Queer kinship and the rights of refugee families

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Abstract

Over the past decade, the refugee protection regime has supposedly become more inclusive of queer and trans* people. Much literature has focused on the expansion of refugee status determination and the inclusion of LGBTQ asylum seekers. However, there are many areas of refugee policy that remain dependent on cisheteronormative assumptions and therefore exclude the queer and trans* forcibly displaced. This paper considers the concept of 'the family' and how it is used and understood in refugee protection. We make the normative argument that queer and trans* family units ought to qualify for refugee family reunion and group status determination. We do so by considering the concept of queer and trans* 'chosen families', arguing that these queer articulations of kinship are functionally and morally comparable to cisheteronormative conceptions of the family. We contend that considering the cisheteronormative underpinnings of the family in this way opens up the potential to *queer* other areas of refugee policy, and therefore paves the way to a more inclusive refugee protection regime.

Keywords: family reunion, forced migration, group status determination, LGBTQ, queer theory, SOGI

1. Introduction

In October 2018, a group of migrants began their journey from San Pedro Sula, Honduras,to the Southern border of the United States. Collecting others along the way in Guatemala and El Salvador, this group—who were fleeing persecution, poverty, and violence—came to be known as a 'migrant caravan' (Amnesty International 2018). Among those walking the 4,000 km distance were 80 LGBTQ migrants from across Central America.[1]

News coverage reported that many of the LGBTQ migrants chose to separate from the main caravan because of persecution and abuse from other migrants (Flores 2018). As the LGBTQ migrants were fleeing generalised violence that disproportionately targeted sexual and gender minorities in areas where discriminatory beliefs are embedded at the societal level, their vulnerabilities continued even as they left their countries of origin. Self-segregation as a

protective practice has long been utilised by members of the queer and trans* community (Eskridge 1997; Weston 1997).[2] Unable to rely on traditional societal structures, such as family or community—which are often the persecutory agents in homophobic environments—queer and trans* people instead learn to rely on each other. Among queer and trans* community vernacular, this relationship is called 'chosen family' (Ibid). In reports covering those waiting for safe passage from Mexico to the USA, journalists noted how LGBTQ migrants embodied the kinship of chosen family: migrants looked after one another through universal acts of care otherwise associated with the nuclear family (Fry and Hennessy-Fiske 2019).

When the rainbow caravan travelling through Mexico reached the US border, they applied for asylum. Among them was a group of 30 trans* women who presented themselves together to the border guards in Tijuana. Ten of these women have now won their asylum cases and have been given protection in the US. In the summer of 2019, CBS reported that many of the remaining 20 women were still being held in detention in Southern Texas. Others had already lost their asylum cases (Smith 2019). Though these women presented themselves as a group at the border, they were separated, sent to different detention centres, and were therefore unable to communicate with one another.[3] Such separation is representative of the fact that the US asylum system—and indeed the global refugee regime itself—often pursues individual refugee status determination. Exceptions are made to this rule for families and married couples, where group determination and group resettlement become possible (US Citizenship and Immigration Services 2019). Of course, this presumption of family unity has itself recently been brought into question with the Trump administration's policy of family separation, most infamously with children being forcibly removed from their parents. Many families separated since 2017 have still not been reunited. However, at least in principle, the family is understood as a special, privileged unit in the system of refugee protection; a unit from which the LGBTQ displaced are often excluded.

Even when queer couples resemble a nuclear family, they still face undue burdens.[4] In March 2019, an openly gay couple from Honduras requested asylum at the US border. They were separated and sent to different asylum processing centres in Louisiana and Colorado, where they could only communicate by mail (Miller 2020). In the case of cisheteronormative couples, the US allows married asylum seekers to apply to sponsor their spouse through 'derivative asylee status' as long as the couple presents a marriage or civil union certificate (US Citizenship and Immigration Services 2019). Of course, this practise is not always respected. However, non-heterosexual couples are often more structurally excluded from such procedures. In this couple's case, Honduras does not recognise same-sex partnership. There was no way for the couple to prove that they were a family.[5] While both individuals eventually received asylum, their experience demonstrates how an apparently LGBTQ-inclusive refugee regime still fails to consider the unique vulnerabilities of queer and trans* people.

The inclusion of sexual orientation and gender identity as grounds for refugee status is relatively new. In November 2008, the United Nations High Commissioner for Refugees (UNHCR) produced its first guidance note on sexual orientation and gender identity in refugee status determination, where they acknowledged that already 'both national judicial decision-making and academic writing have seen substantial progress in the analysis

and interpretation of the concepts of sexual orientation and gender identity in the refugee law context' (UNHCR 2008: 4). Much of the academic literature on LGBTQ asylum seekers focuses on questions of refugee status determination (henceforth RSD).[6] For instance, recent scholarship considers how status determination interviews in Western states have discriminated against queer and trans* refugees on the basis of westernised conceptions of performative sexuality, as well as how this performance mitigates the coping strategies that LGBTQ people have for navigating homo/transphobic environments (Murray 2014; Hertoghs and Schinkel 2018; Dhoest 2019). Others have likewise considered how asylum interviews often amount to instances of administrative violence by asking individuals to reveal their inner most selves and then choosing not to believe them (Millbank 2009; Choi 2010; Spade 2015). Much of Jenni Millbank's (2009) work has assessed the unfair and subjective nature of 'credibility' that LGBTQ asylum seekers must overcome in the RSD process. Asylum seekers must develop narratives that prove their queerness, while also including the forms of violence expected by a Western audience. Kahn and Alessi (2018) have argued that the RSD process in Canada, which requires LGBTQ applicants to disclose sexual violence, come out prematurely, and follow strict and compressed timelines for filing claims, contributes psychological trauma experienced by LGBTQ asylum seekers.

Some have considered the philosophical and political implications of including sexual and gender minorities in refugee status determination. Juss (2015), for instance, argues that by including this expansion in RSD, while making no effort to codify these protections in international law, the global refugee regime becomes a politicised space through which the 'developed' world can reinforce the barbarity of the 'developing' world. Shakhsari (2014a,b) has similarly noted the hypocrisies present in the RSD processes of queer and trans* refugees in Turkey. Their work shows how Western nations publicise support for LGBTQ refugees as a way to virtue signal, while simultaneously contributing to environments that reproduce harm. From fieldwork in Turkish cities and refugee camps, Shakhsari discusses how Western states seek to protect the rights of LGBTQ refugees by accepting their asylum claims and then places them into homophobic areas indefinitely, where their rights are threatened daily as they await resettlement. That Western states accept queer and trans* refugees and then provide the bare minimum of services emphasises the empty, symbolic nature of their acceptance. To Shakhsari, the state and media silence around the death of Mahtab, an Iranian transgender refugee in Canada who killed herself after learning of the cessation of her housing benefits, emphasises this dynamic of 'rightful killing', where the state can legitimise violent action abroad through the vocal advocacy for displaced queer and trans* lives and then shirk culpability for the loss of queer and trans* life within its own borders. Shakhsari builds on Puar's (2007) theory of *homonationalism* to argue that Western states' acceptance of queer and trans* refugees, but subsequent failure to support their particular vulnerabilities in a new country, says more about efforts to legitimise Western violence and intervention than protecting queer and trans* lives.

Discussions of RSD have opened up the debate on how such processes can exclude and harm queer and trans* refugees (Ritholtz 2020). However, other areas of the refugee protection regime remain underexamined. This paper takes inspiration from scholars' intentions to reveal the political impact of this new refugee regime which claims to include the

queer and trans* displaced (Luibhéid 2002; Shakhsari 2014b; Juss 2015; Tschalaer 2019). We accept that the inclusion of sexual and gender minorities generates a new area of scholarship on how such inclusion might complicate our understanding of refugee status, the particularities of social groups, and state responsibility. By extending the discussion beyond individual status determination, we further reveal how cisheteronormative structures ground current practises of refugee protection. Revealing and examining these cisheteronormative assumptions enables us to envision what a truly queer and trans* inclusive system of refugee protection might look like. Therefore, our focus here is on the concept of the 'family' in refugee protection and calls for a reconsideration of the practise of family reunion and group refugee status determination in order to include queer and trans* conceptions of family.

In this paper, we contend that if the global refugee regime is prepared to accept the asylum claims of persecuted sexual and gender minorities, then it must acknowledge the cisheteronormative biases present in the broader structure of the refuge protection regime. In apparently accepting queer and trans* refugees, the global refugee regime has already demonstrated a willingness (or capacity) to *queer* its understanding of forced displacement.[7] Still, as evidenced above, current mechanisms of group refugee protection depend on heteronormative conceptions of family. We therefore make the normative argument for including queer rearticulations of family in cases of group status determination and reunification. Exploring this area of refugee and migrant policy allows us to unpack the question of who counts as a family under the current legal framework, thereby showing the punitive results of the assumptions at play. The argument in this paper is therefore primarily theoretical and normative. Section 2 discusses the moral case of family unity. Section 3 outlines the current approach to definitions of 'family' in refugee protection. Here, we show that current practise depends on a cisheteronormative conception of the family, which excludes queer and trans* people from effectively seeking protection as a unit. Thus, the refugee regime—which claims to be becoming progressively LGBTQ-inclusive—is riddled with structures that compound the harms faced by such individuals. Section 4 considers queer conceptions of the family. We begin by outlining dominant discussions of kinship and family in philosophy. We then argue that, since there is no relevant moral difference between cisheteronormative and queer conceptions of the family, both groups should be entitled to family reunion and group status determination. We also make the further claim that—as the family is often the primary persecuting unit in the case of LGBTQ refugees—they have an even stronger claim to foreground different types of care-giving relationships. In Section 5, we summarise our argument and conclude by considering possible objections.

Our approach here is principally normative. We aim to make a strong moral case for the inclusion of broader concepts of the family in the refugee protection regime. However, we also draw on the methodology of *queering*. By focusing on the power dynamics and political implications of the humanitarian agenda surrounding displaced queer and trans* subjects, scholars have sought to *queer* our understandings of the refugee regime. But what exactly does it mean to queer? In practice, the term is used often to connote the inclusion of a queer perspective, but queer theorists argue that this definition fails to properly recognise the radical potential of queering. Browne and Nash (2010) note that to queer something is to 'challenge the normative social ordering of identities and

subjectivities along the heterosexual/homosexual binary as well as the privileging of heterosexuality as "natural" and homosexuality as its deviant and abhorrent "other"' (5). Indeed, it is the intention of many queer theorists to identify, challenge, and disturb, latent forms of oppression of sexual and gender minorities in modern society. In her work, Sedgwick (1990) identifies queering as a form of deconstruction that seeks to identify 'sites that are peculiarly densely charged with lasting potentials for powerful manipulation' (10). Queering therefore becomes a form of academic inquiry that takes on the structure of sexuality as it looms large in society and challenges its ontological application. Zelada (2018) argues that queering legal regimes requires recognising the cisheteronormative biases embedded in their structures. A queer legal approach therefore has two objectives: 'searching for how the law reveals its cisendoheteronormative genealogy and demanding a critical look at the hegemonic regimes of sexuality' (181; *authors' translation*).[8] In this article, we queer our understandings of kinship in order to deconstruct the conception of family in the global refugee regime. Therefore, we seek to challenge a structural heteronormative value that continuously undermines the rights and safety of queer and trans* asylum seekers. This underpins the central argument of our paper: that queer conceptions of the family should qualify for refugee reunion and group status determination.

Notably, although these arguments also apply well to the case of migrant family unity, we focus on refugee protection for two reasons. First, actors in the cisheteronormative family are often persecutory agents for LGBTQ people and, therefore, rethinking the family from this perspective can reveal forms of persecution currently obviated by our traditional assumptions. Second, as we have outlined above, the refugee protection regime presents itself as becoming more queer-inclusive. However, we argue that without taking seriously the cisheteronormative structures that shape refugee protection, the refugee regime will remain exclusionary. If we want to take queer and trans* refugee issues seriously, then we need to deconstruct the features of the regime through the methodology of *queering*. Therefore, while our argument might be helpful for rethinking migrant family reunion as well, our focus here is the legally recognised, forcibly displaced.

2. The case for refugee family unity

International human rights instruments overwhelmingly recognise the importance of family life. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) states that, '[n]o one shall be subjected to arbitrary or unlawful interference with his ... family', continuing that, '[e]veryone has the right to the protection of the law against such interference or attacks.' The Convention on the Rights of the Child (CRC) recognises the right to family reunification. Article 9 of the CRC outlines that, 'a child shall not be separated from his or her parents against their will, except when ... such separation is necessary for the best interests of the child'. Article 10 continues that 'applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.' Article 16 (Paragraph 3) of the Universal Declaration of Human Rights asserts that the family is the natural and fundamental group unit of society and is entitled to protection

by the state. The Inter-American Convention on Human Rights (1969) echoes these commitments to the family, stating that they are a key component of an individual's right to a private life.

The 1951 Geneva Convention on the Status of Refugees does not include any specific articles concerning family reunion. However, the Final Act of the UN Conference of Plenipotentiaries states that, 'the unity of the family . . . is an essential right of the refugee' (United Nations 1951). States therefore ought to '. . . take the necessary measures for the protection of the refugee's family, especially with a view to . . . [e]nsuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country' (Ibid.). In 2001, UNHCR's Executive Committee published a background note on family reunification, identifying five guiding principles which promote and facilitate refugee family reunification UNHCR (2001, 1–4). They argue that:

a. The family is the natural and fundamental group unit of society and is entitled to protection by states.
b. The refugee family is essential to ensure the protection and well-being of its individual members.
c. The principle of dependency entails flexible and expansive family reunification criteria that are culturally sensitive and situation specific.
d. Humanitarian considerations support family reunification efforts.
e. The refugee family is essential to the successful integration of resettled refugees.

Some, of course, argue that family reunion is an unacceptable mechanism for determining who is entitled to settle in a given state. Stephen Macedo argues that we should limit family-based immigration to spouses and minor children and instead select immigrants on the basis of skill and economic output (Song 2019: 132). However, most accept a broader family network as foundational to the basic needs of human beings. Nussbaum (1995: 78) includes 'affiliation' in her list of basic human needs, in which she underlines intimate family as one important component (Song 2019: 143). Honohan (2009) likewise notes that 'the reason a state may be considered to have a *prima facie* obligation to admit family members lies in the importance of such relationships. . . The right to family life may be thought of as a universal right to discharge special obligations, which recognizes the value of particular relations' (772). Gibney (2004) also puts this point forcefully. He writes:

> It is not hard to understand the moral force that underlies the claims of family migrants to be admitted. Few things are more important to individuals than their families and, their spouse or dependent children. Without the opportunity to have these people around us, we would be deprived of those who give meaning to our lives (14).

This paper does not make an independent argument for the importance of family reunion. We instead take it as a given that refugees have a right to be reunited with their families, even if this fails to be respected in practise. In the following section, we will look at traditional conceptions of the family that underpin which kinds of units are viewed as entitled to reunion and group status determination.

3. Who is 'the family'?

According to UNHCR (2001), 'a broad definition of a family unit—what may be termed an extended family—is necessary to accommodate the peculiarities in any given refugee situation' (2). Likewise, the United Nations Human Rights Committee has affirmed that: the term 'family', for purposes of the ICCPR, must be interpreted broadly to include all those comprising a family in the society concerned. However, in spite of calls for this broad approach, the right to refugee family reunion is often applied very restrictively. In the UK, only the partner or child of an individual with refugee status is eligible for family reunion. Siblings, elderly dependents, or children over 18 years of age do not qualify. Notably, child refugees who receive status in the UK cannot apply to be reunited with their parents—instead the Home Office will only grant reunification in these cases in extreme circumstances. In order to qualify as 'partners' (and thus receive group status determination) couples must be married or in a civil partnership. If the couple are not married, they must prove that they have been living together for at least two years before applying for asylum; this time restriction is not necessary in the cases of marriage or civil partnership. Notability, the updated Home Office guidance does ask case workers to consider whether living together would have put the couple in danger, for instance in a country where same-sex relationships are criminalised. In the US, only legal spouses qualify for derivative asylee status, which allows individuals who have been granted asylum to have protection extended to their significant other or child. Therefore, if legal marriage is criminalised between same-sex couples or transgender identities are not recognised in the country of origin, then queer and trans* people are barred from this extension of protection. We saw this situation in the case of the gay couple from Honduras.

Courts in other jurisdictions have accepted that different relationships may qualify for reunion and group status determination in certain circumstances (Goodwin Gill and McAdam, 318–319). For instance, in the case of Boyle v UK (1992), an uncle and a nephew were accepted as a family. Likewise, in the case of Marckx v Belgium (1979) grandparents and grandchildren also qualified for reunion. Most jurisdictions also accept adopted children as part of the family. However, parents must give documentation to prove that formal adoption has taken place and, therefore, *de facto* adopted children do not qualify. The advice from the UK Home Office (2020) in these cases—where a child has been taken into the home and is functionally a part of the family unit—states that case workers must refuse the application and then consider whether there are any exceptional compassionate reasons for allowing reunion or group status determination (19).

In the case of LGBTQ parents, qualifying for legal entitlements has been a consistent challenge. However, actions undertaken in the Inter-American arena have laid the groundwork for a more inclusive protection regime. In the case of Atala Riffo and Daughters v Chile (2012), the Inter-American Court of Human Rights (IACtHR) considered whether a lesbian mother should have custody over her children. Lower courts argued that doing so would put the children's development at risk. The IACtHR ruled in favour of the mother, arguing that Atala Riffo had been discriminated against on the grounds of sexual orientation in a way that violated her right to a family life. Crucially, the IACtHR (2012) committed to an expansive understanding of the family, declaring that 'the American Convention does not define a limited concept of family, nor does it

only protect a "traditional" model of the family. . . the concept of family life is not limited only to marriage and must encompass other *de facto* family ties in which the parties live together outside of marriage' (48). The judgment continues by noting similar conclusions on the rights of homosexual parents made in other jurisdictions. They therefore rejected the state's assumptions of what constitutes a 'normal' family.

A more progressive position was recently put forward in the *Advisory Opinion on Gender Identity, Equality, and Non-Discrimination of Same-Sex Couples* (2017) from the IACtHR. This advisory opinion confirms that same-sex couples are entitled to fully equal treatment—states therefore cannot maintain preferential policies for heterosexual partnerships.[9] Although this consistency is not reflected in current legislation (some states in Latin America do not recognise same-sex marriage) it shows a precedent for more expansive understandings of the family and calls for parity in the treatment of same-sex and heterosexual family units.

In spite of this recent progress, many states do not adopt the broad understanding of family. In the majority of cases, applications for reunion or group status determination are only accepted when the individual is either a spouse or a dependent child. Other cases, such as those outlined above, are outliers to the exclusionary focus on the family as a strict, nuclear unit. Conceptually, however, it is difficult to maintain these distinctions. Theoretical approaches to the family often take a far more expansive view. Hegel (1820), in *Elements of the Philosophy of Right* argues that:

> The family, as the immediate substantiality of mind, is specifically *characterised by love*, which is the mind's feeling of its own unity. Hence in a family, one's frame of mind is to have self-consciousness of one's individuality within this unity as the absolute essence of oneself, with the result that one is in it not as an independent person but as a *member* (sec. 158).

Hegel views the family not as made up of particular types of individuals, but as reflecting a certain kind of relationship, one of love and mutual obligation. Engels (1884) likewise endorses an obligation-based account of family life. He writes, 'the names of father, child, brother, sister are no mere complimentary forms of address; they involve quite definite and very serious *mutual obligations* which together make up an essential part of the social constitution of the peoples in question' (17). Both accounts, then, depend upon the kind of relationship that exists within a family unit. Another account of the nature of the family is functionalist in nature. That is, it focuses on the purpose of the family unit and argues that any group which functions similarly should be considered as a family from a moral point of view. Song (2019) defines the family by its care-giving function (143). She argues that using this approach is prudent as well as morally required and that, therefore, family reunion should include 'pluralistic family forms and personal relationships' (150). Of course, these relationships of care and mutual obligation are not just found within cisheteronormative family structures. Instead, as Honohan (2009) puts it:

> Such relationships may be found in cohabiting and same-sex partnerships (and other relationships) that do not all fit under the legal or genetic conceptions of family. . . but they constitute a re-conceptualisation of, rather than supersede, the family. Thus, there is a problem if states recognise as families only those falling

into the strict legal or genetic category, rather than including these other kinds of intimate relationship (775).

One might worry that in attempting to build a functionalist or obligations-based approach to the family, we are still inevitably measuring the new structures against the old. As Song (2019) notes, 'the traditional model of the marital nuclear family is the standard against which all other forms of intimacy and kinship are judged' (139). Given these broader accounts, the next section considers the queer and trans* re-conceptualisation of family, outlining the implications for a more inclusive refugee regime.

4. Queer conceptions of the family

To present a theory of queer kinship, first the cisheteronormative assumptions behind the concept of the family must be deconstructed. This approach requires recognising the interwoven concepts of heterosexuality and the family. On this attempted deconstruction, Sedgwick (1993) notes 'the making historically visible of heterosexuality is difficult because, under its institutional pseudonyms such as Inheritance, Marriage, Dynasty, Family, Domesticity, and Population, heterosexuality has been permitted to masquerade so fully as History itself..' (10–11). It is therefore difficult to separate the concept of the family itself from heterosexuality. As such, this section will begin by presenting the relationship between the queer and trans* person and the cisheteronormative family. From there, it addresses the idea that the family is always heterosexual. Finally, we consider queer approaches to kinship.

The relationship between the queer and trans* person and the family is often fraught. For many LGBTQ people, the family is the first locus of harm. As Sedgwick (1990) notes, 'gay people..seldom grow up in gay families' and are often 'exposed to their culture's... high ambient homophobia long before either they or those who care for them know that they are among those who most urgently need to define themselves against it' (81). Indeed, LGBTQ persecution often starts with the family: many cite family persecution, in addition to societal or governmental persecution, as the reason for their flight.

Simultaneously, the concept of the 'traditional family' is often used to justify societal and political persecution of LGBTQ individuals. Public figures often utilise the euphemistic discourse of 'protecting family values' and 'in defence of the family' to legitimise anti-LGBTQ efforts (Butler 2002). As such, many scholars have recognised the family as an institution of heterosexuality propagated by the state (Sedgwick 1993; Eskridge 1997; Weston 1997; Butler 2002; Edelman 2004). This propagation is maintained by the ways in which the state recognises a family: through marriage, inheritance rights, taxation, and custodial agreements. Butler (2002) refers to these institutions as part of the state's 'regulatory control on normative kinship' (16). The cisheteronormative biases are self-evident: in many places throughout the world queer people cannot marry, they cannot adopt children, and trans* people cannot have their identity recognised. Thus, queering the concept of the family requires disentangling the forms of regulatory control present in the conception of kinship.

Central to these clashes over state recognition of queer kinship are these 'bonds of blood' and the role of the child. Citing 'the poor child, martyred figure of an ostensibly selfish of dogged social progressivism' (Butler 2002: 21), opponents to queer people's inclusion in state institutions often argue in defence of the child. Weston (1997) summarises this dynamic as cutting across 'the politically loaded couplet of 'pro-family' and 'anti-family' that places gay men and lesbians in an inherently antagonistic relation to kinship solely on the basis of their nonprocreative sexualities' (27). Butler (2002) argues that these discussions about children are often euphemisms for the discussion of culture and race—controlling who can produce a state-recognised citizen is a way to control the demography of the body politic. Recognising the family as what Sedgwick (1993: 6) calls 'a mechanism to produce, care for, and acculturate children' through bloodlines becomes one of the strongest normative elements utilised in denying queer and trans* people access to institutional support, as most queer couples cannot produce biological children without technological intervention.[10]

Of course, through adoption, the state recognises nonbloodline forms of child production every day. Butler (2002) argues that modern society does not actually have this rigid conceptualisation of kinship espoused by political leaders. Instead, 'a number of kinship relations exist and persist that do not conform to the nuclear family model and that draw on biological and nonbiological relations' (14). They add that:

> If we understand kinship as a set of practices that institutes relationships of various kinds which negotiate the reproduction of life and the demands of death, then kinship practices will be those that emerge to address fundamental forms of human dependency, which may include birth, child-rearing, relations of emotional dependency and support, generational ties, illness, dying, and death (to name a few) (15).

Thus, according to Butler (2002), 'kinship loses its specificity as an object once it becomes characterised loosely as modes of enduring relationship' (37). This assertion echoes the functionalist approach to the family discussed in the previous section. Once the hypocrisies present in the heteronormative conception of kinship are revealed, then a queer 'reformulation of kinship' can be attempted and expanded upon Butler (1993).

The many articulations of queer family all follow a common theme: facing family and community rejection, queer and trans* people seek out one another for support. This support can be emotional, such as in the provision of acceptance and validation, but also material, such as through accommodation or financial support. Often coming together under the term, 'chosen family', queer and trans* people model heteronormative conceptions of family. Eskridge (1997) writes:

> Lesbians and gay men have been among the avant-garde of this shift, for we do not usually follow the traditional husband-wife-kids model of family formation. Instead, we have turned to 'families we choose'—circles of consent-based intimacy among friends, partners, former lovers, children, and others (877).

Weston (1997) documented the various acts of care performed by LGBTQ individuals in chosen families in San Francisco. Through her research, Weston explores how LGBTQ people consciously form families made up of non-blood relations by incorporating

symbolic demonstrations of love, shared history, assistance, and other representations of solidarity. These chosen families often perform expectations of family present in group status determination and reunion conversations: they live together and provide each other with basic human needs and mutual support. Similar to traditional understandings of family, these family members have a clear conception of their boundaries: who is and who is not part of the family. Weston (1997) argues that these queer and trans* families produce a critique of traditional kinship by applying familiar symbolic materials in the context of their 'nonprocreative' relationships 'that contests assumptions about the bearing of biology, genetics, and heterosexual intercourse on the meaning of family in their own culture' (31).

Reproducing symbolic materials of family is central to queer kinship. American 'ball culture' for instance, a form of queer kinship practiced mainly by LGBTQ people of colour in urban centres throughout the USA, reproduces the discourse of family in its structure. In ball culture, participants separate themselves into houses with mothers and fathers who take responsibility for their children, who are often in their early or late teens (Kipke et al. 2013). While house mothers and fathers also constitute sexual and gender minorities, they take on traditional heteronormative domestic roles. House mothers perform 'feminised' domestic labour, such as monitoring nutritional intake of their children and providing emotional support during times of crisis. While house fathers take on the role of a mentor, articulating their desire to impart values on their children that uphold the values of the house. The children of these houses internalise and perceive these differences themselves. Many of them were expelled from their homes by their biological parents and, as such, these house mothers and fathers serve as guardians in their lives (Arnold and Bailey 2009). According to Arnold and Bailey (2009), 'houses offer their children multiple forms of social support, a network of friends, and a social setting that allows free gender and sexual expression' (174). Often the father or mother of a house has an apartment at which their children are offered accommodation, as such houses become both figurative and literal homes. These houses compete at 'balls' which are akin to themed beauty pageants that celebrate sexual and gender diversity of the community. This culture came to mainstream prominence with 1990 documentary *Paris is Burning* and Madonna's song *Vogue*.[11] It has once again become prominent with the popularity of television shows such as *RuPaul's Drag Race* and *Pose*, where contestants and characters speak often of their 'chosen family' and 'houses'. Butler (1993) recognised the subversive potential of ball culture in the 'reformulation of kinship' because of how its 'appropriation and redeployment of the categories of dominant culture enable the formation of kinship relations . . . [and] form alternative households and community' (28).

While many of these queer conceptions of kinship are culturally rooted and context specific, there are commonalities that transcend geographies. Reformulations of kinship, where older or more established queer and trans* people support younger queer and trans* people, have been documented within Argentina, Brazil, Peru, and Venezuela, as well as within Latin American migrant trans* communities in Europe (Campuzano 2009; Vogel 2009; Cardozo 2012; Vartabedian Cabral 2012; Darouiche 2018; Martínez and Vidal-Ortiz 2018; Fogelman 2020). Among these settings, interviewees consistently share how queer kinship structures provide support during periods of precarity. Vartabedian Cabral (2012) observes how queer and trans* Latin American migrant communities in

Europe employ 'house verbiage', as seen in *Paris is Burning*, to describe their rearticulated queer kinship structures. In testimonies of the first-ever high school for trans* people in Argentina, students shared that 'the high school was a family that rescued me' and 'to me, the high school signifies care, help, study; it signifies family' (Martínez and Vidal-Ortiz 2018: 59–60).

There are complexities within these broader narratives that highlight the importance of context. As Vogel (2009) notes in her ethnography of Venezuelan trans* migrants engaged in sex work in Europe, '*transformistas* in Europe put much emphasis on their love for their *mamás* [natural mothers]' (368–69).[12] As such, while the family can be the locus of persecution for many queer and trans* migrants, not all suffer alienation from their biological family. In certain settings in Latin America, the closeness between queer and trans* people and their mothers can survive the intrafamilial persecution that produces displacement. While there are many possible explanations for these dynamics, (Campuzano 2006; 2009) cites how the rigid, cisheteronormative conceptualisations of gender are colonial imports to Latin America, and many indigenous cultures included variant gender identities, especially in mother–child relations.

These queer kinship practices that reformulate cisheteronormative family structures with other queer and trans* people have also been observed in LGBTQ refugee support networks globally. Sari (2020) details similar practices among LGBTQ displaced populations in Turkish refugee camps: 'Most of them stay with other LGBTI refugees, establish alternative families through queer rearticulations of heteronormative kinship ties, and form their own financial and emotional support mechanisms' (99). Such commentary parallels language from a Greek collective of queer and trans* refugees. Maha, a transgender woman who fled persecution in Iraq, shares that this Greek collective helps to re-create the loss of family life: 'They gave me moral support. They helped me talk about things I had never really talked about before.' She continued 'Family doesn't just protect, it gives you substance, it gives you context' (Siddons 2018). There are similar reports of such articulations of kinship and care among queer and trans* refugees in Kenya and South Africa (Wesangula 2017; Morison, Lynch, and Reddy 2019). These dynamics and their importance to the normative case for the consideration of queer kinship in RSD are well summarised by Sari (2020): 'queer kinship ties, and everyday relations of love, care, and support seem to prove the truth of a Turkish immigration officer's bitter remark: "At the end of the day, a refugee's problems are solved by other refugees"' (99–100).

As mentioned in Section 1, journalists travelling with the migrant LGBTQ caravans noted how its members took care of each other in a manner akin to family (Flores 2018). The creation of this 'rainbow caravan' is another example of the ways in which queer and trans* people self-segregate to protect themselves. Indeed, other reports of LGBTQ asylum seekers in the border cities of Mexico noted the nature of care found in these shelters. At the time of reporting, asylum seekers at the Southern US border had to wait in Mexico until their case was ready for consideration by the US government.[13] LGBTQ refugees continued to experience violence and persecution in Mexico (both from other migrants in migrant shelters as well as the broader Mexican society) and, as such, often sought LGBTQ-targeted safe houses, where they could look after each other in a domestic environment free from discrimination (Balaguera 2018; Castro and Castro 2020).[14] One report summarised the experience of a refugee who had been waiting for ten months in

Mexico for his case to be considered: 'he may not have found safety, but he did find a family that loves him' (Fry and Hennessy-Fiske 2019).

With such clear interdependent relations of care, it is no wonder that many members of these chosen family units often seek asylum together. Should they receive asylum, it is likely that they will continue to rely on each other as any family unit would in a new land. However, as we have already seen, this situation is unlikely as the US asylum system treats them as individuals. Most will not be fortunate enough to receive asylum. Those accepted into the asylum system will be separated and sent to different detention centres, where they will lose access to technology. These supportive family units of LGBTQ people are thus dispersed throughout the country where they can only communicate by letter—that is, if they know the locations of the others at all.

While the global refugee regime accepts applications for asylum from the queer and trans* displaced on the grounds of their sexual and gender orientation, the broader protection system is not fit in its current form to accept them as people—people whose success depends on their abilities to form relationships and rely on community, as well as family. These universal needs are already recognised by states. However, as persecution on the basis of sexuality and gender identity often occurs at both the family and community level, providing traditional privileges of family reunion and status determination to LGBTQ refugees risks simply extending their persecution. If the premise of keeping a family together is to provide support and improve the likelihood of survival in a new state, then for the LGBTQ refugee, their chosen family should be honoured.[15] As such, a new approach is required that properly accounts for the unique vulnerabilities of the queer and trans* displaced.

5. A right to queer family unity

The final section of this paper aims to summarise our argument and consider some objections. As we have seen, the current regime of refugee family reunion and status determination depends on a cisheteronormative conception of the family. We noted that chosen family units are often separated when seeking asylum; they are not eligible to be reunited or considered for group status determination. Traditional modes of family reunion or status determination do not mitigate the struggles of LGBTQ refugees in host states because the cisheteronormative family unit is often the key persecuting agent for the queer and trans* displaced. We have argued that, given that queer conceptions of the family are morally equivalent to cisheteronormative traditional understandings of the family, the two ought to be treated equally. As such, queer chosen families should be able to apply for asylum as a unit, apply for derivative asylee status (in the context of the US), and apply for reunion if one member has successfully been granted asylum. We will now respond to potential objections.

First, some may argue that our position is an overextension of protection currently offered to refugee families. States are already unwilling to offer refugee family reunion to even those relationships that clearly fit within the scope of the cisheteronormative family. Therefore, perhaps in asking states to offer such protection to even more groups, there will then be a retraction of the overall level of protection. While we do not predict that the

change advocated in this paper is forthcoming, we also do not believe that this consternation justifies distinguishing between cisheteronormative family units and queer and trans* family units from a moral point of view. While it may be the case that states are likely to push back against expanding protection, if we have shown that there is a moral equivalence between the two broad types of family unit, then the argument itself remains strong.

Second, some may reply that, in the case of queer and trans* chosen families, it is harder to determine the boundaries between family and friend. Therefore, expanding protection would lead to more fraudulent claims to reunion, as biological testing is not available to determine who is a 'genuine' family member. However, there are in fact many possible ways to determine genuine family relationships besides biology which are already present in current systems. For instance, the UK accepts (at least in principle) the claims of couples who have lived together for more than two years, or those who have *de facto* adopted children (though admittedly only in extreme circumstances). Therefore, similar policies could be put in place to determine who is member of a chosen family.

Finally, some might worry that the conceptions of queer and trans* families that we have drawn upon come from the 'Global North', while most refugees come from the 'Global South'. To highlight the globality of these concepts, we detail examples from around the world to show how this dynamic also appears in non-Western settings, particularly among displaced LGBTQ populations. Given that queer and trans* migrants from Latin America shape the narrative of our argument, we incorporate queer and trans* theory from Latin American scholars that further defend the cross-cultural existence of queer rearticulations of kinship. We still might, however, be charged with applying 'developed' world concepts to the 'developing' world and throughout the paper we underscore that, as with any topic related to sexual and gender identity, there are cultural specificities. With that said, we also maintain the importance of using concepts legible to 'Global North' audiences for two reasons. First, akin to Zelada's (2018) argument on how to queer the law, challenging the global refugee regime requires identifying the hypocrisy and discrimination embedded in its structures. Thus, as there is already recognition of rearticulations of kinship by LGBTQ populations within the USA, there is a moral duty to extend this understanding to asylum seekers at the country's borders. Second, we recognise the observation made by Luibhéid and Chávez (2020), who note that 'migration regimes . . . operate transnationally as well as nationally' (5). As such 'nation-state migration, detention, deportation, and security regimes draw and influence one another' (Ibid). Therefore, our focus goes beyond the politics of one country and serves to challenge the refugee regime at a global level. We believe that this conceptualisation of 'chosen families', inclusive of both Western and non-Western notions of queer and trans* kinship, can reinforce the claims for queer family unity.

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Notes

1. This article uses LGBTQ (lesbian, gay, bisexual, trans, and queer) as the standardised inclusive term for sexual and gender minorities. We include the 'Q' for queer as the reclamation of this previously pejorative term has allowed for the creation of an open, inclusive concept that eschews the rigid characterisation of sexual and gender identities. We do not include the 'I' for intersex because, while intersex people can be part of these other identity groups, the article itself does not include considerations of prejudice relating to sex characteristics (known as interphobia or endosexism).

2. Queer and trans* is another umbrella term used for nonnormative sexual and gender identities. Many scholars use 'queer' to be inclusive of trans people. We accept this trans-inclusive use of queer in most settings, but when speaking of groups of people, we separate the two concepts in recognition of the work of transgender studies scholars who have argued that the phenomenological associations of sexual orientations and gender identities differ (Campuzano 2009; Love 2014; Stryker 2017). As such, we discuss *queer kinship* as the reformulation of family structures by *queer and trans* people*. To the word 'trans', we add an asterisk as transgender identities are multitudinous (Tompkins 2014). For instance, many of the trans* people discussed in this piece are from Latin America, where trans* identities include *travesti*, *transformista*, and *transgenerista*, among others. It goes beyond the scope of the piece to explore the nuance of each term, but our use of 'trans*' is an attempt to recognise that these varying concepts are deeply personal, culturally dependent, and often untranslatable. For English speakers interested to read more on nonnormative gender identities in the Latin American context, see work by Campuzano (2006), Vidal-Ortiz (2020), and Zelada and Neyra-Sevilla (2019). Spanish speakers can also refer to the work of Berkins (2003), Martínez and Vidal-Ortiz (2018), and Wayar (2018).

3. It should also be noted that these trans* women still faced risks to their physical and mental integrity once they entered the US immigration detention system. LGBTQ asylum seekers within the US immigration detention system experience disproportionate violence from state and non-state actors (*see* Tabak and Levitan 2014; Luibhéid and Chávez 2020).

4. Cisheteronormativity is the implicit bias embedded in a society that assumes cis and hetero identity in its structures. The term 'cis' or 'cisgender' refers to an individual whose gender identity matches the gender they were assigned at birth, in this sense 'cis' means 'not trans'. Gender identity is understood, in line with the Yogyakarta Principles, to refer to 'each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical, or other means) and other expressions of gender, including dress, speech and mannerisms' (International Commision of Jurists 2007). Heterosexual will be used to connote those who are sexually attracted to members of the opposite gender, meaning they are not LGBTQ. 'Cishet' is the umbrella term for sexual and gender majorities.

5. Notably, the need for such documentation is also highly Western-centric, as couples from countries that do not share the same registration practises are also potentially excluded.

6. Many of these scholars of refugee status determination build off the groundbreaking work of Eithne Luibhéid (2002), who has written about how states use border policies to control the sexualities and construct new identities of migrants, especially women.

7. Or at the very least consider the unique perspectives, experiences, and vulnerabilities of sexual and gender minorities experiencing persecution.

8. The inclusion of *endo* in 'cisendoheteronormative' by Zelada refers to normative associations relating to sex characteristics, see note 1 for more detail.

9. This advisory note was also radical because it confirmed that the American Convention on Human Rights obliges states 'to guarantee the right to alteration of public records—including name, image, and sex/gender marker—to reflect an individual's self-perceived gender identity.'

10. Queer theorists have argued that the social constructions associated with reproductive futurism lead queer and trans* people to be considered as 'a people without a future' (Edelman 2004; Bersani 2009; Muñoz et al. 2019). While scholars disagree on the implications of 'queer non-futurity', in the given discussion, its associated assumptions deny queer families recognition as family units.

11. Voguing comes from ball culture.

12. *Transformista* is a specific trans* identity in Latin America, see note 2 for more detail.

13. Such a policy has changed during the Biden administration, which has started to reverse many of the immigration ordinances put in place by the previous Trump administration (Holland and Hesson 2021).

14. The risks associated for LGBTQ migrants waiting in Mexican border towns could be another moral claim for expedited determination through group consideration.

15. As highlighted by Mahtab's tragic story, for many LGBTQ refugees, resettlement in a new country does not promise the end of their struggles (Shakhsari 2014a). Like any other person, they require a community in their new country to support them through a difficult transition. But that is not guaranteed for LGBTQ refugees, as many discriminatory cultural or societal norms persist among diaspora and resettlement communities.

References

Amnesty International (2018) *Key Facts about the Migrant and Refugee Caravans Making Their Way to the USA*. London: Amnesty International.

Arnold, E. A. and Bailey, M. M. (2009) 'Constructing Home and Family: How the Ballroom Community Supports African American GLBTQ Youth in the Face of HIV/AIDS', *Journal of Gay & Lesbian Social Services*, 21/2–3: 171–88.

Balaguera, M. (2018) 'Trans-Migrations: Agency and Confinement at the Limits of Sovereignty', *Signs: Journal of Women in Culture and Society*, 43/3: 641–64.

Berkins, L. (2003) 'Un itinerario político del travestismo', in Mafía, D. (ed.) *Sexualidades Migrantes. Género y Transgénero*, pp. 127–37. Buenos Aires: Scarlett Press.

Bersani, L. (2009) *Homos*. Cambridge, MA: Harvard University Press.

Boyle v. UK. (1992) European Court of Human Rights.

Browne, K. and Nash, C. J. (2010) *Queer Methods and Methodologies: Intersecting Queer Theories and Social Science Research*. London: Routledge.

Butler, J. (1993) 'Critically Queer', *GLQ: A Journal of Lesbian and Gay Studies*, 1/1: 17–32.

—— (2002) 'Is Kinship Always Already Heterosexual?', *Differences: A Journal of Feminist Cultural Studies*, 13/1: 14–44.

Campuzano, G. (2006) 'Reclaiming Travesti Histories', *IDS Bulletin*, 37/5: 34–39.

—— (2009) 'Contemporary Travesti Encounters with Gender and Sexuality in Latin America', *Development*, 52/1: 75–83.

Cardozo, F. (2012) '*Performatividades de Gênero*, Performatividades de Parentesco: Notas de Um Estudo Com Travestis e Suas Famílias Na Cidade de Florianópolis/SC.'

Case of Marckx v. Belgium. (1979) European Court of Human Rights.

Castro, P. and Castro, A. P. (2020) 'La 72, Hogar-Refugio Para Personas Migrantes: la Sociedad Civil Organizada en la Atención de la Agenda de Los Transmigrantes en la Frontera México-Guatemala', *Revista Pueblos y Fronteras Digital*, 15/33.

Choi, V. (2010) 'Living Discreetly: A Catch 22 in Refugee Status Determinations on the Basis of Sexual Orientation', *Brroklyn Journal of International Law*, 36/1: 241–63.

Darouiche, C. D. (2018) 'Formas de Sociabilidad y Vínculos de Parentesco Entre Mujeres Trans Que Realizan Sexo Comercial En La Ciudad de Mar Del Plata', *Ponencia presentada en las XXVI Jornadas de Jóvenes Investigadores AUGM*, Mendoza.

Dhoest, A. (2019) 'Learning to Be Gay: LGBTQ Forced Migrant Identities and Narratives in Belgium', *Journal of Ethnic and Migration Studies*, 45/7: 1075–89.

Edelman, L. (2004) *No Future: Queer Theory and the Death Drive*. Durham, NC: Duke University Press.

Engels, F. (1884) *The Origin of the Family, Private Property, and the State*. Hottingen-Zurich.

Eskridge, W. N. Jr (1997) 'Beyond Lesbian and Gay "Families We Choose"', *Sex, Preference and Family: Essays on Law and Nature*, 277/286.

Flores, A. (2018) 'LGBT Members of the Caravan Went Ahead First to Dodge Danger and Discrimination', *Buzzfeed News*. https://www.buzzfeednews.com/article/adolfoflores/this-is-how-lgbt-members-of-the-caravan-made-it-to-the (accessed 9 March 2021).

Fogelman, P. (2020) 'Travestis Migrantes, Arte y Religiosidad En La Cultura Queer de Buenos Aires', *Revista Brasileira de História Das Religiões XII*, (36): 09.34.

Fry, W. and Hennessy-Fiske, M. (2019) 'Vulnerable LGBTQ Migrants Left to Wait in Mexico', *The San Diego Union-Tribune.* https://www.sandiegouniontribune.com/news/border-baja-california/story/2019-11-03/trump-administration-leaving-vulnerable-lgbt-migrants-to-wait-in-mexico (accessed 9 March 2021).

Gibney, M. (2004) *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees.* Cambridge: Cambridge University Press.

Goodwin-Gill, G., & McAdam, J. (2007). The Refugee in International Law. Oxford: Oxford University Press.

Hegel, G. W. F. (1820) *Hegel: Elements of the Philosophy of Right—Cambridge Texts in the History of Political Thought.* Cambridge: Cambridge University Press.

Hertoghs, M. and Schinkel, W. (2018) 'The State's Sexual Desires: The Performance of Sexuality in the Dutch Asylum Procedure', *Theory and Society.*, 47/6: 691–716.

Holland, S. and Hesson, T. (2021) 'Biden Moves to Reverse Trump Immigration Policies, Too Slowly for Some', *Reuters.* https://www.reuters.com/article/us-usa-biden-immigration-actions-idUSKBN2A212D (accessed 10 February 2021).

Honohan, I. (2009) 'Reconsidering the Claim to Family Reunification in Migration', *Political Studies*, 57/4: 768–87.

Inter-American Court of Human Rights [IACtHR] (2012) 'Case of Atala Riffo and Daughters v Chile, Judgement of February 24 2012.'

—— (2017) 'Advisory Opinion on Gender Identity, Equality, and Non-Discrimination of Same-Sex Couples, (2017), OC-24/17', https://www.escr-net.org/caselaw/2018/advisory-opinion-gender-identity-equality-and-non-discrimination-same-sex-couples-2017 (accessed 22 December 2020).

International Commission of Jurists (2007) 'Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity. The Yogykarta Principles.'

Juss, S. (2015) 'Sexual Orientation and the Sexualisation of Refugee Law', *International Journal on Minority and Group Rights. Rights*, 22/1: 128–53.

Kahn, S. and Alessi, E. J. (2018) 'Coming out under the Gun: Exploring the Psychological Dimensions of Seeking Refugee Status for LGBT Claimants in Canada', *Journal of Refugee Studies*, 31/1: 22–41.

Kipke, M. D. et al. (2013) 'Laying the Groundwork for an HIV Prevention Intervention: A Descriptive Profile of the Los Angeles House and Ball Communities', *AIDS and Behaviour*, 17/3: 1068–81.

Love, H. (2014) 'Queer', *Transgender Studies Quarterly*, 1/1–2: 172–6.

Luibhéid, E. (2002) *Entry Denied: Controlling Sexuality at the Border.* Minneapolis, MN: University of Minnesota Press.

—— and Chávez, K. R. (2020) '*Introduction*', in Luibhéid E. & Chávez K. R. (eds) *Queer and Trans Migrations: Dynamics of Illegalization, Detention, and Deportation.* Urbana, Chicago, and Springfield: University of Illinois Press.

Martínez, J. and Vidal-Ortiz, S. (2018) *Traver El Saber.* La Plata: Editorial de la Universidad Nacional de la Plata (EDULP).

Millbank, J. (2009) 'From Discretion to Disbelief: Recent Trends in Refugee Determinations on the Basis of Sexual Orientation in Australia and the United Kingdom', *The International Journal of Human Rights*, 13/2–3: 391–414.

Miller, A. (2020) 'How the U.S. Immigration System Nearly Tore This LGBTQ Couple Apart', *The Week*. https://theweek.com/articles/884955/how-immigration-system-nearly-tore-lgbtq-couple-apart (accessed 9 March 2021).

Morison, T., Lynch, I. and Reddy, V. (2019) *Queer Kinship: South African Perspectives on the Sexual Politics of Family-Making and Belonging*. London: Routledge.

Muñoz, J. E. (2019) *Cruising Utopia: The Then and There of Queer Futurity*. New York: NYU Press.

Murray, D. (2014) 'Real Queer: "Authentic" LGBT Refugee Claimants and Homonationalism in the Canadian Refugee System', *Anthropologica*, 56/1: 21–32.

Nussbaum, M. (1995) 'Human Capabilities, Female Human Begins', in Nussbaum M. & Glover J. (eds) *Women, Culture, and Development: A Study of Human Capabilities, pp. 61–104*. Oxford: Oxford University Press.

Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969, https://www.refworld.org/docid/3ae6b36510.html (accessed 9 March 2021).

Puar, J. (2007) *Terrorist Assemblages: Homonationalism in Queer Times*. Durham, NC: Duke University Press.

Ritholtz, S. (2020) 'Queer Epistemology and the Theoretical Borders of Forced Migration Studies'. Presented at the LSE Queer Accommodations and Displacements 2020'. *Ethnic and Racial Studies*.

Sari, E. (2020) 'Unsafe Present, Uncertain Futures: LGBTI Asylum in Turkey', in Luibhéid, E. and Chávez, K. R. (eds) *Queer and Trans Migrations: Dynamics of Illegalization, Detention, and Deportation*. Urbana, Chicago, and Springfield: University of Illinois Press.

Sedgwick, E. K. (1990) *Epistimology of the Closet*. Berkeley, CA: University of California Press.

—— (1993) *Tendencies*. Durham, NC: Duke University Press.

Shakhsari, S. (2014a) *Killing Me Softly with Your Rights. Queer Necropolitics*. London: Routledge.

—— (2014b) 'The Queer Time of Death: Temporality, Geopolitics, and Refugee Rights', *Sexualities*, 17/8: 998–1015.

Siddons, E. (2018) '"We're Brothers, Sisters and Activists": The Greek Collective of Gay and Trans Refugees', *The Observer*. https://www.theguardian.com/world/2018/sep/16/we-are-brothers-sisters-and-activists-greek-gay-trans-collective-of-refugees (accessed 9 March 2021).

Smith, K. (2019) '10 Transgender Women Seeking Asylum Just Won Their Immigration Cases after Months of Violence and Discrimination', *CBS News*. https://www.cbsnews.com/news/lgbt-rights-ten-lgbt-asylum-seekers-are-winning-theirimmigration-cases-after-months-of-violence-and-discrimination/ (accessed 9 March 2021).

Song, S. (2019) *Immigration and Democracy*. Oxford: Oxford University Press.

Spade, D. (2015) *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*. Durham, NC: Duke University Press.

Stryker, S. (2017) *Transgender History: The Roots of Today's Revolution*. New York: Seal Press.

Tabak, S. and Levitan, R. (2014) 'LGBTI Migrants in Immigration Detention: A Global Perspective', *Harvard Journal of Law & Gender*, 37: 45.

Tompkins, A. (2014) 'Asterisk', *Transgender Studies Quarterly*, 1/1–2: 26–27.

Tschalaer, M. (2019) 'Between Queer Liberalisms and Muslim Masculinities: LGBTQI+ Muslim Asylum Assessment in Germany', *Ethnic and Racial Studies*.

UK Home Office (2020) 'Family Reunion: For Refugees and Those with Humanitarian Protection Version 4.0'. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856915/family-reunion-guidance-v4.0-ext.pdf (accessed 19 March 2020).

UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, https://www.refworld.org/docid/3ae6b3aa0.html (accessed 9 March 2021).

UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, https://www.refworld.org/docid/3ae6b38f0.html (accessed 9 March 2021).

UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), https://www.refworld.org/docid/3ae6b3712c.html (accessed 9 March 2021).

UN Human Rights Committee (HRC), CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988, https://www.refworld.org/docid/453883f922.html (accessed 9 March 2021).

UNHCR (2001) 'Background Note for the Agenda Item: Family Reunification in the Context of Resettlement and Integration'. https://www.unhcr.org/3b30baa04.pdf (accessed 18 March 2020).

—— (2008) 'UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity'. https://www.refworld.org/docid/48abd5660.html (accessed 8 February 2020).

United Nations. (1951) 'United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons'. https://www.unhcr.org/protection/travaux/40a8a7394/final-act-united-nations-conference-plenipotentiaries-status-refugees-stateless.html (accessed 18 March 2020).

US Citizenship and Immigration Services (2019) 'Obtaining Derivative Refugee/Asylee Status for a Spouse', *US Citizenship and Immigration Services*. https://www.uscis.gov/forms/explore-my-options/derivative-refugeeasylee-status-for-your-spouse (accessed 9 March 2021).

Vartabedian Cabral, J. (2012) 'Geografía Travesti: Cuerpos, Sexualidad y Migraciones de Travestis Brasileñas (Rio de Janeiro-Barcelona)'. Universitat de Barcelona. https://www.tdx.cat/handle/10803/95889#page=81 (accessed 9 March 2021).

Vidal-Ortiz, S. (2020) 'Transgender Movements', inNancy, A. (ed.) *Companion to Women's and Gender Studies*. Naples: Wiley Online Library.

Vogel, K. (2009) 'The Mother, the Daughter, and the Cow: Venezuelan Transformistas' Migration to Europe', *Mobilities*, 4/3: 367–87.

Wayar, M. (2018) *Travesti: Una Teoría Lo Suficientemente Buena*. Buenos Aires: Editorial Muchas Nueces.

Wesangula, D. (2017) 'On the Run from Persecution: How Kenya Became a Haven for LGBT Refugees Daniel Wesangula', *The Guardian*. https://www.theguardian.com/global-development-professionals-network/2017/feb/23/on-the-run-from-persecution-how-kenya-became-a-haven-for-lgbt-refugees (accessed 9 March 2021).

Weston, K. (1997) *Families We Choose: Lesbians, Gays, Kinship*. New York: Columbia University Press.

Zelada, C. J. (2018) 'Cuerpxs Indisciplinadxs: Hacia Una Mirada Cuir (Queer) (Cuy-r) de La Regulación Jurídica de Las Sexualidades Disidentes', in Farfán, R., Mariani, S. and O'Neill, C. (eds) *Repensando Las Reglas de Juego: Caminos Para Evitar El Colapso Institucional y Social*, pp. 153–90. Lima, Perú: Fondo Editorial Universidad del Pacífico.

—— and Neyra-Sevilla, C. (2019) 'Trans Legalities: Preliminary Study of Files on the Recognition of Trans Identities in Peru', in *The Asian Yearbook of Human Rights and Humanitarian Law*, pp. 396–426. Leiden: Brill Nijhoff.