Blind Alleys

PART II
Country Findings: Mexico

February 2013

The Unseen Struggles of Lesbian, Gay, Bisexual, Transgender and Intersex Urban Refugees in Mexico, Uganda and South Africa

RAM

Organization for Refuge, Asylum & Migration

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Cover art is by **Marconi Calindas,** an accomplished Filipino artist based in San Francisco. His paintings use vibrant colors and lines to express social and environmental concerns. The cover art, "To Carry You," emphasizes the support that LGBTI refugees desperately need on the complex path to safety. More information about the artist is available at www.marconicalindas.com.

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Blind Alleys

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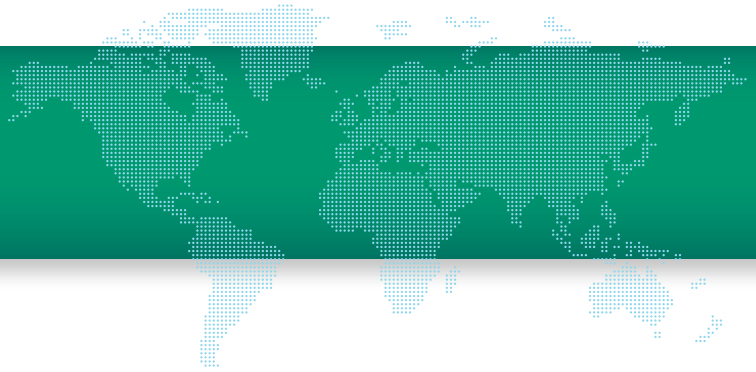

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Glossary of Terms

SEXUAL ORIENTATION AND GENDER IDENTITY

Bisexual refers to an individual who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with people regardless of their gender or sex.[1]

Gender Identity is each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.[2]

Gay refers to a self-identifying man who has the capacity for profound emotional, affectional and/or sexual attraction to and/or intimate sexual relations primarily with other men.[3]

Homophobia refers to a hatred or fear of homosexuals – that is, lesbians and gay men – sometimes leading to acts of violence and expressions of hostility.[4]

Intersex refers to a person who is born with reproductive or sexual anatomy and/or chromosome patterns that do not fit typical definitions of male or female.[5]

Lesbian refers to a self-identifying woman who has the capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations primarily with other women.[6]

LGBTI is the acronym for "lesbian, gay, bisexual, transgender, and/or intersex."

Sexual Orientation refers to a person's capacity for profound emotional, affectional, and/or sexual attraction to and/or intimate and sexual relations with individuals of a different gender, the same gender, or more than one gender.[7]

Sexually and Gender Non-conforming (SGN) is an umbrella term used to refer to individuals whose sexual practices, attractions, and/or gender expression are different from the societal expectations based on their assigned sex at birth.[8]

Transgender is "[a]n umbrella term for people whose gender identity, expression, or behavior is different from those typically associated with their assigned sex at birth."[9]

A ***transgender woman*** is a person who was assigned male at birth but identifies as a woman.[10]

A ***transgender man*** is a person who was assigned female at birth but identifies as a man.[11]

Transphobia refers to negative attitudes and feelings toward transgender people. Transgender people feel that their gender identity (self-identification) does not correspond to one's assigned sex (identification by others as male or female based on genetic sex).[12]

1 *See Media Reference Guide – Transgender Glossary of Terms,* Gay & Lesbian Alliance Against Defamation (GLAAD), [hereinafter *GLAAD Guide*] http://www.glaad.org/reference/lgb_(last visited Nov. 5, 2012).

2 Int'l Comm'n of Jurists, The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity 6 n.2 (2007), *available at* http://yogyakartaprinciples.org/principles_en.pdf (last visited Nov. 5, 2012).

3 *GLAAD Guide, supra* note 1.

4 *Homophobia,* Anti-Defamation League, http://www.adl.org/hatepatrol/homophobia.asp

5 *FAQ,* Advocates for Informed Choice, http://aiclegal.org/faq (last visited June 6, 2012)

6 *GLAAD Guide, supra* note 1.

7 Int'l Comm'n of Jurists, The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity 6 n.1 (2007), *available at* http://yogyakartaprinciples.org/principles_en.pdf.

8 *See Trans Basics: Glossary of Terms,* Gender Identity Project of The Lesbian, Gay, Bisexual, & Transgender Community Center, http://www.gaycenter.org/gip/transbasics/glossary (last visited Nov. 5, 2012).

9 Nat'l Ctr. for Transgender Equal., Transgender Terminology 1 (2009), available at http://transequality.org/Resources/NCTE_Trans-Terminology.pdf.

10 *Id.* at 1.

11 *Id.*

12 *GLAAD Guide,* supra note 1.

REFUGEES AND ASYLUM

An ***asylum seeker*** is someone who has applied for or is in the process of seeking asylum from the government of the country of asylum, but who has not yet been granted that status.

Information Systems refer to the combination of people, processes, data, and technology. A website with job postings is an example of an information system.

Persecution, for the purposes of this report, refers to serious harm or threats of harm perpetrated on account of race, religion, nationality, political opinion, or membership of a particular social group. There is no universally accepted definition of "persecution." Threats to life or freedom and/or other serious human rights abuses always amount to persecution; however, lesser harms or threats may cumulatively constitute persecution. Adjudicators should generally apply a totality-of-the-circumstances test to assess persecution.[13]

A ***refugee*** is a person "who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."[14]

Refugee Status Determination (RSD) is the process through which state officials in the country of asylum or UNHCR determine if an asylum seeker is a refugee based on "eligibility criteria under international or regional refugee instruments, national legislation or UNHCR's mandate."[15]

Social Network refers to a group of individuals who share a commonality. The common element of the social networks discussed in this report is the bond between refugees based on their common SGN status.

ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
COMAR	Commission for Refugee Aid *(Comisión Mexicana de Ayuda a Refugiados)*
CONAPRED	National Council to Prevent Discrimination *(Consejo Nacional para Prevenir la Discriminación)*
HIV	Human Immunodeficiency Virus
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
NGO	Nongovernmental Organization
ORAM	Organization for Refuge, Asylum & Migration
PRM	U.S. Department of State's Bureau of Population, Refugees, and Migration
INM	Mexican Institute of Migration *(Instituto Nacional de Migración)*
RSD	Refugee Status Determination
SGN	Sexually and Gender Nonconforming
SGBV/P	Sex and Gender Based Violence or Persecution
UNHCR	United Nations High Commissioner for Refugee

13 UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, ¶ 51, U.N. Doc. HCR/IP/4/Eng/REV.1 (1992).

14 Convention Relating to the Status of Refugees art. 1 § 2, July 28, 1951, 189 U.N.T.S. 150.

15 UNHCR, Self-Study Module on Refugee Status Determination 2 (Sept. 1, 2005), http://www.unhcr.org/refworld/pdfid/43141f5d4.pdf.

I. *Executive Summary*

In Latin America, Mexico's laws are among the most protective of SGN[16] people, particularly in Mexico City. This progressive trend in legislation is unfortunately not supported by adequate enforcement and does not necessarily translate to better conditions for SGN refugees. Protection gaps undermine the ability of SGN refugees to access rights and services to which they are entitled and impact their survival in Mexican society. To better understand these challenges and develop effective solutions, ORAM – Organization for Refuge, Asylum & Migration conducted a series of interviews with SGN refugees, NGO staff, and other stakeholders.

In the interviews, SGN refugees reported mixed experiences with the Mexican authorities. Many refugees described their interactions with state agents positively, but also recounted discrimination that they often simply normalized. Some recounted extortion or attempted extortion by the police, which they perceived as a fact of life. One NGO interviewee suggested that despite the positive legal environment, "[Mexicans] are accustomed to the idea that lesbians and gays have no rights." SGN refugees can be severely harmed by police inaction, particularly in detention. Refugees reported being beaten by other detainees with no reaction from guards.

The SGN refugees interviewed experienced abuse not only by criminal gangs, but also at the hands of other migrants. The most serious non-state actor abuses in Mexico were attacks along migratory routes by criminal gangs and other migrants. Many of the interviewees traveled alone or with other SGN migrants, thus heightening their vulnerability. Consistent with the interviewees' reports, stakeholders identified transgender women as being particularly vulnerable. While many of the interviewed SGN refugees reported that their environment in Mexico was an improvement over their countries of origin, many still expressed feelings of isolation and a lack of community in Mexico. Discrimination in the job market against sexual minorities remains an obstacle for SGN refugees, and can serve either as a barrier to hiring or as a reason for dismissal. As a result, SGN refugees suffer from lack of employment opportunities, though most interviewed had obtained at least part-time legitimate work.

While these interviews reveal many problems faced by SGN refugees in Mexico, they also provide guidance on how protection of this vulnerable population can be improved. To this end, ORAM has developed a detailed set of recommendations aimed at improving the quality of services intended for SGN refugees and closing the existing protection gaps, as presented in Part II of this report.

This publication introduces the term "sexually and gender nonconforming" ("SGN") to refer to refugees of variant sexual orientations and gender identities. "SGN" is offered as an alternative to the prevalent Western agglomeration "LGBTI" (Lesbian, Gay, Bisexual, Transgender, and Intersex). While the LGBTI rubric has been adopted in many communities worldwide, most members of sexual and gender minorities are either unaware of the terminology or actively avoid such self-identification. "SGN" is an attempt to encompass all sexual and gender minority refugees, including those who do not conform to Western constructs.

16 The acronym "LGBTI" is used increasingly in the refugee field to refer collectively to individuals of variant sexual orientations or gender identities. See, e.g., U.N. High Comm'r for Refugees, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, U.N. Doc. HCR/GIP/12/01 (Oct. 23, 2012), available at http://www.unhcr.org/refworld/docid/50348afc2.html. The "LGBTI" agglomeration is based on modern Western constructs which are unknown or are avoided in many areas of the world. "LGBTI" further presumes that members of its constituent groups identify within the fixed categories of "lesbian," "gay," "bisexual," "transgender," and "intersex." In actuality, SGN persons worldwide are largely unfamiliar with or decline to adopt these identities. When refugee adjudicators and others require conformance to these narrow categories in order to qualify applicants as "members of a particular social group," those who do not conform may be excluded from protection. See Laurie Berg & Jenni Millbank, Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants, 22 J. REFUGEE STUD. 195 (2009).

II. *Purpose of Study and Methodology*

To identify protection gaps and major issues facing LGBTI asylum seekers and refugees in Mexico, ORAM conducted interviews in Mexico City with a wide variety of stakeholders:

- SGN asylum seekers and refugees
- Human rights authorities and government asylum authorities
- Police, educational, and health authorities
- Local NGOs and service providers
- International refugee NGOs
- SGN organizations and community members

This research was designed and conducted by ORAM to develop field-based tools to enhance the identification and protection of SGN refugees. Researchers sought to find links between SGN social and support networks, on the one hand, and those specialized in human rights, migration, and asylum issues, on the other. Researchers also examined ways in which networked organizations and advocates achieved their protection and service goals.

ORAM also conducted desk research on background country conditions and key protection gaps for the SGN community in general and SGN refugees in Mexico in particular. Its investigations identified stakeholders and local organizations in Mexico City relevant to the study. ORAM staff then solicited these stakeholders for interview participants and referrals.

Since the research was conducted on site and in the field, *i.e.*, in the clandestine areas of transit with mixed migration flows, the support of governmental agencies and non-governmental organizations was essential. In this regard, Sin Fronteras I.A.P. deserves special mention and gratitude. This non-profit organization, which has provided legal aid, psychological support, and social assistance to migrants and refugees in Mexico City since 1995, facilitated much of ORAM's contact with SGN refugees, asylum seekers, and other migrants.

From November 2011 to February 2012, ORAM staff conducted forty-six in-depth and in-person interviews with SGN international migrants, service providers, government-agency representatives, NGOs, and agencies in Mexico.[17] All interviews followed thematic questions and were conducted in Spanish. In forty-two cases, interviews were audio and/or video recorded with research participant permission, and the strictest standards of confidentiality were upheld in the documentation and collection of those interviews. Immigration authorities were reluctant to participate in this study: only one agreed to participate with a request not to be recorded. Two other governmental authorities, one from the National Commission on Human Rights and one from the Federal District Attorney's office, agreed to be interviewed

17 Interviews cited in this report are coded in the following way: Country abbreviation – Interviewee identity abbreviation & Number interview with that particular Identity within that country. For example: MX - G1 means the interview is from Mexico and it is the first interview with a gay refugee. The following country abbreviations are used in this report: South Africa = SA; Uganda = UG; and Mexico = MX. The following identity abbreviations are used in this report: G = gay; L = lesbian; TW = trans woman; TM = trans man; and S = stakeholder.

ASYLUM SEEKERS ENTERING MEXICO

Source: UNHCR Statistical Online Population Database.
All figures based on average number of asylum seekers entering Mexico annually between 2008 and 2011.

Most of the SGN refugees, migrants, and asylum seekers interviewed were not in transit through Mexico; they had settled there on a more permanent basis. Most had lived in Mexico for more than a year, and a few of them had recently been granted refugee status.

but declined to be recorded. Those interviews are not presented within the data for this study. However, the interviews did yield further insight and contacts for researchers.

Of the forty-six recorded interviews, thirty-two were conducted with stakeholders, including UNHCR staff as well as local and international NGOs, fourteen interviews were conducted with SGN refugees, asylum seekers, and migrants. Most of the SGN refugees, migrants, and asylum seekers interviewed were not in transit through Mexico; they had settled there on a more permanent basis. Most had lived in Mexico for more than a year, and a few of them had recently been granted refugee status.

All interviews were transcribed and translated into English by ORAM staff and volunteers. Once interviews were completed, the data were compiled for analysis. Interview transcripts were analyzed to compare responses, determine patterns in protection gaps, and identify best practices. Information gathered during interviews was coded by thematic protection area in a large database identifying language, gender, gender identity, sexual orientation, asylum access, deportation experience, detention experience, immigration status, police protection, violence from non-state actors, housing, medical care, mental health care, employment, sex work, legal and social service provisions, religious or communal organizational support, and social networking information. These themes form the basis of the report findings and recommendations.

III. *Asylum Context*

Photo by Andreas Nilsson
http://www.flickr.com/photos/andreasnilsson1976/287955203/

Mexico is a final-destination country for a modest number of refugees. UNHCR reported that as of January 2012, there were 1,677 refugees and 631 asylum seekers residing in Mexico, for a total population of concern of 2,313.[18] The largest number of asylum applications in 2010 came from India, followed by El Salvador, Honduras, Colombia, Guatemala, Sri Lanka, Cuba, and Haiti.[19] An overwhelming majority of individuals fleeing persecution and traveling to Mexico are in transit to other countries, notably the United States or Canada.

Mexico has enacted significant protections for refugees – although, as the findings reveal, much remains to be done to successfully implement these laws. On January 26, 2011, Mexican President Felipe Calderon signed the Law on Refugees and Complementary Protection.[20] The legislation institutes protective practices and rights for refugees, such as permission to work, access to health services and insurance, access to education, and recognition of educational qualifications.[21] With the 2011 Refugee Protection Law, refugees are now entitled to the benefit of "important principles such as non-refoulement; non-discrimination; no penalty for irregular entry; family unity; best interest of the child; and confidentiality."[22] In addition, the 2011 Refugee Protection Law brings the definition of refugee into conformity with the 1984 Cartagena Declaration on Refugees, because "it considers gender as grounds for persecution."[23] On February 21, 2012, new regulations for the Law on Refugees and Complementary Protection (*Ley Sobre Refugiados y Protección Complementaria*) were published.

In Mexico, applications for refugee status are initially submitted to the Mexican Commission for Refugee Aid (*Comisión Mexicana de Ayuda a Refugiados,* hereinafter COMAR). COMAR protection officers conduct the necessary research on country of origin information as well as processing claims.[24] COMAR also provides the following institutional assistance to refugees in Mexico: Spanish lessons, welfare programs, applications for the arrival of family members to Mexico, and employment training, to name a few.[25] Simultaneously, the applicant is subject to a security check.[26] If the individual is in immigration detention, the application is sent first to the Mexican Institute of Migration (Instituto Nacional de Migración, hereinafter INM), and then to COMAR.

18 2011 Regional Operations Profile in Latin America, UNHCR (Jan. 2011), http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492706#.

19 UNHCR Statistical Online Population Database, UNHCR (2007-2010), http://www.unhcr.org/pages/4a013eb06.html (last visited Nov. 8, 2012).

20 *UNHCR Hails Mexico as New Refugee Law Comes into Force*, UN High Commissioner for Refugees (Jan. 28, 2011), available at http://www.unhcr.org/refworld/docid/4d465de62.html.

21 *Id.*

22 *Id.*

23 *Id.*

24 *Mexico: The Refugee Determination Procedure (2006)*, Immigration and Refugee Board of Canada (Nov. 17, 2006), *available at* http://www.unhcr.org/refworld/publisher,IRBC,,MEX,45f147792,0.html.

25 Institutional Assistance for Refugees, COMAR: COMISION MEXICANA DE AYUDA A REFUGIADOS, last updated Feb. 1, 2011, http://www.comar.gob.mx/en/COMAR/Institutional_Assistance_for_Refugees.

26 Immigration and Refugee Board of Canada, *supra note* 3.

IV. *Legal Context for Sexually and Gender Nonconforming Individuals in Mexico*

Mexico's laws are among the most protective of LGBTI individuals in Latin America, but much remains to be done in terms of enforcement. The prevailing societal sentiment in Mexico, coupled with the fact that the laws are not adequately implemented, leaves many LGBTI individuals vulnerable to abuse and discrimination.

A. CONSTITUTIONAL AMENDMENT PROTECTING AGAINST DISCRIMINATION FOR SEXUAL PREFERENCE

In March 2011, the Mexican legislature approved a constitutional amendment protecting individuals against discrimination on the basis of "sexual preferences."[27] Thus, gay, lesbian and bisexuals "who have publicly assumed their sexual preference" are de jure protected against targeted discrimination and abuse under the Constitution.[28] The amendment supplements existing federal law, notably the 2003 Federal Law to Prevent and Eliminate Discrimination, which prohibits discrimination "based on ethnic or national origin, sex, age, disability, social or economic condition, pregnancy, language, religion, opinions, [and] sexual preference."[29]

27 ENADIS 2010: NATIONAL SURVEY ON DISCRIMINATION IN MEXICO (2011), *available at* http://www.conapred.org.mx/userfiles/files/ENADIS-2010-Eng-OverallResults-NoAccss.pdf.

28 *Id.*

29 Ley Federal para Prevenir y Eliminar la Discriminación [Federal Law to Prevent and Eliminate Discrimination], *as amended*, art. 4, Diario Oficial de la Federación [D.O.], 11 de Junio de 2003, *available at* http://www.diputados.gob.mx/LeyesBiblio/pdf/262.pdf [hereinafter Federal Anti-Discrimination Law].

B. SAME-SEX MARRIAGE

Same-sex marriage has been valid in Mexico since 2010, when the Supreme Court ruled that all thirty-one Mexican states must recognize gay marriages conducted in states where it is permitted.[30] Earlier that year, the local legislature in Mexico City authorized same-sex couples to adopt children."[31] Notably, similar protections against discrimination based on gender identity are not yet enshrined in federal law.

C. PROGRESSIVE LEGAL TREND IN MEXICO CITY

Mexico City has been particularly progressive and protective toward SGN individuals. Since March 2004, the Mexico City Civil Code has allowed transgender people to alter their sex and name as recorded on their birth certificates. Amendments to Mexico's General Health Law further provide specialized health care for transgender people, including, where appropriate, hormones and psychological support. On November 9, 2006, the Mexico City legislative assembly also passed a historic bill instituting civil unions for same-sex couples – the first law of its kind anywhere in Latin America.[32] In December 2009, Mexico City legally recognized the right of same sex couples to marry.

30 US DEPARTMENT OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, 2010 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES IN MEXICO (2011), *available at* http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154512.htm (last visited Nov. 8, 2012).

31 *Mexico: Landmark Adoption Ruling for Same-Sex Couples*, HUMAN RIGHTS WATCH (Aug. 16, 2010), http://www.hrw.org/en/news/2010/08/16/mexico-landmark-adoption-ruling-same-sex-couples.

32 US DEPARTMENT OF STATE BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR 2006 COUNTRY REPORT ON HUMAN RIGHTS PRACTICES IN MEXICO 45 (2007), *available at* http://www.state.gov/g/drl/-rls/hrrpt/2006/78898.htm.

Photo by Alitow http://www.flickr.com/photos/alitow/7343400534/

Despite the progressive laws passed in various states and the Federation of Mexico, the president of CONAPRED recognized that "tolerance towards groups such as homosexuals is still 'practically the same' even after the State recognized their rights."

D. SOCIETAL INTOLERANCE IN SPITE OF THE LAW

Despite the progressive laws passed in various states and the Federation of Mexico, the president of CONAPRED (the National Council to Prevent Discrimination), Ricardo Bucio, recognized that "tolerance towards groups such as homosexuals is still 'practically the same' even after the State recognized their rights."[33] Hate crimes and violence continue against LGBTI persons. A recent study by the College of Mexico, which assessed 11 out of 32 states of Mexico, found evidence of 1,656 hate crimes against LGBTI individuals from 1995 to 2009.[34] CONAPRED notes that 640 murders of LGBTI people in Mexico have been reported over that same period, and only 10 percent of these have been resolved.[35] Moreover, many hate crimes and murders are never reported, as victims' families are "silenced by the lack of response from the authorities or society's general acceptance of homophobia."[36]

Societal discrimination based on sexual orientation and gender identity remains prevalent in Mexico, as reflected in entertainment and everyday attitudes.[37] Many churches and religious government officials – who hold great influence given the predominance of Catholicism in Mexico – openly denounce homosexuality. For example, the Archbishop of Mexico City, Norberto Rivera Carrera, stated publicly that gay marriage was among one of Mexico's most serious problems, alongside violence, poverty, and unemployment.[38]

Thus, notwithstanding positive legal developments, much remains to be done throughout Mexico to improve conditions for SGN individuals and address prevailing societal discrimination.

33 Francisco Iglesias, *According to Conapred, Rejection of Gays is "still the same" during the last five years,* Milenio (April 4, 2011), http://www.asylumlaw.org/docs/sexualminorities/Mexico-Milenio041111.pdf.

34 Laura Maciel, *Hate Crimes Against Homosexuals, in The Darkness…,* CNN Mexico, (May 17, 2011), *available at* http://www.asylumlaw.org/docs/sexualminorities/MexicoCNN0_51711.pdf (translated by Dusty Aranjo).

35 *Id.*

36 *Yucatàn Cuarto Lugar Nacional en Crímenes Por Homofobia [Yucatan Ranks Fourth Place in Homophobic Crimes in the Nation],* Yucatan Ahora (January 19, 2011), at 1, http://www.yuca-tanahora.com/noticias/imprimir?10872 (*translated at* http://www.asylumlaw.org/docs/sexual-minorities/MexicoYucatanCuarto011911.pdf).

37 US Department of State Bureau of Democracy, Human Rights and Labor, 2010 Country Report on Human Rights Practices in Mexico (2011), *available at* http://www.state.gov/g/drl-/rls/hrrpt/2010/wha/154512.htm.

38 *Mexico's LGBT Community Faces Violence Despite Major Gains In Civil Rights,* Latin America News Dispatch (August 4, 2011), http://latindispatch.com/2011/08/04/mexicos-lgbt-community-faces-violence-despite-major-gains-in-civil-rights.

V. *Findings*

Photo by Geraint Rowland www.flickr.com/photos/geezaweezer/7940219594/

From the interviews, it is apparent that SGN refugees in Mexico face intense challenges in almost every aspect of daily life: isolation from any meaningful sense of community, lack of employment opportunities, barriers to education, and obstacles in accessing housing and social services. The interviews also revealed that non-state actors (e.g., gangs) were responsible for many of the problems of refugees migrating through Mexico. With regards to interactions with government authorities, interviewees did report positive experiences compared to their lives in their countries of origin, but others said they felt marginalized in these interactions. Finally, interviews described a consistent pattern of inadequate government protection leading to a mistrust of the authorities.

A. INTERVIEWEES' BACKGROUNDS

The fourteen refugee/migrant interviewees reported a variety of identities and came from several countries in Central America, South America, and Africa. Unlike the individuals interviewed in Uganda and South Africa, all the refugees interviewed in Mexico strongly identified as LGBTI. Five interviewees identified as transgender, transsexual, or transitioning. Two identified as lesbians, and six identified as gay. In some cases, interviewees

blurred the distinction between sexual orientation and gender identity. For example, one interviewee, a male-to-female transgender person who dates men, identifies as both a transgender person and a homosexual.[39] Our findings analyze refugee identities according to the interviewees' own self-conception.

The majority of interviewees came from countries near Mexico; ten interviewees were from Central America, two from South America, and one from Africa. These refugees fled their countries of origin due to reported persecution by their families, their governments, and non-state actors. Eight of the refugees interviewed fled their countries of origin because of persecution based on their sexual orientation or gender identity; seven of these fled because of persecution from their families. One interviewee, a transgender woman, said, "my father would also hit me and tell me that I was the son of the devil because he didn't want a homosexual in the family... and he always hit me, to the point of leaving me really beat up and unable to walk and one time he wanted to kill me."[40] Six interviewees suffered persecution from their home governments, another six interviewees were targeted by non-familial non-state actors, and four suffered abuse from gangs.

As explained above, the majority of SGN refugees interviewed had settled in Mexico on a more or less permanent basis. Most had lived in Mexico for more than a year. All but one, a transgender woman in Tijuana, resided in Mexico City. As already explained above, the environment in Mexico City tends to be far more favorable to SGN individuals, as well as refugees and asylum seekers, than other parts of Mexico. Therefore, the sample set of interviewees we reached likely presents an overly positive picture. We caution that our findings reflect conditions for SGN refugees in Mexico City and not in the country as a whole.

39 Interview by ORAM with MX-G3.

40 Interview by ORAM with MX-G3.

B. MIXED TREATMENT AND MARGINALIZATION BY AUTHORITIES

SGN refugees reported varied experiences with the Mexican authorities, including both positive and negative encounters. Many of the refugees interviewed framed their interactions with authorities in a favorable light. For example, a transgender minor from Central America expressed gratitude that "someone in immigration...spoke very nicely to me." She added, "He helped me and supported me, and told me this can be done...and called me a lot. We would talk a lot so he could know information about me."[41]

At the same time, however, interviewees also reveal instances of discrimination that they have simply normalized. For example, a gay interviewee from Central America characterizes his encounters with authorities in the following way: "Never had any assault, or anything alike. No discrimination, no, but *discrimination the normal type, the one I am used to, that they are always saying things to you.*"[42] Rather than experiencing derogatory comments as abuse, the interviewee had simply come to view such remarks as normal and not noteworthy.

In part, this phenomenon may be attributed to the highly homophobic conditions in the refugees' countries of origin.[43] Since refugees tend to compare their experiences in Mexico to those back at home, they seem to find their current lives in Mexico relatively tolerable. This is particularly true given the more progressive situation in Mexico City. One stakeholder describes the stark contrast as follows:

> *[SGN refugees'] arrival in Mexico City turns out to be very cozy/warm because they say that they walk around the streets and see that there are other same-sex couples walking around and that people don't bother them. Some say it is like being in paradise even more so since our*

"My father would also hit me and tell me that I was the son of the devil because he didn't want a homosexual in the family...and he always hit me, to the point of leaving me really beat up and unable to walk and one time he wanted to kill me."

41 Interview by ORAM with MX-TW2.

42 Interview by ORAM with MX-G2 (emphasis added).

43 Interview by ORAM with MX-S8; Interview by ORAM with MX-S9.

"I notice that a lot of [gays and lesbians] go about normally, with their partners and everything. Thank God that here in Mexico they give them their place as humans and they support them whatever the case may be, while in Central America they would've already killed them."

office is precisely located in an area that is emblematic of the LGBTI struggle for rights.[44]

One refugee living in Mexico City expressed gratitude at the presence and visibility of non-heterosexuals, compared to her home region of Central America:

> *I notice that a lot of [gays and lesbians] go about normally, with their partners and everything. Thank God that here in Mexico…they give them their place as humans and they support them whatever the case may be, while in Central America they would've already killed them.*[45]

Notwithstanding reported positive impressions, however, the refugee interviews did reveal instances and patterns of official misconduct in Mexico, as described in the following sections.

i. *Violence, Threats, and Sexual Abuse*

One refugee, a transgender woman, recounted an attempt at sexual exploitation by Mexican authorities:[46] some police officers tried unsuccessfully to coerce her for sex in exchange for "a pack of cigarettes or whatever [she] asks for."[47] Another interviewee, a gay refugee from Central America, "got caught by immigration two years ago" and recounts a threatening and traumatic experience: "They took everything from me, and everything, everything in that short time, like that in a mean way…they scared me very bad."[48]

Stakeholders also reported official violence and abuse. An official at the Department of Advocacy for Non-discrimination recounted one such incident: "[Public transit] security guards stopped, hit and offended a gay person. A recommendation was made on this, but the subway authorities didn't accept it."[49]

ii. *Extortion by Police*

A vast majority of refugees interviewed mentioned cases of extortion or attempted extortion by the Mexican police. The victims often minimize the gravity of such instances, as they describe extortion as normal, rather than as a form of abuse. One interviewee explained, "I would be lying if [she] told you that the authorities abused [me]. They don't want to hit you or abuse you. All they want is your money. What you have to carry is money and you are out."[50] A transgender woman involved in sex work said that, "the girls have to give a part to the police, a percentage of money that they earned."[51] A gay interviewee from Central America mentioned above recounts having "everything" taken by immigration officials.[52]

Some interviewees also faced extortion or theft in detention centers. For example, a refugee who reported that a guard had stolen his money said, '[I]f I denounce[d] him, he would've lost his job, he would've killed me. Yes, he would've killed me. Here in Mexico it's like this…that is the law in Mexico."[53]

iii. *Medical Neglect in Detention*

Serious neglect by detention officials was also identified as a problem. A transgender woman from South America reported medical neglect and denial of hormone treatment. While in detention, she was deliberately left without care although she was visibly ill and in pain. She stated, "[O]ne [immigration center] official said to me that until he could see me on the floor, he wouldn't take me to the hospital."[54] Consistent with research conducted on detention in Mexico, this refugee reported that the director did not permit her to continue her hormone therapy, despite the importance of this treatment to her gender identity and expression.[55]

44 Interview by ORAM with MX-S8.
45 Interview by ORAM with MX-G3.
46 Interview by ORAM with MX-TW2.
47 Interview by ORAM with MX-TW2.
48 Interview by ORAM with MX-TW6.
49 Interview by ORAM with MX-S27.
50 Interview by ORAM with MX-L2.
51 Interview by ORAM with MX-TW5.
52 *Id.*
53 Interview by ORAM with MX-G1.
54 Interview by ORAM with MX-TW2.
55 *Id.*

iv. *Discriminatory Treatment and Bias*

Refugees experience myriad forms of discrimination from the authorities. A male-to-female transgender interviewee from Central America reported being locked up by local authorities for eight months. She describes "discrimination that I received from the authorities...we were treated like criminals." Another interviewee recounts that her reports of abuse and violence were summarily dismissed by a government attorney, who told her "[she] was obviously gay, and because of that [she] had wanted everything that had happened to [her], and that [she] had agreed to all the encounters."[56]

A transgender woman described being singled out by authorities for documents: "Maybe because it was evident. I was a trans person and because probably I was the only foreigner."[57] Another interviewee also reported being targeted because she was transgender and from Central America.[58] Another interviewee described limiting her movement for fear of the police, explaining that she and many other LGBTI persons "are victims at the hand[s] of society, of our families and authorities. We are victims of indifference, discrimination, and stigmas. I do consider myself part of this vulnerable group."[59]

Stakeholders also describe discrimination by government officials, such as the case of "a boy in Chiapas [who] was expelled in violation of the principle of non-refoulement and when we went to make a claim to Migration, the response given by the immigration officer was: 'So what? He was a f--ing homosexual, right?'"[60] A government official interviewee indicated more generally that there were many cases of officials using discriminatory language towards LGBTI people.[61]

C. ABUSES BY PRIVATE INDIVIDUALS

The most serious abuse by non-state actors occurred along migratory routes – consistent with documented country conditions for Mexico. Migrants, particularly those from Central America, generally cross the Mexico–Guatemala border, often passing through Tapachula on their way to Arriaga, Chiapas to board freight trains northward. According to a study by the National Human Rights Commission, "at least 11,333 migrants were kidnapped in Mexico between April and September, [2010]."[62] Migrants also face extortion, violence, forced recruitment into criminal gangs, rape, and murder while en route through Mexico. Riding on the freight trains through southeast Mexico is especially dangerous due to the prevalence of organized criminal gangs.

SGN refugees are particular targets of violence and discrimination on these routes because of their sexual orientation and gender identity.[63] The refugees interviewed experienced abuse not only from criminal gangs, but also at the hands of other migrants. Isolated from their families due to their SGN status, many of the interviewees traveled alone or with other SGN migrants, which in turn increased their vulnerability.[64]

Of the interviewees who rode freight trains, gay men and transgender women reported the most targeted violence and abuse.[65] One gay interviewee stated the following:

> *I was not suffering only because I was illegal, but due to my homosexuality....All (male and female) migrants have these dangers but us, homosexuals, we are like the target of hijackers, thieves, who infiltrate the train. They pretend to be un-*

"If I denounced him, he would've lost his job, he would've killed me. Yes, he would've killed me. Here in Mexico it's like this...that is the law in Mexico."

"A boy in Chiapas [who] was expelled in violation of the principle of non-refoulement and when we went to make a claim to Migration, the response given by the immigration officer was: 'So what? He was a f--ing homosexual, right?'"

56 Interview by ORAM with MX-TW3.
57 Interview by ORAM with MX-TW5.
58 Interview by ORAM with MX-L3.
59 Interview by ORAM with MX-TW4.
60 Interview by ORAM with MX-S4.
61 Interview by ORAM with MX-S21.

62 Comisión Nacional de los Derechos Humanos México [National Human Rights Commission], Informe Especial Sobre Secuestro de Migrantes en México [Special Report About the Kidnapping of Migrants in Mexico] 26 (2011).
63 *See* Interview by ORAM with MX-S12 (stating that "when one has several [disadvantageous] traits, discrimination increases").
64 Interview by ORAM with MX-TW1; Interview by ORAM with MX-TW2; Interview by ORAM with MX-TW4; Interview by ORAM with MX-G2; Interview by ORAM with MX-G3.
65 *See* Interview with MX-G2; Interview by ORAM with MX-L2; Interview by ORAM with MX-L4; Interview by ORAM with MX-G3.

"The immigration law says that they have the right to health and there is also the refugee law, but I do not really believe that they are being implemented. There should be good training practices for the administrative staff. The authorities do not know the law"

documented migrants but they are truly thieves. Their targets are homosexuals and women. They always enrage against us and in my case there was a group of thieves infiltrated and one of them wanted to rape me and since I did not allow it, he hit me very badly.[66]

A transgender woman also reported that other migrants were homophobic and verbally abusive, and recounted being badly beaten on the train by Mexican gangs.[67]

Another interviewee said she was targeted for rape and robbery by members of a drug cartel while traveling by bus through southeast Mexico because she was transgender and a foreigner.[68] One of the minor interviewees, a transgender girl, was forced into prostitution in Mérida.[69] Another gay interviewee, who travelled with a teenage boy and a transgender woman, said he was abused in a migrant shelter in Arriaga and that he was hit and almost raped in Tapachula.[70]

These reports were confirmed by stakeholders who identified transgender women as being particularly vulnerable[71] (*e.g.*, being killed in hotels). Another stakeholder referred to teenage transgender women as "cannon fodder" in the street because once they were recruited into sex work, they were never heard from again.[72] Yet another stakeholder pointed out that for many transgender women, "their only prospect to live as they wanted was to become sex workers."

66 Interview by ORAM with MX-G2.
67 Interview by ORAM with MX-G3.
68 Interview by ORAM with MX-TW4.
69 Interview by ORAM with MX-TW1.
70 Interview by ORAM with MX-G2.
71 Interview by ORAM with MX-G2; Interview by ORAM with MX-S10; Interview by ORAM with MX-S15; Interview by ORAM with MX-S30.

D. HARMFUL CYCLE OF INADEQUATE GOVERNMENT PROTECTION AND MISTRUST OF AUTHORITIES

Refugees and advocates recognize that the laws of Mexico largely favor SGN individuals, but they also indicate that they have not been implemented to effectuate equal rights or additional safety for LGBTI individuals. One lesbian explained, "What exists sometimes are progressive laws but they are not enforced, or that there is no interest from the authority beyond the electoral and political interest."[73] Coinciding with the lack of enforcement is [a] type of despair among SGN refugees that prevents them from trying to defend or exercise their legal rights. One NGO employee states that despite the existing laws, "[SGN persons] are accustomed to the idea that lesbians and gays have no rights."[74] The lack of law enforcement is exacerbated by the lack of empowerment within the SGN community, creating a dangerous and pervasive cycle for SGN refugees.

Similarly, with respect to favorable refugee laws, an advocate at a religious-based organization says, "The immigration law says that they have the right to health and there is also the refugee law, but I do not really believe that they are being implemented."[75] To realize this goal, he suggests, "a lot of training is needed for the staff, the immigration officers, police, and the army." He adds, "There should be good training practices for the administrative staff. The authorities do not know the law."[76]

72 Interview by ORAM with MX-S10; Interview by ORAM with MX-S30.
73 Interview by ORAM with MX-L3.
74 Interview by ORAM with MX-S11.
75 Interview by ORAM with MX-S31.
76 Interview by ORAM with MX-S31.

i. *Reluctance to Seek Police Protection*

Refugees fleeing persecution expressed a general mistrust and fear of authorities.[77] This fear is often exacerbated by the re-telling of other migrants' experiences. As one transgender woman says, "A lot of people from Central America have traveled through [Mexico] and it is always the same sad story. So of course we become traumatized."[78] Thus, fear of authority is rooted in first-hand experiences of persecution in their countries of origin and bolstered by similar instances reiterated by their peers.

In some cases, the police are perceived by refugees as part of a corrupt and overly bureaucratic system – in part because of problems with extortion, as described above. Many refugees view the police as being more harmful than helpful and are therefore reluctant to ask for protection. One refugee explained:

> *In that moment one is plagued with fear of everything, of your life, and confiding in a cop is worse because you know what… in that moment what they want is money. You don't see him as someone that is going to help but rather as someone who is going to do you more harm.*[79]

Two refugees out of fifteen testified that they did not want to commence any legal action to report beatings in incarceration by other detainees because of the length of the procedure and the "horror" and "pain" of facing "the typical bureaucracy of this country."[80] As described above, a refugee refused to denounce a police officer for stealing all of his money, fearing he would be killed for doing so.[81]

77 Interview by ORAM with MX-G2 ("The following day I didn't want to go, I was scared and that's it, that's how it stayed.").

78 Interview by ORAM with MX-TW4.

79 Interview by ORAM with MX-G5.

80 Interview by ORAM with MX-TW6.

81 Interview by ORAM with MX-G1 ("Because if I denounce him, he would've lost his job, he would've killed me. Yes, he would've killed me. Here in Mexico it's like this,…that is the law in Mexico.").

ii. *Authorities' Omission to Investigate Harms or to Intervene*

The data suggest that even when LGBTI refugees report threats or violence against them, investigation is inadequate and remedies are rarely effective.

As mentioned above, one refugee interviewee reported being raped and robbed by members of a drug cartel because of her nonconforming gender identity, but as she describes, "in the end nothing could be done.[82] Unfortunately, these are people who live in impunity down there in the Southeast [of Mexico]." Other interviewees declare the same failure, if not indifference, to investigate as a common occurrence.[83] One interviewee describes a man who "would intimidate us, would pull out knives, showed us a gun. So [o] n many occasions we would go and tell the police, we would describe the guy, and the police is on the corner from where we work; and they would not pay attention. They don't do anything." Another refugee indicated not only a failure to act by the authorities, but that there is a lack of awareness among SGN refugees about the formal channels that must be followed to file a complaint, and that even when SGN refugees do approach them, authorities do little to guide them.[84]

One stakeholder stressed that the "indolence of the authorities" in investigations of hate crimes and crimes in general is grave. He said that, "there is no investigation, only extortion."[85] He further explained that the police lack training, protocols, or resources to initiate any sort of investigation, and instead "the police resort to corruption as their instrument of investigation." He added that killings of SGN persons occur "because we are part of a chauvinist, misogynistic, but

82 Interview by ORAM with MX-TW4.

83 Interview by ORAM with MX-TW5 ("He would intimidate us, would pull out knives, showed us a gun. So in many occasions we would go and tell the police, we would describe the guy, and the police is on the corner from where we work; and they would not pay attention. They don't do anything."). Interview with MX-G2 ("Yes I did denounce them, I denounced them at that very instant, but the authorities didn't do anything." "No a delinquent, because of my homosexuality, and I went to denounce and told them who he was and they were like mocking. […] They took the denounce but they never did anything.")

84 Interview by ORAM with MX-G2.

85 Interview by ORAM with MX-S15.

One interviewee describes a man who "would intimidate us, would pull out knives, showed us a gun. So on many occasions we would go and tell the police, we would describe the guy…and they would not pay attention. They don't do anything."

"Many men treat homosexuals badly…. They beat a lot of them up on the train and they also throw them off. So that [spending time with other gay men] is what I avoided…because the experiences that I have lived have been very hard for me and I don't want to have one of those altercations again."

mostly homophobic culture."[86] This pervasive homophobia was something none of the refugees found remarkable in their interviews. As mentioned before, one possible explanation for these disparate viewpoints is that the refugees find Mexico more tolerant of them than their countries of origin. In comparison, non-refugee stakeholders are mostly Mexican natives and have no other frame of reference.

SGN refugees can be severely harmed when the police do not come to their aid, especially in detention. A few refugees reported being beaten by other detainees with no response from the officials. One interviewee indicated that the police are generally attentive, but that there are still problems:

> *On that day, I had been there two months, and whenever there was a problem, the police come…quickly. In less than a minute you are going to see more than thirty police officers, but that day, when I was fighting* (against) *those persons, there were two police officers less than two meters of distance* (from me) *and none, for more than five minutes, none of the police came. None, none of the police.*[87]

E. ISOLATION FROM COMMUNITY

In Mexico, migrants have the right to partner and family reunification under the Law on Refugees and Complementary Protection, which was passed in 2011.[88] This right applies both to heterosexual and SGN refugees.[89] Nine of the thirteen refugees we interviewed reported having one or more relationships. Notably, only one of these refugees reported having entered into a relationship in Mexico; the others described past relationships in their countries of origin.

Interviewees did not report particularly strong ties to their country of origin. Only five of thirteen interviewees reported that they maintained positive relations with family members in their home country. No refugees reported current financial support from people in their country of origin, though four stated that they had received such support in the past.

Eleven refugees – the overwhelming majority of interviewees – stated that they had no relations with their community of national origin after arriving in Mexico. This is consistent with our general observation that SGN individuals are by-and-large cut off from a major source of social support for most refugees in a new country – that of their fellow country people.

Nine of the thirteen interviewees were "out" or known to be SGN in Mexico, and eleven were known to be foreigners. Six, or just under half, of the thirteen refugees reported having at least one SGN friend in Mexico, but only three of the thirteen interviewees said that they received support from an SGN individual, organization, or community.

While many of the SGN refugees interviewed reported that their environment in Mexico was an improvement over what they had experienced in their country of origin, many still expressed feelings of isolation and a lack of community in Mexico. Some said that they experienced difficulty finding romantic or platonic relationships because they did not want their SGN identity revealed to others. One interviewee commented:

> *[M]any men treat homosexuals badly…. [T]hey beat a lot of them up on the train and they also throw them off. So that [spending time with other gay men] is what I avoided…because the experiences that I have lived have been very hard for me and I don't want to have one of those altercations again.*[90]

Some refugees reported overall positive relations with the non-SGN persons in Mexico, stating that they rarely experienced

86 Interview by ORAM with MX-S15.

87 Interview by ORAM with MX-G1.

88 UNHCR, *supra* note 3.

89 Kate Jastram & Kathleen Newland, Family Unity and Refugee Protection 2, *available at* http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=3bd3d4a14&query=family%20unity%20principle.

90 Interview by ORAM with MX-G1.

discrimination based on SGN identity. Even in Mexico City, however, others reported negative treatment. Two interviewees reported negative treatment because of their SGN identity, and five reported negative treatment because they were foreigners or refugees. One stated, "[S]omeone spat on me because he told me that…I was an immigrant, that we only come to Mexico to, to smuggle drugs…or to kidnap."[91]

F. SCANT EMPLOYMENT OPPORTUNITIES

There are employment opportunities for refugees living in Mexico, although the types of jobs to which one has access depend on one's individual skills, personal connections and, to a certain degree, luck. Many interviewees were able to find small jobs through friends and acquaintances. Seven of the refugees[92] interviewed reported being employed,[93] and one was still in school.[94] The interviewees who said they were employed, reported being in a wide variety of occupations, including janitorial work,[95] household chores, and hairdressing.[96] Only one was engaged in a more highly-skilled occupation as an emergency medical technician.[97] One interviewee reported currently being a sex worker.[98]

Employment discrimination against sexual minorities remains an obstacle for SGN refugees, and can serve either as a barrier to hiring or as reason for dismissal. One interviewee complained, "Sometimes I think that they would give me a job even without documents, but…when they look at me like that with [my] homosexual appearance, they [become] more strict and they say, 'No! We need documents. We can't employ you if you don't have documents.'"[99] As one stakeholder describes, "[w]hat happens with persons who are gay and apply for a job…not only do companies discriminate tremendously, but also the Army. In the Mexican Army, people living with HIV, without even knowing if they are homosexual or not, are fired."[100]

LGBTI refugees suffer from an intense lack of employment opportunities, which can lead them to take dangerous types of work. Two interviewees reported having done sex work in Mexico[101] (although one had since stopped), and another two reported having done sex work in their home countries.[102] One non-profit stakeholder reported having "seen cases of people engaged in sex work in their countries of origin, and when they get here they engage in the same work due to lack of other job opportunities."[103] One transgender woman who started doing sex work in Guatemala for financial reasons felt too discouraged by her perception of discrimination in Mexican society to look for a different line of work: "If I go and ask [for] a job as a janitor, I don't think they [would] give it to me…I hav-

"Sometimes I think that they would give me a job even without documents, but… when they look at me like that with [my] homosexual appearance, they [become] more strict and they say, 'No! We need documents. We can't employ you if you don't have documents.'"

91 Interview by ORAM with MX-G4.

92 Technically not all the interviewees have refugee status. *See, e.g.,* MX-TW6, who came to Mexico with his family and decided "to stay because [he] liked it." MX-TW6 only applied for asylum after he was caught by immigration for being in the country illegally.

93 Interview by ORAM with MX-TW2; Interview by ORAM with MX-TW3; Interview by ORAM with MX-G1; Interview by ORAM with MX-TW4; Interview by ORAM with MX-TW5; Interview by ORAM with MX-TW6; Interview by ORAM with MX-L4.

94 Interview by ORAM with MX-TW1.

95 Interview by ORAM with MX-TW2.

96 Interview by ORAM with MX-TW3; Interview by ORAM with MX-TW4.

97 Interview by ORAM with MX-L4.

98 Interview by ORAM with MX-TW5.

99 Interview by ORAM with MX-G2.

100 Interview by ORAM with MX-S30.

101 Interview by ORAM with MX-TW1; Interview by ORAM with MX-TW5.

102 Interview by ORAM with MX-TW3, MX-G3.

103 Interview by ORAM with MX-S8.

Several interviewees indicated that the situation in Mexico is much more difficult for transgender people than it is for gay men or lesbians. To access services, many transgender people are compelled to assume the gender role of their birth sex.

en't tried it, but I have heard it. It is very hard because of my identity, because of my physical appearance."[104]

Overall, LGBTI refugees living in Mexico continue to face significant discrimination in employment. To prevent refugees from living in poverty or resorting to unsafe work, it appears essential to both combat this discrimination and boost refugees' confidence and ability to find other forms of work.

G. UNSTABLE HOUSING

The refugees we interviewed lived primarily in shelters or found housing with assistance from organizations or friends. Several of the refugees received help from organizations including COMAR, Sin Fronteras, and Casa Alianza.[105]

Notably, some refugees reported being turned away from shelters because of their SGN identity. After a shelter in San Luis Potosí refused housing to a gay interviewee, he resorted to sleeping on the street. Another gay man reported that he went to a church in Mexico City for help but was refused because of his sexual orientation. A transgender woman reported being turned away by several shelters for the same reason. She stated that "the shelters obviously wouldn't take us and sometimes they would kick us out because of our sexual orientation."[106]

Some shelters were inhospitable or uninformed about the needs of SGN refugees. One transgender girl had to change her gender expression against her will to access services at one youth shelter. She was forced to cut her hair and dress like a boy, so that according to the shelter officials, she would be safe from the boys living there. The shelter also did not allow her to continue her hormone therapy.[107] One transgender woman reported feeling isolated at a shelter because the men living there made it clear they did not want her there.[108] The need for safe and supportive shelter spaces for LGBTI individuals appears to be a major issue for refugees in Mexico.

H. DIFFICULTIES ACCESSING SOCIAL SERVICES

Several organizations serve migrants, LGBTI people, and SGN refugees in Mexico. As with housing, multiple interviewees mentioned their experiences with Sin Fronteras, Casa Alianza, and COMAR. Sin Fronteras helped refugees with food, local transport, personal hygiene, housing, and health care. In addition to shelter, Casa Alianza provided help with education, emotional support, and employment. Finally, many interviewees mentioned working with COMAR to obtain refugee status, access to education, and medical support.

Although these organizations provide various services, interviewees nevertheless described a lack of outreach efforts and often appeared unaware of available services or rights to assistance. For example, one gay man said he did not seek assistance because he "never thought that there was an agency or some kind of support" available to him. Another gay man observed that migrants generally "show some degree of distrust or because of the fact that they are in transit, they don't allow the government agencies to help them." A UNHCR representative observed that refugees are generally afraid to tell officials why they fled their countries as "[t]hey think they'll get into trouble if [the] migration center's officials find out about it."[109]

Some refugees faced discrimination while attempting to access assistance. One gay man said employees at Salvation Army discriminated "against [everyone] but above all against homosexuals." Several interviewees indicated that the situation in Mexico is much more difficult for transgender people than it is for gay men or lesbians. To access services,

104 Interview by ORAM with MX-TW5.

105 Interview by ORAM with MX-G1; Interview by ORAM with MX-G2; Interview by ORAM with MX-TW4; Interview by ORAM with MX-TW5; Interview by ORAM with MX-L2; Interview by ORAM with MX-L4; Interview by ORAM with MX-G3.

106 Interview by ORAM with MX-TW3.

107 Interview by ORAM with MX-TW2.

108 Interview by ORAM with MX-TW1.

109 Interview by ORAM with MX-S24.

many transgender people are compelled to assume the gender role of their birth sex, as described in the previous section on shelter.

I. BARRIERS TO EDUCATION

As background, almost all refugees had at least some K-12 education. Eight of the thirteen refugees reported having attended K-12 in their country of origin and two said they had received some K-12 education after arriving in Mexico. Higher education was uncommon among interviewees. Only two refugees reported attending post-secondary education in their country of origin, and only one reported post-secondary education in Mexico. Two refugees said they received vocational training in Mexico.

Five of the thirteen interviewees said they wanted more education. Refugees reported being drawn to a diverse array of subjects, including human rights law, forensic science, and chemistry. One refugee commented, "I wanted to study international law, because I had always enjoyed fighting for rights.... [O]ur community [the LGBTI community], we have suffered discrimination not only here in Mexico but in all countries."[110]

The most common barriers to education were foreign or refugee status and SGN identity. Although Mexico's Law on Refugees and Complementary Protection accords refugees access to public education,[111] stakeholders indicated that many refugees erroneously believe that were not allowed to enroll in the country's public schools.[112] Furthermore, refugee minors who are held in immigration detention centers may miss out on valuable weeks or months of education during their confinement.[113]

Some refugees recounted difficulties getting recognition of their formal education in their countries of origin. Although the Law on Refugees and Complementary Protection guarantees recognition of refugees' prior educational qualifications,[114] interviewees expressed difficulty retrieving documentation because they could not safely return to their country of origin or contact family for the necessary paperwork. Unavailability of family assistance in these matters disproportionately affects SGN refugees' ability to access education, as many of them have been ostracized by family members.

Those refugees who can access education in Mexico still sometimes experience discrimination based on their sexual orientation or gender identity. Refugees and other stakeholders said that LGBTI students are often discriminated against, expelled, or physically abused.[115] One transgender woman reported that a vocational course in which she wished to enroll would not accept her unless she made her appearance more masculine.[116]

J. PERILS OF MOVEMENT WITHIN MEXICO

For refugees, movement within Mexico can be fraught with danger. LGBTI refugees generally indicated that they experienced problems getting to Mexico City from the Mexican towns closest to the Guatemalan border (e.g., Tapachula in Chiapas) or from more rural areas in general. The perils of this journey can include rape, kidnapping, murder, forced recruitment into gangs, etc. Many of these dangers are serious harms that affect the migrant population in general, but the refugees interviewed often reported being targeted because they are SGN.[117] They were also victims of racial profiling and sexism; refugees with darker complexions reported that they had been harassed more often because of skin color than for be-

Refugees and other stakeholders said that LGBTI students are often discriminated against, expelled, or physically abused. One transgender woman reported that a vocational course in which she wished to enroll would not accept her unless she made her appearance more masculine.

110 Interview by ORAM with MX-TW2.

111 UNHCR, *supra* note 3.

112 *See* Interview by ORAM with MX-S16.

113 Interview by ORAM with MX-S24.

114 UNHCR, *supra* note 3.

115 Interview by ORAM with MX-S11; Interview by ORAM with MX-S31.

116 Interview by ORAM with MX-TW2.

117 Interview by ORAM with MX-G2; Interview by ORAM with MX-L1; Interview by ORAM with MX-L3; Interview by ORAM with MX-L4; Interview by ORAM with MX-G3; Interview by ORAM with MX-S4.

Photo by PBS News Hour http://www.flickr.com/photos/newshour/3498654730/

"In my opinion, there's a lot of work to be done with health workers receiving people in health units, in order to eliminate misconceptions about documents that you have to present and the idea that if you don't present them, you cannot have health care access."

ing transgender.[118] One refugee observed that her Caucasian appearance meant she was not asked for immigration papers and that she was instead treated with respect.[119]

Precautionary measures taken by LGBTI refugees in Mexico typically consisted of being more discrete in public[120] and in avoiding certain migratory routes known to be dangerous to SGN persons. Relative to their counterparts in Uganda, LGBTI refugees in Mexico did not report the same level of daily and public harassment. Many felt a sense of freedom to move around the community, at least in Mexico City. However, as described in the section below, some appeared to isolate themselves and to limit their movements. At least one refugee explained that she constrained her movement around her community due to fear of homophobic acts by authorities as well as by private individuals.[121]

118 Interview by ORAM with MX-TW4 ("More because of my black skin and not so much because I am transgender. It is because I am a black woman. Despite being in an uncomfortable situation, it is better to attract attention based on my looks than to be harassed for other reasons.")

119 Interview by ORAM with MX-G4 ("Well look, I think in Mexico, since it's a very racist country, being a lesbian is somewhat offset by the fact of being white.").

120 Interview by ORAM with MX-L1; Interview by ORAM with MX-G4.

121 Interview by ORAM with MX-TW4.

K. DISCRIMINATION IN OBTAINING HEALTH CARE

Under the Law on Refugees and Complementary Protection,[122] refugees are accorded "permission to work, access to health services and health insurance, access to education and recognition of educational qualifications."[123] Mexico offers several health services for no cost regardless of the patient's immigration status, particularly in the areas of preventive care, post-rape treatment, prenatal care, and HIV/AIDS treatment. Nonetheless, significant gaps in healthcare appear to affect the refugee population, as some providers seem unaware of migrants' rights to health. As one stakeholder noted, "In my opinion, there's a lot of work to be done with health workers receiving people in health units, in order to eliminate misconceptions about documents that you have to present and the idea that if you don't present them, you cannot have health care access."[124]

One serious shortfall of Mexican health services is that lesbians appear to experience more intolerance and misinformation from health services than gay men.[125] A lesbian interviewee reported that when gynecologists hear a person is a lesbian, they "look at [them] with disgust and tell [them] a lot of nonsense...[such as], 'Oh, well, [STDs] are not transmitted between lesbians.'"[126]

Transgender interviewees appeared to have access to hormone therapy and surgery, but not to adequate psychological care.[127] Some individuals who had begun hormone treatment or the transition process said they changed their minds, apparently due to lack of accompanying psychological therapy.

122 UNHCR, *supra* note 3.

123 *Id.*

124 Interview with MX-S16.

125 *See generally Sexual Minorities & HIV Status – Mexico,* AsylumLaw.org, http://www.asylum-law.org/docs/sexualminorities/Mexico%20UniversoGay.com032311.pdf [last visited June 27, 2011]; *see also* Camila Maciel, *Investigation Identifies the Police as the Group Most Intolerant of Sexual Minorities,* Adital: Noticias de America Latina y Caribe (April 15, 2011), http://www.adi-tal.com.br/site/noticia_imp.asp?lang=ES&img=S&cod=55609.

126 Interview with MX-L3.

127 *See* Interview by ORAM with MX-TW1; Interview by ORAM with MX-TW3; Interview by ORAM with MX-G1; Interview by ORAM with MX-TW4; Interview by ORAM with MX-TW5.

For example, one transgender woman said that since arriving in Mexico, she no longer knows if she wants to continue hormones because she fears she will not have the same opportunities. Another transgender woman, who had developed breasts through hormone therapy, said, "I hide my breasts because they embarrass me...I no longer want to represent what I was before. Because it has left me with a very grave consequence for my life, an experience that no one wants to go through, something very humiliating also."[128] Access to gender-focused psychological treatment could help these individuals determine whether or not to transition.

Greater access to psychological care would also benefit LGBTI interviewees as a whole, as many expressed problems with isolation and loneliness. One transgender woman who lives in Tijuana, stated, "I stay home all the time. I isolate myself in my world."[129] Another interviewee reported that she "hid from people" while staying in a migrant shelter in the Lechería area.[130] One transgender minor who stayed at a house for homeless children in Mexico City stated, "I didn't feel like anyone understood me. I realized that I would go to my room, I would sleep, wake up, bathe, get ready, and go and then return, and the same."[131]

There appears to be a general awareness of STI and HIV/AIDS testing, treatment, and prevention among the LGBTI refugees interviewed in Mexico. Some of the refugees had HIV testing after arriving in Mexico.[132] LGBTI individuals appear to be stigmatized due to misconceptions about LGBTI status and HIV/AIDS. One stakeholder said that a clinic in Mexico City, which treated STDs and HIV and also provided hormones to transgender individuals, created stigma "by linking HIV with transsexualism."[133]

128 Interview by ORAM with MX-G3.
129 Interview by ORAM with MX-TW4.
130 Interview by ORAM with MX-G3.
131 Interview by ORAM with MX-TW2.
132 Interview by ORAM with MX-TW3; Interview by ORAM with MX-TW5.
133 Interview with MX-S21.

L. SOCIAL NETWORKS & ACCESS TO INFORMATION SYSTEMS

Like other refugees, SGN people in Mexico rely on information systems during three distinct phases of their migratory journeys: prior to arriving in Mexico; while going through the refugee status determination process; and while trying to integrate into Mexican society. At all stages of the process, word-of-mouth is by far the most common method of sharing information, though refugees are beginning to rely more on digital tools including the Internet.

The use of information systems can play a role in a refugee's migration even before departure from the home country. Gossip and hearsay can provide impetus for departure. One interviewee from Central America said he had fled to Mexico because he heard it was easier to live as a gay man there than in his home country: "I had already heard that [in Mexico] they support homosexuals a lot and they did marches and everything was very different."[134] It is also common for friends to tell each other about their or others' experiences crossing the border.[135] Another interviewee from Central America, who had heard about the plight of her friends who tried to enter Mexico illegally, decided not to follow in their footsteps: "My acquaintances have crossed by boat and...suffer[ed] certain things. It is very sad to hear that they have been raped; they suffer extortions and many other things. Therefore, I was very afraid and I did not want to [go through] that."[136]

Those who do not do preliminary research before entering Mexico commonly learn about the refugee status determination (RSD) process from other refugees and the government. One refugee recounted:

> *I didn't know that [refugee status] existed until there were a few boys from India speaking in English, and because I know*

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134 Interview by ORAM with MX-G3.
135 *See, e.g.*, Interview by ORAM with MX-G5.
136 Interview by ORAM with MX-TW5.

how to speak a little bit of English, we began to talk and they told me there were asking for documents here to be able to stay because they had problems, and COMAR was an organization that helped get documents to be able to stay legally in the country if they had been persecuted.[137]

Refugees also learn about RSD from the state, whether from COMAR or at an immigration detention center. During the refugee-status application process, technology and social networks can be used to help gather and send documents. One interviewee had called friends in his home country of Cameroon to obtain papers that helped establish he was gay.[138] Another applicant telephoned her mother, who faxed government documents that were required for her application.[139]

Both during and after the RSD process, refugees use information systems to obtain emotional support and connect with family members. Technology provides an important channel of communication with loved ones in the country of origin. One interviewee said she talked to her mother on the phone every day.[140] Another uses Facebook to stay in contact with friends and family.[141] A third interview said she would like to use Skype to see and talk to her son that she left behind, although she cannot yet afford her own computer.[142]

Refugees can also use social networks to support their businesses. One enterprising refugee reported much success using a website to attract customers for her hairstyling business.[143]

NGOs are also using digital communications systems to successfully share information regarding refugees. One NGO was contacted by a community group on Facebook, asking it to refer LGBTI migrants in need of social support.[144] Another group reported, "We are trying to systematize, as much as possible, the information in shelters in order to use them as tools, inputs for advocacy."[145]

137 Interview by ORAM with MX-TW2.
138 Interview by ORAM with MX-G1.
139 Interview by ORAM with MX-L2.
140 Interview by ORAM with MX-TW4.
141 Interview by ORAM with MX-G2.
142 Interview by ORAM with MX-L2.
143 Interview by ORAM with MX-TW4.
144 Interview by ORAM with MX-S8.
145 Interview by ORAM with MX-S31.

VI. *Conclusion*

Photo by Kasper Christensen
www.flickr.com/photos/kc_aplosweb/6142323949/

SGN refugees in Mexico are inundated with difficulties in many areas: isolation from community, inability to find employment or education, and lack of access to housing and social services. Despite the progressive rights available under Mexican law and particularly in Mexico City, non-state actors continue to harass SGN refugees. The government's efforts to protect refugees have thus far fallen short. In turn, the refugees are reluctant to seek assistance.

Despite these barriers and challenges, a concerted effort by the various stakeholders to improve protection for SGN refugees can fulfill the aspirations of Mexican law and help translate the promises into real benefits for this vulnerable population.

ORAM has developed a detailed set of recommendations directed at NGO service providers, government officials, and other key stakeholders. These tools are provided in Part II of this report. Implementing these recommendations will bring SGN individuals further into the fold of refugee protection and will narrow many of the gaps that currently militate against international protection, integration, and access to the resources necessary to survival in Mexico.

ABOUT ORAM

ORAM — Organization for Refuge, Asylum & Migration is the leading agency advocating for lesbian, gay, bisexual, transgender, and intersex (LGBTI) refugees worldwide. Based in San Francisco in the United States, ORAM is the only international NGO that focuses exclusively on refugees and asylum seekers fleeing sexual orientation and gender identity-based violence.

ORAM works to carry out its worldwide mission on multiple fronts, from direct client assistance and global advocacy to logistical support and training. Among ORAM's many groundbreaking undertakings are its comprehensive and innovative trainings and its work in the assisted resettlement of LGBTI refugees. Through these strategic activities, ORAM is expanding the international humanitarian agenda to include LGBTI persons and to secure LGBTI refugees' safety. Concurrently, ORAM advocates within a broad range of communities to include these refugees within their scope of protection.

Informed by its intensive legal fieldwork, ORAM conducts international and domestic advocacy to protect LGBTI individuals fleeing persecution worldwide through collaboration with a wide array of NGO partners. ORAM continuously provides educators, community leaders, and decision-makers with much-needed information about LGBTI refugees.

ORAM's publications meld legal expertise with research-based insights in the social sciences and thorough knowledge of current events. These are informed by ORAM's comprehensive community-based understanding of LGBTI issues. Together these three pillars yield an unsurpassed capacity to bring about real change.

As a steward and educator on LGBTI refugee issues, ORAM develops and provides targeted, culturally-competent trainings for refugee protection professionals, adjudicators, and other stakeholders worldwide. This report is intended to inform such trainings.

ORAM

Organization for Refuge, Asylum & Migration

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