

Trans-Ukrainians and the Need for LGBTQIA+ Inclusion in National and International Refugee Policies

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ABSTRACT: Over 7 million Ukrainians have become refugees since Russia's invasion of Ukraine. As a result, countries around the world have opened their doors and invited Ukrainians to seek refuge from the ongoing conflict. However, not all Ukrainians have experienced this conflict equally, with queer and transgender Ukrainians facing increased risks of gender-based violence, discrimination, and difficulties crossing borders due to inaccurate gender markers on their identification. This policy brief focuses on the unique challenges LGBTQIA+ Ukrainians have faced while fleeing the conflict. I provide an analysis of the persistent exclusion of LGBTQIA+ people within sexual and gender-based violence policies and refugee policies (like the Women, Peace, and Security agenda and Feminist Foreign Policy initiatives) due to marginalization and systemic discrimination. This paper argues that the Government of Canada can address this issue, not just for Ukrainian refugees but for all refugees, by implementing LGBTQIA+ inclusive policies to address the gaps in Canada's current system. It should be noted, this policy brief examines the conflict from February 2022 to April 2022. Given that this is an ongoing conflict, some statistics may have changed, however, the lack of support of LGBTQIA+ refugees in national and international refugee policy remains a pressing issue.

KEYWORDS: Refugees, Conflict, War in Ukraine, Gender Peace and Security, Canada, Ukraine, LGBTQIA Inclusion, Transgender

Executive Summary

Conflict, and the process of seeking refuge from violence, are specifically challenging for queer and transgender (trans) people. As a result, this policy brief examines the problems queer and transgender Ukrainians have faced while trying to escape the ongoing conflict in Ukraine. The choice to include this case study is due to the breadth of information surrounding the war in Ukraine and to demonstrate the urgency for trans-inclusive policies. It does not support the problematic (although troublingly present) notion that Ukrainians are more worthy of protection in comparison to other refugees. All around the world, LGBTQIA+ refugees face intersectional oppression and unique problems when fleeing violence and resettling in new countries. Therefore, this brief should be read as an indication of the heteronormativity that has made queer and trans refugees' needs and vulnerabilities invisible during conflicts. The war in Ukraine serves as a timely case study to support the argument that LGBTQIA+ inclusive refugee policy is vital and needed. As a result, the brief recommends that the Government of Canada set up an LGBTQIA+ refugee policy advisory board that includes and centers LGBTQIA+ refugees and their lived experiences. The brief also suggests the Government of Canada provide immediate monetary support to the LGBTQIA+ non-governmental organizations (NGOs) helping queer and trans Ukrainians.

Statement of the Issue

War and conflict are understood to increase Sexual and Gender-Based Violence (SGBV) against women and children. As well, queer and trans people are incredibly vulnerable to violence during periods of conflict, but these forms of vulnerability and insecurity have often gone unnoticed (Hagen, 2016). After Russia invaded Ukraine on February 24, 2022, countries opened their doors to Ukrainians fleeing violence; however, racialized people and transgender and non-binary Ukrainians have struggled to leave the country and faced violence in the process (Factora, 2022). The Ukrainian government

implemented Martial Law on February 24, 2022, barring men between the ages of 18-60 from leaving the country. For transgender and non-binary people, this move has caused significant problems (Tondo, 2022). Trans-women who do not have accurate identification and updated gender markers on their IDs have been forced to stay and fight in the war, as have some trans-women with female IDs (Tondo, 2022). As well, many trans-men are waiting to receive exemptions so they can leave the country (Tondo, 2022). The increased sexual and gender-based violence war brings, and Russia's notoriously harsh stance on people who are LGBTQIA+, have made leaving Ukraine a necessity for many LGBTQIA+ individuals (Factora, 2022). A study done by the International Lesbian, Gay, Bisexual, Trans, and Intersex Association in 2021, ranked 49 countries in Europe on their acceptance of LGBTQ people: Ukraine ranked 39th, Poland ranked 43rd, and Russia ranked 46th (Rainbow Europe, 2021). As of April 9th, 2022, Poland has accepted the highest number of the 4.5 million Ukrainians who have fled (UNHCR, 2022). Given its low ranking and the LGBTQ free zones in the country, Poland should not be considered a safe space for queer and trans refugees.

Refugees are not a monolithic group. The war in Ukraine and subsequent treatment of queer and trans Ukrainian refugees is a clear example of this. As a result, there is a dire need for an intersectional approach to refugee policy that acknowledges the conditions and unique sets of challenges queer and trans refugees face. Not just for Ukraine, but for LGBTQIA+ refugees around the world.

Defining Intersectional Refugee Policy

An intersectional approach to refugee policy accounts for the ways the same conflict is experienced differently depending on a person's identity categories. It acknowledges the unique types of support people who experience intersectional forms of oppression need as they seek refuge, and requires direct actions to be taken that address the systemic exclusion of marginalized people from refugee policies due to discrimination and biases.

Overview of the Issues LGBTQIA+ People Fleeing Ukraine are Facing:

Systemic Barriers:

- Many trans Ukrainians have inaccurate IDs, as changing identification to align with gender identity is a complicated process due to anti-LGBTQIA+ policies in Ukraine (Lach-Aidelbaum, 2022).
- There are reports of invasive strip searches and questioning by Ukrainian border officials (Tondo, 2022). In these searches, if the officials decide they are “men” regardless of their identity or the gender marker on their ID, they will not be permitted to leave the country (Tondo, 2022).
- Refugees face unsafe resettlement and housing plans due to a lack of knowledge and understanding of the needs and vulnerabilities of LGBTQIA+ refugees (Rumbach & Knight, 2014).
- Visa applications for resettlement require accurate identification information. As mentioned, accurate IDs are a rarity for transgender people in Ukraine (Lach-Aidelbaum, 2022).

Anti-LGBTQIA+ Violence:

- Trans people experience an increased risk of violence, given the SGBV that occurs during war and the anti-LGBTQIA+ sentiments already present in Ukraine (UNHCR, 2021).
- Borders are violent spaces of bodily surveillance for transgender people (Rumbach & Knight, 2014). As well, the trips to borders can be harrowing journeys due to anti-LGBTQIA+ violence (Tondo, 2022).
- Fleeing conflict does not guarantee safety due to the marginalization LGBTQIA+ refugees face and the anti-LGBTQIA+ sentiments in the countries they seek refuge.

Isolation:

- LGBTQIA+ refugees often do not find acceptance within the broader refugee community. Upon arrival in new countries, queer and trans refugees have to rebuild their support networks (Rosenburg, 2015).

- During resettlement if service providers are unaware of safe housing options or community support, LGBTQIA+ refugees can become further isolated, or be put in vulnerable situations (Rumbach & Knight, 2014).
- LGBTQIA+ community organizations on the ground strive to ensure the safety and security of queer and trans refugees (OutRight Action International [ORAI], 2022). These groups have a wealth of resources and LGBTQIA+ specific knowledge; however, this is not their typical work (Factora, 2022). They need adequate support to facilitate these services.

Medical Needs:

- Many transgender people take hormone therapy. Transgender refugees need trans-informed healthcare access upon arrival to new countries. This is difficult if the country has strong anti-LGBTQIA+ beliefs.
- HIV-positive people need specific medication urgently.

Background

The rights of LGBTQIA+ refugees, asylum seekers, and migrants have been an afterthought within domestic and international refugee policy. While some countries have made strides towards inclusion as a result of the activism, calls to action, and critiques from activists, LGBTQIA+ refugees still face systemic barriers to their safety and security when seeking refuge (Hagen, 2019; Rumbach & Knight, 2014). In 2000, the United Nations Security Council adopted Resolution 1325 (UNSCR 1325), the Women, Peace and Security (WPS) agenda, marking a shift towards recognizing the SGBV and vulnerabilities women and children face in conflict (ORAI, 2020). The WPS agenda offered a gendered approach to understanding violence that challenged patriarchal ideas about security, but this agenda did not address heteronormative notions of security (Hagen, 2016). As a result, this excluded many people who experience vulnerability and marginalization due to their gender and sexuality; but are not cisgender women (Davis & Stren, 2019). While there has been subsequent work to include LGBTQIA+ people within the WPS framework, it is imperative to continue to evaluate how

LGBTQIA+ people experience conflict and what intersectional gendered approaches to conflicts should be (Hagen, 2016; Trithart, 2020). This requires acknowledging the needs and vulnerabilities of queer and trans people; so LGBTQIA+ rights do not continue to be ignored, as they have been in many conflicts, including most recently in Ukraine.

Seven countries, including Canada, have adopted Feminist Foreign Policy (FFP) initiatives since the passing of the Women, Peace and Security agenda. This signifies their commitment to protecting women and children in conflict and their understanding that security includes freedom from SGBV (Moaveni & Nagarajan, 2022). Canada has also created more inclusive LGBTQIA+ practices for refugees and asylum seekers through the implementation of Guideline 9 for the Immigration and Refugee Board of Canada in 2017 and the government funding for the Rainbow Refugee Society in 2019 (Global Affairs Canada, n.d.; LGBTQ2 Refugees, 2019). Despite these efforts, there are some issues with Canada's approach: the concentration of funding in Toronto, Montreal, and Vancouver for LGBTQIA+ refugees but a lack of funding elsewhere, persisting discrimination upon arrival to Canada, and a lack of adequate LGBTQIA+ refugee specific services (Lee et al., 2021; Mulé, 2020). Gaps persist within the Canadian system and the international context, which cause further harm to people who have experienced trauma, violence, marginalization, and emotional and physical abuse (Lee, et al., 2021; Mulé, 2020).

While the WPS agenda and FFP mark governmental and international commitments to protecting women and children in conflict, there are shortcomings with this protection. In the Ukrainian context, there has been a lack of intergovernmental attention and action on the violence women, children, queer, and trans people have faced in Ukraine (Moaveni & Nagarajan, 2022). Ultimately, this shows that WPS and FFP initiatives repeatedly take a backseat to militarisation and defense strategies during conflicts (Moaveni & Nagarajan, 2022). LGBTQIA+ livelihoods have existed on the margins of domestic and foreign policy surrounding refugee rights for too long. Every conflict that forces queer and trans people to leave their homes and cross borders without comprehensive policy is a direct failure linked to

the systemic discrimination and heteronormativity that has left LGBTQIA+ safety and security out of international policy-making.

Key Stakeholders:

- LGBTQIA+ Refugees: policy decisions and moves will directly impact their safety and experiences fleeing violence.
- LGBTQIA+ NGOs: these groups have gone outside their usual work to advocate for and help the queer and trans refugee community (ORAI, 2022). In the Ukrainian context, these include (but are not limited to): Kyiv Pride, Gay Alliance Ukraine, Insight Ukraine, Budapest Pride, and Warsaw Pride.
- United Nations High Commissioner for Refugees: the UNHCR is a leading voice on refugee safety, support, and rights. Given their influence, they must call on countries to better support LGBTQIA+ refugees.
- The Government of Canada: Canada is seen as an ally to Ukraine, invoking the Canada-Ukraine Authorization for Emergency Travel (Boisvert, 2022). This emergency measure means Ukrainians arriving will have limited access to the services refugees typically receive (Boisvert, 2022). The impact on LGBTQIA+ Ukrainians is not yet known, but should be closely monitored. Furthermore, Canada promotes itself as a leader in Feminist Foreign Policy and LGBTQIA+ rights. To continue to affirm this leadership position, the government must take action.

Recommendations

1. Create an LGBTQIA+ refugee advisory board that includes LGBTQIA+ refugees who have been through the system in Canada.

Merits:

Seeking refuge and fleeing conflict are complex, challenging, and often long processes. For LGBTQIA+ refugees, it is unnecessarily taxing due to the heteronormative assumptions that have shaped international and domestic refugee policy (Davis & Stern, 2019; Lee et al., 2021). Each point in the process of leaving conflict and resettling should account for the specific needs of LGBTQIA+ refugees (Lee et al., 2021).

As a result, setting up a queer and trans refugee advisory board will help create policies that center the lived experiences of LGBTQIA+ people who have fled conflict and resettled in a new place. This board would also help leverage the voices of queer and trans refugees; in turn, removing barriers LGBTQIA+ refugees have faced while trying to achieve legislative inclusion in heteronormative spaces (like governments and the United Nations) (ORAI, 2020). The establishment of the board and the policy that comes from it could create a sustained and long-term shift that would address the systemic barriers queer and trans people fleeing violence and persecution face. Overall, this board holds the potential to set new precedents for what LGBTQIA+ rights and policy inclusion look like at national and international levels.

Drawbacks:

Firstly, this type of board would put the onus on queer and trans people to advocate for their rights. This could be a draining request, especially because many of the people serving on the board will have experienced harm from the existing system. Secondly, an advisory board runs the risk of being used as a performative entity for governments to signal that they care. This kind of performative allyship is dangerous because a board like this only works if recommendations are implemented (in a timely manner) through real tangible actions. Thirdly, while creating the board could set an international precedent for centering LGBTQIA+ people within policy creation, it does not guarantee changes to the inherently flawed international system, because the board advises Canada. As well, this kind of board will bolster Canada's image as an accepting country for LGBTQIA+ people. This could be problematic as Canada still has high rates of anti-LGBTQIA+ violence. Therefore, the Government of Canada must avoid harmful homonational narratives that frame the country as better than countries people have fled from (Mulé, 2020). Lastly, creating the advisory board, hearing the recommendations, and acting on them is a lengthy process. While this board could do important work for future cases of LGBTQIA+ migrants, refugees, and asylum seekers, it is unlikely to help those currently fleeing violence and persecution.



2. Provide funding for LGBTQIA+ NGOs that are on the ground.

Merits:

This policy recommendation would help queer and trans Ukrainians fleeing the war who require LGBTQIA+ specific services like housing, healthcare, and community connections (Factora, 2022; Rosenburg, 2015).

In times of conflict, LGBTQIA+ NGOs step up to help bridge the gap international refugee policy leaves in dealing with queer and trans people, however, this work is beyond the typical reach of these groups (ORAI, 2022). For Canada, it is logical to offer this kind of financial support, given that the federal government has pledged 100 million dollars in humanitarian aid to Ukraine. Monetarily supporting these groups ensures LGBTQIA+ refugees' needs are not overlooked, as these NGOs support queer and trans Ukrainians.

Drawbacks:

A risk with this option is that governments may view funding as providing enough support and turn away from doing the necessary work of changing the policies that created these problems. Furthermore, this kind of policy assumes that LGBTQIA+ NGOs are present everywhere that there is a conflict. In many countries, LGBTQIA+ groups operate “underground” as it is unsafe to be openly pro-LGBTQIA+; these groups consist of small, dedicated teams who do not always have the worker capacity to add additional operations (Mulé, 2020). On the ground funding is vital, but it is a stopgap solution for a much larger problem.

Recommendation: Option One (LGBTQIA+ Refugee Advisory Board)

Situating the knowledge and lived experiences of LGBTQIA+ refugees in formal policy and agenda-setting spaces will create a more inclusive and intersectional approach to gender, peace and security, and resettlement practices. The heteronormativity that has guided national and international policy, like the WPS agenda, will not be effectively challenged as long as queer and trans voices are left out. Furthermore, the shortcomings of these systems have often gone overlooked by governments (Mulé, 2020). For example, resettlement in Canada does not grant an individual safety and security from the racism and anti-LGBTQIA+

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violence within the country, but “safe haven” narratives often assume freedom from violence after resettlement (Lee et al., 2021; Mulé, 2020). LGBTQIA+ people living in Canada are more likely to “be violently victimized than heterosexual Canadians” (Jaffray, 2020). Statistics Canada reports that 6 in 10 LGBTQIA+ individuals experience physical or sexual assault, compared to 4 in 10 heterosexual people (Jaffray, 2020). While statistics on LGBTQIA+ refugee experiences of SGBV are not well documented or understood, the numbers are assumed to be high given the known rates of SGBV women and children face when fleeing conflict (Hagen, 2016). The Government of Canada should create an LGBTQIA+ refugee advisory board. The board will help ensure that better support is offered to refugees throughout the process of fleeing violence, making asylum claims, resettling, and during the community building that is necessary after leaving a home country.

Option two, funding on the ground LGBTQIA+ NGOs, is a path the Government of Canada should seriously consider. However, there is a substantive need for better LGBTQIA+ refugee policies in Canada and internationally—option one best addresses this. Overall, creating an LGBTQIA+ refugee advisory board has the capacity to create real change. The Government of Canada can share the discussions, recommendations, and implementation processes that come from this board. This could create an opportunity to call on and work with other countries and international organizations to address their policy shortcomings by centering queer and trans voices. There will be future conflicts where queer and trans people become refugees—sustained systemic change is vital.

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