Proliferating borders and precarious queers: migrant justice organising beyond LGBT inclusion

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Abstract: LGBT refugees have rapidly moved up the agenda of the mainstream LGBT movement in Canada and many states in the global North. Yet, the goal of LGBT refugee rights and inclusion in the nation has emerged at a conjuncture in which many states are systematically restricting spaces of asylum and mobility, introducing deeper precarity, surveillance, detention, and border violence in migrant lives. With proliferating borders, the growth of ‘irregular’ crossings and ‘illegalised’ people, what strategies might challenge state violence, controls on mobility, and the migrant/refugee binary? Drawing on recent literature on migrant precarity and non-citizenship in Canada, this essay reflects on migrant justice organising, including the self-organising of failed claimants and migrants, in the context of Canadian cities. It concludes with a call for a no border politics that can re-orient a queer politics of migration.

Keywords: migration; LGBT; queer migration politics; homonationalism; neo-liberalism; precarity; refugees; borders; illegalisation; detention; deportation; no borders.


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1 Introduction

The mainstream Canadian LGBT movement is a formation in search of a project. Having achieved in 2005 its principal political goal – equal marriage – as well as a host of important legal rights gains, it has in recent years developed new directions (Churchill, 2014; Gentile et al., 2017; Valverde, 2006).¹ These have included initiatives in support of LGBT youth and transnational campaigns against homophobic ‘hate crimes’ (for
critiques, see Haritaworn, 2015; Spade and Willse, 2000). Immigration and especially refugee issues have also rapidly moved up the political agenda both nationally and as part of an emerging global LGBT human rights framework (Canada Research Team, 2015; Kinsman, 2018; Murray, 2016; Seitz, 2017; Wahab, 2016; White, 2014). Mainstream, alternative and LGBT-focused media regularly feature stories about LGBT refugees and refugee advocacy as part of their coverage of queer issues and pride activities (Murray, 2016). For example, the recent May 2017 announcement by Canada’s Immigration and Refugee Board (IRB) of new guidelines for deciding claims based on sexual orientation and gender identity/expression (SOGIE) received prominent billing in the mainstream press along with the story of a Ugandan lesbian claimant (Keung, 2017; LaViolette, 2009).

Yet, even as LGBT NGOs, media, and advocacy groups focus on ‘equality’ within the immigration and refugee system, and on sexual orientation and gender identity (SOGI) as vital to human rights frameworks, many states including Canada are actively constructing architectures of intersecting labour and immigration precarity; differential housing, health and social service access according to immigration status; an extensive deportation machinery; and long-term detention for migrants and refugees (Anderson, 2013; Choudry and Smith, 2016; De Genova and Peutz, 2010; De Genova, 2016; Goldring and Landolt, 2013; Gros and Song, 2016; Jones, 2016). The media is regularly filled with accounts of ‘humanitarian crises’ affecting migrants and refugees, not to speak of stories of migrant deaths, whether in detention, at the border, in the seas or the deserts (De Genova, 2016; Jones, 2016; King, 2016). A vicious anti-migrant politics animates many public spheres, especially in the US and Europe (Anderson, 2013; Haritaworn, 2015; Nevins, 2010). Indeed, the movement of millions of people from Syria, elsewhere in the Middle East, and Africa has largely been constructed as a crisis and a problem, mainly because it is now at the doors of Europe (The Editors, 2016). By contrast, the plight of the more numerous refugees in poorer states in the global south is often ignored. Untold numbers of people are living in limbo, apparently on a permanent basis, as doors close and people on the move are neither able to return to their country of origin nor secure new futures where they are (King, 2016). In short, LGBT organisations have chosen to campaign for legal equality at a conjuncture in which many states are systematically undermining and restricting spaces of asylum (Anderson, 2013). Moreover, the existing refugee protection regime appears wholly inadequate to address what is currently the biggest wave of refugees and internal displacements since World War II, much of it the result of deadly wars and occupations in the broader Middle East (The Editors, 2016).

Drawing out some of the limits of an LGBT immigration and refugee politics focused on equality, this essay asks about the possibilities for new practices at the intersection of critical queer and migration politics (Chavez, 2013; Gupta, 2011–2012). Or, put another way and more expansively: what might be the grounds for practices, politics and subjectivities that challenge controls on the movement of people, constructions of ‘illegality’ in relation to migrants, bordering practices, colonial and capitalist social relations, racisms and nationalisms, the institution of citizenship and, indeed, the figure of ‘the migrant’ itself? What kind of politics, and at what spatial scales, might foster a ‘no borders’ political imagination? (Bauder, 2016; King, 2016; Mezzadra and Neilson, 2013; Nevins, 2010; Sharma, 2006; White, 2014). What current and emerging practices enacted by those constructed by states as ‘migrants’ and ‘refugees’ prefigure this direction, and
what can be learned from the work of all those who are confronting borders, walls and prisons? (Loyd et al., 2012).

This article proceeds through the following sections. The first short section engages with new directions in queer, critical migration, and Canadian LGBT refugee scholarship and considers the questions: What kind of figure is the ‘gay refugee’ and what accounts for its emergence and deployment in neo-liberal and homonationalist times? (Duggan, 2003; Puar, 2007). In what ways is the refugee constructed as a figure needing protection but without the capacity for political speech? (Nyers, 2006; Moulin, 2012). I conclude by arguing that recent contestations by asylum-seekers and failed claimants are a challenge to the construction of refugees as outside the bounds of the political.

The second, longer section therefore shifts from the making of the ‘gay refugee’ as a particular kind of cultural figure to the everyday social world of migrants and refugees and the bordering practices they negotiate and challenge. In company with other recent scholarship, I ask about the political limits of equal rights approaches to the needs of LGBT claimants in a context in which the violence of bordering practices, illegalisation, detention, deportation, precarious labour and securitisation deny the humanity of non-citizens (Nevins, 2010). I argue that the failure to challenge illegality – whether in the construction of ‘illegal immigrants’ in Canada, but also in the criminalisation of routes and modes of mobility – is one crucial fault-line that divides mainstream LGBT advocacy work from more transformative possibilities, including those led by migrants, refugees, and their allies. This point matters because, in the Canadian context, the contemporary wave of migrant justice organising has its origins in the work of self-organised failed refugee claimants, including the Montreal-based non-status Algerians, and extends to the present moment with the hunger strikes, legal challenges and other actions led by failed claimants and people with no legal immigration status in Toronto regional detention centres and jails (Fortier, 2013; Lowry and Nyers, 2003; Walia, 2013; Wright, 2006). Moreover, contemporary immigration, refugee and border regimes produce illegality and other forms of precarious legal status within Canada (De Genova, 2016; Goldring and Landolt, 2013).

In order to make this argument, I draw on new critical literature including my own on the historical, material and political construction of illegality and precarious status in Canada (Goldring and Landolt, 2013; Sharma, 2006; Wright, 2006, 2013), as well as research and knowledge produced by migrant justice activists in the course of their work (on activist knowledge production, see Choudry, 2015; Dixon, 2014; Frampton et al., 2006). I suggest, following De Genova (2015), that the proliferation of bordering practices has made the urban one of the key scales of immigration enforcement, racialisation, and migrant precarity. The city has also become a major site of organising to challenge the arrangement of human beings according to differential and hierarchical statuses based on immigration status and the associated social, labour and residency rights (McDonald, 2012; McNevin, 2012; Squire and Bagelman, 2012). The second section thus considers both the ‘localisation’ of immigration enforcement in Canadian cities, but also how migrant presence in urban context is productive of political openings (McNevin, 2012).

Drawing on existing migrant justice organising, the third and concluding section will briefly outline the possibilities for a politics that starts from a recognition of what millions of border crossers can tell us about the ideological character of borders, as well as about the limits of immigration enforcement, the sovereignty of national states, and
national citizenship (De Genova, 2010; Sharma, 2015). I argue that a transformational migration and queer politics can emerge, but that it will necessitate a shift from a liberal politics of national inclusion to a dynamic theoretical-political framework capable of mapping the ever-increasing spatial sites at which borders are made and contested, and at which illegality and migrant precarity are challenged. Before proceeding, some discussion of the proliferating state-organised categories of migrant status (e.g., refugee, ‘illegal immigrant’, ‘temporary foreign worker’) is needed. These categories matter for they organise, among other things, rights to work, residence, and social services. They also delineate whether one must depend on a sponsoring employer or spouse [Goldring and Landolt, (2013), p.14]. Crucially, these categories involve political and discursive contestation. Whether people on the move are designated as ‘refugees’ (and are therefore worthy of protection) or mere ‘economic migrants’ (no one’s responsibility) is deeply consequential as recent discursive struggles over the movement of people in the Mediterranean has revealed (De Genova, 2016). In other words, these categories are not fixed, but relational, contested, contingent and people may move through more than one status in their migration pathways (Goldring and Landolt, 2013). In this essay, I am especially interested in all those who hold precarious or no immigration status: failed refugee claimants who have not been removed; claimants in years-long refugee backlogs; those illegalised through one process or another (sometimes after being legal) and who are underground; immigration detainees; and so-called temporary foreign workers. Since all of these categories “must be actively and more or less deliberately produced through the law and its enforcement”, [De Genova, (2010), p.110] a crucial task for any politics of migration is challenging the bordering practices that produce precarious lives for many migrants and death in the water, at the borders, or in detention for untold numbers of others.

2 From immigration exclusion to the ‘gay refugee’: a short history of a long story

Interestingly, it was in the wake of an earlier significant conjuncture in LGBT history, the 1969 partial decriminalisation of abortion and homosexuality in Canada, that immigration first appeared on the agenda of a nascent lesbian and gay liberation movement. The 1971 ‘We Demand’ demonstration, often cited as among the first public demonstrations for lesbian and gay rights in Canada, called for an end to the formal exclusion of ‘homosexuals’ in the Immigration Act, a ban that had been in place since 1952 and which, along with the national security purges, was a pillar of the Cold War regulation of sexuality through national security practices or what Kinsman and Gentile (2010) have called the ‘Canadian war on queers’ (see also Girard, 1987); the demand to end exclusion in the Immigration Act would not be realised until 1977, and gays and lesbians continued to be subject to national security and military purges, not to speak of police raids of queer urban spaces such as bars and baths, until well after this period (Gentile, 2017; Kinsman and Gentile, 2010). Moreover, even with the end of immigration exclusion, gays and lesbians still could not sponsor same-gender partners or spouses, a situation that began to shift only in the 1990s when ‘immigration officers were given the discretion to approve same-sex spousal relationships on a case-by-case basis’ (AMSSA, 2014; OWJN, 2009).

In the early 1990s, Canada would also become one of the first countries to grant refugee status on the grounds of persecution connected to sexual orientation or gender
identity and, in the following decade, socio-legal academic literature on SOGI and the refugee determination system began to emerge (LaViolette, 2009; Rehaag, 2008). More recently, with the growth and development of an LGBT service sector in many major Canadian cities (albeit often built with volunteer labour), support services (however limited in scale) are now available to LGBT refugees, including youth. Such services may also work alongside the broader settlement services sector in Canada, which has increasingly tried to incorporate an LGBT-positive framework into its practice. This, in turn, has enabled an important new academic literature, often ethnographic in approach rather than socio-legal, that has examined the everyday realities of LGBT refugee lives in relation to the IRB and the broader refugee apparatus, including the settlement sector (Gaucher and DeGagne, 2014; Kinsman, 2018; Murray, 2016; Lee and Brotman, 2011). Scholars such as Murray (2016) offer rich accounts of the regulatory work of the immigration and refugee system including its textual and documentary organisation and the work of making and constructing ‘refugees’, ‘refugeeness’ and what it is to be LGBT.

While a call to end the exclusion of ‘homosexuals’ in the Immigration Act was featured in the historic 1971 ‘We Demand’ demonstration for gay and lesbian liberation, the immigration and refugee system was never a priority in the first decades of the gay and lesbian movement. There are two basic reasons for this: first, in common with many other social movements of the period, even those critical of the limits of formal legal equality, the gay and lesbian movement tended to assume subjects with citizenship status. Second, and relatedly, a searching critique of ‘race’, nation, whiteness and citizenship was generally missing until the emergence of anti-racist and anti-colonial feminist thought (often developed by lesbian and queer women) in the 1980s in Canada which focused on these themes (Dryden and Lenon, 2015; Dua and Robertson, 1999; Gentile et al., 2017).

Consistent with patterns in the international context (Hyndman, 2012), and in response to new migrant and refugee flows, important shifts occurred in Canadian immigration and refugee policy, practice and regulation in the 1980s and especially the 1990s. This period saw the emergence of various restrictions on the right to asylum, residence, and pathways for illegalised persons seeking regularisation of their immigration status. These restrictions included, among others: increased interdiction to prevent migrants from reaching Canada; deportation of so-called ‘immigrant criminals’ in the wake of racist media campaigns; introduction of landing fees that transferred the costs of settlement to immigrants; and new requirements for identity documents for refugee claimants, including those such as Somalis without a functioning government to issue passports. These restrictions were challenged in many cases by new legal and grassroots campaigns (Aiken, 2007; Khandor et al., 2004; Mountz, 2010; Wright, 2013). While individual queers were very active in some of these campaigns, such as the Toronto Coalition Against Racism, there was no major convergence between an LGBT and migrant politics in this moment in Canada. This meant that, for example, by the late 1990s, AIDS service organisations (ASOs) were ill-prepared to deal with the situation of migrants and refugees living with HIV/AIDS whose immigration status was precarious, and who therefore had difficulty accessing medications and health care to keep them alive. As Li (2013, p.303) has observed, ‘most of the HIV/AIDS service providers were unaware of immigration-related issues and lacked knowledge of proper referrals for legal support’. But just as importantly, there was little in the way of political campaigning to challenge the conditions of precarity in which failed claimants and other people without
legal immigration status were having to live their lives. What did emerge, however, was an important scholarly literature on HIV/AIDS at the intersection of migration and refugee status, which began to address the situation of those without full immigration status.4

3 Constructing and contesting gay normality in neo-liberal times

Refugee issues have now moved up the agenda of the mainstream LGBT movement, but they are doing so in a radically different context than that which shaped the ‘We Demand’ moment of the early 1970s. To begin with, there is the direction of the movement itself. Much has been written, from a variety of critical theoretical and political standpoints, about the transformations in mainstream LGBT politics in the US, Europe and Canada in recent years from a combative movement to one that is, among other things, deeply implicated with neo-liberal logics, racism and imperialism (Drucker, 2014; Dryden and Lenon, 2015; Duggan, 2003; El-Tayeb, 2011; Gentile and Kinsman, 2015; Haritaworn, 2015; Puar, 2007; Spade, 2012; Wekker, 2016). Indeed, these debates have also raised some interesting questions about different ways of understanding neo-liberalism, about which currents and discourses within LGBT movements are ideologically and structurally linked with neo-liberalism, and about the contemporary conditions under which social movements struggle for articulation and transformation.

In her landmark book, Terrorist Assemblages: Homonationalism in Queer Times, Puar (2007, p.2) builds on Duggan’s (2003) work to ask how homonormativity enables ‘the emergence of national homosexuality’, or what Puar calls ‘homonationalism’. Briefly, homonormativity is defined as “a politics that does not contest dominant heteronormative assumptions and institutions but upholds and sustains them while promising the possibility of a demobilised gay constituency and a privatised, depoliticised, gay culture anchored in domesticity and consumption” [Duggan, (2003), p.179, cited in Awwad, (2015), p.23]. As Puar (2013, p.237) comments in an essay reflecting on the reception of Terrorist Assemblages:

“Homonationalism, thus, is not simply a synonym for gay racism, or another way to mark how gay and lesbian identities became available to conservative political imaginaries; it is not another identity politics, nor another way of distinguishing good queers from bad queers, not an accusation, and not a position. It is rather a facet of modernity and a historical shift marked by the entrance of (some) homosexual bodies as worthy of protection by nation-states, a constitutive and fundamental reorientation of the relationship between the state, capitalism, and sexuality.”

As Gentile and Kinsman (2015, p.133) underline in a recent contribution to this debate, one of the central things this analytic does is to map the trajectory from queers as outlaws in the nation and national security risks in the eyes of the state to (some) queers as essential to the deployment of a ‘homonationalist defence of national security’. The growth and development of a ‘gay Islamophobia’, with the positioning of gay as oppositional to Muslim, has been one clear consequence of this project (Haritaworn, 2015; Wahab, 2015; El-Tayeb, 2012). Haritaworn (2015) (see also Wahab, 2016) in particular has pointed to the transnational circulation of homonationalist discourses and practices within LGBT movements across the global north, as well as the need to attend to the different geographical scales at which they are articulated and practiced.
Haritaworn’s own study of Berlin examines how white, middle-class queer and trans
gentrification has been reliant on mobilising racialised and Islamophobic fears of the
dangerous (Muslim) migrant who metes out violence on the bodies of (white) gay and
trans bodies. In contexts of neo-liberal economic restructuring, securitisation, violence
and war, the regeneration of some subjects, they argue, comes at the cost of the exclusion
and disposability of others.

In the Canadian context, a particularly egregious example of the deployment of
homonationalism occurred during the Conservative government of former Prime Minister
Stephen Harper. Numerous people with connections to LGBT networks in Canada were
stunned and angry to receive an unsolicited email directly from Immigration Minister
Jason Kenney in the fall of September 2012 in which he celebrates himself and the
federal Tory government for making Canada a safe haven for Iranian gays, and for
generally being in the leadership of offering a safe haven for the world’s persecuted gays
(Awwad, 2015; Murray, 2016; Wright, 2017). In the same conjuncture, Foreign Affairs
Minister John Baird was signalling that he would be aggressively going after countries
guilty of the criminalisation of homosexuality. Given the Tory record on LGBT questions
(including opposition to same-sex marriage until 2016), Kenney’s initiative was greeted
with skepticism and outrage in queer communities. The email was sent around the same
time that the then Tory government was shutting down the Canadian embassy in Iran and
ending diplomatic relations with that state. Many people therefore read Kenney’s email
as a straightforward attempt to conscript queers into support for the Canadian
government’s attack on Iran. Kenney’s appeal also had particular resonance in the
context of the Harper administration’s well-known deep alliance with Israel – a state
frequently in serious conflict with Iran – and with widespread debate within queer
communities about Israeli ‘pinkwashing’, the attempt to conscript queers into supporting
the Zionist state’s project of dispossessing Palestinians through appeals to the
gay-friendly character of the military and Israeli cities such as Tel Aviv (Gentile and
Kinsman, 2015; Kouri-Towe, 2015).

In addition to the geopolitical, a second major context for the September 2012 email
to LGBT people was Kenney’s attacks on ‘bogus refugees’. Indeed, this was a major
theme of the Harper administration more generally (Gaucher, 2014). It also formed part
of the ideological justification for the substantial and unconscionable cuts to refugee
health care made by the Harper government. For many, these attacks made even more
visible Kenney’s homonationalist manipulation of the ‘gay Iranian refugee’. A blistering
response to Kenney was signed by some 50 queers and circulated publicly. The letter
read in part:

“What this campaign signifies is a temporary and instrumental invitation to
LGBT people and refugees to join in the nationalist sentiments of a government
that is in need of a wide support base for its hawkish foreign policies. We are
not fooled. We oppose your government’s imperialist foreign policy and war-
mongering propaganda against Iran. We remain critics of your racist,
imperialist and homophobic immigration policies. We remember the hundreds
of asylum seekers, refugees and other migrants who were denied refugee status
in Canada based on the homophobic judgements and assumptions of the IRB.
These were and are our friends, lovers, family members and community
members. We have in the past and will continue in the future to fight for the
rights of LGBT refugees and migrants.” (Various, 2012)
While this letter clearly challenged the homonationalist appeal at the heart of Kenney’s email, it also raises an important question for analysis: what makes the figure of the refugee open to the kind of homonationalist deployment that is so striking in Jason Kenney’s email? Put another way, if scholars such as Puar (2007) and Haritaworn (2015) have anatomised how (some) LGBT citizens come to be included and seen ‘as worthy of protection by nation-states’, how then does this operate in homonationalist rhetoric about ‘saving Iranian gays’? Of course, in the first place, refugee politics has historically been bound up with geopolitics (Hyndman, 2012); this is not particularly new even if homonationalism in refugee context is quite recent (Murray, 2016). Moreover, much of this homonationalism also has a neo-Orientalist character in that, as El-Tayeb (2012) notes, Muslim queers in particular are seen as ‘gays who cannot properly be gay’.

To think through the question of why refugees in particular, I want to draw on the work of Nyers (2006) and Moulin (2012) that theorises the figure of the refugee in relation to the political. In Nyers’ (2006) account, the refugee is constructed as politically voiceless, as the antithesis of the citizen who is the one accorded agency and speech in the political community. Moulin (2012, pp.60–61) argues that, in liberal political theory, freedom and autonomy are seen as constitutive of the political subject, whereas refugees, after receiving the sovereign ‘gift’ of protection, are then expected to be forever grateful and are often harshly criticised if they make political claims. Both these arguments help us understand how refugee political subjectivities are erased and how ‘voiceless’ refugees can be mobilised for homonationalist ends. Yet, as we shall see in the next section, failed refugee claimants have engaged in recent years in a variety of important political projects, including most recently around their indefinite detention. In the section that follows, I map the forms of exclusion, ‘differential inclusion’ [De Genova, 2015], p.5], spatial containment and death that the state homonationalist narrative conceals. At the same time, I outline the forms of politics that have developed in those spaces and what that might tell us about orienting a politics of migration.

I began this essay by arguing that the mainstream of the LGBT movement has chosen to advocate for equality within the immigration and refugee apparatus at the same historical conjuncture in which that apparatus has developed ever more sophisticated technologies of exclusion, differential inclusion, and surveillance. These bordering processes have profound consequences on the lives of migrants and refugees. They also do not go uncontested. I want therefore to open two interlocking lines of inquiry that arise from this initial argument: What happens to LGBT failed refugee claimants, to those who are ordered for deportation, to those who are taken into detention, and to those who make lives in the underground of Canadian cities? How do they become illegalised or shift into precarious legal immigration status in Canada? Secondly, how might we capture the political claims and political subjectivity of those challenging illegalisation and the localisation of border enforcement, and who are engaged in everyday practices that assert their claim to being here, to being in place? What and where are the spaces and sites in which these activities are taking place? Exploring these two sets of questions poses particular methodological, empirical and theoretical problems, not all of which can be explored in depth in this article. Rather, my aim here is twofold: firstly, to argue that a potentially more visionary queer migration politics needs to move beyond seeking equality within the immigration and refugee apparatus and recognise the wider violence produced by ever-proliferating bordering practices and categories of non-citizenship. Secondly, we can begin to think through what a political movement against bordering
might look like by asking about what organising and knowledge practices are going on in the here and now and how they might be extended in new directions.

While there is now an important literature on LGBT claimants and the Canadian refugee apparatus, there is little scholarship on the production of illegality within LGBT context (for an exception, see White, 2014). As Luibheid (2008) and other influential scholars of the US have established, sexual orientation and gender expression contribute to states of illegality because, to take only one example, people may overstay visas to be with partners they cannot otherwise join. The deepening securitisation of migration also affects trans migrants in particular ways because, for one thing, they may lack ‘proper’ and verifiable identity documents (Beauchamp, 2009; Noble, 2017; Sylvia Rivera Law Project, 2012). While the existing literature on LGBT refugees in Canada recognises that some individuals do fail in their refugee claims and then go underground or are taken into detention (see for example Murray, 2016), no study systematically considers LGBT lives and precarious legal status in Canada (but see Li, 2013). Indeed, there are no reliable estimates of the overall illegalised population (but see Khandor et al., 2004; Goldring and Landolt, 2013). The numbers of LGBT people who are not failed refugee claimants, but rather have no legal status in the country as an outcome of other processes such as overstaying a visitor, tourist, or work visa is unknown, and their stories rarely make it into the media. A recent rare exception was that of Arthur Lorenzo, in Canada on a temporary work permit and a volunteer at Vancouver’s Rainbow Refugee Society, who was deported early in 2017. His removal from the national space is a brutal reminder that the possibilities for a vibrant politics at the intersection of queer and migrant organising are constantly shadowed by the deportation machinery.

Stories of failed LGBT refugee claimants, by contrast, do occasionally attract important media attention. Perhaps the most well-known is the story of Alvaro Orozco, a young gay Nicaraguan who was the focus of an important anti-deportation campaign in Toronto in 2011. The case generated much journalistic commentary as well as some scholarly literature on the discursive and political strategies of Orozco’s friends and allies (White, 2014; Wright, 2017). Orozco’s story, like all stories of failed claimants, is particular and specific. As Aberman et al. (2016, p.9) note in the introduction to a recent collection of essays by undocumented and precarious status youth in Toronto, “Their value comes from making visible specific experiences, at the same time that those specificities give voice to the structural violences that precarious status migrants experience every day.” With this important point in mind, I want to point to aspects of Orozco’s public story that are linked to wider everyday structural processes and that are deserving of closer attention. These include that he:

- a was a failed refugee claimant
- b was picked up by the authorities at a transit stop and taken into detention
- c had been underground for several years after the failure of his claim in 2007.

First, failed claimants are an index of wider shifts in the refugee regime which have resulted in new levels of people with precarious or no legal status in the country (Atak et al., 2017; Goldring and Landolt, 2013; McDonald, 2012). The current number of failed claimants, LGBT or otherwise, who have not been removed by the Canada Border Services Agency (CBSA) is unknown, but has recently been estimated at 18,631 (2014). Additionally, current research reveals that the majority of failed claimants in recent years
have not been removed, in many cases because the country of origin will not provide documents (Atak et al., 2017). The most important recent contributor to the production of migrant precarity was Bill C-31, passed in June 2012 under the former Conservative government. In the wake of Bill C-31, scholars warned of the potential negative impact that changes to the refugee determination system embodied in that legislation would have on LGBT refugees, as well as on all refugees (Murray, 2016; Seitz, 2017). The most recent reliable research confirms that prediction. What also appears to be clear, the same research suggests, is that tougher border control as well as a more restrictive refugee process are resulting in more so-called ‘irregular’ or undocumented people (Atak et al., 2017).^8

Second, Orozco was picked up by the police at a Toronto public transit stop and turned over to the immigration authorities. While the ‘localisation’ of immigration enforcement, including through city policing and controlling migrant access to transportation, is a well-known phenomenon in US cities (McNevin, 2012; Hyndman, 2012), it has undergone less analysis in the Canadian context, particularly in relation to its effects on migrant lives (but see Bhuyan, 2012). Its more recent visibility has largely come about because migrant spatial practices and migrant justice organising have revealed aspects of how border enforcement operates at the scale of the urban (De Genova, 2015). In short, as De Genova (2015, p.5) argues, cities are becoming ‘premier sites of border struggles’. The most well-known and disturbing instance of urban border enforcement is that of Lucia Vega Jimenez, a working-class Mexican woman without legal status who was profiled by a transit officer on a local public train in Vancouver and turned over to CBSA on the basis of her accent. Her suicide in detention three weeks later led to an inquest (Gros and van Groll, 2015). The realisation that borders are operationalised every time human beings are denied city services on the basis of their lack of status led a coalition of Toronto organisers to mobilise for a solidarity city (McDonald, 2012).^9 Their efforts led to the City of Toronto becoming the first city in Canada to make a commitment that all should have access to city services without fear, policing included. However, important recent activist research carried out by migrant justice organisers, academics, and legal professionals has identified the extent of the close relationship between Toronto Police Services and the CBSA, something Orozco’s case also clearly revealed (Gardner and Moffette, 2015; see also Hudson et al., 2017; Mukherjee, 2017).^10

Orozco was placed in immigration detention after being picked up by the authorities. The increasing reliance on immigration detention in Canada has led to new forms of resistance among detainees; it represents one of the most significant examples of migrant self-organising in some years.\textsuperscript{11} For example, in the summer of 2016, some 50 Black and other racialised immigrant detainees in two prisons in Ontario coordinated a hunger strike. At least one of these organisers was a queer migrant from Jamaica (known as ‘A.B’ to protect his identity). While Canada is often lauded nationally and internationally for its role in settling refugees, less remarked upon is the fact that Canada is one of a small number of nations that have indefinite migrant detention. The recent migrant strike comes on the heels of over a dozen migrant deaths in custody and a report by the UN High Commissioner for Human Rights’ Working Group on Arbitrary Detention condemning Canada for the ten-year (and counting) detention of Michael Mvogo (Keung, 2014). The migrant hunger strike generated an extraordinary series of allied actions, editorials in leading national newspapers and, more recently, a legal challenge initiated in relation to former long-term immigration detainee, Alvin Brown (Kennedy, 2017). As
Hyndman (2012) notes, one of the things that detention does is separate detainees from others and from needed support. Yet, in this case, actions by allies in the End Immigration Detention Network and beyond are illustrative of Rygiel et al.’s (2015) argument that borders and walls both divide people and are productive of new alliances and solidarities.

Finally, a notable aspect of Orozco’s story is that – like thousands of people in Canada – he had lived underground and undetected for years before his detention. He had also, like many young migrants from Central America, made his way on his own to Mexico where he had also lived underground and been taken into immigration detention before fleeing to Canada. This may, in fact, be the queerest thing of all about Orozco’s humbling story: the insistence on presence, the insistence on staying, and the mobility of human life both in this hemisphere and globally (White, 2014). What it reveals is that migrants are subject to violence, spatial containment and surveillance, but also that they are mobile and they reveal the limits of sovereignty and of immigration and border enforcement (De Genova, 2010; McNevin, 2012) As De Genova (2010) argues in an essay, *The Queer Politics of Migration: Reflections on ‘Illegality’ and Incorrigibility*, there is a striking parallel in two slogans, one advanced by queer movements (“We’re Here, We’re Queer, Get Used to It!”) and the other by US-based migrant justice movements during the mass mobilisations of May 2006 against anti-immigrant legislation (‘Aquí Estamos y No Nos Vamos!’). Both slogans, he suggests, are interesting in their sheer ‘incorrigibility’, the fact that they do not make any demands or rights claims, and are not premised on a politics of assimilation. The 2006 migrant mobilisations, De Genova (2010, p.107) argues, were “a cacophonous and incongruent assurance that ‘illegality’ of undocumented migrants is endemic and, within the socio-political order of ‘national’ state sovereignty and border enforcement, will indubitably persist.”

At the same time, as Sharma (2015, pp.93–94) has insisted, the sheer fact of migrant mobility in and of itself is not going to bring about a new political project (a point De Genova would doubtless concede), although the millions crossing borders globally do point to the ideological character of borders and open up the possibility of seeing the migrant as ‘just another human being’. Movements matter, she argues, because “it is not just the actions themselves that are creating this political consciousness, it is the act of politicising that migration.” From this perspective, recent spaces of political contestation – the 2012 public challenge by LGBT people to Immigration Minister Jason Kenney’s email; the 2011 successful anti-deportation campaign of queer failed refugee claimant, Alvaro Orozco; the 2016 refusal to eat by a queer detainee in custody – all offer some interesting spaces for further reflection on the possibilities and dilemmas of a critical queer migration politics. In this concluding section, I will build on the knowledge produced by migrant justice movements to date in order to advance some of these cross-movement (LGBT and migrant activism) conversations.

4 Beyond the ‘gift of the nation’: towards a queer migration and border politics

Chavez’s (2013) important study, *Queer Migration Politics*, builds on the work of decolonial feminist scholar Lugones (2003) to theorise the coalitional work and rhetorical strategies at the intersections of queer and migrant justice politics in key local sites in the
US. While sympathetic to the turn to theorising utopia initiated by some queer theorists such as the late Munoz (2009), Chavez is insistent on reading the possibilities and potentialities for liveable futures in the here and now of transformative coalitions produced through difficult political labour. She is particularly attuned to the moments in which such coalitional politics enable rhetorical imaginaries that move us beyond a liberal politics of rights and inclusion in the nation.

Chavez’s (2013) attention to the coalitional possibilities of migrant justice and queer politics is shaped by the growth and development of mass organising by undocumented people in the USA, and by various cross-movement conversations between queer and undocumented politics, initiated especially by undocumented youth. This coalitional possibility is only beginning to emerge in the Canadian context in part because migrant and refugee organising is structurally different on both sides of the Canada-US border (but see White, 2014). For one thing, not only do the undocumented number in the millions in the USA, but they are located in key sectors of the economy, a fact that offers them particular leverage (Moody, 2008). For example, some US cities reliant on undocumented workers have often been open to policies and practices that do not enforce a citizen/undocumented divide (McNevin, 2012). In Canada, by contrast, people with precarious legal status in the country and without a clear pathway to citizenship do not have the same visibility as their US counterparts. Staying underground is generally their best strategy especially in the absence of federal regularisation programmes for those without full legal status (Goldring and Landolt, 2013; Khandor et al., 2004). Migrant justice campaigns in Canada have more often been led in relation to failed refugee claimants seeking a resolution to their status; it is in this context that some coalitional possibilities have emerged for work with LGBT movements (White, 2014).

Despite the hypervisibility of the LGBT refugee or, more commonly, of the gay male refugee, the reality is that the lives of LGBT migrants and refugees often remain at the margins of both the mainstream LGBT community and immigration advocacy and politics. The intersecting effects of precarity in both labour and immigration status (Goldring and Landolt, 2013), and how they articulate with sexuality and gender expression, are addressed by very few political projects, and this in turn reflects the fact that ‘political economy’ and ‘sexuality’ are often viewed as separate domains in political work (Bedford and Jakobsen, 2009). Challenging the homonationalist deployment of LGBT rights for imperialist ends, and the concomitant construction of Canada as a safe haven for refugees, is absolutely crucial in the current moment. Yet, we are still left with the problem that migrants and refugees are subject to the right of sovereign states to control and contain the movement of human beings. The challenge therefore remains: how to frame a migration politics that is attuned to “the planetary movement of people under conditions of escalating austerity and dispossession, ongoing war, and border security obsessions?” (Sharma, 2015). What might it look like to construct a politics that is not captive to national imaginaries (White, 2014)? What possibilities are already there in ongoing migrant justice organising?

Towards the end of his ethnographic study of LGBT refugees and the Canadian refugee apparatus, Murray (2016, pp.131–132) cautions:

“while legal scholars of SOGI refugee claims may argue that more reliable information on gender and sexual rights, state protection and general social conditions for sexual and gender minorities in nation-states around the world will lead to ‘improving the evidentiary burden of sexual minority claimants’ [LaViolette, (2009), p.462], the underlying violence of homonationalist
narratives of Global North nation-states, and their silence on issues such as domestic racism, sexism, homo/transphobia, heightened border security, detention and deportation of increasing numbers of migrants, and/or transnational political-economic alliances, which negatively affect diverse local and migrating populations, remain unchallenged."

Murray’s (2016) important argument suggests three broad conclusions. First, there is a clear need to go beyond calls for ‘LGBT equality’ and inclusion in the nation when it comes to immigration and refugee politics. As he notes, concentrating on issues such as trying to make the IRB guidelines more ‘SOGI friendly’, for example, is profoundly limiting in the absence of a broader strategy. As De Genova (2016) has argued, immigration and refugee regimes produce ‘irregularity’ and ‘illegality’, as well as prolonged states of precarious status, as part of their operations; indeed, both are key features of neoliberal migration governance (McNevin, 2011). Building on recent work (Seitz, 2017) that addresses precarity in the lives of queer refugee claimants in Canada, this essay has foregrounded accounts of migrant precarity, illegalisation and detention in order to ask about the lives of failed refugee claimants and those who live underground or in limbo for years. I argue that such an analysis calls for a politics that addresses the full spectrum of migrant trajectories, including conditions of ‘illegality’ and precarious status, rather than one that assumes an eventual pathway to permanent residence, citizenship, and inclusion in the nation. In particular, as I have argued in this essay, it also means attuning to the political claims and agency of refugees as they negotiate and challenge bordering practices in diverse sites and spatial scales. Second, the mainstream advocacy work on LGBT refugees has largely accepted the categories of the immigration and refugee apparatus as its point of departure rather than troubling them and shifting the standpoint from the refugee apparatus to migrant lives. Challenging these state categories opens new lines of analysis as well as political responses (Goldring and Landolt, 2013). For example, it suggests the need for critical theoretical and political work attentive to migration and mobility more broadly, not just in relation to those deemed ‘refugees’ or ‘forced migrants’ by the refugee apparatus. It means interrogating why and how the ‘migrant’ and ‘the foreigner’ have become such troubling figures for nation-states and for political communities defined through the limited horizon of ‘the nation (Anderson, 2013).

Rejecting the bordering practices of the state and the refugee apparatus also means avoiding them in everyday life and with each other. For example, some in LGBT communities want to regulate who is ‘really gay’ for the purposes of refugee protection, or the private sponsorship of queer refugees (for critiques, see Murray, 2016; Seitz, 2017; Kinsman, 2018) In a recent important argument, Seitz (2017, pp.12, 14) has suggested that, as scholars and activists, we might counter what he calls ‘the strategic ossification of LGBT identity in the service of state violence’, with forms of solidarity that are organised, not on the basis of ‘authentic identity’, but rather attuned to how precarity is structurally produced for asylum seekers. Seitz (2017, p.12) suggests that what’s queer about refugee claimants is in fact their ‘structured, precarious relationships to work, mobility, survival, intimacy, fantasy and futurity’.

Third, and in addition to challenging the structural production of precarity and illegality in migrant lives, as scholars and as activists we also need to build on work and organising that addresses the criminalisation of migration outside of state-organised routes. Some of the most draconian anti-migrant legislation focuses on illegalising so-called smugglers and other individuals who assist people on the move (Sharma, 2003;
Some LGBT-focused groups, such as Rainbow Railroad, recognise that the problem for asylum-seekers is precisely in finding a way out of countries deemed ‘unsafe’ and have developed limited legal pathways for assisting people practically and financially in order to move from those countries to spaces of potential asylum. This can be valuable work, but many are not able to access the legal routes, which can also take years. How then do we orient political work to these people on the move? After all, the historical Underground Railroad for escaping enslaved people was not a ‘legal’ pathway, and it largely operated without the assistance of others – most fled on their own. Indeed, as Rediker (2015), an historian of slave ships and the Atlantic world has argued, struggles over labour and the right to mobility and to escape have been central to the capitalist system since its birth. While often seen, historically and in the present, as an individual line of resistance, “[t]he issue of the autonomous mobility of labour is the ghostly shadow of the mobility of capital” [Rediker, (2015), p.25].

In our own historical period, as De Genova (2016, p.51) has argued in relation to the migration crisis in the Mediterranean, borders and bordering processes act as a filtering process, “as deadly obstacle courses serve to sort out the most able-bodied, disproportionately favouring the younger, stronger, and healthier among prospective (labour) migrants, and disproportionately favouring men over women.” While the recent increase in numbers of ‘irregular’ border crossers at the Canada/US border is not at all on the same scale, it is hard not to remember the recent death at the Canadian border (near Emerson, Manitoba) of a Ghanaian woman, Mavis Otuteye. Globally, millions of people are already moving on their own: the challenge is to develop political movements that are “about democratising a process that is already taking place, making it safer, and taking away one of the key mechanisms of labour control, which is citizenship status” [Sharma, (2015), p.80]. Sharma (2015, p.79) calls this an ‘anti-utopic project’, one that recognises what is happening in the here and now and builds from there. In this regard, it represents one clear way to extend Chavez’s ‘coalitional politics’ in new ways and, in particular, in the direction of a no borders political framework that rejects borders and the ‘differentiated labour regimes’ they organise [Anderson et al., (2012), p.82; see also Jones, 2016; King, 2016].

So, how do we get there? Alongside the unprecedented movements of people, we are also seeing what a number of scholars have called the ‘proliferation of borders’ at all geographical scales (Hyndman, 2012; Mezzadra and Neilson, 2013; Mountz, 2015; Sharma, 2015). In this essay, I have focused on the scale of the urban. City-based campaigns focused on the everyday needs of people without full legal status provide one index of the increase in the numbers of people not able to access services for reasons of citizenship and fear of detention and deportation. Canadian cities have emerged as one of the key, though not the only, sites for migrant justice organising and struggles over race and nation. An expanding literature, both academic and activist and working across the academic/activist divide, has emerged in recent years on new forms of radical migrant justice organising in the Canadian context, including the self-organising of failed refugee claimants such as the non-status Algerians in Montreal as well as their (often hidden) long radical trajectory (Choudry, 2015; Dixon, 2014; Fortier, 2013; Lowry and Nyers, 2003; Walia, 2013; White, 2014; Wright, 2013).

Such work, led by formations including No One Is Illegal, the End Immigration Detention Network, and Solidarity Across Borders, has sought to politically re-signify the meanings of migration, refugeeness, and ‘illegality’, as well as to fight detentions, deportations, migrant labour injustices, regressive immigration and refugee bills, racism,
and the dispossession of indigenous people. Networks of women with precarious status have drawn particular attention to the ways in which gendered violence is perpetuated through immigration and refugee regimes (Bluyan, 2013). These formations have also campaigned for the regularisation of all those without immigration status and for solidarity cities and sanctuary spaces that would provide services to all (e.g., shelters, food banks, health, education, housing, women’s shelters) without regard to citizenship status.

Both strategies – campaigning for regularisation and for solidarity and sanctuary cities – are not without their tensions, contradictions and limitations (Khandor et al., 2004; White, 2014; McDonald, 2012; McNevin, 2012; Squire and Bagelman, 2012). In relation to sanctuary cities, two strike me as particularly important in the current conjuncture. As McNevin (2012, p.170) astutely observes, city-based sanctuary initiatives do not solve the question of labour and, depending on the context, “it seems reasonable to suggest that quasi forms of recognition for undocumented people simply provide more effective ways of sustaining the cheap and flexible workers that capital requires.” Secondly, as we have seen, the problem of policing and the localisation of immigration enforcement remains the central problem confronting such initiatives in cities such as Toronto, Montreal and Vancouver. Given the way in which Black Lives Matter-Toronto has highlighted policing practices and restriction on the movement of Black people in cities, there are many rich emerging coalitional possibilities for new organising among overlapping queer, migrant justice, and BLM networks. Indeed, formations such as Black Lives Matter, building on the legacy of intersectional anti-racist feminism forged by Black and other racialised women, are emerging as among the most effective in re-defining the boundaries of queer politics by once more prioritising police and state violence (Cohen and Jackson, 2016; Taylor, 2016). In the USA, initiatives such as Freedom City in New York City are further confronting the limits of the sanctuary city model by bringing together a migrant, labour and Black Lives Matter coalition to address the lives of all the oppressed and exploited (Jeffries, 2017).

Ultimately, we need serious political movements that can re-frame migration and build on the political agency of migrants through building ‘new affective ties’ and fostering conscious, critical work to re-signify human migration within a no borders framework (Anderson et al., 2012; Bauder, 2016; Sharma, 2015). This involves leaving behind a political imaginary whose end goal is ‘rescuing’ or ‘saving’ LGBT refugees, and offering them the gift of the nation. As Sharma (2015, p.89) comments, ‘the border acts as a kind of organiser of the limits of love’, and is articulated as “hierarchies and exploitation and competition, the control over people’s mobility and over their affective ties to one another.” The great task facing political movements today is to work towards a world that would unborder love, and challenge global apartheid.

References


Proliferating borders and precarious queers


Notes

1. Both ‘LGBT’ and ‘queer’ present definitional challenges and both are limited in terms of capturing the full complexity of political subjectivities and how people claim or refuse neo-liberal identity formations. Neither term necessarily captures the range of everyday intimacies, practices, and modes of gender expression. I also do not intend here to make a divide between ‘LGBT’ and ‘queer’ in which queer is necessarily more politically progressive or transgressive. LGBT, in particular, is a coalitional framework that may be fraught in practice. Class relations and racialisation also shape the articulation of these terms in consequential ways. See also Seitz (2017) for a theorisation of migrant as ‘queer’.

2. See, for example, the Positive Spaces Initiative of the Ontario Council of Agencies Serving Immigrants (OCASI) at http://www.positivespaces.ca.

3. More research is needed in order to theorize:
   a. the historical relationship between the changing regulation of sexuality and gender expression in the Immigration Act and modes of exclusion and differential inclusion based on race, class, ethnicity, nation and citizenship
   b. the context in which the emergent lesbian and gay movement of the late early 1970s came to demand an end to immigration exclusion.

4. See, for example, the work of the Committee for Accessible AIDS Treatment (CAAT) at http://www.hivimmigration.ca.

5. While my example is drawn from the Conservative Stephen Harper administration, I do not want to suggest that homonationalist deployments are a feature only of particular right-wing governments. More empirical research is needed to theorise homonationalism in relation to Liberal and New Democratic Party administrations and policies, for example.

6. These have been reversed under the new Justin Trudeau administration after important public campaigning including that done by doctors and other medical workers. The Federal Court also ruled against the refugee health cuts.


8. The numbers of people who have recently been making ‘irregular’ crossings at various points of the US-Canada border especially in Manitoba and Quebec are doing so as a result of an earlier piece of legislation, namely the Safe Third Countries Act (2004), that prohibits asylum seekers coming from the US from making a refugee claim at a port of entry. Among these individuals, some have self-identified as gay.

9. Radical migrant justice networks in Canada call for ‘solidarity cities’; that is, urban spaces organized through mutual aid among equals regardless of immigration status. This means they are also critical of more limited ‘sanctuary city’ policies that offer forms of protection to those with precarious or no status. In the US, of course, even limited spaces of sanctuary are under vicious attack by Trump.

10. In a July 28, 2017 statement, the Rainbow Refugee group in Vancouver announced it would not participate in the local Pride march because of concerns about police presence in the celebration. They fear for the safety of refugees because of the coordination between local policing and border enforcement, and also have concerns about policing of racialised people. http://www.facebook.com/RainbowRefugee/.

11. See the End Immigration Detention Network website for updates: https://endimmigrationdetention.com/.
While networks of undocumented youth have emerged in the Canadian context, they do not deploy frameworks of 'coming out' or other discursive frameworks drawing on LGBT context (see Aberman et al., 2016). Goldring and Landolt (2013) argue that, while 'undocumented' is in usage in the US context, it is more precise to theorize a spectrum of precarious legal status in Canada. In other words, constructing a binary between citizen/undocumented may not capture the range of multiple, conditional and precarious forms of legal status in the country and the possibilities of falling out of legal status, perhaps especially in the Canadian case given the proliferation of temporary workers programs.

See their website at http://www.rainbowrailroad.ca.

Rediker’s reference to historical struggles over labour and mobility within capitalism recalls important recent theory advanced by scholars working within the ‘autonomy of migration’ current. While there are differences among these writers, they are broadly concerned with shifting the standpoint of mainstream work on migration, citizenship and integration in order to ask new questions about the subjectivity of migrants, the constitution of political communities, and the ways in which migration exceeds full capture and control. Of the main scholars in this current, Mezzadra (2011) is the most insistent about locating the analysis of migration within an understanding of class composition and the historical and contemporary trajectory of labour and capitalism.