

Responding to LGBT forced migration in East Africa

Gitta Zomorodi

Following the passage of Uganda's Anti-Homosexuality Act in December 2013, hundreds of LGBT individuals fled to Kenya seeking safety.

Over the past decade, lesbian, gay, bisexual and transgender (LGBT) Ugandans have sought safety and asylum in various countries but never in such numbers or with such a high degree of visibility as following the passage of Uganda's Anti-Homosexuality Act in December 2013. Data provided by UNHCR (the UN Refugee Agency) and other service providers in Kenya indicate that at least 400 LGBT Ugandans sought safety and asylum in Kenya between January 2014 and February 2015. The overwhelming majority of those identified were in their late teens or early twenties and identified as gay men. In addition to asylum seekers, there were also reports of LGBT Ugandans relocating temporarily to Kenya, both legally – by passing through an official border checkpoint – and illegally.

International donors, local organisations and refugee service providers including UNHCR struggled to respond. Meanwhile, the Kenyan government had initiated a series of severe measures affecting refugees in Kenya.¹ Given the complexities of the push and pull factors involved, as well as the challenging context in Kenya, stakeholders must consider a variety of strategies both to address the causes of the outflow from Uganda and to respond to the current needs of LGBT forced migrants in Kenya.²

Push and pull factors

While the Anti-Homosexuality Act was the most obvious motivating factor, the unprecedented exodus of LGBT Ugandans cannot be attributed solely to its passage. There were many pre-existing push factors in Uganda but these were exacerbated by the perceived green light for discrimination and abuse given by the law's passage. Ugandan organisations working with the LGBT community documented an overall increase in 2014 in reported threats and

incidents of violence, blackmail, media 'outings', loss of employment, and expulsion from school.³ A widely held belief that the Anti-Homosexuality Act required citizens to turn in suspected LGBT individuals led to pre-emptive family rejections, evictions and reports to the police even before the bill was signed into law. At the same time, under threat of the law's clause outlawing 'promotion' of homosexuality, many organisations providing services to the LGBT community initially suspended or scaled back their programmes. Demands to support the relocation and welfare of LGBT individuals experiencing threats were beyond the capacity of such organisations.

The annulment of the Anti-Homosexuality Act by Uganda's High Court in August 2014 did little to change the hostile environment. Some Ugandan activists suggested that, since the law was struck down on a technicality and not because of its substance, its nullification emboldened the public to take matters into their own hands. This was reinforced by Ugandan members of parliament petitioning for the bill's re-introduction and by reports in November 2014 of politicians considering a new law targeting the LGBT community, the Prohibition of Promotion of Unnatural Offences Bill. While specific incidents of arrest or violence played a large role in driving individuals' migration, in the general climate of fear created by the bill others simply did not want to wait for something to happen.

In Kenya, UNHCR and its partners initially prioritised the unexpected new caseload and expedited the resettlement of LGBT Ugandans. In a country where refugees wait years hoping for resettlement, at least one Ugandan case sped through in a record eight months between entry into Kenya and resettlement to the United States. For those who chose not to go to Kakuma refugee camp, a UNHCR partner provided a monthly

stipend, at first made available to all LGBT Ugandan asylum seekers in Nairobi. Several Kenyan LGBT-led organisations made their pre-existing services available to the new arrivals or created new programmes to address their specific needs. The services and support available in Kenya and the rapid processing by UNHCR acted as increasingly powerful pull factors as news of these resources made its way back to Uganda. This draw may have been especially strong for young LGBT Ugandans whose education and employment opportunities are limited by stigma and discrimination, and whose lack of social safety nets makes them particularly vulnerable.

Challenges

LGBT Ugandans who fled to Kenya expecting a safer, friendlier environment and automatic passage to the West were quickly disillusioned. In terms of homophobic attitudes, Kenya differs little from Uganda, and Kenya also has anti-sodomy laws used to harass and arbitrarily detain LGBT individuals. In Kakuma, LGBT Ugandans reported discrimination by staff of UNHCR implementing partners and by the police, threats and harassment from other refugees, and physical attacks. Most moved into 'protection areas' which offered more safety but also increased their visibility.⁴

Those in Nairobi fared little better. The Kenyan government's encampment policy makes it illegal for asylum seekers or refugees to live outside designated refugee areas, meaning those found by the police outside those areas face fines and imprisonment; at the same time, the government's anti-terrorist stance has made all foreigners in Kenya more vulnerable to arrest, detention, abuse and deportation. LGBT Ugandans struggled to find safe, affordable accommodation. Some were reported to the police by their neighbours or experienced violent attacks. Despite access to financial and social assistance from UNHCR and other organisations, many LGBT Ugandans found it difficult to support themselves in Kenya's comparatively expensive environment where they have no legal right to work.

The initial prioritisation of all Ugandan LGBT cases by UNHCR and provision of

financial assistance to those in Nairobi fostered the belief that all Ugandan LGBT asylum seekers would receive the same support, regardless of differing levels of vulnerability, and that seeking asylum in Kenya was a sure route to quick resettlement. But with a growing caseload and limited financial resources, UNHCR and its partners were forced to reconsider whether they could sustain this approach. Allegations of human smuggling and asylum fraud further complicated circumstances. By the end of 2014, UNHCR and its partners no longer automatically categorised all LGBT Ugandans as vulnerable but instead began assessing needs on a case-by-case basis.

UNHCR increasingly looked to Kenyan LGBT organisations to provide humanitarian aid to the Ugandan migrants but the forms of assistance that UNHCR hoped they would provide, and that migrants demanded, had not been part of these groups' programmes, even for LGBT Kenyans. Kenyan LGBT groups that did extend their existing services to the Ugandans, such as health services and counselling, or that created temporary housing and assistance programmes for them, faced significant strains on their human and financial resources. Many also feared that providing services to a population in Kenya possibly illegally could endanger their work, and worried that heightened attention to the LGBT community more generally could jeopardise the gains made by the Kenyan LGBT movement. Meanwhile, in Uganda organisations working with the LGBT community, while deeply concerned for the well-being and safety of those in Kenya, felt that providing direct support across the border was beyond their capacity and jurisdiction.

The situation was exacerbated by international activists who launched fundraising appeals, sent funds to enable LGBT Ugandans to flee to Kenya, and made promises to help them 'escape' to a safer life. The migrants had high expectations of their helpers and, as refugee processing times lengthened, the challenge became how to support a group so focused on resettlement to become self-sustaining.

May 2016

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Recommendations

Information dissemination is critical for helping individuals make informed decisions. Ugandan LGBT organisations should provide reliable and accurate information on the asylum-seeking process, the realities of refugee camp life, risks in Nairobi, and chances of resettlement. This information should be integrated into legal and protection trainings for LGBT activists and organisations, and disseminated to LGBT community members through informal networks, using social media, and ensuring outreach to rural and poor LGBT people. International allies should provide the same information and messages as local organisations to those seeking assistance.

In order to determine how to make temporary relocation to Kenya, and other countries in East Africa, a safer and more viable option, LGBT-led organisations working in the region should collaborate in assessing risks, identifying and mapping relocation possibilities, and developing more proactive and structured means of communication. Ugandan organisations should also assess whether 'know your rights' trainings in-country have had their intended impact.

Donors and local organisations should a) assess current funding and programmatic priorities to determine if they address the vulnerabilities that lead to asylum seeking or migration; b) explore opportunities to support and expand programmes on health, psychosocial support and livelihoods; and c) more explicitly examine how a greater focus on these issues could bolster the protection and security of LGBT community members.

In Kenya, refugee service providers and LGBT organisations working with forced migrants should provide more information to new arrivals about their options and not immediately advise individuals to seek asylum, as many assume it will lead directly to resettlement in a third country. Resettlement is not and cannot be the solution for all LGBT forced migrants.

Donors and groups in the region should support LGBT refugee groups in organising themselves and in their work to

identify their needs, priorities and possible solutions. Support from local advisors, such as Kenyan LGBT groups and refugee service providers, is vital for providing knowledge on the local context (such as how to get work permits, access services and identify safer neighbourhoods) and help with personal security strategies, and for referrals to LGBT-friendly service providers.

Given resettlement processing times and the fact that not all refugees will be resettled, there needs to be support for scattered-site housing options in Kenya and the development of training and income-generation programmes. It should be borne in mind, however, that protection strategies that may work for a small number of LGBT asylum seekers may be difficult to scale up or sustain with larger numbers.

Sensitivity training for refugee service providers and local LGBT partners is critical to ensure that services are accessible and responsive to the particular needs of this community. More work needs to be done to engage Kenyan police and to sensitise community and faith leaders, particularly in the refugee camps, to reduce stigma and harassment.

Joint mapping of roles and resources by LGBT organisations in both Uganda and Kenya would help to build a picture of the overall needs related to the situation and to identify funding gaps. This should also strengthen their ability to address problems, to plan ahead and to advocate jointly – to UNHCR, service providers and funders.

Gitta Zomorodi gittazomorodi@gmail.com
Human rights and philanthropy consultant.

1. See Wirth A (2014) 'Reflections from the encampment decision in the High Court of Kenya', *Forced Migration Review* issue 48 www.fmreview.org/faith/wirth
2. Based on research conducted between December 2014 and May 2015, commissioned by the Global Philanthropy Project <http://globalphilanthropyproject.org/>. Full report available at: <http://tinyurl.com/Zomorodi-2016-east-africa> See also *Forced Migration Review* issue 42 on 'Sexual orientation and gender identity and the protection of forced migrants' www.fmreview.org/sogi
3. See HRAFPF (2015) *Uganda Report of Violations Based on Gender Identity and Sexual Orientation* <http://hrapf.org/publications/research-papers/>
4. See Freccero J (2015) 'Sheltering displaced persons from sexual and gender-based violence', *Forced Migration Review* issue 50 www.fmreview.org/dayton20/freccero