



No Pride in Detention: A Case Study on Bisexual Asylum Claims

Lakshmi Sanmuganathan

Introduction

Under US federal law, asylum status is a form of protection granted to individuals who possess a "well-founded" fear of persecution from their country of origin on the basis of one or more of the following categories:

- Race
- Religion
- Nationality
- Political Opinion
- Membership in a particular social group
- **20th Century:** individuals facing persecution on the basis of sexual orientation were excluded from the asylum process
- **1990:** US recognizes sexual orientation as the basis of membership in a particular social group
- **1996 to 2012:** only 2% of all LGBTQ asylum cases involved bisexual claimants

Why is it so difficult for bisexual applicants to successfully claim asylum in the US?

Literature Review

Bohmer and Shuman: examined how evidence, narratives, and documentation are assessed in US asylum cases

- Found that a culture of suspicion forces applicants to embellish their personal narratives in order to receive protections
- **Callis:** drew upon 17 months of participant observation to explore different attitudes and labels surrounding bisexuality
- Found that bi-phobic stigmas impact the entire structure of sexuality by keeping people from accepting bisexuality as a legitimate identity

Methodology

Examined precedential bisexual asylum case decisions:

- Apphia Kumar
- Sempagala v. Holder:
- Fuller v. Lynch

Case study methodology allowed me to:

- Uncover patterns and inconsistencies in the application of US asylum law on the basis of bisexuality
- Address the research constraints of the limited sample pool of bisexual asylum claims in the US

Kumar Apphia

- Apphia Kumar is a bisexual woman who was repeatedly threatened, stalked, and harassed for her line of work as an LGBTQ activist in India
- Kumar became the first openly bisexual person to be granted asylum in the US
- Kumar's case was strengthened by her public identity as a bisexual woman, a context that many bisexual asylum seekers do not have the liberty to partake in



Sempagala v. Holder

- Nicholas Sempagala is a native citizen of Uganda who applied for asylum in the US on October 10, 2007
- Sempagala's claim was denied because he was "able to conceal his relationship with a man," "was currently married to a woman," and "had not engaged in a same-sex relationship since leaving Uganda"
- Sempagala's case demonstrates how binary understandings of sexuality can directly undermine bisexual asylum seekers

Fuller v. Lynch

- Ray Fuller is a bisexual Jamaican man who filed for withholding of removal from the US in 2014
- Fuller's immigration judge found "his claim to be bisexual as unconvincing" because he "lacked proof" and was previously married to a woman
- Fuller's case displays how bisexual asylum claimants face prejudice from adjudicators, judges, and officials who rely on misconceived notions of human sexuality

Barriers to Bisexual Asylum

- Limited knowledge, resources, and networks of support for bisexual asylum claimants
- Immigration judges conflate assessments of credibility with misunderstandings of sexual orientation
- Binary perceptions of bisexuality as a choice or something that can be hidden
- One-year filing deadline on asylum applicants



How to Move Forward

- Remove the one-year filing deadline for asylum applicants
- Implement non-bias training to educate immigration judges, attorneys, and legal professionals who work closely with LGBTQ asylum claimants
- Invest more resources into research surrounding asylum applicants from sexual minority backgrounds

These collective suggestions intend to offer a number of pathways from which to build a more equitable and just legal structure for all LGBTQ asylum seekers

