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**Discourse and power relations
in the asylum legal system:
exploring the construction of
refugee narratives by legal
advocates in Lebanon**

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Abstract:

Refugees are entitled to legal representation and advice after lodging an application for asylum status. During that process, they are expected to narrate their own story and experiences. The scarce academic literature on this subject has pointed out that refugees are constantly portrayed as apolitical and powerless victims in need of 'saving' from the host State. Drawing on a Foucauldian framework, this paper aims at exploring 'the ideal refugee narrative' constructed asylum legal system, who perpetuates and reproduces it, and how it serves systems of dominance and power. While much academic research has sought to explore refugee narratives in the media and politics, very few have focused on the ones constructed within the legal system. Yet, legal advice is one of the most fundamental rights refugees are entitled to. This article aims at filling this research gap by focusing on refugee narratives constructed by legal advocates in Lebanon – the country with the highest number of refugees per capita in the world. In doing so, this study relies on a methodology combining case-law analysis and five in-depth interviews conducted with legal advocates in Beirut. Ultimately, this paper argues that the asylum legal system imposes hegemonic refugee narratives infused with premises of victimhood and other stereotypes. Refugee women are forced to present themselves as victims fleeing a patriarchal culture; queer refugees are forced to fit into stereotypes regarding hairstyle, clothing, and behaviour; and refugee personal stories need to follow Western-based cultural standards regarding language, time, and space. Asylum-seekers who deviate from this dominant narrative are denied international protection. This discourse is imposed by dominant actors in a system structured by profound power imbalances. The paper concludes with the necessity to approach refugees as rights-holder rather than discursive subjects.

Keywords:

Refugee narratives; refugee law; asylum law; gender; sexuality; discourse; Lebanon.

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1. Introduction

The interest in this subject stems from a case I have witnessed during my professional experience when working as a legal advisor in Beirut. I had the opportunity to advise a Syrian woman who has been persecuted with her husband following their political activism during the early years of the Syrian revolution. My superior instructed me to present her as a 'vulnerable widow' who lost 'male protection' after the death of her husband. However, the applicant strongly disagreed with the way we presented her case and insisted on arguing for political persecution which, she believed, is what truly reflected her personal story. Her request was dismissed on the basis that women persecuted because of their political opinion are less likely to benefit from international protection. Thus, we forced upon her a narrative that did not genuinely reflect her personal story. In short, we *misrepresented* her instead of representing her (Zagor 2014). This experience revealed the unequal power relationships in the construction of refugee narratives and the reproduction of patriarchal discourses that depoliticises women's experiences. In this configuration, the different actors involved in shaping refugee narratives are competing against one another instead of collaborating.

By 'refugee', I refer to anyone seeking asylum, including the ones who applied for international protection but have not been formally recognised as such. Effectively, the construction of refugee narratives in the asylum system takes place during the application, i.e. before the applicant secured the refugee status. Thus, distinguishing asylum-seekers from refugees would bias the purpose of this study. The core international instrument of refugee law is the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (hereafter the Refugee Convention). Under article 1 of this international treaty, a refugee is defined as an individual who has a:

'[...] well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country'.

While much academic research has sought to explore refugee narratives in the media (Leudar and al. 2008; Greussing and Boomgaarden 2017; Holohan 2019), only a few have focused on the ones constructed by legal decision-makers (Rajaram 2002; Millbank 2003; Ticktin 2005; Pupavac 2008; Toni 2011; Gaucher and DeGagne 2014; Sigona 2014) and legal advocates (Akram 2000; Fiddian 2006; Zagor 2014, 2015). Yet, 'the right to legal counsel is one of the most important rights [...] a refugee can have' (2006: 313). In order to secure the refugee status, applicants need to go through the 'refugee status determination' (RSD), a procedure that aims at assessing whether an asylum-seeker is entitled to the refugee status. In order to secure this legal status, applicants are expected to present a coherent narrative about their personal story, to prove they effectively have 'a well-founded fear of being persecuted' – as defined by

Article of the Geneva Convention aforementioned. Throughout this process, legal advocates are in charge of advising and/or representing the refugee, in an attempt to offer a persuasive story based on strong evidence (UNHCR 2011). Decision-makers in charge of rejecting or approving the asylum claim are administrative and judicial bodies – such as tribunals or Courts.

A growing number of academics have criticised legal advocates for forcing refugees to build narratives constructed around assumptions that are not always firmly grounded in the lived realities of refugees (Akram 2000; Fiddian 2006). Refugee narratives are constantly framed around representations depicting passivity and lack of agency. In this regard, Zagor argues that, 'the refugee experiences a profound loss of control over the narrative' throughout the RSD assessment (Zagor 2014: 327). Beyond the solely legal system, dominant narratives in the media and humanitarian programs tend to portray refugees as helpless victims and passive recipients of aid (Malkki 1995, 1996; Razack 1995; Bhabha 2002; Ticktin 2005; Berg and Millbank 2009; Rousseau and Fox 2010; Zagor 2014; Wright 2014; Fiddian-Qasmiyeh 2016b). By 'discourse', I refer to the (re)production of culturally constructed knowledge that maintains power (Foucault 1989, 2002; Said 1993). Drawing on a Foucauldian framework, this study aims at exploring who constructs this dominant discourse related to refugee narratives, from which position do they speak, and how does this impact the relationship with other actors involved in the construction of this discourse. Most importantly, this analysis seeks to identify whether this discourse allows agency. Indeed, several scholars have demonstrated that portraying refugees as pitiable victims disempowers them (Malkki 1996; Oswin 2001; Fiddian-Qasmiyeh 2014; Zagor 2014). Ticktin (2005) and Fiddian (2006) argue that, by depoliticising the experiences of Middle Eastern and North African women, legal advocates reinforce patriarchal and racial inequalities. They also claim, alongside Akram's argument (2000), that refugees might disagree with the way legal representatives argue their case but are unable to express themselves freely. In such scenarios, legal advocates silence refugees instead of honestly advising and representing them.

The scarce academic literature on this subject suffers from two shortcomings. Firstly, scholars have largely focused on Western countries (Pacitto and Fiddian-Qasmiyeh 2013)¹, although approximately 94% of refugees live in non-Western countries (UN 2018).² Effectively, only Fiddian (2006) has explored legal representation in a non-Western country – Egypt – while the rest of the academic literature has focused on the US (Akram 2000), France (Ticktin 2005), Canada (Millbank 2003), and Australia (Walker 2000). Secondly, the scant literature on this topic dates from the 2000s, although an average number of 6.2 million people have been displaced since the outbreak of the Syrian war in 2011 (World Vision 2019). I have chosen to focus on

¹ By the 'West', I largely refer to Western Europe but also North-America and Australia.

² According to the UN, 94% of the world's refugees in 2018 were located in Non-Western countries (UNHCR 2019a).

Lebanon because this country has the highest concentration of refugees per capita in the world since 2016: an estimated number of 30% of the Lebanese population are refugees, from which 2 million are Syrians, 450 000 Palestinians, and 50 000 Iraqis (Lenner and Schmelter 2016).³ This study aims at filling this research gap by exploring dominant refugee narratives along with the embedded power relations accompanying the construction of this discourse.

Accordingly, this article is structured as follows. Following the introduction, the second section will explore the literature review in four steps: it will first begin by introducing the reader to the institutional and political context of refugees living in Lebanon; the analysis will then move on to address the strategies used by refugees to secure protection; and, finally, section 2 will conclude by identifying the dominant discourse in mainstream asylum narratives and resulting impacts on refugees themselves. The third section will then expose the methodology that frames this study by examining data collection methods and positionality. Section 4 will then proceed by exploring the dominant discourse in refugee narratives regarding gender, sexual orientation/gender identity, and language, time, and space. The fifth section will focus on the construction of refugee narratives in Beirut in three steps by exploring the reproduction of this discourse by legal advocates on one hand, and the structural power imbalances between legal advocates and other stakeholders on the other. Section 6 of this article concludes by summarising the main findings and reflecting on potential future contributions.

2. Literature Review

2.1. Contextualising the legal framework and socio-political situation of refugees living in Lebanon.

Although Lebanon hosts the highest number of refugees per capita in the world, Lebanese authorities have always refused to ratify the Refugee Convention insisting that they are 'not a country of asylum' (Janmyr 2018: 1). As a result, refugees have two options: secure the refugee status under the Refugee Convention, or benefit from third-country resettlement schemes. To benefit from the first option, refugees need to be outside Lebanon, in the territory country of a State-party to the Refugee Convention (article 1). If they still are on the Lebanese territory, they can eventually apply for asylum in an embassy party to the Refugee Convention (Noll 2005). The second option concerns refugees who are registered with the United Nations High

³ Those are estimated numbers that include non-registered refugees. For example, although only 1 million Syrians are registered as refugees with UNHCR, it is estimated that 2 million forcibly displaced Syrians are currently living in Lebanon (UNHCR 2017).

Commissioner for Refugees (UNHCR).⁴ They can obtain permanent residence status in a third country under resettlement program schemes, provided that they 'are at risk in their country of refuge or have particular needs or vulnerabilities' (UNHCR 2012: 245). UNHCR is only assisting in this process and the decision is to grant refugee status is entirely discretionary to the State (Cohen 1994).

This study has chosen to focus on the international legal framework because Lebanese laws do not offer any protection to forcibly displaced migrants. If anything, they discriminate and marginalise refugees. Indeed, although Palestinians have been living in Lebanon for seven decades, they are banned from owning and inheriting property, have limited access to government practices, and are forbidden to practice a range of professions such as doctor, lawyer or engineer (UNRWA 2014). In 2015, the Lebanese government suspended the registration of Syrian refugees by UNHCR making them liable to deportation and jeopardising their already precarious rights (Janmyr 2018). As a result, Syrian refugees cannot benefit from resettlement programs anymore since one of the pre-condition is to be registered with UNHCR. In June 2019, the Lebanese Labour Ministry passed a discriminatory law that restricted refugees' right to work, triggering massive protests in Palestinian refugee camps (Al Jazeera 2019). This discriminatory legal framework, which is inconsistent with international human rights standards, has endangered the growing tensions between refugees and the host community. While right-wing Christian Maronites hold Palestinians responsible for the outbreak of the civil war (Johnson 2001), the relationship between Syrians and Lebanese nationals is coloured by the Syrian occupation of Lebanon from the 1990s to 2005 (Allouche 2017) and the implication of the Lebanese Shiite organisation *Hezbollah* in the Syrian civil war from 2012 onwards (Kara 2017). Additionally, cohabitation between the eighteen different religious sects has been the source of conflicts since French colonisation (Ghandour 1998), and the resulting sixteen-year Lebanese civil war was driven by foreign interferences and sectarian divisions (Assaf and El-Fil 2000).

2.2. *The standardisation and distortion of refugee narratives*

To the question 'who is a refugee', Zetter answers: 'it is one who conforms to institutional requirements' (1991: 39). At the core of this critique lies the unequal power relationships between the refugee and the different actors involved in the construction of refugee narratives (Schaffer and Smith 2004; Zagor 2014). The academic literature agrees that refugee narratives are primarily constructed around criteria that satisfy dominant institutional framings (Agamben 1998; Wright 2002; Fiddian-Qasmiyeh 2014; Zagor 2014, 2015; Zetter 2017; Greatrick 2019). Fiddian-Qasmiyeh has developed the useful concept of 'the ideal refugee' (2014). Based on her case-study

⁴ It must be noted that Palestinian refugees are excluded from this framework, and fall under the mandate of the UNRWA (United Nations Relief and Works Agency for Palestine Refugees in the Near East).

in the Western Sahara, she argues that Sahrawi political representatives represent refugees according to precepts that satisfy Western ideals. They erase some features such as violence against women and particular Islamic practices, while highlighting others like gender equality and secularism. The construction of this discourse is strategically used by political representatives to secure humanitarian assistance and political support from Northern-States (ibid). Likewise, Zagor reports on the case of some female refugees who 'play the societal stereotypes in the construction of their native in order to achieve recognition by portraying themselves as 'classic, passive, pitiable victims' of a 'barbaric culture' (2014: 328). They practice what Parrs refers to 'self-vulnerabilisation' by adopting passivity representations in order to secure international protection (Parrs 2018: 197). Equally, Zetter explains how 'putative beneficiaries' of humanitarian protection force themselves to fit into refugee labels constructed by decision-makers (1991: 47). In the context of forced displacement endangered by the Syrian civil war, Fiddian-Qasmiyeh has demonstrated how some Iraqi refugees 'have taken on the persona of the Syrian refugee' to secure international protection (2016: 461).

Postcolonial scholars have criticised the RSD assessment for relying on cultural assumptions (Malkki 1996; Mutua 2001; Choi 2010; Gray and McDowall 2013). Indeed, a precise formulation of what is 'a credible narrative' remains highly subjective and is subject to discretionary cultural interpretation (Ramji-Nogales et. al. 2007; Good 2011). The academic literature has challenged the official claim that determination procedures are rational and objective (Hardy 2003; Owens 2011; Wroe 2018). Instead, State authorities follow restrictive interpretations of the Refugee Convention in order to control migration flows (Ticktin 2005). The RSD assessment emerges as an inquisitorial process based on cultural standards rather than objective facts (Pöllabauer 2004; Bryne 2007; Smith-Khan 2017). They claim that the asylum system relies on a 'culture of disbelief' towards refugees who are deemed to be fraudulent (Macklin 2009; Souter 2011; Anderson et. al. 2014). Decision-makers act like 'discoverers of the truth' who can determine whether a claim is 'bogus' or 'genuine' based on a refugee's personal story (Hardy 2003: 473). Consequently, legal advocates push their clients in building a story framed around decision-makers' perceptions of what a 'genuine' refugee is. Ticktin believes that asylum authorities are not looking for the truth but for 'a good plausible story' (2005: 362). Consequently, refugees are not recognised but *misrecognised* because the narrative they built upon their application is not in line with their self-identities and personal stories (Fraser 2000).

I draw on this academic literature to identify the dominant discourse that refugees are expected to fit in. However, I question the premise that these idealised depictions are always reproduced by refugees themselves, especially within the legal system. Legal professionals who advocate for refugees are the ones aware of the applicable legal framework, and they play a major role in the reproduction of dominant narratives. As several authors have pointed out, legal professionals and international organisations tend to construct narratives framed around the assumptions of decision-makers

assumptions (Akram 2000; Ticktin 2005; Fiddian 2006; Allouche 2017). In these situations, legal advocates *speak* in the name of refugees instead of advising and representing them (Zagor 2014).

2.3. *Identifying the dominant discourse in refugee narratives: portraying refugees as suffering victims or passive recipients of aid*

A rich body of academic literature has documented how mainstream refugee narratives rely on a largely homonormative framework nourished by passivity and lack of agency (Mohanty 1988; Akram 2000; Ticktin 2005; Fiddian 2006; Massad 2007; Luibhéid 2008; Fiddian-Qasmiyeh 2014; Fiddian-Qasmiyeh 2016a; Greatrick 2019). Dominant institutional framings essentialise refugees' experiences by presenting them as a homogenous 'category of humanity' lacking agency (Malkki 1996: 378; Rajaram 2002). Notably, mainstream narratives in the asylum legal system ignore the political experiences of refugees by disregarding their experiences of exile (Essed and Wesenbeek 2004; Sigona 2014). Accordingly, any refugee showing signs of agency is likely to fail the RSD assessment (Zagor 2014: 327). The figure of the 'helpless refugee' is presented as 'the norm' that deserves international protection, while the political agent is deemed to be fraudulent. The former identity is normalised whilst the latter is pathologized. This system of inclusion and exclusion is what structures the asylum system.

This dominant discourse firstly targets refugee women, in which the legal system plays a major role in reproducing these stereotypes. Akram has demonstrated how lawyers advising Muslim women tend to reproduce orientalist stereotypes by presenting their clients as helpless women who need to be saved from the 'barbarism of Islam' (2000: 21). Likewise, Ticktin (2005) argues that asylum judges tend to grant protection to 'Third World Women' whose stories reproduce the stereotype of 'suffering victims of oppressive and patriarchal cultures [...] saved in the name of a superior political order' (2005: 366). Feminist scholars have criticised humanitarian mainstream discourses for presenting women and children as passive victims (Malkki 1992; Carpenter 2003; Enloe 2004; Hyndman and Giles 2011). By analysing contemporary photographs of refugee leads, Malkki demonstrated how refugee women and children are presented as 'embody[ing] a special kind of powerlessness' (1995: 11–12). The reproduction of this vulnerable and helpless category of refugee female disempowers women on one hand, and criminalises men on the other hand by presenting them as 'brutal males' unworthy of protection (Parrs 2008: 197).

Similarly, refugees applying for persecution based on their sexual orientation or gender identity are not immune to stereotypes. Queer scholarship has criticised dominant refugee narratives for relying on normative understandings of sexual orientation and gender identities (Massad 2007; Giametta 2014; Murray 2014). Significantly, sexual minorities are required to fit into artificial LGBT classifications that are deemed to be universal (Abu and al. 2014) and are expected to act and dress in

a certain way to satisfy stereotypical markers of LGBT identity (Allouche 2017; Greatrick 2019). If their identities and attitudes do not match Western cultural categorisations and perceptions, their claim for refugee status is likely to fail (Murray 2014; Rao 2015). Spijkerboer argues that Western-based sexual and gender categories such as 'LGBT' do not allow refugees to express their 'authentic individual experiences' (2013: 227). Academics critics explain that vulnerability should not be linked to one's identity but should, rather, be understood as the result of structural policies and different stakeholders' actions or inactions (Malkki 1995; Lewis 2014; Turner 2019).

2.4. *The disempowering effect of the dominant discourse on refugees*

By discourse, I refer to 'practices that systematically form the objects of which they speak' (Foucault 1972: 42). Rather than a simple body of knowledge, discourse is a 'social action' (Eagleton 1983: 118) that is 'both representational and constitutive' (Sunderland and Litosseliti 2002: 13). Foucault invites us to identify what is presented as the 'truth', by which actors, to whom does it benefit, and how is this discourse constructed (1991). A specific discourse is 'manufactured and sustained through corporeal signs and other discursive means' that needs to be identified (Butler and Trouble 1990: 173-80). In *Orientalism*, Edward Said demonstrates how the geographical categories of 'Orient' and 'Occident' are not objective facts but, rather, they are a product of human invention – or what he calls 'imaginative geographies' – attached to a discourse of ideas, beliefs, and practices that serves imperial and colonial agendas (Said 1978, 1993). It must be stressed out that Said does not deny the materiality of spaces but analyses how the production of the spaces 'East' and 'West' serves power and dominance (Jazeel 2019). In this regard, the current academic literature on unequal power relations and discursive representations proves to be particularly useful, notably vis-à-vis the power imbalances between East and West, countries of origin and host countries, and the 'ideal' versus the 'fraudulent' refugee. This dichotomy creates categorisations that 'Orientalise' the other (Parrs 2018). In this configuration, hegemonic narratives are the product of unilateral transmissions of knowledge. Drawing on Said's analysis, postcolonial scholars have reflected on how the transnational circulation of knowledge has challenged the sharp distinctions between 'here' and 'abroad' (Amireh 2000; Ncube 2016; Nadjie Al-Ali 2016).

Spivak theorised the useful concept of 'epistemic violence', which she defines as the influence of harm through discourse (2010). She disagrees with Foucault and Deleuze's premise that the subaltern has a voice and access to power. On the contrary, she argues that a privileged group speaking on the behalf of less privileged groups can increase or reinforce 'the oppression of the group spoken for' (Nzenza 1997: 222). In my research, the privileged groups are the decision-makers and legal advocates who are monopolising the construction of narratives, while refugees are experiencing 'a profound loss of control over the narrative' and are reduced to passive

victims. (Zagor 2014: 327). The impact of this dominant discourse is twofold. On one hand, it prioritises 'women and children' while men are perceived as 'not vulnerable enough' to benefit from humanitarian assistance (Malkki 1995, 1996). On the other, it prioritises men in obtaining the refugee status under the Refugee Convention because the 'ideal refugee prototype' defined by the dominant legal course is a man fleeing government persecution based on his political opinion (Haines 1997; Hua 2010; Edwards 2010). Inevitably, this discourse marginalises young men who are perceived as 'not vulnerable enough' such as victims of sexual violence (Fiddian-Qasmiyeh 2014; Turner 2019). The reproduction of this dominant discourse can be seen as a form of epistemic violence that maintains refugees as passive subjects (Akram 2000; Ticktin 2005; Fiddian 2006; Fiddian-Qasmiyeh 2011, 2014). It leads to a 'denial of self-expression' that requires refugees to conform to hegemonic narratives (Akram 2000: 18). The dominant discourse follows an inclusion/exclusion framework built around the 'Otherness' of the refugee (Warner 1992; Hardy 2003). Refugees are no longer narrators of their own stories, but discursive subjects in a process where the 'self becomes other' (Fiddian-Qasmiyeh 2010). However, a few scholars have nuanced this analysis and suggested that, although the legal asylum system encourages powerlessness and passivity, refugees can 'resist and even redeem the very norms and institutions that have defined and confined' them (Zagor 2014: 329; Hardy 2003; Sigona 2014). Drawing on this scarce academic literature on dominant narratives within the asylum legal system, this article contributes to this debate by relying on a methodology based on case-law and analysis and semi-structured interviews.

3. Methodology

The scarce academic literature on legal refugee narratives in the legal system have either relied on interviews and observations of one asylum Court (Ticktin 2005), textual analysis of plural legal decisions (Akram 2000), or auto-ethnographies whereby authors reflect on their own experiences as legal advocates (Fiddian 2006; Zagor 2014). I have decided to contribute to this subject by interviewing a plurality of legal advocates which, in order to grasp different experiences and points of view and avoid bias results. Moreover, I found Akram's methodology particular since legal advocates primarily base their decisions and strategies around case law. Henceforth, this pilot study combines five in-depth semi-structured interviews and textual analysis of asylum legal authorities' decisions.

3.1. Semi-structure interviews with legal advocates

Five semi-structured in-depth interviews have been conducted with legal advocates who are working as lawyers, legal advisors, or legal officers in Beirut for both NGOs and international organisations. I must stress out that the chosen sample of interviewees is not representative. The participants have been recruited based on the network of contacts I have built during my professional experience. This is a qualitative

research and I do not claim that interviewees represent all legal advocates in Lebanon. For anonymity purposes, their names have been removed and replaced by acronyms.

Acronym	Gender	Job title	Organisation's affiliation	Working experience	Ethnicity/religious sect
Christelle	Female	Caseworker	International humanitarian organisation	18 months (currently employed under a precarious contract)	Christian Maronite
Joseph	Male	Lawyer and legal representative	Private law firm (advice refugees pro-bono)	+20 years	Christian Maronite
Leila	Female	Legal advisor/legal representative	Local NGO specialised in advising LGBTQI+ refugees (has previously worked for UNHCR and UNRWA)	+15 years	Lebanese Muslim Sunnite with Palestinian origins
Ali	Male	Senior legal officer	UN refugee agency (part-time) and a local NGO (full-time)	+10 years	Muslim Shiite
Rana	Female	Assistant legal officer / legal advisor	UN refugee agency (full-time) and a Western-based NGO (part-time)	6 years	Refused to disclose

Table 1: Interview participants

I did my best to include a variety of gender, ethnicity, organisation affiliations, age, and ethnicity in order to reflect on the different backgrounds of each legal advocate. I have

chosen to mention the participants' ethnicity/religious sect because I am convinced that it can impact the relationship with the refugee or the organisation they work for.⁵ Exceptionally, Rana refused to disclose her religious affiliation stating that 'it has nothing to do with [her] work'.

3.2. Textual analysis of legal decisions

Country	Date	Jurisdiction	Name/reference	Subject
Austria	2008	Unknown	Afghan gay asylum-seeker RP41.C7	LGBTQ+ refugees
Belgium	1994	Unknown	Ref. 5/4.149.831	LGBTQ+ refugees
Canada	1991	Unknown	Saudi-Arabia (Nada)	Refugee women (PSG category)
Canada	1993	Federal Court	Egan v. Canada	LGBTQ+ refugees
Canada	2004	Supreme Court	Laszlo v Canada	LGBTQ+ refugees
Canada	2008	Immigration and Refugee Board	RPDD 334	LGBTQ+ refugees
Denmark	1992	Refugee Appeal Board	June 11 1992	LGBTQ+ refugees
European Union	2014	European Court of Justice	Mohamed M'Bodj vs Belgium'	LGBTQ+ refugees
France	1993	Refugee Appeals Commission (Plenary session)	17 December 1993	LGBTQ+ refugees
Germany	1983	Verwaltungsgericht Wiesbaden	No IV/ I E 06244/81	LGBTQ+ refugees
Germany	1988	Federal Office for the Recognition of Refugees	Unknown	Refugee women (PSG category)
The Netherlands	1993	Unknown	ARRvS.	Refugee women (PSG category)
The Netherlands	1998	Rechtbank's Gravenhage	AMsT	Refugee women (PSG category)

⁵ See section 2.1.

UK	1989	Supreme Court	R v Secretary of State for the Home Department	LGBTQ+ refugees
UK	2010	Supreme Court	Iran (HJ) and Cameroon (HT) vs Secretary of State Department	LGBTQ+ refugees
USA	1993	Board of Immigration Appeal	Fatin vs INS	Refugee women (PSG category)
USA	1994	Board of Immigration Appeal	Safaie vs INS	Refugee women (PSG category)
USA	1996	Board of Immigration Appeal	Fisher vs INS	Refugee women (PSG category)

Table 2: Asylum legal decisions

Textual analysis of judicial and administrative decisions on refugee applications cover the following nations: the United States (US), the United Kingdom (UK), Germany, Austria, France and the Netherlands. These jurisdictions have been selected because of the high level of asylum applications they receive, the great number of asylum decisions they enact, and most importantly the precedent they set for legal advocates working in Lebanon. I have selected decisions from 1989 to 2006 to reflect on the eventual consistency or mutability of case-law over the years. Two to four cases from each country have been selected to explore similarities or differences between countries.

3.3. Positionality and limitations

Since I have relied on my professional connections to find potential participants, some of the interview respondents are friends or ex-colleagues. Sharing the same cultural, linguistic and professional background with the interviewees has undeniably benefited me with my research participants (Razon and Ross 2012). As a result, some of the participants might have been more comfortable and eager to share personal views because of the friendship we share. Ali and Rana stated that they would have probably refused to take part in this project if they did not personally know the interviewer. On the other hand, this friendship might have biased the results. While Gans argues that the researcher should be 'friendly but not friends' with participants (as quoted in Ellis 2007: 9), my friendship with most of the interviewees makes it hard to keep strict boundaries. Indeed, it is primordial to acknowledge the interpersonal bonds we share with friends when conducting a research. In addition to procedural and situational ethics, 'relational ethics' requires the researcher to be attentive when writing about 'intimate others' (Lincoln 1995; Slattery and Rapp 2003; Brooks 2006). Henceforth, I took the precaution to anonymise all names including organisations names. I want to make sure that my research does not put the participants in an uncomfortable towards the government or the organisation their work for.

Nonetheless, participants might have perceived me as an outsider or even intruder due to my foreign nationality and my position as a research coming from a UK university. Although I speak fluent Arabic, it is easy for Lebanese nationals to spot my 'North-African accent'. When I started contacting potential participants, one responded asked me 'but why would a British university be interested in this?'. Therefore, I have highlighted in my participant consent sheet that, although I am Master student at UCL, I do not represent the institution in any ways (see appendix 1). Moreover, my political opinions and religious affiliation, that some of the participants are aware of, might have created an advantage or disadvantage depending on the situation. The Lebanese academic and researcher Bayan Itani reflects on this subject (2019). During a research project on refugees in Lebanon, she collaborated with a German non-Muslim scholar who had been refused an interview with a 'well-known local Islamic organization' (Itani 2019: no page). A few days later, Itani decided to reach out to the same organisation who responded with a positive answer. This example clearly shows that a social researcher's religious identity impacts the ability to access interviewees. As she explains, 'many people have interesting information, perceptions, and opinions to share with social science researchers, but the question is: with whom are these people willing to share their information and views?' (Itani 2019: no page). Consequently, I have made the choice to include the participants' ethnicity/religious sect in my timetable interviews (figure 1).

Lastly, this study acknowledges that vastly different findings could have emerged if decision-makers or refugees were interviewed. Although many research projects have interviewed decision-makers and refugees, no scholar has ever conducted interviews with legal advocates to explore the construction of refugee narratives.⁶ As mentioned earlier, the only studies who have ever focused on the role of legal advocates in the construction of this discourse have used other methodologies (Akram 2000; Fiddian 2006). Since my aim is to fill the identified research gaps in the academic literature, I have chosen to focus my interviews only on legal advocates, and grasp the role of decision-makers throughout the analysis of legal decisions.

4. The dominant discourse in refugee narratives

4.1. Gender

As aforementioned, the Refugee Convention lists five grounds under which an individual can claim asylum: (i) political opinion, (ii) religion, (iii) race, (iv) nationality or the (v) 'particular social group' (PSG) category. Although the convention does not mention sex or gender, it has been re-interpreted in the past two decades to include individuals persecuted because of their gender by including it within the PSG category

⁶ See section 2.

(Spijkerboer 2000). Despite the significant progress made since then, securing the refugee status still remains challenging for women (Johnsson 1989; Spijkerboer 2000; Kelley 2001; Edwards 2010). The 'ideal' refugee prototype of persecution images a courageous political man fleeing government persecution (Haines 1997; Bhabha 2002). Very few jurisdictions grant the refugee status to women based on their political opinion and, consequently, female refugees have no choice but claiming asylum based on the fifth ground: gender-based persecution under the PSG category (Edwards 2010). An infamous decision that illustrates this point concerns the case of a man who had been tied to a chair and forced to watch his wife being raped (Pittaway and Bartolomei 2001). He has been granted the refugee status, but his wife was not. Not a single one of the interviewees ever came across a successful case involving a refugee woman who was granted the refugee status or third-country resettlement based on her political opinion. Leila explained that 'the typical successful case is a powerless Syrian or Iraqi woman victim of Daesh'. Likewise, Christelle related the following story:

'Once, I came across the case of a refugee woman who was involved in anti-government actions. She had been sexually assaulted by Assad's loyal forces, and we had evidence supporting her case (like medical reports). But, in these cases, it's difficult to prove that the claimant was raped *because* of her political actions or alleged political actions, and not just because she is a woman. And you will lose the case if you can't establish this nexus [...] So I have decided to argue for gender-based violence and not political opinion.'

As this story demonstrates, legal advocates find themselves *having* to argue for gender-based violence because the dominant discourse within the legal system refuses to consider women as potential political actors. In this configuration, legal advocates are forced to reproduce dominant narratives and shift refugee women's claims from political to gender-based persecution.

When women claim they have fled their countries based on their refusal to comply with restrictive dress codes or excessive punishment for violating moral codes, their case is usually dismissed on the basis that their claim is not political (Ticktin 2005). In 1993, a US Federal Court rejected the asylum case of Fatin, an Iranian woman who presented herself as an anti-Khomeini pro-Shah activist (Fatin vs INS 1993). Her lawyers argued that she had a well-founded fear of persecution based on two grounds: (1) her political opinion which she characterised as 'deeply rooted belief in feminism and in equal rights for women'; and (2) her gender characterised by the PSG that has been defined as 'educated Westernized free-thinking individuals' and 'upper-class Iranian women who supported the Shah of Iran' (ibid 1240). The Court rejected her political claim on the basis that refusing to wear the chador only amounted to non-conformity and could not be considered as the expression of a political opinion. Although Fatin was denied the refugee status because of a lack of evidence, the Court still accepted 'upper-class Iranian women who supported to Shah of Iran' as a potential

PSG. This decision significantly illustrates how women are denied political agency and find themselves having to argue that they are persecuted because of their gender – hence as vulnerable individuals victim of a misogynist culture or religion. Moreover, as Hua (2010) points out, this case reproduces racializing discourses by opposing 'Westernized free thinking individuals' versus Iran's 'backwardness'.

Following this case-law, lawyers adopted the strategy to constantly claim 'gender-based persecution' under the PSG for women claiming asylum based on their refusal to comply with gender-based discriminatory legislation. In 1994, a US Court denied asylum to an Iranian woman who argued that she had a well-founded fear of persecution due to her refusal to comply with gender-based dress codes (Safaie vs INS 1994). Likewise, a US Court ruled in 1996 that:

'The *mere existence* of a law permitting the detention, arrest or even imprisonment of a woman [...] in Iran does not constitute persecution any more than it would if the same law existed in the United States' (Fisher vs INS 1996: 962; my emphasis).

However, it is not the '*mere existence*' of a gender-based framework that constitutes political persecution. It is the fact that some women resist and refuse this discriminatory legislation, and are persecuted by State authorities because of this. By not conforming to it, the asylum-seeker expresses her political beliefs of equality for both sexes, freedom of speech, and freedom of religion. A woman's refusal to comply with gender-based laws is, in itself, the expression of a political action. As Haines explains:

'Beyond an objection to the wearing of a chador may perhaps lie a deeply held but previously unarticulated belief by the woman as her own worth, her claim to a right to an individual existence as a human being, her claim for respect of her right to freedom of thought and conscience, her right to an individual spiritual and moral existence. [...] These claims are of no less significance than a claim by a male asylum seeker to the right to respect for this conventionally defined political opinion' (1997: 148).

This number of decisions have created a precedent in US case-law, which now considers that, although 'Iran's enforcement of dress and conduct rules regarding women may seem harsh by Western standards', they do not 'rise to the level of persecution' (Fisher vs INS 1996: 4007). This statement denies the personal experiences of each Iranian woman. As Akram explains, many Iranian women do not object to wearing a veil and 'many who wear it do not perceive a law requiring to be persecutory' (2000: 34). On the other hand, other women perceive gender-based dress codes as a fundamental violation of their human rights. Like in any other society, women have individualised circumstances of persecution that cannot be generalised to an entire group.

On the other hand, other Western countries have accepted to grant asylum to Iranian women based on their refusal to comply with compulsory gender-based dress codes. In 1988, Germany granted asylum to five Iranian women under a PSG defined by gender-based persecution (German Federal Office for the Recognition of Refugees 1988: 86). The jurisdiction ruled that 'the ideologically based power of men over women results in a general political repression of women in defiance of their individual liberties and human rights' thus acknowledging that the claimant was resisting political oppression (ibid). Equally, a Dutch Court granted asylum to an Iranian woman in 1998 on the basis that she belonged to the PSG of 'those who advocate for the rights of women in Iranian society' (Rechtbank's Gravenhage 1998: 226). Both decisions employ terminology of political resistance such as 'resisting [...] political repression' or 'advocat[ing] for the rights of women' (ibid). Yet, both claimants have been granted asylum on the *gender*-based ground and not on the political-based one. This reflects structural orientalist stereotypes that pushes Courts to consider 'Third-World Women' as apolitical subjects victim of patriarchal cultural traditions. Therefore, lawyers have no choice but to create artificial social groups to fall under the PSG category, since decision-makers refuse to consider women as potential political actors.

In 1991, a Canadian asylum Court refused to grant the refugee status to a Saudi Arabian woman on the basis that 'it was not credible that an Arab Muslim woman would disagree with the authorities of a Muslim State' (as cited in Akram 2000: 25). The Court ruled that 'her feminism was not a political opinion for the purposes of the refugee status' and that she should just comply with the laws she criticises (ibid). There is a highly racialised aspect in this discourse which implies that 'Third World women' cannot have a political opinion. According to Hua, asylum Courts refuse to consider refugee women as political actors because it would be 'contrary to the construction of Muslim difference as backward and antithetical to feminism' (2010: 392). Fiddian points out that this framework depoliticises the experiences of Middle Eastern and North African women, thus denying their agency (2006). This representation of Muslim women reproduces and reinforces systems of domination and subordination on national and transnational levels (Hyndman 2000; Abu-Lughod 2002). Furthermore, this essential discourse classifies refugee women into a homogenous category that ignores the individual story of each of them. It presents them as 'hordes of nameless, despairing and dispirited masses' (Matua 2001: 229). Hua argues that decision-makers refuse to consider refugee women as potential political actors because it would be 'contrary to the construction of Muslim difference as backward and antithetical to feminism' (2010: 392).

Effectively, dominant positions within Western feminism assume religion to be 'conservative, steeped in tradition, and invariably resisting change' while secularism is depicted as progressive, modern and espousing gender equality (Hua 2010: 623). Nonetheless, a significant number of studies have illustrated the role of faith-based organisations in non-Western countries in promoting women empowerment (Gozdziak

and Shandy 2002; Nawyn 2005; Kirmani and Khan 2008; Fiddian-Qasmiyeh 2011). Brown believes that secularism has not brought gender equality and female empowerment (2012, as quoted in Abu-Lughod 2015: 19). On the other hand, Rana believes that religion can be a barrier of freedom, she highlighted that this was 'her personal opinion, and it is wrong to impose it on refugees'. In effect, opposing religion and feminism can be a form of epistemic violence towards women who identify themselves as Muslims (Akram 2000; Ticktin 2005; Abu-Lughod 2002). Leila points out that this framework forces refugees to 'betray their identities and personal beliefs'. Having established the gendered dominant discourse infused with premises of rescue and victimisation in refugee narratives, the following section will explore the situation of refugees persecuted because of their sexual orientation or gender identity.

4.2. *Sexual practices and gender performance (SPGP)*

First of all, several postcolonial scholars have criticised the use of the acronym 'LGBT' by NGOs and international organisations in the Middle East (Massad 2007; Murray 2014). Indeed, the categories of 'lesbian', 'gay', 'bisexual', and 'transsexual' are not universal but rather a product of Western rigid classifications and inventions in which a lot of sexual minorities do not identify themselves to (Chávez 2013; Giametta 2014; Abu-Assab et. al. 2017). For instance, the Palestinian-American academic Massad (2007) has argued that the homo/hetero binary opposition is not universal. Likewise, the Iranian gender scholar Najmabadi (2008) has challenged the distinction between transgender and transsexual. Other authors have demonstrated how bodies in the Middle East *queer* the understanding of what an 'LGBT person' in the West means (Mikdashy and Puar 2016; Allouche 2017). Abu-Assab et. al. (2017) point out that LGBT minorities in the MENA region are persecuted when their sexual practices and gender performance do not fulfil normative expectations. For instance, a heterosexual woman perceived by the society as not 'feminine' enough because of the way she 'dresses, behaves, speaks, and styles [her] hair' (ibid 178). This woman is probably running more risks to be persecuted than a lesbian who conforms to society's expectations regarding femininity. 'Homonormative discourses' (Duggan 2003) fail to take into consideration the complexities and large spectrum of sexual identities in the MENA region, thus forcing refugees to fit into identity-categories they do not identify themselves to (Spijkerboer 2013; Greatrick 2019). Most importantly, sexual minorities in the MENA region do not define their identities based on their sexual or gender practices (Massad 2007). Thus, I choose to employ the expression 'sexual practices and gender performance' (SPGP) as suggested by Abu-Assad et. al. (2018:173) instead of 'sexual orientation and gender identity' or 'LGBTI' (ibid).

As mentioned earlier, sexual orientation and gender identity are absent from the Refugee Convention. Until the mid-1990s onwards, individuals fleeing SGPG-based persecution were denied international protection on the basis that homosexuality was not a sufficient ground for persecution. In 1989, a UK Federal Court ruled that the PSG category 'required characteristics of an historical and cultural nature which

homosexuals as a class cannot claim' (as quoted in Golchin 1991: 7) setting a precedent later followed by France (Koloskov 1993) and Germany (Verwaltungsgericht Wiesbaden 1983). This mainstream interpretation has been challenged by Federal Canadian judges, who ruled in 1993 that sexual orientation was 'an immutable characteristic' under the PSG category (Egan v. Canada 1993: 550). They considered that sexual orientation was an innate and immutable characteristic of someone's identity and, therefore, homosexuals fleeing persecution were entitled to apply for the refugee status. This decision has been later followed by Denmark (Refugee Appeals Board 1992), the Netherlands (ARRvS. 1993) and Belgium (Ref. 5/4 1994). The UK waited until 2010 to finally recognise that queer refugees were entitled to international protection (HJ Iran and HT Cameroon). Beforehand, asylum Courts would just ask SGPG refugees to conceal their sexual orientation or gender identity in order to avoid persecution (Gray and McDowall 2013). Since 2012, the quasi-unanimity of Western countries parties to the Refugee Convention recognises that the PSG category includes individuals fleeing persecution based on sexual orientation or gender identity (UNHCR Guidelines 2012).

However, SPGP refugees still face the major obstacle of having to prove that they are 'gay, lesbian or bisexual' (Bennett 2013: 12). If they fail to do so, their application is deemed insufficient or fraudulent. Leila reflected on the ongoing 'anxiety' refugees feel about being able to prove their sexual orientation or gender identity, especially when their self-identifications do not match Western asylum's definitions and categorisations. Asylum authorities in Europe used to previously accept visual materials depicting sexual acts as valid proof. It is only in 2014 that the European Court of Justice banned this practice and forbid Member States from requesting or accepting sexually explicit material (CJEU 2014). In 2010, the UK Supreme Court reiterated the stereotypical vision of 'real gays' as necessarily visible and eccentric:

'[...] Just as male heterosexuals are free to enjoy themselves playing rugby, drinking beer and talking about girls with their mates, so male homosexuals are to be free to enjoy themselves going to Kylie concerts, drinking exotically coloured cocktails and talking about boys with their straight female mates.' (HJ Iran and HT Cameroon: 36).

This quote clearly illustrates how SPGP refugees need to fit into Western stereotypes of how sexual minorities should behave, speak or 'look like' (Allouche 2017; 62). The 'ideal' queer refugee is deemed to frequent queer bars, show public display of affection, wave the rainbow flag and reproduce other Western-based stereotypes (Allouche 2017; Abu-Assad et. al. 2017). Leila reports the case of one of her clients who 'has been asked to draw the floor plan of GHOST⁷ to prove that he was gay'. Indeed, decision-makers assume that SPGP minorities would form a sense of identity by frequenting 'LGBT friendly' bars and organisations. In 2004, a Canadian Court ruled

⁷ A 'gay-friendly' nightclub in Dekwaneh, a Beiruti suburb town (Yalibnan 2013: no page).

that '[i]t would seem reasonable to expect that the existence of an organization that is supportive of lesbian and gay rights would not go unnoticed by a gay person' (Laszlo v Canada). Leila disagreed with this presumption arguing that, in a country where homosexuality is illegal, many SPGP minorities are not aware of the existence of such organisations or are simply too afraid to join them.⁸

There is a hierarchisation within the 'LGBT' category in decision-makers' assessment. Gay men with 'effeminate' characteristics are considered as the 'ideal' refugees following the assumption that they are more vulnerable than other SPGP refugees (Jenick 2009). This narrative results in the marginalisation of women from discursive representations of SPGP in the Middle East, thus reinforcing existing gendered inequalities (Duggan 2003; Greatrick 2019). Secondly, the asylum system believes bisexuality to be a choice while homosexuality is considered as an inherent characteristic (Gaucher and DeGagne 2016). Indeed, UNHCR's guideline states that minorities persecuted because of their 'innate or immutable' sexual orientation and/or gender identities should be granted asylum (2012: 5). It reflects the essentialist belief that sexual orientation is established early in life (Troiden 1989). Finally, Leila believes that transsexuals are the most disadvantaged ones in this process: 'our statistics show that they are less likely to obtain the refugee status [...] because asylum authorities assume transsexuality to be a choice, a luxury'.

Notably, asylum decision-makers see 'coming out' as the symbol of gay identity; yet, many critics have pointed out that this concept is a Western notion that cannot be applied to all SPGP minorities (Abu and al. 2017). Moreover, queer refugees cannot be expected to 'come out' in countries where their gender identity or sexual orientation will expose them to persecution. Yet, administrative and judicial decision-makers in Western host countries keep associating 'coming out' with LGBT identity. In 2008, Canadian asylum authorities rejected the application of a gay Ethiopian man solely because his family members were not aware of his sexual orientation, which made the asylum claim seem 'fraudulent' (Gaucher and DeGagne 2016). According to Leila, refugees who declare that 'they did their coming-out' are more likely to secure international protection. She thinks that this requirement is 'ridiculous' insisting that doing a 'coming out' will only put SPGP refugees in danger. Likewise, Tschalaer explains that LGBT refugees in Germany who 'had not come out yet' are told to hide in their country of origin (2019: 7)

Significantly, asylum authorities assume homosexuality to be incompatible with religion (Yip and Nynas 2012; Allouche 2017). Indeed, LGBT and queer studies in the West have traditionally emerged against religious discourses (Love 2007). Religion is seen as a potential threat to queer people (Rao 2010). More specifically, Leila argued that the dominant discourse assumes Islam to be the cause of LGBT persecution (a claim supported in the academic literature by Murray 2014 and Fiddian-Qasmiyeh

⁸ Article 534 of the Lebanese Penal Code criminalises 'same-sex practices'.

2016). Greatrick reports the case of an asylum-seeker in Beirut who has been asked by UNHCR 'but how can [you] be gay and Muslim?' (2019: 104). In 2012, an immigration judge in the UK rejected an asylum claim on the basis that the applicant 'provided no explanation of reconciling in any way his sexuality and his religion [...]' (Bennett 2013: 16). Likewise, Rana related the following story:

'[One of my client] told me she likes women only at the second interview. She said she couldn't trust anyone in the camp and was too afraid to speak up. I advised her to argue for LGBT-based persecution ground. [...] I told her what she had to say and do in front of the [asylum] authorities: explain how she likes Western culture because it's LGBT-friendly, how she likes to party [...] And most importantly, I told her to hide the fact that she was a practicing Muslim'.

The above quote not only demonstrates how asylum authorities perceive religion as incompatible with homosexuality, but also how legal advocates construct their narratives and discourses around these stereotypes. In this example, Rana imported to Beirut a Western discourse constructed by decision-makers. This discourse puts SGPG minorities in a position where they are asked to choose between their religious beliefs and their sexual orientation/gender identities. This is a form of epistemic violence which can have serious consequences on mental health. Leila explained that SPGP usually suffer from depression because they grew up feeling ashamed about who they are or whom they love. In this context, religion can be the only thing that prevents self-harm or suicide. Since many SGPG refugees are deprived from family support, religion can be a fundamental mental support, and probably the only thing of the past they can carry on with them (Giametta 2014).

Significantly, the dominant discourse assumes that SGPG minorities are not capable of violence (Baze, Waever and de Wilde 1998). In 2018, Austrian migration authorities provided the following explanation to a gay Afghan man for the rejection of his asylum application:

'Neither your walk, nor your behaviour, nor your clothing give the slightest indication that you could be gay [...] You frequently got into fights with roommates. You clearly have the potential to be aggressive, which would not be expected in a homosexual.' (2018: 67-8).

Leila strongly disagreed with this stereotype, arguing that ' violence is not linked to one's sexual identity or preferences'. Allouche reports the story of an 'Alawite gay man' who was expelled from his flat by his 'Sunni gay flatmates who had had it with Hezbollah's actions in Syria' (2017: 68). This example, not only proves that gay men are capable of violence but also demonstrates that Western-based understandings of SPGP-based persecution cannot be applied to other regions/countries. In the Lebanese case, the situation of SPGP refugees needs to be read in conjunction with

the complexities and intersection of politics and religious tensions specific to this country – here, sectarian tensions and the presence of the Hezbollah in Syria. Another misunderstanding to point out is the fact that decision-makers deem claims to be 'fraudulent' if the refugee is married or has children (Leila). However, this postulation does not take into consideration the realities of SPGP in the Middle East who sometimes use marriage as a 'survival tactic' to avoid persecution or family pressure (Kivilcim 2017: 38).

4.3. Language, time and space in the construction of refugee narratives

Asylum authorities have expectations not only about the content of the refugee narrative but also about how it must be told (Shuman and Bohmer 2014). If refugees fail to present their claims 'in the right order with the necessary components' (Murray 2014: 26), their case is unlikely to succeed. Cultural perceptions about language, time, and space play an implicit role in asylum authorities' assessment of refugees' narratives. First of all, refugees are expected to narrate their stories following a linear narration of past events, including traumatic experiences and previous forms of persecution (Guo 1997; Kagan 2002). Indeed, decision-makers assume that past events reflect one's self-identity or affiliation to a group (HJ Iran and HT Cameroon 2010; Hathaway 1991) and can be therefore central in establishing the potential fear of future persecution – which is one element of the Convention's definition of a 'refugee' (Kirmayer 2003). Thus, a failure to narrate stories based on a Western linear notion of time leads to a rejection of the asylum claim (Leila, Rana, and Ali). However, this concept relies on a linear understanding of time that is not universal. Past events do not necessarily reflect one's attributes, identity or beliefs. For instance, in the context of SGPG-based persecution, refugees are expected to narrate their experiences in a linear sequential progression where 'coming out' is seen as the marker of distinction between the past repression and present liberation (Berg and Millbank 2009; Giametta 2014; Greatrick 2019). Rana confirmed this requirement:

'Their [refugee's] case is likely to fail if they narrate their lives in disorder, come back to what they said before and change it [...] The story needs to be consistent'.

However, what is considered as 'consistent' remains highly subjective. Based on her previous experience as a legal advisor in Cairo, Fiddian explains how her clients 'found it particularly difficult to indicate the precise dates, times and even sequences in which persecutory events occurred' which lead asylum authorities to believe that their narratives were lacking credibility (2006: 310). Christelle explains that interviews conducted by decision-makers require refugees 'to give precise facts, details, dates, narrated in order'. She further claims that this process can be very challenging, especially for refugees who 'suffer from post-traumatic disorders'. "It is already difficult to ask them to narrate traumatising events they just want to forget [...] on top of all

this, they have to give precise dates or they will not be believed' explains Christelle. She refers to refugee narratives as 'inhumane'.

Language is also at the core of the expected narrative. As previously explained, SPGP minorities coming from the Middle East might not identify themselves to the 'LGBT acronym' or other categories considered as 'the norm' in Western countries. According to Leila, most of her clients refuse to define their identity based on their sexual or gender preferences. They would rather refer to sexual acts and practices such as 'I feel more attracted to men' or 'I do not identify myself as a woman' (ibid: Leila). In short, they refuse labels (Massad 2007), which highly contrasts with the 'narrative-identity' norm of Western countries (Ricoeur 1988; Laitinen 2002).⁹ Accordingly, their claim is likely to fail due to the absence of an 'identity connection' that will satisfy the expectations of the host country (Greatrick 2019: 104). To avoid doing so, some legal representatives find themselves 'forcing' SGPG refugees to fit into arbitrary categories they do not identify themselves to. Leila explained how she felt about working for an NGO that conducts workshops to 'teach' refugees about Western LGBT concepts: 'It's horrible. I feel like I'm educating them. I'm forcing them to adopt a language, a culture, that is not theirs.' In this regard, Greatrick criticised 'Lebanese and Turkish queer organisations for coaching refugees to *speak the language* of LGBTQ rights and identity categories' (2019: 99; my emphasis).

However, refugees do not always accept the language standards imposed by decision-makers and other stakeholders. According to Joseph and Rana, many forced migrants reject the 'refugee label' because of its negative and defenceless connotation. For example, Palestinians living in Lebanon do not define themselves as 'refugees' but rather as 'a resistance movement' (Allouche 2017: 63; see also Peteeit 1992). Notably, the Palestine Liberation Organisation (PLO) has consistently opposed third-country resettlement schemes, on the ground that it would undermine Palestinians' liberation and political movements (Irfan 2017). Despite organisations' attempts to 'teach' SGPG refugees about the 'LGBT categories' and 'coming-out linguistic', many refuse to adopt this language (Leila).

Finally, there is a significant geographical aspect in the construction of refugee narratives. In the context of SGPG-based persecution, the refugee is portrayed as the *significant other* 'coming from a menacing homophobic location' (Giametta 2014: 592). The demarcation between 'here' and 'there' is at the core of this dominant discourse. Ali took the example of a successful case narrated through the following spatial distinction: 'Lebanon and Syria are the dangerous places refugees need to flee, and Germany is the heaven place that will save them'. Likewise, Tschalaer found out that

⁹ Massad (2007) criticises Western LGBT academics and journalists for being obsessed with finding an equivalent of the word 'gay' in Arabic. He explains that SGPG minorities in the MENA region describe their 'sexual or gender preferences', insisting that sexual identities are not universal but 'discursive subjects' (2007; 32).

the vast majority of successful applicants in Germany portrayed their countries as a 'barbaric Islamic' country while presenting the host country as a liberal and tolerant country (2019: 9). SPGP refugees are presented as vulnerable individuals 'begging to be saved from the tyranny of their own cultures, communities and nations' (Murray 2014: 29). This discourse resonates with Said's concept of 'imaginative geographies' that explains how the spaces of 'Orient' and 'Occident' are constructed (1989). Overall, refugees are forced to line their stories with Western-cultural standards. The failure to narrate their experience following a linear notion of time, with a language that satisfies Western identity-makers will result in the rejection of refugee status.

5. The construction of refugee narratives in Beirut

5.1. *The reproduction of dominant refugee narratives by legal advocates in Beirut: 'helping refugees by silencing them'*

While some legal advocates are aware of the stereotypes they might reproduce, others are not. Either way, all the interviewees explained that the construction of refugee narratives are always driven by their client's best interests. That includes reproducing refugee narratives that might not correspond to their client's real situation but will "help" them. Rana explained that:

'We don't have enough resettlement schemes [...] So, whenever we have the opportunity to resettle refugees, we do everything we can, we want to make sure cases are going to succeed, because that's our job, that's our goal [...]. We are doing all of this *for* the refugees.' (my emphasis).

Joseph agreed and asserted that he would do 'whatever it takes for [his] clients to secure international protection'. Ali mentioned the case of a Syrian man who has been assaulted, detained and threatened to deportation by the Internal Security Forces (ISF) ¹⁰ :

'[One] Syrian man [...] explained to me that he regretted coming to Lebanon and felt safer in Syria [...] I advised him to report ISF abuse but to never mention that he felt safer in Syria than in Lebanon.'

By omitting some events while highlighting others, legal advocates are *retelling* instead of telling the refugee's personal story. In that scenario, they play a key role in the standardisation of refugee narratives. It is worth highlighting that many of the interviewees are aware of this 'legal institutionalisation' (Leila) and even feel 'complicit' in the distortion and standardisation of refugee narratives (Ali). Christelle admits there is a real 'misrepresentation' of refugee narratives and identities throughout the asylum process. Rana highlighted the contrast between her work and her political beliefs:

¹⁰ National police and security forces of Lebanon.

'I'm aware of the discourse I'm reproducing, and I feel uncomfortable about that. [...] I should not help reproducing colonial stereotypes, but what can I do? My job is to give them [the refugees] the best chances to secure legal protection. We [legal advocates] know we need to reproduce stereotypes, so we just do it.'

The above quote illustrates how the dominant discourse is *reproduced* rather than produced by legal advocates. Within this system of unequal power relations, legal advocates and representatives are forced to follow narrative standards set up by asylum decision-makers. As Rana explained, the perpetuation of this dominant discourse 'clashes' with her own identity, reflecting a dominance of decision-makers over legal advocates. Thus, there is a geographical transmission of 'knowledge' – in the Foucauldian sense – from the decision-makers in the West to legal advocates in Lebanon. It must be stressed out that this is not a transnational circulation of knowledge,¹¹ but, rather, a one-way transmission of refugee narratives that structured around unequal power relations between the Global South and the Global North. In this configuration, the asylum system institutionally silences both legal representatives and refugees simultaneously.

Joseph nuanced the impact this discourse can have on refugees arguing that 'at the end of the day, what really matters is whether the case succeeds or not', regardless of the narrative or identity put forward. However, this premise silences refugees and is based on the wrong assumption that international protection is only about securing a residence permit. The refugee status is much more than that: it is about acknowledging one's political experience (Zetter 1991; Zagor 2014). Approving an asylum application is, first and foremost, about recognising that the applicant has been personally persecuted and therefore deserves international protection. Forcing refugees to fit into artificial narratives of powerlessness robs them of their political experiences. Not only does this discourse silences them on the micro-level, it can furthermore have immediate negative consequences and hamper the chances of a successful refugee application. Leila pointed out that 'a fictional story could be invalidated by expert testimony' thus leading to the rejection of the asylum claim. This discourse furthermore reproduces disempowering narratives on the macro-level (Sigona 2014) by contributing to this overall image of passivity among refugees. Nonetheless, legal advocates are the only actors involved in the reproduction of this discourse.

Nonetheless, some refugees resist power imbalances and refuse to be silenced by structural inequalities. They insist on expressing their voices without being subject to any standardisation. Leila related the story of a refugee woman who strongly rejected the option of claiming sexual orientation-based persecution. She reiterated that the

¹¹ See page 9 (Amireh 2000; Ncube 2016; Nadjé Al-Ali 2016).

reason she left Syria was because of politics, not because of her sexual orientation. She refused to modify her personal experience to fit into the 'ideal' refugee narrative. This example challenges the mainstream beliefs that refugees are constantly silenced by legal representation or, on the other hand, are opportunists who use stratagems to secure international protection. In some cases, they are able to challenge the legal framework that confines them. It resonates with Zagor's claim that refugees can challenge, rather than reify, global structures of inequality reproduced by mainstream narratives (2014). Nevertheless, the prospects for resistance remain relatively limited due to the unequal power imbalances the asylum system is based upon.

5.2. Structural imbalances between legal advocates and other stakeholders

The interviewees explained how their activity was considerably constrained by the norms, policies, regulations, and bureaucracy of the organisations they work for. Most of the participants explained that the construction of refugee narratives was principally driven by their organisations' bureaucracy and structural barriers. Ali highlighted that he needs to follow 'instructions and guidelines' and that there is 'little room for flexibility'. In this configuration, legal advocates are therefore constrained in following their organisation's structural policies and discourse. Indeed, many international organisations and NGOs have been accused of reproducing orientalist and even neo-colonial policies (Massad 2007; Wehbi and El-Lahib 2009; Greatrick 2019). Leila believes that UN refugee agencies are 'agents of donor states', validating academic critics that accuse UNHCR policies of satisfying states' rather than refugees' interests (Loescher 2001; Greatrick 2019). Moreover, UNHCR's activities have been restrained by the Lebanese State, the international organisation relies on states' donations and acts within the limits set out by the Lebanese government. As such, there is a high hostility towards UN refugees agencies and Western international organisations which Ali accused of being 'disconnected from local needs'. Rana declared that legal advocates in Lebanon 'are torn apart between helping refugees and reproducing neo-colonial discourses'. Leila, who used to previously work for UN refugee agencies, explained that the NGO she now works for 'doesn't have an agenda: we work not only *for* refugees, but *with* refugees.' Overall, participants explained that an organisation's rigid instructions and quasi-scientific precepts of 'what a refugee is' do not leave much room for agency.

Likewise, media representations and political agendas have an immediate influence on the construction of narratives. Rana notably mentioned the sudden interest of the international community for Syrian refugees, leading to a hierarchisation between nationalities. She explains that Syrian refugees benefit from a relatively 'speedy process' unlike Iraqis or Palestinians 'who have been waiting for decades'. Rana concluded our interview by stating: 'It's the entire system that needs to be changed. Why should protection depend on the story you tell?' Likewise, Leila argued that the

RSD should not require SGPG refugees to prove their sexual orientation, stating that it was a form of 'moral violence'. Ali heavily criticised UN resettlement schemes for relying on criteria subjective based on cultural understandings of the notion of 'vulnerability'. Under UN guidelines, only refugees with 'specific needs and vulnerabilities' are eligible to resettlement programs (UNHCR 2011: 173), which therefore reproduces the stereotype of victimhood and helplessness embodied in refugee narratives. Therefore, legal advocates are particularly subject to dominant discourse imposed by more powerful actors, such as the organisation they work for, the political agendas of state donors, media representations, and the impact of geopolitics on refugee programs.

6. Conclusion

The construction and reproduction of refugee narratives within the asylum legal system is an unequal process whereby dominant actors impose a disempowering discourse. Refugees are portrayed as helpless victims 'in need of saving' from the host State. This dominant narrative is framed around identity markers such as gender, ethnicity, nationality, religion, and sexuality – among others. Women are portrayed as apolitical victims fleeing patriarchal cultural and religious traditions, whilst queer refugees are expected to fit into Western-based stereotypes regarding their appearance and behaviour. Anyone who does not fit into these labels is deemed 'unworthy' of protection. This discourse, therefore, (re)produces hierarchies between the 'ideal' refugee versus the underserving one, and justifies the exclusion of those who do not fit into the dominant discourse.

Through the analysis of case-law, this article has demonstrated that asylum Courts refuse to consider non-Western women as political agents, and force patriarchal labels upon them. As a result, their legal representatives end up reproducing these stereotypes, notably by forcing refugee women to fit into the artificial legal 'PSG category' that constraints and limits them. Secondly, queer refugees are expected to fit into Western stereotypes regarding their physical appearance, clothing, and behaviour. Queer men are required to act feminine and wear makeup in order to sound 'credible', while bisexuals find it harder to secure international protection because their sexual orientation/gender identity is seen as a 'luxury'. Finally, refugee narratives need to follow Western-cultural notions regarding time, space and language: stories need to follow a linear notion of time, and SGPG refugees need to adopt the 'coming-out' language and identify themselves to 'LGBT categories'.

The construction of refugee narratives in the legal system involves different players with different power and conflicting objectives. Overall, decision-makers shape the dominant discourse, while legal advocates reproduce it. The reproduction of this dominant discourse can undermine refugees' autonomy and self-expression. Drawing on Lebanon as a case study, this research has revealed that legal advocates are

constrained in their work by more powerful stakeholders, such as governments' agendas, international organisations' policies, and politico-mediatic campaigns. Therefore, they are forced to reproduce narratives helpful for political purposes and advocacy framework. On the other hand, legal advocates' primary objective is to give their clients the best chances to secure international protection. Therefore, they might not harm refugees directly on a micro-level but contribute to the reproduction of a disempowering, patriarchal and orientalist framework on a macro-level. Accordingly, three levels of dominance emerge: (i) decision-makers construct a dominant discourse by enacting case-law; (ii) this discourse is imposed on legal advocates by other stakeholders; (iii) and, finally, legal advocates force refugees to adopt these hegemonic and deterministic narratives.

Nonetheless, this research nuances the current debate by arguing that academic critiques should not be too deterministic. In some cases, refugees are eventually able to negotiate and question the arbitrariness of the asylum legal system that limits their self-autonomy. Moreover, legal advocates are able to resist dominant narratives when engaging with refugee clients. Before the early 2000s, past legal decisions refused to consider homosexuality as a basis for granting refugee status. Advocacy from critical scholars and legal advocates lead to the overturn of this precedent. Likewise, gender has been included in UN guidelines as a possible claim under the PSG category. Moreover, some legal advocates are aware of the stereotypes they reproduce and reflected on the intersectional features that create inequalities and embodied within the structure of inequalities refugees are inhabiting. Further critical academic thinking should push us towards questioning and deconstructing unequal power structures.

I argue that the transmission of discursive knowledge should be reframed to make room for self-expression and self-identification, rather than forcing asylum-seekers to fit into deterministic and disempowering discourses. To grasp the complexities, nuances and cultural specificities of each refugee's personal experience, narratives need to go beyond essentialist categories and simplifications. In doing so, the asylum system should be remodelled to encourage narrative autonomy and adapt to structure, norms, and narrations defined *by* refugees themselves.

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