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*Trans*it*: Transgender and gender nonconforming asylum claimants' narratives in Greece

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Abstract

In this article, I reflect on two interviews of transgender/gender nonconforming asylum claimants in the broader West. In the *Trans*it* documentary that my partners and I created, a non-binary person and a transgender woman, Ilios and Christina, interview each other on the difficulties of being a transgender/gender nonconforming asylum applicant in Greece. Greece is an understudied area with huge migration flows at the border of the EU and has no official data for Sexual Orientation Gender Identity asylum claims. The documentary, this article contends, provides a starting point for reflecting on the experiences of transgender/gender nonconforming applicants at the borders of Europe and their transition from their country of origin to the West/Greece, and for importing non-Western migrant subjectivities into our current thinking on sexuality/gender. In particular, I problematize the legal framework of Refugee Status Determination and explore the decolonization of gender identity/expression in refugee law. Finally, I reflect on the process of making the documentary and my attempt to centre the voices of gender nonconforming asylum claimants while minimizing the impact of my gaze as a white Greek researcher in the field. In doing so, this article shows how documentary film can be used as a means to further considerations of gendered normativities of asylum claims in a key, yet understudied, context. It concludes by arguing for a decolonializing approach that questions the normalization of Western standards of gender, and their transgression, in Refugee Status Determination.

Keywords

Gender identity, gender expression, asylum, gender non-conformity, decolonization

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Introduction

Greece remains a gateway for migration in the Schengen area, with lots of irregular arrivals from the Middle East and Africa. In 2019, 77.287 asylum claims were lodged in Greece and another 87.461 were pending (GCR, 2020). Greece witnessed a huge migration flow in the years 2015 and 2016, mainly from Syria and Afghanistan (IOM, 2016). Despite this, Greek asylum jurisprudence remains under researched, and there is no publication of first/second instance decisions except in very crucial cases. For this reason, Sexual Orientation and Gender Identity (SOGI) legal asylum practices remain invisible in public consciousness in Greece as do the experiences of gender nonconforming applicants.

Concurrently, with the ongoing migration and humanitarian crisis, on the 10th of October, 2017, the Greek parliament voted on a new law on gender recognition removing requirements for sterilization, medical treatments and psychiatric diagnoses, but introduced a court process for the change of the gender marker (ILGA Europe, 2017). By not introducing a simple administrative process based on gender self-identification, it is contended that Greece has missed the mark on trans rights despite the legal progress (Knight, 2017). Currently, although there is no mention in the law for asylum claimants, there have been cases where their gender marker has been changed on their request (ECRE, 2018). Despite these legislative shifts, both the Greek and, even more so, the migrant and refugee trans and gender nonconforming community faces many challenges in Greece today in terms of discrimination (FRA, 2020). The documentary *Trans*it* (https://youtu.be/CEiJ6Kcfiz8) is an effort to centre the voices of trans and gender nonconforming migrants and refugees in a context where their invisibility both in their communities and in the asylum process hinders their access to justice, education, work, social life and personal expression.

This short article is designed to be read as a commentary piece alongside watching the documentary to elucidate certain points that arise from the documentary *Trans*it* (https://www.youtube.com/watch?v=CEiJ6Kcfiz8&feature=youtu.be). I initially problematize the legal framework of Refugee Status Determination in order to provide a more inclusive framework in which asylum applications such as the ones of Christina and Ilios would be more thoroughly and justly examined. I then reflect on the process of making the documentary and my attempt to centre the voices of gender nonconforming asylum claimants while minimizing the impact of my gaze as a white European researcher in the field. Thirdly, I reflect on the decolonization of gender identity in refugee law drawing on the interviews of Christina and Ilios and trying to address Western meta-narratives of gender non-conformity and migration in the context of Greece, a Balkan country at the border of the EU. In doing so, this article furthers our considerations of trans experiences of seeking asylum in a central but understudied place through a documentary film.

Problematic legal frameworks: Gender identity and expression in refugee law

According to the 1951 Refugee Convention Article 1(A), a refugee is:

> any person who…owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.

Thus, when Refugee Status Determination bodies come across Sexual Orientation and Gender Identity asylum applicants, they try to determine whether they belong to a particular social group and because of that reason, have a well-founded fear of being persecuted in their country of origin (UNHCR, 2012).

The UN High Commissioner for Refugees (UNHCR) defines a particular social group as a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society (2002). The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights. According to the jurisprudence, such characteristics refer to gender identity and sexual orientation as well (UNHCR, 2012). On the other hand, as other scholars have noted, there are several issues that arise in the identification of transgender, gay and bisexual individuals as belonging to particular social group. These relate mainly to the discretion requirement and disbelief towards asylum applicants as being LGBTQI+ (e.g. Andrade et al., 2020; Berg and Millbank, 2013; Dustin and Held, 2018; Millbank, 2009).

In addition, identity-based questions often disregard the particular discourse and practice in non-Western countries, where identification with a particular social group often follows other paths. In their 2018 article, Nasser-Eddin, Abu-Assab and Greatrick propose the shift from SOGI protection to Sexual Practices and Gender Performance (SPGP) protection, which would allow for a less identity-based framework of Refugee Status Determination. This indeed is a valid point; on the other hand, it excludes cases where identity, practice and performance formation are prohibited due to the restrictive and oppressive environment where the applicants are fleeing from. A framework that protects identities, practices and performances that are non-normative and correspond to the sexual minority characteristics of the applicant, whether these are externalized or reflected upon or not, does not exist. Both gender identity and gender expression (as well as non-binary identities), cases such as those of Christina and Ilios, should be considered as a ground for asylum if they have a plausibly persecutory impact when expressed. This would be a positive direction since the fixed identity-based line of interrogation presumes westernized notions of self-awareness on the part of the applicants, and it views gender identity as fundamental only when it fulfils a particular emotional journey and self-definition (Berg and Millbank, 2009).

Berg and Millbank (2013) propose a framework of Refugee Status Determination for transgender asylum claims that centres gender non-conformity as opposed to gender

identity claims. This allows for the inclusion of non-normative gender expression and performance, and it focuses on the failure of the applicants to fulfil normative ideas about gender in the country of origin that results in their persecution. Coupled with narratives of self-identification and/or gender expression, the gender non-conformity framework is more inclusive as well to other, under-represented identities and to divergent trajectories of gender configuration that are time- and place-specific with a discriminatory social impact in the country of origin. The *Trans*it* documentary attempts to provide a point of reference for exploration of gender non-normative experiences from the perspective of non-Western asylum claimants in Greece, a Balkan and Mediterranean country at the border of the EU, which serves as a point of entry to the West and the EU. The proposed legal framework in Section 1 serves as refined lens through which gender expression/gender identity asylum claims, as those of Christina and Ilios, can be better examined in the refugee determination process, providing an inclusive and safer framework for the protection of transgender, gender nonconforming and non-binary applicants.

*Trans*it* documentary practice and contestations

The *Trans*it* documentary, which informed my PhD thesis on a critical analysis of the legal framework concerning trans asylum claims in the EU, speaks back to these legal failings. The goal of the documentary was to centre trans and gender nonconforming applicants' voices, in order to identify the key issues that arise in their experiences as asylum seekers in the EU in their own words, and incorporate their narratives in the sociolegal analysis of refugee status determination jurisprudence[1]. In the *Trans*it* documentary, concealment or discretion is something very often required by asylum applicants in order to survive in their country of origin, thus creating the grounds for denying their application for asylum. Asking applicants to be discreet about their identity in the future in order for them not to be at risk of persecution violates their human rights in adopting practices and performances that correspond to their sense of identity (Jansen and Spijkerboer, 2011). Having said that, it is important not to require applicants to be out in the past in order to accept that they qualify for international protection, given the sociopolitical circumstances in their country of origin. On the other hand, interrogating applicants on their identity poses fundamental challenges on the part of the case worker since they often adopt westernized notions of gay, lesbian, bisexual and trans identities that erase the specific context where the applicants come from (Abu-Assab et al., 2018; Hertoghs and Schinkel, 2018; Jordan, 2009; Raj, 2017; Tschalaer, 2020).

I had the idea of producing a documentary with first-hand interviews of asylum claimants in Greece since my network and activist engagement there has given me access to these kinds of contacts, and I was considered a safe person to talk to. Being a non-binary assigned female at birth and lesbian-identified individual myself who has been involved in migrant and LGBTQ+ initiatives in Greece and abroad, I was indeed seen as an both an ally and a stakeholder in queer asylum issues. Since *Trans*it* was mainly an exploratory project, which did not seek to have a representative sample of qualitative data, but rather to make transgender and gender nonconforming asylum applicants' narratives more visible, interviewees who felt more comfortable with sharing their experiences publicly

were selected. In this process, I am aware that other gender nonconforming experiences become erased; this is why it is very crucial to remember that these interviews do not serve as a representation of gender nonconforming applicants, but rather shed light on just a handful of experiences of LGBTQ+ migrants in Greece. Issues of anonymity and empowerment became quite important. I tried to make the process as participatory as possible by giving the option to the interviewees to choose from a series of questions only the ones that they wanted to answer, add their own questions and format the overall interview accordingly. The questions were co-designed by me and the interviewees although I indicated the themes upon which I wanted to focus. I also asked them if they would like to interview each other in an informal setting in order to minimize the effect of my gaze and to centre their voices instead of the voice of the researcher.

I worked on the project in order to find a team that the interviewees would feel comfortable with, namely, an artistic director, an interpreter and a sound editor who could collaboratively work with me, Christina and Ilios. I was able to access journalistic footage from Muzungu Producciones, which I edited accordingly together with the interviewees. The footage included scenes from Greece and refugee camps in the territory. We did not include LGBTQI+ related footage since we wanted to imply the invisibility of gender nonconforming refugees in the Greek context. I decided to undertake a voice over of the interviewees, distorting their voices slightly for anonymity purposes. Their names were changed from the start in all files and correspondence for safety reasons. Since both participants were coming from countries that have two of the largest migrant populations in Greece, it was my view that they would not be affected by disclosing their country of origin in the audio. Details (direct or indirect) of their exact place of origin were not to be given, so that it would be further guaranteed that they will not be identified by either the authorities or other members of their respective migrant population.

The documentary was released with the prior consent of the interviewees. I also included several psychosocial support services in the consent forms that were signed prior to the interviews for the sake of their well-being after and during the project. Fortunately, according to their own accounts, they experienced the whole process as very empowering and fun. In order to enable this, I had to take many precautions and to be wary of my privileges and power position as a Greek white researcher.

The project was very enriching from a researcher's perspective, and Christina and Ilios indicated in their statements that they found it empowering. The choice of the interviewees together with the fact that we co-edited the questions and they interviewed each other without my intervention sought to challenge the hierarchical relationship between the researcher and the interviewees and broadened the agenda setting for the interview according to their needs, desires and demands instead of the assumptions, values and motivations that inform a Western researcher like myself (Smith, 1999). The interviewees had an extensive understanding of Western discourses, and their narratives shed light on the impossibilities of being a trans/non-binary asylum claimant in Greece and Europe. The intersection between homophobia/transphobia and racism that are experienced in Western contexts by non-Western migrants became clear throughout the interviews, as well as the difficulties experienced in this 'elsewhere' that the country of reception represents.

Being myself a non-binary person assigned female at birth and attracted to mainly female-identified people, who prescribes cautiously to the queer political project, I identify with several narratives included in the trans umbrella. I experience my gender identity as fluid, but away from the initial location that was assigned to me although I am often perceived as a ciswoman, which I experience no severe discomfort with. My gender expression has varied along the years, from quite conforming to the sex I was assigned at birth to evidently androgynous. I have indeed experienced stigma mostly because of my sexuality and gender nonconforming expression, but I have not been through the same with my experienced gender identity mainly because I have come out only in more tolerant contexts. Given the above, I relate to the suppression of trans identities in several cultural environments and the desire to live freely, which blurs the public/private divide in matters of gender and sexuality.

Having experienced myself and in my community, the intersecting marginalization of sexuality, gender identity and expression and having worked with LGBTQ+ and migrant individuals as a lawyer at the Greek Asylum Service, both as a Member of the Appeals' Committees in Greece and as a case worker, this project reflects my need to further social justice and give back to my community. In the above capacities, I have seen first-hand the discrepancies arising in the refugee determination status for trans applicants that come from outside the North-West. I consider this research area quite relevant for the purposes of gender justice but also for our understanding of what gender is and the deconstruction of double standards when it comes to non-westernized notions of queerness.

Coming from Greece, which is a Mediterranean and Balkan country, and having lived also in Germany, the Netherlands, Brussels and Ireland, I understand the differences in the content of identity categories and the need for a more culturally informed perspective when it comes to social constructs such as the one of gender. In addition, coming from a country with large immigration flows, I am very sensitive to the politization of this issue by the migration management regimes, and I am an advocate for an expanded view of human rights in refugee law so as to do justice to those who need protection.

In light of the foregoing, I understand that my experience does not entail most experiences found under the trans and queer umbrella. For this reason, I find that it is crucial to be aware of both my Greek and EU citizenship privilege, of my whiteness, the fact that I do not come from an asylum claimant background and do not experience gender dysphoria or persecution. Furthermore, it is important to acknowledge that in my effort to speak about gender identity, I might appropriate experiences that I do not possess or exclude narratives that I am not personally familiar with. In view of the above, I find it very important that the interviewees chose to discuss between them their experiences of gender non-conformity in their countries of origin and in Greece, away from the gaze and far from the voice of the European researcher.

Decolonizing gender identity in refugee law

Hearing the narratives of Christina and Ilios as asylum claimants in the broader West and distance between their experiences as gender non-conforming in Iraq and Syria as opposed to those in Greece makes as think about the 'Here versus There' question when it

comes to gender and sexuality in the Global North/West and South/East. It shows that on one hand, transphobia is present both in the country of origin (Iraq/Syria) and reception (Greece/EU) and that on the other hand, its intelligibility and narration changes according to surrounding context and culture. In this light, one needs to think about decolonization of gender identity and expression in refugee law. According to Betts, decolonization has figured in recent years in the intellectual attempt to reconfigure the world by decentring it from its Eurocentric representation. The effort is for the formerly acclaimed Eurocentric vision of the world to be replaced as a mindset by a more just, inclusive and context-specific view (2012: 31).

When asylum claims based on gender identity and gender expression are examined, one must be very cautious about whether Western assumptions and classifications can capture non-Western experiences of gender non-conformity (Abu-Assab et al., 2018; Hertoghs and Schinkel, 2018; Jordan, 2009; Raj, 2017; Tschalaer, 2020). It should be noted though that both the interviewees use globalized English terms to describe their identities in the documentary, which are also broadly used in Greece nowadays as a result of Western influence. The modernization of Greek society found the country moving away, at least officially, from its Balkan kinships and looking to the West for more acceptable standards and proposals. Older linguistic terms for LGBTQ+ individuals now consist of a cacophonous remnant of the pre-liberated and pre-liberating Greek queers (Simati, 2020: 267–268). This raises a question of whether it is required by asylum claimants to use Western globalized narratives in order for their experiences to be legitimized and heard in the asylum process. As Ilios mentions, though there are no words in his culture to express non-normative gender identity/expression/sexual orientation ('In my country there is no such thing as sexual orientation' [18.44]), one must think of what would happen if the applicants did not have access to Western influences in order to describe and validate their experience. The addition of non-conforming gender expression to the refugee grounds for asylum would be able to capture discursive performances that may lead to persecution and do not fit the Western democratic rights–based framework that is represented in the text and the interpretation of the Refugee Convention.

In addition, as Mannur and Braziel note, the diasporic background of gender non-conforming asylum claimants complicates their narratives, in that they are historically and culturally specific and are shaped by the dispersal and movement from a geographic location to other disparate sites (2003: 3). As it is clear from the documentary, asylum applicants move between different contextualizations of their gender identity and self in the country of origin and reception. They often have to change frameworks and language to describe their experience. Mishra's analysis argues that the diasporic imaginary is framed within an 'episteme of real or imagined displacements' (2007: 1), precariously positioned between material and imagined differences. Trans and gender nonconforming diasporic subjectivities reflect different configurations of desire, nostalgia and belonging, full of disruptions and contradictions when it comes to the imaginary of 'home' (Gopinath, 2005: 4).

Diasporic subjectivity is also connected with the position of the 'subaltern'. The subaltern in Spivak's work is characterized by analytical ambiguity. According to Spivak, the group of subalterns, which is oppressed by colonialism, lives 'deeply in shadow' since

it is positioned 'in between' spaces of culture (Spivak, 2006: 32; Bhabha, 1994: 2). One must be very cautious about the invisibilities that such a state produces when it comes to trans and gender nonconforming applicants. As it is with the subaltern women, this group of applicants is positioned in a 'double bind', between the spaces of patriarchal nationalism and colonizing Western discourses. As Ilios mentions, given that there are no words for describing sexual orientation or gender non-conformity in their culture, except derogative ones, one has to think whether the only option available to non-Western LGBTQ+ migrants is to prescribe to Western rights-based discourses and narratives that do not draw on particular cultural specificities or histories and experience. In this way, the narrative of Greece as a 'bearer' and enforcer of LGBTQ+ friendly Western policies representing bourgeois and European/North American progress is promoted by gender nonconforming individuals that need protection against the normalized domestic anti-trans violence. According to Simati, this representation of modern Greece often symbolizes progress, quality, but also LGBTQ+ visibility (2020: 83). This Western representation of Greece moves away from the political projects of the backward province of Balkan/Oriental Greece with all its structural problems and historical specificities that differentiate it from the north-western countries of Europe (Simati, 2020: 240). Though, according to Papanikolaou, '[a]t the same time, trying to […] unearth "gay identity" and queer citizenship emergence in the Greek past runs the risk today of creating a cleansed, "white-washed", stable history of gay emergence that could possibly support homonormative if not homonationalist agendas and undermine the ability of queer politics to address the contemporary intersectional demands of queer subjects in extreme precarity' (2018: 176).

When it comes to conceptualizing refugeehood in a postcolonial discourse, Kapur argues for an analysis that focuses on the corporeal position of subaltern sexualities instead of a monolithic legal paradigm which views sexual minorities as lacking agency (2005: 13). Colonial knowledge production obscures the ways that subjects resist conditions of subordination and privileges or promotes linear narratives of victimhood (Kapur, 2005: 21). In order to resist those tendencies, decision makers must interrogate the space between the knower and the interrogated subject (Razack, 1998: 37). Especially when assessing fear of disclosure or exposure in the country of origin, one needs to think how the 'closet' functions in a diasporic context as a shifting mode of self-regulatory violence in a structurally oppressive environment in queer bodies. In Ilios's narrative, it becomes apparent that everything that is gender nonconforming in their country takes place in secrecy and that when one realizes their non-conformity, they feel like they are they only one out there. Most often, their first (if any) means of socialization is social media with all the risks that may entail ('…the least that can happen is that you go to jail…' [14.27]). Sedgwick argues that 'the closet is the defining structure of gay oppression this century' (1990: 7), which operates through the performance of silence (Sedgwick, 1990: 3). 'Coming out' of the closet, a milestone of LGBTQI+ identity in the Western representations, involves the fact that queer subjects are concealed or shamed into managing their visibility (Brown, 2000: 1). In international protection status determination, though, silence, speech and (in)visibility are not interpreted under the above lenses, but rather what is expected is a confirmation of the account of victim and saviour.

The positionality of adjudicators as well as the differential operation of (in)visibility in different contexts and locations is something that needs to be reflected upon, in order to minimize these projected representations (Abu-Assab and Nasser-Eddin, 2020: 197).

According to Abu-Assab and Nasser-Eddin, decolonizing refugee law can help us familiarize ourselves with terminologies other than the dominant ones, with which non-Western trans and gender nonconforming individuals may well not identify (2020: 197, see Ilios's interview). This does not mean that concepts such as gender identity or gender expression will or should be abandoned but that they need to be expanded and problematized in order to capture the complex narratives and identifications of asylum applicants. It is implicit, for example, in the film that Ilios has socialized as a gay male, but they also identify as an androgyne; then, the question becomes, how do we capture these complex experiences in the intersection of diaspora, culture, gender identity and sexuality? There is of course some authority and access to institutional protection in classifying individuals according to a legal framework. On the other hand, there is some extra responsibility in understanding, without preconceptions, the nuanced narratives of the asylum claimants and being able to relate those to expanded and inclusive legal definitions. It is true that there is a totalizing effect of legal definitions, which reflects Western hegemony, but one can resist this effect by (a) historicizing the issue, that is, being aware of the cross-cultural history of the phenomena one is studying, (b) politicizing the issue, that is, thinking about the political agendas that are involved in it, (c) contextualizing the issue, that is, identifying the interlocking and intersecting structures of oppression that are present there and finally (d) globalizing the issue, that is, thinking about the global structures that shape the specific phenomena that one is trying to address (Abu-Assab and Nasser-Eddin, 2020: 198). These strategies can help us decolonize sexuality and gender in the refugee process combined with positioning one's self and trying to expand one's knowledge based on the marginalized person's perspective, bearing in mind that they are the main knowledge bearers of their journey (Abu-Assab and Nasser-Eddin, 2020: 200).

Among others, neocolonial epistemic categories of gender, race and sexuality sustain colonial heteronormativity. Decolonizing gender entails interrogating systems of classification and taxonomies that classify people according to their skin colour, biological composition or body configuration. Delinking knowledge and being from coloniality means rethinking and reconfiguring experience without centring Western and Eurocentric thought and taxonomies (see Grosfoguel, 2007). As legal scholars, we use legal concepts in order to address pre-existing phenomena and deliver justice for previous wrongdoings, but one must be aware of the potential reproduction of hierarchies of power through the processes of institutional protection from a position of authority towards oppressed people (Bruce-Jones, 2015). In examining the conditions of erasure of diverse ways of being that exist against progressive queer championship of the West, it is possible to reimagine 'freedom' in new ways beyond the liberal project of rights by exploring other, non-Western avenues of meaningful agency (Kapur, 2019). Our systems of knowledge have been largely produced by institutional and formal education, writing and inquiry that privileges narratives of Euro-American domination and ignores violent colonization of non–Euro-American spaces (Puwar, 2020). Epistemological practices that are detached from the subjects of inquiry are presented as scientific and objective and deemed a priori

progressive. Coloniality has been constitutive and not derivative of modernity, so it is indeed very difficult to question its assumptions. Decolonizing gender identity in refugee law means delinking from discourses that privilege Euro-American–centric knowledge and giving voice and learning from the subaltern non-normative subject (Bakshi et al., 2016: 4). This would entail problematizing gender and sexuality in a way that it does not only represent Western experiences of people with citizenship status but also experiences such as Christina's transness and Ilios's non-conforming gender and sexuality as a lived reality across states and cultures (Iraq, Syria and Greece) intersecting with their status as migrants and asylum claimants.

Feminist, LGBT rights, decolonial, pacific, ethnic minority rights and anti-fascist critiques of refugee law have been largely initiated by domestic activists and not foreign refugees demanding justice. Changes in refugee law and the fact that it now addresses gender and sexuality claims, as opposed to the 1950s and 1960s, reflects mostly Western gender equality and LGBTQI+ historical developments and not the fact that such claims based on gendered persecution did not exist before (Spijkerboer, 2015: 9). One must be aware of the ways that these Euro-American developments reflect Euro-American representations of experience and demands, but need to be delinked from them since they do not do justice to a variety of global and specifically situated gendered trajectories (Spijkerboer, 2015). For example, compulsory gender conformity in Iraq and Syria has a differentiated impact and function than in Greece, which is evident in both Christina's narrative of not being able to go out as a woman in Iraq (I have no right, as a transgender, to be a woman [6.15]) and Ilios's description of gay self-realization in the Syrian society as thinking at first that you are the only one out there.

According to Colpani and Habed, through the advancement of LGBTQI+ rights, 'Europe establishes itself as a space of sexual exceptionalism and ultimately as a sexual fortress under siege' (Colpaniand Habed, 2014: 74). Puar in *Terrorist Assemblages* similarly argues that the politics of homonormativity, the appropriation of hetero-normativity by homosexuals, normalize Western homosexuality and at the same time, homonationalism deems non-Western queers inappropriate. Homonationalism is 'a form of sexual exceptionalism – the emergence of national homosexuality' (Puar, 2007: 2). Puar argues that homonormativity is the normalization of homosexuality in Western countries according to Western standards of sexual regulation similar to those of hetero relationships. These countries use homonationalism 'as a regulatory script not only of normative gayness and queerness, but also of the racial and national norms that reinforce these sexual subjects' (Puar, 2007: 2). The same can hold true for transgender individuals that assume their subjectivity in terms of their whiteness and Western citizenship. For Puar, the display of domesticated homosexual individuals demonstrates national progress, which in turn reinforces material, cultural and discursive domination over non-homonational countries (Puar, 2007: 39–40), such as Iraq and Syria. As Christina describes in the documentary, there is indeed racism in Greece both towards Muslims and LGBTQ+ issues, and of course at the intersection of both.

Assigning asylum status to non-Western queers can be such a homonationalist project, in which 'the myth of sexual exceptionalism, the freedom for people of all sexual orientations and practices is invested upon to gloss the atrocities in the war economy of

homonationalist countries' (Sharif, 2015: 5). This can be argued to apply in all LGBTQI+ asylum applications, but it is particularly the case when asylum becomes a means for decision makers to always discover homophobia and transphobia elsewhere, which according to Christina's narration is definitely not the case. Christina vividly states as a trans migrant woman, '...in Iraq they kill you, here in Greece you live, but you die slowly' [05.13].

Reinforcing binaries between the progressive West and the barbaric elsewhere and misrepresenting non-Western gender non-conformity by submitting subjects to the normative boundaries of Western queerness is usually the way asylum can be transformed into a means of Western domination. Expectations to demonize the home country as homo- and trans-phobic and provide a shock value victimhood spectacle on the part of Western adjudicators in the asylum interview come at the cost of complicated diverse experiences of non-Western queers and help to reinforce the homonationalist project (Sharif, 2015: 13) According to Murray, 'LGBT refugee claimants face daunting challenges negotiating a system in which questions of authenticity are constructed through an evaluation of bodily appearances, comportment and narratives that are consistently evaluated for their fit with western homonationalist sexual categories' (Murray, 2014: 29).

Razack (1998: 97) notes that tribunal members, legislators, lawyers and the media are the ones whose descriptions, imaginaries and gazes construct asylum seekers as worthy of protection from the tyranny of their own culture or unworthy of it. In this process, the assessment of sexual and gender persecution operates in highly racialized and essentialist terms and privileges narratives of violence from the applicant's community against narratives of violence as colonized subjects (Razack, 1998: 99). As Haritaworn argues, the West enshrines narrow concepts of diversity defined in terms of freedom and choice, that not incidentally conform with the neoliberal free market ideology whose own inherent exclusions are harder to identify (Haritaworn, 2012: 3). Luibheid (2002) has argued that successful refugee claims often require producing a racialized, colonialist narrative of disassociation from the nation state from which the claimant comes. In addition, the claimant must construct their gender identity and sexuality as immutable characteristics through universalized colonialist frameworks and also void of all other material and emotional relations between the applicant and their community (Luibheid, 2002:179). It is very important to identify narratives of imperialism, colonialism, racism and resistance in the asylum applicant's process of sexual identity configuration, in order to be able to identify 'how these systems of domination produce and maintain violence against racialized sexual minorities both within and beyond national borders' (Murray, 2014: 29). According to Ilios, for example, Greeks are not racists, but nationalists ('…every person who is Greek thinks that they own the ground' [18.05]). Safety for Ilios is experienced on terms, given that they do not go to places where there are other refugees or racists and do not 'shout' that they are gay.

The Refugee Status Determination process does not capture both non-normative genders that do not qualify as binary (such as Ilios's androgyneity) and closeted gender identities/expressions that have not been disclosed in the country of origin since this would lead to persecution. Forced concealment is a human rights violation *per se*, and it should not be a variable in refugee decision making although reasonably

tolerating secrecy and being private in order to avoid persecution has been an implicit requirement by adjudicators for many years (Millbank, 2009: 398; Wessels, 2017). Decolonizing gender identity in refugee law means not judging on standard Western terms and projecting these representations on trans and gender nonconforming asylum claimants and non-Western migrants. The import of their unmediated voices together with raw visual material from migrant sites in Greece created a way to hear Christina and Ilios's narratives that sought to minimize the lens of Western universality while empathizing with their own configuration of experiences and reflections and connecting with their internal (in)consistencies instead of comparing them to a credible Western standard. The question of what this decolonializing approach that questions the normalization of Western standards of gender, and their transgression, might offer Refugee Status Determination needs ongoing and thorough interrogation.

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Note

1. Refugee Status Determination refers to an administrative process, where caseworkers (at first instance) or Members of Appeals' Authorities (at second instance) determine whether an asylum claimant is entitled to international protection, namely, refugee or subsidiary status. This is usually determined by an interview with civil servants or judges, who then apply national, EU and international refugee law on an individual basis examining if the applicant demonstrates a well-founded fear of persecution at the country of origin due to one of the Refugee Convention grounds.

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