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DESERVINGNESS AS TRANSNATIONAL REFUGEE GOVERNANCE: QUEER ASYLUM SEEKERS IN TURKEY

Abstract

This working paper scrutinizes the role of sexual orientation and gender identity (SOGI) in constructing a transnational matrix of deservingness through which migration authorities differentially and selectively allocate refugee status, refugee rights and resettlement spots. This working paper will also reveal two interconnected effects of the transnational matrix of deservingness; while the matrix gives those deemed deserving incentive to remain immobile in Turkey and construct 'legal' subjectivities recognized by transnational refugee governance, the matrix gives those deemed undeserving incentive to be mobile, searching ways out of Turkey since they could not construct their legal subjectivities.

Keywords: deservingness, governance, queer migration, queer refugees, refugeeness, Turkey

Undergoing refugee status determination (RSD) procedure in Turkey proves to be a matter of transnational governance because of Turkey's geographical limitation on the Convention Relating to the Status of Refugees (the Convention). The geographical limitation means that only individuals escaping from events happening in Europe¹ are eligible for refugee status defined by the Convention. Asylum seekers escaping from other geographies can apply for a liminal legal status called conditional refugee under international protection (conditional refugee).² Since the opening of its branch office in Turkey in 1960, the United Nations High Commissioner for Refugees (UNHCR) has had the mandate to conduct RSD for conditional refugees in close cooperation with the Turkish officials.³ With no chance to acquire permanent residency, conditional refugees can remain in Turkey until UNHCR resettles them to a third country.⁴ The resettlement scheme can function only if third countries such as the

USA, Canada, Australia, or the Nordic countries, provide quotas. While UNHCR decides on whom to submit for resettlement, each third country conducts its own RSD procedure within the borders of Turkey.

With its mandate over RSD and resettlement in Turkey, UNHCR has been able to utilize its own conceptualizations of what counts as a well-founded fear of persecution and its criteria for resettlement. That is, while in countries with centralized and national refugee governance UNHCR possesses mediatory and advisory functions, in Turkey UNHCR has had the mandate over determining who is deserving of refugee status, resettlement and services, creating transnational refugee governance enacted within the borders of Turkey. The most striking example of this transnational refugee governance is the existence of queer asylum seekers and refugees in Turkey. Although Turkey has no national law and social policy that recognizes sexual orientation and gender identity (SOGI) as a ground for seeking asylum, queer asylum seekers can register with the Provincial Directorates of Migration Management (PDsMM) and remain in Turkey. This contradiction is made possible because UNHCR officials followed UNHCR's directives to recognize SOGI as a basis for well-founded fear of persecution⁵ while registering asylum seekers and conducting RSD interviews. Upon getting their registration papers from UNHCR, they could also register with PDsMM. Hence, queer refugeeeness in Turkey is a de facto construct of UNHCR's sphere of influence in Turkey, making queer asylum seekers deserving of refugee status, resettlement and services in a country where they have no legal ground for seeking asylum, thus, are 'legally' undeserving of refugee status.

In addition to the fact that SOGI of asylum seekers are legally unrecognized, but their existence within the borders of Turkey is bureaucratically tolerated, UNHCR also employs protection mechanisms which identify queer asylum seekers and refugees as vulnerable groups who need fast-tracked RSD and resettlement to a third safer country. That is to say, while national legal and policy documents and national authorities remain silent concerning SOGI in the context of asylum, UNHCR has constructed a bureaucratic 'reality' in Turkey where queer asylum seekers can obtain not only refugee status and rights but also protection mechanisms which, *in some 'deserving' cases*, expedite their RSD procedures and resettlement. During the 20-month fieldwork I conducted in Turkey, the concept of 'golden case' was repeatedly used by my interlocutors to refer to SOGI's expediting effect on RSD and resettlement. UNHCR acknowledged that queer asylum seekers

face further discrimination in Turkey because of their sexual orientation and gender identity. Double discrimination of racism and homophobia/transphobia prevents queer asylum seekers from having a sustainable livelihood and makes them vulnerable to psychological and physical violence in Turkey.⁶ They are discriminated in the formal as well as the informal job market. They cannot benefit from already existing refugee solidarity networks as they are discriminated within refugee communities. Hence, queer asylum seekers have a hard time finding accommodation and accessing vital information.⁷

In order to address such vulnerabilities, UNHCR expedites their RSD so that they will, at least, receive normative legal protections. UNHCR also expedites their resettlement so that they can be moved to a safer third country as soon as possible. My participant observations also revealed a similar trend; while those seeking asylum because of persecution based on SOGI were fast-tracked to receive their refugee status and to resettle to a third country within a few months of registering with UNHCR, those seeking asylum because of persecution based on other causes had to wait almost two years even to have their first RSD interview. Moreover, UNHCR has also been utilizing other protection mechanisms, such as financial help, for queer asylum seekers and refugees.

This working paper scrutinizes the role of SOGI in constructing a transnational matrix of deservingness through which three migration authorities differentially and selectively allocate refugee status, resettlement spots and services within the borders of Turkey. This working paper will also reveal two interconnected effects of the transnational matrix of deservingness; while the matrix gives those deemed deserving incentives to remain immobile in Turkey and construct legal subjectivities recognized by transnational refugee governance, the matrix gives those deemed undeserving incentives to be mobile, searching ways out of Turkey since they could not construct their legal subjectivities. After proving the details of the fieldwork that I conducted, I will explain, with references to a broader literature of queer migration, the reasons why I use the concept “deservingness” when referring to the differential allocation of refugee status, rights and services. Later, I will apply the concept of deservingness to the Turkish context, revealing how refugee governance functions by a transnational matrix of deservingness.

Researching Queer Refugeeeness in Turkey

Between September 2017 and June 2020, I conducted a 20-month long multi-sited ethnography in four cities of Turkey: Ankara, Istanbul, Eskisehir and Yalova. I chose Eskisehir and Yalova because each has a large community of queer refugees coming from North African, Sub-Saharan and Middle Eastern countries such as Iran, Iraq, Egypt, Ghana, Zimbabwe, Pakistan. I chose Istanbul and Ankara because they host the headquarters of NGOs and INGOs. While I was able to observe how their branches interacted with queer refugees in Eskisehir and Yalova, I also wanted to interview and observe workers in the headquarters to understand how projects and social policies related to queer asylum seekers and refugees were envisioned in the first place.

The primary fieldwork took place between September 2017 and 2018. In order to scrutinize the relational construction of queer refugeeeness in Turkey, I chose to interview and observe both queer refugees and employees of I/NGOs that work with queer refugees. That is, I focused on the interaction of both groups instead of merely interviewing the one or the other. I employed a mix-method of participant observation and life story interviews. The main reason behind employing a mix-method was to complement the life stories of my interlocutors with observations of their daily life social and bureaucratic interactions. I asked I/NGO workers to start their life stories with why they chose to work in the humanitarian aid sector. Later in the interview, I asked them questions about the relations they established with refugees as NGO workers and about envisioning, actualizing and conducting projects for refugees. I asked queer asylum seekers and refugees to start their life stories with why they escaped their home countries. Focusing on the narratives of persecution based on SOGI, I also asked questions concerning their journey to Turkey, their experience of registering with authorities, of having the RSD and resettlement interviews, and the problems they face during their stay in Turkey.

As for participant observations, I volunteered for two months for Red Umbrella Sexual Health and Human Rights Association (Red Umbrella) that conducts a project for queer refugees. I also volunteered for five months for Association for Solidarity with Asylum Seekers and Migrants (ASAM) who is an implementing partner⁸ of UNHCR in Turkey. Although both organizations have branches in Eskisehir and Yalova, I preferred to volunteer in their headquarters because I did not want to contact queer asylum seekers and refugees via an organizational title. Interviewing

my interlocutors as a volunteer of such well-known organizations that provide crucial assistance to refugees would result in biased expectations and negative first impressions. As these organizations are gatekeepers of the access to rights and services, associating with them in these cities could have marked me as also a gatekeeper. Queer asylum seekers and refugees could have felt obliged to participate in interviews, assuming that as a gatekeeper I could positively or negatively affect their access to rights and services if they choose or refuse to talk to me. By the same reasoning, they could have also censored their stories, for example, by omitting their negative experiences with these organizations. Due to similar concerns, I also did not interview refugees I met and interacted with via my involvement with the projects of Red Umbrella and ASAM. Finally, in order to observe how the two groups interact with each other within the flow of daily life, I participated to social events organized by I/NGOs and observed bureaucratic encounters among queer refugees, I/NGOs and local migration authorities. During my primary fieldwork, I interviewed 94 people in total; 45 of whom are queer refugees and 49 of whom are workers of I/NGOs.

I carried out the first follow-up fieldwork between May 2019 and September 2019. In addition to following general changes in the field, the main aim was to observe the aftermath of UNHCR's withdrawal from registering and conducting RSD interviews for conditional refugees on September 10, 2018. The Provincial Directorates of Migration Management (PDsMM) took over those functions. Although I was able to analyze the initial effects of the withdrawal during the primary fieldwork, I also wanted to capture the long-term effects. I conducted follow-up interviews with 13 interlocutors and interviews with 16 new interlocutors, six of whom were queer asylum seekers and ten of whom are I(NGO) workers. I carried out the second follow-up fieldwork between March 2020 and June 2020. I re-entered the field before the Covid-19 pandemic was declared on March 11. Upon the declaration, I shifted to digital fieldwork. Arranging interviews online proved to be challenging; I interviewed online one queer refugee and one NGO worker. Nevertheless, doing digital participant observation proved to be relatively more accessible as I/NGOs turned their websites and social media accounts into digital spaces for social gatherings for queer asylum seekers and refugees. The long-term effects of the Covid-19 pandemic on queer asylum seekers need rigorous research in their own rights.

All in all, I interviewed 112 interlocutors. Table I shows the distribution of queer asylum seekers and refugees according to their citizenship and their SOGI they declared during the interviews. It is crucial to note that the categorizations of SOGI in table I reflects the spatial and temporal limitations of the interviews, hence they cannot be taken as static and definitive expressions of my interlocutors' SOGI. As Lisa Diamond's oral history of SOGI reveals, the ways in which a person expresses their SOGI may change over the course of their lives.⁹ My own experiences with my interlocutors have also supported this argument since they noted that they mentioned changes in their expressions of SOGI, especially after they leave their home countries and arrive in Turkey.¹⁰ In order to reflect the changing expressions of my interlocutors' SOGI in my analysis, I choose "queer asylum seekers and refugees" over "LGBT". Table II shows the distribution of I/NGO workers according to their organizations. Since some of my interlocutors worked for more than one organization and provided information on all of them, table II has two totals; one reflecting the number of workers and the number of interlocutors. Finally, to protect the identity of my interlocutors, I use pseudonyms.

Table 1: Distribution of queer refugees according to their nationality, sexuality and gender identity (categorized as they declared)

	Trans Women	Gay Men	Lesbian Women	Trans Men	Bisexual Women	Gender Fluid	Total
Iran	13	15	2	2	1	1	34 Iran
Syria	6	9					15 Syria
Zimbabwe	1						1 Zimbabwe
Afghanistan	1						1 Afghanistan
Pakistan	1						1 Pakistan
Total	22 Trans Women	24 Gay Men	2 Lesbian Women	2 Trans Men	1 Bisexual Woman	1 Gender Fluid	52 Interlocutors

Table 2: Distribution of Organization Workers

Organizations	Number of interviews
Association for Solidarity with Asylum Seekers and Migrants	11
Human Resource Development Foundation	7
Refugee Support Centre-Association	8
UNHCR Turkey	3
UN Turkey	1
International Medical Corps	1
Red Crescent of Turkey	3
Refugee Rights Turkey	1
Red Umbrella Sexual Health and Human Rights Association	6
Social Policies, Gender Identity, and Sexual Orientation Studies Association	7
Association of Istanbul LGBTİ Solidarity	1
Trans Guesthouse	4
Tea and Talk	1
Association of Pembe Hayat LGBTİ+Solidarity	1
Sabancı Foundation	1
Community Volunteers Foundation	3
Young Approaches to Health	3
Boysan's House	1
Migrant Solidarity Network Ankara	1
KAOS GL Association	3
HEVİ LGBTİ Association	1
Keçiören Municipality	2
Total number of interviews	70
Total number of interlocutors	60

Why Deservingness?

Deservingness, in this working paper, refers to the fact that bureaucratic procedures within refugee governance – RSD, resettlement, allocation of social and financial assistance – are inherently dependent upon the personal discretions of migration officials who utilize socially available discourses about SOGI in differentially distributing refugee status, rights and services. That is to say, migration officials are not mere conduits of formal laws and social policies, replicating their intended purposes within the flow of daily life.¹¹ Especially in the cases where the nature of the bureaucratic procedure uniquely takes shape according to each individual, such as credibility assessment of claims to persecution or a well-founded fear of persecution or determining or testing someone's SOGI, the personal discretion of migration officials becomes a guiding principle in differentially allocating refugee status, rights and services. Hence, this working paper takes deserving and undeserving refugees as social categories born out of personal discretions of migration officials and their socially available discourses pertaining to SOGI. Finally, differential allocation means that those who are willing and able to perpetuate and perform the social expectations of a deserving refugee during bureaucratic encounters are more likely to obtain refugee status and enjoy refugee rights and services.

Within the limited space of this working paper, I will only be focusing on how actualization of formal laws and social policies via bureaucratic procedures are affected by social categories of a deserving and undeserving refugee. In other words, the social origins of normative restrictions put on who can be refugee will not be a part of the theoretical discussion of deservingness. This working paper will take for granted the two normative restrictions. The first normative restriction is the one put on the definition of refugeeness by international refugee law. Although Article 14 of the Universal Declaration of Human Rights establishes everyone's right to seek and enjoy asylum from persecution in other countries, the Convention and its protocol signed in 1967 limit the enjoyment of the right of asylum to those who can prove persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Hence, only those who are willing and able to fit their stories of persecution into the five grounds are recognized as refugees. The second restriction is the one put on the definition of refugeeness by national refugee laws. As discussed in the

introduction, conditional refugee status dictates that asylum seekers coming from non-Europe geographies cannot obtain indefinite leave to stay in Turkey. Their existence within the border of Turkey is conditioned upon UNHCR's ability and willingness to resettle them to a third country. The social construction of 'deserving refugee' vs. 'undeserving migrant' and 'deserving European asylum seeker' vs. 'undeserving non-European asylum seeker' as a result of these two normative restrictions requires further analysis in queer migration studies.

Credibility assessment is considered to be "the single most important step in determining whether people seeking protection as refugees can be returned to countries where they say they are in danger of serious human rights violations."¹² As the Convention limits refugee status to those escaping their home countries owing to persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, asylum seekers, during RSD interviews, must be able to tell their stories of persecution in a way that is compatible with five recognized grounds of seeking asylum and "coherent and plausible and not run counter to generally known facts."¹³ However, although countries such as the USA and Canada as well as UNHCR have attempted to give credibility assessments a more concrete basis, there is still a lack of standard means of carrying out credibility assessments.¹⁴ Credibility, thus, remains to be "a matter of impression that should be left to first instance decision-makers" while negative credibility assessments also make appealing to the rejection of asylum applications challenging.¹⁵ Moreover, the first instance decision-makers' tendency to manufacture discrepancy "by frequently seizing upon apparent inconsistencies in peripheral elements of asylum seekers' claims"¹⁶ has also been documented and discussed. In other words, credibility is a co-construct of asylum seekers and officials within the asymmetrical power relations of RSD interviews; while the burden of proof for persecution falls upon the asylum seekers, officials conducting the interviews mobilize their personal discretion to assess the credibility of the proof provided.¹⁷

Personal discretion of officials has freer reign over assessing the credibility of persecution based on SOGI because LGBT refugeeeness is a relatively new legal category emerging in the late 1980s and there were (and still are) no established ways of proving one's SOGI. Among the five internationally recognized ground of seeking asylum, SOGI found a place for itself in "membership in a particular social group".¹⁸ The late 1980s witnessed a crucial expansion of the scope of particular social groups.

A new trend of including non-conforming SOGI into the definition of a particular social group was observed in the Global North countries. With reference to the persecution of homosexuals by the Nazi regime during the World War II, in 1986 Germany declared that being homosexual could mean membership in a particular social group as a basis for a well-founded fear of persecution.¹⁹ Canada, the USA and the UK also expanded the scope of a particular social group to cover individuals with non-conforming SOGI respectively in 1992, 1993 and 1999.²⁰ Born out of already existing international refugee law, queer refugeeeness inherited the same requirements of proving membership in a particular social group and a well-founded fear of persecution. This two-tiered procedure to achieve refugee status embodied itself in a particular way when it was applied to queer asylum seekers; they have been asked to prove their SOGI and how their SOGI causes a well-founded fear of persecution.

The two-tiered procedure for queer asylum seekers brought about a bureaucratic mystery; how can asylum seekers demonstrate their SOGI to the migration officials? With no particular answer to this question, migration officials in the Global North countries utilized their personal discretion to decide what would count as “proof” of SOGI. Queer migration literature has documented, in detail, homonormative discourses that the migration authorities in the Global North countries have used to establish proofs of SOGI during RSD interviews. In the UK, migration officials reduced SOGI to mere sexuality. They asked questions that violate queer asylum seekers’ right to privacy, such as asking them about their sex partners or sexual positions and submit photos and videos of themselves having sex.²¹ Australian migration officials also directed similar questions.²² Other homonormative discourses reduced SOGI to specific cultural performances. In the UK, queer asylum seekers were asked during RSD interviews if they had read Oscar Wilde.²³ In Canada, migration officials asked asylum seekers whether they have been to the Gay Pride and the gay bars in Toronto.²⁴ In the Netherlands, migration officials found it suspicious that a queer asylum seeker lacked information on the organizations for the protection of rights of homosexuals. In the USA, a queer asylum seeker’s application was rejected on the basis that he was not feminine enough.²⁵ Based on a similar logic of reducing homosexuality to being ‘effeminate’ for gays or ‘butch’ for lesbians, sixteen countries were noted to apply “the discretion policy”²⁶ which dictates that a masculine-presenting gay or a feminine-presenting lesbian can go back to his or her home country and live discreetly, ignoring many complicated

layers of persecution based on SOGI. Such examples demonstrate that migration officials in the Global North countries utilized a wide variety of discriminatory signifiers in assessing the credibility of queer asylum seekers' claim to be members of a particular social group. The lack of any formal rule - as well as its impossibility - concerning how to assess the credibility of claims to queer refugeeness opened up space for migration officials to use their personal discretion as credibility criteria.

A Transnational Matrix of Deservingness in Turkey

Utilization of personal discretion as a credibility criterion becomes more complicated in the case of Turkey because of UNHCR's involvement in the RSD and resettlement procedures. One of the consequences of UNHCR's mandate in Turkey has been noted as the creation of a parallel tracks system²⁷ in which asylum seekers have to navigate bureaucratic procedures of national, UNHCR and third-country officials in order to receive conditional refugee status and to be resettled. Each group of officials have their own versions of 'deserving' and 'undeserving' refugees and these versions are diffused into the flow of asylum seekers' life in Turkey, subjecting them to different bureaucratic expectations all at once. Hence, I call the combination of the versions of a deserving and undeserving refugee as a transnational matrix of deservingness (the matrix for short) which is enacted in the localities of Turkey. In order to better grasp the complicated and interwoven nature of the matrix, we first need to have a general map of the transnational bureaucracy involved in refugee governance in Turkey. Tracing the bureaucratic steps that asylum seekers had to take after they cross Turkey's borders reveals an abstracted version of 'successful' asylum-seeking applications in Turkey before the withdrawal of UNHCR from registration and RSD. A successful application in this context refers to obtaining conditional refugee status and being resettled to a third country.

Upon arriving in Turkey, asylum seekers had to go to Ankara where UNHCR and its implementing partner ASAM took first instance registration in which officials gathered biometric information of the asylum seekers and inquired about the reasons for seeking refuge. At the end of registration, asylum seekers were presented with, usually, three options of satellite cities.²⁸ Upon completion of the registration, asylum seekers had to go to the city they had chosen and wait for UNHCR to contact them with

a date for the first RSD interview. As mentioned in the introduction, in some cases, asylum seekers had to wait for around two years to have their first RSD interviews.

Within seven days of registering with UNHCR, asylum seekers had to arrive in their satellite city and start their registration procedure with PDsMM, or else they risked their chance of receiving refugee status. PDsMM also took an initial registration to satisfy the seven-day rule, which meant that asylum seekers only gained the right to stay in the satellite city. In order to be able to enjoy any rights, such as the right to work, healthcare, social services, and financial assistance, asylum seekers had to successfully complete the registration procedure and receive an identification number for foreigners. Asylum seekers and I/NGO workers noted that PDsMM too asked them to wait up to a year to finalize their registration, which meant that asylum seekers were deprived of their rights, just physically existing in the satellite cities. In the case of successful registrations with UNHCR and PDsMM, asylum seekers were invited for RSD interview(s) in which they were asked to provide further details and substantiate their reasons of seeking asylum with proof. If UNHCR officials find their stories of persecution credible, they receive their conditional refugee status.

The granting of conditional refugee status initiates the resettlement procedure which UNHCR mediates. UNHCR selects the most vulnerable refugee cases and submits them to the embassies or implementing partners²⁹ of third countries in Turkey. UNHCR utilizes the quotas provided by Global North countries such as the United States, Canada, Germany, the United Kingdom, Australia and the Nordic countries.³⁰ After receiving the resettlement case from UNHCR, embassies or implementing partners conduct their own interviews in order to evaluate the compatibility of resettlement applicants' persecution stories with their own criteria of refugeeness. If the third country agrees to resettlement, UNHCR and its implementing partners mediate the move of resettlement applicants, finalizing his or her conditional refugee status within the borders of Turkey. However, PDsMM must give clearance for resettlement before the final move to a third country. Although none of my interlocutors had a problem with getting the clearance, it has been noted that Turkish officials refused to give 'exit permits' on the grounds of incomplete local bureaucratic procedures or without any official explanation.³¹

As the abstracted version of bureaucratic steps for conditional refugees demonstrated, queer asylum seekers in Turkey have to navigate three different bureaucratic structures which have their own credibility criteria

for persecution based on SOGI. PDsMM, UNHCR and embassies or implementing partners of third countries have their own conceptualizations of whether SOGI counts as a ground for seeking asylum and/or as a source of vulnerability that requires expedition of its bureaucratic procedures and access to social and financial services. That is to say, each bureaucratic structure carries itself with its own social and political agenda concerning refugees and SOGI and has a relatively autonomous space within the national borders of Turkey to enact them. It is imperative to have a closer look into each structure's framework of deservingness to understand how they come together to create a transnational matrix of deservingness in Turkey.

Starting with PDsMM, they are "street-level" branches of the umbrella state apparatus called Directorate General of Migration Management (DGMM). These relatively new bureaucratic bodies were established by the introduction of the new migration law of Turkey in 2013 called Law on Foreigners and International Protection (LFIP). The law was a long time in the making since Turkey signed an Accession Partnership Document with the EU in 2001.³² At the time, it was envisioned to be a vital step to harmonize with the EU migration policies, especially by removing the geographical limitation. Although LFIP adopted EU-inspired categories such as subsidiary protection³³ and created DGMM as a central national authority governing migration, the geographical limitation remained. Article 3 of LFIP also introduced the category of "people with special needs" who, according to Article 67, have "priority access to written rights and procedures". LFIP categorizes the following individuals as people with special needs: Unaccompanied child, a disabled person, an elderly person, a pregnant woman, a single mother or single father with child(ren), and a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence. SOGI does not appear in the text at all.

Other legal documents derived from LFIP, such as the Temporary Protection Regulation, utilize the same conceptualization of vulnerability excluding SOGI. Thus, the social policies of DGMM also do not recognize SOGI in any form. None of the strategic plans of DGMM mention SOGI.³⁴ None of the 50 projects that DGMM conducted refers to SOGI.³⁵ None of DGMM's annual activity reports mentions SOGI.³⁶ None of the annual migration reports that DGMM published mentions SOGI.³⁷ Only one project out of 21 which DGMM is currently conducting has the acronym LGBTI.³⁸ Funded by the Swedish International Development

Cooperation Agency, the project aims to “to prevent gender-based violence by determining the needs of people with special needs, LGBTI and vulnerable foreigners during the procedures of processing and finalizing their application to international protection.”³⁹ However, when the annual activity report of 2017 talks about the same project, it does not include LGBTI in its aims.⁴⁰

I do not consider it a mistake that DGMM has forgotten either to put LGBTI in its annual activity report or to delete it in its list of current projects. I take it as a symptom of Turkey’s insistency on legally erasing queer refugee and leaving them vulnerable to arbitrary treatment and harassment of state agencies, but at the same time, bureaucratically managing them as one of the actors in transnational refugee governance. That is to say, through its cooperation with transnational bodies such as UNHCR and Global North Countries such as Sweden, Turkey constructs a de-facto category of queer refugeeness that purposefully erases SOGI from the legal texts and social policies. Without legally recognizing SOGI and the existence of queer refugees, Turkey bureaucratically manages them while they are waiting in Turkey to be processed by UNHCR and third countries. During that waiting period, since no legal text bounds local authorities in their dealings with queer refugees, it is entirely up to their personal discretion to consider SOGI as a ground to grant, hinder, or expedite access to rights and social services.

In many cases, PDsMM refused to register queer asylum seekers either because there already was a long waiting list or because migration officials did not recognize SOGI as a ground for asylum-seeking. For example, although an Iranian gay couple was assigned to Yalova, they could not register with the PDMM who told them that Yalova is closed for registration except for people with special needs. Stating that they are both living with a chronic disease, they asked the PDMM to register them so that they can have access to healthcare. They were refused once again since they did not fit into the category of people with special needs. In such cases, UNHCR and its implementing partners negotiated with PDsMM on behalf of queer asylum seekers. My interlocutors from these implementing partners told me that the negotiation usually worked primarily when they pointed out to the fact that UNHCR will expedite queer asylum seekers’ resettlement if they can register with PDsMM, which meant that they would be able to leave the satellite city as soon as possible. Through appealing to the fact that queer asylum seekers will be managed by the transnational refugee governance (resettlement scheme in this case), UNHCR is able

to negotiate with the local authorities who refuse to accept SOGI as a ground for seeking asylum. In yet another example, an Iranian lesbian woman was to register with the PDMM from Eskisehir. During the initial interview in which she declared that she had escaped Iran because of her sexual orientation, the PDMM worker stated that he would register her *not* because of her sexual orientation, but because she was a single woman living in Turkey and who had gone through physical and psychological violence. The PDMM worker used his personal discretion to find a way to include her into the PDsMM's framework of deservingness while erasing her sexual orientation from the process of registration.

As for UNHCR, it accepts SOGI not only as a ground for seeking asylum but as a source of vulnerability as mentioned in the introduction. UNHCR has long criticized the utilization of homonormative representations of SOGI as criteria of credibility. It has also been a long-time advocate of questioning how SOGI of asylum seekers result in persecution or a well-founded fear of persecution instead of questioning SOGI of asylum seekers. Arguing that SOGI cannot be substantiated with evidence, UNHCR suggests accepting asylum seekers' SOGI as they declare it and asking them to provide credible proof of persecution based on their SOGI. Since UNHCR had the mandate to conduct RSD interviews in Turkey, it was able to actualize its own suggestion. All of my interlocutors noted that they simply declared their SOGI without further proof being required. I also did not encounter any case where UNHCR refused an application because it did not believe the declared SOGI. However, there have been cases where UNHCR did not find persecution stories of queer asylum seekers credible enough.⁴¹ While queer asylum seekers await the RSD interview(s) in the satellite city, they go through a vulnerability assessment test conducted by the implementing partners of UNHCR. This test aims to collect information about the asylum seekers that may count as a hindrance on their ability to adapt to the city, as a source of physical insecurity, and so on. After the first face-to-face vulnerability assessment, queer asylum seekers can contact UNHR directly or indirectly via its implementing partners about any new development that may have increased their vulnerability such as constant verbal and physical attacks (which frequently happened to my interlocutors). With the constant flow of information, UNHCR decides to expedite RSD interviews and resettlement procedures.

When it comes to the other services, UNHCR introduced financial help specially catered to transgender refugees. UNHCR pointed out to the fact that transgender refugees are having a tough time finding jobs, be it in the

formal or informal sector, since they are discriminated against because of their gender identity. As a result, they do survival sex work which makes them more vulnerable to harassment, physical violence and deportation. Transwoman refugees who are registered with their passports or identity cards that have their birth name and 'sex marker' (such as F/M letters on ID cards, or blue ID card/pink ID card) could not apply for any financial assistance that the Turkish authorities provide. Local and national actors such as the Ministry of Family, Labor and Social Services, Red Crescent of Turkey and municipalities distribute financial help to refugees by prioritizing a similar category of "people with special needs" with the addition of single woman. Refugees who are transwomen applied to such financial help schemes multiple times. However, they were rejected every time because local and national authorities employ a strictly cisnormative conceptualization of *single woman* based on legal documents.

With the third and final framework of deservingness which is constructed by embassies or implementing partners of third countries, we can observe that each refugee's experience with them could differ. A Syrian trans refugee had one resettlement interview with France and was resettled to Nice in six months because she was living alone in Istanbul and doing sex work while escaping from her family who was also in Turkey. Darya, an Iranian lesbian refugee, had two interviews with the USA over two years, and she was taking final steps to be resettled. However, she is still waiting for resettlement because President Donald Trump's travel ban on different countries, including Iran, put a stop to the resettlement of conditional refugees from these countries.⁴² An Iranian gay refugee whose case was assigned to the USA for three years was never invited for a resettlement interview. After Trump's travel ban, UNHCR resubmitted his case to Spain, and in six months, he was resettled. The USA rejected an Iranian gay refugee's claims for resettlement on the basis of his sexual orientation because he was considered too masculine to be gay and even if he was gay, he could blend in Turkey if he keeps up with his masculine behavior. Although such dispersed examples could not provide a clear pattern of bureaucratic expectations of each third country, they demonstrate that each third country operates with their own social category of deserving refugee, informed by their social and political discourses about refugees and SOGI.

All in all, since three bureaucratic structures interact with queer asylum seekers all at once during their time in Turkey, we observe that an asylum seeker can simultaneously be a deserving and undeserving refugee within

the transnational matrix of deservingness. Within PDsMM's framework of deservingness, queer asylum seekers are at the mercy of the personal discretions of the workers who are not bound by any national legal document that recognizes SOGI as a ground for seeking asylum and for social and financial services. Queer asylum seekers, with the mediation of UNHCR and its implementing partners, have to negotiate access to rights and services continually. Within UNHCR's framework of deservingness, SOGI is recognized as a ground for seeking asylum as well as expediting RSD, resettlement and access to rights and services. Within third countries' framework of deservingness, SOGI is recognized as a basis for being resettled. Yet each third country subjects queer refugees to RSD interviews in which they employ varying social and political expectations of what counts as a refugee who deserves to resettle within their national borders.

Nevertheless, UNHCR's consistent role in supporting queer asylum seekers has made sure that bureaucratic structures which usually deemed SOGI – or certain expression of SOGI such as a masculine presenting gay man – as an undeserving ground for seeing asylum cannot entirely reject and/or deport queer asylum seekers. Hence, the transnational matrix of deservingness, although extremely complicated and unpredictable, opens the space for queer asylum seekers to construct legal subjectivities within the borders of Turkey through which they can negotiate for their refugee status, rights and services.

Refugee Governance via the Transnational Matrix of Deservingness

Scholars laid bare the negative effects of living in the in-between space of Turkey awaiting resettlement on queer refugees.⁴³ I also demonstrated that the waiting period could foster adversity amongst the members of queer refugee communities who are put in competition against each other for resettlement by UNHCR and third countries.⁴⁴ Hence being able to negotiate one's way into the transnational matrix of deservingness does not guarantee any sustainable access to rights and services in the long term. It only means that queer refugees can create legal subjectivities that are recognized by the three actors of the matrix and utilize their subjectivities in negotiating access to rights and services at each bureaucratic step. The possibility that such negotiations can take place and result in favor of queer refugees, I argue, gives an incentive for queer refugees to remain immobile

in Turkey for an extended period, hoping to finalize their resettlement process and leave Turkey in a documented way. On the other hand, if asylum seekers could not negotiate their way into the matrix – that is to say, marked as underserving by all three authorities – they are unable to construct a legal subjectivity within Turkey through which they may access rights, financial help and resettlement. In such cases, the matrix forces them to be more mobile, seeking ways out of Turkey via undocumented means.

During my fieldwork, the sentence “if I had not been assigned for resettlement, I would have left” has been repeated in various forms by queer refugees who had been waiting in Turkey for more than two years at the time of our meeting. Going back to Darya, who has been waiting in Turkey for six years as of 2020, she mentioned in our follow-up interviews that she was seriously considering migrating to a third country via undocumented means after Trump’s ban. The only reason why she was not taking that risk, she noted, was her resettlement possibility. She said she wanted to push UNHCR to re-assign her case to another third country. Until that option fails, she is planning to remain in Turkey. The fact that she was able to situate herself into the matrix and secure means of negotiations incentivized Darya to remain immobile in Turkey, at least until she decides that the in-between life in Turkey is no longer acceptable.

In direct juxtaposition to queer refugees who were able to negotiate their ways into the matrix via – or in the case of national authorities, in spite of – their SOGI, Muhammad’s story will demonstrate how being excluded from the matrix incentivizes refugees to rapidly re-displace. I met Muhammed, a heterosexual man, on the day he registered with UNHCR Turkey as an asylum seeker in early September 2018. In Iran, he was detained and tortured because of his involvement with an anti-government movement. After his family had bribed the police for his release, he was able to blend in a group of Afghan asylum seekers and crossed the Turkey-Iran border on foot, entering a border city. The smuggler who helped them cross the border gave them bus tickets to Ankara telling them to find UNHCR’s office. After a long journey, they managed to find the office in Ankara, but since it was late at night, they had to sleep rough in the park across the office. Early in the morning, he stated his reasons for seeking asylum as persecution based on his political opinions and registered with UNHCR. During the registration, he was told to choose a satellite city out of the three options presented to him. He randomly chose Bolu, not knowing any details about the options offered. Before registration officers let him go, they told him to go to Bolu and register with

local authorities within a week or else he would lose the right to register with them. Finally, he was only given a list of addresses and phones of non-governmental organizations that could help him.

He was referred to me as I had been acting as a volunteer translator for asylum seekers and refugees. When he tried to get a bus ticket to Bolu, travel agencies refused to sell him one because he did not have his passport or his identification number for foreigners. Hostels in Ankara refused to give him a room for the same reason. I went to the park across UNHCR's office to meet with him. He explained to me what had happened. I was perplexed by the fact that UNHCR did not help him with the bus ticket and the accommodation. I had observed that UNHCR and its implementing partners in Turkey helped queer asylum seekers in their travels to the satellite cities and in finding accommodation. We called the helpline of ASAM to see if they could buy him a ticket, but they just said that he should be able to buy a ticket with the registration papers given to him by UNHCR. After a series of heated debates with many travel agencies, I managed to convince one agency to sell him a bus ticket by stating that they are violating his right to seek asylum by preventing him from going to Bolu. On the day he arrived in Bolu, he went through the initial registration with Bolu's PDMM who told him that he might have to wait until mid-2019 for his first interview with them. Then we learnt that his interview for RSD with UNHCR could only be booked in early 2020.

After observing the hardships Muhammed went through in getting any form of help from UNHCR and its implementing partners, I had a better understanding of why queer asylum seekers' applications for refugee status are called "golden cases". Muhammed could not place himself anywhere in the transnational matrix of deservingness as a heterosexual man. During the first month of his stay in Bolu, we stayed connected, and he told me how his every request for assistance from UNHCR and I(NGO)s was left unanswered. For a while, I could not hear from Muhammed, which made me worry about him, until one day when I received a message from him, saying that he was in one of the Greek Islands. He explained that he could not sign a flat lease which is mandatory to complete his registration process with the PDMM since he could not speak Turkish and UNHCR or local NGOs did not provide translation assistance. On top of the fact that he was barred from the formal job market because of his impending conditional refugee application, he did not even know how to look for jobs in the informal sector since he did not know anyone in Bolu, a city with no Iranian refugee community. As a single heterosexual man, he

was not eligible for any form of financial help coming from either local or international organizations. He told me that he was afraid that the money he had would run out and he would be stranded in Turkey; his family was not able to send more money because no bank allowed him to open an account without his registration with the PDMM. Hence, he decided to take a boat to one of the Greek Islands.

As no one mediated his access to refugee status, rights and services, Muhammed had to be yet again displaced and use undocumented methods of border crossing. Since he could not partake in the transnational matrix of deservingness, he could not access the rights and services that may have provided him with an incentive to remain in Turkey. All in all, the transnational matrix of deservingness in Turkey helps 'deserving' refugees to construct legal subjectivity, keeping them immobile in Turkey, waiting for resettlement, thus, preventing undocumented border crossing and sustain refugee governance.

Conclusion

Turkey's long-standing geographical limitation on the Convention has created a transnational space for UNHCR and third countries to enact their own social and political agendas concerning refugees and SOGI within the borders of Turkey. From the perspective of queer asylum seekers, we observed that being subjected to three different bureaucratic structures meant that they had to navigate three interconnected social categories of deserving and underserving refugee. In order to mark the interconnectedness of these social categories arising from three bureaucratic structures, I have coined the concept of transnational matrix of deservingness. I have also demonstrated that refugees who situate themselves in the matrix, and thus deemed deserving, can negotiate their access to rights, resettlement and services. The possibility of successful negotiation gives an incentive to 'deserving' refugees to remain immobile in Turkey, at least until their hope for resettlement fades away. Those who cannot find themselves a place in the matrix cannot negotiate their access to rights, resettlement and services. Thus, they search for undocumented ways out of Turkey.

NOTES

- 1 Article 3 of the Law on Foreigners and International Protection states that Europe consists of the member states of the Council of Europe. Also, the same article states that the President of Turkey can decide on which country to accept as “European” in relation to giving refugee status.
- 2 The arrival of Syrian asylum seekers in 2011 further fractured the legal category of refugeeness in Turkey, creating yet another liminal one called conditional protection under temporary protection.
- 3 Kemal Kirişçi, “UNHCR and Turkey: Cooperating for Improved Implementation of the 1951 Convention Relating to the Status of Refugees,” *International Journal of Refugee Law* 13, no. 1/2 (2001): 71.
- 4 Kemal Kirişçi, “The Legal Status of Asylum Seekers in Turkey: Problems and Prospects,” *International Journal of Refugee Law* 3, no.3 (1991): 512; Kemal Kirişçi, “Disaggregating Turkish Citizenship and Immigration Practices,” *Middle Eastern Studies* 36, no. 3 (2000):7.
- 5 UNHCR, “UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity,” 2008; UNHCR, “UNHCR Resettlement Handbook” (UNHCR, 2011).
- 6 Hayriye Kara and Damla Çalık, *Tekin Olmayı Beklerken: LGBTİ Mültecilerin Ara Durağı Turkey (Waiting to Be Safe: Turkey as the Transit Station of LGBTI Refugees)* (Ankara: KAOS GL, 2016); Nurcan Ö. Baklacioğlu and Zeynep Kivilcim, *Sürgünde Toplumsal Cinsiyet: İstanbul’da Suriyeli Kadın ve LGBTİ Mülteciler (Gender at Exile: Syrian Women and LGBTİ Refugees in Istanbul)* (İstanbul: Derin Yayınları, 2015); Zeynep Kivilcim, “Lesbian, Gay, Bisexual and Transsexual (LGBT) Syrian Refugees in Turkey,” in *A Gendered Approach to the Syrian Refugee Crisis*, ed. Jane Freedman, Zeynep Kivilcim, and Nurcan Ö. Baklacioğlu (London and New York: Routledge, 2017).
- 7 Kara and Çalık, “Tekin Olmayı Beklerken: LGBTİ Mültecilerin Ara Durağı Turkey (Waiting to Be Safe: Turkey as the Transit Station of LGBTI Refugees)””; Baklacioğlu and Kivilcim, *Sürgünde Toplumsal Cinsiyet: İstanbul’da Suriyeli Kadın ve LGBTİ Mülteciler (Gender at Exile: Syrian Women and LGBTİ Refugees in Istanbul)*; Kivilcim, “Lesbian, Gay, Bisexual and Transsexual (LGBT) Syrian Refugees in Turkey.”
- 8 UNHCR chooses certain I/NGOs as its partners to conduct projects together. ASAM has been a long-term implementing partner of UNHCR, helping with first instance registration of conditional refugees as well as providing protection mechanisms.
- 9 Lisa M. Diamond, “Careful What You Ask For: Reconsidering Feminist Epistemology and Autobiographical Narrative in Research on Sexual Identity Development,” *Sigs: Journal of Women in Culture and Society* 31, no. 2 (2006): 471–91.

- ¹⁰ Mert Koçak, "Who Is 'Queerer' and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey," *Middle East Critique* 29, no. 1 (2020): 29–46; Mert Koçak, "Türkiye'ye Göç Eden Kimlikler: Yerel ve Ulusaşırı Dinamiklerin Kesişiminde LGBT Mülteciliğin İnşası (Identities That Migrate to Turkey: Construction of LGBT Refugeeeness at the Intersection of Local and Transnational Dynamics)," in *Toplumsal Cinsiyet Perspektifinden Türkiye'de Göç Araştırmaları (Migration Studies in Turkey from the Perspective of Gender)*, ed. Kristen Sarah Biehl and Didem Daniş (Istanbul: SU Gender and GAR, 2020), 164–91.
- ¹¹ Cris Shore and Susan Wright, "Conceptualizing Policy: Technologies of Governance and the Politics of Visibility," in *Policy Worlds: Anthropology and the Analysis of Contemporary Power*, ed. Cris Shore, Susan Wright, and Davide Però (Berghahn Books, 2011), 3.
- ¹² Michael Kagan, "Is Truth in the Eye of the Beholder? Objective Credibility Assessment in Refugee Status Determination," *Georgetown Immigration Law Journal* 17, no. 3 (2003): 367.
- ¹³ Anthony Good, "Tales of Suffering: Asylum Narratives in the Refugee Status Determination Process," *West Coast Line* 44, no. 4 (2011): 79.
- ¹⁴ Kagan, "Is Truth in the Eye of the Beholder? Objective Credibility Assessment in Refugee Status Determination," 367; Good, "Tales of Suffering: Asylum Narratives in the Refugee Status Determination Process," 79.
- ¹⁵ Kagan, "Is Truth in the Eye of the Beholder? Objective Credibility Assessment in Refugee Status Determination," 367–68.
- ¹⁶ James Souter, "A Culture of Disbelief or Denial? Critiquing Refugee Status Determination in the United Kingdom," *Oxford Monitor of Forced Migration* 1, no. 1 (n.d.): 49.
- ¹⁷ Koçak, "Who Is 'Queerer' and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey," 36.
- ¹⁸ James C. Hathaway and Michelle Foster, *The Law of Refugee Status*, Second Edition (Cambridge: Cambridge University Press, 2014), 442.
- ¹⁹ Hathaway and Foster, 442.
- ²⁰ Hathaway and Foster, 442–43.
- ²¹ Rachel Lewis, "'Gay? Prove It': The Politics of Queer Anti-Deportation Activism," *Sexualities* 17, no. 8 (December 2014): 959–64.
- ²² Sabine Jansen and Thomas Spijkerboer, *Fleeing Homophobia: Asylum Claims Related to Sexual Orientation and Gender Identity in Europe* (COC Nederland and Vrije Universiteit Amsterdam, 2011), 55.
- ²³ Elizabeth Connely, "Queer, beyond a Reasonable Doubt: Refugee Experiences of 'Passing' into 'Membership of a Particular Social Group,'" *UCL Migration Research Unit Workin Papers* 3 (2014): 9.
- ²⁴ Rachel Lewis, "Deportable Subjects: Lesbians and Political Asylum," *Feminist Formations* 25, no. 2 (2013): 179.

- 25 Steven Epstein and Héctor Carrillo, "Immigrant Sexual Citizenship: Intersectional Templates among Mexican Gay Immigrants to the USA," *Citizenship Studies* 18, no. 3–4 (April 3, 2014): 226.
- 26 Johannes Lukas Gartner, "(In)Credibly Queer: Sexuality-Based Asylum in the European Union," in *Transatlantic Perspectives on Diplomacy and Diversity*, ed. Anthony Chase (Humanity in Action Press, 2015); Jenni Millbank, "Sexual Orientation and Refugee Determination over the Past 20 Years; Unsteady Progress through Standard Sequences?," in *Fleeing Homophobia: Sexual Orientation, Gender Identity and Asylum*, ed. Thomas Spijkerboer (New York: Routledge, 2013).
- 27 Koçak, "Who Is 'Queerer' and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey."
- 28 According to Article 71 of the Law on Foreigners and International Protection, conditional refugees are obliged to live in the designated provinces, which are smaller cities. This aims to prevent refugees from only going to metropolises where job opportunities are better than in the smaller cities. The same article also obliges refugees to go to the Provincial Directorates of Migration Management and give their signature (daily or biweekly).
- 29 For example, in Turkey, the International Catholic Migration Commission conducts resettlement interviews on behalf of the USA.
- 30 UNHCR, "Resettlement," 2020, <https://www.unhcr.org/resettlement.html>.
- 31 Elif Sari and Cemile Gizem Dinçer, "Towards a New Asylum Regime in Turkey?," *Movements: Journal for Critical Migration and Border Regime Studies* 3, no. 2 (2017): 67; Amnesty International, *Stranded: Refugees in Turkey Denied Protection*, (London: Amnesty International Publications, 2009), 29.
- 32 Deniz Sert and Ugur Yildiz, "Governing without Control: Turkey's "Struggle" with International Migration," in *The Making of Neoliberal Turkey*, ed. Cenk Ozbay, Maral Erol, Aysecan Terzioglu, and Z. Umut Turem (Surrey and Burlington: Ashgate, 2016), 64.
- 33 https://ec.europa.eu/home-affairs/e-library/glossary/subsidiary-protection_en
- 34 <https://www.goc.gov.tr/stratejik-planlar>
- 35 https://www.goc.gov.tr/kurumlar/goc.gov.tr/evraklar/Goc-Projeleri/GOC-PROJELER12/GI%CC%87GM_-PROJELER-TABLOSU-biten.pdf
- 36 <https://www.goc.gov.tr/faaliyet-raporlari>
- 37 <https://www.goc.gov.tr/yillik-goc-raporlari>
- 38 <https://www.goc.gov.tr/kurumlar/goc.gov.tr/evraklar/Goc-Projeleri/GOC-PROJELER12/GIGM-Devam-Eden-Projeler.pdf>
- 39 Ibid.
- 40 <https://www.goc.gov.tr/kurumlar/goc.gov.tr/evraklar/Stratejik-Yonetim/Faaliyet-Raporlari/2017-Yili-Faaliyet-Raporu.pdf>

- ⁴¹ For a more extended discussion of how UNHCR based its RSD interviews in Turkey on – what I call - a gendered performance of persecution, please have a look at: Koçak, “Who Is ‘Queerer’ and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey,”
- ⁴² Koçak, “Who Is ‘Queerer’ and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey,” 41.
- ⁴³ Sima Shakhari, “The Queer Time of Death: Temporality, Geopolitics, and Refugee Rights,” *Sexualities* 17, no. 8 (2014): 998–1015; Sima Shakhari, “Killing me Softly with Your Rights: Queer Death and the Politics of Rightful Killing” in *Queer Necropolitics*, ed. Jin Haritaworn, Adi Kuntsman, and Silvia Posocco (New York: Routledge, 2014), 93-110; Elif Sarı, “Lesbian Refugees in Transit: The Making of Authenticity and Legitimacy in Turkey,” *Journal of Lesbian Studies* 24, no. 2, (2020): 140-158.
- ⁴⁴ Koçak, “Who Is ‘Queerer’ and Deserves Resettlement?: Queer Asylum Seekers and Their Deservingness of Refugee Status in Turkey,” 43-44.

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