Embodied migrations: Mapping trans and gender non-conforming refugee narratives in Canada's refugee regime

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Abstract

Trans and gender nonconforming (TGNC) people who make refugee claims in Canada negotiate a complex nexus of identity, belonging and citizenship. This thesis conveys TGNC refugee narratives to demonstrate the relationship between gendered borders and national borders, how gender politics are used as tools of nationalism and imperialism, and how home and liberation are found while navigating systems of oppression. For TGNC refugees, the project of building home in Canada involves negotiating the loss of home, the violence of border regimes, and the deep desire for safety, belonging, acceptance, and healing. I engage with insights from TGNC refugees, immigration lawyers, and frontline workers to understand the ways the state controls the trans body through the refugee claims process and in the process of integration into life in Canada, while also focusing on trans refugee methods of survival and resistance. What emerges is an understanding of the ways that refugees navigate the tension between gender, sexuality and homecoming as both intimately felt and geopolitically managed. My research provides new insight into refugee studies as well as queer and trans studies by using a framework of gender and embodiment to engage with migration and refugee-ness.

Les personnes trans et celles au genre non-conforme (TGNC) qui font des demandes d'asiles au Canada négocient des liaisons complexes d'identité, d'appartenance et de citoyenneté. Cette thèse transmet des récits de réfugiés TGNC pour démontrer la relation entre les frontières genrées et les frontières nationales. Cette thèse aborde également comment les politiques de genres sont utilisées comme outils de nationalisme et d'impérialisme et comment un domicile et la libération sont trouvés tout en naviguant dans les systèmes d'oppression. Pour les réfugiés TGNC, le projet de faire du Canada son domicile implique de négocier la perte de domicile, la violence des régimes frontaliers et le désir profond de sécurité, d'appartenance, d'acceptation et de guérison. Je m'engage avec les connaissances des réfugiés TGNC, des avocats de l'immigration et des travailleurs de première ligne pour comprendre comment l'État contrôle le corps trans par le biais du processus de demande d'asile et du processus d'intégration dans la vie au Canada. Je me concentre également sur les méthodes de survie et de résistance des réfugiés trans. Il en ressort une compréhension de la manière dont les réfugiés gèrent la tension entre le genre, la sexualité et le retour au pays, à la fois intimement ressentis et géopolitiquement gérés. Ma recherche fournit un nouvel aperçu des études sur les réfugiés ainsi que des études queer et trans en utilisant un cadre sur le genre et l'incarnation pour s'engager envers la migration et le statut de réfugié.

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1 Introduction

1.1 Introduction

كتبوا حدود البلد (عجسدي وجسدّك)
– كلام - مشروع ليلى

They wrote the country's borders (upon your body, upon my body).
-Mashrou Leila, "Kalaam (s/he)"[1]

As societies and nations become increasingly embedded in global, economic, and political exchanges and networks, we are seeing a concomitant rise in the militarization of border zones as well as the proliferation of borders across space and away from the immediate territorial edge of nation-states (Triandafyllidou, 2016; Ehrkamp, 2017). In other words, as the world purportedly becomes more and more connected, we are also seeing an increase in technologies of division and control, otherwise known in critical scholarship as 'border technology'. Borders are spaces which serve to separate those who do not belong from those who do, those who are at home from those who are not.

Research with refugees and asylum seekers addresses the entangled relations between homelands or nations of origin, and new homes or countries of refuge, bringing up critical questions about the meanings of identity, space, and belonging. Research within transgender studies address similar questions. As Stryker and Aizura (2013) argue, gender as a bureaucratic and administrative structure (the use of M's and F's on state-related forms) makes *transgender* intimately bound to "questions of nation, territory, and citizenship, [to] categories of belonging and exclusion, of excess and incorporation, and [to] all the processes through which individual corporealities become aggregated as bodies politic" (8). Aizura (2006) also identifies the similarities between gendered borders and national borders, while Murib (2014) notes the potential for coalition-building between immigrants and transgender people due to similar struggles regarding documentation.

[1] See the lyrics in English at https://lyricstranslate.com/en/kalaam-kalaam.html-0

Transgender refugees find themselves caught up in the midst of these entanglements, navigating a nexus of identity, belonging, and citizenship. However, to date, no work has been published in Canada that focuses specifically on the experiences of trans refugees. Instead, research has been done with Lesbian, Gay, Bisexual, and Transgender (LGBT) refugees and asylum seekers in general, with an emphasis on a queer framework of analysis that privileges sexuality as a lens rather than gender or embodiment (Lee and Brotman, 2011; Lee and Brotman, 2013; Murray, 2014a, 2014b, 2016; Gaucher and DeGagne, 2016; Seitz, 2017). This is indicative of wider flaws within LGBT studies. As Susan Stryker (2008) argues, listing the "T" with "LGB" locates transgender as an orientation and privileges the expression of sexual identity over gender identity. Dean Spade re-dubbed the acronym "LGB-fake-T" (2004, 53) because the lens of sexuality does not always address the specific experiences and locations of transgender people.

1.2 A note on terminology

The refugee regime is a term that denotes the set of legal norms based on humanitarian and human rights laws, and the institutions that operate to both facilitate and block people's access to refugee protections (Murray, 2016; Castles et al, 2014). My research focuses on one part of Canada's refugee regime, engaging primarily with refugees who file asylum claims after entering Canada (known as 'inland refugee claimants'). These refugee claimants are required to go through the claims process with the Immigration and Refugee Board (IRB) in Canada. In this thesis, I broadly refer to anyone in the process of making a refugee claim or recently accepted as a refugee under the term 'refugee' unless I am talking about them in the specific context of the claims process, in which case I distinguish between Convention refugees (accepted claims) and refugee claimants (claims in progress).

The process of gaining refugee status in Canada as a LGBT/SOGIE refugee claimant requires that the refugee prove their sexual orientation or gender identity in accordance with dominant Western standards of sexuality and gender (Lee and Brotman, 2011; Lee and Brotman, 2013; Murray 2014a, 2014b, 2016; Gaucher and DeGagne, 2016; Seitz, 2017). Even using the terms lesbian, gay, bisexual, and transgender, and the terminology of LGBT in general, limits capturing the ways that SOGIE refugee claimants in many places understand and express their sexualities and genders. However, claimants may be expected to identify as homosexual or LGB

or T, a strategic employment based on the bureaucratic and legal machinery of the refugee system rather than a person's chosen "self-ascription" (Murray, 2014b, 135).

In this research, I distinguish transgender and gender nonconforming from the rest of the LGBT 'umbrella.' However, the separation of gender and sexuality into discrete and supposedly unrelated categories is a colonial project (Finley, 2011; Driskill, 2010). Some Indigenous people self-identify with the term Two Spirt rather than queer or trans, because Two Spirit as a concept doesn't distinguish between gender and sexuality (Driskill, 2010). My research marks a distinction between the two because they are historically and legislatively treated as distinct categories in Canada, and research with LGBT refugees has mostly focused on the historical and institutional context of queerness, leaving out the particularities of trans-ness. With this in mind, my use of the phrase 'trans and gender-nonconforming' refers specifically to the ways that the refugees to whom I spoke are denoted by the Canadian state and not their individual life experiences. I am interested in the ways that experiences of non-cisgender people are managed by the state migration apparatus, and how this management is experienced intimately by individuals. As I move into the interview data in later substantive chapters, I engage interview material that troubles the stability of the use of trans or gender nonconforming to describe the identities, lives, and experiences of the people with whom I spoke.

1.3 Thesis research aims and objectives

In this thesis, I engage with the specific experiences of trans and gender nonconforming refugees within the Canadian refugee regime. I map out trans and gender nonconforming (TGNC) refugee narratives in order to theorize about the relationship between gendered borders and national borders, how gender politics are used as tools of nationalism and imperialism, and how home and liberation are found while navigating systems of oppression. To do so, I engage with insights from TGNC refugees, immigration lawyers, and frontline workers. This research seeks to understand the ways the state controls the trans body through the refugee claims process and in the process of integration into life in Canada, while also focusing on trans refugee methods of survival and resistance. It is guided by the following research questions:

1. How do trans and gender nonconforming refugees navigate the Canadian border and the refugee claims process and how is this relevant to larger formations of gender and sexuality in domestic and international politics?

2. What barriers to trans and gender nonconforming refugees face in integration within Canada and what are the causes of these barriers?
3. How do trans and gender nonconforming refugees create space for home and liberation in Canada and what do these insights tell us about trans and migrant justice?

The first question attends to the ways that Canada's border regime reinforces and creates norms of gender and sexuality for migrants and citizens alike, and the ways that these norms are used as technologies of empire. The second question focuses on the particular barriers faced by trans refugees as they navigate the process of settlement in Canada and the systems of power and oppression that erect those barriers. The final question interrogates the modes of resistance, liberation and home-building that trans and gender nonconforming people develop and enact when interacting with the Canadian refugee regime. My research explores both the micro and the macro level to understand how TGNC refugee claimants' lives are affected by the asylum claims process and the act of migration as well as how their experiences function within systems of global power and imperialism. I also look at strategies developed by refugee claimants in order to resist the barriers they face in relation to processes of settlement and their use as tools of Canadian nation and empire.

1.4 Indigenous sovereignty and migrant justice

My research is based in Toronto, Canada, which is the traditional territory of many First Nations, including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples. The City of Toronto also officially acknowledges that Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands (City of Toronto, 2019). Canada is a settler colonial nation that claimed sovereignty at the expense of many Indigenous nations across Turtle Island. The border between Canada and the United States itself functions as a violent colonial construct that cuts through many nations' traditional territories, such as the Mohawk in present day Quebec (Simpson, 2014). Although my research does not focus on the experiences of First Nations people, the violence of Canada's refugee regime relates to this settler border regime, and its control over refugee life and movement functions as a part of settler colonial violence. Many Indigenous and migrant grassroots movements for justice seek coalition together, chanting "No

borders on stolen land" (Walia, 2013; Fortier, 2017). Justice for migrants should always attend to and incorporate calls for Indigenous sovereignty. While this is not a central focus of this thesis, it feels important to note at the beginning and keep in mind throughout the work.[2]

1.5 Refugee law in Canada

The international obligation to protect refugees arose after the massive displacement of populations from Eastern Europe during and after WWII. The centerpiece of international refugee protection today is the United Nations *Convention relating to the Status of Refugees*, which was adopted in 1951 and is grounded in Article 14 (the right to asylum) of the *Universal Declaration of Human Rights* made in 1948. The codification of the rights and status of refugees exists in two international instruments: the 1951 UN *Convention Relating to the Status of Refugees*, and the 1967 *Protocol Relating to the Status of Refugees*.

Convention refugees are defined as people unable or unwilling to return to their home country or the country where they usually live due to a well-founded fear of persecution based on race, religion, political opinion, nationality, or membership in a particular social group (LaViolette, 2007). For a refugee claimant to be granted the status of Convention refugee, they must establish both a well-founded fear of persecution based on one or more of these five enumerated grounds as well as the inability to obtain protection from their country of origin. LaViolette (2007) writes, "The notion of persecution is at the heart of the definition of a refugee" (172). A person will only be considered a Convention refugee if they demonstrate that their state of origin or habitual residence is unwilling or unable to protect them.

The majority of refugees (80%) live in countries neighbouring their countries of origin (UNHCR, 2019). Canada's isolated geographic position means that it doesn't receive nearly as many refugees as other countries. Canada has ratified both the 1951 UN C*onvention Relating to the Status of Refugees*, and the 1967 *Protocol Relating to the Status of Refugees*, and thus accepts the obligation to not return any person to a territory where their life or freedom may be threatened. The UN *Convention Relating to the Status of Refugees* forms the basis of refugee law

[2] For work that explicitly refers to the need for coalitions between LGBT refugees and Indigenous groups, see Fobear, K. (2014). Queer Settlers: Questioning Settler Colonialism in LGBT Asylum Processes in Canada. *Refuge: Canada's Journal on Refugees*, *30*(1), 47-56. Retrieved from https://refuge.journals.yorku.ca/index.php/refuge/article/view/38602

in Canada. Here, the refugee determination process falls under the jurisdiction of an independent quasi-judicial tribunal that was established in 1989, called the Immigration and Refugee Board (IRB) (LaViolette, 2007).

The creation of the IRB in 1989 brought in more restrictions to streamline the asylum process and discourage 'bogus' claims (Silverman, 2014; di Tomasso, 2012; Li, 2002; Bradimore and Bauder, 2012; Olsen et al. 2014). Additional border security and immigration restrictions were enacted after 9/11 with the *Immigration and Refugee Protection Act* (IRPA) of 2001. IRPA introduced stricter regulations for asylum and allowed for arbitrary arrest and detainment of incoming asylum claimants (Dawson, 2014; Hari, 2014; Jantzi, 2015). The implementation of visa requirements and the Safe Third Country agreement between the US and Canada, signed in 2002, has also worked to discourage forced migration[3] from the Global South, and particularly from Latin America (Akibo-Betts, 2005).

Bill C-31, the Protecting Canada's Immigration Systems Act, was passed in 2012. It was partially spurred by the arrival of nearly 500 Sri Lankan refugees on a cargo ship off the coast of Vancouver in 2010 (Fobear, 2016). Bill C-31 dramatically shortens the refugee claims process, imposes legislation removing the right of appeal for claimants coming from 'designated countries', gives Canadian Border Services (CBS) more authority to arbitrarily detain individuals coming in groups by land or sea, imposes stricter fines on human smugglers and provides more funding for immigration officers abroad to stop refugees from coming to Canada (Showler, 2012; Diop, 2014; Zimmerman, 2011; Levine-Rasky, 2012).

Recently, Canada removed all countries from the designated countries of origin list. Claimants from these countries were subject to a 6-month bar on work permits, a bar on appeals at the Refugee Appeals Division, limited access to the Interim Federal Health Program and a 36-month bar on the Pre-Removal Risk Assessment (IRCC, 2019). They also had to complete their hearings in 45 days instead of 60. The list is now void. The government of Canada has said, "Removing all countries from the DCO list is a Canadian policy change, not a reflection of a change in country conditions in any of the countries previously on the list" (IRCC, 2019). This is

[3] According to Castles et al. (2014), forced migration occurs when people flee their homes to escape persecution, conflict, environmental disaster, development, and/or famine. It can refer to international refugees, internally displaced persons (people displaced within their own countries), or people fleeing their home countries for reasons not recognized by international law.

a landmark policy change that will make the refugee claims process much more accessible to many people.

1.6 SOGIE refugees and LGBT migration in Canada

Until the late 1970s, sexual minorities were banned from entering Canada. In 1977 the ban on homosexual immigration was lifted (Fobear, 2016) and same-sex immigration sponsorship was allowed in 2003. Lesbian, gay, and trans people are protected from discrimination by th*e* *Canadian Charter of Rights and Freedoms*. The addition of protections for gender identity and expression in the *Charter of Rights of Freedoms* and the *Criminal Code* occurred in 2017.

In the decade after the creation of the IRB in 1989, Canada's refugee system grew to include asylum claims based on sexual orientation, gender identity, HIV status, and gender and domestic violence (Fobear, 2016). Canada is one of the top countries for LGBT refugee-resettlement in the Global North and maintains a higher average of positive decisions for persons claiming asylum based on sexual orientation and gender identity than Western Europe, the US, or Australia (Fobear, 2016). Canada's vocal commitment to the plight of LGBT refugees has garnered the country an international reputation as a 'safe haven' for LGBT asylum-seekers (Hari, 2014; Dawson, 2014).

The government of Canada openly and outwardly advertises itself as a LGBT safe haven abroad. For example, on the international section of its website, there is an entire section dedicated to Canada's support of LGBT rights at home and abroad (Government of Canada, 2018). This section of the website states,

> Canada is a staunch supporter of the human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons at home and abroad. For the past five decades, the LGBTI community has made great strides in advancing their legal rights in this country. Milestones include the decriminalisation of homosexuality in the 1960s, equality rights enshrined in the Canadian Charter of Rights and Freedoms in 1982, and the enactment of the landmark Civil Marriage Act in 2005, a proud accomplishment for Canada. Our offices abroad continue to work with like-minded governments and civil societies to promote and protect the human rights of LGBTI persons – a key priority for Canada (Government of Canada, 2018).

This section of the Government of Canada's website showcases Canada's initiatives abroad to support LGBT rights in countries including the Dominican Republic, Thailand, Guatemala and many others, demonstrating how Canada advertises itself as a supporter and safe haven for LGBT people abroad.

LGBT refugees and asylum seekers are those who make a refugee claim based on their sexual orientation or gender identity and expression. They are also referred to as Sexual Orientation and Gender Identity and Expression (SOGIE) refugees in many academic, human rights, and United Nation High Commissioner for Refugees (UNHCR) documents (IRCC, 2017a, *Chairperson's Guideline 9*). The convention refugee definition was not originally made with sexual orientation or gender identity in mind. Guidelines around sexual orientation and gender identity claims define the conceptual framework within which members of the Board can read these claims into existing legislation (Jordan, 2009; LaViolette, 2007).

Since 1993, the UNHCR and the Canadian IRB have interpreted the Geneva Convention criterion of "membership in a particular social group" to include sexual or gender minorities/persecuted sexualities and genders/gender expressions (LaViolette, 2007). In 1993, in *Ward v. State*, the Supreme Court of Canada resolved that gender and sexual orientation could constitute the basis of a claim for membership in a particular social group. In this decision, Justice LaForest identified three categories of membership in a social group. The first is "groups defined by an innate or unchanging characteristic," the second is groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association, and the third is groups associated by a former voluntary status, unalterable due to its historical permanence (*Ward*, 739 qtd LaViolette, 2007). SOGIE refugees are able to make claims based on membership in a particular social group, on the grounds that their membership in this social group is in category one: "groups defined by an innate or unchanging characteristic" (LaViolette, 2007).

In Canada, SOGIE refugee claims are accepted at a higher rate than other types of refugee claims. Between 2013 and 2015, thirteen per cent (2371 claims) of all 18,221 asylum decisions filed were based on sexual orientation, and 70.5 per cent of those claims were granted, compared to 62.5 per cent of all claims (Molnar, 2018). However, LGBTQ+ claims also present specific challenges, both for the adjudicator of the claim as well as for the refugee.

Canada recently introduced new guidelines for LGBT refugee cases at the IRB. *Guideline 9: Proceedings before the IRB involving Sexual Orientation and Gender Identity and Expression* (henceforth referred to as the *SOGIE Guideline*) was introduced in May 2017. The Guideline is meant:

> to promote greater understanding of cases involving sexual orientation and gender identity (SOGIE) and the harm individuals may face due to their non-conformity with socially accepted SOGIE norms. This Guideline addresses the particular challenges individuals with diverse SOGIE may face in presenting their cases before the IRB and established guiding principles for decision-makers in adjudicating cases involving SOGIE (IRCC, 2017b).

The guideline applies to all four divisions of the IRB: the Immigration division, the Immigration Appeal Division, the Refugee Protection Division, and the Refugee Appeal Division. While the guideline is not mandatory, decision-makers are expected to apply it or provide a reasonable justification for not doing so.

1.7 Chapter outline

This thesis narrates stories of migration, starting in refugees' home countries, moving across the border and through the claims process and into settlement in Toronto, into a complex sense of home. The second chapter outlines the study's conceptual framework. It draws on literature from queer and trans studies and geographies as well as migrant and refugee studies. It builds a framework attentive to the systems of border imperialism and transgender exceptionalism that function through Canada's refugee regime. The third chapter outlines the research methods used to gather the research materials presented here, the ethical considerations taken into account during the research and writing process, and the analytical techniques used in this study. The fourth chapter acts as an extension of the research methods chapter by briefly presenting the rich life histories of the TGNC refugees interviewed for this study. The fifth chapter then moves the thesis into its substantive contributions, focusing on the use of narrative as evidence in the refugee claims process for TGNC refugees. The sixth chapter outlines the barriers faced by TGNC refugees while attempting to settle in Toronto and discusses some of the systems of power that contribute to the creation of these barriers. The seventh chapter acts as an epilogue to the thesis, engaging with the tensions that TGNC refugees face in seeking liberation and building

home for themselves in Toronto and Canada, gesturing towards modes of queer and trans migrant justice that can bring us closer to alternative political futures.

2 Conceptual Framework: Inquiries into Trans and Refugees Studies

2.1 Introduction

This chapter contextualizes my research with trans and gender-nonconforming refugees by situating it within the fields of trans studies, critical migration/refugee studies, citizenship studies and work on human rights regimes. Through this exploration, I establish the ways that thinking at the intersection of trans-ness and refugee-ness opens up new and important modes to interrogate gendered and sexual belonging, national belonging and the discourses that uphold systems of border imperialism, cisheteronormativty, and nationalism in Canada. Focusing on transgender refugees in particular, rather than LGBT refugees more generally, allows for a deep look into Western systems of sexual and gendered categorization, as well as Canadian notions of progress, humanitarianism, and civility.

2.2 Transgender studies and geographies

Transgender studies and transgender geographies emerged at the intersection of feminist and queer studies and geographies. Feminist studies and geographies have linked concepts of gender to geography, focusing on the ways that social processes and power dynamics engage in the production of space and place (Massey, 1992; McDowell 1991, 1993; Keith and Pile, 1993; Rose 1993, 1997; Valentine, 1989, 2007). Meanwhile, queer studies largely grew out of the AIDS epidemic to examine the relationship between identity, sexuality, and the public sphere, and to critique heteronormative oppression (Stryker, 2006). Queer geographies explore how non-normative sexual practices work to queer space and at the same time form queer subjectivities, in ways that are not commensurate with identity-based and essentialist understandings of gender and sex (Nash, 2010).

The word transgender arose as a political umbrella category in the early 1990s (Murib, 2015; Stryker, 2008a). Transgender studies began to emerge in the late 1980s with essays written by Sandy Stone (1987) and Susan Stryker (1994) that both staked out the meaning and political traction of transsexuality and transgender. Overall, critical queer and trans theory work to critique cisheteronormativity, which defines the ways that social institutions, processes and practices reproduce heterosexuality, the gender binary and the erasure of queer and trans people

in order to (re)produce social norms (Cohen, 1997; Stryker, 2008a). Trans studies distinguishes itself from queer studies by focusing on the specific histories and institutions that have controlled gender and transition in North America.

The prefix 'trans-' exists spatially, meaning "across" or "beyond," already implying movement. Stryker, Currah, and Moore (2008) conceptualize both 'trans-' and '-gender' as essentially temporal and spatial concepts. They suggest an understanding of genders as "potentially porous and permeable spatial territories (arguably numbering more than two), each capable of supporting rich and rapidly proliferating ecologies of embodied difference" (12) as well as "a set of practices through which a potential biopower is cultivated, harnessed, and transformed, or by means of which a certain kind of labor or utility is extracted" (14). Thus, trans- "becomes the capillary space of connection and circulation between macro- and micro-political registers through which the lives of bodies become enmeshed in the lives of nations, states, and capital-formations, while 'gender' becomes one of several sets of variable techniques or temporal practices (such as race or class) through which bodies are made to live" (14). In Stryker, Currah and Moore's reading, trans- dances between spatio-temporal dimensions, inviting intimate and geopolitical re-imaginings of life, power and embodiment. Transgender studies engage with the ways that the body, discourse, environment and even experiences of living in time work to constitute one another (Halberstam, 2005; Nash, 2010; Hayward, 2012).

Transgender geographies take the queries and understandings of trans studies – of gender sexuality, power and embodiment – and relate them to space, place, borders, movement, and other topics of geographic importance. Specifically, both queer and trans geographies have worked to critique and dismantle binaries such as homo/heterosexual and man/woman (Browne, 2006; Browne and Lim, 2010; Doan, 2007, 2009, 2010, 2016; Hines, 2007, 2010, 2013; Johnston, 2019). Doan (2010, 635) writes that "transgendered and gender variant people experience the gendered division of space as a special kind of tyranny – the tyranny of gender – that arises when people dare to challenge the hegemonic expectations for appropriately gendered behaviour in western society." Her "tyranny of gender" concept brings a spatial awareness to binary systems, demonstrating the various spaces where trans and gender nonconforming people are out of place because they do not adhere to 'normal' gender constructs. In transgender geographies, it is critical to attend to the multiple, real, fleshy experiences of gender variant

people in space and time (Namaste, 2000; Halberstam, 2005; Knopp 2007, Nash, 2010; Johnston, 2016).

At its best, transgender studies understands that bodies do not just exist; they are also racialized, gendered, classed, (dis)abled, among many other things. My work with trans refugees seeks to re-incorporate the intimate, the bodily, and the personal, within larger conversations about globalism, colonialism, imperialism, and transnational racial capitalism. It also seeks to bring the important frameworks of embodiment, identity and fluidity found in trans studies and geographies into critical conversation with refugee regimes, where identity, authenticity, and credibility are of utmost importance to a successful refugee claim. Putting transgender studies and geographies into conversation with refugee studies allows for a critical engagement with the relationships between gender, sexuality and border regimes, bureaucratic systems of bodily control, nationalisms and other global systems.

2.3 Refugees under border imperialism

Critical refugee studies engage with "refugee" as a concept and a site of social and political critiques of border regimes, colonialism, imperialism, war, human rights, and displacement. Refugee movements affect individual countries as well as the entire international states system. Refugee law and politics sit between domestic and international politics, demonstrating the essential connections between these two realms (Haddad, 2008). In addition, "refugee" as a category signals a bureaucratic and international humanitarian realm, so that the concept of refugee carries with it an entire legal and moral structure (Malkki. 1995). Therefore, doing research with refugees opens up space to critique international and domestic systems of power and oppression and also provides space to critique Western moralizing narratives of victimhood and persecution. Taking up this framework, my research engages with a legacy of critical work being done around issues pertaining to transgender refugees.

Refugees and asylum seekers are understood to be *forced migrants* who flee their homes to escape persecution or conflict, and are contrasted with *voluntary migrants*, who move for economic or other reasons (Castles et al, 2014). This distinction is commonplace, but Castles et al. (2014) draw attention to the ways that voluntary migrants face constraints, while forced migrants also have a certain level of agency, like having access to resources to allow them to

leave in the first place. Refugees are a small category of forced migrants, who as a larger category, often leave for reasons not recognized by international refugee law.

As mentioned in Chapter 1, refugee law is based on Article 14 of the United Nations Declaration of Human Rights, which dictates that people have the right to asylum. Presently, human rights frameworks function as the most widely used paradigm for achieving justice in the world (The United Nations, 1948). First laid out in the Declaration of the Rights of Man and of the Citizen in 1789 (in response to the French Revolution), the rights of man are understood to be universal – valid at all times and in all places, derived from human nature itself. The Declaration is the basis of the liberal democratic nation-state, where individuals are protected equally under the law. Human rights are those aspects of life which are believed to belong to every person, everywhere (The United Nations, 1948).

However, Lisa Lowe (2006) has demonstrated that human rights regimes have emerged out of a tradition of liberal humanism, which grew out of a history of African slavery, settler colonialism and scientific racism. As Lowe (2006, 193) writes, "colonial labour relations on the plantations in the Americas were the conditions of possibility for European philosophy to think the universality of human freedom, however much freedom for colonized peoples was precisely foreclosed within that philosophy." Lee (2018), citing Wynter (2003) and Lowe (2006), discusses the liberal philosophy of modern humanism, which "espoused a universal vision for economic freedom, political independence, and personhood through state citizenship, wage labour, the exchange market, and participation in a civil and secular society" (62). He notes how this liberal philosophy works to affirm property rights and personhood through white settlement in the colonies, through land appropriation from Indigenous people, through the trans-Atlantic slave-trade/enslavement of Black Africans, indentured Asian migrant labour, and genocide of Indigenous peoples across the Global South (62). In other words, the tradition of human rights is based on systems of racism, colonialism, and capitalism that make it impossible for all persons everywhere to have access to the same quality of life – the valiant claim of human rights.

Indeed, refugees lack access to human rights. Hannah Arendt, in her essays *The Origins of Totalitarianism* (1973) and *The Perplexities of the Rights of Man* (1998), powerfully argues that even though refugee law is based in human rights law, refugees have no access to human rights. Human rights can only be accessed through recognition by a liberal democratic nation-state and refugees are necessarily stateless people. Therefore, as stateless people, refugees are

also right-less people, and they have accordingly lost their ability to be seen as human in the eyes of the international system of nation states. Refugees indicate a breakdown of the international order and supposedly inalienable human rights. Arendt shows that rights are not an abstract universal concept or a 'natural,' but are attached to nationalization and territorialization, demonstrating the centrality of the nation-state system to the ability to claim rights.

Arendt identifies an important connection between the international system of nation-states and the lack of justice and recognition experienced by refugees. The relationship between the border and the liberal democratic nation-state is a crucial one for understanding the geopolitical foundations of the international refugee regime. Since migration practices in the present day are structured by the need to navigate multiple borders, the border regime and nation-state migration practices are deeply intertwined. Nations-states and borders do not simply exist. They must be produced, over and over again, every day. Borders are created by a system of interlocking nation-states and, in part, nation-states maintain their sovereignty by managing the movement of human populations across their borders and into and out of their territories (Luibheid, 2014; Goodwin-Gill, 2014; Castles et al, 2014; Watson, 2007). Borders and nation-states give shape to and maintain one another, and migration regimes mediate their relationship.

Luibheid (2014) identifies that "[n]ation-state migration control systems grew from histories and practices associated with capitalism, colonialism, imperialism, slavery, the forced transportation of prisoners overseas, the expulsion of minorities and conquered peoples, and control over movement of the poor" (119-20). It is no surprise then, that borders as a practice are rooted in histories of colonization and capitalism and are imbricated in their heteropatriarchal and Other-generating forms, functions, and foundations (Gahman and Hjalmarson, 2019). Harsha Walia's (2013) concept of 'border imperialism' "interrogates the networks of modes of governance that determine how bodies will be included within the nation state, and how territory will be controlled within and in conjunction with the dictates of global empire and transnational capitalism" (5). Border imperialism describes the practice of borders as a global system of power and repression that works as an instrument of segregation and a weapon of empire. It links capital flows with the creation of an exploitable migrant workforce and the ongoing dispossession and displacement of Indigenous people from Indigenous lands, connecting border regimes with colonization, racism, dispossession and displacement.

Under a system of global capitalism, borders function to separate categories of migrants from one another and from citizens in a way that allows for capital to accumulate unevenly and to place different values on different bodies (Mitropolous, 2012). The categorical distinction between migrants – like temporary workers, refugee claimants, economic migrants, undocumented migrants as so on – underscore the various inflections of capitalist border regimes on migrant lives, and these categorizations are racialized. Migration is classed and racialized. Being seen as 'foreign' within a nation-state often coincides with performing the most low-valued labour. Chow (2002, 33-4) writes, "The experience of migration simply highlights and amplifies the connection between commodified labour and ethnicization." These categorical distinctions between types of migrants and between migrants and citizens marks the border into bodies and demonstrates how it exists as a diffuse infrastructure of power through social, economic, and political practices. Indeed, movement across borders is either enabled or restricted based on the border-crosser's relationship to global capitalism and post-9/11 notions of security (Pratt, 2005; Jordan, 2009). In sum, border regimes are not confined to a single nation-state or government; they are rooted in global practices of power and oppression that shape migration flows and map onto bodies.

The border also functions as a judicial marker of citizenship and an ideological trope for inclusion and exclusion, with powerful effects on how we understand citizenship and identity (Chávez et al., 2012). In a nation-state system, belonging is defined by what it takes for the nation to maintain sovereignty through its territory and across its borders. The Canadian nation-state is undergirded by structures of citizenship that depend on an insider/outsider framework that excludes immigrants and Indigenous people (Bannerji, 2000; Kim, McCall and Singer, 2012). The model citizen is positioned as the white settler, whose humanity and access to rights is gained through their elevation above Indigenous people and immigrants (Thobani, 2007). Citizenship is by definition exclusionary, gaining meaning through granting rights to some above others (Thobani, 2007; Papadopoulos and Tsianos, 2013).

These notions of citizenship are rooted in nationalism, which is a political, social and economic ideology that functions to create a sense of national belonging based on a shared culture and politics. Nationalism is a powerful force in maintaining the territory, or the borders, of a nation-state. Ernest Gellner (1964) argues that nationalisms have invented nations where they had not previously existed. Benedict Anderson's (1991) concept of 'imagined communities'

describes nations as systems of cultural representation whereby people come to imagine a shared experience of identification with an extended community. McClintock (1993) indicates that this means that nations do not simply live in the minds of people (they are not only imagined), but are "historical and institutional practices through which social difference is invented and performed" (61).

Citizenship is formed through the practice of border imperialism. Papadopoulos and Tsianos (2013) argue that citizenship holds no meaning for those who are mobile or those who consistently cross borders: "[citizenship] can never respond to the question that migration poses to capitalist sovereignty: What about all those who are mobile and cannot be included, that is the majority of the mobile populations" (184)? For refugees, the border functions to make their political categorization *as* refugee a reality. Haddad (2008) argues that the existence of modern political borders necessitates the constant creation of refugees. In other words, the refugee as a contemporary concept is an essential feature in a system of modern nation-states. Haddad (2008) writes, "As long as there are political borders constructing separate states and creating clear definitions of insiders and outsiders, there will be refugees" (7). The refugee's identity is based exactly on their lack of belonging, their status as an outsider, their position between, rather than within, sovereign states (Haddad, 2008). Therefore, the refugee demonstrates a paradox in the international order – the fact that a person can exist between and outside of sovereigns (Haddad 2003). As neither a citizen nor a non-citizen, they inhabit a "territory of strangement" between the inside and outside of states (Dillon, 1999, 101).

2.4 Trans and queer migration studies

Benedict Anderson (1983, 49) writes that, "everyone can, should, will 'have' a nationality, as he or she 'has' a gender." Gender is naturalized under nationalism and belonging in the nation is figured through gender. How a citizen contributes to and belongs in the 'community' of their nation is determined by their gender. McClintock (1993) identifies that nationalisms are always gendered and upheld through the iconography of the family. Queer and trans migration studies further highlight the ways that citizenship and belonging in nation-states is figured through configurations of gender and sexuality. Researching at the intersection of trans geographies and migration scholarship allows for an understanding of how gender and sexuality are both

experienced as embodied encounters and powerful forces of power and discourse that govern bodies and spaces.

Scholarship on queer migration demonstrates how gender and sexuality structure the organization and boundaries of the nation-state, citizenship, and national identity projects (Murray, 2016). This body of work grounds itself in an understanding of gender and sexuality as dense transfer points of power and discourse that generate identities and desires (Foucault 1976). It is primarily interested in how gender and sexuality shape and are shaped by processes of migration and nationalisms (Luibheid, 2008, 2014; Jordan, 2009; Lee, 2019; Murray, 2016; Manalansan, 2006), and critically engages how histories of colonialism and global capitalism shape the flow of queer and trans migrants from the Global South to white/Western nation-states (Lee, 2018, 2019).

Emerging trans migrations scholarship interrogates borders in both the figurative and geopolitical sense, addressing gendered, sexualized, classed and racialized social norms as well as engaging with what happens to gender variant bodies in their migrations, crossing of state borders, and resettlement (Nash, 2011; Bhanji, 2013; Cotton, 2012; Browne, 2004; Doan, 2007, Aizura, 2012). Transgender and gender nonconforming trajectories of flight and movement are based on configurations of healthcare, legal recognition, population density, and other kinds of indices that indicate livability and survivability for transgender people (Aizura, 2018; Jeanty and Tobin, 2013; Padilla et al, 2016). Trans migration scholarship is therefore particularly attentive to transnational flows of capital and gender, as well as discourses of medicalization. Trans migrations scholarship have also interrogated the metaphor of gender transition as a border-crossing and a home-coming to one's body in order to generate discourse that is critical of imperialist, colonialist and capitalist modes of relating to movement and embodiment (Halberstam, 1998; Bhanji, 2013; Aizura, 2006; Crawford, 2016). It also finds connections between gender presentation, national identity and bodies marked as 'dangerously deceptive' at the border, examining the structures of gender that underpin the nation-state (Beauchamp, 2009; Aizura, 2006). By exploring the lived, embodied and material everyday experiences of trans migrants (Nash, 2011), scholars can better understand the interactions between gender, sexuality, race, class, and ability as well as legal, medical and migration systems and discourses.

Work on both queer and trans migrations focuses on the ways that movement, environment, and the body co-constitute one another in sensuous transactions and exchanges that

change all parties involved (Hayward, 2012). Migrants are shaped by and in turn shape bureaucratic systems that dictate sexual and gender norms (Patton and Sanchez-Eppler, 2000; Luibheid, 2014). "Their efforts have transnational dimensions, drawing from histories and cultures in other locations and affecting those who have not migrated across borders at all" (Luibheid, 2014, 144). Cotten (2012) describes transgender migrations as "movements of desire, agency, and generativity without unitary subjects or foundations. They are heterotopic, multidimensional mobilities whose viral flows and circuits resist teleology, linearity, and tidy, discrete borders" (2).

This body of scholarship is interested in an affective engagement with queer and trans mobilities, where the body and the environment are felt, seen and changed through movement, transition and interaction with surrounding environments, borders, and nation-state systems. It engages a sort of visceral geography that explores how bodies feel internally in relation to material social space, working to merge the concerns of the experiential/biological body with cultural patterns, social hierarchies and economic structures (Hayes-Conroy and Martin, 2010; Hayes-Conroy and Hayes-Conroy, 2010a, 2010b). The body functions as an analytical space to understand the material and symbolic impact and effect of social patterns and structures (Sweet and Escalante, 2015; Joshi, McCutcheon and Sweet, 2015). Visceral geographies provide a link from the intimate, the bodily and the sensory to the social, the geopolitical and the transnational realms.

2.5 Trans and queer refugee studies

Queer and trans refugee studies focus on nation-state administrative structures that govern citizenship, identity, gender, and sexuality. In Canada, lawyers and IRB adjudicators deeply influence the narrative that asylum seekers share on their basis of claims (BOC) forms and in the hearing room (Dawson and Gerber, 2014; Berg and Millbank, 2007). For a claim to be successful, the claimant's narrative cannot challenge core elements of a decision maker's understanding of the world (Dawson and Gerber, 2014; Berg and Millbank, 2007). A Sexual Orientation and Gender Identity or Expression (SOGIE) claimant's ability to stay in this country is completely reliant on their ability to make their identity as a lesbian, gay person, bisexual or trans person intelligible to the IRB adjudicator (Jordan, 2009). Research with SOGIE refugees in Canada has demonstrated that the process of gaining refugee status requires a claimant to prove

their sexual orientation or gender identity in accordance with western standards of sexuality and gender (Lee and Brotman, 2011; Lee and Brotman, 2013; Murray 2014a, 2014b, 2016; Gaucher and DeGagne, 2016; Seitz, 2017; Berg and Millbank 2007). The IRB adjudicates SOGIE claims with the explicit belief that gender identity/expression and sexual orientation constitute membership in a particular social group defined by an *innate or unchanging characteristic* (*Ward v. State*, qtd LaViolette, 2007). In general, dominant paradigms of western psychology view sexuality and gender as intrinsic and essential traits that are discoverable, expressible, and once realized, stable (Rehagg, 2009; Jordan, 2009). This understanding of sexuality and gender leads to the notion of the 'coming-out' narrative, whereby a queer and/or trans person moves toward their innate, coherent, and authentic identity, which they then express and live out in their community. The IRB also judges whether a claimant's identity is genuine based on whether their desires are acted upon and the individual is "out" to their community (Gaucher and DeGagne, 2016).

The coming-out story functions as the main framework for understanding sexuality and gender in the west, mapping onto IRB members' expectations of a credible SOGIE refugee case and forming what Murray (2014a) has called the "migration to liberation nation narrative." As Murray describes, this narrative follows a linear, straight path of sexual identity development,

> from closeted in their country of origin to 'out' in Canada that coincides with unidirectional spatial migration towards the nation of refuge, culminating in the liberating moment of the refugee hearing where the claimant can officially 'come out' to the state who will protect her and allow her the freedom to be openly 'gay' 'lesbian' bisexual' or 'transgendered' and expect passive, docile citizenship in return" (2014a, 453).

Aizura's (2018) concept of the metronormative migration plot refers to the distinct migrations made by trans people, from rural to urban areas or transnationally, in search of self-fulfillment, freedom to live authentically, and acceptance and even celebration of one's gender identity and sexuality. However, Aizura troubles this narrative, demonstrating how migrants negotiate labor circuits and ethnicization; freedom is not so easily reached in the west, where migrants are inscribed into systems of exploitative capitalism and colonialism.

Shakhsari (2014a, 1005) identifies that it is the "linear logic of human rights" that produces the temporal progress narrative of the refugee, who moves from a 'backward' homeland to the 'future of progress' in the west. In other words, she identifies the way that time

is mapped onto space in the refugee claims process, such that the queer or trans refugee is not simply moving from one country to another, they are *leaping forward in time*. Through the refugee claims process, the west not only depicts itself as superior to the refugees' countries of origin; they depict themselves as *the future*. Shakhsari (2014a, 1005) contends that the only thing that "remains constant in this tempo of progress is the fixed universal sexual identity (gay, lesbian or transgender) of the refugee, whose authenticity is measured against the universal normative sexual categories (that of white Euro-American subjects)" such that even Euro-American practices of queerness and trans-ness are portrayed as the fixed and constant future of the queer and/or trans asylum seeker.

Indeed, these liberatory progress narratives generate a racialist and colonialist discourse where "queer and trans people migrate from 'backward' and 'uncivilized' Global South to total freedom in 'modern' and 'civilized' white/Western nation states, such as Canada" (Lee, 2018, 63). In the case of transgender refugees, these narratives serve to discredit asylum seekers' nations of origin in a way that has economic and political repercussions, perpetuating inequalities between nation-states (Murray, 2016; Luibheid, 2014; Orchard, 2014; Haddad, 2008). Additionally, by reinforcing a notion of Canadian superiority over other regions and depicting Canada as a safe haven, these discourses silence asylum seekers' experiences of transphobia, homophobia, racism, sexism, and classism in Canada, and erase Canada's own histories and on-going practices of settler colonial violence (Murray, 2016; Jenicek, 2009).

Puar's (2007) concept of homonationalism explains how the U.S. has used its purported gay-friendliness to justify increased border securitization and violence against countries that western organizations label as homophobic. The LGBT refugee regime functions in this homonationalist context, positioning Canada as a 'saviour' nation while also justifying increased violence against the countries that LGBT refugees come from in the name of gay-rights — seen as the next step in the liberal and democratic nation-states agenda. Aizura (2016), following from Puar's homonationalism, identifies transgender exceptionalism, which "tracks the nationalist logic in which the U.S. nation fantasizes its own superiority, tolerance, and exceptionality in relation to transgender life, pitted against other nations and 'cultures' deemed intolerant, barbaric, transphobic, or homophobic" (126). He distinguishes transgender exceptionalism from homonationalism in order to trace "how transgender and other categories that catalogue gender-nonconforming practices attach differently to rights discourses and affective modalities than the

category of 'lesbian and gay' does, and to acknowledge their different institutional and historical lives" (127).

Refugees are commonly viewed as a threat to national security and abusers of Canada's hospitality, whilst also being used as examples of Canadian exceptionalism (Fobear, 2016). Lee and Brotman (2013) argue that the granting of asylum to LGBT refugees functions as a 'violent gift,' working to highlight Canada's humanitarian side with hiding its exclusionary nature. The concept of the violent gift refers to the violence inherent in the liberal notion of refugee protection as a gift, acknowledging that the need for protection can be linked to self-serving foreign policies and economic interests of nations who receive refugees, policies that are often the root cause for the conditions of persecution and flight. Aizura (2016) identifies all immigration to the West as an exchange. TGNC refugees are granted protection in exchange for acting as tokens of Canadian modernity, liberalism, democracy, humanity, progressivenes, diversity, and civility.

Shakhsari's concept of the "politics of rightful killing" explains the particular juncture that trans and gender-nonconforming refugees stand at as tokens in a neoliberal empire: "Standing between biopolitics and necropolitics, the *politics of rightful killing* explains the contemporary political situation in the 'war on terror' where those whose rights and protection are presented as the raison d'être of war, are sanctioned to death and therefore live a pending death exactly because of those rights" (Shakhsari, 2014b, 103). Foucault's (1976) concept of biopolitics describes the institutional power used to administer life and populations "to ensure, sustain, and multiply life, to put this life in order" (138). Biopolitics functions through biopower, which are the technologies and techniques used to organize human social and biological processes. Foucault writes that biopower is "a power to foster life or disallow it to the point of death" (1976, p. 138). Mmembe's (2003) necropolitics is an alternative to biopolitics and describes those situations where sovereignty is not enacted through disciplinary procedures that organize bodies, but rather is exercised through the creation of zones of death, in which mass destruction and the living dead become a reality of life.

The biopolitical control of the sexed and gendered body extends to a different realm of control for migrant bodies. Trans refugees' bodies and lives are invented by the state as a form of control. The transgender refugee "is caught between biopolitics and necropolitics," between life and death (Shakhsari, 2014b, 104), her body produced and managed by medical, psychological

and geopolitcal discourse and her death authorized "in the state of exception as a refugee (outside the nation-state) and transgender (outside the naturalized binaries of sex)" (104). The transgender refugee is politicized and produced through discourses and practices that authorize war and imperialism in the Global South, but their lives become disposable as soon as they can no longer be used as tokens to justify war and imperialism and bolster nationalism (Shakhsari, 2014a, 2014b; Aizura, 2016). Transgender refugees are both imbued with and stripped of rights at the same time (Shakhsari, 2014a).

Signatories of the UNHCR declaration are required to give a fair trial to any person seeking asylum who lands on their soil; xenophobic nation-states will therefore make it increasingly difficult for asylum seekers to reach their soil through strict visa requirements (Lee, 2018) or by turning away boat-loads of asylum seekers (Mountz, 2011; Dadui, 2018). Alternatively, they may make it increasingly difficult to make a successful claim, as Canada did with the 2012 Protecting Canada's Immigration act, which severely shortened waiting times for hearings and reduced the amount of time that claimants had to prepare their claims (Fobear, 2016). "Overall, asylum provides only a narrow door of opportunity for legal admission to a select few. This has generated considerable debate about the extent to which human rights discourses and practices may work to reinforce rather than transform existing inequalities" (Luibheid, 2014, 138). As Luibheid notes, refugee law brings into question the entirety of human rights law and discourse.

At the same time, queer and trans refugee life point toward alternative modes of living as trans and queer globally. Queer and trans migration scholarship and the lives of queer and trans migrants themselves work to reorganize these hegemonic temporalities and geographies by "decentering of nationalist frameworks premised on space-time binaries, developmental narratives, and static models of culture, community, nation, race, identity, and settlement" (Luibheid, 2008, 173). For example, Juana Rodriguez (2003) argues that asylum cases should not be read in terms of asylum seekers coming from 'evil' or 'backwards' countries to a 'liberated' Global North, complicating the homophobia of countries in both parts of the world. Rather, Rodriguez proposes that queer asylum cases are not simply about the protection of people from persecution based on their sexuality, but also in the context of marginalized racialized, classed, and geopolitical sexualities. Rodriguez (2003) describes how gay Brazilian asylum seeker Marcelo Tenório's legal team described sexual orientation not as an essential biological

category, but as "a complex interplay of sexual practice, desire, identity, and affiliation" (90), invoking a Deleuzian rhizomatic dimensionality to identity that is co-constructive and in constant evolution. Rodriguez' work demonstrates how experiences of homophobia in the Global South also happen within the context of racialized and classed sexualities, bringing nuance into the types of homophobia that exist elsewhere and the ways identity is figured.

2.6 Toward migrant and trans justice, toward home-coming

A persistent tension in queer migration and asylum scholarship is between the immediate necessities of stopping deportation and arguing for administrative policy changes, and the infinite ethical obligation to a 'queer no border imaginary' that fundamentally challenges the structures of nation-states and the immigration and refugee apparatus (White, 2014). Organizing for the rights and recognition of migrants and refugees ultimately maintains the state's authority to make determinations about who should and who should not be a subject of rights, and as forms of homonationalism, they cannot fundamentally challenge the nation-state (White, 2014). Often, advocacy around queer and trans refugee rights can generate racialist and colonialist discourse and reinforce global inequalities (Murray, 2017). Andrea Smith (2013) contends that issues of migrant justice should not look to change systems of migration, but rather they should seek to change the nation-state and its reliance on control and territory. She argues that a liberatory vision for immigrant rights is not one based on routes to citizenship in the settler state, but rather one that questions the very logic of the settler state itself.

The problem here is the refugee process itself and even the very concept of borders. As activists at the Montreal-based migrant justice organization "Solidarity Across Borders" write,

> Borders play a crucial role in the capitalist system and its "migrant crisis". Canada and the US are founded on the theft of Indigenous lands and the ongoing genocide and displacement of Indigenous peoples. These borders originally established by colonial wars, to benefit European colonizers, are also a means to control migration. They prevent people from leaving violence, poverty and exploitation, drive families from country to country, force them to board dangerous boats, and make long treks across deserts and snow. Borders push people into precarity without legal status, criminalizing them. Borders keep the global apartheid system in place (Solidarity Across Borders, 2018).

Borders themselves result in the precarity of migrant people's lives. The complexity of working with refugees is balancing advocacy around making the day-to-day lives of refugees livable and advocacy around an alternative and more just political future. Some scholars suggest a no

borders future (Anderson, 1991; McDonald, 2009; Fortier, 2013; Sharma & Wright, 2009). White (2014) engages with queer migrant justice movements in the US and Canada in order to open up space for a queer no borders future, where present-day solutions and a future of border abolition come into creative tension to generate a queerer future. Other emerging scholarship provides additional alternative political futures, including open borders (Bauder, 2013, 2014), undoing border imperialism (Walia, 2013), a re-imagining of Indigenous and settler relations (Bauder, 2011; Lawrence & Dua, 2005; Razack; 2013; Sehdev, 2013; Simpson, 2014; Walia, 2012), afro-pessism and afro-futurism (Moten and Harney, 2013; Hartman, 1997; Sexton, 2011; Walcott, 2014; Wynter, 2003; Womack, 2013). These alternative political futures provide new ways of imagining citizenship, social relationships, what it means to be human, mobility across space, and more.

My research engages migration and trans literatures to build a conceptual framework for analyzing the narratives of trans and gender nonconforming refugees in Toronto. It is rooted in an understanding of the ways that migration systems are rooted in the violence of border imperialism (Walia, 2013), are shaped by and shape the movements of trans and gender nonconforming migrants, and use a politics of rightful killing (Shakhsari, 2014a) in order to administer trans and gender nonconforming refugee life and death. This work takes seriously the need to balance the everyday aspect of refugee life with the desire for a more just, alternative and imaginative political future.

3 Research Methods

3.1 Introduction

This chapter outlines the methodology that I created and used to collect information for this study with trans and gender nonconforming refugees in Toronto. The first section addresses major concerns about the field site including a justification for why it was chosen, how it was accessed, and basic information about the participants in this study. The next section covers research design and ethics, including reflections on the epistemological foundations of the study. I describe the interviews I conducted and the arts-based research methods I used as well as the ways the study was designed with ethical considerations in mind. Finally, I address the ways that I used narrative coding to analyze the data before considering limitations to the study.

Again, the major research questions for this study are as follows:

1. How do trans and gender nonconforming refugees navigate the Canadian border and the refugee claims process and how is this relevant to larger formations of gender and sexuality in domestic and international politics?
2. What barriers to trans and gender nonconforming refugees face in integration within Canada and what are the causes of these barriers?
3. How do trans and gender nonconforming refugees create space for home and liberation in Canada and what do these insights tell us about trans and migrant justice?

I sought answers to these questions through semi-structured interviews with lawyers, frontline workers and trans and gender nonconforming refugees living in Toronto, Canada. My research does not offer definitive answers through analysis of these interviews, but rather gestures toward themes, theories and movements that could bring us closer to trans and queer migrant justice.

3.2 Research environment and accessing the field

3.2.1 Field Site

My research focuses on Toronto, the primary destination for immigrants to Canada. Toronto also receives the highest number of cases with more complex needs, like refugee and asylum claimants (City of Toronto, 2018). In 2016, the city welcomed 11, 405 resettled refugees and protected person, with close to 7000 of those being Syrian refugees (City of Toronto, 2018). In

2017 and 2018, there was a substantial increase in the arrivals of claimants, causing significant pressure on Toronto's shelter system; the municipal government has recently called for more support from federal and provincial level (City of Toronto, 2018).

At the federal level, the Liberal government headed by Prime Minister Justin Trudeau has explicitly voiced support for incoming refugees.[4] They have also followed through to welcome 25,000 Syrian refugees and remove the designated countries of origin list (IRCC, 2016). However, there still is not enough support and resources for refugees, especially under Doug Ford's Conservative provincial government in Ontario, which has stripped funding for many important services for vulnerable populations, including legal aid for refugees (Legal Aid Ontario, 2017). There is tension between the Toronto municipal governments, provincial and federal about who should provide funding and resources to refugee programming.

As mentioned in Chapter 2, Toronto is recognized as the primary destination for SOGIE asylum seekers in Canada and has the highest number of refugee claimants of this type (Murray, 2016). Toronto is commonly depicted as a haven for both refugees and LGBT people. This is in large part due to the extensive programming available in Toronto for LGBT newcomers. There is a concentration of resources and services for LGBT newcomers in downtown Toronto, although a majority of them live far outside the city due to housing prices. The primary programs and centers supporting LGBT newcomers include Access Alliance, the Among Friends support group at the 519, a group organized by the Metropolitan Community Church, and the Supporting Our Youth EXPRESS group at Sherbourne Health Centre. In addition, Rainbow Railroad and Iranian Railroad exist at a national level as organizations working to sponsor people experiencing homophobic and transphobic persecution around the world to come to Canada as refugees.

3.2.2 Accessing the field: Participant recruitment

Accessing the field started with sending emails and messages through my networks to folks involved with various LGBT refugee support groups in the city. I emailed the program coordinators at the Metropolitan Communtiy Church's refugee group, Sherbourne Health

[4] In 2017, Trudeau tweeted, "To those fleeing persecution, terror & war, Canadians will welcome you, regardless of your faith. Diversity is our strength **#WelcomeToCanada**." This tweet garnered both praise and backlash from both sides of the political spectrum. https://twitter.com/justintrudeau/status/825438460265762816?lang=en

Centre's EXPRESS group[5], and the 519's Among Friends Group. I also reached out to lawyers who work with LGBT refugees to request interviews. As word spread about my research, I received emails from people involved with these groups and others and organized interviews with frontline workers and lawyers. I then used snowball sampling to continue to recruit lawyer and frontline worker participants.

At the time of the interviews, I provided frontline workers and lawyers with posters and information about the study that they could share with LGBT refugees. I also displayed these posters on community boards at the 519 Community Center and Sherbourne Health Center (see Appendix A for posters). Refugee interviewees were compensated $30 for their time, while frontline worker and lawyer participants were not, because of refugees' more precarious positions and the fact that their interviews would form the basis of the research above and beyond that of the frontline workers and lawyers. Therefore, it was important to compensate them for their time and knowledge.

My recruitment methods were limited to the downtown core of the city, mostly focused around services in the east side, which means I likely missed viable participants living in the suburbs or those who do not frequent these support groups and service centers. Follow-up research could prioritize seeking out participants living in the suburbs and outer towns surrounding Toronto, like Mississauga and Scarborough.

3.2.3 Participants

I spoke with three lawyers and one legal counsel. Adrienne Smith has been practicing law for 5 years, during which time she has worked almost exclusively with LGBT migrants and refugees. She practices at Battista-Smith Law Group. Nicholas Hersh is an immigration and refugee lawyer at Community Legal Services of Ottawa and professor of the Refugee Sponsorship Support Program course at the University of Ottawa: Faculty of Law. He has been practicing law since 2015 but before then, he was also working with refugees and migrants as a law student. Stephanie, who wished to be given a pseudonym for the purposes of this research, practiced law for a decade before becoming a professor of law at a university in Ontario. David LeBlanc is a

[5] A drop-in program for newcomer youth that is part of Sherbourne's Supporting Our Youth (SOY) programming.

trained legal counsel who has practiced law for 16 years and worked with LGBT refugees for 15 years. He practices at Ferreira-Wells Immigration Services.

I also spoke with four frontline workers and one community advocate. Courtney Niven is a case manager for newcomers at Sherbourne Health Center and the coordinator of Supporting Our Youth's (SOY) EXPRESS program which is a weekly drop in program for newcomer youth in Toronto. Kusha Dadui is a resource worker and program coordinator at Sherboune Health Center and has worked with trans and newcomer youth for about 15 years. Nour, who wished to use a pseudonym for the purposes of this research, provides short-term trauma informed counseling for LGBT newcomers out of a community center in Toronto. Habibi Feliciano-Perez is the coordinator of Among Friends, a program for LGBTQ refugees which operates out of the 519 every Wednesday. Doug Kerr is an activist in Toronto who has worked with grassroots organizations supporting LGBTQ refugees and was involved with the group that created Rainbow Railroad.

Additionally, I spoke with 6 refugee claimants, 4 Convention refugees, 2 undocumented people, 2 permanent residents, and 1 person on a student visa. In my substantive chapters, I decided to focus on the interviews conducted with the 6 refugee claimants and 4 convention refugees so that I could center the claims process as a mode of living in the borderlands and experiencing barriers. I provide detailed life narratives of the refugee participants I spoke with in the next chapter.

Frontline worker and lawyer participants could elect to remain anonymous or be named for the purposes of this research, but refugee participants were automatically given pseudonyms due to their precarious immigration status. To avoid negative impacts on their ability to successfully make refugee claims or gain status as permanent residents and citizens, they remain unnamed.

3.3 Research design and ethics

3.3.1 Semi-structured interviewing

Interviews were all carried out in English. For refugee participants, interviews were conducted at the 519 Community Center, unless otherwise requested by participants. Two interviews were conducted in meeting rooms at participants' transitional housing. Frontline worker and lawyer interviews were conducted in their offices or over the phone. Before interviews began, I would

go over a consent form with the research participants. See Appendix B for the frontline worker and lawyer consent forms and Appendix C for the refugee and migrant consent forms.

Interviews with refugees, frontline workers, and lawyers were each guided by separate interview guides which all consisted of open-ended, exploratory questions. The interviews were semi-structured, so I would add in additional and relevant questions as each interview went on. For lawyer interviews, the questions focused on barriers experienced by trans refugees during integration, specific experiences of trans refugees in the claims process, and the role of Canada as a 'protector' of refugees (see Appendix D). Interviews with frontline workers focused on what capacity they worked with trans refugees, what barriers trans refugees faced that they had experience with and witnessed, and how Canada positions itself as a 'protector' to refugees (see Appendix E). Interviews with refugees and migrants were the longest and most involved interviews (see Appendix F). This interview guide was split into 9 sections: general information, nature of travel route, border experiences, transgender-specific experiences, legal experiences, experiences with organizations and services in Toronto, perception of journey, survival strategies and home-making, and a final section where I did an imaginative mapping exercise with them. This interview guide was influenced by the guide created by Envisioning Global LGBT Rights in their 2015 report on LGBT refugee rights in Canada.

Both trans-ness and the refugee claims process are constantly shifting and dynamic processes. Therefore, a study like this would ideally be able to follow research participants over a longer period of time and conduct more than one interview with them. However, given the limitations of time in completing a master's thesis, I was only able to complete 1-2 interviews with each of the participants. Therefore, this research offers a snapshot, a still, a moment in the constantly changing lives of the people I spoke with.

3.3.2 Arts-based inquiry and mental mapping, or, 'imaginative mapping'

A method called 'imaginative mapping' was created and used in refugee and migrant interviews in this study. It takes the practices of mental mapping and arts-based inquiry and combines them, inviting research participants to creatively map out their experiences of migration and transition.[6]

[6] Note that the use of the word transition in this research does not only refer to gender confirming surgeries and hormone replacement therapies. Transition was defined by each participant for themselves. There was not necessarily an end goal to transition, a set or simple path to transition, or a clear definition of what it really was. Generally, there was a vague but sure understanding of what transition meant for each participant. Sometimes it

Using artistic maps as a research method allows the research to engage in the emotional and affective aspects of migration and transition. The affective and embodied aspects of these life experiences are understood to be legitimate forms of knowledge.

Mental maps tell us about the image-building process and the way that individuals relate to and construct place (Halseth and Doddridge, 2000). The methodology of mental mapping traditionally invites research participants to draw a spatial area of interest, and in doing so, reveals something about the environment, the research participant, and their cognitive processes (Pocock, 1979). Pocock (1979, 282) writes, "mental maps show most clearly the areal extent and variation of people's environmental knowledge at a particular point in time." Most often, participants will be invited to draw a map of a neighbourhood or area they know well.

The method of imaginative mapping combines the concept of mental mapping with arts-based inquiry, inviting participants to map their experiences through artistic reproductions. A tradition of arts-based inquiry functions as an alternative to textual and linguistic-based research, allowing for diverse and varied forms of expression to emerge (Ball and Gilligam, 2010; Cole and Knowles, 2011). Arts-based inquiry is also particularly useful in research with people with linguistic or communication barriers, because it extends to realm of sharing and communication beyond the verbal into the realms of tacit knowledge, affective or emotional knowledge and symbolic expressions (Pauwels, 2010; Prosser, 2011; Rose, 2012; Bagnoli, 2009; Estrella and Forinash, 2007). Finally, arts-based inquiries in geography allows for a deeper understanding of the complexities of geospatial representations and experiences by different people (Bagnoli, 2009; Estrella and Forinash, 2007; Rodriguez-Jiminez and Gifford, 2010). Arts-based inquiry understands the emotional and the affective as important pieces of data and knowledge.

Through the use of imaginative mapping, this research moves between the intimate and the geopolitical in poetic ways. Poiesis is an act of artistic creation, whereby someone brings into being something which did not exist before (Crawford, 2014). Stryker (2008b) explains trans body-crafting as poiesis, a process by which the individual enacts magic through the wilful changing of their body, and in this act, is extended into the world around them.

This research method invites participants to think artistically and reflexively about the ways that their migrations and transitions are in conversation with their bodies and their

looked and felt the same as migration and sometimes it was a completely separate process. The imaginative mapping exercise allowed participants to explore these themes further.

environments; and the ways their environments shape and are shaped by their changing bodies (Hayward, 2012). Imaginative mapping as a methodology is a serious inquiry into this shaping.

Imaginative mapping invites us to engage with the 'visceral geographies' of trans migrations and refugee-ness (Hayes-Conroy and Martin, 2010; Hayes-Conroy and Hayes-Conroy, 2010a, 2010b). It takes up the body and its navigation of both environment and emotion as analytical space. Taking up this embodied and affective analytical space helps us to understand the intimate impacts of social patterns and systems, like border imperialism. Imaginative mapping provides a link from the intimate, the bodily and the sensory to the social, the geopolitical and the transnational realms.

These maps were used as to further prompt refugee and migrant research participants in the in-depth interviews. In most cases, they were embedded in the middle of the semi-structured interview and functioned to open up new and creative pathways to explore the participants' experiences of migration and transition. In two cases, they were completed in a second, follow-up interview, two weeks after the initial interview was conducted. . See Appendix G for details on how the imaginative mapping exercise was used in research interviews.

I analyze the imaginative maps by taking the lead from what participants themselves had to say about their maps. These pieces of art are understood to have spatial and emotional dimensions. They are read as an invitation into navigating the complex waters of migration and transition.

3.4 Ethical research design

3.4.1 Researcher positionality and reflexivity

Ethics approval for this research was gained from the McGill Research Ethics Board (REB) in June 2017 (see Appendix H for research ethics approval form). However, there are ethical considerations that should be taken up by this research that go above and beyond the questions asked by the REB and attend to the ways that researcher and research participants participate in a relationship of unequal power relations (Sultana 2007).

Harraway (1991) and Harding (1991) have argued that all knowledge is *situated* and is therefore marked by its origins. In other words, the position of the researcher will impact the shape, texture, and substance of their research. The researcher's position in relation to their research is generally referred to as the researcher's *positionality*. Positionality addresses the

researcher's race, class, gender, age, sexuality, (dis)ability, and life experiences. McDowell (1992) also contends that it includes the researcher's epistemological beliefs, their specific ways of viewing the world, their political beliefs, as well as the way that all these things interact. In qualitative research, the positionality of the researcher is especially important to consider because the researcher is understood to be the research tool. In other words, the researcher is the instrument used to both gather and analyze qualitative data (Herbert, 2010).

In doing this research, it was important for me to recognize and attend to my privileges as a researcher and as someone who has never interacted with the immigration or refugee process in Canada in the same ways as the refugee participants, since I was born a citizen of Canada. As a trans and non-binary person who is second generation Canadian, I am interested in how immigration, gender, and sexuality function together as structures of power. However, my experiences of misogyny, homophobia, transphobia and racism differ from those of the research participants because of my citizenship status. Maintaining an awareness of my positionality shaped by research and analysis around the issues of importance for trans and gender nonconforming refugees to maintain a goal of community impact and advocacy for my research.

3.4.2 Ethical research design

Working with a population with precarious immigration status and a host of traumatic experiences was of primary concern when designing the methodology of this study. Trans and gender nonconforming refugee participants' identities remain confidential in this study for the safety of those participants who were still going through the claims process and processing permanent residency and citizenship applications.

The interview guide is influenced by a report prepared by Envisioning Global LGBT Human Rights (2015) based on research done with LGBT refugees in Toronto. This research was done by a large team of both academic and community-based researchers. Taking the lead from their interview guide, which is informed by community-based frontline workers, helped me to develop questions that were attentive to the sensitive nature of this research. Doing research with populations marginalized by the state always provides an ethical dilemma – especially research with refugees wherein the questions I have about their experiences may be re-traumatizing, as hard as I may try to avoid that.

There are also ethical questions around how the research should be disseminated – whether it should inform policy, add to the academic knowledge base, or shared with frontline workers and refugees. I decided that the most ethical way to conduct this research was to use it for community advocacy. Therefore, in addition to academic publications of this research, a community guide for refugees and frontline workers will be developed and distributed, and policy recommendations will be submitted to the IRCC and Global Affairs Canada.

3.5 Coding and narrative analysis

Stories link us to the past, the present, and the future, and function as a mode of knowledge capture and sharing (Lekoko, 2007). In this way, storytelling offers a way to understand and interpret events, experiences, and concepts (Lekoko, 2007). Narratives are spoken or written texts that describe a series of events or actions through time (Czarniawska, 2004). A narrative conveys both the teller's interpretation of a series of events and provides useful commentary on these events. For example, even the sequencing of narratives provides valuable insight of how events hold significance to the narrator (Young, 1996). Narrative analysis, then, is a form of interpretation that understands conversation or text as story. It focuses on the embedded meanings, who the speaker is, and what their context is (Wiles et al., 2005). In narrative analysis, data can be the object of study itself or it can be a means to respond to a larger research question (Lieblich et al, 1998). In geographical research, narrative analysis will typically be used as a means to answer a research question.

After each interview was transcribed, I went through several rounds of narrative coding to identify broad themes in the data. Riessman (2005) identifies four methods of narrative analysis: thematic, structural, performative, and interactional. I focus on thematic and structural analyses. In thematic analysis, the focus is on the content of the text and analysis is organized by theme. In structural analysis, the focus is on both the content and the structure of the story, in order to analyze what a story tells as well as how it is told. Feldman et al. (2004) describe their thematic approach to analysis, which they perform on three levels. First they identify the story line, the basic point about change the participant was trying to make. Second, they identify the oppositions in the story, the tensions and conflicts that arose, like notions of right or wrong. Third, they identify the syllogism, the logical argument behind the story. Labov (1972) uses a structural approach and he identifies six elements that a fully formed narrative should have: i) the

abstract, which frames the story or explains what it is about; ii) orientation, which sets the stage and explains who, what, when and where; iii) complicating action which is the turning point(s) or problem(s); iv) evaluation, which is how the narrator would like to the listener to interpret the story; v) resolution, which is the outcome; and vi) the optional coda which returns the audience to the present moment. Narratives can be identified in interviews and then coded based on these six elements.

I went through the refugee interview transcripts, highlighted pertinent sections and commented on the themes that emerged from them. Afterwards, I identified the themes that came up most frequently. These were home/family/community, border crossings, progress narratives, Canada as a safe haven, among others. After thematically grouping these narratives, I analyzed them structurally, accounting for the framing of the story and the way that participants interpreted the events that took place. The imaginative maps were coded and analyzed based on what refugee participants shared about their drawings.

Afterwards, the frontline worker and lawyer interviews were reviewed, highlighted, and coded thematically. Keywords and themes such as credibility, exposure, trauma, safe haven, promised land, barriers, story and witness, humanity, international obligation, and others were identified. Structural analysis was not used for these interviews, since they did not involve the sharing of narrative or story. Rather, they were crosschecked thematically with the refugee interviews and imaginative maps to identify broader themes and patterns across the data set. The frontline worker and lawyer interviews were used to fill in the gaps and provide context, contrast, and ‘narrative shading’ to the refugee interviews. As presented in the following chapters, these research methods gathered detailed, subjective accounts of the refugee claims process to add and build upon the existing body of research.

4 Mapping the transition and migration narratives of trans and gender nonconforming refugees

4.1 Introduction

This chapter introduces the trans and gender-nonconforming refugees I spoke with during the fieldwork I conducted in Toronto. I share their reasons for claiming refugee status, the point they are at in the claims process, and what their relationship to gender and trans-ness is. This chapter begins to map out the migration and transition narratives of each of these people to begin to paint a picture of the geopolitical dimensions of both processes.

4.2 "Farah"

Farah is a 32-year-old transgender woman from Iran. She first came to Canada in December 2016 to visit her sister, who lives in Toronto. When I asked her which words she would use to describe her sexuality, she shared her pronouns with me. Her comments offer interesting insight into the elisions between gender and sexuality, the slippages between the two, and the ways that they are deeply in relation.

> If with people, I'm comfortable with them, like my friends, they are my close friends, they don't judge me, they call me she. But for the rest of people, I don't expose it… [I identify] as queer, I guess. For now… because I like guys, I'm gay so… [when] I'm going to be a woman, [I'm going to be] straight. Not like a lesbian, nothing like that. (Farrah)

Farrah says that she has known her whole life that she is transgender, but only felt comfortable exploring it after living in Toronto for a while.

> Before I had given up on it, because it was impossible in my country. But when I came here, I started to buy some stuff from Amazon… I'm doing it right now from Amazon because I'm too shy to go to the stores. I think maybe they judge me or something? I'm not too confident to go to the store. So, I buy from Amazon. And I just do it for fun. I just like to wear heels, to wear panty hose, to wear dress, to wear make up, like at home. But right now, I took my decision. I'm going to be transgender. Yeah, and I'm going to accept all of the consequence. Maybe people don't like me anymore, maybe I lose my job. But I don't think it's like that, because I have a government job… and nobody can insult anyone… (Farrah)

During her stay in Toronto, Farrah visited the gay village on Church Street and the 519 Community Center, experiencing gay space and community for the first time in her life.

> I was searching on Google and YouTube, how was the gay people here, how to find them. I found 519, and Church Street. So I came here, I thought, I'm in another town, it's somewhere else, it's not part of Toronto. So gay people just go, all of everywhere I see the rainbow flag, and people, the guys, hold each others' hands. [And] transgenders. It's like another world. People are together. I was so happy, so frequently I came here... And [later] I went to the 519, I said, well I'm here, what can I do to meet more new people? Suddenly, the guy downstairs asks me, you want to be a refugee? And I didn't think, I said yes. And I just fill out some forms, and they told me, you have to call Miranda[7] and email her and talk to her, and I did, and she called me back, we had a session, we talked. And the process was started. And my mom, [who lives in Iran], said, what did you do? You're crazy… I decided, I'm going to leave everything behind… I have my car and my apartment, its OK, I just leave them. I just want to live like a human, people don't judge me. Because in my country, I don't know you know or not, because they execute gay people, exactly in the middle of the street, they do, so everybody can see them. So always I have to hide myself there. And I don't want it. Even, I wasn't rich there, but my financiality was good. But, I said I don't want it, I want to live for myself, I want to enjoy my life. So I started the process to be a refugee, and finally it was good, I had a successful hearing, and I'm waiting for my PR. (Farrah)

Farrah decided to make a refugee claim because she felt that she had to hide all the time in her home country. She made her refuge claim based on sexual orientation and not gender identity, which is something she was only starting to seriously consider after living in Toronto for a while. She was declared a protected person in May 2017, after a hearing with an adjudicator that Farrah shared was "a bit tough."

4.3 "Ashriel"

Ashriel is a 21-year-old queer gender-nonconforming person from the Bahamas. When we spoke, Ashriel wasn't sure what pronouns were preferred. "I just tend to avoid it," they told me. I use they/them pronouns for them in this research.

> I just go by whatever people call me. If they say she, that's fine. If they say he, that's fine. I don't care. Because regardless of it, I don't feel like I identify – I don't like try to attach my emotions to the words. When I think of myself, I think of myself just as an individual. And those labels don't matter to me, because who I am to the core, it's quite in between all of those… What [trans] means to me, I've been thinking about it quite a lot, especially lately… I've been thinking about it for years, like I remember me being 13, and looking it up and I'm like wow that's me. I used to dress to a point where you couldn't identify if I

[7] A pseudonym was used.

> was male or female, which is good for me. And I still do that a lot. But man, it was like, very heavy and a lot of me wants to transition, but a lot of me doesn't because I have such big boobs, and such a big butt. And like its gonna take so much money to get all of that off of me… I don't think I've ever like made a decision, whether to like fully transition or not. But I know that in my soul of souls, in my deepest heart of hearts, I feel more masculine than not, in the physical. (Ashriel)

Ashriel felt held back from transitioning based on the shape their body took. They were exploring gender when we met to speak. In their room in Toronto, they had hung up a spoof version of an Ontario license plate that says, "Gender, yours to discover." Ashriel said, "I just have it in my room and I just look at it." They arrived in Canada in May 2018, fleeing homophobic violence in the Bahamas.

> I came because I was under a lot of pressure, because of my sexuality back home. Because being any part of the LGBTQ+ in the Bahamas is not socially accepted. And I got a lot of flack for it, people would harass me all the time, I got bullied out of my job. My life pretty much fell apart. I ended up homeless because this lady who didn't like gay women or whatever turned off my electricity, my hydro, and all of that. So I had a breaking point and I just refused. I would prefer to leave now than stay in this country. Because I wouldn't want to be alive, like I definitely would have killed myself because it was that much for me. (Ashriel)

Leaving the Bahamas felt living-giving for Ashriel, who could no longer imagine a life for themself in their home country. They travelled by airplane and filed for refugee status upon arrival at Pearson Airport based on sexual orientation and not gender identity. At the time we spoke, their hearing date had been postponed indefinitely.

4.4 "Amiyah"

Amiyah is an 18-year-old transgender female from the Bahamas who arrived in Canada in September 2017. She started medically transitioning by doing hormone replacement therapy (HRT) in her home country and experienced a lot of violence and threats from the community. She told me, "People threw rocks at me, tell me they'll shoot me, people come up and slap me for being feminine." She arrived in Canada by plane and made her claim at Pearson Airport. Her claim was based on gender identity and was accepted as a protected person in November 2017.

4.5 "Isabel"

Isabel is a 22-year-old trans women who identifies as straight and grew up in Egypt. She arrived in Canada in summer 2018, two weeks before the date that I interviewed her. An organization in her home country partnered with one in Canada helped to coordinate her visa and travel. She arrived on a visitor visa, found a lawyer, and prepared her claim to submit to the IRCC. She left her home country because an officer at a checkpoint in her home country sexually harassed her and threatened to send her to jail. She started medically transitioning in her home country, self-administering HRT because it was not possible to obtain legally. She used birth control pills and blood pressure medication to act as the estrogen and testosterone blockers she needed. Isabel's transition has brought her into deeper relationship and understanding with her body.

> I actually started taking HRT two years ago, in August 1, 2016. Before that my body was always a matter of questionary. I never understood what is this thing I am seeing in the mirror, I've never been satisfied, and I've always been asking myself, is this really what I want, is this really what I'm seeing inside? And I've never had the answer. Once I decided to transition it was like self-hugging to me. Everyday I take a pill and everyday I see a change in the mirror, like it was, a kiss or a hug to myself, to love myself, to embrace myself, to make peace with what I had. And I started taking them for two years. And, or what I see is, more and more loving. So it's been two years of embracing myself and loving myself. And I haven't undergone the sexual reassignment surgery yet, so I, now when I look at the mirror, I like all that I see now. Whenever I take my clothes off, I feel like I'm disconnected to my lower body. (Isabel)

At the time of interview, she had just submitted her refugee claim, on the basis of gender identity, and was waiting for her initial interview with the IRCC or CBSA.

4.6 "Camilla"

Camilla is a 30-year-old heterosexual trans woman from India. She travelled to Canada by airplane, on a direct flight from her home country in South Asia. Once she arrived at the airport she made her refugee claim.

> I claimed my status of asylum as soon as I arrived, and I received a hearing date, but I later received a letter saying it has been postponed indefinitely. I haven't received any other date yet, so I'm in the middle of my refugee claim hearing, my case is with the IRB, but then I haven't received any date for when my hearing would take place. (Camilla)

In her home country, she shared, "I was sad, I was lonely, had no rights, I was abused, had assault from police." She also experienced ostracism from most of her family members. She

started medically transitioning in her home country by doing HRT, but she said that the options for surgery there are not safe or reliable, since transgender-specific healthcare doesn't really exist.

4.7 "Bembe"

Bembe is 22 years old, identifies as gender nonconforming, and uses both she and he pronouns. She came from the Bahamas and arrived in Canada in March 2017.

> I came here because of something that happened on the beach. I almost got shot with a gun, that's why I fled the country. I think it happened because I'm gay, the way I move, they know. (Bembe)

Bembe identifies the way that his queerness lives in and is visible through his body, through the way he moved. When this visibility was targeted, she left the Bahamas and made a refugee claim at Pearson airport. A few months later, his claim was accepted. She hasn't medically transitioned yet but has been considering going on hormones for some time.

4.8 "Ghaliya"

Ghaliya is a 28-year-old trans woman who identifies as queer. She arrived in Canada in fall 2017, fleeing a warrant that had been issued for her arrest in Egypt on the basis of her being queer and transgender.

> First I'm transsexual activist in Egypt and Middle East, and it happened a crackdown[8] for activists, and my name was ordered for arrest in national securities... I have contact with the Canadian ambassador, so I contact him: "I have to leave now, because there's a big crackdown, as you hear. So this will put me in suffering and problem because I still didn't change my name [on] the papers so if they arrested me they would put me with the men. So it's a big mistake. And I can face everything because I'm an activist, I know what happened after I work in this kind of activism, especially LGBT. So I don't care about arresting or something, but I'm caring about where they will put me in jail, with who, men or women. I know it will be a kind of punishment for pushing me to say something [in an] investigation, so they will put me with the men, so I have to travel now, and they are going to put our movement at risk..." I took visa and temporary residence for 1 year [in Canada] in just 5 days, and I travelled. (Ghaliya)

[8] This crackdown happened in response to images of a rainbow flag being displayed by concert-goers at a Mashrou Leila concert in September 2017.

Ghaliya knew all the dangers that came with being an LGBT activist in her home country. She told me that you face danger "from the government, from the police, from society, from your family, from your friends, from anyone." She knew and had experienced all these dangers. But the worst thing that could happen to her would be being put in jail with men. She knew she had to leave. Through special connections with the Canadian embassy, she managed to secure a visa and travel to Canada. She flew into Pearson airport in November 2017 and submitted her refugee claim in January 2018 on the basis of sexual orientation and gender identity.

In her home country, Ghaliya had administered HRT to herself since it was not possible for her to legally obtain it in Egypt. She took birth control as a form of estrogen and blood pressure medication as a testosterone blocker. In terms of accessing transition-related surgeries, Ghaliya explained that there are two ways to access it – legally and illegally. In order to access transition surgeries legally, you have to wait to go on seven-year waiting list with the American ministry and hope you get accepted to have surgery. Ghaliya says no one ever was accepted, really. So the other way to get surgery done is illegally, with an under-the-table agreement with a doctor who will do it for you. Ghaliya said that this is how she got her surgery done.

At the time that we spoke, Ghaliya had just received a Notice of Acceptance in the mail from the IRB. Unusually, she received this notice without going to a hearing first.

> I started my refugee claim in January 2018… I was accepted from a week ago… without hearing, without court, without anything, they just [sent] my acceptance in the mail… [My hearing was] cancelled. I don't know, my lawyer told me, "This is the first time I saw something like this..." I did everything that you have to do it for refugee claimant. The apply for paper and application and narrative and everything. But I don't have the court or a hearing…then they send me the Note of Acceptance. The [note] came to the lawyer first. (Ghaliya)

4.9 "Dalia"

Dalia is a 25-year-old trans woman from Egypt who identifies as straight but also sees her sexuality as fluid. She arrived in Canada in summer 2018, two weeks before our interview. She fled her home country when a warrant was issued for her arrest on the basis of her being transgender. She was able to get to Canada through what she called an "exceptional situation."

> A friend of mine, who is a lesbian Egypt, who is an activist –she lives in San Francisco and she contacted [a Canadian organization] on my behalf. And then [the Canadian organization] contacted the organization in Egypt that they have an arrangement with.

> And the organization in Egypt, they met with me and they arrange with [the Canadian organization], and they apply for the visa. Which is an exceptional situation, we just get visas in a kind of exceptional procedure. We don't go through the normal, because the embassy is dealing with [it] in a different way, because of the crackdown.[9] (Dalia)

It took Dalia a few months to be able to leave her home country, however, because of issues around being transgender and obtaining a passport that could be used to travel.

> I had big troubles getting the passport, because I used to dress as a man and everything. [When I] go to the place where you get your passport, they didn't believe that I'm a man. I try to convince them that I'm the same person that is on my ID, which is a male. And they were not convinced, although I dressed as male. They just look at your features, they're so judgemental, it's really ugly. Yeah, so I had troubles. I had to go through every bad thing to get my ID renewed, to get the new picture that is matching my face now, because my face has changed with hormone therapy. I had to show my genitals at some point, to some people, to prove to them, of course, genitals are your gender. So, I had to prove. (Dalia)

Travel is always risky for trans people due to the cisheternormativity of national border sites and the difficulty of acquiring travel documents that reflect the correct gender. In addition, during migrations and border-crossings, trans people run the risk of sexual and physical harassment by both fellow migrants and state officials. Gender nonconforming and queer bodies often have to assume cisheteronormative gender roles in order to escape detention and suspicion (Gillespie, 2015; Fobear, 2016). Dalia, Ghaliya, and Isabel all had to disguise themselves as men when they were leaving Egypt through the airport in Cairo because their documentation identified them as male. Additionally, the equating of genitals to gender to documentation builds a structure of biopolitical control of the body crossing borders.

At the time of interview, Dalia had just submitted her refugee claim, but was not officially a refugee claimant. She was waiting for her initial interview with the CBSA or IRCC, where someone would go over her file with her and provide her with a refugee claimant ID. She had started transitioning in her home country, illicitly administering HRT to herself by using birth control pills and blood pressure medication.

[9] See previous footnote for more information on the crackdown.

4.10 "Gael"

Gael is a 25-year-old gender nonconforming and trans femme queer person from Venezuela who arrived in Canada in June 2017. When I asked them about their relationship to transition, they shared an expansive view of what the word meant to them.

> At this point, I'm not really interested in hormones or surgeries. I think a lot of transitioning as the process of realizing and not the actual, like the physical part of it. So I feel like its been my whole life, this transition of like being told that you're a man, and like maybe I'm not. Or… Oh I definitely am not, oh, I cannot be and that's going to be okay. That for me has been my transition. Physically, at this point, I don't really care much. I like to be desired for my body and it doesn't, it doesn't make me feel less feminine, you know what I mean? Like my body is feminine, with all its hair or whatever. So I don't know why I'd have to change. (Gael)

When I asked why they left their home country, they told me there were a number of reasons.

> There's a lot of reasons. So first of all, just economical, political reasons. It's a dictatorship, right, so there's like no real options [for the] future or like opportunities to do anything. And also… I couldn't express my gender rightly. It would have to be in closed spaces or safe spaces, like my friends' houses. And moving around also wasn't… as easy if you're like moving as trans in the city… I will get pulled over by police and people will catcall me in the streets… It was [a] very homophobic, transphobic, terrible place to live. So both of things just pushed me out of there… I would be so anxious of like just being outside. Cos from like both getting catcalled and its so unsafe to live… for everyone its very stressful to be out, because you have to be like careful, that everyone's gonna steal from you or whatever. But for me it was like that, and also whenever someone stole from me or I was victim of thieves and stuff, they would also harass me and say homophobic comments and make fun of my painted nails or whatever. (Gael)

Gael explained how the crisis in their home country is bad for everyone, but it's worse for queer and trans people. For example, if Gael got robbed, as many people do in Venezuela due to the economic crisis, they wouldn't just be a victim of robbery, they would also experience homophobic and transphobic harassment. When Gael explained their refugee claim to me, they also explained how being queer made the crisis worse for them.

> I based [my claim] on gender identity and sexual orientation [and the conflict in Venezuela]… It's something that, they go together... If its hard for everyone that's straight, its gonna be harder for everyone that's queer… You hear the president say homophobic stuff… live on TV and its like, this is the person that's leading the dictatorship. It's just gonna make it worse for everyone, for everyone that's queer there. (Gael)

When Gael decided to leave Venezuela, their family friend, who worked at a travel agency, helped them to obtain a visitor visa and plane tickets to Canada. They knew they wanted to file for refugee status in Canada, so they had to be strategic about how they travelled to Canada due to the Safe Third Country Agreement, which is a treaty between the Canadian and US government to 'better manage' refugee claimants at the land border between the two countries. Under the agreement, persons seeking refugee protection must file for protection in the first country they arrive in – Canada or the United States. Gael explained that most flight connections from Venezuela go through the United States, so finding a flight that landed in Canada without passing through the States was really challenging. They told me, "I couldn't go to the US, so I found a way through Trinidad, and then Trinidad to Toronto."

When Gael arrived in Canada, at Pearson airport, they decided not to claim refugee status at the port of entry, since they had a visitor visa and wanted more time to put together their claim. People who file their claim at a port of entry only have 15 days to put together their forms and submit them to the Immigration and Refugee Board, so Gael decided to be strategic and wait to file after they had found a lawyer, settled into life in Toronto a bit, and so on.

> So, there's two ways of [claiming refugee status]. In port of entry at the airport, and then inside, like from inside kinda. I did the latter one… cos there's like a bunch of forms that you have to fill... the basis of claim, you have to fill it, [its] pretty long… So I was like, okay I don't want to do this in 15 days, which is the time they give you if you do it at port of entry. And I'm like I don't want to do that, because you need a lawyer, etc. and I don't really know that much about the process to do it that way. So I'd rather do it the other way. (Gael)

Gael was strategic about their decision to migrate at each stage of their migration. When deciding whether or not to migrate, they did research on the likelihood that their refugee claim would be successful. When booking their plane ticket, they made sure not to pass through the United States because they knew about the Safe Third Country Agreement. And when submitting their refugee claim, they decided not to do it at the port of entry because they wanted more than 15 days to find a lawyer and prepare their claim. Gael's claim was accepted in October 2017 after their hearing.

4.11 "Imrah"

Imrah is a 37-year-old trans person who identifies as masculine of center. At the time of interview, he was just beginning to explore his gender identity. He grew up in Pakistan and then

lived in Dubai. He came to Canada as an international student in 2012 and as his visa was expiring in 2018, he realized that he could not go back and live safely in his home country or country of habitual residence. That was when he decided to file a refugee claim

> Well initially I came to Canada as an international student. And all my life I was closeted, and I was not aware the acceptance of LGBTQ community in Canada. And when I feel comfortable talking about it, I start coming out of closet. And then that's when I came completely out of closet, in 2015… I start identifying as trans this year, 2018. Yes. In early summer… I came as international student and after graduation in 2015, I was assigned work permit, a post-graduate work permit, which was of 3 years. And then that work permit is expiring in 2018, December. And in 2017, I say after graduation til 2017, I was openly living my LGBTQ life, and then I face some personal changes in my life. People were expecting me to come back in Dubai or Pakistan. That's when depression started to build up. At first I just seek help from counselor. And later I found out, oh I can apply for refugee status. I thought oh my g-d I need to see a counselor so that I can prepare myself, what to do, I mean I was taking so much depression that I have to go back in closet or something [if I go back to Dubai or Pakistan]. (Imrah)

Imrah submitted his refugee claim in June 2018 on the basis of sexual orientation and gender identity, and his hearing had been postponed indefinitely at the time of our interview. He had recently found a general physician and was discussing HRT and trans-related surgeries with the physican, but the postponement of his refugee hearing made the decision to medically transition really difficult for him. He felt unable to start HRT until he received a positive decision from the refugee board, but felt extremely depressed that his hearing was postponed, effectively postponing the date he could start HRT.

4.12 Reflections on geopolitical dimensions of sexual orientation and gender identity in the refugee claims process

These brief migration and transition narratives begin to build an understanding of the ways that gender and sexuality are both intimately felt and form powerful bureaucratic structures. Movement across borders was often mediated through migrants' abilities to match their gender presentation to their documentation. At the same time, people share personal reflections on their relationships to self, identity and body. The terrains of gender and sexuality are mapped across people's bodies in intimate and personal as well as geopolitical ways. They are mapped through the "self-hugging" that Isabel feels when she took her hormone pills every day and the violation of Dalia's privacy when she was forced to show her genitals to receive her passport.

Gender and sexuality are also not experienced as necessarily separate or distinct. All of the TGNC refugees I spoke with were at different points of exploring their gender identities and expressions. They all have different opinions on the ways that sexual orientation and gender identity are connected (or not). I asked each research participant whether they thought their gender and sexuality affected one another. Some of the people I spoke with felt like their gender identity and sexual orientation were entirely unrelated to each other. Others understood them to be intimately connected to each other.

When gender and sexuality come into contact with the refugee claims process, these distinctions also break down. Some of the TGNC refugees I spoke with filed their claims based solely on gender identity, others filed their claims based solely on sexual orientation, and still others filed their claims based on both grounds. Some claimed based on sexual orientation and realized later that they identified as trans or gender nonconforming. Some are going through the process while still figuring out their gender identities. The fact that different TGNC people move through this process in different ways demonstrates the interrelationships that exist between sexuality and gender. It also demonstrates the fluidity of identity and the ways that legal structures like the claims process function to mediate and shape our understandings of our selves, our sexualities, and our genders.

Each research participant came to their understanding of gender and sexuality differently. Each came to their interpretation of transition and their desires to or to not medically transition differently. Their ability to explore gender and sexuality often came down to whether or not there were resources available to them to discuss these topics in open and accepting ways. Their ability to medically transition was often dependent on which country they grew up in, their access to LGBT community in that country, and their class. For example, Ghaliya, Isabel and Dalia were able to access HRT in Egypt because other trans women they knew taught them how to use over-the-counter prescriptions to achieve the desired effects of HRT. Camilla could access HRT in India due to her higher class and ability to receive specialized medical care.

It is also clear that homophobia and transphobia in each of these people's home countries is complex, and the reasons for leaving and access to transportation and visas varied for each person. Gael was able to be strategic about how they travelled to Canada and when they filed their claim because they had access to higher education, had contacts in Canada who knew about

immigration and refugee processes, and could plan the time that they were leaving strategically. Not every TGNC refugee has access to these resources and knowledge.

Histories of colonialism and imperialism have also borne the majority of anti-sodomy and anti-homosexuality laws in many of the 'post' colonial states that refugees come from (Hawley, 2001). TGNC refugees, then, navigate this complex migratory and settlement process that is shaped by global histories of colonialism and imperialism.

The ways that TGNC refugees navigate the claims process needs to be understood within the context of the ways that gender and sexuality function as both an intimate and personal experience, as well as a political and bureaucratic structure. In both functions, the TGNC body comes under particular scrutiny – whether by the individual trying to figure out their relationship to the body, or by the state that tries to sort the body into gender categories. As TGNC refugees come into contact with the border and the claims process in Canada, they are forced to reckon with these multiple dimensions of gender and sexuality as they play out across their bodies.

5 Stories spilled across the metal table: Credibility and narrative control in the refugee claims process for trans and gender nonconforming claimants

5.1 Introduction

> … we all stood there quietly, practicing our stories in our heads. Waiting for the moment where the questions got barked at you, with all your shit spilled all over the metal table; maybe they don't like your papers, maybe you get sent back (Lakshimi Piepzna-Samarasinha 2015, 3).

Leah Lakshimi Piepzna-Samarasinha describes the moment she is crossing the Peace Bridge from the US to Canada on a Greyhound with the desire to stay permanently in Toronto. She and her fellow passengers file off the bus and await their interviews with Canadian immigration officers. They rehearse their stories in their heads, prepare to spill their life's contents on a metal table for examination, and hope that whatever they present to the border guards will be 'good enough' to grant them entry.

Trans and gender nonconforming refugees navigating the claims process are in an extended relationship with the Canadian border, suspended in a space and time, in a moment captured by Lakshimi Piepzna-Samarasinha's description of the Peace Bridge. They are constantly rehearsing their stories in their heads and exposing their lives to scrutiny by the state. The basis of their refugee claim becomes the narrative that they present on their Basis of Claim Form (BCF) and in the IRB hearing room. They must spill their lives' contents on the state's metal table, and they must arrange them in such a way that they match the particular discourses of refugee-ness, trans-ness and queerness that the Canadian state will accept.

Shakhsari's politics of rightful killing locates trans refugees between the sites of biopolitical and necropolitical control, between the spaces of life and death. It locates them in the borderlands (Anzaldúa, 1987). The transgender refugee "is caught between biopolitics and necropolitics," between life and death, their bodies produced and managed by medical, psychological and geopolitical discourse and their deaths authorized "in the state of exception as a refugee (outside the nation-state) and transgender (outside the naturalized binaries of sex)" (Shakhsari 2014a, 104).

This chapter argues that the particular scrutiny that trans and gender nonconforming

bodies are subjected to in the claims process works through the narrative control of the 'politics of rightful killing' to uphold colonialist and imperialist power structures, while the claims process itself suspends trans and gender nonconforming refugees in the borderlands, in a precarious space between acceptance and rejection, and life and death.

5.2 On trial: credibly trans?

To be considered a 'protected person,' a refugee must be found to have a sufficient fear of persecution from which they are unable to protect themselves in their nation of origin or residence (LaViolette, 2007). Determining whether or not this is the case is an incredibly complex process, stemming from the need for the decision-maker/adjudicator to have:

> a sufficient knowledge of the cultural, social and political environment of the country of origin, a capacity to bear the psychological weight of hearings where victims recount horror stories, and of consequent decisions which may prove fatal, and an ability to deal with legal issues such as the subtle international definition of the refugee or the procedures of quasi-judicial hearings involving various pieces of evidence (Rousseau et al, 2002, 44).

In addition, the IRB member adjudicating a claim needs to be more than 50 per cent certain that a claimant is telling the truth, and there needs to be more than a minimal possibility of persecution (Adjei v. Canada [1989] 7 Imm. L.R. 169 at 173, qtd in Rousseau et al 2002).

In the cases of SOGIE refugees, the UNHCR (2012) has established that ascertaining whether or not an applicant is LGBTI is an issue of credibility. In other words, the IRB member adjudicating a claim needs to be convinced beyond a reasonable doubt[10] that the claimant in front of them is *telling the truth*. Stephanie, a pseudonym for a lawyer I spoke with who does research on refugee hearings with a focus on SOGIE claims, explained to me that it is very difficult for a board member to discern whether a claimant is telling the truth. Generally, in life, she shared, there is about a 50/50 chance of whether or not we can tell if someone is telling us the truth. She told me that in studies done in court rooms it has been shown that there's only a 54% chance that an adjudicator will guess correctly – and these studies don't take into account the complexities of a SOGIE refugee hearing, like the specific vulnerabilities that LGBT refugees may have due to trauma, or the difficulties of cross-cultural communication.

> Often there is very little other evidence, so it just comes down to the claimant's story and what one person thinks about it, what this one adjudicator thinks about *how* this person

[10] Beyond a reasonable doubt means more than 50% certain.

> told their story…. The question, 'Is this person telling the truth?' is a really hard question, so what board members do is they sub in easier questions… They sub in questions like, is the story consistent? Has the story changed from one telling to the other? Or, did you make the claim at the first available opportunity? Or, did you go to the police? These are things they are allowed to, on some readings of the law, sub in for 'Are you telling the truth?' They're shortcuts, they're heuristics… when [adjudicators] come to a question that's really frankly impossible to answer, they have to get there somehow. (Stephanie)

The story becomes the core of a hearing in a SOGIE refuge claim because evidence of one's sexuality or gender primarily comes from their firsthand experience. Evidence from family and friends may not be forthcoming and participation in LGBTQ+ organizations and culture in their home country should not be expected if the individual felt forced to conceal this aspect of their identity out of concerns for their safety. The *Chairperson's Guideline 9: Proceedings Before the IRB Involving Sexual Orientation and Gender Identity and Expression* (heretofore referred to as the SOGIE guideline), released by the Canadian government in 2017, note that "an individual's testimony may, in some cases, be the only evidence of their SOGIE."[11] Therefore, refugee claims are assessed for their credibility based on their narrative strength. Not only does the content of the story matter, its structure does too. Stephanie notes that it is not only what the story is about; adjudicators also pay attention to *how* a story is told. Is it consistent, is the witness, reliable, does it make sense?

Each lawyer I spoke with emphasized the importance of telling a story at the hearing. David LeBlanc, legal counsel, told me that the most important part of his job in a hearing is to effectively communicate the claimants' narrative.

> What is our role [as counsel]? Our role is to be compelling storytellers… we have to figure out a way of re-telling [the client's] story and plucking all the heartstrings of the humanity of the member across from us. We have to make their story come alive. (David LeBlanc)

When the story comes alive, when it becomes immersive, it becomes convincing and compelling for the board member. When I spoke to Bembe, a refugee from the Caribbean, she

[11] The single most important document in a refugee hearing is the Basis of Claims Forms (BCF), which asks claimants a series of questions like "Have you or your family ever been harmed, mistreated or threatened by any person or group?" and "Did you ask any authorities such as the police, or any other organization, in your country to protect or assist you?" Claimants are instructed to explain everything in order, starting with the oldest information and ending with the newest. They are asked to include dates, names and places wherever possible. Each question in this section is followed by a numbered list, to reinforce the requirement that the questions be answered in chronological order. The BCF forms the narrative core of the hearing.

told me that her lawyer encouraged her to make her story "more dramatic." Similar to David's assertion that the story has to come alive, Bembe shared that his lawyer told him he had to make his story 'realer.'

> They don't just want to hear that you're gay, you need to go further. I got bullied a lot and stuff, but you need to make it dramatic, the lawyer said to make it dramatic, to make it realer. (Bembe)

The process of sharing these deeply traumatic stories is hyper-emotional and incredibly vulnerable. There is an imperative to revisit and relive moments of fear and violence in order to convincingly share one's story and to prove that one was in danger. Gael, a refugee from Venezuela, told me that having to do this was terrible.

> [The hearing] was terrible… [During] the whole [claims] process, I had to write and revisit a lot of moments, homophobic moments or moments I was afraid, cos you have to prove that you were afraid… I had to tell those moments and think about them and it was a lot… Whenever things related to the refugee case happen, I would cry a lot. (Gael)

Nicholas Hersh, a lawyer who works primarily with SOGIE refugee claims, agreed that the claims process is an "inherently sensitive and invasive process." He also emphasizes the need to tell a story and make sure it's consistent. He notes the sensitivity of eliciting these narratives that dig into one's sense of otherness and the trauma they experienced in their home countries.

> You will be asked questions of your sense of otherness, whether you identify as trans, whether you identify as gay, whether you identify as some other sexual or gender minority marker. Really the goal is to tell your story, to make sure it's internally consistent. And the decision maker's job is to make sure that he or she doesn't allow their preconceived notions of sexuality and gender to influence their assessment of your credibility. That being said, those are uncomfortable questions to ask someone and my job, as a lawyer, is to make sure they feel as comfortable as possible. (Nicholas Hersh)

Another important aspect of the hearing that Nicholas flags is that adjudicators need to try to not let their preconceived notions of gender and sexuality influence their assessment of a claimant's credibility. For example, within the community of lawyers working on SOGIE refugee claims, there is a well-known case from a number of years ago where someone's claim was rejected because he was too "masculine" for the adjudicator to believe that he was credibly gay. While the SOGIE guideline has since emphasized the need to avoid stereotyping when making findings in a refugee hearing, it has been well established in the literature that the process of gaining refugee status in Canada as a SOGIE refugee claimant requires that the

claimant prove their sexual orientation or gender identity in accordance with Western standards of sexuality and gender (Lee and Brotman, 2011; Lee and Brotman, 2013; Murray, 2014a, 2014b, 2016; Gaucher and DeGagne, 2016; Seitz, 2017).

Courtney, a frontline worker who has attended numerous SOGIE refugee hearings as a witness and support for her clients, echoes Nicholas' contention that the hearing is an invasive and sensitive process. Courtney talked about the way that adjudicators act like gatekeepers. Board members are frequently white, cis and straight men and women, who must decide whether or not they believe a refugee claimant, who is often racialized, is queer and/or trans. To establish someone's sexuality and/or gender, they rely on deeply personal and intimate details of someone's life and their own understandings of gender and sexuality. To establish a well-founded fear of persecution, they rely on eliciting narratives of abuse and violence. They then assess these narratives for credibility based on their own knowledge and assumptions around what makes a story realistic and consistent.

> [I'm] sitting in those [hearing] rooms and watching [the board member]… make [the claimant] really relive a lot of trauma and provide sometimes bizarre documentation to prove that they're actually queer or trans – like photos and letters from ex-lovers, things like that… In one of the decisions, the board member said, "After looking at all of your exhibits and hearing your testimony as a witness, I do deem you to be who you say that you are, a lesbian woman." And it's like, wow thank you so much for your validation. You know what I mean? It's really bizarre, it's like people are literally sitting there trying to prove some of the most intimate parts of their identity… Because [the claimant] is divulging all of this abuse and violence… some of the deepest stuff, and [the board member] is just sitting there questioning them about it, trying to find out if they're lying. (Courtney Niven)

This process reaches into the intimate lives of TGNC refugees, asking them to expose their traumas and their bodies for scrutiny by the state. Ashriel, a claimant from the Caribbean whose hearing had been indefinitely delayed at the time of our interview,[12] shared their apprehension about this process.

> I don't know if I'm ready for all that… to be in a courtroom and basically be stripped naked of everything that happened to me. It will be a very emotional thing for me. (Ashriel)

[12] At the time of writing, the wait time for processing refugee applications (which starts the day the application is received and ends the day a decision is made) is 21 months. See wait times at this Government of Canada website https://www.canada.ca/en/immigration-refugees-citizenship/services/application/check-processing-times.html

Ashriel is speaking metaphorically about being stripped naked in the hearing room, but their words convey a deep sense of exposure and vulnerability, as well as the sense that it is their *body that is on trial*.

Many TGNC claimants come from circumstances in which they had to remain silent about their gender identity and/or sexual orientation and find it difficult to be forthcoming with this information in a setting as intense as a government document (the BCF) and the IRB hearing room. This directly impacts their ability to be read as credible witnesses. Imrah, a claimant from Southwest Asia, said that it took them two to three months just to complete their BCF because it was so difficult to talk about these aspects of their life.

> Imrah: When I start writing my story, I couldn't even write a single world, it was so depressing. *[Starts to cry]*. My counseling sessions actually help me, because whatever I discuss in my counseling sessions, I'm able to write that part of my life… those words never came out my mouth ever in front of anyone, there's a long history of not being able to talk to anyone. (Imrah)

Adrienne, another lawyer who works with SOGIE refugee cases, also agreed that sharing one's story in the claims process is especially difficult for queer and trans refugees because of the ways it requires them to divulge experiences and feelings they may be used to hiding from people – and this impacts their abilities to be viewed as credible witnesses in the IRB hearing room.

> The story is everything. The narrative is so, so important, that they provide. And the testimony at the hearing is so, so important. The ability of someone to be a clear, direct, sophisticated witness really helps their claim. And that's good for people who fit into that mold. But for people that don't, who struggle with explaining their gender identity or sexual orientation, it can be really difficult, because everything on their claim rests on them being a good witness. Often people are dealing with residual trauma or they could be really young, or they may have never talked about their sexual orientation with anyone before – a lot of my clients are like that – so talking to a Canadian government decision maker, who is basically in charge of whether you get to stay in Canada, and exposing such personal details about their claim, is incredibly difficult for people. (Adrienne Smith)

Claimants are asked to speak about things they may have never told anyone about in their life, and they're asked to say these things to an agent of the Canadian state, in whose hands rests the power to allow them to stay in Canada or force them to leave. Overall, a refugee claim is assessed for its credibility based on several heuristics that allow a board member to decide

whether or not a claimant is telling the truth. Often these methods make claimants feel vulnerable and exposed. They also exist within a power dynamic where the adjudicator holds the future of the claimant's life in their decision to accept or reject a claim.

5.3 Between life and death: the politics of rightful killing

For many trans and gender nonconforming refugees, the acceptance or rejection of their claim is the difference between life and death. Ashriel told me, "What I heard is that once you get deported, you're stuck in your home country forever. And that is the day I drown myself." Imrah shared, "Once I came to the point, that I belong to the LGBTQ community, there is no way I can go back, going back to Pakistan or even in Dubai, means I have to back to closet again. Which felt like a extremely, extremely death sentence for me." For both Ashriel and Imrah, the thought of life in their home countries was akin to a death sentence. Going back could mark certain death, or it could mark another kind of death – perhaps a more psychological or spiritual death. All of the claimants I spoke with knew that their lives, in one way or another, depended on their claim.

Gael shared that the day their refugee hearing came was the day their whole life changed; everything they had been doing had been leading up to that moment and they weren't sure what would come after.

> **Gael:** So the day I claimed… as soon as I saw the building, I started crying… Cos I was like, I hate everything that happen for me to like be doing this right now. I feel like so helpless… like this is the only thing that can make me have a life at some point… there's nothing else. So that day I cried the whole day… because also the anxiety of not knowing what will happen. Like I would know about next week in terms of doing refugee stuff. It would depend on like, next week I have a meeting with my lawyer… next week I'm calling legal aid or like coming to the legal clinic…
> **Tai:** So your whole schedule was based around your claim?
> **Gael:** Yeah, it was literally that. So I never knew anything about what was gonna happen next.
> **Tai:** So when your hearing came, it was like, what will next week look like?
> **Gael:** It was like, what is gonna be my whole life?

The claims process comes to structure claimants' lives. Gael would organize their day-to-day life around what they needed to do for their claim. When the day of the hearing arrived, all these energies coalesced: the need to relive trauma, the fear of not knowing what will happen next, the suspension between an accepted claim and a rejected one.

Refugees are not only suspended between life and death through the acceptance or rejection of their claim. The claims process and the refugee regime imbue trans and gender nonconforming refugees with rights, while also stripping them of those rights. Through these processes, their lives and deaths are managed by both biopolitics and necropolitics – balancing between systems that control and administer life (e.g. the administrative law of immigration systems) and systems that create mass zones of death (e.g. migrant detention and deportation, war). Under what Shakhsari (2014a) has named the politics of rightful killing, trans and gender nonconforming refugees are granted rights and life insofar as they serve as tokens of Canadian progressiveness and are sanctioned to death insofar as they serve as threats to Canadian security.

For example, when Farrah arrived at Pearson airport from Iran, she was viewed as a threat to Canadian security. She was held and questioned by CBSA officers for two hours. Farrah is a trans woman, but at the time that she entered the country, she was still dressing as a man. She entered Canada with a visitor's visa and did not claim refugee status at the airport. Farrah said that by the time the CBSA agents were done questioning her, she just wanted to go back to her home country.

> When I came here… the immigration, the airport, they destroy all of my feelings. They almost questioning me like I committed a crime, or I'm not sure what was the reason, maybe I'm a Muslim, my name is [Farrah]… I don't know, these are Arabic names, some terrorist people names is [Farrah], Muhammad, Hosein… I don't know, I'm coming from Iran, I don't know… (Farrah)

Pratt's (2005) study on detention and deportation in Canada finds that since the events of 9/11, Muslims, people of Arab descent, and Middle Eastern nationals – most often those perceived to be men – are specifically targeted by Canada's border guards. Farah is questioned like a criminal – as Shakhsari (2014a) argues, in the context of the War on Terror, a person only has rights up until they are perceived to be a threat to the nation. Farrah was stripped of her rights in the airport interrogation room, even as she is exactly who Canada purports to protect: queer and trans people living in Muslim countries. At the border, as a body that is marked as cis, straight, masculine, Muslim and Middle Eastern, Farrah becomes a threat. Later, in the refugee claims process, when Farrah marks her body as queer to an IRB member, she becomes a token of Canadian modernity and her access to the country becomes a notch in Canada's belt over Iran.

Trans and gender nonconforming refugees serve as an indication of Canada's modernity and progressiveness. However, while trans and gender nonconforming refugees may be granted

the opportunity to seek asylum, their identities, bodies and sense of self is questioned, threatened and ignored by the state. For example, when Camilla arrived at Pearson airport from India and indicated her intention to claim asylum based on gender identity, she was consistently misgendered by the CBSA officer processing her claim.

> My passports are still with my dead name and dead gender, which I don't go by – because in India you can't change your documents unless and until you've had a gender reaffirming surgery…[13] So yeah, there's this immigration officer lady in the [interview room] where I was asked to go. She looks at my passport and she yells, Mister [Last Name]… I tell her, I am a trans woman and I don't go by that gender, so I would respect you if you don't call me… and then she goes and she yells again, Mister [Last Name], look we are giving you an opportunity to claim asylum so I hope you deal and compromise and co-ordinate with us… She would constantly [misgender] me and she would yell at me. And she was like, you should be thankful that we're giving you an opportunity to seek asylum. (Camilla)

Camilla's experience with the CBSA agent indicates the ways that Canada's refugee regime functions as a 'violent gift' (Lee and Brotman, 2013) whereby refugees are expected to feel grateful to Canada and cooperate with whatever poor treatment they experience. Camilla is stripped of her right to be recognized and addressed as the gender she identifies with and the reasoning behind this stripping is exactly because she is being imbued with rights – rights to seek protection – by the Canadian refugee regime. In a strange turn, Camilla is told that she should accept this instance of transphobia in Canada because the country offers the opportunity to be protected from transphobia in her home country.

Her experience with the CBSA guard succinctly demonstrates the irony of the claims process – a process that purports to protect refugee claimants in actuality exposes them to more violence. Once in the hearing room, trans and gender nonconforming claimants are expected to

[13] Camilla's experience also indicates the ways that genitals are tied to notions of gender – as she shared, because she hadn't been through surgeries in India to change her body, her status as a woman was not recognized in her legal documents. Since August 2019, Canada no longer requires surgeries or doctor's notes to change the gender marker on a person's passport. However, migrants, refugees and permanent residents in Canada are not permitted to apply for a Canadian passport. Their travel documents must therefore be acquired from their nation of origin and their gender markers must comply with the rules and regulations of that nation. Even as Canada has moved towards a more progressive policy around gender markers on travel documentation, migrants, refugees and permanent residents do not get to reap the benefits. They must wait the many years it takes to become a Canadian citizen before they can receive these benefits as well. Therefore, the long wait times and the challenge of acquiring Canadian citizenship is a trans documentation issue and an issue of trans travel. For trans and gender nonconforming migrants, refugees and permanent residents, travel remains a risky activity while documents retain the gender marker they were assigned at birth.

divulge intimate, traumatic and difficult details of their life while the threat of deportation looms. As trans and gender nonconforming refugees go through this process, they navigate the terrain of geopolitical, medical, and psychological discourse that mediates the ways that they can talk about their genders, sexualities, bodies, trauma, and their journey in general.

Both Farrah and Camilla's experiences at the airport show how the claims process, and Canada's border regime more generally, functions for trans and gender nonconforming claimants. They are viewed as threats to Canada's security until they show themselves as authentically queer and/or trans, as in Farrah's case. Once they reveal themselves as queer and/or trans to the state, they are seen as tokens of Canada's progressiveness and must perform gratefulness in order to uphold this notion of Canada as a queer and trans-friendly nation, as in Camilla's case. It is within this political context that narratives are elicited by the IRB from trans and gender nonconforming refugee claimants.

Therefore, these refugee claimants are expected to share a narrative of freedom, liberation and gratefulness in the IRB hearing room. These narratives are elicited through a nationalist logic of transgender exceptionalism and homonationalism (Aizura, 2016; Puar, 2007), whereby Canada imagines its own superiority, tolerance and exceptionality with regards to trans and gender noncomforming life in order to contrast itself to nation and 'cultures' it regards as intolerant, barbaric, transphobic and homophobic.

> I think there's a Canadian ego that exists… A hearing I went to a little while ago, the board member was like, now that you're here, you're free, you can walk down the road and hold hands with your partner wherever you want and no one is going to touch you, no one is going to say anything… This is truly the narrative that's being perpetuated and it's so not accurate. But people have to play into that, they have to appeal to it… I understand why it has to be done in order to keep yourself safe… if they don't do it, there's a large chance that their claim will be rejected. Because if you're not amping things up here, and saying I'm free here, it's like, well then just go back home… (Courtney Niven)

The Canadian "ego" Courtney references is directly linked to notions of transgender exceptionalism and homonationalism. On a micro scale, assessments of the credibility of TGNC refugees' stories in the claims process have the effect of forcing claimants to relive moments of trauma and reveal intimate details of their lives and perform gratefulness even as they may be experiencing less than desirable treatment. On a macroscale, these individual narratives become national narratives of Canadian progress and the backwardness of the countries that refugees are coming from. If trans and gender nonconforming refugees do not share this narrative of freedom

and liberation, Courtney worries that their claims won't be accepted. Thus, the hearing room becomes a political project.

Under a politics of rightful killing, refugees are subject to narrative control that elicits specific types of stories in exchange for the ability to cross the borderlands, this liminal space between life and death, and come into a space where their presence in Canada is stable and their lives more certain. These narratives then impact not only individual refugees, but also the countries they come from; they serve to discredit asylum seekers' nations of origin in a way that has economic and political repercussions, perpetuating inequalities between nation-states (Murray, 2016; Luibheid, 2014; Orchard, 2014; Haddad, 2008). The experiences of violence and persecution that trans and gender nonconforming refugees experienced in their home countries are real, but that violence is taken up by the Canadian state in order to 'protect' and also to further claims of Canadian superiority and civility. These narratives then also work to silence refugees' experience of violence once living in Canada, which will be explored in the next chapter.

6 The myth of the "promised land": Barriers to integration experienced by trans and gender nonconforming refugees in Toronto

6.1 Introduction

> When we leave [the hearing room] and we're talking and we're having organic conversation, it's like, I experienced this when I tried to get a job last week, like I can't find a job because all these employers are so transphobic. Or I would like for you to come to my doctor's appointment, because my doctor keeps misgendering me. Or my OW[14] appointment – that has been one of the worst experiences, is going to OW with folks, and just them being misgendered… And a lot of the time, youth will just want to let it go, because they're like, I just need my money though, and if I piss [the OW agent] off, she has such a huge power over me. (Courtney)

In the last chapter, Courtney said that inside the hearing room, TGNC refugees are expected to share a narrative of moving from oppression in their home countries, toward freedom and liberation in Canada. Outside of the hearing room, however, her TGNC clients share some of the barriers and violence they face as they attempt to navigate living in Toronto.

The 'migration to liberation' nation narrative (Murray, 2016) only allows refugees to express gratefulness for Canada's "protection," and disallows the possibility of open dissent. As a result, refugees cannot talk of their experiences of violence at the hands of the Canadian state, nor can they speak of any experiences of transphobia, homophobia, racism, sexism, and classism in Canada (Jenicek et al., 2009). Despite the dominant refugee narrative's indication that refugees move from a place of oppression to liberation, TGNC refugees continue to face barriers around accessing housing, income, healthcare, and sociality while navigating life in Canada.

In this chapter, I demonstrate the ways that systems of transphobia, homophobia, racism, classism, and xenophobia function to erect barriers in the day-to-day lives of TGNC refugees as they attempt to access housing, income, healthcare and community. Dadui (2019) has produced unpublished research that also focuses on the particular that TGNC refugees experience and the modes of resistance that they enact. Scholars have examined the ways in which dominant cultural and social forces work to influence the everyday realities of queer and trans people and how these experiences intersect with class, race, ethnicity, age, and citizenship status (Brotman

[14] Ontario Works (OW) is a provincial program that provides financial and employment assistance to those who need income support.

& Ryan, 2004; Meyer-Cook & Labelle, 2004; Hulko, 2009; Massaquoi, 2011; Pyne, 2012; Ryan, Brotman, Baradaran, & Lee, 2008; Woodruffe, 2008). Underlying these various systems of oppression are the ways that narratives of Canadian transgender exceptionalism is rooted in systems of settler colonialism and imperialism. This chapter unpacks these connections. By engaging with refugee narratives and insights from frontline workers, this chapter maps out these various systems of power and oppression to better understand the barriers that TGNC refugees face while integrating, and their root causes.

6.2 Barriers to employment, documentation, housing, healthcare, and building community for TGNC refugees

TGNC refugees are some of the most likely migrants to lack access to support systems. They are some of the most likely to travel alone to a place where they know no one, since they are often fleeing ostracization by family, friends and community. For example, Camilla spoke about how her decision to come to Canada and to Toronto specifically was in large part because she had no family or friends here. Thus, it was a place to which she could escape and start again. As a result, TGNC refugees often flee their most robust support systems, like their families and communities, rather than migrating with them or receiving support from them from abroad.

Trans and gender-nonconforming refugee claimants often lack communities and networks to help them find housing, employment, healthcare, and sociality, and to navigate the various bureaucratic structures of the Canadian state. Additionally, due to transphobia, xenophobia, classism, racism, and the difficulty of navigating the claims process, trans and gender nonconforming refuges face barriers when attempting to settle in Toronto. This demographic is in particular need of policy interventions and supportive programming.

Experiencing a lack of access to any one of housing, employment, and so on often results in a lack of access to a whole host of other vital needs. This chapter provides a separate section for housing, income and documentation, healthcare, and community in order to provide clarity, but it is important to keep in mind the ways that these things are interconnected, interwoven, and impact one another. Throughout, I will be making connections across the sections.

6.2.1 Income, employment, and documentation

Income and documentation are incorporated in the same section because both are connected to the work permits that TGNC refugees obtain once they have submitted their refugee claims. Additionally, many of the participants I spoke to connect their lack of access to employment to the specific documentation they had.

> Very rarely [a trans refugee] finds a job, so you either go on ODSP[15] or Ontario Works (OW). And that's for many different reasons, such as transphobia, racism, all those things that impact, all those layers and intersections. (Kusha Dadui)

Kusha, a social worker, identifies the multiple barriers that trans refugee face as they attempt to find sources of income in Toronto. Many of the TGNC refugees I spoke with describe their experiences seeking employment being directly impacted by by transphobia, racism, and xenophobia in the workplace and by employers.

Amiyah told me about a job she had at a call center for a brief period, which she had to quit because people there refused to sit next to her or interact with her due to transphobia. She also experienced similar discrimination in the hiring process, distinctly linked to documentation that outed her as a trans woman to her interviewer.

> I have my resume with my chosen name but at the interviews they want legal papers, and then I have to explain the situation… At a job interview a couple of days ago, the woman asked for my papers, she stared and looked at them in a funny way. She didn't really try to do the interview after that. She didn't want to tell me to go away, but she wanted to get rid of me as soon as possible. I saw the way she interviewed the other people, it was long, and with me it was like she wanted to get rid of me. (Amiyah)

At the time of interview, Amiyah had been accepted as a refugee and her documentation identified her as a permanent resident (PR). However, those who have not yet had their IRB hearings will have documentation that identifies them as refugee claimants. Ashriel, who was still awaiting their hearing date, also had difficulty with their documentation when trying to find work. Unlike Amiyah, their issue was the fact that their documentation outed them as a refugee claimant and they experienced discrimination in the job market due to xenophobia.

> A lot of people don't hire refugees… I've had that experience… Some people, they don't want to hire you because your work permit is temporary. Or they don't really give you an explanation, they're like, oh we can't hire you because you're a refugee. And I don't

[15] Ontario Disability Support Program (ODSP) is a provincial program that provides financial and employment assistance to those who have disabilities and need assistance with living expenses.

> understand, because I now have a work permit and social security… with my ID I have a certified copy of my passport, but sometimes that's not enough and I have to show them the [refugee claimant] document or whatever. (Ashriel)

Similar to Amiyah's desire to avoid showing documentation that outed her as a trans woman, Ashriel wanted to avoid showing documentation that outed them as a refugee claimant. These forms of documentation expose trans and gender nonconforming refugees to systemic transphobia and xenophobia that directly impacts their ability to find a stable source of income.

When refugees make their claim in Canada, their passport is taken away and they are issued a piece of identification called the Refugee Protection Claimant Document (RPCD). This document identifies the person as a refugee claimant, and includes their full name, date of birth, sex, country of birth, country of citizenship, the date issued and the date of expiry. This document confirms that the claimant is eligible for health coverage under the Interim Federal Health Program (IFHP).[16] It also is the document that refugees must use to apply for a work permit.[17]

For trans refugee claimants, there are additional complications around refugee documentation. The lawyer Adrienne Smith explained the process of dealing with documentation for a TGNC refugee claimant.

> The first thing I'll ask is if people have a preferred name or a preferred pronoun. And people always say what's on their passport, and I always say, there's different names and pronouns that we can use in the office, within our file system and within our staff. And people always use the name that's on their passport and their other identity documents. So it's just that understanding of the words and the opportunities that are here for the community. (Adrienne Smith)

Smith demonstrates how, even if it may be possible to change the gender marker and name when you submit on your refugee claim, you need a lawyer who is attentive to the nuances of the

[16] IFHP is the healthcare program provided to refugee claimants across Canada. It covers limited healthcare services, including hospital visits and ambulance services, essential vaccines and medications, pregnancy and midwife services, some vision and dental are, services by clinical psychologists, occupational therapists, speech language therapists, physiotherapists and other health professionals, home care and long-term care, and the Immigration Medical Exam (IME).

[17] Refugees can apply for a temporary workers permit in Canada through the IRCC. The work permit is initially validity for 24 months and renewals may be issued for 1-year periods. https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/foreign-workers/eligibility/eligibility-admissibility-conditions-including-validity-period.html

documentation. TGNC refugee claimants who file their claims with lawyers who are less well-versed in these topics may never know they had the opportunity to provide a different name or gender on their claim. Amiyah, for example, still has her birth name on her PR documentation.

> Initially when people make their [refugee] claim, it's so important that the gender marker that they want is on the document, because that's the foundational document that allows them to say, apply for a work permit. If they have a work permit and it doesn't actually accord with their presentation or how they're feeling, then every time they go to an employer they're basically going to have to disclose their gender… (Adrienne Smith)[18]

Refugees are also impacted by systems and laws that make it difficult for them to access higher-paying professional jobs. Gael and Farrah found work as a retail employee and a housekeeper at a hospital, respectively. However, they are both trained as engineers in their home countries. Gael completed their civil engineering degree in Venezuela and Farrah was pursuing a Master's in computer science when she left Iran. The fact that Gael and Farrah ended up in low-wage jobs despite their advanced education from their home countries is due to an ethnicization of low-wage labour and the ways that professional opportunities are made inaccessible to migrants and refugees (Chow 2002). As Gael states:

> I'm doing school [part-time] right now… It's a bridging program that's four months. They're gonna take my civil engineering degree and give me the context of it in Canada… [Before this] I tried to do programs that were full-time and I couldn't cos I needed to work to sustain myself… So that made me like, wow, what is there for me? Someone that came here with nothing and wants to do this? I need help… [it's not like I] can take time off work, or like I came here with money from my previous country. There's lots of immigrants that came here on their own, like not displaced… they came, they made a plan, they have money to do this. So [these programs aren't] for someone who needed to [flee like I did]. That made me feel discriminated. It gave me a lot of feelings of being alone… I didn't have the help I needed, like the support and all the opportunities I needed. (Gael)

Gael's inability to take the full-time bridging program due to lack of access to funds also demonstrates the disadvantage that forcibly displaced migrants stand at when compared to economic migrants and the ways that class functions to separate categories of migrants. Importantly, they also note their lack of access to support systems and community made them feel like they didn't have the support they needed to succeed in Canada.

[18] TGNC refugee claimants can make a request to change the gender marker on their claims with the following form https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/kits/citizen/cit0404e-2.pdf

6.2.2 Housing

There is a general understanding in Toronto that housing is becoming increasingly unaffordable and inaccessible. The city's vacancy rate is currently 1.6%, which is far below the "healthy" rate of 3% (August and Walks, 2018). In 2015, 43.5% of renter households in Toronto were paying more for rent than they could afford (i.e. over 30% of their income), and over 90,000 households were on the waiting list for social housing (City of Toronto, 2010; City of Toronto, 2016, qtd August and Walks, 2018). Trans and gender nonconforming refugees who have just arrived in the city not only have very few connections and no stable income, they are also navigating xenophobia, transphobia and racism in the rental market.

Gael related that their ability to find job opportunities was impacted by where they were able to find affordable housing, critically connecting housing inaccessibility to job discrimination, racism, and classism.

> It makes me feel discriminated that I live too far from downtown, which is where I work… My area is like pretty much all immigrants… there's many more people that are white downtown than where I am [living] now. This is very noticeable, the access people can have to spaces… it's noticeable, when I come from a place [where there's] barely any white people and it's very pushed outside of the downtown core of the city. (Gael)

Gael noted that the downtown core of Toronto, where there is the highest concentration of wealth, job opportunities, and high-value properties, is inaccessible to Black, Indigenous and People of Colour (BIPOC) and immigrants. Their comments depict a city with whiteness and wealth at its center and immigrants and BIPOC in the surrounding lower-class areas – a spatially and racially inflected classism that impacts BIPOC and immigrants' access to resources such as housing and jobs.

Amiyah said that she experienced outright discrimination based on her refugee status when she was looking for housing. "I started looking for apartments, but it was hard," she said, "People don't want refugees who haven't been accepted yet or who aren't permanent residents." Ghaliya[19] also mentioned running into a lot of trouble trying to access housing, noting more subtle types of discrimination:

[19] Ghaliya had moved six times in the nine months she had lived in Canada, which also demonstrates the ways that TGNC refugees often cannot find stable and safe housing in Toronto.

> You can't rent… because people ask you for credit history, for [Canadian] credit history. I [arrived] here five, seven, eight months ago, so if I need to get credit history, I have to have the work permit ID and I didn't [have] it. It's like… a problem for me. And there's [landlords] that ask me, what's your nationality, are you Canadian? Or what's your status in Canada? (Ghaliya)

When landlords require North American credit history, they make it difficult for people with poor credit scores and newcomers without North American credit history to apply for apartments, effectively discriminating against immigrants and the working class. Outright asking about someone's nationality and status in Canada is a much less subtle way that landlords may demonstrate a preference for non-immigrants.

When Camilla was searching for a lease, landlords denied her applications based on her trans identity and refugee status.

> There's huge discrimination, especially when you're trans because you're out and visible there. And people would say something when you talk to them, or when you converse with them on emails, and when you are physically present there, they would either make an excuse, "Oh no the house is gone now," or "We are still thinking to rent it or not," you know? And you could realize that they were being transphobic… Also when you tell them you are a refugee claimant, you are being discriminated against that too. Because there isn't much awareness amongst landlords, at least, I feel, that they think if you're a refugee claimant, you just have too much legal baggage to deal with and they don't want anything to do with it and they just completely say, "Oh no refugees, we only want students or a professional." (Camilla)

Although landlords would never directly deny Camilla tenancy based on her trans identity, she could tell they were being transphobic when apartments suddenly became unavailable after disclosing her gender identity. In contrast, landlords explicitly told Amiyah, Camilla and Ghaliya that they were not interested in tenants who were refugee claimants. While gender identity and expression is protected grounds under the Canadian Human Rights Act, citizenship status is not. However, the fact that gender identity and expression are protected did not make a sizable difference in Camilla's experience. She was still discriminated against based on both the protected and unprotected grounds – being trans and being a refugee – and the only difference the law made was how forthright landlords were about this discrimination. Either way, trans and gender nonconforming refugees clearly face multiple barriers to accessing housing in Toronto.

Often, due to lack of access to housing, funds, and community supports, refugee claimants who come to Canada end up in the streets or in a shelter. Some refugee claimants are eventually able to move into transitional housing or rental housing. Ashriel, Amaya, and Bembe all lived in shelters when they first arrived in Toronto and all three have since moved into transitional housing. Living in the shelter system and transitional housing means that your life is controlled and monitored in many ways. When I visited Amiyah and Bembe at their transitional housing, I had to be signed in as a guest, as do all visitors to the building. They also had to sign in and out as they were coming and going from the building. Despite this, Amiyah told me that she much preferred this transitional housing to the shelter she was living in before, in which her life was even more controlled and scrutinized.

> At my first shelter, people would stare at me and judge me, trying to figure me out. And you can't get the food you want, the food they cook for you is bad.… I was living in a mixed shelter, with women and men. (Amiyah)

Being unable to choose basic things like your own meals is a subtle way in which living in the shelter system controls one's life. In addition, Amiyah was made to feel uncomfortable and out of place at her shelter. Transgender youth, especially young trans woman of colour like Amiyah, are among the most discriminated groups in the shelter system, dealing simultaneously with transphobia, homophobia, and racism (Price et al, 2016; Quintana, Rosenthal, and Krehely, 2010; Sakamoto et al., 2010; Abramovich, 2017).

Farrah also had to stay in a shelter when her sister kicked her out of her home in Toronto after finding out that Farrah was gay. In the middle of winter with nowhere to go, Farrah ended up in a men's shelter where she said she felt "uncomfortable as a gay." She also got incredibly sick while staying there. "I got sick, without money, without OHIP[20], without insurance, nothing. I couldn't go to the doctor. I was so sick. I didn't know what to do…" Farrah had no access to healthcare coverage because she was undocumented while living in the shelter. Scholars have assessed the ways that being undocumented in Canada creates inaccess to healthcare, services and safe working conditions (Magalhaes et al, 2010; Campbell et al, 2014). Farrah's experience demonstrates the ways that queer and trans-ness compound with a lack of status in Canada to create outcomes in which housing and healthcare are inaccessible.

[20] Ontario Health Insurance Plan, a healthcare plan provided to all permanent residents and Canadian citizens living in Ontario.

6.2.3 Healthcare

When it comes to healthcare for trans and gender-nonconforming refugees, there are two important areas to focus on: access to general healthcare as a refugee, and access to transition-related healthcare as a refugee. Refugee claimants are covered by the Interim Federal Health Program (IFHP). IFHP covers limited healthcare services, including hospital visits and ambulance services, essential vaccines and medications, pregnancy and midwife services, some vision and dental are, services by clinical psychologists, occupational therapists, speech language therapists, physiotherapists and other health professionals, home care and long-term care, and the Immigration Medical Exam (IME). However, to access IFHP benefits, the service providers that refugee claimants go to must be registered to accept IFHP coverage.

Camilla shared that trying to find clinics that accepted IFHP coverage was difficult, and that this impacted her ability to access general healthcare as well as transition-related healthcare, like hormone replacement therapy (HRT).

> So once you claim asylum, you have IFHP coverage… so I do have that. But finding a doctor was a nightmare… When I first came, I came with hormones for two weeks and I was running out of hormones after those two weeks. And I was kind of panicking, because I needed a hormone prescription and I needed a doctor. I mean, it's not easy because not many clinics in Toronto accept IFHP coverage… Also being trans, not many doctors accept trans patients, or even if they do they'll have a kind of quota. Like, oh I already have 5 or 6 trans patients, I can't take anymore. Yeah, so I've heard that at one of the clinics, because trans patients are probably more time-worthy, I don't know what it is. (Camilla)

Not only was it challenging for Camilla to find a clinic that accepted IFHP coverage, it was also difficult to find a doctor who was open to accepting trans patients. Trans healthcare is primary healthcare, meaning that any family doctor or general physician should be able to provide this type of care. However, many GPs will make excuses as to why they are unable to take on trans patients or provide transition-related care, like HRT and referrals for transition-related surgeries. Imrah had to leave two different GPs after learning that they were not trans-friendly and would not provide transition-related healthcare. "Those two experiences was so much heartbreaking," he told me. Trans and gender nonconforming refugees seeking healthcare are navigating discrimination across multiple systems – physicians may not want to take them on as patients who are trans, and in addition, they may not accept IFHP coverage. These claimants

are then put in the difficult position of finding a clinic that is both trans-friendly and accepts IFHP – of which there are not many in the city.[21]

Many TGNC refugees come to Canada and to Toronto because they are seeking a place where they can safely and accessibly transition. However, many of the claimants I spoke to shared that the refugee claims process itself (a process that purports to protect and 'liberate' TGNC people) erected insurmountable barriers to accessing medical transition.

Firstly, they found the cost of HRT prohibitive. Ghaliya said that her hormones are not covered by the Interim Federal Healthcare Program (IFHP) and they are too expensive for her to afford out-of-pocket.

> First time I came to Canada I paid $40 [for hormones]… and this is a too cheap kind of hormone… Now it's 90$ for three months and it's still too much, it's still too much. (Ghaliya)

Similarly, Amiyah, who was receiving money from OW, said that a lot of that money was going towards her HRT which cost at least $80 a month. She said that her ability to find work in Toronto so she could afford essentials like HRT was directly impacted by transphobia in the workplace and by employers. As a trans woman with very few resources at her disposal, Amiyah is caught in an impossible situation borne out of structural transphobia. She needs a job so she can afford her HRT, but people discriminate against trans women in the job market, and her documentation outs her as trans because it lists the wrong gender.

Camilla was able to get her HRT covered by the IFHP. She said that her doctor, who works at a clinic that specializes in providing healthcare to LGBT and migrant patients, wrote a letter for her so that IFHP would cover her hormones.

> **Tai:** And your hormones are covered?
>
> **Camilla:** Yes, they're covered by the IFH.
>
> **Tai:** Some people I've talked to said they have to pay out of pocket.
>
> **Camilla:** No. So, as a trans woman I take two hormones. One of them is anti-androgens and the other one is estrogen. So the estrogen wasn't covered. However, my doctor wrote a letter to the IFH and then that's how it got covered.

[21] One notable clinic in Toronto that accepts IFHP and provides LGBT-centered healthcare is Access Alliance.

Camilla was fortunate to have a doctor who had the initiative to write to IFHP to have her hormones covered. If an exception can be made for Camilla, then IFHP should seriously considering covering HRT for all TGNC refugees. This will be revisited in the policy recommendations section.

Secondly, the Ontario Health Insurance Plan (OHIP) covers "Sex Reassignment Surgery"[22] but IFHP does not. Therefore, refugee claimants must wait to be accepted as Convention refugees and process documentation that identifies them as Permanent Residents (PR) before they can access funding for transition-related surgeries.

> The health card which they provide the refugee claimant, I heard that it doesn't cover top surgery[23] expenses… Another depressive news – I am full of depressive news – is they are delaying the hearing dates these days. First date has been issued in sixth of November, but my lawyer is pretty relaxed and assured that they're gonna send you another later, which will be after 18 or 12 or 15 months. So my hearing also going to be delayed and I'm afraid that my top surgery going to be delayed. And I'm scaringly scared to death to go on hormones, because I have to wait for the board of refugee decision. Otherwise I start on hormones and they kick me out of Canada. It's so going to be distressful for me. (Imrah)

The extended wait times for refugee hearings[24] effectively turn into extended wait times for medical transition, becoming a form of trans-specific violence. Imrah was unable to access top surgery before he qualified for OHIP as a PR because of the prohibitive cost of the surgery. He was afraid to start hormones before his hearing for fear that he'll be deported and have to live as even more visibly queer and trans in his home country. While Imrah indefinitely awaited his hearing date, he also indefinitely waited for the time he could finally medically transition and feel comfortable in his own body.

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[22] Procedures considered SRS and covered by OHIP include:

- Reproductive and external genital surgery, including clitoral release, glansplasty, metoidioplasty, penectomy, penile implant, phalloplasty, scrotoplasty, testicular implants, urethroplasty, vaginectomy, vaginoplasty, salpingo-oophorectomy, hysterectomy, orchidectomy
- Mastectomy
- Augmentation mammoplasty for the purpose of sex reassignment surgery is also insured for individuals with no breast enlargement following 12 continuous months of hormone therapy

See http://www.health.gov.on.ca/en/pro/programs/srs/

[23] Top surgery is the term most commonly used to refer to a bilateral mastectomy surgery which also 'masculinizes' the chest.

[24] At the time of writing, the wait time for processing refugee applications (which starts the day the application is received and ends the day a decision is made) is 21 months. See wait times at this Government of Canada website https://www.canada.ca/en/immigration-refugees-citizenship/services/application/check-processing-times.html

Amiyah and Camilla also shared that having to wait for transition-related surgeries was part and parcel of being a refugee in Toronto and in Canada, further demonstrating the ways that waiting in the claims process becomes a trans-refugee-specific form of violence. Amiyah told me that she was expecting to get her surgery done in no time once she arrived in Canada. "I thought, I'm going to be full," she shared. "This hasn't been my experience, it's already been a year and it's going to take a long time." For Canadian citizens and PRs, wait-times for transition-related surgeries that are covered by provincial funding are at least two years long for most surgeons performing top and bottom surgeries in Ontario.[25] Add to that wait time the processing time for refugee claims, whose hearings are being indefinitely delayed at this point. The result is that for TGNC claimants, accessing transition-related surgeries is a possibility only glimpsed far into the future, far enough away that it seems almost like an impossibility and a distant dream.

Being unable to access gender affirming surgeries can leave trans and gender nonconforming people in a stasis, unable to move forward with their lives. With the addition of waiting for a stable status in Canada, TGNC refugees are left in a seemingly eternal waiting room (Seitz, 2017). When I asked Camilla how she felt about the fact that her refugee hearing had been delayed indefinitely, she shared the following.

> It's a mixed bag of emotions. It's really annoying, because you currently don't have any status and as I said, I want my surgery done as well. So right now I can't even apply for my surgery because I'm not on OHIP. And there's so many other things that I wanted to do or plan for myself in terms of my own professional growth or for my own personal betterment, but you can't do anything unless you have status. And the worst part of it is, you don't even know when it's going to be, because you don't even have a date. (Camilla)

Waiting indefinitely for a hearing date – and effectively for status – means that refugees cannot build a life for themselves the way that people with stable status can. For TGNC refugees, this is doubly impacted by the fact that they cannot build and inhabit a body that reflects their internal sense of gender. TGNC refugees are told that they can live freely and safely in Canada, but this lack of access to medical transition care clearly demonstrates otherwise.

[25] This wait time information was received from the Systems Navigator for Trans Health at Sherbourne Health Centre.

6.2.4 Community

Another major barrier that the refugees to whom I spoke faced were feelings of isolation, lack of community, and experiences of verbal, physical and sexual harassment. Many of the transfeminine participants shared experiences of street or public harassment while living in Toronto, escalating from strange looks to verbal or physical harassment. This type of harassment is also inflected with racism. Farrah shared that when she wears make-up and feminine clothing and takes public transit, people look at her strangely, and that this has made her question whether Toronto is the right place for her. She told me about a time when she and her boyfriend were laughed at openly on the subway by a group of men. Farrah also said that in her intimate relations with men, she felt used and treated as less than human. Bembe and Amiyah also shared this sense of being looked at strangely and being made to feel uncomfortable in public space and in the shelter system. Ghaliya told me a story of being spoken to aggressively by a store attendant because she is trans. Gael said that they had been verbally harassed a couple times since they moved to Toronto. Gathering all these experiences from the transfeminine people I spoke with for this study indicates that trans women, especially racialized trans women, are made to feel uncomfortable and out of place in public spaces in Toronto, whether through strange looks, lewd remarks or unwanted touching.

TGNC refugees can also feel out of place as refugees. Ashriel shared that they felt like Canadians couldn't understand what they have been through as a refugee and that feeling was really isolating.

> I've met some other Bahamians here, who have come here for the same reasons. Like my friend, who I went to high school with, I saw her in news article, saying that she came here as a trans refugee… Its great [to be able to find that community here] because as a refugee it's hard to explain to people, if you want to explain to them, your situation. They don't understand, they've grown up comfortably. They don't understand those problems… like having to leave your country because of your sexuality, and the process of it. It's hard to get to know people outside of this community in specific… They won't [understand me]. I don't tell them unless I need to. And it frustrates me, because I'd like to tell you. But I don't know what you can do with that information… it raises the question of why I wanted to leave [the Bahamas] and that just opens the door for more of my business that I don't like to tell people. (Ashriel)

Ashriel struggled to relate to and be open with non-SOGIE refugees because fleeing their home country to escape homophobia and transphobia and going through the refugee claims process are very distinct and traumatizing experiences that cannot be easily explained to other

people. They struggled to find community that understood them in Toronto, and ultimately felt the most comfortable with people who had similar experiences to them.

Many of the refugees to whom I spoke said that the most useful aspect of the LGBT refugee programming they attended, like the 519's Among Friends group, the MCC's refugee group or SOY's EXPRESS group, was being able to meet other queer and trans newcomers and refugees. Making these programs accessible to a wide range of LGBT refugees is vital for connecting refuges to resources and supports to help them navigate the barriers they experience around access to housing, income, documentation, healthcare, and sociality. Finding and building community for TGNC refugees allows them to better understand the systemic nature of the barriers they experience. For example, Camilla said that she only realized the harassment she was experiencing was systemic when she spoke to other trans women at a community group.

> Earlier I used to get all this unwanted male attention on the subway and stuff. I used to think, "Is it just me? Am I dressing in a certain way that's wrong that I'm inviting so much unwanted attention?" But when I went [to this trans woman community group] and started speaking to them, that's when I learned that it's not me, it's something that they go through too. It's the men really, they have to understand… So it's been very helpful, that support group. (Camilla)

Camilla's engagement with this trans support group gave her the tools she needed to recognize systemic oppression. Instead of blaming herself and the way she was dressing for the unwanted attention, she realized that the problem was men acting transphobic and fetishizing her as a trans woman. She realized that it was not her who needed to change, but the men objectifying her who needed to shift their understanding. The building of community space allows for insights on systemic oppression to emerge, and indicates the ways to change those systems of oppression.

The refugee regime in Canada purports to provide a safe haven and a place of opportunity and liberation for TGNC people fleeing homophobic and transphobic violence. In reality, systems of xenophobia, racism, classism, transphobia, and homophobia are entrenched in Toronto and in Canada, and effectively erect a vast number of barriers for TGNC refugees, seriously complicating the narrative of Canada as a nation of liberation and opportunity.

6.3 Canada is a land of opportunity? Insights from frontline workers

The frontline workers I spoke with shared that there is a common understanding amongst SOGIE refugees prior to arriving in Canada that this nation is a safe haven and a land of opportunity and freedom for people who are LGBTQ+. The refugee participants corroborated this claim. For example, when I asked Camilla why she chose Canada as her destination, she said: "I've heard so much about Canada, in terms of being LGBTQ friendly and being so progressive with regards to LGBTQ rights." Refugees had heard about Canada and Toronto as landscapes of LGBTQ+ equality.

> Toronto is promoted as the gay city. If you're outside of Canada, if you look up Toronto, you just see how supportive they are of the community. And since its promoted so widely, and even the Government of Canada promotes it to some extent too, the protection of us is also promoted. (Ashriel)

Indeed, Canada promotes an image of itself as a safe haven for LGBTQ+ people internationally. There several Canadian initiatives abroad, in countries in the 'Global South', that work to promote LGBT rights and Canada as a LGBT safe haven (Government of Canada, 2018). What seems to be untrue about Ashriel's statement though, is that the protection of LGBTQ+ people is promoted. It is clear from the various barriers that TGNC refugees have experienced in Toronto that protections for LGBTQ+ people in Toronto are not experienced evenly.

Frontline workers shared that this image of Canada as a promised land for LGBTQ+ refugee claimants came into stark contrast with the realities that refugees experience on the ground.

> Canada, especially Toronto, is shown as this beacon of hope for LGBTQ refugee claimants and those… seeking asylum and fleeing violence, coming here from protection from violence that they're leaving in their country… A lot of refugees are coming here because they're seeing, first of all Canada is a land of opportunity, there's so many things you can do. They're told back home, just come to Canada, you can do this this and this and you'll have a new life here… [But] they're not told actually what it's like here. They're not told, okay first of all, Toronto there's like a huge housing crisis where people that have been born and raised in Canada, living in Toronto, working full-time jobs and supporting themselves financially without problems, are even having trouble sometimes accessing affordable housing… They're not aware that if you're a doctor, lawyer, engineer back home making a lot of money… coming here to Canada, you almost have to start at the bottom again… Your schooling is not going to be equivalent and you don't have Canadian experience, and you basically have to work your way up again to where you were. (Habibi Feliciano-Perez)

Habibi connects the expectation of Toronto as a land of opportunity to the reality that for refugees, housing and professional opportunities are inaccessible. Frontline workers invariably referred to refugees' conceptions of Canada as a "safe haven," "promised land," and a "land of opportunity" as falling short of the actual reality that they were experiencing on the ground. These particular conceptions of Canada are rooted in systems of settler colonialism and imperialism that act as a foundation to the state of Canada and that contribute to the barriers and violence that TGNC refugees experience day-to-day as they work to integrate and live in Toronto.

For example, referring to Canada as a "land of opportunity" finds its roots in narratives of settler colonialism. During early stages of settler colonialism, Canada was also depicted as a 'land of opportunity' in order to encourage migration from Europe to the British colonies (Tuck and Yang, 2012; Thobani 2007). This sense of newness and possibility erases the histories and relationships of Indigenous peoples on this land (Tuck and Yang, 2012; Tuck, 2017). Canada stakes its claim as a nation state through this territorialisation, which goes hand in hand with the control of immigrants and refugees that solidifies the nation's borders (Walia, 2013). Fobear (2014, 50) writes that "investigating refugee settlement in a settler state involves looking at whiteness and national mythologies of white settler colonialism in Canada." While Canada may depict itself as a land of opportunity, it is important to interrogate which people garner opportunities. The land of opportunity narrative is a white settler colonial narrative that excludes Indigenous people and refugees from its benefits.

Meanwhile, notions of Canada as "safe haven" add to this land of opportunity myth by inflecting it with notions of transgender exceptionalism, "the nationalist logic in which the U.S. nation fantasizes its own superiority, tolerance, and exceptionality in relation to transgender life, pitted against other nation and 'cultures' deemed intolerant, barbaric, transphobic, or homophobic" (Aizura, 2016, 126). Within this context, the Canadian refugee regime operationalizes notions of Canadian progressiveness to use sexualities and gender diversities for imperialistic, militaristic and nationalistic aims that do not stand to benefit or improve the actual lives of TGNC refugees

This is in part due to the failure of human rights laws and systems to protect the stateless and the vulnerable (Arendt, 1973; Arendt, 1998). There are many ways that the legal system does not work to protect TGNC refugees and instead puts them into situations of danger and

vulnerability. When the resources and supports to access housing, healthcare, income and community are not available, that functions as an act of systemic violence.

> One thing I know for sure is Canada is really good at positioning itself as a safe haven for refugees, when there is a very different reality when you talk to people who actually experience that. The barriers, the racism, the transphobia, there's a lot of that… The thing with [human rights] law, it's there, it's useful, it's words. But when it comes to practice, it doesn't really happen… The system intentionally creates a situation where police violence happens, incarceration happens, things that can be very harmful to [TGNC refugees]… The law is a totally different reality than people's reality. For instance, when I am going for a job [interview] and I don't get hired because I'm trans, then the reality is that it's up to me to prove that I didn't get this job because I'm trans. And that's almost impossible. The law doesn't really protect anybody. Or when someone is actually physically attacked for being trans… like the bodies that are least valued unfortunately are trans women of colour. And they are particularly attacked, most of the time. When they're attacked, it's up to them to prove that they… It's just framed it in a way that, it kind of puts the burden off the system. Because it's like, oh this is just one transphobic person who did this, whereas the reality is that it's the system that's perpetuating this, it's the system that's being violent. It just takes the burden off the system. And the government can say, oh no no, we have all these things, but the reality is that the system is actually violent. (Kusha Dadui)

Kusha's comments demonstrate the ways that the system of law in Canada functions as a form of violence even as it purports to do the opposite. The laws here do not stop trans and gender nonconforming refugees from experiencing barriers like racism, transphobia, and other forms of violence. Human rights law doesn't work when people don't have the traction to defend themselves in court and it doesn't guarantee people's access to essentials like housing, income, healthcare, and sociality.

Nour, someone who provides short-term trauma informed counselling to LGBT refugees at a community center in Toronto, also agreed that the sense that Canada is a promised land for TGNC refugees was not experienced on the ground.

> Canada has certainly been kind of set as this paradise, promised land where [LGBTQ migrants] imagine that they would be able to kind of experience full freedom and genuine authentic expression for who they are as human beings, specifically in terms of their gender identity or sexual orientation. Unfortunately, that's not the experience of really any of my clients, but more specifically, my trans-identified clients… (Nour)

Nour continued, saying that her trans-identified clients regularly experience transphobia in employment and housing, without being able to use the law to protect themselves against it. She shared that they were more likely to be unlawfully terminated by an employer or evicted by

a landlord because people in these positions of power know that TGNC refugees do not have the "power or resources to fight against it." This further demonstrates the ways that human rights laws and systems do not function to benefit vulnerable populations like TGNC refugees.[26]

Trans refugees are guaranteed rights only insofar as they serve Canada's official image. Aizura writes, "As much as trans and gender-nonconforming immigrants have value internationally as subjects of human rights within the U.S. geopolitical imaginary, once their value in this imaginary has been exhausted, materially trans and gender nonconforming immigrants appear to have little worth as bodies in need of housing, income, health care, and sociality" (2016, 124). The transgender refugee body is accepted and constructed by the Canadian nation state in a way that makes space for them only to the extent that they have traction and value under neoliberal economies and geopolitical discourse. Once that value is spent, they have little value when it comes to protecting their right to housing, healthcare, income, and sociality. The challenge then becomes – how do TGNC refugees find safety, community, belonging and home within, against and beyond this system of violence?

6.4 Implications for policy and practice

In Canada, there is a large set of scholarship that incorporates policy recommendations regarding SOGIE-based refugee claims in Canada (Fairbairn, 2005; LaViolette, 2010; 2009a; 2009b, 2007, 2003; Lee & Brotman, 2011; Millbank, 2002; Rehaag, 2009, 2008; Young, 2010). None of these recommendations have focused on the specific barriers that trans and gender nonconforming refugees face. The policy recommendations I put forth center the needs and concerns of this demographic. I present policy recommendations that cover three key areas that emerge from my findings: documentation, healthcare, and housing.

First, concerning documentation, I recommend that the documents required to change the gender marker on a refugee claimant document be made easily accessible to people making claims. They should be clearly linked and always provided with the basis of claims form. If TGNC refugees can easily access name and gender changes on their documentation, their work permits will be more likely to reflect their identities. Second, in terms of healthcare, I recommend that IFHP cover the cost of HRT and allow TGNC refugees onto the waitlist for gender confirming surgeries as they await the

[26] Nour also said that many of her clients come to Canada and experience racism for the first time in their lives, which can be very shocking an unsettling for them.

acceptance of their refugee claims. Third, in order to increase access to accessible, affordable and sustainable housing for TGNC refugees, I recommend increasing the number of transitional housing units for LGBT refugees, collecting data on discrimination against trans people, refugees, and TGNC refugees in the housing market, and providing higher benefits through ODSP and OW so that people's income can cover their rent.

Beyond these policy recommendations, there is also scholarship that presents alternative political futures, such no borders futures (White 2014; Anderson, 1991; McDonald, 2009; Fortier, 2013; Sharma & Wright, 2009), open borders (Bauder, 2013, 2014), undoing border imperialism (Walia, 2013), a re-imagining of Indigenous and settler relations (Bauder, 2011; Lawrence & Dua, 2005; Razack; 2013; Sehdev, 2013; Simpson, 2014; Walia, 2012), afro-pessism and afro-futurism (Moten and Harney, 2013; Hartman, 1997; Sexton, 2011; Walcott, 2014; Wynter, 2003; Womack, 2013). These alternative political futures provide new ways of imagining citizenship, social relationships, what it means to be human, mobility across space, and more. Working between policy recommendations that improve the day-to-day lives of TGNC refugees, and organizing efforts like *Solidarity Across Borders* and *No One Is Illegal* that build an alternative, just, and imaginative political futures is the tension of this research.

7 *EPILOGUE* Between an angel's roots and her wings: Tensions in home-coming and liberation for trans and gender nonconforming refugees

7.1 Introduction

Farrah – who was interrogated for 2 hours at the airport like she was a "criminal," stayed in the shelter system for over 20 days, became very sick without any health insurance, experienced harassment in public spaces, and worked as a housekeeper despite her degree in computer science – drew a relatively simple and uplifting progress narrative when I invited her to map out her migration in the imaginative mapping exercise (see Appendix I). As covered in Chapter 3, this imaginative mapping exercise draws on the methods of mental mapping and arts-based inquiry to provide refugee research participants the space to artistically reflect on their migration and transition experiences.

In Farrah's mapping exercise, she drew her intensive, two-hour interrogation by CBSA guards at Pearson airport, where a guard is depicted asking her, "Why did you come here? Why why why?" Then, the drawing depicts her finding Church Street and the 519, where she discovered that she can apply for refugee protection. Here she writes, "Becoming a refugee: having a better life as a gay, freedom, safe." Underneath that, she drew her IRB hearing, where her claim was accepted. Finally, she drew herself with a smile on her face and the word "Hooray." In this drawing, she moves from the challenging experience of the airport interrogation towards a sense of safety and freedom, a better life as a gay person. But she leaves out many of the other difficulties she faced while navigating her first few months in Toronto. When I asked Farrah if she thought of Toronto as home, she said, "Of course."

> [Home] means safe, comfortable. People don't judge you… You have access for everything. If you're in line, there are a Canadian behind you, they cannot just go to the, you know, cut the line, because they are Canadian, they are priority. It's not like that, which is good. Everyone is same, they treat us as the same people. Which is good, it feel great. (Farrah)

Farrah said that she felt at home in Canada because she felt like she is treated equally to Canadians. And yet, it is clear from her experiences that she has not been treated equally. She was not treated equally at the airport when she was questioned like a criminal. She was not treated equally on public transportation or in public space when men would harass her. She was

not treated equally when she could not access housing or healthcare for the month she lived in a shelter. And if, as a refugee claimant, she had wanted to apply for transition-related surgeries, she would have to wait in a different line than PRs and Canadian citizens since she does not have OHIP. How can Farrah feel free, safe, or at home given that this is her reality?

The TGNC refugees to whom I spoke clearly experienced barriers in accessing housing, healthcare and income. There were also feelings of isolation and loneliness that came with being a refugee in Toronto. The very absence of access to stable housing would make one expect that these refugees would not feel at home in Toronto or Canada. The lack of ability to confront landlords or employers or doctors who refuse to provide housing, employment, or healthcare to TGNC refugees would likely make one feel unsafe and unprotected. However, many of the participants shared that they still felt protected, free, and at home in Toronto and Canada. What emerges here is complexity to the notion of Canada as a safe haven and a 'promised land' for TGNC refugees.

What would make trans refugees feel at home in Toronto and in Canada, despite all the violence and barriers that they experience? This epilogue seeks out the modes of liberation and home-building enacted by these refugees. It asks how the tensions, like the tension between the barriers TGNC refugees experience and the feelings they have of home and freedom, can be helpful in moving us toward migrant justice. Engaging a Foucauldian framework of power, I gesture towards routes that may take us closer to queer and trans migrant justice.

7.2 Tensions in trans home-coming

A Foucauldian analytic understands the ways that power can both constrain and generate possibilities, offering a vantage point from which to go beyond notions of 'good' and 'evil' forces at play. The effects of power may be "refusal, blockage and invalidation," but they also may be "incitement and intensification" (Foucault, 1990, 11). In this framework, we understand how the institutions and systems of border regimes, nationalism, and trans exceptionalism come together to both constrain possibilities for the TGNC refugees I spoke with (the barriers) as well as generate new ones (the ability to build home).

Even as the lives of TGNC refugees are constrained by institutions like CBSA and the IRB, and by systems of transphobia, xenophobia and racism, possibilities emerge to create new meanings of freedom, safety, and authenticity. For example, refugees may feel they benefit from

violent constructs like the border. Ashriel expressed relief at having their passport taken away when they submitted their refugee claim. Even as Ashriel experiences the violence of the border regime through the claims process, there are also modes of comfort that it provides them and a sense of safety.

> **Ashriel:** [When I claimed] they held my passport. I kind of forget that they have it all the time.
> **Tai:** You don't have your passport so you can't leave the country. Do you ever feel like you wish that you could?
> **Ashriel:** No. I don't wanna leave. I'm not safe back home. I'm literally being stalked back home, I don't want to go back home. No.

While transgender exceptionalism and border regimes are constraining and disallow certain forms of liberation for TGNC refugees, these structures of power may also work to make the quotidian lives of TGNC refugees more livable. Refugees may also benefit from discourses of transgender exceptionalism, which they can leverage in the IRB hearing room to attain the ability to stay in Canada, away from the violence of their home countries (Aizura, 2016; Murray 2016). The challenge, then, is to balance the ways that the day-to-day lives of TGNC refugees need to be made more livable, while also working towards transforming systems of gender, sexuality, citizenship and border regimes that produce and organize the very conditions of TGNC migrant vulnerability.

The tension between the quotidian and the future, and the tension between the ways that these systems of power constrain and generate possibilities for liberation can point us toward something new. This tension also comes up with the question of building home and seeking out liberation for TGNC refugees. This is the tension of balancing home as an intimately felt and created sense of belonging-ness, as well as a structure of power and exclusion in the nation-state.

7.2.1 Literature review on home in migration and trans studies scholarship

Home is an affective structure. It is a place, a site in which we live, but it is also an idea and an imaginary that is imbued with feeling – feelings of belonging and intimacy, but also fear of alienation and violence. Blunt and Dowling (2006, 22) write, "geographies of home are relational: the material form of home is dependent on what home is imagined to be, and imaginaries of home are influenced by the physical forms of dwelling… Home is neither the

dwelling nor the feeling, but the relation between the two." Home is both the material structure and the way that home is felt and imagined.

Blunt and Dowling (2006, 142) further argue that "the home as a lived place and as a spatial imaginary has been mobilized and contested in ways that shape and reproduce the discourses, everyday practices and material cultures of nation and empire." Implicated in discourses of home are discourses of nationalism. Anne McClintock (1993, 63) notes:

> Nations are frequently figured through the iconography of familial and domestic space. The term 'nation' derives from 'natio': to be born. We speak of nations as 'motherlands' and 'fatherlands.' Foreigners 'adopt' countries that are not their native homes, and are 'naturalized' into the national family. We talk of the Family of Nations, of 'homelands' and 'native' lands.

Nations are born and reproduced through the home and thus the nation is also understood as home. The idea of a homeland inscribes a landscape with meaningfulness: place, identity, collective memory and imaginings.

When we imagine our communities, our nations, we imagine the ideal citizen that we live alongside. Such imaginings are based on who should not be considered a citizen. As Amy Kaplan writes (2002, 4), "Domestic metaphors of national identity are intimately intertwined with renderings of the foreign and the alien and… the notions of the domestic and the foreign mutually constitute one another in an imperial context." Therefore, notions of belonging are necessarily intertwined with notions of un-belonging.

When we figure the nation as home, that carries a whole host of political baggage:

> The home as hearth, a refuge or sanctuary in a heartless world; the home as *our* place, where we belong naturally, and where, by definition, others do not; international order as a space of homes – every people should have (at least) one; home as a place we must protect. We may invite guests into our home, but they come at our invitation; they don't stay indefinitely. Others are, by definition, uninvited. Illegal migrants and bogus refugees should be returned to 'their homes.' Home is a place to be secured because its contents (our property) are valuable and envied by others. Home as a safe, reassuring place, a place of intimacy, togetherness and even unity, trust and familiarity. (Walters, 2004, 241)

Undesirables are imagined as out of place and not at home in the nation – 'illegal' immigrants and 'bogus' refugees are uninvited guests who should be sent back to their 'homes.' These are the types of nationalist and imperialist discourses that 'home' is bound up in.

There is also an entire strand of trans studies that focuses on the place of the trans person finding home in their body and in the nation. As TGNC refugees leave their home countries to

live safely in their bodies, the connections between home, nationalism, and embodiment is especially important.

Prosser's (1998) *Second Skins* is a foundational text in trans studies, and it focuses on the centrality of home-coming in the trans narrative, how trans people come to feel "at home in [their] skin" (73). Prosser (1998, 204) writes about a 'politics of home' for transgender people.

> This 'politics of home' would analyze the persistence of sexual difference for organizing identity categories. It would highlight the costs to the subject of not being clearly locatable in relation to sexual difference. Above all, it would not disavow the value of belonging as the basis for livable identity. The practical applications for such a politics of home are immediate, multiple, and, indeed, transformative. They might include, for instance: enlisting the binary of sexed assignment to argue for the total health insurance coverage for sex reassignment; using the state's own insistence on sexed belonging to argue for the right to it of those subjects currently denied it—the right of those who change sex to also change their birth certificates so that they may legally live, work, marry, and die in their reassigned sex… In pushing past a transsexual narrative ("post"), in ceding our claims to sexed location, we relinquish what we do not yet have: the recognition of our sexed realness; acceptance as men and women; fundamentally, the right to gender homes.

What is clear in this excerpt is that the homes that Prosser wishes for trans people are both bodily and national. Aizura (2006, 295) also makes note of this: "For Prosser, 'home' is doubly inflected as the task of finding home in the body and being able to call the state home." Thus, the question that must be posed is: who is at home in the nation? And who can cross borders to come to a home 'on the other side'? Who are these homes and travel routes accessible to?

Aizura's (2006) work on transgender notions of home and nationalism in Australia maps out the ways that gendered and national borders co-constitute one another. By examining the marriage court case of a white Australian trans man and his white cisgender wife, Aizura argues that the possibility of maintaining the borders between male and female takes place with recourse to racialized and nationalized tropes. Bhanji (2013) engages with scholarship on diaspora and trans theory in order to question the kind of 'home' that trans theorizing leads us to when we imagine the body as a home space within the context of empire and nationalism. His paper is a call for trans scholarship that is critical of its unspoken white privilege as well as critical of simplistic versions of identity politics. Bhanji brings a spatial and temporal lens into conversations about transition, racialization, and geographic movement. He asked the reader to question what must be sacrificed, what notions of nation, empire, and ownership must be shed in order for trans theory to engage in the act of imagining home. In *Transgender Architechtonics,*

Crawford (2016, 29) draws on Theodor Adorno and Leslie Feinberg to argue for an ambivalence toward ownership and property and for a recognition that all homes are temporary. His argument points toward the fictionality of home – the fact that home is always imagined and never truly attained. Crawford suggests that trans narratives can shatter the illusion that any of us own our skins or our bodies, the illusion that "*any* of us can ever simply be at home in our bodies" or elsewhere.

There are many ways that TGNC refugees may have difficulty finding home in their bodies and in the nation. For example, the fact that transition-related surgeries are only funded for PRs and Canadian citizens makes it very clear that for trans people, coming home to the body is akin to coming home to the nation. Even being unable to access stable housing, income or sociality becomes a way to destroy one's relationship with their bodies and their surroundings.

Prosser's 'politics of home,' by working with this idea of transition as homecoming, and by arguing for trans legibility in an always already violent nation state, works to benefit trans people unevenly. Haritaworn and Snorton write:

> It is necessary to interrogate how the uneven institutionalization of women's, gay and trans politics produces a transnormative subject, whose universal trajectory of coming out/transition, visibility, recognition, protection, and self-actualization largely remain uninterrogated in its complicities and convergences with biomedical, neoliberal, racist, and imperialist project (2013, 66-76).

A transnormative citizenship inscribes trans people into the nation state. As Aizura (2006, 295) writes, trans citizenship would require trans bodies to fade into the population and be proper in the eyes of the state: "to reproduce, to find proper employment; to reorient one's 'different' body into the flow of the nationalized aspiration for possessions, property, [and] wealth." Can the home-comings of TGNC refugees be interpreted as movements toward transnormative citizenship? Or are they movements toward an alternative queer and trans future? We can understand them as both, as balancing the tension between the need to survive day-to-day, and the imaginary of a future where nations and borders no longer exists and the concept 'refugee' can fall away.

When we think about the ways that TGNC refugees may find home, we also need to consider what it might mean to find home in a nation like Canada, and how home can be created within, against, and beyond the nation of Canada. Home-making is complex because of the ways it is bound up with the nation, but home space can still offer liberatory views of community-building, belonging, trans/queerness, and alternative political futures. It is this tension within

home that can be worked with and explored to point towards modes of queer and trans migrant justice. The questions then become: What does it mean for a TGNC refugee to find home in a nation like Canada? What systems of power are implicated? How can these systems of power be brought into dynamic tension with visions of liberation?

7.4 Home for TGNC refugees

Farrah was not the only TGNC refugee I spoke with who shared feeling a sense of safety, freedom, and hominess in Canada. Generally, other refugees shared that they too felt free, safe, and at home in Toronto and Canada. In fact, these feelings were very much intertwined with one another, with home often being described as a place where someone can feel safe and free. For example, Ghaliya told me she felt at home in Toronto because she felt safe here. And Isabel echoed Farrah in feeling that home is a place where she doesn't feel judged. For Isabel, home felt like a place where she could be held by a community that cared for her and provided her with the space to be fully herself without fear. Home is necessarily relational.

> [Home feels like being] surrounded with people that actually loves you for who you are, and to be free to do whatever you want without thinking that you're going to be judged, threatened or harassed. (Isabel)

The fear of being judged, threatened or harassed often comes from TGNC refugees' experiences in their home countries. As TGNC refugees seek a sense of home in Toronto and Canada, they are also dealing with the loss of home and even family in the countries that they come from. Camilla shared the grief she felt around losing her biological family in India because of her transition. She is grappling with the ways that moving more deeply into authenticity has also meant losing the community that raised her. She misses home, but she understands that home as she once knew it can no longer exist for her in India.

> Coming from India, home and family is such a huge thing back there… I kind of miss it… I have a huge family and there's so many functions that you go to and there's so many get-togethers… Home just means so many things. You have so many extended cousins, uncles, aunties, family friends who come over and you have so many functions. But then ever since I started transitioning, I was blacked out. I wasn't invited to anything. So I do miss it, of course, and sometimes I do feel like, why do I have to go through this? People don't really understand, like we don't choose to transition because it's a fancy thing to go through or something. You don't put yourself through the frustration of being judged or being out there, visibly different than the so-called binary group, at least in India. So, I don't know why people don't really understand when you choose to transition

> it's something that you're required to do for your own self, because you don't have an option. It's yeah, I do miss home, per se, when we had all those functions and stuff. And sometimes I really wonder, why do you have to go through this? (Camilla)

Ashriel also talked about ostracized by their family and community. Like Camilla, they describe a loss of community, a loss of home, a sense of betrayal.

> My mom cut—like she isn't accepting. She kinda hates me for [my gender and sexuality]. And the entire community where I grew up harassed me… Sometimes I feel very alone here, because I came here alone. I've met people but there's nothing like a connection with your family or people that you've known for years… But I just like to remember that back home I felt lonely too. And in a time of need and crisis, I was alone. Like, if anything, you made my situation worse, so that makes me feel better that I can build something here, instead of being one step forward and two steps back, back there. (Ashriel)

There is heartbreak here. While Camilla and Ashriel miss where they come from and they miss their families and communities, they also know that those places can no longer be home. There is no home to go back to. They've been ostracized by their communities and now the only way towards home is to try their best to build one in Canada. Ashriel shares this sense that they feel like they can *build* something here, that there is a chance for community, home, and belonging despite the loneliness they also feel. Refugees, faced with the loss of the communities they grew up in or have known for most of their lives, are confronted with the real challenge of creating those homes and communities elsewhere.

Ashriel continued talking about the way that they felt that they could build something for themselves in Toronto and Canada. They shared this sense that it will only get better for them here.

> It feels better that I have a voice, and the fact that I can basically do what I want. Like some people may not be for it, they may say something, but legally you can't do anything to me, because you have laws here in Canada that protect you. And you have an entire freaking street dedicated to the LGBTQ+ community. Like Toronto is very open to it. And I feel it can only get better from here, it's only going to get better. This is the perfect place for me right now. (Ashriel)

Ashriel expressed a sense that the laws in Canada will protect them from harassment, but the previous chapter on barriers demonstrates that this is not the case – often vulnerable people like TGNC refugees don't have the means to defend themselves in court. Nonetheless, for Ashriel, there is a deeper sense of safety, comfort and futurity in Canada than in the Bahamas.

Dalia also described a sense of safety and freedom in Canada that she never felt in Egypt. She told me that in Egypt, she couldn't access any sense of freedom living as a trans woman.

> The important part is you can't just walk the streets safely in Egypt. It's a place where you have to, just keep looking around you to make sure, especially if you're a woman, to make sure that you are safe, and mostly you are not… Freedom does not exist there in any kind of definition. You're owned by anyone who is having authority, which is basically men and police and the government. Especially after the new government came around… I just came here [to Toronto] and I consider Canada my home. Its my home and I'm not looking. (Dalia)

There is still violence in Canada – the violence of borders, of the claims process, of white supremacy and settler colonialism, which in many ways are articulated as the barriers that trans refugees have experienced. However, there is also a sense of safety in Canada and in Toronto that was not felt in refugees' home countries. This is the tension that refugees must work with as they work to build a sense of home in Canada.

There is a complexity to building home in Toronto for trans migrants – the challenge of dealing with all these barriers and the drive to find home nonetheless. Sometimes there is a feeling of out-of-placeness. Finding home in Toronto for TGNC refugees is an active project. It is something which must be built. Bembe shared that Toronto didn't feel like home to her yet, but she was trying to make it feel that way.

> I feel welcome here, feel better than back home. You can be you but people still is going to say something, but they're not going to touch you… I don't feel at home in Toronto. It's not home yet, but I have to make it my home… I don't think of the Bahamas as home… Where I think home is where I get to be safe. I want to make Toronto home, if everything goes as planned, that is what I expect it to be… (Bembe)

Bembe's insights confirm the complexity around building a sense of home in Toronto and Canada for trans and gender nonconforming refugees. He knows that where he comes from can longer be considered home, but there's also this sense that Canada may not be home quite yet. Bembe says that home feels safe, but Toronto does not feel like home quite yet – which could lead one to conclude that Toronto did not feel safe yet for Bembe. But Bembe has the drive to try and make it feel safe, to try and make it feel like home. She has a plan, which includes finding stable income, stable housing, and perhaps starting HRT, which may make Toronto feel more like home to her.

Gael also talked about the active aspects of building a home. They described the importance of creating community – what they called "chosen family" – for feeling at home in Canada.

> **Tai:** Is there anywhere on your drawing that you think of as home? (See Appendix J for mapping exercise)
> **Gael:** Yes, totally this heart, like I have family here, I made family. And that's beautiful… [Home] definitely is in Canada, and it's definitely with my chosen family here. They're just my home, they're the people I wanna be around, they're the people I wanna care about and create a home with.

Gael talked about *making* family and *creating* a home, demonstrating the active and relational aspects of building a home and a family as a queer and trans person. The notion of 'chosen family' is a deeply queer and trans concept, dating back decades in North America. These chosen families challenge the heteronormative and nuclear structure of the modern North American family by expanding the notion of kin relation beyond the biological. Chosen families are built based on shared affinities and relationships of both material and emotional support (Weston 1991).

Other refugees had more hetero- or homo-normative ideas of how they wanted to make a family in Canada. When Imrah imagined what home could look like for him in Canada, he first mentioned the importance of feeling accepted and loved for whoever he is. He also talked about how creating home in Canada meant that he could finally start caring about his family, because it would give him the opportunity to start a family that would accept and love him unconditionally. The notion of family that he shared was very nuclear in structure.

> **Imrah:** I feel like home is Toronto… home feel like where there is a sense of belonging-ness… where people are accepting and would love me whoever I am. And I will finally start caring about my family. I'm looking forward to start my family.
> **Tai:** What does your family look like, in your mind?
> **Imrah:** Obviously I'm going to start to find a partner first, and then obviously we may start our family. These are just a dream, but I'm very much interested to start a family. But as of now, all the issues are up in the air, nothing is settled.

Imrah's dream is to be able to create a family that he can finally care about because the family he creates will accept him. He has a desire to recreate the family structure that most heteronormative families adhere to, which is an isolated nuclear unit.

Not every refugee builds home in the same ways or makes family in the same ways. But they all need to navigate how building their homes and starting their families is contingent on the process of becoming a citizen in Canada. As Imrah mentions, starting a family is just a dream for now, because nothing is settled yet – he is not settled yet. He still awaits his hearing date at the IRB.

This is the complexity of building home for refugees – home and family can only come when there is a sense of permanence to staying in Canada, when refugees become accepted as protected persons and move towards citizenship. Home can only come when refugees are comfortably folded into the nation-state; when they can access HRT, surgeries, a sense of stability and security in the country – a sort of transnormative citizenship.

At the same time, it is a deeply queer and trans project to have to rebuild and renegotiate home, family, and kinship ties. It is a deeply queer and trans narrative to have to leave home and find home anew. For trans and gender nonconforming refugees, the project of home-building happens with the added complexity of navigating border regimes, transphobia, xenophobia, racism, and other systems of oppression. The process of building home and creating community is both a process that is implicated in nationalism and a process that allows the space for migrant justice to emerge.

7.5 Angels and butterflies in flight

When I think of ways that TGNC refugees manage these tensions, I am reminded of the imaginative map drawn by Ghaliya in our interview. In Ghaliya's imaginative mapping exercise, she drew her transition as an angel whose feet were roots (see Appendix K). The angel is pulled between the upward motion of her wings and the rootedness of her feet. Here is how Ghaliya described this map of her transition.

> It's like a tree, this is my memory *[pointing to the roots]*. This is what I can't change to be myself fully. I always [ask] myself… why from the beginning I born not a woman? … It's experience, and thanks for this experience, it's nice experience. It makes me someone different, mentally and everything. But it's suffering experience… Especially for someone from the Middle East, or countries that don't have rights, you spend your life just to be yourself… A human, he will live for maximum 90 years, so if you take 25 [years] from your life for just to be yourself… for people to be accepting you or to understand your identity and how to respect you… this is a lot of time. There is people that don't take this time to just change their sex... other people focus on other stuff, like studying and going working and [moving] forward in their life. We [trans people] start

> life after we finished [transitioning], [when] we done [trying] to be ourselves. This takes a lot of time. So I feel like this [is] what I [cannot] take off *[pointing to the roots]*, it's my memory and my years ago. And there is my freedom *[pointing to the angel's wings]* (Ghaliya)

Ghaliya's angel depicts the sacrifices (roots) and the freedom (wings) she has gained through her experiences of transition and trans-ness. The roots demonstrate all the work she has had to put into transitioning, especially as someone who comes from a country that provides no viable legal options for this process. For her, being trans has also meant that she had to leave her home country to live safely. While cis people have been able to dedicate their lives to their work or their professional betterment, Ghaliya has had to focus on how to remain safe while also moving into deeper authenticity with herself and her body. But these experiences keep her rooted, they are what she cannot change to be herself. She describes the angel as a tree – meaning that her root system, her experiences of suffering, have also provided her nourishment and made her who she is. At the same time, Ghaliya's transition is her wings. It gives her freedom, the ability to move, to change, to fly, to come into more genuine relation with herself and her body. Ghaliya's transition is the tension between her roots and her wings. "I can fly," she says, "but there is still something holding me back," she continues, pointing to the angel's roots.

Ghaliya's roots are her past, the experiences that have made her who she is. And her wings are her future, her ability to move and create and imagine otherwise. She is pulled between her roots/her past and her wings/her future. But this tension does not pull her apart. Rather, it demonstrates how she exists along multiple vectors of time and being through her transition. The tension here is also specifically *embodied*. Ghaliya's body itself exists between suffering and freedom. As TGNC refugees seek home-coming in Canada, it is their bodies' sense of safety, security, and authenticity and their bodies' sense of harassment, isolation, and lack of access that is central.

We can imagine Ghaliya's angel as a depiction of the tension between the need for day-to-day survival for TGNC refugees – the roots, the experiences of suffering – and the desire for long-term liberation – the wings, the visions of freedom. In Ghaliya's angel, both these needs and desires exist at once, in creative tension with one another. The way towards alternative queer and trans futures is necessarily informed by the modes of survival enacted day-to-day.

Imrah's imaginative mapping exercise also imagined freedom and transition through the iconography of wings and flight (see Appendix L). When I asked him to map out his migration and transition, he drew a caterpillar undergoing metamorphosis into a butterfly. The butterfly begins its life as a caterpillar in parts of southern Ontario and the States. The caterpillar transitions into a butterfly through stages in the chrysalis, where it undergoes massive bodily changes before it bursts forth from the chrysalis and prepares to fly south.

> **Imrah:** I'm inspired by the life of larvae coming into butterfly… whatever butterfly goes through all its life, I feel closer to it in terms of finding myself, my gender expression and sexual orientation as well as migration too… Because the butterfly is very famous when it come to migrating one place to another place… it's seasonal for the butterfly, but for me it's a season of my lifetime to leave the place where I couldn't live my authentic self, and start living in Canada where I can live out of the closet… It represent my transition very, very beautifully… I think after transition I'm going to feel more beautiful and good about myself. As beautiful as butterfly is… [Out of the] five stages, I see myself in the third stage.
> **Tai:** In the chrysalis?
> **Imrah:** Yes.
> **Tai:** You're sort of hibernating and hiding until you can finally…
> **Imrah:** Fly…

As the butterfly flies south, it crosses over human-constructed borders. These acts of border-crossing are part of its natural course of life. The butterfly has become a symbol for migrant justice in the United States and Canada. The image of the butterfly has been used by Undocuqueer movements in the US and butterfly masks have been worn by migrants protecting their identities at protests in Canada.

Ghaliya's angel and Imrah's butterfly provide the symbols of wings and flight as metaphors for freedom. The word flight also functions as a noun for the verb to flee. Flight can refer to both forced displacement and to freedom. Just as Ghaliya's angel navigates the tension between the freedom and the rooted-ness of transition, the concept of flight navigates this tension between the freedom of mobility with the un-freedom of being forcibly displaced, especially in a world criss-crossed with borders. All of the refugees I spoke with explained how they lived this tension in multiple ways – they described their process of home-building and how this process was challenged by the multiple barriers they faced.

Refugee narratives are not simple progress narratives that move from oppression to liberation. They begin with forced displacement, with flight, with the impetus to flee. Ghaliya

shared that leaving Egypt was heart-breaking for her because it wasn't her choice. This lack of choice took away her ability to fight back – something she felt was integral to her identity as an activist.

> I'm sad to leave [Egypt] because this makes me feel not free… This makes me feel afraid and this is the first time in my life that I feel afraid. It's like you feel broke inside because, if you are activist, you have your freedom, you have your mind, you have your opinion, and no one can push you to say something or do something if you don't want to do it. After [my arrest warrant] happen, I feel like I have to leave… This is not my idea, I did not choose this, but I did it because I know what will happen to me and I do not want this to happen to me. But it's not my choice. (Ghaliya)

Refugees move through complicated affective motions as they grapple with a loss of freedom, community, family, home and who they used to be. The project of building home in Canada is one that must negotiate the loss of home, the violence of border regimes, and the deep desire for safety, belonging, acceptance, and healing.

Throughout their stories of migration, it is clear that refugees consistently manage the tension between the intimately-felt and the geopolitical. In the hearing room, their personal narratives and experiences of gender and sexuality coalesce into national narratives of Canadian transgender exceptionalism. In addition, there is tension between the long-term view of liberation and the need for day-to-day survival, the drive to build home and all the barriers that get in the way, the ways that home is an intimate space of belonging and an icon for nationalism and exclusion, the angel's wings and her roots. This is the necessary stuff of transformation. This is the tension that points towards justice. We cannot transition into an alternative queer and trans future today, nor tomorrow. But we must return home nonetheless. We must have somewhere to lay our heads, to rest, to root, to dream, so that one day we may fly – so that one day our wings may take us over human-constructed borders, through the metamorphosis of the butterfly, into a future where refugee as a category need not exist because borders of violence and regulation will no longer exist. Into a border-free and barrier-free world. And even as this may seem impossible; even as these utopias seem always on the horizon and never quite within our reach (Muñoz, 2009) the movements we take towards them are necessary.

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APPENDIX A: Poster for study

APPENDIX B: Frontline worker and lawyer consent form

Project Title – Mapping Trans Migration

Tai Jacob
Master of Arts Candidate
Department of Geography
McGill University
805 Sherbrooke Street West
Montreal, QC H3A 2K6, Canada

My Contact info:
Tel: 416-844-5553
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Faculty Supervisor: Natalie Oswin
Email: natalie.oswin@mcgill.ca

Introduction and Description of Research: I invite you to participate in a 30-minute interview that would be part of my Master's research on transgender migrant, refugee and asylum seeker experiences in Canada. The aim of this research is to understand how the refugee claims process and the process of migration impacts people's understandings of themselves, their genders, their bodies, and the nations they have travelled through.

What is involved in participating: Your participation is voluntary, you may refuse to answer any question, and may withdraw at any time. I will be asking you a series of open-ended questions focusing on your experiences working with LGBT (lesbian, gay, bisexual, transgender) refugees, and transgender refugees in particular. With your permission, I will also be audio-recording the interview for transcription. Excerpts from the interview may be used in my Master's dissertation, and may also be published in future academic articles and research papers.

Confidentiality: I am giving all of the interviewed participants the opportunity to have their identities remain confidential if they wish, in which case a pseudonym will be used in any written material based off of the interview. All recordings, interview transcripts, and interview notes will be kept in my possession, in a password protected file on my personal computer and your identity will remain confidential. These recordings will be kept secure and will not, under any circumstance, be released, and will only be otherwise consulted by my supervisor, Dr. Natalie Oswin..

Note that there will be no compensation offered to lawyer or service provider participants in this study.

Please initial where appropriate:
_____ Yes, I want my name and identity to be used.
_____ No, I want my name and identity to remain confidential.

_____Yes, this interview can be audio-recorded.
_____No, I do not want this interview to be audio-recorded.

_____Yes, I would like to hear follow-up about the research.
_____No, I am not interested in follow-up about the research.

If you have any questions or concerns regarding your rights or welfare as a participant in this research study, please contact the McGill Ethics Manager at 514-398-6831 or lynda.mcneil@mcgill.ca

By signing below, I confirm that I have read and understood the above information and I agree to participate in this study.

Print Name: _____

Signature: _____

Date: _____

APPENDIX C: Refugee and migrant consent form

Project title - Mapping Trans Migration

Tai Jacob
Master of Arts Candidate
Department of Geography
McGill University
805 Sherbrooke Street West
Montreal, QC H3A 2K6, Canada

My Contact info:
Tel: 416-844-5553
Email: tai.jacob@mail.mcgill.ca

Faculty Supervisor: Natalie Oswin
Email: natalie.oswin@mcgill.ca

Introduction and Description of Research: I invite you to participate in a 60-minute interview that would be part of my Master's research on transgender migrant, refugee and asylum seeker experiences in Canada. The aim of this research is to understand how the process of migration impacts trans and gender nonconforming people's understandings of themselves, their genders, their bodies, and the nations they have travelled through.

What is involved in participating: Your participation is voluntary, you may refuse to answer any question, and may withdraw at any time. I will be asking you a series of open-ended questions focusing on your personal experiences as a transgender or gender variant person who is going through or has been through the refugee claims process. It will also invite you to map out your migration and transition with an imaginative mapping exercise. With your permission, I will also be audio-recording the interview for transcription. Excerpts from the interview may be used in my Master's dissertation, and may also be published in future academic articles and research papers.

Confidentiality: Your name will be collected but will not be used in published materials. Instead, a pseudonym will be used. All recordings, interview transcripts, and interview notes will be kept in my possession, in a password protected file on my personal computer and your identity will remain confidential. These recordings will be kept secure and will not, under any circumstance, be released, and will only be otherwise consulted by my supervisor, Dr. Natalie Oswin.

Compensation: There is an honorarium of $30 for participating in this interview.

This research is conducted exclusively for the purpose of scholarly research, rather than intervention or policy change. Participation in this study will not in any way assist or serve participants with their asylum status or resettlement claims. The researcher cannot intervene to help or provide favourable services to participants in this study.

If you have any questions or concerns regarding your rights or welfare as a participant in this research study, please contact the McGill Ethics Manager at 514-398-6831 or lynda.mcneil@mcgill.ca

By signing below, I confirm that I have read and understood the above information and I agree to participate in this study.

Do you grant permission for me to audio record this interview? Yes / no
Do you accept that I will keep the mapping exercises completed and potentially include them in publication? Yes / no
Would you like to hear follow-up about the research? Yes / no

Print Name: _____

Signature: _____ Date: _____

APPENDIX D: Interview guide lawyers

- What is your name?
- How long have you been practicing law?
- How long have you been working with LGBT refugee claimants/asylum seekers?
- How many transgender refugee claimants/asylum seekers have you worked with?
- How does precarious citizenship status impact transgender refugees' access to transition/medical care?
- How does precarious citizenship status impact transgender refugees' ability to change their name and gender markers on official documents?
- What is the IRB-decision making process like? What are the adjudicators like? What kind of training do adjudicator's have on LGBT and particularly trans issues?
- What is different, or specific, about LGBT refugee cases, as opposed to other types of asylum or refugee claims?
- What kinds of advice do you typically give LGBT refugees as they go through the claims process?
- Is there specific advice you give to transgender refugee claimants/asylum seekers?
- How do you understand the process of proving a transgender refugees claim is "authentic" to the IRB?
- Are there specific difficulties that you have seen or would expect transgender refugees in particular to face? Are these difficulties different or the same as the difficulties LGB refugees face?
- What to you is the difference between successful and unsuccessful claims with the IRB?

APPENDIX E: Interview guide for frontline workers and advocates

- In what capacity do you work with LGBT refugees?
- How are the experiences of the trans refugees you work with different than the lesbian or gay or bisexual refugees you work with? What do you notice are the specific systemic barriers that trans refugees are facing?
- What countries are most trans refugees coming from?
- What does access to healthcare and legal name changes, and things of this sort, look like for trans refugees? for refugee claimants? for undocumented folks/folks whose claims were rejected? Have you heard of specific experiences of trans refugees at the border?
- Do you notice the ways that people relate to gender, trans-ness, and their bodies change as they move through Canada? Why do you think that is? e.g. with language; are people learning the language of transgender as they come
- How does the refugee claims process and your work fit within a global human rights framework?
- How is Canada's image a part of the refugee claims process and refugee law?
- How is the refugee regime in Canada part of a system of global power? How does "saving" LGBT refugees from homophobic and transphobic countries work within the power dynamics of "privileged" countries in the Global North and "underprivileged countries" in the Global South? Do you think the LGBT refugee regime in Canada upholds these dynamics?
- What are some survival techniques you see trans refugees creating and using?

APPENDIX F: Interview guide for refugees and migrants

General Information about Interviewee

- What is your name?
- How old are you?
- What words would you use to describe your gender?
- What words would you use to describe your sexuality?
- What is your nationality or country of origin?
- When did you leave your country of origin?
- Did you travel alone or with family or friends?

Nature of the Route

- How did you travel here?
- Which countries did you pass through?
- What means of transportation were you using?
- Did you make use of a facilitator or did you travel independently?
- What is your mobility like now, at the specific point you're at in the claims process? Can you leave the country?

Border Experiences

- Which borders have you crossed? How did you cross them?
- Which border was the most difficult to cross?
- Have you had any bad experiences at borders?

Transgender-specific experiences

- What does transitioning mean to you?
- When did you start transitioning?
- Did your desire to transition impact your desire to seek asylum (in Canada)?
- What has your access to transition care/medical care been like since you left your nation of origin?
- What is your access to transition care and medical care like in Canada?
- Do you have the ability to change your name and gender markers on official documents?
- Do you think your understanding of gender is different than most Canadians'?
- Is your understanding of gender impacted by the culture in your nation of origin?
- How have your understandings of your gender changed since you landed in Canada? Since you left your nation of origin?

Legal Experiences

- Do you have a lawyer who is helping/helped you with your refugee claim?
- Has your lawyer has given you advice with regards to the way you speak about your nation of origin (and experiences of homophobia and transphobia) to Immigration and Refugee Board (IRB)?
- Has your lawyer given you advice with regards to the way you speak about your gender or sexuality to the IRB?

- Do you feel that there ways that you have had to reframe your experiences in your nation of origin in order for your refugee claim to be taken more seriously e.g. by your lawyer, by the IRB?

Experiences with organization in Toronto

- Have you found LGBT newcomer programming to be helpful for you in adjusting to life in Canada?
- Have you found LGBT newcomer programming to be helpful for you during the claims process?
- In your experiences with LGBT programming for refugees, have you found that LGB issues have been considered more often than transgender issues?

Perception of journey:

- What did you expect when you came to Canada? How has your experience differed?
- Has the refugee claims process taken longer or shorter than expected?
- What are the greatest challenges you've faced in Canada and in Toronto?
- Do you feel welcome here?
- What are some of the benefits of living in here, as opposed to your country of origin? What are some of the things you miss?
- Has your opinion of your nation of origin changed since you landed in Canada? If so, how? If so, what do you think prompted this change?
- What does being a refugee/asylum seeker mean to you? Do you identify with these words?

Home

- What does the word home mean to you?
- Do you feel at home in Toronto?
- What do you do to feel at home in your body?
- Does expressing or living your gender allow you to access feelings of "home"? Does this feeling of home have anything to do with your nation of origin?

APPENDIX G: Imaginative mapping exercise

Participant is provided with large chart paper and markers and the following prompt:

- Draw out your travel route to Toronto on one side of the paper. On the other side, draw your body as you see it. Draw any connecting points you see between the two.

After we are done with the drawing exercise, my prompts for the discussion include:

- What were some important landmarks on your maps of your journeys and your maps of your bodies?
- Were there any points where you located "home"?
- Do you feel there are ways that your migration impacted your transition?
- Does being transgender/gender variant mean different things to you in different spaces (e.g. cities, countries, urban/rural)?
- What are some reflections you gained from doing this exercise?

APPENDIX H: Research ethics approval

McGill University
Research Ethics Board Office (REB-I, II, III, FAES)
RENEWAL REQUEST/STUDY CLOSURE FORM

This form must be completed to request **ethics renewal approval** or to **close a study**. A current ethics approval is required for ongoing research. To avoid expired approvals and, in the case of funded projects, the suspension of funds, this form should be returned 1-2 weeks before the current approval expires. **No research activities including recruitment and data collection may take place after ethics approval has expired**

REB File #: 506-0518 Principal Investigator: Tai Jacob
Project Title: Transitive corporeatlities: mapping trans refugee narratives in the Canadian refugee apparatus
Email: tai.jacob@mail.mcgill.ca
Faculty Supervisor (if PI is a student): Natalie Oswin

1. Any modifications to the study or forms must be approved by the REB **prior** to implementation. **Are there any modifications to the study that have not already been approved to the REB?** ___YES __✗__NO
If yes, complete an amendment form indicating these changes and attach to this form.

2. The REB must be notified of any findings that may have ethical implications or may affect the decision of the REB. The REB must be promptly notified of any new information that may affect the welfare or consent of participants.
Are there any ethical concerns that arose during the course of this research? ___ YES __✗__ NO
If yes, please describe.

3. Unanticipated issues that may increase the risk level to participants or that may have other ethical implications must be promptly reported to the REB. **Have any participants experienced any unanticipated issues or adverse events in connection with this research project that have not already been reported to the REB?** ___ YES __✗__ NO
If yes, please describe.

4. Is this a funded study? __✗__ YES. If yes, list the agency name and project title and the Principal Investigator of the award if not yourself. This information is necessary to ensure compliance with agency requirements and avoid fund interruption.
___ NO

Principal Investigator Signature: TJacob Date: June 13, 2018

Faculty Supervisor Signature: as per email Date:
(if PI is a student)

___ Check here if the **study is to be closed** and continuing ethics approval is no longer required. A study can be closed when all data collection has been completed and there will be no further contact with participants. Studies involving secondary use of data no longer need ethics approval when all secondary data has been received.

__✗__ Check here if this is a **request for renewal** of ethics approval.

For Administrative Use

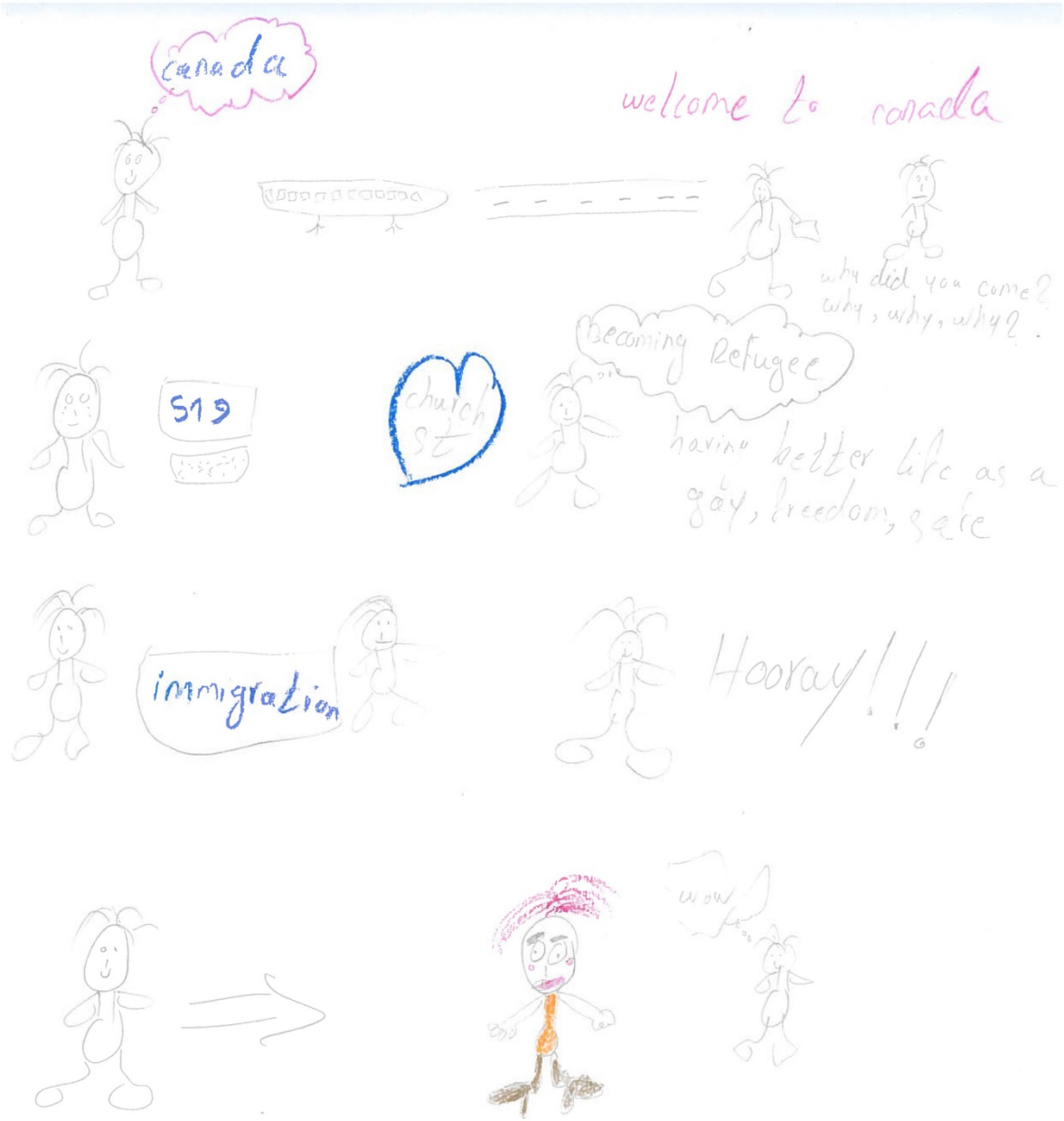
Signature of REB Chair or designate: [signature] Date: June 13, 2019

Approval Renewal Period: June 13, 2019 to June 12, 2020

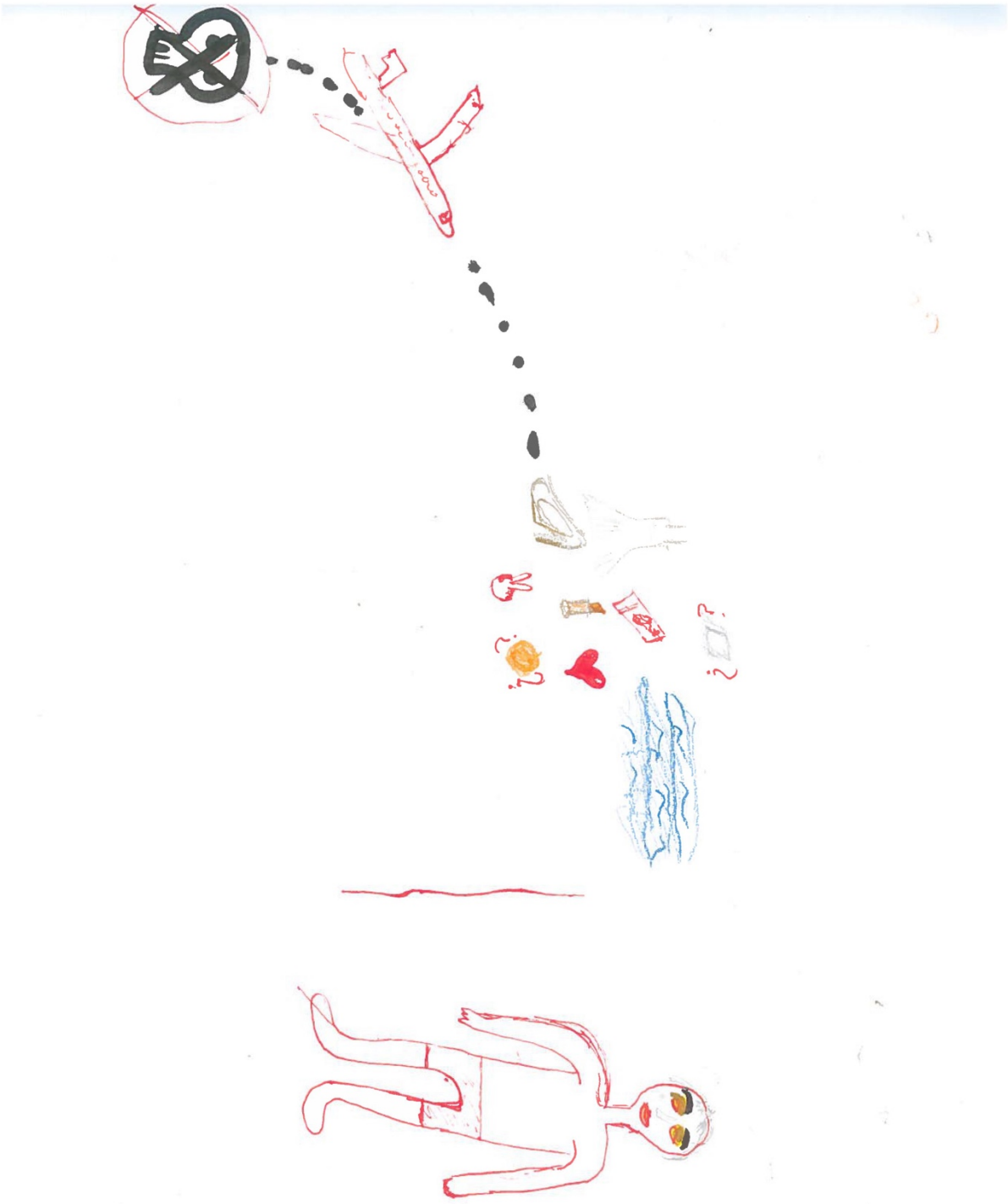
The researcher is responsible for ensuring that all other applicable approvals/renewals from other organizations are obtained before continuing the research.

Submit by email to lynda.mcneil@mcgill.ca. tel: 514-398-6831/6193; www.mcgill.ca/research/research/compliance/human
(UpdatedOct-03-2018)

APPENDIX I: Farrah's imaginative mapping exercise



APPENDIX J: Gael's imaginative mapping exercise



APPENDIX K: Ghaliya's imaginative mapping exercise

APPENDIX L: Imrah's imaginative mapping exercise