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**Envisioning LGBT Refugee Rights in Canada: Is Canada a Safe Haven?
Policy Recommendations**

Presentation by OCASI – Ontario Council of Agencies Serving Immigrants

Introduction

We started Envisioning at a very sensitive and volatile time for Canada's refugee protection system and immigration laws. What we heard from the many LGBT refugees who generously shared their experiences, and from frontline refugee-service workers who talked to us about what their clients were facing, very much helped to shape the project. What we learned from them and reflections from the project partners forms the basis for the 37 recommendations in the report.

Our recommendations are directed to the many stakeholders in the refugees system – including the government of Canada, the UNHCR, local governments, public institutions, human rights organizations, labour organizations and service providers. We encourage you to read them all.

Let me share with you just a few of the recommendations from the report, focusing primarily on those highlighted in the Executive Summary.

1) Resettlement

Very few LGBT asylum seekers are able to get to Canada and many are currently living in highly dangerous circumstances in refugee camps. LGBT people living in refugee camps are at risk of homophobia, discrimination, abuse and violence by a range of people including other refugees, the police, and others in a position of authority and power. Disclosure of identity may lead to discrimination from local and international NGO and UNHCR staff, and confidentiality breach may lead to further risk.

The UNHCR should prioritize expedited processing of at-risk LGBT refugees for resettlement in Canada and ensure that this process will not subject them to breach of confidentiality potentially compromising their safety and security (Recommendation 3)

The new government's response to refugees is encouraging for refugees in general and Syrian LGBT refugees in particular. This is a good opportunity to further expand the scope and address the issue for all LGBT refugees.

Canadian consulate staff are at the frontline and are one of the first people who could potentially assist refugee claimants who wish to seek asylum in Canada. Therefore,

“Canadian consulate staff working in refugee camps and in Canadian consulates should be trained to recognize persons in need of protection on the basis of their LGBT status and work to ensure their safety in refugee camps” (Recommendation 4).

2) Claims Process

LGBT refugee claimants arriving in Canada must navigate a complex claims process within a limited time frame. When processing claims, the state recognizes persecution based on sexual orientation and gender identity (SOGI), yet it demands additional evidence in order to be able to administer such a claim. At present, there is disproportionate emphasis on 'credibility' and the onus is on LGBT claimants to produce highly personal evidence to substantiate their SOGI status. This can be highly intrusive and traumatizing; it can be an affront to dignity.

The central question for decision-makers should be on proving the threat of persecution on the grounds of SOGI, not on proving identity. Although this principle can encounter practical challenges during implementation, it nevertheless is the right course of action because fairly assessing the SOGI of claimants in a refugee proceeding is often impossible. Not all refugee claimants have access to the kinds of information needed to prove their SOGI due to persecution in their home country, lack of a supportive community and lack of access to resources (Recommendation 6).

A second point relates to the standards by which SOGI is established.

The report provides several instances whereby Western/Eurocentric cultural norms appear to be the standard used to define SOGI. Such norms are not universal, and refugee claimants originating from non-Western and non-European cultures cannot be expected to know or subscribe to them. The Immigration and Refugee Board (IRB) should recognize such biases and make a conscious effort to avoid them (Recommendation 8).

We understand that the IRB is currently developing SOGI guidelines, and we look forward for these concerns to being addressed.

3) Settlement in Canada

A. Housing

There are clear gaps in settlement and support services for LGBT refugees. It is difficult for claimants to access safe housing and other necessary social services.

Hostel and shelter service providers need to be responsive to the unique and specific housing needs of LGBT refugee claimants, especially to ensure the safety and security of Transgender/Transsexual/ Two-spirited people (Recommendation 17).

There have been some improvements in this regard. The City of Toronto recently revised its Shelter Standards and introduced provisions to better support LGBT clients into account.

Often, LGBT refugees are confronted with intersectional challenges, including poverty, low social capital, ability, racial discrimination, and homo/trans/bi –phobia.

The Province of Ontario needs to ensure that all municipalities make access to affordable housing, including shelter services, a priority for LGBT refugees in particular, given their extensive vulnerabilities (Recommendation 19).

B. Employment

Numerous studies, including this one, have highlighted the complex challenges of being a new immigrant and racialized, with the primary challenge being finding non-precarious

and better-paying employment. Many participants in this study had a difficult time finding stable forms of employment and spoke about facing discrimination in employment and other areas because their documents identify them as refugees. Many were refused employment because employers often require ‘Canadian experience.’

We urge that employers, unions, regulatory bodies and government agencies heed the Ontario Human Rights Commission’s recommendation to consciously and actively work to remove the ‘Canadian experience’ barrier that places refugees at a disadvantage and which the OHRC clearly identifies as a discriminatory practice (Recommendation 22).

We are pleased with the recent announcement that Ontario is setting up an Anti-Racism Directorate. Mandatory employment equity legislation to bring about racial equity in the labour market could be one of the priorities for the new Directorate.

C. Mental Health

LGBT refugees and claimants are at significantly higher risk of mental health problems. The claims process itself increases stress levels and contributes to mental health issues. In addition, past trauma and uncertainty about the future make it hard for LGBT claimants to cope. There is a need for counselling and mental health services with specialized training on LGBT refugee issues to support LGBT refugees. However, mental health services for refugee claimants are under-resourced.

The federal and provincial governments need to increase resource allocations to counselling and mental health support services that are sensitive to, and aware of, LGBT asylum seeker issues in order to improve access to services pre, during and post the Basis of Claim (BOC) process, given the traumatizing effect this has on the mental health of many LGBT refugee claimants (Recommendation 25).

4) Service Providers

Federal government funding for immigrant and refugee settlement services has been cut in recent years, with the exception of Quebec. The federal funding formula, based on a three-year rolling average of permanent resident arrivals has seen further funding cuts in certain regions of Canada, including Ontario which receives the largest number of refugees. Service stability was affected as a result. Often, specialized services to vulnerable populations such as sexual/gender minorities tend to be at the greatest risk.

Specialized LGBT services for asylum seekers and refugees need to be better funded and resourced to meet the high demand for such services (Recommendation 34).

Workers in the refugee and immigrant-serving sector, particularly intake workers who are on the frontlines, play an important role in providing information and referrals to LGBT refugees as well as support them in making needed connections, accessing services and building a support network. It is critical that these spaces become and remain safe and LGBT-positive.

Mainstream settlement and resettlement service organizations for immigrants and refugees need to provide ongoing training for staff, volunteers, interns and members that addresses homo-bi-transphobia using an anti-oppression lens. With training and better funding mainstream services can more readily provide services for LGBT populations (Recommendation 32).

For example, Positive Spaces Initiative developed by OCASI is a good sector capacity building model that could be adopted across Canada's different regions.

5) Intersections of Oppression

Homo-bi-transphobia intersect with discrimination based on race, gender, class, ability and religion to create deeply personal and complex experiences. These intersecting issues need to be addressed in considering support services and to assess to what extent LGBT refugees can find a safe haven in Canada. Policy and decision makers as well as services supporting LGBT refugees need to look at LGBT asylum issues using a critical race analysis that considers how experiences of homo-bi-transphobia intersect with experiences of racism.

All levels of government, human rights agencies and employers, unions, regulatory bodies and government agencies need to draw attention to and address racism in the work setting and how this disproportionately affects racialized refugees, including LGBTs, who are further stigmatized (Recommendation 23).

In short, these were selected recommendations that emerged from the study. You will find in the report the full list of 37 recommendations. We call on all concerned stakeholders to read the report and act on these recommendations. This is the beginning of a conversation, and we hope that the study and recommendations will prompt further dialogue, research, and action. Thank you for your attention.