

# Sex on the move: Gender, subjectivity and differential inclusion

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**Abstract** Heterosexuality and patriarchal social arrangements built within immigration regulations signal the undiminished urgency of feminist engagement to rethink migration through the perspective of sexuality and gender. At the same time, feminist analysis of contemporary migration remains bound to the analytical framework centred on control, and approaches borders and immigration regulations primarily in terms of exclusion. Yet, the contemporary transformations of state borders, labour relations and citizenship question the currency and adequacy of the exclusion-based interpretative model. This article brings together feminist and queer migration studies with literature on the transformation of borders, sovereignty and citizenship as developed in critical political theory with the aim of broadening the interpretative scope and political relevance of feminist and queer migration scholarship. The stakes are both theoretical and political in that such a reading allows for a more nuanced account of the changing forms of governing as well as of emerging political subjectivity.

*Subjectivity* (2009) 29, 389–406. doi:10.1057/sub.2009.27

**Keywords:** gender; sexuality; migration; labour; citizenship

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Control of migration and control of women's bodies have long gone hand in hand. In the late 1800s, the Page Law, which in the first instance targeted Asian women migrating for sex work, restricted Chinese women entering the United States as it effectively conflated Chinese women's migration with enslaved prostitution. Similarly, in the late 1970s, as part of the official governmental policy informed by the stereotype that to enter a marriage a South Asian woman had to be a virgin, British immigration officers subjected prospective Indian brides to 'virginity tests'.

Assumptions and norms about sexuality and gender determine whom the state permits or denies entry and stay on its territory and impact on immigration regulations. Feminist scholarship has shown that throughout

the 1980s, immigration regulations in several European countries upheld a gendered division of labour by assigning women a 'dependent' status that kept many migrant women out of paid employment. This was done through family reunification schemes, which assumed that the man was the economically motivated migrant actor, the 'breadwinner', and the woman was his dependent (Morokvasic, 1984; Bosniak, 2007). Scholars of queer migration have taken this analysis further and illustrated how immigration schemes are based on normative assumptions around the nuclear family, marriage and biological reproduction that privilege and enforce the notion of a heterosexual family comprised of a husband, his wife and their children (Manalansan, 2006).

Norms about morality and sexuality are deeply entrenched within immigration procedures. In the United States, for many years, gays and lesbians could be refused admission if they self-identified or were identified by others as being homosexuals (Luibhéid, 2002). This law was repealed in 1990, and sexual orientation alone was no longer a valid basis for excluding a prospective immigrant. However, female sexuality in particular remains bound by socially 'acceptable' notions of femininity to such an extent that recent women's migration from Eastern Europe provoked anxieties concerning migrant women's uncontrolled sexuality. These anxieties are most clearly visible in the numerous anti-trafficking campaigns across Eastern Europe, which discourage women from migrating by equating informal labour migration with forced prostitution and home as a safe haven. By portraying the 'home' as being a place devoid of danger and thus also of prostitution, these campaigns attempt to regulate women's sexuality by placing women within the space of heterosexual domesticity (Sharma, 2003; Nieuwenhuys and Pécoud, 2007).

States' immigration policies need to be understood in relation to the sexual and gendered construction of the nation. Sexuality and gender play a constitutive role in the formation and definition of the nation insofar as the reproduction of nationhood and citizenship remain premised on heterosexuality and heteromascularity. These denote certain bodies as desirable, and others, in particular, racialized or non-procreative (that is, homosexuals), as being a threat to nation's survival (Alexander, 1994). States might not always be repressive of homosexuality but depending on specific historical and political conjectures (such as post-September 11 in the United States), gays and lesbians might get incorporated in the nation as part of the patriotic ideology. This ideology produces an 'us-versus-them' nationalist rhetoric, which participates in the construction of migrants as a threat to national security, and can lead to racial profiling, detentions and deportations (Puar, 2006). In fact, states (as, for example, in the case of The Netherlands) might deploy their progressive stance on homosexuality to restrict entry to certain groups of migrants. In order to gain access to the Netherlands, migrants were required to view images of two men kissing and to indicate whether they found these to be offensive or an expression of personal freedom, and whether they were willing to live in a country that

values the free expression of gay people. The examination thus enforces the distinction between the modernity and secularism of the Dutch state, defined in terms of gender equality and rights of sexual minorities, and migrants' countries of origin seen as being driven by patriarchal and homophobic social arrangements.<sup>1</sup> Sexuality, in its intersection with race, is a key to understanding the complexity of new dynamics of exclusion and how apparently 'liberal' solutions might have 'illiberal' consequences, such as the tightening of admission requirements, restrictive residency and work regulations and the exclusion of migrants from social citizenship (Walsum *et al*, 2007). Immigration regulations disclose how patriarchal relations still remain significant and how deeply gender and sexual norms are entrenched in the procedures that regulate admission, stay and access to citizenship.

The overwhelming emphasis in the feminist and queer migration literature on control has led scholars to privilege the analytic framework centred on exclusion in which states enforce migrants' exclusion through refusal of entry at the border, removal through deportation or denial of citizenship. The gender and sexual biases that are in-built within immigration regulations signal the undiminished relevance of classical feminist issues, such as patriarchy, wage labour and equality, and the continuing urgency to rethink migration studies through the perspective of sexuality and gender. At the same time, the contemporary transformations of state borders, labour relations and citizenship question the currency and adequacy of the exclusion-based interpretative model.

I will begin the second section of this article with a discussion of borders and immigration laws as regimes of sexual and gender regulation and as mechanisms of exclusion, as these are commonly identified in classical feminist and queer migration scholarship. In section three, I will consider the blurring of the boundary between 'inside' and 'outside' resulting from the changes in the functioning of borders and immigration regimes. I will show that borders, labour and citizenship are undergoing profound transformations to such an extent that scholars speak of delocalisation of borders, multiplication of labour and disarticulation of citizenship. These terms indicate changes in state sovereignty, a rupture of the citizen-worker relation and the transformation of citizenship from the unified model that links citizenry to national territory. In the last section of the article, using the examples of sex work, asylum and same-sex marriage in Europe, I abandon the interpretative framework based on the exclusion in favour of a model of differential inclusion, which brings to the fore the stratification and proliferation of subject positions. My intention is not simply to compensate the imbalance in feminist and queer migration scholarship in favour of inclusion (although differential) by focusing on the acquisition rather than deprivation of rights. Rather, my aim is to broaden the interpretative scope and political relevance of classical feminist and queer migration scholarship by integrating the studies on changes in sovereignty,

labour and citizenship into its analysis of migration as developed in critical political theory. The stakes of this interpretative move are both theoretical and political in that such a reading allows for a more nuanced account of changing forms of governing and of emerging figurations of political subjectivity. The challenge that this article launches is to rethink, from the vantage point of sexuality and gender, how these differently positioned subjects of migration transform the boundaries of citizenship and interrupt the logic of the political, both of which are still rooted in the dichotomous forms of belonging.

### **Sites of Exclusion**

Feminist and queer migration scholars have played a key role in developing an analysis of migratory flows that challenges the mainstream view of labour migration as being male-driven. They have shown women's past and present active role as primary migrants and revealed the normative impact of heterosexuality and the nuclear family on immigration laws. Conceptualizations of migratory flows, which postulate men as 'primary' and women as 'secondary' migrants, universalize a rather specific model, namely that of the guest-worker during the mass labour migration in Europe between the 1950s and mid-1970s. This model, developed by Bohning (1984), is organised around the idea of distinct stages where the migratory process is initiated by single young men, and followed by older married men who at a later stage are joined by their spouses and children in order to supplement household income. This simplistic conceptualization of migratory processes rests on the classical dualism that identifies the male with activity, production and the public sphere, and female subjectivity with passivity, reproduction and the private sphere. Such a binary hierarchical model heavily influenced migrant women's positions as dependents with derived rights and their exclusion from citizenship. For example, under the guest-worker system, unlike men, family reunification policies did not allow migrant women to bring into the country of migration their spouses or dependents (Bhabha and Shutter, 1994). Were a white woman citizen to marry a foreign national, she would automatically lose her nationality, as was the case, for example, in the Netherlands until the early 1960s. In cases where the husband was deported, the women and children would also be deported back to the husband's country of citizenship (de Hart, 2007).

Today, while formal immigration laws have changed so that in the EU migrant men and women have equal rights to family reunification, gendered and racialised coding of the labour markets still impacts differently on migrant women. Migrant women often work in sectors of the economy such as in domestic and caring sectors where the temporality or informality of employment relations, the level of income and the type of living arrangements make it difficult to satisfy the requirements of family reunification. The right of

women who are EU nationals to reside with a non-EU husband and establish a family in the wife's country of citizenship is still questioned in a way that the right of male EU citizens is not. A review of European legal decisions has shown that in cases when non-EU nationals are refused a residence permit or are under threat of deportation, national courts expect the wife to follow the husband to his country of citizenship, even in cases when the wife is a (white) EU citizen (de Hart, 2007). In short, women and men still stand in a different relationship to citizenship, usually to the disadvantage of women (Lister, 2004).

Young single women's migration is subject to immigration regulations that enforce norms around gender and sexuality. In particular, border has been identified as a key site where control is played out. In the 1960s, the border officers monitoring the US-Mexican border refused to admit lesbians, namely those who they identified as being 'too' masculine in manner, dress and look (Luibhéid, 2002). The control at the border is often enforced through violence. Young migrant women working in export assembly plants or *maquiladoras* at the US-Mexican border have been affected by high levels of violence and abuse. The social movement called *Ni Una Mas* (Not One More) brought to the public attention the deaths of hundreds of young women who migrated autonomously from rural Mexico to work in *maquiladoras*. These deaths, initially dismissed by the local authorities as simply being those of prostitutes against whom the use of violence is implicitly justified, need to be seen in relation to the economy of the export processing zones in the border region. Factories are run on the basis of flexible labour employment and give priority to hiring young women migrants who lack family support. Additionally, women are pressured against political organising and are excluded from traditional unions led by men who dismiss women on the basis that they are temporary workers and bring down the level of wages. Women's vulnerability to abuse in the border regions thus needs to be examined in relation to the labour exploitation in the export-oriented zones, women's labour participation away from the domestic sphere and their increased role as independent migrants (Nash, 2006; Wright, 2006). Sexual violence is also used systematically against migrant women crossing the border between Mexico and the United States. Agents of the US Border Control have been known to rape, detain and then release migrant women caught crossing the US-Mexican border illegally. Although not directly expelling a woman migrant from the US, sexual abuse nevertheless constitutes an act of exclusion as it operates as a technology that reproduces gender and sexual hierarchies and norms on the one hand and racial and class divisions on the other. Rape effectively inscribes the border on migrant women's bodies. This border is at the same time an external border that sanctions and maintains the difference between 'us' and 'them', 'citizens' and 'aliens', and is also an internal border that confines undocumented migrant women to the low-end service sector of the US economy. Rape thus plays a crucial role in reconstructing

national borders and in upholding the exclusionary social order (Luibhéid, 2002, p. 130).

When taking place outside of the state sanctioned schemes, women's migration prompts repressive legal responses.<sup>2</sup> A timely example is women's sex work migration in Europe. Since the 1990s, a growing number of women from Eastern Europe's new and non-EU member states have migrated to the EU for work in the domestic and entertainment sector, agriculture and the sex industry. Sex work migration in particular is often identified with forced migration and classified under the heading of 'trafficking'. The trafficking rhetoric, however, conceals women's autonomous migration and their migratory projects behind the term 'victims'. Organised around the victims–criminals discursive binary, trafficking rhetoric depicts Mafia-like organisations as enslaving women in prostitution by means of force or debt bondage. It also engenders and relies on the dualism between forced and voluntary prostitution, identifying migrant women as victims of trafficking. By doing so, trafficking equates forced prostitution with migrant prostitution and consequently it 'racialises' the categories of free versus voluntary prostitution. It also simplifies the identification of 'Western' sex workers as being capable of self-determination and of migrant women as being duped and passive victims. Accordingly, policy measures are devised to assist 'victims' of trafficking, but not those sex workers who find themselves in exploitative working conditions. Several EU states have put in place long- or short-term victim protection schemes. These are commonly embedded in the normative concept of victimhood comprised of forced migration, coercion into prostitution and economic exploitation. For example, in Italy, women are required to leave prostitution and participate in a programme of social reintegration. Consequently, those women who fall out of the category of the 'proper' victim are denied legal protection and become vulnerable to deportation (Andrijasevic, 2003; Crowhurst, 2007). Gender-normative aspect of existing trafficking provisions and the absence of protection schemes for sex workers has prompted scholars to argue that sex trafficking policies produce geographies of exclusion by means of which states regulate sexual moralities and define acceptable and unacceptable subject positions (Sayeed, 2006; Hubbard *et al*, 2008).

Contrary to the image of 'Western' states as being liberal and progressive with respect to women's sexuality, access to labour and citizenship, family reunification policies and labour recruitment schemes suggest that immigration laws enforce migrants' dependency and vulnerability on heteropatriarchal relations and regulatory structures (Reddy, 2005). Through their immigration policies, states impose conditions of marriage and social reproduction, consequently constructing certain subjectivities as deviant and restricting their entry to the state territory (Manalansan, 2006, p. 321). Border controls and immigration regulations hence need to be examined for the role they play in upholding heterosexuality as a norm and in actively constructing boundaries

around what does and does not constitute homosexuality. Deviation from gender and sexual norms most commonly results in exclusion from entering the state borders, from staying in a state's territory (that is, deportation), and from accessing citizenship (that is, illegality). In this respect, immigration laws and borders are key sites for the control of sexual and gender norms in as much as they establish the subjectivities that endanger the nation and that promote citizenship (Alexander, 1994).

## Transformations

In this section, I discuss the limitations of feminist and queer migration scholarship given its analytic reliance on the paradigm of exclusion. This paradigm works from what we can call 'classical' premises about borders, labour and sovereignty. Yet, in contemporary times, these have all undergone major transformations engendered by migratory movements. The 'classical' take on migration conceptualises borders in terms of external edges of the state, labour in terms of gendered division between productive and reproductive work and sovereignty in terms of state sovereignty. Such an understanding is increasingly becoming politically and theoretically inadequate as it sanctions the distinction between inside and outside and establishes a strict connection between state and its territory.

For a considerable amount of time, borders have featured prominently in the news and politicians' discourses on migration. A particular emphasis has been placed on 'illegal' border crossing and the threat that it poses to a state's security and the functioning of its immigration and labour regulations. The role of the border in countering irregular migration is constantly reaffirmed through what Nicholas de Genova called the 'spectacle of militarised border enforcement' (De Genova, 2002). Europe's southern and eastern borders, the US' southern border with Mexico and Australia's northern waters have all featured as sites of heavy border policing and the resultant apprehension of irregular migrants. Despite the fact that research provided ample evidence that the majority of irregular migrants do not enter through irregular border crossings but rather become irregular once their visa expires or they overstay their residence permits, the effects of the representation of militarised border enforcement should not be dismissed too easily. It should be kept in mind that such representations fix the location of a state's external borders, suture immigration policing to the territorial margins of a state and posit the state as being solely in charge of its borders. Moreover, they oversimplify migratory movements by reducing them to the space of the border, thereby representing migrants as being located at the 'outside' and pushing against the state's external borders.

Such representations of the borders are misleading as they obscure the transformations that are reshaping borders. The 'classical' conception of a

geopolitical border that determined the definition and the organisation of the modern state in Europe, rests on the distinction between 'inside' and 'outside' and on the strict connection between the state and the territory. Recently, the processes of globalisation (especially the case of EU enlargement) have brought about significant changes to the spatiality and the rationale of the border (Walters, 2002). While the early literature on globalisation and borders hypothesised the erosion of borders, recent studies point out the ways in which borders have been diffused, dispersed and networked under conditions of globalisation. Borders are thought of less as being continuous linear structures enclosing a political territory and demarcating a state's external edges, and more as being zones, bands, nodes and filters. Indeed, scholars now talk of a 'virtual border' (Freudenstein, 2001), and 'indeterminate' (Bigo, 2003) and 'technological' zones (Barry, 2006). These changes are referred to in terms of the 'proliferation' of borders and 'delocalisation of control' (Rigo, 2005) in order to indicate that the control, once located at the borders, is now exercised by a variety of means and in a variety of locations. Readmission agreements, the system of visa regulation, carrier sanctions, offshore outsourcing of detention facilities and cooperation with third countries in deportation procedures are (among others) all instances of such delocalisation. Despite the image of 'Fortress Europe', borders are not impenetrable nor do they match a fixed geographical demarcation. Rather, they are discontinuous and porous spaces that simultaneously extend beyond and within the 'traditional' site of the border. These alert us to the ways in which the proliferation of borders and processes of rebordering blur the boundary between externality and internality (Mezzadra and Neilson, 2008), and transform the borders into zones of innovation in the technologies of government (Rumford, 2006).

The proliferation of borders has brought changes to the notion of territorial sovereignty. This notion, understood in classical legal theory as resting on the inseparability between sovereignty and the law, has been ruptured through the process of delocalisation. This rupture produces a 'discontinuity' in the juridical space and results in what scholars refer to as 'shared sovereignty' (Rigo, 2007) or 'overlapping sovereignty' (Ong, 2006) to indicate the engendering of differently administrated spaces and how state sovereignty is shared among state and non-state actors. Today's borders are less about 'control' and more about 'management' combining heterogeneous domains of personnel, goods, people, data, audit capability, international cooperation and partnerships with carriers and industry (Andrijasevic and Walters, forthcoming). This is not to claim that territory does not play a role in the functioning of the border or that the state has no decision-making power over entry or exit from its territory, but rather that state sovereignty is being transformed through the growing involvement of non-state actors and of public-private contractual networks in the government of migration.



The transformation of borders is profoundly changing the labour relations and labouring subjects and vice versa. Citizenship is bound to the national labour market in that full-time paid employment still usually constitutes the major prerequisite for social citizenship. The transformations in the gendered division of labour, typical of what used to be the Fordist mode of production are, however, deeply affecting this model. The result is that the nexus between citizenship and labour no longer maps neatly onto the citizen–worker dyad. Scholars use the terms ‘precarity’ and ‘precarious’ to describe current transformations to productive labour. They argue that capital is no longer able to exploit the split between productive and reproductive labour as a means of creating value (Marazzi, 2007; Papadopoulos *et al*, 2008). This process means that work has increasingly become subjective, affective, relational and communicative (Berlant, 2007). The terms ‘feminization of work’ and ‘becoming-woman of production’ (Precarias a la Deriva, 2004) suggest that this model of labour incorporates as now being central the type of work previously undervalued and delegated to women under the heading of ‘reproductive labour’. Consequently, the distinction between work and not-work and between public and private has changed too. This does not imply that the dualism of production/reproduction no longer exists, but rather that reading it exclusively in terms of gendered division of labour does not fully capture the contemporary forms of labour arrangements.

The breaking down of the citizen–worker dyad is occurring due to the changes in the labour market and the transformation of the production process; and migration affects both of these. On the one hand, it creates different types of citizens and, on the other hand, new worker subjectivities are needed to feed the production process. These two are separate, but constantly reinforce each other and investigating labour and citizenship from the perspective of the border illustrates some of these transformations. Against the assumption that border controls exclude migrants from entering a state and finding work, borders are best viewed as mechanisms that produce ‘deportability’ (De Genova, 2002), thus creating the conditions for migrants’ inclusion as ‘illegal’ labour. This goes against the state’s assumptions that illegality is something outside the immigration system, and that it can be dealt with through immigration controls and regulated labour recruitment schemes. Economic migrants are required to access the labour market through labour immigration schemes that ‘sort’ different types of labour and sanction legal venues for migration. This becomes explicit in the workings of the point-based immigration systems and the notion of skills that I discuss in the following section. However, legality of entry, residence and employment do not overlap neatly, and legality in one category does not necessarily entail legality in the other (Anderson, 2007). Moreover, a documented entry into a country through official channels does not guarantee the stability and permanence of a legal status as one can fall ‘in’ and ‘out’ of legality. Contrary to the idea that

legal entry and residency is a first step in the integration process that eventually results in citizenship, the temporality of legal statuses suggests that immigration regulations do not operate as mechanisms of straightforward inclusion or exclusion, but rather produce differentiation and stratification of legal statuses and subjectivities. Gender and sexuality, as I show in the next section, are crucial in order to understand this dynamic. Migration is lived or experienced differently by different subjects and cannot just be considered in the abstract. Gender and sexuality are inherent in all aspects of a migratory project and need to be taken into consideration when investigating contemporary migrant subjectivity. This entails paying attention to how gender and sexuality are taken up by the regulatory regimes but also, and perhaps more importantly, how gender and sexuality inform migrant women's and men's investments in the migratory project in terms of femininity and masculinity (also across genders), and how they determine the way in which migrants negotiate various contradictions produced by the discursive regimes and juridical norms that regulate their lives (Mai, forthcoming).

Now that borders, labour and sovereignty no longer map neatly onto the space of the nation-state, we need to think beyond the state-centric model of sovereignty and to capture the ways in which the state's territorial and institutional organisation have changed and how these affect labour relations and labouring subjects. Transnational sovereignty does not operate along the inclusion/exclusion model as it regulates flows not populations. It attempts to decrease the flow of migrants and regulate its intensity following the crisis and the emerging reconfiguration of the labour markets. While populations can be included or excluded or differentially included in the nation state, migration flows are 'organically' related to the inner workings of labour markets and core elements of the production process. In other words, transnational sovereignty works together with a transnational reorganisation of labour that can only in part be regulated by the nation state.

## **Sites of Production**

In this section, I bring together feminist and queer approaches to migration with the analysis of transformations that I discussed in the previous section in order to broaden the framework within which to read contemporary women's migration. Using the examples of sex work and asylum, I will first read them from the perspective of exclusion and then reinterpret them from the vantage point of the changing workings of borders. This shift in perspective opens up new interpretative possibilities in theorizing subjectivities and brings to the fore sexuality and gender as key sites where conflicts around the changing nature of labour, control and citizenship are materializing.

## Sex trafficking

Given the predominance of concerns surrounding sex trafficking, women's migration for sex work has commonly been addressed in relation to trafficking. Studies investigating sex trafficking from the perspective of migration challenged the assumed correlation between sex trafficking and organised crime. The studies have also shown that such an understanding of trafficking fails to address the convergence between antitrafficking and anti-immigration policies. Moreover, the international instruments set in place to counter trafficking (such as the Palermo protocol) have been criticised for actually facilitating the cooperation between states to prevent irregular migration, rather than protecting or giving restitution to the victims of crime or migrants in situations of labour exploitation (Gallagher, 2001; Chapkis, 2003). Building on this critique of immigration control and its challenge to the category of the 'victim', I develop a more nuanced reading of the anti-immigration/sex-trafficking nexus in order to broaden the understanding of antitrafficking policies beyond merely being tools for the straightforward exclusion of migrants or for their inclusion under the respective headings of 'agents' or 'victims'.

In order to do this, I discuss an example of a woman from Moldova, drawn from my own fieldwork (conducted in 2000–2001) with women from non-EU member states who migrated to Italy through 'trafficking' channels for work in the sex sector. The Moldovan woman decided to migrate to Italy and used the services of an agency to organise her travel. She left Moldova travelling with a group of ten other women, and having traversed Romania and Hungary by train, she was intercepted by the border police while crossing the Austrian border on foot. Identified as a 'victim of trafficking' (that is, of coerced migration geared towards labour exploitation), she was 'rescued' and returned home. In reality, this means that she was first shortly detained at the Austrian border and then moved to another prison in Hungary, and was released when she had gathered enough money to self-fund her travel back to Romania (this money was given to her by a migrant from Pakistan who was detained for irregular border crossing). From there, she eventually returned to Moldova and started searching for a different way to get to Italy, again paying an agency. Some months later, she set off again, this time taking a different route (and again travelling with a group), she crossed Romania, Serbia, Albania and finally reached Italy by boat several months later.

As can be seen, the interception at the border and detention did not prevent her from getting to Italy. Rather, this caused her to change direction and prolonged the duration of her migration. Because each border crossing incurred costs (that she paid off through sex work), this exposed her to heightened levels of vulnerability, increased the costs of her travel and permitted the third parties organising her travel to gain more control over the terms of her travel and labour (Andrijasevic, 2003). Border control, denial of entry, detention and

deportation do not function exclusively as mechanisms of exclusion as they do not necessarily prevent or stop migratory movements. Rather, they decelerate the speed of migratory flows by momentarily diverting their directionality and regulating the time of migration (Papadopoulos *et al*, 2008). Time increasingly occupies a key role in regulating of migration and access to citizenship. This is best visible in the case of the EU enlargement process and the timing of accession (Avery, 2009). Becoming EU members does not entitle the nationals of the 'new' EU member states to the same labour rights that are enjoyed by the citizens from 'core' EU states. The freedom of nationals of the 'new' member states (EU-8) to take up employment anywhere in the EU has been delayed for a period of between two and seven years after accession. This type of selective citizenship temporarily postpones the full labour participation of 'new' EU citizens in the EU, and enables a flexible regime of differential inclusion among the 'core' EU states, the 'new' members and the non-member states (Rigo, 2007). In this changing political landscape, trafficking policies normalise the hierarchically organised access to EU labour market and citizenship. The category of the trafficking victim mobilises a similar temporality. Constructed as 'white' through their recurring representation as blond- and blue-eyed and through discursive positioning as innocent victims, Eastern European women are racially indistinguishable from 'European' women. It is precisely their status as victims that differentiates them from their European counterparts and positions them as being not *yet* 'fully' European. The category of the trafficking victim conceals the conflicts arising from migrant women's mobility and the EU's attempt to regulate migrants' circulation as a way of governing spaces no longer enclosed by its external border. Women's bodies, and migrant women's sexuality in particular, are sites of struggle over redefinition of citizenship that accompanies the formation of the enlarged European space (Andrijasevic, 2007).

### Asylum

In her essay on sexual regimes and migration control, Eithne Luibhéid (2006) discusses the case of a Nigerian woman in Ireland whose request for asylum on the basis of gender persecution was rejected and who was subsequently served with a deportation order. The applicant appealed against the decision on the grounds that she had become pregnant, but she lost the appeal because the judge decided that she had provided false information, had manipulated the asylum system to secure residency and was not a 'genuine' but was rather a 'bogus' refugee (namely an economic migrant). Luibhéid rightly remarks that women's reproductive sexuality has here been turned by the state into a tool for immigration control and has also been constituted as a site on which the state redraws the boundary between citizens and non-citizens (Luibhéid, 2006, p. 74). Given that this case occurred at the time of the panic about 'citizenship touring' – namely migrant women travelling to Ireland to give birth – and was

followed by a referendum that put an end to birthright citizenship, the author argues that fears over migrant women's sexuality enabled the tightening of restrictive immigration laws (Luibhéid, 2006, p. 75).

The category distinction between 'bogus' and 'genuine' refugees resembles the categories of 'marriage of convenience' and 'genuine love' commonly discussed in relation to homosexual unions. In recent years, several European states have adopted legislations that recognise same-sex marriages and registered partnerships between EU and non-EU nationals. However, it is a common practice for immigration officials to 'assess' love between partners in order to prevent the so-called 'marriages of convenience', whose primary aim is that of entry or residence. In the United Kingdom, for example, in the case of cohabiting couples, the policy remains bound to the 'akin to marriage' model where partners must present evidence of cohabitation (Simmons, 2004). Hence, even in the countries that adopted legislation that recognises same-sex marriage and partnership, sexual citizenship remains grounded in the normative model of the marriage and framed as a 'genuine' love match between two people.

The emphasis put on women's rights to asylum by broadening the category of the refugee to include gender-specific persecution and the right of homosexuals to enter a marriage by expanding the category so that includes both heterosexual and homosexual arrangements, are both based on the logic of gender and/or sexual identity. Yet, if we move away from the politics of rights and identity, it is possible to observe the market and economic imperative that is becoming increasingly prominent in immigration and citizenship policies. The categories of 'bogus' and 'genuine' make explicit the link the state establishes between immigration status and labour, as well as the attempt the state makes to assert its authority on matters of labour migration by categorising migrants as 'legal' and 'illegal' entrants. By accepting this simplistic dualism, we fail to observe that the boundaries between illegality and legality are blurred and that illegality has become a structural characteristic of today's migratory flows. Interestingly, migrants are increasingly choosing to remain irregular rather than applying for asylum (ECRE, 2007). This binary framework also hinders our understanding of the degree to which immigration policies have been diversified in order to adjust migratory flows to the imaginary or real market demand for migrant labour. This is most clearly visible in the point-based immigration systems that are organised around the notion of skills. These require migrants to have certain experiences, be of a certain age, country of origin, and in certain instances be childless or of a specific marital status in order to qualify for a specific category. The priority given to skills, while these remain socially constructed and highly gendered, is producing a diversification of migrants' legal statuses and a stratification of subjectivities. In the case of same sex marriages, this means that those lesbians and gays possessing skills identified as being in demand might gain entry as work permit holders and thus circumvent the restrictive family reunification policies.

I wish to emphasise that I do not mean to offer an uncritical praise of the neoliberal reforms that introduce market arrangements into social and political life. Rather, I am arguing that it is important to highlight how migration changes sovereignty in that it challenges what Barry Hindess has called ‘an internalist’ view of citizenship. Such a position identifies citizenship as being ‘a matter between an individual and the state to which that individual belongs’ (Hindess, 2002, p. 136). Migration exposes the increasing impact of the market on citizenship and points to the necessity of understanding citizenship not as being an exclusive matter of state sovereignty, but rather as being a part of supra-national governmental regimes. Sexuality and gender, in particular, draw attention to the conflicts arising from the transformation of citizenship that is taking place through changes in labour arrangements and state sovereignty.

## Conclusions

To date there has been very little crossover between feminist and queer migration studies and the literature on transformation of borders, sovereignty and citizenship. In this article, I have tried to bring these two fields of research together in order to broaden the theoretical scope and political relevance of feminist and queer migration scholarship that remains bound to the analytical framework centred on control, and approaches borders and immigration regulations primarily in terms of exclusion. The premises on which the exclusion interpretative model is based and which I have called the classical premises about borders, labour and sovereignty have all undergone major transformations conveyed by terms, such as delocalisation of borders, multiplication of labour and shared sovereignty. These indicate the rupture of the connection between the state and its territory and of the citizen–worker dyad on which are based the logic of the inside and outside, the gendered division of labour and the integrative model of citizenship.

The emergence of these complex ‘assemblages’ (Sassen, 2006) and the increase in the disjuncture between the state and citizenship are resulting in a proliferation of subject positions that no longer fit the inclusion/exclusion dichotomy. If important features of citizenship have changed, then there is a need to consider that its subjective dimension has also changed. As I have shown through the examples of sex trafficking, asylum and same sex marriage, the relevance of emerging migrant subjectivities lies in their importance in redrawing the borders of the political. ‘Irregular’ migrants, whom Sassen calls ‘unauthorized yet recognized’, are contesting and redefining the borders of citizenship through claims to mobility, residency and employment (Sassen, 2006, p. 296). In advancing these claims, they cannot be identified as ‘other’ to

citizens, but rather should be seen as political subjects engaging in 'acts of citizenship' (Isin, 2008).

Finally, I have suggested that the stratification of subjectivity through complex regulatory regimes points to the need to broaden the analysis beyond the oppression/resistance framework on agency, and to pay greater attention to the multiple and potentially contradictory positions that migrant subjects occupy. What this means in terms of future research is problematising a reading of agency in terms of antagonism to normative structures and attempting to answer what makes individuals identify and/or resist certain subject positions and construct a sense of self through them. The role of investments and imagination are crucial here. If scholars are to make sense of multiple positions that migrant subjects take up, we need to theorise the role that the fantasy, desire and unconscious investments play in the process of subjectivation (Moore, 2007). An analytical framework organised from the vantage point of gender and sexuality is best placed to offer a nuanced reading of emerging migrant subjectivities and of the political transformations these are bringing about.

## Acknowledgement

The writing of this article was enabled by the British Academy/Association of Commonwealth Universities Grant for International Collaboration and also by the Visiting Fellowship scheme at the Centre for Cultural Research of the University of Western Sydney. I am grateful to the paper reviewers, my co-editor, Bridget Anderson and the Subjectivity editorial board, for their helpful comments on previous drafts of this article. I also thank the participants of the Social Anthropology Seminars at the University of Manchester (where I presented an earlier version of this article) for their generous comments.

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## Notes

- 1 The examination exempted citizens of the United States, Australia, New Zealand, Canada, Japan and Switzerland. <http://www.msnbc.msn.com/id/11842116/>
- 2 Interestingly, when enforced and regulated by the state, some situations and solutions commonly viewed as being deviant are permitted and even encouraged. At the peak time of nation-state building in the colonies, recruitment of prostitutes was crucial in maintaining the (hetero)sexual and racial social order, and in disciplining male sexuality and increasing productivity. For example, in the mid-nineteenth century administrators of one of the British Empire's leading penal settlements on the Andaman Islands in the Bay of Bengal recruited female sex workers with similar racial/ethnic backgrounds to the male prisoners (Hindu, Sikh and Muslim) and introduced family immigration schemes in order to counter sex between men, encourage heterosexual marriages, and maintain a high level of palm oil production (Weston, 2008). Similarly, during the same period, the Indian government introduced a female quota on ships carrying indentured labourers in the conviction that a greater female presence would stabilize the gender relations and increase the economic productivity of indentured male workers (Levine, 2007, p. 148).

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