

'Sexuality and citizenship in Europe: sociolegal and human rights perspectives' [Review] Francesca Romana Ammaturo (2017) European Sexual Citizenship: Human Rights, Bodies and Identities

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Sexuality and citizenship in Europe: socio-legal and human rights perspectives

FRANCESCA ROMANA AMMATURO, *European Sexual Citizenship: Human Rights, Bodies and Identities*, London: Palgrave Macmillan, 2017, pp. 134, ISBN 978-3-319-41973-2, £37.00 (Hbk)

Introduction

In her first monograph, *European Sexual Citizenship: Human Rights, Bodies and Identities*, Francesca Ammaturo offers us an authoritative and fluid analysis of the intersections between citizenship, human rights and sexual minorities. The book has a strong Foucauldian flavour, exploring the ways in which power relationships are produced in this context. Ammaturo crafts a smooth flow of ideas, arguments and sources that address in a comprehensive fashion how these intersections need to be unpacked, dissected and brought to daylight for everyone's benefit. And she does so in an accessible and ambitious way, without ever becoming simplistic or obscure – no mean feat.

Ammaturo's starting point is Europe as a continent defined as 'an *aspirational* entity and *symbolic* space of belonging' (p.1, original italics). In this space, gender and sexual minorities (referred throughout the book as LGBTQI persons) arguably play a crucial role in the definition of 'European identity' and 'European Citizenship', and contribute to Europe having increasingly adopted a 'symbolic position of catalyst for social change' (p. 2) for these minorities. Both human rights and citizenship frameworks and discourses have contributed to these developments. Ammaturo is keen to explore the grey areas in these developments, and unleash the potential for radical transformation of current constraints on the citizenship and rights of gender and sexual minorities. To do this, Ammaturo chooses the Council of Europe – and the European Court of Human Rights (Strasbourg Court) in particular – as the context in which a 'European sexual and gendered citizenship' can be tested and put to its limits. In doing this, Ammaturo offers particular attention to a specific group within the diverse gender and sexual minorities that exist: LGBTQI asylum seekers and refugees.

In this review essay, I will explore some of the book's key arguments and touch on some differences of opinion. Perhaps these differences are mostly the result of different disciplinary backgrounds: whilst Ammaturo is fundamentally an international relations and social sciences scholar – thus perhaps more concerned with broader policy and institutional mechanisms – I am fundamentally a lawyer – thus more inclined by training to concentrate on particular policy-making areas and require strong evidence to substantiate final conclusions. This review essay will thus reflect the challenges faced by all of us academics in the field of socio-legal studies and inter-disciplinary research more generally.

The spotlight on LGBTQI asylum seekers and refugees

The choice of LGBTQI asylum seekers and refugees as a particular focus of the book's analysis is timely and should be praised. Indeed, this theme has increasingly become the object of interest of scholars, NGOs and policy-makers. Although asylum claims are legal claims that are complex to adjudicate, LGBTQI asylum claims are frequently perceived as particularly complex. This complexity derives from the particular issues these claims raise in relation to different aspects of asylum adjudication: how much should the role of private actors in the persecution of LGBTQI individuals be taken into account; how can the asylum process take into consideration the intense social stigma attached to LGBTQI asylum claimants; what value should the asylum adjudication process place on the role of legislation – namely criminalisation – in the country of origin in sanctioning that stigma; is the possibility of relocation within the country of origin a viable option for LGBTQI asylum seekers; and how does one prove one's sexual identity? These are key questions that all European jurisdictions have been grappling with for decades, and non-heterosexual, transgender and inter-sex asylum-seekers still face particular difficulties in establishing their claims and obtaining a positive assessment of their credibility across Europe (Jansen and Spijkerboer, 2011).

The link between these asylum claims, on the one hand, and citizenship and human rights, on the other hand, is quite straightforward. It is the human rights violations and practical deprivation of citizenship that LGBTQI individuals suffer in their countries of origin that lead them to seek refuge in a safe(r) country and thus become asylum-seekers. And often the denial of any form of international protection to these asylum claimants constitutes a human rights violation in itself, thus perpetuating the cycle of stigma and discrimination that LGBTQI claimants suffer. Although there have been positive developments in several European countries in relation to these asylum claims,¹ it is still very much the case that LGBTQI asylum-seekers suffer particularly extreme difficulties during their asylum trajectory. These asylum claims are often dealt with on the basis of inappropriate legal, cultural and social notions, which may unfairly lead to these claimants not being held as members of a 'particular social group',² seeing their identity questioned, being found overall not credible, and being subjected to deportation and future risk of persecution (Independent Chief Inspector of Borders and Immigration, 2014; Millbank, 2009). A recent report of the European Union Fundamental Rights Agency confirms that the reception and protection needs of LGBTQI asylum seekers in the EU are still frequently unmet (2017). The situation in the UK is a particularly good example, with numerous reports pointing out the unfairness that plagues decision making in this field (Stonewall and Miles, 2010; UKLGIG, 2010).

At the level of the European Union and the European Court of Human Rights, the situation is not necessarily better. The Court of Justice of the EU (CJEU) has had the opportunity to deal with cases involving LGBTQI asylum-seekers, and has not entirely seized the opportunity to vindicate the need for international protection of these individuals. In *X, Y*

and Z,³ the Court determined that the existence of criminal laws targeting LGBTQI individuals supports the finding that those persons form or belong to a particular social group for the purposes of the Refugee Convention, but the criminalisation of homosexual acts does not in itself constitute an act of persecution. This finding went against what previous studies had advocated (Jansen and Spijkerboer, 2011), and it was criticised by the International Commission of Jurists for failing to place these criminal law norms within their broader societal context (ICJ, 2014). The Court also found in this case that to be considered a member of a particular social group for the purposes of the Refugee Convention, one must fulfil two tests: the claimant must be considered a member of a group that is socially recognisable in the country of origin (the social recognition test) and the claimant's sexual identity must be considered a characteristic so fundamental to a person's identity that the persons concerned cannot be required to renounce to it (the fundamental characteristic test).⁴ This translates a strict interpretation of the relevant EU norm,⁵ and has been considered unduly burdensome and inconsistent with the UNHCR guidance (ICJ, 2014). On a more positive note, the Court found against the 'discretion requirement', thus dismissing the possibility of returning asylum claimants to their countries on the basis that they could be discreet about their sexual identity. In the subsequent case of *A, B and C*,⁶ the CJEU appropriately refused the use of sexualised evidence or stereotyped assessments in LGBT asylum claims (including medical tests and explanation of sexual practices), as such evidence violates the dignity and privacy of the claimants. The Court also asserted that delays in disclosing one's sexuality should not automatically be held against the claimant to harm their credibility.⁷ Despite the overall positive outcome of this decision, it has been pointed out that the Court missed the opportunity to provide further guidance on what type of evidence should be accepted and expected in cases involving LGBTQI asylum-seekers (Peers, 2014).

The European Court of Human Rights (the Strasbourg Court) has also had the opportunity to decide on cases relating to LGBTQI asylum seekers. In *M.E. v. Sweden*,⁸ the Court had to deal with a Libyan asylum-seeker in a same-sex relationship in Sweden who had been requested to return to Libya to obtain a family reunification visa. The Court found that requiring that the claimant be discreet about his sexuality during the period of time in Libya was not a violation of Article 3 of the European Convention on Human Rights (ECHR) (prohibiting torture and inhuman or degrading treatment or punishment). During the appeal against this decision before the Court's Grand Chamber, the Swedish Migration Board decided to grant the applicant a permanent residence permit due to the deterioration of the conditions in Libya.⁹ Yet, the harm had been done: the Court had offered legitimacy to the 'discretion requirement' at a time when most European domestic jurisdictions had abandoned it, and this was rightly criticised by various commentators (see, for example, Steendam, 2014). More recently, in *O.M. v. Hungary*,¹⁰ the Strasbourg Court dealt with another relevant asylum case, this time pertaining to an Iranian gay man who was detained for two months in Hungary and then granted refugee status. In a more positive approach to these claims than seen in *M.E. v*

Sweden, in *O.M. v. Hungary* the Court found that there had been a violation of Article 5 ECHR (on the right to liberty and security), especially due to the authorities disregarding the particular vulnerability of O.M. during his detention,¹¹ and awarded the claimant a compensation of EUR 7,500 for the pecuniary damage he suffered.

The topicality of LGBTQI asylum is further reflected in the 2015 initiative of the European Union's European Asylum Support Office (EASO) to produce guidance on collecting country of origin information regarding lesbian, gay and bisexual asylum claimants (2015). More recently, the European Parliament Intergroup on LGBTI Rights held a meeting on protecting the rights of LGBTI asylum seekers and refugees in the context of the reform of the Common European Asylum System (2017). Ammaturo thus rightly chooses LGBTQI asylum seekers as a particular focus in her book. Although in the end these particular issues are not the central piece of the book, their inclusion in this discussion around sexuality and citizenship in Europe is praiseworthy. We should now delve into the book's analysis of the complexities of European sexual citizenship.

When Europe meets sexual politics

Following a short but clear and effective introduction, chapter 2 of Ammaturo's book explores the influence of the European Union and the Council of Europe on domestic developments in the field of human rights protection of gender and sexual minorities. Ammaturo discusses how 'Europeanness' and 'LGBTQI-friendliness' have become so closely connected, and how the notion of European sexual and gendered citizenship can work both as a productive and normative tool, and as a means of empowerment and radical democratic engagement (p. 8). In addition, the chapter discusses how lesbian and gay activism in Europe has developed in different (political and religious) ways than in the USA, to the point that the activism of sexual minorities shapes Europe, but the idea of Europe also shapes sexual minorities (p. 9). The position of bisexuals, transsexuals and intersex individuals in these debates is rightly given some explicit attention, considering its relative absence in the case law of the Strasbourg Court. Ammaturo raises the significant point that there is an emerging 'European sexual nationalism' that strengthens the idea of 'Europe as a moral hegemon' (p. 8). This is linked to a 'fundamentally (neo)liberal consensus' about protecting the rights of sexual minorities, but this seems to come at the cost of also normalising the identities of these minorities, particularly through the case of the Strasbourg Court (p. 28). Interestingly, Ammaturo notes, this notion of Europe as 'exceptional' in the protection it offers to sexual minorities is in fact illusory to some extent.

In chapter 3, Ammaturo offers an interesting discussion of the literature around citizenship, with a focus on the notion of 'sexual citizenship' and the work of Dembour and

Kelly (2011), Isin and Wood (1999), Mosse (1988), Stychin (1998), and Tambakaki (2010), amongst others. The notion of 'sexual citizenship' also proves to be problematic, to the extent that it may aim to be all encompassing, but including polyamory, bisexuality, gender fluidity, intersexuality, sadomasochism and fetishism may require a more 'radical "queering" of the fundamentally heterosexist, heteronormative and cisgendered matrix of political belonging to a community' (p. 38). The work of the Council of Europe on human rights is said to 'be characterised by important dynamics of exclusion' (p. 33), but although the work of Dembour (2006) and Douzinas (2007) is used to foreground this criticism of the Council of Europe, precise examples of this are not provided. Crucially, this chapter draws attention to the 'Pink Agenda' and how sexual minority human rights are used by European organisations as a rhetorical tool to oppose the queer-friendly Europe to the homophobic and transphobic 'other' (p. 44). Ammaturo links this idea to the fundamentally racist notions of 'homonationalism', 'homonormative Islamophobia' and 'homo-emancipation' (Altman, 1996; Jivraj and De Jong, 2011; Massad, 2008; Puar, 2007; Zanghellini, 2012). These are well-known polemics and critiques. For example, Peter Tatchell has been criticised by Jin Haritaworn, Tamsila Tauqir and Esra Erdem, for allegedly illustrating how white gay activists are accomplices of a 'gay imperialist agenda' by depicting Islam as homophobic and misogynist and portraying themselves as saviours of non-white queers (Haritaworn, Tauqir and Erdem, 2008). In this case, the polemics have even gone beyond the academic literature, as the target of criticism took issue with being depicted in such a way (Aren, 2009).

This sort of criticism may be completely warranted under certain circumstances. Yet, I personally fear that, even if intellectually interesting and stimulating, criticising 'homo-emancipation' policies in a broad-brush way may be counterproductive and undermine the huge efforts of both international organisations and NGOs in fighting for the rights of gender and sexual minorities around the world. To return to the case of LGBTQI asylum-seekers, evidence from around the world abounds to show how sexual minorities are persecuted and discriminated against, to the point of often needing to seek international protection to safeguard their lives (UNHCR, 2015). One should not in any way promote the notion of a 'homophobic other', but it is crucial to not become an accomplice of homophobia either (even if unwittingly). I submit it is more important to fight against oppression everywhere, in whatever form, rather than risk undermining these efforts simply because the oppressors in question may adhere to a different religion, belong to a different ethnic group or be located in a different country. Avoiding fighting homophobia and transphobia for fear of being labelled 'racist' or 'neo-colonialist' risks serving the interests of the oppressors.

This debate is very close to the arguments often raised in the context of cultural relativism and human rights. In order to avoid criticising local traditional and religious practices, very often one ends up perpetuating harm to women, children and other traditionally oppressed members of society such as sexual minorities. Such 'cultural sensitivity' becomes a smoke

screen for violations of international human rights standards to which the States in question have signed up (Alston and Goodman, 2012: 538). Crucially, as Dixon and Nussbaum argue, full human equality and full human empowerment are not foreign, Western, imperialistic or colonial impositions (2012: 585-6). So, as I have argued elsewhere in a different context, we need to be careful not to pay excessive regard and give too much credit to cultural relativist arguments (Ferreira, 2016b). The danger of instrumentalising the 'Pink agenda' is real, but so is the danger of instrumentalising neo-colonialist and cultural relativist arguments.

The Strasbourg Court's case law at a crossroads

The 'Pink agenda' serves also as a thematic thread in chapter 4, which proceeds to analyse the 'export' of the Pink Agenda – this time within Europe, from Western Europe to Eastern Europe, through the case law of the Strasbourg Court. Ammaturo argues that the case law of the Strasbourg Court has contributed to 'creating and promoting lines of fracture between presumably *queer-friendly* and *homo- and transphobic* countries both within and outside European borders.' (p. 50, original italics) The underlying idea behind this chapter is that the 'Pink agenda' and case law of the Strasbourg Court have fed the process of emergence of the 'good homosexual', as opposed to the 'citizen pervert'. Although this may seem like a sensible and intellectually appealing assertion, I submit that the more one zooms in to the case law produced by the Strasbourg Court, the more one struggles to find evidence for this assertion. For example, it is unclear how protecting the right to freedom of expression of sexual minorities feeds into the notion of the 'good homosexual' or 'citizen pervert' (see further on this below). The more one looks at the specifics of the case law in question, the more broad-brush theoretical assertions become questionable. In this chapter, Ammaturo also recalls the criticism against the 'civilised West' for nurturing a 'save the queers' narrative (Bracke, 2012) and using 'queers' as trophies, whilst making these persons undergo arduous asylum procedures (Bennet and Thomas, 2013; Berg and Millbank, 2009). In this respect, it is essential to criticise the Western political manipulative strategies that may be at play, to the extent that they may be hypocritical. Yet, not 'saving the queers' (to use Bracke's expression) would be similarly criticisable for being inhumane, violating international and human rights law, and effectively facilitating the oppression of gender and sexual minorities around the globe – so European organisations find themselves in a 'catch 22'. In short, if anything, the 'save the queers' narrative is simply not acted upon enough, and it should materialise in a consistent and effective way, including through asylum policy.

In chapter 4 still, two particular decisions are analysed: the 2007 judgment in *Bączkowski and Others v. Poland*,¹² and the 2010 judgment in *Alekseyev v. Russia*.¹³ The decisions are used, among other things, to illustrate the 'cross-cultural transposition of "Anglo-American identity politics" in the European arena', particularly in relation to the importance

afforded to gay pride parades and similar events (p. 59, following Altman, 1996, and Stychin, 1998). This line of criticism has always made me wonder why the LGBTQI+, queer and, more generally, sexual minority language and all positive consequences that may derive from it should be a monopoly of the 'West'. Such language should of course not be imposed on anyone, but if willingly appropriated and used, why should that be seen as suspicious or criticisable? In short, if individuals in countries where sexual rights and freedoms are severely curtailed wish to make use of 'Western' LGBTQI+, queer or sexual minority language, should they not be supported in whatever legal and social fights they wish to undertake? I argue that they should not be precluded from doing so out of fear that the 'West' may be exporting or transposing their cultural and sexual political notions. This seems to me to be the only approach conducive to sexual emancipation of those striving to achieve it and currently being oppressed.

Furthermore, Ammaturo criticises the decisions in *Bączkowski and Others v. Poland* and *Alekseyev v. Russia* for condemning Poland and Russia for prohibiting or effectively impeding gay pride events. Her criticism focuses particularly on the use the Court has made of the concept of 'broadmindedness' and 'healthy' society (p. 60). Whilst one may have qualms with the particular terminology used by the Court, I submit one should not question the appropriateness of the outcome. A finding of no violation by the Strasbourg Court would have been much more open to criticism and exposed sexual minorities in these countries to even harsher oppression. Ammaturo fears that this line of case law 'strengthens the dichotomy between liberal (queer-friendly) and illiberal (homo / transphobic) members of the CoE' (p. 62). I would argue that this line is drawn by the Council of Europe member states themselves, through their actions and omissions. It may be rendered more explicit by particular judicial decisions, but avoiding such decisions would subject the Strasbourg Court to even greater criticism than it already receives. Certainly there is no clear distinction between liberal (queer-friendly) and illiberal (homo / transphobic) members of the Council of Europe – all countries are to a certain extent liberal and illiberal on these matters, and one should think about these issues in terms of a continuum, rather than a binary. Yet, that does not render the decisions in *Bączkowski and Others v. Poland* and *Alekseyev v. Russia* criticisable in themselves. Ammaturo also fears that decisions such as these may 'render LGBT persons more vulnerable and prone to political instrumentalisation both in Europe and well beyond its borders.' (p. 64) The alternative would be to deprive oppressed gender and sexual minorities of their right to international judicial redress (often their only means of legal redress) and effectively force them to 'tolerate oppression'. This would render the international community, and the Council of Europe in particular, accomplices of such oppression and suppression of sexual freedoms and rights. This is a much worse alternative, I would argue. Although Ammaturo's wish is obviously to protect the rights of sexual minorities and facilitate radical transformation, questioning the few means the international community has to address violations of sexual

minority rights seems to me to be counterproductive. Even if intellectually stimulating, this line of critique does not offer much in way of practical policy alternatives.

Chapter 5 shifts the focus to gender identity and intersex rights and citizenship, in particular the constrained role the Strasbourg Court has played in effectively challenging gender roles. As an example, Ammaturo points out that the Court only uses the term 'transsexual', side-lining broader transgender issues and rights (p. 68). In her analysis, Ammaturo concentrates on landmark cases such as the 2002 decision in *Goodwin v UK*,¹⁴ and the 2003 decision in *Van Kück v Germany*.¹⁵ Considering how harmful the pathologisation of transgender and intersex individuals is, Ammaturo considers in detail the 'erasure' of transgender persons in the case law of the Strasbourg Court. Yet, the choice of case law to illustrate this discussion relates to cases that only pertain to post-operative transsexuals. Although this may well be the result of the fact that the relevant Strasbourg case law has dealt only with post-operative transsexuals rather than transgender persons more generally, the choice of case law is arguably biased in itself, and the Court cannot be blamed for not having been asked yet to deal with cases concerning transgender persons more generally. This is, to a certain extent, conceded when Ammaturo refers to the role of NGOs in bringing certain cases to the Strasbourg Court for strategic reasons (p. 74) – reasons over which the Court has no particular influence. So, when suggesting that the Court should have pronounced decisions valid for transgender persons generally and not only for transsexuals (p. 75), one must recall that the Court only has jurisdiction to decide on the cases before it, otherwise it would be accused of usurping legislative powers that it does not possess. In any case, the language used by the Court could admittedly be more inclusive and tactful. And undoubtedly, the Strasbourg Court's decisions leave much to improve in this policy field (including in relation to wider genital autonomy issues, as Ammaturo rightly points out). In addition, as it has been widely discussed for many years, the Court finds itself in a very difficult political context, which constrains its decision-making (see, for example, Dzehtsiarou, 2016).

Admittedly, I also found the findings in chapters 4 and 5 somewhat contradictory. Chapter 4 essentially argues that the Strasbourg Court should avoid feeding the 'Pink Agenda', dictating which countries abide by this agenda and which ones do not, and consequently drawing a divide between the 'good countries' and the 'bad countries'. Yet, in chapter 5, the Strasbourg Court is essentially being asked to do precisely that by being encouraged to protect individual claims from sexual and gender minorities. Doing so is precisely what feeds the 'Pink Agenda', and the Court may then be criticised for drawing a divide between the 'good countries' and the 'bad countries'. The Court again finds itself in a 'catch 22' – no matter what it does, it will be criticised by some side of the argument.

Onwards to a 'multisexual and multigendered citizenship'

In chapter 6, Ammaturo brings together different aspects of academic citizenship debates in a fruitful discussion, thus contributing to the growing body of literature challenging the role and limits of human rights discourses (see, for example, Wall, 2012). To this purpose, Ammaturo advances a model of 'multisexual and multigendered citizenship', which allows individuals to combine their different allegiances (including sexual and gendered) when making human rights claims, thus enhancing their agency. In this context, Ammaturo rightly points out that 'a focus on realising a framework of formal equality for LGBTQI persons unaccompanied by a critical discussion of the very criteria employed to define human rights holders – and citizens as a consequence – represents only a partial outlook on patterns of injustice, inequality and marginalisation' (p. 94). Building on the work of Duggan (2003), Isin (2013), Oldfield (1998), Patton (1993) and Stychin (2000), amongst others, Ammaturo discusses how recognising the legal rights of LGBTQI persons contributes to Europe being transformed from a geo-political area into a 'prescriptive and normative idea, almost an aspiration' (p.100). When highlighting that the concept of 'European sexual and gendered citizenship' has an Anglo-American matrix (which one could debate), Ammaturo points to the fact that universalising this discourse has been met by a mix of 'cautious endorsements' and 'outright backlashes' because it may be perceived as an external imposition (p. 101). Whilst running the risk of being criticised by neo-colonialist scholars, I would reiterate that one should worry more about the 'backlashes' led by oppressors of gender and sexual freedoms than about gender and sexual minorities wishing to make use of Western terminology or discourses. Self-evidently, no identities, terminology or discourses should be imposed on anyone. But at the same rate, as I have argued above, one should not deprive gender and sexual minorities around the globe from any of the possible benefits they may derive from resorting to gender or sexual identities, terminology or discourses that may have been initially articulated in the West/North.

In chapter 6 still, Ammaturo also rightly points out that 'one size fit all' models of legal recognition of gender and sexual minorities will not serve Europe well (p.102). The Council of Europe is hardly at fault in that though, as it has limited scope to impose common standards on any field against the will of a Member State, due to the intergovernmental nature of the Council of Europe's decision-making processes and often non-binding nature of their outputs. The Strasbourg Court, in particular, tends to allow a broad margin of appreciation in relation to many matters, and even when reducing the margin of appreciation afforded, it only imposes minimum standards, rather than high ones (Ferreira, 2015b). At any rate, Ammaturo rightly concludes that 'it is not enough for LGBTQI persons in Europe to become the passive recipients or beneficiaries of human rights entitlements embedded in a neoliberal socio-economic framework' (p. 103).

Indeed, the case law of the Strasbourg Court will never constitute more than a piece of the jigsaw, as most of the broader discrimination and social justice problems that still affect

gender and sexual minorities fall within the remit of national legislative and executive authorities, rather than the Council of Europe. As evidenced by the excruciatingly slow and excessively reluctant case law on the legal recognition of same-sex relationships,¹⁶ the Court is certainly not the best arena to deal with broader policy issues and fundamental transformations. So, whilst I may find the criticism against the Strasbourg Court in this context somewhat excessive, I agree entirely that human rights discourses and debates will never offer exhaustive answers to gender and sexual minorities. As I have argued elsewhere, a society aiming to empower and liberate its members and foster a more humane system needs to supersede an exclusively rights-based justice system – rights are thus just a piece of the jigsaw, albeit an essential one (Ferreira, 2016a). As Ammaturo says, '[r]ecognising the complexity and, sometimes, the incongruity of individuals' experiences in the exercise of their citizenship is, therefore, crucial, in order to ground human rights in something other than the mere attribution of one-size-fits-all labels that open up the possibility of receiving specific entitlements' (p. 105). It is true that 'national citizenship and human rights practice tend to rigidly articulate individuals' identities' (p. 106), so the citizenship model advanced by Ammaturo would certainly go much further in protecting the rights, freedoms, well-being and happiness of gender and sexual minorities – in Europe and elsewhere. The political agency of gender and sexual minorities can also benefit Europe as a whole, as Ammaturo argues, to the extent that it can inform everyone's citizenship practices and participation in public life (p. 112).

Conclusion

The overall result of Ammaturo's book is undoubtedly a positive contribution to the socio-legal field of studies. Ammaturo effectively links broad debates around citizenship, human rights and sexual minorities. Her call for more sociologically-informed judicial decision-making practices (p. 107) is entirely appropriate and I trust time will vindicate her argument. This is already clearly visible in the particular fairness and socially *avant-garde* flavour of the decisions and opinions produced by Lady Hale in the UK Supreme Court¹⁷ and by Judge Françoise Tulkens in the Strasbourg Court.¹⁸ Structural inequalities will need to be mostly left to bodies other than the Strasbourg Court. In fact, 'recognising the limits of the current system of protection of human rights can be used as an opportunity to bring to the table alternative models that enable "European citizens" to debate the real human rights struggles that matter to them' (p. 115). The end result of Ammaturo's work is a very gratifying reading that will be of value to academics, policy-makers and decision-makers alike – light enough to enjoy and dense enough to learn and feel stimulated. Ammaturo should be congratulated for this noteworthy accomplishment.

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¹ For example, in the UK, the Supreme Court's decision in *HJ (Iran) v Secretary of State for the Home Department* (Rev 1) [2010] UKSC 31 (7 July 2010), which condemned the notion that asylum-seekers could be asked to return to their countries of origin and live their sexuality or gender identity 'discreetly'. See also, in relation to Portugal, Ferreira, 2015a.

² One of the grounds on the basis of which claimants may claim refugee status according to the 1951 Geneva Refugee Convention: UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at <http://www.refworld.org/docid/3be01b964.html>, accessed 7 April 2017.

³ Joined Cases C-199/12, C-200/12 and C-201/12, *X, Y and Z v Minister voor Immigratie, Integratie en Asiel*, 7 November 2013, ECLI:EU:C:2013:720.

⁴ *Ibid*, para. 70.

⁵ Article 10(1)(d) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, 30.09.2004, OJ L 304/12, replaced by Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, 20.12.2011, OJ L 337/9.

⁶ Joined Cases C-148/13 to C-150/13, *A, B and C v Staatssecretaris van Veiligheid en Justitie*, 2 December 2014, ECLI:EU:C:2014:2406.

⁷ *Ibid*, para. 69-71.

⁸ *M.E. v. Sweden*, Application no. 71398/12, 26 June 2014.

⁹ *M.E. v. Sweden*, Application no. 71398/12, 8 April 2015.

¹⁰ *O.M. v. Hungary*, Application no. 9912/15, 5 July 2016.

¹¹ *Ibid*, para. 53.

¹² *Bączkowski and Others v. Poland*, Application No. 1543/06, 3 May 2007.

¹³ *Alekseyev v. Russia*, Applications nos. 4916/07, 25924/08 and 14599/09, 21 October 2010.

¹⁴ *Christine Goodwin v UK*, Application no. 28957/95, 11 July 2002.

¹⁵ *Van Kück v Germany*, Application no. 35968/97, 12 June 2003.

¹⁶ See, for example, the Strasbourg Court decisions in *Schalk and Kopf v. Austria*, Application no. 30141/04, 24 June 2010; *Vallianatos and Others v. Greece*, Applications nos. 29381/09 and 32684/09, 7 November 2013; and *Oliari and Others v. Italy*, Applications nos. 18766/11 and 36030/11, 21 July 2015.

¹⁷ See, for example, Lady Hale in *R (on the application of SG) and Others v Secretary of State for Work and Pensions* [2015] UKSC 16.

¹⁸ See the dissenting opinion of Judge Tulkens in *Leyla Şahin v. Turkey*, Application no. 44774/98, 10 November 2005.