

8 **Lesbian, gay, bisexual, transgender, queer (LGBTQ) forced migrants and asylum seekers**

Multiple discriminations

Guillain Koko, Surya Monro, and Kate Smith

Introduction

This chapter addresses the forced migration of lesbians, gays, bisexuals, transgender, and queer (LGBTQ) people from a range of African countries to South Africa. There are many places in Africa (including Tanzania, Kenya, and Nigeria) where homosexuals, bisexuals, and transgender people are at a high risk of death and therefore have no option but to flee. In their countries of origin, LGBTQ people are exposed and subjected to discrimination, persecution, exclusion and violence, murder, and rape at the hands of state and non-state agents. According to a report by People Against Suffering, Oppression and Poverty (PASSOP), an organisation in South Africa and the Leitner Centre financed by the Open Society Foundation for South Africa (2013), same-sex activities are criminalised in 38 of 54 countries in Africa (Itaborahy and Zhu 2014). Many people are forced to migrate, and South Africa, because of its progressive laws on LGBTQ issues, is frequently viewed as the best option for refuge.

The chapter is underpinned by the assumption that fundamental human rights should be available to all persons. It centres on two sets of rights: those accorded to migrants and those accorded to persons of non-normative genders and sexualities, known here as LGBTQ and/or as sexual orientation and gender identity expression (SOGIE) groups. The right to migrate is essential to all persons:

Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his [sic] own, and to return to his [sic] country. . . . Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(Universal Declaration of Human Rights, Articles 13 and 14)

‘The right to freedom of expression’ and the ‘right to freedom of assembly’ (Articles 19 and 20 of the Universal Declaration of Human Rights) are also relevant. Both of these support the protection of LGBTQ human rights, incorporating the right to express one’s sexuality and to be free from discrimination on the grounds of sexual orientation. SOGIE-related rights represent more recent advances in the

protection of LGBT human rights directives at an international, regional, and, in the case of South Africa, national level. Seeking to address these two sets of rights within an African context, this chapter focuses on the specific experiences of LGBTQ/SOGIE forced migrants who seek refuge in South Africa. In so doing, it contributes to debates about the increasing attention to sexual minority rights in human rights discourse and to the body of literature that is developing around LGBTQ forced migration.

Despite growing international attention to the subject of LGBTQ lives and forced migration, the marginalisation of African-centred scholarship on LGBTQ identities highlights an imperative for scholarship. Within and between African countries, the constructions of gender and sexuality vary considerably, and the lived experiences of LGBTQ forced migrants are highly diverse (Tamale 2011). Much of the African literature is dominated by studies conducted in South Africa (Reddy et al. 2009; Steyn and Van Zyl 2009; Mkhize et al. 2010), and it is evident that many African LGBTQ people remain invisible and are barely discernible as subjects of social science knowledge. Narratives of LGBTQ migrants in Africa have tended to be foreclosed because of the persistent exclusion of non-heteronormative arrangements in a number of countries and the increasing criminalisation of homosexuality.

Scholarship and policymaking around forced migration has been historically organised and has reinscribed heteronormative assumptions about migrants (Luibhe'id 2004). However, a growing body of queer and migration scholarship, across the humanities and social sciences, has emerged since the 1990s, challenging some of these assumptions. This knowledge base has frequently sought to ensure that both gender and sexual identity are recognised as grounds on which people are persecuted and may be forced to migrate (Lacey 1997; Millbank 2005). Scholars have also begun to argue for the perspectives of LGBTQ migrants to be made visible and to inform understandings of how sexuality effects migratory experiences (Cantu 2009). This includes LGBTQ migrant activists and scholars directly confronting normative and exclusionary discourses of belonging (Chávez 2010), thus building understandings about the diversity of lived experiences and identities of LGBTQ forced migrants.

Some of the LGBTQ migrancy literature conceptualises the dynamics affecting LGBTQ forced migrants in terms of oppression. For example, Millbank (2009) shows that interlocking structures of oppression characterise the lives of LGBTQ forced migrants and discusses the multiple marginalisations in the relationship between LGBTQ forced migrants and immigration regimes. In this chapter, we take this as a starting point, adding to it some aspects of intersectionality theory. US scholar Kimberlé Crenshaw (1989, 1991) introduced the term 'intersectionality' to mean a crossroads where different identities (in her case, race and gender) intersect, and so this body of theory was forged by Western feminists of colour and critical race theorists (McCall 2005). Intersectionality approaches have been used by activists in South Africa (Collinson 2016) and can be useful in understanding the complexities associated with the experiences of LGBTQ forced migrants in Africa. The understanding of identities as being 'routed through' each

other, which characterises intersectionality theory, is highly pertinent to LGBTQ refugees in South Africa.

There has been a tendency for intersectionality studies to focus mostly on gender, class, and race (Hurtado and Sinha 2008), to the exclusion of sexuality and gender-identity expression, which this chapter will help to remedy. Despite its huge popularity in the global North and indications that race, tradition, gender, and sexuality are routed through each other in the global South (Nkabinde 2008), there is a dearth of intersectional studies in a southern context (see, however, Al-Rebholz 2013; Moolman 2013). Existing authors call for the use of intersectional frameworks and theory in a transnational context (Choo 2012). In taking a primarily intersectional approach, the chapter also draws on the notion of necropolitics, which is ‘a term used to interrogate the ways in which some (queer) populations are subjected to normalised life-threatening violences, within democratic states such as South Africa’ (Haritaworn et al. 2014). Since LGBTQ forced migrants in an African context regularly face survival issues, attention simply to oppression and/or social marginalisation, as is common in intersectional approaches to SOGIE (see, for example, Richardson and Monro 2012), is not sufficient in understanding the intersecting processes. Social inequalities structure many LGBTQ African forced migrants’ experiences and attention to the material effects of these (e.g. freedom from violence and homicide) is necessary. Using an approach that includes necropolitics may enhance intersectional analysis and understandings of the human rights issues of this group of people.

The chapter draws substantially on two research reports which the lead author of this chapter, Guillain Koko, was involved in producing. The first report (PAS-SOP 2012) includes data from interviews with 25 LGBTQ refugees living in Cape Town, mostly from Uganda, Democratic Republic of Congo, Somalia, Cameroon, Burundi, Ethiopia, and Angola. The second (ORAM 2013) involved 74 in-depth interviews conducted with sexually and gender non-conforming (SGN) migrants, service providers, agencies, non-governmental organisations (NGOs), and government representatives in South Africa. The interviews were audio recorded, held confidentially, and analysed using thematic methodologies. Where details about the research participants’ gender identity, sexual orientation, and other characteristics, such as nationality, are provided in the reports, they are provided after quotes from their interviews. All quotes appear verbatim to enable people to make points in their own words and as such may include grammatical errors and everyday language.

The chapter uses LGBTQ and SOGIE terminology; we are aware that other terms are used. The terms ‘lesbian’, ‘gay’, ‘bisexual’, ‘transgender’, and ‘queer’ are Western-originated, and, for some authors and activists, are associated with neo-colonising processes. However, the term ‘LGBTQ’ is widely used in the reports and data (with the exception of ORAM 2013), and so we choose to continue its use here. We are not including intersex people per se, but we acknowledge the complex and diverse human rights abuses often faced by intersex people

in Africa (Kaggwa 2013). It is beyond the scope of this chapter to provide detail about the different LGBTQ identities, but we note that risks vary across the LGBTQ grouping that may be dependent on a number of intersecting factors. For example, Guillain Koko reported that bisexual forced migrants are largely invisible and face stigma from both heterosexual and non-heterosexual people. Transgender persons experience multiple levels of discrimination including a lack of access to justice, education, health and psychological care, employment, secure housing, and documentation issues. Camminga (2017) reports specific challenges faced by transgender refugees in the South African asylum system. Black South African lesbians face particularly high levels of homicide and violence (Mkhize et al. 2010).

We begin by briefly outlining SOGIE and refugee international human rights frameworks, and go on to provide indications of some of the ways in which these are being breached in an African context. We then give an overview of relevant human rights and legislative instruments within South Africa and some of the implementation gaps. The chapter goes on to look at LGBTQ forced migrants' experiences in South Africa, focusing on some of the institutional processes and moving on to show how this group faces a range of social challenges. Lastly, we provide some analysis of the situation from an intersectional perspective and indicate the importance of necropolitics in understanding the issues.

International human rights frameworks and perspectives

According to guidelines on international protection, a state may not remove, expel, or extradite a person to any state where that person may face a well-founded fear of torture, persecution, or any other form of cruel, inhuman, or degrading treatment or punishment on the basis of sexual orientation or gender identity (UNHCR 2012). That is the meaning and content of the non-refoulement principle, which is the backbone of the refugee regime when assessing claims to refugee status within the context of the 1951 Convention and its 1967 Protocol Relating to the Status of Refugees. At an international level, a number of the key legal instruments and human rights frameworks are in place to protect African LGBTQ people facing, or experiencing, forced migration, which include the following:

- The 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees;
- The 1966 International Covenant on Civil and Political Rights Articles 2, 6, and 26, which include sex and sexual orientation;
- The 1969 AU Convention Governing the specific Aspects of Refugee Problems in Africa (see UNCHR 1992);
- The 1984 Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- The 2007 Yogyakarta Principles.

More recent developments include the Human Rights Council Resolution 17/19 on Human Rights, Sexual Orientation and Gender Identity (adopted June 2011) that expresses grave concern about violence and discrimination against people because of their gender identity and sexual orientation, and the Human Rights Council Resolution 32/2 Protection against violence and discrimination based on sexual orientation and gender identity (adopted June 2016). These international instruments place obligations on individual states to protect people against homophobic and transphobic violence and torture, as well as cruel, inhuman, and degrading treatment. Specifically, the Yogyakarta Principles set out a range of human rights principles supporting individuals to seek and enjoy in other countries asylum from persecution related to sexual orientation or gender identity. The Yogyakarta Principles relate directly to human rights in the areas of sexual orientation and gender identity, and are intended to apply the standards of international human rights law to address the abuse of the human rights of LGBT people.

There is also human rights provision at a regional level across Africa. For example, the African Charter on Human and People's Rights (adopted June 1981) stipulates rights to non-discrimination, equality before the law, life and integrity of the person, and dignity and freedom from torture or other cruel, inhuman, or degrading treatment or punishment. 'Sexual orientation' and 'gender identity' are not explicitly criteria for distinction, but the rights stipulated are specified as belonging to 'every individual' (Rights in Exile 2016). The 1969 African Union/OUA Convention on Refugees also provides some protection. Taken together, these directives and instruments constitute a substantial human rights framework that should protect LGBTQ people in their countries of origin and within the countries to which they are forced to migrate. However, as we will show in the next section, LGBTQ forced migrants can experience an extremely challenging combination of marginalising processes, as there are many difficulties with the ways in which fundamental human rights are denied and neglected through different practices.

Breaches of human rights that affect LGBTQ people in the African region

Gross human rights deficits and abuses against LGBTQ persons are taking place in many African countries. Penalties for same-sex and gender-diverse-related activities and associations range from fines to death (PASSOP/Leitner Centre/Open Society Foundation for South Africa 2013). In many African countries, criminal charges are laid on people simply for expressing their sexuality or gender identity (Fisher 2013). In addition to this, there is systematic anti-gay sentiment: for example, a study conducted by the Centre for Development of People revealed that 34 per cent of gay Malawian men were denied basic social services such as healthcare, and 8 per cent had been beaten by police or other officials because of their sexual orientation (see also PASSOP 2012). In some African countries, even where homosexuality is not illegal per se, 'community attitudes and the church's stance have led to many LGBTQ people being arrested by the police. Some of

those interviewed were harassed and others arrested because of their gender identity or sexual orientation in their home country' (PASSOP 2012: 11). For example:

There was nowhere to go because in Congo if you go to the police you could be arrested or stoned. The police are not trained about it [homosexuality]. Being gay is taboo in Congo.

(Gay asylum seeker, Congo)

PASSOP (2012: 10) reviews journalistic coverage of increasing homophobia in many African countries, including beatings, death threats, assassinations, and rape. Other key issues are rejection by family and friends, forced marriage, or subjection to unwanted ritualistic procedures. Indicative quotes from this report reveal these realities:

My partner was killed and his house was burned. We lived together in the same house. If I had been there that day, there is no doubt I would have been killed also.

(Gay asylum seeker, Uganda)

The family agrees with the community every time. According to them, the death of a family member who is gay is much better than the shame of the family and all the community.

(Male-to-female transsexual, Uganda)

My mother and my sisters took me to church for exorcism because they assumed that I was a man possessed by supposed evil supernatural force that led me to debauchery.

(Gay asylum seeker, Democratic Republic of Congo)

Despite multiple hardships, LGBTQ people in African countries exercise agency in a variety of ways. For instance, ORAM (2013) documents the importance of social networks and access to information for LGBTQ/SGN refugees. Not everyone has access to the Internet, but some LGBTQ forced migrants successfully use the Internet to make contacts in South African society.

South African human rights frameworks and legal instruments

Post-apartheid South Africa was the first country in the world to guarantee non-discrimination on the grounds of sexual orientation constitutionally in 1996 (Gunkel 2010). South Africa has subsequently played a leading role in LGBTQ rights agendas on an international and domestic level. There are a number of domestic laws underpinning rights regarding sexual orientation, including the Employment Equity Act (1998), the Promotion of Equality and Prevention of Unfair Discrimination Act (2000), the Prohibition of Incitement to Hatred Based on Sexual Orientation (2000), and the Civil Union Act (2006). Case law has also proved effective;

for example, in the 2002 case of *Du Toit v Minister of Welfare and Population Development*, the South African Constitutional Court legalised joint adoption by same-sex couples – a decision cemented in the 2005 Children’s Act.

The law which governs refugee status determination procedures in South Africa, the Refugees Act 130 of 1998 (S. Afr.), contains two provisions of particular importance to LGBTQ refugees. First, the Act specifically defines ‘social group’ to include persons of a particular gender or sexual orientation. Second, following a decision of the Constitutional Court which ruled that permitting the immigration of spouses of South African residents without affording partners in a permanent same-sex relationship the same benefit was unconstitutional, ‘spouse’ is now defined to include ‘a permanent homosexual or heterosexual relationship’. In addition, sexual orientation persecution may contain a gender element, recognised in many common law and civil law jurisdictions. As the 2012 United Nations High Commissioner for Refugees (UNHCR) Guidelines on gender-related persecution notes, ‘A claimant’s sexuality or sexual practices may be relevant to a refugee claim where he or she has been subject to persecutory (including discriminatory) action on account of his or her sexuality or sexual practices’ (UNHCR 2012). In many cases, the claimant has refused to adhere to socially or culturally defined roles or expectations of behaviour attributed to his or her sex. This may involve SOGIE people who have faced extreme public hostility, violence, abuse, or severe or cumulative discrimination.

Further issues relating to sexual orientation and gender-related asylum claims include visa waiver entry (refugees do not usually need to carry a passport or have a visa to enter South Africa) and the granting of asylum on the basis of well-founded fears of persecution and non-refoulement (refugees would only be returned to their country of origin in exceptional circumstances). The process by which individuals can apply for asylum in South Africa consists in brief of the following:

- 1 Lodge an asylum claim at the border and receive a transfer permit (Section 23 permit);
- 2 Interview at the Refugees Reception Office (RRO) and be given an asylum seeker permit (Section 22 permit) which grants a range of rights including the rights to work or to study;
- 3 Interview at the Department of Home Affairs (DHA) to determine whether refugee status will be granted or not.

(ORAM 2013)

There are, however, substantial obstacles throughout this process, which we will now explore, together with broader aspects of human rights deficits.

Human rights implementation gaps in South Africa

Whilst post-apartheid South Africa has progressive human rights frameworks, Human Rights Watch (2014) noted difficulties with implementation of SOGIE human rights. Despite South Africa’s official position to protect sexual minority rights, the country

often fails to offer asylum and assistance to sexual minority refugees (PASSOP 2012). For example, on submission of application for refugee status, many LGBTQ asylum claims are rejected as ‘unfounded’ or ‘manifestly unfounded’. Other claimants are arrested, detained, and deported to their countries of origin where they may be exposed to risk of harm and persecution upon their return (Report of the United Nations High Commissioner for Human Rights 2011). The principle of ‘non-refoulement’ is the cornerstone of refugee law that safeguards the rights of refugees to not be returned to a country where they face persecution because of homophobic laws or laws that criminalise same-sex relationships. This situation raises questions about the international obligation of South Africa when human rights, afforded by international law, are denied to refugees, forcing (or coercing) them to leave the country of asylum.

The difficulties facing LGBTQ forced migrants are compounded by national legislation, which is lacking in support for human rights for these groups. Specifically, the South African Immigration Act of 2014 Regulation 3 (2) (a) (i) has a requirement that a permanent or heterosexual relationship exist for at least five years before the date of the application, and there is already a five-year waiting period in order for spouses and life partners to be able to apply for permanent residence. A similar requirement exists in order to prove that cohabitation has been in existence for a period of not less than five years. In the case where the relationship is between two foreigners in a foreign country, the draft regulations require that there is an official recognition of the relationship issued by the authorities of the relevant country (PASSOP/Leitner Centre/Open Society Foundation for South Africa 2013). In the case of homosexual relationships, obtaining proof of a relationship may render couples in a difficult or impossible situation, as we noted earlier, there are 38 African countries in which homosexuality is illegal and same-sex relationships are not recognised.

Overall, a gulf exists between the legal and constitutional frameworks supporting LGBTQ people in South Africa, including refugees, and the realisation of SOGIE human rights. The problems facing LGBTQ forced migrants and asylum seekers throughout the phases of a migration cycle are numerous and serious. The next section addresses the broader aspects of the oppression and social marginalisation of LGBTQ forced migrants in South Africa. These aspects both foster and are fostered by the implementation gap concerning human rights.

LGBTQ forced migrants’ experiences in South Africa

This section begins with an examination of the institutional processes and structures that LGBTQ forced migrants in South Africa contend with. We then move on to provide an examination of quotidian experiences of hate crimes and community relations before looking at issues concerning the ability to survive and thrive, focussing on employment, housing, healthcare, and education. It is important to point out that LGBTQ forced migrants arriving in South Africa can be successful in negotiating positive outcomes, despite facing major challenges. However, the mechanisms and processes associated with seeking asylum in South Africa are

often deficient, fuelling a lack of human rights implementation. See the following quote for example:

I realised that human rights in South Africa are only written in legal texts and the constitution is not practiced in real life. That's why I was so disappointed, upset and shocked by what I experienced, that I swear that I can't apply [for] asylum in a country which is unable to protect me.

(Gay man, Ethiopia; PASSOP 2012: 17–18)

On several occasions, the DHA, through its RRO, has introduced very strict practices and an internal policy that limits and hinders the rights of asylum seekers and refugees to seek asylum, to renew their permits, and to lodge appeals (see *Sca-labrini and others v Minister of Home Affairs* (735/12, 360/13) [2013] ZASCA 134; 2013 (6) SA 421 (SCA)). There are major problems with the current services that are SOGIE-specific. LGBTQ asylum seekers often face difficulties in the documentation process in South Africa. Flaws in the documentation process leave many persecuted LGBTQ individuals without refugee status. Legal barriers are characterised by the inefficient application of the asylum laws and systems, lack of sensitivity by asylum officers, lack of documentation, and lack of police protection, as well as bias among police, courts, and other legal offices. Institutionalised SOGIE-related prejudice is manifestly evident within refugee-related institutions, and there are also reports of bribery and extortion. This affects LGBTQ people as well as others:

We . . . have to bribe . . . for that you to be able to get in, into that queue. Even have to bribe the officials. . . That's the real world. That's exactly what's happening.

(Transgender woman, Zimbabwe; ORAM 2013: 11)

One specific issue illustrating a lack of appropriate processes and mechanisms regarding LGBTQ refugees is that '[t]he backlog of undecided asylum cases, coupled with limited capacity at RROs, forces individuals to wait in lines with hundreds or even thousands of other asylum seekers in order to access documentation' (ORAM 2013: 5). The queues are gender binaried (separate male and female lines), which poses particular difficulties for LGBTQ individuals who present as non-gender normative, with reports that they are harassed (see ORAM 2013):

The first time when I arrived, I was told that newcomers from my country and the SADC region have their day. That [I] have to come on Thursday, when I arrived there was no queue for people like me, when I went to the female queue, I was pushed and told that 'I am not a female', I must go to the male queue who also pushed me and said 'I'm not a male, I am a female'. In the meantime, the rest of the crowd was yielding at me, call me names, throwing stones saying in my language that I am a disgrace. A lady was pulling me to

her and I fall down, the security guards who were there started beating me up and embarrassed me in front of everyone else.

(Asylum seeker, country unknown; Koko 2016: 30)

The experience related in this quote is just one of thousands of experiences that LGBTQ people have faced while applying for asylum. Similar experiences were reported at the DHA: the PASSOP report (2012) describes interviewees applying for a permit at least three times before they were seen by an official, along with routine intimidation by security guards and officials. Gay asylum seekers reported the following:

I went there [DHA] four times. Yes, I was intimidated by a security guard who hit me the first time I went there.

(PASSOP 2012: 16)

I went there more than 10 times. . . . We were beaten up by an official constantly. The security guards got orders to mistreat people.

(PASSOP 2012: 16)

Almost half of the refugee interviewees in the PASSOP study (2012) did not disclose their SOGIE because they did not know that this was a ground for seeking asylum. In addition, many LGBTQ refugees do not disclose because of valid fears of harassment or threat to life. This issue is recognised in the international literature where there is a discussion of asylum systems as uneven and the regulation of LGBTQ identities as often essentialised, simplistic and stereotyped (Lewis and Naples 2014). For example, some lesbian women are forced to be secretive about their sexuality, which adds to the difficulties of self-identifying as a lesbian and the legal obligation to *prove* their sexual orientation or *perform* their sexual identity in order to be a ‘credible lesbian’ is highly problematic (Bennett 2014). In South Africa, the problems are particularly apparent in the refugee service provision of interpreters from the individual’s home country, which fails to take account of the reasons that LGBTQ people may become forced migrants. For example, an asylum seeker from the Democratic Republic of Congo, who had been tortured for being gay, explained,

Because of what I had gone through back home, I was afraid of what would happen to me if anyone from my country knew about my sexual orientation. I was afraid that they would pass the information to the people back in my country that I was now in South Africa. So I decided to lie.

(Okisai 2015: 37, no country details provided for interviewee)

This type of account is corroborated by stakeholders; for example, ‘Status determination officers sometimes respond with xenophobic comments, or with homophobic comments, so people then don’t really [want to] disclose additional information and are not very comfortable disclosing that information’ (ORAM

2013: 11). Overall, there is a stark difference between the human rights directives and domestic law regarding SOGIE forced migrants in South Africa, and implementation of these in refugee services.

Wider economic and structural difficulties underpin the problems with the implementation of human rights directives: the asylum system is ‘severely overburdened’ (University of the Witwatersrand 2009, cited in ORAM 2013). Problems are compounded by a lack of LGBTQ refugee-specific supportive NGOs, and there are reports of bias and discrimination against this group amongst the more generic NGOs (ORAM 2013). Evidence also exists of wider patterns of victimisation by state officials. For example, a gay asylum seeker reported,

When I got beat up, I went to the police. They laughed at me but arrested the person who attacked me. The next day after I had gone to the hospital, they had already released the man that attacked me.

(PASSOP 2012: 15, no country or identity details provided for interviewee)

There is much work to be done to ensure that human rights directives and the frameworks to protect LGBTQ forced migrants are implemented in South Africa, and recommendations for improvement are provided in reports by institutions such as PASSOP. The next section discusses another aspect of the LGBTQ refugee experience in South Africa: marginalisation and persecution by ordinary South Africans, and by members of the individual’s community of origin.

Safety, housing, employment

The day-to-day situation facing forced migrants in South Africa is perilous, and there is extensive evidence of homicides. It is a situation in which ‘the government struggled to stop attacks on businesses and homes of refugees, asylum seekers, and migrants, denying they were motivated by xenophobia or other forms of intolerance’ (Human Rights Watch 2016: unpaginated). As noted earlier, people flee their home countries to escape various forms of danger, but they feel unsafe in South Africa because of their sexual orientation and/or gender identity (PASSOP 2012). For example, a gay asylum seeker from Cameroon said, ‘I came to South Africa to get rid of the harassment and so that I would be free to live the lifestyle I wanted. But some people are homophobic here too’ (PASSOP 2012: 17). Whilst the Organisation for Refugee, Asylum and Migration (ORAM; (2013) study showed that the environment in South Africa can be less negative than that of the country of origin, LGBTQ refugees and asylum seekers who took part in the PASSOP (2012) research overwhelmingly described a lack of positive relations with the non-LGBTQ community in South Africa, due primarily to experiences of xenophobia but also to SOGIE-related prejudice. A high incidence of sexual violence, including so-called corrective rape, is underpinned by ‘the patriarchal and rigidly defined gender roles of South African society’ (ORAM 2013: 9), as well as homophobia and high and increasing levels of attacks.

In South Africa, communities of origin can also be very unsafe for LGBTQ asylum seekers. Incidents of violence against LGBTQ refugees by other refugees from the same country have been reported. For instance, a gay man from Congo reported, 'It is very dangerous to be surrounded by Congolese people' (ORAM 2013: 12). Rather than being a support structure, many of the refugee communities that exist in South Africa uphold the same anti-gay sentiment as in their home countries (UN News Centre 2011). In addition, for LGBTQ people, religious organisations often fail to offer refuge and may foster prejudice. LGBTQ asylum seekers also lack integration into the South African LGBTQ communities. Over half of those interviewed in the PASSOP study (2012) said that they were not aware of the Cape Town LGBTQ 'scene'. This affects liveability, as LGBTQ asylum seekers may lack intimate connections because of fears about being 'out' and/or an inability to meet other LGBTQ people.

The material underpinnings of liveability are central for LGBTQ asylum seekers in South Africa. Each person must find housing when he or she arrives, as refugee camps are non-existent (PASSOP 2012). There are some positive reports of shelter and support – for example, in the case of the Inclusive and Affirming Ministries shelter: 'They take people without shelter and they provide for them until they can get on their feet (Transwoman refugee, ORAM 2013: 16). However, other interviewees reported prejudice and violence in shelters. There are difficulties with shelters being established to support men or women without flexibility to accommodate transgender people. There are also issues with rented accommodation:

I used to move sometimes by my own will from one place to another when a place became unsafe, however it happens more often that the landlord evicts me without even a short notice when he found out that I am gay.

(Gay asylum seeker, Cameroon; PASSOP 2012: 12)

LGBTQ tenants commonly face violence and harassment from other tenants and landlords, but few of them reported breaches of their tenant rights to the police station, fearing more experiences of prejudice (PASSOP 2012).

Housing security is inextricably bound up with finding the economic means to survive. LGBTQ asylum seekers usually lack extended economic support, rendering them particularly vulnerable to extreme poverty. The PASSOP study reports, '90% of LGBTQ refugees were unemployed. Of the 10% surveyed who held jobs, only 4% worked full-time and 6% work part-time' (2012: 6). In more than half of these cases, unemployment was linked with a lack of documentation. Many LGBTQ people faced discrimination on the basis of SOGIE as well as their refugee status (PASSOP 2012):

Xenophobic violence and rampant discrimination against SGN [LGBTQ] refugees and asylum seekers also impacts on their ability to find work and to meet their needs for basic subsistence. Unable to find jobs, some SGN refugees turn to sex work in order to survive.

(ORAM 2013: 1)

There are multiple accounts of job-related discrimination:

I faced difficulties in keeping my last job although I was called a hard worker by my boss. Some of my colleagues were gossiping about me and some customers refused to be served by me. I was fired, but I cannot report to CCMA [Commission for Conciliation, Mediation and Arbitration] or to the labour court because they will side with my boss.

(Gay refugee, Democratic Republic of Congo; PASSOP 2012: 13)

I was a victim of unfair dismissal. I reported the case to CCMA first and then to the Labour Office. People from my community and other refugees from my country told to my boss to fire me because I would bring misfortune to his business. My boss fired me but the CCMA required him to pay me. He refused. Then I reported to this to the CCMA and my problem has remained unsolved for over than a year.

(Transgender women refugee, Burundi; PASSOP 2012: 14)

Problems with unemployment and job discrimination are compounded by difficulties with accessing public education and training opportunities. Although LGBTQ asylum seekers are guaranteed the right to access public education, and are often keenly interested in gaining more education, financial barriers and other barriers (including a lack of somewhere to study) can impede their efforts (ORAM 2013). There are further issues with other areas of service provision, including healthcare. Whilst some refugees reported positive experiences with healthcare services, including some targeted at LGBTQ refugees, there are also ‘barriers to accessing basic health care, as well as discrimination in the provision of these services. Many face prejudice in public health facilities and abuse from healthcare providers due to their status as foreigners’ (ORAM 2013: 1). In summary, the combination of xenophobia, homophobia, biphobia, and transphobia leads to bias amongst service providers, prevents service providers from reaching out to sexual minority refugees, and prevents sexual minority refugees from seeking help out of fear of further harm and discrimination.

Overall, the problems facing LGBTQ forced migrants and asylum seekers are multiple and severe. Major breaches of human rights are taking place within South Africa with regard to both the institutions and broader dynamics concerning communities, safety, housing, employment, and access to amenities. The next section explores these breaches of human rights from an intersectional perspective.

Intersectional analysis

Intersectionality concerns the ways in which multiple social forces (such as patriarchy, homophobia, and sexism) interact or interlock so that these forces combine to forge particular social positions (see Crenshaw 1989, 1991). Since the

introduction of the concept, various approaches have been taken to intersectional analysis and applied to understand queer and other sexualities in different ways (Richardson and Monro 2012; Bowleg 2013). Here we analyse the relevance of the work of one intersectional author, McCall (2005), in relation to human rights for LGBTQ forced migrants in South Africa.

According to McCall (2005), there are different methodological approaches to intersectionality studies. The first of the three approaches, *anticategorical complexity*, deconstructs identity categories. Anticategorical approaches can be used to dismantle, for instance, the assumption that people have fixed, discrete sexual identities and the assumption that monosexuality (having sexual desires towards others of only one gender) is normal. Both of these assumptions are institutionally embedded, self-replicating, and tied in with the unequal distribution of material and social resources in such a way as to marginalise individuals and groups who do not conform to them.

The anticategorical approach to intersectionality can be used to explain some aspects of the LGBTQ forced migration context within South Africa. The institutions and mechanisms in place act to marginalise and socially exclude LGBTQ forced migrants and asylum seekers not only because of the implementation deficits concerning human rights but also because of the ways in which some of the rights-related structures are constructed. Specifically, the requirement that individuals have static identities such as 'gay' acts to 'freeze' people's identities in ways that may not be useful for some LGBTQ forced migrants and asylum seekers. This issue is discussed more broadly in the literature: for asylum claims to be deemed legible by courts, the 'LGBTQ refugee' must understand and present his or her experience and identity through particular notions of sexuality and gender as sufficient to require the 1951 Convention Relating to the Status of Refugees protection as interpreted by a court (Johnson 2011). Credibility is a key element of the court's focus, and the requirement of identifiable sexual activity and behaviour has delegitimised LGBTQ asylum claims for protection (Bennett 2014; Morgan 2006). As such, asylum regimes serve as a form of governance whereby identity categories establish and regulate the individual's relationship to the state, producing categories in order to distinguish 'those worthy of permanent residency and eventual formal citizenship from those deemed unworthy' (McDonald 2009: 68). This phenomenon is particularly problematic for bisexuals and others with complex and/or fluid sexual identities seeking asylum (see Monro 2015).

Difficulties remain with the use of fixed identity categories, supposedly tied to specific forms of sexual activity, as a basis for asylum claims. However, whilst a radical deconstructionist (and/or queer) movement might call for the deconstruction of all fixed gender/sexuality categories, this is problematic where there is a need for pressing human rights interventions for forced migrants with non-normative SOGIEs. Monro (2015) has argued for a prudent approach to deconstructionism in relation to policy issues because of pragmatic concerns with the development of rights-supportive policies that rely on identity categories. Activists and policymakers who are concerned with human rights need to be able to group people together in categories in order to organise politically or to develop policy initiatives. This

imperative stands in contrast to approaches that deconstruct identities, although the term ‘SOGIE’ goes some way to disentangling individual identities, oppressive forces such as homophobia, and rights claims based on gender and sexuality. Despite this word of caution, there is certainly a need for policymakers and legislators in the LGBTQ human rights field to find ways to address identity variations and the limitations of categorising systems such as LGBTQ.

McCall discusses another approach to intersectionality termed *intracategorical* ‘because authors working in this vein tend to focus on particular social groups at neglected points of intersection’ (McCall 2005: 1771). This approach to intersectionality is immediately useful for understanding LGBTQ forced migrants in both their countries of origin and a South African destination. This group of people faces multiple oppressive forces that act to marginalise them, as manifested through persecution and discrimination which is institutionalised in various ways in both state and civil society arenas. The most apparent intersecting social characteristics relate to being both LGBTQ and a refugee. As the ORAM report states, ‘SGN refugees in South Africa face double marginalisation because (1) they are foreigners and (2) because of their sexual orientation or gender identity’ (2013: 12). This intersection is clearly neglected within South African service provision, as the institutional processes overlook the particular needs of this group, and SOGIE prejudice is perpetuated in frontline practices. However, there are a whole set of other intersecting forces that make life very challenging for LGBTQ refugees in South Africa such as poverty, spatial elements (the areas that are cheapest to live in are also the most dangerous), and gender (notably people who present as female are most likely to suffer rape). These multiple marginalisations compound each other, meaning that people who are extremely impoverished are also at most risk of violence; are most likely to be forced into survival sex work, thus most at risk of HIV; and are also least likely to be able to access safe housing, healthcare, and social networks where they could find support. Intersectionality theory can be drawn on in acknowledging this and explaining why this group is largely invisible: they are rendered highly marginal, sometimes unable to survive.

McCall termed a further approach of intersectionality ‘intercategorical’. For McCall, ‘*intercategorical complexity* . . . requires that scholars provisionally adopt existing analytical categories to document relationships of inequality among social groups and changing configurations of inequality along multiple and conflicting dimensions’ (2005: 1771). Intercategorical intersectional theories enable interrogation of the ways in which power and access to resources are unequally distributed, along gendered, sexual, or economic lines, for example. For LGBTQ refugees in South Africa, nationality is clearly one of the overarching factors (South African LGBTQ people are less precarious and more able to access rights), but it is also heavily striated by other forces, notably heteronormativity and gender binarism. Across the region, these are shaped by the historical legacy of colonialism and homophobic nationalism amongst political leaders (Epprecht 2013; Nyeck and Epprecht 2013). Discrimination against LGBTQ people in the African region, and the state-sponsored persecution that these people face in some African countries, also demonstrates the hegemonic ways in which heteronormativity and gender binarism are perpetuated.

With the intercategory approach, there is also an understanding that categories can be used strategically in an agentic way. Some research findings indicate ways in which LGBTQ forced migrants exercise agency, ranging from strategically planning their escape to South Africa and making contacts via social media, through to changing accommodations in order to escape violence and engaging in sex work to gain funds and therefore ensure survival when no other alternative is available (see PASSOP 2012; ORAM 2013). However, multiple marginalisations make it harder for people to exercise agency and/or compromise their agentic moves. This could perhaps be a point for the further development of intersectionality theory, which is often employed in contexts where individuals can use several aspects of their identity in an empowered way (for example, white LGBTQ British nationals; see Richardson and Monro 2012).

This section of the chapter has explored some of the ways in which intersectionality theory can be applied using McCall's 2005 schema of anticategorical, intracategorical, and intercategory methods. We finish this chapter by summarising our findings and providing some thoughts about intersectionality theory in a southern context and about necropolitical analysis.

Conclusion

This chapter provided an indication of the agency, persecutions, and challenges faced by many LGBTQ people across the African continent. By starting with the perspectives of LGBTQ people, including those seeking refuge, theoretical and methodological insights have been gained about structural forms of oppression (including heterosexism, homophobia, and transphobia) as they intersect with migration, and the ways in which they can shape the identities of LGBTQ people who are forced to migrate. These critical frameworks also reveal the multiple and complex ways in which fundamental human rights are denied and neglected through practices such as the detention and deportability of LGBTQ forced migrants (see Tabak and Levitan 2014), and they expose a gulf between human rights ideals for LGBTQ people and persistent human rights violations (see O'Flaherty and Fisher 2008).

Despite the existence of substantial international and pan-African human rights mechanisms, violence and abuse are perpetrated against LGBTQ people by both state and non-state actors in many countries. LGBTQ people exercise agency, both in attempting to find ways around discrimination and persecution in their countries of origin, and when they begin migration journeys to South Africa. Whilst South Africa is considered by some to be a beacon of LGBTQ human rights, the reality can be rather different. LGBTQ people in South Africa bear the brunt of the gap between supportive legislation and practice. For LGBTQ refugees and asylum seekers, prejudice and violence against LGBTQ people can combine with discrimination against asylum seekers and refugees, rendering them highly vulnerable. Human rights imperatives highlight a need for action to remedy the abuses perpetrated against LGBTQ forced migrants in South Africa, at both policy levels and in terms of wider awareness raising. Specific policy recommendations are available in reports such as PASSOP (2012) and ORAM (2013),

and in other sources such as Okisai (2015) and Koko (2016). However, there is also a need for the development of conceptual tools to understand the situation of SOGIE forced migrants in Africa.

As this chapter demonstrated, SOGIE forced migrants who arrive in South Africa face an extremely challenging combination of marginalising processes. These can include a lack of safe shelter, unemployment and/or employment in precarious and high-risk occupations such as sex work, discrimination from communities of origin, xenophobia from South Africans, spatial disadvantage which can be related to a lack of capacity to access healthcare and other services, and bigotry from faith groups. This situation exemplifies a stark example of what McCall (2005) terms ‘intracategorical’ intersectionality and can be described as multiple marginalisation. However, the ways in which these different forces combine means that experiences are more than just those associated with particular social exclusions; for instance, dire poverty affects a person’s ability to find shelter and access transport to help with gaining employment. In South Africa, the institutions that are supposed to assist forced migrants are also shown to harbour institutional homophobia, biphobia, and transphobia, and in some cases, state agents directly perpetrate violence and abuse against SOGIE people. Overall, understanding of these processes adds to existing insights about the ways in which sexuality and gender binarism are embedded within multiple, intersecting, and complex relations of power which are unequally located within and across different local, national, and transnational borders and contexts (see Luibhe’id 2008).

We suggest that the concept of ‘necropolitics’ (Haritaworn et al. 2014) be used to enhance intersectionality theory and practice, especially McCall’s (2005) intracategorical method. It explains the territory ‘beyond’ the prejudices, abuses, and violence that the most discriminated against people in society face. It is important to point out that intersectional necropolitics plays out in different ways internationally. For example, in the United Kingdom, the routine termination of intersex fetuses (Monro et al. 2017) can be seen as a form of genocide, as it involves the annihilation of a large proportion of a population with non-normative sex characteristics. In the South African context, key authors (Matebeni 2014; Hames in this volume) have discussed the importance of ‘livability’ and the agentic lives of black lesbians and others in the face of survival challenges such as access to food and shelter. It is crucial in political and scholarly terms to avoid framing a particular social group as subject to necropolitics if this then serves to stigmatise or ‘other’ them. However, more broadly, the issue of death and annihilation is overlooked at a cost not only to SOGIE people and allies with an interest in supporting LGBTQ human rights but also to social theorists. Dead people can, of course, not agitate for human rights. Their absence is not fully mapped when a focus is only on agentic processes or on the structuring of marginalised people’s lives by two or three forces, such as race, gender, and sexual orientation. There seems to be a built-in elision amongst some intersectionality theorists (including in the previous work of Richardson and Monro 2012) of the experiences of those who experience severe marginalisation along many trajectories, in particular in relation to the fundamentals of life such as food, shelter, and physical safety. Future intersectionality scholarship, and LGBTQ-related research, could usefully explore the notion of necropolitics more fully.

References

- Al-Rebholz, A. (2013) 'Gendered Subjectivity and Intersectional Political Agency in Transnational Space: The Case of Turkish and Kurdish Women's NGO Activists'. In Wilson, A. (ed) *Situating Intersectionality: Politics, Policy and Power*. London: Palgrave.
- Bennett, C.M. (2014) 'Sexuality and the Asylum Process: The Perspectives of Lesbians Seeking Asylum in the UK'. Doctoral thesis (PhD), University of Sussex, Brighton, UK.
- Bowleg, L. (2013) '"Once You've Blended the Cake, You Can't Take the Parts Back to the Main Ingredients": Black Gay and Bisexual Men's Descriptions and Experiences of Intersectionality'. *Sex Roles* 68, 754–767.
- Camminga, B. (2017) 'Categories and Queues: The Structural Realities of Gender and the South African Asylum System'. *TSQ: Transgender Studies Quarterly* 4(1), 61–77.
- Cantu, L. (2009) *The Sexuality of Migration*. New York: New York University Press.
- Chávez, K.R. (2010) 'Border (In)Securities: Normative and Differential Belonging in LGBTQ and Immigrant Rights Discourse'. *Communication and Critical/Cultural Studies* 7(2), 136–155.
- Choo, H.Y. (2012) 'The Transnational Journey of Intersectionality'. *Gender and Society* 26(1), 40–45.
- Collinson, C. (2016) '#FeesMustFall "Burns" Queer Students'. <http://mg.co.za/article/2016-10-13-00-feesmustfall-burns-queer-students> [Accessed 26 October 2016].
- Crenshaw, K.W. (1989) 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics'. *University of Chicago Legal Forum* 1989(1), 139–167.
- Crenshaw, K.W. (1991) 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Colour'. *Stanford Law Review* 43(6), 1241–1299.
- Epprecht, M. (2013) *Sexuality and Social Justice in Africa: Rethinking Homophobia and Forging Resistance*. London and New York: Zed Books.
- Fisher, M. (2013) *This Map Shows How America Compares to the Rest of the World on Gay Rights*. www.washingtonpost.com/news/worldviews/wp/2013/06/26/this-map-shows-how-far-america-has-come-on-gay-rights-compared-to-the-rest-of-the-world/?utm_term=.44e241f049d8 [Accessed 7 January 2016].
- Gunkel, H. (2010) *The Cultural Politics of Female Sexuality in South Africa*. New York: Routledge.
- Haritaworn, J., Kuntsman, A. and Posocco, S. (eds) (2014) *Queer Necropolitics*. London and New York: Routledge.
- Human Rights Watch (2014) 'World Report 2014: South Africa'. www.hrw.org/world-report/2014/country-chapters/south-africa [Accessed 6 January 2017].
- Human Rights Watch (2016) *South Africa Events of 2015*. www.hrw.org/world-report/2016/country-chapters/south-africa [Accessed 6 January 2017].
- Hurtado, A. and Sinha, M. (2008) 'More Than Men: Latino Feminist Masculinities and Intersectionality'. *Sex Roles* 59, 337–349.
- Itaborahy, L.P. and Zhu, J. (2014) *State-Sponsored Homophobia. A World Survey of Laws: Criminalisation, Protection, and Recognition of Same-Sex Love*. International Lesbian, Gay, Bisexual, Transgender and Intersex Association. www.ilga.org [Accessed 7 October 2014].
- Johnson, T. (2011) 'On Silence, Sexuality and Skeletons: Reconceptualizing Narrative in Asylum Hearings'. *Social and Legal Studies* 20(1), 57–78.
- Kaggwa, J. (2013) 'The Struggle for Intersex Rights in Africa'. In Ekine, S. and Abbas, H. (eds) *Queer African Reader*. Dakar, Nairobi and Oxford: Pambazuka Press, pp. 203–208.

- Koko, G.C. (2016) 'A Legal Analysis of the Implementation of Non-Refoulement Principle as Applied to Claims Based on Sexual Orientation and Gender Identity Under Article 2 of the South African Refugee Act of 1998'. Unpublished LLM Dissertation, Pretoria: Centre for Human Rights, University of Pretoria.
- Lacey, N. (1997) 'Unspeakable Subjects, Impossible Rights: Sexuality, Integrity and Criminal Law'. *Women: A Cultural Review* 8(2), 153–157.
- Lewis, R.A. and Naples, N.N. (2014) 'Introduction: Queer Migration, Asylum, and Displacement'. *Sexualities* 17(8), 911–918.
- Luibhe'íd, E. (2004) 'Heteronormativity and Immigration Scholarship: A Call for Change'. *GLQ: A Journal of Lesbian and Gay Studies* 10(2), 227–235.
- Luibhe'íd, E. (2008) 'Sexuality, Migration, and the Shifting Line between Legal and Illegal Status'. *GLQ: A Journal of Lesbian and Gay Studies* 14(2–3), 289–315.
- Matebeni, Z. (2014) 'Death and the Modern Black Lesbian'. In Pillay, M., Naidoo, K.P. and Southall, R. (eds) *New South African Review 4: A Fragile Democracy: Twenty Years On*. Johannesburg: Wits University Press, pp. 183–193.
- McCall, L. (2005) 'The Complexity of Intersectionality'. *Signs* 30(3), 1771–1800.
- McDonald, J. (2009) 'Migrant Illegality, Nation-Building and the Politics of Regularization in Canada'. *Refuge* 26(2), 65–77.
- Millbank, J. (2005) 'A Pre-Occupation with Perversion: The British Response to Refugee Claims on the Basis of Sexual Orientation 1989–2003'. *Social and Legal Studies* 14(1), 115–138.
- Millbank, J. (2009) 'From Discretion to Disbelief: Recent Trends in Refugee Determination on the Basis of Sexual Orientation in Australia and the United Kingdom'. *International Journal of Human Rights* 13(2–3), 391–414.
- Mkhize, N., Bennett, J., Reddy, V. and Moletsane, R. (2010) *The Country We Want to Live in: Hate Crimes and Homophobia in the Lives of Black South Africans*. Cape Town: HSRC Press.
- Monro, S. (2015) 'Bisexuality: Identities, Politics, and Theories'. In *Genders and Sexualities in the Social Sciences*. London: Palgrave Macmillan.
- Monro, S., Crocetti, D., Yeadon-Lee, T., Garland, F. and Travis, M. (2017) *Intersex, Variations of Sex Characteristics, and DSD: The Need for Change*. Huddersfield, UK: University of Huddersfield Press.
- Moolman, B. (2013) 'Rethinking "Masculinities in Transition" in South Africa Considering the "Intersectionality" of Race, Class and Sexuality with Gender'. *African Identities* 11(1), 93–105.
- Morgan, D. (2006) 'Not Gay Enough for the Government: Racial and Sexual Stereotypes in Sexual Orientation Asylum Cases'. *Law and Sexuality* 15, 135–161.
- Nkabinde, N.Z. (2008) *Black Bull, Ancestors, and Me: My Life as a Lesbian Sangoma*. Johannesburg, South Africa: Jacana Media.
- Nyeck, S.N. and Epprecht, M. (2013) *Sexual Diversity in Africa: Politics, Theory, Citizenship*. Canada: McGill-Queens University Press.
- O'Flaherty, M. and Fisher, J. (2008) 'Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles'. *Human Rights Law Review* 8(2), 207–248.
- Okisai, K.C. (2015) 'Sexual Orientation and Gender Identity Asylum Claims and Refugee Protection under South African Law'. Unpublished LLM Dissertation, Faculty of Law, University of Pretoria, Pretoria.
- ORAM (Organisation for Refugee, Asylum and Migration) (2013) *Blind Alleys: The Unseen Struggles of Lesbian, Gay, Bisexual, Transgender and Intersex Urban Refugees*

- in Mexico, Uganda and South Africa. Part II Country Findings: South Africa.* <http://oramrefugee.org/orampublications/> [Accessed 12 December 2016].
- PASSOP (People Against Suffering, Oppression and Poverty) (2012) *LGBTQ Refugee Support and Advocacy Project: PASSOP Report: A Dream Deferred: Is the Equality Clause in the South African Constitution's Bill of Rights (1996) Just a Far-Off Hope for LGBTQ Asylum Seekers and Refugees?* Open Society Foundation for South Africa. www.osf.org.za/ [Accessed 12 December 2016].
- PASSOP (People Against Suffering, Oppression and Poverty)/Leitner Centre/Open Society Foundation for South Africa (2013) 'Economic Injustice: Employment and Housing Discrimination against LGBTQ Refugees and Asylum Seekers in South Africa'. Wynberg/New York: PASSOP. Leitner Centre for International Law and Justice.
- Reddy, V., Sandfort, T. and Rispel, L. (eds) (2009) *From Social Silence to Social Science: Same-Sex Sexuality, HIV and AIDS in South Africa*. Cape Town: HSRC Press.
- Report of the United Nations High Commissioner for Human Rights (2011) 'Discriminatory Laws and Practices and Acts of Violence against Individuals Based on Their Sexual Orientation and Gender Identity'. www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf [Accessed 16 April 2016].
- Richardson, D. and Monro, S. (2012) *Sexuality, Equality and Diversity*. Houndmills, Basingstoke: Palgrave MacMillan.
- Rights in Exile (2016) www.refugeelegalaidinformation.org/rights-exile-newsletter [Accessed 14 December 2017].
- Steyn, M. and Van Zyl, M. (eds) (2009) *The Prize and the Price: Shaping Sexualities in South Africa*. Cape Town: HSRC Press.
- Tabak, S. and Levitan, R. (2014) 'LGBTQ Migrants in Immigration Detention'. *Harvard Journal of Law and Gender* 37, 1–44.
- Tamale, S. (ed) (2011) *African Sexualities: A Reader*. Dakar, Nairobi and Oxford: Pambazuka Press.
- UNHCR (1992) Persons covered by the OAU Convention. <http://www.unhcr.org/uk/excom/scip/3ae68cd214/persons-covered-oau-convention-governing-specific-aspects-refugee-problems.html> [Accessed 13 March 2018].
- UNHCR (2012) 'Guidelines on International Protection no. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity within the Context of Article 1A(2) of the 1951 Convention and/or Its 1967 Protocol Relating to the Status of Refugees'. www.unhcr.org/509136ca9.pdf [Accessed 15 November 2017].
- United Nations News Centre (2011) www.un.org/apps/news/topstory.asp?month=10&year=2011 [Accessed 14 December 2017].