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Editorial: Sexuality, Gender and Asylum: Refugees at a Crossroads

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Editorial on the Research Topic

Sexuality, Gender and Asylum: Refugees at a Crossroads

Human rights have been increasingly recognized irrespective of one's sexual orientation or gender identity (SOGI) at international, regional and domestic levels; however, legal frameworks do not yet tackle violations of such rights effectively. As a result, members of SOGI minorities may be forced to flee their countries of origin to protect themselves, often making SOGI-based asylum claims in host countries. There are no reliable statistics on the global number of SOGI claimants, but based on media and NGO reports and estimates, thousands of SOGI claimants seek international protection every year.

SOGI asylum claims raise particular issues in the context of any legal system, including the role of private actors and widespread social stigma, the role of legislation criminalizing same-sex conduct in the country of origin, the assessment of credibility, and the assessment of internal relocation alternatives. In recent years there has been increasing research interest on SOGI asylum in Europe and beyond, and scholars from various disciplines have explored how SOGI claims are often treated in an inappropriate and stereotyped way in several jurisdictions, at legal, cultural and social levels, with particular repercussions in relation to claimants' proof of membership of a particular social group (PSG), risk of persecution and credibility. There has also been increasing interest in the social experiences of SOGI claimants and refugees, and their physical and mental health needs in their host countries.

Despite this growing body of literature on the topic of SOGI asylum, it is clear that many theoretical, geographical and practical challenges and gaps remain. This Research Topic aims to address some of those by addressing a range of aspects that have been offered insufficient attention. It does so by bringing together interdisciplinary and original contributions that push the boundaries of our knowledge and understanding of SOGI asylum:

Chossière explores how the intersection of refugeeness, sexuality, and gender is spatially experienced by queer asylum claimants and refugees in the Parisian area. Based on extensive qualitative research, the article demonstrates how the administrative categories of "asylum seeker" or "refugee" constrain the everyday lives of queer asylum claimants and refugees but also how these categories are negotiated and sometimes strategically mobilized in various contexts.

Based on qualitative document analysis of EU "safe country" policies and on interviews with organizations supporting LGBTIQ+ asylum claimants, Le Bellec's article demonstrates that despite the implementation of gender-sensitive safeguards, LGBTIQ+ asylum claimants are particularly affected by "safe country" practices. As of 2020, 21 EU Member States use the concept of "safe

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country of origin”, which includes countries where LGBTIQ+ people are criminalized. As Le Bellec argues, the idea of countries being “safe” has wider implications also for nationalities that are not on the list of “safe country of origin”, and therefore the concept is not compatible with gender equality or LGBTI+ rights.

Focusing on gender identity and gender expression as grounds for international protection, Avgeri examines the current framework for determining the Refugee Convention’s membership of a Particular Social Group (PSG) requirement and highlights the lack of a coherent legal approach. Avgeri demonstrates how Trans Studies could be utilized to provide a more humanizing and depathologized framework for assessing claims by trans and gender non-conforming claimants.

From the perspective of the lived experience of transgender refugees living in the United Kingdom, Europe and the United States, Soloaga’s article highlights how transgender refugees are active agents in advocating for their rights not only in their country of origin but also in their supposedly “safe” receiving countries, where they often experience a continuation of their persecution. Drawing on a combination of case studies, interviews, and participatory photography, Soloaga demonstrates how transgender refugee activists leverage social remittances and transnational ties for their activism, and how grassroots organizations play an important role in providing a platform and safe spaces.

Gordon-Orr’s article demonstrates how normative understandings of sexuality and sexual relationships shape LGBTIQ+ asylum claimants’ experience of the UK immigration system. Using a critical queer legal approach, Gordon-Orr examines policies and legal judgments related to SOGI jurisprudence. She shows how “mononormativity” and assumptions about the centrality of coupledness, alongside heteronormative and homonormative understandings, shape decision-making practices on LGBTIQ+ claims, disadvantaging those who cannot evidence (long-term) same-sex couple relationships.

Zisakou’s analysis of 60 LGB+ asylum cases in Greece demonstrates that interview and decision-making practices by the Greek Asylum Service to assess credibility in asylum claims based on sexual orientation do not comply with international and European guidelines for credibility assessment, or if they

do on first sight, they are based on essentialist understandings of lesbian, gay, and bisexual identity. This reflects a commonly found approach in Europe that focuses on a biased notion of a fixed and immutable LGB+ identity that neglects intersections with gender, class, ethnicity, and race. Zisakou’s article highlights the need for revised guidelines by advisory bodies and agencies (such as UNHCR and EUAA).

Combined, these pieces contribute to the existing literature and current debates on SOGI asylum, advancing both theoretical and policy debates on SOGI asylum.

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