

UCLA

Other Recent Work

Title

Knowledge Gaps and Research Priorities on LGBTQI+ Refugees and Asylum Seekers

Permalink

<https://escholarship.org/uc/item/2558b7pd>

Authors

Shaw, Ari

Mackintosh, Kate

Morley, S. Priya

Publication Date

2022-06-15

Data Availability

The data associated with this publication are not available for this reason: enter



School of Law
Williams Institute

UCLA

RESEARCH THAT MATTERS

KNOWLEDGE GAPS AND RESEARCH PRIORITIES ON LGBTQI+ Refugees and Asylum Seekers

JUNE 2022

Ari Shaw
Kate Mackintosh
S. Priya Morley

INTRODUCTION

There are 26.6 million refugees and 4.4 million asylum seekers worldwide (UNHCR 2021). However, the number who identify as lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) is unknown.¹ Likewise, we lack rigorous data on the number of persons seeking asylum due to persecution on the basis of their sexual orientation, gender identity/expression, or sex characteristics (SOGIESC). As a result, there is limited generalizable research on the characteristics and experiences of LGBTQI+ refugees and asylum seekers.

On February 25, 2022, the Williams Institute and the Promise Institute for Human Rights at UCLA School of Law convened an online meeting to discuss knowledge gaps and data priorities on LGBTQI+ refugees and asylum seekers, with particular attention to intersections with marginalization on the basis of race. 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, the 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.

The primary objectives of this meeting were to:

- Further develop an international network of researchers and practitioners who work on issues impacting LGBTQI+ refugees and asylum seekers;
- Review the landscape of empirical research and data collection on LGBTQI+ asylum seekers and refugees;
- Identify policy priorities that would benefit from better data;
- Identify knowledge gaps and topics of research priority.

For the purpose of the meeting, the broader concept of LGBTQI+ migration was limited to refugees and asylum seekers. 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, the convening aimed to meet the urgent need for research and data on LGBTQI+ refugees and asylum seekers by focusing on what is currently known and what policy priorities exist within the terms of current policy and legal debates.

¹We 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.

DISCUSSION

CURRENT PRIORITIES IN RESEARCH AND PRACTICE

The report is divided thematically based on participants' contributions and feedback after the meeting. It highlights key points of discussion that were guided by the following questions:

1. How has research been used to inform debates and advocacy strategies to protect the human rights of LGBTQI+ refugees and asylum seekers?
2. Which arguments in support of SOGIESC inclusion in refugee and asylum law and policy specifically could be bolstered by research?
3. In what ways is existing research insufficient to support arguments in favor of SOGIESC inclusion in refugee and asylum law?
4. What other issues impacting LGBTQI+ refugees and asylum seekers, including those who face intersecting marginalization on the basis of race, could be bolstered by research?
5. What research is missing from the conversations surrounding LGBTQI+ refugees and asylum seekers, i.e. are there concrete projects that should be prioritized?

This report is intended to describe the proceedings of the recent meeting and present conclusions and potential next steps based on participants' discussions and feedback. We note that this report does not attempt to establish an exhaustive discussion of policy debates impacting refugees and asylum seekers, but rather to catalyze the process by which new research and data are generated to support priorities in law and policy. Moreover, it is not intended to represent the viewpoints of refugees or asylum seekers, researchers, or other stakeholders broadly; rather it aims to summarize the discussions that took place at this meeting and highlight recommendations for research priorities that emerged from the discussion.

SOGIESC data collection should be strengthened and expanded.

With few exceptions, data collection systems on refugees and asylum seekers do not generally include measures of sexual orientation, gender identity, or variation in sex characteristics. Consequently, most studies of LGBTQI+ refugees and asylum seekers have relied on in-depth, qualitative analyses of individual or groups of migrants. Some participants pointed out the need for more qualitative research on migratory processes and the circularity of migration to demonstrate that many migrants want to return to their country of origin, demystifying preconceptions or tropes in the public debate about refugees, how the system operates, and the flows or directions in which migrants travel.

Participants also highlighted the need for mixed methods (i.e. qualitative and quantitative) approaches to the study of LGBTQI+ migrants. By way of example, one participant described the Queer and Black Migrant Project, which was launched by the Black LGBTQ Migrant Project at the Transgender Law Center. It combines quantitative survey data and qualitative interviews to document the myriad of issues confronting Black LGBTQI+ migrants at the intersection of asylum-seeking, queerness, and Blackness.

There was broad consensus regarding the need for more systematic collection of quantitative data with measures of sexual orientation, gender identity, and variation in sex characteristics. Participants

discussed how quantitative data is useful to present clear and concise arguments to governments and other stakeholders about demographics of challenges uniquely facing LGBTQI+ migrants. Quantitative data allows stakeholders to develop targeted interventions and to better advocate for specific law and policy changes.

A key challenge discussed, however, is that such data are rarely collected by government agencies and can be difficult to collect among community organizations. LGBTQI+ migrants may be reluctant to disclose their identity due to fear of violence or discrimination by state actors or other refugees. And those reporting data on LGBTQI+ migrants, including UN agencies and border staff, without proper training, may misrepresent various SOGIESC subgroups. Additionally, participants raised the importance of sociodemographic data that is inclusive of SOGIESC as well as other variables, including race, ethnicity, and country of origin.

The discussion emphasized one line of research that would benefit from more quantitative data: extralegal deportations. Throughout Central America and the Caribbean, participants noted, deportations have taken place in contexts such as airports and by police officers, as opposed to border agents. A registry of countries violating their obligations of non-refoulement could help develop a better sense of migratory trajectories and number of cases of endangered LGBTQI+ migrants.

Participants also called for more US federal government data on LGBTQI+ refugees and asylum seekers and the migratory trends they follow: where they come from, where they go, how many are turned away, why are they turned away, and how many stay. A useful starting point, participants stated, would be to include SOGIESC-related questions in existing data collection systems by migration agencies, with the caveat that appropriate sensitization and training be provided to all staff engaged in data collection.

Furthermore, participants described other potential barriers to SOGIESC data collection that should be remedied, such as bias or discrimination. One participant noted that some detention centers maintain a “don’t ask don’t tell” policy with respect to LGBTQI+ detainees. By failing to ask about SOGIESC status, this critical information goes uncollected and the experiences of LGBTQI+ persons in detention goes un- or under-reported.

All participants underscored the importance of building partnerships for conducting research and collecting data. Key partners include government entities, border security agencies, migratory offices, scholars in the Global North and South, and advocacy organizations led by refugees and asylum seekers. A participant noted that international organizations dealing with migration, like the UNHCR, were not designed to function as a network, but these research and data collection partnerships could link national with international organizations to enable the creation and expansion of knowledge around migration. Questions remain about how to secure those partnerships and how to collaborate on ethical data collection in a transparent and effective manner.

Geographical and historical analyses are needed to nuance our comprehension of migratory processes, migratory routes, and trends within refugee and asylum-seeking among LGBTQI+ migrants.

Participants noted that it can be difficult to develop legal arguments on behalf of asylum seekers without knowing the full context of challenges they face in the country of origin and along the migratory route. This includes an understanding of the barriers and patterns that migrants must face as they navigate diverse legal and policy environments in diverse geographical contexts, particularly as the policy environment can change so rapidly. Participants proposed more research to trace the variety of forms of discrimination and violence that LGBTQI+ migrants face in confronting legal regimes and the extent to which such legal violence has changed or persists over time. Moreover, such analyses must be placed in their local, regional, and global contexts, as a way to distinguish various law and policy contexts that may be interacting with other social, political, economic, or cultural factors in different geographies.

Participants also called for more particular attention to historical analyses across points of transit, from place of origin to transit countries to the host countries. Participants felt that in-depth analyses at points along the migratory route could illuminate unemployment, housing and food insecurity, and other life challenges that may disparately impact LGBTQI+ migrants while in transit, more so than in the country of origin. Participants further called for comparative research at different sites of housing or resettlement, such as refugee camps, neighborhoods within cities, detention centers, and LGBTQI+ subgroups within these.

In addition to country condition reports, better understandings of the particular reasons for leaving one's country of origin allow decision-makers in the host country to understand the realities of migrants and how this may affect their needs and experiences in a host country. In other words, intersecting forms of discrimination and persecution that impact asylum seekers, beyond any particular laws on the books in their country of origin, may signal ongoing threats or vulnerabilities that migrants could face in a host country.

Furthermore, comparative and transnational studies of LGBTQI+ asylum seekers and refugees would also expand our understanding of the challenges LGBTQI+ asylum seekers face across borders and the differential costs associated with asylum-seeking in different countries. Participants noted that such research has been done with respect to Black migrants traveling through the Americas and some countries in the Middle East/North Africa region and that such work could serve as a model for research focused on SOGIESC asylum seekers elsewhere.

Geographic diversity in research should also extend to country conditions reports. Available reports contextualizing the forms of violence against LGBTQI+ refugees and asylum seekers in their countries of origin are usually written by scholars in the Global North. Participants agreed on the need to draw upon or collaborate with scholars and research within the countries of origin. Researchers and civil society organizations in the Global South are often undervalued in courts or legal proceedings; instead, participants argued, researchers and practitioners in the Global North should foster coalition building and knowledge exchange with in-country experts and local voices.

Research should center intersecting forms of oppression and nuances within LGBTQI+ migration.

Several participants made an explicit call for intersectional analyses of the discrimination and marginalization experienced by LGBTQI+ migrants. Absent such analyses, it becomes less clear for researchers and decision-makers alike to understand the difficulties of successfully applying for asylum in some contexts rather than others. Intersectional analyses, particularly those considering the compounding impact of racial discrimination, can highlight sociodemographic and socioeconomic realities that may lead to higher levels of criminalization and discrimination against racially marginalized LGBTQI+ refugees and asylum seekers.

Indeed, there was a particular interest in the breadth of obstacles Black trans migrants and Black LGBTQI+ sex workers seeking asylum or refuge face when entering the United States. A similar comparison was proposed worldwide to understand how states sanction and impede certain subgroups of LGBTQI+ refugees and asylum seekers from entering potential host countries.

Likewise, participants pressed the need for further study of issues impacting LGBTQI+ refugees and asylum seekers at the intersection of other attributes and circumstances. For instance, there was a particular emphasis on how detention centers could be violent spaces not only based on SOGIESC, but also for those LGBTQI+ migrants living with chronic illnesses, disabilities, and HIV without proper care in policed facilities. Participants also expressed a need to locate LGBTQI+ concerns within broader debates on the effects of COVID on migration and asylum-seeking processes, as well as the impact of climate change on protections, migratory routes, and displacement of LGBTQI+ people.

Participants expressed an urgency in understanding how legal obstacles make it hard for LGBTQI+ refugees to comply with categories around sexuality and family relationships in host countries. One example is the impact on family reunification or refugees traveling with other family members. A requirement of proof of marriage or partnership may not be legal in one's country of origin or the possession of which could endanger a refugee in certain contexts. Participants felt that further research should investigate alternatives to traditional models of family reunification among LGBTQI+ people who have a different lived experiences that hetero-normative family structures reflected in current laws.

While much existing research has primarily focused on cisgender gay men and lesbians, participants called for increased research focused on transgender and non-binary migrants, including studies on social integration; the physical and mental health impact of migration on transgender refugees and asylum seekers in a transit or host country; and the relevance/importance of identity documents and barriers to accessing services, detention, and housing. Participants further discussed the need for research on processes of integration for various subgroups, such as migrant LGBTQI+ sex workers; which types of work migrants can access; and whether they are able to access government support.

Research should amplify historically silenced voices and the agency of refugees.

Participants underscored the importance of centering refugees and asylum seekers in research and data generation, as well as highlighting their agency within the structures and experiences of the migration process. One area that participants identified as ripe for further study is refugee support groups, that is, organizations and processes of network building that refugees create to ensure safety and survival. Further study of refugee communities and networks would allow for a more nuanced and comprehensive understanding of the challenges presented as LGBTQI+ people are potentially faced with diverse conceptions of gender and sexuality both among host communities and other migrants.

At the same time, some participants suggested further study of the agency and resilience of asylum seekers and refugees, particularly in host countries. Specifically, participants called for further investigation of how refugees mobilize on behalf of migrant rights and to impact immigration law and policy. Studies of such agency and how refugees effectively negotiate migratory systems could provide useful tools for advocates and demonstrate for policymakers effective programs to support refugee communities at scale.

Finally, some participants noted with concern that academic or other institutional centers for research may pursue research agendas that are disconnected from the research needs, policy goals, and advocacy strategies of community organizations working on the front line. It was noted in particular that those institutions with better access to funds must ensure that they are not taking much-needed research funds away from community organizations, nor pursuing and publishing research that undermines the ability of those organizations to obtain funding.

Research should examine the full range of actors, institutions, and procedures involved in the asylum process.

Participants discussed how research often focuses narrowly on the actors and institutions that are in contact with LGBTQI+ migrants at the border, such as customs and border patrol agents and asylum officers. Other critical stakeholders within the asylum process remain underexamined. Participants specifically called for further study of judges and judicial decision-making to better understand the nature of rulings by immigration judges or how judges may apply refugee law on the basis of preconceptions or stereotypes regarding sexual and gender minorities. Rulings founded on discriminatory or stereotypical judgments can impact future cases. Research, it was argued, could both strengthen the evidence base that informs judicial rulings (such as a country conditions reports) and document patterns of rulings based on sexual or gender stereotypes. It was noted that a key barrier to such research is the lack of SOGIESC-specific data collected and made available by the Department of Homeland Security and the Department of Justice.

Participants described how some LGBTQI+ migrants can face deportation without appeal due to discrimination within the asylum screening process. One participant highlighted how transgender persons who may be in possession of identity documents that do not match their gender identity could be accused of possessing fraudulent documents. Participants called for more research that tracks the impact of requirements for identity documents on gender-diverse persons, including the frequency of such cases and at which types of points of entry they occur.

Participants pointed to research on the conflation of sex, sexuality, and gender at various stages within the asylum-seeking process. Attorneys and clients both must negotiate the complex and sometimes contradictory demands of decision-makers who may use inaccurate terminology. This can have the effect of revictimizing and retraumatizing claimants as they move through the asylum process.

A number of participants pointed to the need for more studies of “fast track” procedures in both refugee and asylum proceedings, and their impact on LGBTQI+ migrants. These refer to a variety of practices and procedures intended to accelerate and simplify refugee status determination. In these cases, interviews and adjudications are conducted in adversarial settings, where migrants are not given enough time to access legal help or make phone calls before deportation. Moreover, claimants may not even have the opportunity to plead their case in person before an asylum officer. Instead, participants described how claimants may be sent directly to detention or deported because adjudicators fail to appreciate the totality of evidence presented in the case. Participants expressed concern for how adjudication processes are being shortened and how such a complex procedure requires time and consideration to gather evidence and assess the credibility of each claim. Participants called for comparative and global studies of such procedures, including the extent to which these systems can be problematic or endanger LGBTQI+ applicants in similar ways across borders.

NEXT STEPS

In addition to the recommendations that emerged during the meeting and identified above, participants highlighted the following as priorities for research and data collection:

- Build more enduring networks with researchers and community-based organizations, with particular emphasis on collaborations across the Global South and Global North;
- Conduct research on health effects of the resettlement process;
- Conduct research on LGBTQI+ experiences in transit along migratory paths;
- Focus research on experiences of transgender refugees and asylum seekers;
- Expand research on refugee experiences at the intersection of SOGIESC, race, ethnicity, religion, and other identities;
- Explore research opportunities that support the creation or expansion of humanitarian visa programs, which provide documentation that permits migrants to travel to and/or reside in host countries;
- Enhance SOGIESC data collection through a better understanding of how governments outside the U.S. request and record information related to SOGIESC and other identities.

AUTHORS

Ari Shaw, Ph.D. is Director of International Programs at the Williams Institute.

Kate Mackintosh, J.D., is Executive Director of the Promise Institute for Human Rights

S. Priya Morley, J.D., is Racial Justice Policy Counsel at the Promise Institute for Human Rights

MEETING PARTICIPANTS

E. Tendayi Achiume, UCLA School of Law, United States

B Camminga, African Centre for Migration & Society, Wits University, South Africa

Carmelo Danisi, University of Bologna, Italy

Chris Dolan, Refugee Law Project, Uganda

Nuno Ferreira, University of Sussex, United Kingdom

Heba Gowayed, Boston University, United States

Sharita Gruber, Center for American Progress, United States

Tsion Gurmu, Black Alliance for Just Immigration, United States

Kate Jastram, Center for Gender & Refugee Studies, University of California Hastings College of Law, United States

Kennji Kizuka, Human Rights First, United States

Kate Mackintosh, Promise Institute for Human Rights, UCLA, United States

S. Priya Morley, Promise Institute for Human Rights, UCLA, United States

Ola Osifo Osaze, Black LGBTQ+ Migrant Project, United States

Kimahli Powell, Rainbow Railroad, Canada

Steve Roth, ORAM, United States

Ari Sawyer, Human Rights Watch, United States

Ari Shaw, The Williams Institute, UCLA, United States

Stefan Vogler, NORC University of Chicago, United States

Joseph Wiltberger, Colegio de la Frontera Norte, United States

Chris Zepeda-Millán, UCLA, United States

Rapporteurs

Kim Chatham, The Williams Institute

Rubeen Guardado, The Williams Institute

Miguel Fuentes Carreño, The Williams Institute

ABOUT THE WILLIAMS INSTITUTE

The Williams Institute is dedicated to conducting rigorous, independent research on sexual orientation and gender identity law and public policy. A think tank at UCLA Law, the Williams Institute produces high-quality research with real-world relevance and disseminates it to judges, legislators, policymakers, media, and the public. These studies can be accessed at the Williams Institute website.

FOR MORE INFORMATION

The Williams Institute, UCLA School of Law
Box 951476, Los Angeles, CA 90095-1476
williamsinstitute.law.ucla.edu

