Caring for the Afghan LGBTI+ Refugee Patient

February 2021

Beck Jacobsen

Abstract

Lesbian, gay, bisexual, transgender, and intersex (LGBTI+)* individuals face varying degrees of acceptance, safety, and legal protection worldwide. In Afghanistan, same-sex relationships are criminalized, and the punishments can range from imprisonment to death. It is difficult to estimate the number of LGBTI refugees worldwide. Afghan refugees may be hesitant to disclose their LGBTI identity with their healthcare providers based on lack of acceptance of these identities in Afghanistan; they also may not even be aware of their own identity. Regardless, gently broaching the topic of sexual orientation and gender identity (SO/GI) is still recommended with Afghan refugee patients, as this is recommended for all patients by the National Academy of Medicine and the Joint Commission. Providers are encouraged to seek out specific training to gain comfort in asking SO/GI questions, partly so they can explain why this information is important to ask if a patient expresses concern or offense. Providers are also encouraged to reflect on how accessible and affirming their practice is for queer patients, and what steps they can take to continue to improve.

Introduction

LGBTI Refugees Worldwide

Accurately estimating the number of refugees who identify as lesbian, gay, bisexual, transgender, and intersex (LGBTI+)* persons is extremely difficult, in part because many are not open about their identities for fear of persecution. In many countries, LGBTI identities are criminalized as they are in Afghanistan. One paper cited that as of 2012, 3.8%–10.0% of refugees entering the United States identify as LGBT, which would translate to approximately 2,500-7,000 LGBT refugees from around the world who were resettled in the United States.[1] It was difficult to find any other statistics estimating the number of LGBT refugees entering the United States (and the statistic mentioned does not include intersex individuals). For context, several polls from recent years estimate the number of LGBT people in the United States at between 3.5-5% of the US population,[2] and these numbers are again likely an underestimation given the stigma

Different references cited in this paper use variations on the acronym 'LGBTQIA+,' which stands for lesbian, gay, bisexual, transgender, queer, intersex, asexual, etc. The UNHCR specifically uses 'LGBTI' in their writing, so I have used this term here. These varied acronyms all have their limitations in including the full spectrum of identities, and I also realize that individuals across the world, including in Afghanistan, may not use these Western-created labels to describe their own experience. To acknowledge all of these limitations within one culture and across cultures, I will often use the word 'queer' throughout the remainder of this paper in place of an acronym like LGBTQIA+. Queer is commonly used as an umbrella term broadly understood to be inclusive of all identities that fall outside of the heterosexual, cisgender, binary Western norms.

surrounding queer identities in the United States.

Criminalization of LGBTI Identities in Afghanistan

LGBTI individuals face varying degrees of acceptance, safety, and legal protection worldwide. In many countries, individuals can risk arrest, imprisonment, violence, and even death for embracing their true identities. In Afghanistan, there are specific laws against same-sex relationships. In 2018, the country adopted a new penal code that punishes sexual relations between women *(musaheqeh)* with up to one year in prison, and sodomy (which they define as penetration of a male sexual organ into a female or male anus) with up to two years in prison. Prior to that, "pederasty," which was not further defined, was punishable with prison time and was often used to criminalize same-sex relationships. Additionally, any sex outside of marriage *(zina)* is also criminalized.[3] Where no other laws exist, the constitution of Afghanistan allows legal decisions to default to Islamic (Sharia) law. Sharia law prohibits same-sex sexual activity (as well as all sex outside marriage), and criminalizes same-sex sexual acts with a maximum sentence of the death penalty. Such penalties under Sharia law are more likely to occur in rural areas, whereas imprisonment (as above) is more common in urban areas.[4] There are no available statistics citing how often someone is imprisoned, harmed, or otherwise punished for same-sex relationships in Afghanistan.

There are no specific laws against transgender persons in Afghanistan, but this is likely due to lack of awareness and visibility of transgender identities, rather than true acceptance of them. There are also no laws in Afghanistan specifically concerning intersex persons, or persons born with reproductive/sexual anatomy that does not fit into typical, binary definitions of 'male' and 'female;' again, likely for the same reasons *(note: an outdated term, hermaphrodite, is neither biologically accurate nor socially correct to use to describe intersex individuals and should be avoided).* There are no available statistics on the number of LGBTI persons currently living in Afghanistan.

Collecting SO/GI Data

The United Nations Refugee Agency (UNHCR) will not discriminate against individuals seeking asylum or refugee status based on their sexual orientation or gender identity.[5] As such, encountering a resettled refugee or person with a special immigrant visa (SIV) from Afghanistan who is openly queer is entirely possible. However, given the harsh and sometimes deadly treatment of queer individuals in Afghanistan, it is very likely for queer Afghans to keep this information private (or 'remain in the closet,' as we often say in the United States). It is also likely that queer Afghans may not have the internal language, emotional space, and tools to understand their own queer identities -- in other words, they may not even realize they are 'in the closet,' let

alone start exploring the decision to 'come out.'

Collecting sexual orientation and gender identity (SO/GI) information is important for *all* patients. According to the CDC,

> *Collecting SO/GI data in electronic health records is essential to providing high-quality, patient-centered care. SO/GI data collection has been recommended by both the National Academy of Medicine and the Joint Commission as a way to learn about which populations are being served and to measure the quality of care provided to LGBT people.*[6]

SO/GI data collection as part of routine clinical care started in the United States within the last decade, and many health systems (including UVA) are still in the beginning stages of implementing this as standard policy. A majority of providers in two recent surveys reported feeling hesitant to ask SO/GI data questions, worrying that doing so would offend their patients.[7] However, a 2014 study examining patient support for SO/GI data collection was overwhelmingly positive: 74% of patients surveyed endorsed that sexual orientation data collection is important, and 82% endorsed that gender identity data collection is important. Specifically, participants were asked whether (1) they understood the [SO/GI] questions, (2) questions were easy to answer, (3) questions were accurate, (4) the information was important to ask, and (5) they would answer these questions on a patient intake form. Not surprisingly, participants who were younger (<50 years) and/or identified as LGBT had more positive responses than their older, cisgender, heterosexual counterparts.[8]

To date, the response of refugees to SO/GI data collection has not been studied, nor has it been studied in Afghan patients in the United States. Given the stigma and legal consequences surrounding queer identities in Afghanistan, it is understandable that some Afghan refugee patients may bristle when asked about their sexual orientation or gender identity. They may not understand that LGBTQ+ people are protected by law in the United States (though current federal law does not explicitly provide non-discrimination protections based on sexual orientation or gender identity,[9] and many queer people still face varying degrees of discrimination, harassment, and violence). As with many situations in medicine, it will come down to the clinician's best judgment and their comfort with ambiguity in deciding how to navigate collecting SO/GI data with Afghan refugee patients. Questions should *not* be avoided for fear of offending a patient, as this would result in biased and substandard care for refugees (an already vulnerable patient population). It would also run the risk of failing to identify queer patients who may not otherwise know how to broach sharing their identity with their provider, and who may finally be in a situation where

they are safe for the first time to live openly as their true selves. It is recommended that providers seek out additional training opportunities if knowing how to ask a patient's gender identity and sexual behaviors does not feel as comfortable as asking if they have any known allergies. The Fenway Institute, among other organizations serving queer people, offers a variety of training opportunities.[10] The more comfortable a clinician is with asking SO/GI questions, the more at ease they will be in explaining why the questions are important to an Afghan patient (or any patient, from any cultural background) who might initially take offense to feeling like their sexual orientation or gender expression is being questioned.

Providing Affirming, Inclusive Care for Queer Refugee Patients

Once you have identified a queer Afghan refugee patient, the next step is making sure the care they are receiving in your clinic is affirming and inclusive of their identity. Many of the topics to consider are applicable for all queer patients, regardless of country of origin. Some areas of consideration: Do you have queer providers and staff? Have all members of your staff participated in training specifically on caring for LGBTQ+ patients (sometimes called Safe Space training)? Are clinic forms, infographics, artwork, brochures, and patient instructions inclusive of the spectrum of gender identities and sexual orientations? Does your practice have an anti-discrimination policy protecting queer people, and if so, is it visibly displayed; whose voices were at the table when it the policy was developed? What happens if a queer patient reports they do feel discriminated against? Are providers comfortable taking risk-based sexual histories and recommending STI screening tests based on that information? Are providers prescribing PrEP (pre-exposure prophylaxis against HIV) or HIV therapies in the primary care setting? If a patient is interested in medical transition, are there providers in the clinic who are comfortable prescribing gender-affirming hormone therapy? Where would you refer someone interested in gender affirming surgery? Are there mental health professionals with LGBTQ-inclusive training available in your practice or in the community? What social support resources exist in your area for queer individuals, and what specific ages/identities do they serve? What are the legal protections (or lack thereof) in your state for queer people (EqualityVirginia.org is a great resource for LGBTQ+ Virginians)? This is by no means an exhaustive list of items to consider in caring for queer or queer refugee patients. Sadly, it also shows how vulnerable queer patients often are in trying to access care, and the urgent need for broader anti-discrimination policies. These concerns are only compounded when an individual has multiple vulnerable identities that intersect with their queer identity, such as their skin color, nationality, religion, immigration status, financial resources, education level, primary language, dis/ability level, and more.

Conclusion

To provide care for queer Afghan refugee patients is to understand the culture in their home country and the many ways in which queer identities are discriminated against and erased. To provide care for queer Afghan refugee patients is also to improve care for all queer patients in the United States, regardless of cultural or national background. As was demonstrated in this paper, further research is needed to understand the number of refugees who identify as queer and best practices for serving each of them in culturally humble ways. Further research is also needed into best practices for collecting SO/GI data in US healthcare systems and ways to normalize and destigmatize this necessary practice. Of note, this paper did not explore mental health concerns for the queer Afghan refugee patient. Given the multiple minority stressors (sexual orientation, gender identity, refugee status, cultural background, and more), it is not hard to imagine how life-saving affirming and comprehensive mental health care services are for this patient population.

References

1. Messih M. Mental Health in LGBT Refugee Populations. AJP-RJ. 2017;11(7):5–7. Published 2017 April 19. doi:10.1176/appi.ajp-rj.2016.110704

2. LGBT Data and Demographics, The Williams Institute, 2019, williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT#density

3. Human Rights Watch 2020 World Report - Afghanistan. Sexual Orientation and Gender Identity. https://www.hrw.org/world-report/2021/country-chapters/afghanistan#e81181

4. International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll A, Itaborahy LP. State Sponsored Homophobia 2015: A World Survey of Laws: Criminalisation, Protection and Recognition of Same-Sex Love (Geneva; ILGA, May 2015). https://www.ecoi.net/en/file/local/1217887/90_1433741287_ilga-state-sponsored-homophobia-2015.pdf

5. LGBTI Persons. UNHCR, 2021, www.unhcr.org/en-us/lgbti-persons.html

6. Collecting Sexual Orientation and Gender Identity Information. Centers for Disease Control and Prevention, 1 Apr. 2020, www.cdc.gov/hiv/clinicians/transforming-health/health-care-providers/collecting-sexual-orientation.html

7. Rullo JE, Foxen JL, Griffin JM, et al. Patient Acceptance of Sexual Orientation and Gender Identity Questions on Intake Forms in Outpatient Clinics: A Pragmatic Randomized Multisite Trial. Health Serv Res. 2018;53(5):3790-3808. doi:10.1111/1475-6773.12843

8. Cahill S, Singal R, Grasso C, et al. Do Ask, Do Tell: High Levels of Acceptability by Patients of Routine

Collection of Sexual Orientation and Gender Identity Data in Four Diverse American Community Health Centers. PLoS One. 2014;9(9):e107104. Published 2014 Sep 8. doi:10.1371/journal.pone.0107104

9. The Equality Act. Human Rights Campaign. www.hrc.org/resources/the-equality-act

10. Learning Resources - Collecting Sexual Orientation and Gender Identity Data. LGBTQIA+ Health Education Center, The Fenway Institute, www.lgbtqiahealtheducation.org/resources/in/collecting-sexual-orientation-and-gender-identity-data/