

# “We Do Not Matter”: Transgender Migrants/Refugees in the Dutch Asylum System

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## Abstract

Although the Netherlands is renowned for its forerunner position in lesbian, gay, bisexual, transgender/transsexual, and intersex (LGBTI) rights, this study urges one to question whether it can still live up to that image. Reports, news items, and signals from non-governmental organizations, such as Transgender Network Netherlands in the field show that especially transgender migrants/refugees regularly face abuse and discrimination. Yet, academic research underlying such findings is scarce. Moreover, a highly gendered discourse on the current migration/refugee crisis makes transgender migrants/refugees even more invisible. This article presents an interpretive approach to the institutional and disciplinary realities they become part of. The approach comes from (1) a literature review, surveying both scholarly publications and other sources; (2) patchwork or instant ethnography, thickening the findings from the literature; (3) and foremostly a theoretical interpretation of the precarious situation in which many transgender migrants/refugees find themselves. We draw upon synthesizing concepts such as “total institution” (Goffman 1961; Henry 1963), “human waste” (Bauman 2004), and “armed love” (Ticktin 2011) to constitute our theoretical framework, through which we show that transgender migrants/refugees are met with compassion and pity, rather than equal rights and full citizenship. This bitter logic leads us to the conclusion that within the Dutch asylum system, transgender migrants/refugees are rendered politically irrelevant, which eventually reflects the main priority of the Dutch authorities (and society at large) to control the boundaries of the nation-state, rather than to address the needs and rights of those people who seek, on legitimate grounds, a passport to a better, that is, a full life.

**Keywords:** transgender migrants/refugees, invisibility, exclusion, sexual violence, the Netherlands

## Introduction

**I**N THE SUMMER of 2016, the case of the Syrian (male to female) transgender refugee Maazen was brought to court. The judges of the Court of The Hague had to consider the first criminal case on lesbian, gay, bisexual, transgender/transsexual, and intersex (LGBTI) violence in a Dutch center for asylum seekers (Asielzoekerscentrum [AZC]). Maazen belonged to a group of 10 LGBTI refugees who were placed for safety reasons on the women’s wing of the AZC Alphen aan den Rijn, in the west of the Netherlands. Nevertheless, they were systematically harassed by fellow refugees whenever they left their room. For Maazen, this eventually resulted in serious death threats by a fellow countryman.

Maazen’s case does not stand alone. At the beginning of December 2016, a young homosexual asylum seeker from Iran was attacked and almost killed by a North African

asylum seeker in an asylum center near Groningen, in the north of the Netherlands. And there are more stories to tell (see Luit 2013).

Bit-by-bit we learn that, despite the so-called Dutch tolerance and liberal views on sexuality, many LGBTI migrants/refugees face different forms of hostility in or outside the reception centers that are thought to protect and, in a sense, liberate them from the hardship, violence, and/or persecution they escaped when leaving their countries of origin. Until now, there is very little data available on their experiences, and on the sharp contrast between their expectations (and anticipated rights or freedom) and the reality they face after arriving in the Netherlands, in terms of legal position, social status, access to healthcare, and treatment in asylum centers and housing facilities. Research on LGBTI migrants/refugees is still scarce, and especially an analysis of the position of transgender migrants/refugees is lacking

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or not brought together. One of the goals of this contribution is, therefore, to assemble studies and review existing literature that examine or touch upon the position of LGBTI and particularly transgender migrants/refugees going through asylum procedures and/or residing in migrant/refugee camps (Binnie and Klesse 2013; Chávez 2010, 2011; Cowen et al. 2011; Howe et al. 2008; Jansen 2014; Jansen and Spijkerboer 2011; Swetzer 2016; Tabak and Levitan 2013).

The results from this review, however, are far from complete. For a more “thick description” (Geertz 1973) and localized account, we therefore included fragments of news items, notifications of non-governmental organizations, such as Transgender Network Netherlands and COC, ethnographic fragments, and observations from an expert meeting to illustrate the complex situation in which transgender migrants/refugees may find themselves. As such, the article follows the format of patchwork ethnography (Tsing 2005) or instant ethnography (Ferrell 2009) uncovering select, but crucial processes at certain moments and “odd connections rather than seamless generalizations” (Tsing 2005: pp. x–xi; see also Van der Pijl et al. 2011).

Moving from patches and fragments to abstraction, we connect the separate, seemingly haphazard events, stories, and experiences with each other, as well as with more synthesizing concepts, such as “total institution” (Goffman 1961; Henry 1963), “human waste” (Bauman 2004), and “armed love” (Ticktin 2011). In so doing, we seek to expose the interplay between protection and expulsion of LGBTI people, in general, and transgender migrants/refugees, in particular, within the Dutch asylum system. The resulting theoretical driven analysis contributes, eventually, to an interpretive approach to the institutional and disciplinary realities transgender migrants/refugees become part of when crossing borders and trying to find a safe haven or a new home.

Our point of departure is the idea of in/visibility. Under contemporary conditions of both physical and symbolic mobility, transgender migrants/refugees are simultaneously visible and invisible. On the one hand, their sexual/gender identity is magnified and stigmatized. We argue that a sexualized, orientalist gaze characterizes the current migrant/refugee debate in Europe and the Netherlands. Conceptually, this gaze can be related to a late modern imagination of gender roles that, notwithstanding its supposed fluid characteristics, hardens or fixes particular identities. The concepts of “hegemonic masculinity” (Connell and Messerschmidt 2005) and “crisis of masculinity” (Hatty 2000) are of importance here. They inform us on the affect of a gendered and sexualized gaze, both discursively and practically, on the experiences and everyday lives of transgender migrants/refugees in transit. On the other hand, there is almost no knowledge on transgender people in the migrant/refugee population. Based on various reports and findings from the Dutch context, we show that they are hardly seen or recognized when it comes to their everyday lives in asylum or refugee centers and, for that matter, Dutch law enforcement policies.

On a more abstract level, we analyze this situation through the central, synthesizing concepts already mentioned. In our discussion, we further extend the conceptual framework, particularly by building on the work of Fassin (2001, 2005) and Miriam Ticktin (2011) to show how a so-called humanitarian approach might acknowledge trans-

gender migrants/refugees as human beings, but not (and rather to the contrary) as full citizens. This will lead to our conclusion that ultimately unveils the (un)intended consequences of the current Dutch asylum system.

## Materials and Methods

Since very little empirical data are available on transgender migrants/refugees in the European asylum system so far, this article is based on an explorative investigation and interpretive approach. As mentioned in the introduction, we draw heavily on various theoretical perspectives and concepts to analyze and interpret transgender migrants/refugees’ experiences in the Dutch asylum system. Yet, these theoretical abstractions can only be regarded explanatory in tandem with realities on the ground—no matter how fragmented and haphazard they may seem. With regard to the latter, we have combined a triplet of data sources.

First, we have studied existing academic literature on LGBTI migrants/refugees in general (Binnie and Klesse 2013; Chávez 2010, 2011; Howe et al. 2008; Jansen 2014; Jansen and Spijkerboer 2011; Tabak and Levitan 2013), and on transgender migrants/refugees in particular (Cowen et al. 2011; Swetzer 2016). Since specific literature is scarce, we also delved into studies on transgender people’s experiences in their interactions with other state institutions (e.g., prisons) and healthcare institutions. Although these various institutions may appear very different from each other, we found remarkable similarities, for instance when it comes to situations of neglect, isolation, exclusion, and alienation.

Second and related to issues already mentioned, we have added data to our literature findings that have emanated from empirical, qualitative fieldwork among transgender migrants/refugees in the Netherlands by one of the authors (Swetzer). Swetzer’s (2016) research, which included in-depth, semistructured interviews with transgender migrants/refugees and experts, particularly focused on transgender migrants/refugees’ access to and experiences with the Dutch healthcare system.

Third, we gathered more specific data on transgender migrants/refugees and their experiences with the Dutch asylum system through an expert meeting on transgender migrants/refugees.<sup>1</sup> In this meeting, various academics, non-governmental organizations, operating within the asylum system, and transgender individuals (refugees and non-refugees) participated. All participants were encouraged to share experiences, and particularly to discuss the position of transgender migrants/refugees in Dutch asylum centers, their legal position in the Netherlands, access to transgender-related healthcare, general stigmatization issues and their consequences, the approach and (lack of) professionalism of asylum centers’ personnel vis-à-vis transgender individuals, governmental responses to signals of violence against them, etc. Written notes were taken, which were later analyzed against the background of our preliminary findings from the literature review. As such, the meeting also functioned as a feedback moment to check these findings.

<sup>1</sup>Expert meeting “(In)visibility of Transgender Refugees and Migrants,” held at Utrecht University, Utrecht, the Netherlands, February 6, 2017.

### An Exclusionary, Gendered Migrant/Refugee Discourse

In the contemporary globalized world, the reasons for transgender people to migrate might not be so different from other groups of people: getting away from everyday life constraints, searching for safety, and/or looking for work to survive economically. However, two particular and related aspects are striking for transgender migrants/refugees. First, transgender individuals can be considered to travel or move in a most existential sense—from one social state of being to another—when trying to acquire a different gender and social position than ascribed at birth (cf. Ekins and King 2006: p. 44, 199; Swetzer 2016: p. 59). Second, this embodied state of (symbolic) mobility and the social repercussions it evokes in certain sociocultural contexts can be directly linked to the physical mobility across borders: persecution on the grounds of being transgender is—in the Netherlands as well as in other countries in Europe—a legitimate ground for acquiring a refugee status.

The current migrant or refugee “crisis” in Europe<sup>2</sup>, however, might complicate the dream of finding a better, safer life in which one is socially more accepted than in the society one fled from. Contemporary discourses on migration are severely affected by fear of what has been publicly and politically imagined as “gulfs of refugees” floating over European borders (Mahtani and Mountz 2002). As a result, an overwhelmingly negative tone characterizes the debate.

These recent fears and resulting expressions seem to echo Jock Young’s (2007) claim that late modern conditions evoke a feeling of vertigo due to fluid boundaries, malleable identities, cultural diverse societies, and daily, ontological insecurities (cf. Giddens 1991). Othering—the simultaneous zooming in on differences between oneself and the other, while downplaying the things one has in common with the other—has become a crucial mechanism in dealing with people considered as outsiders (Young 1999, 2007). This can partly explain the preoccupation with difference in the current migration/refugee debate and relates to one of the striking observations of late Zygmunt Bauman—“the stranger is the danger” (Bauman 2011)—to which we return to further on in our discussion.

In short, current European discourses on migrants/refugees show an obsession with difference and are often raced, cultured, spaced, and gendered (Oude Breuil 2014). Hence, whether one may (eventually) belong to society within Fortress Europe depends on complex intersections of ethnic background, color, perceived (in)commensurability of cultures or religions, the region or nation-state one comes from, and, last but not least, gender. Exclusionist tendencies along these lines and intersections are clearly recognizable in media representations of the so-called migrant or refugee crisis. Esses et al. (2013: p. 519) for instance claim that:

[...] the media and political elites may take advantage of [the public’s] uncertainty to create a crisis mentality in which immigrants and refugees are portrayed as ‘enemies at the gate,’ who are attempting to invade Western nations [...] The resultant dehumanization of immigrants and refugees may appeal to members of the public, serving to justify the status quo, strengthening ingroup–outgroup boundaries, and defending against threats to the ingroup’s position in society.

Besides media representations depicting refugees and migrants as spreading contagious diseases, being illegitimate “fakes,” who are out to abuse the host nation’s social security system (cf. Nagy and Oude Breuil 2014), and terrorists “in disguise” (Esses et al. 2013), we additionally observe an explicit focus on male refugees as potential sexual assailants. The following snapshots from the European, but also the American, media landscape illustrate this.

#### Snapshot 1: “young, strong men”

The “migration panic” (Bauman 2016), fueled by alarming, negative media messages, is not unique for Europe. U.S. President Donald Trump might be perceived as a radical representative of this discourse, exploiting moral panic and strengthening fears and anxieties that have become widespread, for example, in his speech in the state of Massachusetts, in which he refers to refugees being all “young, strong men”:

This could be the great Trojan horse of all time. Because you look at the migration, study it, look at it. Now they’ll start infiltrating with women and children. But you look at that migration—and I’m the first one to bring it up—three weeks ago I’m sitting and I’m saying, ‘isn’t that a shame?’ And then I said to myself, ‘Wow. *They’re all men.*’ You look at it. There are so few women and there are so few children. And not only are they men, *they’re young men.* And *they’re strong as can be*—they’re tough looking cookies. I say, what’s going on here? (our emphasis added).<sup>5</sup>

#### Snapshot 2: sexually deviant behavior

The focus on “young” and “strong” men threatening society has been further extrapolated into an image of male migrants as sexually deviant beings. This becomes lucidly clear in the extensive media coverage of the sexual assault on German women during New Year’s Eve 2015 in Cologne (and to a smaller extent Hamburg). According to witnesses and police reports, a group of around 1500 men, supposedly consisting of migrants and newly arrived refugees who had assembled around Cologne’s train station, sexually assaulted and robbed hundreds of German citizens, mainly women, who were celebrating New Year. From its inception, the story has changed multiple times bearing a high degree of obscurity, confusion, and imputation, and hardening ethnic and gender boundaries: “Wir nehmen es

<sup>2</sup>The term “crisis” is increasingly used in political, public, and media discourses and debates. It refers to the current mass movement of migrants and refugees to Europe, peaking in 2015. In that year, more than a million migrants and refugees crossed into Europe, sparking a crisis as countries struggled to cope with the influx, and creating division in the European Union over how best to deal with resettling people. See (<http://publications.europa.eu/webpub/com/factsheets/refugee-crisis/en>), accessed June 9, 2017.

<sup>5</sup>From: (<http://time.com/4122186/syrian-refugees-donald-trump-young-men>) accessed June 9, 2017.

nicht hin, dass sich *nordafrikanische Männergruppen* organisieren, um *wehrlose Frauen* mit dreisten sexuellen Attacken zu erniedrigen” (our emphasis added).<sup>4</sup> German government representatives and various media also accused newly arrived Syrian refugees of the assaults. Although it later turned out that they were not the main assailants, the damage had been done: male refugees were now associated with and feared for their supposed sexually deviant behavior, which, in turn, demonstrated their lack of understanding of German culture, being sexually liberal, and the equal gender relations in Germany or Western society in general.

### *Snapshot 3: teaching gender norms and preventing rape*

After the incident in Cologne and other reported incidents of rape and sexual assaults in Belgium and Scandinavian countries, many host countries decided to introduce mandatory courses on sex education for all asylum seekers. “European governments have worried that the *chauvinist values* of some of the immigrants they are absorbing could lead to trouble” (our emphasis added). One of their priorities regarding refugee and migrant integration is to “prevent rape.”<sup>5</sup>

### *Snapshot 4: protect our women against barbaric others*

The obsession with the assumed sexual predatory behavior of male refugees was expressed in the Netherlands through the infamous symbol politics executed by right wing politician Geert Wilders in the town of Spijkenisse on January 23, 2016. Wilders distributed small cans of spray paint to women to protect themselves from sexual assaults by refugees. “The incidents in, for example, Cologne and other cities show how dangerous it is to massively bring inside [our society] men from the *barbaric, female-unfriendly, Islamic culture*” (our emphasis added), the politician commented in the media upon request.<sup>6</sup>

### *An exclusively heterosexual male discourse and the issue of invisibility*

What can we deduce from these examples? First of all, the fragments point at a representation of refugees as mainly masculine, with a strong emphasis on their heterosexuality. Indeed, the influx of male refugees in Europe is relatively high<sup>7</sup>, but certainly not exclusive. However, the tendency to comment on the current migrant/refugee crisis, as if only heterosexual men migrate to Europe, makes female and LGBTI refugees invisible and, as we will argue further on in

this contribution, more vulnerable. The way in which male refugees are depicted can be elucidated with theoretical approaches to Western hegemonic masculine representations. The concept of “hegemonic masculinity,” as part of Connell’s (1995) gender order theory, is defined as the practical legitimization of male domination in society, justifying and encouraging the subordination of women or of people who do not fit the stereotypical male prototype (Connell and Messerschmidt 2005).

The approach is contrasted by Hatty (2000) who claimed that violent behavior in men is not so much a result of their hegemonic position in society, but, rather, of the loss of that position in late modernity. According to Hatty, this is due to processes of emancipation, including women taking up the role of (co) breadwinner, which robbed men of their income-earning role and subsequent social status. As a result, they are supposed, in this line of reasoning, to react with fierce and aggressive masculine behavior. Whether masculinity is in power or in crisis, both approaches refer to hardened gender roles that allow little room for more flexible, cross-gender or gender-neutral behavior in both men and women.

However, the tensions described in the fragments already mentioned are not just fought along the axe of gender. In the second, third, and fourth fragments, the supposed sexually deviant behavior is directly linked to culture and, to a lesser degree, religion. Cultural values of the sexualized refugee are presented as “chauvinist,” “barbaric,” and “female unfriendly.” This bears due resemblance to what Said (1978) so famously coined Orientalism: the Western stereotyping mode of thought including ideas about Eastern inferiority and (sexual) violence. Western society is considered in this discourse as less patriarchal and more civilized when it comes to sexual violence (cf. Ticktin 2011).

Subsequently, such orientalist perspectives and related dichotomies resemble the Dutch “protective” approach toward LGBTI people and, especially, its current ideology of what has been coined “homonationalism” by Jasbir Puar (2013). The concept refers to acceptance and tolerance toward gay and lesbian individuals (or “gay friendliness”), becoming not only nationally positively valued but also a crucial (and internationally communicated) part of a country’s national self (Puar 2007, 2013). More specifically, in this case, it refers to sexual freedom considered typical for Dutch culture and society, which is juxtaposed with Islamic culture that is perceived as “oppressive and intolerant” (Jivraj and De Jong 2011: p. 146; see also Wekker 2009). In other words, Dutch culture is represented as gay friendly, whereas Islamic religion is seen as homophobic.

The Dutch homonationalist discourse, including the stereotypical roles and binary positions, has some disadvantageous consequences for the position of transgender migrants/refugees in the Netherlands. First of all, they are made invisible among the migrant/refugee population, as the public-political gaze mainly focuses on misogynistic and homophobic heterosexual men. Second, the tendency to harden and fix gender roles—men are like this (aggressive perpetrators) and women like that (innocent victims)—relates problematically to the status of being in transit, i.e., not having a fixed gender identity. Inflexible representations of gender can easily discourage transgender migrants/refugees to be open about their identities. Third, if the Netherlands is imagined as queer-friendly, this might lead to disregarding

<sup>4</sup>“We do not accept that North African groups of men organise in order to degrade defenceless women with bold sexual attacks” (own translation). Ralf Jäger, Innenminister Nordrhein-Westfalen (in: Panorama, 6 January, 2016, our emphasis added).

<sup>5</sup>The Economist, October 15, 2016. See ([www.economist.com/news/europe/21708722-turns-out-be-more-complicated-it-sounds-europe-trying-teach-its-gender-norms](http://www.economist.com/news/europe/21708722-turns-out-be-more-complicated-it-sounds-europe-trying-teach-its-gender-norms)) accessed June 9, 2017.

<sup>6</sup>From: ([www.rtlnieuws.nl/nieuws/politiek/geert-wilders-gaat-verzetsspray-uitdelen-tegen-aanrandingen](http://www.rtlnieuws.nl/nieuws/politiek/geert-wilders-gaat-verzetsspray-uitdelen-tegen-aanrandingen)) accessed June 9, 2017.

<sup>7</sup>From: (<https://www.bloomberg.com/view/articles/2016-08-09/europe-s-wave-of-migration-brought-too-many-men>) accessed June 9, 2017.

the possible problems gay, bisexual, and transgender migrants/refugees encounter in the Dutch asylum system. COC an organization that advocates the rights of LGBTI people in the Netherlands, sent an urgent letter to the Dutch government on October 22, 2015, to stress the consequences of this neglect:

In the last 14 days the COC is approached by ten individuals who claim to feel (very) unsafe in the emergency shelters in particular. They report to be scolded at, bullied, and threatened because of their sexual orientation and/or gender identity. The reports concern eight different (emergency) shelters, the reporters mainly coming from Syria or Iraq.<sup>8</sup>

Paradoxically, the often well-meant and protective logic behind Dutch homonationalism leads to a one-dimensional, stereotypical imagination of the Other and, with that, the invisibility of those who do not fit in this picture; they often experience a lack of understanding or acceptance and, as a result, feel excluded or, ultimately, dehumanized (cf. Esses et al. 2013). Transgender migrants/refugees present at our expert meeting confirmed this position of “being unseen,” sharing their experiences of being socially cast out, discriminated against, or approached by men disrespectfully and in a sexual way. Moreover, they felt excluded from what they considered proper work or felt forced to do jobs in which they are not interested or for which they lack the education or skills.

In sum, it appears that transgender migrants/refugees in the Netherlands are confronted with a reality that more often than not differs from their imagination and expectations. In the next sections, we elaborate on this gap by contrasting the prospects and dreams transgender migrants/refugees had when coming to the Netherlands with the everyday reality they face in terms of legal position, social status, access to healthcare, and treatment in various asylum center and housing facilities.

### Migrating to the Netherlands

Latin American and Caribbean transgender migrants/refugees in Swetzer’s (2016: p. 62) research imagined the Netherlands as a “safe haven” for LGBTI people. They based this image on their knowledge of LGBTI rights in the Netherlands, such as allowing same-sex marriage. Their impression is not totally mistaken: the Netherlands was the first country (in 1981) to recognize persecution on grounds of sexual orientation or gender identity as a legitimate reason to grant asylum.<sup>9</sup> Six years later, the country played a forerunner’s role in legally recognizing transgender individuals’ desired gender identity: transgender individuals could legally change their gender identity—provided that they would undergo complete sex reassignment surgery, leading to permanent infertility. And in 2001, it was the first country in the world that allowed same-sex marriage and adoption for same-sex couples. Moreover, the Netherlands is still perceived as LGBTI tolerant, with the gay parade as its ultimate showpiece.

<sup>8</sup>See for the full letter: (<https://www.coc.nl/wp-content/uploads/2015/10/151022-DIJKHOFF-Veiligheid-LHBT-asielzoekers-in-de-noodopvang1.pdf>) accessed June 9, 2017.

<sup>9</sup>See: ([www.coc.nl/wp-content/uploads/2013/11/Fleeing-Homophobia-report-EN\\_tcm22-232205.pdf](http://www.coc.nl/wp-content/uploads/2013/11/Fleeing-Homophobia-report-EN_tcm22-232205.pdf)) accessed June 9, 2017.

It is the question, however, whether the Netherlands can still live up to that pink cloud image or “homo nostalgia” as Gloria Wekker (2009) calls it. According to the Rainbow Europe Map of the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), the Netherlands now occupies the 11th place of 49 European countries in terms of the legal rights and equality of LGBTI individuals in the country. The Map concludes that the Netherlands “has lost its forerunner position in Europe concerning LGBTI rights.”<sup>10</sup>

The number of trans and intersex people applying for international protection in the Netherlands is unknown. Although LGBTI asylum seekers can apply for asylum on the grounds of their sexual orientation and gender identity, the situation is still far from ideal (see Jansen and Spijkerboer 2011). For instance, an asylum seeker’s LGBTI status might very well be ignored in court if he or she mentions this status after decision making in the first phase of the asylum procedure.<sup>11</sup> Yet, LGBTI asylum seekers can have various reasons for not telling that their flight is related to their gender identity immediately upon entering the country: shame or fear of violent reactions of other asylum seekers might make them hide their gender identity initially. Jansen and Spijkerboer (2011) also observe that transgender asylum seekers’ stories are assessed by the authorities as implausible, because they give evasive answers to questions about sexual acts. Again, shame or fear might be a reason for this restraint: these questions are sometimes so detailed that they can be considered intrusive, even pornographic (Jansen and Spijkerboer 2011).

All in all, the supposed open, liberal Dutch forerunner position concerning LGBTI rights and equality could be called into question. The latter also counts for the far-famed transgender healthcare and particularly its accessibility for migrants/refugees. A few years ago, the Dutch Central Bureau of Statistics claimed that “the medical provision [of transgender-related healthcare] in the Netherlands is better than in many other countries.”<sup>12</sup> If so, how can we explain some transgender migrants in Swetzer’s research (2016) commenting that they prefer to travel to Thailand for their gender reassignment surgeries, rather than having to subdue the paternalizing approach of the gender team of Free University Medical Centre in Amsterdam? Swetzer (2016) shows that Latin American and Caribbean, but also Dutch, trans women experience the Dutch healthcare system—in particular the gender reassignment-related healthcare provided by the already mentioned gender team—as troublesome and harmful to their health and mental condition.

In other words, there are reasons to doubt whether the claim on the superior transgender-related healthcare (still) holds, especially for transgender migrants/refugees. They

<sup>10</sup>See: (<https://www.coc.nl/internationaal/nederland-niet-langer-in-kopgroep-lhbt-rechten-europa>) accessed June 9, 2017.

<sup>11</sup>The lack of judicial review after the situation in which an asylum seeker reports that he or she is lesbian, homosexual, bisexual or transgender only after the first resettlement is at odds with the ex-nunc-review of the European Court of Human Rights (Spijkerboer and Jansen 2012: 458).

<sup>12</sup>See: (<https://www.cbs.nl/nl-nl/nieuws/2011/48/nederland-telt-900-transseksuelen-die-hun-geslacht-juridisch-hebben-gewijzigd-in-de-periode-1995-2009>) accessed June 9, 2017.

have to wait for a long time before they can start (or continue) their medical treatment (a minimum period of 1 year of stable residence in the Netherlands is required for starting the gender reassignment procedure). Furthermore, medical staff members working in refugee shelters are often unaware of transition-related healthcare. Both the findings of Swetzer (2016) and the comments of transgender migrants/refugees at our expert meeting confirm these observations. It was stressed that the gender reassignment procedure takes too long and has too many exclusionary grounds along the way. The mentioned experiences and observations led Swetzer (2016) to the conclusion that migrants/refugees are subjected to infringement of rights (e.g., privacy), psychological harm, and unfair treatment during the procedure.

Besides their insecure position in the institutional settings of the asylum and healthcare procedures, transgender migrants/refugees frequently do not feel secure and safe in Dutch public spaces. Research of Van Oosterhout and Alink (2015), based on a total of 351 questionnaires among transgender individuals approached through the website of Transgender Network Netherlands, shows that transgender people in general disproportionately become victims of violence and insults. “The consequences of these experiences with violence are enormous. Four out of five respondents, who experienced monthly harassment or at least one clearly violent incident, indicate that they have adjusted their behavior because of (feelings of) unsafety. People stopped doing sports, started to avoid certain shops or other people, because of experienced and potential violence” (Van Oosterhout and Alink 2015: p. 4). Transgender migrants/refugees share these experiences and even bear the double stigma of being an outcast, because of their “deviant” gender identity and their “foreign” ethnic or national identity, leading to processes of othering and social exclusion.

The social exclusion of transgender migrants/refugees is also reflected in their position on the Dutch labor market. A study conducted in the Netherlands in 2010 on the employment status of transgender people found that for nearly half of the respondents, who had lost their jobs for reasons other than the (legitimate) expiry of their contracts, their transgender identity played a role (Kedde and van Berlo 2011). Geijtenbeek and Plug (2015) examined the earnings of transsexual workers in the Netherlands and found that becoming a woman includes a substantial earnings penalty, and becoming a man a modest premium. Their research shows that “the transsexual earning patterns in our data are consistent with a (discriminating) labor market in which transsexual workers are paid less as disclosed transsexual as well as being a registered female” (Geijtenbeek and Plug 2015: p. 17).

The disadvantageous labor condition leads for some transgender individuals, and particularly those who do not have a legal status, to working in the Dutch sex industry (Goderie et al. 2002; Luit 2013: p. 14). This is, of course, not unique for the Netherlands (see Namaste 2000). In general, discrimination against transgender people on the labor market forces many of them into prostitution or sex work for economic sustenance. Although this kind of work, mostly in the informal, illegal sector, may contribute to their payments for transgender-related healthcare needs (Namaste 2000: p. 35), it puts them simultaneously in a vulnerable and quite often invisible position.

In conclusion, migrating to the Netherlands does not necessarily imply the acceptance, equality, and social inclusion many transgender people long for. On the contrary, many transgender migrants/refugees are condemned to live their lives in limbo—invisible and “wasted,” as we will argue hereunder, at the margins of Dutch society.

### LGBTI Migrants/Refugees as Wasted Humans?

The case of the Syrian transgender refugee Maazen and the assault on a young homosexual asylum seeker from Iran, with which this article started, are not isolated cases. According to the earlier mentioned report of COC Netherlands, physical and mental violence are a reality that many LGBTIs in Dutch refugee and asylum centers face. As argued in the previous section, they often do not find the safe haven they were hoping for or even expected to find after their flight from their home countries. Hazem Darwiesh wrote an op-ed piece about this, which was published in the Dutch daily newspaper *NRC* (Darwiesh 2017). The brutal attack on the young Iranian man resembles his own experiences. In 2015, Hazem arrived “as homosexual refugee,” to use his own words, in the Netherlands. He describes how he was “stuffed” in a refugee center with 500 Syrian refugees. Born and raised in Aleppo, Syrians were no strangers to him, Hazem writes. “But,” he continues, “I also fled from these people, as I was afraid that they would not accept me because of my sexual orientation and that they would finally kill me” (Darwiesh 2017: p. 18). The title of Hazem’s op-ed piece speaks volumes in this respect: “Netherlands, I fled from these homophobes.”<sup>13</sup>

In general, refugee and asylum centers give shelter to people with very different sociocultural backgrounds, to people from war-torn regions and countries in which LGBTI people are criminalized. The latter means that LGBTIs in these centers are often confronted with people, sometimes fellow citizens, who do not necessarily accept non-heteronormative identities and might express prejudiced, not uncommonly sheer patriarchal conceptions and show ditto demeanors. For instance, in Germany we found cases in which male asylum seekers from the Middle East refused to take food distributed by women in centers, as they consider this polluting.<sup>14</sup> Regarding the Dutch situation, homophobic, and discriminatory behavior in refugee and asylum centers, ranging from avoidance of contact to different forms of violence, is a daily reality for people like Hazem Darwiesh and many others.

Meanwhile the Dutch asylum system endorses, in a way, such manifestations of heteronormativity. Housing arrangements for individual asylum seekers, for example, are organized along the gender binary system with all that this applies for LGBTIs, for example, not feeling safe, feeling forced to hide their identities, being excluded, discriminated, or violated. Recently, there are initiatives establishing LGBTI-only centers, whereas other centers organize separate housing, for example, for homosexual refugees, sometimes

<sup>13</sup>The translation of the title and all other citations from the newspaper article are ours.

<sup>14</sup>See: [www.deutschlandfunk.de/julia-kloeckner-wir-haben-fluechtlinge-die-sich-weigern.694.de.html?dram:article\\_id=332406](http://www.deutschlandfunk.de/julia-kloeckner-wir-haben-fluechtlinge-die-sich-weigern.694.de.html?dram:article_id=332406), accessed June 9, 2017.

referred to as “pink camps.”<sup>15</sup> Yet, we show that these initiatives merely function as a form of what Ticktin (2011) called “armed love,” that is, a logic and practice that focuses on care and protection, not on equality.

Based on his own experiences and stories of others, Darwiesh (2017: p. 18) states, furthermore, that employees of refugee and asylum centers are “gay friendly,” but that they nevertheless allow “aggressors” to roam free. In addition, Swetzer (2016: p. 68) found that personnel working in these centers and the entire migrant/refugee apparatus are often neither qualified nor knowledgeable when it comes to LGBTI matters. According to her findings, the intersection of gender and asylum-seeking status (being in the legal process to obtain citizenship or a residence permit) puts especially transgender migrants/refugees in a vulnerable position. They might fall victim to discrimination and acts of violence from the side of other asylum seekers residing in the same, shared shelters, while simultaneously staff members of the centers, from their side, are not identifying the situation or not taking firmer action. “Here in the Netherlands,” Darwiesh (2017: p. 18) notes, “something very bad must happen before action takes places. This action means, ultimately, that the weaker refugees are removed just like scum.” In this regard, reflecting on the violently assaulted young asylum seeker from Iran, Darwiesh (2017: p. 19) writes:

He had never imagined that he, here in the Netherlands, as a homosexual still would be seen as rubbish, that he would be nothing more than a number in the eyes of the Dutch authorities. When it comes to safety, he thought probably, by being open about this topic [his sexuality], he would have an advantage. Homosexuality in his own country is dangerous, but there is no difference with this country of freedom...

Darwiesh argues that drawing attention to this situation is impossible, as “COA-people ask you to accept the bigger group as it is” (Darwiesh 2017: p. 19).<sup>16</sup> Swetzer’s findings assent to his experiences. She found that the transgender dimension of the identity of transgender migrants/refugees “vanishes” once being caught in the Dutch asylum system. By concealing their identities and, in cases, also the harm that has been done to them, they are—from a legal point of view—nothing more than just migrants/refugees (Swetzer 2016: p. 63). The latter results in the paradoxical situation that, especially, transgender migrants/refugees cannot or do not claim the rights that should or could protect them. Being open or not about sexual orientation and identities makes no difference, Darwiesh (2017: p. 19) concludes his story: “It brings no change in the situation we tried to escape. It does not offer us a dignified life and does not save us from violence. In the end there is no difference ... there is no

difference between the value of our blood in Syria or the Netherlands.”

Following Zedner (in Aas and Bosworth 2013) and Swetzer (2016: p. 70), we might argue that Hazem Darwiesh, the young homosexual asylum seeker from Iran, and many other LGBTI migrants/refugees are doubly subject to the rationale of *Feindstrafrecht*. It states that certain people, as enemies of society or state, do not deserve the protections of the civil or penal law.<sup>17</sup> In their home countries, from which they fled, they face legal challenges not experienced by non-LGBTI residents and, hence, are often denied protection from homo- or transphobic discrimination or attacks: their identities and/or sexual activities are often considered illegal and homosexuality, for example, is a crime punishable by law. But also in their host countries, such as the Netherlands, they often lack protection and are not considered or treated as full citizens (or *bios* to use Agamben’s conceptual framework). First of all, they fall short of protection, because they are still in the legal process to obtain citizenship, including the rights and safety that come with it. But, second, they are exposed to all kinds of violations, because their vulnerable—betwixt and between—positions are hardly seen or recognized in and by the Dutch institutional asylum system. We do not argue that this system and the actors making this system possible deem LGBTI migrants/refugees enemies. Yet, the entire apparatus reflects and reproduces inequalities and, in turn, helps to create new subject positions leading to even greater vulnerability (cf. Ticktin 2011).

Especially, newly arrived transgender migrants/refugees find themselves in an extremely difficult position. They are not (yet) citizens who can make claims on the Dutch nation-state, they are legally outside the nation-state (cf. Ticktin 2011). At the very most, they are tolerated in camps outside the *polis* being reduced to the bare life (*zoë*) of the “vagabond” or the “new unwanted,” to use Bauman’s (1998) terms, which means that their lives are not recognized as the political existence of full citizens (see Agamben 1998; cf. Fassin 2001, 2005). Moreover, they remain unseen both to the ordinary eye of personnel working in these camps (i.e., asylum and refugee centers) maintaining patriarchal conceptions and practices of “the bigger group” and to mass media coverage, mainly making a spectacle of young, virile refugees haunting and sexually harassing or abusing “native” women (see, e.g., the earlier mentioned case of Cologne).

In other words, by perceiving asylum seekers primarily through a homogenizing, heteronormative lens, cases of violence against transgender migrants/refugees remain invisible. As we have seen, this is not necessarily the goal of employees of refugee and asylum centers or other actors involved—they usually are “gay friendly.” In fact, issues that receive the most affective attention or the most moral legitimacy, nowadays, revolve predominantly around sexuality and sexual or gender-based violence, at which “gay rights have [even] become a new form of civilizational marker” (Ticktin 2011: p. 138). However, attentive actors—whether they are individuals or organizations—participate

<sup>15</sup>At the Expert meeting “The (In)visibility of Transgender Refugees and Migrants” (Utrecht University, 6 February 2017) the term “pink camp” was used by three transgender women who shared their experiences of living in an asylum center and dealing with the Dutch Immigratie- en Naturalisatiedienst IND (Immigration and Naturalisation Service).

<sup>16</sup>COA (Centraal Orgaan opvang Asielzoekers) is responsible for the reception, supervision, and departure (from the reception location) of asylum seekers coming to the Netherlands.

<sup>17</sup>See for further conceptualization of the concept of *Feindstrafrecht*: Jakobs (1985).

in institutional settings and “regimes of care” (Ticktin 2011) bigger than themselves.

Comparable with other detention facilities, asylum and refugee centers have their specific logic of confinement and particular rules of control or protection—sometimes conceived with the best of intentions, but with undesirable consequences. In that sense, they function like any other “total institution” as once coined by Erving Goffman (1961) and Jules Henry (1963) (see also Fassin 2005). When we look through the lens of the total institution, comparing, for example, prisons with asylum centers (or “camps” as Fassin (2005) prefers to call them), we find remarkable similarities. In most prison settings, LGBTI people face a heightened risk of targeted physical and sexual violence, because of their identities. Especially transgender women are vulnerable, as they are usually housed with men (Tabak and Levitan 2013: p. 47). To protect them from other inmates, LGBTI detainees are often placed in “administrative segregation,” either in response to their own complaints of violence or as a “preventive measure” (Tabak and Levitan 2013: p. 47). Yet, this “administrative segregation” normally means solitary confinement leading to “severe mental health after-effects [that] may exacerbate Posttraumatic Stress Disorder or other conditions developed in response to violence in the country of origin or during migration” (Tabak and Levitan 2013: p. 47ff.). Tabak and Levitan also show that, in some cases, LGBTI detainees self-isolate to avoid stigmatization of others, including refugees from their countries of origin.

Goffman (1961) and others stated that the experience of being an inmate leads to negative consequences for one’s personality: the institutional environment is seen as disruptive of a positive sense of self, referred to as the mortification or disculturation of self. In the case of LGBTI people, we argue that they may even experience a double disculturation or mortification of self, since they are not only subjected to an institutional environment that is disruptive and alienating but also to a heteronormative, sexually violent setting that more often than not forces them into isolation and/or self-denial. Here we discern a parallel with experiences of LGBTIs in asylum or refugee centers. When we turn one more time to the story of Darwiesh (2017), we learn that separation—whether this is initiated by asylum authorities or asylum seekers themselves—is not only experienced as extremely lonely, but also as humiliating, inhuman, and/or traumatic (cf. Tabak and Levitan 2013). Hence, the establishment of separate housing and LGBTI-only centers might seem an act of compassionate treatment, yet these initiatives end up producing subjects not of equal rights but of pity (cf. Ticktin 2011).

#### *Armed love and collateral damage*

Miriam Ticktin (2011) discovered a common functioning behind these forms of compassion, which she called “armed love.” In the world of immigration politics, Ticktin shows that protection and care often go hand in hand with discipline, governance, restriction, and repression (cf. Fassin 2001, 2005). For Ticktin “armed love” occurs when humanitarian action is “accompanied, explicitly or implicitly, by practices of violence and containment” (Ticktin 2011: p. 5). She refers to former U.S. president George W. Bush’s

emphasis on the liberation of Afghan women from the Taliban as justification for war, and further develops the concept in the chapter *Armed Love: Against Modern Slavery, Against Immigrants* (Ticktin 2011: pp. 161–192), which shows how French efforts to fight human trafficking have led to heightened police activity and brutality in immigrant neighborhoods.

In general, regimes of care—which include humanitarianism, certain movements for human rights, the protection of (vulnerable) refugees, and various networks fighting violence against women or LGBTI people—have as their flip side regimes of surveillance and policing, or play, at least, a critical role in the governing, containing, and restricting of refugees and migrants. And this, in turn, pushes especially already vulnerable people into precarious situations, for instance into forms of labor with no (legal) protection.

To illustrate the latter, research participants informed Swetzer (2016) that quite a few LGBTI migrants/refugees, especially transgender asylum seekers, engage in sex work both within and outside refugee and asylum centers. During our expert meeting, “The (In)visibility of Transgender Refugees and Migrants,” transgender migrants/refugees present confirmed this observation. Transgender asylum seekers are pushed into sex work for various reasons. Yet, all motives are linked to their liminal status of being betwixt and between. Asylum seekers usually have to wait months, even up to a year or more, before they know whether they qualify for a residence permit. During this time, they are not allowed to work, that is, they are excluded from the formal labor market and, hence, a substantial form of income. This situation might push them into exploitative labor conditions, particularly when there is an urgent need for money, for example, to acquire hormones or other medical treatment.

According to one of the transgender speakers at the symposium, especially “problems with employment” (also when they do have a work permit) combined with an inadequate health insurance leads them into informality and undesirable, sometimes exploitative working conditions. In addition, she remarked that both the stigmatization and exotization of their transgender identity leave often few other income opportunities than sex work (or being employed as a “transgender activist”). Sex work in refugee or asylum centers might also function as a form of protection, creating some room for maneuver and, possibly, raising self-confidence.

This may seem paradoxical. Yet, we have seen that their physical visibility leaves transgender women and men vulnerable for various forms of humiliation, from bullying to violence or sexual harassment. At the same time, their situation, needs, and fears often remain invisible for personnel working in the centers. In these cases, sex work, creating a kind of protective relationships between sex workers and clients (Siegel-Rozenblit 2015), might safeguard transgender migrants/refugees from being harassed or assaulted within the walls of the center in which they reside. Hence, sex work does not only provide a much needed income, but in cases also creates a shield that allows transgender migrants/refugees to live more or less safe and honorably within the confines of their shelter.

The latter may lead to the conclusion that transgender or, more generally, LGBTI migrants/refugees are vulnerable, but of course not without agency. However the case of sex work, in particular, transgender sex workers, shows also, in line with Ticktin’s reasoning (2011: p. 188ff.), that agency



is always “contingent,” that is, embedded in larger structural and political forms, and more or less conditioned by subordination. With regard to their sexual, social, and cultural identities, especially transgender women are often reduced to an exoticized often racialized body, a stereotypical fetish, or one-dimensional object of the erotic imagination of others (usually white straight males). When it comes to their liminal bare lives in a camp, transgender migrants/refugees are a remarkably heterogeneous group, yet they are congregated principally as a homogeneous, administrative category. As such, they are not only denied access to legal work, but are also excluded from the realm of social communication and political participation—they are invisible, unable to speak, be heard, and seen.

Late Zygmunt Bauman spoke of the production of “wasted humans,” that is, “human beings bereaved of [...] adequate ways and means of survival” (Bauman 2004: p. 7); they are perceived as “collateral damage” or “aliens inside” (Bauman 2011) being deprived of the full life and rights enjoyed by members of the *polis*. In his last publication, *Strangers at Our Door*, Bauman used Michel Agier’s “remnants” (“dark, diseased, invisible”), a term that refers to people “left out of our sight, concern and conscience” (Bauman 2016: p. 90).

This is exactly how many transgender migrants/refugees experience life in Dutch asylum or refugee centers. If they are seen, they often have to endure “harassment by the own community,” as one of the transgender women present at the previously mentioned symposium explained. “Guys come to insult you... they want to have sex with you, but don’t have respect.” “Men see us like trash,” she concluded her story. As a result, some transgender women in asylum or refugee centers make themselves invisible. Another speaker gave the example of a transgender woman “who never leaves her room... her difference is a big offense to them [other residents].” When referring to “pink camps” as a measure of protection or safety, she stated: “living in a pink camp makes the situation a bit better, but there is still a lot to be done.”<sup>18</sup> The overall experience is that “IND gives us the feeling we do not matter.”

The experiences of these transgender women show that care and protection always come with a cost: as long as they are stripped of their legal personas, they are rendered politically irrelevant. Just like the *sans-papiers* in Ticktin’s research, transgender asylum seekers, in particular, and LGTBI migrants/refugees, in general, may be liberated from certain forms of hardship, danger, and exclusion (experienced in their countries of origin), but they are not “liberated into full citizenship” (Ticktin 2011: p. 218).

Comparable with the French immigration politics as analyzed in Ticktin’s outstanding study, the Dutch asylum system plays into and maintains a logic that depends on discretionary power—executed by IND officials and many others involved in the migrant/refugee apparatus—hierarchy, and inequality. Worst-case scenario is then, drawing on Hannah Arendt’s argumentation (in Seshadri 2008: p. 47),

<sup>18</sup>Just like Tabak and Levitan’s (2013) argument that migrant detention facility staff and management must be trained on and sensitized to the protection needs of LGTBI migrants, this speaker proposed instruction and schooling: “train them [IND personnel] to know that we are humans.”

that such a logic depoliticizes transgender asylum seekers (as well as many other migrants and refugees) into rightless noncitizens, whose “plight is not that they are not equal before the law, but that no law exists for them.”

## Conclusions

To date, information about experiences of transgender migrants/refugees is scarce. In the sparse literature on LGTBI asylum seekers, there is no specific attention for transgender people. On the contrary, this literature “struggles to identify and explore transgender specific asylum issues” (Cowen et al. 2011: p. 109). In that sense, we might argue that transgender migrants/refugees are academically invisible among the group of migrants/refugees that have recently (i.e., since the so-called migrant or refugee crisis) entered European countries and the Netherlands in particular. Their invisibility stretches to the political and public domain. Whereas the Dutch government has recently taken initiatives, for example, to house LGTBI refugees/migrants in separate shelters, especially transgender people in the asylum system are still out of political sight. We have argued that the gendered discourse on the migration/refugee crisis is partly to blame for that. Because of its dominant focus on heterosexual men, who are tight up in a hardened gender role of violent, sexual masculinity, transgender migrants/refugees and their fate are mostly overlooked and neglected. They are, as “remnants” of our time (Bauman 2016: p. 90), out of political sight and out of our public conscience.

When transgender migrants/refugees do step into the light, through the intervention of self-help or so-called rescue and save organizations, their claims are met with compassion and pity, rather than with equal rights and full citizenship (cf. Ticktin 2011). Following Ticktin (2011), we, therefore, conclude that compassionate solutions are a mere palliative—they care but do not cure—as they cannot improve the life conditions of the transgender refugee/migrant on a sustainable basis. They are rather an example of “armed love” and, thus, accompanied by disciplining, repression, and restriction—mechanisms that dilute rather than enhance full membership of Dutch society. Various disciplining techniques and restrictions, like not being allowed to start gender reassignment therapy until one has legally resided in the Netherlands for 1 year, consequently harm a group of people Dutch asylum law aimed to protect from persecution.

This is, actually, collateral damage (Bauman 2011) at work. Bureaucratic and administrative regulations, or for that matter protective demands, reflect primarily the efforts of Dutch authorities (and society at large) to create order in the imagined chaos or panic (Bauman 2016) caused by migratory movements to and within Europe. It seems, thus, a striving for control over the boundaries of the nation-state. Unintendedly or not, caring for transgender refugees/migrants, in other words, turns out to be the flipside of the in/visibilization of a group that threatens the imaginary character of a society through its inherent transitory character.

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