



COMMITTEE ON SEXUAL ORIENTATION AND GENDER DIVERSITY

# *LGBTQ Asylum Seekers*

## HOW CLINICIANS CAN HELP

### CHALLENGES AND COMPLICATIONS

#### Increased Numbers of LGBTQ Asylum Seekers

In recent decades, the global population of refugees and asylum seekers has increased substantially (UNHCR, 2018). This has coincided with global nationalist trends that have led to greater scrutiny of and hostility towards immigrants, refugees, and asylum seekers. Immigration Equality, an LGBTQ immigrant rights organization that handles asylum cases, reports a record caseload due to the worldwide persecution of LGBTQ people. According to their website ([bit.ly/2GYBzkH](https://www.immigrationequality.org/)), "Over the last 20 years, the largest percentage of our clients has come from the Caribbean and Latin America, but, as conditions deteriorate for LGBTQ and HIV-positive people around the world, the number of individuals reaching out to us from Russia, the Middle East, and Sub-Saharan Africa has increased."

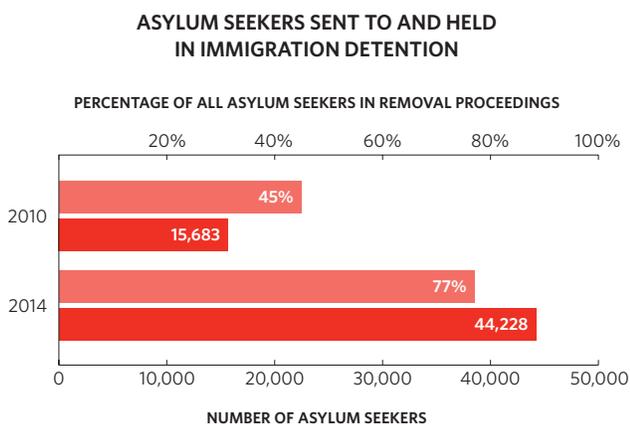
Why do LGBTQ people seek asylum? In many countries, including Jamaica, Iran, and Sudan, LGBTQ individuals are persecuted, imprisoned, and sometimes sentenced to death based on their sexual orientation or gender identity (Itaborahy & Zhu, 2014). In addition, transgender individuals may be victims of forced sterilization or castration, so-called "corrective rape," domestic violence, forced sex work, institutionalized violence at the hands of the police, and death (Bach, 2013; Morales, Corbin-Gutierrez, & Wang, 2013; Nakamura & Morales, 2016; Reading & Rubin, 2011).

## The Complexity of the U.S. Asylum Process

The U.S. recognizes LGBTQ identity, as well as HIV status, as grounds for political asylum (Tiven & Neilson, 2016). However, the process of seeking asylum as a sexual minority or transgender individual is complicated. LGBTQ asylum seekers have likely concealed their sexual orientation or gender identity for safety reasons (Heller, 2009). To gain asylum, they must put their LGBTQ identity on display to convince decision makers they are in fact LGBTQ and would be persecuted in their home country (Heller, 2009). This ignores the fact that they may also face discrimination in their ethnic immigrant communities and in mainstream U.S. society if others are aware of their LGBTQ identity (Heller, 2009). In addition, the asylum process requires asylum seekers to prove that they have suffered past persecution or have a “well-founded fear of persecution,” a process that can be retraumatizing (Reading & Ruin, 2011). Disclosing sexual violence, complying with the compressed timelines for filing for asylum, and feeling forced to come out before they are ready can be psychologically damaging for LGBTQ asylum seekers (Kahn & Alessi, 2017).

## Increased Detention of Asylum Seekers and the Additional Vulnerability to Transgender Asylees

The detention of asylum seekers has skyrocketed. The number of asylum seekers sent to and held in immigration detention has increased nearly threefold from 2010 (15,683; 45% of all asylum seekers in removal proceedings) to 2014 (44,228; 77% of all asylum seekers in court proceedings) (Human Rights First, 2016).



LGBTQ people who have been detained often experience mental health challenges (Alessi, Kahn, & Chatterji, 2015; McCauley & Brinkley-Rubenstein, 2017; Shidlo & Ahola, 2013). Detention comes with increased stress and anxiety. Transgender asylum seekers are especially vulnerable in these situations, and many face additional violence based on their gender identity (e.g., being abused in detention centers) (Bach, 2013; Gruberg, 2013; Nakamura & Morales, 2016).

**Transgender detainees who do not have their gender affirmed in the way they are treated or with appropriate medical care may experience negative physical and psychological consequences.**

According to the American Civil Liberties Union, 20% of confirmed sexual abuse cases in the custody of U.S. Immigration and Customs Enforcement involve a transgender detainee. Abuses are perpetrated by both peer detainees and detention officers. Transgender women are 13 times more likely to be sexually assaulted than other detainees, and in a misguided effort to address or prevent this form of violence, many transgender detainees are placed into “administrative segregation,” which is essentially solitary confinement and can exacerbate any preexisting psychological problems (McCauley & Brinkley-Rubenstein, 2017; Tabak & Levitan, 2013). Moreover, placing LGBTQ people in solitary confinement to isolate them from others is considered a form of torture according to the United Nations.

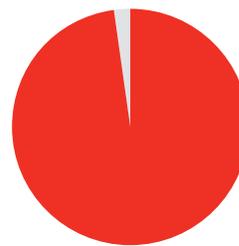
In addition to risk of violence and isolation, transgender detainees face confinement with people of a gender they do not identify with. Also, they often do not receive adequate, trans-affirming health care. Transgender detainees who do not have their gender affirmed in the way they are treated or with appropriate medical care may experience negative physical and psychological consequences. Their self-esteem may be affected, which can result in depression, social isolation, self-harm, and suicidal ideation (McCauley & Brinkley-Rubinstein, 2017). Many transgender immigrants experience psychological problems (e.g., depression, anxiety, posttraumatic stress disorder) because of the trauma faced in their home countries and in detention centers (Chavez, 2011; Robjant, Hassan, & Katona, 2009; Shidlo & Ahola, 2013).



## OPPORTUNITIES HOW CLINICIANS CAN HELP

### Helping Asylum Seekers Cope With Trauma and Navigate Systems

Clinicians can assist asylum seekers by preparing them to give their testimony or helping them cope with past traumas and retraumatization (Reading & Rubin, 2011). LGBTQ asylum seekers experience higher rates of sexual violence, persecution in childhood, persecution by family members, and suicidal ideation than asylum seekers who are not LGBTQ (Hopkinson et al., 2017). In a retrospective chart review of self-identified lesbian, gay, and bisexual patients who sought asylum, 98% had experienced persecution because of their sexual orientation, 84% were survivors of torture, and all had symptoms of depression and anxiety (Piwowarczyk, Fernandez, & Sharma, 2017).



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Alessi and Kahn (2017) recently published a framework for clinical work with LGBTQ asylum seekers. This includes establishing safety and stability for the client in both the treatment setting and the broader environment. It is especially relevant for clinicians to be mindful of past rejection and abuse the client may have experienced that can challenge the therapeutic relationship.

Clients may face stigma for seeking treatment (Kahn, Alessi, Kim, Woolner, & Olivieri, 2018) and require assurances about privacy and confidentiality. They may need to be connected to legal services to help with their asylum claim and to social services for basic needs such as food and housing, since they are not legally permitted to work in the United States while their asylum case is pending. In addition to helping clients prepare to give their persecution narrative as a part of their asylum case, therapists may also provide

counseling to those whose asylum claim has been granted. Such clients may need support to process their loss of family, community, and/or country. They may also need support with integrating into U.S. society and building new social networks.

### **Understanding Assessment vs. Therapeutic and Advocacy Roles**

When in a therapeutic relationship, clinicians may play important roles as advocates whose professional perspective on their clients' history and present circumstances can support their clients' asylum claims. In this role, clinicians must be clear about their goal of helping clients as well as their intention to educate legal professionals about their clients' history to support immigration claims. The painful nature of traumatic experiences often makes it difficult for people to disclose details of their traumatic past. The therapeutic relationship provides a safe, healing space in which clients can discuss their history and emotional experience. Critical elements that arise in the context of a therapeutic relationship may greatly contribute to the strength of an asylum claim. Clinicians therefore have an important opportunity to report and contextualize a client's history to support a client's right to safety.

Clinicians should be mindful to not engage in double roles. The assessment for asylum purposes is a role for a specialized psychologist who has been trained to conduct evaluations for immigration court. Forensic psychologists may be called to evaluate LGBTQ asylum seekers, and if the client meets criteria for the psycholegal standards of asylum or other forms of legal relief available. The forensic psychologist may write affidavits or testify and educate the court about the many manifestations of trauma on their behalf. The evaluation of trauma for asylum seekers involves a neutral stance and highly specialized examinations focused on the trauma of persecution in the asylum seeker's home country, however a well-trained trauma-informed forensic psychologist must be prepared to listen to what may be the first-time disclosure of substantive material making the interaction a cathartic event for the client. The forensic psychologist works to inform and educate the court and works closely with the client's legal representative. For those in need of legal relief who lack financial resources, pro bono forensic services exist. However, these services are often saturated due to the great demand and in some cases, there are time pressures to complete the documentation.



When in a therapeutic relationship, clinicians may play important roles as advocates facilitating their professional perspective about their client's past experiences and current presentation. In doing this, clinicians must be clear on their goal of helping their clients and in their intention of educating legal professionals about the client's own history and presentation to support their immigration claim. There are critical elements of a client's history and emotional experience that often arise within a trusting and safe therapeutic relationship which may greatly contribute to the strength of an asylum claim. Due to the common reaction of avoidance in discussing painful traumatic experiences, people are more likely to disclose important details of their past after a meaningful rapport has been established. It is therefore an important opportunity for the clinician who holds this context to support their client's right for safety, facilitate accurate documentation of these details, and encourage or coordinate disclosure to legal advocates.

For many asylum seekers who lack financial resources, pro bono forensic services exist and should be sought by legal professionals *and* clinicians to support their client's case. However, there is overwhelming demand for these services, and in some cases, time pressures to complete the documentation increase the likelihood that a forensic evaluation will not be completed on time.

### **Promoting Resiliency**

Despite the trauma experienced by LGBTQ asylum seekers and the challenges they have faced, many exhibit a great deal of resiliency (Alessi, 2016; Hopkinson et al., 2017; Nakamura & Morales, 2016). Many LGBTQ asylees cope through staying hopeful and positive, using legal and community services, receiving support from loved ones, drawing on their religious faith, or giving back to help others (Alessi, 2016; Cerezo, Morales, Quintero, & Rothman, 2014; Nakamura & Morales, 2016).

The process of migration and leaving everything behind and the act of applying for asylum require a great deal of courage. A comprehensive perspective that includes resiliency is recommended to help the LGBTQ asylum seeker identify with narratives of strength through adversity rather than victimization. Culturally relevant psychosocial interventions can help LGBTQ asylees identify their strengths and resilience rather than focusing on pathology. With support, LGBTQ persons can successfully overcome trauma, adapt to their new environment, and lead full lives.

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