often leaves SGN refugees vulnerable to violence and unable to secure even the basics: food, shelter, and a livelihood. SGN refugees thus sometimes turn to survival sex. Many hide from NGOs and authorities alike, unsure whether they will be reported to the police or targeted for violence.

Trained social workers can help ameliorate this marginalization and isolation and can get the word out that assistance is available. For example, outreach workers can visit places SGN refugees are known to frequent, leaving information leaflets. Word of mouth spreads quickly among information-starved SGN refugees and asylum seekers.

iv. Provide Information on Employment Opportunities

In all three of the countries studies, SGN refugee interviewees identified access to employment as one of their greatest difficulties.



When trying to obtain work, interviewees faced pervasive discrimination on multiple fronts: their status as refugees, their SGN status, and their nationality. As legitimate employment opportunities for LGBTI refugees are often non-existent, many resort to survival sex.

In light of these obstacles, we recommend that NGO service providers spread information about employment opportunities with LGBTI-friendly employers (where extant). NGOs can utilize existing social networks and accessible technologies, as well as SGN refugee advocacy coalitions, to disseminate information about employment opportunities. For example, an NGO can compile an online database of LGBTI-friendly employers.

NGOs are also encouraged to make vocational training programs available in safe environments for SGN refugees. While many affordable training programs in language and vocational skills may already exist, SGN refugees report being uncomfortable attending these programs with other (non-LGBTI) refugees. Special sessions for LGBTIs can help alleviate this problem.

Isolation and inability to network often leaves SGN refugees vulnerable to violence and unable to secure even the basics: food, shelter, and a livelihood.

C. FORM SGN SUPPORT COALITIONS

Due to capacity limitations, financial constraints, and external restrictions, even the most knowledgeable and engaged NGO service providers cannot always meet all the protection needs of SGN refugees. For this reason, it is essential that service providers develop relationships with local LGBTI organizations, faith-based community groups, and other refugee service providers to form SGN support coalitions. Partnerships such as these can open referral pathways, expanding the capacity of all organizations involved and locating new sources of support for SGN refugees.

i. *Partner with Local LGBTI Organizations*

Service providers are encouraged to partner with local or regional LGBTI organizations, where available. These can provide specialized knowledge about local environments for SGN individuals and valuable insights about meeting the needs of this vulnerable population. NGOs working with local or domestic LGBTI organizations can often also find improved access to local LGBTI/SGN service providers, including:

- Legal service providers open to assisting SGN persons;
- SGN-friendly employment opportunities and vocational training programs;

- SGN-friendly health and psychological care providers and specialists;
- LGBTI-accepting emergency and suicide prevention hotlines; and
- Shelters and integrated housing providers that welcome SGN persons.

Partnering with local LGBTI organizations to stem targeting of LGBTI persons will also enable NGOs to increase reporting and follow up with local police on violence and harassment. Partner organizations can conduct outreach to refugee communities to deal organically with aggressive individuals from the host country. Such bridge-building can foster a network of NGOs willing to work on the issue. Within this network, some NGOs may have existing access to police who respect the protection needs of SGN refugees. Others may be able to develop such contacts. These efforts can ensure a contact person in crime prevention and prosecution who takes violence against SGN refugees seriously.

ii. *Partner with Faith-Based Communities*

Support networks are critically important to SGN refugees, who most often cannot rely on state or community institutions. These networks can offer housing, health care and employment, as important as a mode of social integration in the host country. Importantly, SGN refugees have most often internalized a great deal of homophobia, denial and even self-hatred. Many refugees also come from faith backgrounds and want to stay connected with their religion. Accepting faith-based communities can offer a healing environment in which these refugees begin to view themselves as worthwhile and even valuable members of society.

NGOs are advised to build a network of

NGOs working in hostile environments are urged to be mindful of potential state or non-state hostility or targeted legal action against those undertaking SGN-identified protection activities. In harsh legal environments, NGOs are advised to confer with trusted legal counsel during program planning stages and to develop activities and materials accordingly.

D. LAUNCH COMPREHENSIVE ADVOCACY EFFORTS

guardians (volunteers) at faith-based communities to assist with the integration of SGN refugees. These guardians work together to stem the loneliness and isolation SGN refugees endure. They also offer practical assistance. This can include taking the refugee to an otherwise-foreboding government office or to a hospital. When these guardians are connected to other networks that meet regularly, the community is able to strengthen ties and effectively assist SGN refugees.

Networks can be developed one religious organization at a time or by inviting several groups to focus on a single region and work together on forming support structures for SGN refugees.

iii. *Build on Existing Infrastructures and Mainstream LGBTI into Other Programs*

In all of the countries examined for this report, SGN refugees needed improved access to support services at designated “drop-in centers,” including legal services, temporary shelters, health support, self-defense awareness training and psychosocial support. Many urban NGOs have existing structures that facilitate services that can be made available to SGN refugees by mainstreaming their protection concerns into those of similarly vulnerable populations groups, like victims of sexual and gender based violence or persecution (SGBV/P). Mainstreaming SGN refugees into existing protection programs will not only allow these refugees to access a much wider array of services; it will also familiarize host communities with the struggle of SGN refugees in a humane light.

The needs of SGN refugees cannot be addressed fully through the advocacy efforts of any single organization. SGN refugees are better served through cross-sectional methods that transcend the boundaries tending to separate disparate organizations. The elements of such an advocacy approach focus specifically on improving awareness of the challenges facing SGN asylum seekers in host countries to facilitate greater availability for protection from local government agencies and to increase access to existing services in urban areas.

i. *Provide Comprehensive Legal Services*

Key elements of any comprehensive legal program should include promoting LGBTI-safe environments, guiding refugees through the RSD process, ameliorating human rights abuses, and promoting protection by state agencies.

1. *Create LGBTI-Safe Environments & Welcome Refugee Claims based on Sexual Orientation & Gender Identity*

The refugee adjudication process is particularly difficult for LGBTI applicants. In all three countries examined, SGN refugees encounter a number of barriers with adjudicators and government officials when applying for refugee protection. Interviewees complained of xenophobia, transphobia, homophobia, stigma, discrimination, and marginalization. Adjudicators may demonstrate homophobic or transphobic prejudice blatantly or through subtle or unconscious signals. Typically, SGN refugees’ experiences of persecution have taught them that they need to hide to survive. Speaking openly with strangers about their lives can feel shameful and dangerous. Further exacerbating this situation, many languages lack positive (or even neutral) terms to refer to SGN people.

Typically, SGN refugees’ experiences of persecution have taught them that they need to hide to survive. Speaking openly with strangers about their lives can feel shameful and dangerous.



Most refugees seeking protection do not feel safe to narrate their experiences truthfully or fully during their refugee status determination interview.

Hearing themselves described in pejorative terms deeply discourages SGN people from telling their true stories.

The communication gap between adjudicators and SGN refugees is yet another barrier to legal protection. Interviewees report communication problems including simple language barriers, exacerbated by lack of LGBTI-appropriate terminology. Where the interpreter and the refugee are from the same community, the refugee often feels unable to safely express his or her identity or persecution suffered on account of it.

To help count these systemic and culturally-based difficulties, the service-provider can:

- Help the applicant understand that concealing one's actual claim will greatly lower one's chances of obtaining refugee protection;
- Prepare the applicant to overcome shame and express his or her identity and experiences of persecution;
- In a supportive environment and through repetition, help the applicant become comfortable recounting the claim;
- Teach and make available appropriate and inoffensive terminology;
- Educate translators to be sensitive to the identities and needs of SGN refugees; and
- Help appeal if the case is denied.

2. Guide Refugees through the Adjudication & Appeal Process

One of the most formidable barriers to legal protection is an SGN refugee's ability to interview successfully with an adjudicator. Given the illegality of homosexuality and same sex relationships in many places, transphobia, pressure from family members, and prevailing homophobic atmospheres, most SGN refugees seeking protection do not feel safe to narrate their experiences truthfully or fully during their refugee status determination interview.

Our research revealed that in Uganda and South Africa, the few SGN applicants who dared to reveal their sexual orientation or gender identity in interviews were denied refugee status in the first instance. Such denials signal to subsequent applicants that they may be safer concealing the SGN aspect of their claims, fabricating an "acceptable" (non SGN-related) claim, or not applying altogether.

3. Confront Human Rights Abuses & Promote State Protection

Police are sometimes major perpetrators of harm (e.g., arbitrary arrests) against SGN refugees in countries of transit. Also police often do not take action when non-state actors attack SGN refugees. Legal representatives can assist SGN refugees when they need to be bailed out of prison or when criminal charges must be contended. For example, at the Refugee Law Project in Kampala, a representative goes to the police station and, usually after lengthy negotiations, is able to have the client released. In a country like Mexico that accords *prima facie* rights to SGN individuals, legal advocacy can help to ensure those rights are upheld by local law enforcement, particularly by following up on police reports and requesting protection.

E. AUGMENT COMPREHENSIVE SERVICE EFFORTS

Because SGN refugees faced harsh challenges in almost every aspect of daily life, service-providers must coordinate their efforts to ensure efficient and comprehensive coverage. Essential components of a complete service program should include building self-reliance, establishing SGN refugee support groups, creating SGBV/P units, providing and improving access to health care, and ensuring at-risk SGN refugees' access to safe shelter.

i. *Build Self-Reliance*

Building self-sufficiency must be a cornerstone of any project strengthening vulnerable SGN urban refugees. Virtually all need to acquire sustainable survival tools. The tendency of refugee assistance to hamper self-sufficiency and create dependency has long been criticized.³³ Self-reliance can be even more essential for urban refugees than for those in camps, as the former must navigate complex systems – many of which are not specifically directed to refugees – in order to survive. Service providers should thus focus on self-reliance tools even as they distribute direct assistance. These tools and practices include:

- Ensuring that the refugee takes an active participatory role in planning their protection services;
- Providing education and trainings designed to teach SGN refugees how to employ existing knowledge and skill sets in their new environment;
- Facilitating access to loans, micro-financing, and other entrepreneur endeavors; and
- Arranging psychological support and counseling that reinforces responsibility and ability to take care of self.

ii. *Establish Support Groups*

Support groups are a simple vehicle that can play a crucial role in an SGN urban refugee's survival. Support groups:

- Help members share information about available resources and safe spaces;
- Facilitate access to the refugee status determination process;
- Provide ongoing opportunities to overcome isolation; and
- Promote emotional health.

1. *Alleviate Isolation and Increase Access to Services*

The isolation SGN refugees suffer can be paralyzing and can seriously impede meaningful protection. As one activist in South Africa noted:

*You have the migrant community, and you have the queers, and where do they fit in? The gay community doesn't want them, the South African community doesn't want them, you have hate crimes, corrective rape, you've got xenophobia... and there's not really a legitimate space for them to exist.*³⁴

Support groups provide a venue to form friendship and community. Emotional support, advice on survival, and staying in touch with loved ones are among the benefits of these groups. As a refugee in Uganda noted:

*[A]s a gay I would request other gay refugees to support one another because we are refugees, there is nothing else we could do apart from supporting one another and not get lost, be together, talk to one another using computers, on phone, and know what is going on.*³⁵

“As a gay I would request other gay refugees to support one another because we are refugees, there is nothing else we could do apart from supporting one another and not get lost, be together, talk to one another using computers, on phone, and know what is going on.”

³³ Paul Harvey & Jeremy Lind, *DEPENDENCE AND HUMANITARIAN RELIEF: A CRITICAL ANALYSIS 29* (2005).

³⁴ Interview by ORAM with SA - S5.

³⁵ Interview by ORAM with UG - G9.

Creating and Sustaining a SGN Refugee Support Group

Assist...

...the group in its day-to-day operations. Maintain a close and ongoing working relationship with the group.

Meet...

...regularly with the leaders to discuss the group's needs, challenges, and successes.

Organize...

...joint sensitization trainings and information workshops for national entities (e.g., police, medical facilities, other refugee-serving organizations) and facilitate the group's invitation and attendance. This will contribute to the group's confidence, legitimacy and visibility.

Help...

...the group improve member access to services and establish a strong presence in the community

Facilitate...

...the group's networking efforts with:

- Other refugee organizations
- Refugees in other areas (e.g., in remote locations)
- LGBTI-friendly service providers (e.g., doctors, lawyers)
- Other LGBTI organizations & activist groups that are not refugee-focused
- Media

“If what we are looking for is that more LGBTI [individuals] come out and ask for protection, we are going to need... to create either a group, a network, an organization where those [SGN people who] are still in the closet have trust.”

Support groups can also nurture SGN refugees as they struggle to navigate complicated and sometimes hostile environments. The single strongest reported impediment to accessing services is social isolation. Many SGN refugees report that they dare not leave their house for fear of being targeted by locals or other refugees. Support groups provide a community in which SGN refugees feel safer, encourage one another to carry on and exchange information. As one refugee noted, “If what we are looking for is that more LGBTI [individuals] come out and ask for protection, we are going to need... to create either a group, a network, an organization where those [SGN people who] are still in the closet have trust.”

Employment is an area in which support groups can be especially helpful. Our research confirmed that in both Uganda and South Africa, SGN refugees severely lack access to legitimate employment, in part because of a dearth of vocational training programs in safe environments. Support group members can provide one another with advice, job leads and encouragement to find work. They can also make vocational training programs safer by participating in them together.

2. Promote Mental Health & Motivation

The psychological pressure endured by SGN refugees day after grueling day weighs heavily on them, in turn hampering their ability to survive. To alleviate this pressure, we suggest the creation of safe spaces where SGN refugees are able to express what they are experiencing and learn about counseling opportunities (if available).

In Uganda, many refugees reported feeling deeply isolated. Those who participated in support groups reported fewer psychological problems and a more positive sense of themselves. One member of Les Angeles, the SGN support group working with RLP in Uganda described the importance of the group as follows:

[W]hen [I] am with my group I feel secure and protected... I started feeling at home. Before I used to feel as if I should die because society looks down on you – your own parents mistreat you. Now that [I] am with my fellow lesbians we bring ideas and I feel good.

An SGN support group can thus improve the refugee's access to protection services as

it broadens the service provider’s outreach capacity and overall impact.

Early in creating a relationship with an SGN support group, one must show openness, understanding, and flexibility to gain the confidence of the refugees, whose trust level is likely to be very low. The investment is well worth it: if the working relationship is successful, the refugees will not only become better protected, they will also become empowered through the group.

iii. Establish Sexual and Gender-Based Violence and Persecution (SGBV/P) Units

SGN refugees, both male and female, are easy prey for sexual assault. Lesbians and transgender women are often victims of sexual extortion by police or corrective rapes. Many male SGN refugees report sexual violence in prison or detention as in other settings. Organizations have been urged to create SGBV/P units that work with all victims of sexual violence. These should include LGBTI refugees. Such units can provide comprehensive health care and support to clients, as well as do outreach and advocacy related to SGBV/P, HIV/AIDS, sexual minorities, sexual and reproductive health rights, and gender. SGBV/P units can also refer refugees to support groups, counseling, and to other services as needed.

1. Promote Health and Access to Services through SGBV/P Units

Among the most common service gaps for SGN refugees is access to physical and emotional health care. Many SGN refugees fear disclosing their ailments to health professionals and incurring further discrimination or mistreatment. Many have been sexually abused and raped. They are often deeply traumatized and plagued by a constant sense of deep existential vulnerability. Many engage in survival sex. One refugee reported being violently and repeatedly raped, resulting in a miscarriage. Another SGN refugee who engages in sex work lives in ongoing fear of contracting HIV.

Sex and Gender Based Violence or Persecution (SGBV/P) Unit Activities

The main activities of an SGBV/P unit or organization may include:

- ▶ **Counseling (one-on-one in ongoing sessions) in the office, at home, or online**
- ▶ **Referring clients to SGN-friendly medical and psychological health care providers and specialists**
- ▶ **Arranging in-home consultations with private LGBTI-friendly medical doctors (where refugees are unable to travel)**
- ▶ **Helping locate LGBTI-safe medical facilities, if available**
- ▶ **Training on security, risk assessment, and peer counseling**
- ▶ **Organizing sexual orientation and gender identity sensitization and awareness trainings among medical and health care providers, prison and detention center personnel, and local police forces**
- ▶ **Disseminating educational materials in the refugees’ languages on:**
 - **HIV/AIDS and sexually transmitted infection (STI) prevention and treatment, including guidance on where to find free AIDS voluntary counseling and testing (VCT)**
 - **Local health care options for transgender refugees including the availability of hormone treatment and gender transition surgical procedures**
 - **Psychological and mental health services for victims of SGBV/P and torture**
 - **Safe abortion options for female rape victims**
 - **Treatment of intersex conditions**
- ▶ **Performing advocacy and outreach to other organizations and decision makers, including government health agencies, HIV/AIDS organizations, and other prominent human rights and health organizations within the community to raise awareness about the particular health concerns of SGN refugees**

“There is no safe space, including other agencies that offer services to [LGBTI] refugees. They don’t have that category of minorities, so we offer that safe space.”

SGBV/P units are uniquely equipped to meet the health needs of these highly vulnerable refugees, educate them about HIV prevention, and provide them with condoms or other necessary supplies. They can also provide referrals and build psychosocial support among people with similar traumatic experiences. An advocate in Uganda conveyed:

We offer exactly the same services [that] we offer to other refugees, but they [are specifically designed for LGBTI individuals] given that their issues are very, very, very dynamic, very complicated, and they need special attention. So that is what the unit provide[s]... The first thing we do is [create] a safe space, because you know there is no safe space, including other agencies that offer services to [LGBTI] refugees. They don’t have that category of minorities, so we offer that safe space.

iv. Provide Education on Individualized Health Care Topics of Concern

SGN refugees sometimes have health concerns specific to their sexual orientation, gender identity, or mode of survival. Examples include high risk of STIs and hormone treatment. Yet in the countries examined, discrimination coupled with a general shortage of health care services render SGN refugees unable to obtain information and care for their health issues. To help narrow this protection gap, we recommend that NGO service providers, particularly those operating in the health care sector, conduct workshops and informational events on health care topics of particular concern to SGN refugees.

As SGN refugees suffer a high likelihood of being raped at some point in their displacement cycle, NGOs are advised to conduct workshops and informational opportunities

to promote STI and HIV/AIDS awareness and prevention. NGOs can also distribute condoms, lubricant, and other safe-sex instruments at workshops and information events. Lastly, NGOs can provide information and referrals for SGN refugees to be tested and treated in safe and confidential environments.

Because of the high levels of violence and forced flight among SGN refugees, they are often psychologically wounded. In culturally-appropriate cases, individual or group psychotherapy can be helpful. Often SGN refugees also have deep issues accepting their identity due to shame or cultural taboos. In some instances, post-trauma or crisis intervention counseling may be needed. NGOs can help SGN refugees access these mental health services by partnering with an LGBTI counseling organization to offer pro-bono services or by arranging for group therapy sessions at designated hours in their offices.

Another gap in health services needs is a safe abortion option for lesbian women. In Uganda, several lesbian refugees and one transgender male refugee³⁶ we interviewed indicated they became pregnant after rape.³⁷ However, only two of the refugees interviewed said they pursued abortions, and both changed their minds after learning that they might die from the operation.³⁸ While abortion may not be the preferred solution for SGN refugees who become pregnant as a result of rape, at least some indicated that they would have wanted it as an option. We recommend that NGOs make information and referrals available to lesbian and transgender male refugees on how and where they access

³⁶ As explained in the Glossary of Acronyms and Refugee Terms, *infra*, a transgender male has a male gender identity which does not correspond to their genetically assigned female sex.

³⁷ Interview by ORAM with UG – L1; Interview by ORAM with UG – L4; Interview by ORAM with UG – L7; Interview by ORAM with UG – L8; Interview by ORAM with UG – TM3.

³⁸ Interview by ORAM with UG – L4; Interview by ORAM with UG – L7.

a safe, clean, and discreet abortion clinic, where available.

Finally, in all three countries examined, there is a lack of information on intersex conditions, and unnecessary or non-consenting gender assignment surgeries occur. Intersex refugees require specialized services which are often unavailable and are almost always unaffordable. To narrow this serious gap as much as possible, we recommend that NGOs conduct trainings and create informational materials on intersex conditions and the availability of specialized services for intersex refugees.

v. Create Special Access to Medical Services

While meeting the variety of specialized medical needs among SGN refugees is beyond the scope of most NGOs, we recommend that service providers compile lists of LGBTI-friendly medical service providers able to safely and effectively treat and care for SGN persons. Where possible, SGN refugee advocates are advised to network with these medical providers and include them in SGN protection coalitions to boost referral pathways.

vi. Provide At-Risk SGN Refugees with Access to Safe Shelter

Safe and secure housing is a core and urgent need that must be filled in protecting SGN refugees. Shielding these refugees from violence and harassment by neighbors and landlords can be as important as assuring their survival on the streets. Given the high levels of violence against SGN people in some countries, concentrating these refugees in a given household can be dangerous. In such environments, “scattered site housing,” in which SGN refugees are spread out and integrated with mainstream populations, may be the

BEST PRACTICE MODEL

Refugee Law Project, Uganda

Three-Part Structure

In Uganda a support group called Les Anges provides critical support to refugees SGN refugees and sex worker refugees. Les Anges enjoys strong ongoing support from the Refugee Law Project and its Sexual and Gender Based Violence and Persecution (SGBV/P) unit. Together, they have significantly improved overall access to protection for SGN refugees.

The work of the Refugee Law Project and Les Anges demonstrates how comprehensive advocacy and service efforts for SGN refugees can be designed and effectively implemented, even in extremely challenging protection environments.

The Refugee Law Project (RLP) seeks to ensure fundamental human rights for all asylum seekers and refugees in Uganda through legal aid, counseling and psycho-social support, education and training, as well as research and activities, including the use of video advocacy.

RLP, its SGBV/P unit and Les Anges, have been highly successful in addressing the needs of SGN refugees. Together, they help ensure that the refugees’ most imperative needs are met through targeted legal, medical, and social services.

This collaboration is particularly beneficial to the psychological and emotional well-being of SGN refugees. Before joining Les Anges, many SGN refugees reported “sex worker” as their primary identity. With time, group members began to identify themselves primarily as LGBTI instead. The group teaches participants to see themselves in a more positive light:

So rather than their sexuality or gender identity being just a source of massive problems and discrimination and stigma and shame, it has become a vehicle for opening new horizons, new connections, new friendships, new professional opportunities, and so it’s been extremely empowering.

Working collaboratively, RLP and Les Anges reach an SGN refugee community that is frightened and highly isolated.

Housing that integrates SGN refugees with other refugees is often preferable to individual housing, which can isolate the refugee even further.

best approach. This is because scattered-site integrated housing makes it more likely that SGN refugees will be able to remain anonymous and less easily identifiable.³⁹

Assistance with safe, affordable housing is particularly important during the immediate post-arrival months, as SGN refugees are unlikely to have family or friends with whom they can stay. Safe shelter may allow refugees

to find some sense of home and community. Housing that integrates SGN refugees with other refugees is often preferable to individual housing, which can isolate the refugee even further.

NGOs are advised to plan for a transitional time period of six to twelve months with reviews every three months, based on individual plans/needs during the period.

³⁹ See UN High Comm'r for Refugees, Summary Conclusions: Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity, Expert roundtable organized by the United Nations High Commissioner for Refugees, Geneva, Switzerland, 30 September – 1 October 2010 ¶21 (2010), available at <http://www.unhcr.org/refworld/pdfid/4cf-f99a42.pdf>.



NGOs should take into account the following factors when assessing the housing needs of SGN refugees:

- ▶ Extent to which the refugee is easily identifiable as SGN
- ▶ General violence levels against foreigners in the country of first asylum
- ▶ Targeted violence against SGN persons in the country of first asylum
- ▶ The refugee's short, medium, and long-term ability to pay the rent charged
- ▶ SGN-openness of other household members
- ▶ Stability of other household members
- ▶ SGN-openness of landlord or owner
- ▶ Refugee's comfort level with non-SGN people
- ▶ SGN or LGBTI community resources in the residence area
- ▶ Safe travel routes to refugee service providers
- ▶ Safe and affordable travel routes to LGBTI community areas

F. SPECIFIC RECOMMENDATIONS TO UNHCR AND GOVERNMENTS

Sustained attention and assistance by UNHCR and resettlement country governments is key to allowing SGN refugees to escape the severe mistreatment and persecution they face in countries of origin. The recommendations that follow are intended to build on the substantial progress that has already been made to protect this marginalized and vulnerable population.

i. *The United Nations High Commissioner for Refugees*

UNHCR's role in protecting and advocating for SGN asylum seekers and refugees is paramount. The recommendations below are intended to assist and guide UNHCR in expanding its crucial work and its impact on the lives of SGN people seeking refuge around the world.

- Utilize UNHCR's "mandate RSD" authority to recognize and protect SGN refugees who will not be protected by host country asylum policies;
 - Expedite consideration of particularly vulnerable SGN claims;
 - Fast-track the resettlement of recognized SGN refugees;
 - Ensure that the situation of vulnerable SGN refugees is clearly and timely conveyed to resettlement countries;
 - Revise intake and RSD forms to be SGN inclusive so that claims based on sexual orientation and/or gender identity are fully elicited and can be fully articulated;
 - Work with local NGOs to track and follow up on SGN cases which are submitted to the national authorities;
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- Develop and distribute training materials regarding claims based on sexual orientation and gender identity to UNHCR staff, NGOs and governments;
 - Train adjudication staff in the identification of potential SGN claims and in methods to elicit relevant testimony in a non-threatening manner;
 - Train protection officers and RSD staff to elicit information about applicants' SGN identity;
 - Sensitize and train all UNHCR headquarters and field staff on providing sensitive and appropriate protection to SGN asylum seekers and refugees;

- Train all staff on the use of the October 2011 UNHCR Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity;
 - After initial trainings, regularly continue to train RSD staff on the use of appropriate interviewing techniques and protection tools;
 - Train interpreters on the best practices for working with SGN applicants, including issues of confidentiality, impartiality, and respect. Ensure that interpreters are aware of and employ appropriate terminology for use with SGN applicants;
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- Collaborate with relevant organizations to create safe zones where asylum seekers and refugees can securely share their SGN identity; and
 - Encourage all nations to recognize SGN persons as "members of a particular social group" for refugee protection purposes.

ii. *Governments of "Resettlement Countries" (including the United States, Canada, and Australia)*

The key resettlement countries are also known as places of refuge for SGN people fleeing persecution. The recommendations below are intended to ensure that these refugees reach safety as quickly as reasonably possible and to improve the support networks available to SGN people upon resettlement. Resettlement countries are urged to:

- Increase the numbers of SGN refugees accepted for resettlement;
- Fast-track SGN refugees who are in danger of imminent targeting or harm;
- Collaborate with local grassroots organizations to create infrastructures supporting SGN refugees and asylum seekers;
- Resettle SGN/LGBTI couples in unison;
- Resettle SGN/LGBTI refugees to locations with established LGBTI communities;
- Train staff to work appropriately and sensitively with SGN asylum seekers and refugees; and
- Where international protection is unavailable or inaccessible, accept direct referral of SGN refugees.

IV. Annex I *Best Practice Model: Forming Networks & Coalitions (South Africa)*



SAMPLE ACTION PLAN

This action plan contains examples of the practical activities needed to implement the recommendations in this Guide and improve protection of SGN urban refugees. While the plan is modeled after ORAM's activities in South Africa, the activities described are intended as a model for implementation of our recommendations in host countries around the world.

Implementation

OUTCOME 1 Development of referral networks and mechanisms to ensure SGN asylum seekers and refugees necessary assistance.

ACTIVITY 1 Gather policy advocates from various locations to network and better assist SGN asylum seekers and refugees through interactive training workshops.

ACTIVITY 2 Create a website that forms a referral network for NGOs assisting SGN asylum seekers and refugees.

ACTIVITY 3 Increase awareness of protection gaps and collaborate with UNHCR to improve access to previously unassisted SGN communities.

OUTCOME 2 Development of public information materials including resources for SGN refugees nationwide (e.g. medical, health, vocational and legal services).

ACTIVITY 1 Utilize ORAM's website: www.oramsouthafrica.org. This is a first-of-its-kind resource for all stakeholders involved in obtaining international protection and legal rights for SGN refugees and asylum seekers in South Africa. The site brings together and consolidates information from a wide variety of sources. It is easily accessed by refugees, their advocates and other stakeholders. It includes a "community" section designed to host online discussion forums.

OUTCOME 3 Capacity building for NGO and stakeholders serving SGN refugees including sensitivity training and modification of codes of ethics.

ACTIVITY 1 Train stakeholders from state and non-state refugee institutions and organizations. Include a wide variety of NGOs from different backgrounds and perspectives.

OUTCOME 4 Build bridges between SGN refugees and refugee NGOs.

ACTIVITY 1 Create connections and networks through the ORAM South Africa website and involvement on national forums of NGOs and State agencies to raise the awareness of SGN protection gaps.

OUTCOME 5 **Train asylum authorities to accurately, fairly, and expeditiously evaluate claims based on sexual orientation or gender identity in coordination with field experts.**

ACTIVITY 1 Host workshops on gender identity and sexual orientation. Include UNHCR RSD and protection staff as well as legal services providers, the South Africa Human Rights Commission and members of the Refugee boards.

OUTCOME 6 **Encourage SGN asylum seekers and refugees to self-identify.**

ACTIVITY 1 Ensure that training workshops include NGO attitudes toward SGN persons and welcoming behavior toward SGN Asylum-Seekers & Refugees. Create an environment allowing SGN refugees to feel safe asking approaching refugee service providers for help.

OUTCOME 7 **Protect SGN refugees from violence and assist victims of violence.**

ACTIVITY 1 Create Community Outreach groups through local NGOs (faith and non-faith based) to identify and make contact with SGN refugees in targeted areas of vulnerability (typically in city centers, prisons, CBD squatter buildings, slum areas and homeless communities).

ACTIVITY 2 Form networks of institutions including UNHCR, NGOs and faith based groups that work with refugees, to help SGN refugees report violent incidents to the police.

ACTIVITY 3 Increase awareness of SGN issues through NGO forums (including faith based and ethnically-focused ones). Existing and new forums and relationships should be developed to include protection and to increase advocacy for and awareness of the situation of SGN refugees.

ACTIVITY 4 Provide access to support services at designated ‘drop in centers’ providing needed services including legal counseling, temporary shelter, healthcare and psychosocial support.

OUTCOME 8 **Ensure at-risk SGN refugees have access to safe shelter.**

ACTIVITY 1 Identify scattered housing and other shelter options for refugees who self-identify as SGN. Locate safe shelter options available for SGN refugees in need of emergency shelter for 0-3 months.

ACTIVITY 2 Provide psychosocial assistance to victims of trauma. Where possible and culturally appropriate, provide crisis intervention as well as counseling through individual and group therapy.

ACTIVITY 3 Develop a curriculum for faith-based organizations to accept and assist SGN refugees.

ACTIVITY 4 Provide emotional and spiritual support by forming networks of spiritual mentors and SGN-accepting faith based institutions.

IV. Annex II *Recommendations for a Newly-Formed Support Group*



The following are ‘first-steps’ for the refugees in charge of the community support group:

Empowerment through Independence

Register in your own name

- Establish an executive committee structure: president, vice-president, secretary, and treasurer (all elected for a 3-year mandate)

Open a bank account as soon as possible

Manage your own resources

- Office space
- Basic office equipment (e.g., table, chairs, computers)
- Stipends for the office staff (at least for their transportation expenses)

Identification of needs

Health

- Identify a LGBTI-friendly doctor for home visits, prescriptions, samples for testing, and referrals when necessary
- Accompany people to the medical facility
- If possible, work out with the doctor a fast track option to the general referral process

Housing

- Pull resources together to temporarily house members who were evicted
- Identify safe locations for LGBTI individuals
- Be ready to negotiate with the police to bail out members who have been arrested
- Implement basic communication protocols for sex workers' security concerns (tell someone where they're going and when to expect them back)

Registration of new members:

- Identify them through personal networks and in LGBTI-friendly locations
- Encourage members to come to the office and fill in a registration form
- Give them a member's number

Meetings: attendance at meetings is the minimum requirement

Find a time that works best for all members

Provide a transportation refund or give another immediate tangible benefit

Please find enclosed two compelling educational films about lesbian, gay, bisexual, transgender and intersex refugees and asylum seekers:

- Sexual Orientation and Gender Identity (20 min.)
- Protecting Sexual and Gender Minority Refugees (30 min.)

ABOUT ORAM

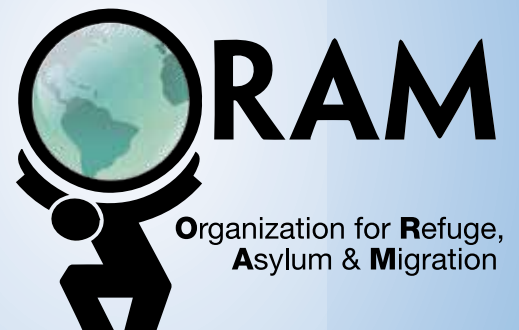
ORAM — Organization for Refuge, Asylum & Migration is the leading agency advocating for lesbian, gay, bisexual, transgender, and intersex (LGBTI) refugees worldwide. Based in San Francisco in the United States, ORAM is the only international NGO that focuses exclusively on refugees and asylum seekers fleeing sexual orientation and gender identity-based violence.

ORAM works to carry out its worldwide mission on multiple fronts, from direct client assistance and global advocacy to logistical support and training. Among ORAM's many groundbreaking undertakings are its comprehensive and innovative trainings and its work in the assisted resettlement of LGBTI refugees. Through these strategic activities, ORAM is expanding the international humanitarian agenda to include LGBTI persons and to secure LGBTI refugees' safety. Concurrently, ORAM advocates within a broad range of communities to include these refugees within their scope of protection.

Informed by its intensive legal fieldwork, ORAM conducts international and domestic advocacy to protect LGBTI individuals fleeing persecution worldwide through collaboration with a wide array of NGO partners. ORAM continuously provides educators, community leaders, and decision-makers with much-needed information about LGBTI refugees.

ORAM's publications meld legal expertise with research-based insights in the social sciences and thorough knowledge of current events. These are informed by ORAM's comprehensive community-based understanding of LGBTI issues. Together these three pillars yield an unsurpassed capacity to bring about real change.

As a steward and educator on LGBTI refugee issues, ORAM develops and provides targeted, culturally-competent trainings for refugee protection professionals, adjudicators, and other stakeholders worldwide. This report is intended to inform such trainings.



www.oraminternational.org