

Envisioning LGBT Refugee Rights in Canada:

Exploring Asylum Issues

LGBT Asylum Seekers and Refugees:
Round Table Dialogue with
Service Providers and Conference Presentations



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Introduction

In 2012, homosexual acts are still criminalized in 78 countries and punishable by death in five and parts of two others (Paoli Itaborahy, 2012). Homosexuality continues to be criminalized in 77% of Commonwealth nations, as a result of laws created by British colonization. There is growing resistance to the laws in a number of countries. For example in 2009, a historic High Court decision in Delhi, India, struck down Section 377 of the Penal Code which criminalized homosexual intercourse.

Specific to refugees and asylum seekers it is important to note that the criminalization of same-sex sexual activity may directly impact risk of persecution. Whether regularly enforced or not, such state sanctioned laws create homophobic and transphobic environments that render LGBT people vulnerable to various forms of abuse such

as exploitation and extortion by both state and non-state actors. This is an official means of stigmatizing LGBT people. State protection is then compromised for victims of this kind of violence, in terms of seeking out and receiving protection. Conversely, the absence of criminalization or repeal of such laws is not to be read as no risk or threat of prosecution or availability of state protections. Hence the importance of recognizing that legality represents but one component of a complex scenario in which risk of persecution may still exist. This has serious implications with regard to refugee and asylum claim matters including determination hearings (Millbank & Bruce-Jones, in Paoli Itaborahy, 2012).

Envisioning Global LGBT Human Rights is an international participatory action research project that is studying these developments, in selected nations that were colonized by the British Empire. The project is based at York University, Toronto, and funded by the Social Sciences and Humanities Research Council (SSHRC) through a Community-University Research Alliances grant. *Envisioning* is fostering links between Canada and the Global South, and will document and analyze:

Envisioning Teams

The research teams include 33 community partners and 30 community and academic researchers in 10 countries:

- 1) *Law & Human Rights Mechanisms, with representation from Canada, India, Uganda, South Africa Botswana & Jamaica;*
- 2) *Asylum, Canada Team;*
- 3) *Asylum, South Africa Team;*
- 4) *Criminalization & Resistance, Africa/ Canada Team with representation from Uganda, Botswana, South Africa, Kenya & Canada;*
- 5) *Criminalization & Resistance, Caribbean/ Canada Team, with representation from Jamaica, St. Lucia, Belize, Guyana & Canada;*
- 6) *Criminalization & Resistance, India/ Canada Team.*

- i) criminalization of people on the basis of sexual orientation and gender identity (SOGI);
- ii) social movement histories resisting criminalization, and seeking to advance SOGI rights;
- iii) flight from violence and persecution; and
- iv) interaction between international treaty body human rights mechanisms and LGBT rights initiatives.

Envisioning brings together a multi-lingual, interdisciplinary alliance of community partners, filmmakers, academic and community-based researchers and students to undertake a

project of applied research, participatory video and documentary, skills exchange, capacity enhancement and knowledge mobilization. To accomplish these goals, the research team and community partners in Canada are partnered with LGBT and human rights groups based in Canada, the Caribbean, Africa, and India.

Canada is one of the few countries that accept refugee claims on the basis of sexual orientation or gender identity.

This document summarizes three events organized by the Canadian Team of *Envisioning Global LGBT Human Rights*: a roundtable discussion about issues experienced by LGBT refugees and the agencies that serve them held in Toronto on February 22, 2012; a panel discussion at the National Metropolis Conference in Toronto on March 2, 2012, entitled “*A New Balancing Act for Sexual Minority Refugees? Potential Impacts of Refugee Reform for LGBT Asylum in Canada*”; and a panel discussion at the Rainbow Health Ontario Conference in Ottawa on March 23, 2012, entitled “*What we need to know (and do) about the health and well-being of LGBT asylum seekers*”.



Note on Terminology

Sexual orientation and gender identity (SOGI)

The use of terms with regard to sexual orientation or gender identity is complex, with historical, regional, cultural, class and activist implications. The terms lesbian, gay, bisexual, transgender (LGBT) are used throughout this project and are used by many activists and human rights workers internationally. Others may use “queer” or “sexual minorities” as umbrella words. Our use of LGBT is meant to be neither all-embracing nor exclusive. As our research encompasses many regions and communities we acknowledge that terminology may differ from place to place or topic to topic.

Sodomy Laws

Most sodomy laws do not mention “homosexuality” (a term coined in 1867). Terminology differs in different countries, and is complex to interpret. Criminal codes may refer to: “sodomy”, “the habitual practice of debauchery”, “indecenty”, and “carnal intercourse against the order of nature.” Moreover, laws are interpreted through domestic jurisprudence in complex ways. In some jurisdictions laws are unenforced, yet calls for their removal are resisted.

International Impact of Envisioning

The United Nations High Commission for Refugees published the “UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity” in 2008. The Envisioning research will have broad applications in light of the Guidance Note, and will contribute to the development of knowledge in this under-researched area.

Round Table on LGBT Refugee Issues

On February 22, 2012, a diverse group of Toronto-based agencies serving immigrants and refugees came together to discuss issues facing newcomers to Canada who have left their home countries because of violence, persecution and/or discrimination related to sexual orientation or gender identity/expression (SOGI), as well as the challenges experienced by the agencies who serve them. This roundtable was convened by *Envisioning Global LGBT Human Rights* to inform the development of the research project, methodology and goals and to enhance networking among the agencies.

The following questions were used to help facilitate the discussion:

- 1) What are the emerging trends and root causes of forced migration for LGBT people?
- 2) What are the experience and obstacles of LGBT asylum seekers while fleeing and upon arrival?
- 3) How are organizations meeting the needs of LGBT refugees?
- 4) How does the current legal climate affect LGBT asylum seekers?

An overview of the resulting round table discussion is presented below.

“...people who are poor have a disproportionate experience of harm because of their orientation, and these are the people who cannot get here because they don’t have the assets. That situation is only going to get worse.”

- RT participant

1) What are the emerging trends and root causes of forced migration for LGBT people?

Some governments are more actively criminalizing homosexuality, and as a result, round table (RT) participants are seeing more people from Africa, the Caribbean, Eastern Europe, Russia, and the Middle East. In contrast to state action, another trend that RT participants noted is the inaction and/or inability of states to protect individuals from family members, community members and authority figures who marginalize and abuse them because of their sexual/gender identity/expression, disabilities and/or personal decisions such as refusal to marry. In many cases, the states tacitly condone domestic or community-based violence by refusing to acknowledge it. Moreover, the ongoing colonial influences of western-based evangelical churches in Global South countries was also noted as fostering homophobia and transphobia, for example in Uganda.

- RT participants identified the need for more research on conditions in countries with high numbers of sexual orientation and gender identity (SOGI) asylum claims as an area of action.

2) What are the experience and obstacles of LGBT asylum seekers while fleeing and upon arrival?

The discussion of RT participants focused largely on the experiences of LGBT asylum seekers upon arrival, but one point in particular about the experience of flight was raised. It was pointed out that many LGBT refugee producing countries require a visa to enter Canada, which often means individuals have to be rich to come to Canada to claim refugee status. They must demonstrate that they have significant assets or ties in their country of origin to indicate that they'll return. However, many LGBT people are often not able to get or hold jobs because of the stigma they face, and therefore can't get a visa to enter Canada to claim refugee status.

RT participants identified the following issues that constitute barriers to seeking asylum:

- The requirement of a visa means that the most vulnerable have the least access to asylum as refugees, due to discrimination and poverty;
- There are extremely limited services for those seeking to flee persecution in Caribbean and African countries; eg one consular/embassy office in all of East Africa – in Nairobi;
- There is no accessibility support in the asylum process for people who are deaf or living with disabilities.

The following experiences and obstacles faced by LGBT asylum seekers upon arrival were discussed:

a) Housing & poverty

A number of RT participants spoke about the problem of LGBT refugee claimants living with family or friends who are not accepting of their sexual orientation or gender identity, and the difficulty in finding safe roommates. Lack of

affordable housing compounds this issue by reducing or eliminating the housing options and choices of LGBT claimants, often forcing them to live in unsafe environments where they face stigma and violence. Negative power dynamics and other problems can arise from having to ask favours because of housing difficulties, placing LGBT refugee claimants at increased risk of exploitation and vulnerability. RT participants also discussed the fact that many LGBT refugees use shelters, but there are few or no provisions that address homophobia and transphobia in the shelter system and safety is a constant concern.

- RT participants identified education of shelter agencies about the specific needs of LGBT refugees, and the creation of policies to ensure their safety, as areas of action¹.

b) Refugee claims and the claimant process

A number of questions and areas for further exploration in relations to the claims process were suggested by RT participants, including:

- What are the most common problems that LGBT refugees face in their claims process?
- On what grounds do LGBT claims tend to get denied? What happens to LGBT asylum seekers whose claims are denied?
- How is the claimant process different for LGBT refugees?

The discussion of the RT participants touched on a number of these questions. Participants spoke about the fact that many LGBT refugees often don't initially claim their sexual orientation or gender identity as the grounds for their refugee claim due to a variety of reasons, including: fear of being sent back, lack of trust, experiences of abuse by the authorities, concerns for safety, or not knowing it is a legal ground for a claim. LGBT refugees fleeing countries where homosexuality is criminalized may be fearful to disclose their sexual or gender orientation/expression to a

¹ The 519 Church Street Community Centre has done some important work in this area as part of their FTM Safer Shelters Project, and a report produced as part of the project can be found on their website.

Canada & Asylum Seekers

In recent years, service agencies, LGBT and HIV/AIDS education and prevention groups have reported increasing numbers of LGBT refugees and immigrants seeking support. The amendments to the federal immigration legislation found in Bill C-31 have raised concerns about its impact on LGBT refugees coming to Canada. The Envisioning research will help to determine the impact of the new legislation as it is implemented.

state official at the border. Many LGBT refugees have been forced to hide their sexual orientation throughout their lives; and find disclosure to a stranger extremely difficult. It is often only through building trust with a service provider or lawyer that LGBT refugees are able to disclose their status.

Transsexual and transgender refugees may not be able to change their legal name and sex on their passport and other documents. Alleged “misrepresentation” of one’s name or sex when entering the country can be grounds for deportation.

- Lack of safety around disclosure of status was identified as a pressing issue, particularly for those fleeing a country where homosexuality is criminalized and officials of the state are associated with persecution, arrest, violence, and blackmail.

One common problem that was identified is the difficulties and problems with “proving” one’s LGBT status to Immigration and Refugee Board (IRB) officials. In participants’ experiences, IRB officials often base their decisions on stereotypes of what it is to “be gay”, or what someone who is gay should act or look like. RT participants noted that IRB officials are often unwilling to take into account, or have little understanding of, the reality that many LGBT refugees have had to live extremely closeted lives to protect themselves (for example, marrying and/or having children). Moreover, there is a need for

greater understanding of cultural differences, as refugees from the global south may be unaware of, or may not use terms such as ‘lesbian, gay, transgender, bisexual,’ which are gender and sexual identity markers specific to western contexts. Participants spoke about how many IRB officials (as well as service providers) may impose North American/Western notions of how “being gay” is expressed, and have very little understanding of cultural differences of gender or sexual identity and/or expression.

- Documenting different cultural expressions and increasing the awareness and knowledge of IRB officials on SOGI issues in the global south was identified by participants as an area for action.

RT participants also spoke about how many lawyers serving immigrants and refugees are not familiar with SOGI issues, including the points raised above about understanding cultural differences. Their lack of expertise in these types of cases has the effect of putting their clients, who are refugees fleeing persecution on the grounds of sexual or gender identity/expression, at a disadvantage because they often aren’t able to properly represent the case.

- Increasing the awareness, knowledge and cultural competency of lawyers, community agencies and IRB officials with regard to SOGI refugee claims from diverse countries of origin was identified by participants as an area for action.

There was the concern expressed that there may be connections between an individual’s loss of claim and Canada’s foreign and economic relations with their country.

“There is this notion at the refugee board when you have to present a claim as to how ‘out’ a person is and how they socialize. The expectation is, ‘You’ve been here for a year, how come you don’t have a partner?’”

- RT participant

- Further research on the relation between asylum policy and Canadian foreign relations could be an area of action, especially in light of the “safe country” changes proposed by Bill C-31.

Finally, participants spoke about how refugee claimants need to demonstrate a connection and involvement with the LGBT community in order to support their claim. They pointed out that since this is a de-facto requirement by the IRB (and thus the government), there is a need for corresponding LGBT-specific programs and services, with adequate financial support from government.

c) Settlement and integration services

Refugee claimants and those without legal immigration status are not eligible to access federally funded settlement services, and this was identified by RT participants as a very significant problem. One RT participant described the issue as particularly acute in smaller communities outside of Toronto, where there are often fewer alternatives to federally funded settlement services.

- Documenting the impact of service ineligibility and/or inaccessibility for LGBT refugees and their impacts on claims process was identified as a focus for the *Envisioning* project.

RT participants spoke in depth about the homophobia and transphobia that exist in the immigrant and refugee serving sector, and the significant barriers this creates for LGBT refugees. Participants noted that many agencies claim to be LGBT positive, yet this is often not the experience of LGBT clients who are referred to these agencies by LGBT-focused agencies. Clients are put in the position of trying to figure out if the person serving them is a “safe” person. One participant commented that having to go to an LGBT-specific agency to find safe service is not inclusive, a value that the immigrant and refugee serving sector often upholds as central its work.

“People think, ‘I’ve done diversity training,’ but...homophobia or heterosexism is rampant.”
- RT participant

In general, agencies need greater understanding of SOGI issues.

RT participants find that many immigrant and refugee serving agencies believe that they have no (or very few) LGBT clients, and so have no commitment to providing training to their staff on LGBT issues. For example, the Ontario Council of Agencies Serving Immigrants (OCASI) provides training for frontline workers on LGBT issues through its *Positive Spaces* project, but because agencies self-select to receive the training, those who need it the most are not receiving it. Another side to this issue is that some service agencies were originally founded in a religious context, and the religious values that continue to inform their mandate make it very difficult for staff to openly serve LGBT clients and address their needs.

- Overall, there is a lack of LGBT and refugee positive services and programs, as well as insufficient training on LGBT issues. These were identified as areas for further research and recommendations;
- RT participants also spoke about isolation of LGBT asylum seekers from other members of their cultural community, due to homophobia or transphobia, leading to a lack of family or community-based forms of supports, and identified this as an area requiring further research;
- Documenting where LGBT refugees go when they are not finding the services they need was suggested as one focus for interviews with LGBT refugees. For example, one RT participant noted that AIDS service agencies are increasingly becoming spaces where LGBT newcomers come to access services because they know the space is safe.

The current funding environment and the announced changes to Canada's approach to immigration (increased focus on immigrants who are "job ready", funding decreases, etc.) are leading to increased pressure on immigrant and refugee serving agencies to innovate and rethink how they deliver services, with an expectation that there will be a reduction in the number of service providers over time. Partnerships between agencies, and therefore an increase in referrals, are a significant part of this rethinking, which RT participants pointed out creates particular challenges for LGBT-focused agencies and their clients. It can be difficult for clients who are dealing with issues of safety to have to disclose their sexual orientation and/or gender identity to multiple service providers, and the lack of LGBT positive agencies often make it difficult for service providers to make safe referrals. RT participants spoke about the need to build relationships between various agencies, their frontline workers and clients to address this issue, and the underlying need for stable funding to support this work. Participants pointed out that LGBT settlement networks were started in the past and then disappeared because they could not be sustained after funding cuts.

RT participants identified the following questions as points of interest:

- How are increasingly limited funding impacting refugee and immigrant serving agencies and the provision of services to LGBT claimants? How are agencies managing the impact?
- How are refugee and immigrant serving agencies strategic with their funding to address the needs of those not eligible for federally funded services?

d) Intersectionality of identities and oppression, and service silos

RT participants expressed that there is a need for better understanding of the intersections of LGBT refugee claimants' identities and the oppressions and issues they experience. Currently, services based on various identity characteristics tend to be delivered in isolation from each other or in "silos". For example, there are services for LGBT people and for people living with disabilities, but little recognition that people can be affected by both, and that the intersection of those identities can present unique issues.

RT participants representing deaf communities and people living with disabilities identified a significant service gap for LGBT refugees living with disabilities. Such claimants experience multiple, simultaneous oppressions but have few resources available to address their specific needs. One participant noted that people needing visual language support are not provided with the necessary resources when making their refugee claim. In regards to one LGBT-specific agency that is an accessible space, an RT participant stated that many deaf clients have expressed not feeling safe or included, because the agency doesn't have the resources for American Sign Language interpretation at all their events. Participants discussed the potential for agency partnerships to address this issue. Identifying best practices on this point is important.

In addition, RT participants noted that racism is a serious problem within the LGBT community, and as a result, the needs of racialized LGBT people are not recognized and are not being met. As with many IRB officials, many individuals within

"We send out a blurb and whoever replies we talk to them about having the trainings. But not a lot of agencies reply because they don't feel like they have LGBT clients. The EDs [executive directors] don't want to force their service providers because it goes against their religious beliefs. There's a misunderstanding. It's not about religion; it's about service provision."

- RT participant

the LGBT community have a Western and white understanding of what it is to be gay or transgender. Both of these issues are areas for action.

- Participants identified a need for an intersectional approach to the provision of services that are holistic and address LGBT refugee clients' lived reality;
- The issue of racism and anti-immigrant feelings within the LGBT community was also identified as an area of action;
- It was suggested that *Envisioning* researchers should be particularly mindful of people with disabilities and the Deaf communities and that we ask explicit questions to probe what special issues there may be.

e) Mental health

In general, RT participants agreed that there are inadequate mental health supports for LGBT newcomers, and in particular for LGBT asylum seekers. RT participants identified a significant gap in the way mental health services are provided to those going through the claimant process, and that they need more responsive supports to help them deal with the frustration they often experience. A participant explained that clients often need to access support in a way that is more organic way than how services are currently provided, that they need to access services in 'real time'. For example, because clients can't predict when they'll hit a crisis point, there is a need to provide drop-in programs so they have someone to talk to when they need it. On the other hand, RT participants also flagged the dangers of 'over-medicalization' of a population who have suffered stigmatization and medicalization.

*"There is rampant racism in the LGBT community and people [are] not being served, recognized and their needs [are] not being met."
- RT participant*

3) How are organizations meeting the needs of LGBT refugees?

Some RT participants spoke about strategically using their funding, often from a variety of sources, to address the needs of clients who are not covered by CIC funding, but they explained that this affects their overall capacity and their ability to provide services to other clients. Participants discussed the problem of being at over-capacity in providing services to LGBT refugees, and that funding does not adequately recognize the need.

Participants described how some LGBT-focused agencies write letters for clients to take to the IRB, as proof they use LGBT services in order to support their case. The participants expressed concern that this practice, while necessary in the current system in order to support the safety of their clients, is dangerous, unfair and represents a downloading of gatekeeping to agencies.

- The subject of letter documentation of LGBT service use for the IRB claims process is an issue that should be documented and explored as an area for policy recommendations.

Many participants identified advocacy on behalf of their clients and the LGBT refugee population as a very important, but difficult, role they play. The current political and funding climate has increased fears of negative impacts on the organization should they be particularly vocal about an issue. For example, some agencies support their clients who have lost their refugee claims by taking their story to the media and connecting them with activists, despite the risk it can present to the agency. Many others choose not to take such actions because of the risk.

- RT participants identified public education, especially within the larger LGBT community, about the reality and lived experiences of LGBT refugees within the Canadian system as a priority need.

4) How does the current legal climate affect LGBT asylum seekers?

All RT participants expressed concerns that the proposed Bill C-31 will have negative impacts on refugees and in particular on SOGI refugee claims, and will have major effects on their clients. However, the capacity to organize, both in terms of resources and in terms of potential risks to agencies, was identified as a barrier to critically engaging with the impact of these policy changes.

- Documenting the impact of changes to Canada's immigration and refugee policy were identified as areas for research over the four remaining years of the Envisioning project.
- RT participants also identified a need to raise awareness about the impact of these changes, in both the general public and with refugee claimants.

"For claimants there's a need to show involvement in terms of their hearings. As part of your evidentiary truth, you have to show community involvement. Therefore...there has to be programs that are LGBT specific."

- RT participant



Summary: Action Items & Issues for Consideration by Envisioning and Sector as a Whole

- Documenting the impact of service ineligibility and/or inaccessibility for LGBT refugees and their impacts on claims process was identified as a focus for the Envisioning project.
- Documenting where LGBT refugees go when they are not finding the services they need was suggested as one focus for the interviews with LGBT refugees;
- It was suggested that Envisioning researchers should be particularly mindful of people with disabilities and the Deaf communities and that we ask explicit questions to probe what special issues there may be;
- Documenting the impact of changes to Canada's immigration and refugee policy were identified as areas for research over the four remaining years of the Envisioning project;
- Research and recommendation about the subject of letter documentation of LGBT service use for the IRB claims process;
- Lack of safety around disclosure of status to CBSA staff, settlement workers and lawyers was identified as a pressing issue, particularly for those fleeing a country where homosexuality is criminalized and officials of the state are associated with persecution, arrest, violence, and blackmail;
- More research on conditions in countries with high numbers of sexual orientation and gender identity (SOGI) asylum claims;
- Documenting different cultural expressions and increasing the awareness and knowledge of IRB officials on SOGI issues in the global south;
- Further research on the relation between asylum policy and Canadian foreign relations, especially in light of the "safe country" changes proposed by Bill C-31;
- Further research and recommendations on the lack of LGBT and refugee positive services and programs, as well as insufficient training on LGBT issues;

- Further research about isolation of LGBT asylum seekers from other members of their cultural community, due to homophobia or transphobia, leading to a lack of family or community-based forms of supports;
- Education of shelter agencies about the specific needs of LGBT refugees, and the creation of policies to ensure their safety;
- Increasing the awareness, knowledge and cultural competency of lawyers, community agencies and IRB officials with regard to SOGI refugee claims from diverse countries of origin;
- Public education, especially within the larger LGBT community, about the reality and lived experiences of LGBT refugees within the Canadian system as a priority need;
- Public education around the issue of racism and anti-immigrant feelings within the LGBT community;
- Moving to an intersectional approach to the provision of services that are holistic and address LGBT refugee clients' lived reality.

A number of questions for further exploration were suggested:

- What are the most common problems faced by LGBT refugees in their claimant process?
- On what grounds do they tend to get denied? What happens to these people?
- How is the claimant process different for LGBT refugees?
- How are increasingly limited funding impacting refugee and immigrant serving agencies and the provision of services to LGBT claimants? How are agencies managing the impact?
- How are refugee and immigrant serving agencies strategic with their funding to address the needs of those not eligible for federally funded services?



Metropolis Conference

The National Metropolis Conference is an annual forum for researchers, policy makers, representatives from community and settlement organizations to get together to share and exchange knowledge and experience in the field of immigration and settlement. The 14th National Metropolis Conference was held on February 29 - March 3, 2012 at Westin Harbour Castle, in Toronto, Ontario. It focused on future immigration trends and policies, and the challenges and opportunities that they create for Canadian society. *Envisioning Global LGBT Human Rights* organized the following panel, entitled *A New Balancing Act for Sexual Minority Refugees? Potential Impacts of Refugee Reform for LGBT Asylum in Canada*, which took place on March 2, 2012.

Description: Bill C-31, *Protecting Canada's Immigration System Act*, is before the Canadian legislature at the time of writing. This workshop brought together a panel of researchers and advocates working with LGBT refugees to consider the potential impacts of these changes to Canada's refugee protection system. In particular, refugee advocates have raised concerns about the LGBT-specific effects of the shorter timeline for preparing and processing claims, and the expedited proceedings for persons from designated safe countries of origin.

Presenters drew from the emerging body of legal and social scientific research on LGBT immigration and asylum and from their expertise in providing immigration services and advocating for the rights of sexual and gender minorities. They explored the unique difficulties and vulnerabilities of LGBT refugees navigating the immigration system, including experiences of trauma and isolation, establishing credibility, and demonstrating a failure of state protection.

The workshop also considered the medical (including mental health), social and material needs of LGBT refugees upon arrival in Canada, and how these can be met effectively so as to enable refugees to pursue legal protection under fair and humane circumstances. Also discussed were some preliminary findings of the community roundtable review of services in the Greater Toronto Area for LGBT refugees and immigrants, conducted as part of *Envisioning Global LGBT Human Rights*.

Presentations: Moderated by Nancy Nicol, York University, Principal Investigator, *Envisioning Global LGBT Human Rights*, the panel included: Jennifer Hyndman, York University, Centre for Refugee Studies; Adrian Jjuuko, Coordinator of the Civil Society Coalition on Human Rights and Constitutional Law & Human Rights Awareness and Promotion Forum (HRAPF), Uganda; Sharalyn Jordan, Simon Fraser University; and El-Farouk Khaki, immigration lawyer.

Discussant: Debbie Douglas, Ontario Council of Agencies Serving Immigrants.

LGBT Refugees and Asylum based on Sexual Orientation / Gender Identity

Presented by Jennifer Hyndman

“A 2004 MOU between the US and Canada, *The Safe Third Country Agreement*, prohibits asylum seekers (LGBT or otherwise) from crossing the land border between the countries to seek refugee status in the other. Until 2004, one third of claimants to Canada came through the US; now this pathway is closed off to all but a few.

How are decisions made?

Cases are still heard by a Member of the Immigration and Refugee Board (IRB) who decides the claim. This is expected to change in June 2012 when new legislation is introduced. In some cases, claimants are literally in a position of having to perform and prove their identities to authenticate their claims (Lidstone, 2006). Some asylum seekers are also put in the position of having to portray their countries of origin as barbaric, primitive, and violent, not just dangerously transphobic or homophobic. UNHCR’s 2008 Guidance Note warns against such stereotyping.

What decisions are made?

Not all sexual minority asylum claims are approved at the same rate in Canada. Rehaag (2009), shows that sexual minority refugees are actually accepted more often than the IRB average with 58% approved compared to 54% overall. Bisexual refugee claimants, on the other hand, are approved at only 39%, with lesbian and gay claims garnering 60% approval. Explaining these differences, gender differences in IRB members’ decisions, and the variability across Canadian cities remains a contentious set of issues.

Some tentative themes emerging from the literature

1. Conceptualizing gender and sexuality in a cross-cultural, transnational frame
2. LGBT relationships with families and communities of origin
3. Persecution, Protection and ‘Discretion’
4. Assessing Credibility in Refugee Status Determination RSD: Identity and Country Conditions
5. Addressing Differences within the Category ‘LGBT’
6. Developing Research on Arrival, Settlement and Integration of LGBT Refugees

Refugee settlement in Canada among LGBT persons

The absence of a scholarly literature on LGBT refugee settlement and related issues is glaring:

- Such individuals often lack the usual supports that other refugee groups may have through family or people from same country of origin due to trans or homophobia;
- Settlement agencies may assist such individuals, but in smaller centres it may not be safe to be out in Canada;
- We know from Sean Rehaag’s research (2007) that Canada’s Immigration and Refugee Board finds gay and lesbian refugee claimants more credible than bisexual claimants; but why?
- In 2012, homosexual acts were still criminalized in some 78 countries and punishable by death in five and parts of two others (Paoli Itaborahy, 2012). Significantly, 40 of 53, or 77%, of Commonwealth nations continue to criminalize homosexuality; while by contrast just 32% of non-Commonwealth countries criminalize same-sex sexual acts (Baudh, 2008).
- Canada may be a ‘safe haven’ for some LGBT asylum seekers, but producing knowledge on how they are faring in terms of settlement is scarce. More needs to be done.”

Bill C-31:
**Radical change in articulated
immigration and refugee policy**
Presented by El-Farouk Khaki

There is concern that Bill C-31 may very well set up a 2 tier refugee system. It provides significant discretion without oversight to the Minister of Immigration. The Minister may designate DCOs (Designated Country of Origin) based on factors including numbers of claims, acceptance rates & other factors such as political allies. Refugee claimants from DCOs will have 45 days from initiating their claim to their hearing as opposed to non-DCOs nationals who will have 60 days. DCO nationals will not have access to the new RAD (Refugee Appeal Division), which was first introduced in the *Immigration & Refugee Protection Act* (IRPA) but put on permanent hold by the then Liberal government. The longer 60 days are considered insufficient to land, start a claim, find a place to live, find a lawyer and document and present a claim.

Under C-31, the immigration officer who processes the initial application will set the hearing date within the prescribed time period without regard to counsel availability. A refugee claimant who initiates a claim at point of entry or inland prior to finding a lawyer may be unable to secure a lawyer within the restricted time allotment.

Many LGBTI refugees come from countries where they cannot live openly without fear of harm – the very reason why they may have fled to Canada. Many are victims of years of psychological repression and physical as well as sexual violence. Often their experiences prevent them from telling their stories. The new system will not allow these individuals time to get counseling or support in order to tell their stories fully. It will not allow them time to integrate into Canada’s LGBTI communities in order to document their socialization. How then will many be able to establish their ‘membership in a particular social group’ in order to get protection as a Convention refugee? Circumstances are such that many may not.

The system requires refugee claimants to document their past experiences of persecution, violence and attempts at obtaining state protection. Most claimants do not know this when they arrive. In fact many LGBTI claimants are not even aware which refugee definition is applicable to them or that Canada will (theoretically) give them protection because of their sexual orientation or gender identity.



Ugandan LGBTI Refugee Claimants: In Search for Durable Solutions

Presented by Adrian Jjuuko

Every country is sovereign and thus Canada's law makers are free to pass laws that govern their countries and the Balanced Refugee Reform Act ("BRRA")² is thus a sovereign law. However, sometimes the laws should also consider the realities of the people to whom they will be subjected. Uganda has used the same sovereignty argument for the Anti Homosexuality Bill, arguing that they are independent and thus can pass any law especially to protect 'children' from 'imported practices' like homosexuality. Canada's BRRA of course is not like the Anti Homosexuality Bill for the latter stands in a league of its own but the underlying undertones of sovereignty are similar.

The Canadian BRRA is intended to expedite the refugee determination process and subsequent removal process if the claim is unsuccessful. After the Initial Eligibility interview done at the entry point, the claimant scheduled for an IRB interview takes place no less than 15 days thereafter. Following the IRB Interview, the refugee hearing follows and is to be held within 90 days, after the IRB interview. For claimants from 'Designated Countries of Origin' (DCOs) the hearing must be within 60 days. Such expedited processes continued into the appeal process and persons rejected cannot apply for permanent residence or any other protection unless they are not removed by the end of one year.

In seeking to expedite the process however, the situation of the more vulnerable subjects of the law is completely disregarded. Minority groups like LGBTI persons, victims of torture, victims of sexual violence and ethnic minorities may find it very difficult to be ready within the stipulated 90 days if they are lucky to be from countries that are not classified as DCOs. These groups should be given special consideration because of the nature of their violations and the trauma, loss of self esteem and mistrust that are natural consequences of the violations they face. In making my case, I will limit myself to LGBTI claimants

from Uganda which is my home country, and how this law is likely to impact on them highlighting the realities for this particular group;

In the past month of February alone, we have faced security incidents and threats, and the climate becomes increasingly insecure what with mob justice being rife in the country and Ugandans' warped logic of being able to identify a gay person by simply looking at them!

That is the legal-security situation that LGBTI Ugandans live in everyday. With the advent of TV, most people have been inadvertently outed either at court, at David Kato's funeral and memorial or at the various gatherings. The number of people reporting disowning by families, loss of employment, break-ins into homes and offices, blackmail, threatening family members, and general public outrage at the sight of them is increasing. The space for activism and for freedom of expression is greatly narrowing. All this is before the bill passes. I even shudder to think of what will happen if it passes.

All these leave Ugandan LGBTI activists and persons with two options: to stay put or to flee the country. Each option has its consequences. To stay put like most have done gives some very unpleasant sub-options: i) remain/Go back to the closet; ii) continue with activism. The first sub-option means that you will accept having your freedom of expression limited and curtailed as well as many other individual rights and freedoms, just to fit in. For the second sub-option, it means that you may become an outcast in your family, lose your job, get disowned by friends, get arrested and imprisoned, get depressed and commit suicide, be a potential target for mob justice, or like slain activist David Kato, lay down your life for the cause!

Regarding the second option of Getting Out, despite it being largely undesirable to leave a country you are used to – where your family and heritage is – and go to foreign lands, which you are completely unused to. It is a sad option but one that must be taken when it is impracticable to do otherwise. And what do you find when you decide to take this option? Laws like the BRRA!

² Bill C-11, the *Balanced Refugee Reform Act*, became Bill C-31, *Protecting Canada's Immigration System Act*, with differing provisions in the latter.

Protecting Asylum Rights for (un)convention(al) Refugees: Community Advocacy and Research on Queer and Trans Refugee Protection

Presented by Sharalyn Jordan, Ph.D.

Eighty per cent of the world's 43.3 million displaced persons are living in the global south. Western countries are using increasingly stringent measures to prevent potential asylum seekers from reaching our shores. In *Making People Illegal*, Canada Research Chair on Migration Catherine Dauvergne (2008) argues that these restrictions, and the ways that they punish potential refugees, is making asylum itself illegal.

Currently no less than 78 countries criminalize same-sex sexual acts or gender “deviant” behaviour (Paoli Itaborahy, 2012). Public morality laws are used to penalize same-sex sexualities and gender variance. Laws prohibiting the “promotion of homosexuality” are used to inhibit political organizing (Ottoson, 2009). The vast majority of these laws are the legacy of colonialism.

Refugees who have made claims based on persecution of their sexual orientation or gender identity have lived in defiance of social erasure, stigma, and threatened or actual violence in their home countries (Jordan, 2009). In migrating to Canada they have engaged with immigration and border systems that enable and restrict mobility based on the priorities of global capitalism, neo-colonialism, and post-9/11 notions of security.

Undertaking an asylum application, entails accessing and working within a refugee system that was not designed with Lesbian, Gay, Bi, Trans, and Queer refugees in mind. It is a system that requires claimants to prove an often hidden and stigmatized identity, and to disclose experiences, some traumatic, that are deeply private. Throughout exit, migration, application, and settlement, Queer refugees' efforts to seek safety and belonging are constrained and enabled by co-constituting

oppressions of racism and xenophobia, homophobia, transphobia, and sexism.

The federal government is in the process of the most significant reworking of Canada's inland refugee determination system since the Immigration and Refugee Protection Act (IRPA, June 29, 2001; implemented 2001). The contrast in process is striking: consultations for IRPA spanned two years. Bill C-11 was introduced and passed in under five months; it's more regressive reincarnation, Bill C-31 was introduced two weeks ago (Feb 16, 2012) and may be pushed through parliament by the end of June 2012.

Under conditions of homophobic and transphobic persecution, surveillance and threats come from family, peers, and/or communities. The violations often occur in hidden contexts—unlike war or larger conflicts, people experience this violence in isolation. Being stigmatized as evil or mentally ill further isolates and silences people. To survive under these conditions people learn to deny, distance from, cover or hide their sexuality or transgressive gender. Survival tactics do not disappear on arrival.

Precarious and Irregular migrations

The migration paths of queer and trans refugees from leaving to claiming asylum are neither direct, nor uniform. Asymmetrical im/mobilities created by intersections of gender, social class, and nationality enable and constrain who is able to leave, how people migrate, and options for permanent status.

Some participants of the study left because of immediate danger, such as imminent arrest. Most left out of a gradual sense of the impossibility of their future. Prior to leaving many people did not know that the risks they faced constituted persecution—even those who had experienced extreme forms. Nor were they aware that they could seek refugee protection because of this persecution. Sexual orientation and gender identity are not explicitly named as grounds for protection in the Geneva Convention. Participants did not recognize themselves in images of refugees as mass movements of people fleeing war. Many of the people I spoke with

left their home countries with only a plan to get out by any means possible, and only once they were in Canada learned of the asylum option. Migration restrictions and the relative obscurity of a refugee claim combine to create situations in which queer migrants pursue more apparent, but sometimes irregular social or economic means of migration. Participants' migration paths included relatively cushioned relocations as international students or workers on temporary visas, through dangerous journeys in the hands of agents. Others lived for long periods in precarious status. Sometimes, it was only after living outside their home countries to work or study, and shedding some of the constraints they had lived with, that people realized the impossibility of their return. Some were outed to local communities, or family back home, in ways that made returning dangerous. These mixed trajectories play into discourses of asylum seekers as "economic migrants," or "Bogus" and potentially harm claimants' credibility in hearings.

Making a claim

These initial contacts are the first in a series of interactions in which claimants struggle against exclusions, for recognition. Recognition as a refugee confers protection, creating possibilities for safety and belonging. But this protection requires claimants to openly enact their sexuality or gender, and refugee status. Interactions with officials become intensified struggles with and against the stigma of queer or trans, refugee, and racialized identities. This tension runs through the quotidian work of making a refugee claim.

Giving an account

Since the early nineties, The Geneva Convention criteria of "membership in a particular social group" has been interpreted by the UNHCR, and Canadian immigration policy, to include sexual orientation and gender identity. To be recognized as a refugee, applicants must convince decision makers of the genuineness of their gay, lesbian, bi, or trans identity, and their fear of persecution because of this identity. Queer refugee claimants need to do things like ask people they've had sexual relationships with to provide letters, recover old hospital records, and sift through newspaper stories to try to make the hidden visible, or for

trans claimants, make the inconsistent coherent. Because of the challenges of obtaining evidence, a great deal of weight rests ultimately on claimants' own accounts. Among some board members, suspicion of fraudulent sexual orientation or gender identity based claims runs high—slight inconsistencies or omissions are interpreted as lack of credibility. Board members bring assumptions about sexuality and gender based on western notions of lesbian, gay, bi, and trans identity narratives. These narratives do not necessarily translate well across cultures, or for people who formed their sexuality or gender under persecution. People who have not pursued ties to "the LGBT community" in Canada, or sexual relationships, are considered less credible. Those whose sexualities or genders do not fit in neat, stable familiar categories—bisexuals, masculine men, claimants with children—struggle.

Bill C-31, Reforming Refugee Determination: Impacts on LGBTQ claimants

Expedited time frame

Under the proposed reforms, refugee claimants will have fifteen days after their eligibility interview to prepare and submit the "basis of claim" document. This document becomes legal evidence.

Preparing a good claim based on sexual orientation or gender identity takes legal guidance—and people newly arrived in Canada do not have ready access to this guidance. People may not know to ask, are not in a situation where they can ask, or feel unsafe asking. Even claimants who know to name their sexuality or gender as the nexus of persecution will struggle with this timeframe. Fifteen days is not enough time to apply for legal aid, receive a decision on legal aid, find, contact, and meet with a lawyer, for the lawyer to arrange interpretation if needed, interview, and write the basis of claim document. Under Bill C-31, many claimants will be submitting incomplete or inadequate written accounts. This becomes unfair and potentially dangerous when the credibility of refugees' accounts rests on consistency across documents and hearing testimony. In the past, claimants have

been denied based on inconsistencies, omissions in their initial account.

More so than any other grounds, SOGI claims require applicants to provide details about highly stigmatized, intimate and frequently traumatic aspects of their lives (LaViolette, 2009a). It takes time for people to build the sense of safety they need to be able to talk about their sexuality and past traumas. Psychological research suggests that the characteristics of traumas more common among queer refugees—those involving shame, sexual violence or relational betrayal—are associated with greater memory disturbance (Bogner, Herlihy & Brewin, 2007). With less time to prepare themselves, I fear claimants will be dealing with greater trauma related disturbances in hearings.

Designated Country of Origin List

The safe country list is profoundly unsafe for Lesbian, Gay, Bi, Trans, and Queer refugee claimants. Those from designated “safe countries” will face an expedited claimant process and will not have the ability to appeal the final decision. It would be perilously easy to designate a country “safe” based on inaccurate or insufficient information about the on the ground realities for lesbian, gay, bi, trans people. Analysis by legal scholar Laviolette (2009b) points to the inadequacy of information collected by international human rights organizations like Amnesty International or Human Rights Watch for determining country conditions for queer and trans people.

A “safe” country list cannot reflect the current complexity and flux in safety and protection for queer and trans people. Could Brazil be on a safe list? It hosts the largest Pride Parade in the world with over 3 million people celebrating. It also has the highest rate of homophobic murders reported in the world. Is Brazil safe because the murders are reported? Or unsafe because they happen in the first place and police are incapable of curbing them? South Africa recognizes same-sex marriage. Yet, human rights organizations there report ten cases a week in which lesbians have been targeted for “corrective rape” and police have done nothing to investigate. We have heard

Bogota described by one man as a great place to be gay, and by another, who spent ten years on the run within Colombia trying to escape death threats, as a terrifying city to be gay. Within the same country of origin, people’s vulnerability as well as the viability of state protection varies considerably based on a person’s social class, gender, race, religion and social networks. It is precisely when country conditions appear safe on paper that

Lesbian, gay, bi, and trans refugee decisions are most complex, and the safety net of an appeal is most critical. The list violates principles of equality before the law, has potential to politicize refugee protection, and leaves a life or death decision in one person’s hands.

Removals and Limited Recourse in Negative Decisions

Bill C-31 provides for a limited right of appeal for those who are not from designated safe countries or who are deemed “irregular arrivals”. However, the safety net of a Humanitarian and Compassionate appeal is no longer an avenue of recourse. Those who receive a negative decision will be banned from filing a Humanitarian and Compassionate application for twelve months.

H&C applications are an absolutely critical safety net for lesbian, gay, bi, and trans people who are at risk of serious harm in their home countries. Determining when homophobia and transphobia cross the threshold and become persecution is challenging. Board members struggle to make this call-- good information is sparse and the gap between laws on paper and on-the-ground conditions are large.

I have touched on a few of the aspects of Bill C-31 that unfairly prejudice LGBTQ claimants in Canada. I will briefly mention two concerns that I have not had time to analyse or address today. Bill C-31 contains provisions for one year detention without review for those designated as irregular arrivals by the Minister of Public Safety. If passed, Bill C-31 also creates provisions for the cessation of Permanent Residence, potentially impacting any refugees who are not yet Canadian Citizens.

Rainbow Health Ontario (RHO) Conference

Rainbow Health Ontario (RHO) hosted its 2nd conference entitled, “Rainbow Health Ontario 2012 Conference: Supporting LGBT Health through Every Stage of Life” from March 20-23, 2012 at the Marriott Hotel in Ottawa, Ontario. It provided a forum for health and social service providers, community members, researchers and policy makers to share knowledge, experience and ideas, to network and develop partnerships, and to find inspiration for their ongoing work. As Canada’s only LGBT health focused conference, it was a unique opportunity to share work and to learn more about LGBT health and wellness with a focus on the various stages of life. *Envisioning Global LGBT Human Rights* organized the following panel, entitled “*What we need to know (and do) about the health and well-being of LGBT asylum seekers*”, which took place on March 23, 2012.

Description: Organizations that work with newcomers in Ontario are responding to increasing numbers of people seeking asylum on the basis of sexual orientation and gender identity. Exposure to physical and sexual violence and other traumatic incidents prior to migration can affect both the mental and physical health of these newcomers. Making a refugee claim contributes further to anxiety, since asylum seekers must publicly proclaim the very identities that are criminalized and have forced them to leave their homes.

The United Nations recognizes that criminalization and exclusion based on LGBT identity infringe on the right to the “highest attainable standard of physical and mental health”, as well as other human rights. However, it is not always recognized that the refugee claim process and settlement can introduce further assaults to emotional well-being. Moreover, settlement in Canada offers the possibility of safety, but in a context where intersecting oppressions based on heterosexism, homophobia, transphobia and racism can contribute to potent marginalization. Accordingly, policymakers and service providers in the health and social service sectors need to collaborate to understand the needs of LGBT asylum seekers and develop responses that promote their health and well-being while preventing further distress and illness.

Panelists discussed some of the preliminary findings from the “Envisioning” Roundtable summarized at the beginning of this document.

Presentations: Moderated by Phyllis Waugh, Rainbow Health Ontario, the panel included academic and community partners of the Canada Research Team component of the Project: David Lewis-Peart, Black Coalition for AIDS Prevention; Hurly Meraveles, Ontario Council of Agencies Serving Immigrants; Nick Mulé, York University; Charmaine Williams, University of Toronto; and Karlene Williams-Clarke, The 519 Church Street Community Centre.

Background on the Envisioning Research Study

Presented by Nick Mulé and
Charmaine Williams

Research Objectives

- Impacts of laws that criminalize LGBT identities;
- Experiences and needs of LGBT asylum seekers;
- Community organizing to resist criminalization;
- Implications for immigration, refugee and human rights policies and services.

Research Questions

In Canada, how are social services and governments responding to LGBT asylum issues, and what are the implications for immigration/refugee policies and services?

- What causes forced migration?
- What are the experiences of asylum seekers?
- How does the legal and institutional climate affect LGBT asylum seekers?
- What services are meeting needs and what else is needed?

Issues raised by existing research

LGBT refugees and asylum seekers are often escaping from persecution, seeking protection and faced with potential blame for not being discreet enough regarding their sexual orientation or gender identity and/or expression. Self identity is further complicated by transnational contexts in which language and meaning are not necessarily in sync with North American terminology. LGBT refugees and asylum seekers may also have to face being queried regarding the credibility of their claim to be LGB and/or T. Also, settlement needs become a major issue upon arrival.

Knowledge gaps in asylum issues

There is very little research on asylum seeking experiences and a lack of knowledge about the specific needs of LGBT asylum seekers, and how service or other sectors are addressing the few known needs.

Health and human rights abuses

A number of health and human rights abuses present themselves in the LGBT asylum seeking and refugee populations such as physical injuries and trauma related disorders. They often suffer with cumulative stress, due to threats of violence and challenging social determinants that negatively impact on their health by exacerbating existing health conditions. They experience a lack of access to health and other services with risks of mental distress, mental illness, physical illness, physical disability and furthermore a lack of support for people living with disabilities.

Health and the LGBT Asylum process

The asylum process in and of itself can have a major impact on the health and wellbeing of LGBT asylum seekers due to high anxiety of fleeing, fears of making mistakes in the claim process and pressure to perform as “the good refugee.” They feel the pressure of expectations placed on them of embodying a Western vision of LGBT identity development and lifestyle. It can be a highly stressful transition going from a hidden identity persecuting environment to a proclaimed identity in an unknown environment. This is not to mention the stress of extended uncertainty regarding their status and ultimate settlement.

Health and the LGBT settlement process

LGBT asylum seekers and refugees have great difficulty finding sanctuary or a community they can easily become part of. In other populations, post-settlement stress accounts for more distress than pre-settlement stress. Service providers see this as compounded by LGBT identity oftentimes resulting in poverty, isolation, exclusion in housing, employment, etc. Consequences of being denied results in no supports and services.

Service responses to the LGBT asylum process

Much of the settlement sector and the health sector are ill-equipped to meet the needs of the LGBT populations. Many such services operate in silos, rather than by collaboration. Much of the sector is not willing to meet the needs of LGBTs, choosing instead to refer out. Some services are overtaxed and/or the system does not build capacity. The latter can be demonstrated in attitudinal, knowledge and skill deficits regarding LGBT health augmented by poor understanding of asylum issues. Also, for services to adequately address such issues, they need to take into consideration intersecting barriers based on race, disability, class, homophobia, transphobia, etc.

Laws/Policy and human rights abuses

Criminalization and exclusion based on LGBT identity infringes on the right to the “highest attainable standard of physical and mental health” and other rights. Therefore, constitutional and legal challenges need a foundation of public support. The proposed new refugee law, Bill C-31, increases barriers. Funding cuts are having a serious impact on services. A re-conceptualization of concepts and notions is required.

Laws that criminalize based on sexual orientation and gender identity (SOGI) both oppress and stigmatize such populations, contributing negatively to their social determinants of health. As such, freedom, liberty, health and wellbeing are severely compromised.

A process of re-conceptualization needs to take place in which legal and social justice work in tandem. Knowledge mobilization needs to happen with law makers, politicians, policy makers, program developers, funders and communities that results in the creation of laws, policies and funding for community-based programming that sensitively meet the needs of LGBT asylum seekers and refugees.

- Implications Support to asylum seekers;
- Networking and mutual aid;
- Capacity building in the service systems;
- Inter-sector collaboration and strategizing;
- Recognition of specific LGBT refugee and asylum processes;
- Advocacy in Canada and beyond Canada.



Positive Spaces Initiative (PSI) - OCASI

Presented by Hurly Meraveles

The Positive Spaces Initiative (PSI) is a project initiated by the Ontario Council of Agencies Serving Immigrants (OCASI) in November 2008. The initiative aims to support the immigrant and refugee serving sector to more effectively serve LGBTQ newcomers.

LGBTQ newcomers are an integral, though often invisible, part of immigrant and refugee communities as well as LGBTQ communities. Experiencing marginalization from both within cultural communities and mainstream LGBTQ communities often leaves individuals feeling that there are few options for obtaining services. Recognizing that good practices already exist in the sector, this initiative aims to share resources and increase our organizational capacity to better respond to the needs of the community.

At OCASI, we define Positive Spaces as welcoming environments where LGBTQ newcomers are able to access culturally inclusive services with dignity and respect and service providers can work free from discrimination based on sexual orientation, gender identity and gender expression.

The initiative has been travelling through the province of Ontario to deliver training and workshops to service providers in the settlement sector. LGBTQ Newcomers face particular challenges in accessing settlement services. Sexual and gender identity are factors that contribute to the shaping of the settlement experience and that need to be taken into consideration by the settlement sector in terms of policies as well as program and service development and delivery. Access to these settlement services is necessary in order for them to thrive and contribute to society.

Challenges of LGBTQ newcomers:

- Understanding of Canada as a safe haven for LGBTQ -> Feeling of shock when that does not materialize;
- Perceiving a lack of support from communities of origin -> Protecting themselves from others finding out;
- Dealing with sexuality in Canada -> Finding support in the Canadian LGBTQ communities -> Not finding newcomer positive services;
- Queerness is a primary concern although it may not surface at the beginning -> need same/more support as other newcomers;
- Lack of overall LGBTQ positive services.

How will the Envisioning research benefit our work?

- It provides new and supported information about the realities of LGBTQ refugees;
- Not a lot of information/study/research is done on LGBTQ refugees/newcomers in general;
- It helps in identifying issues that LGBTQ refugees experience;
- Support and reconfirm the need for more positive space training in the settlement sector;
- Helps settlement agencies in the planning and development of programs and services that support LGBTQ newcomers/refugees.

**Note:* Hurly Meraveles showed a short self-produced video which can be found at www.youtube.com/watch?v=XlyEYVg56tI

How do asylum seekers find Black Coalition for AIDS Prevention (Black CAP)?

Presented by David Lewis-Peart

Black CAP does limited outreach to recruit new clients to the agency. There are three primary ways that asylum seekers find us: word of mouth, lawyers and through other service providers. Many clients report having been told about Black CAP's services either shortly after or prior to their arrival in Canada. This suggests the value of social and personal networks both within country of origin and regionally. Black CAP also receives a number of referrals from a range of immigration lawyers in downtown Toronto. Finally, Black CAP also receives referrals from community partners, especially AIDS Service Organizations and partners within the downtown East Local Immigration Partnership (LIP).

Described experiences

- Migration trauma
- Recent HIV diagnosis
- Sexual and intimate partner violence
- Unemployment
- Poverty
- Limited access to housing
- Vulnerability within new relationships
- Substance use

How are needs addressed?

Black CAP receives Citizenship and Immigration Canada (CIC) funding for its LGBT specific settlement program - we've received funding for this program since April 1, 2009. We provide a range of programming in support of LGBT newcomers and asylum seekers that includes one-on-one assessment and counselling, referrals to community programming and legal/medical services, access to housing and employment programming, etc. Black CAP depends on a number of important referral relationships with organizations such as Canadian Centre for Victims of Torture (CCVT), Fred Victor Centre, The 519, etc. Black CAP also delivers group programming including a monthly workshop that provides information and education on issues such as the refugee claims process and the law, housing,

income taxes, healthcare, etc. In addition Black CAP delivers a monthly support/discussion group called Foreign Integration which provides a social space for LGBT asylum seekers to access mutual support, social spaces, etc. Black CAP also delivers programming such as Many Men, Many Voices (3MV), volunteer programming, etc. which also address the needs of asylum seekers.

Are needs not addressed?

CIC mandated service requirements are a barrier to supporting/serving all LGBT newcomers. Growing demand and complexity of service user needs also limit the depth and scope of services we can provide. Increasingly, funding does not support the basic needs of clients such as transportation, food, etc. At this time Black CAP is not able to provide counselling/therapeutic support which addresses the complexity of client needs.

What are the challenges on the frontlines and in the system?

Internal challenges include growing and excessive demand for programming (at this time a staff of one sees an average of four new clients per week, each returning for an average of 5-7 visits), client needs are increasingly complex, funding does not cover the true cost of program delivery. Systemic challenges include reductions in funding and the high likelihood of instability of future CIC funding, an increasingly stringent claims and review process which expedites cases (this is often detrimental to clients to gather information/evidence for their claim), expedited cases place LGBT asylum seekers at a significant disadvantage.

How will the Envisioning research benefit our work?

Envisioning research will lead to a deeper understanding of the experiences of asylum seekers, given the relative absence of data, research and knowledge. Organizations like Black CAP will benefit as they develop, deliver and evaluate new programming for LGBT asylum seekers.

Among Friends – The 519 Church Street Community Centre Presented by Karlene Williams-Clarke

The 519 has an LGBT Refugee Claimants Group which is called 'Among Friends'. I myself am a convention refugee so I did come up through the system and understand very well what refugee claimants go through. The centre connects with approximately 700 refugee claimants each month. Through the group, which meets every Wednesday from 7:30 until 9:30, we see in attendance about 90-100 individuals on a given night. This is supposed to be a support group but we have gone beyond that. For a claimant that is desperate to connect and prove that they're integrating within the LGBT community, they seek us out from very far places. We have members coming from as far as Hamilton, Oshawa, Brampton and Mississauga. They're there on a Wednesday, seeking services, seeking ways to connect with us with the LGBT community.

Most of these claimants find us through word of mouth, meaning friends will tell other friends or refer them to the Centre to join because that is a major part of their evidential proof, showing that you're LGBT and that you're connecting with the LGBT community. It's a means of showing you're integrating, so they will come and try to get a support letter. We also have services such as legal aid and social assistance which will send clients to us when their client is a refugee claimant basically based on their sexual orientation. We receive referrals from shelters; many refugees when they end up in Canada end up in shelters for at least the first three to four months and shelter social workers will recommend them to come to The 519. We also have other agencies that deal with newcomers that will send clients to The 519, which is quite unfortunate because if you are an agency that works with newcomers, a refugee claimant is a newcomer as well as being LGBT. Instead of offering services that includes LGBT, you send them to a centre that is an LGBT centre.

Because of this we're forced to establish a settlement department. It's brand new, we started it last June. In establishing this settlement department, we meet with clients who shared their experiences with us. A lot of them suffer from post-traumatic depression. A lot of them find it very difficult to settle here in Canada because there is a lack of family, there's a lack of knowledge and acceptance because a lot of them are made to feel that they just came here to use the system. They can hardly find proper food, proper nutrition, therefore within our group we try and offer food at every meeting so many will come for the food as well as getting the information that they need.

They will complain that if they go to other services, they're not made to feel comfortable because a lot of these centres are homophobic and transphobic so therefore they prefer The 519. We have a long list of members because we have a system, we have a process. We have now established a new orientation system for new members because every week we will end up getting between 20-40 of them. This can really stress The 519. Those few groups that offer LGBT services, they're very silent because either they're youth oriented between a certain age or it's just for men who have sex with other men or HIV/AIDs related and never a one system fits all. These targeted services can make some people feel left out and therefore at The 519 we have ages ranging from 17-62 so it's a very wide program. We're not very specified because we're not able to be specified. Funding of course is an issue and we just can't afford to be so specified so we have to offer programs that are open to everyone.

Beyond receiving a letter of support claimants are also given information that will assist them in settling here as a newcomer. We offer workshops and information sessions on different things. Most are about Canada, what's expected, what are your rights and responsibilities as an LGBT refugee claimant. We also help them with their hearing, which is very important to an LGBT refugee claimant. It is also added pressure because for a regular refugee claimant, they don't have to prove that they're gay or anything like that, but for us, we have to prove we're gay, we're going to the clubs, we're finding places like MCCT and Black CAP and all the agencies that are LGBT identified so we're engaging, we're going to parties even though you're not a party person. You're also forced to embrace titles that you would never speak of back in your home country. You're not even familiar with the terms, you're wondering what is that because there was never a word, a language, a term to describe you as a 'gay person' because you have to live underground and now you're here, you have to wrap your mind around thinking about, okay I am 'LGBT', whatever the terms are and trying to fit in. And it's very hard for a lot of our claimants.

Many when they come to see me one on one, they break down in tears, I have to run to a counsellor and ask, can you please, this person needs counseling. Many LGBT refugee claimants seek counseling. Many of them are going through counseling due to suicidal feelings. I've had members who are telling me, 'I can't go home today, I don't think I can live today, I think I want to kill myself, I am here but it's better for me but also having to think, about making a refugee claim.' They are having to think of things they've probably buried so deep, things that they just want to forget about and now they have to rehash them because they have to write them down, they have to be questioned on them and you're questioned extensively.

Sometimes a claimant does not do well in their hearing, because they're buried so deeply and it's so hard for them, they get so very confused. They're not able to answer the question that they're being asked and that is also very bad for them because a member will look at them and say, 'well you're lying and if it's true you should remember', not realizing that this is very traumatic for someone, they're very nervous, there are so many issues that they're dealing with. You're in a new country, you're trying to accept yourself now, trying to be open and be free so these are some of the real challenges that we face as refugee claimants.

At the Centre we offer one-on-one support, we offer counseling; we offer legal advice for any of the issues that people may have. We help them prepare for their hearing, help them provide evidentiary proof, trying to connect them to information about country conditions because it is also very difficult for refugee claimants to get information back home, especially when you have no one there who is in your corner and supporting you as an LGBT person and now that you're in Canada making a claim. Everything that you have to produce - police record or medical report - those things are very hard to come by, especially if you're from the African continent. There it is so very hard to even ask somebody to assist because people are scared that it's life threatening and to be connected to somebody making a refugee claim, who's LGBT, that means imprisonment for you.

We try to offer those kinds of support to help people connect to LGBT organizations in the country. It's very hard for us to offer or meet their needs because of limited funding; there are not a lot of agencies that offer LGBT refugee specified support. We're just one agency and we try to do the best that we can so it's very hard. So for example, we're not able to help to support in areas where they need proper housing. Some would like to go back to school and when we try to connect them with services we're told, this is just for people who are convention refugees or permanent residents under 5 years because these programs are funded by CIC and it's unfortunate that refugee claimants are not considered for this.

I do understand that it's not fair for agencies that are CIC funded to spend a lot of time serving refugee claimants because you cannot account for these, this is not your target group, but I'm thankful for some of those agencies who have tried to service this group because we so need the service, and we so need the support that is necessary for them to survive. What I expect from this research from Envisioning, is that the research will be used to train IRB members to understand the trauma that a refugee claimant goes through just to prepare for their hearing and also just to be in their hearing, because it's a lot of trauma that one has to face.

We hope that the Project can train our service providers, all the agencies that are offering newcomers services, to offer LGBT refugee specified claimants programs because we need more. I really do hope that, with these new bills coming upstream, we're going to get support because with C-31, we're going to see more people getting turned down.

These are things we all need to consider and pull together and work together on and I'm hoping that the Envisioning Research results will be supported and that people will take it up so that we can work together on this.

Panel Discussion Points

Following the panel presentation, questions were put forth, answered and discussed

- The need for IRB members' training specific to SOGI refugee claimants so that they can be sensitized to the issues and needs of this population;
- Training of mainstream services in the settlement sector on SOGI issues (i.e. OCASI's Positive Space Initiative) to ensure accountability in providing inclusive services that are also accessible to the (dis)Able, and would assist in offloading demands on The 519;
- Increased funding to existing services that are currently overwhelmed and for training initiatives in terms of conducting the training and support for settlement workers in offering programming and services to SOGI populations;
- Ideas arose of developing regional positive space initiatives and partnerships between settlement services and The 519 in developing SOGI-specified services;
- Attention to organizational capacity in terms of policy development that is inclusive of SOGI and creativity in program development;
- A caution expressed on ghettoizing SOGI populations to one program in one location and a call to critique policy that is exclusive of SOGI, why that is and who is benefitting;
- The mental health of SOGI refugee claimants was identified as a primary health concern in great need of services;
- Intersectionality of identities within SOGI communities is not to be overlooked (i.e. gender, ethnicity, race, age, (dis)Ability, class, etc.);
- Envisioning will need to take into consideration what models of policy and service development it will study, propose, recommend and advocate for (i.e. an integrated model in which SOGI services are provided across the settlement sector vs. a specialized model of service provision specifically for SOGI populations - or both.);
- Importance of gathering quantitative statistics on the success rates of SOGI refugee claimants in addition to the qualitative data to be gathered by Envisioning;
- Seeking out opportunities to train professionals (lawyers, nurses, physicians, social workers, etc.) at both the postsecondary level and via continuing education.

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