



Sexual Orientation and Gender Identity Claims of Asylum: A European human rights challenge – SOGICA

The SOGICA conference – 7-9 July 2020

Conference abstracts

Sebastian Aguirre: *This Is Who I Am*

Rehearsed readings of first-hand accounts of LGBTQIA+ experiences of going seeking refuge and going through the asylum process in the UK. Read by 3 actors (including those with lived experience), the readings interweave testimonies to give a share a range of experiences and explore the particular challenges of the UK asylum process for LGBTQIA+ peoples.

Vitor Lopes Andrade: *New approaches to study SOGI asylum claimants and refugees*

Most research on asylum on the basis of sexual orientation and gender identity (SOGI) addresses legal aspects, particularly issues regarding the refugee status determination process, such as how to prove the well-founded fear of persecution, credibility assessment, etc. (Kapron and LaViolette, 2014). These topics are extremely relevant, since they reveal the specificities that non-heterosexual and/or non-cisgender asylum claimants face during the process in which their claims are granted or denied. However, a strictly legal approach has some limitations. One of these limitations is that it commonly understands SOGI asylum claimants and refugees merely as sexual or gendered beings, only as people seeking asylum, and not as integrated subjects who are gendered, racialised, classed, etc. Having said that, the aim of this paper is to propose approaches that challenge that understanding. To do so, I will draw on the ethnographic fieldwork I am currently carrying out in London to show how approaches based on intersectionality (Brah, 1996; McClintock, 1995), lived experience (Desjarlais and Throop, 2011), and a multidimensional perspective of 'integration' (Crisp, 2004) provide a more complex and holistic picture of SOGI asylum claimants and refugees in the UK.

Bojana Asanovic: *LGBTQI+ Asylum in the UK: Developments in the last decade*

The UK Lesbian and Gay Immigration Group (UKLGIG) produced three reports on Home Office decision-making in LGBTQI+ asylum claims between 2010 and 2018. This presentation (or poster) will explain how decision-making in the UK has developed over the years on the basis of this research. A key finding from *Failing the Grade* (2010) was that asylum claims were being refused on the basis that the individual would be 'discrete' about their sexual behaviour if they returned to their country of origin. Following a landmark supreme court ruling in 2010 that changed the law on 'discretion', *Missing the Mark* (2013) found that more reasons were being given for refusing to believe applicants' sexual orientation. The research also revealed concerning practices by way of sexually explicit questioning. In 2016, the Home Office updated their guidance for caseworkers on asylum claims based on sexual orientation. UKLGIG's subsequent report, *Still Falling Short* (2018), found reduced prevalence of sexually explicit questioning but that there was now an expectation that LGB applicants could provide emotive accounts of how their sexual orientation had developed.

Maria Avgeri: *Assessing the asylum claims of trans and gender non-conforming claimants*

This paper aims to reflect on trans asylum and gender non-conforming applicants and the position they occupy in current refugee law and practice. In the first part, the paper will offer an overview of international refugee law with a special focus on the 'particular social group' grounds for discrimination, a taxonomy in which gender identity related reasons for application are usually

included. The paper will proceed to examine the current literature on trans asylum seekers as belonging to a particular social group and to critique the criteria for such inclusion. I will problematize the possibility of inclusion of asylum claims based on non-consolidated identities and gender expression. In the second part of the paper, I will attempt an overview of the developments in Human Rights law on the right to asylum on the grounds of gender identity and expression. I will explore the need for a complementary narrative-based, rather than strictly identity-based approach to gender identity and expression related asylum claims based on the impact of gender non-conformity in the country of origin, as Berg and Millbank suggest (2013). In this light, I will propose a refined framework for refugee status determination for trans and gender non-conforming asylum seekers that does not reproduce strictly identity based westernized frameworks in order to assess persecution of applicants on the basis of non-conforming gender identity and expression.

Prof Christel Baltes-Löhr: *Trans* and Inter* Persons in the Context of Migration/Flight*

The presentation will bring light in the situation of trans/intersex/gender persons during their migration process. Using the figure of the continuum, gender and migration will be discussed from a more theoretical point of view and used as framework for new news findings and needs of inter* and trans* migrants and professionals working with them, interviewed in Germany and Luxembourg. The presentation will cover the discussion about the theoretical figure of the continuum, developed by Baltes-Löhr in 2014. This figure opens the perspective to estimate all genders as equal and eliminates the more or less hidden hierarchization of a consideration of trans* and inter* persons as so-called 3rd or 4th gender. Gender as a continuum is based on the four interacting and interchangeable dimensions: physical/body, psychological/feeling, social/behaviour, and sexual/sexual orientation, which bring the body, the emotion, the behaviour, the desire in a permanent communication between each of them, including a possible shifting. Transferring the figure of the continuum in the field of migration leads to the question how far the bipolar setting of a presumed contradiction between migration as movement and settledness as form of “staying home” reflects the complex and plural reality of human beings. Also, the category of migration will be approached by using the four dimensions of the continuum. Considering the above mentioned background the question will be discussed which specific situations and experiences can be pin pointed related to inter* and trans* persons on migration/flight by regarding the four dimensions: body, feelings, behaviour and desire/wishes. For answering this question, the results of interviews with inter* and trans* persons as well as with professionals working with them will be presented and discussed.

Masha Beketova: *Workshop – Working With LGBTIQ refugees and migrants, not on/above/about us!*

In this practice-orientated workshop, we will discuss gender sensitive, racism aware intersectional approaches for working with LGBTIQ refugees in counselling, community, education and cultural work. Activists as well as academics and professionals from social and psychological spheres are invited to reflect their motivations, their own social positions and their biases. The workshop will offer tools and recommendations for NGOs, activist groups and researchers how to reflect different understandings of solidarity. It will offer space for collective work on practical ideas how to implement solidarity and a horizontal approach in daily work processes. After a brief input there will be a big interactive section where participants will have space to compare their approaches in group work. The goal of the workshop is to increase awareness and self-reflection among helping professionals and to highlight the agency of queer refugees as self-effective subjects. I allude to my work as a counsellor and group facilitator at Quarteera e.V. (2011-2016) and Lesbenberatung e.V. (2016-2019) and my research for my master thesis, “Discrimination experiences of Russian speaking LGBT refugees in Germany” as well as to my experience as a queer lesbian migrant activist.

Mara Biancamano: *Sexual Orientation and Gender Identity. Immigration and Reception. Italian perspective*

Starting from an analysis of the SOGI legislation in the countries from which the largest flows of asylum seekers in Italy comes, lawyer Mara Biancamano addresses the bureaucratic process and the recognition of refugee status for reasons of sexual orientation, gender identity, gender expression in Italy. The

lawyer explains what has changed in Italy after October 2019, with the approval of the security decree "bis". Offering some pragmatic examples, the lawyer illustrates the main reasons for refusal of the request by the territorial commissions and what happens when the court also issues a negative judgment.

Tina-Maleen Bölle: *The Right to Legal Assistance for LGBTQ* Asylum Seekers in Germany and the Role of Volunteer Initiatives such as the Queer Refugee Law Clinic Berlin*

The right to legal assistance is entrenched in European laws and policies, nevertheless only a minority of asylum applicants receive adequate legal assistance from the first instance of the asylum procedure. Many asylum applicants obtain their initial and main asylum interview with little or no legal preparation. In the case of sexual orientation and gender identity (SOGI) based asylum claims, a number of specific challenges appear, such as the requirement of coming out as part of the asylum interview and the difficulty to prove one's identity as lesbian, gay, trans*, inter* or queer (LGBTIQ*), therefore the need of specific legal aid emerges. Research indicates a correlation between receiving adequate legal assistance, facilitating specific legal and LGBTIQ* knowledge and the outcome of the asylum procedure. This is as well reflected in the consultation experience of the Queer Refugee Law Clinic (RLC), a volunteer initiative offering legal assistance to LGBTIQ* asylum seekers in Berlin since December 2018. The presentation discusses challenges and possibilities of the project using a theoretical framework and consulting experiences gained over the last year. The aim of the research is to focus on how to improve legal aid offers and to discuss the possible role and impact that volunteer organisations such as the Queer RLC can play in demanding the right to legal assistance for LGBTIQ* asylum applicants in Germany with a focus on Berlin.

Allan Briddock: *LGBT claimants denied refugee status due to multi-layer marginalisation.*

When claiming refugee status, LGBTIQ+ refugees are required to prove their SOGI and show the reason they would conceal SOGI in home country is connected to fear of persecution. Governments continue to apply stereotypes to LGBTIQ+ refugees and applicants who are private about their SOGI, or do not engage with the LGBTIQ+ community, are disadvantaged as it is harder to prove their SOGI based on these stereotypes. Even if SOGI is accepted, in the UK refugees are required to show they would conceal their SOGI in their home country for fear of persecution. Again, the government and the courts frequently deny refugee status on the basis the person is not 'out' in the host country and therefore would conceal their SOGI in their home country for reasons unconnected to persecution. These issues have a disproportionate effect on refugees who are already marginalised, and their marginalisation can mean they are denied refugee status. A black, lesbian woman from Uganda is marginalising because she is black, a woman, an 'asylum seeker'. She perhaps lacks money, language skills etc. She is marginalised from society as a whole, from the LGBTIQ+ communities, and is marginalised within the Ugandan diaspora. The presentation would examine the principles of the law, how it is being misapplied and how its misapplications further marginalising LGBTIQ+ refugees leading to their claims to be rejected.

Dany Carnassale: *Cultural implications and social challenges in the support and assessment of asylum seekers in Italy*

The proposed research focuses on the socio-cultural aspects related to SOGIESC-based asylum claims in Italy. It is rooted in a long-term fieldwork carried out in northern Italy through qualitative research methods. The collected data have been analysed through the lenses of anthropology of migrations and sexualities. A reflexive analysis on the socio-legal procedures highlights the cultural implications and the social challenges that are related to tasks, roles and practices acted by institutions, as well as by other relevant social actors (including asylum seekers and refugees). In fact, during the asylum procedures, protection claimants, legal experts, social workers and decision makers propose different, and sometimes contradictory, views about narratives, practices and trajectories to escape discrimination and claim protection. These views and approaches have cultural implications, that sometimes can even produce misunderstanding, misrecognition and mistreatment. This presentation aims to unveil the socio-cultural dimensions of international protection claims, as well as to stress the discrepancies between laws in books and laws in action. The research demonstrates that bodies, narratives and

performances have a key-role throughout the asylum procedures. From one side, this research shed lights to institutional logics and power imbalances embedded by social actors that are involved in the support or assessment of these specific claims, on the other side it contributes to legitimise alternative views and life experiences that challenge Euro-American dominant discourses and expectations on asylum claimants' genders, sexualities and countries of origin. In conclusion, this presentation underlines the necessity of develop intercultural competence and not to overlook the complexities brought up by protection seekers.

Dr S Chelvan: *The Emotional Journey and the DSSH model: a positive tool for credibility assessment*

A lacuna currently exists where the academic literature does not address the canon of England and Wales refugee protection cases based on sexual identity, through the prism of litigation, policy and academic investigation from the stance of the activist lawyer. When she, he or they arrive in the UK, the Queer Refugee is faced with various government and judicial officials, ranging from not only the Immigration Officer, the Home Office interviewing officer, or the Immigration Judge, but also new found friends, lovers, or fellow detainees, and (if able to access one) a lawyer, who additionally requires them to 'Prove' 'Gay' in circumstances where they overwhelmingly have spent their past lives hiding in the temporary refuge of the shadows. This presentation seeks to provide one possible route to positively determining sexual identity refugee claims – the Difference, Stigma, Shame and Harm model ('the DSSH model') as a positive (not negative) determinative tool, to establish sexual or gender identity(or expression) in a humane manner, with the voice of the person seeking asylum being the only non-corroborated source necessary to 'prove' actual or imputed identity. The DSSH model is not based on 'the presence or absence of certain stereotypical behaviours or appearance' to conclude, or disprove, a claim, but is designed to address broad themes in order for the applicant to tell their own narrative, in their own words. The model is based on an emotional journey of the Queer Refugee, who is here in the UK claiming asylum, due to the essential human emotion – 'fear' – in this case 'fear of persecution'. By this linear exploration of these four broad categories the decision-maker, and more importantly the Queer Refugee, is able to hang the individual emotional journey leading to the refugee claim. This model requires the examination of the introspective individual experience, rather than the examination of the 'overt', a question which reinforces the narrative of difference – 'Life is a journey, not a destination'. Those who reject the presence of emotional journeys, are those who ignore the basic building blocks of what it means to be human – to experience emotions through life –to be, human. The model acts as a prism in order to be recognised as a refugee, by moving away from external stereotypes and providing a suggested narrative framework to better reflect those who are 'different', thereby ending eroding discretion analysis, by going through imputation of sexual identity (by being 'not straight-enough') and getting back to the original wording of the Refugee Convention and the reason for claiming asylum, one of difference, and not sameness.

Florent Chossière: *Queer asylum seekers in Paris: negotiating (non-)belonging in urban spaces.*

Associated with the idea of freedom and sexual diversity, big cities are frequently portrayed as spaces allowing to escape heteronormativity and offering more opportunities for queer people to develop specific sociabilities (Eribon, 2012; Knopp, 1995). Yet, the situation of queer asylum seekers in Paris reminds us how less idealistic the reality is. Following the numerous works which have emphasized the necessity of intersectional approach to "explore the ways multiple axes of social power constitute particular (shifting and contested) social positionings" (Yuval-Davis,2015, p. 96), this presentation aims at analysing the variety of power relationships that shape everyday practices of urban spaces by queer asylum seekers, and their articulation. This framing of practices of urban spaces by sexual and gender minorities which does not take into consideration only sexuality and gender, reminding that queer people are not just queer people (Oswin, 2008), counters both the idea of the city as a necessarily more inclusive space and the "migration to liberation nation" (Murray, 2014) narrative used to describe queer migrations from the Global South to Western countries. Focusing for example on the relation to specific places labelled as "LGBT", such as bars or clubs, to public space or to areas identified as occupied by a lot of compatriots, reveals how sexuality and gender are articulated with class, race, and the specific administrative status of "asylum seeker" and the multiple marginalisation process queer

asylum seekers may face. Yet, they also develop various practices and specific uses of urban spaces to resist these power relationships. This presentation thus intends to emphasize how queer asylum seekers manage to negotiate their place in Parisian urban spaces while facing multiple forms of exclusion. To do so, I will rely on a three-years-long ethnographic work based on observing participation within an association supporting queer asylum seekers and refugees, completed by interviews conducted with people currently or formerly engaged in a SOGI asylum procedure.

Sofia D'Arcio: *Bisexual asylum in the Netherlands: the impacts of invisibility.*

This research focuses on the question 'What are the current challenges in the Netherlands to the granting of refugee status for asylum seekers who base their claim on persecution due to their bisexual orientation?'. It is an exploratory research, aimed at providing some insight into this under-researched topic. In the few publications that are available internationally on the topic of asylum claims on the basis of bisexual orientation, it is posited that the grant rates for bisexuals are significantly lower than those of, for example, lesbians or homosexuals. Several possible explanations have been offered for this, among which the argument that bisexuality does not fall within the binary view of sexuality that many decision makers in the asylum process hold, the idea that bisexuals may suffer more from any possible 'discretion' requirement used in the asylum process, and the point of general bisexual erasure in society. This study attempts to analyse the possible existence of this problem from an interdisciplinary perspective. Queer theory and theories of bisexual erasure are applied to the Dutch asylum context. On the basis of several interviews with asylum lawyers, bisexual asylum claimants and LGBTQI+ asylum claimants, as well as an analysis of twenty-three published court cases of bisexual asylum claimants, recurring themes are identified and further explained. The limited number of interviews makes the data insufficient for drawing generalisable conclusions, but the research can be used as a first step in understanding the experience of bisexual asylum claimants in the Netherlands.

Fernando Damazio dos Santos, Alexandra Politidis Palm and Haris Eloy: *Innovative and Intersectional Practices for Young LGBTQI Migrants, Asylum Seekers and Refugees in Sweden: The experience of two projects of RFSL Ungdom*

This communication is going to present some preliminary results of two projects carried out by RFSL Ungdom, the Swedish Youth Federation for LGBTQI Rights, based in Stockholm, Sweden. The national project Newcomers Youth is focused on legal counselling and providing safe spaces with the main goal to increase the psychological and physical well-being of LGBTQI young migrants, asylum seekers and refugees between 15 and 25 years old in Sweden. Currently, the project can offer: legal advice in Stockholm or online to people living in other locations; safe meetings spaces in 7 different cities (Stockholm, Gothenburg, Malmö, Linköping, Örebro, Luleå, and Sundsvall) with activist workshops and creative activities; Mental health counselling for those who need support in dealing with (depression, violence, anxiety, abuse); youth activist camps; also forming a legal network by offering education on LGBTQI Asylum Law and related aspects of it to legal practitioners in Sweden. Besides that, there is consistent work for political advocacy. The project has more than 500 members/beneficiaries nationwide and has accumulated significant experience and recognition since its beginning in 2016, including the prize UNDP Best Inclusion initiative in Sweden in 2018. Building upon this and other experiences, in 2019, RFSL Ungdom partnered with organizations in Spain (AHEAD), Estonia (Trajectory), Serbia (Jesuit Refugee Service), Italy (Cassero LGBT Center), Greece (Allilleggie Solidarity Now) and independent activists supported by RFSL Ungdom in Turkey to implement the international project Not Alone in Europe, funded by Erasmus+ and supported by the Council of Europe. This project has the goal to contribute to the social integration of LGBTQI young migrants, asylum seekers and refugees by capacity building in innovative and intersectional practices of young leaders in the target population and practitioners working directly with them. The training session took place in Stockholm in October 2019, with 40 participants from different organizations. The multiplier events in all the countries involved are expected to reach out more than 200 people. The project will run until November 2021. The preliminary results of these two projects will be presented, as well as their institutional context.

Dr Carmelo Danisi: *Any protection from abroad in times of pandemic and border closures?*

The 'roulette game' of people suffering persecution in countries of origin and transit. Alongside many aspects of the asylum systems in Europe, the SOGICA project has explored the life of people claiming asylum on SOGI grounds in countries of origin, of transit and at arrival. Participants to the SOGICA research shared a broad range of experiences highlighting the legal and social discrimination suffered in their countries of origin as well as in countries of transit during their travel towards Europe. It emerged that, for not embracing expected gender roles, these people continuously risk their lives until their arrival in Europe. While these data reveal the accuracy of all Country of Origin Information (COI) available to European decision-makers in the process of the evaluation of SOGI asylum requests, they are a strong call for a 'game' change. The specific circumstances of forced departures and travels of SOGI claimants demand European States as well as international organisations to rethink the ways in which international protection is granted nowadays. The combined effect of border closures for migration and pandemic control measures risks diminishing SOGI claimants' chances to flee persecution and to reach a place of safety in Europe. The call for a protection 'from abroad' is stronger than ever. But how would this protection effectively work? By analysing how these primary data collected during the SOGICA research can improve SOGI asylum in Europe, this presentation aims to explore solutions available to European States and international organisations under international law for protecting SOGI claimants while these are still in their countries. Relevant recommendations in this area of law and policy will follow.

Letícia Vieira da Silva: *Challenges in the eligibility of lesbians as asylum claimants based on sexual orientation*

The present work is about the challenges found for the eligibility of lesbian as asylum seekers based on sexual orientation. Here I investigate how the modern Western assumptions of the formation of the nation-state, the notions of citizenship, legality and illegality oppose the legal recognition of women who love women and have been persecuted in their own countries, having no other option but to flee. My aim is to investigate how the regulation of borders and sexuality can be associated when dealing with lesbian refugees, once we see that certain countries have problems recognizing persecution for orientation and/or gender identity as a category liable to refuge. I am interested in assessing how the constructions of causal nexus in the field of law relate more to the views of decision makers than to the multiple possibilities of experiences of lesbian women from states in the Global South. Within the challenges of connection are the difficulty of proving a well-founded fear of persecution when it comes from non-state actors and often occurs in the private sphere. Therefore, I propose a breakdown that the personal is international (Enloe, Cynthia Enloe, 2018) and questions the supposed coherence between the frameworks about what it is to be a refugee and what it is to be a lesbian, transgressing the truth of sex (Foucault, 1980) and refuge (Spijkerboer, 2011). As a methodology, I rely on document and speech analysis of legal processes for asylum applications that occurred between 2005 and 2016 in England, in addition to bibliographic study of the accumulations that authors of refuge have made on lesbian invisibility (Wessels, 2011; 2013). I evaluate how the expectations involved in the recognition of lesbian are related to a heteronormative and western view of sexual dissent, leading these women to look for evidence of their sexuality through narratives, body performance, image exposure, pathological diagnosis, while heterosexuality never needs to be proven (Blank, Hanne, 2013). Thus, I point out clues as how a refuge policy could be less colonizing (Dustin, Moira, 2018) and more sensitive to understanding different realities of what it is to be a lesbian around the world.

Letizia de-Coll' and Luca Falzea: *Identità in TransiTO. Reception and support for migrants and Trans asylum seekers*

On the occasion of the Trans Day of Remembrance of 2019, in the city of Turin, we conceived and implemented the project "Identità in TransiTO. Reception and support for migrants and asylum seekers Trans". The project was addressed to Associations, Bodies and Institutions dealing with migration and asylum seekers in the city of Turin. Among the reasons underlying the need to carry out this project are the official data of 2019 provided by TMM (Transgender Murder Monitoring) which describe a scenario of stigmatization and discrimination against Transgender and Gender Non-Conforming people. The

violence perpetrated is not exclusively related to the gender identity of the victim but frequently depend on the fact that victims belong to other minorities discriminated for racism, sexism, xenophobia and hatred of sex workers. TMT data show that in the USA the majority of the victims are black or native American women (85%), and in Europe the 65% of the transgender people killed were immigrant women. The aim of the project "Identità in Transito" is therefore to respond to a social and cultural emergency in which many people belonging to the TGNC migrant community live. Another aim of the project is to develop the skills of social operators employed in the immigration services of the territory, with respect to the specific care needs of TGNC community of immigrants and asylum seekers. The idea was not only to convey information but to receive information from the operators about their relationship with the TGNC migrant and asylum seeker population: previous experiences, fears, prejudices and previous knowledge. Also the training represented an opportunity for operators to know each other, exchange ideas and methods and possibly create a network between their associations in order to better care for trans migrants. The project, presented by Il Grande Colibrì NGO, was the winner of a call for tenders from the City of Turin, thus obtaining the funds to carry out two days of free training guided by experts on the subject, on 20th and 27th November 2019. The training was carried out in groups of 9 people each, belonging to 8 different associations. Every single day of training was divided into different moments: ice breaking exercises, in-depth theoretical analysis on the themes of gender identity, intersectionality and the specific characteristics of the TGNC migrant population, and a focus.

Paul Dillane: *The Yogyakarta Principles plus 10: Advocacy opportunities at the national, regional and international level*

Launched in 2017, the Yogyakarta Principles plus 10 on the application of international human rights law in relation to sexual orientation, gender identity, gender expression and sex characteristics provide a universal framework in respect of the fundamental rights of LGBTI persons. Adopted by 34 international experts following an intensive consultation and drafting process, YP plus 10 provide detailed provisions to ensure LGBTI persons seeking asylum are respected and protected and, ultimately, a powerful tool for use in litigation, policy-development and advocacy. Drawing on his direct experience as a drafter and signatory, the presenter will (i) discuss the history and development of the Yogyakarta Principles and impact at a national, regional and international level to date (ii) assess provisions in respect of the right to seek asylum in the context of contemporary challenges and (iii) assess key advocacy opportunities including in respect of Universal Periodic Review (UPR) and UNHCR global consultations on LGBTI refugees to take place in 2020.

Tina Dixon: *Silence Written in Policy: Global Compact on Refugees and LGBTIQ+ persons*

The New York Declaration for Refugees and Migrants adopted in 2016 made a strong commitment to address multiple and intersecting forms of discrimination and barriers for people in the forced displacement. Many hoped that these commitments will be directly translated into the text of the Global Compact on Refugees (GCR) namely that it will explicitly mention the specific protection needs of LGBTIQ people in forced displacement. The outcome, however, was different. Despite a strong language on age, gender, diversity and disability, there is no mention of LGBTIQ people as a distinct group. On the one hand, given that GCR was driven by UNHCR, one can rely on UNHCR documents and policy that recognise LGBTIQ persons as a distinct group with specific protection needs. On the other, a question arises: what does this omission tell us about the state of rights of LGBTIQ people in the world? This presentation will explore the practices, implications and manifestations of silence and silencing of LGBTIQ in the Global Compact on Refugees, in particular on the example of the recently convened the first Global Refugee Forum.

Renee Dixon: *A Digital Archive of LGBTIQ Oral Histories about Forced Migration.*

In this presentation, I will talk about a process of creating a digital archive that will be populated with oral histories of LGBTIQ migrants and refugees. The phenomenon of LGBTIQ migration and/or forced displacement has not been sufficiently documented. By applying the oral history method, I will create a unique collection that it will foreground the lived experiences that traditionally were made invisible

from the formal historical records. This research by creative work aims to embrace the potential of information technology and queer theory in the contexts of digital archives to diversify and challenge normative archival practices.

Renee Dixson and Tina Dixson: *Queer Sisterhood Project: the value of refugee-led support and advocacy.*

LGBTIQ+ asylum seekers and refugees are an invisible group in Australia. Up until recently there were neither services available for them nor their existence was expressed in public narratives around asylum. Often, there is resistance or reluctance from services to engage with group because of the lack of training, LGBTIQ+ inclusivity (for refugee services), cultural competency (for LGBTIQ+ service) or a mistaken belief that the numbers of LGBTIQ+ asylum seekers and refugees are too small. Such lack of support is driving people into isolation, worsens their physical and mental health outcomes as well as marginalises their experiences. In 2017, seeing an unmet need and being from queer refugee background ourselves we established a refugee-led peer-run support group for queer refugee women called Queer Sisterhood Project. Queer Sisterhood Project provides mentoring, psychosocial support and advocacy. We have produced printed and video resources. In 2019 we organised the first conference in Australia to solely cover the issues of LGBTIQ+ asylum called Queer Displacements: Sexuality, Migration and Exile. In this presentation we will be reflecting on the value of LGBTIQ/refugee-led support for LGBTIQ+ asylum seekers and refugees arguing that building a community by and for people with the lived experience ensures inclusivity, provides a space of belonging and validates people's experiences of queer asylum. We will also be discussing the crucial need for advocacy to centre the lived experiences of LGBTIQ+ asylum seekers and refugees.

Dr Moira Dustin: *Religion and NGO support in the UK*

There is a growing body of literature addressing the sexual orientation and gender identity (SOGI) asylum legal process in European countries. What is less explored is the social dimension, which is here defined broadly to mean the experiences outside the legal process of Lesbian, Gay, Bisexual, Trans, Intersex and Queer (LGBTIQ+) people seeking asylum. This presentation focuses on one aspect of that 'social dimension' and considers the role of religion for people claiming asylum on grounds of their SOGI in the UK, Germany and Italy. I argue that religion, on both an individual and an organisational level, matters to SOGI claimants in a number of ways. Firstly, SOGI persecution is often legitimised on religious grounds. Despite this, of the five Refugee Convention grounds that are the basis for asylum claims, SOGI claims are rarely based on religion but tend to rely on the more encompassing category of particular social group, thus putting individual identity at the heart of the determination process. Secondly, how decision-makers interpret the intersections of religion and sexuality often affects whether claims are successful in ways that are not appropriate and do not accurately affect the role of religion in many people's lives. Thirdly, religion may be central to the practical and emotional support that is available or unavailable to claimants. This presentation uses data from the SOGICA project to illustrate these arguments.

Alana Eissa, Barry O'Leary and Lara Goodwin: *A holistic approach to integration of LGBTI refugees.*

We will conduct an oral presentation sharing Micro Rainbow's experience of delivering a holistic approach to integration and on creating innovative solutions to LGBTI homelessness. We will comprehensively discuss our three programmes and how they intersect to create the most effective kind of support. Micro Rainbow are the only organisation to have safe housing specifically for LGBTI asylum seekers and refugees in the UK. We currently have eight houses providing over 14,000 nights free from violence and discrimination faced in other accommodations or on the street. The social inclusion programme brings together LGBTI asylum seekers and refugees by holding events to build community and reduce isolation. The economic inclusion programme involves hosting employability workshops as well as one-to-one support to prepare for life in the UK. The presentation will draw on the lived experiences of our beneficiaries, including testimony from our board member Alana Eissa who was one of the first people to access our safe housing in 2017.

Dr Jade Cemre Erciyes and Ilksen Gürsoy: *Multiple Precarities: Reflections from SOGI Refugees applications to a Civil Society Protection Project in Turkey*

This paper seeks to analyse the processes reflected in a civil society protection project called Combatting Sexual and Gender Based Violence towards Refugees; run by Women Solidarity Foundation (KADAV) and International Medical Corps in 2016 which continued with UNCHR after the closing of IMC office in Turkey. At first the project focused on protection requests of refugee sex workers in Turkey and helping them deal with urgent psycho-social needs as well as help them apply to asylum through UNHCR till 2018. After 2018, with a change of regulation in Turkey, which stopped third country applications through UNHCR and requested personal applications to the Directorate General of Migration Management under the Ministry of Interior Affairs, accessibility of SOGI claims of asylum became limited. With rejection of civil society involvement in the application processes it also became impossible to observe if the application process is fair and right based. KADAV has filed support applications from 61 refugee LGBTI+ individuals (1 transmen, 5 transwomen, 25 trans, 1 non-confirming, 24 gay and 5 lesbian) in the past 4 years, and of these 12 had asylum claims at UNCHR. Majority of more recent applicants are undocumented migrants and claims for documentation take about 2 years in Turkey at the moment. 31 of the applicants are from Syria and majority are under temporary protection in Turkey, giving them the right to live in Turkey and basic medical support. Other applicants country of origins include Egypt, Iran, Iraq, Jordan, Morocco and Tunisia. Majority of the applicants have increased precarity due to social and cultural structures in Turkey, and many of them survive on sex work where they face more violence. Up to now, the social worker of the project and cowriter of this paper, Ilksen, didn't have the chance to analyse and evaluate the processes observed within the 4 years. This paper, in this regard, will also give way for the analysis of valuable information collected as part of multiple projects from a SOGI and migration perspective.

Dr Carmen Ferrara: *Sexual Orientation and Gender Identity, Immigration and Reception. southern perspective, the Neapolitan case study – Dr Carmela Ferrara*

Dr. Carmela Ferrara analyzes the function of support services for LGBTIQ asylum seekers, through the Neapolitan experience and the specificity of the South. The presentation shows the trajectories of migrants arriving from all the Southern Italy to Migra-Antinoo, their socio-demographic characteristics and their potential contribution to the organizations' political activities.

Ernesto Fiochetto: *The role of religion for identity and integration of LGBTIQ+ asylum seekers and refugees in Germany*

According to LSVD (Lesbian and Gay Federation in Germany), between 2015 and 2018, approximately 60,000 LGBTIQ+ individuals from the MENA region have claimed asylum in Germany. Most LGBTIQ+ refugees from Muslim majoritarian countries have fled not only political conflicts but also severe human rights violations due to their SOGI. On the one hand, religion plays a contributing role regarding the anti-LGBTIQ+ laws that exist today in the MENA region. On the other hand, religion plays intersecting roles during the reception process in the host countries through official churches, faith-based NGOs, and religious communities. The latter role of religion is examined in this presentation. From the multidimensional intersection between transnational mobility, religion, and LGBTIQ identities, it aims to contribute to answering one of the questions that the SOGICA project addresses: Does the legal adjudication of SOGI related asylum claims influence claimants' identity and integration in the host society and community of fellow nationals/ethnic group? Based on the experiences and perspectives of asylum seekers and refugees, I will show how religion intersects in LGBTIQ+'s process of configuration of identities in Germany. Faith-based communities and organizations are beneficial for the integration of LGBTIQ+ in host societies and articulate their mission with the German legal system. Some communities reproduce the religious heteronormativity from the refugees' countries of origin. Others also embody the German homonormative idealization of queer identities through institutional expectations around sex, gender, and sexuality. Thus, after the legal adjudication of SOGI related asylum claims, religion both allows and constrains the processes of identity configuration and integration in the host societies.

Claire Fletcher: *Religious experiences during asylum seeking in the UK and its reflection within legal decision making*

Faith and non-normative sexual identities have long been pitted against each other as incompatible, but for queer asylum seekers these northern centric assumptions have led to their asylum claims being refused. Asylum decision makers assume queer asylum seekers either reject their religion as it is assumed that religious belief undermines, rather than protects, the rights of non-heteronormative people or that queer asylum seekers experience an inner conflict to reconcile their religious belief with their sexual orientation or gender identity (SOGI). Even though research on asylum seekers in the UK found the 'co-existence of religiousness and non-heteronormativity in the context of migration in complex ways' (Giametta, 2014: 584) recent comments within the media from barristers suggest that decisions by immigration officials still find queer asylum seekers with religious belief implausible. The objective of this research is to build on the understanding of the complexity of SOGI asylum claims to avoid stereotyping by exploring the intersections of sexual and gender minorities and religiosity. This research explores the challenges legal practitioners perceive in presenting asylum claims with a SOGI basis with clients who have religious beliefs or engage in religious practices. Data will be gathered through semi-structured interviews with legal practitioners who are experienced in SOGI asylum claims with questions focusing on how queer asylum seekers who have a religious belief or engage in religious practices are currently understood by immigration decision makers. Why are religious and queer subjectivities still deemed incompatible? The presentation will focus on the findings from the interviews, which are expected to be (if anecdotal evidence is correct) that immigration officials' perceptions are based on narrow northern centric understandings of queer subjectivities, which ignore the lived experiences of those who do not live within the global North, and what needs to be done to increase understanding among immigration decision makers.

Paschal Gumadwong Bagonza: *Voice through the visual: exploring LGBT+ asylum seekers' narratives through photovoice*

Visual methods, such as the participatory approach of Photovoice -self-generated still photographs can be one of the ways of the marginalised to augment their voice. This presentation draws on the methodological approach of Photovoice when researching with lesbian, gay, bisexual, trans or queer (LGBT+) asylum seekers and refugees in the UK. Asylum applicants may encounter various imposed policy restrictions by the host country, for instance access to work and housing which is a challenge to negatively affect their welfare. Photovoice can be a way to allow these research participants to have power (camera) in their hands and let the 'public' into their subjective lived and embodied experiences as LGBT+ asylum seekers and refugees. These self-produced photographs can be regarded as visual (re)production, (re)presentation and (re)expression of their own varied world of words 'embodied' in the images, including highlighting the plight of their welfare, as they articulate the navigation of the asylum process as sexual and gender minorities. In this presentation of my on-going PhD project, I will show how some of these images from the 20 participants I interviewed, can be crucial in highlighting their diverse welfare challenges they countenance as LGBT+ asylum seekers and refugees, and how they variously (re)present themselves/experiences in this form of visual language. This project also seeks to contribute to methodology in working with research participants regarded as marginalised, and also belonging to a sensitive group.

Dr Nina Held and Dr Mengia Tschalaer: *LGBTIQ+ refugees and social isolation during the Covid-19 pandemic in Germany*

The Covid-19 pandemic which resulted in national calls for "social distancing" and to "stay home" starting in March 2020, blatantly reveals the precarity of vulnerable groups such as LGBTIQ+ asylum claimants -who do not have a safe space where they can spend time with loved ones and where they find the support they need to get through this crisis. This form of extreme isolation is not new for LGBTIQ+ people seeking asylum who often experience loneliness and abuse in reception and accommodation camps, and outside of them due to homo/transphobia/racism. The pandemic, however, pierces the thin veil of invisibility and lays bare the precariousness of LGBTIQ+ persons' safety in the camps. Even more so, Covid-19 blatantly reveals the structural inequalities which cause the

extreme isolation of LGBTQI+ persons when waiting for their asylum decisions and which are at the centre of this presentation.

Nicholas Hersh: *Canada's LGBTQ+ refugee sponsorship program*

In 2010, then Minister of Citizenship and Immigration, Jason Kenney, urged lesbian, gay, bisexual, transgender, and queer (LGBTQ) Canadians to “step up to the plate” to help resettle refugees fleeing from persecution on account of their sexual orientation and/or gender identity and expression. In March 2011, the Canadian government launched the Rainbow Refugee Assistance Project (Rainbow RAP) to mobilize Canadians in resettling LGBTQ refugees through the nation’s longstanding refugee private sponsorship program. Since then, communities across 15 municipalities have sponsored over 80 LGBTQ refugees and provided support to many more that have arrived in Canada through other pathways. Canada’s private sponsorship model provides an innovative opportunity to engage Canadians in increasing resettlement spaces for LGBTQ refugees, a population which experiences many roadblocks in reaching a safe haven. The presentation begins by outlining the key features of LGBTQ refugee sponsorship, including eligibility criteria, identifying LGBTQ refugees to sponsor, as well as government policies, programs, and partnerships related to LGBTQ refugee resettlement. Next, success stories, learned lessons, and ongoing challenges in sponsoring LGBTQ refugees are shared. The presentation concludes by encouraging policy makers and refugee advocates in Europe to reflect on the Canadian experiences when designing, expanding, and operationalizing community sponsorship programs to resettle LGBTQ refugees in their countries.

Dr. Nicole Hoellerer and Dr Nick Gill: *What is a credible narrative? – The problematic utilization of credibility in SOGI asylum determination in European asylum courts*

Drawing on ethnographic observations at European asylum court hearings, the paper discusses how credibility and a “credible narrative” are used by European asylum judges in asylum determination, with a particular focus on LGBTQI cases. For a long time, anthropologists criticised the Global Northern lens by which a credible narrative of one’s biography is characterised by a linear progression of time, critical self-reflexion, and rationalisation. Similarly, European authorities involved in refugee determination – including asylum courts - are preoccupied with identifying incoherencies, discrepancies and “untruths”. Little attention is given to socio-cultural idiosyncrasies, such as cyclical progression of time: for example, those who are unable to coherently present a linear chronology of their biography are dismissed as “non-credible”, and thus not entitled to refugee protection in Europe. Similarly, asylum seekers who base their claim on sexual orientation may often be dismissed for not fitting into the Global Northern perception of what it means to be LGBTQI, and our research has shown that SOGI claims are often reduced to sexual activity and public displays of one’s sexual orientation, as well as the ability to “critically reflect” on the persecution SOGI claimants may face in their country of origin. However, our research puts into question the judges’ assessment and perception of “credible narratives” that would merit refugee protection in Europe, and we attempt to shed light on the problematic use of credibility in SOGI claims that is assessed by Global Northern standards and definitions.

Stephanie Huber: *The importance of source assessment: Comparative analysis of the U.S. Department of State Country Reports on Human Rights Practice*

The presentation will focus on source assessment of country information submitted in Sexual Orientation and Gender Identity asylum claims, as well as present preliminary findings of ARC Foundation’s comparative analysis of the ‘Acts of violence, discrimination, and other abuses based on sexual orientation and gender identity’ section included in the 2016-2019 annual U.S. Department of State Country Reports on Human Rights Practices. This research project undertakes a thorough comparative line-by-line analysis of the full content of five 2016 U.S. Department of State Country Reports on Human Rights Practices, prepared under the previous U.S. administration, compared to subsequent annual editions produced by the current administration, i.e. covering events in 2017, 2018, 2019 and 2020. These five countries - Eritrea, Iran, Iraq, Pakistan, and Sudan - were selected on the basis of appearing amongst the top 10 nationalities of asylum applicants in the UK for the past five

years. Findings will be presented, which were analysed with respect to: Structure of the report: whether sections have been omitted, renamed, reordered, or new sections have been proposed; Language used: any changes in terminology; Omissions: which human rights issues have been omitted; Improvements: what improvements in human rights situations have been observed and whether these are reflective of the situation as reported on by other sources.

Sabine Jansen: *Pride or Shame? LGBTI asylum in The Netherlands*

Following the Fleeing Homophobia report and the XYZ and ABC judgements of the European Court of Justice, I investigated LGBTI asylum files at the Dutch Immigration and Naturalisation Service, in order to reveal the current situation in Dutch asylum policy and practice regarding LGBTI applicants. The research was carried out on behalf of COC Netherlands, the Dutch organisation for lesbian, gay, bisexual, trans and intersex people and the final report *Pride or Shame? Assessing LGBTI asylum applications in the Netherlands after the judgments XYZ and ABC* was published in June 2018 (in Dutch). An English translation was issued in January 2019. I found that the assessment of the credibility of a stated sexual orientation is still a huge problem. Although 63% of the examined files eventually led to a positive decision, in 85% of the rejected cases the reason for the rejection was that the stated sexual orientation was not believed. The main conclusion of my research was that Dutch asylum policy regarding LGBTIs is still based on stereotypes. There is the stereotypical expectation that LGBTIs in a country where the climate is hostile to them, always go through a 'process of awareness' and a 'process of self-acceptance'. In addition, they are supposed to feel ashamed or have experienced other negative emotions. If they say they are proud to be gay, and their main problems come from others, they run a high risk of having their sexual orientation not believed and their asylum claim rejected. In my opinion it is not possible to assess the sexual orientation or gender identity of another person, and I therefore think it would be much better if the focus of LGBTI asylum policy would be on self-identification.

Amandine Le Bellec: *The EU List of 'Safe Countries of Origin' and its Impact on LGBTI+ Asylum-Seekers*

In November 2019, the former Italian Prime Minister Matteo Salvini's decree on Security entered into force, making Italy the 22nd EU country to use de facto the "Safe Country of Origin" (SCO) concept. Such officialization led to the immediate reaction of the national LGBTI+ network Arcigay, which denounced the decree's detrimental impact on LGBTI+ migrants. A SCO is defined as a country where human rights and democratic standards are globally respected, thus allowing for the fast-tracking of asylum claims – based on the assumption that they have high chances to be unfounded. If this concept has often been blind to gender-specific persecution, the 2015 "migration crisis" has introduced two major changes: one the one hand, the European Commission has proposed to introduce a compulsory list of SCO in the EU, with the avowed objective to reduce asylum claims; while on the other, it has explicitly provided for a gender-sensitive interpretation of the concept. In a context of general tightening of asylum policies, the noose seemed to be paradoxically loosened for women and LGBTI+ people. In this sense, it is legitimate to examine the impact of the SCO concept on LGBTI+ asylum-seekers, and to question the meaning and the consequences of this new gender-sensitive approach. Based on the document analysis of EU SCO proposals and legislation, and on a corpus of 20 interviews with organizations supporting LGBTI+ asylum-seekers in member-states, I show that despite increasingly gender-friendly discourses, LGBTI+ people are disproportionately affected by SCO practices—paradoxically reiterating old conceptions of the nation-state and of its sexual frontiers. Intertwining the analysis of discourses and practices, this presentation examines the relationship between traditional sexual nationalisms and their modern reconfigurations, examining how the former may resist and pervade the experiences of LGBTI+ asylum-seekers, even at the supposedly post-national EU level.

Mag Mach (they/them): *Queer Asylum and Intersectional Mobilization in Times of Hypernormalization of Far Right Politics, Greenwashing & Homonationalism in Austria*

The presentation will focus on the socio-political context and far right anti-immigration politics in Austria and how the previous right-wing Kurz-Strache government that was dissolved in May 2019 has affected the situation of queer claimants of asylum. While LGBTIQ+ rights have become a political currency to be used in building a 'European exceptionalism' (Ammaturo, 2015) as opposed to countries,

where homosexuality is criminalized, structural racism, xenophobia and hate crimes are a deeply entrenched reality in Austria. In the light of the events of the past years in Austria –with the rise to power of a right-wing anti-immigration government (2017-2019), the continuing dismantling of refugee and minority rights, the dismantling of asylum institutions and support for refugees, a fragrant rise in hate crimes and racial profiling for people of colour – it is of importance to analyse these developments and their impact on queer claimants of asylum through a necropolitical lens. This analysis is particularly important in the Austrian context as the new green-turquoise government has been continuing the far-right asylum politics of the previous right-wing government that was dissolved in May 2019. In the light of these recent developments, this paper will centre a critical analysis of the rise to power of right-wing extremists under the Kurz-Strache government (2017-2019), the continuation of their anti-immigration policies under the current government, and of the legal and socio-political consequences that these political developments have on the situation of SOGI claims of asylum and the life of queer migrants in Austria. Particular attention will be paid to the use of pink- and greenwashing strategies by right-wing politicians in Austria. Another point of discussion will be the impact of the intersectional mobilization during the protests against the previous government before its dissolution.

Irene Manganini: *The Refugee Status Determination of Transgender Asylum-Seekers: A Queer Critique*

This paper deals with the topic of transgender asylum-seekers and specifically with their refugee status determination process. It aims at finding out if and in which way a queer critical framework could help explaining the shortcomings and misunderstandings which often arise during said process. After briefly introducing the topic and analysing the main controversial legal and practical issues occurring during transgender asylum-seekers refugee status determination processes across the world, it argues that a good insight into the reason why these issues arise can be found in the queer concept of hierarchies of power, and in the ways they underlie and shape the whole asylum system. Building on that, the paper argues that these narratives cannot be subverted by simply modernising refugee law but that it is rather the whole conceptual foundations of the asylum system that need to change, and that transgender asylum-seekers' experiences could help in showing the way forward.

Devon Matthews: *Best Practice in the Resettlement of Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) Refugees*

Persecution of individuals on the basis of sexual orientation, gender identity, gender expression or sex characteristics is rife in all regions of the world, with serious and widespread human rights abuses being perpetrated against lesbian, gay, bisexual, trans and intersex (LGBTI) persons often with complete impunity. Frequently, resettlement may be the only viable durable solution for LGBTI refugees facing specific protection risks due to their sexual orientation, gender identity, gender expression or sex characteristics. In addition, emergency processing or evacuation may be required as lengthy processing can exacerbate security risks. Resettlement is a life-changing experience. However, it is both challenging and rewarding. Safe and legal routes can mean the difference between life and death for refugees. Founded in 2006, Rainbow Railroad has provided emergency assistance to hundreds of LGBTI persons at imminent risk of severe discrimination or violence. This presentation will (i) assess existing international standards and resources relating to the resettlement of LGBTI refugees including UNHCR 'Resettlement Assessment Tool: Lesbian, Gay, Bisexual, Transgender and Intersex Refugees' (2019) (ii) identify best practice as identified via extensive casework experience and (iii) explore experiences of advocacy in advocating for increased opportunities for refugee resettlement globally.

Thomas McGee: *'Rainbow Statelessness' -Between Sexual Citizenship and Legal Theory: Exploring the Statelessness-SOGIESC Nexus for LGBTIQ+ Asylum Seekers*

This presentation responds to the literature gap within both discourses on 'sexual citizenship' and Statelessness Studies on the nexus between statelessness and Sexual Orientation, Gender Identity and Expression and Sex Characteristics (SOGIESC) in asylum contexts. It explores the intersectional experiences of stateless LGBTIQ+ asylum seekers as well as circumstances in which discrimination on SOGIESC grounds can cause statelessness for LGBTIQ+ persons, and how this needs to be understood within asylum situations. In addition to rare reports of arbitrary deprivation of citizenship from LGBTIQ+

persons, the non-recognition of post-transition statuses and intersex realities may lead to a situation of de jure statelessness. Finally, complex legislation and administrative practices around Assisted Reproductive Technologies (ART) -and especially international commercial surrogacy -can leave children born within 'rainbow families' at particular risk of statelessness. The research draws on original interviews conducted with individuals identifying as LGBTIQ+ and affected by statelessness, as well as reviewing the limited existing case literature of relevance to the issue. In arguing that a global nexus does indeed exist between SOGIESC and statelessness, this presentation calls for further empirical research in order to provide greater nuance and context-specific understandings of the intersectional experiences of statelessness for LGBTIQ+ individuals claiming asylum around the world.

Dr Siobhan McGuirk: *LGBTIQ+ asylum advocacy in the US under “friendly” and “hostile” governments: lessons for activists elsewhere*

In this presentation, I trace the changing impacts –both intended and unexpected –of LGBTIQ+ asylum advocacy in the United States under the Obama and Trump administrations. Critical reflection on the discourses produced and priorities pursued by advocates elsewhere can be instructive for their international counterparts, particularly where right-wing politicians are establishing power and supportive media attention to LGBTIQ+ and immigrant rights is declining. These findings are based ethnographic fieldwork and work conducted with the advocacy organisation LGBT Freedom and Asylum Network, 2011-2018.

Maria Mpasdeki and Dr. Zafeiris Tsiftzis: *SOGI-related asylum claims in Greece and the legal implications arising from the specific protection needs of LGBTI person*

LGBTI persons fleeing persecution face a complex array of challenges at all stages of displacement. Based on the legal experiences of asylum-seekers claiming international protection on the basis of their sexual orientation or gender identity (SOGI) in Greece and the main obstacles they meet along the way, this presentation aims at identifying malpractices, preconceptions and gaps regarding the handling of LGBTI asylum claims and proposing solutions. The significant number of LGBTI persons that arrive in the Greek coasts and make SOGI related asylum claims, immediately face a series of difficulties while engaging with the asylum process, which may prevent them from qualifying as beneficiaries of international protection. More often than not their claims are being treated unfairly and without the necessary sensitivity, making it even harder for the already complex parameter of credibility to be met. Amongst the main topics of the presentation are the absence of protective mechanisms against hostile persons of the same nationality who target and attack LGBTI asylum seekers (hate crimes) particularly in the first stages of the asylum proceedings, lack of training on credibility assessment and interview techniques for SOGI-related asylum claims, complexities in the secondary judgment (appeals) regarding oral hearings and judgment by untrained administrative judges, delays in actual integration due to lengthy procedures, difficulties in the recognition of same-sex couples for the purposes of determining family composition. There is a clear need to identify and facilitate durable solutions for LGBTI asylum seekers in Greece. Suggestions included in this presentation for a more efficient and protective framework are, among others, targeted training of personnel involved in the procedure, development of policies for better case management, and establishment of effective complaint mechanisms for further investigation and action against malpractice. This presentation is based on current asylum national and EU legislation, recent asylum law reforms, on specific legal provisions on vulnerability, case law, but above all on the personal experience of the legal practitioners presenting the current paper from the case management of SOGI-related asylum claims.

Edward Mutebi: *How are SOGI related asylum claims legally adjudicated at domestic, EU and Council Europe levels?*

In relation to the main question, I will draw my attention to; The asylum process for the sexual orientation and gender identity SOGI. How the process goes, in particular concentrating on the negative response from the government, what happens next after SOGI members are rejected. It is so clear that many SOGI asylum applicants have been rejected at all levels including court appeals. Causes of negative judgements by the legal asylum bodies toward SOGI applicants. Here I will talk about the

influence of factors such as ethnicity, religious background, country of origin prejudice from the legal officers, educational background and ability to defend your asylum claims. In so many instances we have seen people denied asylum based on the factors listed above along with countless others. One's ability to defend oneself in the case hearings may increase the chance of asylum approval. Inability to do this has meant that so many potentially deserving SOGI members negative have been rejected and possible pretenders have been given a chance to apply. Possible solutions toward negative Adjudication. Here I will share my views on how SOGI cases should be handled. Taking into consideration the backgrounds of people and possession of different abilities. The only problem I see in the asylum process and hearings is the assumption of equal abilities. In my view I think we humans have different potentials and abilities. Government officials however assume that the way person A will get their points across is the same way person B will get their points across and any deviation may call for a wrong judgement.

Ornella Ordituro: Asylum seekers and their status as refugees or as beneficiaries of international protection

The Italian approach. his proposal examines the Italian approach in granting asylum seekers refugee status or in recognising them as beneficiaries of international protection. The cases analysed in this research lead to demonstrate that no homogeneous approach can be found in Italy, notably concerning the implementation of international and European law on asylum not only for SOGI (Sexual Orientation and Gender Identity) claims but from a broader point of view. The study also shows evidence of "systemic deficiencies" in the reception of asylum seekers (in violation of Art.3ECHR), as well as in the economic and social integration of beneficiaries of international protection. Through the analysis of the procedures established for asylum seekers to apply for international protection, the work focuses on the changes introduced by the last Decree Law 113/2018 (implemented by L.132/2018) to the Italian asylum system. Two key findings can be outlined for the purpose of this study. Firstly, the protection system has suffered from the abrogation of the "humanitarian protection" -i.e. a residence permit for those not qualifying for refugee status or subsidiary protection but nonetheless deemed vulnerable enough to need protection. Secondly, the negative impact on the reception system with the effect of preventing widespread reception, despite the opening of an LGBTI+ hub ("Rise The Difference") in Bologna. Notwithstanding these legislative developments, the Italian Court of Cassation (United Chambers), in its judgment n.29460/2019, barely ruled that L.132/2018 should not be applied to requests for asylum submitted before the Decree Law entered into force (namely, on 5th October 2018). Asylum seekers who had been granted humanitarian protection before that date should therefore be entitled to stay into migrant reception centres, i.e. the previously named SPRAR (Protection System for Asylum Seekers and Refugees) and now SIPROIMI (Protection System for Beneficiaries of International Protection and for Unaccompanied Foreign Minors).

Rafaela Pascoal: LGBTI+ migrants stranded in the Italian reception system

The exponential increase of the migration flows in the Central Mediterranean route, mainly after 2013- with 13.267 arrivals in 2013 and 181.436 disembarked migrants in 2016 (Camera dei Deputati 2017) – has challenged the Italian reception system. Considering the increase of migrants and the development of a reception system with a standardized, welfarist and homogeneous approach, this presentation examines the effects of a prevalence of first reception system in the identification and assistance to SOGI migrants. The prompt response of a reception apparatus based on a short-term survival approach tends to ignore the specific needs of the SOGI asylum seekers, and to underestimate the risk of violence within the reception centers. Consequently, the lack of access to particular conditions for LGBTI+ asylum seekers and the absence of empowerment measures tend to postpone the integration of the asylum seeker in the LGBTI+ community. Therefore, this presentation intends to reflect if the migrants SOGI can be considered a vulnerable category within the asylum apparatus or, their vulnerability is mainly derived from a reception system that is inadequate to their particular specific needs. The methodological plan was based on qualitative research, grounded on the first part on the method of participant observation during the triennium 2016-2019, as cultural mediator of the help-desk "La Migration", of the Association Arcigay of Palermo. In particular the research is composed by 15 semi-

structured interviews to LGBTI+ migrants, 4 interviews to operators and 1 interview to the psychologist of the helpdesk.

Gerardo Petrillo: *The protection of LGBTIQ asylum seekers: the evolution of the Jurisprudence of the two European Courts and the assessment of credibility*

The aim of this paper is to provide a detailed overview of the European asylum system regarding the protection of individuals seeking asylum on the basis of sexual orientation and gender identity. With the “Convention relating to the status of refugees” and its additional protocols taken as a landmark on the matter, a detailed study on the stages of the evolution of the international and EU Law on SOGI asylum claims is meant to consist in the framework of the context analysis. Flaws and limitations, still to be improved, are highlighted in order to offer new causes for reflection about already-existing good practice examples and other EU and state initiatives that could be applied to the matter in order to ensure the realisation of an asylum system concretely meant to protect the rights of LGBTIQ applicants, human dignity first. In the body of the paper, the procedures for the credibility assessment of LGBTIQ applicants are scrutinised, with particular attention paid to the concept of heterosexual bias, unfounded medical examinations, testing methods and other assailable requirements commonly applied in some European States. Highlights on the violation of human rights, to which such practises may usually lead, will be discussed, also and particularly referring to several decisions of the Court of Justice of the European Union and the European Court of Human Rights, focusing on the elements of innovation therein contained. In the conclusions, an emphasis on the most accurate methods aimed at adequately administering interviews with the purpose of assessing the reliability of asylum seekers is provided, as well as a reflection on the necessity to properly instruct any person involved in the asylum process.

Lucas Ramon Mendos: *The Essential is Invisible to the Eyes: Complexities Regarding the Concept of ‘Perceived Sexual Orientation’ and its Legal Implications in Asylum Procedures*

This work will discuss the notion of “perceived sexual orientation” and its implications in asylum proceedings. First, I will present a brief overview on how International Refugee Law has progressively incorporated notions related to sexual diversity, in general, and sexual orientation, in particular. The second part of my paper will review some of the efforts made by academics and law experts to clearly define “sexual orientation” and its dimensions, and how the idea of a “perceived sexual orientation” is derived from that definition. The notion will be deeply scrutinized, exploring situations and contexts in which sexual orientation is said to be “perceivable” and how discrimination is triggered by that perception. Finally, I will analyse the implications of this logic of “perception” and “conviction” about sexual orientation in the context of decisions made by asylum agencies and migration courts, especially in cases where cases where decided on the basis of biased assumptions of how a specific sexual orientation is or may be perceived.

Gabriele Roth: *Researching SOGI issues in the context of COI: example Iraq*

My contribution will discuss the way in which our research unit approaches SOGI-related queries. To this end, I shall present aspects of a query response by ACCORD on the situation of LGBTI individuals in Iraq and the challenges encountered during the research process. First I will briefly outline the relevant research questions in such a case. Then I will move on to discuss the sources found in this particular context, trying to show the importance of source assessment and awareness of methodology, motive and background of a given source. I will then touch on the need for corroborating information and how this can be a particular challenge in SOGI-related queries. Lastly I will talk about the difficulty of reconciling the COI we research and collect with the COI that decision makers and legal advisors need, taking into account feedback to our products we have received from courts.

Chiara Scissa and Elisabeth Cucco: *Reality is not binary: Spotlighting the existing gaps in the EU and Italian asylum system for transgender applicants*

Neither European nor Italian asylum systems reflect yet the non-binary society we all live in. Thus, the first aim of this paper is to unveil the persistent flaws in both the Common European Asylum

System(CEAS) and in the Italian asylum law of adequate provisions that succeed in addressing the vulnerability of transgender asylum applicants, respecting their human rights, and providing them with a fair pathway for their protection and assistance in the EU and in the case of Italy, in turn obstructing the development of a steady integration system. Afterwards, this contribution aims at advancing concrete proposals to fill this multilevel normative and policy gap. Concerning the CEAS, the notion of safe third country is questioned as it gravely endangers transgenders' right to asylum, inasmuch as it bypasses the individual assessment enshrined in the 1951 Refugee Convention and does not consider the serious harm that transgender people could face in a country generally considered as safe due to their gender identity and sexual expression. To avoid breaches of LGBTI rights, this notion should not be applied to LGBTI applicants. Moreover, in light of LGBTI particular vulnerability and risk to be victims of sexual and labour exploitation, both the CEAS and Italian asylum law should include LGBTI persons in the list of vulnerable groups and systematically consider gender identity as valid ground to issue a protection status. Furthermore, States should ensure trans-specific healthcare, e.g hormone replacement therapy, during asylum procedures. At the national level, the Italian territorial commissions should assign transgender asylum applicants to ad hoc residence centres involved in gender issues, not only to provide them with healthcare and accommodation; but also to avoid a double discrimination effect. This paper regrettably notes that there are still a handful of facilities able to ensure such protection in the whole country.

Katja Schroder and Marlen Vahle: *Workshop – The Experience of Simultaneity in Context of SOGI, Asylum and Society*

In our work in the context of SOGI and flight, we encounter an accumulation of synchronicities and simultaneities that need to be endured and balanced in our daily work. SOGI and Asylum -one field of work, but not only with very different needs of the diverse refugees and the various actors, but also with partly mutually exclusive simultaneities. This results in fields of conflict which both, refugees and people who accompany or support SOGI refugees professionally and/or on a voluntary base, have to balance. One, for example, has been fighting for visibility for years as an activist, while for another SOGI person visibility is an idea that causes great anxiety and therefore he or she would like to remain in the closet in Germany, at least for the time being. SOGI refugees struggle with the challenge to prove their own sexual orientation to a system that sets the threshold for recognition of credibility very high and, it sometimes seems, takes every opportunity to doubt credibility. At the same time, they are seen as the "good" refugees. In the sensibility trainings in refugee shelters we encounter pronounced homophobia and at the same time a high capacity for empathy and the intrinsic motivation to help. We all have to face the question: How do I position myself within these fields of conflict and how do I remain capable of acting? These simultaneities must be seen in the context of the current political climate in Germany. The ambivalence of the majority of society and also of politics in Germany regarding refugees becomes visible in the way it deals with SOGI refugees. In addition to the presentation of our work and the gained experiences these and other aspects are to be presented and processed in an interactive format. We are looking forward to hearing the experiences of the workshop participants from different countries and to discuss how we can deal with these simultaneities.

Inka Söderström: *The role of social work in supporting SOGI asylum seekers and refugees—queering and decolonizing social work practice*

In my PhD research in social work, I examine the negotiations on identities and belonging in the context of Finnish social work with sexual and gender minority refugees and asylum seekers. My research is connected to the discussions on identities, belonging, post-colonialism, heteronormativity, homonormativity, and homonationalism. In my studies, I hope to twilight the encounters that queer refugees have in the Finnish social services, and what kind of normativities, presumptions and identity categories are presented. Academically, I locate my study on the field of social work research, and I aim to contribute to implementing queer and postcolonial theory and anti-oppressive practice in Finnish social work research. In this oral presentation, I present preliminary analysis and theorization of social work discourses on supporting SOGI asylum seekers and refugees, based on my research interviews in process. Social work is a profession that strives for social equality and justice, and for many newly

arrived asylum seekers and refugees' social workers are important allies in a strange society. Still, social work has its professional roots in the colonialist civilizing mission and philanthropy. As a societal profession it is not separate from the prevailing norms and hegemonies, and heteronormativity and homonormativity are present and negotiated in the everyday social work encounters. In Finnish social work, LGBTQ+ service users with refugee background are often supposed to be liberated and participate in queer communities now when they have arrived in this presumably gay friendly country. Issues like racism in queer communities and the surrounding society are not always recognized, and the biggest threat for queer refugees is often considered to be the homophobia inside migrant communities instead of their precarious immigration status created by the Finnish border politics, for example. Besides the colonial mindset of this way of thinking, it also restraints queer service users from negotiating their own ways of belonging and living.

Isabel Soloaga: *Social Remittances and Transnational Activism amongst Transgender Asylum-Seekers in Europe and the United States*

This paper explores the importance of social remittances and transnational ties to transgender asylum-seekers in Europe and the United States, and the long-term implications of their transnational lives on nation states. To begin, I analyse the ways in which socially remitted information about gender identities informs the choices made by potential asylum-seekers in both sending and receiving countries. Through them, individuals create new aspirations for migration as both a survival strategy and an opportunity to live safely, openly and authentically. Social remittances and transnational ties facilitate knowledge of migration routes, different gender identities, and the legal requirements to making successful SOGI asylum claims; in doing so, they open migration pathways for transgender individuals. I also identify how different conceptions of transgender identities are shared transnationally and influenced by laws in the US and Europe. I conclude with an exploration of how transgender asylum-seekers challenge traditional conceptions of the nation-state through their disruption of both geographic borders and set gender categories, mechanisms traditionally utilized by nation states to exercise control over their populations. This paper hinges on the lived experience of two transgender refugees: Alejandra Barrera, a transgender woman in the United States; and Mazen Masoud, a Libyan activist and transgender man living in Italy. I take their stories as jumping-off points to explore how transgender migrants mobilize social remittances and transnational connections to inform their choices to seek asylum abroad and to assist others to do the same. Reaching receiving countries does not mean that their activism ends. Rather, fuelled by continuing persecution in their home countries, and necessitated by systemic obstacles within their new homes, both Barrera and Masoud continue their transnational political activism in order help other transgender asylum-seekers both at home and abroad.

Dr. Petra Sußner: *Why Heteronormativity Matters: The not so lost Requirement of Discretion in (Austrian) Asylum Law*

As a phenomenon the so-called discretion requirement has preoccupied refugee law literature for years. According to it, asylum can only be granted if applicants cannot avert the threat of persecution in their country of origin by concealing their sexual orientation. Meanwhile, such an expectation is as commonplace as it is unlawful. In its ruling C-199/12 – C-201/12 the CJEU declared the discretion requirement to be incompatible with EU law. However, this did not put the matter to rest. Demands for keeping sexual orientation as well as gender identity secret to avoid persecution continue in practice. Two questions arise: Firstly, why is there such a gap between legal principle and legal practice? Secondly, how can legal compliance be achieved in practice? My contribution builds on a case study on Austrian asylum case law between the years 2014 and 2019. In Austria, the Constitutional Court emphasised in September 2014 that expectations of discretion violate EU law. Nevertheless the expectation continues to appear openly or more subtly through doctrinal and factual approaches. My main argument is that we need to address heteronormativity as an intersectional and global phenomenon to overcome discretion reasoning. To demonstrate it, I differentiate between direct and indirect discretion reasoning. Along the four categories of supportive reasoning, a mathematical focus on conviction figures, the internal flight alternative and a binary understanding of sexualities, my

contribution shows (1) how discretion reasoning continues to appear in Austrian asylum practice, (2) how it relates to gender identity and international debates on discretion reasoning and (3) how we can use the concept of heteronormativity to overcome discretion reasoning. In the course of my argument, I also offer solutions for the unsolved ‚chosen closet-problem‘.

Dr. Petra Sußner, *If you leave, the blame's on you? A human rights-based perspective on LGBTIQ asylum seekers' entitlement to protection from violence in accommodation centres*

Asylum procedures are associated with waiting periods, which are often stressful. Asylum seekers usually spend these waiting periods in organised accommodation centres. The minimum standards these accommodation centres must provide are laid down in Directive 2013/33/EU (Reception Directive); safeguarding residents' physical and mental health and protecting them from violence are part of basic care here. Nevertheless, particularly lesbian, gay, bisexual, intersex, transgender and/or queer (LGBTIQ) asylum seekers report threats, discrimination and assaults. Many of them conceal their sexuality and/or gender identity to escape violence. ‚AnkERzentren‘ (anchor centres), ‚hot-spots‘ and transit zones are especially problematic. Violence appears to be systematic here, unlike protection from this violence. In recent years, one term has come to the fore in the effort to overcome anti-LGBTIQ violence (in accommodation centres): vulnerability. In the social sciences and humanities, this term is contentious, especially because of the risk of stigmatisation. In legal practice, the European Court of Human Rights (ECtHR) uses vulnerability to describe a principle; in the Reception Directive stands for a legal definition. Whether and to what extent LGBTIQ asylum seekers are covered by the term vulnerability has not been conclusively determined, and this, too, is seen as an obstacle to establishing effective protection from violence. This contribution suggests disengaging from conflict over definitions and instead adopting a more fundamental view. It examines the fundamental and human rights obligations that states have in general as well as specifically towards LGBTIQ asylum seekers in accommodation centres. The focus is on ECtHR case law regarding vulnerability, and specifically on a structural bridge between protecting people in state custody and in asylum reception centres. What matters is effective and legally compliant protection from violence.

Ayşe Uzun: *What is the impact of international and national law on LGBTIQ+ Syrian refugees in Turkey?*

Since the peaceful Syrian civil uprising turned into a violent war, the last eight years have witnessed significant changes in Turkish refugee law. The number of LGBTIQ+ asylum seekers fleeing to Turkey and the EU has increased since the Syrian war started. Under LFIP1, a significant number of LGBTIQ+ individuals fleeing from war and violence in Syria are granted temporary protection in Turkey. However, despite LFIP, LGBTIQ+ migrants are particularly silenced and excluded from activities including policymaking, full service provision, activism and participation in academia. They acquire a voice only in terms of the victim/enemy dichotomy during periods of heightened securitization. Moreover, numerous states like Turkey do not have any regulations regarding LGBTIQ+ asylum rights based on SOGI (sexual orientation and/or gender identity). In previous drafts of the LFIP directive sexual orientation was explicitly recognized as a label belonging under „membership in a particular social group“ category which deems an individual as needing protection if such a group is being persecuted. However, it was removed from the final version of LFIP directive. As such, this lack of regulation exposes LGBTIQ+ individuals to specific threats. My research aims to further analyse the impact of both the national Turkish Law and international law on LGBTIQ+ asylum seekers, taking into consideration both my own fieldwork experience in Turkey, and an academic analysis of the adjudication system. My research will include analysis of LGBTIQ+ refugee rights in terms of SOGI related asylum claims from an interdisciplinary perspective and mixed methodology of discourse analysis, qualitative analysis and semi-structured interviews with twenty LGBTIQ+ applicants.

Adriana Van Den Berg: *The role of the European Asylum Support Office (EASO) and COI*

My contribution will focus on the role of EASO's Country of Origin Information (COI) sector in supporting EU+ countries in their assessment of applications for international protection by LGBTI persons. One of the objectives in EASO's work programme is to gather and produce information on

persons belonging to vulnerable groups, amongst others LGBTI(Lesbian, Gay, Bisexual, Transgender and Intersex) persons. In my presentation, I will explain the types of COI support provided by EASO (COI reports, queries, meetings with external experts) that give information on the situation of LGBTI persons in their countries of origin and give some examples of recent COI products. Also the EASO Research guide on LGB persons(2015), with its research questions and specialised sources, will be briefly discussed. Finally, I will present some findings from a survey that EASO recently conducted amongst EU+ COI units into the challenges of COI research into the situation of LGBTI persons and protection issues related to Sexual Orientation and Gender Identity (SOGI) in various countries of origin.

Willemijn van Kempen: *“Transcribing the margins” a community-based research examining trans specificity in Dutch asylum procedure*

This exploratory case study analyses Dutch asylum procedures of eight trans women from countries in Latin America and the Caribbean region not directly criminalizing LGBTI identities. It examines if and how specific circumstances and negative life events relevant to trans Latinas identity are represented and assessed in hearings and decisions. Material for this analysis includes a semi-structured interview with each participant, their individual procedure documents and background research regarding the LAC region and countries of origin related to trans issues. The research reveals a profound lack of trans-specificity within all central themes relevant to research participants in Dutch procedures. E.g.in misgendering, not considering the absence of legal gender recognition and addressing trans persons as if being gay. In this way, cumulative aspects and severity are only partly represented. Another main problem is the overly general nature of country of origin information (COI) being used. Since trans Latinas are deemed credible in their identity and in most negative experiences, the severity assessment becomes the most important topic. Both problems pointed out contribute to an incomplete assessment of severity. For instance, when there is no knowable use of country of origin information on violence and transphobia by police, non-state groups and society towards trans Latinas and trans Latina sex workers. Or concerning the absence of realistic protection by the police and restrictions in relocation internally. Background research brings forward information that is more indicative and supportive of these problems for trans Latinas. The research provides insight, knowledge, and an outline of trans specific themes that can improve future asylum procedures and COI research regarding trans persons. It can be of use to all Dutch stakeholders involved with trans asylum seekers within asylum procedures as well as those from other European countries.

Denise Venturi: *Filling the gaps? The role of UNHCR 'soft law' instruments in developing the EU framework on asylum claims based on sexual orientation and/or gender identity*

The 1951 Geneva Convention and its Protocol provide the cornerstone of the international legal regime for the protection of refugees and constitute the overarching legal framework of the Common European Asylum System (CEAS), which was developed to harmonise EU Member States' asylum systems. Nevertheless, there are still important differences in assessing eligibility for refugee status among EU countries. In particular, the assessment of asylum claims based on sexual orientation and/or gender identity (SOGI) has proven to be particularly challenging and fraught with inconsistencies. UNHCR is entrusted with a supervisory role vis-à-vis the 1951 Geneva Convention; pursuant to its mandate, the Agency has issued guidelines that provide an important source of guidance to the interpretation of the refugee definition and are thus useful in refugee status determination (RSD) procedures. With regard to SOGI claims, in 2012 UNHCR issues its Guidelines No. 9 on the application of the refugee definition to this type of claims and, among other activities, it submitted observations before the Court of Justice of the EU in two cases concerning SOGI claims (XYZ and ABC). Although UNHCR guidelines are not legally binding, UNHCR's interpretation carries weight, given its supervisory role. The paper seeks to analyse whether UNHCR 'soft-law' instruments can foster coherency in the EU system of international protection regarding SOGI-based claims. By tracing back the influence of UNHCR guidelines and guidance, the papers aims to critically discuss their impact in the context of SOGI claims and the potential role of these instruments in promoting a fair and rights-based approach to RSD. Finally, it discusses to what extent soft law instruments can create and facilitate interactions not only among EU Member States, but also between the EU and the global level.

Carolina Vesce and Valentina Coletta: *Best Practice in the reception of Trans Asylum seekers and Refugees in Italy: the case of Casa Caterina*

Fleeing Violence, personal threats, and homo-bi-transphobia, SOGIESC asylum seekers leave their countries, their families, and friends due to persecutions perpetuated both by institutional actors and by social, political, and religious agencies. Not without forcing their experiences we place them under the LGBTQI+ umbrella, and we eventually grant them asylum on the basis of art. 1A(2) of the Geneva Convention. In Italy, art. 17 §1 of Dlgs. 142/2015, which implements 2013/33/UE, recognizes the special needs of SOGIESC asylum claimants hosted within the Italian reception system. The 2013 UNHCR's guidelines, however, reproduce an idea of sex, gender and sexual orientation as "fundamental aspects of human identity that are either innate or immutable, that a person should not be required to give up or conceal". This framework, where SO experiences are hegemonic, in fact erase trans, intersex and non-binary people, as well as all those who fail to conform to a normative gender pattern (here included trans-normative patterns). Nonetheless, trans lives are likely to disrupt our own perceptions of genders and sexual identities, and to notch heteronormative shapes by which Western societies make those experiences thinkable. Pursuing an ideal of sexual citizenship (Fassin 2010) SOGIESC asylum claimants are thus granted international protection if they fulfil outlooks and expectations of those who are called to evaluate both their asylum and transition applications. The empowerment of LGBTQI+ associations that are in charge of the reception of SOGIESC asylum seekers and refugees has allowed an enhancement of peer services for trans people. Part of this effort resulted in the UNAR funded project "Rise the Difference", led by MIT (Trans Identity Movement) addressing to asylum seekers and refugees who have undertaken or intend to undertake a gender affirmation pattern. Combining the viewpoints of researchers, social workers and peer operators, the paper aims to take into account the best practices and guidelines undertaken thanks to the reception of trans asylum seekers and refugees hosted in Casa Caterina in Bologna

Dr Janna Wessels: *The Concealment Controversy. Sexual orientation, discretion reasoning and the scope of refugee protection*

The paper explores the concealment controversy in refugee law. The UK Supreme Court judgment in HJ (Iran) [2010] UKSC 31, inspired a fierce debate among refugee law scholars on the role of a claimant's acts, identity and rights. The paper argues that the judgment and the reaction to that decision by the academic community crystallises a broader dispute concerning an asylum seeker's future conduct, which lies at the heart of refugee protection. The paper systematises two broad trends that literature and caselaw reveal in this debate, and reflects on the reasons why the claimant's future behaviour causes such trouble. The paper suggests that the refugee law community might in fact be fighting over the 'right' solution to a different puzzle: namely the tension between two widely held but conflicting notions of refugee law doctrine. These are the idea that an asylum seeker cannot be required to hide or renounce the persecuted characteristic on the one hand, and the idea that refugee law is not to provide the same level or rights and freedoms to everyone, on the other. This tension raises a number of delicate questions. Any person has at least some discretion regarding what others know about their sexual characteristics, and this creates a dilemma for refugee status determination, which is based on a future-focused analysis, and yet it remains the case that claimants can influence that future to some extent. So therefore, does this mean that claimants can be expected to hide their persecuted characteristics? If not, can claimants at the very least be required to exercise some restraint in their expression? Can the two notions be reconciled?

Dr Jo Wilding: *Legal aid reforms and their impact on SOGI asylum claims*

A person claiming asylum in the UK has the right to legal aid for their application and appeal, which is essential for most applicants. But changes to legal aid in recent years have made access to legal aid precarious. This presentation is based on empirical research with peer-recognised high-quality asylum legal practitioners and explores how the interaction between legal aid changes and asylum decision-making has created particular obstacles for people with SOGI-based claims. There are fixed fees for most asylum legal aid work, which do not cover the amount of work needed to represent clients

effectively at each stage of the case. This means good-quality lawyers make significant financial losses from doing legal aid work, and therefore limit the amount of fixed-fee work they do, making it difficult for first-time asylum applicants to access high-quality advice. Some representatives, on the other hand, appear to cap their work at the level paid for on the fixed fee, which has an adverse impact on people who are afraid to disclose the SOGI-based nature of their claim. The complex evidence-gathering required for these cases means they are likely to be particularly disadvantaged by work-capping. Further, where the representative has failed to gather sufficient evidence, the case may appear weak, and may be dropped by the representative, often leaving the applicant little time to find an alternative lawyer before the appeal deadline. All of these problems are exacerbated by the shortage of immigration and asylum advice available in many regions, meaning people have to travel a long way or access advice remotely, which may be particularly problematic for a person who is struggling to disclose the basis of their claim. The presentation concludes with some suggestions for ways in which UK support organisations can assist clients in accessing good quality legal aid advice.

Leila Zadeh, Sabine Jansen, Andrea Gustafsson Grønningsæter and Aino Gröndahl: *Similar stereotypical constructions of sexual orientation in different European countries*

Recent research from different European jurisdictions has revealed similarities in how the credibility of people claiming asylum on the basis of sexual orientation is assessed. Specifically, research points to an increasing use of the stereotype that sexual orientation is a fixed identity that begins in childhood and that there is only one way of understanding it: introspection, emotions and self-awareness processes. This panel will bring together NGOs and academics from four different countries to discuss their findings and how such stereotypes can be challenged.

Sophia Zisakou: *The right to dignity and to private life in the examination of asylum claims based on sexual orientation*

The aim of this presentation is to describe the main practices of the Greek Asylum Service during credibility assessment of asylum claims based on sexual orientation that raise concerns about their conformity with international refugee law, the common European asylum system and human rights standards. Conclusions are based on a survey of 60 cases (interviews and first instance decisions) from July 2016 until February 2020, either in regular or in borders procedure, in the five Greek hot spot islands. Among the bad practices observed, questions around sexual practices of the asylum seekers, stereotyped notions about LGB individuals, refusal to consider applicant's voluntarily submitted evidence, a 'when-oriented' approach and arbitrary assessments are included.



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