

Towards Citizenship: Experiences of Seeking Asylum on the Grounds of
Sexual Orientation or Gender Identity in the United States

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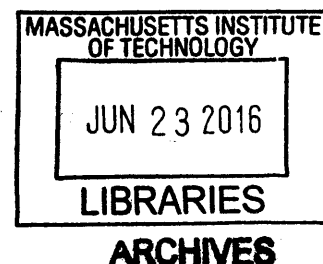
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ABSTRACT

What is the experience like for LGBT Asylum Seekers in the United States? How can we conceive a sense of citizenship belonging among this population? For LGBT asylum seekers in the United States, the notion of gaining formal status as a refugee and ultimately U.S. citizenship is often a long, challenging process. An extended waiting time for asylum adjudication exasperates gaps in protection within an overall system of laws and policies that lean toward heteronormative – often unwelcoming or discriminatory – definitions of sexual orientation and gender identity.

As such, these hurdles are not simply administratively remedied. They are meaningful conditions that restrict rights and ultimately a fundamental sense of citizenship belong. I argue that we can define a unique notion of transnational citizenship among LGBT asylum seekers who are caught between oppressive and unequitable formal institutions. Drawing from existing migration theory and citizenship studies, I claim that LGBT asylum seekers may form a sense of transnational citizenship that is not linked to a habitual physical crossing of national boundaries, but rather is concerned with the formation of enclaves of closely-knit LGBT sub-diaspora communities with the United States.

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I. Acknowledgments

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I have overwhelming gratitude to the asylum seekers who participated in this research and sincerely appreciate the recounting of experiences – often very difficult ones – of arriving in the United States, forging new friendships, building communities, and finding purpose in central and eastern Massachusetts.

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III. Abbreviations & Definitions

Abbreviations

LGBT: Lesbian, Gay, Bisexual, Transgender

LGBTI: Lesbian, Gay, bisexual, Transgender, Intersex (common in international discourse)

RAIO: Refugee, Asylum, and International Operations Directorate

USCIS: United States Citizenship and Immigration Service

Task Force: LGBT Asylum Support Task Force

SOGI: Sexual Orientation or Gender Identity

Definitions

| **Asylum:** The period of time from when an individual makes the conscious decision to apply for asylum to the moment they are both formally recognized as citizens of a new country and also feel a sense of citizenship belonging.

| **Asylum Regime:** The comprehensive term for the laws, policies, and practices related to the asylum process.

| **LGBT:** I use LGBT as an inclusive and representative acronym for any individual who identifies as lesbian, gay, bisexual, transgender, intersex and other culturally and contextually defined term of a minority sexuality or gender identity.

| **Path toward citizenship:** The civil, political and social conditions under which asylum seekers must live and navigate in order to both gain formal citizenship and feel a sense of citizenship belonging

| **Queer:** An individual, group of people, condition, or concept that does not conform to binary norms of gender or sexuality.

| **Transnational Citizenship:** In this thesis I define transnational citizenship to mean a sense of citizenship belonging that not only spans national borders, but also the complexities associated with belonging and identity. This does not mean that transnational citizenship trumps other formal notions of citizenship, but is rather a phenomenon of an individual's or social group's particular situation. In this case, I argue that LGBT asylum seekers status and space of marginalization in the United States contribute to a unique kind of transnational citizenship.

01 Introduction

Hundreds of LGBT people travel to the United States each year to ultimately seek asylum from their countries of origin due to imminent persecution because of their sexual orientation or gender identity. Annually, it is estimated that LGBT asylum seekers outnumber LGBT refugees yet occupy a much quieter space within discussions among policy makers, civil society, and the academy (Gruberg et al. 2014). While the absolute number of people fleeing such persecution is difficult to quantify, international organizations and scholars agree that there are hundreds of thousands of displaced people seeking to be resettled in a new, safe country because of their sexual orientation or gender identity (ORAM 2012: 5-6). Among these hundreds of thousands, less than three percent ever make it to a new home – the vast majority indefinitely live in hiding in transitional countries or within their country of origin (ORAM 2012:3-4).

The displacement of LGBT people is growing in countries where anti-homosexuality sentiment is rising (ORAM 2012:3). As of 2015, in 76 countries it was illegal to identify as being LGBT, and in a handful of countries a death sentence is codified into law (amnesty.org 2015). While the enforcement of such laws is unequal, the intensification of persecution has been most noted within sub-Saharan Africa and Jamaica, and has caused tens of thousands of people to flee (Author's Interviews 2015).

Keeping in mind the conditions from which asylum seekers flee, this research is concerned, rather, with the experiences of those individuals that have made it to the United States, and more specifically, those individuals that have entered as visitors then sought asylum from within. The distinction between an asylum seeker and refugee in the United States has

considerable impact on social service provision, how people live, and ultimately their sense of citizenship and belonging.

Supposing that LGBT asylum seekers face a unique situation during the asylum process, I am interested in understanding their experiences of seeking citizenship in the United States and further examining and re-defining notions of citizenship. *Thus, I hypothesize that LGBT Asylum Seekers inhabit a unique and challenging space within normative U.S. immigration law and policy, and this affects how citizenship is perceived and ultimately contested. Accordingly, I argue that a transnational kind of citizenship can further define LGBT asylum seekers experiences of asylum and resettlement in the United States.*

I draw from existing literature, policy, and organizational documents related to LGBT asylum in the United States. To substantiate this hypothesis, I use primary, qualitative research conducted with asylum seekers and volunteers of the LGBT Asylum Support Task Force based out of Worcester, Massachusetts. The primary data was collected over a five month period where I completed interviews with ten asylum seekers, observed five community meetings, participated in several advocacy and outreach events, and spent time getting to know asylum seekers on a regular basis.

After further discussion of methods, limitations and ethical considerations involved in this research, the thesis is structured as follows: (1) First, I provide an overview of key domestic and international laws and regulations that form the foundation of LGBT asylum policy. (2) I then use T.H. Marshall's seminal text, *Citizenship and Social Class* (1950) to discuss four major challenges faced by LGBT asylum seekers on their path towards enjoying what Marshall defines as civil, political, and social elements of citizenship. (3) From here, I argue that because of the

specific gaps in protection and a citizenship paradox faced by LGBT asylum seekers, citizenship can be further conceived as transnational in nature among this population, affording a sense of citizenship belonging that is distinct from any formal notions of citizenship or the international and domestic legal regime around asylum. (4) In conclusion, I propose a set of policy considerations for policy makers and civil society organizations that consider the claims discussed in this text.

02 Research Approach and Methodology

Charles Ragin (1994) discusses a process of research inquiry that begins with ideas -- ideas that come from daily life, books, media, the workplace, an event or misunderstanding. Reflecting upon the genesis of the idea or phenomenon in question, provides some clues as to what bias can be considered in a qualitative and participatory research process in order to improve the quality of data collection, analysis, and findings (Scheyvens et al.: 2003). In this case, I was drawn to learn more about LGBT asylum seekers after working for an international development agency in the policy and planning bureau, spending the majority of my time meeting with various stakeholders to learn about emerging issues related to LGBT communities in developing countries. Contexts, kinds of discrimination, and relative agency to improve livelihoods vary drastically from country to country and from person to person, but one particular example was fascinating (and saddening) to me. In a briefing with Kenyan LGBT activists, I met the director of a small NGO in Kenya advocating for the rights of LGBT people living in refugee camps. He described situation after situation of marginalization and lack of access to services among LGBT people in UNHCR-managed camps. His stories of the unique and restricted social networks, limited access to services, and complexities of citizenship and belonging were, I thought,

Instead of traveling to Kenya, I approached this research from my own country and citizenship context. As such, I became interested in understanding the accounts of individuals who were living between fleeing their home country and gaining a new citizenship status in the United States. Was seeking asylum in the United States anything like the experiences described by activists in Kenya? After working with civil society organizations and government agencies, I was also interested in the institutions through which LGBT asylum seekers must live and use to

access services. This led me to ask a series of questions regarding the law and policy regime of LGBT asylum in the United States in addition to the personal experiences of LGBT asylum seekers as they pursue U.S. citizenship. In particular, I asked: *How does LGBT asylum fundamentally relate to citizenship? What unique challenges do LGBT asylum seekers face during their period of asylum in the United States? And in what ways may LGBT asylum seekers cope with a lack of formal citizenship during their years of resettlement?*

Methods

As a result of the exploratory nature of this research, the development of research methodology was an exchange between existing literature and empirical data (Ragin 1994: 88). Data collection was a process, characterized by change and evolution of methods to obtain greater depth of information to answer the research inquires. The nature of this study is qualitative and non-experimental. I engaged in an exploratory approach to using existing literature and primary data to begin to build new theory around LGBT asylum in the United States (Ragin 1994: 83).

To pursue research questions, I drew from multiple kinds of data, including: primary, qualitative research; existing academic literature; laws, conventions, and policies; and, grey literature in the form of organizational documents and reports. The variety of data used for this research helped strengthen the case by triangulating qualitative experiences of individuals and organizations with existing theory. *I make the assumption that it is at the disjunction between primary, qualitative data and existing literature that the most useful knowledge is revealed.*

The lack of support services for LGBT asylum seekers meant that the few organizations that do provide support acted as anchors for the known LGBT asylum seeking population in the United States. The oldest and largest of such organizations is the LGBT Asylum Support

Taskforce (the Task Force) based in Worcester, Massachusetts. I chose to work with the Task Force because of their proximity to where I am based, their large network of LGBT asylum seekers, and its distinction as a second tier city offering a comparatively less studied environment than such global, capital cities as New York, Toronto or San Francisco commonly used as case studies within existing literature on LGBT immigration (Doan et al. 2015). While the Task Force and Worcester represent a critical element to exploring this research topic, it does not define the boundaries of this study. Instead, this is a broader case of LGBT asylum in the United States and includes the complex networks LGBT asylum seekers use to negotiate identity, community and citizenship with an evidentiary focus of asylum seekers living in central and eastern Massachusetts.

Qualitative methods were used to gather (1) in-depth primary data about the experiences, perceptions, and senses of belong among LGBT asylum seekers within social and political systems, and (2) the organizational dynamics of the LGBT Asylum Support Task Force (Task Force) and other community-level actors assisting this population. I used snowball sampling to connect with respondents through close collaboration with the Task Force. After making initial contact through the Task Force, I expanded my network of respondents through groups of Ugandan and Jamaican asylum seekers. In addition to in-depth interviews, I used participant observation and ethnographic approaches to embed myself in the community, build trust, and stay in conversation with respondents to build a stronger case of in situ observations of causality between, for example, the asylum process and an individual's negotiation of identity, community and belonging within civil, political and social notions of citizenship (Gomm & Hammersley 2000: 234; May 2002; Marshall 1950).

The primary form of data collection were in-depth interviews with respondents. The interviews with asylum seekers lasted between one and three hours and covered issues related to: drivers for leaving home; perceptions of home and culture within the United States; reasons for choosing to come to Massachusetts; feelings of belonging; future social and professional desires; and a broad range of challenges faced while seeking asylum¹. Follow-up interviews were conducted with four of a total of ten respondents. In addition to asylum seekers, six members or volunteers, including the Executive Director, of the LGBT Asylum Support Task Force were interviewed along with leaders of organizations working on issues related to LGBT Asylum including the UNHCR, Toronto-based Rainbow Railroad and the Chicago-based Heartland Alliance.

Using participatory methods to embed myself in the organization and build upon relationships with asylum seekers, I attended monthly Task Force community meetings; marched in the 2015 Worcester Pride Parade with asylum seekers and volunteers; helped plan and promote advocacy events; and, stayed in contact with asylum seekers on a weekly basis (Annex 1 and 2 provides more information related to Task Force participation). Respondents were made aware of the type of research that was being under taken and consent was requested from respondents.

Trustworthiness & Ethics

Within all aspects of this research, I sought to consider power dynamics related to race, gender, education, nationality, and language that I thought were critical when attempting to delve more

¹ Anonymity and privacy were especially important when respondents shared stories about escaping from harm in their country of origin. Such information was often deeply emotional and respondents were encouraged to only share what they were comfortable sharing, if anything at all.

deeply into issues closely related to citizenship, identity, and discrimination amongst asylum seekers (Scheyvens et al 2003: 149). Keller's view (in Rose 1993) that the search for knowledge is a series of "selection pressures exerted by ideology in general – and gender ideology in particular," (p. 63) encouraged me to repeatedly question: *What is my gender ideology? How is my masculinity, assumptions and (mis)knowledge affecting my interaction with participants and the general direction of the research?* It may not be possible to clearly answer these questions but as I moved through a research process I continued to reflect upon my power and privilege in relationship to others (Bryman 2004: 22, 312).

Recognizing the time limitations of this research and often biased position of myself in relationship to the research participants, I have employed four methodological approaches to attempt to improve quality and the overall trustworthiness of this study (Bryman 2004: 273-276). These concepts were considered throughout the research process, and include:

- Credibility, that may be improved through respondent validation – the presentation of the researcher's interpretation of the social phenomenon to the people that were researched. By engaging in follow-up interviews with my respondents, and reaffirming responses by repeating similar topics throughout the interview process, I attempted to improve a sense of credibility from the respondents.
- Transferability may be increased through a rich account of the social phenomenon under investigation (Bryman 2004: 275). I aimed to bring to life respondents' experiences through rich, multi-method qualitative research that may aid – through its detail-orientation – in the transferability of the information to another case (Bryman 2004: 275).
- Dependability: This can be increased through, among other things, the documentation of research process, transcripts and general decision-making process. While working with

asylum seekers and the Task Force, I recorded my decision-making process as a researcher, reflecting upon, for example, the reasoning behind making certain selections in interviews, potential issues, and bias.

- Last, Lincoln and Guba mention the notion of confirmability that is displayed through reducing researcher bias. While Bryman (2004: 276) notes that objectivity is impossible to achieve in qualitative research, I aimed to reduce it by documenting and reflecting upon personal values and bias during the research process.

Confidentiality of Participant Identity

The privacy and respect of all respondents was considered in the research process through transparency of the project aims and by maintaining anonymity regarding participant identity (Scheyvens et al in Scheyvens & Storey 2003: 146). LGBT asylum seekers may be in sensitive and insecure situations related to discrimination, legal proceedings, and may still be under threat of violence. As a result, personally identifiable information was carefully treated throughout the research process. No more definite locations were used beyond: “Worcester” and “Boston” or “Boston Metro Area”. Names have been changed and the identifiable specifics of asylum experiences have been omitted.

Limitations

Three limitations marked this research process, related to: (1) a lack of secondary data on LGBT asylum seekers or refugees, (2) trouble accessing a population that may not want to be found, and (3) as a consequence, difficulty drawing meaningful conclusions from a limited set of data.

To work within these limitations, I drew from a variety of sources, including grey literature from

civil society organizations and legal documentation to help improve and triangulate data. To meet LGBT asylum seekers, I chose to work through the U.S.-based LGBT Asylum Support Task Force, where I spent several months building relationships with the volunteer board and asylum seekers in order to build the camaraderie and trust needed to discuss, at length, their experiences as asylum seekers.

03 The Evolution of LGBT Asylum Policy

The mass migrations that occurred as a result of the World Wars prompted the international community to create a set of international legal norms to allow for more equitable treatment and protection of persons displaced by violent conflict. In 1951 the *United Nations Convention Relating to the Status of the Refugee* was adopted by a sum of two dozen industrialized nations (UNHCR 2010). This convention entered into force in 1954 and was specifically oriented toward people fleeing events within Europe before January 1, 1951. Soon, the international community recognized the need for the Convention to be applicable on a global scale. As a result, the first and only modification to the convention was made through the 1967 Protocol. This Protocol expanded the convention to allow migrants to make a claim of asylum from any country, not just those located within Europe (UNHCR 2010).

The 1951 Convention and 1967 Protocol established important definitions related to the protection of asylum seekers and refugees, and the administration of the asylum process. Legally, the foremost result of these agreements was the establishment of the overall *right to seek asylum*. What this meant was that anyone should have the ability to – at a minimum – make a case for asylum in another country.

Asylum and subsequent refugee status can be conferred upon an individual if and only if it is determined by either the host country or the UNHCR that they have been:

- (a) persecuted because of their race, religion, nationality, membership of a particular social group or political opinion; *and* that
- (b) they cannot return home because their home country is unable or unwilling to provide sufficient protection (UNHCR 2010: 14).

Further, if a person is determined to meet refugee status, then a host country or UNHCR must pursue, with the input of the refugee, one of three options:

- (1) resettlement to another willing and appropriate country;
 - (2) assimilation within the host country; or
 - (3) return of the refugee back to the country of origin only after it has been internationally determined that the country of origin can provide appropriate protections and freedoms.
- (UNHCR 2010: 14)

The legal basis for these determinations are related more broadly to the concept of *nonrefoulement* -- or the understanding of governments to *not* return a person back to a place of imminent danger. Nonrefoulement is considered customary international law and binding by all nations party to the Convention (UNHCR 2011: 3-4).²

With the establishment of the Convention and Protocol, individual nations began interpreting the spirit of the international agreements through the passage of domestic laws related the immigration of refugees and asylum seekers. Within such efforts, the United States swiftly enacted laws and regulations concerning immigration for LGBT people, or otherwise know at the time under the categories of “sexual deviants” or homosexuals. In 1952, the McCareen-Walter Act was enacted with language that aimed to bar homosexuals from immigrating to the United States under the more general label of individuals with a “psychopathic personality” disorders (Pickert 2012: 9). Later, in 1965, U.S. immigration law was amended to exclude homosexuals, specifically as “aliens afflicted with... sexual deviation” (out4immigraiton.org 2013). This explicit discrimination persisted for decades, and LGBT

² As of April 2015, total number of States Parties to the 1951 Convention: 145 Total number of States Parties to the 1967 Protocol: 146 States Parties to both the Convention and Protocol: 142 States Parties to one or both of these instruments: 148

people were categorically excluded from U.S. resettlement until the ban was lifted in 1990 (Out4immigration 2013).

Soon after the ban was lifted, the Clinton administration supported the first successful case of asylum based upon sexual orientation or gender identity, forty years after the Convention had entered into force. In July 1994, in a ruling on the nearly ten year old case of *Toboso-Alfonso*, U.S. Attorney General Janet Reno released Order 1895-94 making *Toboso-Alfonso* binding precedent for INS³ officials making future immigration and asylum decisions. The Order stated that "an individual who has been identified as homosexual and persecuted by his or her government for that reason alone may be eligible for relief under the refugee laws on the basis of persecution because of membership in a social group" (Order 1895-94). From this Order, all ensuing refugee determinations related to LGBT claims have been made using a justification within the membership of a particular social group. Since *Toboso-Alfonso*, it is estimated that thousands of LGBT asylum seekers have been granted refugee status and ultimately U.S. citizenship (ORAM 2012, Author's Interviews 2015).

The Displaced Asylum Seeker

International and domestic law established a basic legal framework to standardize a general definition of asylum and provide a road map for refugee status and ultimately citizenship. In this documentation, the focus is clearly on those individuals that have been provided refugee status. Very little verbiage is devoted to the asylum seeker, especially concerning their rights and protections during extended asylum proceedings (UNHCR 2010, 2011; Author's Interviews

³ What now is known today as USCIS, or "CIS" - Customs and Immigration Services

2015). According to the 1951 Convention, refugees should be afforded rights and privileges within a host country to be able to have freedom of mobility, identification papers, access the judicial system, employment, and so on (UNHCR 2011: 5). Additionally, the longer a refugee remains in a host country, the wider their rights should expand to approach those of the citizens of that country. While it is rare for a host country to provide the level of protection and support that the Convention outlines for refugees, it is commonplace for host countries to afford asylum seekers comparatively much less (Chatham House 2005; Author's Interviews 2015).

Therefore, the distinction between a refugee and asylum seeker is critical. An asylum seeker is an individual making a claim of asylum *within* a host country. All refugees were once asylum seekers, but not all asylum seekers will be refugees. Refugees have been determined as such either through an immigration service of a destination country government or through the UNHCR. In the case of large scale displacement, blanket refugee status can be given by the UNHCR, reducing the administrative burden of government-sponsored asylum determinations. Blanket refugee status has historically only been granted on the grounds of violent conflict in a specific country or region, and has not been granted based upon a condition related to, for instance, persecution because of the membership in a specific social group that spans multiple regions.⁴

The experience of LGBT asylum seekers in the United States – as outlined in the following chapters – can be distinguished from other asylum claimants because of their lack of protection under nondiscrimination law and policy across 28 states. This formal lack of legal

⁴ In this study, it should be noted that all LGBT asylum seekers traveled to the United States on a pre-approved visa and are seeking refugee status based upon their membership in a particular social group defined by their sexual orientation or gender identity.

protection leaves LGBT asylum seekers at a disadvantage related to access to services and exacerbates insecurity of tenure and employment.⁵

LGBT Asylum in the United States

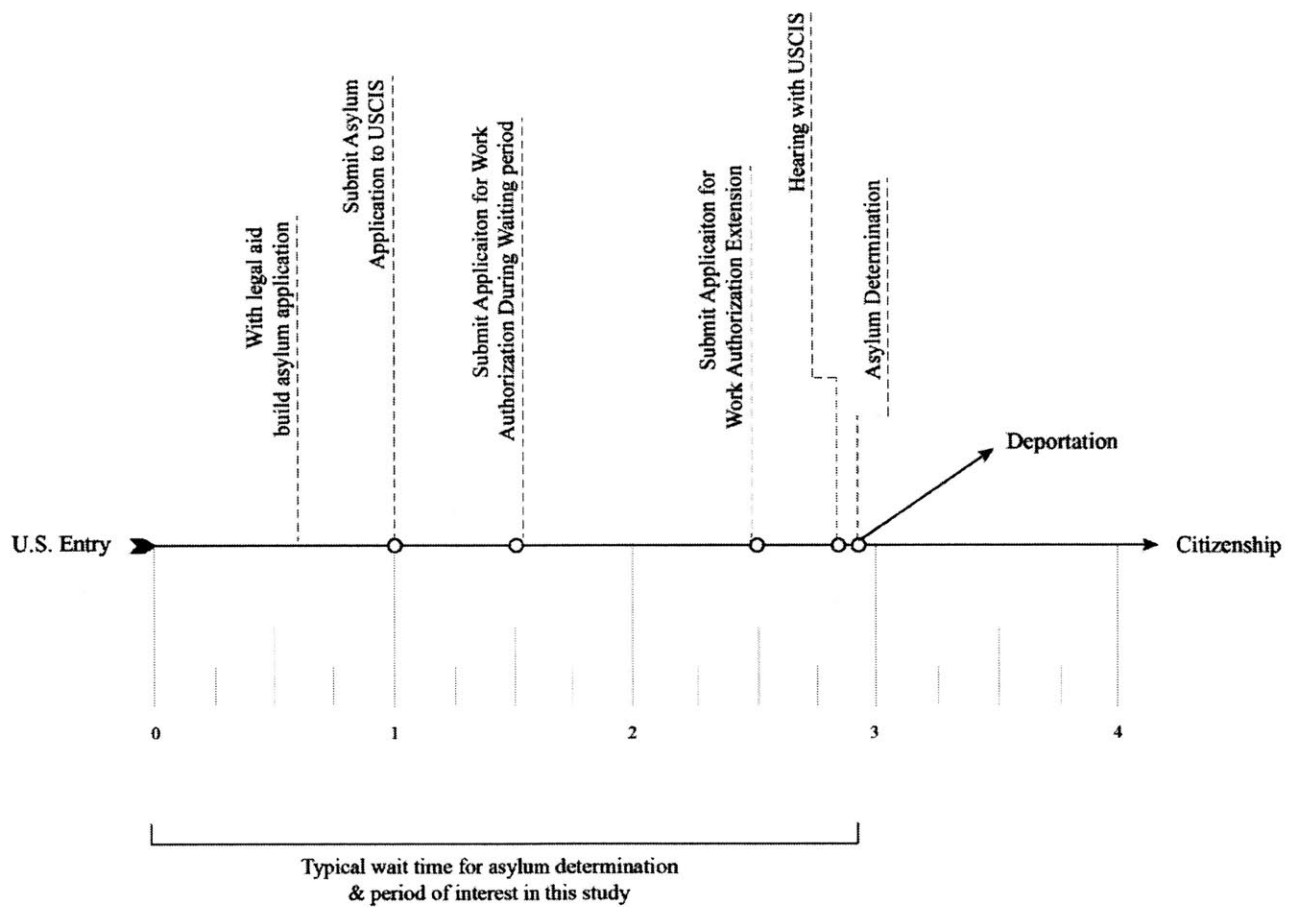
Applying for asylum in the United States is a protracted, expensive, and for LGBT asylum seekers often traumatic experience. All asylum seekers must file a claim for asylum within one year of entry into the United States according to U.S. immigration law (USCIS.gov 2013). The filing process almost exclusively requires the assistance of an attorney specializing in LGBT asylum claims (Author's Interviews 2015). The application must include a detailed personal history of often traumatic persecution or torture – many times from close relatives – to establish proof of being persecuted based upon sexual orientation or gender identity (Author's Interviews 2015). Family members, friends and employers may be required to provide evidence of such claims, often forcing individuals to face their abusers once again.

The majority of LGBT asylum seekers apply for asylum affirmatively, after they have entered the United States on a visa (Gruberg and Lomax 2015). For thousands of other LGBT asylum seekers, the degree to which rights and privileges that are afforded during asylum are even more restricted. If applying for asylum at a port of entry, or applying for asylum after deportation proceedings have begun, then asylum seekers may be sent to a detention center (Gruberg et al. 2014). Once in a detention center, the rights that are commonly held by other

⁵ LGBT asylum seekers may also form a part of a wider immigrant community. In this case, though, I limited my discussion to asylum seekers that have entered the United States legally and often across continents. The process of gaining formal citizenship, the phenomenon of transnationalism, and a general sense of belonging may be different among larger groups of LGBT immigrants that may not be fleeing a situation of imminent harm or systematic discrimination.

asylum seekers are restricted or rescinded altogether, such as freedom of mobility or access to counsel to assist in the asylum application process (ibid).

Model 1: Example of Extended Timeline of the U.S. Asylum Process (in years)



The time between filing an application and receiving an asylum determination can vary widely. But currently, LGBT asylum seekers are not in any priority status. According to a public communication in December, 2015 the USCIS is operating under exceptional circumstances:

“The Immigration and Nationality Act (INA) provides in Section 208(d)(5) that the initial interview for asylum applications filed on or after April 1, 1997 should take place within 45 days after the date the application is filed, and a decision should be made on the asylum application within 180 days after the date the application is filed, unless there are exceptional circumstances.

Due to expanding caseloads, the USCIS Asylum Division is presently unable to interview most applicants within 45 days of filing. Instead, the Asylum Division is prioritizing asylum applications for interview scheduling as follows:

- First, applications that were scheduled for an interview, but the applicant requested a new interview date;
- Second, applications filed by children; and
- Third, all other pending affirmative asylum applications will be scheduled for interviews in the order they were received, with oldest cases scheduled first.

For asylum applications presently pending interview scheduling, we are unable to predict how long the process will take at this time.” (USCIS 2015)

What this announcement means for an LGBT asylum seeker is critically important. It results in an increase from a manageable waiting period of a few weeks to a waiting period of months and often years before a determination is made. *This extended period of time is a fundamental condition to this research and is a defining characteristic of an LGBT asylum seeker’s ability to enjoy a sense of citizenship and belonging in the United States.*

04 Shared Histories of Citizenship and Asylum Law

The asylum regime described in the previous chapter shares many characteristics with today's formal notions of citizenship. Asylum laws and policy reflect what it means to be citizen-less, and it also suggests what the international community considers the most fundamental human rights and protects that should be afforded to a displaced person. Thus, understanding the shared histories of citizenship and asylum, help frame the unique challenges faced by LGBT asylum seekers in the United States.

T.H. Marshall's Notion of Citizenship and the 1951 Convention of the Status of the Refugee

Considered the foundation to present-day conceptions of citizenship, T.H. Marshall's *Citizenship and Social Class* (1950) defined citizenship within three general dimensions: (1) the civil, concerned with equality under the law and individual rights, (2) the political, as the ability to engage in a democratic governing process, and (3) the social, whereby citizens should enjoy a sense of well-being and belonging as a part of a certain polity or social welfare system (Cohen 2010: 81; Marshall 1950). Marshall's concept of citizenship was conceived during post World War II reconstruction, at a time when the international community – overwhelmingly led by western powers – were setting a range of international legal accords, including the 1951 United Nations Convention for the Status of the Refugee. The link between a reconceptualization of citizenship, as defined by T.H. Marshall, and the creation of international asylum law are closely

linked, and as revealed in the ensuing chapters, failing to protect and address the needs associated with LGBT asylees.

Marshall's understanding of citizenship was rooted in his own experiences within Great Britain, but nonetheless has been applied in a myriad of other national contexts (Cohen 201:81). Published a year before the 1951 Convention for the Refugee, Marshall's argument for a more nuanced understanding of citizenship mirrors much of the protection language in the 1951 Convention. He saw citizenship as an evolution, closely associated with the creation of the welfare state, whereby many of the rights and protections enshrined by the United Nations Declaration of Human Rights ought to be provided to all citizens of a nation state. In a Marshallian way, obtaining civil, political and social elements of citizenship is the ultimate end to a migration journey of transitioning from one nationality to another. And, the 1951 Convention theoretically provides the legal obligation to treat asylum seekers equitably and provide sufficient protection until they can be assimilated as a civil, political and social citizen of a destination country (UNHCR 2011).⁶

Marshall argued that *civil rights* were the first element of citizenship to form and are based around a legal system that is applied, in theory, equally toward all people (Marshall 1950:18). For Great Britain, this meant family name and heritage were no longer the fundamental questions of whether or not a person could be protected under a system of laws. It was, instead, the simple fact that a person was free within a nation to work and be wherever they

⁶ I use the concept of a pathway toward full citizenship to define a set of unique challenges faced by LGBT asylum seekers in the following chapter. This is then followed by an analysis of the very notion of citizenship using contemporary notions of transnational citizenship from refugee and migration studies.

pleased. It was that, when “freedom [became] universal, citizenship grew from a local into a national institution” (Marshall 1950: 18).

The recognition of a civil system under which all people could be protected under the law was the basis of the 1951 Convention Relating to the Status of the Refugee. In a post-World War II context, the international community recognized the need to protect the human rights of refugees (UNHCR 2011) . The convention provided an international legal norm for destination countries to provide the protection to refugees that could not be afforded by their home countries. The ability of the state to protect and provide human rights, then, was an obligation not only to its citizens but also those seeking citizenship as asylum seekers.

Next, Marshall defined *political elements of citizenship* that dealt specifically with issues of participation and representation within the political system – chief among such issues were voting rights (Marshall 1950: 18). Marshall, noted that political rights to citizenship can be a “political franchise” by allowing only the economic elite to participate in the process of governing and the establishment of law (ibid). As such, Marshall argues that by adopting universal suffrage, the state was able to shift from a political franchise to a personal status of free participation in the election of and representation in government (Marshall 1950:19). The transfer of power from the rich and powerful elite to all people of a country was a key element regarding the political contributions to citizenship.

Marshall then defined a sense of *social citizenship* to go beyond law and politics to include elements of belonging, well-being, class relationships, and social welfare (Marshall 1950: 20). Social citizenship included personal experiences of everyday life that intersect with social systems and institutions indicative of civil and political citizenship. Social citizenship was

not obtained through the establishment of law or the ability to run for office, but rather by a perceived sense of being equitably included within a community, society, and the social services provided to citizens (institutions of learning, health care, the economy, and so on) (Marshall 1950).

Then once someone feels a sense of social citizenship – under refugee and asylum edicts – does that mean an individual has been fully resettled or assimilated into a new destination country? Can a kind of transnational citizenship fill the gaps of an unwelcoming and heteronormative, formal asylum regime? LGBT asylum seekers face a series of unique and challenging conditions during asylum that contest many of Marshall’s concepts of citizenship and instead highlight the paradoxical, and fluid situation of citizenship in which many LGBT asylum seekers commonly find themselves.

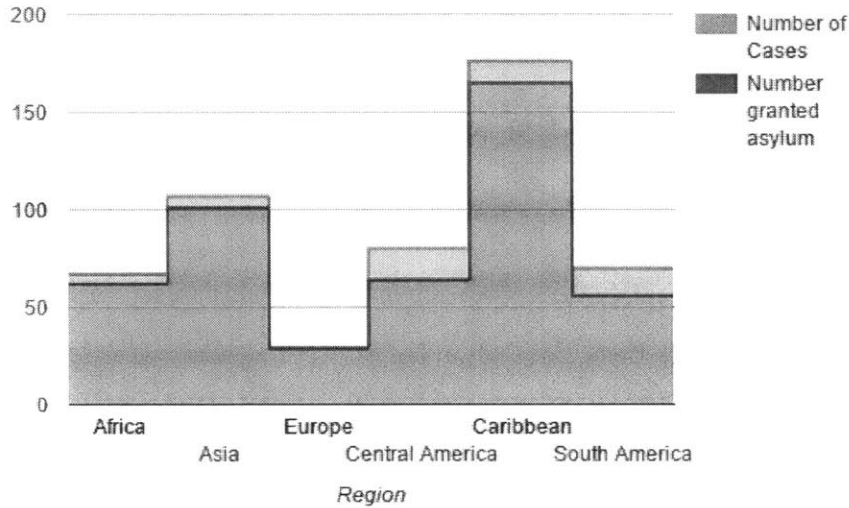
05 Challenges towards Citizenship Belonging among LGBT Asylum Seekers

The reconceptualization of citizenship and the codification of international legal norms regarding the status of refugees are two sides to the same coin. Laws and policies regarding citizenship and asylum are defined by individual countries, placing responsibility upon the State to determine the process of asylum, resettlement and ultimately gaining formal citizenship. In the United States, LGBT asylum seekers are disadvantaged in the legal system, prevented access to certain social services, vulnerable to employment and housing discrimination, and, on a personal level, at odds with networks of diaspora living in the United States. What these challenges reveal is a fundamentally discriminatory and paradoxical path toward formal citizenship for LGBT persons in the United States.

Limited Legal Representation and Discriminatory Asylum Policy

After Attorney General Janet Reno established precedent for granting asylum based upon sexual orientation or gender identity, Immigration Equality was formed as the leading nonprofit legal aid organization for LGBT asylum seekers in the United States (Author's Interviews 2015, Gruberg et al. 2014). In recent years, Immigration Equality has developed detailed country condition dossiers to assist claimants in building their case for asylum. Professionals that work closely with LGBT asylum seekers cannot meet demand and predict that the number of actual LGBT asylum seekers far exceed the numbers noted below (Author's Interviews 2015).

Graph 1: Number of Immigration Equality Cases vs. Number of Successful Claims, 2010-2014⁷



In September of 2015, at a community meeting of the LGBT Asylum Support Task Force, legal representation during the asylum process was a major topic of conversation. Members of the board described the overall process of helping LGBT asylum seekers, and in that process, finding legal counsel was the *first* priority after safe shelter and food. From the moment asylum seekers enter the United States, the 365 day countdown to making an asylum application begins. Considering the challenge faced by all asylum seekers to find legal counsel, LGBT asylum seekers must find experienced attorneys that can navigate the nuanced legal grounds for successfully making a claim of asylum based upon sexual orientation or gender identity (Author’s Interviews 2015).

⁷ Data constructed by Gruberg and Lomax 2015, in collaboration with Immigration Equality, interactive feature at: <https://www.americanprogress.org/issues/lgbt/news/2015/06/18/115423/interactive-the-countries-from-which-lgbt-people-are-seeking-asylum/>

An attorney must be skilled enough to provide the documentation and argumentation necessary for an LGBT claimant otherwise the claimant risks being forced to return to their country of origin and face persecution or a return to living a closeted lifestyle. Brian, a Jamaican man in his late 20s, arrived in the United States on a student visa in 2008 to pursue a certificate program in hospitality management in Florida. Upon completion of the program, he could not face going back home where violence and discrimination were imminent. Working with his partner at the time, he was connected to a law school in Florida where a group of students, sponsored by a Law Professor, met with him to work on his case. A few weeks after meeting with the students, Brian did not receive any documentation and follow up communication resulted in very little useful material. Brian did not have much time to finish his application for asylum and he pleaded with other members of the Jamaican LGBT community in the United States for contacts and helpful resources. He was connected with Immigration Equality for legal counsel and also to the Worcester-based Task Force in Massachusetts for housing and assistance with basic needs. Using the rest of his money, Brian flew up to Boston and was given housing by the Task Force and worked with his pro bono attorney to file his application. Brian was given sufficient assistance to win his asylum claim, has now completed his undergraduate degree in urban studies, and volunteers for his community.

Brian's experience underscores the challenge for LGBT asylum seekers related to legal representation -- the scarcity of legal resources has created demand that far exceeds available resources. Additionally, building a strong case for asylum requires hard evidence and close collaboration with an attorney that necessitates living close enough to legal resources to meet repeatedly in person. This forces asylum seekers to migrate within the United States to large

metropolitan areas where it is more likely to find and benefit from legal counsel with the expertise to be successful in an asylum case.

Unfortunately, another angle to the legal challenges faced by LGBT asylum seekers is discrimination by adjudicating officers based upon normative views of what a gay person should be like. The once life-saving ability to mask LGBT characteristics can work against an asylum claim (Author's Interviews 2015; Shidlo & Ahola 2013). Seeking asylum on the grounds of sexual orientation and gender identity requires a rapid and open expression of a part of an asylum seeker's identity, an identity that had previously often been hidden (Author's Interviews 2015, Ricard 2014:32). LGBT asylum seekers may have masked their sexual orientation or gender identity for years or even decades in order to avoid persecution (Author's Interviews 2015; Murray 2014; Ricard 2014:32). In the act of defending their case, asylum seekers may be forced to portray a kind of identity that is defined less by who they are and more by the dominant representation of what a "normal" gay, lesbian, bisexual or trans person may be like. (Author's Interviews 2015; Ricard 2014:32).

Natalie, a young lesbian mother from Jamaica, was forced to live for years in a heterosexual relationship by her family. Once in the U.S. she then faced challenges during her asylum hearing in the United States because of her nonconformity to a lesbian stereotype. After waiting for months and working with lawyers to build her case, the immigration officer noted that she did not look like a lesbian, and that her make-up, clothing, and fact that she had a child made her case unconvincing. Natalie was not denied refugee status, but was required to provide additional evidence to prove her sexual orientation.⁸ Immigration Equality notes a similar case of

⁸ In 2013 the USCIS Refugee, Asylum, and International Operations Directorate (RAIO) released an updated Officer Training manual on Adjudicating Lesbian, Gay, Bisexual, Transgender, and Intersex Refugee and Asylum

an Albanian lesbian who left her home because she was threatened to have corrective actions taken against her to fix her sexual orientation. This young woman was denied her initial claim because she was too “young, attractive and single, apparently not conforming to the officer’s stereotype of a lesbian” (Bilefsky 2011).

By expressing openly a previously hidden sexual orientation or gender identity, LGBT asylum seekers are forced to inhabit an identity that is not necessarily reified from within, but instead is abstracted from a rendition of an identity that a CIS officer deems appropriate to be granted asylum. As such, sexual orientation and gender identity in the official asylum process both in the United States and elsewhere is treated as a qualifying characteristic that is “evaluated against expected narratives of refugee flight and Western narratives of LGBT identity and community” (Jordan & Morrissey 2013: 14). Or, put in another way, LGBT asylum seekers are, “faced with the challenge of identifying with the impossible object of an authentic LGBT self-identity. For the refugee, this is an essentialist form of socio-sexual identity that is associated with a normative Euro-American sexual identity formation...” (Murray 2012: 132). Using a normative ideal of sexual orientation or gender identity is pervasive within the LGBT asylum process in multiple countries’ immigration procedures (Ricard 2014; Forced Migration Review 2013).

Facing a lack of appropriate legal representation and immigration officials that apply discriminatory judgement based upon stereotypical gender typologies, LGBT asylum seekers are disproportionately vulnerable to losing their case for asylum. LGBT asylum seekers and their

Claims. The manual provides a thorough and nuanced understanding of the adjudication process, including issues of non-corroboration, differing terminologies, and a host of special concerns for LGBT asylum seekers. The enforcement and use of this manual is unknown.

specific concerns are not mentioned in any broadly adopted and internationally recognized legal convention.

Insecure Tenure

Immigrant communities often seek the support of their diaspora to meet housing and shelter needs. But, for LGBT asylum seekers, accessing the support of people from their home country living in the United States is challenging and even dangerous. In multiple cases documented by the LGBT Asylum Support Task Force, asylum seekers may stay with fellow Ugandans or Jamaicans, for example, to subsequently be subjected to the abuse and discrimination from which they had originally fled after the hosts discover their sexual orientation or gender identity.

This kind of discrimination against LGBT asylum seekers can lead to extreme conditions of acute poverty and homelessness. In a study completed in 2009 by Refugee Support, a United Kingdom based nongovernmental organization, 40 LGBT asylum seekers expressed the following housing conditions to be common among them:

- LGBT asylum seekers are exceptionally transient, often experiencing ‘hidden homelessness’ as they stay for short and indeterminate periods with friends and acquaintances
- They face insecurity from blackmail and in some cases lose their sources of income or housing when their sexuality or gender identity is exposed
- Many LGBT asylum seekers are mistrustful of police and reluctant to report abuse, and
- They cannot rely on their respective national or ethnic communities for support because they fear anti-LGBT reprisals from them (Fish 2012)

The experiences of LGBT asylum seekers in the United States would support these claims of transient living, facing insecure landlord and tenant relationships and feeling unsafe approaching the police (Author's Interviews 2015).

There are two major drivers that are shaping the homes of LGBT asylum seekers in central and eastern Massachusetts - (1) the power of the Task Force to direct housing and control access to certain social network and (2) finding and maintaining a sense of safety, especially within one's diaspora community. Studies of non-LGBT refugees suggest that home is a complex interaction between space, location, social relations, security, intimacy, privacy, choice and control (Sirriyeh 2010: 215). Lucy, demonstrates the complexities of securing shelter and finding a place that feels like home.

Lucy arrived in the U.S. seeking medical treatment. She had a difficult beginning in the United States but found a way to apply for asylum before her time ran out. Throughout her first year in the United States, Lucy stayed with friends and later was supported through the Task Force while filing her asylum application. Using every resource to survive the long waiting period for a hearing, Lucy applied for and was granted a renewable work visa. This allowed her to make enough money to live on her own outside of the Task Force's assistance, but still not enough to live comfortably or securely.

Lucy's landlady, a Ugandan immigrant, rented a small efficiency for a reasonable price in an old Victorian home in a Boston suburb. The exterior of the building was run down and surrounded by vehicle parts and pieces of construction debris. Lucy did not know whether or not her housemates or the landlady would accept her as a lesbian. Having fled the violently homophobic scene in Kampala, Lucy eventually moved out of this living

arrangement and into a house with a small group of LGBT Ugandans where she felt more at home and could be herself.

In another case, Milton arrived in Los Angeles, California, in the winter of 2014. Several months before he was able to leave Uganda, he was attacked by a mob of people in Kampala because of his sexual orientation. He narrowly escaped and lived in hiding with friends until he obtained a visa to travel to the United States for a training sponsored by his employer. After several weeks in Los Angeles and after the conference was over, Milton was outed to the Uganda family with which he was staying and given 48 hours to leave their home.

Using up the last of his financial resources, he flew to stay with another friend in Connecticut where a similar story unfolded. After discovering he was gay, the family kicked him out but this time without notice and in freezing temperatures. Within a few hours, Milton was able to connect to the Task Force in Worcester and immediately placed in an apartment with another Ugandan woman. Milton's experience demonstrates the insecurity of shelter that is common when attempting to access diaspora networks as an LGBT person in the United States.

Employment Restrictions

Employment is limited or categorically denied to asylum seekers in the United States. Before refugee status is granted, LGBT asylum seekers may apply for a permit to work while they wait for their case to be adjudicated (Author's Interviews 2015). This permit is available only after 150 days of their case's submission and takes an additional 90 days to process and for a social security card to be delivered (USCIS.gov 2015b). With a work permit and social security number, asylum seekers can find limited employment opportunities and access some social services. However, the reality of the situation is still far from the hopeful picture of freedom and

equality that the U.S. seemed to promise. Many asylum seekers are in poverty, live in inadequate housing and have limited mobility and access to information (Author's Interviews 2015; Gruberg et al. 2014).

Volunteers in the Task force note that asylum seekers often stay in their rooms in a sponsor's homes because they do not yet have the option to work or participate in organized social service programs. This isolation has a toll on the mental health and well-being of the asylum seekers and inhibits a sense of belonging. At a Task Force community meeting in August of 2015, wide agreement was shared that finding some kind of employment was necessary for survival during the asylum process.

The Task Force recognizes the difficulty asylum seekers face to survive under an extended adjudication period and they provide an unconditional cash stipend to asylum seekers. This kind of assistance is unique in the United States as a form of support to LGBT asylum seekers (Author's Interviews 2015). According to the small but connected organizations supporting LGBT asylum seekers across the country, other organizations in San Francisco and New York provide assistance to a small number of asylum seekers but place conditions upon the stipend to be used for food, clothing, transportation, or the like (Authors Interviews 2015).

Once a permit to is obtained, an asylum applicant can seek employment; however, employment discrimination based upon sexual orientation or gender identity is not protected in 28 states (ACLU.org 2015). A Department of State supported guidebook was developed in 2013 specifically to address LGBT refugee resettlement issues (Heartland Alliance 2012). While the guidebook is focused toward individuals that have already obtained refugee status, the section on employment reveals a clear gap in protection for LGBT refugees and asylum seekers that hold a

work permit. According to the official text, resettlement organizations and support organizations such as the Task Force should: (1) understand the law in your area to be aware if employers may discriminate against LGBT employees, (2) check if employers have nondiscrimination and anti-harassment policies, and (3) develop a list of companies that actively support the LGBT community(ibid). These recommendations are based upon clear and present protection gaps for LGBT asylum seekers related to employment, that allow employers to discriminate and prevent the state from prosecuting employers for unfair treatment of LGBT employees.

In an interview with a young asylum seeker from Uganda, I asked her how she felt about working on her permit while waiting for her asylum claim. She mentioned that it was never her intent to have to work at all. When growing up in Kampala, she lived in a respected and wealthy family and had never dreamed of working as a nurse's assistant. She had a BA in the humanities and enjoyed writing, not looking after people in a nursing home. She took the job because it was easy for her to get certified and there were many openings in the community she lived in outside of Boston. She also took the job so that she could survive and stay off of the street.

Difficulty Accessing a Community of Support

LGBT asylum seekers often cannot draw on the support of diaspora from their country of origin throughout the asylum process. When basic support is needed regarding shelter, food, and access to a community support network, drawing on fellow Ugandans or Jamaicans can be an uncertain and even dangerous act.

Gabriel, a young man from Jamaica, came to the United States in January of 2015, arriving in New York's La Guardia airport in shorts and a t-shirt. A friend met him at the train stop and

rode into the city with him. This train ride was a critical moment for Gabriel. It was his first time within a country where he thought he could be himself openly and seemingly free of danger. Unfortunately, it was also this train ride where Gabriel was harassed for being gay. He recounted that, to his surprise, a group of young men started yelling hateful things at him and he was forced to switch trains to avoid further harassment or harm.

Gabriel left Jamaica in order to avoid such kind of public humiliation and fear. He recounted that every kind of move, facial expression, or type of clothing worn was self-policed back in Jamaica:

“If you make a certain face then they will call you gay, if you wear these clothes, then they will call you gay, if you hang out with the wrong people, then you’ll be labeled gay. And if you’re gay, they will send a mob out to get you.”

Fortunate to avoid any direct harm himself, Gabriel left Jamaica aware of how close he was to being violently harmed. A few months before he departed for the United States, his close friend and confidant was killed because of his sexual orientation. According to Gabriel, this act of violence was the turning point for him: he suspected that it was inevitable that he, too, would be subjected to such kind of rage if he stayed in Jamaica.

Gabriel entered the United States on a visitor visa that was valid until the middle of April and throughout this period of time he continued to self-police his sexual orientation and identity as a gay man. Over the course of four months he moved around within his network of Jamaican diaspora in the New York City metropolitan area. The day before he was scheduled to return home, he connected with Immigration Equality and began the filing process for asylum instead of boarding his return flight.

Immigration Equality suggested to Gabriel to contact the Worcester-based Task Force for assistance during the filing process. Worcester, initially a surprising and less urban environment, was ultimately an attractive place for Gabriel because, as he put it, “There is belonging among other gay Jamaicans in Worcester... And you can couch surf with other asylum seekers and feel a sense of compassion.” Such a community allowed Gabriel to find a greater sense of security but his process of negotiating identity was not over.

When asked about engaging with the Jamaican diaspora in Worcester and the Boston metropolitan area, Gabriel’s expression of caution was obvious. He explained that the diaspora are dangerous and to engage in mainstream Jamaican community events was either an exercise in going back in the closet, or invited harassment. Gabriel’s experience feeling unwelcome among diaspora in the United States was not unique and was mentioned in all interviews that were conducted. Exclusion from the wider diaspora community in the United States is isolating and fundamentally changes the need for resources among LGBT asylum seekers.

A Citizenship Paradox among LGBT Asylum Seekers in the United States

Marked by legal challenges, social exclusion, employment vulnerability and potentially harmful treatment from diaspora communities, LGBT asylum seekers face a citizenship paradox that is rooted in gaps in protection within US immigration policy. The basic premise is that as an asylum seeker embraces his or her sexual orientation or gender identity in a new country, there is an expansion of an ability to be one’s authentic self with an associated restriction of other, basic rights and privilege such as employment and housing security.

For instance, consider the experience of Cathy, a young woman previously living in Uganda. She lived for a decade hiding her sexual orientation, but during this time she was able to receive an education, participate in the political system, and benefit from a range of civil, political and social elements of formal Ugandan citizenship. As she grew older, she increasingly found it difficult to feel included in her social groups and her family forced upon her the importance of marrying a man. She knew the danger in coming out as bisexual to her family would bring social exclusion and likely physical harm. One day she was offered a trip to the United States through her university and she pursued the opportunity to travel.

Once in the United States, Cathy applied for asylum based upon her sexual orientation and began the application process. Once submitted, she entered a long period of waiting and while she was able to be out in her new community, she could not go to school, be employed, or drive a car. Eventually winning a work permit due to the lengthy period between her application and an asylum hearing, Cathy was able to start to have a part-time job and enroll in a training course. Thirty months after arriving in the United States she was granted refugee status.

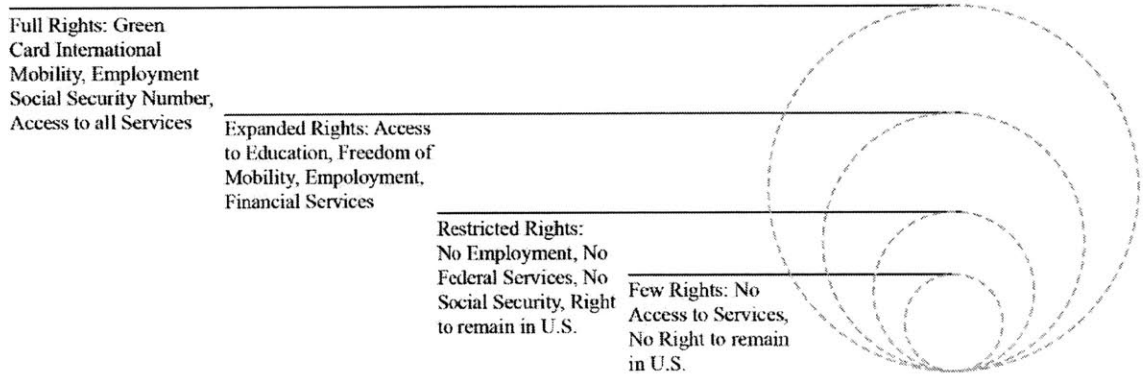
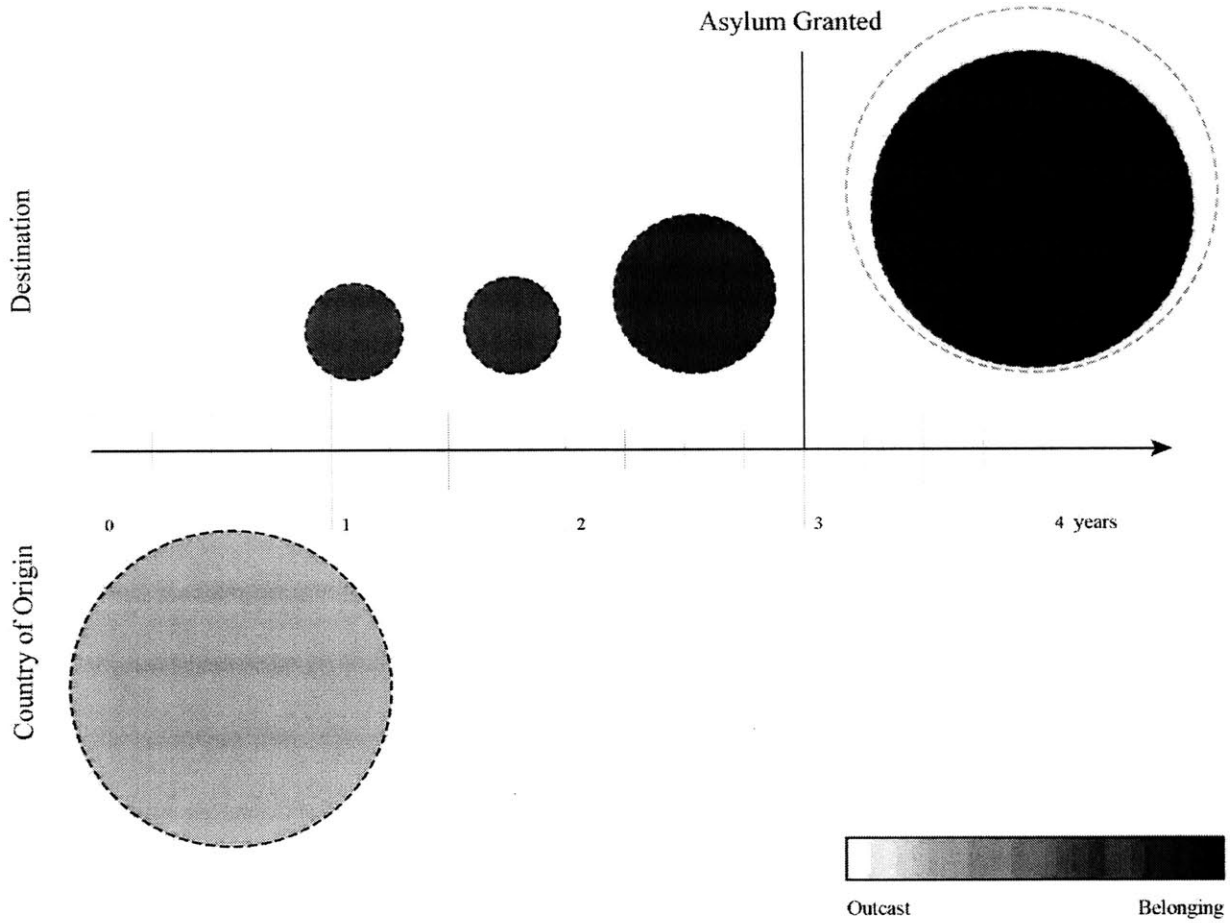
During her asylum period, Cathy was surprised to learn that she did not have protection from being fired from her job, or being kicked out of her leased apartment due to her sexual orientation. The vulnerabilities of being openly gay at work and with her landlord necessitated another phase of keeping her sexual orientation hidden.

After the process of being granted asylum: What kind of citizenship could Cathy hold? Will she ever fully hold the kind of Marshallian civil, political, and social elements of citizenship that were envisioned by the western minds that drafted the Convention on the Status of the Refugee and laid the foundation of laws and policies around citizenship and asylum?

The United States is rife with violations of a host of international human rights and protections. These violations and limits to social welfare in the United States are not, however, a complete negation of a Marshallian ideal of social citizenship. Rather, the

In the next section, I argue that Cathy, and other LGBT asylum seekers inhabit a novel space of transnational citizenship where identity is pragmatically negotiated and communities formed within and around normative institutions and narratives.

Model 2: Facing a Paradoxical Path towards Citizenship



06 LGBT Asylum and Contested forms of Citizenship

LGBT Asylum seekers face a challenging path toward gaining Marshall's conceptions of more formal elements of civil, political, and social citizenship. As the previous chapter illustrates, U.S. asylum policy does not lend to a sense of citizenship belonging during the asylum process or even once formal, legal citizenship is obtained. Normative understandings of sexuality and gender leaves LGBT asylum seekers on the fringes of formal institutions, especially those providing essential social services during the asylum process. Negotiating within and adapting to this normative institutional environment often requires a mutable expression of one's identity, and I argue supports a transnational sense of citizenship that characterizes LGBT asylum seekers' experiences in the United States.

Beyond Normative Institutions

By making the case that the LGBT asylum seekers exemplify a kind of transnational citizenship, I am not categorically denying the importance of the rights and protections (or lack thereof) associated with more formal, institutionalized citizenship. After all, asylum seekers should fundamentally want to remain outside of the national boundaries and jurisdiction of their countries of origin for fear of systematic persecution. T.H. Marshall's notion of citizenship and the United States immigration system remain important for understanding the complexities of citizenship and belonging within a post-industrial nation-state. The aforementioned challenges within that system and the extended waiting time for LGBT asylum seekers to advance towards formalized citizenship creates a void in which LGBT asylum seekers – skillfully and brilliantly –

express non-normative kinds of citizenship belonging, exposed through the pragmatic use of identity and the establishment of transnational communities of support.

Queer migration scholars have, for decades, argued that bureaucratic institutions of capitalism uphold normative definitions of bodies, desires, movements and belonging (Murray 2014: 137). The challenges faced by LGBT asylum seekers reflect the normative understanding of sexual orientation and gender identity that is pervasive within the systems of laws and regulations governing international migration and domestic resettlement. As previously exposed, LGBT asylum seekers face a U.S. immigration system that is only beginning to recognize the complexities and characteristic experiences of LGBT asylum seekers and refugees, especially regarding the denunciation of stereotypes and assumptions concerning the outward appearance of one's sexual orientation or gender identity (Gruberg et al. 2014; Author's Interviews 2015). And, even as formal citizenship may be an ultimate goal, protections against discrimination based upon sexual orientation do not exist in most states and are a daily concern for U.S. citizens and asylum seekers alike, particularly related to securing housing and employment (ACLU.org 2015; Author's Interviews 2015).

Beyond the U.S. government's immigration system, nongovernmental organizations are only beginning to address the needs of a growing population of LGBT asylum seekers searching for a new home. The Worcester-based Task Force is one of a handful of organizations with the explicit goal of assisting LGBT asylum seekers in the United States. Volunteers of the Task Force go in and out of stereotypical notions of what it means to be gay or lesbian, alongside proclamations that "all are welcome" and "let everyone be themselves" (Author's observations 2015). LGBT asylum seekers often may find themselves in contradictory situations, too. In one moment they may be embracing a neoliberalist, consumption-oriented world of "gay-friendly

spaces” after a pride event; then, weeks later, defending a non-normative, culturally-specific notion of what it means to be a trans person in Jamaica (Author’s Interviews 2015).

The ability to raise funds for the expansion of nongovernmental organizations to support LGBT asylum seekers in the United States is affected by this normative representations of sexuality and gender identity as well as the exploitation of experiences of torture and discrimination. In an interview with a couple of Jamaican asylum seekers, they noted that only those who have good stories to tell and are comfortable talking to large groups are put in front of the microphone at events. And, in such a case, often heart-wrenching details are shared. In another experience, an asylum seeker participated in an interview for a local news source and shared information about his forced marriage back home. He never referred to his children’s mother in an affectionate way, and his portrayal of leaving his “wife” alone with children could have been perceived as insensitive or sexist. Ultimately, this honest portrayal of this man’s situation could reflect poorly on the Task Force and alienate much-needed support from local donors (Author’s Interviews and Observations 2015).

The normative, often exploitative, narrative around LGBT asylum seekers among nongovernmental and charitable organizations is a narrative of persecution where the asylum seeker is framed as a victim of oppressive foreign governments and societies⁹. In so doing, the asylum seeker is valorized as the lucky one that escaped such violence and is now in the United States where the excesses of capital and strong networks of community support will provide a flourishing new home for the victim, even if the federal government will not. But, in between the lines are complex stories of leaving heterosexual relationships and families behind; of fluid

⁹ Author’s personal observations of the Worcester-based LGBT Asylum Support Task Force and through a review of websites and organizational material associated with nongovernmental organizations working for LGBT asylum seekers.

sexualities and identities that may result in an opposite sex partner in the United States; of individuals that need ongoing psychological and physical assistance due to torture and abuse; or, of quiet, well-educated individuals that never experienced abuse but fled home knowing it was imminent. These stories highlight the diversity of experiences within the LGBT asylum community that -- when faced with the need to raise funds through provocation of a donor's emotions -- are seldom told.

The normalization of the LGBT asylum experience is, in part, a product of the lack of formal policies and intuitions that are specific to LGBT asylum seekers. As a result, one may confuse transnational citizenship as a globalized, normative concept of a gay, lesbian, bisexual, trans or queer identity. I propose that this is not the case, but rather that the normative narratives of sexuality and gender identity highlight a void of rights and protections for LGBT asylum seekers. This void is significant across civil, political and social realms and creates a sense of difference whereby transnational elements of citizenship belonging are established. And, within this space is a form of transnational citizenship that is composed of countless identities and communities.

The Pragmatics of Identity among LGBT Asylum Seekers

Exploiting different traits of one's identity to cope with resettlement is not a new concept. Liisa H. Malkki (1995) described the concept of the "pragmatics of identity" in her ethnographic research regarding camp and town Hutu refugees in northern Tanzania as a result of the Rwandan genocide. She argued that in a camp setting, refugee status tended to be valorized within a homogeneous setting of collective refugee identity, that is was "the central and constitutive feature of the Hutu refugees' consciousness, the symbolic core of their lifeworld"

(Malkki 1995:153). She found that by contrast, the refugees that lived in towns did not share the same enthusiasm for refugee identity and expressed a “series of different identities in preference to a primary self-definition as refugees” (Malkki 1995:157-158). Malkki’s study provides an important example of resettlement patterns: two different types of identity formation that were depended upon surrounding communities and geographies.

While my study is not a comprehensive ethnography of a specific group of LGBT asylum seekers, there are obvious overlaps with Malkki’s notion of the pragmatics of identity among asylum seekers in central and eastern Massachusetts. Identifying as an asylum seeker, especially within the progressive, religious context of the Task Force, is a method of finding critical employment, receiving cash, and securing housing assistance during the asylum process. To return to Lucy’s experiences living in the Boston metropolitan area, she began living in shared housing among other Ugandan immigrants in a building owned by an American with Ugandan heritage. Lucy did not know whether or not her housemates or the landlady would accept her and she eventually moved out of this living arrangement and into a house with a small group of LGBT Ugandans who also lived nearby.

Lucy’s decision to leave her apartment was not just an escape, it was an effort to move into a living arrangement that was more comfortable for her to express her sexual orientation among friends who shared her experiences of learning to live in the United States as Ugandan LGBT people. She also simply preferred dancing and hanging out with her friends at home rather than living in a place where she had to self-police her sexual orientation and hide her girlfriend from her housemates and landlady.

Other asylum seekers interviewed in this study shared stories of shifting or hiding their sexual orientation or gender identity in an effort to keep a part-time job, or get along with their classmates. For example, Brian chose to stay closeted in most of his daily interactions at work and in university. He confidently explained to me that he does not talk about what he does at home or who he dates, except within a small group of trusted friends and acquaintances. And, this small group of people was largely composed of other LGBT people coming from Jamaica and seeking asylum in the United States.

In another case, an asylum seeker – frustrated by having to negotiate when to be out as a lesbian or when to pretend she was straight – proclaimed that, “Worcester isn’t really that different from Kampala. I want to get out of here and go someplace where I can be me.” Her daily acts of governing how she talked, who she talked to, and what she did was exhausting. Her struggle is placed within the challenges of seeking asylum that have been previously outlined. At each part of the day – at school, on the bus, at work, or out in a public place – she, as an LGBT asylum seekers, had to fluidly adapt her identity to conform to a normative world and the associated safety normality provided. The nature of seeking asylum for LGBT people in the United States does not instill much confidence in a world that is not a heteronormative one.

Malkki suggests that these “signs of [pragmatic] identity can, be considered a form of de facto naturalization. For if the use of a given identity was convincing, if it worked, its user was in effect taken to be a citizen” (Malkki 1995:171). For LGBT asylum seekers, expressing multiple identities as it relates to sexual orientation and gender is not an act of assimilation into a formal system of laws and policies, it is rather the reflection of discomfort with a normative system of laws and policies and, consequently, the creation of an alternate mode of transnational citizenship belonging.

LGBT Asylum Seekers and Transnational Spaces of Belonging

The definition of community during the asylum process is in part spatially linked to safe spaces and culturally connected to holding on to the values, language, and familiarity associated with one's country of origin. What we have seen concerning the mutability of identity across space and time among LGBT asylum seekers supports the notion that citizenship belonging may not be something that evolves from civil, political and social understandings of belonging, but rather is transnational in nature and is constantly negotiated.

Contemporary scholars of migration argue that transnational citizenship is increasingly important for immigrant communities (Leitner 2008). As Lietner (2008: 45-46) notes, “[immigrants] no longer break ties with their home country and must be thought of as ‘transmigrants,’ developing and maintaining multiple economic, social, and political relations in both home and host societies.” Migration scholars, though, largely neglect to draw the link between place and the kinds of transnational citizenship that forms, especially among people that have left their home because of their sexual orientation or gender identity.

Discussion around the importance of space, place and LGBT identity has been widely researched, often using capital cities as a dominant case study with young, gay men at the center of such discourse (Bell & Valentine 1995, 2000; Bondi 1998; Hemmings 2002; Knopp 1998, 1995; Podmore 2001). In the suburban spaces of the Boston metropolitan area and within a third-tier city such as Worcester, the geography of sexuality is markedly different from such dominant discourse.

Over the summer and fall of 2015, I attended Task Force community meetings held in the basement of an old congregational church in Worcester, Massachusetts. The space was alive with several dozen Caribbean and African LGBT asylum seekers; all learning from one another and communally having a meal together. It was loud, with a lot of joking, hugging and storytelling. But, after completing more interviews, it became clear that these energetic, communal evenings were coordinated to create a sense of community that – for a couple of hours once a month – existed uniquely in the basement of the church.

On a daily basis, there were repeated references to divisions among LGBT asylum seekers along the lines of their countries of origin. One Jamaican asylum seeker recognized the division between Jamaican and Ugandan asylum seekers as a significant one, noting that, “We [Jamaicans] need each other to be normal.” He went on to say, “The only time we [Jamaicans] hang out with Ugandans is when we have organized Task Force stuff to do”. Other asylum seekers noted that the divisions were not hostile, but that they were well defined among different regions of the world. Volunteers who help find housing for asylum seekers noted that they try to keep people together from one country of origin or region. Asylum seekers associated with the Task Force consequently built communities based upon the country or region from which they fled.

The phenomenon of building community within an LGBT friendly sub-group of diaspora was common but not universal. For instance, Charley, an asylum seeker from Uganda, ended up in the Boston metropolitan area and after a few weeks was given an offer of assistance from the Task Force. As a policy of the Task Force, he was asked to move to Worcester to live in order to receive support. This meant he would have to move about an hour’s drive away from where he was residing. The community that supported Charley in the Boston area was so important to him

that he turned down the free shelter and stipend from the Task Force. According to Charley, the thought of setting up a new social network in Worcester was too much work and he risked losing the friendships he already established (Author's Interviews, 2015).

The Task Force community meetings and Charley's experience suggests that the initial placement of LGBT asylum seekers is an important element to community formation and transnational citizenship through the formation of different kinds of versions of belonging. In Charley's case, he valued the essential support that he received from his community in the metro Boston area while remaining somewhat disconnected physically from other Task Force supported Ugandan LGBT asylum seekers. The complex community and social relationships both *within* the group of asylum seekers and *between* asylum seekers and a critical support network such as the Worcester-based Task Force suggests that transnational communities are dependent upon both the type of institutional support that is provided to LGBT asylum seekers, and the diaspora communities from which they feel a sense of transnational citizenship belonging.

This sense of transnational citizenship is not linked to a habitual physical crossing of national boundaries, but rather is concerned with the formation of enclaves of closely-knit LGBT Ugandans, Jamaicans, Iranians, and other sub-diaspora LGBT communities within another nation state. Transnational citizenship in this sense, then, is not defined by wire transfers, phone calls, or e-mails sent across national borders, but is rather a transnational sense of citizenship belonging that is formed and reified within a select group of LGBT asylum diaspora outside of their countries of origin. It is within these living rooms, bowling halls, or church basements where LGBT asylum seekers form a sense of citizenship belonging that is purposefully Jamaican or Ugandan, but only possible within the borders of the United States.

07 Conclusion

For LGBT asylum seekers in the United States, the notion of gaining formal status as a refugee and ultimately U.S. citizenship is often a long, challenging process. An extended waiting time for asylum adjudication exasperates gaps in protection within an overall system of laws and policies that lean toward heteronormative – often unwelcoming or discriminatory – definitions of sexual orientation and gender identity. As shown in chapter 5, these challenges include:

- *A legal system with limited resources* for LGBT asylum claimants that leans toward heteronormative and stereotypical understandings of sexual orientation and gender identity.
- *Insecure tenure and a threat of homelessness* are common among LGBT asylum seekers in the United States. This situation is comparatively made more challenging through the often precarious relationship between LGBT individuals and their network of diaspora living in the United States.
- *Social services that are hard to access* and often nonexistent nondiscrimination policies leave LGBT asylum seekers on the fringes of society, reliant upon a very small network of support, like that of the LGBT Asylum Support Task Force in Worcester, Massachusetts.
- *Socio-economic benefits of diaspora communities are often absent* for LGBT asylum seekers. This creates a situation where the informality of shared resources and social support offered within many immigrant communities is limited or non-existent for LGBT asylum seekers. Consequently their needs for a range of assistance are acute.

As such, these hurdles are not simply administratively remedied. They are meaningful conditions that restrict rights and ultimately a fundamental sense of citizenship belong. The resulting paradox of citizenship that is unique among LGBT asylum seekers is based on the idea that as more formal citizenship nears; LGBT asylum seekers and refugees continue to face discrimination within American society: in employment, housing, healthcare, and other social services and public spaces. This differential between an LGBT person and heterosexual person leads one to question if formal U.S. citizenship is ever truly gained by an LGBT asylum seeker.

Accordingly, I argue that we *can* challenges formal notions of citizenship belonging among LGBT asylum seekers who are caught between oppressive and unequitable formal institutions. Drawing from existing migration theory and citizenship studies, I claim that LGBT asylum seekers may form identities and communities that exhibit the following unique transnational characteristics:

- (1) For LGBT asylum seekers, expressing multiple identities related to sexual orientation and gender is not an act of assimilation into a formal system of laws and policies, it is rather a coping strategy to the discomfort within a normative system of laws and policies. And, as a result a contested kind of transnational citizenship belonging is formed.
- (2) The complex community and social relationships both *among* LGBT asylum seekers and *between* asylum seekers and critical support networks such as the Worcester-based Task Force suggests that transnational communities are affected by: a) the type of institutional support that is provided to LGBT asylum seekers, and b) the diaspora communities from which they feel a sense of transnational citizenship.

For LGBT asylum seekers in the United States, citizenship – both in a formal or transnational sense – is ultimately contested. While the relative safety to openly live as an LGBT person may be greater in the United States than an asylum seeker’s country of origin, U.S. civil, political and social institutions are not capable of providing equal rights and protection to out LGBT asylum seekers. In the next section, I look forward and outline four policy priorities to start making the path toward citizenship easier and more equitable for LGBT people.

Policy Provocations for a New Asylum

Policies help formalize and explain social contracts between citizens, or in this case, asylum seekers and institutions. Both during the asylum process and after receiving U.S. citizenship, LGBT people are not sufficiently protected against discriminatory treatment based upon their sexual orientation or gender identity in the United States. As a result, I have claimed that they are comparatively disadvantaged in a range of situations from housing security to employment (Tabak & Levitan 2014). These conditions are particularly salient related to policy and planning reform (Gruberg et al. 2014; Doan et al. 2015).

I recognize the institutional perturbations that mar the path towards formal citizenship to not fully define citizenship. As I have argued, citizenship among LGBT asylum seekers is also transnational in nature, resulting in not just policy shifts, but necessitating wholly new policy development. As a final provocation, I propose a series of considerations for policy reform concerning LGBT asylum seekers in the United States. These considerations are meant to be illustrative and to encourage further discussion among policy makers and community actors regarding LGBT asylum seekers’ experience of citizenship in the United States.

(1) Expanded Legal support and resources should be provided for LGBT asylum seekers.

How can LGBT asylum seekers find the legal resources need to build a successful case if they are not in a major metropolitan area? How can LGBT asylum seekers more easily be connected to experience legal aid? While Immigration Equality provides excellent, successful representation for hundreds of claimants, demand for their services cannot be met. A host of options such as law school training clinics and fellowships to help expand capacity among the legal community, or reimbursable rates for legal fees for LGBT asylum seekers in order to access assistance beyond pro bono services.

(2) Greater resources should be targeted specifically for the LGBT asylum seeker and refugee community.

Is the extended time for asylum applications an administrative annoyance? Or is it fundamentally altering the way citizenship is conceived and LGBT asylum seekers and refugees sense of belonging in the United States? If the USCIS continues to require LGBT asylum seekers to wait years for an asylum adjudication within an unsupportive and discriminatory system of social services, employment, housing, and legal representation; then, there must be a call for more resources devoted specifically to LGBT asylum seekers in the United States.

(3) A comprehensive study of LGBT asylum seekers and refugees should be immediately commissioned.

Should LGBT asylum seekers be grouped together to provide support to one another across lines of national or regional origin? Or, should sub-groups of LGBT-friendly diaspora be encouraged at a policy level? Without policies specifically targeting LGBT asylum seekers or survey data regarding the needs and desires of this population,

questions regarding appropriate resettlement communities are unanswerable. There should be a concerted effort through public institutions, civil society organizations, and the academy to gather data on LGBT asylum seekers and refugees in the United States.

- (4) Public outreach and awareness of the experiences of LGBT asylum seekers and refugees should be widely disseminated.

Are LGBT asylum seekers, once in the United States, fundamentally safe? Do they enjoy gay-friendly spaces and neighborhoods? The normative assumptions around LGBT identities and communities can hinder the efficacy of the response by government service providers and charitable organizations as they seek to meet the needs of LGBT asylum seekers (Kelly et al. 2014). There should be widespread recognition and education regarding the mythology of LGBT people and communities, including the tendency for stereotypical, American-centric ideals of what it means to be LGBT.

While these questions are certainly not exhaustive of the important policy considerations for LGBT asylum seekers in the United States, they are meant to act as a starting point for further policy advocacy, research, and reform.

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Author's Interviews and Observations

Author's Interviews, 2015: is inclusive of in depth interviews with asylum seekers; interviews with LGBT organizational volunteers; and participant observations at LGBT asylum events, including advocacy events associated with the LGBT Asylum Support Task Force.

*When reference to primary data collected by the author is obvious through the context of the narrative, specific reference it is not included.

Annex 01: Images of Public Engagement



Photos taken in Worcester, MA at Gay Pride. Task Force volunteers and a several dozen LGBT asylum seekers and allies marched to bring awareness to both the persecution of LGBT people in 76 countries and the conditions under which LGBT people must seek asylum in the United States.

Annex 02: Organizing & LGBT Asylum Policy Advocacy

Associated with this research were two advocacy-oriented engagements in which I became involved that deserve mention because they indicate both the evolving nature of this research and its use for policy advocacy:

First, in the fall of 2015, the LGBT Asylum Support Task Force requested assistance in developing a policy brief on housing security among LGBT asylum seekers in the United States for the United Nations Special Rapporteur for Adequate Housing, Ms. Leilani Farha.

The Policy Brief was developed with volunteers of the Task Force and submitted to Ms. Farha in November of 2015. The document called for a series of policy changes to be discussed among members states regarding the right to housing among LGBT asylum seekers in the U.S.

Second, the Task Force, over the course of the fall of 2015 and winter of 2016, set out to establish an independent 502(c)3 nonprofit entity to pursue policy advocacy related to seeking asylum on the grounds of sexual orientation or gender identity in the United States. I am currently serving as a founding member of this new organization and aim to use this research as a springboard for developing future surveys and policy advocacy campaigns to champion more equitable treatment of LGBT asylum seekers both in the United States and globally.

Annex 03: Sample Interview Protocol

Interview Schedule 1: LGBTI Refugee Experiences

The following interview questions are largely unstructured and aim to uncover deeper information about the lived experiences of the LGBTI migration process as a whole with a particular focus on resettlement in the destination country. This interview structure was modified as needed, and as appropriate with multiple, in-depth interview session with respondents. Questions are illustrative.

Service Provision: In this topic I will be interested in exploring the way services are received, the periodicity of meetings with service providers, and what is particularly challenge about access to services.

- Could you explain to me how you receive services from this organization?
- How often do you meet with staff? Is this enough time? Why/why not?
- What is the most challenging part of your ability to get services to live in the United States?

Expectations/Challenges: On this topic, I am interested in learning more about the meaning of resettlement, about expectations, desires, and experiences. I will explore how this may have changed over time and attempt to illicit some reflection on the migration journey thus far.

Community and Place: Related to this topic, I am interested in learning more about what community means – socially, spatially, and personally – to being formulating the various kinds of community that are experienced by LBGTI refugees in my geographic area of interest.

Interview Schedule 2: Organizational Structure and Service Provision

The following interview questions are semi-structured and aim to uncover deeper information about rational behind organizational structures and processes; and interactions between organization staff and LGBTI refugees.

Organizational Structure/Policies

- Does the organization have a Vision, Mission, and or objectives? If so what are they are how were they established?
- Does the organization have a code of ethics, and/or conduct?
- What types of policy and programmatic structure is in place to work with LGBTI refugees?
- How were these policies and practices defined?
- What kind of outreach was completed to learn about the challenges faced by this populations?
- What there a method of engagement that was used? What kind?

Beneficiary Interactions

- Could you describe to me the process of working with an LGBTI refugee, from referral/identification, to end of service?
- How often does your staff meeting with Refugees?
- In what setting are meeting held?
- How are employees tracked?

- How are beneficiaries provided a sponsor and services?
- Do beneficiaries have a say in what types of services they receive?
- Is there an evaluation process built into your agency's service provision? When is it delivered?

Challenges and Perceptions

- What are the major challenges you see for your organization?
- And, for LGBTI refugees and asylum seekers, what do you see as major hurdles for accessing services?
- How do you think these challenges can be overcome?

Community and Planning

- What types of communities are LGBTI Refugees encouraged to be a part of and/or form?
- Are there certain places in this area that LGBTI Refugees want to live? Why?
- Do you think that it is safe for LGBTI Refugees in _____? Why or why not?
- What kind of freedom of mobility do your beneficiaries have? What is the major mode of transportation?
- In your view, is there a place in _____ that you encourage LGBTI refugees to go for fun? Why?
- What, in your opinion, would be the ideal resettlement situation for LGBTI refugees? Why?