

# **THE VOICE:** **RESEARCH REPORT**

**Life experiences of LGBTI Refugees and  
Asylum seekers in South Africa**

**2019**

**SUMMARY REPORT**

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**CHAPTER 2**

**RIGHTS IN MOTION**

## **ACKNOWLEDGEMENTS**

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Acknowledging the Participants and Safe Space members for sharing their experiences and being the voice of the voiceless, without them this report would not be possible. We are grateful for the support of the AC2 board and funders.

Research initiative of the “I Serve Equally” Campaign conducted by Access Chapter 2

*Cover photo by Shalom Mwenesi on Unsplash*



## BACKGROUND AND INTRODUCTION

There is limited data on the prevalence of LGBTI+ people generally on discrimination, hate crimes and stigmatisation in South Africa which can be used to guide service improvement, accountability, advocacy and transformation. There have only been limited research work done by PASSOP and academics, in which operational research remains critical.

In 2016, Access Chapter 2 (AC2) started to implement its Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI+) Migrants Programme. AC2 works with refugees and migrants who have fled their country of origin because of homophobic or transphobic death threats, exclusion from society due to stigma and discrimination, assault and fear of prosecution.

Access Chapter 2's Migrants, Refugees and Asylum Seeker Program aims to support LGBTI persons through creation of safe space, advocating for the improvement of living conditions, access to services and the protection and respect of the human rights. I Serve Equally Campaign is a nation-wide campaign, initially launched in 2015 in collaboration with the Department of Justice and Constitutional Development and supported by HIVOS. As part of the 2019 relaunch the campaign seeks to raise awareness around secondary victimisation and human rights violation of LGBT people when accessing health, policing and other public services – through building competency within services and holding Government accountable on their obligations.

According to the UNHCR (2018), a refugee is someone who has been forced to flee their country of origin because of fear of persecution for reasons such as race, religion, nationality, political opinion or membership in a particular social group. Thus, sexual orientation and gender identity are not explicitly recognized as a ground upon which people may be able to claim asylum or the refugee status in South Africa despite all the different laws (South African Refugees Act 1998).

The LGBTI+ Migrants, refugees and asylum seekers in South Africa face many challenges and experience numerous human rights violations. In addition to xenophobia which South Africa has become reputable for, LGBTI+ migrants, refugees and asylum seekers also experience homophobia and transphobia making them a vulnerable group. Furthermore, LGBTI+ Migrants, Refugees and Asylum Seekers experience victimisation, harassment, ill-treatment and humiliation, stigma and discrimination, hate crime and extortions by the police. Other issues raised are linked to Human Immunodeficiency Virus (HIV), Tuberculosis (TB), poverty, homelessness, and in some cases survival sex work. The aim of the research report was to highlight the challenges faced by LGBTI+ asylum seekers and refugees in South Africa. It also poses intersectional questions on homophobia, racism and xenophobia. This study was conducted between October and November 2018. The respondents were aged 18 and older and from outside South Africa.

The Programme is one of the anchor and special projects of AC2. A specific component of this programme was to gather current data on the experiences of LGBTI+ Migrant, Refugees and Asylum Seekers in South Africa. AC2 has taken responsibility to develop and lead the research. This report focuses on the findings.

## **METHODOLOGY AND LIMITATIONS**

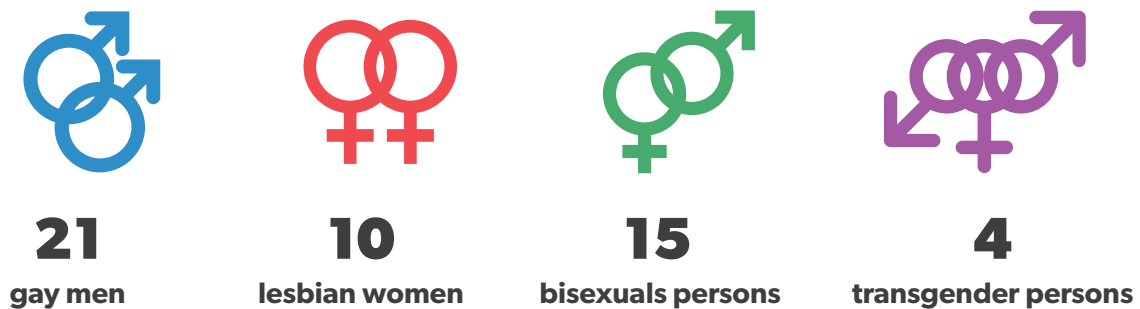
Limitations are mainly related to the sourcing of participants and the methodology of collecting responses. The methodology of the study was done through a mixed method (surveys and telephone interviews). This presents itself as limitation as some participants would want to elaborate further and telephonically could be limiting.

The project study was only conducted in English and due to the structure of the questionnaire, while other participants would have welcome other languages such as French and their indigenous languages from their countries of origin, thus other individuals may have struggled to answer the survey. None of the limitation would affect the results drastically and therefore did not present as an issue towards the analysis of the data.

## A. DEMOGRAPHICS AND SAMPLING

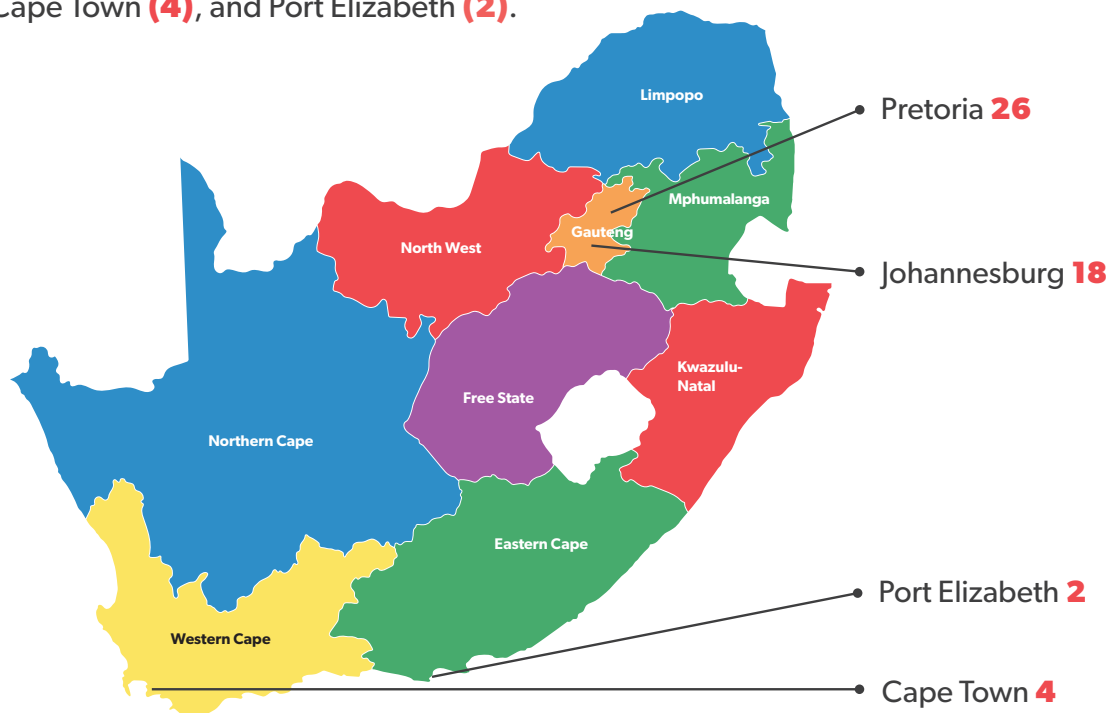
### A.1 Sample according to self-identified gender and sexual orientation

A total of 50 LGBTI+ Migrants, Refugees and Asylum Seekers participated in this study. Out of the fifty participants **21** were self-identified as **gay men**, **10** identified as **lesbian women**, **15** identified as **bisexuals persons**, and **4** identified as **transgender persons**.



### A.2 Sample by current location and origins

The majority of the sample came from Gauteng, followed by Western Cape and Eastern Cape. The participants situated in various Provinces of South Africa namely: Johannesburg (**18**), Pretoria (**26**), Cape Town (**4**), and Port Elizabeth (**2**).



Overall, in terms of sub-regions of origin, **22** were from West-Africa, **9** East-Africa, **16** Southern Africa, **1** United States of America, and **2** from Europe.



### **A.3 Total sampling of race and age cohort:**

**47** out of **50** respondents self-identified as black, while **3** respondents self-identified as white. In terms of age cohort: **16** respondents were between the ages of **18-25 years**, **20** respondents were between the ages of **26–30 years**, **8** respondents were between the ages **31 – 40 years**, and **6** respondents were over age **41+ years**.



## **B. DOCUMENTATION AND CONDITIONS**

One of the main challenges faced by LGBTI+ Migrants, refugees and asylum seekers is difficulty in acquiring legal identity documents. Legal documentation regulates how they will live their lives, their access to human rights and how they will be treated by the state and the general public. The respondents raised throughout the interviews the underlying intersections and that the absence of the legal documents affects their living conditions and the better chance of improving their livelihood in South Africa and thus are subjected to opt for ways of survival in the meantime.

### **B.1 Reasons for LGBTI+ refugees and asylum seekers coming to South Africa**

- **45** out of **50** respondents said they had left their country because of fear of persecution and arrests due to homophobic laws in their countries of origin and being outed.
- **5** respondents stated that they came to South Africa for reason of work or study.

### **B.2 Why South Africa as a choice of Migration or seeking refugees/Asylum?**

- **96%** of the respondents reported that South Africa because choice of location because of Constitutional Protection that includes a non-discrimination clause on the basis of sex, gender, sexual orientation and origin amongst other grounds and it is in Africa which they remain in the African region.

### **B.3 Asylum and Refugee status and Discrimination experienced at the Department of Home Affairs**

The survey revealed that the main challenges experienced by LGBTI+ Refugees and Asylum Seekers concerning the Department of Home Affairs (DHA) were:

- The difficult process each time they visit the Refugees Reception Centres, including being sent from pillar to post;

- **56%** reported Unsafeness around the Refugees Reception Centre; some respondents revealed that they have experienced hate crime incidents while on their way, outside and inside the Centre making the space unsafe
- **86%** of the respondents were asked to prove their Sexual Orientation by officials at the Refugees Centre, failure to that their application gets rejected.

Majority The participants felt intimidated and personally violated by being asked to bring evidence of their sexuality which is practically impossible to do; furthermore, participants reported that the interview process for legal documents is traumatising intimidating and sometime humiliating, making it difficult to return for an appeal process.

The table below shows the types of documentation and percentages of obtained documents from the Department of Home Affairs.

Type of Document	Respondents	Overall %
Temporary Asylum	26 (*with half expired)	52%
Student Visa	4	8%
Permanent Residence	1	2%
Refugees Status	1	2%
No Documentation	18	36%

#### **B.4 Conditions of certain documentation such as section 22 temporary asylum status**

A section 22 document represents a temporary asylum status in South Africa. However,

- Banks do not accept the document or freeze accounts after the first expiration of the document,
- Asylum Seekers are not eligible for most educational and economic opportunities,
- After the expiration of the document, there is risk of a deportation out of the country,
- Section 22 only allows for 6 months validity, and
- Findings revealed that **80%** of the respondents are unemployed

## C. INTERSECTIONALITY OF HOMOPHOBIA AND XENOPHOBIA (INTERSECTIONALITY) AND EXPERIENCE WITH THE POLICE

Amongst the respondents, **60%** admitted having already experienced violent xenophobic attacks. These participants did not file a complaint to relevant officials or police and are less likely to report, due to fear of being sent back to their countries of origin. Additionally, the respondents feel that police officials will not follow up with the claim, based on the past experience shared by others, while others reveal that they experience multiple discrimination sighting sexual orientation, gender, origin and ethnicity.

*“I cannot report the case to the police for I fear of being discriminated, deported or just because I will not be heard” – Anonymous*

## D. DISCRIMINATION IN THE HEALTH CARE SERVICES

It appears that discrimination in the healthcare services is far more pervasive. Health conditions of LGBTI+ Migrants, Refugees and Asylum Seekers varies. The key highlighted issue was linked access HIV and TB Services. Those who self-revealed their health status, majority revealed the HIV status and other revealed their experiences as survivors of sexual violent, and that they may not have had access to health services. Access to health care remains a real challenge due to lack of documentation;

- **60%** of the respondents admitted that they did not have access to health care because of lack of documentation
- While **20%** revealed they had to lie about “forgetting” documents to get access to health services and in critical need to get treatment or health care.

## E. Conclusion

Overcoming these difficulties is a way of making the various people to whom this report is addressed aware of the dangers faced by LGBTI+ Migrants, Refugees and Asylum Seekers in South Africa. Implications fed by lack of seriousness in how many of them presents themselves at the centres and that officials do not take serious considerations of the process and many remain being undocumented. The direct impact of the lack of legal documents creates openness to all sorts of human rights violations for LGBTI+ Migrants, Refugees and Asylum Seekers; many find themselves in the streets (1) homeless; (2) hungry, (3) without access to health care, (4) without safety and security; (5) without economic opportunities; and (6) exclusion from broader communities and social cohesion.

Many opt for sex work as the only living standard to ensure shelter and food security which makes them extremely vulnerable to HIV, TB and STIs infections without proper access to preventative measures.

The Study concludes that more research must be conducted, furthermore properly and systematic interventions are needed to address challenges experienced by LGBTI+ Migrants, Refugees and Asylum Seekers. The study exposed realities and challenges that needs special attention that is inclusive of police department, security, housing, employment, legal document, health care access and livelihood amongst others. LGBT+ Migrants, Refugees and Asylum Seekers are Key and most vulnerable population both physically and psychologically; they face unique risks and require unique response and protections.

There is need for multi- stakeholders to work collectively to resolve these problems. State officials need to be sensitised, trained and be held accountable for their responsibilities that are easily neglected and increases the vulnerability of people. The State's obligation to protect, promote and fulfil the human rights obligation of people on race, origin, sex, gender, gender identity, gender expression and sexual orientation amongst others must be upheld with integrity and dignity to ensure that Migrants, Refugees and Asylum Seekers rights are not compromised.

# WHO WE ARE

## About Access Chapter 2

The name Access Chapter 2 (AC2) is based on the South African Constitution-the Bill of Rights: Chapter 2. AC2 was first registered as a Section 21 Non-Profit Company (NPC) under the Companies Act 2008, then later as a Non-Profit Organisation (NPO) and Public Benefit Organisation (PBO).

AC2 was initiated to promoting the human rights and empowerment of women and girls, and LGBTI+ people (Lesbian, Gay, Bisexual, Transgender and Intersex) in all their diversities, facilitate participation of civil society organisations at local, national, regional and international level by creating space and coordinating platforms for engagement on governance, policy and accountability processes and by developing innovative and active empowerment for transformation knowledge for community systems strengthening and building solidarity within civil society and other various sectors.

## VISION

A world where LGBTI+ people in their diversity have equal access to human rights.

## MISSION

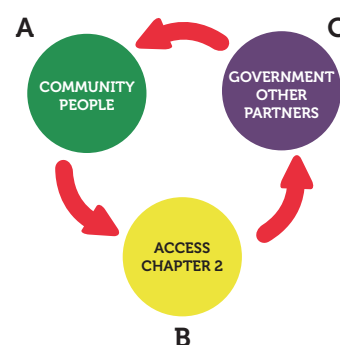
AC2 works to improve the rights of women and LGBTI+ people locally, regionally and globally. Access Chapter 2 will achieve this through the values of ubuntu, informing public policy, fostering change and promoting human rights and inclusion through provision of direct services, legal support and advocacy, education, research and community engagement.

## ACCESS CHAPTER 2'S ECOLOGICAL MODEL

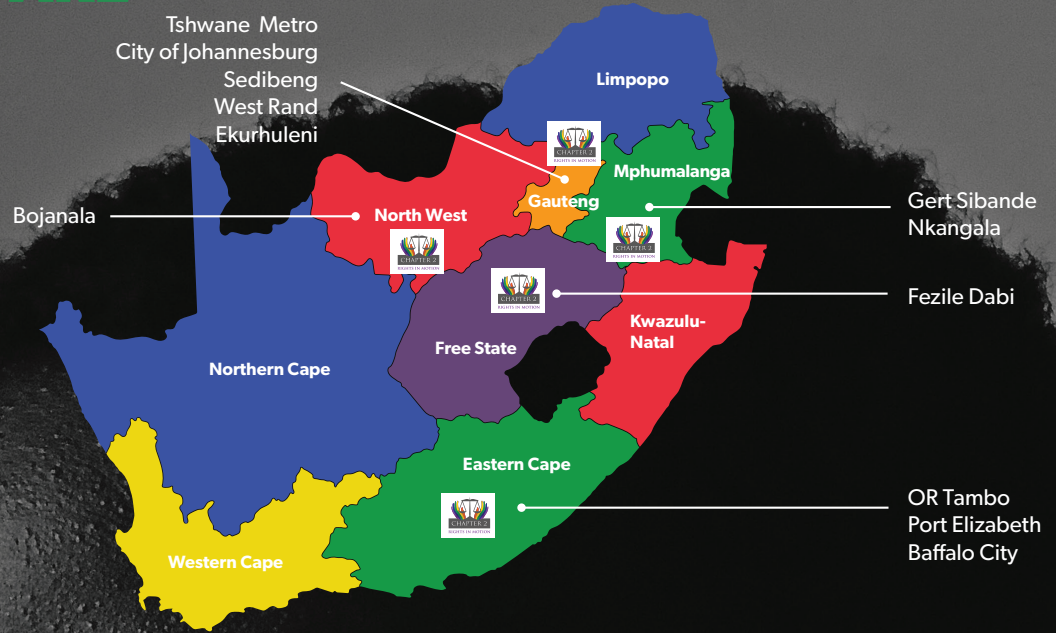


### AC2 strategic approaches:

- Strategy one  
Direct Service
- Strategy Two  
Capacity Building and Awareness
- Strategy Three  
Legal and Advocacy
- Strategy Four  
Research/ Monitoring and Evaluation



# WHERE WE ARE



AC2 has additional anchor projects focusing on creating safe space for LGBTI youth, refugees and asylum seekers and trans persons

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