

Queerness, Sex Work, and Refugee Status in Nairobi: A conversation with Queer Sex Workers Initiative for Refugees

Subha Wijesiriwardena

Suggested citation: S Wijesiriwardena, 'Queerness, Sex Work, and Refugee Status in Nairobi: A conversation with Queer Sex Workers Initiative for Refugees', *Anti-Trafficking Review*, issue 19, 2022, pp. 134-140, <https://doi.org/10.14197/atr.2012221911>

I interviewed Bwaggu Mark from the Queer Sex Workers Initiative for Refugees in June 2022. That month was the deadline by which the Kenyan government was going to close two of the biggest camps for refugees: Dadaab and Kakuma. These declarations, made in 2021, were a follow-up to previous attempts to close refugee camps, including in 2017, which was blocked by a court.¹

At that time, the office of the United Nations High Commissioner for Refugees (UNHCR) was given two weeks by the government to come up with a 'roadmap' for the closure of the camps and the care of refugees. The government noted 'We are serious about completing the repatriation program which we started in 2016, in full view of our international obligations and our domestic responsibility'.²

The term 'repatriation' signals, at least in part, what can be expected of the Kenyan government's approach to the management of refugees and the closure of camps: sending people back to where they came from. While 'voluntary repatriation' can be considered as a more humane solution than most others, this should not be the basis for coercing or forcing people to return to circumstances they decided to flee. Unfortunately, governments continue to interpret 'voluntary repatriation' in overly expansive ways through the introduction of concepts such as 'preventative protection' and 'safe return', which can ultimately result in stricter control of

¹ No author, 'Kenya says Dadaab, Kakuma refugee camps to close next year', *Al Jazeera*, 29 April 2021, retrieved 18 July 2022, <https://www.aljazeera.com/news/2021/4/29/kenya-says-dadaab-kakuma-refugee-camps-to-close-next-year>.

² *Ibid.*

borders and labour policy, with harmful impact on refugees and migrants.³

Human Rights Watch and other organisations have warned that closing camps won't solve Kenya's 'refugee problem', and stated that 'governments should protect refugees, not send them back to dangerous conditions'.⁴

In November 2021, the Kenyan President signed into law *The Refugees Act*, a new set of policies which would allow refugees to work legally, and this came into force in February 2022. This advancement was hard-fought but the Act still contains caveats by which significant structural barriers remain for many refugees seeking labour opportunities. For example, the law requires proof of qualifications and a refugee can seek work only in the area for which they are qualified. However, many refugees may not have such documents, as they often flee conflict and violence, and the processes to acquire them in Kenya may be lengthy.

This brief overview paints a partial picture of the context for refugees and migrants in East Africa, especially those entering Kenya. In addition, one must take into consideration the violence and discrimination against lesbian, gay, bisexual, trans, intersex (LGBTI) and other sexual and gender diverse persons in Kenyan refugee camps, such as Kakuma, which has in the past included physical attacks on LGBTI+ refugees resulting in several being hospitalised with burns.⁵

The interview has been edited for clarity.

Subha Wijesiriwardena: Can you tell me about the history of your group? How did it come to be formed?

Bwaggu Mark: Some of us are asylum-seekers from Uganda. The laws, as an asylum-seeker, mean that you can't work. Work is legally forbidden. So the only option many of us have is to take on sex work. Sex work is a means to secure livelihood and some of us could see that there was no initiative in place for people like us.

³ B S Chimni, 'The Meaning of Words and the Role of UNHCR in Voluntary Repatriation', *International Journal of Refugee Law*, vol. 5, issue 3, 1993, pp. 442-460, <https://doi.org/10.1093/ijrl/5.3.442>.

⁴ B Frelick, 'Closing Camps Won't Solve Kenya's Refugee Problem', Human Rights Watch, 13 April 2021, <https://www.hrw.org/news/2021/04/13/closing-camps-wont-solve-kenyas-refugee-problem>.

⁵ N Bhalla, 'LGBT+ refugees call on U.N. for safe space after Kenya camp attacks', *Reuters*, 5 March 2021, <https://www.reuters.com/article/us-kenya-lgbt-refugees-trfn-idUSKBN2AX1T3>.

SW: Is it mostly people who have migrated from Uganda in your group? Are there folks from other places?

BM: There are people from other places as well. We have Sudanese, Congolese...

SW: Where are you located? Are you in Nairobi? Do you have a physical space?

BM: Yes, we have an office in Nairobi, which we also use as a safe house.

SW: Can you explain about migration and the asylum-seeking process? What are the various stages? I think many people don't fully understand all the stages in the process... it's complicated, no?

BM: First, you have to go to the Refugee Affairs Services (when you reach Kenya), it registers every asylum-seeker coming to the country. There you receive an 'asylum-seeker pass', and this verifies your presence in Kenya. With this, you can go to UNHCR and there's a transit period. After this, you are taken to a camp. In a camp, there is shelter, there is some food. Then you are given refugee status, after some time.

SW: This is the formal process, the typical process. But obviously, there are people who do it in other ways, right? Because people want to be able to have better access to livelihood, etc. There are those who don't want to be at a camp.

BM: Yes, exactly. Some of us came straight to Nairobi.

SW: What is that whole experience like for queer refugees?

BM: There is a lot of discrimination. You know, when you come here, you expect to find some people who are welcoming, that they might understand that we are people who are leaving our own countries for a reason. But unfortunately, the first people who you experience when you enter this country, as a refugee, the government officials, are discriminatory, and they judge us for being queer. They tell us, 'this is not the African way, this is not our culture, why do you have to be like this?'

In this case, many people have the experience that those at UNHCR are not like... we get some acceptance with UNHCR. They work on our issues, so they are not judgmental.

SW: So your first experience upon crossing a border is that of discrimination and stigma.

BM: Yes.

SW: What are some of the reasons why queer people leave, and what are some of their expectations from a new place?

BM: I believe across East Africa, norms and societies are similar. We have had very similar political processes to establish legal norms and systems. They are very anti-LGBT. If you are queer, it's a no, no, no. You are not supposed to be queer. You are an outcast. In many cases, your entire community is going to go after you. So what do you do? You leave.

The only people who may protect you are the ones who are like you. The ones who are 'different'. It is the same in Tanzania, in Rwanda, in South Sudan. This seems to be the basic.

SW: What are some of the hopes you left with, what did you expect?

BM: You know... really, you expect nothing. You just don't know. Some of us, we left with nothing. You leave without knowing where you are going. You just maybe expect a place to sleep, and a place to be recognised as a person.

You know, in Kenya, you think, it can't be that bad. We think there may be some understanding, somewhere. We know it's not that much better here (in Kenya); we know we still have to hide. We know many people are still against it. But maybe, we think it will be better. Someone somewhere will understand, you think.

SW: What is the draw of Kenya? What is in the imagination, for people like you, before you left, about Kenya?

BM: I can only speak for myself, why I came to Nairobi. You hear about Nairobi in Uganda, that's what you hear about—Nairobi, Kenya. Other places—no. They're very hard places. There's some talk about Nairobi. The place I had in mind—it was a place I could try. I thought, let me see. Let me go and try. That's all you have.

SW: So how do you reconcile the actual situation in Kenya? As we know, many LGBTIQ people are still fighting for recognition and advances in rights in Kenya. You're also in a unique position, you're a sex worker, you're not a citizen, the Kenyan state doesn't feel like it owes you anything. You're impacted by several sets of laws, but also all these different norms. How does this impact you, when there's criminalization of migration, sex work, and of same-sex sexual conduct?

BM: It's a lot. Yes, it's certainly a lot and very hard to take sometimes. But you live to fight another day, you know?

You come as a refugee, you don't even know the language, but you come to be queer. And then, you came to be queer, and now you're a sex worker. This is not very sweet to their ears.

We get cases of rape, kidnap, none of which we can report, because how can I go to the police, and say I am queer, or I am trans? They will say, who raped you? Am I to say, a man raped me? They will say, are you even serious, you are what we don't want in our community.

This seems like basic stuff, you need protection, and that is the police. But if you don't have the police, then what do you have? And then if health service providers don't do what they have to do, then what? Where do we get condoms, or PrEP or PEP? If we can't get them from the facilities where we are supposed to get them, then where do we go?

You are living in fear, always worried. You have to be sure never to annoy someone or draw any attention. So this impacts being able to have a life.

SW: And also, as you said right at the start, you are registered on a single system, everyone is in the system. They have the information on you at any time. People would be scared to be caught violating the terms of their asylum...

BM: Yes, you're right. Once you're registered in this system as an asylum-seeker, you need to be very careful. Before you become a refugee, you're an asylum-seeker, and you need to be on good behaviour. Every time you are arrested, you're noted in their books. We are always made aware of this.

SW: Is there a fear of being sent back?

BM: There is always an 'if'... and that's enough to keep us on 'good behaviour'. I have personally never come across a case where someone we know has been sent back. Of course, it helps that UNHCR is there to help these kinds of cases.

SW: There are incredible obstacles to the kind of work you're doing; could you talk a little about the challenges of organising and providing services? How do you operate in this highly restrictive environment?

BM: First, you can't register an organisation like ours. You are not legally allowed to start an initiative like this, because they see this discussion as not being allowed in this country. You know, typically we would need to register to receive grants and funds from outside the country. But we can't do that. So it becomes very complicated. We need to show exactly how we'll be using the funds and so on. We have to work with fiscal sponsors, other organisations.

SW: What other kinds of organisations have you received support from in your work?

BM: It is mostly other organisations here who work for LGBTI rights. Fortunately, some of these organisations include sex workers, so they understand the situation.

SW: Are LGBTI groups mostly supportive of sex work-related issues, in your experience? And what are they like on refugee issues?

BM: You won't be surprised to hear that there is discrimination of sex workers within the LGBTI movement as well. But mostly we've had support. Even if they don't agree, they understand.

SW: And you are bringing a migrant and refugee-rights lens to LGBTI groups too, I assume?

BM: Yes, we are trying to help other organisations understand these issues better. Many local LGBTI groups also give migrants and refugees work in their organisations, and this is a great support for those people, since you are not allowed to work in some cases. So in this way they are helpful and they are learning about the issues.

SW: What about the sex workers movement, do you work with them?

BM: We mostly work with other LGBTI groups. We work with some international sex worker rights groups. But in the national context, it makes the most sense for us to work on LGBTI issues. Sex work is simply our livelihood at this moment. But I admit there is a gap between us and the broader Kenyan sex workers movement. Maybe this is something we need to address.

We know that sex workers movements face huge challenges, often they have no funding. No one wants to fund sex work-related work. Donors need to support sex worker rights groups. So when resources are scarce, it is hard for different groups to work together. Maybe this is a problem as well.

SW: What kind of work do you do, outside of service provision?

BM: We do advocacy, here nationally with the Kenyan government, we do direct action, like protests and other things. We join global advocacy efforts too, sometimes with international sex worker rights groups. We do arts-based programmes and psychosocial programmes, which are very necessary for our community.

SW: Is there anything else you want to say to other movements around the world?

BM: We are the same. We have to work together. We are working against the same enemy. We have to come together under an umbrella. We need more solidarity because we need more visible movements here on the African continent. We need LGBTI movements and sex workers movements here to be supported to become more visible and to be heard.

Subha Wijesiriwardena is a Manager of Programs at CREA, a global feminist human rights organisation led by feminists in the Global South. CREA is dedicated to amplifying and working with movements who have historically been excluded from mainstream feminist organising, namely, movements led by sex workers, LGBTI people, and women and people with disabilities. Subha holds a degree in Communication Studies from the University of Bangalore and has worked as an activist and a researcher on gender, sexuality, and digital rights in Sri Lanka and South Asia. Email: subha@creaworld.org