



FORCIBLY DISPLACED PEOPLE NETWORK

**Submission to the Office for Women (PM&C)
Consultation on Review of the *Workplace Gender Equality Act 2012***

23 November 2021

Forcibly Displaced People Network

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About Forcibly Displaced People Network

Forcibly Displaced People Network (FDPN) is the first organisation in Australia to dedicate its work to the issues of LGBTIQ+ forced displacement and be driven by the lived experience of it. FDPN is established to promote human rights and inclusion of LGBTIQ+ persons in forced displacement through peer support and strengthening services and policy responses.

We welcome an opportunity to make a submission in response to the consultation on review of the *Workplace Gender Equality Act 2012*.

Introduction

Lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) people around the world remain persecuted, subjected to physical and sexual violence, torture, harassment and exploitation. In 2019 there were 70 countries that criminalised consensual same-sex sexual acts, with the death penalty a possibility in 11.¹

LGBTIQ+ individuals who are persecuted on the basis of their sexual orientation, gender identity or sex characteristics are able to apply for protection under the international refugee law (the 1951 Refugee Convention) as well as *Australian Migration law and regulations* being recognised either as a 'member of a particular social group' or for their 'political opinion'.

Despite this, there is a lack of data in the Department of Home Affairs that disaggregates protection claims by claims based on sexual orientation and gender identity. Globally it is believed that up to 6 per cent of refugees identify as LGBT:

- US-based Heartland Alliances reported 3.8% of refugee claimants in the US to identify as LGBT²;
- Another research reported 3.6% of refugee applicants in 2011 in the US identified as LGBT³; and
- Organisation for Refuge, Asylum and Migration estimates "that between 4 and 6 percent of the asylees in other countries could be lodging claims based on their LGBTI status"⁴

Compared with non-LGBTIQ+ refugee populations, LGBTIQ+ people seeking asylum and refugees experience compounding marginalisations. Alessi et al. highlight a number of differing and heightened experiences, including 'the early onset of victimization, the perpetration of violence by family members, the societal stigma that tacitly condones this violence, and the lack of formal and informal supports to help

¹ ILGA World: Lucas Ramon Mendos, State-Sponsored Homophobia 2019: Global Legislation Overview Update (Geneva; ILGA, December 2019) Available from: <https://ilga.org/state-sponsored-homophobia-report>

² Heartland Alliance (2012) Rainbow Welcome Initiative: An Assessment and Recommendations Report on LGBT Refugee Resettlement in the United States. Washington, DC, US Department of Health and Human Services, Office of Refugee Resettlement.

³ Portman, S., Weyl D. (2013) LGBT refugee resettlement in the US: emerging best practices. Forced Migration Review, issue 42; Martin, C. D., Yankay J. (2012) Annual Flow Report. Refugees and Asylees 2011. Available from: https://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2011.pdf

⁴ ORAM (2012) Rainbow Bridges: A Community Guide to Rebuilding the Lives of LGBTI Refugees and Asylees. Available from <https://oramrefugee.org/wp-content/uploads/2016/02/oram-rainbow-bridges-2012-web.pdf>

LGBT migrants cope with trauma.⁵ In addition, it is also important to account for the intersectionality of their experiences and look not only at their sexual orientation, gender identity but also age, race, ethnicity, nationality, religion, disability and migration status.

Despite availability of services for people seeking asylum, refugees and LGBTIQ+ persons as separate cohorts, LGBTIQ+ people seeking asylum and refugees still experience barriers with accessing those services. Specific programs designed to provide peer support to LGBTIQ+ people seeking asylum and refugees are not widely available.

Response to the Q5 of the consultation paper:

In addition to gender, should WGEA collect other data on diversity and inclusion criteria on a mandatory basis, to enable a more nuanced analysis of men and women's experiences in the workplace? If yes, please specify criteria (eg cultural and linguistic diversity, disability, age, location of primary workplace). If not, why not?

FDPN supports the role of WGEA in collecting data that is used to track progress towards gender equality. Yet, we do not see it sufficient to collect only gender data without other essential identities or characteristics. We strongly believe that it is not possible to achieve gender equality without eliminating homo-, bi- and transphobia, intersexism, racism, xenophobia and ableism. It is, thus, essential that data is collected in an intersectional way.

For LGBTIQ+ people in Australia full equality and enjoyment of non-discrimination and equal treatment haven not yet been achieved. Some available data highlights concerning statistics:

- 34 per cents of LGBTI people hide their sexual orientation or gender identity (SOGI) when accessing services and 39 per cent hide SOGI at work.⁶
- LGBTI young people report experiencing verbal homophobic abuse (61 per cent), physical homophobic abuse (18 per cent) and other types of homophobia (9 per cent), including cyberbullying, social exclusion and humiliation.⁷
- Transgender men and women experience significantly higher rates of non-physical and physical abuse compared with lesbians and gay men.⁸
- Globally, LGBTIQ+ people are 7% less likely to be employed than their peers; yheir earnings are 4% on average lower and they are 11% less likely to hold managerial position.⁹

⁵ Alessi, E.J., Kahn, S. & Chatterji, S. (2016). 'The darkest times of my life': Recollections of child abuse among forced migrants persecuted because of their sexual orientation and gender identity. *Child Abuse & Neglect* 51, 93-105.

⁶ Australian Research Centre in Sex, Health and Society, La Trobe University, *Private Lives 2: The second national survey of the health and wellbeing of GLBT Australians* (2012) pp 45-46.

⁷ Australian Research Centre in Sex, Health and Society, La Trobe University, *Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people*(2010), p 39.

⁸ Australian Research Centre in Sex, Health and Society, La Trobe University, *Private Lives 2: The second national survey of the health and wellbeing of GLBT Australians* (2012)

⁹ The Organisation for Economic Co-operation and Development <https://www.oecd.org/els/soc/lgbti.htm>

When it comes to LGBTIQ+ people who have experienced forced displacement their experience is more complex due to an intersecting nature with bias associated with their migration status as well as experiences of racism, xenophobia and ableism. There is a great lack of data on such disaggregated experiences that hinders the ability to enact change in such areas as access to employment.

FDPN has collected data on gender pay gap that is even more prevalent for LBTQ asylum seeking and refugee women, discrimination at work, gender bias and racial profiling. Consider case studies collected by FDPN in the appendix 1. Yet, such data is missing across Australia. Such disaggregated data is crucial to both understanding the prevalence of these experiences and for a more comprehensive picture of Australia's progress towards achieving gender equality.

Thus, we recommend the following:

- 1. Ensure that data collection practice follow the 2020 ABS standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables¹⁰**
- 2. Ensure that data is collected on race, ethnicity, nationality, and migration status.**
- 3. Ensure that data is collected on disability.**

Once again, thank you for the opportunity to make a submission. If you wish to discuss this issue further, please contact Renee Dixson, FDPN Chair.

Renee Dixson

Co-founder, Chair

Forcibly Displaced People Network

¹⁰ See more at <https://www.abs.gov.au/statistics/standards/standard-sex-gender-variations-sex-characteristics-and-sexual-orientation-variables/latest-release>

Appendix 1

Case Study 1

Samah is a lesbian woman seeking asylum in Australia. She has a Bridging Visa with work rights. She has been invited to attend an interview for a position of a shop assistant. After the job interview, the manager tells Samah that she does not look "like a woman enough" to be employed in his store.

Despite the fact, that Samah can lodge a complaint to the Anti-Discrimination Board NSW, she decides against this, fearing that her migration status and the application for protection visa will be compromised.

Case Study 2

Amina is a lesbian woman seeking asylum in Australia. Her initial application for asylum has been rejected. She is currently appealing the rejection.

Amina is working at the recycling station. She is the only woman in the team. All of the team members have identical work duties. After some time, Amina has found out that she is paid less compared to her male colleagues. On top of this, she is also subjected to constant bullying and sexual harassment because of her sexual orientation from her male colleagues.

Amina asks her manager to increase her pay to the level of her male colleagues. He does not agree. Amina decides not to lodge a complaint and keep the job, because she is afraid that she will not be able to find another secure employment on her visa.

Case Study 3

Luna is a lesbian woman seeking asylum in Australia. She has not yet been assessed and recognised as a refugee. Thus, Luna is holding a Bridging visa with work rights. She is a trained disability worker with an extensive experience. Luna is not able to find a secure employment as employers do not want to employ her because of the bridging visa.
