LGBTQ Identities and Hermeneutical Injustice at the Border

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ABSTRACT

This paper applies the framework of epistemic injustice to the context of the asylum process, arguing that asylum seekers are typically at risk of this kind of injustice, which consists in their not being considered credible and not being listened to due to prejudices toward their social identity. More specifically, I address hermeneutical injustice in the adjudication of LGBTQ asylum claims, as well as the possibility of developing practices of hermeneutical justice in this context. I start with a general analysis of epistemic injustice in the asylum process, examining the different ways in which stereotypes and prejudices hinder the process (section 1). Next, I focus on hermeneutical injustice in LGBTQ cases (section 2). In section 3, I expand on the possibility of developing hermeneutical justice. Finally, I conclude by hinting at hinge epistemology as a feasible framework for research on hermeneutical injustice and justice, and at broader theoretical themes stimulated by this reflection.

1. Introduction

Asylum seekers fleeing their country of origin, hoping to find a new home, face multiple challenges. Some challenges come from prejudices and stereotypes attached to their social identity. Although the impact of prejudice in the asylum process is abundantly dealt with in various disciplines (for instance sociology or political science), not much attention has been dedicated to it, to my knowledge, on the part of epistemologists. However, the framework of epistemic injustice seems particularly promising in this area: asylum seekers indeed are typical targets of this kind of injustice, which consists in their not being considered credible and not being listened to due to prejudices toward their social identity (Fricker 2007). Research is developing in this respect (Wilkström 2014, Sertler

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2018, Blomfield MS, Woods MS), and this paper contributes to this area of study by focusing on the case of LGBTQ asylum seekers. More specifically, I will address hermeneutical injustice and the possibility of hermeneutical *justice* in the adjudication of LGBTQ asylum claims. The paper is focused on epistemological issues, and not on the legal scholarship and debate on asylum seekers, both because the latter lies outside my area of expertise, and because including it would risk enlarging too much the scope of this contribution.

I start with a general analysis of epistemic injustice in the asylum process (section 1). Next, I focus on hermeneutical injustice in LGBTQ cases (section 2). In section 3, I expand on the possibility of developing hermeneutical justice in this context. Finally, I conclude by hinting at hinge epistemology as a feasible framework for research on hermeneutical injustice and justice, and at broader theoretical themes stimulated by this reflection.

2. Epistemic injustice in the asylum context

My aim in this section is to present the asylum claim process as a context typically at risk of epistemic injustice. For this analysis, I am chiefly referring to cases in the US and the UK, on which there is more literature, but the procedure and the problems are largely the same in other contexts, such as Canada, Australia and many European countries. Indeed, the matter is regulated, ultimately, by the United Nations International Geneva Refugee Convention and Protocol (approved in 1951 and 1967, respectively), and by the normative procedures and guidelines adopted by most countries in application of that Convention.

The Geneva Convention enumerates five grounds for persecution, on the basis of which a person can ask for and be granted asylum: race, religion, nationality, membership of a particular social group (hereafter PSG) and political opinion. Membership of a PSG covers a number of cases, including LGBTQ asylum claims based on sexual orientation and gender identity. For an asylum claim to be considered in this category, the social group under consideration must be the target of persecution in the claimant's country of origin, and the claimant must show that they belong (or are perceived as belonging) to that group, which would put their life at risk should they return to (or remain in) their country. A PSG is defined as a group of people that share a common characteristic that is innate, unchangeable, or so fundamental to personal identity or conscience that a person should not be forced to renounce it (UNHCR 2002: 3).

With regard to the adjudication of asylum claims based on membership in a PSG, the credibility of the claimant is key. Indeed, once it is ascertained that in the claimant's country of origin the PSG under consideration is in fact a target of persecution, the adjudication revolves around the individual's offering sufficient evidence that they do belong (or are perceived as belonging) to that group. In many cases, the individual's own testimony regarding themselves is the *only* kind of evidence that can be offered. In fact, it is often the case that before fleeing their country and seeking asylum, the claimants needed to hide or destroy precisely the kind of evidence that they are now asked to provide. The result is that claimants' words about their situation, and their capacity to tell a credible story about themselves, are fundamental.

The task of asylum adjudicators – i.e., officers who interview claimants, or judges who consider whether a former claim was justly or unjustly rejected – ultimately amounts to establishing the credibility of the asylum seeker. This situation makes the asylum process a very interesting practical context for the study of the epistemology of testimony and its pathologies. In a testimonial exchange, indeed, the credibility of the speaker, absent defeaters, is usually taken for granted; it is what normally guarantees that there is in fact an exchange of knowledge. The testimonial exchange works only if the speaker is credible, and the hearer trusts the speaker as credible. This is the default situation in most everyday testimonial exchanges: the credibility of the speaker is normally not questioned unless the hearer has reasons to. The default situation is corrupted when the speaker is deemed not credible. This can happen for a variety of reasons, not all of them justified by the speaker failing to *be* credible. When this happens because the hearer is *prejudiced* against the speaker, there is what Fricker (2007) calls an epistemic (more specifically, a testimonial) injustice: by being deemed not credible, the speaker is damaged and diminished as a knower.

The asylum process is a context *structurally* at risk of epistemic injustice (cf. Sertler 2018)[1]. Indeed, it is part of an officer's duty to deliberately test the credibility of the speaker. Scrutinizing a claimant's words and being on the lookout for inconsistencies and signs of incoherence is part of their job. In a sense, the asylum interview reverses the ordinary situation of a testimonial

[1] In Fricker's (2007) first elaboration of the concepts of testimonial and hermeneutical injustice (see below for the distinction), testimonial injustices always have an individual perpetrator, while hermeneutical injustices are purely structural. However, in subsequent work - notably on epistemic injustice and trans identities - she recognizes the complexities involved in both phenomena (Fricker and Jenkins 2017).

exchange: the default trust ordinarily sustaining the conversation must be set aside. I am not claiming that officers are required to use any possible means to reject asylum seekers on the grounds of a lack of credibility: on the contrary, they are required and trained to identify and accept legitimate asylum claims. But in order to do so, they are required to examine claimants' credibility thoroughly, and hence cannot rely on the default trust in evaluating their testimony.

Stereotypes and prejudices can intervene here at different stages of the process. The first way they come in is part of the very context of the asylum process, and it impacts quite indistinctively almost every kind of asylum seeker. *Because* they are asylum seekers – so the stereotype goes – they might be lying in order to enter the country. This is the stereotype of the "bogus asylum claimant" (Souter, 2016; Blomfield, MS). The asylum process on the whole is designed precisely to distinguish "bogus" asylum claimants from authentic ones. When a generalized stereotype concerning asylum seekers is part of the working environment of immigration officers and adjudicators, the testimonial exchange is from the start charged with the presumption that asylum seekers, for the simple fact that they are asylum seekers, are not credible. All the more so when they cannot offer evidence that goes beyond their own words in their support. A lack of credibility, in other words, is taken as a trait of the social group "asylum seekers" on the whole.

A second way stereotypes and prejudices influence the process is by being attached to the social group to which the claimant belongs. When an individual seeks asylum on the grounds that they belong to a PSG, it is because that social group is a target of discrimination and persecution in the country of origins. Although to a different degree, it is possible that the same social group is also subject to some forms of oppression, prejudice, and discrimination in the country the asylum seeker is appealing to; only, such discrimination is not patent and in open view. Therefore, even if they are asking for protection precisely as members of that PSG, asylum claimants might suffer from stereotypes, prejudice and implicit biases against their social identity also in the very moment in which they seek asylum. Despite their training, despite their explicit beliefs, and despite the task they have, officers might be biased against the claimants.

A third and related way stereotypes intervene is by constraining the boundaries of what counts as being part of the PSG to which the asylum seeker claims to belong. While in the former case one is targeted because they belong to the PSG in question, in this case one is targeted because they do not belong *well enough* to that group – they fail to conform to the social stereotype. This is where the paradoxical nature of stereotypes in the context of the asylum process emerges. The stereotype here concerns what counts as being an authentic member of the social group under consideration. In the asylum process this is especially important, because what is at stake is precisely the credibility of the claim that one is a "real" member of that group (or that one is "really" considered a member of that group). Now, when there is a pervasive stereotype concerning that social group, the more the claimant conforms to the stereotype, the easier it is for them to be recognized as a member of that PSG, and hence to gain asylum.

Finally, besides stereotypes and prejudices connected to social identities, the epistemic situation characterizing asylum seekers can be affected by other implicit assumptions concerning how a "credible story" sounds, not regarding its contents, but its *form*. A number of implicit assumptions regulate officers' expectations concerning how a story should be told in order for it to be credible (Herlihy at al. 2010). Credible speakers are expected to tell their stories in a clear, straightforward and coherent way, to remember events without lapses or inconsistencies, and to express their emotions in an appropriate, recognizable way. In other words, the narrative *style* of the speaker matters, with confused stories, reticence, and silence on crucial parts liable to be considered signs of bad faith (cf. Collins 2000, Ch. 11). However, many of the assumptions and expectations concerning how a credible story sounds clearly depend on the hearer's cultural context and the hearer's hermeneutical resources, which, in this context, typically *differ* from the speaker's hermeneutical resources. Additionally, the narratives of asylum seekers, because of the experiences they report, are often very likely to appear uncertain, partly incoherent, and not as clear and straightforward as adjudicators prefer. Asylum seekers might have suffered from trauma, which notoriously impacts one's capacity to remember events, let alone to report them in a clear and coherent way. Finally, there might be obvious linguistic and conceptual barriers that hinder the communicative exchange.

All these stereotypes, prejudices and implicit assumptions that intervene at various stages of the asylum process expose asylum seekers to the risk of epistemic injustice, both of the testimonial and the hermeneutical kind. Regarding the former, as highlighted, testimonial injustices are likely to occur during the process, and most notably during the asylum interview, because of prejudicial stereotypes concerning asylum seekers in general, and the claimant's social identity in particular. Regarding the latter (to which I am dedicating more attention in this paper), for Fricker hermeneutical injustice occurs when individuals have their experiences obscured from their own understanding due to a lacuna or prejudices in the collective hermeneutical resources and are therefore unable to fully articulate and make sense of such experiences to themselves and to others. While Fricker originally talked of a "hermeneutical resource" in the singular, some have highlighted that hermeneutical resources are not homogeneous and that different social groups develop their own conceptual and expressive repertoire, without necessarily being shared by other social groups (Medina 2012). Hermeneutical injustices suffered by asylum seekers are distinctively marked by this aspect, because in the context of the asylum process, typically, different conceptual and cultural repertoires come into contact and sometimes into conflict. Additionally, asylum cases based on an individual's belonging to a PSG involve situations in which identity stereotypes impact one's self-understanding as an individual and as a member of a particular community (or multiple communities).

Let me expand on this point. I am not interested here in the debate about the nature of stereotypes[2], in terms of their alleged truth or falsity; I take it that focusing on this debate obscures what is really problematic in them: their distorting effects on perception and cognition (Beeghly 2020). Whether true or false, identity stereotypes can harm individuals and communities because they constrain and limit their self-understanding and their opportunities (Collins 2000, Ch. 4). Indeed, stereotypes intervene with a regulative force in one's self-perception and self-definition. That is why they are so deeply connected with hermeneutical injustice: the capacity of individuals to make sense of their own experiences and to express and communicate them to others is woven into the web of conceptual resources within which individuals find themselves living and growing up, including common-sense conceptions of their own social identities. In situations of hermeneutical marginalization, distinguishing between dominant and oppressed cultural resources is not always possible, and one's sense of self is arguably shaped in very complicated ways by different conceptual horizons and meanings. The simplifying force of stereotypes comes into play here by providing preconceived paths of sense-

[2] Stereotypes, in Fricker's view, are largely automatic and unreflective generalizations about social groups that we normally employ as heuristics or shortcuts when dealing with other people. Different from prejudices, they are not necessarily held *culpably* and in the face of counterevidence (Fricker 2007: 16-17).

making and of "self-sense-making": relying on stereotypes in understanding oneself is easy, even when it is limiting. There is sometimes a feeling of comfort in limiting and foreseeing one's possibilities according to allegedly shared common-sense categories.

Asylum seekers are therefore subject to hermeneutical injustice in at least two ways. First of all, they might be in a disadvantageous situation from the point of view of their own conceptual resources, because they limit rather than help their capacity for understanding and self-understanding. In cases based on PSG, one's social identity might not be so evident in the eye of the asylum seeker themselves, paradoxical as this may be. In some cases, the claimant arguably has a full understanding of their social identity because this is something they are actively vindicating – think of PSG based on religion or political affiliation. In other cases, claimants need asylum precisely because their identity is neither protected nor fully acknowledged in their country of origin: their PSG is hermeneutically marginalized. But asylum claimants might also suffer from hermeneutical injustices due to the clash between their own conceptual resources and those of the country they want to enter, because the officer's and adjudicator's understanding of the claimant's words is not a given. A different language is, of course, the first obstacle, only partially mitigated by the existence of interpreters (whose own understanding of the cultures they are in contact with might be limited on both sides). More generally, any given claimant and adjudicator typically do not share the same background assumptions regarding social identities, and the adjudicator might be unable or unwilling to recognize the conceptual repertoire of the claimant as meaningful and legitimate. Additionally, an asylum seeker may lack a full understanding of the asylum process itself and its main steps (Blomfield MS): they might not know what they are supposed to say in the interview, and how they are supposed to tell their stories. They might lack familiarity with the *rules of relevance* of the asylum system.

The context of the asylum process, therefore, is structurally at risk of epistemic injustice, and it also shows the complex forms such injustices might take. Asylum adjudicators indeed, because of how the process itself is structured, can benefit from what Sterler (2018) calls "institutional comfort": they are systematically granted the possibility of interpreting, navigating and sometimes turning to their advantage the ambiguities involved in the interplay of different conceptual resources. Such comfort appears in their entitlement to easily deny applicant's experiences and narratives, ignore relevant information, and choose which criteria to use in the decision-making process. Moreover, the context of the asylum process shows the interplay of individual and structural elements involved (Fricker 2007: 10-16, 130, Fricker and Jenkins 2017, Blomfield MS), and it helps distinguish, within the structural level, an *institutional* and a properly *collective* dimension (cf. Anderson 2012). Officers and adjudicators, as hearers in the testimonial exchange, can be first actors in inflicting epistemic harm (individual level). The asylum process involves institutions (such as USCIS for the US, Home Office for the UK) and institutional procedures that might themselves embody, facilitate and back up epistemic injustices (institutional level). Institutional factors include, for instance, manuals and training procedures for officers; time constraints; and systems of incentives. To make but one example, if there are performance targets that encourage quick decisions, relying on stereotypes is de facto encouraged by the institution (Herlihy et al. 2010: 365, Blomfield MS, 15). Finally, shared collective biases and prejudices against asylum seekers in general, and specific social identities in particular, obviously contribute to the overall situation (collective level). As we shall see in section 3, just as testimonial and hermeneutical injustices characterize all three levels, practices fostering testimonial and hermeneutical *justice* can also be implemented in all three levels, with the intermediate level of institutions playing a crucial role.

In the next section, I will focus on hermeneutical injustices for LGBTQ asylum claimants.

3. Hermeneutical injustice: the case of LGBTQ asylum claims

LGBTQ asylum claims are particularly apt for an analysis of the epistemically problematic aspects involved in the asylum process because, different from other cases that have some form of independent verification of group membership, they depend chiefly on the claimant's testimony about themselves, and in particular of one's presentation of extremely private qualities, feelings, desires, and practices. Nothing normally "certifies" that a person is LGBTQ, except what they say about themselves. There *might* be friends or acquaintances who confirm what the claimant says -- there might be pictures, there might be a partner or former partners, there might be LGBTQ organizations declaring that the individual was an activist. But all this might be totally inconclusive. In countries where LGBTQ are persecuted, it is likely that one's sexual orientation or one's non-conforming gender identity is intentionally hidden, and any piece of evidence intentionally destroyed. In a situation where one's testimony is so central and so (likely) unsupported by other evidence, the claimant's credibility is clearly put under pressure, and the difficulties a claimant might have in reporting about their private life and feelings might accentuate uncertainties, hesitations, and wavering in their narratives, thus fueling suspicions of insincerity in the hearer.

Moreover, both the expression and the evaluation of these asylum claims inevitably rely on common-sense assumptions and stereotypes about what being LGBTQ amounts to (Murray 2014). Stereotypes and prejudices concerning LGBTQ identities are both a vehicle for unjustly low credibility attributions (testimonial injustice) and a fundamental factor in restricting and distorting individuals' conceptual resources and capacity to articulate their own experiences, as well as to be listened to and understood (hermeneutical injustice). From the point of view of testimonial injustice, the harms suffered by LGBTQ asylum claimants are roughly the same that individuals belonging to other PSG face, with the aggravating factor of claimants' testimonies easily perceived as unclear and uncertain, for the reasons just explained. However, it is from the point of view of hermeneutical injustice that the case presents *sui generis* aspects deserving thorough examination.

A first aspect to take into consideration is the existence of multiple and sometimes conflicting hermeneutical resources relative to LGBTQ terms, meanings, and practices. Such resources may be somewhat limited, not perspicuous, and crucially different in different cultural contexts. This consideration, from the theoretical point of view, requires us to enlarge Fricker's framework, as has been suggested (Mason 2011), making room for the possibility that hermeneutical injustice does not depend only or foremost on the marginalized individual's inability to understand and make sense of their experiences because of a gap in the collective hermeneutical resource (in the singular), but also on the relationships between different hermeneutical repertoires. The individual may be fully capable of understanding their experiences and sharing them in their communities, in this case the LGBTQ community. But still, there might be hermeneutical marginalization and lack of uptake on the part of the dominant social groups, such that common sense remains impermeable to marginalized meanings. The opposite could also occur: a person's experiences might be fully understandable and conceptualizable in a certain, dominant culture, but the person's own resources and those of her close community might be lacking the same clarity, distinctions, or details. The hermeneutical resource, in other words, is not a monolithic entity, and this is something that the context of the border evidently brings into the spotlight.

In this environment, different models or pictures of the LGBTQ identity come into contact, and the interplay between them is arguably an important force in the shaping of the claimant's own ideas of themselves. Building on Katyal (2002) and elaborating on the distinction between one's identity and one's behavior, Morgan (2006: 150-155), for example, affirms that it is possible to identify three models of homosexuality: a "substitutive" model according to which identity and behavior are interchangeable; an "additive" model in which identity and behavior are separate; and a "transformative" model in which homosexuality merges with transgenderism. The implicit model of people seeking asylum often differs from the implicit model of the new country they are entering. The transformative model, for instance, has been and currently is prevalent in many Latin American countries, and the vocabulary of asylum claimants from these countries will reflect this. As a result, they will show a lack of familiarity with concepts and vocabularies that can be considered dominant in the country they are entering. Their stories will likely appear confused, and they might not be able to answer standard questions that take the dominant model for granted. Their words might easily appear to adjudicators as "conflating" sexual and gender identity, while the point is that in their own self-understanding sexual and gender identity are not, in fact, disentangled.

In the context we are considering, what typically happens is that a dominant narrative of the "authentic" LGBTQ asylum seeker – basically, a white, middle-class LGBTQ identity script (Murray 2014) – emerges as the successful one; and this is a narrative defined by the rules of the country the claimant is asking asylum to. The "authentic" gay, for instance, participates in gay prides, is familiar with the gay scene of their country and city, knows where the gay bars are, and volunteers for queer organizations. Asylum claimants waiting for their interviews are sometimes advised by their lawyers to hang out at certain places, to participate in prides, and to start volunteering for LGBTQ organizations (this is especially important because organizations can produce letters of support in which they state that the claimant is an active member), as well as to take pictures of themselves in these contexts. As Murray (2014: 22) puts it, the hegemonic narrative produces a "template of the 'real' or 'authentic' sexual minority refugee". Such a template is often based on a "staged model" according to which sexual and gender identities are fixed, discoverable by the subject at a certain point of their life (better if very early), and the individual moves from a closeted life to the climax of the "coming out" (ibid: 26). Needless to say, such a model may be completely alien to the asylum seeker. Discovering it and adopting it may be liberating; but it may also be frustrating, produce conflict, and get in the way rather than facilitate one's self-understanding.

Especially if this happens in a moment in which an individual's understanding of themselves as a person is in the making, learning to *express* oneself according to a given model might have consequences on how one *perceives* oneself. Various outcomes can be foreseen here. For some individuals, coming into contact with a certain LGBTQ culture with its rules and codes, and learning to conform to them, might result in a 'a-ha moment' in which they find their words (words with which they understand better who they are, make sense of their experiences more comprehensively, and manifest their identities to others in a more satisfactory way). For other individuals, the same event might inhibit or distort their tendency to express themselves in their own way, and might bring doubts on who they are, or on who they thought they were. The words of those who must adjudicate their case, the words of the new dominant culture they are requesting access to, become the words through which they need to express themselves; and in a sense, the eyes through which the dominant culture perceives them might also become the eyes through which they perceive themselves (or feel compelled to). When other available conceptual resources are weaker or deemed useless and defective, a dominant image of how "people like them" are and behave is easily introjected (cf. Hacking 1986).

Interestingly, sometimes the very idea that there is an "identity" based on sexual orientation is completely alien to the subject, who never considered that their own sense of themselves might be *defined* by an LGBTQ identity (Woods MS, 17). Here are a couple of testimonies from Omani and Uganda:

> I never really identified with my sexuality. I recognized my sexuality, I accepted it, I was okay with it. I even lived with it. But the thing is, here is where it gets more complicated, identity is a very difficult word to identify. In every culture there is a certain set of values that are associated with identity.

> I can understand how here, or in places where you are protected, people might want to create an identity around what they do, but to assume that just because someone is fleeing a country due to their sexual interest this must be an identity that means all these different things is just wrong. (Powell 2019).

Testimonies such as these show the importance of acknowledging from the start how much this already complex matrix of identity concepts and stereotypes is influenced by neocolonial narratives. The differences in asylum seekers' self-understanding are typically seen as defects rather than other legitimate ways of making sense of who they are. Asylum seekers, so the dominant story goes, come from an underdeveloped country, whose concepts are "obviously" defective, and enter a new world whose concepts are more progressive, legitimate and true. LGBTQ rights, in this sense, are held as symbols of civilization, while the homophobia and transphobia that characterizes claimants' countries of origin are considered signs of backwardness (Murray 2014: 22, Woods MS 11-12). It goes without saying that the acknowledgment of LGBTQ and other minority rights is indeed a sign of a more democratic and inclusive society; but it does not follow that the dominant model of the LGBTQ identity is not itself culturally shaped and informed by inequalities, neocolonialism, and racism (Morgan 2006).

The case of claimants who for the first time think of themselves as having a specific social identity is instructive also in another respect. A distinction can be drawn here between thinking of oneself as having a certain characteristic among others, and as having an *identity* in virtue of that characteristic (see the testimonies cited above). In the first case, one acknowledges being (for example) queer as a trait of one's personality or an aspect of one's life, without this implying very much at the level of one's sense of who they are. The case is akin to "I am left-handed", or "I am red haired". Conversely, when being queer is or becomes *fundamental*[3] to a person's identity, then it starts being part of the way in which one perceives oneself. Belonging to this particular social group, or having this social identity, means more, implies more, and has consequences[4]. I am not claiming that one can choose to be a queer; but one certainly can start thinking and perceiving themselves as a queer in this significant sense in a certain moment of their life, depending also on external circumstances, especially when moving to a different country, meeting and sharing experiences with a different community, and generally coming into contact with and absorbing a new cultural background.

The non-conforming to dominant images and narratives also causes heremeneutical troubles to individuals with non-binary identities, from the point of view of both gender and sexual orientation (as well as race). In general terms, there is indeed a social compulsion to occupy an identity category and

[3] "Fundamental" is the adjective used in the United Nations guidelines (UNCHR 2002: 3).
[4] It is interesting to compare this case to the difference between saying (for instance) "I am queer" and saying "I am *a* queer", using a noun instead of an adjective; Cf. Ritchie (2021).

understand oneself as a certain *kind* of person, that can be itself already an hermeneutical injustice, as queer epistemology underlines (Sedgwick 1990, Hall 2017). The asylum process for LGBTQ claimants is again an instructive prism that helps understand the problematic aspects involved. For bisexual individuals indeed it can be particularly troublesome to have their claim accepted based on their sexual identity. The existence of previous marriages, children, and partners of the opposite sex is still too easily taken as a proof of the claimants' not being LGBTQ "enough", with a total neglect of the "B" in the acronym (Woods MS: 8, 10, Vogler 2016: 868-69). Asylum claims based on trans identities also often reproduce the dominant binary and static conception of gender, whereby the trans individual is "born into the wrong body" and needs to transition towards the opposite gender. The traditional man-woman binary is substituted by a cisgender-transgender binary, but it remains a binary, which limits the range of typically succesfull trans narratives excluding non-binary, ambiguous and fluid cases (Vogler 2019). Again, the normative force of succesful dominant (if not stereotypical) stories backfires on trans and bisexual individuals who might already be grappling with self-understanding.

Now: for individuals whose sense of gender or sexual identity is in the making, what will count as "evidence" that they are (or are not) LGBTQ? What will they take as proof for themselves that this is really the case? And what will others accept as evidence? What can count as evidence and what cannot, in both cases (evidence for oneself, and for others), depends on the conceptual frameworks that are available in the given context, and such frameworks are inevitably shaped by a network of interrelated presuppositions, stereotypes, and prejudices.

Two aspects can be distinguished, here. On the one hand, there is what social psychologists call social perception: the perception of others as belonging to certain social categories. Social perception is guided by stereotypes and dominant images of social identities, in that the way we take something (words, behavior, appearance, ...) as evidence for our belief that a person belongs to a certain social group or identity depends on the presuppositions that we, consciously or not, assume as grounds; these presuppositions allow us to use such (alleged) evidence for our (alleged) justified belief. Pieces of "evidence" might include the person's body, appearance, behavior, clothing, their testimony on who they are, the pronouns they use for themselves, as well as documents and other broader aspects of their lives (e.g. their circle of friends, places they hang out at, their job, the sports they practice, ...) For instance, a man's effeminate behavior is often considered *evidence* of his being gay. Believing him to be gay based on this evidence is allegedly justified, in a given social context, by the stereotyped presupposition that is in place, according to which a gay man exhibits an effeminate behavior.

On the other hand, the second aspect that needs to be highlighted, is that one's self-perception also depends, at least to a certain extent, on stereotypes and dominant images of social identities, which inevitably reflect the features and biases of the culture they are embedded within, including, crucially, patterns of oppression and cultural domination. When it comes to one's self perception, these stereotypes and dominant images regulate the evidential import of one's feelings and bodily experiences for one's own gender and sexual identity. I am referring to aspects such as the easiness or uneasiness with which one wears their clothes, the naturalness of one's bodily movements, one's attraction to other people of the opposite or of the same sex, the immediate reactions and behavior in front of choices or actions that imply a certain gender identification – think of toilets, stores departments, forms that need to be filled –, the use of pronouns for oneself, etc. Stereotypes and dominant images might therefore interfere with individuals' capacity to make sense of their experiences, when such experiences do not clearly fit the categories they are supposed to fit. One's experience, in other words, counts more easily as evidence for one's identity if it conforms to the norms of evidence embedded in the dominant image available to the individual. Additionally, even when there *are* alternative conceptions, some stereotypes are likely to remain. For instance, even if trans experiences are understood, interpreted and communicated as perfectly legitimate and not as a deviance or an illness, a dominant model of gender identity as binary, fixed and "discoverable" by the individual, with the related stereotype of the trans person as "born in the wrong body", might still play an important role, marginalizing non-binary, non-conforming, and fluid identities (Hall 2017)[5].

[5] Moreover, this reflection shows the interplay of different levels and patterns of hinges that the asylum context brings into contact. These patterns relate not only to gender and sexual identity, but to interwoven social identities. Take for instance the intersection between LGBTQ identities and religious identities: in Western countries it is often assumed that being LGBTQ is incompatible, if not with religious faith tout-court, with some religious faiths, especially Islam. This means that not having rejected religious faith counts as evidence for not being LGBTQ: "LGBTQ claimants are often expected to have rejected faith as incompatible with their SOGI [sexual orientation and gender identity], and if they do not experience such a conflict, that may be taken as evidence that their claim lacks credibility" (Woods, MS, 9).

To conclude this point, the asylum process for LGBTQ claimants is a "privileged" context for an epistemic analysis of hermeneutical injustice, because it shows particularly well the role of dominant models and sterotypes and the array of discrimination and hermeneutical harms at play, as well as their intersectional nature. The next section will show that this context is also interesting for studying if and how hermeneutical justice can develop.

4. The possibility for hermeneutical justice

The examination of the asylum process with LGBTQ claims highlights the interplay between one's social identity and the available conceptual resources, which becomes particularly problematic when a person's sense of their identity is in the making, and when the available conceptual resources are heavily shaped by oppressive stereotypes.

Granted all this, it is also a fact that stereotypes and dominant images are not immutable. They can and do change through time, and again the asylum process is a privileged context for studying how this happens.

Fricker frames the question of overcoming hermeneutical injustice in terms of cultivating the virtue of hermeneutical justice, a capacity of attention and a special kind of sensitivity to others trying to articulate their own senses and their own experiences. However, as highlighted (see footnote 1), Fricker initially described hermeneutical injustice as a structural, collective phenomenon, thus leaving the theoretical framework wanting in two respects: the acknowledgment of how willful hermeneutical injustices and willful ignorance in *individuals* contribute significantly to the perpetuation of harms (Pohlhaus 2012); and the explanation of how a virtue, which is essentially an individual attribute, can have an impact on collective structural injustices (Anderson 2012).

The analysis of the asylum process sheds some light on the dialectic between the individual and the collective, showing the usefulness of a three-level model, as opposed to a two-level model: testimonial and hermeneutical injustice occur on the individual, the *institutional*, and the collective level (cf. Woods MS). These are clearly interconnected and not independent, but a tripartite distinction is useful because it helps pinpoint viable actions. Indeed, actions or policies that can impact the collective dimension are hard to identify and implement, unless they also involve more fine-grained arrangements that impact individuals' everyday lives on the one hand, and the practical organization and procedures in institutions on the other.

One special place to look is the way, in the asylum process, officers and adjudicators are instructed and trained to conduct interviews and adjudicate claims. Such instructions and training, in fact, can be directed to minimize and restrict the space of "institutional comfort" (to use again Sertler's (2018) phrase) that adjudicators are often tacitly granted, by prescribing explicit procedural behaviors. In the case of LGBTQ claims, there are indeed manuals and training documents that offer a vantage point for examining the issue, as they materialize official conceptions of gender and sexual identities and regulate the way they inform behaviors, procedures and juridical decisions; at the very same time, manuals bear signs of individual and institutional efforts to implement hermeneutical justice, prescribing how to enact a certain sensitivity to claimants' needs and difficulties, and warning against immediate, stereotyped reactions that produce exclusion and discrimination. The case is particularly tricky here: as we saw, sometimes successful asylum claims paradoxically rely on stereotyped ways of conceptualizing sexual and gender identity, and destabilizing these dominant hinges potentially hinders the chance that claimants have to present their case in common-sensical, and hence easily graspable, terms (Woods MS 24)[6].

Vogler (2016) has shown that improvements in procedures and training modules are possible and are effectively occurring, at least in the US context, demonstrating a shift in the very concepts of sexual identity employed in the law (the case is a bit more complicated for gender identity; see Vogler 2019). This is at least in part attributable to the work done by activist and non-governmental organizations defending the rights of LGBTQ asylum claimants, such as Immigration Equality, that in 2011 helped USCIS (US Citizenship and Immigration Services) redesign its training for asylum officers. The present training manual for officers, for example, includes an accurate explanation of queer terms that officers are required to familiarize themselves with, and detailed instruction that guide them in *how they should listen* to claimants. The manual, in other words, addresses precisely hermeneutical injustice (though of course without naming it so). Here are a few examples of instructions:

[6] Relying on stereotypes strategically, in order to be more easily recognized as LGBTQ, is akin to using a "stepping-stone concept" that, although seriously wanting for the LGBTQ community, might facilitate positive changes in the dominant hermeneutical resource; as Fricker and Jenkins (2017: 277) put it, sometimes progress is two steps forward, one step back; but it is still progress.

> Be mindful that the applicant and the interpreter may not be familiar with many of these issues or terms. While many LGBTI individuals in the United States embrace their LGBTI identity and have a language to talk about these issues, for many LGBTI individuals who come from countries where topics of sexuality are taboo, the way that applicants express themselves may be different from what an interviewer would expect from an LGBTI person in the United States.
>
> The fact that an applicant may be uncomfortable with these terms may be a result of the fact that he or she comes from a culture where there is no word for homosexuality or transgender identity. It may be a result of his or her own ingrained homophobia from growing up in a culture where such terms were the equivalent of insults.
>
> Many persons with intersex conditions may have difficulty understanding and articulating their own physical conditions and medical history (USCIS 2019: 33, 40).

These are explicit efforts in the direction of hermeneutical justice, and they occur neither at the level of individual's virtues, nor at the level of the collective social imagery: they occur in *institutions*, and more specifically in manuals, guidelines, and training procedures. The case shows the practical mechanisms that make such shifts in dominant images possible: there must be first of all an awareness of the existence of dominant conceptions concerning sexual and gender identity that normatively guide credibility judgments and identity attributions. Manuals and guidelines are where norms are written down and where they rule, in practice. Hence, making it explicit in these documents that some conceptions are not universal is itself an important rupture in their controlling power. Additionally, when manuals and procedures define terms in accordance with marginalized hermeneutical resources, and prescribe sensitive practices of listening, they put hermeneutical justice into practice and contribute to correcting and sometimes forging new concepts (Fricker and Jenkins 2017).

What kind of change is the change brought about by practices of hermeneutical justice? An effective change in our hermeneutical framework, I submit, is a change in the norms of evidence that we normally take for granted, and that regulate social perception and self-perception. In the examples given above, concerning instructions for interviews, officers are asked to pay attention and/or to not pay attention to certain aspects of the interviewer's testimony. Similarly, there are instructions aimed at preventing that officers take the claimant's appearance and demeanor as evidence for their sexual and gender identity. These guidelines in other words intervene on the rules according to which something can or cannot count as evidence for a certain belief or judgment, like the ascription of a social identity. They tell officers what is and what is not relevant for such a belief. And the kind of change that can make a difference toward hermeneutical justice, is a shift that must occur at this level: a shift in the norms that regulate evidential significance for beliefs, not in mere beliefs.

There is a metaphor, in Ludwig Wittgenstein's *On Certainty*, that nicely illustrates the point: the image of the river-bed of thoughts, through which he elucidates the difference between ordinary empirical propositions or beliefs and what he elsewhere calls *hinges*[7], those deeper and taken for granted presuppositions that ground our empirical judgments.

> It might be imagined that some propositions, of the form of empirical propositions, were hardened and functioned as channels for such empirical propositions as were not hardened but fluid; and that this relation altered with time, in that fluid propositions hardened, and hard ones became fluid.
> The mythology may change back into a state of flux, the river-bed of thoughts may shift. But I distinguish between the movement of the waters on the river-bed and the shift of the bed itself; though there is not a sharp division of the one from the other. (Wittgenstein 1969, # 96-97).

Think of stereotypes and dominant images of sexual and gender identities as the hardened propositions that function like channels, or the riverbed, and think of ordinary identity ascriptions (our beliefs concerning other people's and our own identities) as empirical propositions, or the waters. The point made here, is that the movement of the water in the river (changes in empirical beliefs) is different in kind from the movement of the riverbed (changes in stereotypes and dominant images), because the river-bed is the ground on which the waters flow. Nevertheless, the river-bed itself may shift: (at least) some of our deeply entrenched hinges or presuppositions are (at least partially) permeable to the historical circumstances surrounding them.

[7] See Wittgenstein (1969) remarks # 341-343 and 655. More on this soon.

5. Conclusion: preliminary thoughts towards a hinge framework

In this paper, I proposed an analysis of epistemic injustice in the asylum process. I focused in particular on hermeneutical injustices affecting LGBTQ asylum claimants, and on the possibility of implementing practices of hermeneutical justice. Examining these issues in the asylum context proved fruitful in highlighting some crucial aspects concerning the role of identity stereotypes in social perception and in self-perception and concerning the ways in which their impact can be contrasted. Two major insights are gained through such examination: the acknowledgment of the multiplicity of hermeneutical resources and of the complex ways in which they interact; and the relevance of the institutional level when it comes to fostering practices of hermeneutical justice. In concluding, and taking inspiration for the image of the river-bed of thoughts above, I would like to hint at a novel theoretical framework that, if I am correct, promises to help better understand these phenomena: the framework of hinge epistemology (Coliva 2015, Coliva and Moyal-Sharrock 2016, Pritchard 2016).

Neither foundations in a traditional sense, nor mere agreements or stipulations, what Wittgenstein calls hinges are ultimately ungrounded presuppositions that ground agreements, stipulations, and generally conventions. Hinge epistemology is a growing field of research that focuses on their role in our epistemic practices. The beginnings of this research agenda were marked by the study of "universal" hinges that ground perceptual justification itself and are constitutive of our rationality, such as "There is an external world", or "I am not fundamentally mistaken in my beliefs". However, more recent developments apply these insights to social epistemology as well (Coliva forthcoming, Pritchard 2018, Ashton 2019, Boncompagni 2019). One aspect that this application highlights is the existence of culture-specific hinges, such as – to stick to Wittgenstein's own examples – "The Earth is round", "A king can make rain", or "It is not possible to go to the moon" (which was an indubitable certainty until not long ago) (Wittgenstein 1969, # 291, 299, 132, 286). These culture-specific hinges, differently from universal hinges, are not immutable: they can be different for different people (Moyal-Sharrock, 2004: 136-147; cf. Pritchard, 2016: 95-96), and they can and do shift over time, as the metaphor of the river-bed shows.

To return to our main topic, what I am suggesting is that stereotypes and dominant images of sexual and gender identity could be interpreted as culture-specific hinges. This would allow us to better grasp their nature and epistemic role, and more specifically the relationship they have with ordinary beliefs, in this case social identity ascriptions. Hinges, indeed, play a normative role with respect to ordinary beliefs and judgments, in that they are norms of evidential significance (Coliva 2015: 41): they determine what can and what cannot count as evidence for beliefs. Moreover, a hinge framework allows us to see that in order to shift these hinges, working at the level of empirical beliefs is not enough; providing new evidence so that prejudiced people may change their mind, for instance, is not effective. Evidence indeed would be considered evidence only if the hinge "allows" that. What needs to be done in order for hinge-shifts to take place, is promoting change at the normative level. In the context of the asylum process, this is precisely what institutional reforms – new manuals, training modules, adjustments in the procedures – are about.

While these are only some preliminary thoughts and much more work needs to be done in order to show not only the possibility of a hinge account of stereotypes, but also the advantages of this perspective over other notions already existent in the literature[8], I believe that such a view stimulates a broader theoretical reflection on social change that is worth considering.

To elaborate a bit. Vogler (2016) interprets the permeability of the concepts employed by the law to changes brought about by social activism, as broadly confirming a Foucauldian, social constructionist notion of both sexuality and the law itself that finds in cultural relativism an appropriate theoretical framework. This is a framework that Fricker most likely would not be disposed to accept; as she claims more than once, although investigating the relationship between rationality and power, she does not want her perspective to be confused with postmodernist approaches that would risk conflating power and rationality (Fricker 1998, 160, 176; Fricker 2007, 3, 54-56; see also Fricker 2000). On the other hand, Fricker's own approach has been criticized for its reliance on a quite traditional model of knowledge, according to which reality (including one's identity) is "out there", ready to be discovered, and knowledge is the mirroring of such reality in the knower's mind (Alcoff 2010: 136; Sullivan 2017). Fricker's description of hermeneutical injustice as caused by a gap or a lacuna in the hermeneutical resource also suggests (or at least leaves room open to) the same picture, according to which there *is* an objective

[8] Two such notions that come to mind are pragmatic presuppositions (Stalnaker 1974) and normative generics (Haslanger 2014, Leslie 2015).

phenomenon that still lacks a name, and when the name is found, the harmony between reality and the knower's mind or the collective mind is restored. Hinge epistemology, however, promises a persuasive way of conceptualizing the entanglement between knowledge practices and the historical circumstances in which they occur, including relations of power and ideological domination, without thereby conflating knowledge and power. It goes beyond both traditional epistemology and postmodernism by providing a middle ground between them. Similar to constructivist views, it highlights the strict interdependence between our cultural and social practices and the way we see the world, ourselves, and others. And yet, different from some extreme drifts of these approaches (those that Fricker is wary of), it does not go so far as the claim that reference to "how things are" is to be abandoned. Rather, hinge epistemology qualifies and strengthens the appeal to how things are by clarifying that it actually *requires* the acknowledgment of background presuppositions or hinges as *constitutive* of our knowledge practices. Establishing the feasibility of this overall project is a fascinating undertaking awaiting further development.

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