

Review:

Queer migration and asylum in Europe [ISBN: 9781787355996] / edited by Richard C. M. Mole (UCL Press, 2023).

Dr Alex Powell¹

In recent years growing attention has been devoted to migration by people who are of diverse genders and sexualities.² In the UK context, sexual and gender diversity is more commonly understood with reference to the acronym LGBTIQ+ . This covers categories such as lesbian, gay, bisexual, transgender, intersex, queer and asexual. However, it should not be assumed that those outside of the UK context will understand their sexual or gender diversity in ways which mirror the UK; nor that they will refer to themselves in the same terms.³ The Edited Collection, *Queer Migration and Asylum in Europe* represents a substantial contribution to the academic literature regarding the movement of sexual and gender diverse people.

The text brings together a timely group of important and insightful essays, each of which draws attention to issues in relation to migrating or seeking international protection as a person who is sexually or gender diverse. At the outset, the editor, Richard C. Mole, relates the text to the 2011 UN Human Rights Council resolution of concern regarding the treatment of people of diverse sexual orientations or gender identities (p.1). In doing so, Mole links the book to the growing global recognition of hetero- and cis-normativity as international issues. However, as he goes on to point out, this does not address the fact that almost 70 UN member states continue to criminalise various forms of sexual and gender diversity and, further, even in states where these characteristics are not criminalised, people may frequently be impacted by forms of gender policing, the violent imposition of normativities, or be subject to various indignities or sanctions for their perceived violation of social and sexual norms.

Moving towards the substantive chapters of the collection, firstly Robert Wintermute addresses the issue of same-sex partner migration in Europe via a contrast between ‘universal humanity’ and national citizenship. The chapter responds to the question of relationships or partnerships as a method of migration from a country with laws limiting the rights and freedoms of sexual minorities to a country with high levels of equality in regard to sexual and gender diversity. The chapter draws out how national citizenship is generally positioned ahead of universal humanity (p.14) and how asylum law often functions as an exception to the exception of universal humanity, allowing the crossing of borders even against the limitations of national citizenship (p.15). Wintermute usefully demonstrates how treating an unmarried same-sex couple in the same way as an unmarried opposite-sex couple may amount to a violation of Article 8 notwithstanding that both same- and opposite-sex couples are, in simplistic terms, treated the same. This is a useful argument

¹ Lecturer in Law, Oxford Brookes University. Contact A.powell@brookes.ac.uk

² Such as: Etienne Luijck, ‘Queer/Migration: An unruly body of scholarship’ (2008) 14(2) *GLQ: A Journal of Lesbian and Gay studies* 169; David Murray, ‘Becoming Queer Here: Integration and Adaptation Experiences of Sexual Minority Refugees in Toronto’ (2011)28(2) *Refuge* 127; Calogero Giametta, *The Sexual Politics of Asylum: Sexual Orientation and Gender Identity in the UK Asylum System* (Routledge, 2017); See for example: Alex Powell, ‘“Sexuality” Through the Kaleidoscope: Sexual Orientation, Identity and Behaviour in Asylum Claims in the United Kingdom’ (2021) 10(4) *Laws* 90.; Carmelo Danisi, Moira Dustin, Nuno Ferreira, Nina Held, *Queering Asylum in Europe: Legal and Social Experiences of Seeking International Protection on Grounds of Sexual Orientation and Gender Identity* (Springer, 2021)

³ Alexander Dhoest, ‘Learning to be Gay: LGBQ Forced Migrant Identities and Narratives in Belgium’ (2019) 45(7) *Journal of Ethnic and Migration Studies* 1075.

that draws out the extent to which same-sex couple may depend on different treatment as a pathway to achieving substantive equality.

In chapter three, Cristian Valenzuela offers an analysis of queer migration focusing specifically on the migration of Latin American gay men to London. This is an important piece of qualitative work that seeks to generate knowledge regarding a group that have historically been ignored or occluded within academic research. The narratives of Valenzuela's participants interestingly reaffirm the centrality of places and spaces in shaping diverse sexualities and shifting the orientations of citizens. The chapter is particularly effective in drawing out the role and desire for anonymity, freedom from the expectations of family and community amongst his participants (pp.37-42). This interestingly cuts across traditional narratives of queer desires for visibility, and challenges the centrality of diaspora communities to migrants, at least where these migrants are of diverse sexualities (p.45). However, it is interesting to note that the comfort experienced by these respondents in queer venues is not shared by queer migrants from other nationalities and ethnicities, with Held describing such spaces as ambivalent in the sense that these could be locations of both support and harm for queers from a wide range of national and ethnic origins.⁴ This suggests that the research is pointing an important difference in the experiences of Latin American queers when compared to some other migrant communities.

Continuing the theme of looking at diaspora queer populations, Mole turns to look at queer Poles, Brazilians and Russians in Berlin (p.57). He usefully explores the concept of diaspora, focusing more on difference from the host society than rigid national communities (p.61). In this chapter, he offers a particularly interesting analysis of the tensions that queer migrants face. For example, he notes that the promotion of very traditional shared norms and values with regard to issues such as sexuality and gender are often adopted as a part of a wider strategy to avoid assimilation into the host society (p.67). However, as he goes on to point out, LGBTIQ+ people who migrate often continue to see their national identity as central to their self-identification, playing a role in shaping how they continue to make sense of the world (p.68). This is another important contribution that draws attention to some of the additional pressures sexual and gender diverse people face when migrating.

Nuno Ferreira looks at the role of the Council of Europe (COE) and the European Convention on Human Rights (ECHR) in framing Asylum claims made within Council of Europe member states. This chapter is an important piece of work that addresses what had, until this time, been a gap regarding the role of the COE—and, in particular, the jurisprudence of the European Court of Human Rights (ECtHR)—with regard to the protection of both asylum claimants more generally, and more particularly sexually diverse asylum claimants. This is significant because, as the chapter makes clear, while the ECHR does not directly provide rights for asylum claimants, it provides a basis for the ECtHR to engage in balancing exercises between the substantive articles of the Convention, such as Article 3 (Freedom From Torture) and Article 2 (The Right to Life) and the autonomy of member states to set their own policies in regard to immigration and the rights of asylum claimants. Ferreira's analysis shows that, while offering some protection for asylum claimants, the high threshold which needs to be demonstrated in order for the ECtHR to find a violation of Articles 2 or 3 sees the court adopting a position of detachment that generally comes down very strongly on the side of state autonomy. Indeed, in acknowledging this, the chapter powerfully calls for the CoE to offer a more refined legal and policy framework for the protection of asylum claimants.

Christian Klesse turns to consider the treatment of bisexual asylum seekers, using a framework of biopolitics to consider the governmentalities that are instilled upon bisexual bodies. His chapter starts by highlighting that even after refusals of asylum on the basis of discretion ended across most asylum systems, the idea that bisexuals are able to pass for heterosexuals, if only they would

⁴ Nina Held, "'As Queer Refugees, we are out of category, we do not belong to one or the other': LGBTIQ+ Refugees Experiences in "Ambivalent" Queer Space' (2022) 46(9) *Journal of Ethnic and Racial Studies* 1898

maintain heterosexual relationships, persist (p.109). In order to do this, he frames the relationship between biopolitics, necropolitics, and sexual orientation or gender identity asylum claims. In setting this up, he usefully draws out the value of biopolitics as an analytic framework for considering the nature of asylum in the UK. He argues that the asylum system, in demanding immutability and visibility places bisexual claimants at a distinct disadvantage in terms of putting forward their asylum claims. He further identifies that this is partly as a result of the way in which the concept of a Particular Social Group has been conceived, particularly in regard to the framing of such groups around inherent or unchangeable characteristics. This chapter usefully points at the potential further conceptual space that could be opened up if sexual or gender diversity asylum claims were considered as, for example, a form of political opinion.

Aurora Prerego uses a framework of bordering as a way of analysing the credibility assessment element of asylum claims in Spain. Specifically, she focuses on Latin American LGBTIQ+ claimants and considers how credible and incredible claims are demarcated within such cases. Of particular note and value is her analysis of how credibility assessments (re)produce hegemonic discourse of sexual orientation and gender identity which lead to the rejection of Latin American queer asylum seekers (p.134). She goes on to argue that one of the issues in relation to is an overreliance on legislation in terms of determining whether or not a given country is a safe place for LGBTIQ+ people to live (p.140). This is a problem that the UK may come to replicate, given its expanding focus on whether or not a given country is safe as a totality, rather than for the individual claimant in question.

Keith McNeal and Sarah French Brennan discuss the complex negotiations of homonationalism and Islamophobia that arise within the context of Caribbean and Muslim asylum seekers attempting to navigate the Dutch Asylum system. Their chapter begins by charting the extent the rise of Islamophobia partly premised on the supposed extreme anti-gay views of the Islamic faith (p.162). This chapter is an interesting contribution which helpfully draws out the intersections of religion and sexual diversity and the ways in which these intersections often play out in the context of asylum claims by sexually diverse people, as well as the negative implications that this can have for sexually diverse Muslims and others who embody intersecting religious and sexual identities.

Moira Dustin and Nina Held look at asylum claims from numerous European countries offering a focus on the role that social experiences such as attending given spaces or membership of support groups plays in structuring a credible asylum claim. Their work usefully draws out the ambivalence of such spaces for queer claimants, pointing out the complex and intersecting ways in which queer spaces are often sexed, gendered and raced (p.190). This is a compelling chapter that draws attention to the problematic and simplistic assumptions on which decision-makers often base the credibility or otherwise of a claim. This is an important reminder that the LGBTIQ+ identities, and their associations with behaviours, spaces, and activities, do not map easily or simply on to those who have been socialised in different contexts. Nor do such expectations correspond to the lived complexity of queer lives.

Sara Cesaro attempts to draw what she terms the 'micro-politics' of third sector support groups (p.216). In doing this, she reflects on the ambivalent, yet important role which organisations set up to help sexually diverse claimants play in supporting asylum seekers and refugees. This is important work that charts an often underappreciated element of the asylum system. As she points out in text (p.217) few previous studies have honed in on this specific area and there is an ongoing need for the work she performs in this chapter to be replicated in other contexts such as that of the UK. Indeed, she further identifies that, as occurs in the UK, engagement with organisations and attendance at certain (queer) spaces is often seen as a key form of evidence in the French context. This, in turn, converts the volunteers working within such organisations from providers of support to witnesses called on to vouch for (or against) validity or reality of a given claimants identity (p.221). These

insights mark this chapter out as an important contribution which is ripe for further investigation within the context of a broader range of jurisdictions.

Finally, Sarah Singer looks to the experiences of lesbian asylum seekers within the UK's immigration detention estate. The chapter draws attention to some highly concerning practices on the part of Detention Custody Officers within UK Immigration Removal Centres, up to and including overt acts of (verbal) homophobic abuse (p.247). As a totality, the chapter importantly draws attention to how detention is experienced by sexual and gender minorities and the risks this places them at in terms of their wellbeing. It further importantly draws out the double-bind detained sexual and gender minority claimants are placed in with the detention estate often requiring them to return to the closet in order to avoid, amongst other things, harassment and mistreatment by other detainees (p.248). This, of course, makes navigating the asylum process, which generally expects open and clear performances of identity from claimants, more difficult. The focus on detention is a welcome and important contribution to the broader LGBTIQ+ asylum literature.

The book as a whole is an important contribution to knowledge that contributes considerably to the literature regarding the intersections of gender, sexuality, and migration. Some chapters in particular, such as Cesaro's, tap important new ground; and all raise key points that scholars and practitioners alike should keep account of during their own work. The book comes at an important time, with increasing attention being directed towards the life narratives of sexual and gender diverse migrants, and large scale shifts in policy—such as the introduction of the Nationality and Borders Act 2022—which present additional and, largely, unrecognised difficulties for migrants of diverse genders and sexualities.