

Not Queer Enough: Challenges of LGBT Credibility and Identity in US Asylum

by

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ABSTRACT

Though LGBT people have been able to seek asylum in the United States since the '90s, they still face a multitude of challenges upon arrival in the US as well as in their application process, leaving an air of uncertainty for many whether they will be successful in their cases. This thesis seeks to understand these challenges and how they relate to the perception of identities of LGBT asylum seekers, especially as it relates to Western stereotypes of gender and sexuality. To examine these issues, this thesis includes in-depth interviews with four officials who work closely with asylum seekers to incorporate their input on the asylum system as a whole and how the system impacts LGBT asylum seekers. Based on the analysis of court cases and supplementary qualitative data, this thesis aims to reveal the implications of relying on “consistency” as evidence of credibility based on the stereotypes and how this can harm LGBT asylum seekers as well as others outside of the LGBT community. Finally, this thesis proposes an intervention to alleviate these challenges not only for those in the LGBT community but for everyone seeking asylum in the US and suggests a new framework for how to understand and communicate identities of asylum seekers without limited definitions of their sexual identities or stripping them of autonomy.

DEDICATION

This thesis is written in memory of my late father. No, I am not a doctor yet.

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INTRODUCTION

As of 2023, there are 67 countries reported that actively criminalize homosexuality through laws that prohibit sexual and romantic relationships between people of the same sex and persecute them through the measures of punishment, such as the death penalty (Human Dignity Trust 2023). This number does not include every country that currently has policies in place targeting the LGBT community, or where LGBT people face violence at far higher rates than their straight and cisgender counterparts (Widra 2022; Flores, Langton, Meyer, and Romero 2020), or the countries that queer people frequently experience homophobia in their daily lives. If we consider all of these forms of discrimination and violence against LGBT individuals, the number would be much higher. In this context, many LGBT people face threats and are in danger living in their home country, pushing many of them to seek safety abroad to avoid being punished for their sexuality or gender identity.

Fleeing persecution and violence, thousands of LGBT people seek asylum each year. Though it is impossible to know exactly how many LGBT asylum seekers there are worldwide, one study estimates that there were over 30,000 asylum seekers identifying as LGBT who applied in the United States between 2012 and 2017 (Shaw and Verghese 2022). However, this does not mean that all of 30,000 individuals who applied for asylum on the basis of fleeing persecution for their gender or sexuality, or that they were successfully granted asylum. This thesis aims to critically examine the challenges that are uniquely faced by LGBT asylum seekers petitioning in the United States, prevent them from being granted asylum, and threaten them to return to their countries of origin.

As a graduate student self-identified as queer, during my study, I have noticed severe lack of curriculum that focus on experiences of LGBT individuals across disciplines. This is not necessarily the fault of individual faculty, course, or department, but it rather reflects the general absence of LGBT stories in academia. While there have been studies on migration examining the experiences of asylum seekers, they are often limited to those of gay men or trans women and fail to include the wide range of identities that the broader LGBT community encompasses including those who might identify themselves as non-binary, bisexual, or other identities. These identities are often overlooked within the LGBT community as gay men and trans women have become more prioritized as representative of the entire LGBT identities. My aim in this thesis is to bring to light the journeys of the queer asylum community and examine how their identities are perceived in order to understand how their experiences are shaped by both their queerness and their position as asylum seekers.

In this sense, my thesis examines the following questions concerning the experiences of LGBT asylum seekers in the United States: What are the challenges faced by LGBT asylum seekers during the application process? How do the perspectives of people working within the immigration system (e.g., immigration judges, lawyers) impact the case outcomes for LGBT asylum seekers? How do the differences between Western understandings of sexual and gender identities and other cultures affect LGBT asylum seekers' own identity? These questions enable us to critically engage with the theoretical and cultural understandings of identity and problematize the perspectives of the United States asylum system toward LGBT identities in general and the way they lead to misunderstanding toward the cases of LGBT asylum seekers. This critical engagement is

necessary in order to suggest tangible solutions to improve the experiences of LGBT asylum seekers and asylum seekers in general in the US immigration system.

Background and History of Queer Asylum in the United States

The United States has a long history of immigration policies written to limit who may enter the country and who must be denied entry. Among the exclusionary policies of the twentieth century, the Immigration Act of 1917 targeted immigration from Asian countries, but included specific provisions to ban individuals with mental and physical disabilities (Equal Justice Initiative, n.d.; Luibheid 2007; Steggert, n.d.). This alone excludes LGBT migrants due to the labeling of homosexuality as a mental disorder at the time of the law passing. However, further restrictions were included in this act banning “people with criminal records or suspected of being involved in prostitution” (Equal Justice Initiative, n.d.).

Considering such historical criminalization of homosexuality, and the fact that far more countries had policies criminalizing homosexuality in the twentieth century than they do now, anyone with criminal charges relating to sodomy or same-sex relations would be banned from immigrating to the United States. Additionally, accusations of “prostitution” have been and are continuously used against the LGBT community. Even today, trans women report being harassed by police officers for allegedly being sex workers, no matter what they are doing in public, which is unsurprising considering the historical dual targeting of the queer community as both sex workers and societal deviants (see Carpenter and Marshall 2017; Khan 2020). Although the term homosexual was not explicitly mentioned in the Immigration Act of 1917, other words like “mental

illness, criminal, and prostitute” were associated with and weaponized against the LGBT community.

The practice of using these terms to exclude LGBT migrants without outright banning the LGBT community continued until the 1950s. In 1952, the McCarran-Walter Act, also known as the Immigration and Nationality Act, was introduced, further attacking the right of migration for people with mental disorders (Luibheid 2007; Long, Stern, and Francoeur 2006). This time, clarifications were made after seeking the opinion of the U.S. Public Health Service to determine who could be included in this category. Although the act did not explicitly state that homosexuals were banned from immigrating to the United States, “homosexual exclusion was rolled into the provision that barred entry by psychopathic personalities” (Luibheid 2007). Despite the absence of homosexuality in the policy, there was a legal assumption that LGBT individuals are clearly in “mental disorder.” However, in 1965 the act was amended to specifically ban the migration of “sexual deviants,” explicitly targeting anyone who did not identify as heterosexual or cisgender (Steggert, n.d.; Long, Stern, and Francoeur 2006). This ban would stay in place for 25 years.

Beginning in 1990, the ban on LGBT migration was silently lifted, although this did not change the ban put in place in 1987 that prevented anyone who was HIV positive from immigrating (Steggert, n.d.; Long, Stern, and Francoeur 2006). However, in the same decade, members of LGBT community from foreign countries gained the right to seek asylum in the United States as long as they could prove they had a fear of persecution as a member of a “protected social group,” an official category used by the

United States Citizenship and Immigration Services (USCIS) to determine eligibility (Cory 2019; Steggert, n.d.).

Although these LGBT migrants and asylum seekers are now protected from automatically being excluded from the possibility to immigrate to the U.S., they still face other obstacles. Despite the Obama Administration lifting the HIV ban in 2009, HIV-positive LGBT migrants still face discrimination at the border where they are prevented from accessing life-saving care and expelled to their country of origin (Human Rights Watch 2022). Upon investigation, Human Rights Watch found that there were many LGBT asylum seekers who were HIV positive and were denied access to life-saving treatment, or who feared disclosing their status to immigration officials due to imminent mistreatment. Though there are no bans or restrictions in place deliberately targeting the LGBT community or people with HIV, the hostile and stigmatizing practice against them at the border (and throughout the process) is still prominent.

More importantly, in order to qualify for asylum as a member of a protected group, they must prove beyond doubt that they identify themselves as “truly” queer and as part of the LGBT community and that they will face persecution for this membership if they return to their country of origin. The trend has shifted from having to completely disprove (hide) one’s LGBT identity in order to get asylum in the United States to clearly proving one’s belonging and membership in the queer community, even though successfully doing so still does not guarantee protection.

Significance of Research

Although asylum seekers applying on the basis of sexuality or gender identity realistically represent only a fraction of general populations seeking asylum in the U.S., which was estimated 3,900 applications filed between 2012 and 2017 (Conron and Luher 2021), understanding the challenges they face as a result of their identities is still significant. By critically examining the reality of seeking asylum for members of the LGBT community outside the U.S., one can better understand the gaps in scholarship of migration, where LGBT migrants are often invisible or forgotten in academic discourses, activism, and the asylees themselves. Even when LGBT migrants are included in literature, their experiences are often oversimplified or misrepresented as only a few subgroups, such as gay men and trans women as mentioned earlier.

Though queer asylum seekers must navigate legal systems and policies based on both their queerness and their status as migrant, the complexity of their identities has not been sufficiently explored in contemporary migration literature. However, recognizing the experiences of any asylum seekers and how they are granted asylum is meaningful because asylum is a human right, as defined in the Universal Declaration of Human Rights (Blazer and Hoepfner 2022). All individuals have the right to seek asylum and to have their case heard regardless of their national origin, sexuality, race and ethnicity, among other backgrounds. If the cases of LGBT asylum seekers are not evaluated without bias for any reason, then they are not fairly given the opportunity to exercise this right. In fact, it leads to fear and distress of being denied entry for all asylum seekers due to the ambiguity on their perceived identity with which these decisions are being made. A

broken asylum system for a certain group of individuals (such as LGBT asylum seekers) is a broken system for everyone.

Arbitrarily refusing asylum to anyone based on their sexual identity is also a violation of more than just the right to asylum, since they will be forced to return to their country of origin where they previously faced persecution and will again be at risk of violence. This is especially true of LGBT asylum seekers who have already struggled with not only persecution from government bodies or policies, but also exclusion from their families and communities as well. This makes it all the more crucial to understand the barriers that stand in the way of LGBT asylum seekers and how to dismantle them.

Purpose and Structure of Thesis

Prior to my thesis project, I have known two queer asylum seekers and learned about their experience seeking asylum in the U.S. through academic and work settings. While there are many factors that influence their experiences and life as LGBT asylees, I wanted to further explore the ways in which the perception of identity impacts the cases of LGBT asylum seekers. This thesis utilizes data I gathered from four in-depth interviews conducted in 2022 in addition to archival research and secondary cases from scholarly literature, news media, and institutional reports. Based on these materials, I argue that the way we conceptualize one's "identity" that consists of both perceptions of ourselves and others, deeply impacts how immigration courts and experts process the cases of LGBT asylum seekers, whose access to asylum depends on the validation of a core part of their identities.

In addition, the language used in Western contexts that is ascribed to LGBT asylum seekers from around the world is inadequate and contributes to the misunderstandings around and suspicion of LGBT identities. Even my own use of the acronym LGBT and the label queer as umbrella terms to refer to asylum seekers may not fully reflect those who may have never used these terms to define themselves. This can of course create inaccurate and problematic representation. With this in mind, I use these terms carefully due to a lack of a better phrase to reflect foreign asylum seekers who do not conform to sexual and gender norms in our society. It is therefore important to note that their LGBT identities are not always translatable to or interchangeable with our common assumption (indeed there is no accurate way to describe people in this category without asking each asylum seeker how they identify). For the time being, the LGBT acronym is useful in that it has the potential to help asylum seekers concisely explain their identities in a way that fits the definition of a particular social group in the immigration system.

The following chapters will explore the ways in which LGBT asylum seekers are challenged and met with suspicion in the US asylum system. Chapter 1 discusses the various narratives of suspicion surrounding their identities and how such perceptions are present across multiple social situations, from asylum courts to non-profit organizations and LGBT community spaces. Chapter 2 articulates the emphasis on consistency in storytelling and testimony that is used to measure credibility in LGBT asylum cases. Lastly, Chapter 3 critically examines the problem of concepts LGBT identities and terms to define the asylum seekers that rely on Western-centric discourses and biases. Finally, in conclusion, the thesis outlines a brief framework suggesting positive solutions for

discussing LGBT identities in immigration courts and the language used to describe people with these identities, as well as how the challenges facing LGBT asylum seekers should be addressed in US asylum cases.

METHODOLOGY

This thesis relies on two main structures in terms of materials used: interview data and related literature. Through careful library research and interviews with selected lawyers and persons working with asylum seekers, especially those with close personal relationships to asylum seekers. In addition to peer-reviewed journal articles, I utilize reports from non-profits and organizations that work closely with asylum seekers, as well as media and news reports discussing current events and issues facing the LGBT asylum community. Synthesizing information from these materials, I examine the issues faced by LGBT asylum seekers and the connection between these issues and authority figures in the immigration system. With this approach I critically assess the structural power that the experts and persons with authority by revealing their perceptions and conceptualization of others' identities.

For this thesis, I conducted semi-structured interviews with four participants, guiding them through both open-ended and focused questions while also allowing flexibility for them to expand on the areas they interpreted as most important. Recruitment for the four participants interviewed consisted of limited snowball sampling where one immigration lawyer connected me with others who also worked with LGBT migrants and asylum seekers. My interview questions were related to their work in the asylum system and their experiences working with LGBT asylum seekers. This led to some interesting discussions where participants felt they were able to open up more about their personal lives and connections to asylum seekers in a less rigid setting.

Following IRB approval, the interviews were conducted between June and September of 2022. All interviews were conducted via Zoom video calls to protect the

health and safety of both my interviewees and myself, and to allow greater flexibility in scheduling for participants. Participants were asked to sign a consent form prior to interviewing, and each participant agreed to have their interview recorded using Zoom's recording capabilities. The interview recordings were then stored using ASU cloud storage, accessible only to myself and my thesis chair upon request, as noted with IRB approval. All of the interviews were conducted in English and then transcribed by me. I coded the data according to the recurring themes and patterns noted in the responses between each participant in relation to their thoughts on the asylum system and their experiences working with LGBT asylum seekers. My original expectations were that interviews would last at least an hour, but interviews lasted between 30 and 60 minutes each. Participants in this study were not given any incentive to participate or sit for an interview.

In total I interviewed four participants, including three immigration lawyers and one employee of a non-profit that works closely with migrants in detention. Three of these participants were local to Arizona and one worked in Washington, DC. Two participants identified as queer. Initially, I planned to interview immigration judges, USCIS employees, as well as a larger pool of immigration lawyers to obtain a broad scope of perspectives relating to queer asylum. However, after several attempts to get in contact with the Tucson and Phoenix immigration judges from the list I compiled using TRAC Immigration's database, I was unable to get in touch with this population for interviews. Additionally, after reaching out to more than ten immigration law firms and organizations with pro bono immigration attorneys, I only received a few responses, the majority of which fell through due to personal complications on behalf of the lawyers.

The interview questions were composed with three general categories in mind. The first section asks questions to understand the identities and perceptions of identities from each participant. Second, I designed questions to understand participants' general knowledge and opinions on the asylum system and their work within it. Lastly, I asked questions focusing on their knowledge of LGBT asylum and the challenges faced by LGBT asylum seekers. Analyzing and coding the data from these interviews led me to identify several patterns and challenges in LGBT asylum seeking, including the call for consistency as a measure of sincerity in the asylum system.

A CRITICAL EXAMINATION OF LGBT IDENTITIES IN IMAGINED “STRAIGHT” COMMUNITIES

In recent years, there has been growing attention on the rising numbers of LGBT asylum claimants coming to the U.S. Media outlets such as NPR, Human Rights Watch, and Border Report have showcased stories of queer migrants enduring hardship and traveling in caravans from Central America in hopes of finding acceptance in the United States after fleeing persecution in their communities (Romo 2018; Rivera 2022; Human Rights Watch 2022). At the same time, the media has also reignited public debates and concern that it may be too easy for these migrants to apply for asylum (North 2019) and that many abuse the system in the U.S., especially by claiming LGBT identities in order to qualify.

This double-sided media representation shows a distinct lack of awareness of the credibility measures in place to prevent people from being granted asylum, and the extreme difficulty LGBT asylum seekers face during the application process. To prove the credibility of their case, asylum seekers must pass credible “fear interviews,” which refers to a type of screening and validating procedure that expects LGBT individuals to effectively demonstrate their reasonable fear of persecution should they have to return to their country of origin (Steggert, n.d.). For LGBT asylum seekers, this means providing evidence of their sexuality or gender identity that makes them a target for persecution. More importantly, they are expected to do so in an “acceptable” manner, which also means that their LGBT identity must be contextualized and translated in the norms of the U.S.

To apply for asylum, LGBT claimants rely predominantly on their own personal testimony as evidence in their cases. They must outline their cases in great detail, retrieving the trauma they experienced and proving they have “legitimate” membership to the LGBT community. Despite the intensity of this process, there is still a great deal of suspicion surrounding whether or not LGBT asylum seekers are really telling the “truth,” and whether they are in immediate need of support from service providers (Jakuleviciene, Bieksa, and Samuchovaite 2012; McGuirk 2018). Given these suspicions toward asylum-seeking LGBT claimants and the tenuousness of relying mostly on personal testimony, it is important to consider how preconceptions of what it means to belong to the LGBT community impact the handling of LGBT asylum cases as they pass through the hands of government officials, immigration judges, and other service providers. In fact, what these service providers – a combination of state and non-state actors – assume to be a valid representation of someone in the LGBT community has substantial impact on whether or not they consider the testimony of the claimant to be credible. Therefore, the cases of LGBT claimants depend largely on the perceived identities attributed to them by others, rather than how they define themselves and understand their own identities.

Conceptualizing Identity in the Context of “Imagined Communities”

To define the concept of identity and how the identities of others are understood and interpreted in theory, I draw on the works of Benedict Anderson, Akeel Bilgrami, and Henrietta Moore. These theories demonstrate not only the way in which we define and perceive the various identities of other people, but also how such perceptions are used to determine who should be excluded from the “imagined” community, such as

nation-states (Anderson 2006). In this context, I argue that the core of asylum and immigration systems in the United States is also based on the similar practice of identity formation. Identifying key traits of others in comparison to one's own opens up the possibility of exclusion based on those same traits and characteristics.

Determining the outcome of an asylum seeker's case is the equivalent of determining whether they should be welcomed into the imagined community of the nation-state. In *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Benedict Anderson (2006) defines what it means for someone to exist as a part of an imagined community, arguing that the nation-state is one such example. The nation-state is where thousands of people who have never met each other in real life feel unified under a common identity through shared symbols and ideologies created and promoted by their national entity. Through consuming the same media, engaging with the same symbols and common cultural motif, a bond is formed between complete strangers who happen to have been born in the same country.

Asylum seekers engage directly with the imagined community of U.S. citizens where, although the government officials and service providers working on their case have not met every single person in the United States, they must determine if claimants should be allowed to enter this imagined community based on the credibility of their cases and other characteristics. This decision impacts group membership to the imagined (homogenous heterosexual, in this case) community in two ways. First, it has a tangible impact on whether or not an asylum seeker is legally a part of the United States, since successful asylum applicants eventually gain a pathway to citizenship and the ability to petition for their family members to migrate (American Immigration Council 2022).

Second, it impacts their new imagined belonging to the U.S. nation-state, which allowed them to form relationships with the prominent cultural symbols that contribute to the meaning of what it is to be a member of the United States. By consuming media and news coverage from the perspective of U.S. media outlets, they can also be gradually and successfully integrated in the imagined community of the nation state, where these stories are shared by all members as a common ritual that reifies their sense of national belonging.

The way in which actors in the immigration system evaluate the identities of asylum seekers can be contextualized in Bilgrami's theories on identity. According to them, each person has multiple identities, which are the product of the interactions between one's subjective and objective identities (Bilgrami 2006). A person's subjective identity can be defined as "what an individual [you] conceives oneself [yourself] to be" whereas an objective identity is "how one [you] might be viewed independently [by others] from how one [you] sees oneself [yourself]" (Bilgrami 2006, p. 5). In other words, subjective identities are how we see ourselves internally, while objective identities are assumed of us by others, or conversely what we assume of others. Although Bilgrami does not expand on what parameters are used in how one views others, one somewhat obvious measure would be someone's appearance. Additionally, these subjective and objective identities are so intrinsically linked that it is impossible to know whether one identity is fully internal or external. The way others perceive us directly impacts how we see ourselves, and how we present ourselves according to our own self-perception can certainly influence how we are perceived.

Despite this complex nature of identity, immigration officials tend to rely on physical appearance when evaluating the identities of LGBT asylum seekers, expecting that their “objective” perceptions will provide an accurate understanding of the internal perceptions of identities among those applicants. However, the interaction of both objective and subjective identities as well as other factors constantly shape and reconfigure these perceptions, which can never offer a complete and holistic understanding of who someone is. In addition to the relationship between multiple identities, language also shapes and alters identities significantly. Anthropologist Henrietta Moore (2007) questions whether language can ever fully articulate someone’s experience or identity. With the question of whether “personal experiences and self-understandings [could] arise ex nihilo, outside the available social and cultural discourses,” there are very plausible identities that exist within the LGBT community and other communities that we do not have the language to articulate or describe (Moore 2007, p. 27). However, without clear terms and language to identify them, LGBT asylum seekers are even more outside of the norm of the imagined community of the nation-state, because their identities do not conform to a clear-cut heteronormative standard.

Because of their sexuality and gender identities that are situated outside the homogenous heteronormative imagined community, LGBT asylum seekers are arguably considered to be even more of a threat to the nation-state than immigrants in general. Their exclusion due to their violation of what’s considered the norm is rooted in the belief that LGBT individuals directly undermine values of family, traditional gender roles, and religious belief (Mole 2017). These values are, as shown by Anderson (2006), key to the formation of shared identities and a sense of belonging in the imagined

community that is the nation state. In a similar vein, this is related to why LGBT asylum seekers face persecution in their countries of origin to begin with. Due to the threat they pose to nationalism and a shared, desirable national identity, LGBT asylum seekers are targeted very deliberately for their sexualities and gender identities that are seen as abnormal.

The restrictions in place that challenge how successful an LGBT asylum seeker may be in their application for asylum are a prominent display of sovereign power. Immigration officials, including judges and others working alongside them, use their authority to determine who has the right to asylum, but in doing so they are also essentially exercising their sovereign “right to kill” (Oksala 2013). Asylum seekers who do not meet the requirements put forth by the U.S. immigration system are turned away and deported to their countries of origin where they are likely to once again face persecution, and even death. The requirements and how these measures are enforced, particularly in relation to the identities of members in particular social groups like the LGBT community, are explored in the following chapter.

PROBLEMS OF CONSISTENCY & CREDIBILITY

For LGBT asylum seekers, their challenges in seeking asylum are rooted in the nature of their asylum claim as members of a particular social group. Like all asylum seekers, they must provide proof of persecution to demonstrate that their claim is valid. However, acquiring adequate documentation that demonstrates their gender or sexuality is incredibly difficult and problematic (Magardie 2003). Documentation is limited to letters of support from friends and family, which may not be an option for LGBT individuals who are hiding their identities for their safety. Alternatively, photos of asylum seekers at celebrations and marches for the LGBT community could be used to contribute to their case, but this puts them in a dangerous position where they must publicly be out. Although the issue of procuring evidence may also be the case for claimants seeking asylum under different circumstances, not just those in the LGBT community, their evidence is focused primarily on the persecution they face based on their sexual identity, which is an internal aspect of their identity (self-perception) as opposed to religious or political belief that can be more readily verified by other members in those groups.

LGBT asylum seekers do not typically have strong evidence proving their sexuality because it would be nearly impossible to have “official” documentation stating such, outside of letters of support from friends or partners which would also be difficult to obtain while fleeing persecution. Due to a lack of physical evidence that is considered to indubitably prove their gender or sexuality, LGBT asylum seekers are frequently forced to rely on their own personal testimony as their primary evidence. From an official, governmental perspective, this raises concerns for whether they are being “truthful” in their claims since their official documentation is limited at best. Making a

claim for asylum as a member of a particular social group also means proving affiliation and membership to that group. Unfortunately, for LGBT asylum seekers, “the perceptions of credibility can be affected by the fact finder and previous knowledge that decision makers have about queer issues” (Participant C, immigration attorney). The measures of credibility in asylum cases are certainly hindered by a general suspicion of LGBT claimants and an insufficient, problematic understanding of LGBT identities in general.

To mitigate the falsification of cases, there are certain criteria used to determine whether or not claimant’s testimony is valid and credible, although these are by no means standardized to ensure accuracy or precision across cases. Some notable methods that have been used to determine asylum seekers’ sexualities in different countries include Rorschach personality tests and phallometric tests that measure arousal of individuals when exposed to straight porn (Jansen and Spijkerboer 2011; BBC 2018; BBC 2010). In the case of phallometric tests, the subject is determined to be gay if they are not aroused – measured by blood flow to the genitals – by exposure to straight porn. Tests as invasive as this contribute to the harm that asylum seekers face when seeking protection in the United States. These tests have since been deemed unreliable or inappropriate for use on asylum seekers. These methods were likely attempts to find some infallible method for determining one’s sexuality or gender identity, indicating an overall lack of understanding when it comes to the LGBT community. Ultimately, according to extensive library research and personal communication, the most predominant way immigration officials decide the extent to which a case is credible today is by evaluating the consistency of the asylum seeker’s story.

Consistency typically refers to how much information in someone's testimony remains the same throughout the process of applying for asylum (Participant A; Participant B). Not all immigration lawyers or officials agree that consistency is an effective measure of whether or not an asylum seeker's case has merit. However, as the NGO staff member (Participant A) states, they acknowledge that they "have to look at credibility that way because that's how the judge is going to look at credibility and that's how the asylum officer is going to look at credibility." Therefore, they have to ask their clients, "What have you told these other people and has it been consistent?" According to this argument, asylum seekers have to tell the same story from when they reach the US border and speak with an agent, to when they are interviewed by USCIS officers and when they communicate with their lawyer regarding their case. Any variability between the details they share with different officials on their case can raise a red flag as far as whether or not they are being truthful with the USCIS officers, lawyers, and judge assigned to their case.

Unfortunately, whether an asylum seeker's testimony and documentation remain the same throughout their case is not always up to them as there are a number of factors that could interfere with "consistency" of their story. For example, someone responsible for managing their case (e.g., USCIS officers, CBP officers, lawyers) could alter details, making the paperwork conflict with their personal testimony. As a result, it is possible to find significant gaps in the given story of LGBT asylum claimants throughout the processes since the initial story could have been changed, edited, and altered. More importantly, traumatic experiences could make it difficult for an asylum seeker to recount every detail of their personal testimony repeatedly and accurately, or the way they

identify may shift upon arrival making their case look tenuous and inconsistent. In sum, demanding consistency and looking for “facts” presented in paperwork filed deem to be an impossible job.

The issue of “inconsistency” depends on how various actors involved in their case handle their duties and responsibilities as officials in the US immigration system. One might think that for officials who take consistency and credibility so seriously in the context of the asylum system, they would regard their duties with the utmost importance. However, according to Participant A during the interview:

That’s not always the case, specifically with CBP [Customs and Border Protection] officers and when they have their reasonable and credible fear interviews... specifically I’m thinking of statements that [asylum seekers] give officers when they’re first detained, sometimes they’re completely wrong. Sometimes officers just copy and paste information from other people and it’s like obviously wrong. (Participant A)

Even if an asylum seeker has given the same testimony at each stage of their case, these narratives may be flagged as incorrect or as lies simply because an officer earlier in their case provided inaccurate information on their documents. An example provided by an NGO staff member was that officers might write someone’s country of origin as Venezuela, when the asylum seeker is actually from Mexico (Participant A). Egregious errors such as this can do a lot of damage in someone’s case as their lawyers work to show that the asylum seeker is truthful and that the conditions in their country of origin are dangerous for them as a member of the LGBT community.

The measure of consistency also refers to how well the personal testimony matches with what’s known about the general living conditions in the asylum seeker’s country of origin, which can also be damaging to the case if officials rely too heavily on

published reports and policy without understanding the lived experiences and personal knowledge of asylum seekers. For instance, even in the United States where there are official laws in place protecting the right of same-sex marriage, many queer and trans people in the US still face harassment for who they are (Human Rights Watch 2021). Often, country reports given on the conditions for the LGBT population in a country are not nuanced enough to provide accurate depictions of everyday life for the queer community. This was very effectively highlighted during one interview in particular, where a participant who works as an immigration lawyer representing asylum seekers described their experience defending a transgender client from Mexico:

ICE [Immigration and Customs Enforcement] had provided a bunch of informational articles on Mexico, trying to paint Mexico as this wonderland for the same sex community. They were saying okay, Mexico is great for this transgender person because they now allow gay marriage or one of the police chiefs down in Mexico City is openly gay... Why does gay marriage have any applicability to the fact that my client is transgender and has been raped and beaten and discriminated against? (Participant B)

ICE intended to present a country report on Mexico that conflicted with the testimony provided by the trans asylum seeker, where they could demonstrate that contrary to the claimant's fear of persecution, Mexico is safe and hospitable for its LGBT population. Despite the country report on Mexico technically being accurate concerning the legalization of same-sex marriage, ICE failed to acknowledge that the legalization of same-sex marriage does not ensure safety for transgender people, or others in the queer community for that matter. For example, Mexico has one of the highest indexes regarding crime that is motivated or linked to transphobia (Martínez-Guzmán and Johnson 2021). Despite laws allowing gay marriage or representation of the LGBT population in

government positions, transgender people in Mexico are in as much danger as they were before these policies were written. In this sense, the argument that explicit policy or presence of gay people in high positions ignores the day-to-day violence faced by trans and queer individuals that is not represented in official reports.

Immigration officials also apply the norm of consistency to what is known about a particular social group compared with how an asylum seeker presents themselves and their testimony. For example, some scholars claim that LGBT asylum seekers will always have a common thread between their testimonies, something that each LGBT asylum seeker will have in common, making it easy to weed out those who do not fit such assumptions or stereotypical images. In this case, asylum seekers can easily be suspected as not being truthful about their sexuality or gender identity. An immigration attorney in McGuirk's study stated on a panel to an audience of other immigration lawyers, USCIS employees, and researchers that all LGBT asylum seekers have a personal coming out narrative (McGuirk 2018). Implicit in this is that if someone does not have a clear narrative of their "coming out" experience or an explicit memory of when they realized they were queer or trans, then they can be considered lying.

McGuirk critically notes that such an idea is problematic, especially since the attorney acknowledges the harm in using stereotypes and generalizations in identifying the credibility of LGBT asylum seekers. However, the author does not explicitly elaborate on how the expectation of this coming out narrative is likely perpetuated by Western media and understandings of the LGBT community in a heteronormative culture (McGuirk 2018). As one immigration lawyer noted, the perception of credibility of asylum seekers is very much at the whim of those handling their case and their

knowledge of queer rights and issues facing the queer community (Participant C). The belief that all LGBT asylum seekers must have a commonality between them and more or less behave in the same way, such as a personal coming out narrative, enables those in power to demand consistency not only in someone's personal testimony but also between testimonies of people migrating in the LGBT community.

In conjunction with the fact that consistency is based on assumptions about the general LGBT population, country reports can also be damaging to the testimony of LGBT asylum seekers because officials can use this data to argue that LGBT asylum seekers can "choose" to be safe in their countries through careful management of their social appearance. However, this seems to be based on a belief or misunderstanding that sexuality and gender identity can be concealed while also maintaining a quality of life, and that this is something that all people with LGBT identities are capable of doing. Even if conditions in one's country of origin are dangerous and inhumane for the queer community, meaning they face strict punishment from the government for being gay or transgender or obvious persecution in other forms, these conditions are seen as unproblematic if the court believes that the asylum seeker could easily hide their identity (Topel 2017). The main argument is that if someone does not appear visibly gay or transgender "enough" - according to stereotypes known to court officials - then the asylum seeker can easily conform to the heteronormative standards of their country of origin, thus facing no immediate danger and removing their need for asylum.

Although the argument of "just blending in" can be used against anyone not conforming to the stereotypes for their sexuality or gender, such as a gay man who is not effeminate or a lesbian woman who is not masculine, bisexual asylum seekers face this

barrier frequently due to the nature of how they experience attraction. Bisexuality in general is often misunderstood, even within the LGBT community, creating precarity for those seeking asylum in a court system. While it can mean different things to different people who use this label, bisexuality broadly refers to someone's capability for attraction to two or more genders, but it is frequently stigmatized as a label people use to seek attention or to mask promiscuity (Blum 2021). When officials already have limited understanding of what it means to experience sexual attraction outside of heteronormative standards, it is clear that LGBT asylum claimants who are bisexual can face even more restrictive and biased treatment in their case throughout the process. Because they experience attraction differently than either lesbians or gay men, officials often argue that bisexual asylum seekers can and should simply hide their identities by choosing to belong in a heterosexual relationship, concealing the other "half" of their sexuality (Klesse 2021). As a result, bisexuality as an identity is considered inconsistent with what courts recognize as a vulnerable sexual identity, placing these asylum seekers in a position where they are far less likely to be granted asylum for not conforming to the expected binary - gay or straight.

In a similar manner, anyone with a sexuality or gender identity that is fluid rather than static and unchanging is immediately placed under suspicion, threatening their credibility. Unsurprisingly, it is not too uncommon for an asylum seeker to make it to the United States and realize they may identify differently than they did before leaving their country of origin (Shidlo and Ahola 2013). After escaping persecution and finally entering a place of relative safety, it makes sense that asylum seekers would have more time and would be in a better position to explore aspects of their identities previously

unknown to themselves. Even members of the LGBT community with vastly different life experiences from asylum seekers go through periods of time where they discover new labels that better their sexuality, or where they experiment with how they identify to see if they like expressing themselves in different ways.

However, immigration officials managing the cases of asylum seekers understand sexuality and gender identity to be non-changing, and unfortunately “The fluidity of sexuality and gender is just something that’s completely foreign to the courts” (Participant C). This leads to officials placing LGBT cases under greater scrutiny, both when their identities are disclosed at a later point in time and when conditions seem to develop sur place, or after they have left their country of origin (Jakuleviciene, Bieksa, Samuchovaite 2012). Under normal circumstances, a queer person can of course suddenly announce that they would like to use different pronouns or that they are attracted to a different group of people. However, due to the extreme lack of an understanding around the queer community in immigration, anyone not conforming to a very fixed stereotype of the LGBT community is going to be accused of lying or lack of seriousness.

For LGBT asylum seekers, these shifts in identity can come both from being in a safer space to explore their identities and from being exposed to new languages and terms in different cultural contexts that might better emulate how they feel compared to language they previously used in their home communities. They might know they feel one way or another, but not know how to articulate in the way that make sense to officials or simply what certain terms mean as one participant explained:

They [LGBT asylum seekers] don't know that actually if you feel like you're a woman you can be a woman! So I have a lot of these identity shifts where they say gay man in their credible fear interview and now they say trans woman. Then I have ICE attorneys be like well why'd you say you were a gay man at the border?! Now you say you're a woman. Are you just dressed up like a woman so you can get asylum? (Participant C)

The accusations of immigration officials are somewhat contradictory, because a gay man is still just as eligible for asylum as a trans woman and would have no reason to change this aspect of their identity just to improve their odds, especially when trans women will face many of the same barriers and challenges to their credibility as the rest of the LGBT community. Though these shifts in identity and subsequent language uses are not actually indicative of a fraudulent case, the inconsistencies they create still damage the credibility of LGBT asylum seekers in the eyes of the immigration officials handling their cases.

Technically speaking, it would be fairly easy to lie about one's gender or sexuality to gain asylum given this reliance on personal testimony, which is a common concern for immigration officials in a number of countries (North 2019; Department of Justice 2023; Rainey 2017; Schaps 2020). These concerns are not necessarily unfounded, but they are over exaggerated given how few people realistically lie about their identities to gain asylum. It is impossible to give an exact percentage of how many people are fraudulently applying for asylum claiming to be queer due to the lack of statistics surrounding LGBT asylum as a whole, but the presence of these few independent cases in major news headlines contributes to the illusion that it is a widespread, frequent occurrence, again damaging the credibility of all LGBT asylum seekers.

In the United States, there was a recent case regarding an immigration law firm whose attorneys were allegedly helping their clients fabricate cases and documents to

seek asylum as members of a particular social group (Department of Justice 2023). In the Netherlands, immigration officials uncovered a group of individuals helping Ugandan asylum seekers create and rehearse testimonies to claim asylum as members of the LGBT community (Schaps 2020). Although cases such as this exist where lawyers or other actors help migrants to develop personal narratives to appear gay, they are incredibly rare and are not representative of all LGBT asylum seekers, though they do draw suspicion to LGBT asylum seekers who are telling the truth.

One thing these recent events have in common, is that each fraudulent case would have initially passed the credibility checks in the asylum process because the narratives were incredibly consistent. Note that the Ugandan asylum seekers were specifically trained to tell a story following a template of sorts that would help them pass as LGBT. In this case, consistency is used against the very officials who require it of asylum seekers as a measure of credibility. With the limited understanding that immigration officials in different countries have of what it means to be a part of the LGBT community, it is easy to formulate the perfect case of a queer person fleeing persecution as long as they meet all of the criteria: adhering to gay stereotypes in appearance and mannerisms, never being with anyone of the opposite sex, having a clear point when they realized they were queer, being “visibly” or “explicitly” queer.

In this sense, consistency means nothing when it can be (ab)used to create a “false positive” in the system and for someone to successfully gain asylum status by pretending to be typically gay or transgender. Even if these cases are rare, immigration officials judge that they happen frequently enough to discredit the credibility of all asylum seekers who claim membership in the queer community. Now, immigration officials can argue

that consistency in someone's case is evidence that their testimony is overly rehearsed while simultaneously requiring consistency as one of their only "reliable" methods of testing someone's credibility regarding their sexuality. This only demonstrates that consistency is a poor measure of whether or not someone is telling the "truth."

In theory, consistency as a criterion for credibility makes sense as an effective way to determine whether someone is reliable, especially under circumstances where there is not a lot of physical evidence that could be provided to corroborate their testimony. If someone's testimony (or language) is shifting at different points of their case proceeding, the simplest answer is that they have concocted a story too complex to accurately tell over and over again to USCIS officers, immigration judges, and others involved in their case. However, there are a number of reasons that could explain seeming inconsistencies in testimony that do not mean an asylum seeker is lying about their case. Failure of ICE to gather an accurate and representative country report concerning the conditions for LGBT people will create inconsistencies in an asylum seeker's case. It is not surprising that someone's identity shifts from one label to another when they arrive in a safe place and therefore creates inconsistencies in their testimony. The falsification of documents by immigration officials will create inconsistencies in someone's testimony and thus, consistency is far too weak and limited as a measure to accurately demonstrate whether someone's case is credible.

CHANGING THE ASYLUM VERIFICATION SYSTEM

LGBT asylum seekers face extreme barriers blocking their access to asylum, despite both being fully eligible for asylum and that asylum is a human right. Immigration officials who already have a limited understanding of and bias against the local LGBT community in the United States struggle to comprehend what non-cisgender and non-heterosexual identities can look like for people from other cultures with different perspectives on gender and sexuality. Judges and related immigration officials do not necessarily receive training that educates them to understand or handle LGBT cases appropriately as their focus is immigration as a whole.

This narrow grasp on queer identities and experiences leads to suspicion and doubt towards anyone not matching a stereotypical depiction of a gay man or a lesbian from the American standard, where they are argued to be undeserving of asylum to avoid persecution. Because these barriers are intrinsically tied to the external perception toward the queer identities of asylum seekers, eliminating them would take an extreme overhaul or even abolition of the current immigration system in the United States. This is in fact the course of action I believe to be necessary to help not just queer asylum seekers but all other asylum seekers and migrants, although it is a long-term goal. A more immediate solution is needed for the asylum seekers who are readily sent back to their countries of origin where they will again face persecution from their families, communities, and government because officials in the United States did not believe they looked or acted gay “enough” to be telling the truth.

While it would be nearly impossible to educate all immigration-related officials and authorities on how LGBT people should be spoken to and treated respectfully, it

would still be helpful to reframe our cultural conceptions of queer identities. Providing a framework for people to consult with in terms of how to engage with LGBT asylum seekers and others may be a temporary solution but it would have a lasting impact on how LGBT asylum seekers are perceived.

Currently, immigration officials working on LGBT asylum cases, and even nonprofit employees engaging with the LGBT community, make a lot of comparisons between queer asylum seekers and the stereotypes of gay and transgender people that they have been taught about in American context. Subsequently they determine whether someone is “really” gay or transgender by how much they match these stereotypes or expectations (McGuirk 2018). Although a lot has changed in the last decade or so with how LGBT people are represented in media, many stereotypes of what someone in the LGBT community should look and act like are still prevalent. For example, many people still stereotype gay men as being more effeminate in nature, in addition to being well-dressed and well-groomed. (Madon 1997; Hicks 2020) This means gay men are often expected to dress more femininely or to have a higher tone of voice. Straight men who have these characteristics are also labeled as gay, simply for matching the stereotype.

In contrast, the common expectation for lesbians is that they must look and act more masculine than their straight counterparts. In particular, butch lesbians stereotypically sport denim jeans, leather jackets, and men’s haircuts that set them apart from their more feminine counterparts (Manders 2020). Undoubtedly, not all lesbians fit these descriptions, but there has been enough representation in media that women with short hair who dress a certain way are associated with the queer community (Medhurst 2022). This is evident in the case of a woman who travelled from Juarez, Mexico back to

her home in El Paso, Texas before the LGBT community was legally allowed to immigrate. When she was about to enter the United States, she was stopped for not identifying herself as lesbian despite wearing trousers and having short hair (see Luibheid 2007). These are classic examples of how stereotypes toward LGBT individuals (e.g., a masculine woman in this case) determine their identities as well as attribute to the inaccurate and unfair consequences.

Indeed, if an asylum seeker claiming to be queer does not match these preconceived notions of what an LGBT person looks or sounds like, they are automatically suspected as fraudulent applicants posing as gay or transgender. This is exactly what happened in the case of Jorge Soto Vega, a gay man from Mexico who applied for asylum to the United States in 2003. His judge denied asylum, arguing that his appearance and manner were not congruent with “anything of that nature that remotely approached some of the stereotypical things that society assesses to gays, whether those are legitimate or not” (Chorney 2004). Although Soto Vega was eventually able to appeal his case, this is just one of many cases where the stereotypes about LGBT people’s appearance and behaviors in the US are weaponized against asylum seekers not conforming to these ideals. In particular, gay men and others who too closely resemble masculine qualities are also at risk because they remind judges and lawyers of stereotypical perpetrators of violence in Central America and elsewhere (Frank-Vitale 2022). This puts nonbinary people and all other members of the LGBT community in a dangerous position if they stray too far from the stereotypes of femininity or masculinity assigned to their identities from the eyes of immigrant officials.

Immigration lawyers and organizations also tend to use overly sterile language that either confuses the meaning of how someone identifies or misgenders them in the process. One example is judges and lawyers referring to transgender women as “gay men with female sexual identities” in court (Cory 2019; Immigration Equality 2021). Social workers and others might even try to convince asylum seekers that how they have labeled their sexuality or gender identity is incorrect based on their presumptions of the LGBT community in the U.S. In one case, a social worker in Florida argued with a trans woman because they tried to label her as a gay man based on her testimony while she self-identifies as a straight, transgender woman (Avivi 2020). These practices, enabled by comparisons and assumptions based on preconceived ideas, can certainly be harmful to LGBT individuals because they not only challenge but also deny the very sense of “self,” one of the most important conditions of one’s identity (Bilgrami 2006).

Dismantling the mentality that immigration officials or social workers know more about the sexuality of an asylum seeker than even the asylum seeker themselves requires restoring agency and autonomy to LGBT asylum seekers. Western identities and labels for sexualities and gender identities may not suit asylum seekers fleeing persecution, they may come to the United States using different terminology to explain their experiences (Kahn and Alessi 2017). Instead of replacing these terms automatically, those working with LGBT asylum seekers, or anyone in the queer community, should give space to people to self-identify with terminology that is comfortable to them. Immigration officials who work closely with LGBT asylum seekers should also make an effort to learn terminology used by the LGBT community outside of the United States and respect the way these asylum seekers define their identities. This includes using literal translations of

identities into English or using words without exact translations but instead, incorporating LGBT claimant's own cultural, social, and political meanings and contexts.

Allowing LGBT asylum seekers to identify themselves in a way that is most comfortable for them is not a new framework by any means, there are already researchers and attorneys using this model when interacting with LGBT asylum seekers and others. When discussing the case of a transgender woman and her struggles coming into the US, researcher Yamil Avivi (2020) concisely articulates the active choices made between the researcher and the participant in tandem to continue to refer to the asylum seeker using he/him pronouns following a conversation with him prior to conducting research. Avivi's conversation with their participant centered how this participant was not yet comfortable with transitioning physically or socially, and therefore did not want to use she/her pronouns despite identifying as a woman.

Although it might be initially confusing to a reader to see someone identified as a trans woman fleeing persecution and misgendering being referred to with he/him pronouns, the author rightly prioritizes the way their participant feels for his safety and comfort. For other asylum seekers who do not know what they identify as, they might appreciate guidance as far as finding a word that seems to accurately represent how they feel. This might look like talking through their feelings to understand how they can present their testimony for their case instead of making assumptions or imposing labels on them. For instance, one immigration lawyer describes how they understand the identities of their clients:

I don't make that call, I let them tell me. And if they don't have the words for it then we sort of talk through it together and I ask them if a word makes sense to them based on how I understand it... I meet with a lot of clients from Central

America who have never been presented with the word “bisexual” and so they will tell me, you know I’m gay but I like trans women. Then I say, okay so in English we have this word called bisexual. And in Spanish bisexual and what it means is that you like men and women. And you can like men more than women and you can like women more than men, but it just means you like both.
(Participant C, immigration attorney)

This attorney does not force their clients to use one label over another but helps to provide more options for how they might wish to identify themselves and encourages by reaffirming that they have the freedom to choose how they identify themselves to others. Rather than making claims that based on what an asylum seeker has said they should identify as a gay man over a trans woman, this approach leaves it up to the asylum seeker and makes them more comfortable and open with the attorney working on their case. Even if the asylum seeker continues to identify in a way that might not be consistent with how LGBT identities are understood in the US, the attorney working with them allows *them* to use whatever terminology makes sense to them because it is *their* identity and *theirs* alone.

These are excellent examples of what it means to prioritize an asylum seeker’s agency in how they identify, as opposed to determining their identity for them based on stereotypes entrenched in our society. Although taking this approach will not automatically grant someone asylum who needs it, it can reduce the skepticism surrounding queer identities that often takes place when officials are trying to decide if someone’s case is credible based on whether they are really gay. Most importantly, it will allow LGBT asylum seekers to retain a sense of autonomy and agency, even while struggling through the sluggish and traumatic process of seeking asylum in the US.

CONCLUSION

This thesis has examined the ways in which LGBT asylum seekers are excluded from membership in the United States, as well as the apparatuses used in this exclusion during the asylum process. While fleeing persecution for their sexualities and gender identities, LGBT asylum seekers face barriers to asylum in the form of doubt and suspicion towards their identities that make it extremely difficult for them to win their cases in court. LGBT asylum seekers are often met with disbelief when sharing their testimony if they fail to meet the standards set in the U.S. asylum system to provide consistency that could prove they are credible applicants. However, these processes are not infallible and in fact, more often than not, create unnecessary barriers to seeking asylum for applicants that require safety and refuge.

In the long term, much more work is needed to create an asylum system that is safe and hospitable for people in the LGBT community. As it stands, the system further traumatizes LGBT asylum seekers coming to the United States to flee persecution and find community and acceptance. Rather than taking their testimony at face value and prioritizing their humanity, immigration officials target LGBT asylum seekers, accusing them of lying and cheating the system, or they tell them that if they could only hide their queer identities then they could live safely in their country of origin before deporting them. However, making these accusations and treating all LGBT applicants with this suspicion due to the few cases where straight migrants pretended to be queer or transgender defeats the purpose of offering protection to LGBT asylum seekers as a particular social group under asylum law.

While there are cases of individuals may deceive about their sexuality or gender identity to receive asylum, the presence of the cases discussed in this thesis tells us that people coming from other countries are in greater need of safety to the point where they feel their best chance is pretending to be a part of a community that is regularly targeted and harassed by those around them. To protect LGBT asylum seekers, the paradigm within the immigration system needs to shift from one of determining who is credible and who is not to one of offering protection regardless and prioritizing the humanity and safety of others. Restricting asylum to only those who are able to meet a set standard of proof regarding their sexuality or gender identity is incredibly limiting, as well as dangerous for those who do not fit cultural stereotypes about the LGBT community. Rather than requiring proof of identity to determine the credibility of a case, immigration officials may consider how an asylum seeker has been persecuted, per the basis of asylum itself. However, asylum itself should not be so focused on defending oneself, desperately trying to convince individual immigration judges that they are being truthful about their experiences. It should be focused on providing aid in a way that does not cause additional harm to people seeking safety simply because there are a handful of others taking advantage of the system.

Additionally, for a field where there are not enough officials familiar with the nuances of the LGBT community and the spectrums of identity contained within it, more work is needed to provide asylum seekers with people who have a greater understanding of these identities. With a system already put under stress due to constantly shifting immigration laws as well as politics and rising numbers of people immigrating to the US, the existing immigration officials are not enough to provide the support that is needed.

Currently, the determination of an asylum seeker's sexuality and gender identity is left to the same authorities determining whether or not they will receive asylum (Magardie 2003). These officials are trained very specifically to follow certain processes within US immigration law, not to understand what it means for someone to be queer. Let these officials continue to work in the capacity they have been trained for, especially lawyers who know what materials are needed to work with a judge for their client's case, because this is an important and necessary part of winning asylum for LGBT claimants (Rodriguez 2022). However, LGBT asylum seekers are also in need of support in the form of people willing to hear them speak about their experiences without the fear of how it will impact their case. They need people who can help them by listening, not imposing labels on them for the sake of making it easier to process their applications.

Ultimately, LGBT asylum seekers are excluded from an imagined "straight" community, the nation-state, due to the threats they supposedly pose to the homogenous community and its values. The asylum system works within the immigration system to determine who is worthy of protection and a pathway to citizenship, giving immigration officials the ability to exclude any asylum seekers that do not fit within the heterosexual norm of the nation-state. That said, longer term solutions need to focus not just on providing support for LGBT and all other asylum seekers, but on cultivating a sense of acceptance regardless of identity and abandoning the idea that consistency proves someone is worthy of protection.

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APPENDIX A
INTERVIEW QUESTIONS

- 1) How do you usually define your identity (as who you are)? What are the internal and external factors that influence your identity?
- 2) When considering the identities of others, how do you usually determine what groups or categories they may belong to? Do you consider others' identities in terms of personal, occupations, membership to groups, or in another way?
- 3) What is your current impression of the asylum system?
- 4) What is typically taken into consideration when determining the credibility of an asylum seeker's case?
- 5) How would you describe the demographic of asylum cases you work with? How has this changed over the years? This may include sexuality, gender identity, country of origin, or other categories you find relevant.
- 6) What is your general experience or understanding of the LGBT community?
- 6-1) Has your opinion about the LGBT community changed after getting involved in the cases of asylum seekers?
- 6-2) Are there any special cases you remember with LGBT asylum seekers in Arizona?
- 7) What led you to your current position as a _____?
- 8) What are the factors that impact on your decision whether or not to take on a case with an asylum seeker?
- 9) As an employee with the Florence Project/or law office, what is your relationship with other actors involved in the case of LGBT-based asylum seekers in Arizona or elsewhere?
- 10) In your opinion, what are the challenges faced by LGBT asylum seekers in the legal system?

APPENDIX B
IRB APPROVAL



EXEMPTION GRANTED

[Sangmi Lee](#)
[NCIAS: Social and Behavioral Sciences, School of \(SSBS\)](#)
602/543-6933
Sangmi.Lee@asu.edu

Dear [Sangmi Lee](#):

On 6/8/2022 the ASU IRB reviewed the following protocol:

Type of Review:	Initial Study
Title:	Not Queer Enough: Challenges of LGBT Credibility and Identity in US Asylum
Investigator:	Sangmi Lee
IRB ID:	STUDY00016000
Funding:	None
Grant Title:	None
Grant ID:	None
Documents Reviewed:	<ul style="list-style-type: none">• CCordwell_ConsentForm(Short).pdf, Category: Consent Form;• CCordwell_MA Thesis Recruitment Letter.pdf, Category: Recruitment Materials;• CITI Certificate, Category: Other;• FINAL Interview Questions.pdf, Category: Measures (Survey questions/Interview questions /interview guides/focus group questions);• IRB Protocol, Category: IRB Protocol;

The IRB determined that the protocol is considered exempt pursuant to Federal Regulations 45CFR46 (2) Tests, surveys, interviews, or observation on 6/8/2022.

In conducting this protocol you are required to follow the requirements listed in the INVESTIGATOR MANUAL (HRP-103).

If any changes are made to the study, the IRB must be notified at research.integrity@asu.edu to determine if additional reviews/approvals are

required. Changes may include but not limited to revisions to data collection, survey and/or interview questions, and vulnerable populations, etc.

REMINDER - - Effective January 12, 2022, in-person interactions with human subjects require adherence to all current policies for ASU faculty, staff, students and visitors. Up-to-date information regarding ASU's COVID-19 Management Strategy can be found [here](#). IRB approval is related to the research activity involving human subjects, all other protocols related to COVID-19 management including face coverings, health checks, facility access, etc. are governed by current ASU policy.

Sincerely,

IRB Administrator

cc:

Cailan Cordwell

APPENDIX C
CONSENT FORM

STUDY TITLE: Not Queer Enough: Challenges of LGBT Credibility and Identity in US
Asylum

I am a graduate student in the Social Justice and Human Rights program under the direction of Professor Sangmi Lee at Arizona State University. I am conducting a research study to examine how government officials and related experts working in immigration perceive asylum seekers based on their LGBT identity.

I am inviting your participation, which will involve about a 40-minute interview on your experience working with asylum seekers and the LGBT community. You have the right not to answer any question, and to stop participation at any time. Your participation in this study is voluntary. If you choose not to participate or to withdraw from the study at any time, there will be no penalty. You must be 18 years or older to participate in this study.

Your participation is valuable and contributes to a deeper understanding of the asylum process for LGBT migrants and knowledge on how the community can support them. There are no foreseeable risks or discomforts to your participation. This research will ensure full confidentiality based on the following measures: instead of using your name, a pseudonym will be assigned to your responses if they are discussed within the thesis. All other identifiable factors (such as your age, gender, and location) will not be disclosed but discussed limitedly to provide broader contexts of your overall answers. In addition to my thesis, the results of this study may be used in reports, presentations, or publications but your name will not be used but remain anonymous.

With your permission, I would like to audio record or video record this interview. Please let me know if you do not want the interview to be recorded; you also can change your mind after the interview starts, just let me know.

If you have any questions concerning the research study, please contact the research team at: ccordwel@asu.edu and Sangmi.Lee@asu.edu. If you have any questions about your rights as a subject/participant in this research, or if you feel you have been placed at risk, you can contact the Chair of the Human Subjects Institutional Review Board, through the ASU Office of Research Integrity and Assurance, at (480) 965-6788.

By signing below you are agreeing to be part of the study.

Name:

Signature: