

“Gay? Prove it”: The politics of queer anti-deportation activism

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Abstract

This article examines how gender, sexuality, race and class intersect in queer asylum claims to influence the perceived credibility of gay and lesbian asylum applicants. Building on recent scholarship in queer migration studies that considers the role of gender and sexuality in the social construction of migrant illegality, this article explores how practices of credibility assessment in the political asylum process produce women and sexual minorities as deportable subjects. As I argue, the tactics utilized by gay male asylum applicants to resist deportation show how practices of credibility assessment in the political asylum process are linked to the state's reproduction of sexual citizenship narratives, narratives that have a disproportionately negative impact upon queer female migrants of color. Accounting for the intersections among gender, sexuality, race and class in influencing the perceived credibility of gay and lesbian asylum applicants is thus crucial for conceptualizing alternative forms of queer anti-deportation activism.

Keywords

Asylum, credibility, deportation, lesbians, sexuality

I met my partner Chris online, although we had seen each other around on the gay scene. We have been together for around three years. Chris is from Malawi, and had to flee to the UK as being gay is illegal in Malawi. While there, he suffered at the hands of homophobes and was beaten with an iron bar. For Chris to gain asylum in the UK we had to prove his sexuality, so I faxed pictures of us having sex to the detention center he was in (much to their embarrassment) but it worked! Now we live happily in Bradford and are considering marriage. Chris is black and I'm white, Chris loves his meat and I'm a vegetarian, Chris hates reading and I have thousands of books, Chris is a Christian and

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I'm anti-religion and an agnostic. We may have more differences than similarities, but as they say: love knows no boundaries.

(Jason and Chris, Bradford, UK)

Although Chris and Jason's story appears under the 'odd couples' section in the *Guardian* newspaper (Spencer and Popovich, 2013), the lengths to which the couple had to go to prove Chris's sexuality is far from uncommon for gay and lesbian refugees seeking political asylum in the United Kingdom. Recent articles published in the *Guardian*, the *Independent*, and *The Huffington Post* report that a growing number of gay male asylum seekers are filming themselves having sex in response to demands from immigration officials that they must prove their sexual orientation (Bowcott, 2013; Elgot, 2013; Hall, 2013). While the UK Border Agency's (2011) asylum policies clearly state that documentary evidence of specific sexual acts is not required to establish proof of sexual orientation,¹ the *BBC Today* radio program has observed that a number of lawyers representing gay male asylum applicants have put forward videos exposing sexual arousal and that these videos were assessed by case officers and deemed acceptable evidence in court by an immigration judge (*BBC Today*, 2013).

According to lawyer S Chelvan, the use of pornographic evidence in queer asylum cases has arisen in part because immigration officials are refusing to accept witnesses seeking to testify for gay and lesbian asylum applicants if they have not had sex with the individual in question. Chelvan suggests that this is 'forcing' gay and lesbian asylum seekers to film themselves having sex in order to prove their sexuality. As he told *The Huffington Post*

I know of at least two cases in the last six weeks where I have had asylum seekers filming themselves [having sex] to demonstrate that they are gay... There's such a huge culture of disbelief that they feel forced to be in this position and submit such evidence... They go to desperate measures. It shows the asylum system has broken down to push gay asylum seekers to have to go to such extremes. (*BBC Today*, 2013)

Building on recent scholarship in queer migration studies that considers the role of gender and sexuality in the social construction of migrant illegality (Luibhéid, 2008; Luibhéid, 2013), this article explores how practices of credibility assessment in the political asylum process produce women and sexual minorities as deportable subjects. As I have argued elsewhere, despite the newly emerging body of scholarship devoted to theorizing the relationship between citizenship and deportation, there has been a lack of attention to the ways in which gender and sexuality, along with race, class, nationality, and geopolitical location render particular migrants legally vulnerable to deportation (Lewis, 2013). And yet the threat of deportation structures the experiences of the vast majority of LGBTI refugees and asylum-seekers, arguably more so than for any other group of asylum applicants. As the UK Lesbian and Gay Immigration Group has reported, for example, in the year

2009–2010, between 98% and 99% of all lesbian and gay asylum cases were rejected at the initial interview stage, compared with a 73% rejection rate for other asylum claims (UKLGIG, 2010). An analysis of negative decision-making in gay and lesbian asylum cases is thus crucial for understanding how practices of credibility assessment in the political asylum process function as a tool of contemporary migration control.

In the first section, I discuss why gay male asylum seekers in the UK are increasingly turning toward pornographic evidence of sexual orientation to prove their sexuality and thus resist deportation. In the second section, I consider the implications of this queer anti-deportation strategy for the perceived credibility of lesbian asylum applicants. As I suggest, the tactics utilized by gay male asylum applicants to resist deportation show how practices of credibility assessment in the political asylum process are linked to the state's reproduction of sexual citizenship narratives, narratives that have a disproportionately negative impact upon queer female migrants of color. Specifically, I demonstrate how these narratives create racialized and gendered states of dependency that exclude lesbian migrants from refugee protection and render them vulnerable to premature death. I conclude by arguing that, accounting for the intersections among gender, sexuality, race and class in influencing the perceived credibility of gay and lesbian asylum applicants is thus crucial for conceptualizing alternative forms of queer anti-deportation activism.

(In)credible queers: Sexuality, pornography, and asylum

I've tried all I can. My ex-boyfriend has written to them. I have people that know me in the community, that know me as a gay person. So I don't know if they want to see me sleep with a man naked or they want a picture of that. They should just tell me but I have tried my best. Because I'm not too feminine. Because they think that maybe I should be wearing a skirt or have a handbag, then that's when they will believe me.

(Uche Nnabuike in *None on Record: Stories of Queer Africa*, Thiam, 2012)

Uche's narrative is symptomatic of a growing perception amongst gay and lesbian asylum applicants in the UK that the only way in which they can establish a credible claim for asylum is by filming themselves having sex. In order to obtain political asylum, gay and lesbian refugees must prove both that they have a 'well-founded fear of persecution,' and that they are members of a particular social group. Article 1 of the 1951 United Nations refugee convention provides the following definition of a refugee:

A person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and

being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (UN High Commissioner for Refugees, UNHCR, 1951, restated in 2001)

Proving who you say you are is central to gay and lesbian claims for asylum because the argument for group membership rests largely on the personal narrative of the applicant (Millbank, 2009). While a number of countries (for example, the UK, the Netherlands, the Czech Republic, and Australia) have recently rejected the 'discretion' requirement, or the notion that LGBTI asylum applicants can return to their country of origin and be "discreet" about their sexual orientation or gender identity, a growing number of lesbian and gay asylum claims are now being refused on the grounds that the applicant's claimed sexual orientation is disbelieved (Jansen and Spijkerboer, 2011; UKLGIG, 2010).

In the 2010 UK Supreme Court decision, *HJ (Iran) and HT (Cameroon)*, the chief judge Lord Rodger, for example, concludes that only those individuals who are 'practicing homosexuals,' or who choose to 'live openly,' constitute a particular social group for the purposes of the refugee convention. Those who adopt what he refers to as a 'voluntary choice of discretion' do not qualify as convention refugees. Lord Rodger uses 'a trivial example' from 'the Western context' to illustrate his rationale behind the need for refugee protection for those who are 'openly gay':

Just as straight men are free to enjoy themselves playing rugby, drinking beer and talking about girls with their mates, so male homosexuals are to be free to enjoy themselves going to Kylie concerts, drinking exotically colored cocktails and talking about boys with their straight female mates. (cited in Keenan, 2011: 35)

By assuming a scenario of 'natural discretion' and 'voluntary concealment,' Lord Rodger makes a distinction between those who are 'openly gay' and those who choose to remain 'discreet' about their sexual orientation. In doing so, however, he goes against the United Nations refugee guidelines, which insist that an analysis of persecution on the basis of sexual orientation or gender identity should be made without reference to the concept of discretion. The result of the Supreme Court's decision is that gay and lesbian applicants who cannot prove that they lived openly in their countries of origin (the majority cannot) must convince decision-makers that the primary reason they concealed their sexual orientation was because of a fear of persecution, rather than as a result of so-called 'voluntary discretion.' Such a ruling, in other words, presumes that gay and lesbian asylum applicants are 'voluntarily discreet' until they can prove otherwise.

By encouraging immigration officials to focus their attention on the expected future behavior of the applicant, the language of discretion that underwrites the Supreme Court decision gives adjudicators increased power to interrogate asylum applicants about their sexual orientation in a way that lends itself to negative credibility assessments.² As the UK Lesbian and Gay Immigration Group has

documented, the discretion logic distracts decision-makers from investigating the detail and content of the persecution claim and refocuses their attention instead on interrogating the applicant about their desire to live openly (UKLGIG, 2013). For many asylum applicants, however, living openly in their country of origin will have been virtually impossible. Consequently, they are subjected to an increased burden of proof to establish that they are living as openly gay in the country in which they are seeking political asylum. Unlike other refugee claimants who are not compelled to 'perform' a visible identity in the country to which they migrate, lesbian and gay asylum applicants are thus expected to conform to western stereotypes of male homosexual behavior based on visibility, consumption, and an identity in the public sphere in order to be considered worthy candidates for asylum (Lewis, 2013).³

The discretion logic that underwrites queer asylum policies in the UK not only produces the expectation of consumption and an identity in the public sphere but, perhaps more disturbingly, has resulted in an excessive focus on the sexuality of individual claimants. The distinction made by the Supreme Court between those who are "openly gay" and those who are 'voluntarily discreet' means that immigration officials are increasingly relying on an individual's participation in specific sexual acts as the basis for proving sexual orientation. A recent report produced by the UK Lesbian and Gay Immigration Group has documented that officials frequently engage in sexually explicit questioning of political asylum applicants, making decisions on the basis of claimants' sexual practice and behavior (UKLGIG, 2013). Minor inconsistencies, such as the inability to recall the names of gay bars is cited as evidence of the applicant's lack of credibility. Alternatively, some judges have claimed that attendance at gay bars is not credible proof of sexual orientation because asylum seekers do not have the necessary funds to participate in the UK's 'gay scene' (UKLGIG, 2013: 14). Such arbitrary modes of decision-making place queer asylum seekers in an impossible Catch 22 situation, whereby the same evidence is considered either favorable or unfavorable depending on the subjective decision-making of the individual official in question (UKLGIG, 2013).

It is precisely the kinds of credibility challenges pertaining to the performance of group membership that has led a number of gay male asylum applicants in the UK to produce documentary evidence of specific sexual acts in order to prove their sexuality and thus resist deportation.⁴ The problem with the use of pornographic documentation as evidence of sexual orientation, however, is that it can have the effect of heightening the burden of proof and exacerbating the credibility issues for future gay and lesbian asylum applicants. As Audrey Macklin has observed, the rejection of asylum applicants because they cannot furnish sufficient identity documents is far from uncommon (Macklin, 1998). She suggests that this can lead to the emergence of the following pattern of rejection in political asylum cases as applicants attempt to contest negative credibility assessments. To begin with, applicants are rejected because they cannot produce sufficient identity documents. When they protest that they are unable to provide the proof, they are told that other applicants manage to do so. Soon, more and more applicants begin to appear with the

requisite identity documents having learned via word of mouth that they must do so in order to avoid deportation. At this point, the decision-makers start to become suspicious of the documents as possibly fake and use this to 'impugn the credibility' of all asylum claimants (Macklin, 1998).

In the case of gay and lesbian applicants within the UK asylum process, the use of pornographic material as evidence of sexual orientation is in danger of producing a similar Catch 22 situation for queer asylum seekers in which they are potentially damned if they fail to provide the tapes as proof of sexuality and damned if they do (the evidence can easily be dismissed as 'fake'). Within such a Kafkaesque scenario, the political asylum system is actually responsible for creating the very system of fraud that it is attempting to eradicate (Bohmer and Shuman, 2008: 107). As a result, decision-makers still have no idea what claimants need to do to prove their sexual orientation, the bureaucracy takes on a life of its own, and proving sexuality in order to establish credibility for the purposes of political asylum becomes, quite literally, an impossible task.⁵ As Erin Power of the UK Lesbian and Gay Immigration Group recently commented, 'When [clients] tell us they have photos or videos... we say that's not how to establish their sexuality' (Bowcott, 2013).

'From discretion to disbelief': Lesbian invisibility in the political asylum process

The UKBA officials wanted me to prove that I was a lesbian but they wouldn't tell me how I could.

(Lesbian asylum-seeker, UK)

The increasing use of pornographic documentation as a shortcut to proving sexuality on the part of some gay male asylum seekers is having a particularly negative impact upon the credibility of lesbian asylum applicants in the UK asylum process. Because of the successful use of such evidence in a number of recent gay asylum cases, many lesbian asylum seekers now feel that immigration officials will not believe that they are lesbians unless they film themselves having sex with another woman. In an interview with the BBC *Today* Program, a lesbian asylum seeker from Uganda was asked: 'How difficult was it to persuade the Home Office of your sexual orientation?' She replied:

It was a struggle. I had my asylum appeals rejected twice. At one time I thought of committing suicide. Basically, they said I wasn't gay. I had met my current partner in the detention center. We presented the gifts we were exchanging—birthday cards, Valentine's cards and everything was in the pictures we took. And even when we were in court my partner was very much cross-examined about our relationship, and the questions we were asked, they were embarrassing. To bring home a point

that we are really in a relationship this is what we do in bed. You can't imagine how humiliating that is. (BBC *Today*, 2013)

Glory, a lesbian asylum seeker from Nigeria who was detained three times as a result of not being able to prove her sexual orientation, similarly commented: 'The Home Office will tell you, "prove your sexuality, we want to know about your sexuality, prove it" [so] I showed a picture of my ex-girlfriend when we were kissing because I don't think it's proper for one to be naked when you're having sex, to go and show them that picture because that's our privacy. They're driving us mad' (BBC *Today*, 2013).

While there are no specific protections or special measures in place for lesbian and bisexual women seeking asylum in the UK, the NGO sector has reported that increasing numbers of women are now seeking political asylum because of persecution related to their sexual orientation (CEDAW, 2013). In the UK, as in many asylum-receiving countries, however, women's and lesbians' claims for asylum are often dismissed as insufficiently engaging with the Refugee Convention. Establishing asylum claims for lesbian and bisexual women in this context can be extremely difficult, as female refugees experience persecution in ways that are often quite distinct from men. In the context of lesbian asylum cases, courts frequently disregard the interrelation of gender and sexual identity in narratives of lesbian persecution (Berg and Millbank, 2009; Millbank, 2002; Minter, 2000; NCLR, 2006; UKLGIG, 2010). Moreover, courts still have a tendency to equate the lack of documented evidence of human rights abuses against lesbians in country-of-origin reports with an absence of persecution (Berger, 2009; Minter, 2000; NCLR, 2006; Neilson, 2005; UKLGIG, 2010). The separation of gender and sexual identity in lesbian asylum cases means that an applicant's experience of rape, domestic violence, and/or forced marriage is often viewed as unrelated to her sexual orientation. For example, in the case of a 19-year-old Belarusian lesbian who was gang raped along with her girlfriend and then mocked by police to whom she made a complaint, the judge remarked: 'The appellant appears to have been targeted *only* because of her sex and vulnerability rather than her sexuality' (UKLGIG, 2013: 26, *my italics*).

Until very recently, lesbian asylum claims were typically dismissed on the grounds that "a homosexual lesbian can avoid the risk of harm by being discreet in her conduct" (Bohmer and Shuman, 2008; Lewis, 2013; Miller, 2005). For example, in one particularly heterosexist and homophobic interpretation of the discretion requirement, a UK judge accepted that an applicant was a lesbian but claimed that she could return to Jamaica because 'she is now in middle age,' and thus 'less likely to be a focus of sexual attention than in the past' (UKLGIG, 2013: 27). Although the discretion requirement is no longer explicitly stated in most countries' asylum policies, it remains implicit in the treatment of lesbian asylum cases and is evident in the increasing burden of proof placed on lesbian asylum applicants to make their sexual orientation visible. As the foregoing lesbian asylum narratives indicate, the problems of claiming political asylum are often

compounded for lesbian and bisexual women, who may be asked to ‘prove’ their sexual orientation and are frequently disbelieved, especially if they have children or have been married.

In the UK asylum process, lesbian sexuality is either invisible or it is treated in a manner verging on the pornographic. As Human Rights Watch has observed, immigration officials’ questioning about specific sexual acts can be especially intrusive in lesbian asylum cases (Human Rights Watch, 2010). Because lesbian applicants commonly speak about the experience of rape and sexual assault, they are often subjected to invasive questioning from immigration officials about their sexual relations with other women. For example, one woman from Uganda was asked by an official how much noise she and her partner made in the shower and how she was “violated” (UKLGIG, 2013: 27). As recently as 2013, questions posed by UK judges to lesbian asylum applicants under the pretext of establishing claimants’ sexual orientation included: ‘Was it loving sex or rough?’, ‘How many sexual encounters have you had with your partner?’ and ‘You have never had a relationship with a man. How do you know you are a lesbian?’ (UKLGIG, 2013: 20).

In her recent work with female refugees, Claire Bennett has observed the hypersexualization of lesbian asylum applicants within the UK asylum process (Bennett, 2013). While one of the women Bennett interviewed was interrogated about whether or not she ‘used sex toys,’ and which sexual positions she liked to adopt in bed, another woman was questioned about the novels of Oscar Wilde and ‘which [lesbian] shows she watched’ (Bennett, 2013). Judges also told some of the women Bennett interviewed that they did not “look like” lesbians, that lesbians ‘don’t have children,’ and that all lesbians ‘enjoy the gay scene’ and like to go on ‘Pride marches’ (Bennett, 2013).⁶ Failure to conform to these heteronormative stereotypes about lesbian identity meant that the women were disbelieved, their asylum claims denied. However, for many of the women Bennett interviewed—who had all experienced physical or sexual violence in their countries of origin as a result of their sexual orientation—it was extremely difficult even to say the words ‘I am a lesbian.’ For women who perceive their sexuality as a private and deeply intimate aspect of their lives, proving their sexual orientation in the context of the political asylum process is incredibly challenging. Indeed, the unwillingness of lesbian asylum seekers to talk about their sexual orientation can be further exacerbated in the presence of male strangers, including both immigration judges and members of the British public who are permitted to attend political asylum hearings.

What drives the contradictory production of lesbian invisibility and hypersexualization in the UK asylum process is the heteronormative assumption that it is possible for women to be ‘voluntarily discreet’ about their sexual orientation in the context of a patriarchal and homophobic environment. The Supreme Court’s ruling that only those individuals who are ‘openly gay’ deserve refugee protection has a disproportionately negative impact upon lesbian asylum seekers. Because it is difficult for many women to be openly gay in their countries of origin, a high

burden of proof is placed on them to convince officials that their acts of discretion are involuntary. Transferring the burden of credibility to lesbian asylum applicants in this way opens up a loophole for negative lesbian asylum decisions because it permits immigration officials to interrogate applicants about specific sexual acts under the pretext that this will help them to establish whether or not the women before them desire to be 'openly gay.' The result is that heteronormative stereotypes about lesbian sexuality based on the assumption that lesbians are naturally more 'discreet' about their sexual orientation than gay men become the basis for excluding queer female migrants from accessing refugee protection. As Jill Power has commented regarding the challenges to lesbian asylum claims, 'We have to spell out [to judges] what "discretion" would mean for that person, and quite often with lesbians, it means having to marry, and would be subjecting them to rape every day of their life' (Miles, 2010).

The challenge to successful lesbian asylum claims lies not only in the gender-specific forms of persecution that women experience, but in the imperative to be "openly gay" that emerges as a result of the discretion logic. While the claim to refugee protection is based on sexual orientation, the imperative to be openly gay—to be a sexual citizen—is the product of neoliberal ideologies of sexual citizenship that are racialized, classed, and gendered. And yet such sexual citizenship ideologies, according to which rights are defined primarily in relation to consumption (Duggan, 2004) create an impossible burden of proof and a narrative that so few queer female refugees are able to reproduce due to lack of access to legal representation, detention, and extreme poverty. Thus, while gay and lesbian claims for asylum are not explicitly prohibited in countries such as the UK, queer migrants are frequently excluded from accessing such rights through their failure to achieve the status of "consumer citizen" (El-Tayeb, 2011: 123). In this context, it is hardly surprising that some gay male asylum applicants are filming themselves having sex as a way of discharging the burden of proving credibility and thus establishing their claim to sexual citizenship.

In their recent work on political asylum and immigrant protest in the UK, Deirdre Conlon and Nick Gill discuss how asylum seekers placed in detention are provided with an education program that encourages them to become familiar with self-representation notebooks that can serve as a legal orientation tool in the asylum process (Conlon and Gill, 2013: 252). These notebooks are designed, first and foremost, to allow asylum seekers to represent themselves at their immigration hearings. What the notebooks aim to do is to teach asylum seekers about appropriate forms of demeanor and self-expression in the political asylum process so that they may become reflexive and responsible "entrepreneurs of the self" (Conlon and Gill, 2013: 245). In this context, proving credibility as a member of a particular social group becomes, quite literally, the personal responsibility of the applicant. As a result, the state is under no obligation to provide asylum seekers placed in detention with access to legal aid.

In the context of the increasing neoliberalization of UK asylum policies, according to which responsibility for proving identity is shifted to the claimant who must

learn the rules of credibility, it is hardly surprising that some gay male asylum applicants are attempting to discharge their burden of proof by providing documentary evidence of specific sexual acts in response to negative credibility assessments.⁷ By relying on essentialist constructions of sexual orientation, however, these tactics ignore the role played by race, class, and gender in negative credibility assessments. In doing so, such queer anti-deportation strategies reproduce the social conditions that led to the challenges to gay and lesbian asylum claims in the first place.

The political asylum system's reproduction of sexual citizenship ideologies according to which responsibility for proving sexuality is shifted to the claimant, poses particular challenges for lesbian asylum seekers. The problem with UK asylum policies and the kind of anti-deportation advocacy they have elicited is that such forms of resistance fail to account for gender differences in the experience of same-sex sexuality. Indeed, the obstacles to lesbian migration in the form of economic and social barriers to women's mobility can present a number of credibility challenges for lesbian asylum applicants. Class status, as well as gender identity, can have a significant impact on negative lesbian asylum decisions. As Sara McKinnon has observed in her work on women's asylum claims, credibility and the ability to be perceived as 'speaking well' are linked to class and social mobility (McKinnon, 2009). In the context of persistent gender inequalities, women's subjugated position in the labor market and general lack of social mobility not only create obstacles to lesbian migration, but barriers to credibility if and when women apply for asylum. The political asylum system's attempt to separate the 'genuine political refugee' from the 'bogus economic migrant' thus has a disproportionately negative impact upon the credibility of lesbian asylum seekers. This is perhaps why it is still the case that the closer one's asylum claim conforms to the narrative of the male political activist fleeing an oppressive regime, the more likely one is able to obtain asylum (Bohmer and Shuman, 2008: 241).

A further obstacle to lesbian credibility in the UK asylum process is the fast track detention system, an accelerated process in which asylum applicants remain in detention while their claims are examined and then decided within a matter of days or weeks. The UK Lesbian and Gay Immigration Group has documented the bad quality of decision-making for applicants placed in the fast-track detention system (UKLGIG, 2013: 29).⁸ Because of the intricate nature of women's and LGBTI claims for asylum, the UK Lesbian and Gay Immigration Group has requested that these claims be removed from the UK's 'detained fast-track' system. However, while the UK Border and Immigration Agency has made exceptions to the 'fast-track' process for children, pregnant women, and the disabled—accepting to some extent that these cases are complicated—they consistently refuse to do so for women and LGBTI asylum applicants. As a result, the kind of complex legal work needed to win women's and LGBTI asylum cases in the UK is rarely done.

In their recent report, 'Missing the mark: Decision making on lesbian, gay, bisexual, trans and intersex asylum claims,' the UK Lesbian and Gay

Immigration Group has called attention to the dehumanizing and traumatic effects of the fast-track detention system on women and sexual minorities (UKLGIG, 2013). As a number of lesbian asylum seekers have argued, the fast-track detention system deprives them of access to appropriate legal information and representation and thus the opportunity to make credible asylum claims. As one lesbian asylum seeker recently commented regarding the challenges to establishing credibility in the UK asylum process, 'The UKBA is subjecting us to mental and emotional torture. It refuses to accept that we are lesbians, despite all the bundles of evidence we have provided, but it is fully aware we are being abused just because we are lesbians by some of the detainees in Yarl's Wood Immigration Removal Centre who come from our own countries' (Movement for Justice, 2012). In the context of the fast-track detention system, queer female migrants are particularly vulnerable because detention prevents the kind of complicated legal work needed to establish credibility in lesbian asylum cases; the experience of detention makes it virtually impossible for lesbian asylum applicants to exercise the kind of 'personal responsibility' needed to prove their sexuality. As advocacy groups such as Human Rights Watch and Asylum Aid have shown, the complexities of women's and lesbian asylum claims, the challenges that detention poses to the preparation and proper presentation of viable claims, and the poor gender-sensitivity in the way the system is implemented, frequently lead to violations of women's and lesbian asylum seekers' rights to a full and fair asylum determination procedure (Asylum Aid, 2011: 61).

The fast-track detention system, combined with the gender-specific obstacles to establishing credibility, made many lesbian asylum seekers feel that they were being persecuted for their sexuality all over again. One lesbian asylum seeker commented that being disbelieved about her sexuality felt equally as traumatic as the persecution she had experienced in her country of origin, all of which made her feel that 'her very existence had been denied' (Bennett, 2013). The UK Lesbian and Gay Immigration Group has also noted that lesbian asylum applicants have undergone medical examinations in detention and that the Home Office has subsequently used information extracted during these procedures in asylum hearings without the consent of the applicants themselves who are given no opportunity to explain their answers.⁹

The violations of the rights of female migrants who are placed in the UK's fast-track detention system shows how state immigration policies, while ostensibly valorizing neoliberal ideals of personal responsibility and social entrepreneurship, actually produce gendered and racialized states of refugee dependency that transform lesbian asylum seekers into diminished and impoverished subjects in a way that creates serious obstacles to their credibility as lesbians when they seek asylum. These gendered and racialized standards of credibility in the political asylum process are virtually impossible for lesbian applicants to meet unless they have the support and resources needed to launch their own activist campaigns (Lewis, 2013). In this way, we can see how the increasing neoliberalization of queer asylum policies in the UK by way of the 2010 Supreme Court decision has facilitated the state's denial of lesbian asylum claims and its reclassification of queer female migrants as illegal and, by extension, deportable.

By examining how practices of credibility assessment in the political asylum process are linked to the reproduction of neoliberal modes of governance, I have attempted to show not only how the state produces lesbian migrants as deportable subjects, but how deportation itself constitutes racialized and gendered forms of sexual citizenship. As Bridget Anderson has commented regarding the implications of deportation for how we conceptualize citizenship more generally, ‘As well as reaffirming its legal rights, deportation also affirms citizenship’s normative qualities... It is clear that deportation can certainly be constitutive of citizenship, but conceptions of citizenship also play a role in shaping who is (and should be) subject to deportation power’ (Anderson et al., 2011: 548, 561). In the context of the political asylum process, practices of credibility assessment serve to produce racialized forms of sexual citizenship and belonging that constitute queer migrants as unfit for citizenship and thus subject to deportation.

By showing how the burden of proof is discharged within the political asylum process in a way that renders lesbian migrants deportable subjects, my goal is to call attention to how the political asylum system operates as a site of legalized violence by which queer female migrants of color are differentially deprived of the resources needed to make credible asylum claims. As I have argued, the political asylum system produces lesbian migrants as precarious populations through differentially exposing them to injury and, in some cases, death. In the context of political asylum policies, the precariousness of lesbian asylum seekers constitutes a socially assigned disposability (Butler and Athanasiou, 2013) that is produced as an effect of state-sanctioned forms of racism. As the lesbian asylum narratives discussed earlier demonstrate, the kind of dispossession lesbian asylum seekers experience as a result of political asylum policies not only encompasses literal forms of state violence such as detention and deportation. Rather, these lesbian asylum narratives also show how the mental torture inflicted upon queer women of color by the political asylum process produces emotional debility, or ‘sovereignty of an emotional kind’ (Cvetkovich, 2012: 134), as a specific form of vulnerability that targets lesbian migrants for premature death by depriving them of the ability to imagine the future.

Conclusion

We should neither run away from credibility issues nor pretend to be capable of knowing more than we can. We are all familiar with the barriers standing between us and “what really happened.” We were not there. The only witness standing before us is usually the claimant with whatever fragments of her life she puts before us.

(Audrey Macklin, ‘Truth and consequences’)

Recent scholarship on political asylum narratives has called attention to the need to reconceptualize notions of credibility within the political asylum process.

This work suggests that current methods of evaluating credibility based on the traditional 'tools' of evidence do not serve the goal of correctly identifying genuine asylum seekers (Bohmer and Shuman, 2008: 171). As the UK Lesbian and Gay Immigration Group has argued, minor discrepancies should not be used against gay and lesbian applicants if they have been able to maintain an otherwise consistent account of persecution (UKLGIG, 2013). Carol Bohmer and Amy Shuman have similarly suggested that the most reliable indicator of an applicant's credibility in the political asylum process may be their ability to 'sustain an extensive account of what happened' (Bohmer and Shuman, 2008: 171). In addition, Audrey Macklin suggests that current understandings of credibility in the political asylum process need to move away from the idea of 'discovering truth' toward a recognition that adjudicators are responsible for making decisions in the face of 'empirical uncertainty' (Macklin, 1998). As Macklin points out, such choices are far from objective, so it is crucial that asylum adjudicators ask themselves why they find particular inconsistencies significant (Macklin, 1998). This would require officials to engage in a more critical and self-reflexive adjudication process, to take responsibility for their decisions by interrogating themselves and not just the claimant (Macklin, 1998).

In the case of lesbian asylum claims, there is an urgent need for specialist training that teaches adjudicators how to recognize the intersectionality of gender and sexual identity in accounts of lesbian persecution. As I have argued elsewhere, there is also a need for greater self-awareness on the part of asylum adjudicators about the obstacles to establishing lesbian credibility in the political asylum process (Lewis, 2013). Recognizing the challenges to lesbian credibility in the asylum process would require officials to demonstrate greater sensitivity toward what gets omitted from the self-narrative. This would mean paying close attention to the gaps and silences within lesbian asylum narratives, as well as to the ways in which trauma narratives more generally renegotiate the relationship between the personal and the political (Shuman and Bohmer, 2004). As I have argued here, however, there are serious obstacles to reframing practices of credibility assessment in the political asylum process. Despite the change in UK asylum law and the rejection of the discretion requirement for gay and lesbian asylum seekers, the old credibility problems remain. Indeed, such problems are not likely to be rectified in an era of further state cuts which have resulted not only in lack of access to legal aid for queer refugees but in more inexperienced case owners processing claims at the initial interview stage (UKLGIG, 2013).

In the face of persistent challenges to successful queer asylum claims, more work is needed that investigates how lesbian migrants negotiate the contradictions involved in establishing credibility within the political asylum process. Given the disproportionately negative impact of UK asylum policies on queer female migrants of color, it is perhaps not surprising that new forms of anti-deportation activism are emerging to contest the ways in which the political asylum system deprives lesbian migrants of the opportunity to make credible asylum claims. Recent lesbian anti-deportation activism produced by the Movement for Justice

Campaign, for example, calls attention to the political asylum system as a site of legalized violence by which queer women of color are deprived of the resources needed to make successful asylum claims (Movement for Justice, 2012). Indeed, queer migrant resistance movements such as these demonstrate how the institution of asylum, an institution initially created to safeguard human rights, has become a tool for further entrenching the coercive, racist powers of the neoliberal state.

By showing how political asylum policies are structured in a way that renders women and sexual minorities disposable populations, queer anti-deportation activism points toward the need for coalitions between feminist, queer, immigrant, and anti-racist advocates. Such activism, which demonstrates how the political asylum system seeks to make racism and its effects invisible, reveals the urgency of tackling practices of credibility determination in the political asylum process from an intersectional perspective. For, only then will queer migration scholars and activists be in a position to effectively comprehend—and ultimately counteract—the political asylum system's production of some of its most vulnerable subjects as deportable populations.

Notes

1. The United Nations High Commissioner for Refugees has suggested that self-identification should be sufficient in asylum claims based on sexual orientation and gender identity and that decision-makers should “lean towards giving the applicant the benefit of the doubt” (UNHCR, 2008: 18). While UNHCR guidelines have been implemented in training manuals for the adjudication of LGBTI asylum claims in Canada, the USA, the UK, and Australia, these guidelines are often not followed in practice.
2. As Janna Wessels comments regarding the 2010 UK Supreme Court decision, “The introduction of a break-down into an ‘open’ and a ‘discreet’ group and then again, and particularly into a subgroup of those ‘discreet out of fear’ and those ‘discreet for other reasons’ requires an exercise of parapsychology which effectively augments the range of personal discretion of the decision-maker” (Wessels, 2012: 75).
3. For example, immigration officials have been known to telephone gay bars to inquire about the presence of queer asylum applicants. Adjudicators also continue to rely on gay travel guides in place of country of origin reports to argue that it is possible for queer asylum applicants to ‘live openly’ in their countries of origin (Asylum Aid, 2011; Dauvergne and Millbank, 2003).
4. Jenni Millbank notes two asylum cases in Canada and Australia in which courts viewed sex tapes produced by gay male asylum applicants but ultimately rejected the tapes as evidence of sexual orientation. While in the Australian case the tape was discredited on the basis that the oral evidence ‘lacked important detail’ about “the nature and type of sexual activity in the video” (Millbank, 2009: 22), in the Canadian case the tape was rejected because the court held that it did not involve the applicant’s claimed partner because, ‘The sex acts appear so mechanical it looks more like an encounter between a John and a male prostitute, rather than two men very much in love with each other’ (Millbank, 2009: 22).
5. Carol Bohmer and Amy Shuman discuss the production of absurdities in the political asylum process as a product of the tension between international human rights and state discourses of national security (Bohmer and Shuman, 2007).

6. As one of the women Bennett interviewed commented, 'They have in their mind this stereotypical lesbian woman with short hair and no make-up, they just expect you to conform to what they believe a lesbian woman should be like and how they behave. They want all of us to have short hair and piercings, it's really, really stereotypical, and they ask you what shows you watch?' (Bennett, 2013).
7. Gay male applicants' understanding of how to represent themselves as credible refugees in the UK is akin to other studies of LGBTI asylum seekers in Europe and North America. As David Murray has observed, for example, LGBTI asylum seekers in Toronto learn how to represent themselves as sexual citizens from fellow asylum seekers (Murray, 2012). In his study, Murray explores the informal spaces through which LGBTI refugees learn about sexual citizenship and the cultural, social and bureaucratic processes they must navigate in order to become credible queer refugees.
8. As they note, the majority of LGBTI asylum seekers in the UK continue to be placed in detention (UKLGIG, 2013: 290). The UK Lesbian and Gay Immigration Group has documented that 40% of their users are in detention and that 7 out of 10 calls for help are from asylum seekers placed in detention. Many LGBTI asylum seekers who come to the UK Lesbian and Gay Immigration Group for assistance are undocumented and homeless because they are terrified of being detained in the fast-track system.
9. For example, one asylum seeker was not believed to be a lesbian because she used contraception (UKLGIG, 2013: 29).

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