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# **Queering ‘Ethical Power Europe’ through migration: Why are sexualities important for the EU-Turkey Statement?**

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**Supervisor:** Dr. Jan Oster

**March 2017**

**B. Miguel Chambel**  
Student #1630199

**MA Dissertation**  
Master in International Relations [EU Studies]

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## LIST OF ABBREVIATIONS

|        |  |
|--------|--|
| AKP    | Justice and Development Party (Turkey)                         |
| CJEU   | Court of Justice of the European Union                         |
| EC     | European Council   |
| ECRE   | European Council on Refugees and Exiles                        |
| ECSC   | European Coal and Steel Community                              |
| ECtHR  | European Court of Human Rights                                 |
| EEC    | European Economic Community                                    |
| EP     | European Parliament  |
| EUCFR  | EU Charter on Fundamental Rights                               |
| ICCPR  | International Covenant on Civil and Political Rights           |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| LGBTIQ | Lesbian, Gay, Bisexual, Transgender, Intersex and Queer        |
| MPSG   | Membership of a Particular Social Group                        |
| MS     | Member States  |
| RSD    | Refugee Status Determination                                   |
| SOGI   | Sexual Orientation and/or Gender Identity                      |
| SCO    | Safe Country of Origin   |
| STC    | Safe Third Country   |
| UNHCR  | UN High Commissioner for Refugees                              |
| UNHRC  | UN Human Rights Council  |

## CHAPTER 1 – INTRODUCTION

*“In its struggle to maintain control of its borders [...] [Europe] is being tested on its adherence to human rights.”*

*- François Crépeau [UN Special Rapporteur on the Rights of Migrants]*

On March 18<sup>th</sup>, 2016, during the European summit, the European Council signed a Statement with Turkey (hereafter ‘Statement’), enacting a tool designed to ‘end the irregular migration from Turkey to the EU’.<sup>1</sup> The measure established that all new irregular migrants ‘not in need of international protection’ crossing from Turkey to Greece would be returned to Turkey. Equally, a ‘one for one’ resettlement scheme was established, resettling one Syrian from Turkey into the EU for every Syrian that is returned from Greece to Turkey. The mechanism hinges on two conditions of the ‘recast’ Asylum Procedures Directive:<sup>2</sup> the *first country of asylum* rule (Article 35) and the inclusion of Turkey in the list of safe third countries (STC; Article 38).

Accordingly, the European Council on Refugees and Exiles (ECRE) raised concerns about returns of asylum-seekers to Turkey without prior *individual* assessments, since this would amount to illegal pushbacks,<sup>3</sup> as defined by the European Court of Human Rights (ECtHR) in *Hirsi Jamaa*. The ECtHR found that, where a Contracting State had returned asylum-seekers without giving them prior access to legal remedies (e.g. applying for international protection), this would amount to a *collective expulsion* (i.e. illegal pushbacks). Furthermore, jurisdiction exercised extraterritorially would constitute no obstacle to its classification as such (e.g. in Turkish waters).<sup>4</sup> Forcibly returning asylum-seekers to Turkey would then already be unlawful if done collectively, with their lack of access to legal remedies constituting *refoulement*, unless Turkey were considered a STC.<sup>5</sup> It is around this classification and the Commission’s proposal for Turkey to be

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<sup>1</sup> European Council, 2016; For a better understanding the origins of this plan, conceived by the ESI in 2015 and then proposed by Dutch Labour leader Diederik Samson, cf. Roman, Baird, & Radcliffe, 2016: 10.

<sup>2</sup> Directive 2013/32/EU, ‘recast’ Asylum Procedures Directive.

<sup>3</sup> ECRE, 2016b.

<sup>4</sup> Case of *Hirsi Jamaa and Others v Italy*, 2012: §179.

<sup>5</sup> Carrera & Guild, 2016.

included in the 'safe countries of origin' (SCO) list that the academic/institutional debate focused.

The Asylum Procedures Directive provides that a person seeking international protection must, *inter alia*, 1) not be threatened on account of "race, religion, nationality, membership of a particular social group (MPSG) or political opinion", 2) not be at risk of serious harm, 3) be protected from *refoulement* and 4) be allowed to request refugee status in accordance with the Geneva Convention.<sup>6</sup> Therefore, Turkey's consideration as a STC and SCO already problematises the level of human rights protection granted to asylum-seekers there. Albeit explicitly stating that collective expulsion would be excluded and that the principle of *non-refoulement* would be respected, the Statement remains contentious for several reasons.

Firstly, classifying a country as a SCO triggers the acceleration of asylum procedures. The European Parliament (EP) endorsed this by proposing, in the amendments to the 'recast' Asylum Procedures Directive, that acceleration of asylum procedures makes it "*faster for Member States to focus on giving international protection to those who need it most*".<sup>7</sup> However, this shifts the burden of proof to the asylum-seeker.<sup>8</sup> AIDA's report on SCOs claims that this burden is frequently hard to overcome since it requires experienced legal assistance in constricted time limits,<sup>9</sup> and the European Asylum Support Office (EASO) critically reports that 89,9% of all accelerated claims in 2014 were denied.<sup>10</sup> Furthermore, scholarship shows that this concept is susceptible to *political manipulation*, whereby states may be tempted to include their allies as partners.<sup>11</sup> The Commission also noted in its amendments that classifying Turkey as a SCO must be cautiously carried out, paying due attention to individual

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<sup>6</sup> Respectably, articles 38(1)(a, b, c and e) of the Asylum Procedures Directive.

<sup>7</sup> European Parliament, 2016a: 7.

<sup>8</sup> Accelerating procedures rushes asylum-seekers to disclose the real motive of their flight. It is often common for LGBTIQs to not disclose these motives initially, because of internalised stigma and shame and due to being unaware that they might constitute a ground for protection. This results in 'late disclosure'.

<sup>9</sup> AIDA *apud* Roman, Baird, & Radcliffe, 2016: 3.

<sup>10</sup> EASO, 2015: 96.

<sup>11</sup> van Hear & Crisp, 1998: 14.

assessments and conduct of personal interviews, on account of the reported violations of freedom of expression in Turkey.<sup>12</sup>

Secondly, classifying Turkey as a STC might appear logical, given its asylum success rate of 23,1%, a notable difference to other countries on this list.<sup>13</sup> This allows the fostering of international burden-sharing through avoiding multiple asylum applications and '*forum shopping*'. However, politicising such a humanitarian procedure through its use as a negotiation tool in the Turkish accession talks<sup>14</sup> creates a liability for the EU and the potential corrosion of its human rights commitment. Factually, criticisms were voiced concerning Turkey's *non-entrée* policies (going to the extent of building a wall across a third of its Syrian border),<sup>15</sup> *refoulements* of asylum-seekers (Amnesty International reported almost-daily push-backs of 100 people each between January-April 2016)<sup>16</sup> and violence *vis-à-vis* Syrian asylum-seekers at the Turkish-Syrian border.<sup>17</sup> It appears unlikely that such a rapid procedure would allow a case-by-case examination of individual circumstances and that the (already overburdened) Greek authorities would adequately enforce the mechanism. Furthermore, UN claims of *refoulements* committed by the Greek authorities<sup>18</sup> and NATO's deployment of forces in the Aegean Sea, alongside the German Defence Minister's claims that NATO members had pledged to enforce pushbacks to Turkey, raise ethical concerns.<sup>19</sup> Arguably, instead of improving the protection of refugees, the EU managed to incentivise the opposite, penalising Syrians who attempt to get into the EU while privileging those who do not.<sup>20</sup>

Most crucially, despite ratifying the 1951 Geneva Convention and its 1967 Protocol, Turkey retains a *geographical limitation* that exempts it from applying the Convention to non-European asylum-seekers, originating a *de facto* impossibility for non-Europeans to request refugee status in Turkey. How,

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<sup>12</sup> European Parliament, 2016a: 46.

<sup>13</sup> Cf. Roman, Baird, & Radcliffe, 2016: 5, where the lowest and highest success rates of other SCOs are Macedonia (0,9%) and Albania (7,8%).

<sup>14</sup> Cf. *id.*: 9, where it states that the EU committed to accelerate negotiations for Turkish nationals' Visa liberalisation and to re-activate the process for Turkish accession.

<sup>15</sup> Dutch Council for Refugees/ECRE, 2016 (14); Nielsen, 2016.

<sup>16</sup> AIDA, 2015; Amnesty International, 2016.

<sup>17</sup> HRW, 2015.

<sup>18</sup> Kingsley, 2016.

<sup>19</sup> CNN, 2016; NATO, 2016.

<sup>20</sup> Carrera & Guild, 2016.

therefore, can a Syrian, Afghan or Iraqi asylum-seeker in Turkey legally get asylum when the Geneva Convention is applied only to European asylum-seekers? Moreover, albeit being a signatory of the European Convention on Human Rights (ECHR), the ECtHR has filed several cases pertaining to “*violation of the prohibition on torture, inhuman and degrading treatment and punishment including but not limited to its treatment of refugees.*”<sup>21</sup> Factually, Turkish cases at the ECtHR amount to 18% of all cases between 1959 and 2015, surpassing all other State parties<sup>22</sup> and hinting at Turkey’s level of protection of human rights.

Despite mentioning minorities such as children, the Statement fails however to address the issue of sexual minorities. Persecution targeting them is an ongoing reality and LGBTIQs are victims of persistent and incited violence.<sup>23</sup> This is highly relevant due to the discrimination, harassment and sexual violence often perpetrated by other refugees in camp settings due to SOGI.<sup>24</sup> Increases in hate speech *vis-à-vis* LGBTIQs in Turkey, the cancellation of the 13<sup>th</sup> Istanbul Pride (alongside police attacks on the marchers with plastic bullets and tear gas) and the lack of any mention to SOGI in the Turkish ‘Human Rights and Equality Law’ further marginalise this minority,<sup>25</sup> undermining *a priori* Turkey’s purported safety and further victimising the already threatened LGBTIQ asylum-seekers.

This situation generates such questions as: are the political benefits of this Statement not outweighing the moral values the Union stands for? Is the creation of legal conundrums *vis-à-vis* migration not creating ethical dilemmas? Owing to the above-mentioned dangers of *refoulements* and *push-backs*, questioning the validity of such a policy is undeniably needed, particularly concerning sexual minorities.

ECRE’s Secretary-General, Catherine Wollard, claimed that “*Europe has the normative power to significantly improve the [refugee] situation*”<sup>26</sup> and François Crépeau stated that “*Europe must reclaim its role as a moral and political leader of human rights*” (my emphases).<sup>27</sup> The issue of Europe’s

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<sup>21</sup> *ibid.*

<sup>22</sup> Reppell *apud* Roman, Baird, & Radcliffe, 2016: 19.

<sup>23</sup> UN News Service, 2015.

<sup>24</sup> ORAM, 2016; ILGA, 2016.

<sup>25</sup> Kaos GL et al., 2016.

<sup>26</sup> ECRE, 2016a.

<sup>27</sup> Crépeau, 2016.

normative and/or moral/ethical power is therefore what will be analysed in relation to migration.

*“How does a queer reading of the EU-Turkey Statement contribute to empirical understandings of ‘Ethical Power Europe’?”* In order to answer this question, this paper is structured as follows.

Chapter 2 concerns the literature review and methodological framework. A *démarche généalogique* through the scholarship of Europe’s power introduces Normative Power Europe (NPE) and Ethical Power Europe (EPE), thereby stressing the notion of European cosmopolitan/universal ethics. To contextualise the importance of LGBTIQs, one sub-section locates sexuality/ies within International Relations (IR), followed by a section on how Queer International Relations (Queer IR) might provide a critical and versatile explanatory power to understand queer identities in IR through the application of *‘queer logoi of statecraft’*.

Chapter 3 conceptualises *universal ethics* and the *universal human*, drawing on Pin-Fat’s grammatical readings of ‘universality’ through Morgenthau, Beitz and Wallzer. It then follows a legal analysis to expound how respect for SOGI as fundamental characteristics of human beings can be found in ‘European *universal ethics*’.

Chapter 4 illustrates conundrums in foreign policy. Through a Foucauldian analysis, it briefly addresses the absence of SOGI considerations in the EU-Turkey Statement.

Finally, Chapter 5 provides a case study on Turkey, where Turkish scholarship is prominently used. It addresses Turkey’s communitarian/cosmopolitan foreign policy divide, followed by an analysis of the ‘conservative democracy’ ideology of the ruling Justice and Development Party (AKP). Posteriorly, it deploys Weber’s figurations of the ‘underdeveloped’, ‘undevelopable’ and ‘unwanted im/migrant’ to queer the migration issue *vis-à-vis* the Turkish context. It concludes by presenting an analysis of refugee status determination challenges and living conditions in Turkey for LGBTIQs, illustrating why Turkey is not a safe haven.

This structure approaches the research question from the abstract (universal ethics) to the concrete (challenges for LGBTIQs refugees in Turkey), constituting linchpins that serve as stepping stones towards an empirical



application of EPE to a particular foreign policy deal (the Statement). Apart from contributing to Queer IR, this research also contributes to research agendas of EPE through an innovative perspective that underscores the importance of sexualities to IR.

## CHAPTER 2 – LITERATURE REVIEW

### 2.1. The nature of the EC/EU's power *qua* international actor

*“The idea of a role as the basis of any foreign policy has severe limitations.”*

*- Christopher Hill*

The scholarship surrounding the nature of Europe's power (or its foreign policy role) has been ongoing for decades. Having started in the 1970s, it has been a critical point of departure towards analysing the then-EC/now-EU.

Duchêne made one of the first claims, arguing that Western countries had developed highly pluralistic societies based on civilian values and that, in a Cold War context, it was necessary for major powers to *be global* and to *think of worldwide impact*.<sup>28</sup> Claiming that Europe exerted *civilian forms of power*,<sup>29</sup> he contested its ability to become a military power. Conversely, Bull argued against this notion, recognising that *power politics* were becoming increasingly irrelevant and that, as Keohane and Nye were already arguing during the 1980s, there was a *“declining role of force and the growing importance of economic interdependence”*.<sup>30</sup> Critically, he signalled the fragility of the EC *qua* civilian actor by arguing that the neo-mercantilist canon that ‘possessing scarce resources translated into power’ only materialised in the absence of military opposition by strong states.<sup>31</sup> Categorically rejecting the EC's ‘actorness’ in international affairs and its potential to have one, he devised a realist critique advocating for Europe's militarisation to counter both its *free-riding* on NATO and its politics of withdrawal.<sup>32</sup> The recognition of Europe's international power thus hinged on its ‘actorness’ *qua* military actor, originating a seductiveness *vis-à-vis* adopting the notion of a ‘military power Europe’.<sup>33</sup>

Twenty years later, Manners coined Normative Power Europe (NPE) as a result of the EU's role in promoting norms, arguably displacing the nation-state as the main *locus* of concern. Not breaking the theoretical *military/civilian*

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<sup>28</sup> Duchêne, 1972: 35-36.

<sup>29</sup> *id.*: 47.

<sup>30</sup> Bull, 1982: 149.

<sup>31</sup> *id.*: 151.

<sup>32</sup> *id.*: 156.

<sup>33</sup> Manners, 2002: 235.

dichotomy *per se*, he postulated the notion of a normative power, a transversal axis along which agency of military and/or civilian nature could be performed. Civilian power had been defined by its centrality of economic power, primacy of diplomatic co-operation to solve international disputes and willingness to use legally-binding supranational institutions to achieve international progress.<sup>34</sup> Manners identified similarities between Duchêne and Bull: their interest in maintaining the *status quo* Westphalian nation-state, their emphasis on direct power and their prioritisation of European interests. Reflexively, it had been the collapse of norms and ideas rather than the use of force that had instigated the end of the Cold-War. Drawing on Galtung's 'ideological power', he questioned civilian and/or military power through the focus on an "*ideational nature characterized by common principles and a willingness to disregard Westphalian conventions.*"<sup>35</sup> NPE was backed through an identification of characteristics in the EU: ontological (being a changer of norms), positivist (the reality that it changes them) and normative (that it should act to extend its norms to the international system). Summarily, the EU's capacity to define what was '*normal*' in IR constituted its most important power.<sup>36</sup>

This generated a bipartite debate between Manners and Hyde-Price, with the latter offering a structural realist critique that discarded Manners' purported liberal-idealist reductionism, since he rejected the 'actorness' of the EU.<sup>37</sup> For him, the historical progression that drove mainly economic integration (e.g. ECSC, EEC), as opposed to projects influenced by liberal-idealist notions (e.g. Locarno Treaty, League of Nations), evidenced the existence of structures of power that reified the realist doctrine in IR.<sup>38</sup> Hyde-Price suggest that the EU was an *instrument of collective hegemony* perpetrated by a "civilising power" which lacked real power in the absence of militarisation.

Counter-arguing that militarisation does not necessarily equate with normative power decrease, Manners emphasized the EU's normative political ethos. Critical reflexivity of what the EU signified, rather than the pursuit of 'great

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<sup>34</sup> Twichett & Maull *apud* Manners, 2002: 236.

<sup>35</sup> Manners, 2002: 238-239.

<sup>36</sup> *id.*: 252-253.

<sup>37</sup> Hyde-Price, 2006: 220.

<sup>38</sup> *id.*: 224.

power' status, is one of NPE's core concerns.<sup>39</sup> This is based on a lack of physical force for norm implementation, which galvanises an ontological analysis of the EU, stressing what it *is*, rather than what it *does*. This conceptual shift originated further elaborations of the nature of Europe's international power.

In 2008, the Journal of International Affairs released an issue that presented scholarship which theorised 'Ethical Power Europe' (EPE) from realist to idealist perspectives, with Aggestam introducing the edition by presenting a research agenda that focused on the scope of ethical considerations in international politics. The EPE claim pertained to the EU's role in articulating a discourse of *universal ethics* that characterised it as a '*power for good*' and a proactive galvaniser in the direction of "*its own vision of the 'global common good'*".<sup>40</sup> Aggestam addressed the need to theorise about the justifications behind the exercise of different kinds of power. EPE therefore reversed the argument of normalisation of international politics by NPE (the domestication of IR by the EU) through the suggestion of normativity as a means to legitimise the EU's role (e.g. through a focus on human rights and humanitarian intervention). Positioning the discourse between a cosmopolitan/universalist or communitarian view, she proceeded to theorise the question by contrasting ethics' focus on empathy and power/interest's self-centric focus. The discussion concerned the EU as a transformative power in the quest for control, or even a responsible power at which criticisms of hypocrisy could be levelled.<sup>41</sup> Critically, *reflexivity* is the bridge between NPE and EPE, with the latter reminding the first of the responsibilities that come with the 'normalisation' of IR.

The cosmopolitan/realist dichotomy emerges in Dunne's account of a middle ground between the two (a 'good international citizenship'), for which he discussed the EU's collective agency in a political and moral sense.<sup>42</sup> The first, derived from decision-making capabilities, would align with the latter, derived from the existence of a holistic European identity accruing more than the sum of its parts. Such a '*good international citizenship*' would therefore affirm the obligation of states to regard purposes beyond themselves, but its projection

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<sup>39</sup> Manners, 2006: 187.

<sup>40</sup> Aggestam, 2008: 1-2.

<sup>41</sup> *id.*: 8-10.

<sup>42</sup> Dunne, 2008: 19.

often depends on the internal negotiation of normative orders and the EU's capacity to speak with one voice (which Smith claims seldom happens, on account of different national interests<sup>43</sup>). This generates agreements on the lowest common denominator, often resulting in defaulting from pre-commitments.<sup>44</sup>

This relates to Hyde-Price's realist argument that ethical statecraft is often constrained by the '*strategic selectivity of structures*'. Some states may pursue ideological agendas, but he identifies antinomies in states which claim to 'do good for others' while pursuing national interests. These conceptions of normative and/or ethical power rest upon assumptions *vis-à-vis* the existence of cosmopolitan values which, as a realist, he discards. Signalling the way in which hegemons have avowed themselves of universalist claims to serve their interests, and hinting at the EU's role *qua* ethical power, he invokes Carr's claim of '*ingenious moral devices for privileged groups to maintain their dominant position*'<sup>45</sup> and their tendency to often degenerate into a crusading moralism. The contention is on the existence of a putative cosmopolitan universalism in a world poised with discrete political communities.<sup>46</sup>

Conversely, Manners identified the difference between stating that the EU is a normative(ly ethical) actor and that it *acts* in a normative(ly ethical) way. The ontology/agency divide can only be illustrated by a focus on value ethics ('living by [consistent] example'), deontological ethics ('being reasonable in world politics') and consequentialist ethics ('doing least harm').<sup>47</sup> Manners argues through a developmental teleology to EPE that will gradually be established through the change from *Westphalian self-regarding* to *post-Westphalian other-regarding* states.<sup>48</sup>

Revealingly, the scholarship on Europe's power often seems exclusionary, emphasizing dichotomies such as civilian/military, normative/coercive and cosmopolitan/national interest-oriented, alongside being focused largely on drawing ontological accounts of the EU rather than epistemological ones. To

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<sup>43</sup> Smith, 2006: 134, concerning the EU's participation in the UN human rights system.

<sup>44</sup> Dunne, 2008: 22.

<sup>45</sup> Carr *apud* Hyde-Price, 2008: 34.

<sup>46</sup> Hyde-Price, 2008: 32-34.

<sup>47</sup> Manners, 2008.

<sup>48</sup> *id.*: 60.

mitigate this, Nunes elaborated on each power's (civilian, normative, ethical) defining features and caveats, researching also their practical application. Tellingly, she found that, when considered separately, these powers fail to provide a consistent picture of the EU's international 'actorness'<sup>49</sup> and that the normative and ethical dimensions were more visible than the civilian one.

EPE arises then from a belief that EU values and norms have a cosmopolitan moral validity and that the practices it drives focus on the rights of individuals rather than those of states. Going beyond the aspiration of a civilian or normative power, EPE develops an approach geared towards policy behaviour, thereby shifting the focus from the power of norms to the EU's ethical considerations in foreign policy.

Indeed, Aggestam posed EPE as a "*theoretical and empirical question to be explored rather than a political statement of reality*"<sup>50</sup> and Nunes claimed that academic discussion on European identity must shift from ontological accounts to empirical research agendas. This paper responds to both their claims, empirically applying EPE to one foreign policy deal and addressing the observed *capability-expectations gap*<sup>51</sup> in the EU's purportedly ethical role.

## **2.2. Locating sexuality/ies within IR**

In 2013, the *European Journal of International Relations* dedicated a special issue to 'The End of IR'. In it, Tickner corroborated the previously-mentioned argument that reflexivity is crucial for IR. For him, the 'authoritative knowledge' of world politics has often reduced IR scholarship to the iteration of reified norms under a core/periphery dichotomy. Reducing what is thematically different to a level of inferior knowledge, IR scholars have consistently and parochially limited IR's theorisation by scholars who do not conform to the core ideas and its basic unit: the state.<sup>52</sup> Critically, there is a need both to exit the box of Disciplinary IR and to obliterate boxes altogether, moving beyond them. Dunne, Hansen and Wight further corroborated this by arguing that IR undergoes, like all academic disciplines, processes of *stasis* and change, illustrating the need

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<sup>49</sup> Nunes, 2010: 8-10.

<sup>50</sup> Aggestam, 2008: 9.

<sup>51</sup> Hill, 1993.

<sup>52</sup> Tickner, 2013: 634-638.

for '*integrative pluralism*'. In order to understand and change international relations, IR must bridge the disciplinary frontiers that achieve quasi-hegemonic status, re-evaluate accepted norms and reject scepticism towards theoretical diversity.<sup>53</sup> IR's cognisance of what is relevant in adjacent fields can prevent the artificially-produced borders from morphing into policing gatekeepers that screen which theories can contribute to it. Where does the 'international' begin and end?<sup>54</sup>

The call towards an *interdisciplinary reflexivity* and *integrative pluralism* legitimises the project undertaken here: a positioning of sexuality/ies in, and a merger of Queer Theory with, IR. Understandably, 'sexuality politics' start with the 'personal/private' analytical referent, contrary to IR's proclivity to eschewing it in favour of the 'public'. Bosia argues that IR is ill-equipped to theorise how sexual politics influence it, due to its proclivity to universalise parochial insights.<sup>55</sup> However, the international politicisation of sexuality<sup>56</sup> allows for such a theorisation in the realm of IR.

Weber already pointed out Disciplinary IR's parochialism when addressing the deceiving 'absence' of Queer International Theory. Often, queer scholarship within IR is seen as rejecting '*IR's disciplinary maps of success and failure*' and is consequently unacknowledged. However, that speaks more to Disciplinary IR as being "*ill-equipped to deliver on its claim to produce knowledge about international politics*"<sup>57</sup> than Queer Theory's capacity to theorise (sexualised) relations that shape the 'international'.

Broadly put, sexuality/ies matter for IR and, to this end, Queer IR allows one to theorise how and in which instances. The importance of sexualities for IR is thus a cornerstone for this project. Whereas one could claim that both are immiscible, it is counter-arguable that issues like sovereignty and power (deeply pervasive in Disciplinary IR), not only exert their influence in the sphere of *national relations* (due to the deployment of nationally-constructed 'normal' sexualities and the expectations deriving from such (re)production), but also

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<sup>53</sup> Dunne, Hansen & Wight, 2013: 414.

<sup>54</sup> *id.*: 420.

<sup>55</sup> Bosia *apud* Picq & Thiel, 2015: 10.

<sup>56</sup> E.g. the 2013 Russian Anti-Propaganda law, the 2016 appointment of a UN International Expert in SOGI and Hillary Clinton's statement that 'gay rights are human rights'.

<sup>57</sup> Weber, 2015: 46.

*personal* (by the manifestation of societal expectations and norms constricting sexuality, often through harsh cis-sexist-homo-and-transphobic socialisation processes that alienate the all-too-often 'sexual outsider seen-as-queer') and *international relations* (how states present themselves internationally through their defence [or lack thereof] of sexual diversity). It is thus sexuality/ies' relation to power and sovereignty, normalisation and imposition, that is vital in understanding their role and influence in IR.

### 2.3. Introducing Queer IR

With '*The History of Sexuality*', Foucault attempted to transcribe into history the fable of 'Les Bijoux Indiscrets'.<sup>58</sup> Having theorised how the 'will to knowledge' and power relations are always present in discourses about sexuality, he inspired scholarship later focused on the production and deployment of sexualised subjectivities. Weber argues that many IR scholars have failed to theorise how such sexualities legitimise/allow international games of power and how 'sovereignties' are similarly deployed to produce identities that authorise national and international orders. In her book, "Queer International Relations", she problematises IR's need for Queer theory and vice-versa.<sup>59</sup>

Despite the lack of agreement on what queer signifies, Sedgwick provides an explanatory avowal, stating that it is "*the open mesh of possibilities, gaps, overlaps, dissonances and resonances, lapses and excesses of meaning when the constituent elements of anyone's gender, of anyone's sexuality aren't made (or can't be made) to signify monolithically.*"<sup>60</sup> Queer studies *qua* academic practice then seek " 'to rethink the sexual in new ways, elsewhere and otherwise' in relation to but also beyond traditional Gay and Lesbian Studies, Feminist and Gender Studies, and Poststructuralist Studies".<sup>61</sup> Highlighting the instability of "*taken-for-granted meanings and resulting power relations*",<sup>62</sup> such an application to IR derives meaning from the politicisation of queer subjectivities that signify more than one sex, gender and/or sexuality, often simultaneously (i.e. non-

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<sup>58</sup> Foucault, 1976: 77.

<sup>59</sup> Weber, 2016: 2.

<sup>60</sup> *id.*: 202.

<sup>61</sup> De Lauretis, Rubin and Butler *apud* Weber, 2014: 596.

<sup>62</sup> Nash & Browne *apud* Picq & Thiel, 2015: 8.



monolithically). In so doing, such queer subjectivities exceed traditional binary *either/or* logics (e.g. man/woman, gay/straight), rather making more sense when read under Barthes' pluralised *and/or* logics, meaning to signify "*either* one thing *or* another (*or* yet another), while simultaneously signifying as one thing *and* another (*and* yet another)." <sup>63</sup> To posit sexuality/ies (with)in IR, Weber allies the Queer to IR by pinning (transnational/global) queer studies to (queer) IR in dialectics surrounding sexuality/ies and sovereignty, theorising how the deployment of queer is done in relation to normative *and/or* perverse understandings of sex, gender and sexualities. *Queer logoi of statecraft* are thus deployed to '*confirm, contest and extend the understandings of how the will to knowledge about sexualised sovereign subjectivities functions in domestic and international games of power.*' <sup>64</sup>

This paper will follow Weber's theoretical and methodological approach, drawing on queer and feminist theories, alongside poststructuralist and IR studies. Specifically, Michel Foucault's *History of Sexuality*, is used to extract the three specific elements of analysis (power/knowledge/pleasure). These are used in combination with feminist technoscience studies scholar Donna Haraway's concept of 'figuration' (as a "*distillation of shared meanings in forms or images*"), queer theory scholar Judith Butler's 'theory of performativity' and poststructuralist IR scholar Richard Ashley's theorisation of 'statecraft as mancraft'. <sup>65</sup> Weber's reading of different sexualised figurations (e.g. the 'underdeveloped', the 'undevelopable' and the 'unwanted im/migrant') illustrate the need for *queer logoi of statecraft* to be deployed.

Firstly, Foucault is instrumental in understanding that modern systems of power/knowledge/pleasure are based on a *production of sexuality* rather than a *repression of sex*. <sup>66</sup> The focus is on the analysis of effects and functions of such productive power, its workings and how assumptions of the normal/perverse are static. The production of the 'perverse homosexual', as opposed to the 'normal' Malthusian couple, are the basis for Weber's link to IR, in that Talcott Parsons' structural-functionalist evolutionary sociology scripts the 'underdeveloped' as the

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<sup>63</sup> Weber, 2016: 3.

<sup>64</sup> *id.*: 5.

<sup>65</sup> *id.*: 23.

<sup>66</sup> Foucault, 1976: 114.

‘perverse homosexual’ and Hillary Clinton’s ‘LGBT couple’, which is reproductive for the sake of the nation, as the ‘normal homosexual’. Foucault’s method highlights the fluidity of figurations of the ‘homosexual’ by focusing on different historical representations.<sup>67</sup>

Secondly, Haraway’s *figurations*, built upon Butler’s *theory of performativity*, highlight that “*we inhabit and are inhibited by such figures that map universes of knowledge, practice and power*”.<sup>68</sup> The author uses *tropes* and *temporalities* to elaborate how developmental teleologies highlight the capability of the Western European ‘homosexual’ to be placed in progressive correction *within* Victorian societies, whereas other figurations of (queerly) racially darkened colonial subjects were considered ‘non-progressive homosexuals’. SOGI is therefore seen as a measure of development. Butler’s *performativity* stresses that gender is not a *locus* of stable agency, but rather an “*identity tenuously constructed in time, instituted in an exterior space through a stylised repetition of acts*”<sup>69</sup> (my emphasis). Haraway draws on Butler, arguing that “*figurations are performative images that can be inhabited*”.<sup>70</sup> She introduces *performativities* and *worldlings* to express, respectively, how iterations of acts are constitutive of performative subjects and how these contribute to map universes of practice, knowledge and power.

Thirdly, Ashley’s ‘*statecraft as mancraft*’ provides a poststructuralist account of how states (attempt to) freeze such figurations when they enter international games of power. Because the ‘sovereign man’ is inscribed in the necessary conditions of the ‘sovereign state’, ‘statecraft as mancraft’ produces an ordering of IR.<sup>71</sup> Ashley argues that the displacement of ‘God’ in favour of ‘man’ illustrates how the logocentric systems of the middle age to modern age have changed.<sup>72</sup> As the regime of modernity is an economy of power and it is necessary for truth to emanate from a ‘sovereign voice’, modern discourse must evoke a sovereign subjectivity of man.<sup>73</sup> Consequently, the Logos of modernity

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<sup>67</sup> Weber, 2016: 27-28.

<sup>68</sup> Haraway, 1997: 11.

<sup>69</sup> Butler, 1990: 191

<sup>70</sup> Haraway *apud* Weber, 2016: 31

<sup>71</sup> Weber, 2016: 34

<sup>72</sup> Ashley, 1989: 261

<sup>73</sup> *id.*: 266

(the sovereign source of truth) is the 'modern man' who acts as sovereign man, since it was him that gave the nation-state its authority with the passage of monarchical to popular sovereignty (here, paradigms of man are also tools of power, as both the effects of transversal struggles - "*recognised boundaries which impose historical limits*" - and means by which they are waged<sup>74</sup>). The modern sovereign nation-state is then tied to the 'modern man', or as Ashley states, "*modern statecraft is modern mancraft*". This spurs modern understandings of international order, where figurations of 'modern man' and 'modern state' are not stable or ahistorical, being conversely the result of modern productions. As Weber claims, "*binaries that order domestic and international relations constantly [...] attempt to stabilise these unreliable hierarchies and the figurations that authorise them so they appear to be ahistorical*".<sup>75</sup> Ashley's Derridean analysis, like Haraway's and Foucault's, provides the basis for analysing how figurations are frozen/fixed as well as unfrozen/unfixed.

It is through these figurations that Weber proposes a *queer logoi of statecraft* based on an *and/or* pluralised Barthesian logic, since to "*miss the plurality of the code is to censor the work of the discourse*".<sup>76</sup> The embodiment of multiple meanings acknowledges the plurality that an *either/or* singular logic excludes, constituting '*dichotomy-defying subjectivities and (anti)normativities*' which translate the essence of *queer logoi*. These produce new structures of understanding that are paradoxically constituted through plural logics and contribute to the *integrative pluralism* deemed needed by Tickner. Equally, they provide the tool to analyse if *and/or* how the EU's external policy is ethical.

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<sup>74</sup> *id.*: 299-300

<sup>75</sup> Weber, 2016: 37

<sup>76</sup> Barthes, 1973: 78.

## CHAPTER 3 – THE INTERNATIONAL AS AN ETHICO-POLITICAL SPACE?

### 3.1. Grammatical readings of ‘universality’

*“Practices of universality, even when they try to draw the lines as hard lines, contain within themselves their own failure all the time.”*

- Veronique Pin-Fat

IR scholarship enacts a proclivity to make universal claims, but universality’s limitations are precisely its all-encompassing scope. Claims of the EU as EPE are an example of such universalist claims, which produce a picture of the EU as an ethical player complying with a *universal* ethical system. Approaching ethics in the international space (i.e. implying an assumption of *universal ethics*) is a dangerous endeavour since, as Pin-Fat argues, there is a higher amenability towards ethics in domestic rather than international politics. This is due to, *inter alia*, national interests and state sovereignty, but also because of the international’s anarchic nature.<sup>77</sup> Her *grammatical readings* of universality through Morgenthau (a realist universalist), Beitz (a cosmopolitan universalist) and Walzer (a communitarian universalist) are necessary for understanding *universal* ethico-political spaces.

In trying to analyse pictures of reason in ethico-political space as the resolution of moral dilemmas in IR, the universal should be exhorted rather than the contingent. Despite defending the *universality* of moral principles, Morgenthau proposes a *transcendent/actual* grammatical duality, emphasizing that morality in international politics is ‘concretised’ ([sic] “overcomes the ontological difference between universals and particulars”) through the achievement of a moral consensus within national communities. Morgenthau’s ‘divine universality’ is however limited in territorial scope to the national sphere and fails (grammatically) at explaining universal ethics.<sup>78</sup> In turn, Beitz stresses that the ethico-political space is summarised by an international/domestic divide, a lack of state self-sufficiency owing to interdependence on other states (one

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<sup>77</sup> Pin-Fat, 2010: 36-37.

<sup>78</sup> *id.*: 58-63.

could read here Beck's '*world risk society*'<sup>79</sup>) and an ineffective international realm that does not ensure or motivate reciprocal compliance. Building on a dichotomical *ideal/non-ideal world*, through which a 'realisation' of ethical standards must occur,<sup>80</sup> Beitz proposes an '*ideal universality*' which also fails grammatically at explaining universality. Finally, Walzer maps a dichotomical *member/stranger* (them/us) account of international ethics, deploying *thick*<sup>81</sup> (member) and *thin*<sup>82</sup> (stranger) universalities to explain humans' capacity to recognise particularism and apply a trans-cultural principle of ethical acceptance.<sup>83</sup> According to Pin-Fat, all three readings result in *conjunctive failure*.

Critically, Pin-Fat argues that, in referring to binary objects (*transcendent/actual*, *ideal/non-ideal* and *member/stranger*), the three authors *grammatically* fail, since they tried to establish a difference through suggesting a binary distinction. The dichotomy gains meaning because one object's meaning *tout court* cannot be established without its opposite. Consequently, this *either/or* logic fails, precisely because both opposites are co-constitutive and co-dependent. 'Member' means not only '*thick*' ways of life, but also 'not stranger' and 'ideal' encompasses everything which is 'not non-ideal'.<sup>84</sup> Although this appears esoteric, Pin-Fat's Wittgensteinian analysis stresses the importance of drawing distinctions as lines, which is a feature of attributing meaning. Because not all words name objects (e.g. universality, ethics), she proposes that the conjunctive failure in reading universal ethics creates another grammatical binary: '*(im)possible ethics*'.<sup>85</sup> Admittedly, this is a heuristic solution, but it leads somewhere. An application of *queer logoi* would render the previous dichotomies more permeable through establishing when one is member *and/or* stranger, when one talks about transcendental *and/or* actual ethics and in which situations are ethics ideal *and/or* non-ideal, when applied to sexuality/ies. In a Foucauldian manner, one could nevertheless argue that it is always impossible to speak of the

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<sup>79</sup> The cosmopolitan notion of de-territorialised dangers of contemporary civilisation (ecological, terrorist and economic risks) (Beck, 2004: 137).

<sup>80</sup> Pin-Fat, 2010: 79.

<sup>81</sup> Shared universal understandings of e.g. justice.

<sup>82</sup> Shared understandings that might be locally produced but which can be shared with *strangers*.

<sup>83</sup> Pin-Fat, 2010: 102.

<sup>84</sup> The double negative here is self-explanatory, with Beitz defining *non-ideal* on the basis of everything that *ideal* is not.

<sup>85</sup> *id.*: 119-121.

existence of universals.<sup>86</sup>

Reflexively, *universality* is all-encompassing, but it is the analysis of language games in IR that matters, since politics is “*the practice of drawing lines everywhere*”. Because universality applies to everyone *and/or* all cases of something, Pin-Fat suggests that the spaces that universality delineates are often *leaky*. When invoking universal concerns (as in EPE), this generates an invitation to ask where the exclusions lie, how lines are drawn, why, where, by whom, what effects they cause and how do these answers help us understand politics of exclusion, inclusion and of representation. This happens because practices of universality contain within themselves their own failure. The often dichotomy-driven IR expounds how “*politics draw lines [...] [highlighting] what kinds of lives and subjects are politically permitted as possible or impossible: politically legitimate or illegitimate, legal or illegal, human or inhuman, masculine or feminine, normal or abnormal, desirable or undesirable, true or false [...]*.”<sup>87</sup> Reading *universality* as *possible and/or impossible* therefore allows for a refining of the unnoticed differentiation between *philosophical* and *global* universalism. Equally, reading *universal ethics* as an (im)possibility allows for the identification of *spaces of failure of universality* and *why they matter*, as well as the investigation regarding how universalities are produced for the demarcation of ontological phenomena which too-often become *fait accompli*.<sup>88</sup>

Respectively, Donnelly distinguishes between an *ontological universality* and an *overlapping consensus universality*, a *conceptual* vs *substantive universality*, which explicates the *relative universality of human rights*.<sup>89</sup> Although rejecting the potential absolutism of cultural relativism, as well as the potential imperialism of conceptual universality *tout court*, the author states that *relative universality of human rights* can be beneficial to building more humane societies.<sup>90</sup> This is concomitantly illustrated by Pin-Fat’s distinction between *philosophical universalism* and *global universalism*, whereby practice is privileged over theory in the latter.

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<sup>86</sup> Rosenow, 2011: 137.

<sup>87</sup> Pin-Fat, 2010: 122.

<sup>88</sup> *id.*: 120-124.

<sup>89</sup> Donnelly, 2007: 282

<sup>90</sup> *id.*: 306.

The emptiness of *universality* as a signifier does not however mean that it is apolitical. Rather, it implies that it must be filled in a variety of ways, which is politics' concern. It is precisely for the politics of inclusion and/or exclusion (and of representation) that sexes, genders and sexualities are crucial in affecting the representation of the '*universal human*'.<sup>91</sup> Interestingly, Chomsky has claimed that relativism and hypocrisy are equivalent, but only because he accepts that universality must be equivalent to consistency.<sup>92</sup> This idea is crucial to understand pictures of universality. What are the characteristics of the universal human? And do they differ in relation to context?

Spaces of rupture in consistency represent chasms with notions of universality, which proves instrumental for empirical research agendas of EPE's consistency (or lack thereof) in realising (a European notion of) universal ethics. This is particularly relevant regarding sexual minorities, given that their level of protection in the EU is high *vis-à-vis* the rest of the world. However, the lack of their consideration in the EU-Turkey Statement reflects one such rupture. This suggests that 1) the enjoyment of one's sexual identity is not a characteristic of the (European) *universal human* and therefore need not be considered within EPE or 2) that its relevance was generated on account of contextual tensions, which resulted in its consideration being absent from the Statement. Both hypotheses will be analysed, but they already highlight why a queer understanding of universal enjoyment of one's sexual identity as possible *and/or* impossible is needed.

### **3.2. Politics of ex/inclusion of SOGI in (European) *universal human's* rights**

This sub-section assesses whether the full enjoyment of one's sexual identity<sup>93</sup> is considered part of the *universal human's* rights, with the caveat that claims of 'Western ideological imperialism'<sup>94</sup> and 'colonialism of ideas' often directed at international human rights conventions will be borne in mind. This

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<sup>91</sup> Pin-Fat, 2000: 668.

<sup>92</sup> Chomsky *apud* Pin-Fat, 2000: 673.

<sup>93</sup> Admittedly, the focus is on SOGI and not on other referents that relate holistically to 'sexual identity'.

<sup>94</sup> Kollman & Waites, 2009: 7.

section does not seek to make universal claims, but rather provide a legal analysis that hints at the consideration of SOGI in 'European universal ethics'.

For IR purposes, international human rights today equate with the core human rights International Covenants (e.g. ICCPR, ICESCR). Despite the deriving legal argument that there is a *universal possession* of human rights, this does not equate with a *universal enforcement* of such rights, since enforcement of authoritative international human rights is left to the states.<sup>95</sup> To this date, there is no UN international covenant on SOGI, with those already signed making no mention to it. Nevertheless, this does not imply that states can avail themselves of moral arguments to avoid protecting the security of humans who experience different SOGI. If a state refuses to award protection against violence on the grounds of diverse/non-normative SOGI being considered immoral, then the state violates this person's basic human rights, since these are held no less by the moral than the immoral human being.<sup>96</sup>

Sexual minorities suffer significant civil disabilities in all countries, often being the target of invidious language. This happens, *inter alia*, because of the misconception that diverse/non-normative SOGI is a modern affliction and that it is immoral, whereas in fact many currently homophobic societies have tolerated or even valued sexual diversity in the past. Despite these pasts, SOGI has only recently entered into the international legal and political framework. For this purpose, this sub-section shall first address the *international* context, analysing SOGI generally and then SOGI *vis-à-vis* asylum, followed by the *European* context in both those scenarios.

For the context of SOGI at the international level, the *Toonen* case was definitive, since the UN Human Rights Committee recognised the reference to 'sex' under Article 2 of the ICCPR as including sexual orientation, thereby deciding that a Tasmanian sodomy law criminalising consensual same-sex behaviour was unlawful.<sup>97</sup> Donnelly argues that it is not clear whether such 'evolutive interpretations' can take place at the UN level, as it can happen in the European legal framework, but the reality is that it did. The Yogyakarta Principles constitute yet another example, as a non-binding legal document created by

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<sup>95</sup> Donnelly, 2007: 283.

<sup>96</sup> *id.*: 304.

<sup>97</sup> Case of *Toonen v. Australia*, 1991: §8.7.



SOGI ‘experts’, which stresses that the full enjoyment of one’s sexual identity should be a right of every human,<sup>98</sup> with the right to humane treatment in detention stressing that SOGI are integral to human dignity.<sup>99</sup> Critically, the position of UN Independent Expert on SOGI, a three-year mandate designed to investigate violence and discrimination on account of SOGI,<sup>100</sup> has been assigned in December 2016 to one of the Yogyakarta Principle’s co-chairperson, Vitit Muntarbhorn. The controversial mandate generated substantial opposition by mostly African states, but the resolution to suspend the mandate was outvoted, with the totality of European states voting against it.<sup>101</sup> This move by the UN speaks volumes to SOGI’s significance for human beings.

In the context of SOGI *vis-à-vis* asylum, the evidence is numerous. The UNHCR stated that, concerning SOGI-related claims, asylum-seekers cannot be required to change or *conceal* their identity to avoid persecution (*discretion reasoning*)<sup>102</sup> and that they cannot be expected to suppress their SOGI in the internal flight area (*internal flight alternative*) of a country to avoid the reach of persecution.<sup>103</sup> It also recently released a report on the protection of persons with diverse SOGI.<sup>104</sup> Most importantly, the UNHCR defines in its asylum guidelines that MPSG implies a shared characteristic which is often innate, unchangeable, or fundamental to identity or the exercise of one’s human rights.<sup>105</sup> Rehaag elaborates further on why the latter definition (the fundamentality of such characteristic) should be taken as the effective definition, considering the fluidity of sexual identities (countering their ‘unchangeability’).<sup>106</sup> Moreover, the UNHRC has pointed to the effects of *refoulement* of such asylum-seekers and the persecution they might face,<sup>107</sup> the Commissioner for Human Rights of the Council of Europe has publicly addressed violence in asylum situations<sup>108</sup> and

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<sup>98</sup> “Human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.” (The Yogyakarta Principles, 2007: Article 1)

<sup>99</sup> *id.*: Article 9.

<sup>100</sup> UN General Assembly, 2016: §3.

<sup>101</sup> By a majority of 84 to 77 votes, with 17 abstentions. (The Guardian, 2016)

<sup>102</sup> UNHCR, 2008: §25.

<sup>103</sup> *id.*: §34.

<sup>104</sup> UNHCR, 2015.

<sup>105</sup> UNHCR, 2002: §11

<sup>106</sup> Rehaag, 2009: 4-6.

<sup>107</sup> UN Human Rights Council, 2011: §38-39.

<sup>108</sup> Council of Europe, 2011: 51-70.

the International Commission of Jurists has also publicly addressed SOGI-based refugee claims.<sup>109</sup> Additionally, the Yogyakarta Principles state in Article 23 that the removal, expulsion or extradition of a person to a State where they may face persecution on account of SOGI shall be prohibited.<sup>110</sup> These examples hint at the full enjoyment of one's SOGI as included in the realm of the *universal human's* rights, albeit an EU-specific analysis will further illustrate this.

As concerns SOGI in the EU, apart from having unanimously supported the appointment of the UN Independent Expert, SOGI is encompassed in the EU's legal system in both primary and secondary law. For the former, the preclusion of discrimination on the basis of sexual orientation is encompassed in Article 21 EUChFR<sup>111</sup> and Article 10 TFEU. Other non-EU legislation examples include national laws that, depending on the Member States (MS), confer rights such as same-sex marriage and adoption by same-sex couples. Concerning gender identity, there is no uniform legislation, but legal recognition of trans identities and gender-confirmation surgery are already available in some MS. Moreover, in the realm of asylum, secondary law is unmistakably clear, particularly concerning the two major migration-related Directives.

The 2011 'recast' Qualification Directive, regulating qualifications for RSD in the EU, precludes the *internal flight alternative*.<sup>112</sup> Equally, it now specifically adds 'gender identity' to the list of characteristics that create a 'particular social group',<sup>113</sup> (the 2004 directive already included sexual orientation; this move was a result of the pressure put by the EP, making it the first time EU law mentioned 'gender identity'<sup>114</sup>). Moreover, the 'recast' Procedures Directive acknowledges that certain applicants may be in need of procedural guarantees on account of their SOGI<sup>115</sup> and awards them personal interviews that are sensitive to these particularities.<sup>116</sup> Critically, as part of the Commission's attempted reform of the

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<sup>109</sup> International Commission of Jurists, 2016.

<sup>110</sup> The Yogyakarta Principles, 2007: Article 23.

<sup>111</sup> Which has equal legal value as the Treaties, as per Article 6 TEU.

<sup>112</sup> Whereby one asylum-seeker would be advised to flee to another area of the country in which he/she/they would not fear persecution. (Directive 2011/95/EU, 'Recast Qualification Directive': Article 8)

<sup>113</sup> For RSD to occur, the applicant must be in fear of persecution for one of five reasons. MPSG encompasses SOGI-related claims.

<sup>114</sup> This information was obtained through email contact with the EP's Intergroup on LGBTI Rights.

<sup>115</sup> Asylum Procedures Directive': (29).

<sup>116</sup> *id.*: Article 15(3)(a).

Common European Asylum System in 2016, both these directives are underway to being upgraded to regulations, which would render persecution on the basis of SOGI a Union-wide reality (owing to the proposed Qualification Regulation<sup>117</sup>) and the previously-mentioned procedural concerns as automatically translatable into national legislation (owing to the proposed Asylum Procedures Regulation<sup>118</sup>). These are currently being considered by the EP under the ordinary legislative procedure.<sup>119</sup> Sexual orientation is also acknowledged in case-law, with the CJEU recognising in *X, Y and Z* that asylum-seekers cannot be expected to avoid persecution through *concealing* the expression of their sexual orientation (i.e. the ‘discretion reasoning’).<sup>120</sup> As a result of years of asylum reform, the EU’s ‘evolutive interpretation of the law’ has come closer to recognising the full enjoyment of one’s sexual identity in its notion of the *universal human*. Despite the existence of more legislation concerning sexual orientation than gender identity, there seems to be a teleological progress towards recognising sexual diversity. It can thus be argued that the EU has gradually paid more attention to sexuality as part of fundamental human rights.

Article 10 of the Qualification Directive makes the enlightening point that MPSPG implies a shared characteristic that is so fundamental to identity that a person should not be forced to renounce it.<sup>121</sup> This formulation brings to light the reality that human rights are not needed for life, but rather for a dignified life. This is, summarily, what SOGI implies: a fundamental sub-identity that cannot be rejected, like a religious or political sub-identity. Concerning sexual orientation as a fundamentally human characteristic, Waaldijk<sup>122</sup> articulates an elaborate

<sup>117</sup> Qualification Regulation, COM(2016)466 final: Article 10. (European Commission, 2016b)

<sup>118</sup> Asylum Procedures Regulation, COM(2016)467 final. (European Commission, 2016a)

<sup>119</sup> The author of this paper attended the roundtable titled “Protecting the rights of LGBTI asylum-seekers and refugees in the reform of the Common European Asylum System”, where the MEP rapporteurs of the different files, NGO spokespersons and attendees discussed the topic. Among other suggestions, and owing to recent reports on the intense violence faced by *trans* and *intersex* asylum-seekers and refugees, the addition of *gender expression* and *sex characteristics* to the already-included SOGI was discussed. This would ensure protection of the often-neglected transgender and intersex persons who fall through the cracks of the asylum system. The roundtable can be watched online and is listed under: European Parliament Intergroup on LGBTI Rights, in collaboration with ECRE and ILGA-Europe, 2017.

<sup>120</sup> Case of Minister voor Immigratie en Asiel v X and Y and Z v Minister voor Immigratie en Asiel, 2013: §76.

<sup>121</sup> Cf. Qualification Directive: Article 10.

<sup>122</sup> Waaldijk is a professor of ‘Comparative Sexual Orientation Law’ at Leiden University.

argument. As an aspect of the right to private life, he proposes the ‘right to relate’, whereby a deep inescapable need to relate to other human beings is codified.<sup>123</sup> His proposal originates from an extensive legal analysis that highlights how several courts (including the European and Inter-American Courts of Human Rights) recognise it.<sup>124</sup> This right rejects heteronormativity by implying a right to *come out* and a right to *come together* with those one feels comfortable with, through one of the most social aspects of human life: ‘relatability’. One could (not legally, but conceptually) stretch Waaldijk’s proposal *vis-à-vis* sexual orientation, and drawing on Butler’s ‘performativity of gender’, to additionally suggest that being precluded from *performing* or *experiencing one’s gender* without being afflicted by cisnormativity would equate to a restriction on yet another characteristic that is fundamental: one’s gender identity.

As the UN Independent Expert on SOGI claimed at the Council of Europe,<sup>125</sup> SOGI are two components of sexual identity: one manifests as the external dimension (sexual orientation, how one feels towards others) and the other as the internal one (gender identity, how one feels about themselves<sup>126</sup>). The legal analysis provided thus far should legitimise the claim that there is, both at the international and at the European level, a concern *vis-à-vis* both of these dimensions. In the European context, the EU has shown over time dedication to ensure protection of diverse SOGI, particularly concerning the Directives on asylum (and respective proposals for regulations).

There is enough evidence to claim the normative argument that, in the conception of European universal ethics, the full enjoyment of one’s sexual identity *should* be a reality. Should such a claim be true, the EU’s lack of its consideration in the Statement would then imply that the relevance of SOGI was defined on account of contextual tensions and that Ban Ki-moon’s words that LGBT rights are often neglected<sup>127</sup> was effectively materialised. It is precisely this rupture with the EU’s political ethos concerning sexuality that is under analysis.

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<sup>123</sup> Waaldijk, 2013: 165.

<sup>124</sup> The ECtHR used the formulation: “*Respect for private life must also comprise to a certain degree the right to establish and develop relationships with other human beings.*” (Waaldijk, 2013: 180)

<sup>125</sup> Muntarbhorn, 2016.

<sup>126</sup> The choice of terminology is deliberately gender-neutral.

<sup>127</sup> Ki-moon *apud* Wilkinson & Langlois, 2014: 250.

## CHAPTER 4 – FOREIGN POLICY ACCORDING TO HILL

### 4.1. Conundrums in foreign policy agency

Hill argues in “The Changing Politics of Foreign Policy” that foreign policy is central to IR and susceptible to multiple responsibilities (*inter alia*, voters, humanity in general, international law, the UN). Accordingly, it is complicated to reconcile competing claims.<sup>128</sup> Nevertheless, he states that foreign policy is poised with rationality. Distinguishing it from realism, he proposes the ‘rational actor model’, which privileges cooperation between states.

It is crucial to note now that the Statement was signed, on the European side, by the members of the European Council (EC) during the European summit of March 18<sup>th</sup>, 2016. This is significant for the purpose of the critiques to the ‘rational actor model’ which highlight four rationalist-constructivist tensions presented by Hill in his book.<sup>129</sup> *Procedural v. substantive* rationality illustrates that certain procedures might be rational and result in negative outcomes (e.g. the consideration of Turkey as a STC in order to agree on a deal which, *vis-à-vis* sexual minorities is flawed; cf. sub-chapter 5.5). *Individual v. collective* tensions concomitantly illustrate that certain issues might be overlooked, since the members of the European Council may want to accomplish both personal interests (avoiding the overburden on their Member States) and professional responsibility (finding a European solution to the migration issue), while trying to find a way to satiate the concerns of the objects of their agency into a singular set of preferences (giving asylum-seekers ‘protection’, regardless of the circumstances). *Efficiency v. democracy* insightfully suggests that pursuing efficiency can be compromised by democratic goals and vice-versa (such as the protection of asylum-seekers’ purported security, neglecting the enjoying of their sexual identities) and, lastly, *normative v. positive* rationality would illustrate the dilemma at hand by postulating that the ethical thing to do would be to protect these sexual minorities more extensively.

Hill argues that rationality is almost impossible owing to severe problems of uncertainty and to ‘rational foreign policy’ not being omniscient, but rather empirically constructed. Rationality is then ‘bounded’, which can suggest that it

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<sup>128</sup> Hill, 2003: 22-23.

<sup>129</sup> *id.*: 99-102.

might be preferable to satisfy or accept the outcome which most approximates to one's preferences (proposing a 'good enough' solution rather than a perfect one).<sup>130</sup> One can briefly undertake here the two tests he proposes for foreign policy in IR: understanding *why* actors take the positions they do and explaining their *outputs*.<sup>131</sup>

The EC has the power to adopt acts having legal effect under the Common Foreign and Security Policy (CFSP). *Why* the Statement was signed is explained by the urgency of the situation, since the migration crisis reached unprecedented proportions. Additionally, the EU politically committed to accelerate the negotiations of visa liberalisation for Turkish nationals and to re-activate Turkey's accession process. Conversely, the *output* for LGBTIQ asylum-seekers is that their protection and security was (intentionally or negligently) considered an acceptable trade-off to Turkey's (deficient) burden-sharing. Should one accept Hill's premise of 'bounded rationality', the instated deal would have satisfied the need for political action, even if its cost was the non-encompassment of sexual minorities. Taking into account the arguments proposed in Chapter 3, one could however make the claim that such a foreign policy acquiesces more to a '*muddling through*'. This can be stated regarding the reported generalised *collective pushbacks* and *refoulements*, but more specifically *vis-à-vis* the lack of recognition of the centrality of SOGI for LGBTIQ asylum-seekers.

The latter argument reflects why the *sufficiency* of the Statement must be questioned. Importantly, Pin-Fat's claim of human rights as *(im)possible* is materialised here, since the full enjoyment of LGBTIQ asylum-seekers' diverse SOGI was arguably made impossible in the current deal (cf. sub-chapter 5.5). The EC members were elevated to the status of gatekeepers and, deciding to which extent the previously-mentioned tensions are central or peripheral to decision-making in the CFSP, they also (in)directly decided whether the full enjoyment of one's SOGI in asylum contexts (and particularly for the Statement) is an essential part of European *universal ethics*.

In a Foucauldian manner, one could argue that such dominant discursive structures have produced a set of norms that legitimise agents exercising power

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<sup>130</sup> *id.*: 103.

<sup>131</sup> Hollis and Smith *apud* Hill, 2003: 29.

over other agents. The EC members then deploy such power, the effect of which is the regulation of sexual conformity through the (re)production of normalcy and perversity concerning sexual identities in Turkey, i.e. a sexualised 'technology of power' (cf. sub-chapters 5.4 and 5.5). In so doing, the EC simultaneously legitimised (willingly or not) Turkey's deployment of such a regulatory technology by not acknowledging its effects.

Having shown that rationality in foreign policy is flawed, what becomes evident is how (high-level political) agency plays a role in effecting the recognition of sexual identities as central to LGBTIQ asylum-seekers.

#### **4.2. Ethics as 'effectively deployed'**

Contrary to Beitz's account of a lack of 'sense of community' in national contexts, the EU is more cohesive. Its communitarian nature acquiesces to shared legislation and principles which give it a higher proclivity towards acting ethically. How can one therefore judge the morality of action in IR?

In a heuristic fashion, Morgenthau's '*concretisation*' and Beitz's '*realisation*' of moral principles already provide a useful clue: that of *agency* rather than *ontology*. Like Manners suggested concerning EPE, ethico-political spaces are constructed through a developmental teleology of ethics based on agency, a *process of becoming* increasingly more ethical rather than a *state of (already) being* ethical, on the basis of *how the EU acts*. Nevertheless, ethical principles are only pillars if consistently applied and incrementally defended. One could ask: is this teleology unidirectional or can it be reversed, as suggested by Hyde-Price's '*strategic selectivity of structures*'? Can the EU *become* and *un-become/act* and *not act* ethical/ly with respect to particular constraints or is there, like Dunne argues, a neutral '*middle ground*'?

There are many ways in which foreign policy can be 'non-rational'. The claim this paper makes is that such an inconsistency with the EU's proven record of respect for SOGI generated a *rupture* regarding a European notion of *universal ethics*. A 'strategic selectivity of structure', as Hyde-Price would argue, has arisen on account of the foreign policy tensions in dealing with the migration crisis, albeit not because there was no other possible solution (granting refugee status to

LGBTIQ applicants in Europe would have been one).<sup>132</sup>

The argument proposed is that in order for the EU to be an EPE, ethics must not only be politically defended (e.g. in official documents),<sup>133</sup> but rather effectively deployed as part of the foreign policy deals negotiated. For this deal, that means acknowledging the importance of SOGI *vis-à-vis* asylum.

In order to elaborate on EPE's rupture and better illustrate Turkey's (and ergo, Europe's) shortcoming in SOGI protection, the next chapter presents a case study that should prove definitive. While acknowledging the shortcomings of case-studies for research agendas (owing to false generalisations), the purpose is precisely to deploy an empirical analysis through the application of EPE to a particular foreign policy deal. Ticker argues that case-studies allow for issues in the non-core (e.g. LGBTIQ claims) to be linked to the core, therefore generating relevant theory.<sup>134</sup> In so doing, this paper will further establish the centrality of sexuality/ies to IR.

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<sup>132</sup> This is claimed while recognising the possible increase of asylum claims related to SOGI; however, it relies on the well-functioning of the Common European Asylum System to duly assess the validity of those claims, as regulated by the respective Directives.

<sup>133</sup> Such as Article 21 TEU, which encompasses respect for human dignity and principles of solidarity, as well as support for human rights and international law.

<sup>134</sup> Picq & Thiel, 2015: 10.



## CHAPTER 5 – CASE-STUDY: TURKEY

### 5.1. Turkey's cosmopolitan/communitarian dichotomy and the 2016 failed putsch

Dal argues that the Cold War resulted in a gradual normative turn, in which the BRICS and other nations (e.g. Turkey) incrementally sought to project their own normative power. Based on this premise, he analyses how Turkish foreign policy, through the lens of the Syrian conflict, evidences cosmopolitan or communitarian tendencies.<sup>135</sup>

Turkey has since its establishment as a republic been defined by a secularist and democracy-oriented Kemalist doctrine,<sup>136</sup> approximating the country to a 'Westernised way of living'. Until the 1990s, Turkish foreign policy was essentially communitarian. However, in the post-Cold war context, Turkey became increasingly involved in the international level, with regional interests gaining relevance.<sup>137</sup> Between 1999 and 2002, with Foreign Minister İsmail Cem, Turkey embraced multilateralism in dealing with global challenges, emphasizing the role of democracy and human rights. By 2002, when the Justice and Development Party (AKP) won the legislative elections, Turkish foreign policy was a mixture of communitarian-cosmopolitan ideals. This reflected in its mediating of the Israeli-Palestinian and Israeli-Syrian conflicts, as well as in the Turkish-Brazilian-Iranian nuclear deal. These events evidenced an approach to ethical world affairs and peacebuilding,<sup>138</sup> which pervaded in Turkey's attitude towards the Syrian crisis. Foreign Minister Davutoğlu's position at the UN further corroborates this,<sup>139</sup> as does the criticism of the Security Council's veto that resulted in the UN's inaction. Both show a cosmopolitan tendency, which nevertheless cannot be realised without international support. Dal asserts that a more authoritative turn in 2015 made observers wonder about the internalisation of universal norms of human rights, and the 2016 putsch signified just that.

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<sup>135</sup> Dal, 2015: 422-424.

<sup>136</sup> This started with Mustafa Kemal Atatürk in 1923.

<sup>137</sup> Oktav & Çelikaksoy, 2015: 409.

<sup>138</sup> Dal, 2015: 427.

<sup>139</sup> *"If we cannot regard the rights of a person in Syria, Palestine, Somalia, Afghanistan and Rakhine region and other places as equal as of our own, how can we talk about freedom and justice? [...] how are we to achieve universal human rights and security?"* (Davutoğlu *apud* Dal, 2015: 430)

Turkey's AKP came to power despite secularist challenges in the 2007 presidential election and even a legal case aimed at banning it. However, an alliance with Fethullah Gülen's Islamic network effectively countered Kemalists and, by 2007, the AKP had secured dominance. However, instead of privileging democracy, the AKP fostered an authoritarian regime, using state institutions for party objectives, subjecting the media to political scrutiny, abusing the judiciary to target opponents and curtailing political opposition. The Gülenists, who had benefited from the coalition against the Kemalists, were gradually alienated. The putsch was (according to current consensus) the Gülenists' last attempt at undermining President Erdoğan's power.<sup>140</sup> Nevertheless, it failed, faced with the largest resistance in Turkish coups so far, owing to civilian opposition. Critically, the largest part of this opposition was linked to the AKP, which has a centrally-administered communications network that establishes a direct link with registered members since 2001 and which promotes a conservative-nationalist ideology.<sup>141</sup>

The consequent crackdown undertaken by Erdoğan's government in the post-coup, as a result of an emergency law passed on July 21<sup>st</sup> 2016, has been widely covered. Consequences involve, *inter alia*, shrinking political opposition, restricting media and academic freedom, and curtailing human rights advocacy. This putsch is critical to understanding the current socio-political Turkish context. Having briefly addressed it, the following sub-chapter elaborates on the constraints that an ideology like '*conservative democracy*' (AKP's self-proclaimed political identity) creates concerning SOGI.

## **5.2. Conservative democracy and the 'traditionalisation' of Turkish social life**

Understanding the AKP's ideology is fundamental to understanding the development of LGBTIQ rights in Turkey, since its victory in 2002 coincides with the consolidation of the LGBTIQ movement in the 2000s.

Upon AKP's creation, its leaders wanted to disown claims of affiliation with Islamism. The definition of its identity as 'conservative democrat' by Yalçın

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<sup>140</sup> Esen & Gumuscu, 2017: 60-61.

<sup>141</sup> As a result of this, 57% of the opposing civilians were AKP party members and 83% had voted for AKP in the Turkish general elections. (Esen & Gumuscu, 2017: 64)

Akdoğan, advisor to Erdoğan, provided such an umbrella. Drawing on modern *conservative* political theory, he argued that modern conservatism is almost indistinguishable from liberalism in its free market proclivity and anti-socialist sentiment. Equally, it emphasises authority in the social field. Concerning democracy, the conservatism-liberalism relationship becomes more contentious. For Akdoğan, *democracy* is a method for “*peaceful coexistence of adverse lifestyles*”. *Conservative democracy* therefore stresses participatory democracy as an acknowledgement of difference and mutual tolerance. To realise tolerance as a “*political imperative in the age of identity politics*”, conservative democracy must create a pluralistic political environment, which is conversely reinforced by ‘national values’, Turkey’s own conservative pillar. This cornerstone of substantive values symbolises the liberal democracy/conservative democracy divide.<sup>142</sup>

Because conservatism epitomises the substantive ‘public good’, it obfuscates liberalism’s democratic process of operating natural rights. The differences acknowledged by individualism in liberalism are dissipated by the ‘organicism of conservatism’. The ensuing result is an amalgamation of the state and the nation, operated through structural socialising diffused by, and dominant social units such as, the family, school and community. This merges public good with national values, the state with the nation. Akdoğan’s focus on the family as the most important social institution *qua* agent of socialisation and vehicle of tradition is further evidenced by his claim that “*Westernisation needs to be a selective process in order to prevent social degeneration.*”<sup>143</sup> This focus on how power is translated over the familiar social structure, operated as ‘tradition’ and promoted as ‘public good’, preventing the degeneration of the national individual, illustrates a remarkable Foucauldian discursive structure that normalises (and perverts diverse/non-traditional) identities. Constituting the AKP as the democratic representative, power over national values is effected in the normal/pervert through (supposed) tradition and becomes a hegemonic project. Conservative democracy resorts to what Birdal names an “invention of tradition”,<sup>144</sup> which regulates, apart from the school, family and community, other

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<sup>142</sup> Birdal, 2013: 120.

<sup>143</sup> Akdoğan *apud* Birdal, 2013: 121.

<sup>144</sup> Birdal, 2013: 123.

aspects of life (e.g. sexual normalcy/perversity). Therefore, it is understandable that the 'otherisation' of the LGBTIQ movement and politics of recognition *vis-à-vis* SOGI are quickly rejected, owing to tradition. Demands for legal and social equality are efficiently subjugated to their conformity with a 'politically constructed national identity',<sup>145</sup> with LGBTIQs being restricted to their 'right to live'.

Pin-Fat's *(im)possible human rights* returns to the fore with tradition deployed as AKP's gatekeeper, operating eligibility and in turn rejecting non-normative/diverse sexual identities. Turkey's own normative power is deployed through the AKP's ruling, and deeply opposes that of the EU in the recognition of full enjoyment of SOGI as a fundamental human characteristic. Because the AKP *defines* tradition (and, consequently, what is normal/perverse), its cosmopolitan vision of ethics allows for the recognition of universal human rights, particularly concerning asylum-seekers (cf. footnote 139), which differs substantially from that of the EU's concerning SOGI, highlighting once more the falsity of 'universalities'. We shall now draw on Weber to analyse the case at hand.

### 5.3. Figurations of the 'underdeveloped' and the 'undevelopable'

Weber postulates that the image of the sovereign man, which instates 'statecraft as mancraft', arises and produces heteronormativity. Thus, it is crucial to trace the conditions in which figurations of the 'perverse homosexual' arise, the conditions through which developmental heteronormative discourses are stabilised as a problem and the solutions provided to the problem thereby raised. Since the 'perverse homosexual' enables the production of 'order-versus-anarchy binaries', the *either/or* binaries participate in the regulation of international politics, given their establishment of sexualised orders of international relations (normal/pervert). Weber argues that figurations of the 'underdeveloped' and 'undevelopable' enable the understanding of relationships to evolutionary time and geopolitical space that is 'classed, (dis)ableised, racialised, gendered, sexed and sexualised'. These figurations' effect is the production of networks of power/knowledge/pleasure in relation to the figures of the 'homosexual'<sup>146</sup> (and as will be shown, owing to Turkey's traditionally frozen notions of sexual

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<sup>145</sup> *id.*: 125.

<sup>146</sup> Weber, 2016: 48-49.

experience, the 'sexually divergent').

The 'underdeveloped' arose in the post-WWII as a threatening figure resulting of colonial empires. It figured as a "*primitive ignorant species-life whose political socialisation and political development required Western guidance*" (the implantation of a desire for the 'right kind of development', i.e. '*a civilising course from decadence to decency*'). This mapped a teleological progression from the irrational and local tribalism to a modern Western capitalist and political liberalism. Huntington depicted this as the 'Grand Process of Modernisation', through which the Great Dichotomy between traditional and modern societies was bridged.<sup>147</sup> Contrastingly, the 'undevelopable' figured as the one who failed to achieve Western development, creating even larger threats to Western security.

These figurations produce an order-versus-anarchy dichotomy and are mapped in a unidirectional and teleological modernisation process. They place the 'underdeveloped' and 'undevelopable' in the lesser pole of a spatial hierarchy, characterising them as "*figures of perversion in/of evolutionary time*."<sup>148</sup> Weber draws on Hoad, who claims that both degeneracy and decadency are developmental tropes, with the previous signifying "*falling back into an earlier time*" and the latter "*bringing into the present a never-to-be reached state*".<sup>149</sup>

The 'underdeveloped' as the 'degenerate' suffers from an arrested development (which is temporally perverse), given that it fails to comply with Talcott Parson's structural-functionalist procreative nuclear family. This social unit is the one driving social development because it galvanises biological and social reproduction. Since 'the homosexual' has no reproductive function, it follows that it has no developmental function either.<sup>150</sup> Similarly to the 'female' being regarded as biologically degenerate *vis-à-vis* the 'male', the 'homosexual' is regarded as biologically degenerate *vis-à-vis* the 'heterosexual'.<sup>151</sup> The developmental onus of the 'underdeveloped' comes through Freud, who posits that the 'homosexual' is an underdeveloped figure in arrested development in the

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<sup>147</sup> Huntington, 1971: 288.

<sup>148</sup> Weber, 2016: 52.

<sup>149</sup> Hoad, 2000: 137.

<sup>150</sup> Weber, 2016: 54.

<sup>151</sup> Hoad, 2000: 136.

normal sexual progression towards heterosexuality.<sup>152</sup> Performing such a denaturalisation of homosexuality through a developmental logic, and thereby robbing the homosexual of parity *vis-à-vis* the heterosexual, Freud claims that the West, the civilised, have already been primitive. Accordingly, he establishes a 'temporalisation of space': through a phylogenetic account, he proposes that contemporary non-European cultures are representatives of Europe's past. This allows one to retain the esteem towards ancient European civilisations and regard contemporary 'homosexuals' as arrested in their development. The Western European 'homosexual's goal was therefore to be placed under corrective progression in order to live within Victorian societies and gradually achieve heterosexuality.

Conversely, the 'undevelopable' signifies not only a temporal perversion *in the developmental process*, but a perversion *of the developmental process*. It is '*developmentally non-functional*'. Since Parsons suggests that development is functionalist, what is non-procreative and non-heterosexual rejects its foundations.<sup>153</sup> Notably, Parson's notion that evolutionary biology is the guarantee of the social system implies that the legitimate social unit is the nuclear family, composed of a (cis)man and a (cis)woman. Familiar disequilibrium originates from, e.g. not procreating or not identifying with the gender assigned at birth. These generate 'disorganisation of society as whole'.<sup>154</sup> The Parsonian family is therefore ensured (internally) by a compulsorily cisgender identity and (externally by) a compulsorily reproductive heterosexuality. Deviance from that objective is the affirmation of an undevelopable-ness that distorts the societal tissue, since the nuclear family is the first socialisation structure.

In the event of these claims sounding anachronistic, Weber argues that examples of policies from Bretton Woods (wanting to regulate sex as a critical component of social and economic development policies) or the World Bank (stating that heterosexual couplehood is an informal institution necessary for development) promptly suggest their contemporary relevance.<sup>155</sup> With the caveat

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<sup>152</sup> "Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no depredation, it cannot be classified as an illness, we consider it to be a variation of the sexual function produced by a certain arrest of sexual development [...]" (Freud *apud* Hoad, 2000: 141)

<sup>153</sup> Weber, 2016: 62.

<sup>154</sup> *id.*: 63.

<sup>155</sup> *id.*: 71.

that Weber's focus is on the figurations of the 'homosexual' through imperialist and racialised discourses, a similar logic can be verified in the Turkish context. Factually, Turkey acknowledges the (heterosexual and cisgender) nuclear family as foundational for the state. Exhorted in a Parsonian manner, the family is the first socialising unit, providing considerable support for tradition's entrenchment in Turkish society and being pervaded by the same developmental logic. Turkish traditions, which are (re)produced by the AKP, as Birdal claims with 'the invention of tradition', therefore exclude figures of the 'homosexual', but also those of the 'pre-operative transgender' (in its non-conformance with traditional gender norms), the 'post-operative transsexual' (in both its non-conformance and sterility), the 'intersex' (as the 'abomination' that is in between both sexes) and the 'queer' (characterised by its failure to signify monolithically in various [sexual] instances). Accordingly, viewing such queer figures who fail to signify monolithically as normal *and/or* perverse illustrates how sexualities are (re)produced by the logic of 'modern statecraft as modern mancraft' in AKP-ruled Turkey. Particularly in a post-putsch context, the emphasis on regulation and restriction is even more emphasised.

The importance of developmental temporality to the 'homosexual' furthermore extends to Turkey's discourse on modernity/tradition, whereby regulating Western degeneration is needed (Akdoğan). In fact, freezing 'Westernisation' in order to reify tradition is an indication of the prevalent view that diverse SOGI is a contemporary Western affliction. Fundamentally, the usual ostracisation of sexual diversity as *foreign* reflects a discursive and sexualised technology of power that expounds how distinctions between the 'foreign' and the 'domestic' are effected. To illustrate this, it is necessary to draw on Weber again.

#### **5.4. The 'perverse homosexual' as the 'unwanted im/migrant'**

For LGBTIQ asylum-seekers, the situation in Turkey is even more severe. They are not only sexually deviant/divergent but also *foreign* and *on the move*. Much like Mead stated that 'American character' in the post-WWII needed to be separated from the '*irredeemably foreign*', the Turkish context highlights the same *vis-à-vis* tradition-forfeiting 'sexually deviant'/degenerate queers. Those who forfeit tradition are seen as 'others' not only socially, but also legally (due to the lack of their protection or acknowledgement in anti-discrimination laws) and

politically (with their identities not being recognised by the AKP [which shapes perceptions of normality] or their voices being rejected in public discourse and advocacy through restriction of their freedoms). Mead's position of the 'irredeemably foreign' was *de facto* imported into IR through Huntington's 'civilizational other'.<sup>156</sup>

Weber's figuration of the 'unwanted im/migrant' signifies not only '*civilising development on the move*' but also '*civilisation on the move*', one that brings the unfinished developmental process with it. This figure is the 'outsider, inside the Culture' (Mead) or the 'outsider, inside the Civilisation' (Huntington), therefore symbolising a risk to the West. What IR often neglects, as a result of relegating sexuality to the private domain (the family) instead of the public (the state), is that this also symbolises '*sexual development on the move*'. Weber claims that reading this figure accordingly permits identifying security risks to the developed Western/Northern home, alongside giving rise to sexualised orders of international relations that securitise the national figures (allowing white, Christian, bourgeois, heterosexual, cisgender Westerners to feel more at ease in their homeland, i.e. what Bigo terms the ban-opticon<sup>157</sup>).<sup>158</sup>

Because this figuration of the Westerner instils normalisation, (post)colonial subjects on the move are civilisationally and sexually 'underdeveloped' (if they have been implanted with a desire towards civilising as sexual development) or 'undevelopable' (if they have not). Where the homeland is the domain of the procreative nuclear family, sex is compulsory cisgender, heterosexual, procreative and, importantly, in the service of the homeland. The latter is the *locus* of civilising sexual development.<sup>159</sup> Where such a developmental logic is deployed, implying a unidirectional *telos*, 'queer movement' is fundamentally different. As Michael Warner states, it is a 'movement aslant, sideways',<sup>160</sup> since it might involve rejecting normalised sexual categories of orientation, behaviour, identity and expression, thus epitomising fluidity rather than rigidity. This renders the consideration of developmental tropes

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<sup>156</sup> Weber, 2016: 73-75.

<sup>157</sup> Bigo *apud* Weber, 2016: 211.

<sup>158</sup> Weber, 2016: 77-78.

<sup>159</sup> *id.*: 86.

<sup>160</sup> Warner *apud* Weber, 2016: 88.



of degeneracy or decadency (Hoad) as inapplicable and rather meaningless, since the (un)intentional act of forfeiting the *telos* of developmental time might better be explained by a '*queer art of failure*'. As the figure who falls outside such developmental narratives, the 'unwanted im/migrant' becomes the 'sexual outsider, inside the home', a 'figure of unease' (that endangers Bigo's easement of the Westerner).

Whereas the caveat of Weber's conceptualisation has already been admitted, of these figurations relating to a discourse on Northern, Western, post(colonial) space/time *vis-à-vis* the sexual other, it is important to notice that the translation of such figures to the Turkish context is possible. Indeed, Haraway's 'figurations' are '*performative images that can be inhabited*' and Haraway avails herself of 'worldlings' (cf. sub-chapter 2.3) to express how figurations map universes of power. Consequentially, Weber's 'unwanted im/migrant' can be transposable to Turkey.

The developmental time that Weber expounds concerns a 'Western' modernisation. Albeit different from the Turkish context, Turkey's investment in its own modernisation happened during the Kemalist period. In Erdoğanist Turkey, the lens of Islamic traditionalism troubles this modernisation but, while reifying the 'otherisation' of the 'homosexual', it enforces its own normative power. The originated sexualised technology of power is transversal to figurations of other 'sexually divergent' queer figures. Consequently, LGBTIQ asylum-seekers as the 'unwanted im/migrants' are identifiable in Turkey as threats to the homeland's own heterosexual and cisgender reproductive order, which is built upon traditional values of sexual normalcy (drawn from the Quran and shaped/modified/adapted to fit the AKP's notions of Islamic tradition). In fact, Rahman addresses the opposition between Muslim cultures and LGBTIQ politics by portraying Muslim homophobia as cultural 'traditionalism' that derives from a lack of modernisation in Muslim populations and beliefs.

Acknowledging the limits of generalisations, he draws on Beckers' claim that some tendencies are putatively common to Muslim cultures.<sup>161</sup> The latter's analysis through the World Value Survey findings in particular Muslim-majority nations shows that the level of acceptance towards homosexuality was

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<sup>161</sup> Beckers *apud* Rahman, 2014: 276.

consistently between 1981-2008. Such evidence supports the claim of religion as the catalyser for Muslim opposition towards sexual diversity and that of queer visibility aligned with a progressive modernity (derived from Western modernisation).<sup>162</sup> Rahman however rejects the notion of a consistent 'Muslim civilisational response to homosexuality', but asserts that this evidence gains relevance in the discourse of a uniform Islamic homophobia. Because queer rights (as designated by Rahman) gained the putative status of 'markers of (Western) modernisation', they are also systematically contested by traditionalist nations, who see it as a necessary defiance of the purported West's normative power (Westernisation), rejecting their 'accelerated modernity'. Importantly, Rahman draws on Islamic-influenced sentiments towards sexual diversity through an analysis on nationwide acceptance of it. As a result, Rahman's position is evoked to expound a higher tendency for Islamic traditionalism to reject homosexuality, which does not definitively align experience of Muslim religious identity with a compulsory homophobia.

All these claims pertain to Turkey in a particular manner, in the sense that identities/sexualities that diverge from the *holon* of the familiar social unit are detrimentally rejected. By not conforming with traditional views of the nuclear family and threatening to not temporally develop according to tradition, perverting the basic social unit, the 'unwanted im/migrant' as the 'sexual other on the move' questions and challenges the boundaries of tradition in Turkey and assumes the status of the 'deviant'.

This queer reading of figurations of the 'homosexual' (which persist in other sexual identities – the 'sexually divergent' – due to their non-conformance with tradition) allow to question the classification of Turkey as a STC, providing a space for the questioning of its purported 'safety' for sexual minorities.

In order to progress and concretise such claims, the level of abstraction will now be reduced, exemplifying particularly how this takes place through Cragolini's field research in challenges in refugee status determination (RSD) and living conditions in Turkey.

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<sup>162</sup> Rahman, 2014: 277.

### 5.5. Turkey as a safe haven?

LGBTIQ asylum-seekers in Turkey face two major challenges: being foreigners seeking asylum and being LGBTIQ. However, other issues arise in Turkey.

Because of Turkey's geographical limitation on the Geneva Convention, this results in non-European asylum-seekers (the majority) only being granted temporary asylum in Turkey *until* their RSD by the UNHCR grants them resettlement. *De facto*, this means that, despite being considered refugees by the UNHCR under international law if their asylum claims result in RSD, in Turkish territory they only have a right to temporary protection as asylum-seekers, essentially having the status of 'transit refugees'.<sup>163</sup> Asylum-seekers are subjected to parallel procedures with the Turkish Ministry of Interior for temporary protection *and* with the UNHCR for RSD. The latter can *only* happen after they have been issued an identification card by the Ministry,<sup>164</sup> which assigns them to a satellite city for residence purposes. Posteriorly, they have to apply for a residence permit (*ikamet*), which allows for social assistance, work and sometimes medical assistance. Critically, this residence permit has to be renewed every 6 months and has an associated cost which is already prohibitive to some, given that all family members are required to have one and that most of these people are left to survive on their own without much state help.<sup>165</sup> Once recognised as refugees by the UNHCR, they are granted temporary asylum in Turkey. In 2011, most LGBTIQ refugees were Iranian and gay, amounting to 110-200 persons.<sup>166</sup> It is expected that those numbers have recently surged, as a result of, among others, the rise of the Islamic State's regional influence.

Furthermore, the asylum process has to be conducted in respect of the principle of *non-refoulement*, which provides a safety net for asylum-seekers in fear of persecution. Controversially, Turkey has been proven to be a 'persistent objector'.<sup>167</sup> Zieck's analysis of Turkish cases at the ECtHR reflects that Turkey's asylum system is severely flawed, registering omissions to conduct rigorous

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<sup>163</sup> Zieck, 2010: 598.

<sup>164</sup> *ibid.*

<sup>165</sup> *ibid.*

<sup>166</sup> Cragolini, 2013: 101-103.

<sup>167</sup> Zieck *apud* Cragolini, 2013: 114.

scrutiny of asylum claims that deportation would result in inhuman or degrading treatment, as precluded by Article 3 of the European Convention on Human Rights. This is particularly concerning, since the UNHCR does not conduct such assessments, which complicates asylum procedures. Additionally, there are procedural flaws, and Turkey often rejects temporary asylum to persons whose cases have been re-opened after rejection, in cases done in perceived 'bad faith' by the authorities and to asylum-seekers applying for asylum in airports, among others.<sup>168</sup> As a result, despite being bound to observe the above-mentioned Article 3, the protection awarded only materialises if other conditions are fulfilled, which results in it becoming conditional and therefore contingent.

Moreover, during the UNHCR procedure, despite asylum-seekers usually showing satisfaction, claims of unnecessary questions relating to 'obsessive attention to sexual details' (in order to assess credibility) were reported. During the Turkish procedure, LGBTIQs were often recommended to change their appearance, reducing the risks of being locally targeted (*de facto*, concealing their identities through 'living discreetly', as precluded in the EU by the *X, Y and Z* CJEU case). Most asylum-seekers also felt that police protection was not forthcoming. As for Turkey's consideration as a STC, there are no laws protecting against discrimination on accounts of SOGI and the three biggest LGBTIQ NGOs (Lambda Istanbul, Kaos GL and Pink Triangle Izmir) have iteratively been brought to court over accusations of "fuelling immorality", "violating values and family structures" and "going against Turkish identity".<sup>169</sup> Whereas LGBs can sometimes 'live discreetly', transgenders face more violence and discrimination due to being more visible. Cragolini conducted fieldwork in Kayseri, which alongside being one of the most conservative cities, hosts the most Iranian LGBTIQ refugees. Because of discrimination, many LGBTIQs asked to be sent there, with some being sent there automatically given the (expected) 'community support'. Regardless, LGBTIQ refugees here were systematically harassed, attacked and discriminated against, not only by the locals but also by other Iranians seeking refuge. As a result, crimes often went unreported, owing to fears of retaliation from local communities and of delay in resettlement claims.<sup>170</sup>

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<sup>168</sup> *id.*: 601-610.

<sup>169</sup> HRW *apud* Cragolini, 2013: 115.

<sup>170</sup> Cragolini, 2013: 101-110.

Concerning living conditions, because Turkish law grants foreigners the possibility of receiving a working permit only if a qualified national is not found, illegal labour is recurrent. LGBTIQs face higher discrimination and harassment in the work place, with sex work being sometimes a survival option. *Vis-à-vis* housing, similar difficulties persist concerning discrimination, which are transversal to getting mistreated in access to education (language classes) and health care or social assistance. These issues cause pervasive feelings of non-existence, which have resulted in several documented suicidal attempts.<sup>171</sup> All of these situations have been reported in 2011. With the recent massive inflow of asylum-seekers, the situation is now dire, as many more are now present in Turkey. Regardless of the time difference, these claims remain true, as can be assessed by a 2016 report by Kaos GL.

Kaos reports that terminology such as ‘public morality’, ‘obscenity’ and ‘the Turkish familiar structure’ is often used by judges and government officials to prevent LGBTIQs from exercising basic rights.<sup>172</sup> Due to lack of reception centres, refugees are still allocated to satellite cities. Applicants continuously state the difficulty of talking about their identities, which they have spent a lifetime hiding and which they are still afraid of disclosing. This increases when being required to disclose the reasons for fleeing in a room with other applicants, while devoid of privacy. Terminology is also crucial, since asylum-seekers are often unaware of the internationally accepted terms and might not know how to address their identity.<sup>173</sup> Furthermore, discrimination during the assessments still occur, owing to officers’ lack of training and ignorance concerning SOGI issues.<sup>174</sup> *Vis-à-vis* housing, language barriers and exclusion from solidarity networks affect the chances of LGBTIQs securing safe accommodation. Concealment of identities (particularly among trans women) is common in order to secure accommodation and avoid eviction.<sup>175</sup> Access to health care is also crucially problematic for trans refugees. With some doctors being unaware of gender confirmation surgery and

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<sup>171</sup> *id.*: 110.

<sup>172</sup> Kaos GL, 2016: 10.

<sup>173</sup> Often, trans refugees are emotionally aware of their gender identity but unaware of the terminology to define it. It is common for them to only realise they are trans after getting help from LGBTI NGOs.

<sup>174</sup> Kaos GL, 2016: 33-37.

<sup>175</sup> *id.*: 37-38.

hormone therapy,<sup>176</sup> social security not covering such costs and refugees not having the financial means to secure access to health care, they often suffer harsh psychological consequences. Their physical and emotional well-being suffers major consequences due to lack of hormones, which may and does result in suicidal attempts. As for working life, whereas gay men can easily find a job in the textile sector (working 12 hours a day with only one day off and in bad working conditions), trans refugees often face higher difficulty owing to their visibility (and therefore must often conceal their identities). Sometimes, work is not remunerated, as a result of the discrimination. Finally, social life is extremely hard. Many LGBTIQs are forced to remain home, in isolation, to avoid violence, harassment and persecution. The climate is one of constant fear and experience of persecution, with normalised homophobia and transphobia. Lack of police protection (and prevalence of police discrimination) often results in refugees feeling more pessimistic after arriving in Turkey and facing the reality there.<sup>177</sup> These accounts suggest that Turkey is not a psychological or legal safe haven and therefore fundamentally question its inclusion in the list of STCs and SCO.

Conclusively, LGBTIQ refugees in Turkey are often seen as border figures both in respect of their 'foreign-ness' and of their sexuality. They often have to 'un-become' precisely what made them refugees in the first place, hiding, repressing and restraining their identities in order to comply with the Turkish (traditional) 'normal'. This art of unbecoming, unlike in 'The Queer Art of Failure',<sup>178</sup> is not intentional. Whereas Halberstam claims that 'if at first one cannot succeed, then failure may be his/her style',<sup>179</sup> this does not translate into one's forced subjugation to the figure of 'permanent (and 'failed') outsider' who must blend in, despite always living outside the glorified *loci* of normatively 'successful' sexual identities.

Reflexively, returning to the Asylum Procedures Directive conditions exposed in Chapter 1, it appears that 1) LGBTIQ asylum-seekers face systematic persecution on account of their SOGI; 2) that they are at risk of serious harm

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<sup>176</sup> The gender confirmation process is regulated in Article 40 of the Turkish Civil Code, being available only to citizens, not refugees, and being highly flawed.

<sup>177</sup> Kaos GL, 2016: 38-49.

<sup>178</sup> Halberstam, 2011.

<sup>179</sup> *id.*: 96.

(consider the state of *destitution* faced<sup>180</sup>); 3) that Turkey's compliance with the principle of *non-refoulement* is not consistently observed;<sup>181</sup> and 4) that the geographical limitation renders them only 'temporarily protected' (although this 'protection' is, as expounded, highly questionable).

Accordingly, the official Statement emphasising respect for international law and the principle of *non-refoulement* is not always enforced. This generates liability by the EU concerning the returned asylum-seekers, owing to outsourcing responsibilities in refugee protection.<sup>182</sup> In particular, problems arise relating to procedural and qualification problems for RSD such as late disclosure of SOGI in asylum claims, failed credibility assessments of sexual identities and misleading country of origin information concerning persecution due to SOGI.<sup>183</sup> These contribute to LGBTIQ asylum-seekers arriving from Turkey being regarded as being granted sufficient protection in Turkey, given its status as a SCO and STC. This happens despite the EP acknowledging that LGBTIQ asylum-seekers are particularly susceptible to gender-based violence,<sup>184</sup> and that in countries deemed safe, they might still be "*subjected to abuse, and thus have a legitimate request for protection.*"<sup>185</sup>

The Commission's third report on the implementation of the Statement claims a reduction in attempts to cross the Aegean sea and in deaths at sea, confirming "*the core strategy behind the decision of the EU and Turkey*".<sup>186</sup> Without wanting to delegitimise it, claims otherwise have also surfaced. Spijkerboer, argues that declining numbers in arrivals predate the Statement, and that, if it had any effect, it was the interruption of the decline observed. According to his research, the Statement does not seem to influence the already registered downward trend of daily arrivals and has no identifiable effect on border deaths, which can question the validity and efficacy of this policy. Moreover, the Statement came at a considerable cost for European values, having been

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<sup>180</sup> The ECtHR held in *M.S.S. v Belgium and Greece* that a state of destitution originated by the expulsion of an asylum-seeker translates into an obligation not to expel the individual. (Case of *M.S.S. v. Belgium and Greece*, 2011: §365)

<sup>181</sup> Zieck, 2010.

<sup>182</sup> ECRE, 2016a.

<sup>183</sup> Chambel, 2016: 9-10.

<sup>184</sup> European Parliament, 2016b: C.

<sup>185</sup> *id.*: 12.

<sup>186</sup> European Commission, 2016c: 13.

concluded without the European Parliament's (EP) consent and without allowing the Court of Justice (CJEU) to issue an opinion.<sup>187</sup>

Additionally, the Commission's lack of transparency has already been brought to court. After being contacted by Access Info, an NGO promoting the right of access to information in the EU, the Commission's Legal Service refused to release information on the proceedings of the Statement, claiming, "*protection of court proceedings and legal advice*", "*protection of the decision making process*" and "*protection of the public interest as regards international relations*".<sup>188</sup> The Commission's DG HOME only authorised partial disclosure of documents owing to the same reasons.<sup>189</sup> Consequently, a case brought by Access Info against the Commission is now pending at the CJEU, as are three other cases against the European Council concerning the EU-Turkey Statement.<sup>190</sup> These cases' existence does not necessarily reflect that illegalities have taken place, but it does signal contesting claims concerning a potential non-compliance with EU legislation, which will, admittedly, have to be accessed by the CJEU itself.

Summarily, there are considerable grounds to doubt the ethicality of this foreign policy deal in general and concerning sexual minorities in particular. If this deal has evidenced such shortcomings and questions the values of the EU, generating a moral and political tension, should it not be revised? Should the policy underlying it not be re-oriented towards a more ethical approach concerning sexual minorities?

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<sup>187</sup> Spijkerboer, 2016.

<sup>188</sup> AskTheEU, 2016b.

<sup>189</sup> AskTheEU, 2016a.

<sup>190</sup> Cases T-192/16, T-193/16 and T-257/16.



## CHAPTER 6 - CONCLUSION

This paper set out to answer the following question: “*How does a queer reading of the EU-Turkey Statement vis-à-vis LGBTIQ asylum-seekers contribute to empirical understandings of ‘Ethical Power Europe’?*” Now, it is possible to devise a more concrete answer.

The EU emerges after this analysis as an ethical *and/or* unethical player. Whereas there is consolidation of legislation towards the protection of LGBTIQ asylum-seekers, a rupture still materialised. Despite the claim that the enjoyment of one’s sexual identity is acknowledged in ‘European universal ethics’, particularly in asylum legislation, this was not recognised in the the Statement. Strikingly, despite SOGI not figuring in Turkish notions of universal ethics (or in the protection of minorities under Turkish legislation), the EU did not ensure that its own ethical stance concerning LGBTIQs materialised through a reformulation of the deal.

Arguably, Turkey’s pursuit of a values-based foreign policy that projects itself as the ‘defender of the oppressed in the Middle East’ augments its normative power in the region,<sup>191</sup> and its accommodation of refugees has been numerically remarkable. Despite this paper not seeking to assess the ethicality of Turkish policies, it can be claimed that, by recognising the principle of *non-refoulement*,<sup>192</sup> the 2014 Turkish ‘Law on Foreigners and International Protection’ envisions the protection of refugees, promoting its normative power in the region. Yet, Turkey does not grant RSD to the majority of these refugees (i.e. non-Europeans refugees), acting on a spirit of ‘generosity’ rather than granting rights. It offers them temporary protection and a ‘conditional refugee status’,<sup>193</sup> but not refuge. Moreover, the alarming number of asylum-seekers entering the country also contributes to a lowering of the protections offered,<sup>194</sup> which generates higher concerns *vis-à-vis* sexual minorities. Particularly, the absence of SOGI considerations in the ‘persons with special need’ section of the above-mentioned law<sup>195</sup> is another indicator of Turkey’s attitude towards LGBTIQs, especially in

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<sup>191</sup> Oktav & Çelikaksoy, 2015: 411-417.

<sup>192</sup> Turkish Directorate General of Migration Management, 2014: Article 4.

<sup>193</sup> *id.*: Article 62.

<sup>194</sup> Tolay, 2014: 4-6.

<sup>195</sup> Cf. Article 3(1)(I).

asylum. Despite the awareness of these situations, LGBTIQ asylum-seekers/refugees continue to bear the repercussions.

How do these reflections contribute to empirical understandings of EPE? Reflecting on Manners, one can see that the flaw incurred by the EU was on the domain of value ethics, *'living by (consistent) example'* (sub-chapter 2.1), akin to what Chomsky claimed about consistency in universality (sub-chapter 3.1). The lack of consistency in the defence of SOGI in the Statement signified a shortcoming in its defence of SOGI in asylum (sub-chapter 3.2). The *'space of rupture'* that ensued critically reflected Pin-Fat's *'(im)possible human rights'* and Donnelly's *'relative universality of human rights'* (sub-chapter 3.2), whereby the enjoyment of such rights is contextually conditional on the current situation. By signing a deal that did not fully acknowledge SOGI, where in fact these are specifically addressed in European Directives, the EC's members acted as gatekeepers that affected the level of protection conferred upon sexual minorities 'on the move'. Here, Dunne's account of a middle ground which possibly defaults from previous commitments was realised, by not encompassing the consequences that the deal creates for LGBTIQ asylum-seekers/refugees (sub-chapter 2.1). Foucault's domains of knowledge/power/pleasure are also inherently present, whereby the (re)production of 'normal' sexual identities is privileged, whereas 'perverse' ones are not only discouraged, but precluded (socially, legally and politically) in Turkey. The figurations that were evoked, as Haraway claims, mapped universes of knowledge and power, denouncing traditional notions concerning sexual identities. Accordingly, Butler's 'theory of performativity' is exposed due to the lack of possibility to *perform* divergence, to identify as an 'other', owing to the inhibitions that tradition (as *created* by the AKP [Birdal]) imposes (sub-chapters 2.3 and 5.3). As exposed by Ashley, modernity emerges as an economy of power, and therefore creates a need for truth to emanate from a sovereign voice. In its post-modernising and current period (owing to the civilian opposition and to the 2016 putsch), Erdoğanist Turkey is ruled by the sovereign voice of the AKP, whose 'paradigms of man' (and women) are tools of power, seeking to normalise the population in the pursuit of the 'public good'. In turn, these evidence Ashley's 'transversal struggles' and the means by which they are waged (sub-chapter 2.3). Drawing on Pin-Fat again, one can deduce more clearly where *"subjects are politically permitted as possible or*

*impossible: politically legitimate or illegitimate, [...] masculine or feminine, normal or abnormal, desirable or undesirable [...]*". Reading queerly the EU-Turkey Statement therefore provides an opportunity to understand where the enjoyment of sexual identity is verified/neglected in one particular instance of current European foreign policy.

Owing to the EU's ethics and the attitude displayed towards sexual minorities in Turkey, the former's lack of their consideration is purposefully or negligently unethical. This does not necessarily mean that the EU generally *acts* unethically in foreign policy. Instead, reading queerly the EU as acting ethically *and/or* unethically (i.e. acting ethically *or* unethically, as well as ethically *and* unethically, considering the actors involved, the contexts, the conditions) highlights the very purpose of EPE scholarship: an increase in empirical agendas about the role of ethical agency. In so doing, it provides, as Aggestam suggested, not a statement of political reality, but research opportunities. Tellingly, this is not all that a queer reading provides. Reading the EU as acting ethically *and/or* unethically allows for a recognition of expectation-capability gaps (spaces of rupture), providing also opportunities for policy reorientation where the consideration of queer figures is (un)intentionally neglected/rejected, owing to the Union's defended values. What policies ascribe to the ethics the EU purportedly defends? In what conditions have these ethics not been 'concretised' (Morgenthau) or 'realised' (Beitz)? Having identified those *spaces of rupture*, what factors are systematically and comparatively identified? And owing to Nunes' claim that EPE puts the emphasis on the rights of individuals, do they map patterns of in/exclusion and patterns of representation? Addressing IR while deploying *queer logoi of statecraft* contributes to understanding how sexualities *shape* IR. This is done through the perception of queer rights as Westernised fabrications and through finding alternatives to deploy them while avoiding (neo)imperialist objections or through the realisation that, e.g. conditionality on foreign aid based on acceptance of diverse sexualities further fuels such criticisms.<sup>196</sup> Concomitantly, deploying *queer logoi* contributes to realisations of how sexualities *are shaped* by IR, be it through the analysis of how traditionalism

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<sup>196</sup> E.g. Weber argues that David Cameron's policy of foreign aid conditionality on the basis of respect for LGBT rights served (neo)imperialist purposes for 'modern states' to become powerful enforcers of policy in 'modernising states'. (Weber, 2016: 135)

effects figurations of the 'sexually divergent', how sexualised technologies of power (re)produce hetero- and cisnormativities or what progress needs to be made towards global queer rights.

Indeed, what this queer and empirical account of EPE shows is that the EU, in this particular deal, acted unethically *vis-à-vis* sexual minorities, defaulting from previous commitments towards their protection. More fundamentally, this deal signifies an instance in which the capacity to live a dignified life while being LGBTIQ was traded-off for a position that did not fully align with the Union's principles and human rights. Knowing that Turkey is an unsafe place for LGBTIQs, the EC signed a deal that neglected sexual minorities' experiences and further endangered their already threatened lives, owing to being asylum-seekers/refugees. It is however important to note that, despite this analysis' focus on LGBTIQs, the deal affected many other asylum-seekers/refugees in unethical manners. Factually, despite disproportionately affecting LGBTIQs, the deal's result was to create, like MEP Sophie in 't Veld claimed, a 'fortress Europe'.<sup>197</sup>

This analysis is not only important due to highlighting the shortcomings of this deal and exposing its flaws, but mostly because of the possibility it creates to reorient policy and, in so doing, ensuring that the EU acts in a *more ethical* way. Deploying EPE as an empirical research agenda, it is concluded here, can serve as a means to affect European foreign policy and ensure that the values the Union stands for are effectively observed in practice.

The EU was, is and will continue to be a player that seeks to promote its ethical character both within and outside its boundaries. Nevertheless, if there is a benefit to theorising the EU as an EPE, that benefit is to expose where the commitment to being one fell short and what can be done in order to counter that reality. Particularly concerning sexuality politics and the acknowledgment of diverse sexual identities, queer readings in IR can provide critical analyses that seek to demonstrate what can be improved and how.

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<sup>197</sup> European Parliament Intergroup on LGBTI Rights, in collaboration with ECRE and ILGA-Europe, 2017.

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