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## Don't bracket the queers! Comment on Patti Lenard's 'Resettling (LGBTQ+) refugees'

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#### ABSTRACT

This comment discusses Lenard's view on the resettling of LGBTQ+ refugees (Ch. 7) and pursues two claims. First, it shows how Lenard's method, while providing a novel account of the general duties of resettlement, overlooks some specific features of LGBTQ+ refugeehood that are crucial for understanding both the specific contents and grounds for these duties. Second, it demonstrates how some of the reasons for states to select LGBTQ+ refugees for resettlement coincide with some of the grounds for LGBTQ+ refugee admission and integration conjointly. The comment highlights the need to centralize LGBTQ+ experiences in our theorizing of LGBTQ+ resettlement duties, as opposed to discussing them in the abstract – or in brackets – as an illustration of the broader principles of resettlement duties.

**KEYWORDS** Duties of resettlement; integration; LGBTQ+ refugees; political theory of refuge; refugee admission

#### Introduction

Patti Lenard's *Exclusion and Democracy* (Lenard, 2023) provides an enlightening, systematic exploration to the ways in which different individuals and groups may be excluded from democratic states, and how such exclusions may, or may not, be justified. Lenard frames these discussions with two parameters: 'inclusion/exclusion from territory' (IT/ET) and 'inclusion/exclusion from citizenship' (IC/EC). These parameters create a helpful fourfold matrix (p. 16) within which the topics of the book are situated.

As Lenard acknowledges, the dividing lines between the four categories of inclusion/exclusion (ET-EC, IT-EC, ET-IC, IT-IC) are not always clear-cut. In some cases – including Resettling (LGBTQ+) refugees (Ch. 7) – the discussion is nevertheless placed on one side of the matrix: in this case, territorial inclusion. This positioning is based on Lenard's focus on the duties of states *after* the

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resettlement decision.<sup>1</sup> Lenard shows how the duties of resettlement form a special, yet closely connected, category to the duties of integration that aim at enabling refugees to achieve self-sufficiency. The case of LGBTQ+ refugees is then used to illustrate some of the circumstances that create special duties for states in resettlement that would not typically apply to non-refugee migrants.

My purpose in this commentary is twofold. One, I question Lenard's situating of the debates on LGBTQ+ refugee resettlement within the matrix of territorial and citizenship inclusion/exclusion. I show how some of the grounds for the specific duties of resettlement also operate as grounds for resettlement selection, thus pointing towards the need to discuss LGBTQ+ admission and integration in tandem. Two, I point to some shortcomings in Lenard's strategy of using LGBTQ+ refugees as an illustration of the broader principles in refugee resettlement rather than as a case informing these principles to begin with. I argue that there should be no brackets around LGBTQ+, as a more nuanced understanding of the duties of LGBTQ+ refugee resettlement may be achieved by incorporating the specific circumstances and experiences of LGBTQ+ refugees into our theorizing about refugee resettlement from the outset. I start with the second leg of this critique.

#### Don't bracket the queers!

The title of Chapter 7, 'Resettling (LGBTQ+) Refugees' illustrates both the method and scope of Lenard's argument. Lenard begins with general discussions on the ethics of forced displacement and moves gradually toward the specifics of LGBTQ+ refugee resettlement. Several distinctions are made along the way. Firstly, Lenard differentiates between the duties of states to admit refugees for resettlement ('duties to resettle') and duties that arise after refugees have been admitted ('duties of resettlement' or 'resettlement duties'). In the political theory of forced displacement, as Lenard recognizes, debates on resettlement have focused almost exclusively on the former. This is also true for work focusing specifically on LGBTQ+ refugees (Ritholtz & Buxton, 2023). It is therefore a welcome intervention by Lenard to turn our focus toward these latter questions about the duties of states *after* the resettlement decision has been made.

Having set the focus on the duties of states after the resettlement decision, Lenard differentiates between three clusters of resettlement duties: (1) safe pathway duties, (2) basic arrival duties, and (3) duties to create conditions of self-sufficiency (p. 142). These correspond to different stages of refugee journeys, from the resettlement decision to transfer and entry, and, eventually, to building a new life in the country of resettlement.

Notably, none of Lenard's initial descriptions of these duties include a mention of LGBTQ+ refugees, nor any of the specific challenges that queer individuals may encounter at different stages of the resettlement process. This, I believe, is one of the main weaknesses of Lenard's methodological approach that aims to, first, identify the three general clusters of resettlement duties and, second, use LGBTQ+ refugees as an illustration of what these duties may mean in practice (pp. 147–149). This approach, while attentive to some of the general challenges in each stage of resettlement, may nevertheless not do justice to the often-unique experiences of LGBTQ+ individuals that shape their needs throughout their journeys as refugees.

Let me explain this with the help of some specific features of LGBTQ+ vulnerabilities within the refugee system. First, as widely documented (Human Rights Watch, 2020; NGLHRC, 2023; Rainbow Railroad, 2022; Shaw & Varghese, 2022; UNHCR, 2021, 2022), LGBTQ+ persons are among the most vulnerable groups of refugees. LGBTQ+ individuals face heightened risks of violence not only in the countries they are fleeing but also in refugee routes, camps, reception centers, etc (Danisi et al., 2021; Grungras et al., 2009; Oram & Rainbow Railroad, 2021; Yarwood et al., 2022). Consequently, the UNHCR recognizes LGBTQ+ persons as individuals of heightened risk in need of special protection and, alongside other vulnerable groups, gives priority to LGBTQ+ persons in refugee resettlement (UNHCR, 2024). Second, for many LGBTQ+ individuals, these risks are a direct continuation of their persecution. LGBTQ+ refugees who flee sexual orientation and gender identity or expression (SOGIE)-based persecution, i.e. are persecuted qua LGBTQ+, continue to be at heightened risk throughout their journeys qua LGBTQ+. Often, not only the nature (SOGIE-based) but also the sources of these risks remain the same as some of the sources of the initial persecution, including fellow compatriots (who may now be fellow refugees, fleeing for other than SOGIE-based persecution), country of origin communities, or, in some cases, close relations, including family members.<sup>2</sup> Third, the specific vulnerabilities of LGBTQ+ persons by no means disappear once they are resettled. On the contrary, as Lenard also recognizes, the resettling states are seldom free of homo- and transphobia or other SOGIE-based disadvantages, even if they are 'safe' in the sense of protecting LGBTQ+ refugees from SOGIE-based persecution.

Why are these specifics relevant – and challenging – to Lenard's method of first identifying the three general clusters of resettlement duties and then applying them to LGBTQ+ refugees? Let us start with the first two clusters of duties. While Lenard is undoubtedly correct in showing that there are general resettlement duties to (1) provide a safe pathway for resettlement refugees to their country of resettlement, and (2) cater to their immediate needs (food, water, weather-appropriate clothing, shelter, etc.), the actual contents of these duties vary depending on who the resettling refugees are. In the case of LGBTQ+ refugees, providing a safe pathway may, for example, not only include considerations of how to ensure refugees' safe arrival to a vessel (e.g. an airplane) that then transports them to their country of resettlement, but

also considerations about who they can board the plane with. This entails, for example, that specific protections against homo- and transphobic slurs or violence from other refugees in transit are put in place, thus taking both the nature and the possible sources of the heightened risks of LGBTQ+ refugees seriously. Similarly, the provision of arrival essentials (food, water, clothing, shelter) may not be as uniform as Lenard's discussion sometimes makes it out to be, but should be attentive to the specific needs and risks of LGBTQ+ individuals from the outset. For example, when arranging immediate shelter, it may not be advisable to place queer refugees among those likely to perpetuate the threat of physical or psychological violence (recall the prevalence of violence and hate crimes towards LGBTQ+ persons in, e.g. reception centers (Danisi et al., 2021)).

My point here is not, of course, to say that one could not identify general clusters of duties and generally defined contents of these duties – certainly, safety and basic subsistence are important for all – but that this approach may nevertheless be shortcoming. Most notably, I believe that Lenard's method, if not completely ignoring, still sidelines the unique experiences and needs of LGBTQ+ refugees that should be central in every stage of the resettlement process. Furthermore, starting from the specific needs and experiences of queer refugees, and incorporating these into our theorizing about resettlement duties, may also provide us with a slightly different understanding of the more general duties of resettlement, as these duties are now understood as responding, not only to the most generalizable needs of refugees, but as duties that are inherently connected to the specific needs and circumstances of different groups of refugees, including LGBTQ+.

#### Queer resettlement and admission

Having pointed to some potential oversights of Lenard's method, I now turn to examine whether Lenard's placement of the 'Resettlement of (LGBTQ+) Refugees' within the axis of citizenship inclusion/exclusion and within the contours of territorial inclusion is justified. I do this in light of Lenard's third cluster of resettlement duties, with a specific focus on the relationship between the kinds of persecution refugees are fleeing and the special duties that this persecution gives rise to.

As Lenard discusses, in order to cater for the conditions of selfsufficiency and the refugees' full inclusion in society, the duties of resettlement include a duty to protect refugees specifically from the same types of harms they are fleeing (p.148). This claim, again, is made in general terms applicable to various refugee groups. For example, for refugees fleeing religious persecution, state has a special duty to ensure that they can practice religion freely and without fear of being targeted for their religious commitments. Similarly, for refugees fleeing SOGIE-based persecution, the state has a special duty to protect them from homo- and transphobia and other SOGIE-based disadvantages. Lenard bases the claim on the effects of trauma from fleeing particular type of persecution. If someone is forced to leave their home due to persecution based on X, it can be especially traumatic to be subjected to the same type (X) of prejudice, harm, etc., once having fled this persecution. This creates a special duty for the resettling state to protect refugees, not only from generalized harm but specifically from the same kinds of harms as the initial persecution.

While I find Lenard's argument largely convincing, I also believe that the general formulation of this claim may again overlook some of the specifics of LGBTQ+ refugee experiences, and thus fail to provide a complete picture of the grounds for the resettling states' duties to protect LGBTQ+ refugees from SOGIE-based disadvantages. As discussed in the previous section, one of the specific features of LGBTQ+ refugeehood is that the risks they face qua LGBTQ+ often persist throughout their refugee journeys: from their country of origin, through refugee routes, camps and reception centers and, to varying degrees, in their eventual countries of resettlement. The continuity and persistence of these risks – in both their nature (SOGIE-based) and some of their sources (e.g. country of origin communities) - can also be seen as setting LGBTQ+ refugees potentially apart from other groups of refugees. For example, while refugees fleeing religious persecution no doubt face various dangers as refugees, these dangers are often understood in general terms rather than in terms specific to their religious identity. Similarly, refugees fleeing political persecution, while facing many dangers as refugees, may not typically be targeted for their political opinion throughout their journeys as refugees or in their eventual country of resettlement.

I should emphasize that I'm not suggesting that those fleeing e.g. religious or political persecution could not also be targeted for the same reasons as their initial persecution – of course, they sometimes are – nor that LGBTQ+ individuals would be the only vulnerable group of refugees. On the contrary, UNHCR recognizes several vulnerable groups, including single women, women-headed households, children, people with disabilities, and LGBTQ+ individuals (UNHCR, 2024), and the dangers that refugees face, for example, *as women*, may well be similar to those faced by LGBTQ+ refugees *as LGBTQ*+. Women fleeing religious persecution, for example, are often targeted *as women* during their refugee journeys, even if they were no longer targeted for their religion. In such cases, considering the resettling state's duties *solely* in terms of protecting against the same kinds of harms as the initial persecution provides an incomplete picture of these duties' grounds and content. The special protection duties in resettlement should address not only the types of harm refugees are fleeing (as Lenard recognizes) but also the often

persistent and continuous dangers that refugees face during their journeys as refugees.

The persistence and continuity of the SOGIE-based harms encountered by LGBTQ+ refugees, and their role in grounding specific protection duties in resettlement, also provides an entry point for understanding why, contrary to Lenard's initial positioning of the debate, the questions of LGBTQ+ refugee resettlement should not be discussed squarely within the contours of territorial inclusion, but together with questions on LGBTQ+ refugee admissions. In other words, why the debates on the duties of resettlement – that is, duties *after* the resettlement decision – should not be separated from the debates on the permissible grounds for making these decisions.

While I cannot elaborate on this argument fully here, I have argued elsewhere that the persistence and widespread nature of SOGIE-based disadvantages globally provides strong moral reasons for Western liberal states with substantive LGBTQ+ protections to prioritize<sup>3</sup> LGBTQ+ individuals in refugee admissions (Vitikainen, 2020, 2023a, 2023b). In present circumstances, where over 60 countries criminalize some aspects of queerness, and many more lack effective protections and/ or harbor negative attitudes toward LGBTQ+ people (see e.g. ILGA, 2020), Western liberal states with relatively robust LGBTQ+ protections have compelling moral reasons to admit and prioritize LGBTQ+ individuals in their resettlement decisions. This is not, I should emphasize, because SOGIE-based persecution would be somehow worse than other types of persecution, nor because LGBTQ+ people would have stronger claims against the disadvantages they face during their refugee journeys. Instead, the moral imperative for Western liberal LGBTQ+ friendly states arises from their relatively unique position among other refugeereceiving states as both willing and able to protect LGBTQ+ individuals from a variety of SOGIE-based disadvantages. Not only are the Western liberal LGBTQ+ friendly states willing and able to protect LGBTQ+ refugees against SOGIE-based persecution (many refugee receiving, yet less LGBTQ+ friendly states can also provide this protection), but also against a variety of other, non-asylum-grounding injustices, including various forms of homo- and transphobia.

It would thus seem that some of the grounds for resettling states' duties to protect LGBTQ+ refugees from SOGIE-based disadvantages are also grounds for these states to select LGBTQ+ refugees for resettlement. This points toward a need to discuss the two strands of debate (duties of LGBTQ+ refugee resettlement and refugee resettlement selection) conjointly. In order to gain a better understanding of both the grounds and contents of the duties of resettlement, it may be worth looking at how these duties relate to, and are informed by, the grounds

that states have for selecting LGBTQ+ refugees for resettlement in the first place.

#### Conclusion

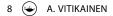
Lenard's *Resettling (LGBTQ+) Refugees* contributes significantly to the ongoing debates on the ethics of forced displacement by focusing on two relatively underexplored themes: the duties of resettlement (as opposed to duties to resettle) and the ethical issues concerning LGBTQ+ refugees. In this comment, I have suggested two ways these debates could be developed further.

Firstly, I demonstrated how our understanding of resettlement duties remains limited if we use LGBTQ+ refugees merely as an illustrative example of more general resettlement principles. To build a more nuanced and complete account of these duties, the specific experiences and needs of LGBTQ+ refugees must be incorporated, as they affect both the content and the normative bases of these duties.

Secondly, I argued that discussions on the duties of resettlement should not be entirely separated from debates on refugee resettlement admission. The prevalence of homo- and transphobia, and other SOGIE-based disadvantages, serves both as grounds for the resettling states' duties to protect LGBTQ+ refugees specifically from these disadvantages and as grounds for resettlement selection. Recognizing this link highlights the need to discuss these two strands of debate in tandem and can help us understand how the ethical considerations surrounding refugee admission may, and perhaps should, inform our understanding of duties after admission.

#### Notes

- 1. While resettlement implies the transfer of refugees from their first country of asylum, once the resettlement decision has been made, questions on whether refugees *should* then be allowed to enter state territory typically disappear.
- The ways in which SOGIE-based risks are manifested, and experienced by LGBTQ+ refugees, are, of course, varied, with many LGBTQ+ refugees opting to either hide their identities, travel alone, or aim to find support from other LGBTQ+ refugees (Danisi et al., 2021; Grungras et al., 2009; Yarwood et al., 2022).
- 3. Giving priority to a particular group of refugees can be understood in many ways, including lexical priority (= all resettled refugees are LGBTQ+) and weighed preference (e.g. via different kinds of fast track or quota systems), with the present international agreements and background normative considerations pointing strongly towards the latter interpretation. For further discussion on priority setting and the ways in which LGBTQ+ prioritization policies may stand in relation to other prioritized groups, see Vitikainen, 2023a.



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Annamari Vitikainen is Professor of Philosophy at UiT – The Arctic University of Norway. Vitikainen's research interests fall broadly within the field of contemporary political philosophy, including questions of multiculturalism, migration, integration, minority and group rights (incl. indigenous rights), and sexuality and gender. Vitikainen is the author of The Limits of Liberal Multiculturalism (Palgrave Macmillan 2015). She has also published e.g. at the International Journal on Minority and Group Rights (2019); Ethics & Global Politics (2020); Citizenship Studies (2021); Moral Philosophy and Politics (2023); Journal of Social Philosophy (2024). Vitikainen's present work focuses especially on the Ethics of LGBTIQ+ Refugee Admission and Integration.

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