Invisibilization of the unwanted Others? Feminist, queer, and postcolonial perspectives on the 1951 Refugee Convention's drafting

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A B S T R A C T

The 1951 Refugee Convention represents the legal cornerstone of today's global refugee protection, which is supposed to apply to all refugees regardless of their origin, gender identity, or sexual orientation. But did the Convention's drafters have such a complex approach in mind? This paper analyzes the Convention's drafting at the United Nations and the final conference in the late 1940s and early 1950s from feminist, queer, and post-colonial perspectives. By drawing on subalternity and absence, and using interpretive analysis of historical sources, the paper focuses on politics—who was (not) involved in debates—and policy—who was (not) considered under the refugee definition. The analysis reveals pervasive asymmetries, with western androcentrism inherently shaping the drafting. The western, white, heterosexual man was the standard filter for the powerful decision-maker and the protection subject, whereas women, LGBTQ+ and colonized people were neglected in politics and policy. Their exclusion was not merely a side effect of the political landscape at the time but reflects the reproduction of western androcentric power, which ultimately invisibilized the subaltern Others in the creation of international refugee law.

1. Introduction

The adoption and early signatures of the Convention Relating to the Status of Refugees in 1951 was praised as "a firm foundation for the work of international protection"[1] by the United Nations (UN) High Commissioner for Refugees at the UN Economic and Social Council in late 1951. However, did all delegations who drafted the Refugee Convention in the late 1940s and early 1950s truly intend to offer such protection worldwide? Who exactly were involved here, and to whom was the refugee definition as a protection status supposed to apply? These questions about the historical drafting process of the Convention are central to this paper and will be analyzed from feminist, queer, and postcolonial perspectives.

From the scholarship, the historical context seems clear: the Refugee Convention was created between 1948 and 1951 in the wake of the Second World War, which ended in 1945. The effects of the Nazi regime, the memories of the Shoah, the extensive violence, war crimes and massive displacements, and the insufficient admission and protection of refugees during and after the war left many states aware of the need for political change and solutions for the remaining refugees in Europe. The

member states of the UN, which was newly founded in 1945, moved forward in establishing a protection system for which the 1951 Refugee Convention was a key component. For its drafting, the states drew on prior conventions from the League of Nations and met in several UN bodies and an 'international' conference. The Convention was eventually adopted with a refugee definition focusing on those displaced due to events in "Europe" or "Europe or elsewhere" before 1951 (e.g. Lentini, 1984; Hathaway, 1984, 1990; Cohen, 2012; Einarsen, 2024).

Although the Eurocentric narrative of the Convention's historical background is criticized, (post)colonial histories are hardly considered, which perpetuates western "geopolitics of knowledge production," as Chimni (1998, p. 350) stressed over two decades ago already. While several studies engage with the making of the Eurocentric bias in the Convention's refugee definition (e.g. Hathaway, 1990, pp. 151–157; Bem, 2004, pp. 610–618; Einarsen, 2024, pp. 54–55), some dismiss it as "[s]uperficial criticism" (Goodwin-Gill, 1996, p. 297, footnote 3; more below). However, the definition's temporal and geographical limitations indeed denied protection to many who were outside of Europe, and it was not until the 1967 Protocol that the temporal limitation was lifted (Davies, 2007; Abraham, 2023). How such limitations arose, and

whether and how (post)colonial displacements such as in India and Pakistan were considered in the Convention's drafting, were long neglected in research and have only gained attention in recent years (Oberoi, 2001; Samaddar, 2017; Mayblin, 2017; Krause, 2021; Ramasubramanyam, 2021).

Also the situations of women as well as lesbian, gay, bisexual, transgender, queer, and further people with diverse sexual orientations and gender identities (LGBTQ+) have historically been largely ignored in this context—both in research about the drafting and, as I will show, in the drafting process. Studies primarily focus on the later application and interpretation of international refugee law, criticizing the neglect of women since the 1980s (e.g. Indra, 1987; Krause, 2022) and of LGBTQ+ people since the 2000s (e.g. Millbank, 2002; García Rodríguez, 2023). They also analyze subsequent policies put in place to alter conditions (e. g. Edwards, 2010; Martin, 2017; Spijkerboer, 2013). To the best of my knowledge, there have not been any studies to date exploring how gender and sexuality played a role in the Convention's negotiations. Some studies mention, though, that the lack of references to gender and sexuality in the Convention's refugee definition stemmed from a failure to recognize "different forms of persecution, for different reasons" and reflected "inequalities in society at the time of drafting" (Edwards, 2003, p. 80), or that the "definition was drafted with the situation of male refugees in mind" (Firth & Mauthe, 2013, p. 472).

To explore the roles of women, LGBTQ+ and colonized people in the Refugee Convention's drafting, I draw on feminist, queer, and postcolonial thought guided by a theoretical framework of Spivak's (1999) approach to subalternity and Dovi's (2020) typology of absence. Empirically, I use online archival research and interpretive analysis to investigate the negotiations of state delegations in the various bodies of the UN and the final Conference of Plenipotentiaries. This approach facilitates my analysis of the two layers of politics—who was (not) involved in debates—and policy—who was (not) considered under the refugee definition. Thus, I explore the political process by examining the representation and especially the absence of (certain) delegations and delegates on the one hand and the content of their debates concerning the refugee definition in establishing the Convention's targeted protection subject on the other. My core interest lies in the meanings of absence in representation and debates and thereby the intersection of voice/lessness, non/representation, and ultimately politics of in/visibility.

The analysis reveals profound asymmetries. Women were hardly, colonized people only indirectly, and LGBTQ+ individuals not at all visible in delegations and considered as protection subjects in the Refugee Convention's drafting. In contrast, the western, white, heterosexual man became the standard filter of both the political representative and the protection subject in the Convention's drafting. Through feminist, queer, and postcolonial perspectives, I discuss the meanings and implications of these power asymmetries. I show that the absence of women, LGBTQ+ and colonized people did not indicate their irrelevance in politics and policy, merely arise from 'quasi-natural' power imbalances in the political landscape, or signify the drafters' lack of awareness. Instead, I argue that their absence in representation and protection was strategically produced by those dominating the Convention's drafting. Despite opposition, women, LGBTQ+ and colonized people were actively and structurally excluded and thus relegated to subaltern positions, imposing voicelessness and invisibility, in the creation of international refugee law.

The paper is structured in line with the analytical separation of politics and policy. After first addressing my research approach, limitations, and positionality, I explore issues, and contestations, of absence of women, LGBTQ+ and still-colonized people as delegates in the debates. Based on that, I turn to debates about the refugee definition and analyze how, despite strong opposition, the stereotypical western, white, heterosexual man was inscribed into the Convention as the prime protection subject, which ultimately subordinated and excluded the subaltern Others from protection.

2. Approaching the Convention's bias via feminist, queer, and postcolonial perspectives

The highly diverse perspectives of feminist, queer, and postcolonial research on international law and politics are pivotal for unveiling the deep-seated biases embedded in the male-oriented, western, heteronormative traditions informing both policy and academic knowledge production (e.g. Chimni, 2017; Otto, 2017; Charlesworth & Chinkin, 2022; Vanyoro, 2024). This also applies to international refugee law and politics—albeit with varying research intensities. In the course of the 1980s, feminist studies began to challenge the male paradigm in refugee law (Indra, 1987; Greatbatch, 1989), stressing the neglect of gender in the Convention's refugee definition as grounds for well-founded fear of persecution, and the need to consider gender-specific experiences especially of women in determining refugee status (Bhabha, 1996; Crawley, 2001; Firth & Mauthe, 2013). In the 2000s, queer research increased and further criticized law's heteronormativity and the marginalization of LGBTQ+ individuals, reflecting the lack of legal mechanisms sufficiently addressing diverse gender identities and sexual orientations vis-à-vis refugees (Millbank, 2002; Spijkerboer, 2013; Wessels, 2021). Postcolonial research on forced migration, and Third World Approaches to International Law (TWAIL) specifically, intensified in the 2010s, though building on long debates (Nkrumah, 1965; Umozurike, 1971; Gathii, 2011). Studies highlight the effects of the Eurocentric bias, emphasizing how international refugee law has perpetuated colonial hierarchies and disregarded the experiences of colonized peoples (Chimni, 1998; Abuya, 2005; Abuya, et al. 2021; Achiume, 2019; Banerjee, 2021; Kapoor, 2022; Abraham, 2023; Vanyoro, 2024).

Despite the significant contributions of feminist, queer, and postcolonial scholarships, focus has largely been on the interpretation, not the making, of international refugee law. As such, the early stages of the 1951 Refugee Convention's drafting have received insufficient scrutiny thus far. As noted, no studies were found that examine the role of gender and sexuality, and only a few have analyzed the Convention's making from postcolonial perspectives (see Oberoi, 2001; Mayblin, 2017; Krause, 2021; Ramasubramanyam, 2021). This neglect of historical analyses persists despite longstanding critiques of the Convention's Eurocentric bias and failure to even mention gender, sexuality, or colonialism in its refugee definition (e.g. Hathaway, 1990; Indra, 1987). While one might assume that the Convention was adopted during a political time when gender, sexual and colonial inequalities were the status quo, this risks normalizing these inequalities and ignoring instances of resistance. My interest lies in how such inequalities were (re) produced in the drafting process and inscribed into the Convention.

To explore the dynamics during the debates that led to the Conventions' adoption, I bring together feminist, queer, and postcolonial perspectives and theoretically lean on Spivak's (1999) approach to subalternity and Dovi's (2020) typology of absence as guiding frameworks. This facilitates to analyze the intersection of voice/lessness, non/representation, and politics of in/visibility. In her feminist postcolonial research, Spivak centers on those structurally silenced in the discourse of the dominant. With her famous question, "Can the subaltern speak?" (Spivak, 1999, e.g. p. 284), she not only criticizes how marginalized people' voices, colonized women specifically, are excluded and misrepresented but also how they contested and resist subalternization. This

approach helps examining the structural barriers that prevent the subaltern from being heard on their own terms. In her intersectionally embedded research, Dovi draws on her prior work on representation and exclusion (e.g. 2002, 2009) and turns to the political relevance of absence (2020). By developing a typology that includes strategic and involuntary absence, she acknowledges dynamics between choice and imposition of absence. Yet, her typology revolves around representatives in contemporary democratic states politics, while my work in this paper is about state-appointed delegates and their discussions at the UN, thus a nondemocratic setting, and no data is available on the appointment rules and procedures of the respective states. The typology is still a helpful guide for my analysis, which I focus on the meanings of absence of women, queer, and colonized people as representatives and protection subjects in the Convention's making. Thereby, I understand absence as the foundation for imposing, or challenging, subalternization in the dominant discourses.

By linking subalternity and absence, I seek to explore how the political drafting process contributed to voice and visibility of some as well as voicelessness and invisibility of the subaltern Others. To this end, I focus on both politics and policy. As noted, I first explore the composition of delegations and delegates in discussions at the UN and the final conference to illuminate who was involved—and who was subsequently absent. Second, I delve into the content of these delegates' debates particularly about the Convention's refugee definition to analyze who was framed as protection subjects—and who was ultimately excluded. These two layers help to un-normalize androcentric, western, white, heteronormative political processes and to uncover the still often hidden meanings of malestream power asymmetries for the subaltern Others. These asymmetries entrenched diverse intertwined inequalities due to strategic gender marginalization, upheld heteronormativity, and unaddressed colonial legacies within the making of international refugee law.

Empirically, I examine the political structures and debates among state delegations at the different UN bodies involved in the Convention's drafting. These include (in chronological order) the Ad Hoc Committee, the Economic and Social Council (ECOSOC), the UN General Assembly (UNGA), and finally the Conference of Plenipotentiaries. Altogether, 102 meetings took place.[2] I employ interpretive policy analysis following Yanow (2007) to explore primary sources of meeting records, preparation documents, proposed amendments, and adopted resolutions concerning the Convention. In additional, I analyze some procedural documents of the ECOSOC and the UNGA as well as records from the UN Commission on the Status of Women to contextualize the debates about the Convention. In lieu of technocratic policy analysis, the interpretive approach allows to focus on meanings produced through political structures in and content of negotiations, including the significant meanings of absence in delegations and debates. These primary sources were accessed via online archival research through the UN's Digital Library (library.un.org) and UNHCR's database refworld (refworld. com).

Methodologically, feminist, queer, and postcolonial thought aim to counter power asymmetries and essentialist perspectives on oversimplified, fixed, and ascribed universal qualities of gender, sexuality, and race. The fluidity, complexities, and lived experiences of individuals are at the heart of these endeavors (Luibhéid, 2004; Lugones, 2007, 2010; Kapur, 2017). My researching of the history to the Convention's drafting, which occurred in the hegemonic western setting of the late 1940s and early 1950s, as well as my intersectional positionality as a white woman researcher, which comes with distinct privileges, bear the risk of reproducing the very essentialisms that I methodologically seek

to address.

On the one hand, as I will show, the political structures in place marginalized women, further to outright excluding LGBTQ+ and colonized people. Based on the data available, I cannot explore their lived experiences and unique individual perspectives but have to limit my work to the contemporary discourses. To counter reproducing essentialisms, I centrally delve into not the malestream politics as such but their meanings and effects vis-à-vis the marginalized and excluded. And yet, throughout the paper, I refer to women, LGBTQ+ or queer people, and the colonized, which is highly problematic and reductionist in simulating apparently natural identity descriptions and unity among individuals. This is, of course, not the case. 'Queer' alone is a contested term and it as well as 'lesbian,' 'gay,' 'bisexual,' and 'transgender' each denote specific sexual orientations and gender identities, which people interpret and live in individual ways (Murib, 2014; Camminga & Marnell, 2022). Moreover, as Kapur criticized concerning 'women', "generalizations are hegemonic in that they represent the problems of privileged women, who are often (though not exclusively) white, Western, middle-class, heterosexual women" (2002, p. 6). The term 'colonized people' or 'the colonized' is particularly problematic as it entirely disregards individuals' self-identifications and literally places external powers who oppress them at the forefront of proceedings, echoing Spivak's (1999) questioning of whether the subaltern can speak. I am aware of these issues, and use the terms as analytical categories to reflect the extensive exclusionary politics and policy as a result of the contemporary power structures in place.

On the other hand, my positionality undeniably influences my research. I am a white, cisgender, woman researcher with a pansexual orientation trained in western academia and daily reminded of the privileged position that my skin color, education, job, and passport bestow. Yet, I do not consider myself 'western.' I am from and grew up in East Germany, and my family history is shaped by displacement, immobilization, state control, and separation before the fall of the Berlin Wall. Afterward, 'our' history hardly counted in the dominant western discourse. It is these experiences and stories that led me to Gender Studies and Forced Migration Studies, and I have been able to work with and learn from people with lived experiences of displacement in Uganda, Kenya, and further states as well as from scholars across the globe for many years now. These experiences shape my approach to research at least as much as my western academic training does, and inform my critical attention to and analysis of dominant power structures marginalizing the Others. The contradictions of privilege are omnipresent, and I hope to be able to critically reflect on the Convention's profound historical contradictions in this paper.

3. Who was (not) involved in the Convention's drafting?

Already in its eighth resolution of February 1946, the UNGA addressed refugees. It recognized that "the problem of refugees and displaced persons of all categories is one of immediate urgency," stressed that the "problem is international in scope and nature," and initiated actions.[3] The emphasis on the "international" scope to events may seem progressive but it was Europe that ultimately took center stage (Krause, 2021, pp. 604–605)—being indicative of the political bias that also shaped the Convention's negotiation. To take action, the UNGA directed the ECOSOC to investigate the problems of refugees[4]; these first steps eventually led to the founding of a specialized agency[5] and the Convention itself. For the latter, the ECOSOC asked the UN Secretary General in 1948 to develop a study on national legislations and

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[2] This Ad Hoc Committee had 43 meetings (UN Doc. E/AC.32/SR.43), the ECOSOC's Social Committee 12 and its plenary two meetings (UN Doc. E/INF/ 40, p. 115), the UNGA's Third Committee 9 and its plenary one meeting (UN Doc. ST/LIB/SER.B/A.1, p. 50), and the Conference of Plenipotentiaries 35 meetings (UN Doc. A/CONF.2/SR.35).

[3] UN Doc. A/RES/8(I).

[4] UN Doc. A/RES/8(I).

[5] The UN first established the International Refugee Organization but soon replaced it with the office of the UN High Commissioner for Refugees (UNHCR).

international agreements, which was provided in 1949.[6] The ECOSOC then appointed the Ad Hoc Committee in 1949 to consider the need for such a convention—and, if verified, to draft the text.[7] The Ad Hoc Committee drew on the Secretary General's study in its debates in early and mid-1950 and reported to the ECOSOC, which, in turn, did so to the UNGA. Finally, the UNGA decided in late 1950 to convene the Conference of Plenipotentiaries and invite "all states, both Members and non-members of the United Nations"[8] to deliberate on, finalize, and adopt the Convention. The conference took place in Geneva on 2–25 July 1951 (see also Weis, 1990; Bem, 2004; Einarsen, 2024).

These various bodies reflect the complex procedures that took shape within a brief period of time between 1948 and 1951. While these circumstances may give the impression that all UN member states had an equal say, the reality was different—some states held greater influence than others. This is evident when considering the setup of the bodies in question: the UNGA included all UN member states, 60 as of 1950, the Ad Hoc Committee had 13 members, the ECOSOC had 18, and the conference was attended by 26 states—among which were 20 UN members and two observer states (for detailed overviews of the states, see Krause, 2021; Ramasubramanyam & Krause, 2024). Noteworthy is that only nine states in total took part in all these forums: Belgium, Brazil, Canada, Denmark, France, Israel, the United Kingdom, the United States, and Venezuela (with Israel and Venezuela being observers in the ECOSOC). Merely by their presence, these states held significantly more sway in shaping the Convention than other state delegations.

Differences in influence were further produced by, and reproduced in, gender, sexual orientation, and (post)colonial disparities. The profound gender inequalities are apparent in delegates' representativeness—or actually absence—in the diverse bodies involved: the Ad Hoc Committee's regular members included men only as state delegates.[9] This also applies to the ECOSOC plenary meetings, where no women were named.[10] The ECOSOC's Social Committee, in which the Ad Hoc Committee's report and draft convention were also discussed, had one woman as a regular delegate of Canada, while all other delegates were men[11]; only three meetings with additional delegates listed women for the delegations of Australia and/or India.[12] These inequalities persisted in no women being named as speakers in the UNGA plenary,[13] and either no[14] or only four women noted for the delegations of Canada, India, Iraq, and the US[15] in the UNGA's Third Committee. Finally, no women were listed as state delegates at the Conference of Plenipotentiaries.[16]

Although these quantifications provide only limited insight into the quality of inequality, the widespread absence of women certainly weighs heavily. Whereas one might argue that women's rights, liberties, and political participation were scarcely recognized at that time (Sundström et al., 2017), it is crucial to acknowledge the rise of women's movements also within the UN (Russo, 2023). Moreover, the UN Charter, adopted only few years prior in 1945, calls for "conditions of equality" for men and women in article 8, including in organs such as the ones in which the Convention was discussed. This indicates not only distorted political realities, but in particular an awareness among delegates of these asymmetries. The numbers ultimately reveal that the debates about the 1951 Refugee Convention were dominated, shaped, and eventually decided on almost exclusively by men.

Whether LGBTQ+ delegates took part in these meetings, cannot be conclusively noted as the data gives no indication of sexual orientations and gender identities. While this in no way means that LGBTQ+ politicians did not exist among the delegates, it certainly reveals their invisibilization. The male-dominated representation is inherently accompanied by a male/female binary signifying the heteronormative political landscape at the time, which (re)produced the marginalization of queer people. The deeply entrenched normalization of heteronormativity is reflected in the widespread use of the gendered titles 'Mr.' and 'Mrs.' preceding delegates' names in the records of most UN bodies, even branding unmarried women 'Miss'—a practice not used for men. This exposes how heterosexual men dictated the status and rights of women, and how those who do not self-identify per the binary were made nonexistent in the debates.

Some studies reveal how queer advocacy and representation at the UN only intensified in the 1970s and 1980s (LaViolette & Whitworth, 1994; D'Amico, 2015; Vance et al., 2018). Yet, gay and lesbian movements were increasing already at the time of the Convention's drafting (Jackson, 2016; Stein, 2023, pp. 51–96) and also targeted political negotiations at the UN. For example, the first International Congress for Sexual Equality took place in Amsterdam in May 1951 and their representatives sent in a telegram requesting the "United Nations Organisation to initiate steps towards granting status of human, social and legal equality to homosexual minorities throughout the world" (quoted in Rupp, 2011, p. 1016). This act, though not focused on the Refugee Convention, signified a push to install queer people's rights and presence on the UN's agenda. The growing advocacy of homophile organizations was met with opposition, however. After the release of the Kinsey Report in 1948, the US intensified antigay policies in the early 1950s. By 1953, the US increasingly pressured the UN and other international agencies to dismiss "disloyal" employees, leading to the expulsion of 41 staff (Johnson, 2004, pp. 131–134, here p. 132). The UK, Canada, and Australia followed the US policies, and also other nations maintained or increased queer people's criminalization (ibid.; Mendos et al., 2020). These developments indicate the intensity of anti-queer sentiments then. As a result, I understand the disregard of queer politicians in delegation not as a mere 'side effect' of the heteronormative political landscape but as a produced exclusion and invisibilization; an involuntary absence due to structural ignorance and afterwards even "bans" following Dovi (2020, pp. 566, 564).

Exclusionary representation was particularly evident in the silencing of colonized people. As a matter of principle, only sovereign states could join the UN as members and thus appoint delegates to partake in its debates. This also applied to the conference, although the UNGA simulated progressiveness in its decision to invite "all" states,[17] which ultimately meant sovereign states. Colonized ones were not invited, aside from Cambodia and Laos who were in the process of gaining independence.[18] This structural subalternization echoes Anghie's (2005, p. 6) critique that the sovereignty doctrine inherently resulted in the marginalization of those colonized. Yet, there was resistance. The delegate of Pakistan—a state that had achieved independence only in 1947—vehemently opposed the exclusionary structures in earlier debates about the Human Rights Covenant,[19] which were repeated in Convention's negotiations.[20] He stressed the need for colonizers to "consult their non-self-governing territories" before drafting and signing, and lamented how "millions of people were represented in the United Nations only by their governors, who pleaded that they could not in fact represent the peoples of their colonies, but, on the other hand,

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[6] UN Doc. E/RES/116(VI); UN Doc. E/1112

[7] UN Doc. E/RES/248(IX)B.

[8] UN Doc. A/RES/429(V).

[9] UN Doc. E/AC.32/SR.1.

[10] UN Docs. E/SR.399; E/SR.406; E/SR.407.

[11] UN Docs. E/AC.7/SR.156; E/AC.7/SR.157; E/AC.7/SR.158; E/AC.7/SR.159; E/AC.7/SR.160; E/AC.7/SR.161; E/AC.7/SR.166; E/AC.7/SR.167; E/AC.7/SR.169.

[12] UN Docs. E/AC.7/SR.165; E/AC.7/SR.168; E/AC.7/SR.170.

[13] UN Doc. A/PV.325.

[14] UN Docs. A/C.3/SR.325; A/C.3/SR.328; A/C.3/SR.331.

[15] UN Docs. A/C.3/SR.324.; A/C.3/SR.326.; A/C.3/SR.327.; A/C.3/SR.329.; A/C.3/SR.330.; A/C.3/SR.332.; A/C.3/SR.334.

[16] UN Doc. A/CONF.2/SR.1.

[17] UN Doc. A/RES/429(V).

[18] UN Doc. A/CONF.2/SR.27.

[19] UN Doc. A/C.3/SR.295, para. 32–42.

[20] UN Doc. A/CONF.2/21.

argued that the colonial peoples could not represent themselves."[21] He thus questioned why representatives of the colonized were not invited "if only in a consultative capacity"[22]—criticism that remained unanswered. This nonresponse reflects how "broad politics [is] the silencing of resistance and of the subaltern" (Spivak, 1999, p. 373); Pakistan's delegate was met with indifference, and the colonized Others were barred from the dominant discourse signifying how "involuntary silences suppress the voices of others" (Dovi, 2020, p. 566).

Such exclusion was integral to androcentric, western politics, materializing racialized and racist structures of western superiority and white privilege. Despite the delegations of 66 nations[23] being represented to varying degrees, including ones recently achieving independence such as India and Pakistan, western colonial powers with their primarily white men delegates dominated debates in all drafting bodies. The delegations of France, the UK, and the US were particularly influential, holding seats in all bodies and claiming more speaking time than other delegations.[24] Belgium, Brazil, Canada, Denmark, Israel, and Venezuela were also present in all bodies, as mentioned. These nine states exemplify the colonial legacy of white, western influence: four were still colonial powers (Belgium, Denmark, France, and the UK) and two globally influential settler colonial states (Canada and the US). Israel was founded in 1948 after the war of independence and Nakba on the territory that was formerly under British rule. Venezuela and Brazil gained independence in 1821 and 1822 respectively. Some of these states pursued racialized and racist interests by prioritizing white refugees in Europe and subordinating the Other refugees (more below).

Although the debates rather than the composition of delegations are key in research about the Convention's Eurocentric bias (e.g. Bem, 2004, pp. 610–618; Glynn, 2012, pp. 138–141; Ben-Nun, 2015, pp. 28–30), the composition is paradoxically partly used to oppose the existence of a bias. Goodwin-Gill, for example, argued in an early work that the Convention's "western/European focus" was "[s]uperficial criticism" since "all" UN member states were invited to the Conference of Plenipotentiaries where the Convention was adopted (1996, p. 297, footnote 3). This stance persists in more recent works, now substantiated by quotes from the delegate of France—a state that maintained colonial power then—who blamed non-European states for their lacking participation and sense of responsibility.[25] Based on that, it is argued: "The system of generalized protection had failed; because the non-European countries were absent and because of the attitudes of the immigration countries (they claimed to have no protection problems), there was no practical possibility of 'giving refugees in general, and European refugees in particular, a truly international status'" (Goodwin-Gill et al., 2021, p. 40, footnote 167; Goodwin-Gill & McAdam, 2007, p. 36, footnote 106). Although critically noting western 'immigration states' positions, this ultimately scapegoats the Others for being absent. That those still colonized could not partake is not considered in this logic.

These exclusionary practices along gender, sexuality, and colonial lines are deeply intertwined in the western malestream politics. The delegation's composition in the negotiations illustrates the dominance of white, western men in positions of power, while women, LGBTQ+ and colonized people were relegated to positions of depoliticized subaltern Others. Corresponding with Spivak's (1999) approach to subalternity and speech, the records reveal how normalized the exclusion and silencing of the Others were in this political sphere: Pakistan's objection to the lack of colonized peoples' representation went unaddressed, and the scarce or absent representation of women and LGBTQ+ individuals was not even noted. However, the neglect of women, LGBTQ+ and

colonized people contradicted the UN Charter, which stresses "human rights and for fundamental freedoms for all" (article 1 lit. 3), gender equality (article 8), and "equal rights and self-determination of peoples" (article 1 lit. 2). Moreover, representatives from women-focused nongovernmental organizations (NGOs) such as the International Council of Women and the Women's International League for Peace and Freedom attended many of the meetings across the various bodies. Hence, the exclusion of the Others was not merely due to typical politics or a lack of awareness at the time; instead, it exemplifies what Ndlovu-Gatsheni denotes "a racial hierarchy, a patriarchal, imperial, colonial, hetero-normative and capitalist global social order" (2013, p. 130). This political process thus reproduced the white, western, heterosexual man as the standard filter for the powerful delegates in the Convention's drafting.

4. Who was (not) considered in the formulation of the refugee definition?

How did this political process shape delegates' debates, and particularly the framing of who constitutes a refugee? Focusing on the refugee definition as the centerpiece of the Convention helps unravel its drafters' understanding of the subject they sought to protect. Like with the Convention as a whole, the refugee definition put forward in article 1 was drafted by the Ad Hoc Committee, deliberated on in the ensuing bodies of the ECOSOC and the UNGA, and finalized at the conference. To gain deeper insights, I also address debates about some other articles that shed light on the refugee figure.

Throughout the different forums, the refugee definition received much attention. The Ad Hoc Committee initially proposed a definition strongly focusing on Europe,[26] sparking contention in the ECOSOC.[27] Despite subsequent revisions, the Committee's second version still revolved around Europe.[28] This caused heated debates at the UNGA,[29] which eventually universalized the definition.[30] Yet, the conference attendees reintroduced the European bias.[31] Beyond this regional focus, the definition's core elements—i.e. well-founded fear of persecution on the grounds of race, religion, nationality, membership of a particular social group, and political opinion—received little critical scrutiny. I only briefly summarize, and not extensively describe, the core steps here in order to concentrate on the roles of women, LGBTQ+ and colonized people (for further research, see Bem, 2004; Glynn, 2012; Mayblin, 2017; Krause, 2021).

Importantly, the available records provide no evidence that the plight of displaced women, LGBTQ+ or colonized people were thoroughly explored and given necessary weight in the debates over the definition. LGBTQ+ and colonized people were not explicitly mentioned at all in the debates—either concerning the refugee definition or refugee rights. Women were rarely mentioned throughout, and when they were it was not related to the definition—except for two instances at the conference, which were only examples and did not aim to include women or gender-specific issues, however.[32]

This is not merely an oversight of delegates but reflects how the malestream translated from politics into policy, ultimately revealing the white, western, heterosexual man as the norm. Throughout all debates, refugees were referred to with male pronouns and I did not find any section in the records indicating the use of female or non-binary (they) pronouns.[33] This is also reflected in the adopted Convention, where the

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[21] UN Doc. A/CONF.2/21.

[22] UN Doc. A/CONF.2/21.

[23] I.e. the 60 member states at the UN in 1950 in addition to 6 non-members at the Conference of Plenipotentiaries in 1951.

[24] E.g. UN Docs. E/INF/40, p. 147–230; ST/LIB/SER.B/A.1, p. 76–143.

[25] Concerning the delegate's criticism, see UN Doc. A/CONF.2/SR.3.

[26] UN Doc. E/1618; E/AC.35/5.

[27] E.g. UN Doc. E/SR.399.

[28] UN Doc. E/1850; E/AC.32/8.

[29] E.g. UN Doc. A/C.3/SR.325.

[30] UN Doc. A/RES/429 (V).

[31] UN Doc. A/CONF.2/SR.19; A/CONF.2/SR.21.

[32] UN Docs. A/CONF.2/SR.29; A/CONF.2/SR.28.

[33] Note that I analyzed the English documents.

definition notes that a refugee "is outside of his nationality", for example. Such androcentrism was not limited to the Convention but extended to contemporary international law and politics (Charlesworth, 2016; Sen, 2021). A core issue here lay in the public/private divide inherent in international law: only the male-dominated public and thus political sphere in sovereign nations was deemed relevant to international law, while the private, apolitical realm traditionally associated with women was excluded therefrom (Menkel-Meadow, 1991). This public+political/private+apolitical divide reproduced a reductionist focus on biological sex with the naturalized male/female binary, which disregarded diverse gender identities and sexual orientations and thus completely invisibilized LGBTQ+ people in international law (Wilets, 1996; Millbank, 2002; Otto, 2015; Sen, 2021). Moreover, the colonial imaginary exclude those colonized as legal subjects in the hegemonic public sphere of international law due to their lack of sovereignty and normative masculinity (Anghie, 2005; Philipose, 2008). Instead, western colonizers, with their civilizing mission, were to establish law and order vis-à-vis the exotic, barbaric, native Others (Kapur, 2002).

The disregard of the subaltern Others deviating from the male norm did not mean their irrelevance in the making of international refugee law, however. Instead, the extent to which they were made absent expressively showcases how pervasive western malestream then was and how strategically it was pursued—but also contested—in the Convention's drafting. For example, concerning non-discrimination, one of the few woman representatives of NGOs at the conference (thus without voting rights)—Toni Sender from the International Confederation of Free Trade Unions—asked "why sex was not mentioned among the other grounds on which discrimination was prohibited in article 3."[34] This query, much like the above noted proposal by Pakistan's delegate, went unanswered (on Sender, see also Harley, 2021, pp. 79–80, footnote 99). Yet, the issue briefly surfaced earlier during the conference.[35] Yugoslavia's delegate proposed to include sex as a reason for discrimination, drawing on the Universal Declaration of Human Rights, and argued "if sex discrimination were practised, families would be broken up." Italy's delegate supported the proposal whereas France's delegate contended that this insertion "would imply that certain countries at present practised discrimination on the grounds of sex. Such was not the case." UK's delegate referred to employment-related discrimination and stated that "the equality of the sexes was a matter of national legislation"—a stance agreed to by the delegates of the US, Austria, Colombia, Switzerland, and Turkey. Also the president of the conference, Denmark's delegate, expressed skepticism: "He doubted strongly whether there would be any cases of persecution on the grounds of sex."[36]

These debates impressively illustrate that issues related to gender—and also sexuality—were on the agenda but were actively dismissed as irrelevant in the androcentric debates. The neglect of women directly contradicts broader initiatives at the UN, which founded the Commission on the Status of Women in 1946 for the purpose of "promoting women's rights in political, economic, social, and educational fields."[37] The Commission addressed refugees in some of its meetings,[38] was tasked to provide a note on nationality issues,[39] but was not invited to the Convention's negotiations. Women's neglect in the Convention's drafting indicates UN member states' limited political will in this realm and their strategic indifference. In addition to Dovi's approach to banning as a form of physical absence (2020, p. 564), this shows delegates' avoidance, downplaying, and ultimately disregard to recognize and discuss displaced women's protection.

Moreover, the above mentions of equality between the sexes and sex discrimination potentially disrupting families point to an important aspect: the patriarchal, heteronormative structures. This is apparent in the sporadic and brief references to women in the Convention's drafting concerning women's right to work,[40] responses to woman giving birth in a country of asylum,[41] and married women's protection against statelessness and assurance of nationality.[42] The latter focused solely on married women, not single ones, or men (of any marital status), let alone individuals who do not self-identify per the binary gender system. This reinforced the notion that women's identity and rights were inherently linked to and defined by marital status, motherhood, and men as hegemonic counterparts. Feminist research has long stressed patriarchy and the unjust institution of marriage especially in western nations, where only heterosexual relations were accepted—while other forms such as same-sex marriage were prohibited. Women were owned by men and depended on them legally, socially, and economically (e.g. Pateman, 1988; Brake, 2011, pp. 111–131). It appeared that only through their ties to men were women occasionally noteworthy in the Convention's drafting, which simultaneously reveals that delegates choose to engage with some issues but not Others.

This western heteronormativity directly impacted LGBTQ+ people and caused their complete disregard as protection subjects. Their invisibilization could not have resulted from delegates' lack of knowledge of queer lives, rights, and oppression; as mentioned, gay and lesbian activism was on the rise, and western states such as the US, Canada, and the UK were intensifying antigay policies (see Jackson, 2016; Johnson, 2004). Considering the influence of such western states in the UN and the Convention's drafting, I assume that the neglect of queer people's protection signifies not just indifference but strategic ignorance. Adapting Dovi's approach to absence, this shows delegates' ignorance in "refusing of engage with, acknowledge, or even attribute a claim" to a person as well as their protection (2020, p. 566). Such ignorance was made possible by the normalization of androcentric, heteronormative law and politics, in which the heterosexual man embodied legal personhood. As Sen argues concerning international law, "the queer transgender body […] fails to reproduce the visible binaries and metrics of normative heterosexuality and thus, is still at the periphery of recognition as a legitimate human, legal subject by the state (and the cis, straight men)" (2021, pp. 48–49). Their legal invisibilization can be read as "queer necropolitics" (Haritaworn et al., 2014, p. 2), reflecting everyday death worlds of displaced queer people who not only lacked protection but were fundamentally made absent.

The racialized intensity of this white, western, heteronormative androcentrism is evident in the Eurocentric focus and colonial ignorance of debates about the refugee definition. Contrary to the disregard of gender and sexuality, Eurocentrism was highly contested however—although colonized people were not explicitly mentioned. One may assume that the refugee definition's inclusion of race as grounds for persecution indicates the drafters' intended related protection worldwide. Yet, early debates in the Ad Hoc Committee and the ECOSOC hardly addressed race—if so, mentioning merely the "Germanic race."[43] It was only in UNGA meetings—with all member states present—where race was leveraged as a global issue. Most notably, the delegate of India—one of the very few women delegates—addressed the needs of refugees in India, and thereby the aftermath of (de)colonization. She

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[34] UN Docs. A/CONF.2/SR.33.
[35] UN Docs. A/CONF.2/SR.5.
[36] UN Docs. A/CONF.2/SR.5.
[37] UN Doc. E/RES/11(II).
[38] E.g. UN Docs. E/CN.6/SR.67; E/CN.6/SR.68; E/CN.6/SR.74; E/CN.6/SR.80.
[39] UN Doc. E/CN.6/130.

[40] UN Docs. E/AC.32/SR.14; E/AC.32/SR.38.
[41] UN Docs. E/AC.32/SR.29; E/AC.32/SR.37.
[42] UN Docs. E/AC.32/SR.2; E/AC.32/SR.9; E/AC.32/SR.26; E/AC.32/SR.27; E/AC.32/SR.28; E/AC.32/SR.29; E/AC.7/SR.168; E/SR.407. The reference to statelessness can be explained by the fact that originally or initially it was envisaged that the convention would refer to stateless persons and refugees, which was changed in the course of the debates and ultimately two conventions were created.
[43] UN Doc. E/AC.32/SR.5.

criticized how: "The United Nations should try to help not only special sections of the world's population, but all afflicted people everywhere. Suffering knew no racial or political boundaries; it was the same for all." She argued that the problem could only be solved if governments more than just expressed but also pursued "humanitarian sentiments" and "the United Nations had the same concern for all peoples, regardless of race."[44] Moreover, the delegate of Chile reminded the UNGA about the problematic notion of the term "race" and stressed a recent document "by a group of experts, who recommended that the United Nations should not use the word 'race' in its documentation because the term was unscientific." He suggested to use "ethnical reasons" instead[45] but the proposal was not pursued.

Corresponding with such critiques, and despite not mentioning colonized people, delegates repeatedly addressed the global scale of displacements at the various bodies involved and stressed the equal human rights and humanitarian needs of refugees worldwide. For example, Pakistan's delegate rejected the initially proposed Eurocentric definition as it "covered European refugees only and completely ignored refugees from other parts of the world."[46] So did Chile's delegate, who later called the definition "unfair and lamentably short-sighted" in referencing the "millions" who were still fleeing.[47] Also Netherlands' delegate noted that "the refugee problem was not near its final solution, especially if responsibility were accepted as being world-wide, as it should be, and not arbitrarily limited to Europe."[48] In fact, most delegations supported a universal refugee definition, whereas only few mainly powerful western delegations insisted on a Eurocentric one (Krause, 2021). This led to a UNGA resolution that overturned the prior Eurocentrism and universalized the definition, adopted by 41 Yeses, 5 Nos, and 10 abstentions.[49]

However, delegates at the conference reintroduced the European bias. This was driven by France, the US, and Venezuela, with their seats in all drafting bodies, and supported by states such as Austria, Australia, Germany, Italy, Sweden, and Turkey. These delegations pursued differing motives: Venezuela's delegate was driven by economic considerations, seeking to gain from admitting white European refugees (Huhn, 2022). The US delegate pursued geopolitical interests amid the early Cold War tensions (Orchard, 2014), arguing that the Convention was being drafted "primarily […] for refugees in Europe."[50] France's and also Italy's delegates further stressed that only European states were prepared to sign the Convention, and warned of the "problems" for European states if refugees from Other states and regions like "India and the Middle East" were to arrive in the future.[51] However, many states continued to advocate for a universal approach, stressing arguments in line with Egypt's delegate who explicitly warned: "To withhold the benefits of the Convention from certain categories of refugee would be to create a class of human beings who would enjoy no protection at all."[52]

Despite the majority support for the universal definition, a powerful western minority succeeded in having the Eurocentric focus inscribed in the Convention—achieved by reproducing racialized, racist, and gendered arguments. They ascribed the ability and responsibility for legal and political action—that is, signing the Convention and protecting refugees—to western nations alone. Hence, they assigned normative masculinity to western sovereign states as political actors and protectors, which the colonial Others apparently lacked. The Other nations and regions—colonized and decolonized ones alike—were instead

ascribed subaltern, feminized apoliticalness—which was highly contested, however. In addition, France's and Italy's racist portrayal of the Others as looming dangers reflects what Kapur (2007) denotes "postcolonial anxieties"; it not only rendered the Others undeserving and unworthy of legal recognition and protection, but also served to legitimize their exclusion from protection on the grounds of them being a problem needing combating. This also corresponds with Anghie and Chimni's criticism that "since the beginnings of international law, it is frequently the 'other', the non-European tribes, infidels, barbarians, who are identified as the source of all violence, and who must therefore be suppressed by an even more intense violence" (2003, p. 85).

A final thought: one may argue that men were also rarely mentioned in the Convention's drafting. Though correct, this does not similarly indicate political indifference and ignorance but reveals the normalization of androcentric, western, white, heteronormative policy at play—along with the exclusionary system it established. The delegations did not need to explicitly identify the figure as the whole discussion resonate the androcentric perspective, not least manifest in the male pronouns. This exemplifies what Menkel-Meadow calls "gender bias in 'malestream' law" (1991, p. 1515), what Wessels denotes the "concealment controversy" (2021) with law expecting queer people to hide their Otherness in private, and what Kapur captures with "discriminatory universality" (2006, p. 673) vis-à-vis legal provisions being inherently biased against the colonial Others. That the stereotypical refugee figure whom the Convention's powerful western drafters had in mind was a white, heterosexual man is evident in the public/private divide inscribed into the Convention's refugee definition with its focus on persecution. It was primarily persecution by political actors taking place in public sovereign (i.e. western) spheres associated with men that was deemed relevant for refugee status; persecution in private and thus apolitical spheres associated with the Others was not. Hence, the powerful western states managed to marginalize those refugees not fitting the standard filter of the white, western, heterosexual man.

5. Quo Vadis?

The paper began with the question of whether all delegations who drafted the 1951 Refugee Convention truly intend to offer international protection. Based on the available records, I must conclude that most delegations did indeed have this in mind. However, the drafting process was significantly influenced by some powerful western delegations, leading to restrictions. By drawing on Spivak's approach to subalternity and Dovi's typology of absence to explore politics and policy and thus the representation in and content of debates around the Convention's drafting, the strong impact of the contemporary androcentric, western, white, heteronormative structures was depicted. Women were barely and LGBTQ+ and colonized people not at all present in the delegations, or considered in deliberations on refugee definition. As shown, such exclusion of the Others reflected not just everyday politics or insufficient knowledge among the drafters but the strategic indifference and ignorance resulting from western malestream rendering the Others subaltern and invisible in the creation of international refugee law. Their produced absence denied them agency and voice, and their disregarding as protection subjects under the refugee definition perpetuated their political and legal nonexistence, essentially dehumanizing them. As Maldonado-Torres stresses: "Invisibility and dehumanization are the primary expressions of the coloniality of Being" (2007, p. 257).

Where this led to is demonstrated by states' signing of the Convention. At the Conference of Plenipotentiaries' conclusion, only 11 of the 26 participating states actually signed the Convention. Further signatures trickled in slowly in the years that followed. States such as Australia, Colombia, France, and Italy that had insisted on restricting the

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[44] UN Doc. A/C.3/SR.332, para. 26–29.

[45] UN Doc. A/C.3/SR.332, para. 36–37.

[46] UN Doc. E/SR.399.

[47] UN Doc. A/C.3/SR.325, para. 34.

[48] UN Doc. A/C.3/SR.325, para. 21, 24.

[49] UN Doc. A/RES/429 (V).

[50] UN Doc. A/CONF.2/SR.21.

[51] UN Doc. A/CONF.2/SR.19.

[52] UN Doc. A/CONF.2/SR.19.

refugee definition to Europe also signed it accordingly. Most later extended obligations to "elsewhere," but this took time; for instance, France changed this in 1971 and Italy only in 1990[53]—years after the 1967 Protocol was adopted that omitted the definition's temporal limitation. This illustrates the lasting exclusion of the Others who did not fit the standard refugee figure envisioned by the powerful nations.

Over the past few decades, the interpretation of the Convention has received much attention from scholars and practitioners criticizing its biases and outlining more inclusive routes to its application. Since law, including international refugee law, is understood as a "living instrument" (Markard, 2012, p. 1; Hathaway, 2021, p. 155), the Convention's continuous (re)interpretation in the face of arising developments is common. Yet, the androcentric, western, white, heteronormative structures informing its original parameters persist. Gendered, sexual and racialized stereotypes continue to be reproduced (Benslama-Dabdoub, 2024). How strongly this is the case is not only evident in ongoing political debates about the 'true' (white, western) refugees as opposed to the 'undeserving' (black, Muslim) ones (Jaji, 2021a, 2021b; Jaji & Krause, 2024; Ramasubramanyam, 2022). That persistence is reflected also in the ongoing assumption that LGBTQ+ people should act discreetly and in secret, thus concealing their sexual orientations and gender identities in countries of origin to protect themselves from persecution (Millbank, 2002; Wessels, 2021). As such, not fitting the standard filter continues to create significant problems for those seeking asylum today.

Many scholars argue that the Convention's refugee definition is universal, especially in light of the 1967 Protocol. However, I find that Kapur's feminist postcolonial critique of human rights apt here: "discriminatory universality" (2006, p. 673). Then and today, the application of the Convention's provisions relies on the interests and perspectives of powerful decision-makers, and the prevailing ascriptions and limitations reveal profound biases in law and politics.

CRediT authorship contribution statement

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References

Abraham, I. (2023). Contesting the universality of the refugee convention: Decolonization and the additional protocol. *Journal of Refugee Studies, 36*(1), 195–216. https://doi.org/10.1093/jrs/fead008

Abuya, E. O. (2005). A critical analysis of liberalism and postcolonial theory in the context of refugee protection. *King's Law Journal, 16*(2), 263–291. https://doi.org/10.1080/09615768.2005.11427611

Abuya, E. O., et al. (2021). The neglected colonial legacy of the 1951 refugee convention. *International Migration, 59*(4), 265–267. https://doi.org/10.1111/imig.12898

Achiume, E. T. (2019). Migration as decolonization. *Standford Law Review, 71*(6), 1509–1574.

Anghie, A. (2005). *Imperialism, sovereignty and the making of international law*. Cambridge: Cambridge University Press.

Anghie, A., & Chimni, B. S. (2003). Third world approaches to international law and individual responsibility in internal conflicts. *Chinese Journal of International Law, 2*(1), 77–103. https://doi.org/10.1093/oxfordjournals.cjilaw.a000480

Banerjee, P. (2021). The 1951 refugee convention through the eyes of a post-colonial feminist. *International Migration, 59*(4), 268–270. https://doi.org/10.1111/imig.12899

Bem, K. (2004). The coming of a 'blank Cheque' — Europe, the 1951 convention, and the 1967 protocol. *International Journal of Refugee Law, 16*(4), 609–627. https://doi.org/10.1093/ijrl/16.4.609

Ben-Nun, G. (2015). From ad hoc to universal: The international refugee regime from fragmentation to Unity 1922–1954. *Refugee Survey Quarterly, 34*(2), 23–44. https://doi.org/10.1093/rsq/hdv005

Benslama-Dabdoub, M. (2024). Epistemic violence and colonial legacies in the representation of refugee women: Contesting narratives of vulnerability and victimhood. *International Journal of Law in Context, 20*(1), 54–73. https://doi.org/10.1017/S1744552323000356

Bhabha, J. (1996). Embodied rights: Gender persecution, state sovereignty, and refugees. *Public Culture, 9*(1), 3–32.

Brake, E. (2011). *Minimizing marriage: Marriage, morality, and the law*. Oxford: Oxford University Press.

Camminga, B, & Marnell, J. (2022). Framing queer and trans African Mobilities: Absences, presences and challenges. In B Camminga, & J. Marnell (Eds.), *Queer and trans African Mobilities: Migration, asylum and diaspora* (pp. 1–18). London, New York, Dublin: ZED Books.

Charlesworth, H. (2016). Gender and international law. In J. Steans, & D. Tepe-Belfrage (Eds.), *Handbook on gender in world politics* (pp. 137–144). Cheltenham: Edward Elgar Publishing.

Charlesworth, H., & Chinkin, C. (2022). *The boundaries of international law: A feminist analysis* (2nd ed.). Manchester: Manchester University Press.

Chimni, B. S. (1998). The geopolitics of refugee studies: A view from the south. *Journal of Refugee Studies, 11*(4), 350–374. https://doi.org/10.1093/jrs/11.4.350-a

Chimni, B. S. (2017). *International law and world order: A critique of contemporary approaches* (2 ed.). Cambridge: Cambridge University Press.

Cohen, G. D. (2012). *In War's wake: Europe's displaced persons in the postwar order*. Oxford: Oxford University Press.

Crawley, H. (2001). *Refugees and gender: Law and process*. Bristol: Jordan Publishing.

D'Amico, F. (2015). LGBT and (dis)United Nations. Sexual and gender minorities, international law, and UN politics. In M. Lavinas Picq, & M. Thiel (Eds.), *Sexualities in world politics: How LGBTQ claims shape international relations* (pp. 54–74). London, New York: Routledge.

Davies, S. E. (2007). Redundant or essential? How politics shaped the outcome of the 1967 protocol. *International Journal of Refugee Law, 19*(4), 703–728. https://doi.org/10.1093/ijrl/eem068

Dovi, S. (2002). Preferable descriptive representatives: Will just any woman, Black, or Latino do? *American Political Science Review, 96*(4), 729–743.

Dovi, S. (2009). In praise of exclusion. *The Journal of Politics, 71*(3), 1172–1186. https://doi.org/10.1017/s0022381609090951

Dovi, S. (2020). What's missing? A typology of political absence. *The Journal of Politics, 82*(2), 559–571. https://doi.org/10.1086/706979

Edwards, A. (2003). Age and gender dimensions in international refugee law. In E. Feller, et al. (Eds.), *refugee protection in international law. UNHCR's global consultations on international protection* (pp. 46-80). Cambridge; New York; Geneva: Cambridge university press; UNHCR.

Edwards, A. (2010). Transitioning gender: Feminist engagement with international refugee law and policy 1950–2010. *Refugee Survey Quarterly, 29*(2), 21–45. https://doi.org/10.1093/rsq/hdq021

Einarsen, T. (2024). Drafting history of the 1951 refugee convention and the 1967 protocol. In A. Zimmermann, et al. (Eds.), *The 1951 convention relating to the status of refugees and its 1967 protocol: A commentary* (2nd ed., pp. 39–76). Oxford: Oxford University Press.

Firth, G., & Mauthe, B. (2013). Refugee law, gender and the concept of personhood. *International Journal of Refugee Law, 25*(3), 470–501. https://doi.org/10.1093/ijrl/eet034

García Rodríguez, D. (2023). Critiquing trends and identifying gaps in the literature on LGBTQ refugees and asylum-seekers. *Refugee Survey Quarterly, 42*(4), 518–541. https://doi.org/10.1093/rsq/hdad018

Gathii, J. T. (2011). TWAIL: A brief history of its origins, its decentralized network, and a tentative bibliography. *Trade L. & Dev., 3*(1), 26–64.

Glynn, I. (2012). The genesis and development of article 1 of the 1951 refugee convention. *Journal of Refugee Studies, 25*(1), 134–148. https://doi.org/10.1093/jrs/fer054

Goodwin-Gill, G. S. (1996). *The refugee in international law* (2nd ed.). Oxford: Clarendon Press.

Goodwin-Gill, G. S., & McAdam, J. (2007). *The refugee in international law* (3rd ed.). Oxford: Oxford University Press.

Goodwin-Gill, G. S., et al. (2021). *The refugee in international law* (4th ed.). Oxford: Oxford University Press.

Greatbatch, J. (1989). The gender difference: Feminist critiques of refugee discourse. *International Journal of Refugee Law, 1*(4), 518–527. https://doi.org/10.1093/ijrl/1.4.518

Haritaworn, J., et al. (2014). Introduction. In J. Haritaworn, et al. (Eds.), *Queer Necropolitics* (pp. 1–27). Abingdon: Routledge.

Harley, T. (2021). Refugee participation revisited: The contributions of refugees to early international refugee law and policy. *Refugee Survey Quarterly, 40*(1), 58–81. https://doi.org/10.1093/rsq/hdaa040

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[53] See UN's Treaty Collection, Chapter V Refugees and Stateless Persons, Convention Relating to the Status of Refugees (https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&clang=_en)

Hathaway, J. C. (1984). The evolution of refugee status in international law: 1920-1950. *The International and Comparative Law Quarterly, 33*(2), 348–380.

Hathaway, J. C. (1990). A reconsideration of the underlying premise of refugee law. *Harvard International Law Journal, 31*(1), 129–184.

Hathaway, J. C. (2021). *The rights of refugees under international law* (2nd ed.). Cambridge: Cambridge University Press.

Huhn, S. (2022). Rethinking the postwar international migration regime from the global south: Venezuela in a global history of white immigration. *Itinerario, 46*(2), 214–232. https://doi.org/10.1017/S0165115322000122

Indra, D. M. (1987). Gender: A Key Dimension of the Refugee Experience. *Refuge, 6*(3), 3–4. https://doi.org/10.25071/1920-7336.21503

Jackson, J. (2016). The homophile movement. In D. Paternotte, & M. Tremblay (Eds.), *The Ashgate research companion to lesbian and gay activism* (pp. 31–44). London, New York: Routledge.

Jaji, R. (2021a). "Aberrant" masculinity: Men, violence and forced migration. In C. Mora, & N. Piper (Eds.), *The Palgrave handbook of gender and migration* (pp. 373–386). Cham: Palgrave Macmillan.

Jaji, R. (2021b). Essentialism and the making of African refugees. *Africa is a country*. https://africasacountry.com/2021/04/essentialism-and-the-making-of-african-refugees.

Jaji, R., & Krause, U. (2024). Exclusionary refugee protection regime, colonial others, and gender dualities. In J. Freedman, & G. Santana de Andrade (Eds.), *Research handbook on asylum and refugee policy*. Cheltenham: Edward Elgar Publishing.

Johnson, D. K. (2004). *The lavender scare: The cold war persecution of gays and lesbians in the Federal Government*. Chicago: University of Chicago Press.

Kapoor, R. (2022). *Making Refugees in India*. Oxford: Oxford University Press.

Kapur, R. (2002). The tragedy of victimization rhetoric: Resurrecting the "native" subject in international/post-colonial feminist legal politics. *Harvard Human Rights Journal, 15*(1), 1–37.

Kapur, R. (2006). Human rights in the 21st century: Taking a walk on the dark side. *Sydney Law Review, 28*(4), 665–687.

Kapur, R. (2007). The citizen and the migrant: Postcolonial anxieties, law, and the politics of exclusion/inclusion. *Theoretical Inquiries in Law, 8*(2), 537–570. https://doi.org/10.2202/1565-3404.1160

Kapur, R. (2017). The (im)possibility of queering international human rights law. In D. Otto (Ed.), *Queering international law: Possibilities, alliances, complicities, risks* (pp. 131–147). London, New York: Routledge.

Krause, U. (2021). Colonial roots of the 1951 refugee convention and its effects on the global refugee regime. *Journal of International Relations and Development, 24*(3), 599–626. https://doi.org/10.1057/s41268-020-00205-9

Krause, U. (2022). Flucht und Frauen: Reflexionen des Forschungsstandes. In S. Farrokhzad, et al. (Eds.), *Geflüchtete Frauen. Analysen - Lebenssituationen* (pp. 23–43). Wiesbaden: Springer.

LaViolette, N., & Whitworth, S. (1994). No safe haven: Sexuality as a universal human right and gay and lesbian activism in international politics. *Millennium, 23*(3), 563–588. https://doi.org/10.1177/03058298940230030701

Lentini, E. J. (1984). The definition of refugee in international law: Proposals for the future note. *Boston College Third World Law Journal, 5*(2), 183–198. https://heinonline.org/HOL/P?h=hein.journals.bctw5&i=189.

Lugones, M. (2007). Heterosexualism and the colonial/modern gender system. *Hypatia, 22*(1), 186–219. https://doi.org/10.1111/j.1527-2001.2007.tb01156.x

Lugones, M. (2010). Toward a Decolonial feminism. *Hypatia, 25*(4), 742–759. https://doi.org/10.1111/j.1527-2001.2010.01137.x

Luibhéid, E. (2004). Heteronormativity and immigration scholarship: A call for change. *GLQ: A Journal of Lesbian and Gay Studies, 10*(2), 227–235.

Maldonado-Torres, N. (2007). On the coloniality of being: Contributions to the development of a concept. *Cultural Studies, 21*(2–3), 240–270. https://doi.org/10.1080/09502380601162548

Markard, N. (2012). *Kriegsflüchtlinge. Gewalt gegen Zivilpersonen in bewaffneten Konflikten als Herausforderung für das Flüchtlingsrecht und den subsidiären Schutz*. Tübingen: Mohr Siebeck.

Martin, S. F. (2017). UNHCR Policy on Refugee Women: A 25-Year Retrospective. In S. Buckley-Zistel, & U. Krause (Eds.), *Gender, Violence, Refugees* (pp. 21–43). New York, Oxford: Berghahn.

Mayblin, L. (2017). *Asylum after empire: Colonial legacies in the politics of asylum seeking*. London, New York: Roman & Littlefield.

Mendos, L. R., et al. (2020). *State-sponsored homophobia: A world survey of sexual orientation Laws: Criminalization, protection and recognition*. Geneva: ILGA (International Lesbian Gay Bisexual Trans and Intersex Association). https://ilga.org/state-sponsored-homophobia-report.

Menkel-Meadow, C. (1991). Mainstreaming feminist legal theory. *Pacific Law Journa, 23*(3), 1493–1542.

Millbank, J. (2002). Imagining otherness: Refugee claims on the basis of sexuality in Canada and Australia. *Melbourne University Law Review, 26*(1), 144–177.

Murib, Z. (2014). LGBT. *TSQ: Transgender Studies Quarterly, 1*(1–2), 118–120. https://doi.org/10.1215/23289252-2399776

Ndlovu-Gatsheni, S. J. (2013). *Empire, global Coloniality and African subjectivity*. Oxford: Berghahn.

Nkrumah, K. (1965). *Neo-colonialism: The last stage of imperialism*. New York: International Publisher.

Oberoi, P. (2001). South Asia and the Creation of the International Refugee Regime. *Refuge: Canada's Journal on Refugees, 19*(5), 36–45. https://doi.org/10.25071/1920-7336.21228

Orchard, P. (2014). *A right to flee: Refugees, states, and the construction of international cooperation*. Cambridge: Cambridge University Press.

Otto, D. (2015). Queering gender [identity] in international law. *Nordic Journal of Human Rights, 33*(4), 299–318. https://doi.org/10.1080/18918131.2016.1123474

Otto, D. (Ed.). (2017). *Queering international law: Possibilities, alliances, complicities, risks*. London, New York: Routledge.

Pateman, C. (1988). *The sexual contract*. Cambridge: Polity Press.

Philipose, E. (2008). Decolonizing the racial grammar of international law. In R. L Riley, et al. (Eds.), *Feminism and war: Confronting US imperialism* (pp. 103–116). London, New York: Zed Book.

Ramasubramanyam, J. (2021). *India's relationship to the global refugee regime: A legal and historical analysis of the conceptualization of Refugeehood*. Ottawa: Carleton university. https://curve.carleton.ca/ba7a097a-6a1c-453a-82e5-83841de654e1.

Ramasubramanyam, J. (2022). Some refugees are welcome, others not so much. Revisiting the 'myth of difference'. *Volkerrechtsblog*. https://doi.org/10.17176/20220428-182034-0

Ramasubramanyam, J., & Krause, U. (2024). Need for critical reimagination: Colonial legacy of the 1951 refugee convention. In J. Freedman, & G. Santana de Andrade (Eds.), *Research handbook on asylum and refugee policy*. Cheltenham: Edward Elgar Publishing.

Rupp, L. J. (2011). The persistence of transnational organizing: The case of the homophile movement. *The American Historical Review, 116*(4), 1014–1039. https://doi.org/10.1086/ahr.116.4.1014

Russo, G. (2023). *Women, empires, and body politics at the United Nations, 1946–1975*. Lincoln: University of Nebraska Press.

Samaddar, R. (2017). Power and responsibility at the margins: The case of India in the global refugee regime. *Refuge: Canada's Journal on Refugees, 33*(1), 42–51.

Sen, R. (2021). A queer reading of international law and its anxieties. *GNLU Law and Society Review, 3*, 33–55. https://pure.jgu.edu.in/id/eprint/1405.

Spijkerboer, T. (Ed.). (2013). *Fleeing homophobia: Sexual orientation, gender identity and asylum*. Abingdon: Routledge.

Spivak, G. C. (1999). *A critique of postcolonial reason: Toward a history of the vanishing present*. Cambridge: Harvard University Press.

Stein, M. (2023). *Rethinking the gay and lesbian movement* (2nd ed.). New York, Abingdon: Routledge.

Sundström, A., et al. (2017). Women's political empowerment: A new global index, 1900–2012. *World Development, 94*, 321–335. https://doi.org/10.1016/j.worlddev.2017.01.016

Umozurike, U. O. (1971). International law and colonialism in Africa: A critique. *Zambia Law Journal, 3*(1–2), 95–124.

Vance, K., et al. (2018). The rise of SOGI: Human rights for LGBT people at the United Nations. In N. Nicol, et al. (Eds.), *Envisioning global LGBT human rights: (neo) colonialism, neoliberalism, resistance and Hope* (pp. 223–245). London: Institute of Commonwealth Studies/Human Rights Consortium.

Vanyoro, K. (2024). Chronopolitics: Decolonising African migration studies. *Critical African Studies*. https://doi.org/10.1080/21681392.2024.2387554. online first.

Weis, P. (1990). The refugee convention, 1951: The Travaux préparatoires commentary by Dr. Paul Weis http://www.unhcr.org/4ca34be29.html.

Wessels, J. (2021). *The concealment controversy: Sexual orientation, discretion reasoning and the scope of refugee protection*. Cambridge: Cambridge University Press.

Wilets, J. D. (1996). Conceptualizing private violence against sexual minorities as gendered violence: An international and comparative law perspective. *Albany Law Review, 60*, 989–1050.

Yanow, D. (2007). Interpretation in policy analysis: On methods and practice. *Critical Policy Studies, 1*(1), 110–122. https://doi.org/10.1080/19460171.2007.9518511

Sources

UN General Assembly, Third Committee, 5th Session, 324th Meeting, A/C.3/SR.324, 1950.
— Third Committee, 5th Session, 325th Meeting, A/C.3/SR.325, 1950.
— Third Committee, 5th Session, 326th Meeting, A/C.3/SR.326, 1950.
— Third Committee, 5th Session, 328th Meeting, A/C.3/SR.328, 1950.
— Third Committee, 5th Session, 331st Meeting, A/C.3/SR.331, 1950.
— Third Committee, 5th Session, 327th Meeting, A/C.3/SR.327, 1950.
— Third Committee, 5th Session, 329th Meeting, A/C.3/SR.329, 1950.
— Third Committee, 5th Session, 330th Meeting, A/C.3/SR.330, 1950.
— Third Committee, 5th Session, 332nd Meeting, A/C.3/SR.332, 1950.
— Third Committee, 5th Session, 334th Meeting, A/C.3/SR.334, 1950.
— Third Committee, 5th Session, 295th Meeting, A/C.3/SR.295, 1950.
— Plenary, 5th Session, 325th Plenary Meeting, A/PV.325, 1950.
— Question of Refugees, 1st Session, A/RES/8(I), 1946.
— Draft Convention Relating to the Status of Refugees, A/RES/429(V), 1950.
— Index of Proceeding, Fifth Regular Session, ST/LIB/SER.B/A.1, 1951.
Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, Draft Convention Relating to the Status of Refugees: Memorandum / Prepared by the Legal Department, A/ CONF.2/21, 1951.
— 1st Meeting, A/CONF.2/SR.1, 1951.
— 3rd Meeting, A/CONF.2/SR.3, 1951.
— 5th Meeting, A/CONF.2/SR.5, 1951.
— 19th Meeting, A/CONF.2/SR.19, 1951.
— 21st Meeting, A/CONF.2/SR.21, 1951.
— 27th Meeting, A/CONF.2/SR.27, 1951.
— 28th Meeting, A/CONF.2/SR.28, 1951.
— 29th Meeting, A/CONF.2/SR.29, 1951.
— 33rd Meeting, A/CONF.2/SR.33, 1951.
— 35th Meeting, A/CONF.2/SR.35, 1951.

UN Economic and Social Council, Study on the Position of Stateless Persons. Presented by the Secretary-General, Volume I, E/1112, 1949.
— Social Committee, 11th Session, 156th Meeting, E/AC.7/SR.156, 1950.
— Social Committee, 11th Session, 157th Meeting, E/AC.7/SR.157, 1950.
— Social Committee, 11th Session, 158th Meeting, E/AC.7/SR.158, 1950.
— Social Committee, 11th Session, 159th Meeting, E/AC.7/SR.159, 1950.
— Social Committee, 11th Session, 160th Meeting, E/AC.7/SR.160, 1950.
— Social Committee, 11th Session, 161st Meeting, E/AC.7/SR.161, 1950.
— Social Committee, 11th Session, 165th Meeting, E/AC.7/SR.165, 1950.
— Social Committee, 11th Session, 166th Meeting, E/AC.7/SR.166, 1950.
— Social Committee, 11th Session, 167th Meeting, E/AC.7/SR.167, 1950.
— Social Committee, 11th Session, 168th Meeting, E/AC.7/SR.168, 1950.
— Social Committee, 11th Session, 169th Meeting, E/AC.7/SR.169, 1950.
— Social Committee, 11th Session, 170th Meeting, E/AC.7/SR.170, 1950.
— Social Committee, 13th Session, 209th Meeting, E/AC.7/SR.209, 1951.
— Disposition of Agenda Items, 11th Session, E/INF/40, 1951.
— Commission on the Status of Women, 2nd Session, E/RES/11(II), 1946.
— Report of the 2nd Session of the Commission on Human Rights, 6th session, E/RES/116(VI), 1948.
— Study of Statelessness, 9th Session, E/RES/248(IX)B, 1949.
— 11th Session, 399th Meeting, E/SR.399, 1950.
— 11th Session, 406th Meeting, E/SR.406, 1950.
— 11th Session, 407th Meeting, E/SR.407, 1950.

UN Ad Hoc Committee on Statelessness and Related Problems, 1st Session, 1st Meeting, E/AC.32/SR.1, 1950.
— 1st Session, 2nd Meeting, E/AC.32/SR.2, 1930.
— 1st Session, 5th Meeting, E/AC.32/SR.5, 1950.
— 1st Session, 9th Meeting, E/AC.32/SR.9, 1950.
— 1st Session, 14th Meeting, E/AC.32/SR.14, 1950.
— 1st Session, 26th Meeting, E/AC.32/SR.26, 1950.
— 1st Session, 27th Meeting, E/AC.32/SR.27, 1950.
— 1st Session, 28th Meeting, E/AC.32/SR.28, 1950.
— 1st Session, 29th Meeting, E/AC.32/SR.29, 1950.
— 2nd Session, 37th Meeting, E/AC.32/SR.37, 1950.
— 2nd Session, 38th Meeting, E/AC.32/SR.38, 1950.
— 2nd Session, 43rd Meeting, E/AC.32/SR.43, 1950.
— Report of the Ad Hoc Committee on Statelessness and Related Problems, Lake Success, New York, 16 January to 16 February 1950, E/1618; E/AC.35/5, 1950.
— Report of the ad hoc committee on refugees and stateless persons, 2nd session, Geneva, 14 August to 25 August 1950, E/1850; E/AC.32/8.

UN Commission on the Status of Women, Note on the proceedings of the Ad Hoc Committee on statelessness and related problems, concerning the nationality of married women, prepared by the Secretary-General, E/CN.6/130, 1950.
— 4th Session, 67th Meeting, E/CN.6/SR.67, 1950.
— 4th Session, 68th Meeting, E/CN.6/SR.68, 1950.
— 4th Session, 74th Meeting, E/CN.6/SR.74, 1950.
— 4th Session, 80th Meeting, E/CN.6/SR.80, 1950.