FINAL THESIS

(DES)HACIENDO FRONTERAS

Experiences of Latin American LGBTI* asylum seekers in Spain during the process of credibility assessment

Aurora Perego

Supervisor: Dr. Christine Quinan – Utrecht University

Second Reader: Dr. Víctor Merino Sancho – Universitat Rovira i Virgili

Faculty of Humanities

Department of Media and Culture Studies

Research Master's Programme Gender and Ethnicity

August 2017

Universiteit Utrecht

(DES)HACIENDO FRONTERAS

Experiences of Latin American LGBTI* asylum seekers
in Spain during the process of credibility assessment

Aurora Perego - Student number 5679702

Final Thesis – Research Master Gender and Ethnicity

Department of Media and Culture Studies

Faculty of Humanities

Utrecht University

Supervisor: Dr. Christine Quinan

Second reader: Dr. Víctor Merino Sancho

August 2017

Abstract

Inscribed in queer migration scholarship, this research aims to explore the experiences of Latin Americans seeking asylum in Spain on the grounds of gender identity and/or sexual orientation. The analysis focuses on procedures of 'credibility assessment' implemented by Spanish institutions, i.e. the obligation to prove the veracity of 'well-founded fear' (Geneva Covention, art. 1A) of gender- and sexuality-related persecutions. By investigating how 'credibility' is constructed and evaluated throughout the asylum process, this project presents a twofold scope: (1) interrogating the role of asylum in the (re)production of hegemonic discourses that might justify and/or foster the rejection of Latin LGBTI* populations; (2) exploring the multiple ways queer *latinxs* deal with and respond to the bordering of 'credibility'. To do so, I will configure an interdisciplinary approach by combining a discourse analysis of the sentences delivered by Spanish national courts, and in-depth interviews with eight LGBT asylum seekers based in Madrid. Profoundly informed by feminist, queer, and decolonial theories, this project aspires to articulate a critical set of methodological practices and thinking technologies that problematize the embedding of international protection with asymmetries of race, class, gender, and sexuality. I will specifically look at how asylum adjudications reiterate dominant constructions of 'queerness' and *latinidad* so as to interrogate the cis-heteronormative and racialized borders that delimit the domain of citizenship. This gesture is meant to question the filtering logic of asylum that categorise migrant subjectivities into 'genuine refugees' and 'bogus economic migrants'. After unveiling the functioning of disciplinary frontiers, I will conclude by interrogating the strategies articulated by my respondents in order to be granted refuge and achieve their quests for safety and freedom. By looking at their struggles to exist across and beyond borders, I will contend that my informants (un)do and re-signify 'queerness' and *latinidad* towards the non-normative imaginaries opened by 'queer *latinidad*'.

Acknowledgements

Table of contents

[C]uando vives en la frontera

people walk through you, the wind steals your voice,

you're a *burra, buey*, scapegoat,

forerunner of a new race,

half and half-both woman and man, neither-a new gender;

[I]n the Borderlands

you are the battleground

where enemies are kin to each other;

you are at home, a stranger,

the border disputes have been settled

the volley of shots have scattered the truce

you are wounded, lost in action

dead, fighting back;

[T]o survive the Borderlands

you must live *sin fronteras*

be a crossroads.

[Gloria Anzaldúa, *Borderlands / La Frontera* (1987)]

Introduction

Madrid, 13.03.2017. The room where the LGBT[1] group of asylum seekers used to meet was rather full that day. I arrived a bit earlier than expected and took some time to come to terms with my fears: was the investigation of any relevance for them, and would I be able to present it? When I entered the space, I saw several shy or smiling faces around me to whom I shyly smiled back. As soon as they introduced themselves in a circle, I noticed that most of them were Latin American.[2] I opened my presentation with a coming out: I told them that my sexuality does not conform to static categories of 'homosexuality' and 'heterosexuality', but that while growing up I realised that the discrimination I had endured was anyhow more than balanced by my citizenship status, which has always guaranteed me freedom of mobility and settlement. I explained that my project came precisely from that awareness, but was nonetheless meant to shift the emphasis from my privilege to their embodied experiences of migration and asylum. When I mentioned that I was interested in scrutinising the necessity of proving the 'credibility' of one's narrative of 'well-founded fear' of persecution, the immediate reactions triggered a long discussion concerning upon the implicit meanings the concept of 'credibility' could entail in their asylum applications.

This research is situated precisely at the *fronteras*, i.e. borders, of queerness, citizenship, and asylum fostered by the requirement to present 'credible' evidence to be recognised as 'refugees'. According to the Convention relating to the Status of Refugees (hereafter: 'Geneva Convention', 'Refugees Convention' or '1951 Convention), 'refugees' are individuals who leave their country of nationality or habitual residence because of a well-founded fear of being persecuted for reasons of race, religion, ethnicity, political belief, and/or membership of a particular social group. In this respect, the 'credibility assessment' of asylum claims is defined by the United Nations High Commissioner for Refugees (UNHCR, 2013) in the following way:

---

[1] Throughout the thesis, I will use both 'LGBT' and 'LGBTI*'. The former speaks of lesbian, gay, bisexual, and transgender individuals, while the latter includes a reference to intersexed people and to all of those practices, desire, and identities that do not conform to hegemonic notions of heterosexuality and cisnormativity. I will deploy 'LGBT' when referring to the group of asylum seekers that collaborated with my research, due to the absence of self-identified intersexed, gender-variant, gender-fluid, gender-queer, and gender non-conforming participants. When the acronym broadly relates to non-heterosexual and/or non-cisgender populations, I will speak of 'LGBTI*' or 'queer subjectivities' so as to be as inclusive as possible, despite the limits entailed by the necessary use of any specific terminology. I will address the multiple meanings of 'queer' and 'queerness' in Chapter 1. For a problematization of the mainstream use of 'LGBT' to account for cisgender gay men only, please refer to footnote 19.

[2] With the unfolding of the analysis, I will problematize the terms 'Latin American', '*latinx*', and its embodied identity known as '*latinidad*'. Although these references represent the geographical focus of the investigation, their significances will be undone through an enquiry into the dominant discourses that construct *latinidad* as a neo-colonial essentialised category. Building on Rodriguez (2003; 2014) and Viteri (2008b), my use of the term 'Latin American' hence speaks of individuals from Central and South America, whose *latinidad* will not be taken for granted at all, but profoundly scrutinised in relation to both queerness and asylum.

The process of gathering relevant information from the applicant, examining it in the light of all the information available to the decision-maker, and determining whether the statements of the applicant relating to material elements of the claim can be accepted, for the purpose of the determination of qualification for refugee and/or subsidiary protection status. (P. 27)

The assessment of credibility encompasses a range of methods to determine the features that asylum applications must show in order to be considered 'truthful'. Only if and when the applicants present 'credible' proof of their claims, will they be recognised as 'refugees' and granted asylum. Since final adjudications depend on the claimants' 'credibility', its assessment represents a crucial component of the whole asylum system.

My investigation aspires to problematize the intricate entanglement of queerness, normativity, and asylum by focusing on the procedures of credibility assessment conducted by Spanish asylum institutions with reference to LGBTI* Latin Americans. The analysis will unfold around and question the concept of 'border'/'*frontera*', considered in its material and symbolic significations. By exploring the experiences of Latin Americans seeking asylum on the grounds of gender identity and/or sexual orientation, this project is meant to: (1) interrogate the role of asylum in the (re)production of hegemonic discourses that might justify and/or foster the rejection of Latin LGBTI* populations; (2) exploring the multiple ways queer *latinxs* deal with and respond to the bordering of 'credibility' (Epps, Valens, and Johnson González, eds., 2005) . This enquiry draws on the 'unruly body' of queer migration scholarship, which "insists on recovering, theorizing, and valorizing histories and subjects that have been largely rendered invisible, unintelligible, and unspeakable in both queer and migration studies" (Luibhéid, 2008, p. 171). To conclude, this project aspires to contribute to interrogations of both cis-heteronormative assumptions about migration flows and racialized understandings of queerness.

Although I will scrutinise asylum claims filed on the grounds of both gender identity and sexual orientation, here I consider important to outline that I am critical of any attempts to merge these two concepts under a unified, homonormative (Duggan, 2003) label. On the contrary, I aspire to cast light on how cis-heteronormativity and racialization target in specific ways subjects persecuted and discriminated because of their gender *and/or* sexuality. To do so, I resort to Butler's 'heterosexual imperative' ([1993] 2003, p. xiii) that, following on a Foucauldian understanding of power, is conceptualised as an exclusionary matrix in which cis-heteronormativity is produced not before, but together with "racializing interpellations" (p. xxv).

This theoretical framework informed the fieldwork I conducted in Madrid (Spain) from February to May 2017. The interdisciplinary methodology of the project merges a discourse

analysis of the sentences delivered by the Spanish national courts between 1998[3] and 2016 on the asylum claims filed by LGBTI* Latin Americans, with in-depth interviews and participant observation with a group of LGBT asylum seekers based in Madrid. Wary of generalisations, this qualitative approach aims to problematize traditional representations of refugees and asylum seekers as 'helpless victims' (Eastmond, 2007) and "objects of governmental regulation, depersonalized statistical inquiry, and legal abstraction" (Epps et al., 2005, p. 22). Furthermore, building on feminist insights of community-based participatory research (Creese and Frisby, 2011; Brinkman, 2016), it aspires to unveil and negotiate the differential access to power inherent in the process of knowledge production that constructs the privileged position of the 'researcher' is constructed over the 'researched'.

This project simultaneously draws on and is situated at the core of political and academic debates on borders, migration, and refuge. In recent years, the EU has been confronted with massive displacements of people moving both within European borders and from non-European countries. A supposedly increased mobility in the global era has intersected with a higher amount of individuals fleeing their home-countries and seeking asylum in Europe. Eurostat, the Directorate of the European Commission in charge of statistical investigations, reports that 1,204,300 asylum applications were issued in the 28 EU Member States in 2016, less than the number collected in 2015 (approximately 1.3 million), but still almost doubling that of 2014 (562,700).[4] Despite the average decrease, last year Spain was one of the countries that registered a growth of asylum applications (15,755 in total).[5] The Spanish case presents a different picture from most of the other Member States, since the majority of claims was issued by Venezuelans (3,960), followed by Syrians, Ukrainians, Algerians, Colombians, Salvadorians, Hondurans, Palestinians, Moroccans, and Nigerians. In 2016, 67% of the evaluations were positive, meaning that the applicants were granted either asylum or subsidiary protection.[6] However, such responses mainly concerned Syria, Pakistan, and Eritrea in case of refuge, and Syria, Somalia, and Palestine in case of subsidiary protection. On the contrary, the high presence of Latin American asylum seekers dramatically

---

[3] Date of the first sentence issued by the *Audiencia Nacional* on the case of a homosexual asylum seeker from Ecuador.

[4] Data available at: http://ec.europa.eu/eurostat/en/web/products-press-releases/-/3-16032017-BP [Last accessed 08.08.2017].

[5] For a broader picture of asylum statistics in Spain, refer to: http://www.refugiadosmasquecifras.org/ [Last accessed 08.08.2017]. This website is managed by *Comisión Española de Ayuda al Refugiado* (https://www.cear.es/), a national organization working on the field of migration and asylum. At the present day [08.08.2017], the statistics available on the website of the Spanish Ministry of Interior (http://www.interior.gob.es/web/archivos-y-documentacion/documentacion-y-publicaciones/publicaciones-descargables/extranjeria-y-asilo/asilo-en-cifras) are not up to date.

[6] For an understanding and problematization of the difference between 'refuge' and 'subsidiary protection', consult McAdam, 2005.

diminishes when considering accepted applications, perhaps meaning that Latin Americans' claims are often not granted protection. However, as we will see in Chapter 2, owing to the lack of official data addressing the grounds of asylum applications and the reasons of rejections, it is rather hard to gain a more detailed image of the asylum situation in Spain.

Although most of the asylum applications registered in Spain are not from the Americas, several investigations[7] into Latin American migration flows towards Spain report an important increase of immigrants since the beginning of the 21st century. Izquierdo (2002) defines this phenomenon as the 'Latin-Americanization' of migratory movements to Spain. According to Gil Araújo's enquiries into Spanish migration policy (2008; 2010), such movements are to be understood through sociologist Anibal Quijano's 'coloniality of power' (2000), considered as both a historical condition and the result of the exploitation of Central and South America at the hand of Spanish colonisers. In particular, Gil Araújo argues that the situation of Latin American migrants in Spain is marked by relations of structural inequality between what is considered as the 'centre' of the world (Europe) and its peripheries. Such asymmetry, legacy of former colonializations, is still present as a form of 'coloniality' in the establishment of an inherent hierarchy between migration flows to Spain. According to the principle of 'ethnic affinity', Spanish institutions have developed a series of policies aimed at privileging *some* immigrants (the ones considered to be 'culturally similar' to Spanish citizens, i.e. white, Christian, and of European origin), which have resulted in the stratification of immigrant communities, even within the common denominator of 'Latin Americans'. In this respect, Gil Arajúo states that the policy of preference for European and/or Spanish descendants works as a neo-colonial othering of indigenous and non-white populations.

Data gathered by NGOs show that all over the world LGBTI* individuals are subjected to several and severe forms of violence (ranging from institutional violence, such as criminalisation and police abuses, to social violence, e.g. domestic abuse, acts of torture, threats, and systematic discrimination) that induce them to leave their countries in high numbers (UNHCR, 2015). Despite the absence of EU institutional statistics on the number of asylum applications submitted on the grounds of sexual orientation and/or gender identity, ILGA Europe highlights that "the available data and the reports of LGBTI and asylum organisations witnessing increasing numbers of LGBTI asylum seekers do indicate alarming numbers" (ILGA Europe 2016, p. 1). The organization also argues that this kind of claims face specific problems in comparison to those issued on other grounds, one above all the "growing trend of rejections based on non-credibility of the sexual orientation or gender identity itself, in many cases based on stereotypes" (2014, p. 4). Along this

---

[7] Refer to: García Ballesteros et al., 2009; Herrera and Yépez del Castillo, 2007; Hierro, 2013; Martínez Bujan, 2003; Vicente Torrado, 2005.

line, recent academic scholarship enquiring into practices of evidentiary assessment has unveiled its multiple pitfalls when it comes to defining, and consequently evaluating, the 'credibility' of LGBTI* applicants in the U.S., Australia, and Northern Europe.[8] In *Fleeing Homophobia: Sexual Orientation, Gender Identity, and Asylum* (Spijkerboer, 2013), Jansen affirms that the assessment of sexual orientation or gender identity varies amongst the various EU Members. Nonetheless, rejections of LGBTI* populations are mainly related to their lack of 'credibility', for instance the situation of the country of origin not being 'bad enough' to consider that the applicants might be 'truly' in danger, or disbelieving their self-identification due to Western-centric assumptions on how a 'true' LGBTI* person looks like and behaves (2013, pp. 15-16).

Against this backdrop, I follow on scholars from various disciplinary areas[9] who interrogate the asymmetries that permeate the asylum system. According to Walia's exploration of the symbolic processes through which the concept of 'citizenship' is materially bordered (2013), asylum is conceived as a policy of 'border imperialism' that rests upon an exclusionary logic:

> Border imperialism depicts the processes by which the violences and precarities of displacement and migration are structurally created as well as maintained. […] While borders are understood as lines demarcating territory, an analysis of border imperialism interrogates the modes and networks of governance that determine how bodies will be included within the nation-state, and how territory will be controlled within and in conjunction with the dictates of global empire and transnational capitalism. (P. 7)

As I will maintain throughout this work, the process of credibility assessment of Latin American queer asylum seekers functions conforming to Walia's understanding of border imperialism, i.e. as a disciplinary mechanism built on normative discourses of in/exclusion. Without contending that it assumes a particular relevance in asylum cases on the grounds of gender identity and/or sexual orientation presented by Latin Americans in Spain, I am nonetheless interested in exploring the intersecting asymmetries of race, gender, sexuality, class, and social status that the concept of 'credibility' might (re)produce with reference to queerness, intended as racialized identity (Puar, 2007) and *latinidad*, understood as a (neo-)colonial construction (Rodriguez, 2003).

---

[8] For an in-depth overview and analysis of the credibility assessment in asylum procedures, consult: Bobis, 2012; Millbank, 2009a; 2009b; 2002; Millbank and Berg, 2007; Millbank and Dauvergne, 2003; Noll, 2005. For an investigation on queer migration in the US, see: Luibhéd and Cantú, 2005. Please refer to Epps, Valens, and Johnson González, 2005, to explore the entanglement of sexuality and migration with a specific focus on Latin America. For accounts on the various asylum procedures carried out in Europe in relation to the evaluation of credibility, see: Akin, 2016; Cohen, 2002; Connely, 2014; Gartner, 2015; Giametta, 2016; Jordan, 2009; Lewis, 2014; Spijkerboer, 2013; Weßels, 2013. Although this list is not exhaustive, it is important to notice a lack of research on the credibility assessment in Southern Europe.

[9] To name only a few: Bohmer and Schuman, 2008; Huysmans, 2006; Oelgemöller DPhil, 2010; O' Nions, 2014; Walia, 2013.

In conclusion, I have focused my enquiry on Southern Europe. Despite the growing scholarship exploring this topic through various angles, countries such as Italy, Spain, Portugal, and Greece are profoundly under-researched. I therefore envision this research as an intervention that, by casting light on the Spanish asylum process in the case of Latin American LGBT applicants, contributes to question the entanglement of border imperialism with homonationalism (Puar, 2007), and opens space for possible decolonising re-significations of the *fronteras* surrounding queerness, *latinidad* and asylum. In this respect, I believe that the analytical focus and critical perspectives I adopted to develop my analysis are some of the several onto-epistemological lenses to explore the complex intersections of normative citizenship, exclusionary asylum, and racialized queerness. I therefore strongly hope that my investigation constitutes a meaningful invitation to further research.

I will articulate my analysis through three chapters. Chapter 1 outlines my positioning towards the research, theoretical framework, and methodological approach. Following on previous investigations, I will start with an interdisciplinary-intersectional problematization of the concept of border by means of what I will configure as a 'decolonising queer praxis'. Drawn from Mezzadra and Nielson (2013), this move will allow me to re-envision border as a queer decolonial method to look at the credibility assessment of asylum claims issued by LGBTI* Latin Americans in Spain. This lens will also guide my understanding of self-reflexivity as a research practice (Sultana, 2007) to negotiate fieldwork dilemmas, which in this project mostly concerned issues of accountability, privilege, and power of representation during the process of knowledge production. In Chapter 2 I will contextualise the asylum system from the Geneva Convention to its reception in the EU and in Spain, with specific attention to the articulation of gender- and sexuality-based persecution as an asylum ground. On this theorisation I will base the discourse analysis of 112 sentences issued by Spanish national courts on the asylum appeals presented by LGBTI* Latin Americans. I will then reflect on the cis-heteronormative and racialized foundations of the credibility assessment, which I will refer to as the discourse of 'queer (in)credibility'. Through this critical lens, I will maintain that the credibility assessment functions as a means of border control, i.e. it is aimed at creating the image of the 'exceptional queer refugee' (Giametta, 2016) from which queer *latinxs* are systematically excluded. Chapter 3 will explore the asylum experiences recounted during in-depth interviews with eight Latin American asylum seekers based in Madrid. Resulting from my collaboration with *La Merced Migraciones*, a local foundation that works with migrants and refugees, I will complement the analysis with my fieldwork notes on the participant observation I conducted together with the group of LGBT asylum seekers who hold their meetings at *La Merced*. Starting from an enquiry into the material and symbolic borders that characterised their lives as queer *latinxs*, the chapter will unfold around the erasure of their stories of persecution by hand of

asylum institutions. It will then conclude with an emphasis on how queer (and) *latinx* asylum seekers blur the borders that sustain the discourse of 'queer (in)credibility' by contaminating cis-heteronormative assumptions over migration from Latin America, and decolonising racialized understandings of queerness.

To conclude, I aspire to offer a theoretical entry point on how 'credibility' functions as a disciplinary mechanism that constructs the 'real refugee' along normative borders. Yet I also intend to interrogate the practices through which queer *latinxs* re-articulate queerness and *latinidad* towards non-normative imaginaries. Inspired by Bulter's *Undoing Gender* (2004), I strive to address the doing (*haciendo*) and undoing (*deshaciendo*) of borders in order to contribute to understanding border struggles as sites of 'radical social critique' (Hunt and Holmes, 2015). Throughout the coming chapters, I hope to make space for a critical exploration of how interlocking borders shape 'credible' queer identities, and how 'non-conforming' queer subjectivities trouble such *fronteras*.

CHAPTER ONE

Queering (research) borders, decolonising queerness

1. Interdisciplinary-intersectional resistance as a decolonising queer praxis

As aforementioned, this work is inspired by an emerging number of investigations[10] that problematize the intricate intersections between gender, sexuality, citizenship, and migration. In a special issue of the journal *Sexualities* on "Queer migration, asylum, and sexuality" (2014), guest editors Rachel Lewis and Nancy Naples emphasise that deploying a queer lens to the study of migration not only unveils the "complex interplay of sexuality, gender, race, politics, economics, and culture in shaping desire and the mobility of different bodies across many different kinds of borders" (2014, p. 912), but also "brings into view the way in which movement across borders reinscribes heterosexuality, regulates homosexual expression, and renders invisible the bodies and self-identities of those who dare to cross" (2014, p. 912). In other words, queer migration scholarship engages in the twofold goal of challenging heteronormative assumptions surrounding migration flows, and of problematizing deterministic understandings of 'queer' and 'queerness' as discrete and stable categories. Consequently, it complicates the notions of 'border' and 'border crossing', revealing their deep entanglement in discursive power structures. On the one hand, borders are resignified beyond the cartographical and institutional representation of lines that demarcate sovereign states, so as to account for the theoretical boundaries that both sustain and are (re)produced through power hierarchies. On the other hand, border crossing is understood not simply as the material transit from one (delimited) state to another, but also as a trespassing of conceptual frontiers that categorise individuals according to what legal scholar Dean Spade terms 'discourses of deservingness' (2013, p. 1037), namely narratives of whose existences (do not) count. Queer migration scholarship conceives borders as disciplinary processes that contribute to intersectional constructions of privilege and marginalisation conforming to hegemonic modes of governance.

This research is deeply concerned with the significances acquired by the concepts of border and border crossing, especially within the legislative frameworks of asylum and citizenship. Who has access to the institution of international protection, and how? On what criteria is the 'recognition' of the status of refugee based? What evidence is necessary to present to be granted asylum? Through such initial concerns, this thesis strives to navigate the complexity that permeates

---

[10] To name only a few, Epps, Valens, and Johnson González, 2005; Luibhéid and Cantú, 2005; Manalansan, 2006. I will refer to many others with the unfolding of the analysis.

the credibility assessment of LGBTI* Latin Americans seeking asylum in Spain. As argued by an increasing number of scholars,[11] the evidentiary assessment of asylum claims on the grounds of gender identity and sexual orientation is inextricably embedded in questions of borders; that is, it concomitantly relies on and fosters differentiations between citizens and non-citizens, 'economic migrants' and refugees, heterosexual and LGBTI* individuals, 'real' and 'fake' queers.[12] So as to gain a richer understanding of the asylum experiences narrated by LGBT asylum seekers, I will articulate my analysis through an interdisciplinary onto-epistemological framework that merges perspectives derived from Critical Legal Studies, Migration Studies, Queer Theory, and (Latin American) Decolonial Feminism.

Despite the several - and perhaps even contradictory - meanings that interdisciplinary has acquired within the academy,[13] the significance it has specifically entailed throughout this project can be understood by means of French linguist Roland Barthes' inspirational words:

> Interdisciplinary work, so much discussed these days, is not about confronting already constituted disciplines (none of which, in fact, is willing to let itself go). To do something interdisciplinary it's not enough to choose a 'subject' (a theme) and gather around it two or three sciences. Interdisciplinarity consists in creating a new object that belongs to no one. (Quoted in Gordon, 2008, p. 7)

As both a theoretical and a methodological tool,[14] interdisciplinarity has crucially informed the unfolding of this investigation as an attempt to challenge and blur, paraphrasing Roderick Ferguson in *What's Queer about Queer Studies Now?* (Eng, Halberstam, Muñoz, eds. 2005), the isolation of academic epistemic terrains. Ferguson maintains that interdisciplinarity has the potential to configure a "rebellion against the disciplines" (p. 88) by defying academic tendencies to refer to topics as 'objects of research' that exclusively belong to specific disciplines.[15] Owing to the reflections that a joint reading of these accounts has led me to, the approach to interdisciplinary I have adopted throughout the research is aimed at undoing the supposedly scientific hierarchies in which disciplines are positioned. By doing so, I have aspired to make space for the co-emergence of

---

[11] See footnotes 8 and 10.

[12] In line with the emerging body of investigations on asylum and sexuality, this is not meant to represent a determined and fixed list of exclusionary differentiations (re)produced and reinforced through the credibility assessment, but an exemplification of the normative processes that shape the concept of 'credibility' as a border that disciplines queer refugees. This analysis will unfold in the coming chapters.

[13] See, for instance, Stanford Friedman, 2001.

[14] The interconnectedness of theories, methodologies, and ethics will be discussed in the next section of the present chapter.

[15] For insights on the articulation of 'sex/gender' as the 'proper research object' within Women's and Feminist, see Allen and Kitch, 1998; Bird, 2001; and Lykke, 2010, p. 31-45. For perspectives developed within Queer and Transgender Studies, see Butler, 1994; and Stryker, 2007.

a critical set of methodological practices and thinking technologies (Haraway, 2004) to explore the normative intersections touched upon and fostered by the process of credibility assessment. Such an interdisciplinary lens has prepared the conceptual grounds to analyse the ways Latin American LGBT asylum seekers make sense of their experiences of asylum.

To conduct my enquiry, the articulation of a communal framework emerging from the concepts of intersectionality, queerness, and decoloniality acquires crucial relevance. Intersectionality was firstly theorized by legal scholar Kimberlé W. Crenshaw as a critical tool to interrogate how black women were positioned within the US legislative system in 1989; since then it has unsafely travelled (Lewis, 2013) throughout a variety of debates and discursive spaces (Cho, Crenshaw, McCall 2013).[16] Dean Spade (2013) further explores the relation between claims to legal equality and intersectionality within transgender studies scholarship. According to Spade, single-axis 'equality-agendas' fail to recognise that different forms of violence and marginalisation are intersectionally connected through processes that "sort populations into those whose life must be cultivated and protected and those cast as threats and drains" (p. 1050). This mode of governance, which Spade describes as a 'distribution of life chances', sets the boundaries between 'worthy' and 'unworthy' lives. On the one hand, it controls access to material goods and resources, while on the other it marks out 'those who do not count' in interlocking ways. Spade consequently claims the necessity to develop practices of intersectional resistance that not only unveil entangled genealogies of violence, but materially transform unequal distributions of life chances. Intersectionality is thus a fundamental tool to explore the multiple, interlocking, and often hidden dimensions taken by dominant economies of power. In Spade's own terms:

> It describes a way of thinking about subjection that rejects both the declaration of a universal experience of a given vector of harm and the notion that people affected by multiple vectors are enduring conditions that are simply experiences of single-axis added together. (P. 1050)

The intersectional approach I seek to configure conforms to the aforementioned understanding of interdisciplinarity: it is not about adding different axes and approaches, but rather about problematizing the interconnectedness of borders so as to open spaces for possible resignifications and transformations. Against this backdrop, I address intersectionality and interdisciplinarity as strictly entangled analytical and methodological tools. Their onto-

---

[16] In addition to the works cited above, for critical enquiries on intersectionality, please consult Brah and Phoenix, 2004; Lykke, 2016; and McCall, 2005. To know more about intersectional approaches to borders and migration, please refer to Bürkner, 2012; McDowell, 2008; Seager and Nelson, 2004.

epistemological dimensions entail the potential to simultaneously challenge and change power structures by merging critical theories and transformative approaches.

Furthermore, I argue for the necessity to conceive queerness and decoloniality as entwined and inseparable components of the project of intersectional resistance that this research aims to become. Although in 1998 Janet Jakobsen offered a pioneering perspective on 'queer' as a troubling of normative networks of power (p. 526), in the last two decades several queer and trans theorists[17] have questioned the construction of 'queerness' as a normative domain. Intersectional approaches have revealed that queerness is often (re)produced as an exclusionary identity profoundly embedded in the power dynamics it claims to disrupt. The rhizomatic and sometimes even contradictory way I will refer to both 'queerness' and 'queer' throughout the research follows on these insights. The term 'queer' can indeed be deployed as either an adjective, or a verb. In the former case, it usually speaks of identities, orientations, and practices that exceed the heteronormative (Butler, [1993] 2003) forms of gender identity and sexual behaviour.[18] In other words, queer is often taken as a synonym for LGBTI*. Although I will also deploy it in this manner, I am concerned with running the risk of contributing, through my own writing, to the idea that 'queer' is a fixed and determined category, and that 'queerness' is its embodied identity. According to Jasbir Puar, it is precisely this theoretical approach that has supported the biopolitical configuration of queerness as a "white, Christian, and secular norm" (2013, p. 5). Through the concept of 'homonationalism', the scholar questions the concomitant inscription of LGBTIQ*[19] (*queer*) rights within neoliberal narratives of 'progress' and 'modernity', and the expulsion of racialized individuals from those rights (2013, p. 25). In her own terms, the dispositif of homonationalism simultaneously constructs "whiteness as a queer norm and straightness as a racial norm" (2007, p. xxiv). By means of a homonationalist biopolitical assemblage, queerness becomes an exclusionary realm circumscribed by disciplinary borders. Not only is queerness reproduced as inherently white, but whiteness exclusively can claim the right to be 'queer'.

---

[17] Such investigations cover a variety of topics. For an interrogation of capitalist domesticity and queerness, please refer to Duggan, 2003. For the multiple entanglements of queerness with exclusionary constructions of citizenship, national identification, and race, please consult Eng, Halberstam, Muñoz, 2005; Haritaworn; 2012; Haritaworn, Kuntsman, Posocco, 2013, 2014; Harper, McClintock, Muñoz, Rosen, 1997; Lewis and Naples, 2014; Lubhéid, 2002, 2008; Luibhéid and Cantú, 2005; Nichols, 2012; Puar, 2007, 2013; Smith, 2010.

[18] For an in-depth understanding of the etymology, genealogy and travels of the term, please consult Hall and Jagose, 2013.

[19] Researcher Gianmaria Colpani clarifies that Puar's use of the acronym LGBTIQ* refers to a mainstream understanding of non-heterosexual subjectivities, which is profoundly related to the exclusionary logics of homonationalism. This means that even within the already racialized inscription of LGBTIQ* individuals in the national horizon, homonationalism works as a biopolitical assemblage that favours cisgender gay males (2015, Giuliani ed., p. 189). These insights will be essential to consider the so-called 'invisibility' of lesbian, bisexual, and transgender applicants (Jansen and Spijkerboer, 2011) when considering the asylum applications filed by LGBT Latin Americans.

However, in addition to problematizing hegemonic notions of queerness, the aforementioned investigations remind us that queer emerged as a "call to transform, rather than to seek accommodation within, existing social structures" (Lubhéid and Cantú 2005, p. x). It is therefore crucial to further explore its intersections with dominant economies of power or, so to speak, queer the 'queer'. Building on Henry Abelove, Jakobsen posits that "queer is a queer does" (1998, p. 529), in order to account for the potential of deploying queer as a verb that blurs networks of power relations that reiterate normativity by materialising what and who is not 'normal' (p. 522). In Jakobsen's account, "the norm-deviant relation [can be decentred] by making alliances that focus on relations among various 'deviants'" (p. 526). It is in this sense that queer as an act can challenge and change the construction of queerness as a racialized and exclusionary identity, by troubling the power structures through which such understanding is fostered. Jakobsen concludes by maintaining the following:

> To queer is both to do differently and to make a particular set of relations that are different from the binary oppositions defined by the norm. […] Queering works most effectively when it troubles multiple norms at once, when it addresses a network of dominant norms. Network shifts that alter power relations are enabled by creating relations, or making alliances […]. Forging connections between those who are variously marginalized makes it difficult to enforce both the norm and its essentialized opposite. (P. 528-9)

Informed by these insights, I contend that in the present project, deconstructive and transformative resignifications of queerness are both inspired by and aimed at the articulation of a decolonising and queering praxis (Hunt and Holmes, 2015). If decolonising queerness means troubling its complicity with processes of intersectional violence, various decolonial scholars[20] emphasise the necessity of integrating "feminist and queer critique as a common basis for critique of Eurocentrism or as a part of any decolonial project of liberation" (Perez L., 2010, p. 122). In "Queering the Borderlands: The Challenges of Excavating the Invisible and Unheard" (2003), Emma Perez conceives the 'colonial' as supremacist mind-set that needs to constantly erase the experiences of the colonised so as to sustain itself. In this respect, she states that "when conceptualized in certain ways, the naming of things already leaves something out, leaves something unsaid, leaves silences and gaps that must be uncovered" (p. 123). She therefore proposes the conceptualisation of "decolonial imaginary as a rupturing space" (p. 123): a tool to make the stories of silenced existences heard. In line with Spade's understanding of intersectional violence, Perez's configuration of the colonial is also endorsed and fostered by other interlocking

---

[20] For some inspirational works on decolonial (queer) feminism, see Anzaldúa, 1987; Anzaldúa and Moranga, 1981; Lugones, 2007, 2010; Maese-Cohen, 2010; Mohanty, 2003; Perez E., 2003; Perez L., 2010.

systems of domination. Consequently, the decolonial she intends to imagine acquires the shape a queer-of-colour gaze. As she explains:

> A white heteronormative imaginary has defined how researchers and historians as well as cultural critics have chosen to ignore or negate the populations who are on the margins, outside of normative behavior, outside of twentieth-century nuclear white heterosexual family systems. I am arguing for a decolonial queer gaze that allows for different possibilities and interpretations of what exists in the gaps and silences but is often not seen or heard. I am arguing for decolonial queer interpretations that obligate us to see and hear beyond a heteronormative imaginary. (P. 129)

By means of an interdisciplinary and intersectional approach I aspire to articulate a decolonial queer-of-colour lens that has the potential to critically investigate the hegemonic narratives of in/exclusion (re)produced through the credibility assessment. In this respect, combing such insights with Jakobsen theorisation of queer as a troubling activity, I hope that a decolonial queer praxis will contribute to resignifying queerness as "a deconstructive practice focused on challenging normative knowledges, identities, behaviours, and spaces thereby unsettling power relations and taken-for-granted assumptions" (Hunt and Holmes, 2015, p. 156).

2. 'Border' as intersectional queering and decolonising method

This work aims to contribute to broader interrogations of border (crossings) not 'merely' through the non-normative episteme it aspires to create, but also by reflecting on the entanglement of epistemologies, methodologies, and power (Barad, 2007; Haraway, 1988; Lykke, 2010). The analysis presented in the following chapters builds on the assumption that theories and methods are not discrete research "devices to be applied mechanically" (Lykke 2010, p 144), but co-emerge throughout every phase of the research process (design, fieldwork, and writing) as thinking technologies – i.e. tools that, while moulding the research process, also shape each other. This section aims to articulate a critical (self-) reflection on the multiple and unexpected intersections between theories and methods. By doing so, it also intends to overcome, without devaluing, traditional accounts of the methodological framework as devoid of theoretical premises and implications, and vice versa.

The specific approach to the co-articulation of epistemology, methodology, and ethics that emerges from the present investigation follows on the notion of 'border as method' developed by Sandro Mezzadra and Brett Neilson (2013). Similar to queer migration scholars, Mezzadra and

Neilson explore the concept of border as "an epistemological device" (p. 16) through which knowledges are categorised into hierarchies of supposed scientific value. Yet looking at 'border' as method has the potential to unveil its onto-epistemological dimensions. On the one hand, it interrogates the construction of 'border' as a neutral line of demarcation, while on the other it questions both the "disciplinary practices that present the objects of knowledge as already constituted" (p. 18) and the notion of method as "a set of pregiven, neutral techniques that can be applied to diverse objects without fundamentally altering the ways in which they are constructed and understood" (p. 18). In other words, articulating border as method unveils how material and conceptual boundaries function as disciplining tools that, by delimiting differences, materialise and categorise the asymmetries they demarcate. In this regard, Mezzadra and Nielson argue:

> [W]hile we accept that methods tend to produce (often in contradictory and unexpected ways) the worlds they claim to describe, for us the question of border as method is something more than methodological. It is above all a question of politics, about the kinds of social worlds and subjectivities produced at the border and the ways that thought and knowledge can intervene in these processes of production. […] For all of these reasons, the border is for us not so much a research object as an epistemological viewpoint that allows an acute critical analysis not only of how relations of domination, dispossession, and exploitation are being redefined presently but also of the struggles that take shape around these changing relations. The border can be a method precisely insofar as it is conceived of as a site of struggle. (P. 18)

Built on Foucauldian theorisations of the power, the scholars' understanding of border as method not only reclaims the political impacts of the practices of tracing frontiers and crossing them, but also unveils the inextricability of subjugation, subject formation, and resistance. If marking boundaries has the political force of defining those who (does not) belong within the circumscribed geographical or symbolic territories, then moving across, negotiating, or subverting those borders also entail a political significance. It is in this way that the border becomes a site of struggle, which according to Mezzadra and Neilson, encompasses "the set of everyday practices by which migrants continually come to terms with the pervasive effects of the border, subtracting themselves from them or negotiating them through the construction of networks and transnational social spaces" (2013, p. 13).

Against this backdrop, in the next chapters I will explore the interplay of normative borders and asylum by focusing on how the persecutory accounts recounted by LGBTI* Latin Americans seeking international protection in Spain are assessed. Without claiming that queer *latinxs* experience more or less difficulties in being recognised as 'refugees' in comparison to other

subjectivities, I nonetheless contend that their identities – formed at the intersections of queerness and racialized *latinidad* – might configure a peculiar lens to scrutinise the interlocking processes that materialise the domain of the 'genuine queer refugee' as opposed to the 'bogus economic migrant' (Lewis, 2014). I will indeed argue that the borders (re)produced by the credibility assessment are drawn upon both cis-heteronormative assumptions surrounding migration and forced displacement, and racialized dimensions of queerness. With regard to the latter, Luibhéid and Cantú (2005) affirm that applying for international protection implies crossing the borders of citizenship, since the legal situation of asylum seekers is not defined until their claims are either accepted or denied by national authorities. Such decisions not only determine the applicants' right to remain in the country, but also their access to 'citizenry' – intended as the set of normative discourses that circumscribe the construction of nations and national identifications (p. xviii). In the scholars' understanding, "asylum adjudications provide opportunities for the construction or reiteration of racist, imperialist imagery that has material consequences on a global scale" (p. xvii). In the specific case of LGBTI* Latin Americans, the physical trespassing of international frontiers is part of the newly established relations between former colonies[21] and ex-coloniser. According to sociologist Sandra Gil Araujo (2010), the management of the Spanish migration policy towards peoples that were colonised centuries ago is still permeated by neo-colonial power structures. Furthermore, queer asylum seekers both trouble heteronormative assumptions surrounding migration, as well as homonationalist and homonormative definitions that represent queerness as a domain from which *certain* individuals and groups can be excluded.

Although such neo-colonial, racial, heteronormative, and homonormative dimensions will be addressed in the impending analysis, I maintain that it is at their crossroads that border as an intersectional queering and decolonising method acquires the crucial potential to explore not only how the domain of 'credible' queer Latin Americans is formed throughout the Spanish asylum system, but also how it is transgressed and resignified by those who live it. If, as Lubhéid and Cantú maintain, "the asylum process is still most accessible to those who are male, heterosexual, economically privileged, and from particular "racial" and national origins" (2005, p. xvii), the experiences of LGBT Latin Americans dealing with the process of credibility assessment can be understood as a site of struggle not only for legal recognition, but also for the disruption of normative and exclusionary discourses that shape migration, sexuality, and gender. In this project, the way I envision the decolonial queer praxis addressed above intends to look at the borders of credibility through border as method. This gesture is aimed at creating a decolonial queer episteme

---

[21] Except for Brazil, whose migration flows are anyhow peculiarly related to Europe and the Iberian Peninsula (including Spain). To know more about Brazilian migration to the latter, please consult Pedone and Gil Araujo, 2016. In this respect, note that according to Rodriguez (2003) the notion of *latinidad* as a shared culture includes Brazilians.

by queering the entanglement theory-methodology-ethics that sustains a power-knowledge loop in which the 'researcher' (me) has the power over the 'researched'. In the coming section I will elaborate on the methodological practices I have developed so as to concomitantly trouble my privileged positions within the research, and contribute to the production of decolonising knowledge.

3.   Queering the researcher, decolonising the research?

Several decades have passed since Donna Haraway wrote her famous article "Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective" (1988), in which she deconstructed the assumption that researchers are moved by a 'neutral objectivity', and maintained that knowledge production is a process situated within power structures. From that moment on, the concept of 'politics of location' – according to which researchers should take accountability for the positions they hold in the social hierarchy and for the episteme they consequently create – has enormously informed feminist, queer, and trans scholarships and methodologies. My own relation with this project has been marked throughout every phase – design, fieldwork and analysis, writing – by questions of power, positionality, and representation: how can I, enjoying the privileges given by a European passport, relate to the stories recounted by LGBT Latin Americans? Can we – me and my research partners[22] together – envision strategies that might allow *them* to guide the research according to their necessity and wishes? What practices can we articulate to reduce my own power, and redistribute it, at least partially? I decided neither to ignore such concerns, nor to look for once-and-for-all answers. Rather, I will integrate my reflections into the analysis, at both a theoretical and at a methodological level, in the attempt to take accountability for the privileged positions that – even though I would rather not – I do inhabit as a white, European, abled, educated, and young aspiring researcher.

Inspired by feminist takes on writing (Richardson, 2000) and (self-) reflexivity (Sultana, 2007) as methods of enquiry, I have approached this thesis under the methodological framework of community-based participatory research (CBPR), i.e. involving a range of practices that question hierarchy and power structures inherent in knowledge production.[23] Deploying this methodological lens has had several implications. Firstly, it has led me to consider the necessity of combining a

---

[22] Due to the kind of collaboration we tried to establish, the people I interviewed represent much more than respondents or informants. Rather, it is precisely their active participation that has guided and made this research possible. I therefore prefer to address them as my 'partners' or 'companions'.

[23] For more on feminist and decolonial community-based participatory research, consult Gill, Puru, and Lin, 2012; Brinkman, 2016; Creese and Frisby, 2011.

discourse analysis of the recent Spanish jurisprudence on asylum claims on the grounds of gender identity and/or sexual orientation with unstructured in-depth interviews. An emerging literature[24] argues indeed that CBPR can be developed as a site where communities access the 'knowledge-power' loop, by becoming 'creators' of knowledge and/or 'co-thinkers' and 'co-organizers' of the research throughout its phases. According to the accounts presented above, I am convinced that – while the sentences speak of the construction of 'credibility' as a disciplinary border – the exploration of strategies that entail the potential to subvert the exclusionary logic of borders necessitates the direct involvement of those who have to deal with the asylum system. Secondly, this need has (un)structured the research from a pre-given set of steps (design, fieldwork, analysis, and writing) to a work in progress, whose outcomes would have depended on the collaboration between me and my research companions and, therefore, might have had unexpected revelations and consequences – at least to me. Thirdly, it has exhorted me to share my reflections, concerns, hopes with my partners. By addressing informed consent as a process,[25] before and after every interview we indeed discussed their role in the research as not only participants, but also partial co-creators of the analysis. 'Partial' as a term and concept acquires here a fundamental significance, since I am conscious that my own positions of power, as well as academic limitations – in terms of time, money, and research facilities available to students –, have dramatically hindered the possibility to fully develop a community-based research project. The research conceptualization and writing, although informed and even modified according to the interviews, are indeed completely conducted by me. I hence cannot hide or forget that my own locations will function as interpretative lenses that, try as I may to deconstruct them, will always be part of me. In this regard, Farhana Sultana's insights presented in "Reflexivity, Positionality and Participatory Ethics: Negotiating Fieldwork Dilemmas in International Research" (2007) have been a great source of inspiration:

> The borders that I crossed, I feel, are always here within me, negotiating the various locations and subjectivities I simultaneously feel a part of and apart from. The ambivalences, discomfort, tensions and instabilities of subjective positions became important to be reflexive about and work through, where the contradictions in my positionality and in-between status had to be constantly reworked as I undertook fieldwork. (p. 377)

Instead of pretending that a differential access to power between me and my partners does not exist, I have attempted to negotiate the dichotomy 'researcher'/'researched' by addressing its construction as much as possible, and to counterbalance my authority by unveiling my own

---

[24] See, for example, Jacobs, 2010; Stoeker, 2012.

[25] More on this point will be discussed in Chapter 3.

vulnerabilities. In other words, I have opted for (self-) reflection as a research practice that we, my companions and me, could articulate together and every time differently. I have tried to document this process through a research diary in which I wrote my emotions, as well as through the recordings of the shared conversations me and the interviewees had in relation to the research. Considerations on the possibilities and limitations unfolding from this practice will be further addressed both in the next section and in Chapter 3.

3.1. (Self-)reflection from and through (research) borders

As briefly mentioned above, to gain a richer understanding of the construction of 'credibility' and possible strategies to deal with and/or subvert it, the qualitative approach of this project combines an analysis of the Spanish jurisprudence on gender and/or sexuality-related asylum claims, with participant observation and in-depth interviews. The sentences were selected from the Spanish jurisprudence official website[26] according to two criteria: (1) sentences containing the term 'asylum' in connection to the labels 'homosexual', 'lesbian', 'bisexual', 'intersexual', 'gender identity', 'sexual orientation', 'transgender', 'transsexual', and 'transvestite';[27] and (2) claimants whose country of origin is geo-culturally defined as 'Latin American' (either Meso, Central, or South American). The search totalled 113 sentences issued by either the National and the Supreme Court between 1998 and 2016. Due to the lack of critical enquiries on the credibility assessment conducted by Spanish institutions, I drew on José Diaz Lafuente's doctoral dissertation on the evolution of the regulation of asylum claims on the grounds of gender and/or sexuality within the Spanish legislation (2014) to conduct my analysis. To address the perspective of advocates and experts who have been exploring Spanish migration and asylum policies, I combined the legal approach configured by Diaz Lafuente with publications by *Comisión Española de Ayuda al Refugiado* (CEAR) and *CEAR Euskadi*.[28] In particular, CEAR Euskadi published several works[29] on the entanglement of asylum with hegemonic understandings of citizenship, sexuality, and gender that are rather innovative within the Spanish context. I have therefore attempted to investigate the role of the national jurisprudence in the reproduction of

---

[26] Accessible at: http://www.poderjudicial.es/search/ [Last accessed 08.08.2017].
[27] In Spanish: 'asilo', 'homosexual', 'lesbiana', 'bisexual', 'intersexual', 'identidad de género', 'orientación sexual', 'transgénero', 'transexual', 'travestí'.
[28] CEAR (https://www.cear.es/) was founded in 1979. Ten years later, in 1989, a small group of people within CEAR created CEAR Euskadi (https://www.cear-euskadi.org/), a different entity active in the Spanish autonomous community of Basque Country.
[29] For references, please see Chapter 2.

credibility as a disciplinary queer border by merging such perspectives with feminist, queer, and transgender critical scholarship.

While I was analysing the sentences, I contacted a group of LGBT asylum seekers[30] that, since 2016, has collaborated with the local foundation *La Merced Migraciones* to establish a safer space in which to support each other by organizing a variety of activities (ranging from legal and psychological counselling to movie screenings). In Chapter 3 I will explain how the collaboration developed, but here it is important to mention that my presence in the group was discussed and allowed by the members of the group themselves. Before the first meeting, I was full of doubts and concerns about myself, my privilege, and the research itself. However, Sultana's words were again insightful:

> [S]uch fears and 'impasse' [of (mis)representation and (in)authenticity] can be overcome by understanding that fieldwork can be productive and liberating, as long as researchers keep in mind the critiques and undertake research that is more politically engaged, materially grounded, and institutionally sensitive. […] I argue that ethical research is produced through negotiated spaces and practices of reflexivity that is critical about issues of positionality and power relations at multiple scales. (P. 375)

I thus decided not only to stay with the trouble (Haraway, 2016) caused by the awareness of my multiple privileges, but to counterbalance the latter by exposing myself in a way that has always made me feel profoundly uncomfortable: telling others about how I perceive and live my sexuality. Since I knew the participants had not had the chance to choose whether to 'come out' or not, since their sexual orientation and/or gender identity are fully scrutinised during the asylum process, I chose to put myself in the position of unveiling my vulnerabilities, insecurities, and doubts. I am aware that such a move did not undo our differential access to power, because I still had the possibility to select what to recount and how. However, according to the accounts provided by the bystanders, my 'coming-out' represented the first step towards the construction of mutual trust, since I had shared with them some of my more intimate thoughts.[31] As I will explain in Chapter 3, in the interviews that followed, we went back and forth to issues of consent, representation, participation, and power.

I consider important to conclude my self-reflection by engaging with some final, but not less crucial, considerations. First, the described methodological practices allowed us to articulate strategies to cope with researching and recounting traumatic experiences. Concerned on how to

---

[30] Even if people from all over the world are welcome, Latin Americans (mostly Venezuelans) currently represent the majority of the members.

[31] Fieldwork notes, 13.03.2017.

create a 'healthy' – i.e. devoid of double victimisations – research process both for me, and my partners, I felt the compelling necessity to discuss with them which approach could be the most appropriate. Depending on every participant's necessities, in addition to letting the interviewee decide what to recount, and how,[32] we would have a second meeting to address the emotions discussed during and resulting from the interview. Such conversations also brought up the necessity to collectively discuss the terms I would have deployed in the analysis. While all of the interviewees consider themselves *latinxs*,[33] none identified as 'queer'. They know about the existence and significance of the term, but do not use it, since they are not familiar with its English etymology. Even if discussed with them, my decision to speak of 'queerness', which is required by my position in an Anglo-centric queer scholarship, represents a clear exemplification of the disciplinary power that I have been invested through a 'mere' academic recognition. Yet, owing to the discussions articulated with my participants, I will not take for granted the significances entailed by queer and *latinx*, but will deploy them to "problematize the supposedly uniform relation between identity and practice, questioning also the alleged stability of Western systems that support notions of heterosexuality and race understood through binary"[34] (Viteri, 2008a, p. 94-95).

In conclusion, the practice of self-reflection that I have aspired to describe in these pages unveils that, if "being reflexive is important in situating the research and knowledge production so that ethical commitments can be maintained" (Sultana, 2007, p. 376), knowledge is nonetheless always partial as much as research is inextricably embedded with power structures. In this respect, combining Sultana's theorization of participatory ethics with Foucauldian takes on power (1980), I argue that being ethical means being accountable, but even the most accountable research position is never innocent, i.e. exempt from the reproduction of power dynamics. Border as method thus also functions to unveil the disciplinary processes that construct 'researcher' and 'researched', in which I do take part owing to the 'scientific authority' – in the form of intellectual property and a final graduation certificate – that I am granted over the process of knowledge production, as well as over the episteme created. Articulating a queer decolonial lens has contributed to my awareness of the disciplinary borders inherent to research, which are exemplified by differential access to information, terminological requirements, time constraints, and funding limitations. In this regard, through self-reflexivity as a critical research practice, I have striven to take accountability for the privilege I inhabit by troubling the 'safety' of the invulnerable locations I embody. With regards to

---

[32] More on the interviews will be said in Chapter 3.

[33] This point will be elaborated in Chapter 3.

[34] The original is in Spanish: "Problematizar la relación discutida como uniforme entre identidad y práctica, cuestionando, a su vez, la aparente estabilidad de los sistemas occidentales sobre los cuales descansan nociones de heterosexualidad y raza entendidos desde la binariedad". From now on, unless specified, translations are my own.

the episteme this project aims to produce, I contend that border as a queer decolonial method might cast light on both the discipline of asylum through the credibility assessment, and to the multifaceted ways LGBT Latin Americans deal with and respond to it.

CHAPTER TWO

'Queer (in)credibility'

1. **The cis-heteronormative borders of asylum**

    1.1. The legal institution of asylum in International Public Law: definition of refugee and 'credibility assessment'

Although its legal foundation in International Public Law dates back less than 70 years, the concept of asylum has often been at the centre of onto-epistemological and socio-political debates. Philosophers, historians, and jurists[35] have extensively discussed the origins and implications of granting protection to individuals or populations fleeing from persecution: when and where was asylum first established, and for what purpose? What does the reference to 'persecution' entail, and who should nowadays assess its controversial significance? Remarkably, such disputes are part of a broader enquiry: is refuge a human right that nation states should respect and guarantee, or is it an institution that they can discretionally regulate according to political needs? Such controversies have had enormous consequences on the material life conditions of internationally displaced people (including the fulfilment of 'basic' human needs, i.e. safety, shelter, education), whose acceptance and protection has recently become an issue of major political concern in the globalised world. Even if this thesis is not the site for further exploration of the multiple and perhaps contradictory interpretations of asylum, I consider it crucial to emphasise that a growing body of scholarship[36] maintains that "[...] the international refugee regime was created by the leading Western powers and was acceptable only in so far as the system served, or did not run counter to, their particular interests or needs" (Loescher, 1993, p. 9). Whilst focusing on various asylum-related issues, such investigations problematize the entanglement of current legislations and procedures with exclusionary understandings of 'citizenship' (re)produced upon dominant notions of sexuality, race, class, dis/abilities, age, (Luibhéid and Cantú, 2005).

The primary and most important legal source on the status of refugees is the Geneva Convention, which was adopted by the General Assembly of the United Nations in 1951 and entered into force on 22 April 1954. In 1976, the Convention was amended through the Protocol

---

[35] For an in-depth review of the genealogy, historiography, and travels of the right of asylum, see Diaz Lafuente (2014, pp. 151-167) and Price (2009, pp. 24-68). For a long-term critical perspective on the dimensions the concept of asylum has acquired since its institutionalisation during the 20th century, see Schuster (2002; 2005, pp. 20-128).

[36] A foundational account of the institution of international protection was proposed by Hannah Arendt in *The Origins of Totalitarianism* (1951). Since then, asylum has been further debated. See, for example, Agamben, 1995; Bohmer and Schuman, 2007; Huysmans, 2006; Oelgemöller DPhil, 2010; O' Nions, 2014; Schuster, 2005.

relating to the Status of Refugees, which became effective on 4 October 1967. Article 1A(2) of the Convention articulates the condition of a refugee in the following terms:

> [O]wing to *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. (Emphasis added)

In accordance with what has been briefly exposed above, Hathaway reads such a definition against the backdrop of World War II, maintaining that it stemmed from the political endeavours undertaken by Western countries to ensure protection to individuals who were at risk of persecution because of their sympathy towards so-called 'Western values' (1991, p. 6). Asylum can thus be granted only to internationally displaced individuals who cannot return to their country of residence (first element) due to a well-founded fear (second element) of being personally persecuted (third element) because of their political or religious beliefs, ethnic background, nationality, and/or membership to a specific social group (fourth element). In this respect, although the Protocol was intended to remove the geographical and temporal limitations contained in the Convention, and the latter has been supplemented by refugee and subsidiary protection regimes in several regions,[37] there is no other international agreement on possible extensive interpretations of the criteria upon which the status of refugee is recognised (Diaz Lafuente, 2014, p. 179-180).

According to the explanatory work conducted by the UNHCR (2001), whereas not explicitly regulated by other binding regional treaties, the 'well-founded fear of persecution' is the essential constituent element of the status of refugees, representing the *sine qua non* condition to be granted asylum. Persecution must be based on at least one of the reasons listed in the Convention, hence establishing a causal link between one's ethnic background, political or religious belief, nationality, and/or membership to a social group and the well-founded fear of being persecuted (p. 2). The concepts of 'well-founded fear' and 'persecution' are nonetheless not explicitly defined by the Convention. Regarding the former, the UNHCR asserts that "it must have an objective basis" (2001, p. 4), which entails the impossibility to live safely in other regions of the country of residence (so-called 'internal flight alternative' or 'relocation principle'), as well the unavailability or insufficiency of protection provided by state authorities. With reference to the latter, the High Commissioner explains that the lack of a specific definition of persecution indicates the drafters'

---

[37] Such as the Organization of African Unity (now African Union) Convention governing the Specific Aspects of Refugee Problems in Africa (1969), the Cartagena Declaration on Refugees (1984), the EU 2011/95 and 2013/33 Directives.

intention to leave the concept open to future types of persecutory acts that might not be known or considered in the 1950s (2011, p. 5). Conforming to the position adopted by the UNHCR (2001),

> The on-going development of international human rights law subsequent to the adoption of the 1951 Convention has helped to advance the understanding […] that persecution comprises human rights abuses or other serious harm, often but not always with a systematic or repetitive element. While it is generally agreed that "mere" discrimination may not, in the normal course, amount to persecution in and of itself (though particularly egregious forms undoubtedly will be so considered) a persistent pattern of consistent discrimination will usually, on cumulative grounds, amount to persecution and warrant international protection. (P. 5)

From a legal perspective, although an account to systematic discrimination has been included in the understanding of 'persecution', the latter is still interpreted as a violation of human rights that severely endangers the applicant, and that can culminate with death (Hathaway and Pobjoy, 2012). Queer migration scholars have criticised this requirement. Luibhéid an Cantú (2005) assert that "despite its grounding in international human rights regimes, refugee/ asylum law has historically been interpreted in ways that presumed a male subject seeking to assert his individuality against an oppressive state" (p. xvii). Giametta (2016) takes this point even further by arguing that the institution of asylum rests on a filtering logic that grants rights "exceptional individuals and excludes the rest" (p. 58). In Lewis' analysis (2014), the 'exceptionality' of one's persecution consist in one's capacity to conform to "the narrative of the male political activist fleeing an oppressive regime" (p. 967). In this respect, as Spijkerboer (2013) maintains, the violence endured by LGBTI* applicants is often not considered to amount to persecution, but to 'mere' discrimination (p. 219). This means that unlike asylum claims on other grounds, those based on gender identity and/or sexual orientation are required to establish that both physical aggressions and denial of access to education, health care, housing, and employment (as we will see in Chapter 3) present systematic dimensions (p. 219). As I will contend in the following sections, the cis-heteronormativity permeating the institution of asylum hinders any broader account to the intersectional violence (Spade, 2013) that targets LGBTI* subjectivities.

The UNHCR (2001) outlines that the recognition of the status of refugee is not a constitutive, but a declaratory act, meaning that "a person does not become a refugee because of recognition, but is recognised because s/he is a refugee" (2001, p. 2). Yet the Geneva Convention does not mention how States should assess the recounted persecution. The interpretative work of the UNHCR establishes that the well-founded fear of personal persecution must be described, in all its subjective and objective components, by the applicant through a "truthful account of relevant facts"

(2001, p. 3). National legislations and jurisprudence have the responsibility to establish the procedural criteria to evaluate the evidence of (fear of) persecution, which must be "reasonably possible" (2001, p. 3) in order to be considered 'well-founded'. The appraisal of such 'reasonable possibility' is to be conducted by the responsible institutions through a process known as 'credibility assessment', which "involves a determination of whether and which of the applicant's statements and other evidence relating to the material elements of the claim can be accepted" (UNHCR, 2013, p. 7).

The credibility assessment plays a fundamental role in an applicant's possibility to be recognised as a 'refugee'. Although every State has developed different indicators and procedures, the UNHCR (2013) establishes some guiding principles: credibility must be determined through an overall appraisal that considers the entire evidence presented, as well as the context of the country from which the asylum seeker has escaped; the account is to be coherent, consistent, and plausible; and the applicant needs to be guaranteed the 'benefit of the doubt' when they accomplish the general requirements of coherence, consistency, and plausibility (p. 29). However, as Giametta (2016) maintains, in-depth enquiries have shown that both the concept of 'credibility' and its assessment are profoundly led by 'procedural mistrust' and 'institutional scepticism' (p. 61) caused by the assumption that asylum seekers are " 'bogus'; that is, economic migrants in disguise lying about their 'true' reasons for migrating" (p. 61). The credibility assessment thus appears to reproduce asymmetries of race, gender, class, sexuality, and social status that exclude applicants who cannot or do not conform to normative narratives. In other words, the critical approaches developed by queer migration scholars have problematized the credibility assessment as a biopolitical mechanism that creates the domain of the 'true (queer) refugee' by rendering non-normative subjectivities 'deportable' (Lewis, 2013). To conclude with Giametta's own terms, "here the perversity of the logic is apparent; namely, the sudden shift from a discourse of social protection to the practice of border control" (2016, p. 58). In the case of gender- and/or sexuality-based applications, border control is conducted by disciplining queerness as a frozen and racialized identity. In the next section I will further explore this account.

1.2. Asylum claims on grounds of gender identity and sexual orientation in the frame of 'gender-related persecution'

Neither the Convention nor the Protocol reference gender or sexuality as possible sources of persecution. As mentioned above, this can be explained by the fact that asylum "has been interpreted through a framework of male experiences" (UNHCR, 2002, p. 2). In *El sistema de asilo*

español frente a la violación de los derechos humanos de las mujeres y de lesbianas, gays, bisexuales y transexuales (2009),[38] the Basque organisation *Comisión de Ayuda al Refugiado en Euskadi* (CEAR Euskadi) takes such a point even further, arguing that the whole human rights legislative framework is embedded in dominant power structures that configure human rights as "privileges that are bestowed [to people] if they fulfil some features and conditions defined by the capitalist and patriarchal system"[39] (p. 23). This account resonates with the previously addressed critical approaches asylum as a policy of border control. By combining these insights it is possible to articulate a reading that enquires how normative interpretations of the Convention have contributed to marginalising and hiding of the experiences of asylum seekers who did not or could adopt the narrative of the 'cisgender male political refugee' (Lewis, 2014). I contend that this discourse works as a system of comparison (Hall, ([1996] 2006) on which a 'norm' is established by implicitly defining what is not 'normal'. Consequently, even if the primarily cisgender, male, and heterosexual figure of the 'genuine refugee' has been partially opened to LGBTI* subjectivities, their legibility is guaranteed only provided that they conform to the cis-heteronormative imperative. Stated differently, queer asylum seekers are rendered 'credible' uniquely if and when they conform to cis-heteronormative understandings of 'persecution', whose systematic dimensions has to be 'objectively' proven. Those trespass the borders of such normative existences (Spade, 2015) are excluded from the domain of 'true' refugee and constructed as migrants who do not deserve protection. These insights will be crucial to look at the legislative and procedural framework that informs the credibility assessment of LGBTI* Latin Americans.

Against this backdrop, the concept of 'gender-related persecution' has been articulated only recently. The position adopted by the UNHCR (2002) contends that its formulation encompasses a range of situations in which hegemonic understandings of gender and sexuality constitute a risk of persecution, due to the applicant's (lack of) adherence to gender-normative codes. Building on a critical account of 'gender' as hierarchical system of categorisation that always already intersects with other modes of governance – such as race, class, dis/abilities, and age (2009, p. 13), CEAR Euskadi offers a reading that is highly informed by feminist critical scholarship on the cis-heternormative matrix addressed above. In other words, they configure gender-based persecution as harm perpetrated against some subjects precisely because of their non-conforming existence (Spade, 2015). The foundational work carried out by CEAR Euskadi (2009) shows that gender-based persecutory acts can vary in their forms (for instance, forced marriage, sexual exploitation, genital

---

[38] 'The Spanish Asylum System in the presence of a violation of the human rights of women, lesbians, gays, bisexuals and transgender people'.
[39] Originally in Spanish: "Privilegios que les son otorgados si cumplen unas características y condiciones definidas por el sistema capitalista y patriarcal".

mutilation), but are always targeted at subjects who have already been rendered disposable, even if in different ways and on various levels, by interlocking power systems: (cisgender and transgender) women, transgender men, homosexuals and lesbians, bisexuals, intersexed, gender-variant, gender non-conforming, and gender-fluid individuals. Within this analytical framework, homo-, trans-, and biphobia are the most violent expressions of entrenched hegemonic power structures that materialise normative (i.e. abled, male, cisgender, heterosexual, white, owners of possessions) lives.

The category of 'gender-based persecution' comprises asylum claims on the grounds of gender identity and sexual orientation that, according to the UNHCR (2002), "are primarily recognized under the 1951 Convention ground of membership of a particular social group, but may also be linked to other grounds, notably political opinion and religion, depending on the circumstances" (p. 6). The High Commissioner (2001) clarifies that membership is constituted by two elements: on the one hand, the applicants' innate, unchangeable or historic characteristics that connect them to a group, and that are so important for human dignity that they cannot be asked to hide or renounce them; on the other hand, the persecutors' perception of the applicants as members of a specific group (p. 8). In the final adjudications, the two components have to be regarded as alternative, not cumulative, meaning that a person can face persecution either because of 'characteristics' shared by a group (first case), or due to 'social perception' (second case). In this respect, the position adopted by the UNHCR (2012) asserts that "sexual orientation and/or gender identity are considered as innate and immutable characteristics or as characteristics so fundamental to human dignity that the person should not be compelled to forsake them" (p. 12).

In his doctoral thesis *Refugio y asilo por motivos de orientación sexual y/o identidad de género en el ordenamiento constitucional español* (2014),[40] dr. José Diaz Lafuente argues that the definition of sexual orientation and/or gender identity might be problematic both at a theoretical and at a procedural level (2014 , pp. 226-227). In his own words,

> First of all, we have to consider that addressing gender and sexuality in a transnational and multicultural framework requires a spatial-temporal contextualisation in relation to each applicant's specific circumstances and life experiences. We cannot forget that the aforementioned categories of lesbian, gay, bisexual, transgender and intersexed stem from Western accounts that dominate the discourses on sexual and gender diversity, but that cannot be always applied in a precise and deterministic way in order to recognise the experiences lived by singular individuals identifying as sexual and/or gender minorities.[41] (P. 227)

---

[40] 'Refuge and asylum on grounds of sexual orientation and gender identity in the Spanish Constitutional System'.

[41] "[E]n primer lugar, debe tenerse en cuenta que el tratamiento del género y de la sexualidad en un marco transnacional y multicultural requiere una contextualización espacio-tiempo en relación con las circunstancias particulares y con las experiencias vividas de cada solicitante. No puede olvidarse que las categorías de los subgrupos

According to his analysis, the direct and deterministic application of a Western-centric conception of sexual orientation and/or gender identity as 'immutable and innate' plays a fundamental role in the credibility assessment of the reported (fear of) persecutions, hence having enormous consequences on the final decisions. The UNHCR (2012) refers to both the possibility of living one's identity and/or sexuality in a fluid and not determined way, and to the necessity to "[a]void reliance on stereotypes or assumptions, including visible markers, or a lack thereof" (p. 12) on LGBTI* populations. Yet in *Fleeing Homophobia. Sexual orientation, gender identity and asylum* (2013), Jansen argues that the procedures to assess the 'credibility' are riddled with Western-centric stereotypes built around how a 'true' LGBT person behaves and looks like (p. 15). In the same volume, Spijkerboer takes this point even further:

> LGBT claimants are only comprehensible (and therefore credible) if they conform to the identity categories which are prevalent in the receiving countries. These categories have important normative elements (such as straightness as the default option). The importance of fixed identity categories is that it allows for the construction of majority sexuality as coherent, stable, and given. Being LGBT is supposed to require processes (of self-discovery identifying the label that becomes you, coming out, dealing with shame and frustration), it consists of becoming. Straightness on the other hand simply *is* […]. In other words, the identity of sexual minorities is assigned to a limited space, subjected to clear-cut expectations about what constitutes a real LGBT identity – it is put in a box. (P. 225)

By relying on essentialised definitions of sexuality and gender, the credibility assessment is conducted according to normative scripts of non-heterosexual sexualities and non-cisgender identities. As the passage outlines, the 'credibility' of LGBTI* claimants who exceed such boxes is questioned. Asylum procedures hence contribute to the reproduction of a hegemonic understanding of queerness along exclusionary borders that render queer subjectivities 'illegible'.

With reference to the EU, Diaz Lafuente maintains that the prevailing practices demand that asylum seekers provide 'sufficient' proof of persecutions they have endured for reasons of gender identity and or sexual orientation (2014, p. 247). The causal link constituted by the expression 'for reason of' is significant, since it implies that queer applicants must not only demonstrate the occurrence of the offenses and the objective facts from which their fear stems, but also that the cause of such (risk of) persecution is due to their sexual orientation and/or gender identity. This entails that, in addition to evidence of the persecutory acts and of their causal relation to their non-

---

antes estudiados de lesbiana, gay, bisexual, transgenero e intersexual emergen de un marco occidental, dominante en los discursos sobre la diversidad sexual y de género, que no siempre puede aplicarse de forma precisa y determinada para identificar las experiencias vividas por las personas que conforman las minorías sexuales y de género."

conforming sexuality and/or gender, queer applicants must prove that they are who the claim to be, i.e. LGBTI* refugees. Due to the aforementioned lack of international regulations, national decision makers are in charge of setting the relevant criteria upon which the 'credibility' of both persecution and queerness is based. It is therefore fundamental to analyse the reception of the EU asylum system within the Spanish legislative framework, before digging into the assessment of credibility as it is configured in Spain.

1.3. *Asilo por identidad de género y/o orientación sexual*: from EU asylum system to Spanish asylum law

Since 1999 EU institutions have worked to develop a Common European Asylum System (CEAS) aimed at harmonising the asylum procedures implemented in each Member State. An important step is constituted by the Qualification Directive (2011/95/EU), which amends the 2004/83/CE Directive and sets the standards for granting international protection according to the 1951 Convention. Art. 10(1d) of the Directive makes express reference to sexual orientation and gender identity as common characteristics of a social group whose (perceived) members might be persecuted precisely because of their sexuality and/or gender. However, Diaz Lafuente argues that the Directive restricts the possibility to seek asylum on grounds of gender identity and/or sexual orientation in two ways (2014, p. 310). Firstly, the latter might be considered as common characteristics of a social group only "depending on circumstances of the country of origin of the applicant" (art. 10(1d)). This provision thus poses that LGBTI* individuals are part of a particular social group only if and when non-heterosexual practices and non-cisgender identities are explicitly criminalised and systematically forbidden in their countries of origin. Diaz outlines that the reference to the situation of the home country is applied exclusively in asylum applications on the grounds of gender identity and sexual orientation, implying that gender and sexuality do not constitute motives of persecution per se, but uniquely according to external conditions that must be proven and evaluated. I contend that this restriction is be looked at through the lens of the cis-heteronormative matrix scrutinised above. In addition to be discriminatory precisely because not required in asylum applications on other grounds, it rests on the homonationalist assumption that LGBTI* people are discriminated solely in certain contexts by means of criminalising or punitive legislations, without accounting for the "modes of administrative governance" (Spade, 2015, p. 11) that render *certain* subjectivities 'normal', while materializing *others* as always already non-conforming to the 'norm'. Not only is this provision inscribed in what I have above called the symbolic 'cis-heteronormative borders' of asylum, but it also has enormous material consequences.

Conforming to Diaz Lafuente (2014) and Anker and Ardalan (2012), it indeed requires that decision makers have an in-depth knowledge of the legal, as well as socio-cultural, situations faced by LGBTI* individuals in every country, whose lack thereof justifies systematic rejections. Secondly, the Directive adds that "sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Member States" (art. 10(1d)). In Diaz Lafuente's analysis, this "unnecessary, ambiguous, and clearly discriminatory"[42] (2014, p. 310) inclusion reveals a profound deficiency of understanding of sexual orientation (p. 311). In conclusion, in relation to the regulation of asylum applications on grounds of sexual orientation and gender identity, Diaz Lafuente asserts the following:

> The European legislator seems to respond to the underlying fear of a *pull effect* on individuals who suffer from or fear suffering from persecutions because of their orientation or gender identity; or of an abuse of the right [to seek international protection] by those who are either not lesbian, gay, bisexual, transgender or intersexual, or do not suffer or fear suffering such a persecution.[43] (P. 310)

This fear is inscribed in a generalised assumption that gender- and sexuality-related applications might be easily manipulated by individuals who are either not LGBTI* or do not risk persecution (2014, p. 249). Again, by merging Diaz Lafuente's legal reading with critical trans* and queer scholarship, I contend that both the presented legislation, as well as the methods to evaluate the 'credibility' of gender and/or sexuality as grounds of persecution, are inherently entangled in the disciplinary logic of border control. Such 'fear' indeed seems to reiterate the discourse that cis-heterosexuality is the 'norm' on which the institution of international protection is built, while that which is not 'normal', i.e. LGBTI* subjectivities, is constructed as potentially 'manipulative' and 'abusive' or, in other terms, 'not credible'.

In Spain, international protection is regulated by Law 12/2009 of October, 30th, which replaces the previous Laws 5/1984 and 9/1994. In accordance with the EU Directives, art. 3 of the Spanish asylum law includes a direct reference to gender identity or sexual orientation as common characteristics of a specific social group whose members might risk persecution.[44] However, the

---

[42] "A mi juicio, esta restricción resulta innecesaria, ambigua y claramente discriminatoria."

[43] "Parece responder el legislador europeo al temor subyacente de efecto llamada, a todas las personas que por motivo de su orientación y/o identidad de género sufran o temen sufrir persecución, o al abuso del derecho por parte de aquellas personas que o bien no son lesbianas, gays, bisexuales, transexuales o intersexuales o bien no sufren o temen sufrir tal persecución."

[44] The exact definition of refugee is the following: "La condición de refugiado se reconoce a toda persona que, debido a fundados temores de ser perseguida por motivos de raza, religión, nacionalidad, opiniones políticas, pertenencia a determinado grupo social, *de género u orientación sexual*, se encuentra fuera del país de su nacionalidad y no puede o, a causa de dichos temores, no quiere acogerse a la protección de tal país, o al apátrida que, careciendo de

Law has been criticised by both advocated and scholars. Diaz Lafuente (2014) again points to the restrictive conditions imposed, on the one hand, by the requirement of the predominant circumstances of the country of origin; and on the other by the necessity that sexual orientation does not entail any act which is criminalised under the Spanish legislation (p. 464). Following a note on the legislation carried out by CEAR Euskadi,[45] it is also important to note that the Law excludes citizens of any other Member States from seeking asylum in Spain, as well as any country considered 'safe' by the EU (art. 20d/f). As I will explore in the next pages, the interrelated concepts of 'safety' and 'harm' (Anker and Ardalan, 2012) assume crucial dimensions in the evaluation of the credibility of LGBT Latin Americans.

The Spanish asylum procedure was first regulated by the Law 5/1984 and then modified by the second title of the Law 12/2009. Currently, the ordinary process[46] is comprised of the following phases:

1. presentation of the application (art. 17) to the *Oficina de Asilo y Refugio*[47] (OAR) within one month after the arrival in Spain. It must contain the reasons according to which the applicant claims to be persecuted or fears persecution;

2. examination of the admissibility of the claims (art. 20) by the OAR within one month of the presentation of the application. This procedure is aimed at verifying the formal aspects of the application (lack of competence) without evaluating its contents, unless the claims are considered manifestly unfounded, incoherent, untruthful, contradictory, or insufficient (lack of requirements). Asylum seekers whose applications are not admitted must leave Spain within fifteen days of the notification or can appeal the decision in the forms explained below;

3. examination of the application and resolution, which should be communicated within six months from the admission of the application. Asylum claims are examined by the OAR, which afterwards presents a report to the *Comisión Interministerial de Asilo y Refugio* (CIAR – Interministerial Commission on Asylum and Refuge), in charge of proposing the response. The final decision is taken by the Ministry of Interior and comprehends a range of possibilities: (a) granting the status of refugee; (b) granting subsidiary protection; (c) denying the status of refugee and requiring the applicant to leave the country within fifteen days of the notification.

---

nacionalidad y hallándose fuera del país donde antes tuviera su residencia habitual, por los mismos motivos no puede o, a causa de dichos temores, no quiere regresar a él, y no esté incurso en alguna de las causas de exclusión del artículo 8 o de las causas de denegación o revocación del artículo 9." Emphasis added.

[45] Available at the following link: http://cear-euskadi.org/guia/asilo-y-genero-2/ [Last accessed 08.08.2017]

[46] The expression 'ordinary procedure' refers to the evaluation of applications presented by asylum seekers who are already in Spain. The procedure articulated for applications presented at the border, embassies, or consulates is similar, but shorter.

[47] The office for asylum and refuge (OAR) is the responsible institution for the evaluation of asylum applications in Spain and represents the Ministry of Interior (Spanish Ombudsman, 2016, p. 26).

Art. 29 of the Spanish Asylum Law refers to two types of appeals against the declaration of inadmissibility of the application and/or the final denegation in the first instance: either an administrative appeal for reversal, to be submitted to the OAR within one month; or a contentious-administrative appeal to be filed before the *Juzgados Centrales* (Central Court, in case of inadmissibility) or the *Audiencia Nacional* (National Court, in case of denegation) within two months.[48] The latter has the jurisdiction to re-examine the evidence and to change the decision taken without returning the case to the Ministry. If the National Court rejects the appeal, art. 29(2) of the Law 12/2009 envisages a further appeal that can be filed before the *Tribunal Supremo* (Supreme Court), which represents the highest jurisprudential authority and has the power to nullify the decisions taken by the National Court in case it considers that there were irregularities in the way the Law was applied. Consequently, the Supreme Tribunal does not examine the evidence provided by the applicant, but interrogates the way the examination was conducted by the Ministry and National Court.

2. The discourse of 'queer (in)credibility'

2.1. The role of the Spanish jurisprudence in the definition of 'credibility'

As described above, the Spanish national jurisprudence has the authority to approve or annul the asylum resolutions previously made by the responsible institutions under the Ministry of Interior. In other words, it has the final say on the implementation of the (inter)national legislative framework, thus exerting an enormous impact both at a procedural level (by defining the criteria of the actual implementation of the law) and at a doctrinal level (since the decisions taken by the Supreme Court dictate the parameters through which the law can be interpreted). It is against such a backdrop that the Courts had already considered the possibility to grant asylum on the grounds of sexual orientation and gender identity before the Law 12/2009. In 1998, the National Court delivered its first sentence (SAN 143/1998) in this regard, which concerned the appeal against the inadmissibility of the asylum application presented by an Ecuadorian citizen identifying as '*travestí*'.[49] Instead, the first sentence by the Supreme Court dates back to 2005 (STS 4171/2005) and evaluates the appeal filed against the denegation of the status of refugee to a Cuban homosexual man. Both appeals were rejected. In the former case, the *Audiencia Nacional* maintained that the

---

[48] According to CEAR Euskadi, before 2004 both types of appeal were filed before the National Court (2009, p. 119)
[49] Although the literal translation of the term is 'transvestite', the way the Courts deploy this word will be problematized with the unfolding of the analysis.

recounted events were lacking sufficient evidence of persecution. In the latter, the *Tribunal Supremo* did not appraise the contents of the credibility assessment carried out by the National Court, but considered that there were not irregularities in the way the Law had been applied. Consequently, the appeal could not be accepted.

According to Diaz Lafuente (2014, p. 468), the national jurisprudence has been particularly influential in giving meaning to the two criteria established in relation to the evaluation of the asylum claims on grounds of gender and sexuality: one the one hand, the consideration of the context of the applicant's country of residence/origin (the so-called 'objective element'); and on the other the evidence of a personal (fear of) persecution due to the applicant's gender identity and/or sexual orientation (known as 'subjective element'). Both components are necessary to be granted refuge in the country. Concerning legislations that criminalise homosexuality and/or transsexuality, as well as any other non-cis-heterosexual conducts, the position adopted by the Courts asserts that their presence does not necessarily indicate the existence of persecution. On the contrary, the absence of such a punitive legal framework does not exclude possible persecutory acts either. Diaz Lafuente maintains that this position, in addition to diverging from art. 6 of the Law 12/2009 that recognises legal and administrative discriminatory measures as always causes of persecution, does not respect the original significance of international protection, since the mere existence of a punitive penal regime allows both state and non-state agents to harm LGBTI* individuals. Furthermore, it prevents citizens from receiving protection from the national authorities (p. 472). According to Jansen and Spijkerboer (2011), in Spain this combination has meant that "refugee status concerning LGBTI applicants were (with one or two exceptions) only granted to LGBTI activists" (p. 24). By means of the theorisation on the cis-heteronormative borders of asylum developed in Section 1, this reference to the applicants' activism acquires a peculiar dimension. According to Lewis (2013), it is precisely this emphasis on a visible position that resembles the narrative of the 'genuine activist':

> 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 frequently are expected to conform to neoliberal narratives of sexual citizenship grounded in visibility politics, consumption, and an identity in the public sphere in order to be considered worthy candidates for asylum. (P. 179)

The practice of guaranteeing international protection only to LGBTI* activists is inscribed into the cis-heteronormative modes of governance of the asylum system. Paraphrasing Giametta (2016), it creates images of 'exceptional individuals' in order to exclude all the rest from the

symbolic domain of the 'genuine refugee'. With regards to Spain, Jansen and Spijkerboer (2011) argue that such a biopolitical production works together with problematic references to the concept of 'safety', deployed so as to contend that a lack of information on human rights violations in the applicant's country equates to a lack of risk of persecution (p. 72). LGBTI* individuals coming from countries that are considered 'safe' are constructed as mere 'economic immigrants'. Furthermore, Spain – as well as many other countries – resorts to the so-called 'discretion argument', according to which LGBTI* populations can 'safely' live in their country, as long as they 'remain discreet', i.e. conceal their identities and desires and conform to the heteronormative norm (p. 34). Together with the problematization of the jurisprudential understanding of 'safety', Jansen and Spijkerboer express their concerns over the expectation that LGBTI* asylum seekers turn to national authorities for protection even if the latter are homo- and transphobic (pp. 29-30). I contend that the consequences caused by the requirement of criminalising measures is to be read through Giametta's analysis. Here, the shift of the asylum policy from supposed 'protection' to 'border control' reveals its harmful dimensions, since it either urges LGBTI* asylum seekers to turn to criminalising national authorities, or denies any persecutory accounts in case they have not done so. In both situations, LGBTI* subjectivities are targeted: in the former case, by endangering them; in the latter, by questioning their 'credibility' and, thus, rendering them 'fake refugees'.

In Spain, the process of credibility assessment mainly concerns the two aforementioned components, which must be attested through evidence that objectively shows that systematic and frequent persecution has already occur or might take place in the future. Proof is nevertheless not required during the evaluation of the admissibility of the application, since during this phase the only requirement refers to a description of (fear of) persecutory facts that does not appear manifestly false or implausible. Diaz Lafuente (2014) refers to it as the 'verisimilitude criteria' (p. 273). The jurisprudential labour carried out by the two Courts is fundamental in further defining the meanings, scopes, and limits acquired by the concept of 'credibility' during the evaluation of asylum applications. In this respect, the doctrine has established the so-called 'criteria of sufficient evidence', according to which the applicant does not have the burden of complete evidence (*prueba plena*), but at last sufficient hints (*indicios suficientes*) of the reported circumstances (p. 476). Previous sentences have specified that such proof, so as to considered sufficient, has to lead to "a reasonable certainty that what the applicant maintains corresponds to reality" [50] (p. 477). Yet Jansen and Spijkerboer show that Spanish decision makers often require additional evidence besides the applicant's statement, such as third testimonies and attestations from LGBTI* organisations (2011, p. 53). Moreover, assumed knowledge on how a 'true' LGBTI* person behaves, speaks, and dresses

---

[50] "Una razonable certeza de que lo que sostiene el recurriente coincide con la realidad."

appears to play an important role in the final decisions (pp. 57-61). In this respect, a 'late' disclosure of one's sexual orientation and/or gender identity during the asylum process is often taken by Spanish authorities as a sign of falsehood (p. 68). As seen above, these practices have been further questioned by Spijkerboer (2013) as resulting from racialized and cis-heteronormative understandings of gender and sexuality, which will constitute one of the lenses through which I will look at the specific case of LGBTI* Latin Americans seeking asylum in Spain.

Remarkably, Diaz Lafuente (2014) reiterates that the necessity to ensure correspondence between the reported (fear of) persecution and an objective reality has often lead to a deployment of the criteria of verisimilitude and sufficiency as a 'filter' (p. 478) between 'truth' and 'lie'. The practice of 'credibility assessment' is indeed inscribed in the institutional fear of the applicants' abuse of the asylum system. In Spijkerboer' account (2013), the discipline of gender and sexuality as essentialised categories, added to the difficulty of proving homo- and transphobic persecutions, provokes reluctant approaches towards LGBTI* asylum seekers: their 'credibility' appears more dubious precisely because of the reported reasons why they have been persecuted. 'Credibility', its interpretation, and appraisal, become the procedural borders upon which queer identities, desires, and practices are signified throughout the asylum process. By always already doubting the 'credibility of queerness', judges have contributed to redefining 'credibility' according to normative ways of being 'queer', hence establishing a discourse of 'queer (in)credibility'. The role of the Courts in signifying 'queer (in)credibility' as a racialized narrative will be interrogated in the next sections through an analysis of the jurisprudence on asylum claims presented by Latin American LGBTI* applicants.

2.2. The jurisprudential assessment of 'queer (in)credibility': the case of Latin Americans

The following exploration draws on my analysis of the 112 sentences[51] issued by the Spanish Courts (93 by the National Court and 19 by the Supreme Court) between 1998 and 2016, concerning appeals presented by Latin American LGBTI* asylum seekers against either the declared inadmissibility of their applications, or the denegation of the status of refugee. Although it is important to note that the analysed sentences represent the second or third stage of the asylum

---

[51] The personal details of the applicants are obviously not included in the publicly available copies of the sentences. However, references to specific events that recur in some of the appeals might indicate that different sentences concern the same person. Consequently, the presented data might not reflect that actual number of applicants, as well as the patterns highlighted by considering the claimants' profile.

process,[52] the aforementioned jurisprudential influence in the definition and signification of 'credibility' makes the investigation relevant. Yet we also have to remember that the absence of governmental data impedes a comparison between the situation that emerges from a quantitative analysis of the sentences to a broader picture of the asylum claims dealt with by the Spanish asylum institutions, thus leaving several questions unanswered: what percentage of LGBTI* Latin Americans are granted asylum? What does such a number say in relation to applicants from other continents, or to applications presented by Latin Americans on other grounds (political belief, nationality, ethnicity, religion)? Did citizens from Latin American countries who do not appear in the sentences (such as Guatemala, Honduras, Chile, and so on) also seek asylum in Spain? Which is the bearing of queer asylum seekers on the overall number of applications? Of these, how many are presented by Latin Americans? Moreover, what is asymmetry between cis gay men and lesbian-, trans*-, intersexual-, and bisexual-identifying asylum seekers?

These are only some of the concerns raised by a preliminary reading of the sentences, which outlines that the National Court has engaged with asylum claims on grounds of gender and/or sexuality since 1998, while the first sentenced issued by the Supreme Court was in 2005. This might be related to required timing when dealing with administrative-contentious processes. The two Courts present a similar shift in the applicants' national profile: for a few years after the first appeal, most of claimants came from Central and South America, while since 2009 (National Court) and 2011 (Supreme Court) the percentage of African and Asian applicants has been on the rise. With specific reference to Latin Americans, the number of appeals varies from year to year, but is smaller before the Supreme Court. The following table summarises this trend.

---

[52] Due to a lack of institutional data published by the government, it is impossible to determine the percentage of applicants that appeal against the OAR resolutions.
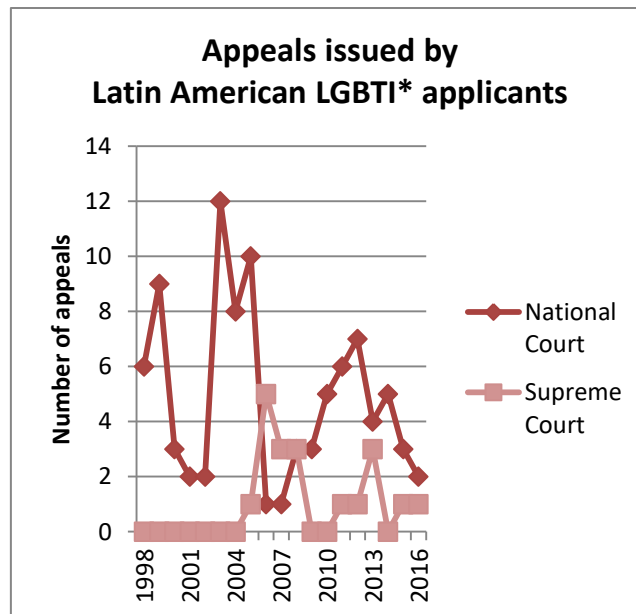
Figure 1 (Own elaboration based on the sentences from http://www.poderjudicial.es/search/) – Appeals issued by Latin American LGBTI* applicants

As we can see, the National Court deals with most of the appeals presented by Latin American LGBTI* asylum seekers, which seem to have declined in the last few years. Again, the lack of data impedes a broader analysis that could refer to the reasons of such a decrease, leaving the enquiry open to future research: is it related to a higher tendency to grant asylum to LGBT Latin Americans applicants, or on the contrary does it resemble an overall decrease in asylum applications by the same individuals?

Focusing on the profiles of Latin Americans LGBTI* claimants, while in the first phase the majority came from Cuba and Ecuador, from 2006 on the presence of Costa Ricans, Colombians, Nicaraguans, Venezuelans, and Panamanians has coincided with a gradual disappearance of Cubans and Ecuadorians. Mexican and Salvadorian claimants are present in small numbers, while only one Brazilian, Argentinian, Paraguayan, and two Peruvians (a couple) appealed before the National Court. No reference to other Latin American countries was found in the sentences. Concerning the reasons of the asylum claims, out of 112, only 31 were on grounds of gender identity (all of them issued by self-identified transgender women). Of the claims on the grounds of sexual orientation, 5 were presented by lesbian-identifying individuals and 1 by a bisexual man. None of the applicants identified as intersexual or transgender male. On the contrary, most of Latin Americans who appealed against the OAR resolutions between 1998 and 2016 were cisgender gay men. This resembles a pattern that has already been addressed by Jansen and Spijkerboer as the 'invisibility of

LBTI's' (2011, p. 19), i.e. the alarming scarcity of (information on) lesbian, bisexual, trans*,[53] intersexual asylum seekers. Drawing on Lewis (2013; 2014), I contend that this material absence equates to an invisibility at the level of the symbolic: as maintained above, the 'illegibility' of queer asylum seekers is related to their impossibility to conform to hegemonic narratives that border the image of the 'true refugee' according to cis-heteronormative assumptions. In this respect, the more queer subjectivities distance themselves from their 'queerness', the more 'legible' their 'credibility' will be. In other words, the invisibility of the LBTI's is embedded in the asymmetric cis-heteronormative imperative that regulates social interactions according to a system of value that intrinsically privileges those who are closer to the (cis and hetero) 'norm': namely cis gay men over (cis and trans) women, trans*, and intersexed populations.

In conclusion, without transcending the importance of future enquiries, I contend that the political lack of will to publish specific data concerning asylum by (amongst other European States) the Spanish government might be read as an important aspect of the intricate crossroads constituted by migration, asylum, sexuality, and gender in Spain. It is in this respect that I consider a qualitative analysis useful so as to cast some light on such entanglements.

2.2.1. *Recurso desestimado*[54]: on the reasons of rejection

The last important quantitative information on the analysed sentences concerns the number of rejections and admissions: out of 93, the National Court considered 5 appeals as legitimate (5,3% of the total), while 4 out of 19 appeals were accepted by the Supreme Court (21%). Of the latter, only one appealed the denegation of asylum, while in the remaining 3 cases the Court revoked previous decisions on the inadmissibility of the applications, which were hence to be examined through a process that could still lead to a final denegation of the status of refugee. The appeals were rejected due to reasons that were similarly adduced by both Courts, therefore making a comparative qualitative analysis possible. Negative adjudications relate to how 'credibility' is assessed through a reference to the two aforementioned elements of the asylum claims: on the one hand, the situation of the country of origin (objective component); on the other, the personal and targeted persecution, or fear thereof, suffered by the applicant on grounds of gender identity and/or sexual orientation (subjective component).

---

[53] If information on transgender asylum seekers is inadequate, references to gender-fluid, gender non-conforming, and genderqueer is completely absent. Here I deploy the expression 'trans*' to refer to all individuals who do not identify as cisgender, as well as those who do not identify with any gender identity at all.

[54] 'The appeal is rejected'.

With regard to the former, a general assumption concerns the presumed 'safety' of the countries which the applicants fled. The meaning of the concept of 'safety' is not explicitly addressed in the sentences, but established by indirect references to the context that a country is expected to show so as to be considered 'unsafe' for LGBTI* individuals: a criminalising legislation that is enforced by state-agents. This criteria establishes a causal relation that justifies negative resolutions. LGBTI* Latin Americans leaving countries in which discriminatory laws allegedly function *de iure*, but not *de facto*, are denied the status precisely because such legislations are not enforced. Concomitantly, applicants reporting harms that are tolerated, but not legally fostered, are rejected. In other words, in the Courts' understanding the lack of a criminalising legislation means that members of the LGBTI* local communities are protected by the State. As a result the country of origin is classified as 'safe'. The following passages from two sentences issued by the National (SAN 4388/1998) and the Supreme Court (STS 6142/2008) respectively exemplify this contradictory situation:

> Here we are not questioning the condition of homosexuality [reported by the applicant], but the fact that it can constitute a reason to grant asylum. According to our knowledge, Ecuador does not have a legislation that specifically criminalises such situations, or at least the recurrent does not report anything more than police harassment. We ignore due to what concrete manifestations of homosexuality such harassment occurs or if it is, as we do not believe, only because of its non-conformity with heterosexuality; in this haze we cannot affirm that the adjudicators were wrong in considering the application evanescent and scarcely solid, we would almost say that there is not even any reason for seeking [asylum].[55] (P. 2, par. 6)

> [T]he actor insists on saying that the Cuban legislation punishes homosexual conducts, but in light of this fact this report includes an investigation showing that nowadays there is higher tolerance towards such practices, so that it is not possible to consider that the mere fact of having such tendency causes a persecution similar to those that allow the recognition of international protection. [56] (P. 2, par. 4)

---

[55] "La condición de homosexual no vamos a cuestionarla aquí pero lo que sí cuestionamos es que ello sea causa de asilo. En lo que sepamos no hay normativa específica en Ecuador represora de estas situaciones, o al menos no se nos habla más que de acoso policial. Ignoramos por qué manifestaciones concretas de la homosexualidad se produce ese supuesto acoso o si es, que no creemos, por el simple hecho diferencial, y en esta nebulosa no podemos decir que sea errónea la calificación administrativa de la pretensión como evanescente y poco sólida, casi diríamos nosotros, que no hay ni siquiera causa de pedir."

[56] "[E]l actor insiste en que la legislación cubana castiga las conductas homosexuales, pero frente a este dato consta en el expediente un informe de la instrucción en el que se apunta que actualmente existe una tolerancia mayor hacia tales prácticas, de manera que no cabe considerar que el mero hecho de tener esa tendencia genere una persecución de las que dan lugar al reconocimiento de la protección de refugiado."

These extracts outline how allegations of gender- and sexuality-based persecution are not conceived *per se*, i.e. resulting from cis-heteronormative economies of power that materially endanger the lives of LGBTI* individuals, but as always already related to a presumed legislative and socio-political 'unsafe' context. In other words, through a paradoxical play the Courts maintain that personal persecution on the grounds of sexual identity and gender orientation cannot occur where and when non-conforming identities, desires, or practices are not criminalised, while simultaneously asserting that punitive legislations do not represent persecution. 'Safety' and 'harm' thus acquire contradictory meanings and dimensions that, if read as part of a complex entanglement, make it rather impossible to attest persecutory acts related to homo-transphobia.

Furthermore, the applicants need to address the 'objective' situation of the country of origin *together with* the evidence of the (fear of) personal persecution. Consequently, the burden of proof for queer asylum seekers entails both components to be considered 'sufficient'. The *sine qua non* condition for queer Latin Americans who flee their countries does not only concern the well-founded fear of persecution, but also the existence and enforcement of a criminalising legislative framework. In this respect, most of the sentences[57] report the applicants' failure to provide proof concerning the (un)safety of the local context and/or the risk to suffer from persecutory acts personally targeted at them. This exclusive correlation is, according to my analysis, a common reason why Latin American LGBTI* asylum seekers are denied the status of refugees (both in form of actual rejection of the claim, or by declaring the application inadmissible). An example of the embedding of the addressed issues is represented by the following extracts from the sentence SAN 4550/2010 by the National Court, which concerns the case of homosexual man from Paraguay:

> Well, the actor did not provide any proof, not even circumstantial, of the existence of a personal persecution understood within the legal framework of asylum law, also because reliable sources affirm that in Paraguay there is not a systematic and generalised persecution on grounds of sexual orientation besides some sort of rejection in determined spheres and concrete situations, which could be the case of the occurrences recounted by the applicant. […] However, even if the situation of homosexuals is not exempt from critiques [made] by some conservative sectors of society (which happens all around the world), the claimant does not cite facts whose entity is sufficient to necessarily be granted an effective protection, i.e., the fact that not the whole society approves his sexual condition and, above all, that does not respect it, is undoubtedly to be criticised, but does not per se entail a persecution under the framework articulated by the Geneva Convention, since in Paraguay homosexuality is not formally prohibited, and according to the available information a

---

[57] To name a few: SAN 143/1998; SAN 4278/1999; SAN 7018/2002; SAN 1080/2003; SAN 1820/2005; SAN 2186/2012; SAN 2471/2015.

parliamentary committee is even working on ensuring that the right to sexual freedom is recognised as a human right to be protected. [58] (P. 2, par. 2)

The first argument articulated by the Court concerns the lack of indications that the applicant was targeted by persecution because of his sexuality. Yet the judge reiterates that the insufficiency of evidence is linked to the absence of formal criminalisation of homosexuality in Paraguay, thus implying that persecutory acts do effectively occur only through the enforcement of punitive laws. Furthermore, the Court seems to assert that 'mere' social rejection and lack of respect are unfortunate circumstances of every society all around the world, as much despicable as not 'serious' enough so as to be considered 'real' persecution. The events recounted by the applicant, understood as 'simple' discrimination, consist of child abuse, marginalization, and systematic unemployment. Evidently, the judge's account does not consider the harmful and violent consequences that could be (and actually are) caused by the intersectional shapes assumed by homo-transphobic violence.

In conclusion, in the analysed passages both Courts refer to some sort of formal recognition towards the local LGBTI* communities as a token of an inclusionary society. Similarly, in the case of a transgender woman from Colombia (SAN 2858/2015), the National Court argues that the fact that she could change her name on her documents is "an evident proof of the lack of persecution against transgender people in the country"[59] (p. 4, par. 4). As seen in Chapter 1, Dean Spade (2013) highly problematizes institutional 'legal equality' approaches aimed at improving formal life conditions of intersectionally targeted populations. In his account, such agendas do not undo societal hierarchies, but "fail to address the conditions that affect vulnerable people" (p. 1037) through gendered and racialized. In this respect, I contend that jurisprudential references to (lack of) legal measures are inscribed in 'single-axis approaches' that fail to recognise the entanglement of material and symbolic processes disavowing non-normative subjectivities. In addition to it, Spade outlines that such a position "shores up, legitimizes, or expands harm" (p. 1037). Within this

---

[58] "Pues bien, el interesado nada ha acreditado, ni directa ni indiciariamente, sobre la realidad de una persecución personal susceptible de ser incardinada en el rgimen jurídico de asilo, siendo así que a la vista de fuentes fiables puede afirmarse que en Paraguay no existe una persecución generalizada o sistemética por razones de orientación sexual, más allá de cierto rechazo en determinados ámbitos y situaciones concretas, como incluso pudieran ser los incidentes personales que el promovente relata. [...] Sin embargo, a pesar de que la situación de los homosexuales nunca está exenta de críticas por parte de ciertos sectores conservadores de la sociedad (lo cual ocurre en todo el mundo), el solicitante no alega hechos de entidad suficiente que hagan necesaria una efectiva protección, es decir, el hecho de que no toda la sociedad apruebe su condición sexual, y sobre todo, que no la respete, es algo sin duda digno de crítica, pero no conlleva en sí mismo una persecución en el sentido que la Convención de Ginebra otorga a ese término, pues en Paraguay la homosexualidad no está prohibida formalmente, e incluso, según información consultada de su país de origen, existe en el Parlamento un grupo de trabajo que persigue que el derecho a elegir la opción sexual, sea considerado corno uno de los derechos humanos protegibles."
[59] "Prueba patente de la falta de persecución en dicho país de las personas transexuales."

framework, a committee working on the recognition of sexuality as a human right does not equate to lack of persecution. In the same manner, alleged 'tolerance' (as in the Cuban case) does not signify respect towards non-conforming subjects whose visibility defies hegemonic power structures (such homo-transphobia) that function by rendering them invisible. In other words, as argued by Jansen and Spijkerboer (2011), legislative improvements do not always equate to socio-political acceptance and cannot prevent violent situations (pp. 25-26). On the contrary, I read such approach through Giametta's (2016) theorization on the filtering logic of population control that permeates asylum, which paradoxically shifts the institutional focus from protection to exclusion. Instead of safeguarding LGBTI* asylum seekers, uncritical account to 'safety' and 'harm' contribute to further endangering them by erasing the intersectional violence to which they are exposed.

The differentiation between societal rejection and personal persecution introduced by the previous quotes represents another important aspect of the resolutions on the asylum claims presented by queer Latin Americans. I indeed noticed the judges' persistent tendency[60] throughout the years to evaluate the reported facts as 'mere harassment' or 'common crimes', especially when committed by non-state agents. Discriminations occurring within the applicant's family, neighbourhood or working environment (ranging from sexual assault and murder, to marginalisation and impossibility to be employed) are often dismissed as 'not severe or sufficient enough' because the national authorities could offer protection inside the country, as in the case of an Ecuadorian transgender woman, whose "conflicts generated within the family are not comprised within the institution of asylum"[61] (SAN 6856/1999, p. 2, par.3). Another position adopted by the Court on the offenses committed by non-state agents addresses them as 'common delinquency' (SAN 1162/2016, p. 4, par. 4) linked to the socio-political environment of instability that, in the judges' accounts, characterises many Central and Latin American countries. In this respect, the fact that local *pandillas* (gangs) involved in drug trade and prostitution systematically threaten, harm, and even kill LGBTI* individuals precisely owing to their sexuality and/or gender is understood as nothing but an incidental feature of a context marked by endemic violence. Such accounts often lead to a process of victim-blaming, configured by the Courts in consideration to the applicant's engagement with activities that might have caused the abuses – one above all, sex work. For instance, the appeal filed by a Costa Rican transgender woman was dismissed by the National Court because "the reported problems seem to be mostly related to prostitution and the conflicts generated

---

[60] To name a few: SAN 4278/1999; SAN 6856/1999; SAN 7079/2000; SAN 4550/2010; SAN 1662/2016.
[61] "Incomodidades que se originan en el seno de la familia son ajenas a la institución del asilo."

because of it"[62] (SAN 3195/2008, p. 5, par. 4). This position seems to hold responsible not the subjects who commit the offenses, but the activity itself, thus implying that every person who engages in sex work cannot seek protection. In this respect, the Spanish jurisprudence appears to deploy a sort of 'you asked for it' argument that shifts the focus from the dominant system of power, to the perpetrators, and, ultimately, to the victim of persecution. According to Millbank's understanding of the so-called 'discretion reasoning' (2009a), the judges' emphasis on the claimants' responsibility and 'choice' might be read as a 'discretion requirement'. In other words, if transgender female applicants had not made themselves visible as sex workers and had remained 'discreet', they would have not been persecuted. Millbank and Berg (2013) add that the logic of discretion is not limited to the expectation to hide one's sexuality and/or gender, but is an extraordinarily resilient narrative that has concerned several issues throughout the development of asylum procedures concerning sexual and gender minorities. In their own terms, "lack of recognition of the multiple and intersecting forms of harm as persecution might […] cause a return to […] discretion reasoning" (p. 40). In the analysed case, the dramatic consequences of such discretion as 'victim-blaming' do not only lead to asylum rejections, but contribute to the marginalisation of a whole social group (transgender female sex workers, for instance) that can hence be harmed with impunity.

As briefly mentioned above, when persecutory acts are committed by non-state actors, asylum seekers are required to prove their inscription in a local context of generalised and systematic risk for LGBTI* people (evidence that, has maintained, is basically impossible to provide), in a way that targeted the applicant personally, and with the protection and/or complicity of national authorities. In this regard, the only manner to show that institutions, such as the police, shelter the perpetrators of persecutory acts would be to give evidence that the applicant actually turned to those authorities but was rejected. This requirement is articulated in the aforementioned case of a Colombian transgender woman (SAN 2858/2015) in the following way:

> In any case, the reported persecution stems from third agents, without any evidence confirming the possibility that national authorities either promote or protect it.[63] (P. 4, par. 4)

In other words, the Courts require LGBTI* asylum seekers to denounce abuses and seek protection before public institutions in an 'unsafe' environment in order to be able to demonstrate

---

[62] "Los problemas relatados parecen guardar más relación con la actividad de prostitución y los conflictos generados por esta causa."
[63] "[L]a persecución que se alega proviene, en todo caso, de agentes terceros, sin que exista dato alguno que avale la posibilidad de que las autoridades del país de origen promuevan ni amparen la misma."

that their requests were dismissed. Applicants are expected to endanger their lives by dealing with authorities that not only tolerate, but often foster, persecutions. On the contrary, when the perpetrators appear to be state-agents (usually police officers), the Courts argue that those individuals did not act in representation of the national authorities, as in the appeals filed before the National Court by a transgender woman from Panamá (SAN 3365/2014) and another one from Colombia (SAN 4536/2010). In this regard, the Courts turn to the so-called 'relocation alternative' in order to maintain that the asylum seeker could have moved to a 'safer' region within the country, without needing to seek international protection in Spain (SAN 2221/2015). On other hand, the evidence that the claimant lived in other countries before applying for asylum is always taken by the Courts as a sign of the lack of necessity to be granted international protection.[64] With specific reference to Cubans, similarly to the jurisprudential tendency to consider legal improvements as a token of 'safety', the National Court also argued that since the applicant was given a passport to travel internationally – not easily obtainable under Castro's regime –, his homosexuality was institutionally tolerated (SAN 2745/1999).

The last, but not therefore less important, reason why LGBTI* Latin Americans are denied refugee status concerns the temporality of the claims. On the one hand, those who apply more than a month after their arrival in Spain are considered not in need of international protection.[65] On the other hand, the disclosure of one's gender identity and/or sexuality at a later stage of the asylum process is taken as a contradiction that undermines the credibility of the narrative.[66] Furthermore, in the case of a homosexual couple from Cuba (SAN 6433/2005), the National Court argued that, since the recounted facts occurred years before, the risk of present and future persecution was absent. This means that, in addition to what I have addressed above, the Courts relate to the spatial and temporal dimensions of the claims as relevant motives of denegation, without taking into consideration the personal situations that might have led the applicant not to seek asylum in other countries, or to a so-called 'late disclosure'.

In conclusion, when dealing with asylum claims on the grounds of gender identity and/or sexual orientation, the Spanish judges articulate a discourse on 'credibility' by demagogically turning to either one side or the other of the same argument to justify the rejection of the appeal, as well as support negative resolutions found by the OAR. Building on the Foucauldian concepts of 'discourse' and 'discursive formation' (Foucault 1978; 1980), Stuart Hall analyses the power that dominant discourses exert beyond their ontological existence as "coherent or rational body of speech or writing" ([1996] 2006, p. 201). He conceives them as practices that forge and create

---

[64] For instance, SAN 6085/1999; SAN 2186/2012; STS 2016/2015.
[65] Such as, SAN 3138/2006; SAN 1893/2011; SAN 2221/2015.
[66] See, for example: SAN 1477/2003; SAN 5962/2005.

meanings in order to sustain the production of certain knowledges around specific topics. In this respect, language acquires a crucial role in determining the material consequences of theoretical discursive formations, which according to Hall are to be seen as constructing hegemonic 'regimes of truth'. Drawing from this analytical standpoint, the jurisprudential practices that signify 'credibility', as well as the enforced understanding of 'credibility' as a 'coherent and consistent' narrative, might be understood as interlocking discourses established through normative borderings. In my analysis, this narratives work towards the institutional exclusion of queer Latin Americans from the conceptual domain of 'genuine refugees'. The following sections will turn to the terminology deployed by the Courts in the formulation of the final resolutions, and conclude with a theoretical exploration on how the racialized and cis-heteronormative borders of the discourse of 'queer (in)credibility' function in the case of Latin American LGBTI* asylum seekers.

2.2.2. The language of 'credibility'

The Courts describe the narratives considered 'non-credible' through terms that confer a generalised sense of suspicion and scepticism. First of all, claims of persecution are usually preceded by adjectives such as 'supposed', 'alleged', and 'reported', which underline the idea that they are not considered 'true' until the judges proclaim so. In this respect, although the recognition of the status of refugee is conceived as a declaratory act (see 1.1), the deployed terminology provides it with the power to constitute what a 'credible' asylum account is. Similar to 'safety' and 'persecution', the concept of 'credibility' is signified through persistent references to what it is not: 'evanescent', 'vague', 'not solid', 'generic', 'unfounded', 'contradictory', 'lacking the smallest objective evidence', 'insufficient', 'extemporaneous', 'improvised', 'imprecise', 'devoid of data', 'unlikely', 'improbable', 'contradictory'.[67] However, it is important to notice that the Spanish jurisprudence does not appear to doubt the applicants' orientation and/or identity. The only exception I observed was the case of a homosexual man from Cuba, in which the National Court stated that "the fact that he so vaguely reports his homosexuality does not necessarily indicate that he is homosexual".[68] (SAN 6635/2004, p. 2, par. 2). What I called the 'credibility of queerness' (subsection 2.1) is hence not questioned, meaning that the claimants' self-identifications are apparently believed. On the contrary, the 'credibility' of queer subjects is the real target of jurisprudential enquiry, since they are expected to provide vast evidence on several aspects of their

---

[67] These are the literal translations of the adjectives used in all of the analysed sentences so as to refer to the narratives provided by the applicants. The reason why I decided to list them all, one after the other, is to give a material sense of the dimensions acquired by the aforementioned suspicion and scepticism.

[68] "El hecho de que el solicitante afirme tan vagamente ser homosexual, no indica necesariamente que lo sea."

asylum claims (local context, enforcement of a criminalising legislation, personal persecution, space and time). I argue that this tendency is entangled in what Diaz Lafuente (2014) conceptualises as an institutional fear of abuse of the right to international protection. In other words, national authorities suspect that LGBTI* folks who do not experience (fear of) persecution, could take advantage of the fluid, sometimes contradictory, and often confusing ontological status of concepts such as 'gender' and 'sexuality' (Spijkerboer, 2013). Therefore, asylum claims on grounds of gender and/or sexuality need to be supported by higher degrees of evidence. Within this framework, the discourse of 'queer (in)credibility' both relies on and fosters the paradoxical logic of population control. Aimed at 'filtering' truth from lie, it reinforces symbolic exclusions from the domain of the 'genuine refugee', constituted at the intersections of normative asymmetries of gender, sexuality, race, class, and social status. Such bordering is nonetheless not limited to the discursive, but denies access to material protection in the form of rejections and deportations. In other words, it endangers those who it should aim to safeguard, namely intersectionally targeted populations, such as LGBTI* asylum seekers.

Jurisprudential 'fear of abuse' is expressively referred to through the differentiation between 'true refugee' and 'economic migrant' articulated in response to the appeals filed before the National Court. For instance, in the case of an Ecuadorian transgender woman, the judge affirms that "it is the case of a purely and simply economic migrant looking for better life conditions in the 'European paradise' and not the one of an authentic refugee"[69] (SAN 2449/1999, p. 2, par. 5). Here the Court assumes lack of persecutory evidence as an implication of the fraudulent will to benefit from the economic privileges of what is described as the 'European paradise'. In this respect, the Spanish jurisprudence shows to have a limited and stereotypical understanding of the intricate entanglement of sexuality, gender, and migration, as well as of the complex realities that lead people to migrate. Furthermore, as already argued, the judges articulate a rigid understanding of 'persecution', which does not include exclusion from healthcare, education, and employment, and requires evidence of the systematic dimensions acquired by violence acts endured by the applicants. To phrase it differently, claimants who, according to the Court, cannot present proof of such a systematic and physically violent persecution are 'lying' about their necessity to seek international protection. Yet in Spijkerboer's (2013) analysis gender identity and sexual orientation are hardly recognised as grounds of persecution, implying that the majority of LGBTI* asylum seekers are considered 'bogus economic migrants' and not 'true refugee'. The discourse of 'queer

---

[69] "Se trata, pura y simplemente de un inmigrante económico en busca de unas mejores condiciones de vida en el 'paraiso europeo' que un auténtico refugiado."

(in)credibility' thus primarily constructs sexual and gender minorities as not 'recognisable' within the conceptual (cis-heteronormative borders) of refuge.

However, as seen throughout section 1, the legislative horizon of asylum has been progressively broadened so as to account for grounds of persecution that were not originally referred to in the Convention, such as gender and/or sexuality. However, queer migration scholars contend that this inclusion has reinforced societal exclusions by not considering processes of intersectional violence. In line with Lewis (2013), I indeed noticed that in the analysed sentences the 'economic migrant' narrative is specifically used to justify the rejection of transgender women, most of whom were self-employed as sex workers for long periods of their lives before fleeing their countries of origin or residence. As argued above, the Courts hold them responsible for being subjected to violence and abuse, due to the illegality of the activity they were undertaking. Through a joint reading of the two arguments, I contend that the jurisprudential positions specifically adopted towards transgender applicants imply the subtle idea that they are seeking international protection only to overcome their personal situation and become 'richer'. Jordan (2009) calls such a tendency "a trans-specific version of the economic-migrant-as-bogus-refugee discourse" (p. 178). In other words, as Lewis contends (see 2.2), the more subjects are distant from the cis-heteronormative asylum 'norm', the more they are perceived and materialised as 'bogus'. The 'economic migrant' narrative, which functions as one of the mechanisms of border control, therefore acquires particularly strong features in the asylum claims presented by transgender applicants. Such a bordering is inscribed in what Stryker (2006) defines 'regimes of normalization', i.e. processes aimed at disciplining trans* populations as 'gender-deviant'. In this respect, the terminology used by the judges to deal with asylum claims issued by transgender Latin Americans unveils a complete lack of awareness and/or understanding of what it means to live as transgendered. On the one hand, both Courts often address the applicants as '*travestís*' (transvestites), even when they have already undergone surgeries and/or come out as 'transgender'. The judges also often speak of the 'orientation' of transgender asylum seekers, thus equating sexual desires and practices with personal identification. On the other hand, most of the sentences address transgender women through male pronouns and other masculine terms – such as '*señor*' (mister). Misgendering does not only imply a profound disrespect for the applicants' personal identifications, but can be read against the backdrop of broader marginalisation, discrimination, and invisibilisation of transgender lives. Within this framework, transgender women are targeted by a specific version of the interlocking discourses of 'queer (in)credibility' and 'bogus economic migrant'.

In conclusion, the understanding of 'credibility' (re)produced through the sentences rests on the language of fixity, determination, and clarity – which is opposed to the fluidity and uncertainty

stemming from the complex entanglement of gender, sexuality, and migration. In this regard, it seems that the impossibility to subject the applicants' expression of sexual orientation and gender identity to the discourse of 'credibility' is per se a cause of suspicion of the asylum claims issued by LGBTI* Latin Americans. The way Spanish judges tackle the inherent (in)credibility of queerness is thus through a presumption of 'queer incredibility'. 'Queer (in)credibility' is hence disciplined as a coherent and solid narrative that conforms to the cis-heteronormative and racializing discourses indefinitely (re)proposed by the Spanish jurisprudence.

2.3. The racialized borders of 'queer (in)credibility': are queer *latinxs* 'credible'?

Drawing from queer migration scholarship, throughout the chapter I have argued that the institution of asylum is intertwined in normative borders that function to materialise and exclude non-normative existences. In this respect, I have aspired to explore several aspects of the construction of the 'genuine refugee'. I have particularly problematized legislative and procedural articulations of 'persecution', 'safety', and 'credibility', showing how they are demagogically deployed as mechanisms of border control. In *Entry Denied: Controlling Sexuality at the Border* (2002), Luihbéid maintains the following:

> [S]exuality – and by extension, race, gender, and class – have been central to immigration control since its inception not because they are essential or biological identities that can be discovered within individual bodies, but because sexualisation, racialization, and so on are larger social processes whose presence is made evident by the classification of bodies into hierarchical schemes. Such classification schemes, which were rooted in histories of imperialism and modern state formation, ensured that those granted admission were incorporated into relations of surveillance and discipline within the United States. (P. xxii)

As maintained in Chapter 1, Luibhéid's theorisation contends that asylum adjudications offer the opportunity to discipline the access to 'citizenry' through the construction and reiteration of normative imaginaries. Following on Foucault ([1975] 1995), borders acquire the fundamental function of dividing constituencies into 'normal', i.e. conforming to dominant discursive formations, and 'deviant'. I have already addressed the discourse of 'queer (in)credibility', which in my analysis works as a self-referential narrative that creates the 'genuine refugee' conforming to the (cisgender and male) heterosexual activist who flees physical violence (Lewis, 2013). This image operates as a system of comparison according to which the closer asylum seekers get to such a normative representation, the higher possibilities they will have to be granted protection. Those who

cannot or do not want to conform are rendered 'unintelligible' through the credibility assessment, since the 'incredibility' of their accounts is obtained by constantly referring to the narrative of the 'bogus economic migrant' as opposed to the 'genuine refugee'. By deploying a language of fixity that naturalises Western-centric understandings of sexuality and gender as stable and frozen categories, the discourse of 'queer (in)credibility function as a disciplinary and filtering mechanism that materialises non-cis-heteronormative subjectivities as migrants who do not deserve international protection.

In Chapter 1 I have also discussed the insightful contribution to queer migration scholarship offered by Dean Spade (2013), who asserts that systems of domination are always already entangled in intersectional 'narratives of deservingness'. As outlined by Luibhéid (2002), dominant asymmetries of gender, race, sexuality, and class are profoundly entangled in the constitution of 'normative citizenship' as a colonial and imperialist construct. In other words, the interlocking systems that dramatically marked the creation of the 'colonized' as 'non-citizen' are still functioning within the disciplinary horizon of migration and border control. In this sense, the hierarchical categories that divide 'economic migrant' from 'genuine refugee' are traced along the intersections of gender, sexuality, class, and race. Although Anglo and Hispanic colonial endeavours differ profoundly, I believe that Luibhéid's theorisation offers an entry point to explore the intersections between modern state formation, racialization, and colonialism that might be reiterated through the Spanish asylum system, and particularly by means of the assessment of credibility.

Sociologist Sandra Gil Araujo (2010) problematizes the national(ist) constructions that have characterised the recent development of Spanish migration policy. She specifically explores how "narratives of nation influence the processes by which migrants are identified and racialized" (p. 187). In her analysis, the way the Spanish State has regulated the access to citizenship is performed through discourses of 'ethnic affinity' that facilitate the entrance to migrants who are thought to share the same cultural values of 'modern Spain'. Such conditions operate as parameters of 'integration capacity' (p. 189) and 'cultural incompatibilities' (p. 185) to establish a gradation of affinities that is then reflected in a system of differentiated access to nationality. Within this framework, since the beginning of the 21st century, "Latin American immigration has been configured – in discourse and policy making – as the *desired immigration*" (2010, p. 185 – emphasis added), while the condition of Arabs and Muslims (even if coming from former colonies, such as Morocco) is one of 'absolute otherness' (p. 185). Building on Quijano (2000), Gil Araujo maintains that policies based on alleged 'ethnic affinity' are "both products and instruments of the coloniality of power" (p. 181), intended as a structure originated from "the idea that the colonizer is

ethnically and cognitively superior to the colonized" (Castro-Goméz 2007, p. 60). The configuration of various grades of 'ethnic affinity' fosters indeed the categorisation of migrant subjectivities into differing 'others': 'returning migrants', 'Latin Americans', 'Spanish descendants', 'non-Europeans', and so on. Despite the privileged position 'Latin Americans' seem to embody within this normative horizon, Gil Araujo asserts that "when examined more closely, these perceptions reflect distinct grades of affinity for Latin Americans, according to nationality and phenotype" (p. 185). In other words, 'Latin Americans' are equally classified as more or less 'proximate' to the Spanish 'norm', which Gil Araujo intends as an entanglement of *ius sanguinis*, language, and religion (p. 190). Such hierarchies are profoundly entangled in the colonial construction of the colonised as superior:

> Narratives of cultural proximity between the autochthonous population with Latin American immigrants recreate the project of *Hispanidad* under Spanish domain, and it institutionalizes the so-called proximity of these (post)colonial subjects as the guarantee of their better integration. I am insistent on this point: in no cases have discourses of similarity or affinity implied equality, particularly not in the frameworks in which the immigrant presence is problematized. (P. 190)

The production and categorisation of 'different migrant others' thus produces *Hispanidad* itself. In this respect, due to (neo)colonial relations with Spain, the coloniality of power materialises Latin American populations as 'ethnically similar' by building on the assumption of a 'common culture' between the metropole and its 'peripheries'. Ethnic affinity is achieved through a complete erasure of the histories of exploitation, slavery, colonization, that have accompanied the violent imposition of *Hispanidad*. In Gil Araujo's own terms:

> What is their common culture? Their colonial legacy? It is not as much about shared histories as it is about silent and denied histories. Narratives of the cultural proximity of Latin Americans evoke a colonized territory and population, Castilianicized, and evangelized by the Spanish imperium. At the same time, they ignore the diversity of populations, histories, geographies trajectories, languages, ways of life, cosmovisions, racializations, genocides, defeats, and victories that inhabit Latin American territory. What emerges out of the discourse of common culture are homogenizing visions which colonize the plurality of positionings available to migrants from the periphery, expropriating their capacity for historical and political action. (P. 191)

This understanding is in line with Perez' (2003) theorisation of the colonial as a supremacist mind-set that works by erasing the experiences of the colonized (see Chapter 1). It is in this respect that the discourse of 'ethnic affinity' on which Spanish migration policy has been developed is both

a mechanism and the result of the coloniality of power that structure the relations with whom is perceived as 'Latin American'. In *Queer Latinidad: Identity Practices, Discursive Spaces* (2003), Juana María Rodriguez explores the shifting significations acquired by the concept of *latinidad*, arguing that it "contains within it the complexities and contradictions of immigration, (post)(neo)colonialism, race, color, legal status, class, nation, language, and the politics of location" (p. 10). Rather than referring to a fixed and stable identity, *latinidad* outlines the normative discourses and subversive practices through which contradicting meanings are attached to the allegedly *latinxs* subjectivities. By combining Rodriguez' and Gil Araujo's insights, I contend that within the framework of Spanish migration policy – including the regulation of international protection – *hispanidad* is a neo-colonial project, and *latinidad* becomes its homogenised and silenced construct.

Against this complex backdrop, I have posed profound attention to the racial and ethnic implications of the credibility assessment of asylum claims on the grounds of gender identity and/or sexual orientation. Building on Luibhéid's use of a Foucauldian understanding of discipline to suggest that border control produces in/exclusions through the naturalisation of migrant identities (2002, p. xxii), I contend that the discourse of 'queer (in)credibility' works to materialise and exclude 'queer *latinxs*' from the domain of 'genuine (queer) refugees'. Above I have maintained that the applicants' 'queerness' is apparently not questioned during the credibility assessment. This tendency could be read through the lens of 'ethnic affinity': due to the claimants' 'proximity' to Spanish values, their 'sexuality' and/or 'gender' are considered to conform with Western-centric notions of gender identity and sexual orientation and are, therefore, not to be doubted. What is problematized are their stories of persecution. As we have seen, the cis-heteronormative borders of asylum constructs the domain of the 'genuine refugee' along the narrative of the cisgender male (heterosexual) activist. Yet the lenses offered by Gil Araujo and Rodriguez might contribute to the articulation of a more nuanced reading, according to which the applicants' racialization as '*latinxs*' participates in denying them the access to international protection.

As Diaz Lafuente (2014) argues, the aforementioned grounds of rejections of the asylum claims presented by LGBTI* are inextricably entangled in the fear of a so-called 'call effect', according to which positive adjudications might attract more and more claimants, including 'bogus migrants'. In addition to unveiling the exclusionary logic on which asylum is based (Giametta, 2016), Bohmer and Schuman (2008) explain how such an assumption is entangled in "a culture of disbelief in which they [asylum institutions] look for ways to deny asylum to all but a few individual claimants" (p. 605). Along the same line, in Agrela Romero and Gil Araujo's analysis (2005), "Spanish migration policy is moving from the 'call effect' to the 'kick effect'" (p. 20).

Following on Luihbéid and Cantú (2005), I contend that the Spanish credibility assessment materialises the 'bogus economic queer' through racializing moves that exclude migrant populations conforming to their embodies positions within the scale constructed by 'ethnic affinity'. In the case of Latin Americans, their *latinidad* is produced through allusions to social dynamics that are thought to commonly characterise the geopolitical concept of 'Latin America': on the one hand a supposed overall violence; on the other lack of opportunities and poverty. In the following lines, I will argue that these simultaneously homogenous and homogenising narratives are both the result and the vehicle of an asylum system that is inherently permeated by the coloniality of power.

In SAN 5907/1999, the National Court refers to a group of appeals that present 'shared' characteristics: being filed by 'Ibero-Americans' on the grounds of gender and/or sexuality, and being rejected either because the reported facts did not constitute persecution or due to their manifest falsity.[70] Concerning the first statement, we have already seen how 'queerness' is not considered 'bad enough' to constitute a ground of persecution, since LGBTI* subjectivities 'merely' endure 'social discrimination', 'familial rejection' or 'common delinquency'. Yet dominant representations of Latin American countries (particularly if located in Central America) as marked by corruption and conflict render it rather difficult to prove that persecutory acts are specifically directed at subjectivities who do not conform with gender and sexual norms. Within this framework, the processes of intersectional violence that target LGBTI* subjectivities are not considered gender- and/or sexuality-based persecutions, but understood and justified in terms of "*inseguridad ciudadana*" (SAN 2471/2015, p. 2), namely 'social insecurity'. In this way, *latinidad* is paradoxically materialised through an erasure of queerness. If gender identity and sexual orientation are not 'enough' to account for persecution, Spanish jurisprudence belittles their relevance even more when the applicants come from countries characterised by 'common delinquency', 'familial discrimination', and an overall sense of 'insecurity' – such as the ones that are made to fall under the homogenised label 'Latin American'. Asylum seekers' 'queerness', i.e. their lack of adherence to the dominant sex-gender matrix, disappears by means of their racialization through the construction of *latinidad*. What comes to the foreground is indeed the alleged generalised context of their countries of origin, (re)produced by implicitly assuming the superiority of the (colonizing) 'centre' over the (colonized) 'peripheries'. To phrase it differently, according to the Courts 'the facts do not constitute persecution' because every Latin American citizen, either LGBTI* or not, is potentially at danger.

---

[70] Original paragraph: "Se trata de solicitudes de iberoamericanos, por regla general nacionales del Ecuador y de Cuba, si bien en el caso de la Sentencia de 21 de abril de 1999 se trataba de un rumano. En estos casos, como se dice, se ha considerado o que el hecho en sí no es motivo de persecución, o que se trata de alegatos infundados." (P. 2)

As mentioned, another reason of rejection concerns an alleged 'evident falsity' of the asylum claims. The most common position adopted by the judges in this respect is based on the belief that the 'European paradise' attracts people living in situations of economic precarity, if not endemic poverty, and lack of opportunity. Without verifying if they are embedded in systematic discriminations of LGBTI* individuals, the Spanish jurisprudence interprets each of the claimants' references to their economic conditions through the culture of suspicion that accompanies the filtering logic of border and migration control. As Anker and Ardalan (2012) explain, legislative understandings of 'persecution' developed after the 1951 Convention do not take into account the several shapes persecutory acts could assumed, including those related to inequalities generated during the current neo-liberal era. On the contrary, individuals that are moved by intersecting asymmetries of race, gender, sexuality, and class are materialised as 'liars' and confined to the domain of the 'bogus economic migrant'. Furthermore, this tendency is fostered by neo-colonial narratives on the (economically) developed 'West', i.e. Spain, and the backward 'rest', namely Latin America (Hall [1996] 2006). By means of its supposed socio-political and economic instability, *latinidad* is again configured as the implicit reason why LGBTI* Latin Americans are denied asylum, while *hispanidad* is reiterated in its dramatic force to racialize and exclude.

In conclusion, without contending that racialization solely concern Latin Americans, I hope that the theoretical lens I have attempted to articulate throughout this chapter contributes to exploring the entanglement of asylum with neo-colonial, cis-heteronormative, and racializing borders that target intersectionally constituted populations. It is in this respect that borders show their dramatic potential to materialise the normative domain of 'genuine refugees' by disciplining queer (and) *latinxs* subjectivities as 'non-deserving economic migrants'.

CHAPTER THREE
Queer *latinxs (des)haciendo fronteras*

1. Living (across) borders

Building on the analysis I have developed in the previous chapters, the following sections are meant to bring in the multiple – at once similar and contradictory – personal narratives of eight LGBT Latin Americans based in Madrid with the aim to explore their experiences across material and conceptual borders. By combining border as queer decolonial lens as articulated in Chapter 1, together with the concept of 'queer (in)credibility' discussed in Chapter 2, this chapter addresses intertwined concerns: on the one hand, it examines the various dimensions and significances 'border' has entailed for each of the research participants throughout their lives; on the other hand, it scrutinises the role played by the credibility assessment in the (re)production of existing boundaries (according to the applicants' class, social status, ethnic background, gender, and sexuality), as well as the establishment of new ones (such as the dichotomy 'genuine refugee'/'economic migrant'). The analysis will unfold as a critical enquiry into the stories, feelings, and memories recounted during the interviews, which I will combine with the insights offered by two professionals, and my fieldwork notes. Aware that this could come across as an attempt to speak for (all) LGBTI* Latin Americans who seek asylum in Spain, I consider it necessary to clarify that my investigation does not claim to be representative of the forced migration flows in which my respondents are involved. Rather, it intends to address the complex entanglement of the simultaneously shared and contrasting ways through which my research partners navigate, negotiate, and make sense of their own living (across) borders. In other words, the enquiry aspires to make space for critical understandings of queer migration by exploring the complex narratives of people who were or are directly confronted with the credibility assessment. The emphasis on their personal accounts will inform my reading/writing practice, in that I will strive to render the conversations, pauses, times, and silences that characterised the interviews. However, aware of my privileged position as leading researcher discussed in Chapter 1, I want to be accountable for the in/exclusions my investigation will (re)produce. Therefore, I do not intend to merge their voices with mine, but I will articulate a non-linear narrative informed by the several formal and informal conversations we had throughout the fieldwork, so as support my informants in their struggles across borders.

The insights presented in this chapter stem from an intense, as much as crucial, collaboration with *La Merced Migraciones*, a foundation that since 2010 has supported migrants, refugees, and

asylum seekers based in Madrid by developing different projects according to the evolution and changes in migration flows towards Spain.[71] Currently, their work consists of four areas of intervention: reception, integration, inclusion, and social responsibility. The activities articulated in each area cover a wide range of necessities, from free Spanish courses to psychological and legal support, with the aim of configuring transformative responses to the difficulties faced by migrants. The latter are not treated as mere 'recipients', but are involved as co-participants in envisioning and implementing projects according to their own needs and aspirations. In 2015, such a bottom-up approach led to the creation of a specific support group initiated by LGBTI* asylum seekers, due to the persistent homo-transphobic discriminations they experienced at the hand of both other asylum seekers and asylum functionaries. During an interview, José María (Txema) Serrano Oñate, social educator at *La Merced* and one of the two professionals supporting the members of the group in the organisation of the activities, reported that the necessity to establish a space in which LGBTI* asylum seekers could share experiences and create networks emerged concomitantly with the increase of asylum applications on the grounds of gender identity and/or sexual orientation.[72] The group was not intended to substitute the services already offered by psychologists and lawyers both at *La Merced* and at other NGOs, but to complement them with practices of self- and mutual care through which the applicants help each other to create their own dimensions as foreigners *and* LGBTI*. With the participation of approximately 30-35 people throughout the two years,[73] the group represents a work in progress that functions through weekly meetings touching upon various topics, from the members' self-esteem, to employment and housing.

I had not been aware of the existence of the group until I arrived, rather demoralised, in Madrid in March 2017. While designing the project, I had attempted to contact several national and local NGOs working with migrants and refugees, and/or with LGBTIQ* individuals, enquiring whether they would be interested in collaborating with the research. Due to various reasons, apart from *CEAR Euskadi* (whose publications profoundly informed the analysis developed in Chapter 2), none of them could participate in the investigation. Supported by my thesis supervisors, I nonetheless decided to move to Madrid, whose province receives the highest number of asylum applications (CEAR, 2015).[74] Once in the city, I found myself in the fortunate coincidence of living

---

[71] More info on the foundation can be found at the following link: http://www.lamercedmigraciones.org/ [Last accessed 08.08.2017]

[72] Txema, interview conducted on 24.04.2017.

[73] According to Txema, the group was initiated by 10 people. Currently, the number of participants depends on everyone's needs and can range from 5 to 20 people per meeting.

[74] According to *CEAR Report 2016*, the elevated number of asylum applications formulated in Madrid is necessarily, even if not uniquely, related to the possibility of seeking asylum at Barajas International Airport. However, the report clarifies that in 2016 Madrid became the second applications-receiving province of the country, after Melilla. With

with Latin American activists who, in addition to helping me become familiar with the bubbling political environment of the capital, put me in direct contact with the two professionals supporting LGBTI* seekers in the organisation of activities at *La Merced*. After an informal introductory talk in which I both presented myself and the research, we agreed that the members themselves would have to discuss the possibility of inviting me to their meetings. On March 13, I had the pleasure to meet for the first time the members of the group and informed them about the project. On that occasion, all of them expressed their interest, but some did not feel ready to share their experiences. We finally decided that I would individually interview only those who felt comfortable, while still participating in the weekly meetings as an observer.

I partook in those meetings for two months – from March to April 2017. Inspired by the methodological approach developed by Elizabeth Connely in her Master's thesis *Queer, Beyond a Reasonable Doubt: Refugee Experiences of 'Passing' into 'Membership of a Particular Social Group'* (2014), I argue that such participation not only configured an informal space to contextualise the contents discussed in the interviews, but was also fundamental to creating the mutual trust that made the interviews possible (p. 14). In addition to the meetings, I also attended other events (talks, conferences, demonstrations) to which I had been invited by the research participants. I believe that those occasions strengthened our bonding due to both their social components, and the partial deconstruction of my 'scientific authority'. Furthermore, they constituted important moments of interaction between LGBTI* Latin Americans and Spanish (queer) activists and asylum professionals that I could observe. Although such events are not directly addressed in my analysis, they nonetheless informed my broader understanding and contextualisation of the conversations we had during the interviews.

The members of the group during my observation period were mainly male homosexuals from Latin America, particularly from Venezuela.[75] Both trends were confirmed by Txema, who during the interview expressed concern about the absence of lesbian, transgender, black, Muslim, and African individuals within the group. In his opinion, if on the one hand the lack of (gender, sexual, and ethnic) diversity amongst the members of the group might resemble the current picture of LGBT asylum seekers in Spain,[76] on the other the foundation is aware of the presence of several transgender and/or black and/or Muslim individuals who are not willing to participate in the activities organised by the group. Txema recounts that, even if they have been trying to reach and

---

reference to the specific asylum procedure implemented at border-zones (the airport, Ceuta, and Melilla), in 2015 CEAR expressed great concern due to the striking number of applications directly dismissed there (2015, p. 13).

[75] Fieldwork notes 13.03.2017; 03.04.2017; 24.04.2017.

[76] As mentioned, due to the lack of official data, it is impossible to determine the exact picture of LGBTI* asylum seekers in Spain.

involve them, this is not a smooth task due to the entanglement of several personal and structural dimensions: fear of exposing themselves, lack of identification with the (primarily cisgender male) group, work commitments, depression, and generalised distrust towards Spanish institutions. In this respect, the group not only has to deal with the 'invisibility of the LTBI' referred to in Chapter 2, but also with processes that, conforming to Txema, result in the exclusion of the most vulnerable asylum seekers.

Between March and April, I conducted interviews with eight people who are related to the LGBTI* group in different ways: five (cisgender gay men) have actively partaken in the activities since they filed their asylum claims, two (both identifying as transgender) knew about the group, but were not used to attending the meetings, and the remaining one (a transgender woman), who was a member during her asylum process, could not attend anymore when she started working. While I met the former five at the group, I reached the latter three through personal contacts and only afterwards discovered that they were familiar with the activities carried out by LGBT asylum seekers at *La Merced*. As explained in Chapter 1, the interviews were conducted by taking into account guidelines of community-based participatory research on how to negotiate differential access to knowledge between researcher and research participants. I met at least twice with each informant. The first meeting lasted approximately 20-30 minutes and was meant to position myself in relation to the investigation, address the scopes and methods of the research, clarify the details of the interviews, and discuss eventual doubts and questions posed by the participants. Such conversations were not recorded, but configured crucial spaces to continue building mutual trust, and to establish the first steps of informed consent as a process that we strove to renegotiate at every phase of the investigation (Miller and Bell, 2002). The second time we met constituted the main body of the interview and was recorded, apart from one case in which the participant preferred that I only took notes. The conversations varied from person to person, both in terms of time and the level of intimacy reached through the conversation. After re-discussing informed consent with each participant, the interview would be opened by my only pre-determined question, in which I asked them to describe themselves in any ways they felt most comfortable. Through unstructured interviews I intended to avoid reproducing the power dynamics that my partners had to cope with during the asylum interview. In other words, I did not want them to feel obliged to share traumatic and violent experiences, or to disclaim personal details, so as to achieve a certain degree of 'credibility'. On the contrary, through such a broad question I aspired to give them space to fluctuate across content, modes of narration, pauses, geographies, and temporalities. This approach resulted in unique conversations touching upon intertwined topics, which I have consequently categorised in the following way: 1) self-identification in terms of gender identity and/or sexual

orientation, as both an internal process and an externally perceived identity: 2) life before and after migration; 3) experiences of asylum. In some of the interviews, the participants also addressed issues specifically related to being (seen as) Latin Americans in Spain. While not directly asking specific questions, I proactively listened, articulating empathic reflections and probes to invite further elaboration. To conclude, I asked my participants to briefly address the reasons why they decided to collaborate with the project. This explicit enquiry was meant not only to understand their expectations towards me and the research, but to engage with them as subjects whose agency and personal interests have made the investigation possible.

Such conversations ranged from 45 minutes to two hours and were held either at *La Merced* or in places chosen by the informants themselves (usually cafés, squares or parks). I subsequently transcribed them and consulted my own notes to conduct an analysis of the recurring themes by deploying the Programme NVivo. The personal details included in the thesis, as well as the use of pseudonyms, were discussed with and approved by all participants, who I ask to choose the name with which they would like to be addressed with in the written analysis. Although this might seem unnecessary or insignificant, it was intended to recognise my research partners' capacity to express and reaffirm, through their chosen name, the way they see themselves. I conceive the choice of one's pseudonym as one of the methodological practices through which I attempted to negotiate the 'researcher'/'researched' divide together with the participants, as reported in Chapter 1. During and after the fieldwork I maintained contact with each of the respondents through both my participation in the group, as well as through various informal meetings. In line with Connely's approach (2014), I believe that keeping in touch has entailed a significant research dimension because it offered the opportunity to "check-in with wellbeing, continued consent, and any questions that may have arisen from the transcription process" (p. 13). Part of the follow-up strategy that I envisioned together with the participants resulted in a presentation of the preliminary analysis of the research, as well as a brief summary of the thesis in Spanish, so as to allow them give me their final consent before submitting the whole work.

Our language of interaction was Spanish, the mother tongue of seven of the informants, which they speak differently according to their (ethnic, geographic, and class) backgrounds. I am aware of the meaning-making function played by language in knowledge production (Richardson, 2000), and of the entanglement of English with the reproduction of a (neo-colonial) Anglo-centric academic sphere (Gutiérrez Rodríguez et al., 2010). It is in this respect that I approached translation as a methodological praxis to be accountable for to the power dynamics that I could contribute to reproduce through my own writing. This standpoint was inspired by María Amelia Viteri (2008b):

The concept of translation I use throughout this essay connects the concept of 'border thinking' to the political economy of language where words, testimonies and field notes are in Spanish. Having the original informants' text followed by its closest depiction in English translated by myself, provides the reader room to think in-between English and Spanish destabilizing any mechanical rendition of the texts. The notion of 'border thinking' constructs a concept of identity that goes beyond biological fixation, constructivist disembodiment and harmonious homogeneity. It is a space for ambiguity in constant transition that 'translates' the cultural baggage that seeks to define and fix it. (P. 67)

Following on this account, I developed a twofold position in relation to the languages spoken in my research. On the one hand, throughout the fieldwork I was attentive to the nuances entailed by each participant' use of Spanish in order to trouble supposed linguistic hierarchies between 'correct' (which often equates to 'Castilian') Spanish and 'incorrect' (as 'Latin American') Spanish. On the other hand, I have consciously decided not to translate certain words and sentences deployed during the interviews, so as not to hide the particular significance they bear. Instead, I will add explanatory notes on the etymology and travels of such expressions. Inspired by Viteri (2008b), through this combination I have hoped to approach language and translation not only with reference to the exclusions they entail, but also as tools to make sense of discursive spaces through which concepts "such as 'queer,' 'Latino/ Latinidad' […] move across geographic, linguistic, and imaginary locations" (p. 65).

The profiles of the asylum seekers involved in the research varied in age, nationality, socio-economic background, and identification: their ages range from 18 to approximately 30; four are gay men from Venezuela, one is a gay man from El Salvador, two are transgender women from Brazil and Mexico, and one is a transgender man from Honduras. All but one sought asylum less than one year ago, but are now at different stages of the process: at the time of the interviews, three had just entered the second phase (finding a flat and looking for a job), one was close to this stage, two had recently had their asylum interviews, and one was waiting to be heard by the OAR. The person who is no longer in the asylum process was given notice of the rejection of her application in 2016, but decided not to appeal the decision. Furthermore, half of them were not aware of the possibility to seek asylum on the grounds of gender identity and sexual orientation, which resulted in either a late disclosure (as seen in Chapter 2) or in a tout court delay in actually presenting an application for international protection.

To conclude, as aforementioned, my approach to the combination of in-depth interviews, participant observation, and field notes aimed to explore the complexity of living (across) borders by articulating a qualitative analysis. Eastmond (2007) maintains that narratives are not neutral representations of 'truth', but "creative constructions or interpretations of the past, generated [by

migrants] in specific contexts of the present" (p. 250) to make sense of their experiences. Through an interpretation of the ways my research participants framed their stories, I thus aspire to grasp how they (re-)signify their identity throughout and beyond the asylum process. In other words, the reading I propose is aimed at exploring the borders that delimit, circumscribe, and inhibit the identities of my research participants as recounted during their narratives, as well as their struggles to exist across and exceed those borders. Inspired by *Passing Lines: Sexuality and Migration* (Epps, et al., 2005), I argue that "the recourse to the narrative forms […] acknowledges immigrants as subjects of experience, agency, and creativity" (p. 22), whose living (across) borders simultaneously embody and transcend the constraining boundaries reinforced by the credibility assessment. The shapes and significances acquired by (asylum) borders in the participants' experiences, as well as their multifaceted negotations, will be the main enquiry of the next pages.

1.1. '*Esto es lo que soy*': on the intersections of leaving to exist

In "Un/Convention(al) Refugees: Contextualizing the Accounts of Refugees Facing Homophobic or Transphobic Persecution" (2009), Sharalyn R. Jordan explores the experiences recounted by several queer asylum seekers and refugees settled in Canada, arguing that "the movements of people whose sexualities or genders defy and offend norms cover a complex spatial, social, and psychological terrain" (p. 169). According to her analysis, people seeking asylum on the grounds of gender identity and/or sexual orientation 'live in defiance' of persecution, stigma, and erasure in their countries of origin. She maintains that:

> In their home-country accounts, participants told me their stories of living in defiance of homophobia and transphobia in their own cultures, conveying the range and interaction of extreme forms of systemic persecution through more subtle impacts of social erasure and stigma. (P. 169)

This standpoint resembles my eight research companions' narratives of their lives in their countries of origin. The multifaceted marginalisation they endured at the hands of family members, civil society, and/or public agents indeed both presented systematic discriminations and escalated towards directly violent acts. With reference to the latter, all of the informants were exposed to episodes of aggression. For instance, Luís, a Venezuelan gay man, recounts being harassed and detained for some hours by two policemen who met him in a park with his former partner.[77]

---

[77] Luís, interview conducted on 10.04.2017.

Adonay, a homosexual man from El Salvador, tells he was assaulted and beaten up by some individuals affiliated to a local *pandilla*.[78] Dario, from Venezuela, was threatened to death and insulted by a professor from his university.[79] In addition to direct physical abuses, in the interviewees' narratives threats and verbal harassment assumed daily dimensions concerning every aspect of their lives, from studying, to working, to simply walking on the street. According to André, a young transgender man, physical and verbal aggressions were only the final stage of a life marked by rejections due to his gender identity.[80] In his own terms:

> In addition to not finding a job due to work discrimination, to not being able to study because of the discrimination within the school system, the discrimination that you have to face at hospitals because they do not provide you with a high-quality medical assistance… Well, all of this was just adding up and adding up… And then [I endured] a final aggression, in which apart from, like, punching me five times, they kept on hitting me, lifting me up, pushing me, pulling me… What can I tell you? And the last aggression was at hand of the police. The agents that are supposed to guarantee your safety and all of that, but that actually left me almost dead.[81]

As said, in all of the reported cases, the informants received homo-transphobic insults[82] that unveiled the cis-heteronormative origins of the abuses. In this respect, as André expressively recounted, violence is one – and certainly the most dramatic – of the several shapes in which the othering of LGBTI* people is fostered. Even in the narratives of those who had not undergone severe physical attacks, familial and/or social marginalisation were common features that systematically led to unemployment and impossibility to study. Samuel, a gay man from Venezuela, succeeded in graduating in Law, but could not find a job in the country and worked as an irregular migrant in Panamá during five years. He was nonetheless fired as soon as his new manager found out about his sexual orientation and informed his employer:

---

[78] Adonay, interview conducted on 27.04.2017.

[79] Dario, interview conducted on 26.04.2017.

[80] André, interview conducted on 29.04.2017.

[81] Originally in Spanish: "Al detalle de no conseguir empleo por la discriminación laboral, de no poder estudiar algunas cosas por lo de la discriminación que hay dentro de los colegios, la discriminación que hay dentro de los hospitales donde no te dan una atención médica calificada… Entonces todo eso venía sumando, venía sumando… Y la última agresión, a parte de, como, cinco palizas que me dieron, me golpeaban, me levantaban, me tiraban, me jalaban… Qué te digo! Y la última agresión que tuve fue por parte de la misma policía. Los agentes que supuestamente son los que te deben dar la seguridad y todo eso, mas que sin embargo son los me dejaron a punto de muerte."

[82] Drawing on my fieldwork notes on 30.04.2017, I feel the necessity to clarify that I am directly reporting an episode of violence experienced by André because, despite the difficulty of recounting it, he expressed his hope to support people with similar experiences by making his story visible. Nonetheless, I have taken the decision not to write down the insults he, as well as others, received – apart from the term '*maricón*'. I indeed do not want to reproduce the discourses of sin, deviance, and pathology through which they came to terms with their identifications (Jordan, 2009, p. 170).

The owner [of the place] called me and directly told me: 'You are a *maricón*[83] [Spanish term for faggot] and I cannot let you stay here. Leave.' Like that, nothing more and nothing less. However I kept on asking for explanations. If it was because of my job, then I had been there for more than a year and we had never had problems. Never had a [negative] comment, absolutely nothing. [...] And well, he told me so: 'Leave, go away'. [He said] That it was not a professional problem, that it was only because I was a *maricón*.[84]

Samuel's story exemplifies how LGBTI* individuals are, in several cases and in various ways, denied access to the basic material conditions of survival, such as being economically able to provide to one's necessities. Conforming to his account, most of the research participants endured professional discrimination except Luís and Alejandro. Alejandro's life in Venezuela took indeed a slightly different, but not therefore less hard, path. Although able to practise psychology within the national education system, he endured social and familial stigma. Not only was he accused of 'turning' a friend gay and threatened by the family members of the latter, but was further blamed by his own relatives for dishonouring the family.[85] He recounts that even those who were trying to support him ended up making him feel guilty for his homosexuality. As Alejandro, the participants affirmed that social stigma provoked negative emotions that strengthened their sense of isolation. Terms such as 'blame', 'fear', 'guilt', 'terror', 'anxiety' are indeed recurrent in the narratives of their lives in their home countries and connote internalised social stigma. Similarly to previous research conducted by Susan Stryker (2006), Jordan maintains that "dominant discourses of sin, deviance, and pathology meant that the primary language [...] located the source of the problem in the individual" (2009, p. 170). Alejandro's narrative exemplifies the emotional strength acquired by self-blaming when he states: "I was convinced that what I was enduring was because I was gay".[86]

---

[83] According to Antonio Pimentel (2013), the term '*marica*', as well as its variations '*maricón*' and '*mariquita*' appeared in the 16th century to refer to men perceived as 'effeminate', but became insults throughout the 20th century. Originally, such words were deployed to show disdain against one's femininity, thus unveiling a simultaneously misogynistic and homophobic origin. However, the terms have travelled and assumed nuanced significations across Spanish-speaking countries, being re-signified and re-appropriated in several ways. In Susana Vargas Cervantes' analysis (2016), in Latin America '*maricón*' has acquired an intersectional connotation that makes reference not only to one's non-hegemonic sexuality and/or gender identity, but also to one's inscription in a specific class and race: while 'gay' indicates whiteness and economic privilege, '*marica*' accounts for blackness and poorness, intended as lack of social status and properties. '*Maricón*' is thus a highly racialized term that has the potential to unveil how hegemonic understandings of queerness exclude non-white and non-propertied subjectivities.

[84] Samuel, interview conducted on 22.03.2017. Originally in Spanish: "El dueño me llamó y me dijo así de frente: 'Tú eres maricón y aquí no te puedo tener. Te me vas'. Así, sin más ni menos. Pero seguía pidiendo una explicación: si era por trabajo, yo llevaba más de un año trabajando con ellos y nunca hubo problema. Nunca hubo ningún comentario, absolutamente nada. [...] Y, bueno, él me dijo así: 'Te me vas, te me largas de acá'. Que no era un problema profesional, que nada más porque era maricón."

[85] Miguel, interview conducted on 25.04.2017.

[86] "Estaba convencido de que esto me pasaba a mí por ser gay."

Through the three concepts through which Jordan (2009) articulates the experiences of LGBTI* refugees – persecution, stigma, and erasure – I will look at how these conditions not only sustain each other, but are also nuanced in the different accounts presented by my research participants. In particular, while their existences are similarly marked by trauma and stigma, they describe the erasure of their identities, desires, and hopes in interlocking ways. Jordon defines erasure as "the practiced denial of transgressive sexualities and genders, [which] renders livable lives for LGBTQ people invisible" (2009, p. 170). So as to explore the dimensions and consequences that such (in)visibility has entailed for my interviewees, I will draw on the concept of 'intersectional violence' articulated by Dean Spade (2013) and presented in Chapter 1. In the scholar's analysis, the material and conceptual process of 'distribution of life chances' mediates the access to existence by mobilizing 'narratives of (un)deservingness'. It is through such interlocking discourses that 'worthy' lives are made thinkable and visible, while 'unworthy' existences are violently erased and rendered 'unintelligible'. In Spade's account, "systems of meaning and control like sexism, racism, and ableism, might interact in particular ways to affect the various populations manages through their articulation" (2013, p. 1037). With reference to the (in)visibility of LGBTI* identities, according to the informants who identify as (cisgender) gay men, being invisible has meant being forced to (attempt to) hide their sexual orientation to conform to a heteronormative life. Within the process of erasure lived by cisgender male homosexuals, invisibility thus becomes a strategy to survive by renouncing or disguising not only one's intimate desires, but also dimensions of daily life, such as working and studying. This is exemplified in Adonay's narrative:

> Well, discrimination is prominent because one cannot work. So, the first thing they do is to *look at* you and if… Well, depending on how you behave, they will let you work. This is what happened to me.[87]

The way he refers to the necessity to conceal oneself from a heteronormative gaze is inextricably linked to the access to material means of survival. Yet, in the cases of the three participants identifying as transgender, erasure has equated not to the compelling necessity to pretend normative identities and desires, but to the impossibility of articulating their gender identity at all. All of them indeed recount that they reached out to local LGBTI* groups as homosexual individuals because they were not aware of the existence of any transgender person. Fabiana's narrative of living as a transgender woman in Mexico is the following:

---

[87] "Bueno, la discriminación es muy notable porque uno no puede trabajar… Entonces, lo primero que ellos hacen es *verte* y si… Bueno, dependiendo de como actúes, depende si te dan trabajo. Y eso es lo que me pasó a mí."

If you ask me when the happiest period of my life was, I'll tell you: before starting to socialise, before going to school, before entering the world. […] Until the moment in which external people told me, pointed out to me, and made me see through verbal and afterwards physical violence that I was different from the others, it is when this process started in me. […] Because I had already lost social status and dignity for being, for example, a sissy boy. Because I did not know the word 'trans', or the word 'woman'… In other words, for being a *maricón*.[88]

Here, the invisibility of transgender identities is not configured as a survival strategy, but as a condition that does not even permit to make sense of non-cisgender personal dimensions. By drawing on Spade's analysis, I contend that the erasure lived by my informants is embedded in disciplinary processes targeting LGBTI* subjectivities in intersecting ways: they concomitantly render homosexual subjectivities invisible by forcing them to conceal, while making transgender subjectivities invisible by reducing their capacity to make sense of themselves. By doing so, erasure works as a biopolitical mechanism that materialises both transgender and homosexual existences as 'illegible' and, therefore, 'unthinkable'. In this respect, according to the eight narratives, if erasure works to disavow lives that do not conform to cis-heteronormative norms, then visibility becomes a risk factor that exposes them to stigma and persecution. In the transcribed extracts from the interviews, Samuel received a phone call by his employer, André and Adonay were repeatedly called names while beaten up, Fabiana was both verbally and physically reminded that she was 'not like the others', Dario and Miguel were threatened with death. Through the accounts of the narrators, it is when one becomes – willingly or unconsciously – 'visible' to others, that stigma, erasure, and persecution come together as the multifaceted dimensions of cis-heteronormativity. (In)visibility thus acquires the potential to mark the borders of what is 'thinkable', namely cisgender and heterosexual desires, and what is not, i.e. homosexual and/or transgender subjectivities. By confining the lives of my participants to the domain of the 'unintelligible and unthinkable', (in)visibility is a process of intersectional violence that makes LGBT existences materially and conceptually unlivable: it not only dramatically hinders their ability to work, to study, to walk on the streets, to give and receive affection, but affects their very possibilities to look at themselves and say: "*Esto es lo que soy*".[89] This expression recurs at least once in each interview, and in some cases is even reiterated several times.

---

[88] Fabiana, interview conducted on 25.04.2017. Originally in Spanish: "Si tú mi preguntas cuando fue la etapa más feliz de mi vida yo te digo: antes de empezar a socializar, antes de ir a la escuala, antes de salir al mundo. [...] Hasta que personas externas me dijeron y me señalaron y me hicieron ver mediante violencia verbal y después física que yo era diferente a las demás personas, fue cuando inició este proceso en mí. [...] Prestigio y dignidad social ya los tenía perdidos por ser, por ejemplo, un niño afeminado. Porque yo no conocía la palabra trans, ni la palabra mujer… O sea, por ser un maricón."
[89] 'This is who/what I am.'

Through a combined reading of the interviews, I contend that 'This is who I am' is not a static and monolithic identity, but works as an intersectionally meaning-making of one's scattered experiences across interlocking borders – borders that acquire more or less significance conforming to each of the interviewees. To my opening question 'Who are you?', each of them did indeed provide a unique answer: Wanessa is a "*mujer trans, negra e inmigrante*",[90] Samuel is a gay lawyer who wants to fight for social justice, Luis is a young Venezuelan who likes travelling and meeting people, Miguel is a shy psychologist who is discovering himself, Fabiana is a fighter with Apache ancestors, Adonay is a generous homosexual always ready to smile, Dario is a determined radiologist, André is a Latin warrior. Depending on what they sense as the most relevant experiences of their life, they did indeed choose to deploy terms concerning their sexuality, gender, race, social status, or personality in different orders. With the unfolding of the narratives such recurrent 'This is who I am' was nuanced by the deeper and shifting meanings it acquired while being recalled. It concomitantly referred to the multiple dimensions of their identities, concealed because and through stigma and persecution, and to the aspirations of exiting erasure and becoming 'visible'. 'This is who I am' speaks to the intersectionally connected reasons why they left their countries: to feel free from violence, stigma, and persecution, to save their own lives, and/or to live according to their gender; but also to work, study, love and be loved. As contended above, erasure works as a distribution of life chances that makes the existence of LGBTI* populations unlivable by systemically excluding them from the material conditions of life, as well as from the domain of the intelligible. By combining Jordan's and Spade's theorisations, '*Esto es lo que soy*' is a 'life in defiance' of the interlocking borders that deemed my informants' lives to the unthinkable. In relation to migration and asylum, '*Esto es lo que soy*' means leaving to exist as subjectivities whose identities are articulated across material and conceptual borders.

1.2. Narrating forced displacement: the quest for safety and freedom

The narratives of forced displacement recounted by my partners are described in terms of "a quest for social inclusion, safety, and freedom"[91]. Luihbéid and Cantú (2005) affirm that "queers migrate not simply as sexual subjects, but also as racialized, classed, gendered subjects of particular regions and nations that exist in various historic relationships" (p. xxvi). In their understanding, queer migration flows are deeply entangled in dominant economies of power that intersectionally disavow certain lives. Consequently, the search for freedom and safety is mediated by one's

---

[90] Wanessa, interview conducted on 11.03.2017. In English: "A transgender, black, migrant woman."
[91] Wanessa: "Una búsqueda de inclusión social, seguridad y libertad."

embodied positions in the social hierarchy, whose complex trajectories problematize linear narratives that cast queer migration as a direct path from 'oppression' to 'liberation' (2005, p. xxix). By combining these insights with Jordan's analysis (2009), I maintain that '*Esto es lo que soy*' speaks to the intersections of factors through which the quest for freedom and safety assumes different dimensions and significances for my research participants. Furthermore, this problematization complicates the jurisprudential assessment of 'safety' and 'persecution' that, according to Lewis (2013), are embedded in the normative discourses of the 'genuine (heterosexual) refugee'.

In his ethnographic research with queer asylum seekers in the UK, Giametta (2016) questions the legal understanding of freedom as 'living a life free from persecution'. In line with his work, I argue that in my respondents' accounts the quest for safety is configured as freedom from stigma, erasure, and persecution deriving from homo-transphobic institutions and social environment. Functioning as processes that regulate intersectional distributions of life chances, stigma and erasure do not cause only physical aggressions, but also the impossibility to access material means of survival. It is in this respect that the quest for freedom reveals profound implications and consequences, since it is bounded to Spade's concept of 'intersectional violence', understood in terms of the symbolic and substantial impossibility to exist as intersectionally constituted subjectivities. 'Freedom' to live one's life without being physically persecuted is thus the most visible, but not therefore unique or most important, signification that 'living a life in defiance' (Jordan, 2009) entails. In my informants' accounts, 'freedom from persecution' means being able to engage with all the daily aspects that fulfil one's existence, such as working, studying, and showing affection.

Similarly to 'freedom', the concept of 'safety' reported by the participants nuances the notion of harm to which it is referred. In other words, if within the legal framework of asylum 'safety' indicates a linear progression from oppression to liberation (Giametta, 2016, p. 62), in my analysis violence acquires several connotations that co-function in deeming non-normative lives to the domain of the 'unthinkable'. Homo-transphobia is indeed profoundly entangled in other modes of governance that render violence an intersectionally configured and performed process. In the accounts articulated by my Venezuelan interviewees, 'safety' also recalls the violence exerted by the government against political opponents. For instance, Alejandro was detained, threatened, and blackmailed by national police due to his alleged participation in a protest at the university where he was working. In André's (Honduras) and Adonay's (El Salvador) case, homo-transphobic persecutions are committed both by corrupted policemen and by members of local *pandillas*. For Fabiana and Wanessa, 'safety' concerned their commitment as transgender activists at risk of being

persecuted for their struggles in the name of gender equality, as well as class violence, corruption, and racism. In this respect, Wanessa states:

> I do not want to renounce my search for social inclusion and safety. However, I know that my being a trans, black, and Latin woman obstructs such search.[92]

Building on Giametta's insightful work, this passage speaks to how '*esto es lo que soy*' configures 'safety' and 'freedom' as entangled in broader processes of social justice, whose quest is articulated by my informants in different ways. As Wanessa clearly maintains, 'safety' cannot be limited to the jurisprudential generalised reference to the context of the country (analysed in Chapter 2), but encompasses the processes through which homo-transphobic stigma, erasure, and persecution intersect with race, class, and social status to expose, and hence endanger, some lives more than others. In other words, such account constitutes violence and harm as an always already intersectional mode of governance.

In Jordan's analysis, "uneven access to mobility, produced through the intersectionality of exclusions based on sexuality, gender, social class, and nationality, work for and against potential LGBTQ migrants, producing diverse and complex migration trajectories" (2009, p. 171-2). Stated differently, interlocking processes of in/exclusion not merely mediate LGBTI* refugees' quest for safety and freedom across the borders of normative existence, but also hinder their capacity to cross territorial frontiers. Within my research, Dario and Alejandro are the only ones who were able to obtain legal documents before leaving Venezuela, facilitated by access to employment and education and supported by their families. On the contrary, Samuel and Luís reached Panamá due to Venezuelan political situation at the time they migrated. They both describe the period in which they worked in Panamá as precarious and complex, due to both the homophobic stigma they endured as homosexual men, and xenophobic discrimination lived as undocumented migrants. Luís affirms:

> The truth is that it is complicated to be a migrant working without papers. When I was in Panamá I was already experiencing that thing of putting everything in a luggage and leave. […] It was a situation of 'being and not being' there, in which people from the country feel that we [Venezuelans] are invading them. And sometimes we felt like they were rejecting us. […] But, imagine, you're there: in a country in which you don't know anybody and you're trying to adapt. And then someone rejects you, and it's like 'uh'… I didn't take it

---

[92] "No quiero renunciar a mi búsqueda de inclusión social y seguridad. Sin embargo, sé que mi ser una mujer trans, negra, y latina dificulta esa búsqueda."

bad, but I was a bit annoyed. […] Well, I didn't go there to… I mean, if it were for me, I wouldn't have gone there![93]

His narrative complicates the understanding of the 'quest for freedom' as a linear path, introducing accounts of how racialization and social status affect one's mobility. This is reiterated in Wanessa's experience of being interrogated at the exchange airport before taking her flight to Madrid. In her account, her blackness was indeed perceived as a synonym for poverty and irregular migration status.

Some officers stopped me and said 'Where do you think you are going?'. Then they brought me to a small office, frisked me, and interrogated me. 'Where do you go?' and 'What do you want to do there?' were the most recurrent questions. […] I do not know why they were doing it, but I suppose it was because they thought I was poor and black.[94]

Building on Luihbéid (2002), I contend that these two passages show that the trespassing of geographical borders is inherently embedded in the (re)production of hegemonic notions of citizenry through border control and exclusionary access to formal documents. In *Entry Denied: Controlling Sexuality at the Border* (2002), she maintains that "immigration control is not just a powerful symbol of nationhood and people, but also means to *literally* construct the nation and the people in particular ways" (p. xviii). In her account, subjectivities are hierarchically categorised through processes of in/exclusion that delimit the access to normative citizenship by obstructing migratory paths. The complex, non-linear, rather long displacements recounted my informants can thus be interpreted as the tangible consequences of practices of border control through which the institution of asylum is dramatically restricted according to intertwined asymmetries of power.

Along this line, Jordan further maintains that "the marginalization of queer lives in human rights and refugee discourses worked against refugee protection occurring as a possibility to participants and limited access to the knowledge of the process" (2009, p. 172). In other words, another hindrance experienced by queer refugee concerns the lack of information on asylum on the grounds of sexual orientation and/or gender identity. This resembles my participants' stories, since

---

[93] "La verdad es que sí es complicado ser inmigrante y trabajar sin papeles. Ya cuando estaba en Panamá sí sentía eso de meter toda tu vida en una maleta y dejarlo todo. [...] Era una situación de 'de estar y no estar', en la que la gente que estaba ahí sentía como que los estábamos invadiendo. Y a veces sentíamos como que nos rechazaban. [...] Y, bueno imagínate, tú estás ahí: viviendo en un país en que no conoces a nadie e intentando adaptarte. Y alguien te rechaza, y es como 'ah'… Yo no lo tomé mal, pero sí estaba medio fastidiado. [...] Bueno, yo no fui ahí para... O sea, de ser por mí, yo no estaría aquí."

[94] "Algunos agentes me pararon y me preguntaron 'Adónde piensas ir?'. Luego me llevaron a un pequeño despacho, me registraron y me interrogaron. 'Adónde vas?' y 'Qué vas a hacer' eran las preguntas que me hacían más. [...] No sé porqué lo estaban haciendo, pero supongo que era porque pensaban que era una pobre persona negra."

only Samuel and André migrated to Spain with the aim of seeking international protection. The others, instead, left without knowing that what they had experienced could be categorised as persecution:

> I had never thought that one could seek asylum because of this [sexual orientation], because I thought it was ok living under erasure and accepting to be threatened and so on because I was gay. (Alejandro)[95]

> I didn't know that every individual and every person could seek political asylum. I thought that political asylum was only available to politicians who had problems in their countries, and therefore had to leave in one way or another. But I didn't know that one could seek asylum because of gender-based discrimination. (Dario)[96]

These extracts emphasise two salient dimensions of the quest for safety and freedom analysed in my research. On the one hand, internalised stigma results in erasing the violence of homo-transphobic persecutions, by shifting the focus from exclusionary power dynamics to the individual's sense of self-shame. On the other hand, as Jordan (2009) asserts, "images of refugees as mass movements of people fleeing war meant that participants did not recognize themselves as potential refugees" (p. 172). In other words, the available narratives that portray refugees as 'political (heterosexual) activists' (Lewis, 2013) reinforce the symbolic domain of the 'true refugee' by impeding LGBTI* individuals to perceive themselves as part of it. According to my companions' accounts, the material consequences of this bordering not only led, as I will content in the next section, to further exclude them from the image of the 'genuine refugee' by undermining their 'credibility', but also to reinforce the precariousness of their lives. For instance, Adonay lived in Spain for almost 3 years in the attempt to settle down and "live a life without fear",[97] before applying for international protection. Luís endured domestic violence at the hand of his former partner, who used to blackmail him with the threat of reporting his irregular status to the police. Once more, their stories can be interpreted through Jordan's investigation (2009), in which she asserts that "migration restrictions, in interaction with the relative obscurity of the LGBTQ asylum option, placed LGBTQ migrants on mixed or irregular migration paths, creating conditions that increase LGBTQ migrants' vulnerability to exploitation and violence" (p. 173). The paradoxical

---

[95] "Yo nunca pensé que pudiera pedir asilo por esto [orientación sexual], porque para mí estaba bien vivir en el closet y aceptar que me habían amenazado y tal porque era homosexual."

[96] "Yo no soy sabía que se podía pedir asilo político… Que cualquier individuo, cualquier persona podía pedir asilo político. Yo tenía entendido que asilo político solamente era para políticos que habían tenido problemas en un país x, y que tenían que salir de una u otra manera. Pero no sabía que se podía pedir asilo por discriminación de género."

[97] "Vivir una vida sin miedo."

situation in which one's quest for safety and freedom is constrained by the intersectional violence exerted by border control is exemplified by Luís, who affirms: "I left my country in order to be free, and I ended up being imprisoned by someone".[98] Lewis (2013) refers to the precariousness and vulnerability induced by practices of border control as 'deportability', a term that speaks of the systematic fear of being removed by the country of arrival which exposes queer asylum seekers to further violence and exploitation. Her theorisation builds on Luihbéid and Cantú (2005), who maintain what follows:

> Migration rarely represents a clear-cut resolution to the difficulties that queers face. Rather, they must deal with racial, gender, class, cultural, sexual, and language barriers that are inextricable from global histories of imperialism and exploitation […]. Queer migrants also experience jeopardy based on their status as noncitizen. (P. xxix)

Deportability thus reveals how the asylum system functions as yet another process of border control that circumscribes the symbolic and material access to dominant citizenship. Against this backdrop, my partners' intersectional quest for safety and freedom is hindered by exclusionary asymmetries of race, class, gender, sexuality, and social status that ultimately deem them to the domain of the 'bogus economic migrant'.

1.3. Narrating the credibility assessment: '*como abrir un baul*'[99]

As seen in Chapter 2, the Spanish institution responsible for the credibility assessment and evaluation of asylum applications is the *Oficina de Asilo y Refugio* (OAR). The UNHCR Spanish delegation follows every application filed in the country, but does not have jurisdiction over the final decision. According to Dr. Juan Carlos Arnaiz, Senior Protection Associate of the UNHCR Spanish delegation, in Spain the credibility assessment is mainly conducted through oral interviews aimed at verifying the asylum seeker's personal details and the consistency of their application.[100] Since international protection can be sought at the OAR, Aliens Offices, *Centros de Internamiento de Extranjeros* (detention centres) or at any authorised police station, the interviewers are either asylum officers or policemen, who are also in charge of the transcribed document signed by the applicant. In Juan Carlos' account, the OAR is not provided with clear directives on how to assess and evaluate the credibility of asylum cases – an absence that results in a set of differing procedures. In line with the jurisprudential tendency analysed above, LGBTI* applicants' self-

---

[98] "Salí de mi país para ser libre, y me volví preso de alguien".
[99] Statement by Wanessa. In English: "Like opening a chest."
[100] Interview conducted on 26.04.2017.

identification is apparently not questioned. In comparison to Jansen and Spijkerboer's analysis (2011), none of my respondents was required material evidence of their gender identity or sexual orientation, or asked stereotyped knowledge about LGBTI* issues and intimate details on sexual acts. Nevertheless, Juan Carlos states that a certain degree of proof might contribute to a positive evaluation of the asylum claims. In the metropolitan area of Madrid, LGBTI* asylum seekers are therefore usually highly recommended to participate in the activities carried out by local organizations, and to present a psychological report written by the *Programa LGBT de la Comunidad de Madrid* – a governmental institution aimed at supporting LGBTI* people living in the province of Madrid.[101] Yet such document does not per se constitute sufficient proof of one's well-founded fear of persecution. As Juan Carlos explains, the burden of proof mainly lies on the interview itself. In his empirical experience, the absence of procedural directives and training leads to superficial and problematic interviews, which consequently affect the credibility assessment and the overall evaluation of the applications. This lack of quality is particularly visible in cases of gender- and sexuality-based persecutions, since the complexity of the reported facts requires specialised knowledge, awareness, and sensitivity of which asylum officers are often devoid. It is within this framework that Juan Carlos maintains that unjustified rejections of LGBTI* asylum seekers are dramatically linked to the poor quality of the Spanish asylum system as a whole. In Diaz Lafuente's analysis (CEAR, 2016), such a problematic asylum procedure is substantiated by the credibility assessment:

> It is noticeable, with reference to evidence, the scarce credibility bestowed upon the asylum seeker's account of persecution on the grounds of sexual orientation or gender identity, and we can maintain that there is a generalised suspicion of abuse of the right [to international protection] by such applicants that is not applied in the asylum claims based on other grounds.[102] (P. 134)

Drawing on Giametta (2016), I maintain that the Spanish asylum system causes "a paradoxical situation where the claimant's only evidence is her or his testimony, yet the asylum seeker's word is structurally mistrusted" (p. 61). In Giametta's analysis, similar contradictions are not causal, but embedded in the exclusionary logic that underpins practices of migration control

---

[101]For more information, consult: http://www.madrid.org/cs/Satellite?c=CM_InfPractica_FA&cid=1142615119862&idConsejeria=1109266187278&idListConsj=1109265444710&language=es&pagename=ComunidadMadrid%2FEstructura&pid=1255430110076&sm=1109265843983 [Last accessed 08.08.2017]

[102] "Resulta destacable, en relación con los medios de prueba, la escasa credibilidad que se le otorga al relato de la persona solicitante de asilo por motivos de orientación sexual o de identidad de género y puede afirmarse que existe una presunción generalizada de abuso del derecho por parte de las personas solicitantes que aleguen persecución por tales motivos que no se aplica a las solicitudes fundamentadas por otras causas."

(including asylum), namely "granting rights to the few and denying the same to the majority" (p. 55). Focusing on how gender and sexuality are regulated as grounds for international protection, Giametta builds on Mai's concept of 'sexual humanitarism' (2014) to assert that the institution of asylum constructs the notion of 'quintessential victimhood' of homo-transphobic persecution so as to configure the credibility assessment as a "legitimate tool for control of undesirable migrant groups" (2016, p. 57). It is in this respect that recounting one's suffering and intimacy becomes a crucial aspect of one's possibility to be recognised as a 'truthful victim' and, consequently, 'genuine refugee'. This is what Giametta calls 'emotional testimony' (p. 58). In his own words:

> Under the current biopolitical order, sexuality/gender, in particular, has come to be a problematic object within the politics of migration because of how the facile victimisation of some rights claimants is all too often used as a way to mistrusting many. Further, in sexuality/gender-based asylum claims, the autobiographical narratives elicited in the process are uniquely intimate (it is this intimacy that distinguishes them from asylum claims lodged on other bases). Here the migration institutions go deep into people's subjectivities to access and question the authenticity of their stories. [...] If a migrant claims the right to protection as a sexual/gender minority individual, she or he has to adopt a recognisable script that will give her or him more chances to obtain the right to remain in the country. Within a context marked by the sharing of one's intimate life on the part of the claimant, protection is easily denied and becomes dependent on the ability of the rights claimant to appear credible. (P. 58)

Giametta's critical approach to intimacy intends to question the 'filtering logic' that victimises queer subjects whose narratives are 'legible' in order to reject all the others. Which scripts are rendered 'recognisable' through the credibility assessment conducted by Spanish institutions? Which discourses participate in the bordering of the 'genuine queer refugee'? Through Giametta's insightful analysis, I will engage with such concerns by looking at how my participants' experiences of asylum are constituted in between the need to articulate 'credible' stories and Diaz Lafuente's reference to systematic disbelief.

Similarly to what Giametta outlines through his ethnography, my informants recount posing great attention on building up the *expediente*, i.e. their asylum file, in a logic and coherent way. All of them devoted time to both collect documents and testimonies, and to structure their stories in the most accurate way. Giametta indeed maintains that the phase of preparation is crucial not only in terms of *what* to say, but also with reference to *how* to present it. In this respect, the free counselling and support provided by lawyers, psychologists, and social workers throughout the procedure is indispensable so as to articulate "a recognisable script that will give [...] more chances to obtain the right to remain in the country" (2016, p. 58). However, due to lack of information, half of my

partners had not been in contact with any organizations before their asylum application. This meant that no experts advised them on the hearing, or helped them cope with the emotional implications of remembering and recounting traumas. Against this backdrop, during his asylum interview Dario only mentioned his political activism as a ground of the persecution he had endured in Venezuela, but not his sexuality. Although Juan Carlos explains that it is possible to modify the *expediente* after the interview, he also asserts that any changes or additions must be clearly motivated in order to be considered 'credible'. In this respect, as Millbank (2009b) maintains, absence of (proper) counselling might lead the asylum seekers to present their stories in ways that are perceived as 'inconsistent'. Unlike Dario, the informants who could count on legal advice were urged to give in-depth explanations on both their stories and the socio-political context of their countries of origin. The unique exception is represented by Samuel's case, since he was explicitly told by his first attorney not to make any reference to his homosexuality because of the institutional tendency to reject sexual and gender minorities:

> He told me so... That if I asked asylum on the ground of my sexual orientation, they would not grant it to me.[103]

Paradoxically, in this way Samuel endured a twofold erasure: from hiding his homosexuality in his country, to concealing it in Spain in order to raise his possibility to be recognised as a 'genuine refugee'. Giametta speaks of 'subalternised Others' to refer to "the contingent conditions of subalternity that emerge within the specific contexts in which non-heteronormative individuals live – both where they come from and where they move to" (p. 57). Within this framework, LGBTI* subjectivities are subjected to intersecting stigma and erasure not only in their home countries, but also through the cis-heteronormative and racialized borders that delimit the concept of 'credibility' (Chapter 2). Conforming to Giametta's analysis, in my investigation such subalternity is unveiled by the contradictory situations that structure LGBTI* applicants' experiences of asylum. The problematic erasure lived by Samuel unfortunately represents the climax of several other paradoxes that triggered in my participants strong feelings during and after the interview. In Samuel's words:

> When I am more immersed in my situation, when they [advocates] tell me that my asylum testimony is bad and that I should look for LGBT groups to receive a certificate… Well,

---

[that I had to] change my asylum file… It was something that filled me with rage and indignation![104]

With reference to the whole asylum procedure, the transversal issue discussed by each of my partners concerns indeed the emotional load triggered by the interview, from its preparation to the actual conversation. Similar to the above passage, they all describe their experiences in terms of anxiety, vulnerability, lack of intimacy, exposure, and angst. The intensity of such emotions might be exemplified by Wanessa's comparison:

It is like opening a chest and leaving everything there: your life, your traumas, your intimacy… Everything at the mercy of those who pass by.[105]

Through Wanessa's words, the rage and indignation recounted by Samuel are visually described as resulting from the opening of a chest that reveals one's most inner vulnerabilities. In this respect, I believe that Wanessa offered a powerful image of the paradoxical implications articulated through the credibility assessment that, as Giametta's maintains, scrutinises one's intimacy on the basis of exclusionary notions of 'genuine (queer) victimhood'. According to my respondents, during the hearing phase such 'opening' was achieved through the explicit requirement to provide the officers with a chronological description of the persecutions they had endured. Berg and Millbank (2007) explore the effects that the 'psychological stage model' has on the credibility assessment of asylum claims on the grounds of gender identity and/or sexual orientation. They maintain that the adjudicators' emphasis on the temporality of the applicants' narratives is connected to Western-centric understandings of gender and sexuality as essentialised categories that develop through linear 'coming-out' trajectories. As seen in Chapter 2, Spijkerboer maintains that the language of fixity is problematic because it (re)produces straightness as the norm. Concerning my participants' accounts, I contend that their queer identities were erased through the discipline of non-cis-heteronormative genders and sexualities in interlocking ways. While the involved gay men were addressed with general questions during the hearing phase, Fabiana, Wanessa, and André were confronted with detailed enquiries on what they had felt, the exact moment in which they had decided to leave, their travels to Spain, and the circumstances of their countries. All of them were

---

[104] "Cuando ya estoy más empapado sobre mi situación, que me explican que mi declaración estuvo mal hecha, que yo debería buscar grupos LGBT para que me certifiquen… Bueno, hacerle un movimiento a mi expediente… Fue algo que me llenó mucho de coraje e indignación!"

[105] Originally in Spanish: "Es como abrir un baul y dejarlo todo ahí: tu vida, tus traumas, tu intimidad… Dejarlo todo ahí a merced de los que pasan".

rather embittered by both situations, due to what they perceived as either the interviewers' oversimplification of their stories, or as an excessive insistence on details:

> I was feeling that they were not considering all the story that I had behind, that I was coming from a rather complicate situation. […] I did it [seeking asylum] because I was desperate, and that's it. But I feel that they [asylum officers] lack the capacity *to look at* us [asylum applicants] and understand that what we are saying it's not easy. Because it's something really complicated, and they treat it as it were something very easy… Very administrative.[106] (Miguel)

> They asked me to recount in chronological order everything I had lived in my family and every detail of my life. I was rather annoyed by the fact that they kept on asking me about my family… As though the risks I had lived had necessarily been at hand of my family and only because of my identity! My fear of persecution was mainly due to the fact that, as an activist, *I was visible*. And that was a problem for those people who do not want anything to change in a transphobic society. I observed a complete lack of knowledge of what it means to live outside of cis-heteronormative parameters.[107] (Wanessa)

Through a joint reading of Spijkerboer's, Giametta's, and Jordan's insights, I argue that the differing treatments received by homosexual and transgender respondents during their asylum interviews are permeated by the discourse of queer (in)credibility, which functions to border the domain of the 'genuine queer refugee' along cis-heteronormative and racialized norms. While demarcating the limits of 'truthful queerness', this logic erases the existence of LGBTI* subjectivities who do not conform to the "culturally proscribed identity narratives" (Jordan, 2009, p. 176). In the case of the cisgender gay men I interviewed, erasure consisted in approaching their stories as 'mere' administrative files, an attitude that hindered their capacity to openly speak about their traumas. Here the contradiction lies precisely in the fact that, while the recognition of the status of refugee relies on the capacity to disclaim one's intimacy (Giametta, 2016), the absence of empathy and intimate settings forced my homosexual respondents to hide some aspects of their stories. To quote Jordan (2009), their struggle "entailed making the hidden, or invisible, visible to adjudicators" (p. 176). On the contrary, the transgender applicants involved in the research "worked

---

[106] "Yo sentía que ellos no consideraban toda la historia que hay atrás, que yo venía de una historia ya bastante complicada. [...] Yo lo hice porque estaba desesperado y ya. Pero siento que le falta vernos más como personas, y ver que lo que estamos diciendo no es fácil. Porque es una situación muy compleja, y se le trata como si fuese algo muy sencillo... Muy administrativo."

[107] "Me pidieron relatar en orden cronológico todo lo que había vivido dentro de mi familia y cada detalle de mi vida. Estaba bastante fastidiada por el hecho de que seguían preguntándome sobre mi familia… Como si los riesgos que viví hubiesen sido por parte de mi familia y sólo por mi identidad! Mi miedo a la persecución se basaba en que, siendo activista, era una persona muy visible. Y esto era un problema para las personas que no quieren que nada cambie en una sociedad transfóbica. Observé una completa falta de conocimiento de lo que es una persona que no está en los parámetros heteronormativos."

against the perceptual and imaginal limits created by discourses of binary gender to help decision makers comprehend the daily realities of living transgendered" (Jordan, 2009, p. 176). In this respect, both Wanessa and Fabiana had the impression that the officers expected them to locate the origin of their persecution in their family, thus showing a lack of knowledge about the intersectional violence that targets transgender populations (Spade, 2013). Furthermore, in Fabiana's account, this absence of awareness is directly connected to the insensitivity showed by her interviewer, who during the whole hearing addressed her with male pronouns. To conclude, the erasure experienced by my transgender informants concerns not only the complexity of their accounts, but the possibility itself to be 'seen' according to their gender identity.

Despite their different implications, the discussed contradictions unveil the filtering logic on which the asylum system is created (Giametta, 2016). If it is important to emphasise that exclusionary assumptions are at stake in every asylum adjudication, it is also fundamental to recognise that the discourse of queer (in)credibility leads to peculiar paradoxes. In the previous sections I have indeed claimed that '*esto es lo que soy*' speaks of the intersectional quest for freedom and security on which my informants' decision to seek international protection was based. In other words, they left their countries to exist as intersectionally constituted queer subjectivities. Yet throughout this section the significance acquired by '*como abrir un baul*' rests on the profound sense of vulnerability caused by the asylum procedures. Fixed, essentialised, and binary understandings of gender identity and sexual orientation function to create the 'genuine queer victim' as an inaccessible domain. In this, 'safety' and 'freedom' are denied to my respondents, due to the cis-heteronormative and racialized norms that permeate the Spanish asylum system both in terms of evaluation and reception of LGBTI* asylum seekers.[108] The homonationalist narratives that would want queer refugees to pass from 'oppression' to 'liberation' are thus challenged by the same system that (re)produces the discourse of sexual humanitarism as integral part of 'credible' accounts of persecution. '*Como abrir un baul*' hence challenges the profound entanglement of asylum with intersecting power structures that erase the existences of LGBTI* subjectivities. Through an exploration of the ways my informants deal with and respond to the credibility assessment, in the next sections I will look at how (queer) identities that are disciplined by the asylum process contribute to challenging and changing the racialized borders of queerness.

---

[108] During my participant observation, various asylum seekers narrated episodes of discrimination committed in reception centres by both other applicants and employees. Although this is not the focus of my thesis, I consider it an alarming situation that calls for future investigations.

2. *(Des)haciendo fronteras*: (un)doing the borders of queer (in)credibility

As I have maintained in the previous sections, the life and asylum experiences of my informants have been marked by the interlocking borders of gender, class, sexuality, and race. Such normative frontiers, embedded in exclusionary processes that define whose existences (do not) count, are reinforced through the asylum system by means of racialized and cis-heteronormative assumptions that materialise LGBTI* Latin Americans as 'bogus economic migrants'. The way I have hitherto addressed the concept of 'border' thus concerns its disciplinary force as biopolitical mechanism that both symbolically and materially restricts the access to the domain of life (Mezzadra and Nielson, 2013, p. 269). Yet, as Mezzadra and Nielson contend, border does not merely function as "a mere limit on already-formed subjects" (p. 268), but is also productive of subjectivity. This means that borders create the hierarchical categories that are subjected to border control, such as 'citizen', 'legal' vs. 'illegal immigrant', and 'genuine refugee' vs. 'bogus migrant'. In this respect, the two scholars argue the following:

> [A] full understanding of the tensions and conflicts that mark contemporary citizenship can emerge only from an analysis that works from the edges of the space of citizenship, not from one that operates from the legal plenitude of its center. That political subject who is "unauthorized yet recognized" (Sassen 2006, 294) or, in other words, the "illegal" migrant, is not only subject to exclusion but also becomes a key actor in reshaping, contesting, and redefining the borders of citizenship. (Pp. 256-257)

The strategies that subjectivities who are materialised as 'migrant' develop to negotiate and/or resist the powerful control exerted by borders not only unveil the filtering logic on which they are established, but permeate and blur frontiers. In Mezzadra and Nielson's account, such struggles encompass everyday practices, social behaviours, and organized political actions. Within this backdrop, I will devote the final sections of my thesis to an exploration of how my respondents' struggles to exist across and beyond borders. My aim is to contribute to understand "how migrants create new modes of sexual identification, subjectivity, consumption, and coalition, which draw from and transform racial, ethnic, sexual, and cultural communities" (Luibhéid, 2002, p. 144).

Epps, Valentine, and Johnson Gonzáles (2005) propose the articulation of the border struggles as 'passing lines', which they conceptualise as follows:

> A play on words that signals the quite serious play of people as they move – or attempt to move – across geopolitical borders as well as the discursive and bodily acts by which one person "relates" to another *not* as *other* but as fundamentally the same or, perhaps more

accurately, as "almost the same, but not quite" (Bhabha, 86). […] Rife with mimicry, passing lines are, in short, the performative acts by which a person passes, or strives to pass, as conforming to certain norms of identity and behaviour. (P. 4)

Stated otherwise, 'passing lines' might be understood as the modes and strategies to both 'pass as', i.e. adhering to the set of interlocking norms embodied by 'proper citizens', and 'pass through', namely crossing the material and symbolic borders that produce citizenry. The performative dimension of such attempts lies precisely in their potential to expose the constructed origin of lines, and consequently to destabilise their disciplinary power through repeating and exceeding 'norms'. In other words, by striving to conform to the logic of border control, migrant subjectivities may undo the same hierarchical borders that render them non-citizens. Butler ([1993] 2003) refers to this contradiction as 'the paradox of subjectivation', since "the subject who would resist such norms is itself enabled, if not produced, by such norms" (p. xxiii). Within this backdrop, any act of resistance cannot transcend the power structures in which the subject is positioned, but it is immanent to and dependent on power itself. This point is further explored by Saba Mahmood (2001), who offers an articulation of agency that is not limited to one's direct opposition to intersectional violence. In Mahmood's own terms:

> [O]ne may argue that the set of capacities inhering in a subject – the abilities that define its modes of agency – are not the residue of an undominated self that existed prior to the operations of power but are themselves the product of those operations. Such a conceptualization of power and subject formation also encourages us to understand agency not simply as a synonym for resistance to relations of domination, but as a capacity for action that specific relations of subordination create and enable. (P. 210)

Mahmood's problematization of agency as a historically and culturally specific construct allows us to look at resistance as only one of the multiple strategies through which subjects might (not) act within the frameworks assumed by economies of power across different geopolitical and temporal spaces. It is in this respect that I contend that 'passing lines', in both their 'conforming' and/or 'subversive' dimensions, are to be read as expressions of the agency that individuals materialised as 'immigrant' exert by "repeating against the grain of official immigration-service requirements" (Luihbéid 2002, p. 142).

By means of these theorisations, I have approached my informants' responses to the credibility assessment as expressions of their agential attempts to pass the interlocking lines of queerness and *latinidad* (see Chapter 2). All of them describe their experiences of asylum in terms of '*empezando de cero*', i.e. creating their lives again 'from scratch' . At the time of the interviews

they were making important efforts to find their own dimension as queer *latinxs* seeking asylum in Spain, but were aware that their success would mostly depend on the acquisition of long-term legal documents. Despite working and/or studying, everybody was therefore focusing on building their *expediente* in the 'proper', i.e. coherent, logically structured, and detailed, way. Each of my partners' narratives address the tension between who they are aspiring to become beyond asylum, and who they have to be during the procedure. The ways they navigate such a 'paradox of subjectivation' combine opposition to and cooperation with asylum institutions. For instance, Samuel attempted to resist to the questions asked by the asylum officer's, whereas Luis affirms that the latter helped him recount his story:

> I have the impression that they want us to be dramatic. But my life has been dramatic enough. I don't need to go there and cry because of the homophobic persecution I endured. I know what it means not to be able to work or to go out on the street. I know what it means not to be able to be me, not existing as who I am.[109] (Samuel)

> The more he asked me, the more I spoke. And the more I spoke, the more I was able to remember.[110] (Luís)

Although at first sight it may seem that each of my respondents adopted either a collaborative or a resistant approach, our numerous informal conversations configured a more nuanced and complex image: since the beginning of the process, my companions have been developing their own particular mode to cope with precarity and exclusion, and exist as '*esto es lo que soy*'. Such strategies encompass every aspect of their present life, ranging from conducts to clothing, from desires to demeanour. They entailed, for example, hiding one's sexual orientation in the asylum centres to avoid abuses and discrimination, or making a considerable use of make-up in order to 'pass as' cisgender women.

Negotiations also concerned their *latinidad*, with which all of them identified even before leaving Latin America. While some the respondents feel that they Latin American origin hindered their asylum process, others consider that it may have no influence, or that it can even constitute a positive factor for their integration in the country:

> Spain is not such a racist country as people say.[111] (Dario)

---

[109] "Tengo la impresión que quieran que lo llevemos a lo dramático. Pero mi vida ya ha sido bastante dramática. No necesito ir allá y llorar por la persecución homofóbica que he vivido. Yo sé lo que significa no poder ir al trabajo o salir a la calle. Yo sé lo que significa no poder ser yo mismo, no poder existir por lo que soy."
[110] "Cuanto más me preguntaba, hablaba. Y a medida que hablaba, recordaba."
[111] "España no es un país racista como cuentan."

The truth? Here I am exotic. It is what people tell me and I love it.[112] (Luís)

Many [adjudicators] think that people leave Venezuela because of its economic and political situation… Or better, that the economic situation is merely an addition to the asylum application [meaning that it is not enough to seek asylum]. Yet I think this is totally dehumanising, because in my country people cannot even get a paracetamol… People cannot get food. You tell me if this does not constitute a reason for leaving your country.[113]

As the passages emphasise, my respondents perceive and embody their *latinidad* in differing ways: as a geopolitical identity that is no longer subjected to Spanish racism; as an interplay of physical appearance and behaviour that renders one 'exotic' and, therefore, interesting under a Spanish eye; and finally as a sublimation of one's geographical origin with one's social status and class. Samuel's account indeed emphasises the racialized equation that links *latinidad* to economic precarity, and that consequently materialises *latinxs* as 'bogus economic migrants', excluding them from the domain of 'genuine refugees'. In light of the presented excerpts, I contend that, with reference to both their queerness and *latinidad*, my interviewees articulate responses aimed at passing the lines of normative citizenship through twofold moves: on the one hand, by presenting themselves as 'desirable' migrants that are capable and worth of integration through the institution of international protection; on the other, by questioning the exclusionary rooting of the asylum system. Although they might seem to reproduce the cis-heteronormative and racializing borders of 'queer (in)credibility', such strategies anyhow function "as a response to the continuous monitoring and surveillance" (Viteri, 2008b, p. 66). In this, they have the potential to blend themselves and bend the filtering logic of asylum. Epps, Valens, and Johnson Gonzáles (2005) read similar attempts in the following way:

The immigrants attempts to go unchecked and unnoticed, to be seen as not particularly worthy of being seen or, alternatively, as worthy of being seen *only* as proper citizen or potential citizen, is the counterpart of governmentally supported attempts to monitor, question, identify, and "know" those who enter, or would enter, and stay, or would stay, in the country. […] Such controls, checks, and interviews are crucial, it seems, not only to the maintenance of national borders and to the often dubious turns of national security but also to the plays of identity that are mobilised by, through, and as immigration. (2005, p. 5).

---

[112] "La verdad? Aquí soy exotico. Es lo que me han dicho y es lo que me encanta."
[113] "Muchos consideran que los que salen de Venezuela es por la situación económica y política… O más, que la situación económica solo es un alegato para pedir asilo. A pesar de que me parece totalmente infrahumano, porque en mi país no se puede conseguir ni un paracetamol… No se pueden conseguir comida. Dime tú si ésta no es una motivación para salir de tu país."

Stated differently, the disciplinary 'gaze' of border control does not only produce 'genuine refugees' and 'bogus migrants', but offers migrant subjectivities the means to (dis)appear alongside normative lines and subvert the power of border control itself. Schuman and Bohmer (2014) contend that the asylum system produces visibility, invisibility, and hypervisibility by projecting disciplinary expectations over the claimants' gender identity and sexual orientation. As seen in the previous section, my respondents' experiences of asylum and credibility assessment are marked by interlocking erasure. However, the concept of 'passing lines' helps us look not only at the normative gaze inherent in the asylum system, but also at the disruptive uses asylum seekers can make of it. In the case of my interviewees, they deploy the homogenising narrative of 'ethnic affinity', which portrays Latin Americans as 'economic migrants', so as to present themselves as, to quote Gil Araujo, the 'desired migration' (see Chapter 2, subsection 2.3). In their articulations of queerness and *latinidad* within the asylum system, my participants strive to fulfil Western-centric or 'Hispanic' requirements over 'genuine refugees', i.e. the dramatism of their accounts, the hypervisibility of their gender identity, and the exoticism of their bodies. Achieved by playing with the normative discourses that structure the image of the 'truthful (queer) victim' (Giametta, 2016) their apparent 'desirability' thus becomes the way to access international protection.

Yet, as exemplified by Samuel, my partners also resist hierarchical categorisations, especially by questioning the legislative and procedural understanding of 'safety' and 'persecution'. In Chapter 2 I have indeed contented that the Spanish jurisprudence demagogically deploys such concepts to reject asylum applications filed by LGBTI* Latin Americans. Schuman and Bohmer (2014) nonetheless argue what follows:

> Political asylum depends on distinguishing between states offering safe haven and states that are dangerous. The applicants become recognizable as legitimate asylum seekers within this construction. Gender claims potentially cut across this divide, revealing persecution everywhere, rendering the legitimate asylum seeker indistinguishable from the non-legitimate, not because the latter is fraudulent, but because the persecution is no longer recognizable as political. (P. 954)

In this respect, the ways my participants cope with the contradictions entailed by the asylum system (see previous section) outline that 'safety' and 'persecution' are permeated by the discourse of queer (in)credibility. Their stories trouble the relations between 'safety' and 'ethnic affinity', according to which LGBTI* Latin Americans do not experience gender- and sexuality-based persecution, but 'only' live in a context of widespread violence. They also unveil the fallacy of sexual humanitarism and its liberationist narratives, by condemning the abuses and discriminations

suffered both throughout the procedure, and in asylum centres. Such claims are connected with an articulation of persecution that encompasses interlocking exclusions from employment, education, and affection. As seen, '*Esto es lo que soy*' stems from systematic discrimination aimed at cancelling the presence of LGBTI* subjectivities by making their lives unlivable. Consequently, it unveils the inextricability that links violence in public spaces with discrimination carried out in private or privatised spheres of life.

In light of these insights, I contend that '*Esto es lo que soy*' represents not only my respondents' quests for safety and freedom, but also their efforts to exist across and beyond the cis-heteronormative and racializing borders of asylum that categorises queer *latinxs* as non-deserving 'bogus economic migrants'. In other words, '*Esto es lo que soy*' describes the multiple and perhaps even contradictory strategies through which my partners configure their 'passing lines' by reclaiming their space as queer *latinxs* who strive to live as free, safe, and worthy subjects. By doing (conforming to) and undoing (opposing) the pillars that sustain exclusionary interpretations of safety and persecution, such negotiations blur the rigid borders that trace the antagonistic domains of 'genuine (queer) refugee' and 'economic (Latin) migrant'.

To conclude, I consider that Fabiana's words offer a crucial perspective:

> You're in Spain, 'first world', one of the freest countries in terms of human rights. Outside of Spain we get a rather good representation of Europe. You think you arrive in Europe and that then everything is done. So when you are inside the [asylum] process you say: 'Wow, they lack sensibility here!'. We cannot be sure about what they publish.. Here they have patriarchy and sexism, too. [...] What's the difference between here and there? Well, none. Despite 1,500 years of alleged progress and civilisation, sex-gender matrix, violence, and misogyny are still present.[114]

Fabiana powerfully undermines the rooting of population control: its imperial logic of surveillance of 'internal citizen' and 'external others' (Luihbéid, 2002), reiterated through dominant representations of a 'civilised West' and a backwards 'rest' (Hall, [1996] 2006). She unveils how asylum problematically victimises asylum seekers according to normative imaginaries. As seen, such victimisation works by excluding those who exceed its disciplinary frontiers. Yet, in her own words, there is no difference between a supposed 'modern' Spain and an 'underdeveloped' Latin American, since LGBTI* refugees are targeted by the interlocking asymmetries of power even, and

---

[114] "Estás en España, 'primer mundo', de lo más libre en materia de derechos humanos. Fuera de España se da una visión muy bonita de Europa. Piensas que llegas a Europa y que ya está todo hecho. Entonces cuando está en ese proceso dices 'Uy, aquí hay falta de sensibilidad!' No es tan cierto lo que se publica, aquí también hay heteropatriarcado, hay machismo. [...]Cuál es la diferencia entre aquí y allá? Pues ninguna, a pesar de 1500 años de adelanto y de civilización supuesta, los esquemas de género y machismo, la violencia, y la misoginia siguen presentes."

maybe precisely, through asylum. By stating this, Fabiana undoes the constraining borders of asylum and opens space for transformative articulations of identities beyond the discourse of 'queer (in)credibility'. Following on Rodriguez (2003), I argue that my partners' 'passing lines' have the potential to question the contradictory play enacted by the credibility assessment, trouble the borders of citizenship, and configure non-normative imaginaries in which queerness and *latinidad* are enquired and decolonized. In the final section, I will look at how '*Esto es lo que soy*' mobilises and (dis)articulates identities across the intersections of 'queer' and '*latinxs*'.

3.   Queer(ing) *latinidad* and decolonising queerness

In the previous sections I have striven to explore how "traditional disciplinary boundaries become inadequate containers for subjects whose lives and utterances traverse the categories meant to contain them" (Rodriguez, 2003, p. 30). I have indeed contended that my respondents cross and negotiate the lines that delimit 'genuine refugee' so as to access the domain of normative citizenship. Yet I consider that this exploration cannot escape one final, but not therefore less crucial, concern: how do queer *latinxs* make sense of their identities through and beyond asylum? In Rodriguez' (2003) own terms:

> The challenge becomes how to conceptualize subjectivity through both semiotic structures (discursive spaces) and agency (identity practices) by investigating the ways these fields work to constitute, inform, and transform one another. (P. 5)

Starting from this statement, in this section I will look at the ways my respondents are striving to exist across racialized queerness and neo-colonial *latinidad*. Far from approaching 'queer' and '*latinx*' as pre-discursive identities, I am interested in scrutinising them as "inter-spaces of meaning allowing a continuum that brings forward the geo-political spaces where border crossing is the framework of reference rather than the starting point" (Viteri, 2008b, p. 67). In other words, I do not aim at looking at 'queer' and '*latinx*' as discrete categories created by disciplinary borders, but at queer *latinidad* as an identity in motion (Rodriguez, 2003) with the potential to open space for transformative and disruptive "social formations and modes of being in the world" (Rivera-Servera, 2013, p. 18). Against this backdrop, I will interpreted queer *latinidad* as a non-linear site that questions and re-signifies the lines through which subjectivities are materialised as monolithic, mutually exclusive, and frozen.

Returning to my initial question, building on her personal experience as an asylum seeker in

the U.S., queer *latina* Mónica Enríquez Enríquez argues the following:

> I continue to grapple with the contradictions inherent in longing to be both "here" and "there," but realize that it is only in the margins that all my identities can co-exist.[115] (2013)

In her account, borders not only cause longing, but it is precisely at the marginality produced by such divisions that spaces are transformed and identities (un)done. This understanding resonates with José Esteban Muñoz' exploration (1999) of the strategies through which "queers of color identify with ethnos or queerness despite the phobic charges in both fields" (p. 11). Informed by Althusser' and Pêcheux' theorisations over subject formation and interpellation, Muñoz contends that subjectivities are created through three different modes of relations with dominant discourses. The first one is 'identification', where a 'Good Subject' conforms to the norms traced by disciplinary borders. The second one is the strategy of 'counteridentification', performed by the 'Bad Subject' in defiance of "the images and identificatory sites offered by dominant ideologies" (p. 11). Muñoz refers to the third mode as the practice of 'disidentification', understood as a way to work on and against the conditions of (im)possibility emerging from dominant discourses. In his own words:

> Disidentification is meant to be descriptive of the survival strategies the minority subject practices in order to negotiate a phobic majoritarian public sphere that continuously elides or punishes the existence of subjects who do not conform to the phantasm of normative citizenship. (P. 4)

Disidentification functions neither through assimilation, nor rejection of hegemonic structures that generate asymmetries of power. Rather, it challenges and changes cultural formations from within by combining negotiation and resistance. In this respect, I contend that if 'passing lines' describes the strategies through which migrants attempt to survive the asylum system and exist as normative and legally recognised citizens, 'disidentification' encompasses the modes they make sense of their identities at, through, and despite the margins. Queer *latinxs* experiencing asylum in Spain are indeed caught between the concomitant necessity to become the 'good subject' of the asylum system, i.e. the 'genuine refugee', and their materialisation as 'bad subject', namely 'bogus migrant'. However, the complexity of their nuanced life stories exceeds the fixity of such categories, unveiling how individuals cannot be easily reduced to 'mere' queer or latinxs, refugees or migrants. By means of Muñoz' theory of disidentification, I argue that the reiteration of '*esto es*

---

[115]Available at: https://www.opendemocracy.net/transformation/m%C3%B3nica-enr%C3%ADquez-enr%C3%ADquez/marginal-bodies-queer-migrants-on-transformation [Last accessed 08.08.2017]

lo que soy' could be read as a disidentificatory practice through which my respondents attempt to make sense of their identities beyond the constraints imposed by the credibility assessment, which pushes them to conform to a dominantly structured way of being queer (and) *latinx*. Building on the margins of queerness and *latinidad*, they contrast the exclusionary individuality sustained by the asylum system with the multiplicity of positions, embodiments, and desires imagined through 'This is what I am'. The transformative potential entailed by disidentification is addressed by Muñoz in the following way:

> [T]his self, fashioned through strategic disidentifications with dominant discourses on 'selfness', presents the potential to ultimately 'cultivate that part of oneself that leads beyond oneself, that transcends oneself'. This moment of transcendence is the moment in which counterpublics become imaginable; it is the moment brimming with the possibility of transformative politics. Disidentifications' use-value is only accessible through the transformative politics that it enables subjects and groups to imagine. Counterpolitics are not magically and automatically realized through disidentifications, but they are suggested, rehearsed, and articulated. (Pp. 178-179)

In this respect, '*Esto es lo que soy*' contributes to a collective imagining of infinite ways to trespass the borders of queerness and *latinidad*, hence to exist across and beyond normative lines as non-normative subjects. Muñoz contends that perpetuating disidentification is "a possibility for freedom" (p. 179), understood as the potential to unveil and exceed the frozen lines of identity, in order to imagine transformative ways of being and doing. I read this practice with reference to Jakobsen's exploration (1998) of 'queer' as both a disruptive and generative site (see Chapter 1). If on the one hand 'queering' means troubling and blurring 'norms', on the other hand it entails the potential to form disruptive coalitions between subjects constructed as 'deviant'. It is against this backdrop that I have explored my informants' attempts to undo the frontiers of queer (in)credibility that limit their lives and disavow their identities. In addition to what previously asserted, by means of the theoretical lens offered by disidentification I affirm that '*Esto es lo que soy*' has the potential to decolonise queerness, and queer *latinidad* without conforming to the filtering logic of asylum and its hegemonic narratives of 'genuine victimhood'. To quote Hunt and Holmes (2015), 'This is who I am' could be read as a decolonising queer politics that "offers the potential for radical social critique" (p. 156). A critique that invests complex entanglements of citizenry, sexuality, gender, asylum, and racialization so as to open space for queer *latinxs* to exist by *(des)haciendo fronteras*.

Conclusion

Austria, 2013. While undertaking an internship at a local NGO working on gender-based violence, I started to collaborate with an anti-racist queer collective that was attempting to propose an alternative float for the Vienna Rainbow Parade organised for that year. The group was composed of the most varied subjectivities: Austrian nationals, second-generations, Southern Europeans, Asians and Africans, cis and transgender lesbians, cisgender gay men, gender non-binary individuals, transgender straight men and women. The purpose of the group was precisely to trouble normative images of LGBTI* people offered by past parades by reclaiming space for multifaceted ways of being differently queer: queers of colour, queers that did not conform to mainstream representations of white and muscular homosexuals, non-cisgender queers, non-propertied or undocumented queers. Unaware of the consequences such acquaintance would have on my academic interests and personal life, in that period I met a Pakistani gay man who had recently been granted asylum on the grounds of his sexual orientation. Through the experiences he shared with me, I was confronted with the fact that, despite the marginalisation I could endure because of my non-heterosexual sexuality, my European passport nonetheless provided me with a privileged citizenship status. I could indeed enjoy freedom to both move across and settle in most countries. It was in that phase that questions on the embedding of queerness and citizenship began to cross my mind.

Peru, 2015. During my first work experience as a BA graduate, I came across some information on Peruvian transgender women seeking international protection due to institutionalised levels of transphobia in the country. The members of the collective I was in contact with recounted not only extremely hard travel conditions, but also striking difficulties in obtaining the status of refugee owing to the necessity to present evidence that could testify the veracity of their 'well-founded fear' of persecution. In that period, my previous concerns acquired a more profound shape, which I started to theoretically address in my Master's Programme in Gender and Ethnicity by engaging with queer and decolonial scholarship. In this non-linear way, my academic interests unfolded at the intersections of migration, asylum, queerness, and decolonisation. Or, at least, this is the answer I used to give to those who kept enquiring why I was putting all my energies into designing such a project without being Latin American or Spanish, and – in some cases – without being perceived as 'rightfully' part of the LGBTI* community.

Madrid, 2017. Samuel and I were taking break from the interview. After a while, he suddenly asked me: "Aurora, why are you so interested in the issue of 'credibility'?". In that moment, I did not know anymore. I tried to give him my articulated answer, but then I started

recounting how often I felt not to belong to any group because I could not give a label to my sexuality. My reflections were met by his considerations: "Don't you maybe think that this has something to do with the fact that you perceive yourself neither as a 'credible' heterosexual, nor as a lesbian or bisexual?". I nodded. Within that twenty-minute break, he offered me a perspective that completely changed my approach to the research, and consequently my capacity to position myself within and against its inherent frontiers. When in Chapter 1 I have engaged with border as a queer decolonial praxis able to challenge and change the way knowledge production is constructed, I was referring not only to its theoretical implications, but also to its practical consequences. This is indeed my experience with research: despite my leading role as 'researcher', the intense relations my interviewees and I developed throughout the fieldwork not only made me know myself much more, but also profoundly informed the research outcome. In other words, such rapport proved to me that research is a not a unilateral process, but a non-linear path that is to be constructed together with the.

It is in this respect that I believe that the more I do research, the more I will learn to stay with the discomfort that comes with responsibilities. Precisely through it, I will grow as a self-aware and accountable researcher. It is also in this respect that I contend that border as queer decolonial method has made possible the twofold analysis of the borders inherent in the process of the credibility assessment of the asylum cases presented by LGBT Latin Americans in Spain: on the one hand, by exploring how such borders are constructed (*haciendo*) upon interlocking modes of governance; on the other, by engaging with the practices of dis/identification (*deshaciendo*) that not only permit my research participants to attach subversive meanings to their intersectionally constructed identities, but also allow me to argue that it is at the margins of such identities that hegemonic borders are negotiate and blurred. In other words, it is by means of border as a decolonial queer lens that I have aspired to decolonise queerness and re-imagine it towards non-normative horizons.

Yet I am aware that this thesis represents only the beginning of a long and complex path. Far from providing answers, the investigation I have developed leaves us with infinite questions that need further problematization. Such concerns refer to several topics. First of all, the living conditions of LGBTI* asylum seekers coming to Spain remain a dramatically under-researched issue: what do sexual and gender minorities experience in asylum centres? Furthermore, hardly any research has been written with specific regard to how racialization functions in the case of asylum seekers coming from other regions of the world. In this respect, I consider that a comparative analysis between the Latin Americans and citizens from other former Spanish colonies (such as the Philippines or Morocco) might offer an innovative entry point. With regard to this, I would add that

it is necessary to enquire into the administrative tendency to grant asylum to queer activists only. In conclusion, I believe that academic scholarship needs to engage more and more with subversive practices that unveil hegemonic in/exclusions. By doing so, scholars could support the struggles articulated across the borders of normativity not only by migrants, but also by every subjectivity who is intersectionally materialised as 'non-worthy'. I would therefore like to conclude with Samuel's words, hoping that they will encourage infinite critical projects, exactly as they did with mine:

> Why do I do it? Why do I keep on standing up to it? Because I believe that things can improve by connecting those silenced voices and those quiet shouts… It is those people – no, we are those people that do not give up.[116]

---

[116] "Por qué lo hago? Y por qué sigo a dar mi cara? Porque creo que las cosas se pueden mejorar uniendo a todas esas voces calladas, esos gritos silenciosos… Son esas personas - no, somos esas personas, que nos vamos a atrever a seguir."

References

Agamben, G., 1995. We Refugees. *Symposium: A Quarterly Journal in Modern Literatures*, 49(2), pp. 114–119.

Agrela Romero, B. and Gil Araújo, S., 2005. Constructing Otherness: the Management of Migration and Diversity in the Spanish Context. *European Journal of International Migration and Ethnic Relations*, 43-44, pp. 10–33.

Akin, D., 2016. Queer asylum seekers. Translating sexuality in Norway. *Journal of Ethnic and Migration Studies*, 43(3), pp. 458–474.

Allen, J. A. and Kitch, S.L., 1998. Disciplined by Disciplines? The Need for an Interdisciplinary Research Mission in Women's Studies. *Feminist Studies*, 24(2), pp. 275–299.

Anker, D. and Ardalan, S., 2012. Escalating Persecution of Gays and Refugee Protection: Comment on *Queer Cases Make Bad Law*. *International Law and Politics*, 44(2), pp. 529–557.

Anzaldúa, G., 1987. *Borderlands/La Frontera: The New Mestiza*. San Francisco: Aunt Lute Books.

Anzaldúa, G. and Moranga, C., 1981. *This Bridge Called My Back. Writings by Radical Women of Color*. New York: Kitchen Table, Women of Color Press.

Arendt, H., [1951] 1973. *The origins of totalitarianism*. New York: Harcourt Brace Jovanovich.

Barad, K., 2007. *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning*. Durham, NC: Duke University Press.

Berg, L., and Millbank, J., 2007. Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants. *Journal of Refugee Studies*, 22(2), pp. 195–223.

Berg, L. and Millbank, J., 2013. Sexual orientation and refugee status determination over the past 20 years: unsteady progress through standard sequences?. In Thomas Spijkerboer (Ed.): *Fleeing homophobia. Sexual orientation, gender identity and asylum*. Abingdon Oxon: Routledge.

Bird, E., 2001. Disciplining the Interdisciplinary: Radicalism and the academic curriculum. *British Journal of Sociology of Education*, 22(4), pp. 463–478.

Bobis, Z., 2012. *You Are Not What You Ought To Be:. Credibility Assessment in Sexuality-Based Asylum Cases*. MA Long Thesis: Central European University.

Bohmer, C. and Shuman, A., 2007. *Rejecting Refugees. Political Asylum in the 21st Century*. London and New York: Routledge.

Bohmer, C. and Schuman, A., 2008. Producing Epistemologies of Ignorance in the Asylum Application Process. *Identities: Global Studies in Culture and Power*, 14(5), pp. 603–629.

Bohmer, C. and Schuman, A., 2014. Gender and cultural silences in the political asylum process. *Sexualities*, 17(8), pp. 939–957.

Brah, A. and Phoenix, A., 2004. Ain't I A Woman? Revisiting Intersectionality. *Journal of International Women's Studies*, 5(3), pp. 75–86.

Brinkman, B.G., 2016. Walking the Walk: Conducting Feminist Community-Based Research. In Tomi-Ann Roberts, Nicola Curtin, Lauren E. Duncan, Lilia M. Cortina (Eds.): *Feminist Perspectives on Building a Better Psychological Science of Gender*, pp. 333–352. Cham: Springer International Publishing.

Bükner, H.J., 2012. Intersectionality. How Gender Studies Might Inspire the Analysis of Social Inequality among Migrants. *Population, Space and Place*, 18(2), pp. 181–195.

Butler, J., [1993] 2013. *Bodies that matter. On the discursive limits of "sex"*. London: Routledge.

Butler, J., 1994. Against Proper Objects. Introduction. *Differences. A Journal of Feminist Cultural Studies*, 6(3+2), pp. 1–26.

Butler, J. 2004. *Undoing Gender*. New York: Routledge.

Castro-Goméz, S., 2007. El capítulo faltante del Imperio. La organización posmoderna en el capitalismo posfordista. In Mónica Zuleta, Humberto Cubides, Manuel Roberto Escobar Cajamarca (Eds.): *¿Uno solo o varios mundos? Diferencia, Subjetividad y Conocimientos en las Ciencias Sociales Contemporáneas*, pp. 69–88. Bogotá: Universidad Central/Siglo del Hombre Editores.

Cho, S., Crenshaw, K.W., and McCall, L., 2013. Toward a Field of Intersectionality Studies. Theory, Applications, and Praxis. *Signs: Journal of Women in Culture and Society*, 38(4), pp. 785–810.

Cohen, J., 2002. Questions of Credibility. Omissions, Discrepancies and Errors of Recall in the Testimony of Asylum Seekers. *International Journal of Refugee Law*, 13(3), pp. 293–309.

Colpani, G., 2015. Omonazionalismo nel Belpaese?. In Gaia Giuliani (Ed.): *Il colore della nazione*, pp. 186–199. Firenze and Milano: Le Monnier università; Mondadori education,.

Connely, E., 2014. *Queer, Beyond a Reasonable Doubt: Refugee Experiences of 'Passing' into 'Membership of a Particular Social Group'*. London: UCL Migration Unit.

Creese, G., and Frisby, W., 2011. *Feminist Community Research. Case Studies and Methodologies*. Vancouver and Toronto: UBC Press.

Crenshaw, K., 1989. Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics. *University of Chicago Legal Forum*, (1), pp. 139–167.

Dauvergne, C. and Millbank, J., 2003. Burdened by Proof: How the Australian Refugee Review Tribunal has Failed Lesbian and Gay Asylum Seekers. *Federal Law Review*, 31, pp. 299–342.

Denzin, N.K. and Lincoln, Y.S., 2000. *Handbook of qualitative research*. Thousand Oaks: Sage.

Díaz Lafuente, J., 2014. *Refugio y asilo por motivos de orientación sexual y/o identidad de género en el ordenamiento constitucional español*. Doctoral thesis: Universitat de Valencia.

Duggan, L., 2003. *The twilight of equality? Neoliberism, cultural politics and the attack on democracy*. Boston: Beacon Press.

Eastmond, M., 2007. Stories as Lived Experience: Narratives in Forced Migration Research. *Journal of Refugees Studies*, 20(2), pp. 248–264.

Eng, D.L., Halberstam, J., and Muñoz, J.E., 2005. *What's Queer about Queer Studies Now?* Durham, NC: Duke University Press.

Epps, B.S., Valens, K., and Johnson González, B., 2005. *Passing lines. Sexuality and immigration*. Cambridge: Harvard University Press.

Foucault, M., [1975] 1995. *Discipline and Punish. The Birth of the Prison*. New York: Vintage Books.

Foucault, M., [1978] 1986. *The history of sexuality*. New York: Pantheon Books.

Foucault, M., and Gordon, C., 1980. *Powerknowledge. Selected interviews and other writings, 1972-1977*. New York: Pantheon Books.

García Ballesteros, A., Jiménez Basco, B., and Redondo González, A., 2009. La inmigración latinoamericana en España en el siglo XXI. *Investigaciones Geográficas, Boletín del Instituto de Geografía*, UNAM, 70, pp. 55–70.

Gartner, J.L., 2015. (In)credibly Queer: Sexuality-based Asylum in the European Union. In: *Transatlantic Perspectives on Diplomacy and Diversity*, Selected Essays from the 2014 Diplomacy and Diversity Fellowship. Available at: http://www.humanityinaction.org/knowledgebase/578-in-credibly-queer-sexuality-based-asylum-in-the-european-union [Last accessed 06.08.2017].

Giametta, C., 2016. Narrativising One's Sexuality/Gender. Neo-Liberal Humanitarianism and the Right of Asylum. In: Francesca Stella, Yvette Tailor, Tracey Reynolds, and Antoine Rogers (Eds.): *Sexuality, Citizenship and Belonging. Trans-national and Intersectional Perspectives*, pp. 55–72. New York: Routledge.

Gil Araujo, S., 2008. Migraciones latinoamericanas hacia el estado español. La reactivación del sistema migratorio transatlántico. In Ileana Rodríguez and Josebe Martínez (Eds.): *Postcolonialidades históricas. (In)visibildades hispanoamericanas / colonialismos ibéricos*, pp. 189–220. Anthropos.

Gil Araujo, S., 2010. The Coloniality of Power and Ethnic Affinity in Migration Policy. The Spanish Case. In Encarnación Gutierrez Rodriguez, Manuela Boatca, and Sérgio Costa (Eds.): *Decolonizing European sociology. Transdisciplinary approaches*, pp. 179–194. Farnham, Burlington: Ashgate.

Gill, H., Puru, K., and Lin, G., 2012. In the Midst of Participatory Action Research Practices: Moving towards Decolonizing and Decolonial Praxis. *Reconceptualizing Educational Research Methodology*, 3(1), pp. 1–15.

Gordon, A.F., 2008. *Ghostly Matters. Haunting and the Sociological Imagination*. Minneapolis, London: University of Minnesota Press.

Gutiérrez Rodríguez, E., Boatca, M., and Costa, S., 2008. *Decolonizing European Sociology. Transdisciplinary Approaches*. Farham, England; Burlington, VT: Ashgate.

Hall, S., [1996] 2006. The West and the Rest. Discourse and Power. In Maaka Roger and Anderson Chris (Eds.): *The Indigenous Experience: Global Perspectives*, pp. 184–227. Toronto: Canadian Scholars Press.

Hall, D.E, and Jagose, A., 2013. *The Routledge queer studies reader*. London: Routledge.

Haraway, D., 1988. Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective. *Feminist Studies*, 14(3), pp. 575–599.

Haraway, D., 2004. *The Haraway Reader*. New York and London: Routledge.

Haraway, D., 2016. *Staying with the Trouble. Making Kin in the Chthulucene*. Durham: Duke University Press.

Haritaworn, J., 2012. Women's rights, gay rights and anti-Muslim racism in Europe. *European Journal of Women's Studies*, 19(1), pp. 73–78.

Haritaworn, J.; Kuntsman, A.; Posocco, S., 2013. Murderous Inclusions. *International Feminist Journal of Politics*, 15(4), pp. 445–452.

Haritaworn, J.; Kuntsman, A.; Posocco, S., 2014. Queer Necropolitics. Hoboken: Taylor and Francis.

Harper, P.B.; McClintock, A.; Muñoz J.E.; Rosen, T., 1997. *Queer transexions of race, nation, and gender*. Durham, N.C.: Duke University Press.

Hathaway, J.C., 1991. *The law of refugee status*. Toronto: Butterworths.

Hathaway, J.C. and Pobjoy, J., 2012. Queer Cases Make Bad Law. *International Law and Politics*, 44(2), pp. 315–389.

Herrera, G. and Yépez del Castillo, I., 2007. *Nuevas migracions latinoamericanas a Europa. Balances y desafíos*. Quito: Flacso Ecuador.

Hierro, M., 2013. Latin American Migration to Spain: Main Reasons and Future Perspectives. *International Migration*, 54, pp. 64–83.

Hunt, S., and Holmes, C., 2015. Everyday decolonization: living a decolonizing queer politics. *Journal of lesbian studies*, 19(2), pp. 154–172.

Huysmans, J., 2006. *The Politics of Insecurity. Fear, migration and asylum in the EU*. Oxon and New York: Routledge.

Izquierdo, A. et al., 2002. Los preferidos del siglo XXI: la inmigración latinoamericana en España. In Francisco Javier García Castaño and Carolina Muriel López (eds.): *La inmigración en España: contexto y alternativas*. Volumen II. Actas del III Congreso sobre la inmigración en España (ponencias). Granada, Laboratorio de Estudios Interculturales, Universidad de Granada.

Jacobs, G., 2010. Conflicting demands and the power of defensive routines in participatory action research. *Action Research*, 8(4), pp. 367–386.

Jakobsen, J.R., 1998. Queer is? Queer does? Normativity and the Problem of Resistance. *GLQ: A Journal of Lesbian and Gay Studies*, 4(4), pp. 511–536.

Jansen, S., and Spijkerboer, T., 2011. *Fleeing Homophobia. Asylum Claims Related to Sexual Orientation and Gender Identity in Europe*. Amsterdam: COC Netherlands; VU University Amsterdam.

Jordan, S.R., 2009. Un/Convention(al) Refugees. Contextualizing the Accounts of Refugees Facing Homophobic or Transphobic Persecution. *Refuge*, 26(2), pp. 165–182.

Lewis, G., 2013. Unsafe Travel. Experiencing Intersectionality and Feminist Displacements. *Signs: Journal of Women in Culture and Society*, 38(4), pp. 869–892.

Lewis, R.A., 2014. "Gay? Prove it'': The politics of queer anti-deportation activism. *Sexualities*, 17(8), pp. 958–975.

Lewis, R.A., and Naples, N.A., 2014. Introduction. Queer migration, asylum, and displacement. *Sexualities*, 17(8), pp. 911–918.

Loescher, G., 1993. *Beyond Charity: International Cooperation and the Global Refugee Crisis*. Oxford: Oxford University Press.

Lugones, M., 2007. Heterosexualism and the Colonial/Modern Gender System. *Hypatia*, 22(1), pp. 186–219.

Lugones, M., 2010. Toward a Decolonial Feminism. *Hypatia*, 25(4), pp. 742–759.

Luibheid, E., 2002. *Entry denied: Controlling sexuality at the border*. Minneapolis, London: University of Minnesota press.

Luibhéid, E., and Cantú, L., 2005. *Queer migrations. Sexuality, U.S. citizenship, and border crossings*. Minneapolis: University of Minnesota Press.

Luibheid, E., 2008. Queer/Migration. An Unruly Body of Scholarship. *GLQ: A Journal of Lesbian and Gay Studies*, 14(2-3), pp. 169–190.

Lykke, N., 2010. *Feminist Studies. A guide to intersectional theory, methodology and writing*. New York, London: Routledge.

Lykke, N., 2016. Intersectional analysis. Black Box or Useful critical Feminist. *In:* Lutz, H. Herrera Vivar, M. T. and L. Supik, eds. *Framing intersectionality. Debates on a multi-faceted concept in gender studies.* London, New York: Routledge, 207–220.

Maese-Cohen, M., 2010. Introduction. Toward Planetary Decolonial Feminisms. *Qui Parle*, 18(2), 3–27.

Mai, N., 2014. Between Embodied Cosmopolitanism and Sexual Humanitarianism: The Fractal Mobilities and Subjectivities of Migrants Working in the Sex Industry. In Virginie Baby-Collins,

Lisa Anteby-Yemini, and Sylvie Mazzella (Eds.): *Borders, Mobilities and Migrations, Perspectives from the Mediterranean in the 21st Century*, pp. 175–192. Brussels: Peter Lang.

Mahmood, S., 2001. Feminist Theory, Embodiment, and the Docile Agent: Some Reflections on the Egyptian Islamic Revival. *Cultural Anthropology*, 16(2), pp. 202–236.

Manalansan, M.F., 2006. Queer Intersections Sexuality and Gender in Migration Studies. *The International Migration Review*, 40(1), pp. 224–249.

Martínez Bujan, 2003. *La reciente inmigración latinoamericana a España*. Santiago de Chile: Naciones Unidas.

McAdam, J., 2005. The European Union Qualification Directive: The Creation of a Subsidiary Protection Regime. *International Journal of Refugee Law*, 17(3), pp. 461–516.

McCall, L., 2005. The Complexity of Intersectionality. *Journal of Women in Culture and Society*, 30(3), pp. 1771–1800.

McDowell, L., 2008. Thinking through work. Complex inequalities, constructions of difference and trans-national migrants. *Progress in Human Geography*, 32(4), pp. 491–507.

Mezzadra, S. and Nielson, B., 2013. *Border As Method, Or, the Multiplication of Labor*. Durham and London: Duke University Press.

Millbank, J., 2002. Imagining Otherness: Refugee Claims on the Basis of Sexuality in Canada and Australia. *Melbourne University Law Review,* 144–177.

Millbank, J., 2009a. From discretion to disbelief. Recent trends in refugee determinations on the basis of sexual orientation in Australia and the United Kingdom. *The International Journal of Human Rights,* 13(2-3), 391–414.

Millbank, J., 2009b. 'The Ring of Truth'. A Case Study of Credibility Assessment in Particular Social Group Refugee Determinations. *International Journal of Refugee Law,* 21(1), 1–33.

Miller, T. and Bell, L. (2002). Consenting to what? Issues of access, gate-keeping and 'informed' consent. In Melanie Mauthner, Maxine Birch, Julie Jessop, Tina Miller (Eds.): *Ethics in Qualitative Research*. London: Sage.

Mohanty, C.T., 2003. *Feminism without borders. Decolonizing theory, practicing solidarity*. Durham and London: Duke University Press.

Muñoz, J.E., 1999. *Disidentifications: Queers of Colour and the Performanc of Politics*. Minneapolis, London: University of Minnesota Press.

Nichols, R., 2012. Empire and the Dispositif of Queerness. *Foucault Studies*, 14, pp. 41–60.

Noll, G., 2005. *Proof, Evidentiary Assessment and Credibility in Asylum Procedures.* Leiden, Boston: MARTINUS NIJHOFF PUBLISHERS.

Oelgemöller, C., 2011. 'Transit' and 'Suspension'. Migration Management or the Metamorphosis of Asylum-Seekers into 'Illegal' Immigrants. *Journal of Ethnic and Migration Studies,* 37(3), pp. 407–424.

O'Nions, H., 2014. *Asylum: a right denied. A critical analysis of European asylum policy*. Farnham, Burlington: Ashgate.

Pedone, C., and Gil Araujo, S., 2016. Tramando futuros. Transnacionalismo familiar en la migración desde República Dominicana y Brasil hacia España. *Investigaciones Feministas,* 7(1), pp. 241–263.

Perez, E., 2003. Queering the Borderlands: The Challenges of Excavating the Invisible and Unheard. *Frontiers: A Journal of Women Studies,* 24(2-3), pp. 122–131.

Perez, L., 2010. Enrique Dussel's Etica de la liberatión, U.S. Women of Color Decolonizing Practices, and Coalitionary Politics amidst Difference. *Qui Parle,* 18(2), pp. 121–146.

Pimentel, A., 2013. Sodomoitas, Maricas y Bujarrones: una aproximación léxico-semántica a los términos de caracterización homosexual masculina en español. 2013. Available at: https://www.academia.edu/3534714/ [Last accessed 06.08.2017].

Price, M. E. (2009): Rethinking asylum. History, purpose and limits. Cambridge: Cambridge university press.

Puar, J.K., 2007. *Terrorist Assemblages: Homonationalism in Queer Times*. Durham and London: Duke University Press.

Puar, J.K., 2013. Homonationalism As Assemblage. Viral Travels, Affective Sexualities. *Jindal Global Law Review*, 4(2), pp. 23–43.

Quijano, A., 2000. Coloniality of Power and Eurocentrism in Latin America. *International Sociology*, 15(2), pp. 215–232.

Richardson, 2000. Writing: A Method of Inquiry. In Norman Denzin and Yvonna Lincoln (Eds.): *Handbook of Qualitative Research*, pp. 923–48. Thousand Oaks: Sage Publications.

Rivera-Servera, R.H., 2013. *Performing Queer Latinidad: Dance, Sexuality, Politics*. Ann Arbor: University of Michigan Press.

Rodriguez, J.M., 2003. *Queer Latinidad: Identity Practices, Discursive Spaces*. New York: New York University Press.

Rodriguez, J.M., 2014. Latino, Latina, Latin@. In Bruce Burgett and Glenn Hendler (Eds.): *Keywords for American Cultural Studies*, pp. 146–149. New York and London: New York University Press.

Schuster, L., 2002. Asylum and the lessons of history. *Race & Class,* 44(2), pp. 40–56.

Schuster, L., 2003. *The Use and Abuse of Political Asylum in Britain and Germany*. London: Frank Cass Publishers.

Seager, J., and Nelson, L., 2004. *A companion to feminist geography*. Malden MA: Wiley-Blackwell.

Smith, A., 2010. Queer Theory and Native Studies: The Heteronormativity of Settler Colonialism. *GLQ: A Journal of Lesbian and Gay Studies*, 16(1-2), pp. 41–68.

Spade, D., 2013. Intersectional Resistance and Law Reform. *Signs: Journal of Women in Culture and Society,* 38(4), pp. 1031–1055.

Spade, D., 2015. *Normale Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*. Durham: Duke University Press.

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

Stanford Friedman, S., 2001. Academic Feminism and Interdisciplinarity. *Feminist Studies,* 27(2), pp. 504–509.

Stoecker, R., 2009. Are we talking the walk of community-based research? *Action Research*, 7(4), pp. 385–404.

Stryker, S., 2006. *(De)Subjugated Knwoledges*. An Introduction to Transgender Studies. In Susan Stryker and Stephen Whittle (Eds.): *The Transgender Studies Reader*. New York and London: Routledge.

Stryker, S., 2007. Transgender Feminism. Queering the Woman Question. In Stacy Gillis, Gillian Howie, and Rebecca Munford, (Eds.): *Third wave feminism. A critical exploration*, pp. 11–22. Basingstoke: Palgrave Macmillan.

Sultana, F., 2007. Reflexivity, Positionality and Participatory Ethics: Negotiating Fieldwork Dilemmas in International Research. *ACME: An International E-Journal for Critical Geographies,* 6(2), 374–385.

Vargas Cervantes, D., 2016. Queer, cuir y las sexualidades periféricas en México. Available at: http://horizontal.mx/queer-cuir-y-las-sexualidades-perifericas-en-mexico/?utm_content=bufferb0db1&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer [Last accessed 06.08.2017].

Vicente Torrado, T.L., 2005. *La Inmigración Latinoamericana en España.* Mexico City: United Nations Secretariat.

Viteri, A.M., 2008a. "*Queer* no me da": traduciendo fronteras sexuales y raciales en San Salvador y Washington D.C. In Kathya Araujo and Mercedes Prieto (Eds.): *Estudios sobre sexualidades en América Latina*, pp. 91-105. Quito: Flacso.

Viteri, A.M., 2008b. 'Latino' and 'queer' as sites of translation: Intersections of 'race', ethnicity and sexuality. *Graduate Journal of Social Science*, 5(2), pp. 63–87.

Walia, H., 2013. *Undoing Border Imperialism.* AK Press: Institute for Anarchist Studies.

Wessels, J., 2013. HJ (Iran) and HT (Cameroon) - Reflections on a new test for sexuality-based asylum claims in Britain. *International Journal of Refugee Law,* 24(4), 815–839.

Legal sources

Coloquio sobre la Protección Internacional de los Refugiados en América Central, México y Panamá, 1984. *Cartagena Declaration on Refugees*. Available at: http://www.unhcr.org/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html [Last accessed 06.08.2017].

EC, 2004. *COUNCIL DIRECTIVE 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0083:en:HTML [Last accessed 06.08.2017].

EC, 2005. *COUNCIL DIRECTIVE 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status*. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:EN:PDF [Last accessed 06.08.2017].

ESPAÑA. *Ley 5/1984, de 26 de marzo, reguladora del Derecho de Asilo y de la condición de Refugiado*. BOE. núm. 74, de 27 de mayo 1984.

ESPAÑA. *Ley 9/1994, de 19 de mayo, de modificación de la Ley 5/1984, de 26 de marzo, reguladora del derecho de asilo y de la condición de refugiado*. BOE. núm. 122, de 23 de mayo de 1994.

ESPAÑA. *Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria*. BOE núm. 263, de 31/10/2009.

EU, 2011. *DIRECTIVE 2011/95/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted*. Available at: https://www.easo.europa.eu/sites/default/files/public/Dve-2011-95-Qualification.pdf [Last accessed 06.08.2017].

EU, 2013. *DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down standards for the reception of applicants for international protection*. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=IT [Last accessed 06.08.2017].

OAU, 1969. *Convention governing the Specific Aspects of Refugee Problems in Africa*. Available at http://www.unhcr.org/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html [Last accessed 06.08.2017].

UN General Assembly, 1951. *Convention Relating to the Status of Refugees*. United Nations, Treaty Series, vol. 189.

UNHCR, 2001. *Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees*. Available at: http://www.refworld.org/docid/3b20a3914.html [Last accessed 06.08.2017].

UNHCR, 2002. *GUIDELINES ON INTERNATIONAL PROTECTION: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*. Available at: http://www.unhcr.org/3d58ddef4.pdf [Last accessed 06.08.2017].

UNHCR, 2011. *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. Report of the United Nations High Commissioner for Human Rights*:* UNHCR. Available at: http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf [Last accessed 06.08.2017].

UNHCR, 2012. *GUIDELINES ON INTERNATIONAL PROTECTION NO. 9. Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*. Available at: http://www.unhcr.org/509136ca9.pdf [Last accessed 06.08.2017].

UNHCR, 2013. *Beyond Proof. Credibility Assessment in EU Asylum System*. Brussels: UNHCR.

UNHCR, 2015. *PROTECTING PERSONS WITH DIVERSE SEXUAL ORIENTATIONS AND GENDER IDENTITIES. A Global Report on UNHCR's Efforts to Protect Lesbian, Gay, Bisexual, Transgender, and Intersex Asylum-Seekers and Refugees*. Geneva: UNCHR.

Reports from NGOs

CEAR-Euskadi, 2009. *El sistema de asilo aspañol frente a la violación de derechos humanos de las mujeres y de lesbianas, gays, bisexuales y transexuales*. Bilbao: CEAR-Euskadi.

CEAR, 2015. *Informe 2015: Las personas refugiadas en España y Europa*. Madrid: Oficinas Centrales de CEAR.

CEAR, 2016. *Informe 2016: Las personas refugiadas en España y Europa*. Madrid: Oficinas Centrales de CEAR.

ILGA, 2014. Good Practices Related to LGBTI Asylum Applicants. Available at: https://www.ilga-europe.org/sites/default/files/good_practices_related_to_lgbti_asylum_applicants_in_europe_jul14.pdf [Last accessed 06.08.2017].

ILGA, 2016. Seeking refuge without harassment, detention or return to a "safe country". Available at: https://www.ilga-europe.org/sites/default/files/Attachments/ilga_europe_briefing_on_lgbti_asylum_issues_-_february_2016.pdf [Last accessed 06.08.2017].

Spanish Ombudsman, 2016. *Asylum in Spain: International Protection and Reception System Resources*. Madrid: Ombudsman Institution. Available at: https://www.defensordelpueblo.es/wp-content/uploads/2016/07/Asylum_in-_Spain.pdf [Last accessed 06.08.2017].

Appendices

List of analysed sentences

Audiencia Nacional – National Court:

1. SAN 143/1998
2. SAN 4388/1998
3. SAN 5089/1998
4. SAN 5109/1998
5. SAN 5446/1998
6. SAN 5453/1998
7. SAN 1840/1999
8. SAN 2449/1999
9. SAN 2745/1999
10. SAN 4278/1999
11. SAN 5907/1999
12. SAN 6085/1999
13. SAN 6483/1999
14. SAN 6569/1999
15. SAN 6856/1999
16. SAN 1603/2000
17. SAN 1606/2000
18. SAN 7079/2000
19. SAN 3311/2001
20. SAN 3708/2001
21. SAN 5684/2002
22. SAN 7018/2002
23. SAN 1080/2003
24. SAN 1173/2003
25. SAN 1357/2003
26. SAN 1477/2003
27. SAN 1482/2003
28. SAN 2263/2003
29. SAN 2628/2003

30. SAN 3058/2003

31. SAN 3418/2003

32. SAN 4391/2003

33. SAN 4491/2003

34. SAN 7167/2003

35. SAN 60/2004

36. SAN 62/2004

37. SAN 99/2004

38. SAN 2717/2004

39. SAN 4724/2004

40. SAN 5170/2004

41. SAN 6480/2004

42. SAN 6635/2004

43. SAN 1763/2005

44. SAN 1790/2005

45. SAN 1820/2005

46. SAN 2858/2005

47. SAN 3039/2005

48. SAN 5962/2005

49. SAN 6046/2005

50. SAN 6433/2005

51. SAN 6495/2005

52. SAN 7460/2005

53. SAN 3138/2006

54. SAN 200/2007

55. SAN 1492/2008

56. SAN 3195/2008

57. SAN 3530/2008

58. SAN 4033/2008

59. SAN 5465/2009

60. SAN 6009/2009

61. SAN 2141/2010

62. SAN 2297/2010

63. SAN 4536/2010

64. SAN 4550/2010

65. SAN 5206/2010

66. SAN 1758/2011

67. SAN 1338/2011

68. SAN 1893/2011

69. SAN 4405/2011

70. SAN 4839/2011

71. SAN 5139/2011

72. SAN 2186/2012

73. SAN 2539/2012

74. SAN 2862/2012

75. SAN 3109/2012

76. SAN 4025/2012

77. SAN 5299/2012

78. SAN 5353/2012

79. SAN 140/2013

80. SAN 1040/2013

81. SAN 1256/2013

82. SAN 1693/2013

83. SAN 159/2014

84. SAN 2122/2014

85. SAN 2984/2014

86. SAN 3365/2014

87. SAN 4099/2014

88. SAN 4565/2014

89. SAN 2221/2015

90. SAN 2471/2015

91. SAN 2858/2015

92. SAN 15/2016

93. SAN 1662/2016

Tribunal Supremo – Supreme Court:

1. STS 4171/2005

2. STS 2266/2006

3. STS 2331/2006

4. STS 3122/2006

5. STS 5782/2006

6. STS 8650/2006

7. STS 149/2007

8. STS 5650/2007

9. STS 8251/2007

10. STS 27/2008

11. STS 6142/2008

12. STS 6881/2008

13. STS 3854/2011

14. STS 5907/2012

15. STS 4500/2013

16. ATS 8316/2013

17. ATS 9065/2013

18. ATS 2016/2015

19. ATS 11354/2016