

‘No where is safe’



Experiences of LGBTI asylum seekers in Malawi

*Report produced by the Centre for Human Rights and Rehabilitation (CHRR) with support
from the Munakata Foundation*



Dzaleka Refugee Camp

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1.0 Introduction

Some time in June 2017, some individuals fled their home countries due to persecution based on their sexual orientation or gender identity. They arrived in Malawi, a country renowned for its friendly people, hoping to find a safe haven in the 'Warm Heart of Africa'.

Alas, instead of a safe haven, many have found the same kinds of persecution they had hoped to escape from in their home countries. As Leticia, who is lesbian, puts it in her testimony, "*Wherever you go in the country, homophobia is real. There is no place that is safe. The treatment we get here is worse than what we're escaping from. It's like jumping from the frying pan into the fire.*"

Their reception by local authorities at the refugee camp has not been favourable either. Rejection, cold responses and even insults are regular occurrences in their daily lives. Many have come to realise that the refugee camp is not a safe place for them. As a result, many have fled the camp for their own safety. Those that have remained have found that the only way to survive is to hide their sexual orientation and/or gender identity. But even doing so comes at a price.

In this report, we tell their stories. We do this to raise awareness of the kinds of human rights violations that LGBTI individuals face when seeking asylum in Malawi in the hope that this will lead to an improvement in the way the asylum system deals with people who flee their countries because of persecution on the basis of their sexual orientation or gender identity.

Seeking asylum is not a crime, it is a right enshrined in the Universal Declaration of Human Rights and the 1951 Refugee Convention. Yet, instead of providing sanctuary, the current asylum system in Malawi is subjecting LGBTI people to the same human rights abuses that forced them to flee their homes. In their first place This is not right. The fact that people are forced to flee from their families, their homes, their countries, shows how desperate the situation can be for LGBTI people.

Therefore, this report calls upon the Malawi Government to improve the way the asylum system deals with LGBTI asylum seekers. Malawi has an obligation to offer sanctuary to anyone who has well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion' and to ensure that the rights to life, health and security of everyone within its borders are respected, protected and fulfilled in line with the Malawi constitution. LGBTI asylum seekers are human beings and should be treated as such.

2.0 Background and objectives

The Centre for Human Rights and Rehabilitation (CHRR) is one of the leading human rights NGOs in Malawi. Established in February 1995, CHRR's mandate includes strengthening the promotion and *protection of human rights* in Malawi, and making recommendations to the state to address violations of *human rights*, including gross and systematic violations.

In line with this mandate, CHRR has for a number of years been supporting LGBTI asylum seekers so that they can live with dignity, without the daily threat of violence and discrimination. CHRR understands that most LGBTI migrants who come to Malawi to seek asylum come from countries where LGBTI persons are persecuted because of their sexual orientation or gender identity. For these migrants, staying in their home country can often be a death sentence. Many of them have no choice. While they understand the dangers of the journey to seek asylum outside their home country, they understand just as well the dangers of remaining at home, where extreme discrimination and violence are part of their lives. Unfortunately, when they arrive in Malawi, many are subjected to the same kinds of social marginalization and victimisation that they had hoped to escape from in their home countries.

Since 2016, CHRR has been documenting human rights violations against LGBTI asylum seekers and using this as evidence to advocate for a more humane asylum system in Malawi that respects the rights of every asylum seeker regardless of their sexual orientation or gender identity. In 2019, CHRR received financial support from the Munakata Foundation to support LGBTI asylum seekers and refugees. One of the activities under this project was to collect and document human rights violations against these individuals for advocacy purposes. The terms of reference for the documentation exercise outlined the following major objectives:

- To collect and document human rights violations experienced by LGBT refugees and asylum seekers living within and outside Dzaleka Refugee Camp;
- To make recommendations to UNHRC and other key stakeholders in regard to addressing these human rights violations and providing further support for LGBTI asylum seekers and refugees.

3.0 Methodology and limitations

CHRR requested 6 LGBTI asylum seekers to tell their stories, right from the moment they left their country of origin to the time they came to Malawi. They were given notebooks and pens to undertake this task. 5 of the 6 asylum seekers responded to this request by writing down their

stories. CHRR followed up this exercise with in-depth interviews with the 5 respondents. CHRR also interviewed 8 LGBTI asylum seekers living at Dzaleka Refugee Camp in Malawi.

The participants were asked about their experiences with staff and other refugees, their physical and emotional well-being while in the camp and their access to services, including health. This report is a result of these interviews and case documentation.

The report reflects the diverse experiences among LGBTI asylum seekers. The participants were from three different African countries, namely Uganda, Kenya, and the Democratic Republic of the Congo (DRC). All names have been changed to protect the identity of these participants. CHRR also spoke with representatives of UNHCR and the Ministry of Home Affairs, provided useful insights into the asylum system and efforts being made to incorporate LGBTI asylum seekers. Prior to the interviews, a literature review was done to review the work done so far on LGBTI issues in Malawi. Materials sourced included previous studies on violence against LGBTI persons in the country, and media reports. This report was shared with all relevant stakeholders during a stakeholders meeting that was held at Linde Motel at Mponela on 4th August 2019.

This report is solely based on personal testimonies. Some of the asylum seekers refused to give consent to include in this report their experiences for fear that publishing their stories would expose them and put their lives at risk. Others feared that it would affect their application for refugee status since homosexuals are considered as 'prohibited immigrants' in the Immigration Act of Malawi, which is currently under review. Therefore, this report contains only testimonies from those respondents who expressed willingness to have their stories published.

This report is more qualitative in nature than quantitative. The idea is simply to offer a qualitative glimpse into the kinds of human rights abuses that LGBTI asylum seekers face in Malawi.

4.0 Experiences of LGBTI asylum seekers

4.1 Experiences in Country of Origin

I was attacked during the night at around 8pm by some unknown guys. They were knocking hard on my door while shouting 'open! Open!' You fool we know you are in there, open now. Fear struck me and I knew this was the end of my life. I tried to shout at them, asking who they were but they insisted 'open! Open! You fool we will deal with you today. In the house I was staying with my son, so he began crying and asking me what's going on but I had nothing to tell him. I peeped through a slit in the curtain and to my shock I saw three huge guys in black overcoats each carrying big metal bars ready

to end my life. The following morning, I borrowed money from friends and, with the little savings I had made, fled Uganda through Busia border using a cargo truck.'

–Mussa, gay man from Uganda

LGBTI migrants who come to Malawi to seek asylum often come from countries such as Uganda, where LGBTI persons are persecuted because of their sexual orientation or gender identity. For such migrants, staying in their home country can often be a death sentence. Such persecution is often fueled by laws inherited from British colonialism. When the British colonized some parts of Africa, they introduced penal codes criminalizing acts that were “against the order of nature,” which included homosexuality. Those codes remained on the books in countries like Kenya and Uganda even after they received independence. In recent years, some countries have attempted to toughen these laws further, thereby making life even harder for LGBTI Africans. For example, in Uganda, after the country’s Parliament passed what became known as the “kill the gays” bill, which imposed life sentences on those repeatedly convicted of same-sex sexual acts, hundreds of LGBTI Ugandans began fleeing the country to seek asylum abroad. Courts eventually invalidated the law, but the attempts to stiffen the law contributed to worsening conditions for LGBT communities in that country.

In Nigeria, the country’s House of Representatives passed a Law in May 2013 that further criminalised homosexuality by punishing those who try to enter same-sex marriages with a possible 14 years’ prison term. The bill, Prohibition of Same Sex Act, which passed through the Senate – Nigeria’s highest chamber – in December 2011 also punishes those “witnessing” or “abetting” same sex relationships with custodial sentences of at least eight years, and groups that advocate for LGBT rights were also penalised by the new bill.

In the DRC, same-sex relationships are not illegal. However, there have been attempts in recent years to criminalise them. Recently, the National Assembly Member Steve Mbikayi, sponsored a Bill in Parliament which, he insisted was meant to avoid “moral depravity” and protect the Congolese youth from “western morals.” In Kenya, sodomy is already a crime according to section 162 of the Kenyan Penal Code, punishable by up to 14 years’ imprisonment. Section 165 of the same statute criminalises any sexual practices between males (termed ‘gross indecency’), punishable by 5 years’ imprisonment.

These laws affect LGBTI Africans on a daily basis. In many countries, LGBTI individuals have to hide to avoid being noticed. Those that are discovered are arrested, charged and sentenced usually without evidence of same-sex conduct, and sometimes invasive medical examinations are performed in an attempt to obtain 'evidence' of such. Even in countries

where anti-homosexuality laws are not routinely implemented, the existence of the laws alone provide opportunities for abuse, including blackmail and extortion, both by police and by non-state actors. Furthermore, the existence of laws that criminalize one group of people based on who they are and who they (are presumed to) have consensual sex with, sends a message to the broader population that discrimination on the basis of sexual orientation and gender identity is acceptable, and that human rights do not apply to LGBTI people. This creates an environment in which harassment, intimidation and violence against LGBTI people can flourish, and people can perpetrate such acts with impunity.

Byenkya was just a teenager when he discovered his sexual orientation. After ending his relationship with his first lover, he went on to have relationships with other boys in his neighbourhood, not knowing what lay ahead for him.

In secondary school, I was involved in a relationship with a son to the District Police Commander (DPC). When the headmaster heard about it, he sent some of the students to catch us. We were taken to the office where we were beaten seriously by the headmaster and some teachers. We were immediately expelled from school.

However, that was not the end of Byenkya's predicament as news soon spread through the entire community about his same-sex relationship. The following morning, an angry mob descended upon his home, armed with panga knives and metal bars.

They had come looking for me, fortunately I had not spent the night there, having slept at my friend's house the previous night. They found my father and beat him up severely. Everything in sight, every property, was destroyed. The goats that my father kept were all slaughtered by the irate mob. My grandmother was also beaten up seriously, she couldn't walk for days. After this incident, my father sold his land and left the area. He vowed that he would never set his eyes on me again. He had disowned me.

One of my friends warned me that my boyfriend's father, who was working with the Ugandan police, and was well-known in the community, had organized police officers to arrest me. That was when I thought of running away so that I could save my life from the police, the community and my own relatives.

Beyond the hardships and near-fatalities which arise at a broader level, LGBTI persons also experience the unparalleled psychological pain of rejection and alienation by family and friends. For Byenka, the pain of rejection was unbearable.

I phoned my father to tell him that I was leaving, but I was shocked by what he said. 'I am no longer your father,' he said. 'and had I known that you are like that I would have killed you with my own hands long before even this happened'. I was scared because my father was the only person I was ever close to since my mother deserted us when my brother and I were very young. I was raised up my father together with my brother.

Byenka's experience is not different from that of other LGBTI individuals that we interviewed. For Senduggwa, his experience is even more harrowing. His boyfriend was killed by irate neighbours after news went out that they were in a gay relationship.

When the incident happened that my boyfriend was killed, I didn't know what to do. The only thing I had on my mind was how to get out of this country. It was very early. I was like 'you should not open the door', but he wanted to find out why there's banging on the door. He opened the door. Someone just grabbed him. The only thing I heard was him screaming for help. I still regret that I couldn't help. I just had to run. I jumped from the window and I just ran. I was trying to get out of that environment. I just kept running just to find somewhere to hide.

Gerald fled Uganda after he was warned by his family that police were out looking for him. Two of his friends were arrested. 'That was a big shock,' he says. Then, in May 2018, he was called back home to a family meeting. His mother — whose name he withholds to protect her — begged him to leave Uganda.

'She and my sister felt my life was in danger. They told me to abandon my gay lifestyle and warned me: "If this is what you insist on doing, then it is best you leave Uganda." His family was fearing for their own safety too. In Uganda, whole families can be victimised if one of the family members is gay. 'My mother pleaded with me. She could not bear to see me in prison. It would be better if I was far away, despite the wrench to her. It is for this reason I fled.'

The violence knows no gender. Leticia fled Kenya after her own mother plotted to have her arrested for teaching other girls 'lesbianism'. Having been arrested twice before —the last time escaping prison time at Shimolatawa Prison after paying bribes to some police officers to let her go —Leticia knew that this time her luck was slim. She fled the country.

Raised in a rich family, Leticia grew up not knowing her real mother or father. The person she called 'mother' was a prominent woman in Kenyan politics, who adopted her after her own mother had abandoned her on the 'streets' as a baby. She was brought to this benevolent lady's home, where she was raised along with other adopted girls. A bright girl

who excelled in school, Leticia was her adopted mother's favourite girl. However, everything changed when Leticia started dating other girls in school.

"This woman really wanted me to go to prison and die there", she says, before sinking into a reflective mood. "I have had a hard life. I have never had a life where I am accepted, respected. Maybe because I was not raised with people that I am related with by blood. My mother is the only one I have known, but when she learnt that I am lesbian, she disowned me. She told me I am 'fake'."

Before coming to Malawi, Leticia went to Uganda to try to seek refuge there.

I was in Uganda from August 2017 until February 2018. Police held me for one week; there were a lot of abuses: they were bringing me pornography to watch, sexually harassing me. I left and went to Kakmapula camp, but the situation there was no better. I was put together with a group of 7 men. The men started harassing me. I decided I was not going to stay there for long.

For Kabou, the decision to flee his home country, the Democratic Republic of Congo (DRC), in 2006 was not on account of his sexual orientation. He, like thousands of other young people, was at risk of forcible recruitment into armed groups who control much of North Kivu in the DRC. The militia group, known as the Mayi-Mayi, were targeting schools, and Kabou knew that his chances of escaping forced recruitment were slim.

Kabou explained that the Mayi-Mayi militia groups tell children it is their responsibility to fight to protect their villages from other armed groups. Spurred by a sense of duty, children often volunteer themselves for service. Those who resist are "volunteered" by their parents. Thank God, Kabou's mother did not want him or his elder brother to join the militia groups.

Another rebel group, the Forces Démocratiques de Liberation du Rwanda (FDLR), an ethnic Hutu militia group with links to the perpetrators of Rwanda's 1994 genocide, are known to sweep into a village and literally scoop up all of the children of a certain age and march them off into the bush. If caught, the children are held in squalid prisoner-of-war (PoW) camps.

When two of Kabou's close friends were picked by the militias, his mother assembled him and his brother and younger sister in the middle of the night and pleaded with them to leave immediately. With his brother and sister (girls were also targeted and forced to become "wives" to the military commanders - relegating them to the role of sex slaves), Kabou fled to Uganda first and then from there to Tanzania on foot, equipped with only a few clothes and some small cash their mother had given them.

“We didn’t mind the distance we had to walk,” Kabou recalls. “The only thing on our mind was to escape and go as far away as possible, where these evil militias would not find us.”

Halima, a transwoman, also from the Congo, fled to Malawi in April 2017 after she was raped in her own country.

“Being born moslem, a transgender and they realise you have been raped they burn you to death. So I fled”, she says.

Her step father wanted to kill her, and so she fled.

Halima explained that back home she had endured a life of persecution because of the way she looks.

“Everything about me is a woman as you can see. My body, the way I walk, talk. But this has brought me a lot of problems, man. People are curious. Wherever I go there are looking at me and asking themselves ‘is this a woman? How come she also looks like a man? Some want to hurt me because of that. Because I look different. It’s terrible.”

4.2 Experiences on the perilous journey to seek asylum



For asylum seekers, the effort to get to Malawi often involves walking for days, usually without food, water or shelter. Others hop into the back of cargo trucks, paying people smugglers almost all their lifesavings just to get away from their oppressive environments.

Byenkya narrates his experience:

With the little money I had, I boarded a truck which was transporting food from Mutukula to Dar-es-salaam because it was cheap. It was in June 2018 when I left Mutukula and boarded a Falcon bus from Dar-es-Salaam to Malawi. I crossed the Songwe Border and entered Malawi on June 31st, 2018 after spending the whole day at the border.”

Mussa, from Uganda, traveled five hours to Busia Border, curled up in a cargo truck. When he got there, he searched for a truck driver to smuggle him into Tanzania. Mussa told how he paid the people trafficker for his entire journey from Tanzania to the Songwe border, where he arrived in the last week of July 2018.

He remembers:

I got onto a cargo truck which was being driven by a man known as Sserunkuma. After traveling for about an hour, we started talking. He asked me why I was leaving Uganda and I told him my problems. At first I tried very much not to open up to him about my sexual orientation, but after sometime I told him everything and he felt pity on me. Then he told me that he would not change me because that's what I was. He asked me exactly where I was going but I told him that I would end my journey where he was going to stop and then see what I could do next from there. He told me he was ending at Mbeya in Tanzania and I told him it's fine. Sserunkuma told me a story about someone in a similar situation whom he had helped before. That guy escaped because his family wanted to kill him and he was helped by an organization known as UNHCR. I had not heard about this organization, and so I had to google it on my phone. We finally reached Mbeya and Sserunkuma told me that this is where he was stopping, so I should sort myself out. At Mbeya we stopped at Truck Pack where Sserunkuma delivered his load and started his journey back to Uganda. Now left alone, confused, I didn't know where to go. Before leaving Sserunkuma had told me that he has other friends who do the same job of driving trucks across borders and that if I wanted to continue he could connect me to someone who was traveling soon. But this time around I had to pay because for them it's a business. Since I had not spent any of my money I pleaded with him to connect me with that person.

For Kabou, his journey from North Kivu to Uganda and from there to Tanzania was almost entirely covered on foot.

"It was a difficult journey with very little money, and no food," Kabou remembers. "We had to rely on the kindness of strangers to survive. Sometimes we were lucky to be offered a lift by benevolent drivers, but most of the times we had to walk on foot in scorching heat."

"We didn't know where we were going or where we'd wind up. We just kept going. Our aim was to get as far away from Kivu as possible. Whenever we found a church, we would stop and beg for food and accommodation. But many times we had to sleep in the bushes because there was no one to help us."

For Josh, a gay man from Uganda, the journey involved a combination of walking and hitchhiking before arriving at Songwe Border in the middle of the night. At the border, after stamping his passport, he paid a truck driver to drive him and six others in the back of a truck across the border. About thirty minutes into Malawi, the truck dropped off its human cargo at Karonga boma. “We walked on for about 30 more minutes,” he says, “then we heard some people shouting that there was a vehicle traveling to Lilongwe.

For Benson, gay man from Kenya, his journey into Malawi happened through a truck driver who smuggled him across the border.

4.3 Experiences in country of asylum

In Malawi, their troubles typically start at the border. One asylum seeker told how he was chastised by an immigration official and told to “stop talking and acting like a girl”.

“After that incident,” recalls Lucas, “the immigration officer stopped looking me in the eye when speaking to me. I knew from that moment that he didn’t like who I was.”

For Halima, the journey from DRC took almost 10 days. She entered the country through Karonga border and then got a lift from there to come to Dzaleka. “After I arrived here I was very scared to tell my story because I didn’t want people to start asking me about my gender”, she says. In one incident, Halima told how she was forced by a camp officer to strip naked to prove her gender identity. This forced her to change her story, telling the officer that she was in fact a man and taking on a male name which is still being used today by authorities.

Because of her gender identity, Halima has faced many violations. She has been beaten twice but only reported the second incident. “First time I was scared to report because they ask so many questions”, she says.

Halima has also faced the challenge of finding accommodation and food as people couldn’t accept to live with a ‘woman who looks like a man’.

“There is a girl who helped me to get out of the transit shelter,” recalls Iddi. “But the mother didn’t like men, she started creating drama, insulting me and harassing me to the point of chasing me out of the house.”

Benson started life in Malawi at the Devi’s Street in the capital, Lilongwe. Clad in his favourite feminine attire that included tongue and nose piercings, earrings, handbag, high heel shoes and bangles on bothhands, Benson stepped onto Devil Street with hope.

“Just by looking at life at Devil Street, I thought I had found a home, I felt a bit safer, and never thought of being attacked as was the situation back home in Kenya and Uganda where I first fled to. But Uganda was worse than I thought,” he narrates. In that country, he says he was bullied and police in Kampala told him that they had better criminal issues to deal with than waste time with him ‘a gay’, telling him to leave the country.

After spending a night at Devil Street, he was taken to Dzaleka Refugee Camp, but the people to who took him there—fellow refugees—abandoned him immediately they arrived at the camp.

4.3.1 Experiences with refugee camp authorities

Many of the respondents indicated that they had not been treated well by refugee camp authorities. The kind of treatment they received ranged from being told that they had no right to stay in the camp to being kept for hours and hours to be attended to.

For Mussa, his arrival was equally stressful. Arriving at bus terminal in Lilongwe, Josh looked for someone to help him. Not knowing anyone, he felt he couldn’t trust a soul. He paid for a lodge and spent the night there.

The following morning, he paid a *kabaza* (motorcycle) operator and asked him to take him straight to UNHCR offices in Area 12.

After about 45 minutes of traveling, I reached UNHCR at around 9am. I talked to the security guard at the gate and he asked me to wait. He went inside to talk to officers who were inside. He came back with sad news telling me that no one was willing to handle me case. I sat there at the gate with my bag from 9am to 3.30pm to get someone to listen to me. Finally, at around 3.30pm, a lady came to see me from the protection office and she told me to carry my bag inside. I followed her to the office and she told me to explain in detail from the time I left Uganda till here. The lady told me to go to Dzaleka.

At Dzaleka Mussa arrived around 1pm. He was directed to the government’s office at the camp. When he got there some old man who looked like a security officer for refugees received him.

The man really harassed. He started asking me hard questions, all the while threatening me that I would be deported if I didn’t explain very well the reason why I was at the camp. When I told him my story, he got so furious that ordered me to get out of his office and sit outside. I collected my bag and moved out. Outside I saw a bench and I went to sit on it. I sat down there for two hours, not knowing what to do or where to go next. Then suddenly a

lady appeared and told me to go to the camp manager's office. The office was just next door. Inside that office I found a lady who, I later discovered, was the camp administrator. I narrated my problems, why I had fled Uganda and how I had found myself at this camp. When I told her about my sexual orientation, her mood changed. She told me that I cannot be allowed into the camp because the government does not allow people of my kind to live in this country. And she sent me out telling me that maybe I can try the upper offices, which I discovered later that they belong to UNHCR. Upon reaching that office I was late, they had already closed for the day and they told me to go to the transit and come again the next day. The following morning, I went back to the office but to my surprise these officials kept me on a pending list for 3 months.

Byenkya, from Uganda, had a similar experience.

I arrived on 31 June 2018 in Lilongwe where I found myself lonely, not knowing where to go or who to speak to. The only option for me was to ask for UNHCR offices since it is the mother organization for refugees. I was taken to Area 12 at around 11.30am. When I reached the offices, I was not allowed to enter inside. I was told to wait by the gate for someone to come and speak to me. It was a very hot day. The scorching heat was hard on my body, but I had nowhere else to shelter myself and nothing to do apart from waiting for someone to come and help me. It was around 3.30pm when the security guard showed up again. He brought me a form to fill. I filled the form and was taken to a protection officer. I told the protection officer my story. When I explained that I was gay, she told me people of my kind are not allowed or even welcomed to this country but since I had nowhere to go, she told me to go to Dzaleka Refugee Camp and meet the camp manager first. But I had no money to travel. The lady took k2, 000 from her own pocket and gave it to me to use for transport. I reached the camp and went straight to the camp manager. The camp manager received me well, but upon hearing that I am gay, her mood changed. She told me that I am not even supposed to come to Malawi and that the country does not give asylum to people of my kind. It was now late in the evening and she called someone to take me to the transit camp.

Halima, however, says she was assisted by an officer working with Plan International when she was chased out of the house she was living in. "The officer told me she would find me somewhere to stay for two weeks. After that she would find me a place to stay in town."

"The officer called someone in Lilongwe who I don't know. That person agreed to pay my house rent which was K4, 000. After that she wrote a letter to distribution point to give me

a blanket. They gave me a blanket but no kitchen utensils, no mat or mattress. They said they don't give mattress to people who are not disabled."

For Benson, his experience with camp authorities was not good.

"We arrived at the camp in the evening and there was no one in the office. I was taken there by some Congolese friends I interacted with at Devil Street, but when we got to the camp, they did not know where to take me. They were even afraid to walk with me in the camp. That time, I still had this feminine look, because that's what I am. I like this female look."

Benson did not know any one at the camp. He did not even know where the Transit Hall was, and with the warning that he got about his looks, he simply thought of sleeping in a nearby farm, in the bush! He says he couldn't even go to police because of his bad experience with police in Uganda.

The following day, on March 5, it was a public holiday [after March 3], so there was no one at the office again, and had to wait until Tuesday, March 6 2018. During the three days, excluding the transit days from Uganda, I had no money, did not interact with anybody, had no bath, no food and was forced to help myself with green maize from the surrounding farms.

*On March 6, when I got to the camp manager, the questions she asked me made me uncomfortable! She was asking me how I have sex and even called another officer to see me, and also listen to my responses! Man I got pissed off! I felt out of place. I mean, how would someone ask me how men make love to me? It was very irrelevant! So, they wanted me to explain how we do it! Then I asked them if I could go again the following day, because the conversation was not helping me. Fortunately, the following day, I met a senior regional resettlement officer for United Nations High Commissioner for Refugees (UNHCR), who noticed my vulnerability and recommended that I be relocated to Lilongwe. What necessitated my immediate relocation was that where I slept, some people noticed me and were talking in French like *celui-la est gay* [he is a gay], and they were monitoring me.*

4.3.2 Living conditions

In general, living conditions at Dzaleka are very bad. The sanitation in the camp is poor, due to congestion, poor drainage, limited access to family latrines, and presence of cattle, goats and pigs within the residential areas.

In the transit, the conditions are even worse, Byenkya from Uganda remembers. “I had no blankets to cover myself at night, it was so cold since it was the cold season. Life was very hard. I woke up the next morning feeling pain all over my body.”

Narrating their experiences, other refugees said when they arrived in the camp, they were searched and later taken to the Transit Hall, where all new arrivals stay.

Mussa explains:

“In this hall, you have many people, and immediately they leant of our sexual orientation, their attitude towards us changed. If they were chatting, they would immediately stop talking when they saw us. At times, they would break bottles, telling us that they would knife us one day. More so, authorities told us that we could not be registered because we were not persons of concern and that the government of Malawi did not recognize our sexual orientation. Without registration, we were not considered a priority in terms of foods and other necessities. We would always come last. Many times we went to bed without eating”.

4.3.3 Experience with other asylum seekers and refugees

Many refugees and asylum seekers at Dzaleka Refugee Camp are homophobic. This is hardly surprising since most come from countries such as Somalia, Burundi and the DRC where LGBTI individuals are treated badly. Respondents described having to hide their sexual orientation and gender identity by all means possible in order to avoid persecution, harassment and discrimination. Relationships are kept secret. People who are not perceived to be conforming to gender norms have a particularly difficult time.

As a result of this repressive environment, many LGBTI people are under immense pressure to create parallel lives to disguise their sexual orientation or gender identity. Those who fail to do this face dire consequences.

Byenkya described how he was beaten up and his phone taken away by a group of refugees who accused him of being gay. He was unable to report the incident to police or any of the security agents in the camp.

For Benson, his bad experiences started in a safe house that he was put in by UNHCR and Plan Malawi. This was a safe house that was also being used by straight people and so it was not ideal for him. Benson soon discovered that he was not liked by the other housemates because of his sexual orientation. He was openly discriminated against and treated badly by the other housemates. He was not allowed to use kitchen utensils, toilet and was also told to keep away from their children to avoid ‘transmitting’ his sexual orientation to them.

For example, this other day, on July 28 2018, the 'straight' flatmate found me cooking in the kitchen and removed the charcoalstove, threatening to beat me up should I repeat that, but I took it back, further angering the flat-mate. The next thing I saw was this man bouncing all over me with heavy blows and kicks. Shouting at me that I didn't have any right there, that the only right I had was to follow his words and orders.

"He assaulted me badly. I bled so much and bruised all over my face and I fled the safe house for days. I got in touch with Centre for Human Rights and Rehabilitation (CHRR) which took me to a hospital as a victim of assault," he narrates.

Mussa, described how he and other LGBTI individuals were attacked by other refugees in the camp in July 2018.

As a group our biggest challenge was finding a place to stay in the transit camp where we were put. This forced us to contribute some funds to buy polythene paper to partition some convenient place for us. And this is where we all put after knowing ourselves. Since the transit was for everyone, we were exposed to other refugees and this posed some security risks. Therefore, we needed to partition a space for ourselves to ensure privacy. Due to lack of privacy, someone in the transit camp got to know our sexual orientation and told others about it. This was visibly seen on many occasions.

One day we were denied water at the borehole because people knew who we were and threw our buckets away, saying we were not supposed to even be in the camp. As if that was not enough, when we went to get our food rations, a gang of guys attacked us and told us that we were not supposed to get food there, claiming people of our nature should not even be in the camp. Being who we are, we were denied registration. We also faced discrimination from security officers. We reported all these incidences to UNHCR but nothing was done to help us until when it was very hard on us when we were attacked at the transit and they fought with one of our member, beat him up and even cut him on the left arm.

After this fight, the guy who cut one of our friends left the transit that very evening. In the night while sleeping, we had something being hit on our polythene very hard and all of a sudden fire gutted our room in the corner where we used to keep our bags. To our surprise, we also heard the transit door being slammed. We put out the fire. After putting out the fire, we went to the police station to report the incident. The police referred the injured to the hospital. We also reported to UNHCR. Since it was a weekend, we had to wait until Monday. Upon going to the office on Monday, we found out that the protection officer was not in the

office. His phone could not be reached. That's when we decided to go to UNHCR headquarters in Area 12, in Lilongwe to try to ask for any help they could give us. While at the gate, at the main office, we were denied access by the guard, who claimed we did not have an appointment.

At around 2pm, a lady from the protection office came to speak to us. She advised us to go back to Dzaleka, the very place we were running away from. Since we couldn't go back, we stayed at the gate till night. Then at around 8pm, a vehicle for UNDSS came with an officer accompanied by police officers. He asked us the reason why we were there. He told us we cannot force someone to help us, and advised to return to Dzaleka. We told him that we could not go back and he said that he would take us to a safer place. And he told us to get into the vehicle. And to our surprise he drove us to a police station at Area 18 where we were arrested and detained until the following day when an officer from UNHCR came to attend to us. We had a meeting with her and she also advised us to return to Dzaleka, saying UNHCR had arranged a safe house where they would put us in. In the evening, police officers forced us into the vehicle and we were driven back to Dzaleka and left at the police station there. Here we got a group of angry police officers waiting for us and they pulled us out of the vehicle, dragging us into their office where they barraged us with questions, using obscene language. words. "You think looking like human makes you human?" We are not offering security to these people, they should even be deported.

It was a horrible time since to look for shelter for ourselves. Some pastor offered us her church to spend the night there, but the police accused her of hosting gays. Out of fear, the pastor was forced to send us away. When UNHCR officers heard about this, they called us to the office to listen to our stories. On 23rd October 2018, UNHCR managed to relocate us to a safe house.



Gerald displays a scar on his left hand that he sustained when he was attacked

For lesbian women, the situation is even more difficult. While in the camp, many are sexually assaulted and routinely harassed by male detainees and security guards—the same kinds of abuses that drive many transgender women to flee their home countries in the first place.

Leticia, from Kenya, explains her experience:

After moving to so many places I finally found a place to stay in the camp. But the house was not secure. The door was badly in need of repair. You could just push it and come in easily even if locked. Men would come in the night. Sometimes 3 or 4, saying we want you to become our wife. What are you doing here? Kenya is peaceful. They suspected me of being a lesbian. That made them to discriminate me.

Leticia explains that she has received numerous threats from male refugees in the camp.

One day I got a note. It was written in French. It said: we know all of you and you have come to spread your homosexuality but we are going to deal with you one by one. I asked UNHCR to take me where LGBT people are placed but I did not get assisted. One night a man came to my house speaking Swahili and a bit of Chichewa.

‘Open babe babe’ he shouted. I was afraid he was going to rape me. One day I was coming from bathroom; the bathroom is outside. A certain guy forced himself inside, his penis very erect. I knew he was going to rape me. I had to ran away.

Even though she managed to escape this time, Leticia has been a victim of rape in the camp at least once. Before that incident, Leticia had secured a part-time job at one of the local institutions

in the camp. One day, while working, Leticia became friends with one of the workers and confided to her that she is a lesbian. That person went out and told others.

Some three guys broke into my house one night. They were drunk. They said they wanted to see if a lesbian girl cannot sleep with a man. I was terrified. One of them forced himself on me, while the other two watched. He didn't use protection.

After raping me, the man stole my laptop and some of my personal items and left. In the morning, I went to report the matter to the police. They took a statement and said they would investigate. I was escorted by a police woman to the hospital. Three nurses and another man, all wearing gloves, put me on a table like a cow so that they could see if I had really been raped. But because I did not have a physical injury, and they could not see blood, the nurses started doubting everything I was saying. 'We can't see any blood or scratches on you; how can we prove that you were indeed raped?' They were discussing in Chichewa and then wrote that there was no evidence of rape. Then they left.

I decided this was too much. I went to the camp administrator to try to ask her to give me a police report. I told her I am a lesbian. Her mood suddenly changed. 'Who let you into the camp?' she yelled at me. Then she called in the chief security officer and they started discussing. She said she didn't know of any existing Kenyan in the camp. I was scared. I thought they were going to arrest me and so I fled the camp.

For transgender women, the situation is even worse. Many are placed in men's facilities, placing them at exceptionally high risk of sexual assault and other kinds of trauma and abuse.

Wendy, a transgender woman from Burundi says she has had numerous sexual advances from men, with others threatening to expose her as 'a gay' if she turned them down. But one transgender woman who has had a particularly rough time at Dzaleka is Halima. With her appearance, many people think she is gay. Some of the abuses she has suffered include being threatened, being insulted, being chased from her place, being raped and even being urinated upon by her male rapist.

One evening, Halima was walking to her house when two men suddenly appeared and starting to beat her up. One of the men sheared off her hair with a pair of scissors while describing how he planned to torture and kill her. He told her, "We're going to cut you up. [...] Even your family won't be able to find you."

Fearing for her life, Halima reported the incident to police but did not get any help.

“I went to report to police,” she says. “But I did not get any assistance from police officers. Problem is that there is no security for transgender people in the camp. I am very scared of living in the camp right now, because by living there am exposing myself to death. Most of the days I don’t go out.”

“Food is also a problem,” says Halima. “Every time I go to get food rations people verbally harass me. A lot of the men when I approach them for help, they want to have sex with me. But they don’t give me much. It’s like I am being exploited. Now the person who has been sleeping with me for money is spreading stories about me. So now I don’t have peace of mind, every time I go out I am afraid someone will attack me.”

Halima was eventually placed in a safe house in Lilongwe, alongside 6 other people from Uganda who are also claiming asylum on the basis of their sexuality. She and the other people have been registered by UNHCR and are waiting determination.

The waiting itself is torturous.

Leticia says waiting for her application to be decided is a constant psychological struggle – and that the uncertainty means she is having sleeping problems and suffers from panic attacks.

“I’m on antidepressants, it’s too much for me. The waiting is too much. “Sometimes I don’t sleep; it doesn’t matter what time I go to bed. It’s the long waiting, it’s too much.”

Leticia, who suffers from depression, anxiety and post-traumatic stress disorder, said she tried to take her own life.

The waiting has also taken a toll on Gerald from Uganda. In April 2019, he attempted suicide when he took a large dose of prescription pills and tried to hang himself from the roof in his room. He was rushed to a hospital where he spent a night on IV fluids and then two weeks in a mental hospital, receiving treatment.

He says: “When you are removed from the normality of life as you know it, it is torture. It’s continued torture really.”

5.0 Experience with service providers

According to the respondents, there are no proper complaints handling mechanisms in place at Dzaleka. When abuses occur and claims are filed within official institutions, little is done to sufficiently address these violations.

Dzaleka has a police unit. But, in many instances, police officers are themselves the biggest abusers. When Leticia was raped, police officers to whom she had reported the incident, were not helpful to her because she was lesbian.

Even the nurses did not help her. According to her, the nurses stopped to assist her the moment they heard she was lesbian.

“They left me there without help, telling me that I couldn’t get what I wanted because of my sexual orientation. It took me 28 hours to find help to travel to Lilongwe, where I was treated on possible HIV infection and other related ailments,” she says.

Gerald, who was once injured on his left arm, had a similar experience with health service providers. According to him, most health service providers are not LGBT-friendly. “You go there when you have injuries relating to your sexual life, but they don’t seem to understand. Instead of helping you, they start asking why you chose to be gay.”

Other LGBTI asylum seekers reported similar experiences. At Dzaleka Police Unit, five Uganda refugees who had gone there to seek support were openly discriminated against by police officers, with one female police officer telling them in the face that they could not be assisted because people like them are “not even allowed to be in this country”.

6.0 Conclusion

As illustrated by Section 4 of this report, all of those we interviewed sought refuge in Malawi for the sole reason that they were persecuted in their home countries. Therefore, they fled their countries, hoping for a better life in Malawi, a country that is renowned for its peaceful and friendly people –a country that has never experienced war, a country that has gained an international reputation as the ‘Warm Heart of Africa’ –a country that takes great pride in describing itself as a God-fearing nation. Alas, those hopes have been crushed by the reality on the ground.

According to the experiences documented in this report, when they arrive in Malawi, LGBTI asylum seekers face the same difficulties they thought they had left behind in their home countries. They continue to face outright rejection, condemnation, stigmatization, discrimination, marginalization, ridicule, harassment, assault and other violations of their basic human rights across all sectors of society and at both the popular as well as official bureaucratic level.

This sad reality makes a mockery of all the regional, sub-regional and international human rights treaties that Malawi has signed and ratified. Malawi’s ratification of these instruments appears nothing but an attempt to make the country look good to the outside world. The Bill of Rights enshrined in the Republican Constitution, which guarantees rights to everyone without discrimination, appears elusive if not meaningless in these circumstances. But it shouldn’t be.

As we said in the introduction, seeking asylum is not a crime. It is a right recognized in international human rights instruments that Malawi has signed and ratified. Therefore, time has come for Malawi to start walking the talk on its human rights commitments.

Pictures



RECOMMENDATIONS

In view of the cases documented above, CHRR makes the following recommendations:

To the Government of Malawi

- Publicly acknowledge the scope and gravity of the problem of violence and harassment against LGBTI people, and commit to taking steps to end these abuses;
- Implement Recommendations of the African Union Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity made at the African Commission on Human and Peoples' Rights, meeting at its 55th Ordinary Session held in Luanda, Angola, from 28 April to 12 May 2014:
- Implement Recommendations of the Universal Periodic Review (UPR) to take effective measures to protect LGBTI persons from violence, and to prosecute the perpetrators of violent attacks, and a recommendation to guarantee that LGBTI communities have effective access to health services, including HIV/AIDS treatment.
- Review related legislations and policies affecting LGBT refugees to bring them into line with international human rights standards –for example, The Immigration Act still considers homosexuals, prostitutes, the epileptic, the deaf and the blind “Prohibited immigrants”. There is also need to review The Penal Code sections 153, 156 and 137A to protect the rights of LGBT refugees and asylum seekers.

To the Ministry of Home Affairs and Internal Security

- Issue a public statement condemning all acts of violence and discrimination against LGBT people and committing to bring to justice all those responsible for homophobic and transphobic attacks;
- Instruct law enforcement agents to take homophobic and transphobic violence seriously
- Instruct law enforcement agencies, such as the Police, the prosecutor's office and the crime investigation division to gather data about homophobic and transphobic crimes,
- Train police officers in international human rights standards and non-discrimination, including on issues of sexuality, sexual orientation and gender identity; such training is most effective when fully integrated into police training programmes;

- Appoint and train liaison officers within the camp who could serve as point persons for LGBT people and other vulnerable groups;
- Monitor law enforcement officials' response to crimes against LGBT persons, with the goal of continuously improving the response;
- Discipline officers who engage in homophobic slurs and dismiss victims' allegations of abuse;
- Inform victims of homophobic crimes of the results of investigations

To UNHCR and other international organizations working in the camp

- Ensure that LGBTI persons are not mixed with non-LGBTI persons in the safe house
- Include violence and discrimination against LGBTI persons among priority issues for programming and advocacy;
- Actively involve LGBT rights organizations in human rights trainings or awarenessraising campaigns and advocacy efforts

To the Police

- Facilitate reporting of abuse by ensuring that victims filling complaints are guaranteed confidentiality and respect for their right to privacy;
- Investigate promptly and impartially all allegations of homophobic and transphobic violence and prosecute perpetrators to the fullest extent of the law;
- Inform victims of homophobic crimes of the results of investigations
- Collect data on homophobic and transphobic crimes
- Train police officers in international human rights standards and non-discrimination, including on issues of sexuality, and on case handling
- Encourage victims of homophobic and transphobic violence to report to police by introducing and effectively enforcing basic confidentiality standards;
- Monitor law enforcement officials' response to crimes against LGBT people, with the goal of constantly improving the response
- Hold accountable and discipline police officers who are engaged in hate speech and abusive behavior against LGBT persons



