

BORDERING ON DESIRE: TOWARDS A TRANSNATIONAL LESBIAN  
CINEMA

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BORDERING ON DESIRE: TOWARDS A TRANSNATIONAL LESBIAN  
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During the past decade, an increasing number of independent films and documentaries have emerged that consider the subject of lesbian migration and border-crossing. Although there has been a steady growth in the production of independent lesbian feature films since the early to mid-1990s, it is only within the last few years that filmmakers working in the United States and Europe have started to explore the ways in which lesbian desire is negotiated through the experience of migration and displacement. An important part of this dissertation is to connect the recent growth of European and U.S. independent films and documentaries addressing lesbian migration and border-crossing both with the increasing visibility of LGBT human rights discourses during the past fifteen years and with the rise of alternative forms of distribution such as DVD. As I argue, the current preoccupation with issues of migration and border-crossing in lesbian independent cinema is consistent with the growing attention being paid to the subject of queer migration in LGBT human rights activism, mainstream and alternative print and televisual media, performance art, and academic scholarship post-9/11. Through close reading of specific films, I explore how cinema generates important commentary on lesbian representational practices and

politics from a transnational perspective. As I suggest, what is crucial about these lesbian migration films is that they render visible both the limits and possibilities of adopting a human rights framework for the articulation of gay and lesbian oppression.

## BIOGRAPHICAL SKETCH

Rachel Lewis graduated with a Bachelor of Arts in Music from York University (U.K.) in 2004. Her research interests include transnational feminisms, queer studies, women and music, and new media. She has published articles in a variety of journals, including *The International Feminist Journal of Politics, Social Justice, Women & Music: A Journal of Gender and Culture*, and *Music & Letters*.



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INTRODUCTION  
TOWARDS A TRANSNATIONAL LESBIAN CINEMA

During the past decade, an increasing number of independent films have emerged that consider the subject of lesbian migration and border-crossing. Although there has been a steady growth in the production of independent lesbian feature films since the early to mid-1990s, it is only within the last few years that filmmakers working in the United States and Europe have started to explore the ways in which lesbian desire is negotiated through the experience of migration and displacement. What is new about these films is their attempt to situate female same-sex desire in relation to broader cultural and economic shifts taking place as a result of globalization. As with the majority of independent films targeted at niche lesbian markets, these latest lesbian migration films tend to go straight from the film festival circuit to home video and DVD; few have received protracted theatrical distribution outside the context of film festivals and the occasional art house screening.

The growing influence of mail-order video companies and the vast expansion of home video markets, facilitated in part by new forms of distribution such as DVD, led B Ruby Rich to suggest in her 2000 article for *Sight and Sound*, “Queer and Present Danger”, that the gay and lesbian films that have followed New Queer Cinema have become little more than “just another niche market”, “another product line pitched at one particular type of discerning customer”.<sup>1</sup> The question is: do these latest films focusing on lesbian migration and border-crossing merely constitute part of “just

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<sup>1</sup> B Ruby Rich, “Queer and Present Danger”. *Sight & Sound* 10/3 (March, 2000).

another niche market”, or are we in fact seeing the beginnings of a transnational lesbian cinema? Is it possible to talk meaningfully about the existence of a transnational lesbian cinema in the West and, if so, what would such a cinema look and sound like? If we are witnessing the emergence of a transnational lesbian cinema in Europe and the United States, in what ways might this be connected to the rise of new forms of distribution such as DVD? If the innovations of DVD are, first and foremost, those of the market, what are the potential risks and dangers posed by a transnational lesbian cinema that is dependent upon modes of capitalist consumption? Will the transnational circulation of lesbian texts simply become another way of interpellating more and more lesbian consumers into a modern, commodified, lesbian identity, predicated on visibility and an identity in the public sphere? Are these lesbian migration films, in short, merely part of yet another, potentially pernicious, niche market, or do they represent a more complicated, more thoughtful and, above all, more *critical* cinematic practice?

*Bordering on Desire: Towards a Transnational Lesbian Cinema* attempts to explore these and other questions through a focus on the transnational turn in lesbian independent cinema post-9/11. An important part of this dissertation is to connect the recent growth of films addressing lesbian migration and border-crossing both with the increasing visibility of LGBT human rights discourses during the past fifteen years and with the rise of alternative forms of distribution such as DVD. As I will argue, the current preoccupation with issues of migration and border-crossing in lesbian independent cinema is consistent with the growing attention being paid to the subject of queer migration in LGBT human rights activism, mainstream and alternative print

and televisual media, performance art, and academic scholarship post-9/11. Building on recent literature in transnational feminist studies that addresses the relationship between human rights and cultural advocacy, this dissertation will explore the politics of lesbian representation in a transnational frame. A key focus of the dissertation will be on the points of intersection, or slippage, between representations of lesbian rights in contemporary independent cinema and the cultural politics of neoliberalism. As this dissertation will suggest, neoliberal principles are fundamentally transforming both LGBT human rights advocacy and campaigns for social justice more generally. One consequence of neoliberalism's framing—or “misframing”—of lesbian rights primarily in the language of cultural recognition is the perpetuation of existing inequalities along the lines of race, class, gender, and nation. Rather than conceding the ground of lesbian representation to neoliberalism, however, this dissertation begins from the premise that it is precisely the politics of lesbian representation that we need to start contesting. In this sense, *Bordering on Desire* is as much about what falls *outside* the frame of transnational lesbian cinema as it is about what gets centered within the frame. By calling attention to the limits of transnational lesbian cinema's engagement with human rights discourses, we might stand a better chance of re-imagining and, ultimately, *re-presenting* lesbian rights in ways that are more, and not less, inclusive of difference.

In the sections that follow, I will highlight some of the key terms, concepts, and fields of study that are most relevant to this dissertation. Before turning to address the category of transnational lesbian cinema in more detail, however, I would first like

to offer a brief genealogy of lesbian independent cinema in the United States and Europe.

### ***Lesbian Independent Cinema: A Brief History***

The contemporary body of work on lesbian migration alluded to at the start of this introduction constitutes part of a much larger group of contemporary European and U.S. independent fiction films that caters directly to niche home video and DVD markets. By “lesbian independent film”, I am referring to films specifically targeted at niche lesbian markets, or films that are marketed as “lesbian” for particular consumers. These are films that appear under the label “lesbian DVD” in catalogues distributed by specialized mail-order video companies such as Wolfe Video, TLA Video, and Culture Q. Connection.<sup>2</sup> While there is a long tradition of independent films—both narrative and experimental/avant-garde alike—made by and for lesbians in the United States and Europe by filmmakers such as Barbara Hammer, Su Friedrich, Chantal Akerman, and Ulrike Ottinger, the phenomenon I am describing here pertains to films which may or may not have been produced and directed by lesbians, but which are nonetheless targeted at lesbian consumers through mail-order video companies.<sup>3</sup> As Harry Benshoff and Sean Griffin have pointed out, independent

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<sup>2</sup> Both Wolfe and TLA Video—the largest and most well-known distributors of queer cinema in the United States—tend to market LGBT films by identity categories (e.g. “lesbian” and “gay”, “bisexual” and “transgender” etc.). The above categories are then divided into various genres (e.g. romantic comedy, drama, television, and so on).

<sup>3</sup> For a particularly good introduction to the work of U.S. and European lesbian avant-garde/experimental filmmakers, see Andrea Weiss, *Vampires and Violets: Lesbians in Film* (London and New York: Penguin, 1992). Weiss offers an analysis of more recent lesbian independent and experimental films in her essay, “Transgressive Cinema: Lesbian Independent Film”, in Harry Benshoff and Sean Griffin, eds. *Queer Cinema: The Film Reader* (New York and London: Routledge, 2004), 43-52.

distribution companies such as Wolfe and TLA Video exert a significant influence over contemporary film production, funding film projects that they will then release through their mail-order catalogues.<sup>4</sup>

The privatization and diversification of markets that has come to characterize media production in the twenty-first century means that income from direct-to-home video and DVD sales and rentals by far surpasses theatrical revenues for lesbian films. As *Screen International* has explained, “the reality of the gay market in the U.S. is that many men and women...live in areas where they don’t have access to theatres playing a gay movie, or video stores which will stock a gay film”.<sup>5</sup> For many people, in other words, it is much easier to access gay and lesbian films in the privacy of their own and others’ homes by means of mail order, cable and pay television, and the Internet, rather than by attending public screenings. With the exception of film festivals catering directly to gay and lesbian audiences, the consumption of lesbian independent films is becoming an increasingly private affair; the home, rather than the movie theater, is now the primary site of reception for what we still think of as “lesbian cinema”. Even short lesbian films intended primarily for the festival circuit are now beginning to appear on special DVD compilations, ranging from collections such as

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<sup>4</sup> See Harry Benshoff and Sean Griffin, eds., *Queer Cinema: The Film Reader* (New York and London: Routledge, 2004), 286. Although distinguishing between independent cinema and mainstream Hollywood film production can be problematic, Hollywood films tend to be more global in terms of their distribution than independent films, which are generally sold to specialized distributors after being screened at various film festivals. Another means of differentiating between independent and mainstream cinema is to consider the kinds of locations in which the films are playing. For a more detailed account of some of the above issues in relation to queer cinema, see Benshoff and Griffin, *Queer Cinema*; for a useful discussion of some of the difficulties of defining independent cinema, see Chris Holmlund, “Introduction: From the Margins to the Mainstream”, in Chris Holmlund and Justin Wyatt, eds., *Contemporary American Independent Film: from the Margins to the Mainstream* (London and New York: Routledge, 2005), 1-19.

<sup>5</sup> Cited in Benshoff and Griffin, *Queer Cinema*, 285.

*Short Shorts* (2000), *Watching You* (2003), and *The Ultimate Lesbian Short Film Festival* (2005), to *She Likes Girls* 1, 2, 3, and 4 (2006-2009), *Girl + Girl: Classic Lesbian Short Films* (2006), *Girls' View* 1 and 2 (2007-2009), *Lesbian Nation* (2009), and *Fun in Girls' Shorts* 1 and 2 (2008-2010).

The increasing privatization of gay and lesbian cinema in the twenty-first century can be traced back to the rise of cable television, home video markets, and independent film festivals in the early 1980s, all of which created new possibilities for distribution through facilitating the production of smaller, lower-cost films that could be marketed directly to specific groups. Indeed, the first gay and lesbian film festival to take place in the United States was due in part to the growing visibility of the gay market in San Francisco during the late 1970s. Founded in 1977, San Francisco's Frameline film festival later became a prominent lesbian and gay independent film distribution network.<sup>6</sup> This in turn led to a significant increase in the number of film festivals specifically devoted to lesbian, gay, bisexual, and transgender work and subject matter. As B Ruby Rich has observed of the growth of gay and lesbian film festivals in the United States and Europe, "The festivals predominant in the seventies and eighties, conceived as political interventions and playing to small, self-selected audiences, have morphed into the large events of the nineties, complete with corporate sponsors and huge audiences that return annually and grow exponentially".<sup>7</sup> Lesbian

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<sup>6</sup> Frameline was originally formed by the filmmaking collective "Persistence of Vision" in 1977, although the festival changed its name to "Frameline" in 1979. As Patricia Zimmerman has commented, much more work needs to be done in terms of investigating the various ways in which film festivals have become alternative distribution networks. See Patricia R. Zimmerman, "Digital Deployment(s)", in Chris Holmlund and Justin Wyatt, eds., *Contemporary American Independent Film: From the Margins to the Mainstream* (London and New York: Routledge, 2005), 245-264.

<sup>7</sup> See B Ruby Rich, "Collision, Catastrophe, Celebration: The Relationship between Gay and Lesbian Film Festivals and Their Publics". *Gay and Lesbian Quarterly* 5/1 (1999): 79-84 (at 79).

and gay film festivals have been particularly important for bringing the work of women and queers of color to wider attention, groups whose films have occupied only a marginal position, for instance, in the movement otherwise known as “New Queer Cinema”.<sup>8</sup> For despite having successfully infiltrated mainstream Hollywood film production, the New Queer Cinema movement of the early 1990s was dominated largely by white gay men.<sup>9</sup>

The first so-called “lesbian film” thought to embody some of the characteristics generally associated with the New Queer Cinema was Rose Troche’s *Go Fish* (1994), which was also the first lesbian feature film to be screened at the Sundance film festival. With its use of both romantic comedy and avant-garde elements to present a variety of competing and conflicting lesbian identities, Troche’s film later went on to become a profitable art house hit. *Go Fish* was followed by Cheryl Dunye’s *Watermelon Woman* in 1995, the first queer feature film about African American lesbians. Like *Go Fish*, Dunye’s meta-cinematic approach to lesbian identity and sexuality is consistent with the kinds of narrative strategies employed by New Queer Cinema.<sup>10</sup>

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<sup>8</sup> The term “New Queer Cinema” was initially coined by B Ruby Rich in her 1992 article for *Sight and Sound*, entitled “New Queer Cinema”. See B Ruby Rich, “New Queer Cinema”, reprinted in Michele Aaron, ed., *New Queer Cinema: A Critical Reader* (New Brunswick, NJ: Rutgers U. Press, 2004), 15-22.

<sup>9</sup> Films widely proclaimed to be part of the New Queer Cinema movement include *Paris is Burning* (1990), *Swoon* (1991), *Edward II* (1991), *Poison* (1991), *My Own Private Idaho* (1991), *Zero Patience* (1993), *Go Fish* (1994), and *Watermelon Woman* (1995). For a discussion of the relationship between New Queer Cinema and Hollywood cinema, see Joseba Gabilondo, “Like Blood for Chocolate, Like Queers for Vampires”, in Arnaldo Cruz-Malavé and Martin F. Manalansan, eds., *Queer Globalizations: Citizenship and the Afterlife of Colonialism* (New York and London: New York University Press, 2002), 236-263.

<sup>10</sup> The “common style” of New Queer Cinema as Ruby Rich has labeled it is “Homo Pomo”. As she elaborates, “there are traces in all of them [the films] of appropriation and pastiche, irony, as well as a reworking of history with social constructionism very much in mind. Definitely breaking with older humanist approaches and the films and tapes that accompanied identity politics, these works are



Despite the success of both *Go Fish* and *Watermelon Woman*, however, New Queer Cinema and lesbian cinema in the 1990s developed along fundamentally separate lines, lines which intersected only occasionally. As Anat Pick has noted of the relationship between lesbian independent films in the 1990s and New Queer Cinema, “Lesbian cinema in the 1990s must...be thought of both within and beyond the domain of the New Queer, in the broader context of feminist and lesbian films of the 1970s, and the popular cinema of the 1980s”.<sup>11</sup> While the rise of independent cinema in the 1980s led to the production of some notable mainstream and feature-length independent lesbian films—including, for instance, *Personal Best* (Robert Towne, 1982), *Lianna* (John Sayles, 1983), and *Desert Hearts* (Donna Deitch, 1985), along with *Born in Flames* (Lizzie Borden, 1983), *She Must Be Seeing Things* (Sheila McLaughlin, 1987), and *I’ve Heard the Mermaids Singing* (Patricia Rozema, 1987)—it was not until the mid-1990s that lesbian independent filmmaking really began to take off.<sup>12</sup> Following the release of *Go Fish* and *Watermelon Woman*, there was a steady increase in the production of independent lesbian feature films from the mid to late 1990s onwards, including such popular hits as *Heavenly Creatures* (1994), *The Incredibly True Adventures of Two Girls in Love* (1995), *When Night is Falling* (1995), *Butterfly Kiss* (1995), *Bound* (1996), *All Over Me* (1997), *High Art* (1998), *Better Than Chocolate* (1998), *It’s in the Water* (1998), *Chutney Popcorn* (1999), *But*

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irreverent, energetic, alternately minimalist and excessive. Above all, they’re full of pleasure”. See Rich, “New Queer Cinema”, 16.

<sup>11</sup> See Anat Pick, “New Queer Cinema and Lesbian Films”, in Aaron, ed., *New Queer Cinema*, 103-118 (at 104).

<sup>12</sup> For a discussion of lesbian independent films in the 1980s, see Chris Holmlund, *Impossible Bodies: Femininity and Masculinity at the Movies* (New York and London: Routledge, 2002) and Judith Roof, *A Lure of Knowledge: Lesbian Sexuality and Theory* (New York: Columbia University Press, 1991).

*I'm a Cheerleader* (1999) and *Boys Don't Cry* (1999).<sup>13</sup> Lesbian independent films now range from romantic comedies (*Go Fish*, *It's in the Water*, and *Better Than Chocolate*) to films focused on queer youth (*The Incredibly True Adventures of Two Girls in Love*, *All Over Me*, and *But I'm a Cheerleader*) and from transgender subject matter and representation (*Boys Don't Cry*, *Transamerica*, and *Another Woman*) to the recent films exploring lesbian migration and border-crossing (*Unveiled*, *Gypo*, and *Maple Palm*).<sup>14</sup>

The growth in lesbian independent filmmaking during the 1990s was due in large part to the heightened visibility of queer consumers more generally at that time and, by extension, the increasing production of commodities aimed at the gay market. As Alexandra Chasin and others have noted, discussions about the rise of a new niche gay and lesbian market began to appear in the mainstream news media, the gay media, in the advertising trade press, and in scholarly journals throughout the 1990s at ever increasing rates.<sup>15</sup> Such publications aided the production and distribution of queer films by creating the very queer consumers that retailers could then reach. During the 1990s, gay and lesbian political issues like marriage, adoption, and military policy

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<sup>13</sup> While the issue of whether or not *Boys Don't Cry* is a "lesbian film" is hotly contested, the point I am trying to make here is that Kimberly Peirce's film is being marketed as "lesbian DVD" by both Wolfe and TLA Video alike. This is interesting given some of the recent critical interpretations of the film. For a discussion of lesbian versus transgender representation in *Boys Don't Cry*, see Judith Halberstam, *In a Queer Time and Place: Transgender Bodies, Subcultural Lives* (New York: New York University Press, 2005) and Judith Butler, *Undoing Gender* (New York and London: Routledge, 2004).

<sup>14</sup> For a discussion of independent films released between 1995 and 1999 that focus on queer children, see Chris Holmlund, "Generation Q's ABCs: Queer Kids and 1990s' Independent Films", in Chris Holmlund and Justin Wyatt, eds., *Contemporary American Independent Film: from the Margins to the Mainstream* (London and New York: Routledge, 2005), 177-191.

<sup>15</sup> See Alexandra Chasin, *Selling Out: The Gay and Lesbian Movement Goes to Market* (New York: St. Martin's Press, 2000).

were also being widely debated both in the courts and within the mainstream media, all of which served to consolidate the newly-acquired visibility of the gay market.

The rapid expansion in the production of lesbian independent films in the 1990s may also be attributed to the more general commodification of lesbian sexuality during the same period. Not only did lesbians become targeted as a particular social group in the 1990s, but they also became represented in advertisements, in television, and in the news media with much greater frequency.<sup>16</sup> The 1990s has since been hailed the decade of “lesbian chic”, when k.d. lang, Melissa Etheridge, and Ellen Degeneres all “came out” in public and the infamous *Vanity Fair Cover* featuring lang alongside supermodel Cindy Crawford glamorized butch-femme relations in a manner quite unprecedented.<sup>17</sup> However, while lesbian sexuality may have garnered important media coverage in the 1990s and beyond, the mainstream media’s representation of lesbianism continues to be dominated by images of feminine women; even within the context of lesbian independent films, for instance, depictions of masculine women are rare. This promotion of a “lipstick lesbian” model of visibility within popular culture has led to other aspects of queer female identity (e.g. race, class, ethnicity, and nationality) either being marginalized or, in some cases, completely erased—a

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<sup>16</sup> For an early discussion of lesbians as consumers, see Danae Clark, “Commodity Lesbianism”. *Camera Obscura* 25/26 (1991): 181-201. As Clark notes, according to the market strategies commonly used by advertisers to develop target consumer groups, four criteria must be met. These include the following: firstly, a group must be identifiable. Secondly, they must be accessible. Thirdly, they must be measurable and fourth, they must be profitable. In other words, as Clark observes, “a particular group must be ‘knowable’ to advertisers in concrete ways” (187). As Rebecca Beirne has pointed out, the rise of queer cable channels in the United States, Canada, and France, has also contributed to a growth in lesbian content on television screens, though this content is frequently only available to select regional and socioeconomic groups. See Rebecca Beirne, *Lesbians in the Television and Text After the Millennium* (London: Palgrave Macmillan, 2008).

<sup>17</sup> For a discussion of the politics of lesbian representation in the context of the *Vanity Fair* cover, see Joyce D. Hammond, “Making a Spectacle of Herself: Lesbian Visibility on *Vanity Fair*’s Cover”. *Journal of Lesbian Studies* 1 3/4 (1997): 1-35.

scenario that only ever favors the most affluent and upwardly-mobile group of lesbians. As Joyce Hammond has commented on popular culture's romance with lesbianism during the 1990s, "Many lesbians did not find themselves directly reflected in [these] representations—images of older lesbians, lesbians of color, and lesbians with disabilities, for example, were not as prevalent as those of white, affluent, and young lesbians".<sup>18</sup> The kind of class and race-based model of lesbian identity (e.g. white, upper-class, and feminine) being privileged within the context of both mainstream popular culture and independent lesbian cinema is perhaps best epitomized in Showtime's *The L Word*, which makes use of mostly white, heterosexual female actresses to perform lesbian femininity.<sup>19</sup>

While organizations such as AfterEllen.com continue to tell us that "visibility matters", greater inclusion in mainstream culture, though constituting an important source of political and cultural recognition, can also be indicative of increasing commodification.<sup>20</sup> Indeed, downplaying the more overtly political aspects of lesbian identity in order to appeal to a bigger market is a problem with the vast majority of lesbian independent films that have followed New Queer Cinema. While lesbian independent filmmaking in the U.S. has continued to grow and expand well into the first decade of the twenty-first century, the kinds of issues being depicted in the films have become more and more bland and the politics troublingly assimilationist. The

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<sup>18</sup> See Hammond, "Making a Spectacle of Herself", 26.

<sup>19</sup> For a discussion of lesbian femininity in *The L Word*, see Beirne, *Lesbians in the Television*. Also see Kim Akass and Janet McCabe (eds.), *Reading The L Word: Outing Contemporary Television* (London and New York: I.B. Tauris, 2006).

<sup>20</sup> AfterEllen.com, whose tagline is "because visibility matters", advertises lesbian-themed films, television shows, and music. The discussion boards on the site tend to focus primarily on lesbian representation in the context of popular culture. Indeed, the site frequently asks users to vote on issues such as "best lesbian sex scene" and "favorite L-Word character".

primary focus of many of these films is on romantic relationships that are presented as divorced from any kind of social or collective consciousness. Within the vast majority of U.S. lesbian independent films marketed by Wolfe and TLA Video, lesbians are being addressed, first and foremost, as just another form of family in the consumer marketplace; even so-called “lesbian films” devoted to transgender subject matter and representation emphasize family commitments and assimilationist values, too.

With their almost exclusive emphasis on marriage, monogamy, parenting, and family values more generally, the kinds of lesbian independent films that have followed New Queer Cinema are symptomatic of what Lisa Duggan has referred to in another context as “the new neoliberal equality politics”.<sup>21</sup> Although neoliberalism constitutes a far from monolithic system of governance, what generally characterizes neoliberal ideologies is that they encourage both institutions and individuals to conform to the norms of the market.<sup>22</sup> Neoliberalism is becoming constitutive of a whole set of social relations that privilege self reliance, self-governance, and individual risk management over and above state regulation of welfare and social protection. The result of neoliberal attempts to get individuals to assume responsibility for activities that were previously the domain of state agencies is the development of a corporate culture characterized by minimal state intervention in redressing economic inequalities and the privatization of the costs of social reproduction and care. As Lisa

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<sup>21</sup> Duggan, *The Twilight of Equality*, xii.

<sup>22</sup> As numerous scholars and critics have noted, neoliberalism marks a shift away from the model of social citizenship associated with the post-World War II welfare state towards a new, privatized understanding of citizenship in which citizens are reconstituted primarily through discourses of consumerism. For a discussion of the rise of neoliberalism in Europe and the United States, see David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005). Also see Lisa Duggan, *The Twilight of Equality? Neoliberalism, Cultural Politics, and the Attack on Democracy* (Boston: Beacon Press, 2003) and Brenda Cossman, *Sexual Citizens: The Legal and Cultural Regulation of Sex and Belonging* (Stanford: Stanford University Press, 2007).

Duggan argues, while neoliberal economic policies attempt to disguise the way in which they organize social relations along the lines of race, class, gender, and sexuality, by emphasizing privatization, personal responsibility, and minimal state intervention in redressing social inequalities, neoliberalism has been particularly effective in undermining both civil rights claims and welfare initiatives.<sup>23</sup>

In the case of lesbian independent cinema in the U.S., the type of neoliberal sexual politics that these films endorse not only privilege a particular race and class-based model of lesbian identity, but actively seeks to promote a depoliticized form of lesbian sexuality grounded primarily in domesticity and consumption. Within such a framework of so-called neoliberal “equality politics”, existing inequalities between lesbians go unnoticed. As Lisa Duggan has suggested elsewhere, while this new brand of gay “homonormativity” supports diversity and tolerance, it does so only according to the values of neoliberalism and global capitalism.<sup>24</sup> By letting the market determine LGBT rights in this way, lesbian independent cinema in the U.S. constitutes lesbians primarily as consumers, rather than as social citizens. Lesbian cultural production, in this context, becomes a mere vehicle through which to tap into and access the “pink pound”, all of which results in the creation of a depoliticized, highly sanitized form of lesbian cinema catering primarily towards the upwardly mobile, lesbian citizen-consumer. It is the overwhelming impact of such neoliberal equality politics on contemporary independent gay and lesbian cinema that led B Ruby Rich to assert in 2000 that the gay and lesbian films that have followed New Queer Cinema have become little more than “just another niche market”.

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<sup>23</sup> See Duggan, *The Twilight of Equality*, xiv.

<sup>24</sup> Ibid.

Unlike the majority of lesbian independent films produced in the U.S., lesbian independent films in Europe frequently adopt a transnational approach to LGBT rights. By “transnational approach”, I am referring to the fact that these films actively thematize the experience of migration and the crossing of national borders as part of their narratives. While film has always been to some extent a form of production whose historical emergence, together with its modes of distribution and reception, has been closely linked to globalization, what I am calling attention to here are films that explore the impact of globalization on contemporary constructions of LGBT human rights discourses. With respect to content, the recent focus on immigration and human rights in lesbian independent cinema can be attributed to the fact that sexual citizenship is becoming an increasingly crucial aspect of what it means to be a citizen of Europe. In 1998, for instance, the European Parliament stated that countries wishing to join the European Union would be refused if they violated the human rights of LGBT individuals. And while marriages between same-sex couples are only recognized in a few European countries (Belgium, the Netherlands, Spain, and Norway), civil unions and other forms of legal recognition for same-sex couples—which offer most if not all of the rights accorded by a civil marriage—now exist in most European countries (e.g. Denmark, Norway, Sweden, Greenland, Hungary, Iceland, France, Germany, Portugal, Finland, Croatia, Luxembourg, Slovenia, Switzerland, and the United Kingdom).

As a result of European Union policies towards same-sex couples—many of which cannot be divorced from wider economic, political and cultural developments around labor mobility and the right of free movement for workers between member

states in the EU—the ability to migrate from one country to another has become central to the construction of LGBT citizenship in Europe. In 2003, the European Parliament approved same-sex couples freedom of movement among member-states, the justification for the legislation being that the law must “reflect and respect the diversity of family relationships that exist in today’s society”.<sup>25</sup> Where European states once sought to restrict the movement of same-sex couples across national borders, a liberalization of immigration policy has become particularly evident in the case of the unification of same-sex couples. As Carl Stychin has rightly warned, however, such seemingly progressive legal and political developments around LGBT rights in Europe serve to privilege those lesbian and gay couples who conform to an “acceptable” (read: familial) model of homosexuality over those who do not.<sup>26</sup> In other words, it is only those LGBT individuals with the financial resources to travel who can embody the kind of cosmopolitan vision of sexual citizenship encouraged by the European Union’s policies on same-sex migration.

The importance of sexuality to new definitions of what it means to be a citizen of Europe is clearly reflected in the content of the lesbian migration films that I am seeking to contextualize here. The lesbian-themed European texts that address female same-sex desire in relation to migration and border-crossing include Donatello Dubini and Fosco Dubini’s *Journey to Kafiristan* (Germany/Italy, 2001), an orientalist travel narrative set in 1930s Germany; Maja Weiss’ *Guardian of the Frontier* (Slovenia,

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<sup>25</sup> Cited in Lena Ayoub and Shin-Ming Wong, “Separated and Unequal”. *William Mitchell Law Review* 32/2 (2006): 559-597 (at 561).

<sup>26</sup> See Carl F. Stychin, “‘A Stranger to Its Laws’: Sovereign Bodies, Global Sexualities, and Transnational Citizens”. *Journal of Law and Society* 27/4 (2000): 601-625. Also see Carl F. Stychin, *Governing Sexuality: The Changing Politics of Citizenship and Law Reform* (Portland, Oregon: Hart Publishing, 2003).



2001) which takes place against the backdrop of civil war in the former Yugoslavia and which is the first feature-length film in Slovenia produced by a female director; Angelina Maccarone's *Unveiled* (Germany, 2005) which revolves around the narrative of an Iranian lesbian who seeks asylum in Germany; Jan Dunn's *Gypo* (United Kingdom, 2005) which focuses upon a female refugee from the Czech Republic who is granted refugee status in the United Kingdom; Fatih Akin's *The Edge of Heaven* (Germany/Turkey, 2007) about a female political activist from Turkey who files for asylum in Germany but whose claim is ultimately rejected; Marco Puccioni's *Shelter Me* (Italy/France, 2007) which explores the fraught relationship between a lesbian couple in Italy and an undocumented male migrant from Tunisia; Shamin Sarif's *The World Unseen* (United Kingdom/South Africa, 2007) which takes place within the context of apartheid South Africa, along with her recent film *I Can't Think Straight* (United Kingdom, 2009), which traces the relationship between a South Asian lesbian living in Britain and a Muslim woman from Jordan; Monika Treut's *Ghosted* (Germany/Taiwan, 2009), about a lesbian encounter between a German filmmaker and a Taiwanese female immigrant living in Germany; and Julio Medem's *Room in Rome* (Spain, 2010), which explores an erotic encounter between two strangers, Alba and Natasha, in a hotel room in Rome.

### ***Transnational Lesbian Cinema***

From the late 1990s onwards, a new body of scholarship has emerged within film and media studies which is devoted to addressing the concept of transnational cinema, broadly construed. This literature includes Hamid Naficy's work on exilic and

diasporic filmmaking (2001); the edited collections of essays on transnational cinema by Eva Rueschmann (2003), Ella Shohat and Robert Stam (2003), and Elizabeth Ezra and Terry Rowden (2006); the recent essays on transnational feminism, film, and media, edited by Katarzyna Marciniak, Anikó Imre, and Áine O' Healy (2007); and numerous articles on transnational cinema in Europe.<sup>27</sup> While the above texts differ in relation to the ways in which they approach the issue of transnational cinema, a consistent theme running throughout much of this literature is that the term “transnational” is most useful as a way of describing a particular kind of cinematic consciousness, rather than a “cohesive cinema”.<sup>28</sup> According to critics of transnational cinema and media, transnational films embody a particular kind of transnational consciousness, or cross-border sensibility that manifests itself not only in relation to their subject matter, but their formal language, too. In terms of representational content, accented or transnational films engage primarily with the space of the border. Their plots often center upon narratives of immigration and exile, as well as journeys of exploration and escape. These accented or diasporic films tend to rely extensively on transnational locations and spaces, such as airports, seaports, and immigration controls, as a way of conveying both the interconnectedness and liminality of identity at the border. Transnational films, according to Hamid Naficy, can be recognized by

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<sup>27</sup> See Hamid Naficy, *An Accented Cinema: Exilic and Diasporic Filmmaking* (Princeton and Oxford: Princeton University Press, 2001); Eva Rueschmann, ed., *Moving Pictures, Migrating Identities* (Jackson: University of Mississippi Press, 2003); Ella Shohat and Robert Stam, eds., *Multiculturalism, Postcoloniality, and Transnational Media* (New Brunswick: Rutgers University Press, 2003); Elizabeth Ezra and Terry Rowden, eds., *Transnational Cinema: The Film Reader* (New York and London: Routledge, 2006); Katarzyna Marciniak, Anikó Imre, and Áine O' Healy, eds., *Transnational Feminism in Film and Media* (London: Palgrave Macmillan, 2007); and Tim Bergfelder, “National, transnational or supranational cinema? Rethinking European Film Studies”, *Media Culture Society* 2005; 27/3: 315-331.

<sup>28</sup> See Elizabeth Ezra and Terry Rowden's introduction, “What is Transnational Cinema?” in Ezra and Rowden, eds., *Transnational Cinema*, 1.

their constant juxtaposition of open spaces, characterized by bright lighting and mobile characters, with closed spaces featuring dark lighting and cramped, restricted locations.<sup>29</sup>

Transnational texts also draw upon some of the formal language we commonly associate with “Third Cinema”. Although the concept of “Third Cinema” originally developed in Latin America, Fernando Solanas and Octavio Getino, the two Argentinian filmmakers who coined the term, saw Third Cinema as an essentially international movement.<sup>30</sup> Far from solely applying to films produced within a specific geographical region or area, the term “Third Cinema” was intended to refer to a series of working practices, aesthetic strategies, and political ideologies aimed at encouraging spectators to react against the historical effects of imperialism, colonialism, and racism.<sup>31</sup>

Like so-called “Third Cinema”, from which accented or “transnational” films often differentiate themselves, exilic and diasporic films similarly resort to aesthetic means, along with thematic content, to facilitate greater awareness on the parts of their spectators to the kinds of issues being presented in the text. What is central to transnational cinema, according to Naficy, is that like Third Cinema, transnational texts render visible what classical realist cinema has traditionally concealed: the filmmaking process, the filmmaking product, and the filmmakers themselves. As he

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<sup>29</sup> As Naficy puts it, “The representation of life in exile and diaspora. . .tends to stress claustrophobia and temporality, and it is cathected to sites of confinement and control and to narratives of panic and pursuit”. See Naficy, *An Accented Cinema*, 5.

<sup>30</sup> See Fernando Solanas and Octavio Getino, “Towards a Third Cinema”, reprinted in Bill Nichols, ed., *Movies and Methods. An Anthology* (Tucson: University of Arizona Press, 1976), pp 44-64.

<sup>31</sup> For a useful introduction to Third Cinema, see Teshome H. Gabriel, *Third Cinema in the Third World: The Aesthetics of Liberation* (UMI Research Press, 1982); Jim Pines and Paul Willemen, eds., *Questions of Third Cinema* (London: BFI Publishing, 1989); and Mike Wayne, *Political Film: the Dialectics of Third Cinema* (London: Pluto Press, 2001).

suggests, the effect of transnational cinema is to distance the audience from the film, “undermining full identification with the diegesis and with its characters”.<sup>32</sup> As he further observes, this “exilic”, or “accented”, as opposed to “classical” style, makes use of formal strategies that cross generic boundaries—particularly those between documentary and fiction film—and, in so doing, “undermine cinematic realism”.<sup>33</sup> Unlike Third Cinema, however, transnational texts factor Europe and the West into the problematics of “world cinema”.<sup>34</sup>

In terms of European cinema more specifically, recent academic discussions have centered upon the problematization of the term “Europe” in relation to the expansion of the European Union and the emergence of new supranational modes of governance.<sup>35</sup> With respect to European Union immigration policies, for instance, the Schengen agreement, which was implemented in 1996, has eliminated internal border inspections, while simultaneously tightening external border checks. The result of such attempts to create a common financial market in Europe is that every citizen of the EU now has the right to free movement from one member state to another. As numerous critics have pointed out, however, the apparent freedom of movement for EU citizens is at the expense of visa regimes that impede the mobility of immigrants,

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<sup>32</sup> Naficy, *an Accented Cinema*, 276.

<sup>33</sup> *Ibid.*, 5.

<sup>34</sup> Ezra and Rowden, “What is Transnational Cinema?”, 3.

<sup>35</sup> For an analysis of European cinema in relation to the kinds of broader geopolitical shifts taking place in Europe more generally, see Tim Bergfelder, “National, Transnational or Supranational Cinema? Rethinking European Film Studies”. *Media Culture Society* 2005: 27/3: 315-331. See also Philip French, “Is There a European Cinema?”, in John Hill, Martin McLoone, and Paul Hainsworth, eds., *Border Crossing: Film in Ireland, Britain and Europe* (London: British Film Institute, 1994), 34-52; John Hill, “The Future of European Cinema: The Economics and Culture of Pan-European Strategies”, in Hill, McLoone, and Hainsworth, eds. *Border Crossing*, 53-80; Duncan Petrie, ed. *Screening Europe: Image and Identity in Contemporary European Cinema* (London: BFI Publishing, 1992); and Mark Betz, *Beyond the Subtitle: Remapping European Art Cinema* (Minneapolis: University of Minnesota Press, 2009).

especially that of undocumented migrant workers and refugees fleeing persecution.<sup>36</sup> Immigration controls, in other words, have thus become a way of redefining and securing European identity amidst the increasing global migration of people, goods, and money across national borders.<sup>37</sup>

Along with many contemporary independent European films, the lesbian migration films discussed here owe their existence in part to the transnational conditions of financing and production that have emerged as a result of Europe's new identity as a supranational state. Like many of the accented films Naficy discusses, the lesbian migration films discussed here belie a similar concern with the geographical and psychological effects of border-crossing. In terms of thematic content, all of the lesbian migration films mentioned above might be characterized as "border films" insofar as their plots involve various kinds of border-crossings; their characters are often located in borderlands settings; and they are shot on location in borderland spaces. All of these films revolve around travel and journeys across national borders, whether for exploration, pilgrimage, emigration, or escape. As with transnational cinema more generally, many of the journeys undertaken by the characters in transnational lesbian cinema are presented in psychological as well as geographical terms.<sup>38</sup> In these films, literal journeys are often used as metaphors for inward, psychological journeys and processes of psychic transformation. The result, as Naficy

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<sup>36</sup> See, for instance, Ginette Verstraete, "Technological Frontiers and the Politics of Mobility in the European Union", in Sara Ahmed, Claudia Castañeda, Anne-Marie Fortier, Mimi Sheller, eds., *Uprootings/Regroundings: Questions of Home and Migration* (Oxford and New York: Berg, 2003), 225-249.

<sup>37</sup> For a more general discussion of the relationship between citizenship, migration and globalization, see Stephen Castles and Alastair Davidson, eds., *Citizenship and Migration: Globalization and the Politics of Belonging* (New York: Routledge, 2000).

<sup>38</sup> For a detailed account of independent transnational cinema, see Naficy, *An Accented Cinema*.

has observed with respect to independent transnational cinema, is that solitude and loneliness are often predominant themes in transnational lesbian cinema (see, for instance, the films *Journey to Kafiristan*, *Unveiled*, *Shelter Me*, *The Edge of Heaven*, and *Ghosted*).<sup>39</sup> Many of these films thematize the experience of migration and the crossing of national borders as a metaphor for lesbian subjectivity and desire more generally.

The turn towards lesbian migration and border-crossing in European cinema is connected to the kinds of broader geopolitical changes taking place in Europe as a whole, particularly around issues of immigration, citizenship, and gay rights. In many of these recent European films, lesbian sexuality becomes the ground upon which more general concerns about globalization, immigration, and social citizenship get played out. Indeed, Marco Puccioni's 2007 film *Shelter Me* (or "Riparo") and Julio Medem's *Room in Rome* (2010) offer particularly good illustrations of the ways in which filmmakers are re-imagining Europe along fundamentally queer lines. These films not only demonstrate the process through which queer bodies are being assimilated into the European nation-state, but the extent to which lesbian desire in European art cinema is being re-articulated in relation to neoliberal discourses of sexual citizenship as a form personal responsibility, or self-governance.

These lesbian migration films are not merely transnational in content, however, but transnational in form. By "transnational lesbian cinema", then, I am referring to contemporary independent lesbian films that exhibit what might be called a *transnational consciousness*. As I will demonstrate through the process of close

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<sup>39</sup> Ibid., 55.

reading of specific texts in subsequent chapters, the kind of self-reflexivity or self-consciousness that characterizes these films ranges from their approach to image-sound relations and narrative structure, to their articulation of emotion and affect. These films adopt many of the formal features that I will identify in later chapters as characteristic of transnational lesbian cinema, including self-reflexivity; defamiliarizing structures that work to undermine traditional notions of cinematic realism; audio-visual disjunction; location shooting; the inscription of the filmmakers themselves within the film; the use of transnational spaces like seaports, border zones, and immigration controls; and, perhaps most importantly, the documentary realist approach to the presentation of subject matter and narrative.

### ***Music/Sound***

A key component of the transnational lesbian cinematic consciousness identified above is music and sound. Although a comprehensive body of literature has been devoted to the subject of lesbians in film, there has been no single study to date that addresses the extent to which sound, broadly construed, influences how we perceive lesbian images in film.<sup>40</sup> As is the case with film studies more generally, lesbian film

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<sup>40</sup> For some of the most interesting work on lesbians in film, see Andrea Weiss, *Vampires and Violets: Lesbians in Film* (London and New York: Penguin, 1992); Patricia White, *Uninvited: Classical Hollywood Cinema and Lesbian Representability* (Bloomington and Indianapolis: University of Indiana Press, 1999); Clare Whatling, *Screen Dreams: Fantasising Lesbians in Film* (Manchester and New York: Manchester University Press, 1997); Tamsin Wilton, ed., *Immortal Invisible: Lesbians and the Moving Image* (New York and London: Routledge, 1995), and Amy Villarejo, *Lesbian Rule: Cultural Criticism and the Value of Desire* (Durham and London: Duke University Press, 2003). Also see Anat Pick, "New Queer Cinema and Lesbian Films", in Michele Aaron, eds., *New Queer Cinema: A Critical Reader* (New Brunswick, NJ: Rutgers University Press, 2004), 103-118. On the subject of queer female performance in lesbian independent cinema, see Jamie Stuart, *Performing Queer Female Identity on Screen: A Critical Analysis of Five Recent Films* (Jefferson, N.C.: Macfarland, 2008). With the exception of Stuart's recent book, however, none of the above texts or articles addresses the role played by music in lesbian cinema in a sustained way.

criticism and theory has tended to privilege the visual image at the expense of the soundtrack.<sup>41</sup> By focusing their attention primarily on the politics of visual representation, however, lesbian film critics have failed to address the ways in which sound, and specifically music, is used in film to articulate lesbian desire. While feminist film theorists such as Kaja Silverman, Mary Ann Doane, Amy Lawrence, Heather Laing, and Britta Sjogren have attempted to redress the lack of attention to music and sound within feminist film criticism, critics of queer cinema have not followed suit.<sup>42</sup> And yet, I would argue, it is important for us to be aware of the ways in which cinematic articulations of lesbian desire are a function of film sound as well as film image. How do we *hear*, as opposed to *see*, lesbians on screen? What is the relationship between seeing and hearing lesbian desire in film? If, as Michel Chion and others have suggested, sound encourages us to see something different in the image and the image in turn invites us to hear something else in the sound, then we need to consider to what extent sound in film might serve a pedagogical function: that

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<sup>41</sup> For an early discussion of the marginalization of the soundtrack within film studies, see the special issue, "Cinema/Sound". *Yale French Studies* 60 (1980). Also see Rick Altman, *Sound Theory, Sound Practice* (Los Angeles: American Film Institute Press, 1992); Michel Chion, *Audio-Vision: Sound on Screen*. Trans. Claudia Gorbman (New York: Columbia University Press, 1994); Michel Chion, *The Voice in Cinema*. Trans. Claudia Gorbman (New York: Columbia University Press, 1999); Mary Ann Doane, "Ideology and the Practice of Sound Editing and Mixing" in Stephen Heath and Teresa de Lauretis, eds., *The Cinematic Apparatus* (London: Macmillan, 1980), 47-56; and Mary Ann Doane, "The Voice in the Cinema: The Articulation of Body and Space". *Yale French Studies* 60 (1980): 33-50.

<sup>42</sup> See Kaja Silverman, *The Acoustic Mirror: The Female Voice in Psychoanalysis and Cinema* (Bloomington: Indiana University Press, 1988); Mary Ann Doane, "The Voice in the Cinema: The Articulation of Body and Space". *Yale French Studies* 60 (1980): 33-50; Mary Ann Doane, *The Desire to Desire: The Woman's Film of the 1940s* (Bloomington: Indiana University Press, 1987); Amy Lawrence, *Echo and Narcissus: Women's Voices in Classical Hollywood Cinema* (Berkeley: University of California Press, 1991); Heather Laing, *The Gendered Score: Music in 1940s Melodrama and the Woman's Film* (Aldershot: Ashgate, 2007); and Britta Sjogren, *Into the Vortex: Female Voice and Paradox in Film* (Urbana: University of Illinois Press, 2006).



of teaching us how to “look” at lesbians.<sup>43</sup> For these and other reasons, it is vital that we start looking at lesbian cinema with the sound back on.

Despite music’s obvious proximity to cultural discourses of migration, exile, and displacement, there has also been a lack of attention to the role played by music and sound within transnational cinema. Hamid Naficy has suggested that accented films have a tendency to de-emphasize synchronous sound, make extensive use of voiceover, and stress the oral, the vocal, and the musical, although little else has been said about the place of music within transnational cinema other than general allusions to its significance.<sup>44</sup> And yet, music constitutes a powerful symbol for the expression of identity, nationality, and homeland. Not only does music offer a means of identifying particular ethnic and/or social groups, but it can also be used to assert self-identity in potentially subversive and liberatory ways. As Mark Slobin comments, “Whether through the burnished memory of childhood songs, the packaged passion of recordings, or the steady traffic of live bands, people identify themselves strongly, even principally, through their music”.<sup>45</sup> Music and sound are inextricably linked to place and, in this sense, it is perhaps inevitable that music comes to occupy such a pivotal role within cinematic narratives of migration and diaspora.

In the case of transnational lesbian cinema more specifically, it is important to consider the soundtrack not only in relation to cinematic narratives of lesbian migration, but as a crucial component of transnational lesbian cinema’s self-reflexivity. By “self-reflexivity”, I am referring to the ways in which image-sound

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<sup>43</sup>See Chion, *Audio-Vision*.

<sup>44</sup>Naficy, *An Accented Cinema*, 25.

<sup>45</sup>Mark Slobin, *Subcultural Sounds: Micromusics of the West* (Hanover: Wesleyan University Press, 1993), 161.

relations might function to undermine traditional notions of cinematic realism. In order to fully appreciate the role played by the soundtrack in transnational lesbian cinema, however, I believe it is necessary to consider music and sound as part of a much broader cultural discourse on lesbian migration, a discourse that also includes immigration law and policy-making, as well as secondary literature on queer migration and human rights.

In this way, my approach to the soundtrack in transnational lesbian cinema is informed less by film studies, which still tends to privilege close textual and formal analysis of film, and more by the kind of materialist approach to film advocated by cultural studies. From the inception of cultural studies in the late 1960s and early 1970s, policy-related arguments have occupied a significant position within cultural studies debates. As Australian cultural critic Tony Bennett has argued, cultural criticism can have a powerful impact upon governmental policy over time, “shifting the discursive grounds on which policy options are posed and resolved”.<sup>46</sup> Rather than theorizing cultural production as a mere “reflection” of the social—a mode of analysis, he argues, that is predicated upon the assumption that culture and society are in some way separate to begin with—Bennett advocates that we view cultural production and governmental policy as mutually constitutive and complementary forces. A key question for policy-related arguments within cultural studies revolves around how questions of cultural representation can be posed in ways that render their implications at the level of social policy more apparent. An engagement with transnational lesbian cinema that is informed by cultural studies methods would thus require situating these

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<sup>46</sup> Tony Bennett, “Culture and Policy”, in Simon During, ed., *The Cultural Studies Reader*. Third edition (New York and London: Routledge), 107-118 (at 110).

lesbian migration films within a wider economy of cultural production, an economy that not only encompasses the texts themselves, but legislative and policy-related realms, too.

In the above regard, then, my approach to music and sound in *Bordering on Desire* is consistent with ethnomusicological perspectives on film. Unlike the vast body of scholarship on film music produced by historical musicologists—the majority of which tends to fetishize formalist analysis and close reading of individual texts—ethnomusicological work on film is motivated by the need to place individual films within the kind of broader social and cultural discourses of which cinema is but a part. In other words, whereas historical musicological approaches to film tend to be the product of a disciplinary legacy still bound up with Romanticist thinking—or with the kind of criticism that, as Bennett puts it, is “located in a position of transcendence in relation to its object”—ethnomusicology is predicated on the assumption that the meaning of music resides not in “the music itself”, but in the specific contexts of production, distribution, and reception in which musical performances and productions take place.<sup>47</sup> While ethnomusicology, unlike historical and popular musicology, has so far failed to engage with feminist and queer theory in any substantive way—for reasons I have discussed elsewhere—I would still suggest that it provides perhaps the most useful point of departure for thinking about music and sound in transnational

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<sup>47</sup> As Bennett has commented on the ways in which such transcendent aestheticism provides a convenient excuse for disciplinary isolationism, “The less academic intellectuals working in the cultural sphere are able to take refuge in antinomies of this kind, the less likely it is that their analyses will be eviscerated by a stance which, in their own minds, gives them a special license never to engage with other intellectuals except on their own terms”. See Bennett, “Culture and Policy”, 116.

lesbian cinema.<sup>48</sup> An ethnomusicological approach to film, for instance, would allow us to view music and sound in transnational lesbian cinema as part of a more general cultural discourse on lesbian migration and human rights. It is this attempt to situate transnational lesbian cinema in relation to a much broader political economy of lesbian migration—an economy of which film music, along with film itself, is an important part—that constitutes the central goal of *Bordering on Desire*.

Indeed, there is a growing body of scholarship within the field of queer studies that addresses the relationship between neoliberalism and the politics of queer cultural representation. This literature includes, for instance, Lisa Duggan's work on neoliberal equality politics; Rosemary Hennessy's book, *Profit and Pleasure: Sexual Identities in Late Capitalism*; Miranda Joseph's work on queer community; Kevin Floyd's book on queer Marxism; Anna Marie Smith and Amy Lind's work on welfare; and Eithne Luibhéid and Carl Stychin's accounts of the intersections between sexuality, neoliberalism, and immigration law.<sup>49</sup> In a recent article that addresses constructions

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<sup>48</sup> Elaborating on Arjun Appadurai's analysis of globalization in terms of music more specifically, ethnomusicologist Mark Slobin concludes his discussion of the relationship between music and globalization in his book, *Subcultural Sounds*, with an analysis of film music and, more specifically, the soundtrack for Mira Nair's film *Mississippi Masala* (1992). Although Slobin does not elaborate on what an ethnomusicological approach to film might look like, it seems to me that ethnomusicological methodologies potentially have much to offer scholars of both film and film music alike. For a discussion of the lack of attention to issues of gender and sexuality within the field of ethnomusicology, see Rachel Lewis, "What's Queer About Musicology Now?" *Women & Music: a Journal of Gender and Culture* 13 (2009): 43-53.

<sup>49</sup> Rosemary Hennessy, *Profit and Pleasure: Sexual Identities in Late Capitalism* (New York and London: Routledge, 2000); Miranda Joseph, *Against the Romance of Community* (Minneapolis and London: University of Minnesota Press, 2002); Kevin Floyd, *The Reification of Desire: Toward a Queer Marxism* (Minneapolis: University of Minnesota Press, 2009); Anna Marie Smith, *Welfare Reform and Sexual Regulation* (Cambridge: Cambridge University Press, 2007); Anna Marie Smith, "Reproductive Technology, Family Law, and the Postwelfare State: The California Same-Sex Parents' Rights 'Victories' of 2005". *SIGNS: Journal of Women in Culture and Society* 34/4 (2009): 827-850; Amy Lind, "Legislating the Family: Heterosexist Bias in Social Welfare Policy Frameworks". *Journal of Sociology and Social Welfare* 31/4 (2004): 21-35; Eithne Luibhéid, "Heteronormativity, Responsibility, and Neo-Liberal Governance in U.S. Immigration Control", in Brad Epps, Keja Valens, and Bill Johnson González, eds., *Passing Lines: Sexuality and Immigration* (Cambridge, Mass.:

of heteronormativity in U.S. immigration controls, Eithne Luibhéid has stressed the need for scholarship on queer migration that addresses the links between sexuality, state institutions, and global political economy. It is important, she argues, that “immigration, sexuality, and governmentality remain in dialogue...in terms that recognize the inextricable linkage of economic and cultural domains, but that are not immediately recuperable within dominant neo-liberal logics”.<sup>50</sup> Following Luibhéid, my approach to transnational lesbian cinema is informed by the need to think about cultural representations of LGBT human rights discourses and political economy together, rather than separately. In this dissertation, I offer a queer materialist critique of transnational lesbian cinema, one that centralizes the relationship between sexual desire and political economy. However, in order to effectively account for the material dimension of lesbian migration and LGBT human rights advocacy in transnational lesbian cinema, it is necessary to briefly consider the kinds of transformations in media production that have taken place as a result of new forms of distribution such as DVD.

### ***DVD Distribution***

Unlike VCR, which is understood to have eroded the differences between televisual and cinematic viewing, DVD has been promoted as a delivery medium that embodies the ultimate convergence of the television screen and the computer screen.<sup>51</sup> The first

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Harvard University Press, 2005), 69-101; and Carl Stychin, *Governing Sexuality: The Changing Politics of Citizenship and Law Reform* (Oxford, Portland: Hart, 2003).

<sup>50</sup> Luibhéid, “Heteronormativity, Responsibility, and Neo-Liberal Governance”, 91.

<sup>51</sup> For a more detailed discussion of the interface between DVD and the computer screen, see Anne Friedberg, *The Virtual Window: From Alberti to Microsoft* (Cambridge, Mass.: MIT Press, 2006).

DVD (Digital Video Disc, or Digital Versatile Disc) players were introduced in Japan in 1996, and then in the United States the following year. By 2000, over 12 million homes in the U.S. had purchased DVD players and by 2005, over 80% of all U.S. homes had DVD players.<sup>52</sup> Not only has DVD affected the distribution, consumption, and the context of reception for film, but it also offers a new way of engaging with the cinematic text. DVD, by all accounts, has produced more active spectators. As Craig Hight has remarked, “We are not so much viewers of a digital text as *users*, navigating our way through menus and following the pathways they provide”.<sup>53</sup>

The new mode of engagement with film facilitated by DVD distribution is due not only to the increased viewer activity that comes with the convergence of the television screen and the computer screen. Rather, it also pertains to the fact that DVD presentation is inextricably bound up with additional material, otherwise known as “DVD extras” or “bonus features”. The inclusion of such additional material in the form of director commentaries, cast and crew biographies, interviews, “making of” documentaries, deleted scenes, alternative versions and endings, trailers, additional short films, and further connections to the Internet through addresses for specific websites, has resulted in DVD and, by extension, film viewing becoming a new kind of “intermedia” that relies extensively on a whole host of “marketing tie-ins”. It is no longer possible, in other words, as Patricia Zimmerman has pointed out, to see films as

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<sup>52</sup> See Barbara Klinger, *Beyond the Multiplex: Cinema, New Technologies, and the Home* (Berkeley: University of California Press, 2006), 58.

<sup>53</sup> Craig Hight, “Making-of Documentaries on DVD: *The Lord of the Rings* Trilogy and Special Editions”. *Velvet Light Trap* 56 (Fall, 2005): 4-17 (at 9). On new media more generally, see Henry Jenkins, *Convergence Culture: Where Old and New Media Collide* (New York and London: New York University Press, 2006); Martin Lister, Seth Giddings, Iain Grant, Kieran Kelly, *New Media: A Critical Introduction* (New York and London: Routledge, 2003); and Dan Harries, ed., *The New Media Book* (London: BFI Publishing, 2002).

the “end product”. Rather, the filmic text has become, as she puts it, the nodal point of “circulating commodities”.<sup>54</sup> Moreover, as Aaron Barlow notes, DVD presentation is also having a profound impact upon the ways that films are viewed through increasing viewers’ knowledge of the films.<sup>55</sup> Making-of documentaries, in particular, often work to resituate the texts they accompany by offering a new interpretative framework for the film in question, documenting its production in highly specific ways.

Clearly, a great deal more work is needed in terms of developing critical frameworks for analyzing DVD and, with it, related forms of new media. My aim here, however, is more modest. In this dissertation, my goal is to think about the ways in which distribution platforms such as DVD might function within the context of transnational lesbian cinema more specifically. While DVD distribution has certainly resulted in the increasing commodification of lesbian and gay films for niche home video markets, as Rich notes above—something that it would be dangerous for lesbian film critics to ignore—I would also like to suggest that DVD has expanded the possibilities for self-reflexive cinematic presentation, particularly in terms of the eventual formatting and arrangement of material. As I will argue, the lesbian migration films that form the central focus of this dissertation are highly dependent upon mediating technologies such as DVD additional material to render visible not just the filmmaking process and the filmmaking product, but the kinds of social and political concerns to which the filmmakers are responding. In order to get a sense of

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<sup>54</sup> Patricia Zimmerman, “Digital Deployment(s)”, in Chris Holmlund and Justin Wyatt, eds., *Contemporary American Independent Film: From the Margins to the Mainstream* (London and New York: Routledge, 2005), 245-264 (at 251).

<sup>55</sup> Aaron Barlow, *The DVD Revolution: Movies, Culture, and Technology* (Westport, Connecticut: Praeger, 2005), 108.

the significance and potential scope of transnational lesbian cinema, then, it is vital to address not only the films themselves, but the extent to which they are mediated by additional DVD materials and how DVD in turn shapes their circulation and reception.

### ***The Organization of This Dissertation***

While each of the films mentioned earlier explore the impact of migration and border-crossing on the formation of lesbian subjectivity and desire, four themes emerge as central within the particular body of work I am referring to as transnational lesbian cinema: queer aestheticizations of the border in relation to new discourses of sexual citizenship in Europe (*Journey to Kafiristan*, *Guardian of the Frontier*, *Shelter Me*, *The World Unseen*, *I Can't Think Straight*, *Ghosted*, and *Room in Rome*); immigration rights for same-sex couples (*Maple Palm*); welfare and social citizenship (*Gypo* and *Shelter Me*); and claims for asylum and refugee status (*Roundtrip*, *Unveiled*, *The Edge of Heaven* and *Gypo*). In this dissertation, I would like to focus primarily on those films that address lesbian migration in relation to human rights discourses on gender and sexuality and immigration law. Building on literature in transnational feminist studies that engages with questions of human rights and visual culture, my aim is to use transnational lesbian cinema to reflect upon the relationship between sexual rights and cultural advocacy. As Wendy Hesford and Wendy Kozol have argued in their groundbreaking collection of essays, *Just Advocacy? Women's Human Rights, Transnational Feminisms, and the Politics of Representation*, it is essential that human rights scholars and activists begin to engage with forms of cultural advocacy because



of the connections between representation and policy in women's human rights activism.<sup>56</sup>

In spite of the substantial growth of literature devoted to theorizing sexuality from a transnational perspective, however, there has been a significant lack of attention to the relationship between lesbian rights and cultural advocacy.<sup>57</sup> Although Katie King stressed the need for further analyses of the place of lesbians vis-à-vis globalization in her 2002 essay, "There Are No Lesbians Here: Feminisms, Lesbianisms, and Global Gay Formations", most of the scholarship purporting to address the internationalization of LGBT identities still focuses primarily on gay men and queer masculinities.<sup>58</sup> This is also true of the otherwise groundbreaking collection

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<sup>56</sup> Wendy S. Hesford and Wendy Kozol, eds., *Just Advocacy? Women's Human Rights, Transnational Feminisms, and the Politics of Representation* (New Brunswick and London: Rutgers University Press, 2005), 21.

<sup>57</sup> For literature that calls for transnational approaches to theorizing sexuality, see Philip Brian Harper, Anne McClintock, José Esteban Muñoz, and Trish Rosen, "Queer Transsexions of Race, Nation, and Gender: An Introduction," *Social Text* 52–53 (1997): 1–4; Elizabeth A. Povinelli and George Chauncey, "Thinking Sexuality Transnationally: An Introduction," *GLQ* 5, no. 4 (1999): 439–50; and David L. Eng, Judith Halberstam, and José Esteban Muñoz, "What's Queer about Queer Studies Now?" *Social Text* 23, nos. 84–85 (2005): 1–17. Also see U.S.-based studies of diasporas by Rod Ferguson, *Aberrations in Black: Toward a Queer of Color Critique* (Minneapolis: University of Minnesota Press, 2004); David Eng, *Racial Castration: Making Masculinity in Asian America* (Durham, NC: Duke University Press, 2001); Martin Manalansan, *Global Divas: Filipino Gay Men in the Diaspora* (Durham, NC: Duke University Press, 2003); and Gayatri Gopinath, *Impossible Desires: Queer Diasporas and South Asian Public Cultures* (Durham, NC: Duke University Press, 2005).

<sup>58</sup> See Katie King, "There Are No Lesbians Here: Feminisms, Lesbianisms, and Global Gay Formations", in Arnaldo Cruz-Malavé and Martin F. Manalansan, eds., *Queer Globalizations: Citizenship and the Afterlife of Colonialism* (New York: New York University Press, 2002), 33–48. A representative example of the wholesale erasure of lesbianism from discussions of homosexuality in post-colonial contexts can be found in the work of Dennis Altman who, despite using the terms "gay" and "lesbian" throughout both his articles and books alike, speaks only of gay men. See Dennis Altman, "Rupture or Continuity? The Internationalization of Gay Identities". *Social Text* 48 (1996): 77–94 and "Global Gaze/Global Gays". *Gay and Lesbian Quarterly* 3 (1997): 417–436. Rare examples of published scholarship on lesbianism and globalization include Teri Silvio, "Reflexivity, Bodily Praxis, and Identity in Taiwanese Opera". *GLQ: A Journal of Lesbian and Gay Studies* 5/4 (1999): 585–603; Frances Negrón-Muntaner, "When I Was a Puerto Rican Lesbian: Meditations on *Brincando el Charco: Portrait of a Puerto Rican*". *GLQ: A Journal of Lesbian and Gay Studies* 5/4 (1999): 511–526; and Olivia Khoo, "The Ground Beneath Her Feet: Fault Lines of Nation and Sensation in Yau Ching's *Let's Love Hong Kong*". *GLQ: A Journal of Lesbian and Gay Studies* 14/1 (2008): 99–119.

of essays on queer migration published in the 2008 special issue of *GLQ*.<sup>59</sup> Indeed, despite the growth of published work on sexuality and immigration across both the humanities and social sciences post-9/11, there has been a surprising lack of attention to the subject of lesbian migration.<sup>60</sup> While LGBT rights have been on the international human rights agenda since the early 1990s, there has been very little discussion of the ways in which lesbian identities emerge within the context of both human rights discourses on gender and sexuality and immigration law.<sup>61</sup> As Shannon Minter has observed, “While women’s rights have gained increased visibility and recognition within the international human rights community, women’s advocates

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<sup>59</sup> As Eithne Luibhéid has acknowledged, the absence of articles specifically devoted to lesbian migration in the *GLQ* special issue was due, first and foremost, to the scarcity of work being undertaken in this area. Personal communication, Cornell University, March 31<sup>st</sup>, 2009. With the exception of Luibhéid’s chapter on lesbian sexuality at the U.S.-Mexico border in her book *Entry Denied*, the only other sustained analyses of lesbian migration to date include the chapter by psychologist Oliva Espín on lesbian immigrants in the U.S., along with Katie Acosta’s article and forthcoming dissertation on Latina lesbian migrant communities in the U.S. See Oliva M. Espín, *Women Crossing Boundaries: A Psychology of Immigration and Transformations of Sexuality* (New York and London: Routledge, 1999) and Katie L. Acosta, “Lesbianas in the Borderlands: Shifting Identities and Imagined Communities”. *Gender & Society* 22 (2008): 639-659. As Martin Manalansan noted in his essay on sexuality and migration for the journal *International Migration Review*, there are very few studies of sexuality and pleasure—either heterosexual or homosexual—in the lives of migrant women in general. See Martin F. Manalansan, “Queer Intersections: Sexuality and Gender in Migration Studies”. *International Migration Review* 40/1 (2006): 224-249 (at 241).

<sup>60</sup> This literature includes, for instance, Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* (Minneapolis: University of Minnesota Press, 2002); Eithne Luibhéid and Lionel Cantú, eds., *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings* (Minneapolis: University of Minnesota Press, 2005); Brad Epps, Keja Valens, and Bill Johnson González, eds., *Passing Lines: Sexuality and Immigration* (Cambridge, Mass.: Harvard University Press, 2005); Lionel Cantú, *The Sexuality of Migration: Border Crossings and Mexican Immigrant Men*. Edited by Nancy Naples and Salvador Vidal-Ortiz (New York: New York University Press, 2009); and “Queer/Migration”. *GLQ: A Journal of Lesbian and Gay Studies* 14 2/3 (2008).

<sup>61</sup> The mid-1990s witnessed the emergence of a number of international networks devoted to LGBT human rights, including the International Lesbian and Gay Association (ILGA), which was formed in 1993 at the Vienna World Conference on Human Rights, and which was the first LGBT organization to be accorded United Nations consultative status; the Human Rights Watch, which appeared in 1994; and the International Gay and Lesbian Human Rights Commission (IGLHRC), which was also founded in 1994, and which is currently the leading lesbian and gay organization involved in researching and documenting human rights abuses against LGBT individuals. Douglas Sanders offers a useful summary of sexuality as it appears in international human rights discourses in the early to mid 1990s. See Douglas Sanders, “Getting Lesbian and Gay Issues on the International Human Rights Agenda”. *Human Rights Quarterly* 18/1 (1996): 67-106.

have rarely included lesbian issues in their analyses of human rights law or in their documentation of the status of women”.<sup>62</sup> Much more work is clearly needed in terms of the ways in which lesbian identities are emerging in relation to both international human rights discourses and state immigration controls.

It is precisely the above absences and silences surrounding lesbian rights and cultural advocacy that this dissertation on transnational lesbian cinema seeks to redress. My primary interest in these lesbian migration films lies in what they might have to contribute to current conversations in feminist and queer studies about what it means to think sexuality globally and transnationally. How does the category “lesbian” emerge within the context of human rights discourses on gender and sexuality and immigration law? What does the term “lesbian” come to signify as it crosses national borders? Is it possible to talk meaningfully about lesbian rights that are transnational and global? How might films and documentaries transform the way we conceive of and imagine lesbian rights? What does it mean to conceive of lesbian rights as human rights?

A crucial part of this dissertation is to use transnational lesbian cinema to explore the relationship between sexual rights and cultural advocacy. I am particularly

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<sup>62</sup> Minter, “Lesbians and Asylum”, 8. As Rachel Rosenbloom puts it, “This invisibility is in itself a human rights violation”. She calls women’s human rights advocates to “stop seeing silence as signifying an *absence*, but rather see it as signifying the *presence* of a multitude of barriers”. See Rosenbloom, *Unspoken Rules*, xv. The only books and articles specifically devoted to addressing the relationship between lesbian rights and human rights are the following: Julie Dorf and Gloria Careaga Pérez, “Discrimination and the Tolerance of Difference: International Lesbian Human Rights”, in Julie Stone Peters and Andrea Wolper, eds., *Women’s Rights, Human Rights: International Feminist Perspectives* (New York and London: Routledge, 1995), 324-334; Alice M. Miller, AnnJanette Rosga, Meg Satterthwaite, “Health, Human Rights, and Lesbian Existence”, in Jonathan M. Mann, Sofia Gruskin, Michael A. Grodin, George J. Annas, eds., *Health and Human Rights: A Reader* (Routledge: 1999), 265-280; and Rachel Rosenbloom, ed., *Unspoken Rules: Sexual Orientation and Women’s Human Rights* (London: Cassell, 1996).

interested in the points of intersection, or slippage, between visibility politics (as in lesbian rights) and the politics of visual representation (as in film and popular culture). Film, like law and literature, tells us stories, making it a fertile ground, or lens, through which to examine some of the ways in which lesbian human rights narratives are produced. A chapter of the dissertation is thus devoted to exploring each of the three main topics pertaining to lesbian rights in turn: same-sex immigrations rights and media advocacy; social citizenship and the right to welfare; and the cultural politics of LGBT asylum cases. The three films singled out for special attention here are the texts that deal most explicitly with the subject of lesbianism and human rights; these films also present themselves as “activist” texts.

While the following chapters engage, for the most part, in issue-based, as opposed to text-based, analysis, all three chapters nonetheless involve close readings of specific films. However, my reading of these three texts is nonetheless framed by an analysis of DVD distribution and, more specifically, DVD additional material in much the same way that DVD extras work to frame the feature films themselves. Each of the films discussed here are positioned at the centre of specific forms of LGBT human rights advocacy, even as they are embedded within a variety of other new media contexts, including DVD additional material and online advocacy. For this reason, the chapters that follow take what is essentially a cultural studies approach to film, viewing specific texts within a variety of contexts, including those provided by DVD additional material like production notes, interviews with directors, and mini-documentaries, alongside those directly pertaining to immigration policy and legal documents on lesbian migration and human rights. Law, like popular culture, is an

important site for the production of social meaning. In this dissertation, I am particularly interested in the cultural convergence between legal discourses on lesbian migration and the politics of lesbian representation within independent transnational cinema. In this way, the following chapters move from analyses of specific texts and DVD additional material to readings of immigration policy and legal documents on lesbian rights. My approach to film is thus deliberately and unapologetically eclectic. It is based on the premise common to cultural studies that no one disciplinary framework is alone sufficient to understand a particular issue. In this sense, I draw on numerous disciplines and areas of thought to make an argument about lesbian rights and the politics of cultural advocacy in contemporary independent transnational cinema. My primary interest in transnational lesbian cinema lies in how questions of lesbian representation in film can be posed in such a way that their implications for social policy might be rendered further transparent.

In Chapter One, “Lesbians under Surveillance: Same-Sex Immigration Reform, Gay Rights, and the Problem of Queer Liberalism”, I begin by discussing the centrality of human rights discourses to media advocacy on behalf of campaigns for same-sex immigration reform in the United States. Although nineteen countries currently allow lesbian, gay, bisexual, and transgender citizens to sponsor their partners for the purposes of immigration, the United States is not one of them. As I will argue, campaigns for same-sex immigration reform raise important questions not just about the relationship between sexuality, immigration control, and gay rights advocacy, but about the broader practices of criminalization and surveillance in a post-9/11 world. In this chapter, I focus particular attention upon how the subject of same-

sex immigration rights is treated within the context of Sebastian Cordoba's 2006 documentary *Through Thick and Thin* and Ralph Torjan's feature-length fiction film *Maple Palm* (2005)—both of which were conceived in terms of media advocacy. *Maple Palm* offers a particularly useful theorization, or practical “sounding out”, of the Uniting American Families Act legislation—legislation designed to provide same-sex couples with the equivalent immigration rights as heterosexual couples. As I will go on to show in this chapter, a close reading of the film serves to expose some of the underlying neoliberal assumptions upon which the Uniting American Families Act legislation is predicated, assumptions that are predicated on the disavowal of both racial and class privilege. Part of this close reading examines the filmmakers' use of music as a way of feminizing and ultimately depoliticizing lesbian desire by locating lesbian rights solely within the private, domestic sphere of the home. As I will conclude the chapter by suggesting, media advocacy on behalf of same-sex immigration reform in the U.S. offers crucial insights into the ways in which discourses of sexual citizenship and gay rights are underpinned by the neoliberal economic imperatives of the nation-state.

While chapter one focuses primarily on the slippage between transnational lesbian cinema and the cultural politics of neoliberalism, the next two chapters of the dissertation turn to European films that attempt to resist the connections between LGBT human rights activism and neoliberal politics. In Chapter Two, “Lesbians on Welfare: Queer Re-Imagings of Citizenship and Social Protection”, I build on chapter one's discussion of the relationship between sexuality and the state by considering how transnational lesbian cinema might help us to re-imagine welfare and

social protection from a feminist or queer perspective. To this end, I examine the transnational turn in British social realist cinema by way of a close reading of Jan Dunn's 2005 film *Gypo*. Dunn's film—which revolves around the lesbian affair between a working-class British housewife and a Czech female refugee seeking asylum in Britain—raises important questions about the limits and possibilities of citizenship in the context of the global restructuring of welfare and social provision. Key to the film's critique of xenophobic narratives of Britain as an island under threat from globalization and so-called "illegal immigration" is the director's use of a Dogme '95 aesthetic, characterized by hand-held camera, no added lighting, and only natural sound. Reading psychotherapeutic texts on lesbian desire and merger in relation to sociological literature on care and welfare, I consider the extent to which Dunn resists neoliberal reconceptualizations of sexual behavior along economic lines through her attempt to imagine an alternative, transnational feminist welfare state. In *Gypo*, Dunn attempts to rethink welfare and care from a transnational standpoint, one that begins with the figure of the refugee. In this way, Dunn's film maintains that the problem of neoliberalism lies primarily with male "independence" and the negation of welfare it implies. By framing lesbian desire in terms of discourses of mutual vulnerability and dependency, *Gypo* suggests that it is the human activity of care that must form the basis of what it means to be a citizen in a welfare state. What the film fails to do, however, as I will argue, is to disassociate care and social protection from the feminine, effectively reinscribing a problematic gendered binary.

The third and final chapter of the dissertation, which is entitled "The Cultural Politics of Lesbian Asylum", elaborates on the discussion of lesbian immigration

rights in the previous two chapters. In this chapter, I explore media and cultural production surrounding the issue of lesbian asylum claims. Despite the fact that gay and lesbian asylum has been on the international human rights agenda since the mid-1990s, a discussion of the politics and practice of lesbian asylum claims has so far remained absent from both feminist and queer studies. In this chapter, I focus particular attention upon Angelina Maccarone's 2005 film *Unveiled*, about an Iranian lesbian who seeks asylum in Germany. As I argue, it is the challenges faced by the figure of the lesbian asylum-seeker that become the central focus of *Unveiled*. In *Unveiled*, it is lesbian desire that comes to mark the limits of human rights, as Maccarone poses the problem of lesbian asylum as a problem of representation, of what can and cannot be seen. What is also interesting about Maccarone's film is the way in which it resists the stereotypical model of lesbian identity predicated on visibility and the "coming-out" narrative that is privileged in asylum cases, thus providing an alternative to legal advocacy on behalf of lesbian asylum-seekers. In this way, I argue, Maccarone's text is a good example of how cinematic or visual "translation" of a particular issue or problem can challenge us to think in new ways about the kinds of strategies we need to pursue in order to effect social change. As I conclude the chapter by suggesting, media and cultural production constitutes a crucial site of resistance for lesbian asylum-seekers, the vast majority of whom are silenced within the context of the asylum process and global gay rights discourses alike.

To conclude: a key question posed by each of the following chapters revolves around the question of *who* gets to cross borders within transnational lesbian cinema. It is towards precisely such an interrogation of the category of independent



transnational lesbian cinema that *Bordering on Desire* is devoted. As each of the following chapters of the dissertation seek to demonstrate, the category of transnational lesbian cinema, while not without its problems, generates important commentary and reflection upon the limits and possibilities of adopting a human rights framework for the articulation of gay and lesbian oppression.

## CHAPTER 1

### LESBIANS UNDER SURVEILLANCE: SAME-SEX IMMIGRATION REFORM, GAY RIGHTS, AND THE PROBLEM OF QUEER LIBERALISM

*To the immigrant community, we're the gays; to the gay community, we're immigrants; and in the end, we're invisible...I would like to stop being a wedge issue and be able to say that I'm fully a member of two communities.*<sup>1</sup>

Marta Donayre, "Binational Couples: Alliance of Fear"

In the wake of 9/11 and the so-called global "war on terror", issues of citizenship and immigration have come to the center of U.S. political discourse. As various critics have pointed out, the perceived security crisis generated by the September 11<sup>th</sup> attacks and their aftermath was used by the Bush administration to justify the implementation of a variety of anti-immigrant policies, many of which were designed prior to 9/11 but difficult to implement legally.<sup>2</sup> One such piece of legislation is the infamous USA PATRIOT Act of 2001 (short for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism). What is crucial

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<sup>1</sup> Marta Donayre, "Binational Couples: Alliance of Fear". *The Gay and Lesbian Review Worldwide*. 9/2 (2002): 25.

<sup>2</sup> There is a vast body of scholarship that comments on the use of fear for political gain. See, for instance, Sara Ahmed, *The Cultural Politics of Emotion* (Routledge, 2004); M. Jacqui Alexander, "Not Just (Any)body Can Be a Patriot: "Homeland" Security as Empire Building", in Robin L. Riley and Naeem Inayatullah, eds., *Interrogating Imperialism: Conversations on Gender, Race, and War* (New York: Palgrave, Macmillan, 2006); Mary N. Layoun, "Visions of Security: Impermeable Borders, Impassable Walls, Impossible Home/Lands?", in Andrew Martin and Patrice Petro, eds., *Rethinking Global Security: Media, Popular Culture, and the "War on Terror"* (New Brunswick and New Jersey: Rutgers University Press, 2006), 45-66; and Gayatri Chakravorty Spivak, "Terror: A Speech After 9-11". *Boundary* 31/2 (2004): 81-111.

about the Patriot Act, as Mary N. Layoun and others have noted, is not only the fact that it conflates foreign policy surveillance with the enforcement of domestic law, but that it extends the power of U.S. intelligence services to define intention on the basis of appearance.<sup>3</sup> As a result of legislation such as the Patriot Act, certain communities have become more vulnerable to charges of terrorism than others; “terrorist activity” has become synonymous with those who appear “Middle Eastern”, “Arab”, or “Muslim”.<sup>4</sup> Despite the Bush administration’s unconvincing protests to the contrary, the kind of anti-terror legislation adopted in the aftermath of 9/11 has facilitated the emergence of an increasingly anti-Muslim, anti-immigrant, and fundamentally racist political culture. Moreover, as a number of feminists have been quick to point out, the increasing militarization of both domestic and foreign policy in the U.S. post-9/11 and its corollary—masculinized nationalism—ultimately threatens the citizenship not only of immigrants but of all marginalized communities.<sup>5</sup>

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<sup>3</sup> “Domestic terrorism”, as defined by the Patriot Act, refers to activities that “(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (B) *appear to be intended*—(i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and (C) occur primarily within the territorial jurisdiction of the United States” (my italics) (cited in Layoun, 2006: 48-49).

<sup>4</sup> For a discussion of the ways in which the category of “suspected terrorist” has become racialized post-9/11, see Leti Volpp, “The Citizen and the Terrorist”. *UCLA Law Review* 49 (2001-2): 1575-1600; Muneer Ahmad, “Homeland Insecurities: Racial Violence the Day after September 11”. *Social Text* 72/3 (2002): 101-115; and Anny Bakalian and Mehdi Bozorgmehr, eds. *Backlash 9/11: Middle Eastern and Muslim Americans Respond* (Berkeley: University of California Press, 2009).

<sup>5</sup> As Eliza Byard writes, “The language and mindset that our country uses to steel itself for conflict reminds women and queers that they are not assumed to be part of the national community”. See Eliza Byard, “Queerly Un-America”. *Feminist News: The Newsletter of the Institute for Research on Women and Gender* 20 (January, 2002): 6. See also Zillah Eisenstein, *Against Empire: Feminisms, Racism, and the West* (London and New York: Palgrave Macmillan, 2004), and *Sexual Decoys: Gender, Race, and War in Imperial Democracy* (London and New York: Palgrave Macmillan, 2007), along with the collection of essays edited by Robin L. Riley and Naeem Inayatullah, entitled *Interrogating Imperialism: Conversations on Gender, Race, and War* (New York: Palgrave, Macmillan, 2006). For a discussion of the ways in which the figure of the Pakistani queer has been linked to terrorism, see Chandan Reddy “Asian Diasporas, Neoliberalism, and Family: Reviewing the Case for Homosexual Asylum in the Context of Family Rights”. *Social Text* 84-85/23/3-4 (2005): 101-119.

One minority group that has become especially vulnerable in the face of the kinds of anti-immigrant measures enacted by the Patriot Act is that of the bi-national same-sex couple. Although nineteen countries currently allow lesbian, gay, bisexual, and transgender citizens to sponsor their partners for the purposes of immigration, the United States does not.<sup>6</sup> While same-sex marriage has been legalized in states such as Massachusetts and Vermont and, more recently, Iowa, New Hampshire, and Connecticut, marriages performed within these states fail to have any impact upon federal immigration law, due to the 1996 Defense of Marriage Act (DOMA), which not only defines marriage for federal purposes as “a legal union between one man and one woman as husband and wife”, but permits individual states to disregard same-sex unions performed in other states.<sup>7</sup> Because a tourist visa only allows non-U.S. citizens to remain within the United States for a total of six months out of every year, the American partner in any lesbian or gay bi-national relationship must travel for the other six months of the year, or the couple will remain separated. To even maintain a bi-national relationship to begin with thus necessitates the possession of a significant amount of disposable income on the part of the U.S.-based partner. Moreover, in countries such as Mexico, Brazil, Columbia, and Guatemala, for instance, it is extremely difficult for non-U.S. citizens to obtain a U.S. tourist visa, unless they either reside in a particularly affluent area of the country, or they happen to live in proximity

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<sup>6</sup> The countries which recognize same-sex couples for the purposes of immigration are Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, Switzerland, and the United Kingdom.

<sup>7</sup> For a detailed discussion of the implications of DOMA for gay marriage more generally, see Amy L. Brandzel, “Queering Citizenship? Same-Sex Marriage and the State”. *GLQ: A Journal of Lesbian and Gay Studies* 11/2 (2005): 171-204.

to the border and are able to come in and out of the U.S. through legal or extra-legal means that do not require large amounts of capital.

Due to the kinds of intersecting modes of discrimination alluded to above, bi-national same-sex couples in the U.S. are left with only four options: terminate their relationship; stay together but remain separated; relocate to another country where same-sex partnerships are recognized for the purposes of immigration; or remain in the U.S. and pursue a love that is, to all intents and purposes, illegal. Those couples who do choose to stay within the U.S. remain a largely invisible population for fear of attracting attention and investigation leading to the deportation of the undocumented partner. As Marta Donayre has written of the kinds of challenges facing bi-national same-sex couples, who come from a variety of economic and ethnic backgrounds, and of whom there are approximately half a million currently residing in the U.S.:

Same sex bi-national couples live in semi-constant fear of being forcibly separated, and this unites them as a coherent community within the larger GLBT world. Unlike other groups within this world—racial minorities, for example—the members of this community are not outspoken, making them virtually invisible.<sup>8</sup>

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<sup>8</sup> Donayre, “Binational Couples”, 25. For further information on the challenges facing bi-national same-sex couples in the U.S., see the Human Rights Watch Immigration Equality Report, *Family Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples under U.S. Law*. Accessed at <http://www.hrw.org/en/reports/2006/05/01/family-unvalued> Also see Christopher A. Dueñas, “Coming to America: the Immigration Obstacle Facing Binational Same-Sex Couples”. *Southern California Law Review* 73 (1999-2000): 811-841.

Caught between the general panic about borders post-9/11 and the current conservative backlash against gay marriage more specifically, bi-national same-sex couples in the U.S. constitute a significant but, for the most part, unacknowledged minority within the LGBT community at large.

With the exception of Eithne Luibhéid's article in the 2008 "Queer/Migration" special issue of *GLQ: A Journal of Lesbian and Gay Studies*, there has been very little scholarly attention to the subject of campaigns for same-sex immigration reform in the U.S.<sup>9</sup> This is somewhat surprising given the more general turn towards theorizing issues of citizenship and immigration in both feminist and queer studies post-9/11.<sup>10</sup> And yet the subject of immigration rights for same-sex couples raises important questions not just about the relationship between sexuality, immigration policy, and gay rights advocacy, but about the broader practices of criminalization and surveillance in a post-9/11 world. This chapter will explore media advocacy on behalf of campaigns for same-sex immigration reform in the U.S. Specific questions framing my analysis of LGBT rights and same-sex immigration rights discourses include the following: firstly, what are the possibilities and limits of adopting a human rights framework to campaign on behalf of same-sex immigration reform in the U.S.? And,

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<sup>9</sup> Eithne Luibhéid, "Sexuality, Migration, and the Shifting Lines Between Legal and Illegal Status". *GLQ: Journal of Lesbian and Gay Studies* 14/2-3 (2008): 289-315.

<sup>10</sup> Examples of feminist and queer scholarship that focuses on citizenship and immigration in the context of post-9/11 surveillance legislation include Jasbir K. Puar and Amit S. Rai, "Monster, Terrorist, Fag: The War on Terrorism and the Production of Docile Patriots". *Social Text* 70/20/3 (2002): 117-148; Jacqui M. Alexander, "Not Just (Any)body Can Be a Patriot: "'Homeland' Security as Empire Building" in Robin L. Riley and Naeem Inayatullah, eds. *Interrogating Imperialism: Conversations on Gender, Race, and War* (New York: Palgrave Macmillan, 2006), pp. 207-240; and Jasbir K. Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Duke University Press, 2007).

secondly, to what extent do LGBT human rights and immigrant rights discourses intersect with the cultural and economic politics of neoliberalism?

In the first part of the chapter, I will begin by providing a general overview of the recent group of independent films that engage with the subject of same-sex immigration rights in the U.S. In part two, I will offer a close reading of one particular text—Ralph Torjan’s feature-length fiction film *Maple Palm*—which places lesbian sexuality at the centre of campaigns for same-sex immigration reform in the U.S. In part three, I will situate my analysis of *Maple Palm* within the context of a more general critique of immigration policies pertaining to same-sex couples in the United States, Europe, and Australia. As I will suggest, these policies are inextricably bound up with the cultural and economic politics of neoliberalism, politics that are responsible for perpetuating existing social inequalities along the lines of race, class, gender, and nation. I will conclude the chapter by offering a brief discussion of the issue of same-sex immigration rights in relation to feminist and queer theories of the state. As I will argue, in order to counter some of the exclusionary effects of neoliberal immigration policies, both LGBT human rights advocates and queer theorists alike need to reassess the role played by the state in relation to gay rights.

### ***Same-Sex Immigration Rights and Media Advocacy***

Media in general is becoming more and more important in campaigns for social justice and human rights. NGOs and human rights groups are beginning to turn towards new media in the form of mini-documentaries as their primary mode of advocacy, either by making the documentaries themselves or by enlisting documentary production firms to

make the films for them. International gay rights organizations in particular are increasingly starting to embrace the new possibilities for humanitarian advocacy opened up by forms of distribution such as DVD.

Given the growing convergence of LGBT human rights advocacy and queer media via new distribution platforms such as DVD, it is perhaps not surprising that a number of independent films and documentaries have emerged in recent years that address the absence of immigration rights for same-sex couples in the U.S. This contemporary body of work includes the International Gay and Lesbian Immigration Rights Task Force documentary, *Love Knows No Borders* (Elizabeth Bird, 1996); Ralph Torjan's feature-length fiction film *Maple Palm* (2005); Argentinean director Sebastian Cordoba's 2006 documentary *Through Thick and Thin*; the two short fiction films *The Bridge* (George Barbakadze, 2006) and *Look Again* (Jennifer Lin, 2007); and the forthcoming documentary, *Entry Denied*, by Machu Latorre. With the exception of George Baarbakadze's short film, *The Bridge*, about a gay male couple from Georgia who seek asylum in Sydney, Australia, all of the above films focus on the plight of bi-national same-sex couples in the U.S. To date, however, only *Maple Palm* is available for commercial purchase.

The two feature-length films mentioned above—Sebastian Cordoba's documentary *Through Thick and Thin* and Ralph Torjan's *Maple Palm*—were both conceived primarily in terms of advocacy on behalf of bi-national same-sex couples in the U.S. *Through Thick and Thin* follows the stories of seven bi-national lesbian and gay couples who come from a wide variety of racial, ethnic, and religious



backgrounds.<sup>11</sup> Ironically, it was only by producing the documentary, *Through Thick and Thin*, that Cordoba—himself in a bi-national relationship with an American citizen at the time of the film’s production—was able to maintain a working visa status and thus legally remain within the U.S. In *Through Thick and Thin*, Cordoba employs an observational, or *cinema vérité*, aesthetic to call attention to the struggles facing bi-national same-sex couples in the U.S. More specifically, Cordoba focuses on the three scenarios confronting bi-national couples discussed at the start of this chapter, whereby (1) both partners reside in the U.S. with the foreign national remaining in the country illegally; where (2) the couple is forced to live apart and travel to another country to see one another; and (3) where the couple may live together but only in a different country that recognizes their partnership rights. According to Cordoba, the ultimate aim of the documentary was to “raise awareness” about the plight of bi-national same-sex couples in the U.S. As he has commented in interviews: “We’re trying to depict [their] daily struggles over the long run”, the desire being to “leave all politics aside” and focus instead on “the couples themselves”. In his words: “I decided to put a human face to the issue”.<sup>12</sup>

Another goal behind the production of *Through Thick and Thin*, according to Cordoba, was to have a screening of the film in Washington D.C. around the time that the Uniting American Families Act, or UAFA, was expected to be reintroduced in

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<sup>11</sup> The seven bi-national same-sex couples included in the film are Tammy and Sally (Philadelphia and Manchester, U.K.); Mark and Fred (Harrisburg and France); Tom and Emilio (New Jersey and Venezuela); Aileen and Lourdes (Seattle and Peru); Anthony and Andre (New Jersey and Porto Alegre, Brazil); Rayneet and Kiran (California and the U.K.); and Charles and Terry (Idaho and Manchester, U.K.). Cordoba has announced that for his next film project, his aim is to collaborate with Lavi Soloway on a documentary about gay and lesbian asylum-seekers.

<sup>12</sup> For further information on the production of *Through Thick and Thin*, see the presskit for the film, available at <http://www.throughthickandthin.net/htmlsite/presskit.pdf>

Congress. The Bill, which would give same-sex couples the equivalent immigration rights as heterosexual couples, was originally introduced to Congress in 2000 by House Representative Jerrold Nadler D-NY and Senator Patrick Leahy D-VT under the initial title of the Permanent Partners Immigration Act, and then reintroduced on July 21, 2005, with the new title of the Uniting American Families Act. UAFA was recently reintroduced to Congress on Valentine's Day, 2009. While UAFA does not alter the federal definition of spouse, as codified in the 1996 Defense of Marriage Act, it does redefine "permanent partner" for the purposes of the Immigration and Nationality Act as any person eighteen years of age or older who is "in a committed, intimate relationship with an adult U.S. citizen or legal permanent resident...in which both parties intend a lifelong commitment".<sup>13</sup> According to UAFA, the non-U.S. citizen in any lesbian or gay bi-national relationship must also be "financially interdependent" with their partner, "not married or in a permanent partnership with anyone other than that person", and "unable to contract with that person a marriage that is recognized under the INA".<sup>14</sup> Since 2005, however, the Uniting American Families Act has been stalled in the Senate Judiciary Committee; Cordoba, meanwhile, pledged to wait until after the 2008 elections before scheduling another screening of the film in Washington, D.C. which he hopes will help to, as he puts it, "change some minds in Congress".<sup>15</sup>

Like Sebastian Cordoba's documentary *Through Thick and Thin*, Ralph Torjan's feature length film *Maple Palm*, about a bi-national lesbian couple living in

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<sup>13</sup> Cited in Lena Ayoub and Shin-Ming Wong, "Separated and Unequal". *William Mitchell Law Review* 32/2 (2006): 559-597 (at 581).

<sup>14</sup> *Ibid.*

<sup>15</sup> See the presskit for the film, available at <http://www.throughthickandthin.net/htmlsite/presskit.pdf>

Los Angeles, was also conceived as an activist, or advocacy, film. While there is a long tradition of film being used as a form of political advocacy by documentarians, the growth of so-called “activist” fiction films is a relatively recent phenomenon. One reason the documentary medium has become the primary filmic vehicle for social justice advocacy is its generally low budget appeal. The advent of digital technology and new lightweight, more mobile, equipment in recent years, though, has meant that independent fiction films can now be made on low budgets, too. This is certainly the case with *Maple Palm*, which was filmed on a shoe-string budget and took just two weeks to make. The filmmakers Ralph Torjan and Robert J. Feldman, the latter of whom also co-stars in the film, intended for *Maple Palm* to be an emotional but tragic love story that would have the effect of moving audiences—both gay and straight alike—to support positive immigration reform for same-sex couples.<sup>16</sup>

The initial theatrical screening of *Maple Palm* in 2006 took place against the backdrop of a Senate vote on an immigration bill which, if passed, would have made it a federal crime for an American citizen to know or be in a relationship with an undocumented immigrant. Fortunately, however, House Bill 4437, otherwise known as the “Border Protection, Antiterrorism, and Illegal Immigration Control Act”, failed to pass through the Senate in 2006 and thus never made it into law.

*Maple Palm* adopts many of the formal features I identified in the introduction as characteristic of transnational lesbian cinema, including self-reflexivity; defamiliarizing structures that work to undermine traditional notions of cinematic realism; audio-visual disjunction; the inscription of the filmmakers themselves within

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<sup>16</sup> For further production information on the film, see <http://www.maplepalmmovie.com/main.htm>

the film; the use of transnational spaces such as beaches, coastlines, border zones, and immigration controls; and, perhaps most importantly, the documentary realist approach to the presentation of subject matter and narrative.<sup>17</sup> Characterized for the most part by the use of a jerky, hand-held camera, long takes, and location shooting, *Maple Palm* combines aspects of fiction filmmaking with presentational modes derived from documentary film. Now used for music documentaries, behind-the-scenes and making-of documentaries, docusoaps, reality TV shows, grassroots video projects, political advertisements, and fiction films, the kind of observational filmmaking style employed in *Maple Palm* has become detached from its original connection with documentary practices. As Fincina Hopgood has argued, *cinema vérité* now tends to be associated more with a particular look, or style, than with a movement, its techniques having been “co-opted” by the feature film industry.<sup>18</sup> The advent of digital technology in particular has given rise to the creation of an increasing number of hybrid fictional texts that make use of aesthetics derived from documentary filmmaking. As Gary Rhodes and John Parris Springer have observed, many of these hybrid texts combine fictional narrative film and documentary in highly self-conscious ways.<sup>19</sup> This is certainly the case with *Maple Palm*, which not only takes up the kinds

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<sup>17</sup> See *ibid.*

<sup>18</sup> See Fincina Hopgood, “Before *Big Brother*, there was *Blair Witch*: The Selling of ‘Reality’”, in Gary D. Rhodes and John Parris Springer, eds., *Docufictions: Essays on the Intersection of Documentary and Fictional Filmmaking* (North Carolina: McFarland and Company, 2006), 237-252 (at 242).

<sup>19</sup> See Gary D. Rhodes and John Parris Springer, “Introduction”, in Gary D. Rhodes and John Parris Springer, eds., *Docufictions: Essays on the Intersection of Documentary and Fictional Filmmaking* (North Carolina: McFarland and Company, 2006), 1-9 (at 4).

of concerns that typically appear within the documentary format, but documentary aesthetics, too.<sup>20</sup>

The filmmakers' documentary realist approach to the presentation of subject matter and narrative is particularly evident towards the end of the film, where images of the two central characters are projected over a car wing mirror which has on it the words, "objects in the mirror are closer than they appear", along with further statistics and information regarding same-sex immigration during the end credits. Rather than being relegated to a separate space as part of the end credits, however, the above scene is placed just prior to the closing section of the narrative. Formally speaking, then, the filmmakers attempt to merge their ostensibly "fictional" dramatization of the plight of bi-national same-sex couples with the so-called "real life" challenges confronting such individuals, as acknowledged in the film's accompanying DVD material. In the case of *Maple Palm*, I would argue, the cinematic text has become the vehicle primarily for a political appeal and, more precisely, for the staging of a pro-UAFA argument. Not only is a "facts page" addressing, amongst other things, the implications of the Patriot Act for bi-national same-sex couples in the U.S. included as part of the DVD extras, but the central filmic text is explicitly framed through a reference to the Uniting American Families Act; during the film's end credits, the filmmakers thank those members of the Senate and Congress who have lent their support to UAFA.

It is vital that we think seriously about this process of exchange, or crossover, between so-called "primary" materials (as in the feature film) and "secondary" or "additional" materials (as in DVD extras, or bonus features). Clearly, such additional

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<sup>20</sup> For a general discussion of documentary presentational modes, see Bill Nichols, *Introduction to Documentary* (Bloomington and Indianapolis: Indiana University Press, 2001).

DVD material influences the way we view cinematic texts. Similarly, one might add, the kind of political message or argument driving such additional material would not have nearly the same impact without the presence of the film itself. Indeed, in its entry on the Uniting American Families Act legislation, the Wikipedia— which appears as the first hit for anyone seeking further information on UAFA— specifically directs its audience towards both *Maple Palm* and Cordoba’s documentary *Through Thick and Thin*. It seems fair to say, then, that for many a spectator, their initial encounter with the above texts is always already mediated by an awareness of the political issues at stake and, by extension, the kind of legal context surrounding the subject of same-sex immigration. The question becomes, then: what, precisely, is the nature of the relationship between immigration policy and media advocacy in this context?

A small body of work has begun to emerge in recent years devoted to exploring the connections between cinema and law. This includes, for instance, the edited collections of essays *Legal Reelism: Movies as Legal Texts* (1996), *Law’s Moving Image* (2004), and *Law of the Screen* (2005), along with Barbara Cossman’s analysis of law in relation to dominant practices of cultural citizenship.<sup>21</sup> Central to the majority of this literature is the notion of law as a site of cultural production deserving of critical and cultural analysis. With the exception of Cossman’s work, however, the majority of essays which appear in these collections tend to focus primarily on how the subject of law is treated within the context of particular film and television genres,

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<sup>21</sup> See John Denvir, ed., *Legal Reelism: Movies as Legal Texts* (Urbana and Chicago: University of Illinois Press, 1996); Sheila Brown, *Crime and Law in Media Culture* (Open University Press, 2003); Leslie J. Moran, ed., *Law’s Moving Image* (London: Cavendish Publishing, 2004); Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey, eds., *Law on the Screen* (Stanford University Press, 2005); and Barbara Cossman, *Sexual Citizens: The Legal and Cultural Regulation of Sex and Belonging* (Stanford: Stanford University Press, 2007).

such as the courtroom drama, and less on the ways in which cinematic techniques like lighting, camera angles, sound, and mise-en-scène might be put in the service of creating what Norman Rosenberg has referred to as a “visual brief”.<sup>22</sup>

Following Rosenberg, what I am most interested in examining in the following section of this chapter is the use of film to reinforce and drive home a particular legal argument concerning the need for immigration equality for same-sex couples. To this end, I would like to focus primarily on Torjan and Feldman’s feature-length fiction film *Maple Palm* which, as I hope to show, constitutes a significant intervention into campaigns for same-sex immigration reform in the U.S. For, whereas Cordoba attempts to effect political change primarily through eliciting an affective response on the part of his spectators to the plight of bi-national same-sex couples in the U.S., with *Maple Palm* Torjan and Feldman seek to bring about immigration rights for lesbian and gay citizens by engaging in a form of human rights advocacy. In the case of *Maple Palm*, cinematic aesthetics are put in the service of advancing a pro-UAFA position, one that is dependent upon a framework derived from both international law and human rights. *Maple Palm* offers a particularly useful theorization, or practical “sounding out”, of the Uniting American Families Act legislation—legislation which may or may not come to pass during the current Democratic administration. As I will suggest, a close reading of *Maple Palm* serves to expose some of the underlying neoliberal assumptions upon which the Uniting American Families Act legislation is predicated, assumptions that work to foreclose questions of class and racial privilege. Critical engagement with the film thus offers a much-needed opportunity to reflect

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<sup>22</sup> See Norman Rosenberg, “Law Noir”, in Denvir, ed., *Legal Reelism*, 280-301 (at 282).

upon some of the more problematic aspects of campaigns for same-sex immigration reform in the U.S., together with the possibilities and limits of adopting a human rights framework for the articulation of gay and lesbian oppression. What is also significant about *Maple Palm* is that it draws exclusively upon the lesbian couple to make its argument about same-sex immigration rights in the U.S. In this way, a close textual analysis of the film not only paves the way for a more general critique of campaigns for same-sex immigration reform in the U.S. Rather, it also offers an opportunity to engage with the subject of lesbian immigration rights more specifically which have not been sufficiently theorized in either feminist or queer studies to date. Before I go on to examine the implications of *Maple Palm*'s pro-UFAA advocacy in subsequent sections of the chapter, however, I would first like to offer an analysis of the film itself.

***Lesbians Under Surveillance: Maple Palm (2005)***

*Maple Palm* tells the story of a bi-national lesbian couple, Amy and Nicole, who have lived together in Los Angeles for fifteen years. Amy, an American citizen of Asian descent, is disabled by multiple sclerosis and her lover Nicole, an undocumented migrant from Canada, is her primary care-giver. Nicole originally entered the U.S. on a six-month tourist visa, since which time she has remained illegally in the U.S. The film begins when an agent (Glen) who works on behalf of the Federal Bureau of Investigation, and who has a warrant for Nicole's deportation, discovers where Amy and Nicole are living and breaks into their Los Angeles apartment. Glen, we later learn, has been sent from the Immigration and Customs Services (ICS) (formerly



known as the Immigration and Naturalization Service) to investigate Nicole after her existence is brought to light following a routine security check when the couple had visited the Statue of Liberty in New York City several months earlier. Forcibly entering the women's apartment, Glen moves to arrest Amy, violently knocking her against a wall, causing her to suffer a severe asthma attack, before Nicole reveals that it is she, rather than Amy, who is his "illegal alien". As Glen proceeds to sexually assault Nicole, he is knocked unconscious by Billy, the couple's apartment manager, who appears on the scene after hearing Nicole shout. Amy and Nicole then handcuff Glen to the fridge in the kitchen, while the remainder of the film is taken up with the couple's plans to flee to Canada, where Nicole has citizenship and where gay marriage and, by extension, same-sex immigration, is legal.<sup>23</sup> At the last moment, however, Nicole decides that Amy is too weak to withstand the long journey across the border and she turns herself in to Glen to be deported. As Nicole is about to leave with Glen, Amy suffers another asthma attack, stops breathing, and dies. The film ends with Nicole having returned to Vancouver where, sitting on a beach watching the tide come ashore, she unwraps the package containing Amy's ashes.

What is immediately striking about *Maple Palm* is its commentary on the socio-political implications of the Patriot Act and, more specifically, the extent to which the latter serves to racialize the category of non-citizenship. As we can see from Glen's behavior, and as the filmmakers are keen to point out during the "facts section"

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<sup>23</sup> Gay marriage became legal in Ontario, Canada, on June 10, 2003, when an Ontario appeals court ruled that seven same-sex couples had the right to marry. The ruling was later endorsed by the then prime minister Jean Chretien, who introduced a bill into Parliament which nationalized the impact of the ruling. For further information on the above, see R. Douglas Elliott and Mary Bonauto, "Sexual Orientation and Gender Identity in North America: Legal Trends, Legal Contrasts". *Journal of Homosexuality* 48/3-4 (2005): 91-106.

in the extras, state officials working on behalf of the FBI or CIA can now enter an apartment or house while the residents are asleep or away and are under no obligation to inform the residents of their entry. All that is required in order to subject individuals to this kind of surveillance is a suspicion of intention based on appearance which, in reality, frequently comes to be defined along the lines of racial difference. The result of this kind of racial discrimination, as can be observed in the film, is that Glen automatically assumes that Amy, who is Asian American, is the “illegal immigrant”, rather than Nicole, who is Caucasian. Such a framing shows how the suspicion of intention or, in this case, the suspicion of non-citizenship, automatically becomes leveled at the racialized immigrant body, while the white immigrant subject remains “unmarked”, absolved from criminal investigation.

By presenting the character of Amy as a symbolic referent for the kind of racial profiling spawned by the Patriot Act, Torjan and Feldman locate the new powers granted to state officials to define intention on the basis of appearance within the context of the long history of racialized immigration policy in the U.S. and, more specifically, the discrimination against Asian immigrants dating back to the Page Act of 1875, which Congress introduced in response to anti-Chinese sentiment in California. Although the Chinese Exclusion laws that were in place in the U.S. from 1875 onwards were repealed after World War II, the quotas against the number of Chinese immigrants entering the country remained in use until the 1960s.<sup>24</sup> The Chinese Exclusion Act of 1882, which was renewed by Congress in 1892, 1902, and 1904, is particularly significant in this context because it was the first federal law to be

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<sup>24</sup> See Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act* (Chapel Hill and London: University of North Carolina Press, 1998), 1.

passed in the U.S. barring a group of immigrants solely on the basis of race or nationality.<sup>25</sup> It is precisely this climate of vigilantism and violence perpetuated against the Chinese in the late nineteenth and early twentieth centuries which, *Maple Palm* seems to imply, is being mirrored in the current context with the racial profiling and detention of “Muslim-looking” individuals. By calling attention to the ways in which non-citizenship or undocumented status is assumed on the basis of race and ethnicity, *Maple Palm* thus suggests the need to situate the current mechanisms of racial discrimination produced by the Patriot Act within the context of longer histories of racial oppression in the U.S.

Not only does *Maple Palm* draw attention to the ways in which the Patriot Act serves to racialize the category of the illegal alien, but to the connections between new methods of surveillance adopted in the aftermath of 9/11 and the increasing militarization of so-called “non-military” departments like the FBI. The filmmakers make particular use of image-sound relations to comment on the kinds of military and patriarchal mechanisms of social control and surveillance licensed by the Patriot Act. The entire film—which is characterized for the most part by its juxtaposition of the highly feminized lesbian love of Nicole and Amy with the rapacious masculine violence of the male FBI agent (Glen)—is staged to resemble a military invasion of

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<sup>25</sup> For more detailed analyses of the Chinese Exclusions laws, see Kitty Calvita, “Collisions at the Intersection of Gender, Race, and Class: Enforcing the Chinese Exclusion Laws”. *Law & Society Review* 40/2 (2006): 249-281; Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act* (Chapel Hill and London: University of North Carolina Press, 1998); Robert S. Chang, “A Meditation on Borders”, in Juan F. Perea (ed.), *Immigrants Out! The New Nativism and the Anti-Immigrant Impulse in the United States* (New York: New York University Press, 1997), 244-253; and Sucheng Chan, “The Exclusion of Chinese Women”, in Sucheng Chan (ed.), *Entry Denied: Exclusion and the Chinese Community in America, 1882-1943* (Philadelphia: Temple University Press, 1991), 94-146. For a discussion of the representation of Asian Americans in film, see Peter X Feng, ed., *Screening Asian Americans* (New Brunswick and London: Rutgers University Press, 2002).

the women's private space. This gendered meta-narrative is accomplished largely by means of the soundtrack—a combination of Christian religious ballads and alternative rock—and the visual framing of the lesbian sex scenes via repeated high-angled shots from above, a technique which relies heavily on a static camera reminiscent of closed-circuit television, or CCTV. In *Maple Palm*, the sexual dimension of the relationship between Nicole and Amy is constructed in a typically voyeuristic fashion. As the scene shifts to the bathroom, where the sexual “consummation” of their relationships occurs, the image is characteristically jerky and blurred, producing the effect of CCTV-style observation.

Torjan and Feldman have commented in interviews that one of the key “themes” in the film is the opposition between Glen’s “masculinity” and the women’s lesbian relationship.<sup>26</sup> To this end, the directors make use of songs by Christian folk musician, Rebecca Hansen, and alternative rock artist, Katy J, to underscore the power struggle between these two forces. Three of Hansen’s songs—“Long As I Live”, “Your Love Amazes Me”, and “With Your Love”—appear on the *Maple Palm* soundtrack, along with four songs by Katy J. A self-proclaimed “liberal Christian”, who was raised a Catholic before converting to Protestantism, and who has served on “worship teams” at Rick Warren’s Saddleback Church, Hansen has remarked of her involvement with *Maple Palm* that she is “excited to see [her] music featured in a movie that fights discrimination”.<sup>27</sup>

Hansen’s music is most prominent in the film’s central lesbian sex scene. Indeed, this is also the only section of the film in which the music consists not of verse

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<sup>26</sup> See <http://www.maplepalmmovie.com/main.htm>

<sup>27</sup> See <http://www.maplepalmmovie.com/main.htm>

and lyrics but of textless female vocalization. The latter, I might add, is a frequent (and much overused) musical trope within lesbian sex scenes in general—of the homophobic and anti-homophobic variety alike.<sup>28</sup> The music in these scenes, as in *Maple Palm*, is generally characterized by static harmonies, frequent use of tonic pedal, smooth melodic lines and lyrical, stepwise motion, syncopation and off-beat accents—all traits commonly associated with the expression of “femininity” in music.<sup>29</sup> Music is often used within such lesbian narratives to reinforce what we supposedly cannot “see”, standing in for a female pleasure that is constructed as outside the frame of visual representation, reduced instead to the semiotic realm of pure music. This framing of lesbian desire as “outside language” is literalized here via the presence of textless female vocalization which constructs lesbianism as “other” to phallic (hetero)sexuality, situating the former in a feminized, almost utopic, realm.

Hansen’s simple combination of voice accompanied by acoustic guitar is further effective as a way of feminizing lesbian desire in *Maple Palm* insofar as it evokes the kind of folk consciousness typically associated with “women’s music” of the 1970s and 80s. Similarly characterized by static chord progressions and a folk-like sensibility, women’s music of the 1970s and 80s played a key role in lesbian separatist

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<sup>28</sup> Some popular lesbian independent films that make use of textless female vocalization as a way of “representing”, or giving voice to lesbian desire include the following: *Amour de Femme* (Sylvie Verheyde, 2001), *Butterfly Kiss* (Michael Winterbottom, 1996), *Claire of the Moon* (Nicole Conn, 1992), *Cynara* (Nicole Conn, 1996), *Gia* (Michael Cristofer, 1998), *The Hunger* (Tony Scott, 1983), *Lost and Delirious* (Léa Pool, 2001), *Mulholland Drive* (David Lynch, 2001), *Therese and Isabelle* (Radley Metzger, 1968), *Tipping the Velvet* (Geoffrey Sax, 2002), and *When Night is Falling* (Patricia Rozema, 1995).

<sup>29</sup> For more detailed discussions of the semiotics of “masculinity” and “femininity” in music, see Susan McClary, *Feminine Endings: Music, Gender, Sexuality* (Minneapolis: University of Minnesota Press, 1990). See also Renée Cox Lorraine, “Recovering *Jouissance*: Feminist Aesthetics and Music”, in Karin Pendle, ed. *Women & Music: A History*. Second edition (Bloomington: Indiana University Press, 2001), 3-20.

ideology and in the construction of a lesbian separatist counterculture. As Judith Peraino has noted, while lesbian feminism—or cultural feminism, to be more precise—advocated for the creation of women’s literature, art, and film, it was music that became the primary cultural medium for the organization of lesbian separatist communities outside, and in opposition to, perceived male domination.<sup>30</sup> Although radical lesbian feminists and cultural feminists both emphasized separatist values and the building of alternative female communities, the former were in favor of eliminating categories of sex and gender, whereas the latter aimed not to destroy sex and gender but rather to reverse mainstream cultural devaluations of femininity and the female body. Emphasizing so-called “feminine” values such as egalitarianism, care, pacifism, and cooperation over supposedly masculine attributes like individualism, hierarchy, violence, and competition, the primary aim of cultural feminism was to rehabilitate (as opposed to deconstruct) undervalued female traits.<sup>31</sup>

The cultural feminist ideology dominant amongst the majority of politically-active lesbians during the 1970s and early 1980s had a profound impact upon the kind of music that was produced by lesbian feminists. Lesbian feminists denounced rock music, with its loud, rhythmic thrusting, as inherently masculine (read: bad) in favor of the gentler combination of female voice accompanied by acoustic guitar, a combination which they felt was better able to articulate and express female desire. As

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<sup>30</sup> See Judith Peraino, *Listening to the Sirens: Musical Technologies of Queer Identity from Homer to Hedwig* (Berkeley: University of California Press, 2006), 176.

<sup>31</sup> For a good discussion of cultural feminist ideology, see Linda Alcoff, “Cultural Feminism versus Poststructuralism: The Identity Crisis in Feminist Theory”. *SIGNS: A Journal of Women in Culture and Society* 13/3 (1988): 405-436 and Verta Taylor and Leila J. Rupp, “Women’s Culture and Lesbian Feminist Activism: A Reconsideration of Cultural Feminism”. *SIGNS: A Journal of Women in Culture and Society* 19/1 (1993): 32-61. Also see Adrienne Rich, “Compulsory Heterosexuality and Lesbian Existence”. *SIGNS: A Journal of Women in Culture and Society* 5/4 (1980): 631-660.

women's music artist Kay Gardner commented in 1977 on her own use of "circular forms" in her instrumental music as "being directly related to the biological difference in sexual expression between men and women":

The orgasmic climax in men is a release at the end of a buildup of tensions and energy. On the other hand, the orgasmic climax for women is in the middle of her sexual expression with the afterplay being as important as the foreplay, and with the potential of beginning the cycle again immediately, thus creating the circular form.<sup>32</sup>

Gardner, like many lesbian feminist musicians of her time, posits a direct connection between women's music and the search for an alternative female sexuality outside male domination, hierarchy, and compulsory heterosexuality. Unlike male sexuality, female sexuality was understood by lesbian feminists to embody emotion and sensuality over sexual aggression and control—an essential biological difference between the sexes that could, they felt, be captured most accurately through music.

In *Maple Palm*, Hansen's music is strongly characterized by the kind of aesthetic language favored by lesbian feminists, a language that privileges harmonic diffusion, melodic softness, and formal circularity over strident, goal-oriented tonal progressions, jagged melodies, and linear structure. Hansen's music, in other words, both reflects, while also helping to constitute, the film's larger gendered meta-narrative, a meta-narrative which opposes the caring, egalitarian values embodied in

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<sup>32</sup> Cited in Peraino, *Listening to the Sirens*, 176.

the relationship of Amy and Nicole with the masculinist sense of hierarchy and violence enacted by the figure of Glen, the state immigration official. As with a great deal of women's music of the 1970s and 80s, Hansen's lyrics also implicitly call attention to society's indifference, or lack of love, towards lesbian relationships and their consequent lack of legal standing.

The filmmakers' striking sonic juxtaposition of a cultural feminist, folk-like aesthetic alongside alternative rock music is rendered yet further apparent by the events that come directly after the lesbian sex scene. The seduction scene is followed by a sudden shift of pace and the introduction of loud rock music to mark the arrival of Glen, the FBI agent. The musical downbeat coincides precisely with Glen's appearance outside the apartment in a well-orchestrated (if somewhat heavy-handed) staging of a gendered encounter. The musical soundtrack's primary function here is to make the film's central conflict between lesbian love and a militarized national security state visible, or rather "audible". The music in this scene and within the film as a whole thus plays a crucial role in initiating and sustaining the gendered meta-narrative that drives the film's overarching argument about the need for immigration equality for lesbian couples.

The gendered opposition created largely via the soundtrack sets the stage for the next and, I would argue, crucial section of the film, which revolves around Glen's forced entrance into the women's apartment and his surveillance of the two female bodies. In the film, a hand-held camera is used to track Glen's progress through the apartment. As the camera follows him through the building, the rare use of the point-of-view shot (the majority of the film is characterized by the use of an observational



camera) shows Glen's gaze pausing to linger on the figure of Nicole, the illegal lesbian immigrant, whose naked image is visible through a crack in the bathroom door. The scene thus plays on the idea of observational cinema as potentially, if not inherently, voyeuristic.<sup>33</sup> The panoptic-like camera used here serves to align the visual pleasure of the male intruder, or the new "citizen soldier" of the Patriot Act (Glen), with surveillance of the female body.

The panoptic drive to render the lesbian body visible to which the film calls attention through the rare use of the point-of-view shot, literalizes the extent to which the figure of the "illegal immigrant" is viewed as a threat to so-called "national security" when able to "pass" as American. As the feminized "enemy within", Nicole is dangerous precisely because of her ability to pass as both legal and heterosexual. If the Patriot Act is centrally concerned with rooting out invisible and unidentifiable enemies within the homeland, then the character of the illegal lesbian immigrant who can pass as both legal and heterosexual, comes to stand in metonymically here for the figure of the "invisible" terrorist who, as Canadian politician John Manley put it in 2001, is able to "melt into our cities and our way of life".<sup>34</sup> As Carl Stychin has explained, the homosexual and the immigrant are frequently viewed as problems of self-knowledge: "Both are produced as outside the bounds of normalcy, and law, and they are strangers, but also the most dangerous strangers of all, in that they are *essentially* different, but also able to 'pass' undetected in the absence of close

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<sup>33</sup> For a discussion of the relationship between observational cinema and voyeurism in the context of visual anthropology, see David MacDougall, "Beyond Observational Cinema", in Paul Hockings (ed.), *Principles of Visual Anthropology* (Berlin and New York: Mouton de Gruyter, 1995), 115-132.

<sup>34</sup> Cited in Kim Rygiel, "Protecting and Proving Identity: The Biopolitics of Waging War through Citizenship in the Post-9/11 Era", in Krista Hunt and Kim Rygiel, eds., *(En)Gendering the War on Terror: War Stories and Camouflaged Politics* (Aldershot: Ashgate, 2006), 145-167 (at 145).

surveillance”.<sup>35</sup> In other words, both the homosexual and the immigrant are conceived of as strangers to the nation. The former poses a particular challenge to nationalist discourse, according to which control of female sexuality is central. As Caren Kaplan, Norma Alarcón, and Minoo Moallem have commented on the heteronormative model of sex and gender that underwrites Western masculinist legal practices and, by extension, U.S. nationalism, “The institutionalization of national body politics involves the (hetero)sexualization of women via their vulnerability to sexual assault and criminalization”.<sup>36</sup>

In *Maple Palm*, the figurative use of women’s bodies to shape national identity is literalized through Glen’s sexual assault on Nicole, the illegal lesbian immigrant, who poses a double threat to nationalist discourse. For, whereas the female heterosexual body becomes the site for “viewing the nation”, the non-reproductive lesbian body promises to overturn such heteronormative body politics.<sup>37</sup> The masculine penetration of a highly feminized, private sphere that we see in *Maple Palm*—literalized and staged in sonic terms by way of the soundtrack—thus serves to expose the connections between an increasingly militarized U.S. nation-state and the gendered dimensions of citizenship to which an excessively feminized lesbianism poses a threat.

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<sup>35</sup> Carl Stychin, “ ‘A Stranger to Its Law’: Sovereign Bodies, Global Sexualities, and Transnational Citizens”. *Journal of Law and Society* 27/4 (2000): 601-625 (at 609).

<sup>36</sup> Caren Kaplan, Norma Alarcón, and Minoo Moallem, “Introduction”, in Caren Kaplan, Norma Alarcón, and Minoo Moallem, eds., *Between Woman and Nation: Nationalisms, Transnational Feminism, and the State* (Durham and London: Duke University Press, 1999), 10.

<sup>37</sup> Zillah Eisenstein, “Writing Bodies on the Nation for the Globe”, in Sita Ranchod-Nilsson and Mary Ann Tétreault, eds., *Women, States, and Nationalism: At Home in the Nation?* (New York and London: Routledge, 2000), 35-53 (at 43).

As Jacqui Alexander has commented in another context on the relationship between female homoeroticism, citizenship, and the state,

Women's sexual agency...and erotic autonomy have always been troublesome for the state....because loyalty to the nation as citizen is perennially colonized within reproduction and heterosexuality, erotic autonomy brings with it the potential of undoing the nation entirely, a possible charge of irresponsible citizenship or no citizenship at all.<sup>38</sup>

Lesbians, in other words, threaten nationalist discourse precisely because they challenge the reservation of the private sphere solely for the heterosexual family.<sup>39</sup> Securing the nation in this context becomes about the ability to create a protected private space for the preservation of the heterosexual family unit. Invisible lesbian bodies which threaten to undermine the reservation of the private sphere for the heterosexual family must thus be rooted out from within the national body politic and, as *Maple Palm* shows, subjected to the male heteropornographic imaginary. The strict separation of public and private spheres that is central to the logic of consumer capitalism is enacted in *Maple Palm* via the intrusion of the voyeuristic gaze of the male patriot (Glen), who forcibly enters the private space of the home and subjects a

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<sup>38</sup> Jacqui M. Alexander, "Erotic Autonomy as a Politics of Decolonization: An Anatomy of Feminist and State Practice in the Bahamas Tourist Economy", in Jacqui M. Alexander and Chandra Talpade Mohanty, eds., *Feminist Genealogies, Colonial Legacies, Democratic Futures* (New York and London: Routledge, 1997), 63-100 (at 64).

<sup>39</sup> For an account of the privatization of citizenship in the late 1970s in relation to the promotion of heterosexual ideals of family unity, see Lauren Berlant, *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham: Duke University Press, 1997).

wayward lesbian desire to “proper” heterosexual surveillance.<sup>40</sup> Through the combined work of the soundtrack and the sudden visual shift from an observational camera to a series of point-of-view shots to mark Glen’s entrance into the apartment, *Maple Palm* thus shows the ways in which the apparatus of an increasingly militarized national security state is put in the service of disciplining precisely those bodies—in this case, lesbian, immigrant, and disabled—deemed “abnormal”.

What is most interesting about *Maple Palm*, however, is that the same methods of surveillance shown to be responsible for the infringement and ultimate erosion of the women’s privacy rights, are put to ironic and subversive use when the women handcuff Glen to the kitchen fridge and place him under surveillance, effectively turning the militarized gaze back onto the figure of the masculine patriot.

Characterized by dark lighting, a static CCTV-style camera, and ambient sound, this scene shows Glen having a glimpse of what it is like to be the “other” in society, deprived of rights and treated like a criminal. By transforming Glen into a “foreign body” who, quite literally, invades the women’s private space, the filmmakers further underscore the fact that lesbian couples—especially bi-national couples—have no socially supported private sphere, that within a militarized nation state lesbian love is denied. For the characters in *Maple Palm*, the private sphere has, by the end of the film, begun to resemble a prison. The observational, but largely immobile, framing produced by the use of a static camera, the repeated high-angled shots, and the

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<sup>40</sup> As Norman Denzin has argued in *The Cinematic Society: the Voyeur’s Gaze*, capitalist society needs the figure of the voyeur who unveils the private sphere and, with it, the notion of the autonomous, liberal subject. In his words: “By invading these spaces, the voyeur keeps alive the concept of a private world that is distinct from the public spheres of everyday life”. See Norman K. Denzin, *The Cinematic Society: the Voyeur’s Gaze* (London: Sage Publications, 1995), 5-6.

amplification of diegetic sound not only combine to express the sense of suffocation caused by social oppression, but also create the effect of imprisoning the lesbian subjects in the frame. As Cheshire Calhoun has explained in another context, lesbian rights depend upon the recognition of the female same-sex couple as a social unit, something that can only be accomplished by challenging the reservation of the private sphere for the heterosexual family.<sup>41</sup> Calhoun suggests that it is not for a public lesbian identity, but rather for a “privatized, particularized, sexualized love” that lesbians are punished in heterosexual society.<sup>42</sup>

Calhoun’s observations about gay rights which, like *Maple Palm*, link lesbian rights with the right to privacy and family life, go some distance towards clarifying the political agenda behind the production of the film and perhaps point to the reason why *Maple Palm* takes place almost entirely within the context of the home; out of a total running time of 116 minutes, 100 of those minutes are set within the couple’s apartment. The filmmakers’ sustained meditation on the private sphere becomes even more apparent towards the end of the film after we learn of Amy’s death and Nicole’s departure to Canada. In this penultimate section of the film, which is located in the couple’s newly-vacated Los Angeles apartment, the characteristically observational camera slowly moves through the empty rooms before eventually coming to rest in Nicole and Amy’s old bedroom, where it pauses to linger on the bed. The implication emerging from such a framing, of course, is that it is precisely such a space (e.g. the

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<sup>41</sup> Cheshire Calhoun, “Separating Lesbian Theory from Feminist Theory”. *Ethics* 104/3 (April) (1994): 558-581 (at 581).

<sup>42</sup> *Ibid.*, 578.

private sphere) which ought to remain protected and sacrosanct, free from unwanted government intrusion.

It is the right to family life repeatedly underscored in *Maple Palm* that has been taken up by LGBT rights activists in other countries as part of a strategy to ensure same-sex couples are recognized for the purposes of immigration. The primary motivation for such a strategy is due largely to the fact that respect for family integrity and the right to privacy are central components of international law. As Article 12 of the Universal Declaration of Human Rights affirms, echoed by the European Convention on Human Rights, “No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honour and reputation. Everyone has the protection of the law against such interference or attacks”. Following international law, the European Court of Human Rights declared in 1985 that discrimination against immigrant spouses on the basis of sex was a violation of the rights to family life. In addition, the United Nations High Commission for Refugees has recommended in the context of refugee protection that the right to family unification also include same-sex partners.<sup>43</sup> On February 11<sup>th</sup>, 2003, the European Parliament further approved same-sex couples freedom of movement between member states in order to “reflect and respect the diversity of family relationships that exist in today’s society”.<sup>44</sup>

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<sup>43</sup> As the statement reads, “In UNHCR’s view, States should adopt a pragmatic interpretation of the family... Families should be understood to include spouses; those in customary marriage; long-term cohabitants, including same-sex couples; and minor children until at least age eighteen”. Cited in *Family, Unvalued*, 140.

<sup>44</sup> Ayoub and Wong, “Separated and Unequal”, 581.

The right to family life that is central to European articulations of gay rights also characterizes the approach to same-sex immigration reform adopted in the Uniting American Families Act legislation, parts of which have been drafted by the National Center for Lesbian Rights (NCLR), a U.S.-based gay rights organization that also helps with LGBT asylum cases, discrimination on the basis of HIV status, and transsexual legal recognition. As NCLR legal advocates Lena Ayoub and Shin-Ming Wong have argued of the nineteen countries which have already passed similar immigration reforms for same-sex couples, “Behind each approach...is the inherent recognition by these countries...that such legislation and policy furthers the right to family and the importance of family unity, regardless of sexual orientation”.<sup>45</sup> Ayoub and Wong suggest that the most effective way to achieve immigration equality for bi-national same-sex couples in the U.S. is to further develop the idea of family rights and unity for all U.S. citizens and then advocate on behalf of legislation that recognizes and supports such rights. The concept of “family reunification” has been at the heart of U.S. immigration policy for at least the past fifty years. As a commission appointed by Congress to study immigration policies in 1981 commented,

Reunification of families serves the national interest not only through the humaneness of the policy itself, but also through the promotion of the public order and well-being of the nation. Psychologically and socially, the reunion of family members...promotes the health and welfare of the United States.<sup>46</sup>

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<sup>45</sup> Ibid., 583.

<sup>46</sup> Cited in *Family, Unvalued*, 10-11.

Following the 1981 report, Ayoub and Wong have argued that giving gays and lesbians in the U.S. the right to petition for their foreign national permanent partner would provide for family unity and help to “strengthen familial bonds”.<sup>47</sup> They go on to suggest that the current absence of immigration equality in the U.S. for same-sex couples is exerting a detrimental effect on families and the kinds of democratic ideals supposedly endorsed by U.S. society as a whole.<sup>48</sup>

As part of their strategy for achieving same-sex immigration reform, Ayoub and Wong also work to situate the Uniting American Families Act legislation within the context of the 2003 Supreme Court case *Lawrence v. Texas*, which resulted in the decriminalization of sodomy in the state of Texas. Presenting *Lawrence* as the legal precedent for UAFA, Ayoub and Wong assert that by passing the Uniting American Families Act, Congress will “further the liberty interest of same-sex couples, recognized by *Lawrence*, to form and sustain loving personal relationships without the governmental intrusion of forced separation”.<sup>49</sup> The *Lawrence* ruling is of particular significance here due to the fact that, as part of their justification for striking down Texas’s sodomy laws, the judges in the case incorporated Article 8 of the European Convention on Human Rights (e.g. the right to respect for private life) into their interpretation of what constitutes the boundaries of “liberty” protected by the Due Process Clause. As the judges in the *Lawrence* case concluded, “The petitioners are entitled to respect for their private lives. The State cannot demean their existence or

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<sup>47</sup> Ayoub and Wong, “Separated and Unequal”, 571.

<sup>48</sup> *Ibid.*, 574-75.

<sup>49</sup> *Ibid.*, 581. As the first paragraph of the *Lawrence* ruling states, “Liberty protects the person from unwarranted government intrusions into a dwelling or other private places. In our tradition the State is not omnipresent in the home”. Cited in *ibid.*, 581.



control their destiny by making their private sexual conduct a crime. The right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government”.<sup>50</sup> In other words, then, it was the conceptualization of gay rights within the context of fundamental notions of liberty and human rights—rights recognized by other countries—that lay behind the successful verdict in *Lawrence*.<sup>51</sup> As Joe Rollins has suggested, the ultimate impact of the ruling in *Lawrence* will depend not merely on the latter’s decriminalization of sodomy, but rather on the extent to which it fosters the view of gay and lesbian households as private spaces outside the purview of the state— spaces removed from government intervention.<sup>52</sup>

Building on the success of *Lawrence*, Ayoub and Wong argue that by failing to permit same-sex couples the equivalent immigration rights as heterosexual couples, the United States runs the risk of violating international law:

Providing immigration equality for same-sex couples would further U.S. obligations under international law...As a member of the United Nations, the United States has a duty to respect the principles set forth in the United Nations Charter... Absence of similar U.S. legislation abrogates our obligation under international law to promote and protect family unity. In adopting UAFAs, Congress will be strengthening the right to family and family unity for

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<sup>50</sup> *Ibid.*, 594.

<sup>51</sup> For a discussion of the relationship between the *Lawrence v. Texas* ruling and human rights discourses on gender and sexuality, see John D’Emilio, “Some Lessons from *Lawrence*”, in Harry N. Hirsch, ed., *The Future of Gay Rights in America* (New York and London: Routledge, 2005), 1-14.

<sup>52</sup> Joe Rollins, “*Lawrence*, Privacy, and the Marital Bedroom”, in Harry Hirsch ed., *The Future of Gay Rights in America* (New York and London: Routledge, 2005), 169-183 (at 174).

gay and lesbian U.S. citizens and lawful permanent residents as well as their children.<sup>53</sup>

As they conclude by suggesting, once again echoing the 1981 immigration document: “Reunification of families serves the national interest not only through the humaneness of the policy itself, but also through the promotion of the *public order* and *well-being of the nation*” (my italics).<sup>54</sup>

The Uniting American Families Act legislation, then, according to NCLR advocates Ayoub and Wong, is a policy which, by promoting both family unity and the right to privacy, would serve to “strengthen” the nation. It is no coincidence that the original title of the bill—the Permanent Partners Immigration Act—was changed to the Uniting American Families Act post-9/11, at a time when heightened emphasis was, and indeed continues to be, placed on the need to “protect” and “secure” so-called “traditional” American values. Like UAFA, the Human Rights Watch Immigration Equality Report, *Family, Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples under U.S. Law*, also stresses “family values” as a crucial part of its advocacy on behalf of bi-national same-sex couples in the U.S., repeatedly calling attention to the emotional dilemma confronting gay couples when they are forced to choose between their families and the person they love.<sup>55</sup>

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<sup>53</sup> Ayoub and Wong, “Separated and Unequal”, 581.

<sup>54</sup> *Ibid.*, 596.

<sup>55</sup> *Family, Unvalued* was drafted by Scott Long, director of the LGBT Rights Program of Human Rights Watch; Jessica Stern, researcher in the LGBT Rights Program of Human Rights Watch; and Adam Francoeur, program coordinator of Immigration Equality. In line with international law, all the couples interviewed for *Family, Unvalued* are presented in terms of their commitment to family and their parental responsibilities.

*Maple Palm*, which, as noted earlier, explicitly thanks those members of the Senate and Congress that currently support the Uniting American Families Act, may thus be read as a strategic attempt on the part of the filmmakers to advocate for same-sex immigration reform by appealing directly to the sanctity of the private sphere within international law. In its repeated emphasis on Nicole and Amy's "patriotism", the film's argument in favor of same-sex immigration reform bears a striking resemblance to that offered up by Ayoub and Wong and the Uniting American Families Act legislation. Despite the film's extended critique of the Patriot Act and the kind of masculinized nationalism that comes with it, *Maple Palm* nonetheless seems to be suggesting that the bi-national same-sex couple would be only too happy to take part in such a discourse if invited; Nicole and Amy's apartment is littered with patriotic signs and symbols, including an ornamental version of the Statue of Liberty and a number of American flags, all strategically placed throughout the building. *Maple Palm* thus ultimately advocates not for a rejection of nationalist discourse, but rather for an expanded definition of patriotism to which minorities can properly assimilate because, when all is said and done, lesbian and gay couples only want what heterosexual couples have: the right to family life free from unwanted state intervention. To this end, the importance of family and family bonds are repeatedly stressed throughout the film; Nicole is presented as dutiful care-giver for her disabled lover to the point where their relationship verges on that of a mother nursing her child. As the filmmakers are also keen to point out towards the end of the film, Nicole was prevented from returning home to Canada for her father's funeral some years earlier for fear of being unable to reenter the U.S., the implication being, of course, that the

current discrimination against bi-national same-sex couples in the U.S. is destroying precisely the kind of family unity that both the national body politic and federal immigration policy purport to endorse.

Rather than drawing attention to the problems of gay assimilation into mainstream politics, then, Torjan and Feldman choose instead to critique current U.S. immigration policy towards same-sex couples for its violation of international human rights standards. By combining their attack with a critique of the Patriot Act, Torjan and Feldman further work to position the absence of lesbian and gay immigration rights for U.S. citizens within the broader context of the blatant disregard of international law that became a hallmark of the Bush administration. As Janie Leatherman has demonstrated in her analysis of the kind of gendered language used by the Bush administration to justify the invasion of Iraq and Afghanistan, liberal strategies promoted by the United Nations and international law were frequently coded as “weak” by the Bush administration when juxtaposed with U.S. military power—an opposition designed to place the former in a subordinate, feminized position.<sup>56</sup> This kind of gendering, I would suggest, is also at work in *Maple Palm* although, in the latter case, the hierarchical opposition is reversed. In *Maple Palm*, the filmmakers seem to be implying that it is the type of liberal values associated with European law—values which would respect the committed, monogamous lesbian relationship of Nicole and Amy—that should be held up as a mode of resistance against the

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<sup>56</sup> See Janie Leatherman, “Gender and U.S. Foreign Policy: Hegemonic Masculinity, the War in Iraq, and the UN-Doing of World Order”, in Sue Tolleson-Rinehart and Jyl J. Josephson, eds., *Gender and American Politics: Women, Men, and the Political Process* (M.E. Sharpe, Armonk, NY: 2005), 103-126. As Richard Perle, former chair of the Pentagon’s Defense Policy Board, commented in the *London Guardian* on March 21<sup>st</sup>, 2003: “What will die [with “Saddam Hussein’s reign of terror”] is the fantasy of the UN as the foundation of a new world order...the liberal conceit of safety through international law administered by international institutions”. Cited in Layoun, “Visions of Security”, 59.

increasing militarization of domestic and foreign policy in the U.S., as embodied in the film by the figure of Glen, the FBI agent—a globalization of military power that threatens precisely those “democratic” values such as “women’s rights” and “human rights” in whose name the war on terror is supposedly being fought.

### ***Gay Rights, or (Neo)liberalism and its Limits***

The primary problem with both *Maple Palm* and the legislation the film endorses is their uncritical acceptance of liberal values in the form of international human rights as an instrument for lesbian and gay equality and as a solution to the problem of U.S. militarization. Like the UFAA legislation *Maple Palm* supports, the film’s assimilationist approach to gay rights does little to challenge normative categories of citizenship predicated upon a heterosexist public/private divide.<sup>57</sup> Torjan and Feldman’s essentialist invocation of lesbian intimacy to advocate on behalf of gay rights not only feminizes the private sphere, but reinscribes the kind of heterosexist binaries between state and family, public and private domains, that are largely responsible for gay and lesbian oppression in the first place.<sup>58</sup> The potentially subversive nature of lesbian desire within a national security state founded upon heteronormative notions of sex, gender, and sexuality—a subversiveness that the film

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<sup>57</sup> This is also a problem with Cheshire Calhoun’s theorization of lesbian rights which similarly leaves the category of citizenship unchallenged. See Cheshire Calhoun, *Feminism, the Family, and the Politics of the Closet: Lesbian and Gay Displacement* (Oxford University Press, 2000).

<sup>58</sup> *Maple Palm*’s problematic reinscription of the opposition between private/lesbian and public/gay male is prevalent within a significant amount of scholarly literature, too. As Corie Hammers has observed, while a vast body of documentation exists with respect to gay male public sexual cultures, lesbian public sexualities have been sorely neglected. See Corie Hammers, “An Examination of Lesbian/Queer Bathhouse Culture and the Social Organization of (Im)Personal Sex”. *Journal of Contemporary Ethnography* 38/3 (2009): 308-335. Also see her article, “Bodies that Speak and the Promises of Queer: Looking to Two Lesbian/Queer Bathhouses for a Third Way”. *Journal of Gender Studies* 17/2 (2008): 147-164.

goes to great lengths to underscore—is thus recuperated by *Maple Palm*'s pro-UAFA advocacy.

In *Maple Palm*, as with the Uniting American Families Act, the primary strategy behind the campaign for same-sex immigration reform is one of liberal redefinition. However, the kind of liberal campaign strategy advocated by the vast majority of same-sex immigration rights activists—one that seeks merely to expand current family reunification policies to include a previously excluded group—is problematic insofar as it relies on a politics of tolerance, rather than transformation. Such a politics is based on the notion that rights are deserved only on the condition that the subordinated group (in this case, bi-national same-sex couples in the U.S.) remains within the private sphere and does not seek recognition in, or solidarity with, a larger political community.<sup>59</sup> By individualizing the social conflict of bi-national same-sex couples in this way, the film *privatizes* as opposed to *radicalizing* its agenda, reducing LGBT activism to struggles over the right to privacy. As we know, however, the increasing privatization of public spaces means less space for collective resistance.<sup>60</sup>

Such a privatization of universal rights is also a problem with the *Lawrence* case upon which the Uniting American Families Act legislation is based. As Anna Marie Smith has written of the former, “Our ideal *Lawrence* individual is a quintessential loner who does not belong to any legally significant group...By all

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<sup>59</sup> For a critique of the ways in which tolerance discourses work to privatize difference, see Wendy Brown, “Tolerance and Equality: “The Jewish Question” and “the Woman Question”, in Joan W. Scott and Debra Keates, eds., *Going Public: Feminism and the Shifting Boundaries of the Private Sphere* (Urbana: University of Illinois Press, 2004), 15-42.

<sup>60</sup> For an analysis of the relationship between neoliberalism and the increasing privatization of social space, see Nancy C. Jurik, “Imagining Justice: Challenging the Privatization of Public Life”. *Social Problems* 51/1 (2004): 1-15.

appearances, the imaginary *Lawrence* individual has no stake whatsoever in any collective struggle”.<sup>61</sup> The dangers of the kind of gay assimilation encouraged by the *Lawrence* ruling and used to advocate on behalf of same-sex immigration rights in the U.S. become only too apparent when one considers the measures adopted by countries which have now legalized same-sex immigration. In these cases, bi-national couples are subjected to surveillance on the basis of how well they conform to idealized notions of heterosexual marriage. For example, the Gay and Lesbian Immigrant Task Force in Australia actually goes so far as to “screen” applicants for their “commitment to monogamy and lookalike heterosexual relationships...to ensure that genuine and monogamous relationships are presented by the couples”.<sup>62</sup> In the United Kingdom, as Carl Stychin and Tracy Simmons have both shown, immigration rights for same-sex couples are inextricably linked to a class and race-based economic model of sexual identity governed by neoliberal market principles.<sup>63</sup> Within Europe in general, it is a liberalized and supposedly “inclusive” global market that is becoming increasingly responsible for determining legislative and cultural realms of (homo)sexuality. However, while human rights discourses filtered through global markets may have produced the semblance of gay and lesbian equality in some European countries, it is

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<sup>61</sup> Anna Marie Smith, “The Continuing Triumph of Neo-Conservatism in American Constitutional Law”, in Harry Hirsch, ed., *The Future of Gay Rights in America* (New York and London: Routledge, 2005), 185-207 (at 187-8). For another analysis of queer liberalism in the context of the *Lawrence v. Texas* case, see Puar, *Terrorist Assemblages*.

<sup>62</sup> Cited in Stychin, “A Stranger to its Law”, 615. For further information on the history of same-sex immigration rights in Australia, see John Hart, “A Cocktail of Alarm: Same-Sex Couples and Migration to Australia 1985-90”, in Ken Plummer, ed. *Modern Homosexualities: Fragments of Lesbian and Gay Experience* (New York: Routledge, 1992), 121-133.

<sup>63</sup> Stychin, “A Stranger to its Law”, 615. See also Tracy Simmons, “Sexuality and Immigration: UK Family Reunion Policy and the Regulation of Sexual Citizens in the European Union”. *Political Geography* 27 (2008): 213-230. Simmons has observed through her interviews with bi-national same-sex couples in the United Kingdom that the possession of financial dependency and skills that are viewed as attractive to the state are important elements in achieving family reunion.

precisely such liberalized financial markets which create the kinds of limits on human mobility that work to disenfranchise those without citizenship status in the first place.

The neoliberal model of sexual citizenship alluded to above—one that links gay rights with joint property ownership, and intimate, monogamous, sexual relationships—privileges those bi-national same-sex couples who can afford to sponsor their foreign partner for the purposes of immigration over those who cannot. The articulation of same-sex immigration rights purely in the language of cultural recognition and at the expense of economic redistribution only helps those queer individuals for whom there is no intersection of inequality. In the case of the Uniting American Families Act legislation, the campaign to include same-sex couples within current family reunification policies disavows those queer immigrants who do not conform to U.S. ideals of family and domesticity. And yet, U.S. global and economic policies make it all but impossible for poor or legally vulnerable queer migrants to assimilate to such norms. The failure of same-sex immigration rights campaigns such as UAFA to take into account those individuals who are unable to provide adequate financial support for their foreign partner thus has the effect of perpetuating existing inequalities along the lines of race, class, gender, and nation.<sup>64</sup>

The creation of an idealized gay or lesbian migrant within same-sex immigration policies is certainly mirrored in *Maple Palm*, where Nicole's whiteness is

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<sup>64</sup> As David Eng has argued in another context, the kind of queer liberalism encouraged by the *Lawrence* ruling and by international law more generally is dependent upon the erasure of both race and class. See David L. Eng, "Freedom and the Racialization of Intimacy: *Lawrence v. Texas* and the Emergence of Queer Liberalism", in George E. Haggerty and Molly McGarry (eds.), *A Companion to Lesbian, Gay, Bisexual, Transgender, and Queer Studies* (Oxford: Blackwell, 2007): 38-59.



rendered transparent and not interrogated for the inherent privilege it embodies.<sup>65</sup> In *Maple Palm*, race and class become the “unmarked” categories against which differences of gender and sexuality are constructed. It is no coincidence that the lesbian immigrant body in *Maple Palm* is a white, middle-class *femme* body. The fact that the figure of the butch lesbian falls outside the frame of *Maple Palm* in favor of the feminine lesbian as the subject of migration is consistent with the filmmakers’ neoliberal agenda. As some of us know only too well, the “femme”, unlike the “butch”, is not considered a “proper” lesbian. Representing lesbian femininity can thus function as a way of articulating female same-sex desire but without the politics. For this reason, it is much easier for lesbian femininity—unlike female masculinity which always already appears as a political statement *against* the dictates of compulsory heterosexuality—to be assimilated into a sanitized, depoliticized, and privatized gay liberalism. In the context of *Maple Palm*, I would argue, the conflation of lesbian migrant subjectivity with both whiteness and femininity works to depoliticize lesbian immigrant rights by rendering them more consumable and therefore open to mainstream appropriation.<sup>66</sup> The filmmakers’ appeal to a cultural feminist aesthetic works not to *politicize* female same-sex desire, as one might expect, but rather to *depoliticize* it. This depoliticization of lesbian desire is intensified via the film’s

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<sup>65</sup> For important accounts of the workings of white privilege within the context of U.S. legal history, see Cheryl I. Harris, “Whiteness as Property”. *Harvard Law Review* 106/8 (1993): 1710-1791; George Lipsitz, *The Possessive Investment in Whiteness: How White People Profit From Identity Politics* (Philadelphia: Temple University Press, 1998); and David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (London and New York: Verso, 1999). For an analysis of white privilege in relation to homosexuality more specifically, see Manolo Guzmán, *Gay Hegemony/Latino Homosexualities* (New York: Routledge, 2006).

<sup>66</sup> As Ann Ciasullo has noted, the kinds of lesbian bodies that are allowed to appear on the majority of mainstream and independent cultural landscapes are frequently *femme*, white, and upper-middle class. See Ann M. Ciasullo, “Making Her (In)Visible: Cultural Representations of Lesbianism and the Lesbian Body in the 1990s”. *Feminist Studies* 27/3 (2001): 577-608.

constant celebration of “family values”, which further works to decontextualize and privatize lesbian rights, reducing them to struggles over the right to privacy and family life.<sup>67</sup>

The filmmakers’ appropriation of lesbian femininity as a way of advocating on behalf of same-sex immigration rights in the U.S. is consistent with the more general use—or rather “abuse”—of lesbianism to indicate “responsible homosexuality”. As Anna Marie Smith has observed elsewhere, the figure of the lesbian is frequently represented within neoliberal discourse as the “good homosexual” in opposition to the “dangerous [male] queer”.<sup>68</sup> In *Maple Palm*, I would argue, lesbian sexuality similarly becomes “co-opted” by the filmmakers as a way of promoting a neoliberal discourse of “personal responsibility” or, in this case, of “responsible homosexuality”.<sup>69</sup> As with campaigns on behalf of same-sex immigration reform more generally, the filmmakers’ attempt to depoliticize lesbian desire through the invocation of a particular class and race-based model of female homosexuality works to separate same-sex immigration rights from intersecting forms of inequality emerging on the basis of race, class, and nation.

The depoliticization of same-sex migration that takes place in the majority of same-sex immigration rights campaigns goes hand in hand with the more general

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<sup>67</sup> For a more general discussion of the rhetoric of “family values” in lesbian rights discourses, see Ruthann Robson, “Resisting the Family: Repositioning Lesbians in Legal Theory”. *SIGNS: A Journal of Women in Culture and Society* 19/4 (1994): 975-996 (at 977).

<sup>68</sup> See Anna Marie Smith, “Resisting the Erasure of Lesbian Sexuality: A Challenge for Queer Activism”, in Ken Plummer, ed. *Modern Homosexualities: Fragments of Lesbian and Gay Experience* (New York: Routledge, 1992), 200-213. Also see her book, *New Right Discourse on Race and Sexuality: Britain, 1968-1990* (Cambridge: Cambridge University Press, 1994).

<sup>69</sup> For a good critique of neoliberal modes of governmentality in relation to U.S. immigration more specifically, see Eithne Luibhéid, “Heteronormativity, Responsibility, and Neo-Liberal Governance in U.S. Immigration Control”, in Brad Epps, Keja Valens, and Bill Johnson González, eds. *Passing Lines: Sexuality and Immigration* (Cambridge, Mass.: Harvard University Press, 2005), 69-101.

privatization of the costs and responsibility of migration away from the state and back onto the individual. Indeed, policies such as the United American Families Act are based on the assumption that all same-sex relationships are monogamous and committed, and that all same-sex couples are emotionally and financially interdependent. Emotional and financial interdependence is certainly stressed in *Maple Palm*, where Amy provides financial support for Nicole who cannot work as a result of her undocumented status, while Nicole cares for Amy in return. Part of the film's strategy and, by extension, the strategy behind the United American Families Act legislation, is to demonstrate that same-sex couples are only seeking recognition rights—that they are not in search of any kind of redistributive politics. Such recognition rights, gay immigration activists are keen to point out, will not cost the state anything; significant regulatory power, in other words, can still be left to the market.

Same-sex immigration rights activists and filmmakers in the U.S. are clearly appealing to the fact that increasing LGBT cultural recognition in Europe and the U.S. has actually facilitated conservative attempts to shift welfare responsibility away from the state and “back” to individual families. As Barry Adam has commented on the relationship between LGBT rights and the corporate restructuring of welfare in Europe and the Netherlands more specifically,

There is...a force exterior to LGBT communities in the convergence of neoliberal corporate and state interests that finds same-sex relationship recognition to make a great deal of sense. At a time when the social

responsibilities of the welfare state are being peeled away, lesbians and gay men are voluntarily offering to take on financial responsibility for the care of other men and women (and their children). The (neoliberal corporate) state interest in conscripting lesbians and gay men, along with more usual targets of divorced fathers, into taking on the costs of family support has long been clear in the Netherlands.<sup>70</sup>

In Europe, as Adam points out, neoliberal reconceptualizations of the role of the state in the provision of social protection have played a decisive role in expanding what constitutes the category of “the family” beyond the traditional heterosexual nuclear family unit.

The kind of neoliberal immigration policies alluded to above—which construct bi-national same-sex couples as “good” immigrants and “responsible” citizens—depend upon a disavowal of the popular conservative image of immigrants as “bogus” asylum-seekers (read: economic migrants) in search of financial handouts. Bi-national same-sex couples, by contrast, are presented as responsible, lawful citizens in relation to economic migrants who provoke disorder, embody illegality, and generally stand in for undisciplined migration. In *Maple Palm*, for instance, the filmmakers even go so far as to distance immigration rights for same-sex couples from the subject of immigration itself. The filmmakers’ attempt to decriminalize (white) queer identity at the expense of the criminalization of the racialized immigrant body is rendered most explicit through their invocation of civil, as opposed to immigrant, rights. In *Maple*

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<sup>70</sup> Barry Adam, “Care, Intimacy and Same-Sex Partnership in the 21<sup>st</sup> Century”. *Current Sociology* 52 (2004): 265-279 (at 272).

*Palm*, Nicole is explicitly shown attempting to distance herself and, by extension, the plight of the bi-national same-sex couple, from so-called “immigrant rights”, as embodied in the figure of the refugee or asylum-seeker. As Nicole comments to Glen when he inquires how she and Amy plan to travel to Canada without a driver’s license, “What do you suggest instead? We sling together a raft and float over like refugees?” In *Maple Palm*, gay rights are conflated with human rights which are in turn divorced from immigrant rights. In this way, the filmmakers fail to sufficiently challenge the kind of racial profiling licensed by the Patriot Act that equates whiteness with legality and, by extension, the power of whiteness to absent itself from debates about illegal immigration. *Maple Palm*’s attempt to uncouple queer “illegality” from migrant “criminality” by representing Nicole as “family oriented” and willing to assimilate to U.S. culture is especially pernicious given the persistent racialization of the immigrant body that the film begins by critiquing but ends up reinscribing through Nicole’s invocation of the figure of the refugee.

The fact that *Maple Palm*’s advocacy on behalf of same-sex immigration rights takes place through an explicit disavowal of the body of the racialized refugee and, by extension, immigrant rights more generally has serious implications when one considers the increasing separation of human rights and immigration law within contemporary political discourse. A combination of both domestic factors and changing foreign policy concerns at the level of individual nation-states has created a growing divergence between human rights and international refugee law to the point where the category of the refugee has become virtually obsolete. The issue of immigration is increasingly being linked to national and international security, rather

than concerns over social justice. In the vast majority of European countries, for instance, visas are never granted to an individual if there is a suspicion that they will try to claim asylum. The result of such bureaucratic maneuvering is that it becomes extremely difficult for refugees to enter Europe legally, making the right to asylum a human right that is, to all intents and purposes, virtually illegal. An immigration system divorced from international human rights becomes a kind of self-fulfilling prophecy, one that makes the purchase of false documentation and human trafficking a necessity, and then creates a discourse of in/security through which immigrant bodies are cast as “threats” to the nation. As Steve Garner has written of this phenomenon in the context of Europe and the European Union, “Asylum-seekers emerge as a newly racialized group who are both stripped of their rights in the global context and deployed as Others in the construction of national narratives”.<sup>71</sup>

In “The Origins of the Nation-State and the End of the Rights of Man”, Hannah Arendt suggests that human rights are only ever meaningful within the context of citizenship rights. As she explains of the paradoxical relationship between dispossession and the state, it is not that the stateless are unequal before the law, but rather that “no law exists for them”.<sup>72</sup> This is why, according to Arendt, the stateless person—the refugee or asylum-seeker—can only become legible as a subject by way of criminalization. As she writes, “Since he [the refugee] was the anomaly for whom the general law did not provide, it was better for him to become an anomaly for which

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<sup>71</sup> See Steve Garner, “The European Union and the Racialization of Immigration, 1985-2006”. *Race/Ethnicity* 1/1 (2007): 61-87 (at 61).

<sup>72</sup> See Hannah Arendt, *The Origins of Totalitarianism* (New York: Harvest Books, 1973), 296.

it did provide, that of the criminal...Only as an offender against the law can he gain protection from it".<sup>73</sup>

Although Arendt does not address the role of capital in creating statelessness, her analysis nonetheless offers important insights into the mass criminalization of refugees and asylum-seekers that has come to mark the all too human limits of the contemporary global economy. Indeed, it is the paradoxical relationship between human rights and citizenship rights that Arendt calls attention to which is partly responsible for the kind of slippage between the category of the refugee and that of the illegal immigrant alluded to above. As Nancy Fraser similarly notes, if refugees are not criminals then they become “non-persons with respect to justice”, reduced to “objects of charity and benevolence”.<sup>74</sup> For this reason, Fraser argues, the frame for social justice campaigns—or the right to have rights, as Arendt might say—becomes one of the most crucial of all political decisions in a globalizing world.<sup>75</sup>

In the case of immigration rights for same-sex couples, it is essential that campaigns on behalf of same-sex immigration reform resist neoliberal attempts to separate gay rights, or LGBT human rights, from immigrant rights. Any advocacy predicated solely upon a human rights framework betrays a flawed logic when applied to lesbian and gay immigrants in bi-national relationships; the detention of

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<sup>73</sup> Ibid., 286.

<sup>74</sup> Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), 20.

<sup>75</sup> As Fraser has commented on the problems with limiting rights to the nation-state, “Channeling their claims into the domestic political spaces of relatively powerless, if not wholly failed states, this frame insulates offshore powers from critique and control. Among those shielded from the reach of justice are more powerful predator states and transnational private powers, including foreign investors and creditors, international currency speculators, and transnational corporations. Also protected are the governance structures of the global economy, which set exploitative terms of interaction and then exempt them from democratic control” (Ibid., 20).

undocumented migrants, such as Nicole—which removes individuals from the political community and denies their status and rights as citizens—shows that without the ability to exercise citizenship rights, claims to human rights are rendered meaningless. Both *Maple Palm* and the Uniting American Families Act legislation are guilty of failing to integrate their argument about LGBT rights as human rights with advocacy on behalf of immigrant rights more generally. Although *Maple Palm* actively criticizes the kind of anti-immigrant sentiment perpetuated by legislation such as the Patriot Act, Torjan and Feldman ultimately fail to integrate their two modes of critique. And yet, as *Maple Palm* documents only too well, for bi-national same-sex couples, immigration rights and gay rights are inextricably linked and need to be thought together, rather than separately.

By bringing a critique of the Patriot Act's anti-immigrant position together with a critique of right-wing homophobia, what *Maple Palm* seems to be suggesting, then, but ultimately fails to realize, is the necessity of forming coalitions between queer and immigrant groups. As Eithne Luibhéid has argued, it is vital that queer and immigrant movements begin to recognize their joint political potential.<sup>76</sup> For an immigrant movement to be truly inclusive, it needs to take into account the needs of queer immigrants. Similarly, it is equally important that the queer movement begins to tackle the issue of immigration in a sustained way because, as Luibhéid points out, the immigration system bolsters the government's ability to allocate rights based on

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<sup>76</sup> See Eithne Luibhéid, and Sasha Khokha, "Building Alliances between Immigrants Rights and Queer Movements", in Jill M. Bystydzienski and Steven P. Schacht, eds., *Forging Radical Alliances Across Difference: Coalition Politics for the New Millenium* ( London: Rowman and Littlefield Pub., 2001): 77-90 (at 89).



heterosexist and racist notions of gender, family, and community.<sup>77</sup> Campaigns for same-sex immigration reform need to question the logic of family unity that lies at the heart of both U.S. immigration policy and international human rights law. Continuing to reward “marriage-like” relationships above other modes of attachment will only serve to take campaigns for same-sex immigration reform in the wrong direction by widening the gap between those queers who can assimilate to U.S. norms and culture and those who cannot, or choose not to do so. Instead, we need to work towards formulating and advocating for the kinds of immigration policies that recognize a much broader array of intimate and affective ties, policies that grant individuals the freedom to prioritize the relationships that are most meaningful to them.<sup>78</sup>

Campaigners on behalf of same-sex immigration reform need to take into account the plurality of family forms and intimate relationships that are emerging within contemporary society in order to create a more just network of laws.

Forming more robust coalitions between queer and immigrant rights groups—as opposed to the fractured single-issue politics favored by the majority of same-sex immigration rights activists—is especially important in view of the increasing privatization of both LGBT rights and welfare more generally. In the U.S., as in Europe, welfare reform and campaigns for LGBT political recognition are intimately linked and need to be considered together. As Amy Lind and others have noted, the combined effect of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act and the Defense of Marriage Act (DOMA) in the U.S. has been the

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<sup>77</sup> Ibid.

<sup>78</sup> As Nancy Polikoff discusses in her article against gay marriage, in Canada, for instance, individuals are accorded the freedom to identify the relationships that are most significant to them. See Nancy D. Polikoff, “Ending Marriage As We Know It”. *Hofstra Law Review* 201 (2003-4): 201-232.

creation of a national policy context whereby LGBT rights activists have little option but to piece together the 1000+ rights that accompany marriage via single-issue advocacy.<sup>79</sup> When LGBT rights become privatized in this way, it is poor LGBT individuals who end up suffering the most, many of whom cannot afford to participate in the private/corporate restructuring of gay rights. For these and other reasons, re-articulating same-sex immigration rights discourses not only in relation to immigrant rights, but in terms of the right to welfare and social protection, is necessary if we are to advance a truly progressive politics. Crucial to combating the cultural politics of neoliberalism in campaigns for same-sex immigration reform is for LGBT rights advocates to begin to engage with the issue of welfare more directly. Because for those queer individuals who fall outside campaigns for same-sex immigration reform, the right to participate in a neoliberal market state constitutes no real protection at all.

Some recent queer literature that traverses the fields of sociology and cultural studies, and which examines changing practices of care and intimacy in terms of their implications for social policy, provides a useful point of departure for thinking more about alternative family configurations in relation to issues of welfare and social protection.<sup>80</sup> Shelley Budgeon and Sasha Roseneil's research is of particular relevance

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<sup>79</sup> See Amy Lind, "Legislating the Family: Heterosexist Bias in Social Welfare Policy Frameworks". *Journal of Sociology and Social Welfare* 31/4 (2004): 21-35 and Anna Marie Smith, "Reproductive Technology, Family Law, and the Postwelfare State: The California Same-Sex Parents' Rights 'Victories' of 2005". *SIGNS: Journal of Women in Culture and Society* 34/4 (2009): 827-850.

<sup>80</sup> This literature includes, for instance, Dorothy Miller's discussion of same-sex marriage in terms of the introduction of a new notion of care into the public realm; Davina Cooper's queering of care ethics via an ethnography of women's bathhouses in Toronto; Shelley Budgeon and Sasha Roseneil's work on changing cultures of personal and intimate relationships in Britain; Roseneil's account of how friendship "queers" both care ethics and social policy; and Róisín Ryan-Flood's work on lesbian motherhood in relation to discourses of gender and sexual citizenship. See Dorothy C. Miller, "The Potential of Same-Sex Marriage for Restructuring Care and Citizenship", in Maurice Hamington and Dorothy C. Miller, eds., *Socializing Care: Feminist Ethics and Public Issues* (London and New York: Rowman and Littlefield Publishers, 2006), 89-103; Davina Cooper, "Well, you go there to get off":

in this context. Budgeon and Roseneil explore the ways in which single individuals in Britain, or adults who live outside the conventional heterosexual nuclear family, receive and give care by way of non-co-residential intimate partnerships, friendships, and alternative household communities. They argue that more and more people are decentralizing traditional notions of romantic, sexual relationships in favor of centering their personal lives around friendship, a social bond that is becoming increasingly significant in twenty-first century Britain in terms of the provision of care. As Budgeon and Roseneil point out, the widespread embracing of family forms and forms of care once associated by mainstream society with alternative gay and lesbian “lifestyles”, not only decenters the heterosexual couple, but redefines social space traditionally considered “private” in terms of the “collective”.<sup>81</sup> Given that it is precisely the collective spaces of social life that neoliberal ideologies work to undermine, the fact that Budgeon and Roseneil’s research shows how individuals are rendering private spaces public becomes far from insignificant. This kind of work, I would argue, points to a place from which we can begin to imagine social change and critique under the conditions of neoliberalism: within the everyday organizations of care, intimacy, and desire that are emerging in opposition to neoliberal modes of privatization.

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Visiting Feminist Care Ethics through a Women’s Bathhouse”. *Feminist Theory* 8 (2007): 243-262; Shelley Budgeon and Sasha Roseneil, “Beyond the Conventional Family”. *Current Sociology* 52/2 (2004): 127-134; Sasha Roseneil and Shelley Budgeon, “Cultures of Intimacy and Care beyond ‘the Family’: Personal Life and Social Change in the Early 21<sup>st</sup> Century”. *Current Sociology* 52 (2004): 135-159; Sasha Roseneil, “Why We Should Care About Friends: An Argument for Queering the Care Imaginary in Social Policy”. *Social Policy & Society* 3/4 (2004): 409-419; and Róisín Ryan-Flood, *Lesbian Motherhood: Gender, Families, and Sexual Citizenship* (Basingstoke and New York: Palgrave Macmillan, 2009).

<sup>81</sup> See Budgeon and Roseneil, “Cultures of Intimacy and Care Beyond the ‘the Family’ ”, 150.

It is also important, as a close reading of *Maple Palm* suggests, that we not only consider same-sex immigration rights discourses in relation to domestic forms of redistributive justice, but within the much broader framework of globalization. Legislation such as the Uniting American Families Act needs to take into account the structural inequalities generated by histories of imperialism as well as by more recent forms of globalization in determining the kinds of groups that are most likely to be “deemed legal”. Any argument on behalf of same-sex immigration rights in the U.S. must engage the kinds of racialized and gendered discourses of criminality and illegality that are responsible for the production of the legal-illegal distinction; failure to do so, as in the case of *Maple Palm*, means that the opposition between (white) queer citizen and (non-white) heterosexual immigrant remains intact. Above all, however, we need to challenge the logic of crime and punishment, law and order that creates the category of the “illegal immigrant” in the first place. As Arendt’s analysis suggests, understanding the contemporary transformation of the right of asylum into an act that is virtually illegal, involves returning to consider the relationship between the “citizen” and the “human”, along with the kinds of abstract contradictions that produce such distinctions. Only by understanding and historicizing the tension between human rights and citizenship rights can we begin to effectively grapple with the frame for campaigns for same-sex immigration reform and social justice in the present.

## ***Conclusion***

Although *Maple Palm* ultimately fails to offer any kind of cinematic “corrective” to the Uniting American Families Act legislation it endorses in the form of coalition politics between queer and immigrant movements, the film does provide a useful point of departure for conceptualizing a more progressive political agenda. More specifically, *Maple Palm* invites us to think about UAFA in relation to international human rights discourses, encouraging us to put human rights back at the centre of our analyses of both gay rights and same-sex immigration rights. Rather than merely endorsing human rights, as in the case of *Maple Palm*, however, we need a transnational lesbian cinema that reconstructs humanitarian advocacy in more politically accountable ways—the kind of cinema that seeks to critically grapple with what form the human is required, culturally, to take. With respect to *Maple Palm*, in particular, we ought to remain wary of the kind of transnational lesbian cinematic consciousness that makes the subject of queer migration a middle-class white femme body and thus fails to sufficiently interrogate the connections between gay rights and racial privilege. Race and class, as well as gender and sexuality, need to be rendered visible in the context of transnational lesbian cinema as organizing principles in both migratory discourses and human rights narratives alike.

A great deal more information is also still needed about the ways in which bi-national same-sex couples in the U.S. negotiate and encounter the legal/illegal distinction within their everyday lives and how, and under what circumstances, queer agency emerges. Further analyses of the material circumstances under which queer agency occurs are essential if we are to effectively engage state immigration controls

and gain a better understanding of the kinds of struggles that come to constitute such practices of surveillance. Clearly, there are numerous cases of the acquisition of same-sex immigration rights by bi-national couples in other countries that require further analysis, and comparative transnational studies that need to be done. Such analyses are desperately needed because, as *Maple Palm* shows, positive immigration reform for same-sex couples must, by necessity, engage the kinds of disciplinary structures that are endemic to the modern nation-state—structures that are both enabling and disabling. If, as a number of feminist accounts of the state have shown, the latter is both constraining *and* enabling in its deployment of gender, then we need to start asking more questions about the ways in which sexual politics are reproduced in relation to state power.<sup>82</sup> For, as feminist theorists have helped us to understand, it is in the process of engagement with the state that alternative interests are constructed and that possibilities for change emerge. Rights are only ever obtained through such a process of engagement with the state which, as any poststructuralist would tell us, is both an instrument of regulatory power and a contested terrain where struggle can make all the difference.

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<sup>82</sup> For an early (but good) post-structuralist feminist account of the state, see Rosemary Pringle and Sophie Watson, “‘Women’s Interests’ and the Post-Structuralist State”, in Michèle Barrett and Anne Phillips, eds., *Destabilizing Theory: Contemporary Feminist Debates* (Stanford: Stanford University Press, 1992), 53-73. More recent feminist literature on the state includes Pat Armstrong and Patricia Connelly, eds., *Feminism, Political Economy, and the State: Contested Terrain* (Toronto: Canadian Scholars Press, 1999); Melissa Haussman and Birgit Sauer, eds., *Gendering the State in the Age of Globalization: Women’s Movements and State Feminism in Postindustrial Democracies* (Plymouth: Rowman & Littlefield Publishers, 2007); Joni Lovenduski, ed., *State Feminism and Political Representation* (Cambridge: Cambridge University Press, 2005); Dorothy McBride Stetson and Amy G. Mazur, eds., *Comparative State Feminism* (London: Sage Publications, 1995); Joyce Outshoorn and Johanna Kantola, eds., *Changing State Feminism* (London: Palgrave Macmillan, 2007); Julia O’Connor, Ann Shola Orloff, and Sheila Shaver, eds., *States, Markets, Families: Gender, Liberalism and Social Policy in Australia, Canada, Great Britain and the United States* (Cambridge: Cambridge University Press, 1999); Nickie Charles, *Feminism, the State, and Social Policy* (New York: St. Martin’s Press, 1999); and Kristin Bumiller, *In An Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence* (Durham: Duke University Press, 2008).

It is precisely the terrain of the state, I am arguing here, that queer theorists and activist needs to start contesting. In view of the neoliberal penchant for minimal state intervention in redressing social and economic inequalities, it becomes especially problematic for the state to drop out of queer analyses. Indeed, such an erasure of the state—creates a situation whereby queer critiques of the so-called “straight state” run the risk of converging with the kind of neoliberal values embodied in *UAFA* and *Maple Palm*. For, in an era of neoliberalism, one might argue, dismissing the state is precisely what the state desires. Rather than homogenizing the state as “straight”, queer theorists need to start looking to the kinds of counter-discourses that might emerge in relation to engagement with the state. This in turn would require seeing the state not as coherently “straight”, but as contradictory and open to queer reconfiguration. Such a critical shift is urgently required, for learning how to obtain both recognition *and* redistributive rights from the state is surely one of the key social justice questions raised by neoliberalism’s relentless attempts to separate the cultural from the economic. In this context, taking into account the cultural politics behind neoliberal economics becomes an ethical responsibility for all those engaged in activist work on behalf of gay rights—both policy-makers and filmmakers alike.

In “Transnational Documentaries: A Manifesto”, Patricia Zimmerman and John Hess stress the need for scholars and artists of visual culture to actively engage with the process of legislative change. As they write, “Adversarial transnational work needs to utilize deconstructive methodologies to unpack visualities, and visualities to deconstruct policy. Policy is no longer only the domain of the policy wonks for

NGOs—scholars and artists must enter the fray”.<sup>83</sup> Following Zimmerman and Hess, I would suggest that it is only through the process of critically engaging with the cultural politics of neoliberalism—in both policy and popular culture alike—that we can begin to imagine alternatives. For, as *Maple Palm* shows only too well, immigration rights are rights that same-sex couples simply cannot *not* want. The question both the film and campaigns on behalf of same-sex immigration reform fail to consider is: at what cost?

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<sup>83</sup> See John Hess and Patricia R. Zimmerman, “Transnational Documentaries: A Manifesto”, in Elizabeth Ezra and Terry Rowden, eds., *Transnational Cinema: The Film Reader* (New York and London: Routledge, 2006), 97-108 (at 105).



## CHAPTER 2

### LESBIANS ON WELFARE: QUEER RE-IMAGININGS OF CITIZENSHIP AND SOCIAL PROTECTION

*The queer critique of rights does not sufficiently distinguish its anti-statism from the conventional argument of neoliberal politics.*

Martha McCluskey, “How Queer Theory Makes Neoliberalism Sexy”.<sup>1</sup>

In a recent article, entitled “How Queer Theory Makes Neoliberalism Sexy”, Martha McCluskey suggests that queer theory is in danger of becoming complicit with the cultural and economic politics of neoliberalism. Building on lesbian feminist critiques of queer theory for its tendency to reinscribe a gendered binary that places femininity, care, and safety on one side and masculinity, autonomy, and risk on the other, McCluskey argues that the vast majority of what we have come to refer to as “queer theory” has so far failed to adequately distinguish itself from the kind of anti-statism endorsed by neoliberal, right wing politics.<sup>2</sup> McCluskey cautions us to beware that

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<sup>1</sup> Martha McCluskey, “How Queer Theory Makes Neoliberalism Sexy”, in Martha Albertson Fineman, Jack E. Jackson, and Adam P. Romero, eds. *Feminist and Queer Legal Theory: Intimate Encounters, Uncomfortable Conversations* (Aldershot: Ashgate, 2009), 115-134 (at 120).

<sup>2</sup> For an excellent critique of the tendency amongst certain queer theorists to valorize cross-gender identification at the expense of both women and femininity “played straight”, see Biddy Martin, *Femininity Played Straight: The Significance of Being Lesbian* (New York and London: Routledge, 1996). As Martin has written of this particular strand of queer theorizing, “[Such] celebrations of queerness rely on their own projections of fixity, constraint, or subjection onto a fixed ground, often onto feminism or the female body, in relation to which queer sexualities become figural, performative, playful and fun... Conceptually . . . as well as politically, something called femininity becomes the tacit ground in relation to which other positions become figural and mobile” (11 and 93). For a more recent discussion of the ways in which this particular sexist trend has persisted within the field of queer studies, see the edited collection of essays by Janice McLaughlin, Mark E. Casey, and Diane Richardson, *Intersections Between Feminist and Queer Theory* (London: Palgrave Macmillan, 2006).

queer critiques of the state do not translate into the neoliberal philosophy of minimal state intervention in redressing economic inequalities and, with it, the privatization of the costs of social reproduction and care. She suggests that queer theorists need to look to feminist work on the state if they are not to concede crucial political and theoretical ground to neoliberalism.<sup>3</sup> McCluskey concludes her article by calling for greater coalitions between feminists and queer theorists, all of whose interests, she argues, are under threat from neoliberal reconceptualizations of state, market and family.

In this chapter, I would like to use McCluskey's article as a point of departure for thinking about queer re-imaginings of citizenship and social protection in transnational lesbian cinema. By "social citizenship", I am referring primarily to a citizen's right to access state social provision in the form of welfare programs, unemployment benefits, public housing, and so on, or the right of all citizens to the state's care.<sup>4</sup> Like McCluskey, I am interested in how theorists of sexuality have addressed the category of the state in relation to discourses of social citizenship and protection. How, and under what circumstances, does queer theory encounter and/or negotiate the contemporary shift from a post-World War II welfare state to a neoliberal market state and, with it, neoliberal modes of governmentality? If, as McCluskey appears to be suggesting, queer theory has a fundamental aversion to discourses of social safety and protection, does that mean that queer critiques of the state have in turn become complicit with neoliberal attempts to dismantle an already

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<sup>3</sup> As she puts it: "The queer disdain for liberal rights and regulation may do more to strengthen an authoritarian state than to open up possibilities for more progressive alternatives. A critical approach that instead aims directly and openly to reconfigure the state for feminist ends may have the advantage of directly engaging rather than conceding the questions of what kinds of state power, in whose interests, we want to advance". See McCluskey, "How Queer Theory Makes Neoliberalism Sexy", 123.

<sup>4</sup> On social citizenship, see the work of the British social theorist Thomas H. Marshall, *Citizenship and Social Class, and Other Essays* (Cambridge: Cambridge University Press, 1950).

weakened welfare state? To what extent do queer critiques of the state as “straight” actually work to (re)constitute, rather than deconstruct, the neoliberal state? How can we use queer theory to better conceptualize counter-discourses of social citizenship and protection that might emerge in relation to queer engagements with the state? What would a specifically queer form of social protection, or social citizenship, look like in the context of neoliberalism?

As I will argue in the first part of this chapter, the kinds of social justice questions rendered increasingly urgent in the wake of neoliberal attempts to further unravel the social bond place queer theory at an important ethical crossroads. Building on the previous chapter’s call to address queer anti-statism in the context of mainstream same-sex immigration rights advocacy in the U.S., this chapter begins from the premise that queer scholars and activists need to start engaging the category of the state and, with it, the issue of social protection. It is vital that queer theorists begin to inquire about the kinds of politics that might emerge out of a queer, as opposed to *straight*, desire for the state. If queer theory is to move beyond the critical desire of merely calling attention to the limits of the welfare state and think instead about the latter’s potential, queering the discourses of social safety and protection that constitute the domain of state intervention is essential.

One way of approaching the question of whether or not a feminist or queer welfare state is conceivable is to look at how citizenship and social protection are represented within the context of film and visual media. How, in other words, are filmmakers trying to re-imagine welfare and social policy from feminist and queer perspectives? This chapter will explore some of the ways in which contemporary

independent filmmakers are attempting to queer discourses of welfare and social citizenship by considering the recent transnational turn in British social realist cinema. At the heart of transnational lesbian cinema's attempt to queer discourses of social safety and protection, I will suggest, is the figure of the female refugee who forms the basis for an alternative feminist and queer welfare state.

Before I address specific films in more detail, however, I would first like to return to the issue of the relationship between queer theory, neoliberalism, and the state. In part one, I will offer a brief discussion of some of the queer scholarship that does engage with the problem of neoliberalism. As I will also suggest, however, McCluskey's critique of queer theory is at least partially justified on the grounds that the majority of this literature tends to revolve primarily around a critique of neoliberal cultural politics, or the cultural politics of recognition, while ignoring the issue of welfare and social protection.

### ***Queer Theory, Neoliberalism, and the State***

Contrary to McCluskey's suggestion that the vast majority of what we have come to refer to as "queer theory" has tended to abstain from critical engagement with neoliberalism, there are a number of prominent queer theorists and scholars who have made the relationship between cultural representation and political economy central to their analyses. Those queer critics who have advocated for a more materialist approach to queer cultural representation include, for instance, Rosemary Hennessy (queer cultural studies), Miranda Joseph (queer community), Lisa Duggan (queer cultural studies), Kevin Floyd (queer Marxism), Anna Marie Smith (welfare) Eithne Luibhéid

(queer migration), and Amy Lind (sexuality and development).<sup>5</sup> Indeed, much of the recent scholarship that addresses the relationship between sexuality and neoliberalism may be located within the newly emerging field of transnational queer studies. It is perhaps somewhat surprising, then, that McCluskey cites none of the above authors in her article. Nor does she mention the work of Rosemary Hennessy who, in her book *Profit and Pleasure: Sexual Identities in Late Capitalism*, explicitly critiques queer cultural theory as it emerged in the U.S. academy in the early 1990s for its complicity with neoliberalism. By failing to mention or engage with the work of the above authors, McCluskey homogenizes queer theory and critique. The result, I would argue, is that her essay actually reproduces a disabling divide between feminist and queer theory of which she herself is critical and which she concludes her article by suggesting should be resisted.

The separation of feminist political economy from queer cultural representation apparent in McCluskey's essay is also evident in the work of Nancy Fraser, the latter of whom is arguably one of the most prominent feminist theorists of welfare in the United States. In the now infamous exchange between Judith Butler and

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<sup>5</sup> Rosemary Hennessy, *Profit and Pleasure: Sexual Identities in Late Capitalism* (New York and London: Routledge, 2000); Miranda Joseph, *Against the Romance of Community* (Minneapolis and London: University of Minnesota Press, 2002); Lisa Duggan, *The Twilight of Equality? Neoliberalism, Cultural Politics, and the Attack on Democracy* (Boston: Beacon Press, 2003); Kevin Floyd, *The Reification of Desire: Toward a Queer Marxism* (Minneapolis: University of Minnesota Press, 2009); Anna Marie Smith, *Welfare Reform and Sexual Regulation* (Cambridge and New York: Cambridge University Press, 2007); Anna Marie Smith, "Neoliberalism, Welfare Policy, and Feminist Theories of Social Justice". *Feminist Theory* 9 (2008): 131-144; Anna Marie Smith, "Reproductive Technology, Family Law, and the Postwelfare State: The California Same-Sex Parents' Rights 'Victories' of 2005". *SIGNS: Journal of Women in Culture and Society* 34/4 (2009): 827-850; Eithne Luibhéid, "Heteronormativity, Responsibility, and Neo-Liberal Governance in U.S. Immigration Control", in Brad Epps, Keja Valens, and Bill Johnson González, eds. *Passing Lines: Sexuality and Immigration* (Cambridge, Mass.: Harvard University Press, 2005), 69-101; Eithne Luibhéid, "Sexuality, Migration, and the Shifting Lines Between Legal and Illegal Status". *GLQ: A Journal of Lesbian and Gay Studies* 14/2-3 (2008): 289-315; and Amy Lind, "Legislating the Family: Heterosexual Bias in Social Welfare Policy Frameworks". *Journal of Sociology and Social Welfare* 31/4 (2004): 21-35.

Nancy Fraser in *Social Text*, Butler takes Fraser to task for setting up a false opposition between feminist political economy and queer cultural politics.<sup>6</sup> In *Justice Interruptus: Critical Reflections on the 'Postsocialist' Condition*, Fraser argues that while combating injustices on the grounds of race and gender requires attention both to the cultural politics of recognition and the economic aspects of redistribution, redressing discrimination against sexual minorities merely entails a shift in cultural attitudes towards sexuality.<sup>7</sup> As Butler rightly points out, however, within Fraser's account of political economy, queer politics become aligned with the "merely cultural", while class, race, and gender-based struggles are articulated primarily in terms of the need for economic redistribution.<sup>8</sup> Not only does Fraser's account of campaigns for sexual rights deprive the latter of their ability to transform political economy, but the fact that her analysis opposes sexual desire and political economy has the effect of reinforcing the very same cultural/economic distinction that she herself argues is a ruse of neoliberalism.

The opposition between feminist political economy and queer cultural politics that Butler and others have observed in Fraser's work and which, I would suggest, is evident in McCluskey's critique of queer theory,<sup>8</sup> is surely no coincidence. Such a distinction may be viewed as symptomatic of a growing divide between feminist and

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<sup>6</sup> See Judith Butler, "Merely Cultural". *Social Text* 52/53 (1997): 265-277. Also see Fraser's response to Butler, entitled "Heterosexism, Misrecognition, and Capitalism: A Response to Judith Butler". *Social Text* 52/53 (1997): 279-289. Rosemary Hennessy and Lisa Duggan have similarly criticized Fraser for setting up a false distinction between the cultural and the economic. As Duggan asserts, for instance, "The split between economic justice campaigns and antiglobalization politics on one side, and identity or cultural politics on the other, is a misguided and disabling disconnection for the entire progressive-left". See Duggan, *The Twilight of Equality*, xxi.

<sup>7</sup> See Nancy Fraser, *Justice Interruptus: Critical Reflections on the 'Postsocialist' Condition* (New York and London: Routledge, 1997), 5.

<sup>8</sup> See Butler, "Merely Cultural".

queer theory in the U.S. academy more generally.<sup>9</sup> For, while feminist theorists have attempted to speak across the humanities/social sciences divide, the majority of queer theorists have not. This is in part due to the fact that most of the so-called “canonical” texts of queer theory come from the fields of literature, film, and philosophy and, as a result, tend to emphasize poststructuralist and psychoanalytic approaches to cultural representation.<sup>10</sup> In this sense, then, McCluskey’s argument about queer theory, though problematic, is perhaps partially justified on the grounds that queer critiques of neoliberalism have revolved primarily around the cultural politics of recognition (for instance, the implications of neoliberalism in terms of gay marriage etc.), rather than on issues of poverty, economic redistribution, and the welfare state.<sup>11</sup>

As Lisa Duggan and Davina Cooper have both argued, queer theorists need to pay greater attention to the category of the state in general.<sup>12</sup> Queer theory in particular needs to think much more seriously about the category of the state in the same way that critical theorists of the state need to begin to engage with the issue of sexuality in a more sustained way. Despite Duggan’s suggestion that queer theorists devise more

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<sup>9</sup> For a more sustained discussion of the growing separation of feminist and queer theory and the extent to which this can be mapped onto a humanities/social science divide, see McLaughlin, Casey, and Richardson, eds. *Intersections Between Feminist and Queer Theory* (2006).

<sup>10</sup> For a discussion of the need to both sociologize queer theory and queer sociology, see Steven Seidman (ed.), *Queer Theory/Sociology* (Oxford: Blackwell Publishers Ltd, 1996) and Steven Seidman, *Difference Troubles: Queering Social Theory and Sexual Politics* (Cambridge University Press, 1997). Indeed, the only book-length project devoted to addressing the relationship between queer theory and sociology is the edited collection of essays by Steven Seidman, *Queer Theory/Sociology*, mentioned above.

<sup>11</sup> For a representative queer critique of neoliberalism, see the work of Lisa Duggan who, in her discussion of the impact of neoliberalism on LGBT identity politics, focuses primarily on the politics of cultural recognition. As she has commented on neoliberalism in relation to sexuality, “The new neoliberal sexual politics... might be termed *the new homonormativity*—it is a politics that does not contest dominant heteronormative assumptions and institutions, but upholds and sustains them, while promising the possibility of a demobilized gay constituency and a privatized, depoliticized gay culture anchored in domesticity and consumption”. See Duggan, *The Twilight of Equality*, 50.

<sup>12</sup> See Lisa Duggan, “Queering the State”. *Social Text* 39 (1994): 1-14. Also see Davina Cooper, “Imagining the Place of the State: Where Governance and Social Power Meet”, in Diane Richardson and Steven Seidman, eds., *Handbook of Lesbian and Gay Studies* (London: Sage, 2002), 231-252.

strategies for queering the state in response to a series of anti-gay initiatives in the U.S. in the mid-1990s, the vast majority of literature on sexuality and the state is still produced by feminist theorists.<sup>13</sup> The result, not surprisingly, is that gender is often privileged in such analyses at the expense of sexuality. Within most queer accounts of the welfare state in particular, the latter tends to be dismissed as “heteropatriarchal”, although queer theorists rarely offer any kind of detailed analysis of what this might mean in terms of specific state practices or policies. The fact that queer theorists have shied away from tackling issues of welfare and social protection, however, means that queer critiques of neoliberalism tend to be circumscribed by the same kind of cultural/economic distinction that scholars such as Butler and Duggan have argued is a ruse of neoliberalism. With respect to queer theory, the lack of attention to social protection on the parts of queer scholars seems somewhat surprising given the interconnected nature of welfare reform and LGBT campaigns for political recognition in the United States.<sup>14</sup> As discussed in chapter one, when LGBT rights become privatized in this way, it is poor LGBT individuals who end up suffering the most. For these and other reasons, then, re-envisioning welfare and social citizenship along fundamentally queer lines is both urgent and long overdue.

Clearly, the role played by institutionalized heterosexuality in social welfare programs may partly account for the queer ambivalence to engage with the category of the state and, with it, discourses of welfare and social protection. Queer theorists’ unacknowledged discomfort with the subject of welfare and social citizenship may also be attributed in part to the fact that it is largely the shift from a welfare state to a

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<sup>13</sup> Lisa Duggan, “Queering the State”. *Social Text* 39 (1994): 1-14.

<sup>14</sup> See Lind, “Legislating the Family”.



neoliberal market state that has created the conditions for greater LGBT legal and cultural recognition. As noted in Chapter One, the result of neoliberal reconceptualizations of the role of the state in the provision of social protection is the expansion of what constitutes the category of “the family” beyond the traditional heterosexual nuclear family unit. In other words, it is the neoliberal erosion of the traditionally “straight” state in favor of a queer-friendly market state and, with it, the privatization of the costs of welfare and social reproduction that has opened up a space for the recognition of alternative (read: queer) family formations.<sup>15</sup> If LGBT rights campaigns have partly enabled the corporate restructuring of welfare, along with the appearance of a less intrusive and more “tolerant” state, where does this leave queer theory as a mode of critique? How might we preserve and keep open the category of welfare in the face of neoliberal attempts to reframe campaigns for social justice through the privatization and depoliticization of human rights discourses? What are the limits and possibilities of queering categories of social citizenship and protection? In view of the neoliberal penchant for minimal state intervention in redressing social and economic inequalities, it becomes especially problematic for the category of the state to drop out of queer analyses. Rather than homogenizing the state as “straight”, queer theorists need to start looking to the kinds of counter-discourses that might emerge in relation to more specific engagements with state practices.<sup>16</sup> For, while

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<sup>15</sup> As Alexandra Chasin notes, “By addressing gays and lesbians as consumers...marketers and advertisers constitute them in important ways”. See Chasin, *Selling Out*, 14.

<sup>16</sup> For a representative example of the tendency within queer studies to essentialize the state as “straight”, see Margot Canaday’s recent book *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton: Princeton University Press, 2009). While Canaday offers a valuable historicization of the state in relation to discourses of sexuality and citizenship in twentieth-century America, her theoretical engagement with the category of the state is limited insofar as it serves

queer critiques of the “straight state” are in many cases justified, such theoretical reductionism only leaves the state’s reputed “straightness” and/or normativity intact, effectively foreclosing the possibility of queer agency and resistance.

What I would like to do in the remainder of this chapter is to build on recent scholarship in transnational sexuality studies that engages with the issue of neoliberalism and the state by considering queer re-imaginings of citizenship and social protection in transnational lesbian cinema. My aim is to explore the limits and possibilities of feminist and queer re-imaginings of the welfare state through an examination of British social realist cinema and, more specifically, by way of a close reading of Jan Dunn’s 2005 film *Gypo*. As I will argue, Dunn’s film—which forms part of the recent transnational turn in British social realist cinema—opens up a space for re-imagining citizenship and social protection from a transnational feminist and queer perspective. Before I go on to examine *Gypo* more closely, however, I would first like to provide a brief summary of the film’s plot.

### ***Lesbians on Welfare: Jan Dunn’s Gypo (2005)***

Jan Dunn’s feature length fiction film, *Gypo*, revolves around the lesbian relationship between Helen, a white working class woman of Irish descent living in Margate, Kent, and Natasha, a female refugee from the Czech Republic who seeks asylum in the United Kingdom. Tasha and her mother, Irina, both of whom are fleeing from abusive male partners in the Czech Republic, claim refugee status in Britain on the grounds of gender-based persecution in their country of origin, persecution from which the state is

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to re-attribute a “straightness” to the state that the historical narrative she presents would seem to undercut.

unwilling to protect them. As refugees, rather than asylum-seekers, Tasha and Irina have been preapproved for admission before entering the U. K. and are merely awaiting British passports and the right to work. At the end of the film, Tasha and her mother are officially granted British citizenship, but not before suffering yet further abuse from their respective male partners who have followed the two women to the United Kingdom in an attempt to force them to return to the Czech Republic.

As noted earlier, *Gypo* constitutes part of the recent transnational “turn” in British social realist cinema. Other British films that may be included within the aforementioned group are Pawel Pawlikowski’s *Last Resort* (2000) which centers upon the story of Tanya, a woman who travels to Britain from Russia, and who makes a bogus asylum claim after her fiancé fails to meet her at the airport; Michael Winterbottom’s *In This World* (2001) about two Afghan refugees, Jamal and Enayatullah, who travel illegally to Britain from the Shamshatoo refugee camp near Peshawar in Pakistan; Stephen Frears’ *Dirty Pretty Things* (2003) which deals with the illegal traffic in human organs at a London hotel; Michael Winterbottom’s *Road to Guantanamo* (2006), a “docudrama” about the true story of three British South Asian men, who were apprehended by U.S. forces when they visited Pakistan for a friend’s wedding in 2001 and later imprisoned in Guantanamo Bay before being released without charge in 2004; and, finally, Ken Loach’s *It’s a Free World* (2007), which tells the story of two British women who create an employment recruitment agency that specializes in hiring and exploiting undocumented migrant workers.<sup>17</sup> Both *Last*

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<sup>17</sup> Bruce Bennett and Imogen Tyler have discussed both of Winterbottom’s films in their article, “Screening Unlivable Lives: The Cinema of Borders”, in Katarzyna Marciniak, Anikó Imre, and Áine O’ Healy, eds., *Transnational Feminism in Film and Media* (London: Palgrave Macmillan, 2007), 21-

*Resort* and *Gypo* are filmed on location in Margate, which is also the setting for Lindsey Anderson's Free Cinema documentary *O! Dreamland* (1953), depicting the social struggle between traditional working class culture and the middle-class disdain for working class life. In addition, the directors of *Last Resort* and *Gypo* both give "special thanks" to Refugee Link during their end credits.

Like many of the above films, *Gypo* addresses migration and border-crossing primarily in relation to issues of welfare and social citizenship. Dunn's film situates the subject of immigration within the context of the decline of the post-World War II British welfare state and the closing down of representational space for the white working classes that took place during consecutive Conservative governments in the 1980s and 1990s and which has continued into the twenty-first century under New Labour. British social realist cinema has its origins in the late 1950s New Wave "kitchen sink" dramas of the Free Cinema group, which comprised directors such as Tony Richardson, Karel Reisz, and Lindsey Anderson. The term "realism" refers to the cinematic strategies used to represent the white working class vis-à-vis the kinds of class divisions produced by the post World War II welfare state.<sup>18</sup> Throughout the 1980s and 1990s, British social realist films by directors such as Ken Loach and Mike Leigh focused primarily upon the economic and social changes wrought by

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36. On Pawel Pawlikowski's *Last Resort*, see Alice Mihaela Bardan, "Enter Freely, and of Your Own Will': Cinematic Representations of Post-Socialist Transnational Journeys", in Marciniak, Imre, and O' Healy, *Transnational Feminism in Film and Media*, 93-108.

<sup>18</sup> For literature on British social realist cinema, see John Hill, "From the New Wave to 'Brit-Grit': Continuity and Difference in Working-Class Realism", in Justine Ashby and Andrew Higson, eds., *British Cinema, Past and Present* (Routledge, 2000), 249-260. See also Amy Sargeant, *British Cinema: A Critical History* (London: BFI Publishing, 2005); Andrew Higson, *Waving the Flag: Constructing a National Cinema in Britain* (Oxford: Clarendon Press, 1995); Andrew Higson, ed., *Dissolving Views: Key Writings on British Cinema* (London: Cassell, 1996); and Samantha Lay, *British Social Realism: From Documentary to Brit-Grit* (London and New York: Wallflower Press, 2002).

neoliberalism and globalization, in particular the restructuring of the industrial labor market and the collapse of the traditional manufacturing industries.

A central theme within contemporary British social realist cinema is that of the transformation of white working class masculinity as a result of the ascendancy of neoliberalism and the loss of a collective political Left in Britain. Many of Ken Loach's films from the 1990s, for instance, portray working class men as redundant in the labor market and emotionally maladjusted in the home. As Julia Hallam has noted, in the majority of these films working class identity is no longer depicted as part of a collective political movement, but as a site for exploring the personal breakdown of white male characters as a result of social marginalization.<sup>19</sup> And while the turn towards an abusive and violent masculinity on the parts of male working class characters in British social realist cinema is depicted sympathetically, the central protagonists tend to show little ability to change their behavior.

In "New Face, Old Fears: Migrants, Asylum Seekers and British Identity", Kevin Foster has suggested that the turn towards representing migrants and asylum-seekers in British social realist cinema has become a vehicle for addressing what are essentially domestic political concerns, in particular the demise of the post-World War II welfare state and the unraveling of national identity as a result of globalization.<sup>20</sup> The latter is certainly the case with respect to *Gypo*, which addresses the issue of

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<sup>19</sup> See Julia Hallam, "Film, Class and National Identity: Re-imagining Communities in the Age of Devolution", in Justine Ashby and Andrew Higson, eds., *British Cinema, Past and Present* (Routledge, 2000), 261-273. Also see Andrew Spicer, *Typical Men: The Representation of Masculinity in Popular British Cinema* (London: I.B. Tauris, 2001).

<sup>20</sup> As Foster comments, the figure of the migrant is being used in British social realist cinema as a way of imagining and articulating to British audiences "what it means to lose one's place in the world, what it means to lose the cultural identity that anchors one to it and what it is to be stateless, lost and adrift". See Kevin Foster, "New Faces, Old Fears: Migrants, Asylum Seekers and British Identity". *Third Text* 20/6 (2006): 683-691 (at 689).

immigration primarily in relation to the unraveling of the social bond and the ensuing sense of disenfranchisement amongst the white working class. In the “making-of” documentary which accompanies the DVD release of the film, the director states that *Gypo* was intended as a reaction against the kinds of xenophobic attitudes towards refugees and asylum-seekers prevalent in Britain, particularly within the region of Kent where *Gypo* is located.

The anti-immigrant sentiment that forms the backdrop to Dunn’s film can be linked both to government rhetoric and specific policies regarding immigration, as well as to the hostile treatment of asylum-seekers and refugees within the British tabloid media more generally. For instance, when freedom of movement as a result of the single European market came into effect in 1992, the then Conservative government made a series of statements about the need to “secure” British borders against what was described as a “rising tide” of undocumented migrants and asylum-seekers.<sup>21</sup> In 1996, the Conservative Home Secretary, Michael Howard, argued that good race relations depended on “firm but fair immigration controls”. He then justified the introduction of a harsh new immigration bill that reduced access to welfare for refugees and tightened conditions for claiming benefits in the following terms: “the UK... is far too attractive a destination for bogus asylum seekers and other illegal

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<sup>21</sup> The anti-immigrant sentiment surrounding refugees and asylum-seekers in twenty-first century Britain has its roots in Enoch Powell’s anti-black immigration movement. For more information on the latter, see Anna Marie Smith, *New Right Discourse on Race and Sexuality: Britain 1968-1990* (Cambridge University Press, 1994). Before coming to power in 1979, Margaret Thatcher also made numerous references to the “swamping” of Britain by people from the so-called “New Commonwealth”. Cited in Smith, *New Right Discourse on Race and Sexuality*, 5.

immigrants. The reason is simple: it is far easier to obtain access to jobs and benefits here than almost anywhere else”.<sup>22</sup>

New Labour continued to reiterate the problem of “bogus” asylum-seekers, failing to make distinctions between asylum-seekers and economic migrants, while continuing to link the issue of immigration with welfare and state social provision. In April, 2000, the New Labour party introduced a “dispersal policy” designed to, as they put it, “spread the burden” of what they claimed represented a massive influx of refugees and asylum-seekers into the country. Before the policy was introduced, asylum-seekers were housed primarily in London amongst a multiracial population, whereas the new dispersal policy has meant that while asylum-seekers are waiting for their cases to be judged, they are sent out to deprived, primarily white, working class areas in England where accommodation is cheaper. The result of New Labour’s so-called “dispersal policy” has, not surprisingly, been increased racial tension and hostility towards immigrants throughout the United Kingdom.<sup>23</sup>

Racism and hostility towards refugees and asylum-seekers has become particularly acute in the region of Kent where *Gypo* is located. From the mid to late 1990s onwards, a number of Roma refugees fleeing persecution in Slovakia and the Czech Republic were dispersed to the Kent coast. The tabloid media predictably

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<sup>22</sup> Cited in Alice Bloch, “A New Era or More of the Same? Asylum Policy in the UK”. *Journal of Refugee Studies* 13/1 (2000): 29-42 (at 35).

<sup>23</sup> For a more detailed account of New Labour’s dispersal policy, see Vaughan Robinson, Roger Andersson and Sako Musterd, *Spreading the ‘Burden’? A Review of Policies to Disperse Asylum Seekers and Refugees* (Bristol: The Policy Press, 2003). Also see Arun Kundnani, *The End of Tolerance: Racism in 21<sup>st</sup>-Century Britain* (London: Pluto Press, 2007). As the British National Party commented on New Labour’s immigration policies in May, 2000: “The asylum seeker issue has been great for us. We have had phenomenal growth in membership. It’s been quite fun to watch government ministers and the Tories play the race card in far cruder terms than we would use, but preferred not to. This issue legitimizes us”. Cited in Kundnani, *The End of Tolerance*, 17.

dubbed all Roma refugees “economic migrants” and denounced asylum-seekers in general as “flooding” the Kent area and “running down the welfare state”.<sup>24</sup> *The Independent* ran the front page headline, “Gypsies invade Dover hoping for a handout”, while *The Sun* newspaper claimed on March 14<sup>th</sup>, 2000, that “Gipsy spongers are building themselves PALACES with the vast fortune they are milking from soft-touch Britain”.<sup>25</sup> As a result of state and tabloid racism combined, violence against refugees and asylum-seekers in the area of Kent has become a daily occurrence. Indeed, white working-class opposition to immigration stirred up by the mainstream tabloid media in Britain continues to be encouraged and exploited by government politicians as a convenient distraction from the realities of a growing class divide and neoliberal attempts to dismantle an already weakened welfare state.

In *Gypo*, it is the character of Paul, Helen’s husband, who becomes the voice of white male working class opposition to immigration. Upon returning home to find Tasha talking with Helen, he proclaims: “This place is turning into a refugee camp”. A complete transcription of the dialogue in this scene is included below:

Paul: There’s no asylum here.

Tasha: I’m not an asylum seeker, I’m a refugee and there’s a really big difference.

Paul: You’re a sponger.

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<sup>24</sup> Cited in *ibid.*

<sup>25</sup> Cited in *ibid.*, 13 and 80.



Tasha: I'm not a sponger. I haven't received benefits for two years now. And even when I did receive benefits it was so much less than anything your family would ever get, so please don't imagine for a second that I'm taking anything from you. I will have my passport at the end of the year.

Paul: Don't give me that. I've got a kid who can't get a job because you guys are getting all the jobs, a kid that's claiming benefit and they're threatening to cut his benefit because you guys are claiming the benefits. Why don't you go sign on the dole in your own country?

Tasha: Do you have any idea why people come here? Any idea at all?

Paul: What are you doing here?

Tasha: My father is beating me. My father is beating my mother.

Paul: Just piss off back where you came from.

Tasha: Do you have any idea how difficult it is for people in my country? My friend is killed by skinheads just because he is Roma... People come to Channel Tunnel and they know they only have 2% chance of making it and they still come anyway. Everyone else is dying on the way... The only jobs

people do are the jobs you don't want to do. You know which other job  
[prostitution] I do.

Paul: Gypo!

In a subsequent improvised section of dialogue between Helen's husband, Paul, and their sixteen-year old daughter, Kelly, a single mother who is struggling to find work, Dunn uses the character of Kelly to critique the kinds of xenophobic attitudes towards refugees and asylum-seekers espoused by Paul:

Paul to Tasha: This is English food. Sorry it's not much, by the way. It's like this country—it's turning into a refugee camp. This is the smallest country. This is a tiny island...It's like the size of this table...too many mouths to feed.

Kelly: You read the stupid tabloid papers and that's where you get your information from.

Paul: This little island is taking more refugees than anywhere else in the world.

Kelly: No, you're wrong Dad. Africa takes eight million refugees a year. We take 8,000. There's a tad difference there, don't you think?

Paul: Well, Africa's a big country. This is a little island.

Kelly: We ranked tenth in the world [for accepting refugees] and you know shit about it. There are prostitutes my age trying to raise money so that they can come to this country because they are persecuted in their own country for their race and religion.

As Kelly rightly points out, it is the global south that hosts the vast majority of the world's refugees. Moreover, the United Kingdom has fewer asylum and refugee applications in relation to population size than any comparable European country. In *Gypo*, Dunn seeks to expose the ignorance and hypocrisy underlying the behavior and attitudes of individuals like Paul who exploit migrant workers for cheap labor while simultaneously proclaiming that the latter ought to “return home”. When Paul's business is beginning to suffer later on, a friend advises him to use migrant labor:

Mike: Go down those warehouses on the London Road. You want to do what everyone else is doing—pick up some labor there. There's plenty of them about, crying out for it.

Paul: How cheap?

Mike: Really cheap. Tell them how much you'll pay and they'll work for nothing.

The kind of language used by Paul in the above scenes is a characteristic refrain in government and media responses to immigration alike. Referring to Britain as a “tiny island” that is taking in “too many refugees”, Paul’s comments recall popular xenophobic discourses that accuse refugees of “flooding” into Britain and “targeting [Britain’s] beloved coastline”. Indeed, both the media and government politicians make frequent references to the number of refugees being “dumped” on British shores and claim that asylum-seekers will soon “overwhelm” Britain’s immigration controls and that the country will be “swamped”. In this context, the language of “floods” works to dehumanize migrants and asylum-seekers by presenting them as arriving in “waves” and “tides”. Nick Hudson, the former editor of the *Sunday Sport*, referred to Roma refugees in Kent as “flooding the area”, describing them as “scum of the earth”, hell bent on “targeting our beloved coastline”.<sup>26</sup> The political editor of *The Sun*, Trevor Kavanagh, similarly proclaimed in response to the presence of Roma refugees in Kent: “Let’s get one thing straight. It is not racist to be alarmed by the *flood* of illegal asylum seekers *pouring* into Britain” [my italics].<sup>27</sup> As Eve Darian-Smith has commented on the relationship between British national identity and Britain’s status as an island nation,

Modern English identity is, above all, about inclusion and exclusion, which was intricately mapped onto the British state’s spatial expression as an isolated

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<sup>26</sup> Cited in Kundnani, 46.

<sup>27</sup> Cited in *ibid.*, 50.

island-nation. In turn this necessitated and confirmed the need for constant military defense of what was constructed as a national cultural space.<sup>28</sup>

In xenophobic accounts of Britain as an island under threat from globalization and unwanted migration, the island symbolizes a defensive desire to preserve both national identity and state sovereignty; it is linked to a racist kind of anti-globalization discourse that has its roots in colonialism and in nostalgia for an imperialist past.

In *Gypo*, however, it is precisely the concept of Britain as an island-nation that Dunn seeks to reclaim. As she has remarked in the Director's Commentary that accompanies the DVD release of the film,

What I love about Kent and that area is all the boats people have in their front yards—this real feeling (especially for the theme running throughout this film), this feeling that it's really an island, that we're surrounded by water...and it's not an empire anymore and yet it still has this empire mentality...that fear of people coming in all the time...It's so cosmopolitan and it's filtered out. It's not just the major cities like London [that have become cosmopolitan—it is] everywhere now, which I love. I come from a cosmopolitan city.

In these comments, Dunn rightly calls attention to the ways in which the history of islands is linked to a history of imperial and postcolonial encounters. As Dunn points

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<sup>28</sup> See Eve Darian-Smith, *Bridging Divides: The Channel Tunnel and English Legal Identity in the New Europe* (Berkeley: University of California Press, 1999), 89.

out, the island can signify a sense of connection as well as separation.<sup>29</sup> In *Gypo*, Dunn uses cinematic space to reflect upon the ways in which exclusion is produced via spatial positioning, which occupies a crucial role in constructing the social order. As refugees, Tasha and her mother, Irina, are housed in a caravan park that is, quite literally, situated on the edge of the island, rendering visible their sense of political and social marginalization.

The director seeks to rehabilitate the island as a source of global interconnectedness, rather than separation and insularity, largely by way of film form and, more specifically, through the cultivation of a Dogme 95 aesthetic. Indeed, *Gypo* is the first British film officially granted the status of a Dogme 95 film. The term Dogme 95 was initially coined by Danish filmmaker Lars von Trier on 20<sup>th</sup> March, 1995, at the Odéon Cinema in Paris. Von Trier intended for films produced in the Dogme 95 style to embody a new kind of cinematic practice that would conform to a highly specific set of aesthetic constraints. Films made under the Dogme 95 manifesto must adhere to the following rules of the Dogme 95's "Vow of Chastity". These are as follows:

1. Shooting must be done on location. Props and sets must not be bought in. (If a particular prop is necessary for the story, a location must be chosen where this prop is to be found.)

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<sup>29</sup> For literature that theorizes islands in relation to discourses of imperialism and the nation-state, see Rod Edmond and Vanessa Smith, eds., *Islands in History and Representation* (New York and London: Routledge, 2003). Also see Vinay Lal, "Unanchoring Islands: An Introduction to the Special Issue on 'Islands: Waterways, Flowways, Folkways'". *Emergences* 10/2 (2000): 229-240.

2. The sound must never be produced apart from the images and vice versa.  
(Music must not be used unless it occurs where the scene is being shot.)
3. The camera must be hand-held. Any movement or immobility attainable in the hand is permitted. (The film must not take place where the camera is standing; shooting must take place where the film takes place.)
4. The film must be in color. Special lighting is not acceptable. (If there is too little light for exposure, the scene must be cut or a single lamp be attached to the camera.)
5. Optical work and filters are forbidden.
6. The film must not contain superficial action. (Murders, weapons, etc. must not occur.)
7. Temporal and geographical alienation are forbidden. (That is to say that the film takes place here and now.)
8. Genre movies are not acceptable.
9. The final picture must be Academy 35 mm film, that is, not widescreen.

10. The director must not be credited.

In addition, the director of a film made according to the rules of the Dogme 95 “Vow of Chastity” must adhere to the following oath:

I swear as director to refrain from personal taste! I am no longer an artist. I swear to refrain from creating a “work”, as I regard the instant as more important than the whole. My supreme goal is to force the truth out of my characters and settings. I swear to do so by all the means available and at the cost of any good taste and any aesthetic considerations. Thus I make my Vow of Chastity.

The Dogme 95 movement was intended by von Triers as a way of “re-democratizing” cinema in order to combat both global populism in the form of contemporary Hollywood film production and the kinds of aesthetic practices von Trier claimed were rooted in bourgeois individualism (e.g. auteur cinema and the French New Wave, for instance). The first film produced in the Dogme 95 style was *Festen* (“The Celebration”), which was directed by Thomas Vinterberg, and which was released in 1998. Despite its Scandinavian antecedents, however, Von Trier and Vinterberg intended for Dogme 95 to become an international movement, rather than one that was rooted primarily in a tradition of Danish filmmaking. As von Trier put it, “Dogme is very much about rethinking art cinema in ways that might loosen the



latter's traditional ties to concepts of nationhood and nationality".<sup>30</sup> In her article, "Dogme 95: A Small Nation's Response to Globalization", Mette Hjort similarly suggests that Dogme 95 is best understood as a form of film production that creates the kinds of conditions that enable smaller nations to "participate in the game of cinematic art".<sup>31</sup>

In terms of film form, the Dogme 95 movement aimed to legitimate low-budget filmmaking and in particular the use of hand-held camera as a key mode of opposition to mainstream Hollywood cinema. Visually speaking, the Dogme 95 aesthetic is similar to that of *cinema-verité* and documentary. In Dogme 95 films, many shots are slightly out of focus; the axis of action is often crossed; the editing is abrupt; and there are numerous long takes. The use of hand-held camera also serves to facilitate improvisation from the actors. In the case of *Gypo*—which was shot in just fourteen days—Dunn enlisted the help of Dogme adviser and consultant, David Nielsen. In this sense, then, *Gypo* embodies transnational modes of production as well as transnational content. Many of the key scenes in *Gypo* are improvised, the most heavily improvised being the dining room sequence between Paul and Kelly discussed earlier. Throughout the film, the actors were given situations upon which they could then improvise. Dunn also held improvisation sessions at the Dover youth theatre before production of the film got underway and all of the actors who attended the workshop are featured in the film.

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<sup>30</sup> Cited in Mette Hjort, "Dogme 95: A Small Nation's Response to Globalization", in Mette Hjort and Scott MacKenzie, eds., *Purity and Provocation: Dogme 95* (London: BFI Publishing, 2003), 20.

<sup>31</sup> Ibid. For other literature on the Dogme 95 movement, see Jack Stevenson, *Dogme Uncut: Lars von Trier, Thomas Vinterburg, and the Gang that Took on Hollywood* (Santa Monica, CA: Santa Monica Press, 2003) and Shari Roman, *Digital Babylon: Hollywood, Indiewood, and Dogme 95* (Los Angeles: National Book Network, 2001).

In interviews, Dunn has stated that she wanted *Gypo* to resemble a docudrama and that she chose Dogme for its liberatory potential: “What’s great about the Dogme rules is that it liberates me the director. It gives me complete freedom to just observe...to create a story with the actors that I can just stand back from and guide but not necessarily use artificial influences to enhance”. More specifically, she felt that the use of a hand-held camera encouraged by the Dogme 95 manifesto helped to create a sense of social realism.<sup>32</sup> According to Dunn, *Gypo* has been likened to “Ken Loach with a happy ending”. Certainly, the Dogme 95 style constitutes a good aesthetic “fit” with British social realist cinema which, like Dogme 95, encourages location shooting, long takes, naturalistic lighting and sound, the use of non-actors, and observational long shots.<sup>33</sup> In this context, social observation is linked to the aesthetic of social realism. In Ken Loach’s films, for instance, one can observe a number of visual techniques derived from documentary filmmaking (e.g. unbroken takes, long shots, and natural sound and light), all of which permit minor characters to enter the frame and engage in what are often inaudible conversations.

In terms of formal language and ideological emphasis, Dogme 95 also recalls the Third Cinema movement. For instance, although *Gypo* foregrounds the intersecting stories of three main characters—Helen, Paul, and Tasha—their actions are always situated in relation to a larger political context—in this case, debates about

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<sup>32</sup> It is interesting to note here that the actress who played Tasha’s mother Irina (Rula Lenska) was in fact taunted on the street while in costume.

<sup>33</sup> Scott MacKenzie has argued that the movement which is perhaps closest to that of Dogme 95 is the Free Cinema movement out of which British social realist cinema eventually emerged. He cites Lindsay Anderson’s *O Dreamland* (1953) and Karel Reisz’s *We Are the Lambeth Boys* (1959) as representative examples. See Scott MacKenzie, “Manifest Destinies: Dogme 95 and the Future of the Film Manifesto”, in Mette Hjort and Scott MacKenzie, eds., *Purity and Provocation: Dogme 95* (London: BFI Publishing, 2003), 51.

social citizenship and class relations. As with Third Cinema, the close-up shot is rarely used either in *Gypo* or in Dogme 95 films due to the fact that it can work to divorce individuals from broader social contexts. Like Third Cinema texts, Dogme films attempt to elicit via form and production methods a critical response on the parts of spectators to the material circumstances of their own spectatorship. In the case of *Gypo*, Dunn makes use of critical production methods and documentary realist techniques to deconstruct the popular xenophobic trope—prevalent within both the mainstream tabloid media and government policy alike—that links immigration with welfare provision by constructing refugees and asylum-seekers as “economic migrants” attempting to “scrounge” from the public purse. The director’s goal is to make spectators critical of xenophobia and racism, while also encouraging them to be aware of the ways in which the issue of immigration has been appropriated by the government and the mainstream media as a vehicle for detracting voters’ attention away from increasing poverty and a growing class divide.

With respect to the formal language of Dogme 95 films, it is also important to point that music is rarely heard in *Gypo*. This is due to the fact that Dogme 95 permits only diegetic music, the reason being that so-called “non-diegetic”, or “background” music is viewed as too “emotionally manipulative” and therefore at odds with the Dogme 95 aesthetic of social realism. In *Gypo*, Dunn chooses to rely on the natural sound of the waves as a substitute soundtrack. As she comments, “I wanted to use the mood of the waves because you can’t have a soundtrack”. The film contains numerous shots of the beach, along with the imprint of the coastline, as a visual counterpart to the soundtrack. In the opening sections of each of the three main narratives, for

instance, we see the names of the characters written in pebbles on the sand, before the water subsequently washes the words away. Indeed, the latter functions as a leitmotif throughout the film as a whole.

Dunn's decision to focus on the image of the beach, intensified by way of the soundtrack, is clearly deliberate. Whereas islands often stand for insularity and separation, beaches are the spaces that compromise the integrity of an island's insularity. As Vinay Lal has commented, beaches are "beginnings and endings" that remain essentially undefined.<sup>34</sup> In this way, beaches, unlike the islands which they border, signify interconnectedness, rather than insularity. As Sudesh Mishra puts it, "The beach is the site of an ambivalent transaction".<sup>35</sup> With respect to *Gypo*, the "ambivalent transaction" that takes place on the beach revolves around the gift of citizenship to Tasha and her mother, Irina. *Gypo* concludes with a sequence of shots that feature Tasha fleeing her abusive husband who has followed her to Britain. As he chases her, attempting to force her to board the boat, Helen stands on the edge of the pier. She tells Tasha to "jump". Tasha does jump and then proceeds to slowly swim towards the shore. These scenes are then intercut with the image of a female immigration officer telling Irina, "You're safe now. You're a British citizen. You've got a passport. So, you're safe now". The film's end credits are accompanied by an image of Tasha swimming onto the beach, where Helen is waiting for her. Our final image is of Tasha making her way onto the beach, before the film's end credits give thanks to the Kent Refugee Group.

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<sup>34</sup> Vinay Lal, "Unanchoring Islands: An Introduction to the Special Issue on 'Islands: Waterways, Flowways, Folkways'". *Emergences* 10/2 (2000): 229-240 (at 230).

<sup>35</sup> Sudesh Mishra, "No Sign is an Island". *Emergences* 10/2 (2000): 337-343 (at 340).

In *Gypo*, as in gender-based persecution claims more generally, women are usually only granted asylum if they articulate traditional narratives of (hetero)sexual victimization. In such cases, as a number of scholars have noted, in order to be successful asylum applicants, migrant women are encouraged to present themselves as victims in need of protection from their abusive families.<sup>36</sup> The main problem with the implementation of gender-based persecution laws as seen here, however, is that they tend to reproduce a sense of victimization for migrant women.

The link between gender-based persecution claims and the reproduction of narratives of female victimization is certainly apparent in *Gypo*, where it is the female immigration officer who interpellates both Tasha and her mother as victims of sexual violence and domestic abuse. By adopting the kind of paternalistic protectionist discourses embodied by the state, the female immigration officer in *Gypo* reinscribes a problematic narrative of female victimization. Moreover, in doing so, her speech reinforces notions of Western “generosity” and the ability to “save” the “less fortunate” non-Western “Other”. The problem with the kind of state protection from violence offered in the form of gender-based persecutions claims—a protectionist discourse that *Gypo* renders visible—is that women’s eligibility for social protection is linked to their status as victims. As Kristin Bumiller has noted in her analysis of how neoliberal state ideologies have appropriated insights from second wave feminist movements against sexual violence, whenever women are presented purely as

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<sup>36</sup> See, for instance, Connie G. Oxford, “Protectors and Victims in the Gender Regime of Asylum”. *NWSA Journal* 17/3 (2005): 18-38. See also Sherene H. Razack, *Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms* (Toronto: University of Toronto Press, 1998) and Carmela Murdocca in Conversation with Sherene H. Razack, “Pursuing National Responsibility in a Post-9/11 World: Seeking Asylum in Canada From Gender Persecution”, in Hajdukowski-Ahmed, Maroussia, Nazilla Khanlou, and Helene Moussa, eds., *Not Born a Refugee Woman: Contesting Identities, Rethinking Practices* (New York: Berghahn Books, 2008), 254-262.

“victims” of domestic violence, they become dependent subjects of state social protection: “Their status is similar to, or in conjunction with, other categories of dependency, such as welfare mother, juvenile delinquent, unwed mother, substance abuser, and the homeless”.<sup>37</sup> She notes: “These dependencies are the primary means by which the modern welfare state asserts its authority over potentially unruly women”.<sup>38</sup> Bumiller calls for more work that addresses how women can exercise agency under conditions of neoliberalism, conditions that are responsible for the production both of a highly regulated surveillance state and an increasingly weak social welfare system. In her view, the latter is crucial to transforming campaigns against sexual violence into visions of progressive citizenship that are more compatible with transnational feminist politics of the twenty-first century.<sup>39</sup>

While *Gypo* calls attention to the ways in which women can be viewed as dependent subjects of the state, the film also points to the need for coalitions between women. What distinguishes *Gypo* from other social realist texts is the extent to which the director foregrounds supportive relationships between female characters and, more specifically, the common ground and potential coalitions that can be formed between women across national borders. Unlike the majority of British social realist texts which tend to focus on working class male disempowerment as a result of unemployment and the demise of the traditional manufacturing industries, Dunn’s film

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<sup>37</sup> See Kristin Bumiller, *In an Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence* (Duke University Press, 2008).

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*, 156. For an interesting study of welfare mothers resisting state surveillance, see John Gilliom, “Resisting Surveillance”. *Social Text* 83/23/2 (2005): 71-83. As he notes, “The mothers’ defiance of the rules and besting of the [welfare] system through petty fraud, subterfuge, and other tactics manifests a pattern of ‘everyday resistance’ to the surveillance regime... Through their necessarily quiet actions, they have achieved what would be one of the central goals of a more organized social movement for welfare justice: more income” (at 74 and 77).

revolves around the interplay between female characters. Not only does the lesbian relationship between Helen and Tasha constitute the driving force behind the narrative of the film as a whole, but the director devotes a considerable amount of time to exploring the interconnected lives of a whole host of supporting female characters. These include, for instance, Tasha's mother, Irina, who is seeking refugee status in Britain; Helen's daughter Kelly, a single mother on welfare support as she struggles to find work; the babysitter, Nicky, who claims social security benefits while she pursues extra-legal employment in the form of taking care of young children; and an unnamed female sex worker, who also happens to be a single mother, and who lives in the same caravan park in which Tasha and her mother, Irina, have been housed. Like the babysitter and the sex worker, both Tasha and her mother are similarly forced into a position where they have little choice but to pursue extra-legal employment in order to survive.

In *Gypo*, then, as we can see, it is not only poor, white working class British citizens who are forced to negotiate a punitive and increasingly disciplinary neoliberal state, but female refugees and migrants, too. The film's central character, Helen, constantly strives to make connections between her own experiences as an Irish immigrant living in Britain and the kinds of anti-immigrant sentiments frequently leveled at Tasha and her mother, Irina. In an encounter between Tasha and Irina and two women from the evening class that she is attending, Helen defends the presence of refugees in Britain in the following terms:

First woman: Oh no, it's bloody refugees.

Second woman: This place has gone right downhill since that lot flooded us.

Helen: I think that's very unfair, actually. We had plenty of problems around here before the refugees arrived.

As Helen later remarks to Tasha and her mother, in the late nineteenth and early twentieth centuries, it was the figure of the Irish immigrant who was demonized as criminal, infected, and immoral—a historical legacy, she argues, which affected her own attempts to assimilate into British society. What makes *Gypo* so effective as an activist text is the extent to which it deconstructs the false opposition repeatedly created by the mainstream tabloid media and government politicians between immigrants and the so-called white working class. As *Gypo* suggests, the real problem lies with neoliberalism and its attack on welfare, an issue which disproportionately affects both immigrants and the working class alike.

### ***Queer Re-Imaginations of Citizenship and Social Protection***

In their classic essay, “‘Dependency Demystified’: Inscriptions of Power in a Keyword of the Welfare State”, Nancy Fraser and Linda Gordon have explored how the language of psychological dependency has been used to individualize and personalize social inequalities which are then presented as symptomatic of excessive emotional neediness and/or a lack of will power, rather than as a problem arising from



the unequal distribution of resources.<sup>40</sup> As Fraser and Gordon rightly point out, the opposition between “dependence” and “independence” maps onto a whole series of hierarchies and binary oppositions that are central to modern society, including, for instance, masculine and feminine, public and private spheres, and work and care-giving. They note that because economic dependency has come to stand in for poverty and psychological dependency has become a personality disorder, “talk of dependency as a social relation of subordination has become increasingly rare”.<sup>41</sup> Fraser and Gordon suggest that we need to revalue the devalued side of the gendered binary by developing an alternative set of meanings for concepts like “dependence”, “independence”, “welfare”, and “care”. As they put it: “By questioning the terms in which social problems are named, we expand the collective capacity to imagine solutions”.<sup>42</sup> Fraser and Gordon call for a new semantics or genealogy of dependency that recognizes human interdependence as an inevitable condition or state of being, one that requires and deserves social protection and support.

Fraser and Gordon’s work has a great deal in common with feminist care ethics and critical disability theory, both of which aim to reclaim the state of dependency not as a condition of weakness that demands special protection, but rather as a crucial

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<sup>40</sup> See Nancy Fraser and Linda Gordon, “‘Dependency Demystified’: Inscriptions of Power in a Keyword of the Welfare State”. *Social Politics* (Spring, 1994): 4-31. As they note of the slippage that began to take place during the 1980s between economic dependency and so-called moral or psychological dependency: “The 1980s saw a cultural panic about dependency. In 1980, the American Psychiatric Association codified ‘Dependent Personality Disorder’ (DPD) as an official psychopathology” (at 17). DPD was categorized as “submissive behavior beginning by early childhood”, and claimed to refer to people who are “unable to manage everyday decisions without an excessive amount of advice and assurance from others, and who will even allow others to make most of their important decisions” (at 17). As the statement concluded: “The disorder is apparently common and is diagnosed more frequently in females” (at 17).

<sup>41</sup> *Ibid.*, 20-21.

<sup>42</sup> *Ibid.*, 6.

aspect of social citizenship. Much of this literature is motivated by the desire to deconstruct the false, gendered opposition frequently constructed between work and care-giving. Instead, both feminist scholars of care and critical disability theorists suggest that citizenship should be based on notions of relationality and interdependence, rather than merely the acquisition of political and civil rights in the public sphere. From this perspective, they maintain, care is not a gendered activity but a necessary part of human existence, one that is connected to what it means to be a citizen in a welfare state. As Mary Daly and Jane Lewis argue, conceiving of care in this way enables us to “capture the social and political economy within which [care] is embedded”.<sup>43</sup>

In *Gypo*, I would argue, the lesbian relationship between Helen and Tasha is presented as a similar attempt to reclaim the state of vulnerability and, by extension, dependency, as a necessary and pleasurable aspect of all human interactions. Although Helen is twenty-five years older than Tasha and, as she puts it, “old enough to be [Tasha’s] mother”, their relationship is presented in terms that clearly disrupt the notion of Tasha as the “more vulnerable” of the two women. Rather, it is Tasha who demonstrates the most sexual agency in the film, as she is the one who takes an active role in seducing Helen. The latter is borne out by the fact that we see the lesbian relationship between the two women primarily from Tasha’s perspective and not Helen’s. In response to Helen’s comment to her that, “you’re so far from home and

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<sup>43</sup> See Mary Daly and Jane Lewis, “The Concept of Social Care and the Analysis of Contemporary Welfare States”. *British Journal of Sociology* 51/2 (2000): 281-298 (at 284). Also see Trudie Knijn, “The Rationalized Marginalization of Care: Time is Money, Isn’t It?”, in Barbara Hobson, ed., *Gender and Citizenship in Transition* (New York and London: Routledge, 2000), 201-219 and Selma Sevenhuijsen, “The Place of Care: the Relevance of the Feminist Ethic of Care for Social Policy”. *Feminist Theory* 2003 (4): 179-197.

you're really vulnerable now", Tasha replies: "I don't feel vulnerable at all, but you seem to me the most vulnerable person I've ever met". In this way, Dunn positively seeks to revalue the state of vulnerability (literally: the condition of being "susceptible to physical or emotional injury") as a differential but ultimately equalizing force.

The use of lesbian desire in *Gypo* to revalue interdependency as a state of being that implies choice, reciprocity, and equality through difference, is far from coincidental. It mirrors a similar attempt amongst some lesbian and feminist psychotherapists to reclaim the experience of "merger" from the homophobia of a psychoanalytically-derived psychotherapeutic tradition according to which lesbianism is presented as a form of arrested development. "Merger", which refers to the loss of individual boundaries in a relationship when two partners begin to think, act and feel in similar ways, tends to be viewed negatively within traditional psychoanalysis and psychotherapy. The latter consistently maintains that separateness, or the experience of the self as a separate individual, is the keystone to psychological "maturity".<sup>44</sup> Within such a discourse, separateness is masculinized and elevated to a high state, while gendered values such as care, nurturance, and sensitivity to others are presumed to be "women's work" and therefore deemed less valuable traits. It is precisely the above logic, Fraser and Gordon argue, that has been appropriated as part of a neoliberal attack on welfare and social protection.

A great deal of scholarship by feminist and lesbian psychotherapists, including that by Beverly Burch, for example, is motivated by the need to revalue the gendered

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<sup>44</sup> For an overview of homophobic critiques of lesbian "merger", see Beverly Burch, "Another Perspective on Merger in Lesbian Relationships", in Lynne Bravo Rosewater and Lenore E.A. Walker, eds. *Handbook of Feminist Therapy: Women's Issues in Psychotherapy* (New York: Springer Publishing Company, 1985), 100-109.

states of interdependency and merger that have been associated with women in general and lesbians in particular.<sup>45</sup> She argues that women's experience of merger with other women—far from restricting individual growth and development as suggested by numerous male psychologists and practitioners—can be viewed as a means through which women re-encounter and “work through” earlier vulnerabilities.<sup>46</sup> Burch and others critique the assumption common within traditional psychoanalysis that the relationship with the mother is something from which one should move away rather than seek to renew in adult relationships.<sup>47</sup> She suggests that we need to move away from the notion that, “separateness and maturity are the same thing”.<sup>48</sup> As she points out, the basis of solitude, or aloneness, is always relatedness. She writes that, “The dynamic tension of the struggle between merging and separating can be a vital part of the process of individuation in a relationship”, and that “movement back and forth between [merger and separation] is the real goal”.<sup>49</sup>

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<sup>45</sup> See Beverly Burch, “Another Perspective on Merger in Lesbian Relationships”, in Lynne Bravo Rosewater and Lenore E.A. Walker, eds. *Handbook of Feminist Therapy: Women's Issues in Psychotherapy* (New York: Springer Publishing Company, 1985), 100-109; Beverly Burch, “Psychotherapy and the Dynamics of Merger in Lesbian Couples”, in Terry S. Stein, Carol J. Cohen, eds. *Contemporary Perspectives on Psychotherapy with Lesbians and Gay Men* (New York and London: Plenum Medical Book Company, 1986), 57-71; and Beverly Burch, *Lesbian/Bisexual Experience and Other Women: Psychoanalytic Views of Women* (New York: Columbia University Press, 1997). For an example of lesbian merger discourse at work in the realm of popular culture, see season 1 of *The L Word*, where the show's two main characters, Bette and Tina, come to therapy already self-diagnosed as suffering from “lesbian merger”.

<sup>46</sup> In her words: “A lesbian relationship allows a woman a new experience of merger with another woman and to some degree evokes the early parent-child merger... Women in lesbian relationships alternate between similar defenses and lack of them, between fear of merger and the wish for it. The intensity of this new intimacy also arouses old vulnerabilities, allowing them to be re-encountered and worked through in a new way, altering the old configuration of needs and defenses”. See Burch, *Lesbian/Bisexual Experience and Other Women*, 104.

<sup>47</sup> *Ibid.*, 99. Also see Noreen O' Connor and Joanna Ryan, *Wild Desires and Mistaken Identities: Lesbianism and Psychoanalysis* (New York: Columbia University Press, 1993).

<sup>48</sup> Burch, *Lesbian/Bisexual Experience and Other Women*, 104.

<sup>49</sup> *Ibid.*, 69-70. As she comments, “The experience of merger can be a part of this process of growth: finding one's self inside the merger and keeping one's self through the transition back out of it. Trust in

The attempt by Burch and others to rehabilitate the state of vulnerability and interdependency as a means through which one can unconsciously recreate the sense of safety previously associated with the mother-child bond has much in common with the kinds of reparative critical moves undertaken by feminist theorists of care and welfare. In *Gypo*, I would argue, Dunn tries to make a similar connection between the intimate realm of sexual desire and the public realm of social policy. *Gypo*'s articulation of lesbian desire by way of discourses of mutual vulnerability and interdependency deconstructs the hierarchical opposition between public and private spheres, insofar as it seeks to reconfigure private space as collective space. Through the film's unsympathetic treatment of Paul, Dunn seems to be implying that the problem of current conceptions of social citizenship lies not with female dependence, but rather with male *independence*, and the corresponding negation of welfare it implies.

Not only does *Gypo* appear to be suggesting that citizenship should be based on notions of relationality, interdependence, and equality through difference, but the film also encourages us to rethink welfare and social protection from a transnational standpoint. As the "welcoming" arm of the British nation, Helen embodies a different kind of citizenship and social protection from the kind typically offered in the form of international refugee law. In *Gypo*, the character of Helen represents a form of social citizenship that is inherently transnational in scope, one that recognizes both differences *and* connections between women across national borders.

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the self is built by learning that one can love deeply and not have one's self devoured or abandoned". Ibid., 107.

As a number of transnational feminists have suggested, the question of the frame for citizenship rights is one of the most crucial of all social justice questions in a globalizing world.<sup>50</sup> Such thinking is based on the notion that decisions taken in one state inevitably impact the lives of others living outside that state. In order to tackle the wide range of social injustices arising as result of globalization, transnational feminists argue that the framing of citizenship and social provision must take into account refugees and displaced persons. As Nancy Fraser notes, “All the old debates about redistribution and recognition are effectively overlaid with another order of debate about who counts with respect to redistribution or recognition”.<sup>51</sup> Failing to take into account the frame for social justice campaigns means that the dependency of powerful capitalist states and transnational corporations on the rest of the world remains unacknowledged. The result is that it becomes much more difficult for those disadvantaged by the global economy to hold the latter accountable. A transnational feminist perspective on political economy asks instead whether the question of rights and social provisioning can in fact be limited to the nation-state.<sup>52</sup>

While *Gypo* rightly calls for a transnational approach to citizenship and social protection, the problem with the director’s attempt to re-imagine an alternative feminist welfare state is her reinscription of gender essentialism in the form of the film’s treatment—and ultimate disavowal—of the character of Paul. Towards the end

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<sup>50</sup> See, for instance, the recent work of Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009). Also see Nancy Fraser with Kate Bedford, “Social Rights and Gender Justice in the Neoliberal Moment: A Conversation About Welfare and Transnational Politics”. *Feminist Theory* 9 (2008): 225-245.

<sup>51</sup> Fraser, “Social Rights and Gender Justice in the Neoliberal Moment”, 231.

<sup>52</sup> See, for instance, Sedef Arat-Koç, “Whose Social Reproduction? Transnational Motherhood and Challenges to Political Economy”, in Kate Bezanson and Meg Luxton, eds., *Social Reproduction: Feminist Political Economy Challenges Neoliberalism* (Montreal and Kingston: McGill-Queen’s University press, 2006), 75-92.

of his section of the narrative, we are confronted with an image of Paul, standing by the pier, contemplating suicide and fantasizing death by drowning. The camera offers us a rare close-up of his body floating on the surface of the waves, face down in the water. This shot, quite literally, conveys an image of redundant and emotionally disturbed masculinity, the kind of masculinity frequently found in British social realist cinema—the kind of masculinity that is both self-destructive and deeply melancholic. In *Gypo*, Dunn does nothing to challenge the ways in which white working class masculinity in Britain—frequently figured as “backward” in relation to multiculturalist narratives of progress—has come to stand in metonymically for the economic failings of the traditional manufacturing industries. As Chris Haylett observes, it is primarily through invoking discourses of white working class “backwardness” that cosmopolitan Britain attempts to distance itself from its own economically and culturally imperialist past.<sup>53</sup> By suggesting that the threat to social citizenship comes in the form of men’s independence and the negation of welfare it implies, Dunn similarly leaves no space in *Gypo* for the expression of white, working class masculinity. As with psychotherapeutic attempts to rehabilitate lesbian merger, Dunn fails to disassociate gendered values such as care, protection, and sensitivity to the needs of others from

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<sup>53</sup> Chris Haylett, “Illegitimate Subjects? Abject Whites, Neoliberal Modernisation, and Middle-Class Multiculturalism”. *Environment and Planning D: Society and Space*. 19 (2001): 351-370 (at 366). In her article, Haylett cites numerous journalistic commentaries on the white working class by middle-class feminists. Janet Daly, for instance, condemns the white working class in the following terms: “This self-loathing, self-destructive tranche of the population is far less assimilable into morally constructive social life than any immigrant group... Those ethnic minorities who bring with them religion, cultural dignity and a sense of family will find a way. The only bar to their steady progress will be the mindless hatred of the indigenous working classes, who loathe them precisely for their cultural integrity... I fear that long after Britain has become a successful multi-racial society, it will be plagued by this diminishing (but increasingly alienated) detritus of the Industrial Revolution” (at 365). As Haylett comments on the above, “This middle-class dependency on working-class ‘backwardness’ for its own claim to modern multicultural citizenship is an unspoken interest within the discourse of illegitimacy around the white working-class poor” (at 365).

the feminine. In this way, *Gypo* perpetuates a problematic kind of gender essentialism, a form of essentialism that is predicated on the disavowal of white working class masculinity. Within the transnational feminist and queer welfare state imagined by Dunn, there is no place for masculinity. As we can see with respect to the film's treatment of Paul, the gendered forms of sexual citizenship and social protection represented in *Gypo* come at a price.

### ***Conclusion***

In her article, "Imagining Justice: Challenging the Privatization of Public Life", Nancy Jurik asserts that we must move beyond merely criticizing neoliberal ideologies in our research and writings and start to think instead about alternatives to privatization.<sup>54</sup> It is only by attempting to imagine alternative ways of framing social problems, she argues, that we can begin to develop forms of resistance to the negative effects produced by privatization. As I have tried to suggest here, film and visual media can be particularly useful in terms of helping us to conceive of more just ways of framing campaigns for social justice and human rights amidst neoliberal attempts to privatize both public and private life. By reading *Gypo* in relation to psychotherapeutic texts on lesbian desire and merger, along with sociological literature on care and welfare, we can see that developing an alternative semantics for such terms as "dependency", "vulnerability", "welfare", and "protection" is clearly crucial for any progressive

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<sup>54</sup> See Nancy C. Jurik, "Imagining Justice: Challenging the Privatization of Public Life". *Social Problems* 51/1 (2004): 1-15. As she puts it, "I believe that now, as we confront the challenges of new privatization agendas, it is once again time to invoke Mills' concept of imagination. New privatization trends are effectively framing contemporary public analyses of social problems and social justice, and threaten to colonize available spaces from which even to criticize and challenge their impact" (at 1).



feminist and queer politics. In *Gypo*, the director's attempt to connect sexual desire to issues of care and welfare reform constitutes an important corrective to the kinds of neoliberal ideologies that seek to separate the individual from the social, and the cultural from the economic. What I am suggesting is that we use such cultural representations as the basis for imaginative reconstructions of the state and of queer social life in ways that are more inclusive of differences.

Clearly, however, a great deal more work is required in terms of queering discourses of welfare and social citizenship. Rather than conceding the ground in advance to neoliberal politics, we must keep asking what sort of welfare state can best support the social reproduction of care, intimacy, and desire beyond the typical heterosexual family unit. In this chapter, I have argued that queer theory needs to take greater care in dealing with the category of the state and with the safety net of social protection that the latter can provide. If the state is continually being reproduced and re-imagined at multiple levels—the local, the national, and the transnational—then comparative transnational queer analyses of welfare and social protection are urgently required. In view of the kinds of cultural values associated with neoliberalism—including the privatization of both social care and sexual desire—the role of film and visual media in helping us to imagine alternatives to privatization and welfare reduction cannot be underestimated.

## CHAPTER 3

### THE CULTURAL POLITICS OF LESBIAN ASYLUM

*Visibility in and of itself does not erase a history of silence nor does it challenge the structure of power and domination, symbolic and material, that determines what can and cannot be seen.*<sup>1</sup>

Evelynn Hammonds, “Black (W)holes and the Geometry of Black Female Sexuality”.

In August 2007, Iranian lesbian Pegah Emambakhsh was denied permanent asylum in Britain on the grounds that she was unable to provide “proof” of her homosexuality. Leaving behind two sons from an arranged marriage, Emambakhsh fled Iran in 2005 after the imprisonment of her female lover. While Emambakhsh was living in Britain on a temporary permit of residence, her father was arrested by the Iranian police and tortured for information regarding his daughter’s location. A warrant for Emambakhsh’s arrest was subsequently issued by the Islamic Republic of Iran. Coming within hours of being put on a British Airways flight to Tehran, Emambakhsh was saved from deportation at the last moment by a massive international campaign, including an appeal made to the then British Home Secretary, Jacqui Smith, from Paula Ettelbrick, the executive director of the New York-based International Gay and Lesbian Human Rights Commission, and a letter from the President of the European Parliament to Gordon Brown, the British Prime Minister, strongly recommending that

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<sup>1</sup> Evelynn Hammonds, “Black (W)holes and the Geometry of Black Female Sexuality”. *Differences: A Journal of Feminist Cultural Studies* 6/2-3 (1994): 141.

Emambakhsh be granted asylum. The Court of Appeal later agreed to hear Emambakhsh's case against the Border and Immigration Agency. On March 7<sup>th</sup>, 2008, however, the Court of Appeal rejected Emambakhsh's application for a full hearing. After further appealing to the High court for a judicial review, Emambakhsh was finally granted official refugee status in February, 2009, four years after her initial arrival in Britain.<sup>2</sup>

Although sexual orientation has been recognized by international refugee law as grounds for asylum since the mid-1990s under the category of "membership of a particular social group", only a small number of all asylum claims are made by lesbians.<sup>3</sup> In the United States, for instance, as Shannon Minter has noted, gay male asylum claims outnumber lesbian asylum claims by a ratio of eight to one.<sup>4</sup> As a

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<sup>2</sup> Emambakhsh's case, along with that of gay Iranian, Mehdi Kazemi, who fled to the Netherlands last year after the Home Office in Britain refused to grant him asylum, has provoked international protests against Britain's treatment of lesbian and gay asylum seekers. In a meeting held on March 12<sup>th</sup>, 2008, the European Parliament specifically addressed the issue of LGBT asylum claims, stating with reference to the above cases that, "more attention should be devoted to the proper application of EU asylum law in Member States as regards sexual orientation". Available at <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&language=EN&reference=P6-RC-2008-0111>

<sup>3</sup> Article 1 of the United Nations Convention on the Status of Refugees provides the following definition of a refugee: "A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of *his* nationality and is unable or, owing to such fear, is unwilling to avail *himself* of the protection of that country; or who, not having a nationality and being outside the country of *his* former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" (my italics). See the United Nations High Commission for Refugees. Available at <http://www.unhcr.org/3d4aba564.html>

<sup>4</sup> See Shannon Minter, "Lesbians and Asylum: Overcoming Barriers to Access" (2000). Available at <http://www.asylumlaw.org/docs/sexualminorities/Lesbian%20IssuesPacket.pdf> (accessed 20 July 2009). Also see the National Center for Lesbian Rights, "The Challenges to Successful Lesbian Asylum Claims" (2006). Available at [http://www.nclrights.org/site/DocServer/challenges\\_lesbian\\_asylum\\_cases.pdf?docID=1142](http://www.nclrights.org/site/DocServer/challenges_lesbian_asylum_cases.pdf?docID=1142) (at 1). In a report on the asylum claims of gays and lesbians by the Council of Europe's Committee on Migration, Refugees and Demography, published in 2000, the Committee similarly noted that the majority of claims based on sexual orientation have been made by male applicants. As they put it, "Whilst women comprise the overwhelming majority of asylum seekers world-wide, there has been a conspicuous absence of sexual orientation applications by women and the granting of refugee status based on sexual orientation to women". Cited in Sharon Critoph, "Dissertation on Sexual Orientation Asylum Claims"

recent report for the National Center for Lesbian Rights (NCLR) has suggested, many women are not even aware that asylum based on sexual orientation is an option.<sup>5</sup> Moreover, those self-identified lesbians who do seek asylum on the grounds of social group status are disproportionately unlikely to be granted asylum in comparison with gay men.

The challenges to successful lesbian asylum claims have been well-documented by U.S.-based gay rights organizations such as the National Center for Lesbian Rights and the International Gay and Lesbian Human Rights Commission, noted above. To begin with, lesbians, or women who identify themselves as being sexually attracted to other women, file fewer asylum claims than gay men, making it more difficult for asylum advocates to invoke legal precedents in the context of lesbian asylum cases.<sup>6</sup> Like all female refugees, lesbian asylum-seekers must also contend with international refugee law itself which was created—and which has ultimately been defined—largely through cases in which men were applicants for asylum in terms of persecution on the grounds of “political opinion”. Unlike gay male asylum applicants, however, many of whom experience traditional human rights violations in the public sphere, the limited information we possess about lesbians

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(2000), International Gay and Lesbian Human Rights Commission, “Lesbian Issues: Packet” (at 1). Available at <http://www.asylumlaw.org/docs/sexualminorities/Lesbian%20IssuesPacket.pdf>

<sup>5</sup> NCLR, “The Challenges to Successful Lesbian Asylum Claims”, 1.

<sup>6</sup> For instance, due to the lack of published and unpublished decisions internationally in relation to lesbian asylum cases in the mid-1990s, Suzanne Goldberg was forced to construct her own “hypothetical” lesbian asylum case involving Tatiana, a Romanian lesbian seeking asylum in the U.S. See Suzanne B. Goldberg, “‘Give me Liberty or Give me Death’: Political Asylum and the Global Persecution of Lesbians and Gay Men.” *Cornell International Law Journal* 26 (1993): 605-623. For other literature on lesbian asylum cases, see Victoria Neilson, “Homosexual or Female—Applying Gender-Based Asylum Jurisprudence to Lesbian Asylum Claims”. *Stanford Law and Policy Review* 16 (2005): 417. Also see Suzanne Berger, “Production and Reproduction of Gender and Sexuality in Legal Discourses of Asylum in the United States”. *SIGNS: Journal of Women in Culture and Society* 34/3 (2009): 659-685.

internationally suggests that they are particularly vulnerable to abuse in the private sphere at the hands of non-state agents.<sup>7</sup> And yet, as with gender-based asylum applications, persecution by non-state actors can make it more difficult for lesbians to provide the kind of documentation that would strengthen their claims.

As a relatively new basis for asylum, lesbian cases do not tend to figure centrally in analyses of the relationship between refugee law and international human rights law. Despite the fact that LGBT asylum has been on the international human rights agenda since the early mid-1990s, with successful lesbian asylum cases in the United States, Canada, Australia, and parts of Europe from the late 1990s onwards, there has been no full-length study of the issue of lesbian asylum to date. While a number of regional and comparative studies of lesbian asylum exist by legal activists and scholars, a discussion of the politics of lesbian asylum claims has so far remained absent from both feminist and queer studies.<sup>8</sup> And yet, I would argue, lesbian asylum cases have much to tell us about the ways in which the category “lesbian” emerges within the context of both immigration law and human rights discourses on gender and sexuality. For instance, does immigration law privilege certain forms of lesbian identity over others? If so, with what effect(s)? To what extent does the inclusion of

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<sup>7</sup> Miller, Rosga and Satterthwaite, “Health, Human Rights, and Lesbian Existence”, 272.

<sup>8</sup> For analyses of specific lesbian asylum cases in the U.S., see Neilson, “Homosexual or Female” and Berger, “Production and Reproduction of Gender and Sexuality in Legal Discourses of Asylum in the United States”. Despite the lack of scholarly attention to lesbian asylum claims, I should point out here that there is a small but growing body of literature devoted to gay male asylum cases. See, for example, Brad Epps, Keja Valens, and Bill Johnson González, eds., *Passing Lines: Sexuality and Immigration* (Cambridge, Mass.: Harvard University Press, 2005); Eithne Luibhéid and Lionel Cantú, eds., *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings* (Minneapolis: University of Minnesota Press, 2005); and Lionel Cantú, *The Sexuality of Migration: Border Crossings and Mexican Immigrant Men*. Edited by Nancy Naples and Salvador Vidal-Ortiz (New York: New York University Press, 2009). Also see chapter three, “The Subject on Trial: Reading *In re Tenorio* as Transnational Narrative”, in Juana Rodríguez, *Queer Latinidad: Identity Practices, Discursive Spaces* (New York: New York University Press, 2003), 84-113.

lesbian rights on the international human rights agenda necessitate a reformulation of the concept of human rights? How are dominant notions of what it means to be a refugee being transformed through the process of lesbian asylum?

While a full-length study of the politics and practice surrounding lesbian asylum claims is clearly needed, my aim in this third and final chapter of the dissertation is somewhat more modest.<sup>9</sup> In this chapter, I would like to limit my focus to an analysis of the relationship between transnational lesbian cinema and the cultural politics of lesbian asylum. As with earlier chapters, I am interested in how cinema might transform the way we conceive of and imagine lesbian rights—in this case, the right to asylum. Building on the previous chapter’s discussion of the figure of the female refugee in relation to transnational feminist conceptions of welfare and social protection, this chapter explores the politics of representation in the context of lesbian asylum claims. By “representation”, I am referring to the ideological construction of the lesbian asylum applicant in immigration law and policy-making and popular culture. What does cinema render visible about asylum and immigration law? Can films and documentaries contribute towards new ways of seeing and hearing queer migrants? How might films and cultural production resist dominant narratives of lesbian migration? Given the realities of our highly visual and media-driven society, to be visible is to be visible in the realm of popular culture. How we are seen in popular

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<sup>9</sup> In a forthcoming book project, tentatively entitled, “Lesbian Asylum: the Politics and the Practice”, my aim is to take a comparative approach to the issue of lesbian asylum. In this book, I will examine films and cultural production surrounding lesbian asylum in relation to analyses of specific lesbian asylum cases and interviews with asylum adjudicators, asylum applicants, and legal attorneys.

culture directly affects how we are viewed within society at large and, as Richard Dyer puts it, “such seeing comes from representation”.<sup>10</sup>

In the first part of the chapter, I will provide a general overview of the relationship between lesbian rights and media advocacy. In part two, I will offer a close reading of Angelina Maccarone’s film *Unveiled*, or “Fremde Haut” (2005), about an Iranian lesbian who seeks asylum in Germany. In part three, I will discuss *Unveiled* in relation to specific challenges to successful lesbian asylum claims. As I will argue, Maccarone’s film offers crucial theoretical insights into the kinds of representational issues at stake in lesbian asylum cases. What interests me most about *Unveiled* is the theoretical space opened up by the film in terms of helping us to imagine what alternative forms of advocacy on behalf of lesbian asylum might look like. As I will conclude the chapter by suggesting, media and cultural production constitute a crucial site of resistance for lesbian refugees and asylum-seekers, many of whom are silenced within the context of both the immigration process and global gay rights discourses alike.

### ***Lesbian Rights and Media Advocacy***

As discussed in chapter one, new media is becoming increasingly important in campaigns for social justice and human rights. Human rights organizations are repeatedly turning towards global communication networks in order to obtain and promote visible human rights victories, as in the case of the grant of political asylum to Iranian lesbian Pegah Emambakhsh, mentioned at the start of the chapter.

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<sup>10</sup> Richard Dyer, *The Matter of Images: Essays on Representation* (New York and London: Routledge, 1993), 2.

Successful LGBT asylum cases like that of Pegah Emambakhsh are beginning to play a crucial role in shaping the direction of LGBT human rights organizing globally. As Alice Miller has commented on the transnational reach of successful outcomes within LGBT asylum cases,

Insofar as asylum cases are about cross-border looking and judging, advocates can use the cases not only to reach domestic audiences, but also to reframe the place of the national in the international, as in the local application of an international right, or as in a national commentary on another nation's practice.<sup>11</sup>

In addition to using global communication networks to disseminate news of gay rights victories, NGOs and LGBT human rights groups are also starting to embrace new media in the form of mini-documentaries as their primary mode of advocacy, either by making the documentaries themselves or by enlisting documentary production firms to make the films for them. International gay rights organizations are beginning to capitalize on the new possibilities for humanitarian advocacy opened up by DVD distribution. For instance, both the International Gay and Lesbian Human Rights Commission and the National Center for Lesbian Rights—the main organizations devoted to documenting and representing LGBT asylum cases in the United States—have produced mini-documentaries that frequently appear in the form of additional DVD material alongside lesbian and gay independent feature films. The

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<sup>11</sup> Alice M. Miller, “Gay Enough: Some Tensions in Seeking the Grant of Asylum and Protecting Global Sexual Diversity”, in Epps, Valens, and González, eds. *Passing Lines*, 137-187 (at 162).



National Center for Lesbian Rights, which helps with discrimination on the basis of HIV status and transsexuality in addition to lesbian rights, recently released a mini-documentary, *NCLR at 30: A Short Film* (Melissa Regan, 2007), that appears as additional DVD material alongside numerous collections of lesbian short films, including *Girl's View* (2007) and *She Likes Girls 2* (2008). The International Gay and Lesbian Human Rights Commission, meanwhile, has produced a mini-documentary about LGBT human rights, *Everyone, Everywhere* (Renée Rosenfeld, 2004), which appears in the form of additional DVD material alongside the U.S. DVD release of Angelina Maccarone's film *Unveiled*.

Founded in 1990 by Julie Dorf, the original goal of the International Gay and Lesbian Human Rights Commission was to forge stronger connections between international human rights and gay rights both in the U.S. and throughout the world. The organization which, in terms of its asylum project, aims to provide country and/or regional specific documentation of human rights abuses against sexual minorities, has worked on over 3,000 sexual orientation asylum cases to date. In addition, the International Gay and Lesbian Human Rights Commission is one of the two main organizations in the U.S. devoted to LGBT immigration rights, the other being the Lesbian and Gay Immigration Rights Task Force. Although the Lesbian and Gay Immigration Rights Task Force was originally founded in response to the repeal of homosexual exclusion from U.S. immigration policy in 1990, LGIRTF now concentrates primarily on the issue of securing immigration rights for same-sex couples. All of the above organizations have produced mini-documentaries with the express intention of raising awareness about LGBT immigration rights both in the

United States and abroad. DVD additional material in particular has clearly become an increasingly important vehicle for the dissemination of LGBT human rights and immigrant rights advocacy on a global scale.

Given the growing convergence of LGBT human rights discourses and queer media post-9/11, it is perhaps not surprising that a number of independent films and documentaries have emerged in recent years that consider the subject of lesbian refugees and asylum-seekers. Along with Jan Dunn's 2005 film *Gypo*, this contemporary body of work includes the documentaries *Dangerous Living: Coming Out in the Developing World* (John Scagliotti: United States, 2003) and *This Way Out* (Jill Burnett: United States, 2004); the feature-length fiction films *Unveiled* (Angelina Maccarone: Germany, 2005) and *The Edge of Heaven* (Fatih Akin: Germany, 2007); and the forthcoming "docudrama" *Cul de Sac* (Ramin Goudarzi-Nejad and Mahshad Torkan: United Kingdom, 2010) about an Iranian lesbian who seeks asylum in Britain.

The documentary *Dangerous Living: Coming Out in the Developing World*, produced by the director of the Stonewall series, John Scagliotti, features interviews with a number of gay men who seek asylum in the U.S. and Canada, alongside brief interviews with a lesbian woman from Honduras who seeks asylum in the U.S. after Honduran police attempted to rape her before torturing her five-year old son. Jill Burnett's short documentary, *This Way Out*, which won the award for best director at the InsideOut Toronto Lesbian and Gay Film Festival, similarly consists of interviews with LGBT asylum-seekers in the U.S., including Kahunya, a gay asylee from Kenya; Ana Claudia, a lesbian sports caster from Brazil; and Arslan, a gay asylum-seeker from Pakistan. Both documentaries call attention to the globalization of Stonewall and

stress the universality of LGBT experience and LGBT rights. As director Jill Burnett has commented on the ultimate goal behind the production of *This Way Out*, “I wanted to capture the universality of homosexuality as it was unfolding in front of me during these meetings; its irrepressible existence, no matter how hostile or adverse the circumstances”.<sup>12</sup>

In terms of the fiction films that deal with the subject of lesbian asylum, both *Unveiled* and the forthcoming docudrama *Cul de Sac* focus on Iranian lesbians who apply for asylum in Germany and the United Kingdom respectively, while Fatih Akin’s film *The Edge of Heaven* (2007) features a Turkish lesbian who seeks asylum in Germany for persecution on the grounds of “political opinion”. *Unveiled* and *The Edge of Heaven* are characteristic of transnational cinema more generally, insofar as they consist of circular, non-linear plots; they repeatedly stress mourning of the lost homeland; their plots revolve around transnational spaces such as border zones, airports, and immigration controls; and they make extensive use of music—both diegetic and non-diegetic alike—to convey the sense of loss and isolation that frequently accompanies the experience of exile. These films also thematize the issue of “Fortress Europe”. Unlike the documentaries *This Way Out* and *Dangerous Living*, however, *Unveiled*, *The Edge of Heaven* and *Cul de Sac* all work to problematize the stereotypical queer migration narrative as that of a movement from “Third World oppression” to “First World freedom”.<sup>13</sup>

While all of the above films are deserving of close analysis for the ways in which they deal with the topic of lesbian migration and asylum in Europe, this chapter

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<sup>12</sup> Jill Burnett discusses *This Way Out* on the official website for the film which is currently unavailable.

<sup>13</sup> For a more general discussion of queer migration narratives, see Luibhéid, “Queer/Migration”.

will focus primarily on Angelina Maccarone's film *Unveiled*. As a cinematic mediation on exile and the transnational space of the border, *Unveiled* portrays the lesbian asylum-seeker as a figure of agency, one who actively negotiates the challenges she faces. In this way, I argue, the film constitutes a much-needed intervention into current advocacy on behalf of LGBT asylum, the majority of which, as Eithne Luibhéid points out, has an unfortunate tendency to erase the voices of those migrants whom it claims to represent.<sup>14</sup> In *Unveiled*, as I will suggest, desire between women constitutes the basis for an alternative reconceptualization of human rights that resists neoliberal market models of lesbian sexuality predicated on visibility and an identity in the public sphere. Before considering the implications of Maccarone's presentation of the lesbian asylum-seeker in part three, however, I would first like to discuss *Unveiled* in relation to the category of transnational cinema more generally.

***Music, Exile, and the Case of the Lesbian Asylum-Seeker in Angelina Maccarone's Unveiled (2005)***

Angelina Maccarone's *Unveiled*, which has received numerous awards—most notably at the Montreal Gay and Lesbian Film Festival in 2005 and the Seattle Lesbian and Gay Film Festival, also in 2005—tells the story of an Iranian woman, Fariba Tabrizi, who is living under the threat of the death penalty in Iran after being revealed by the vice squad to be a lesbian. Fariba, who works as a language teacher, borrows money from a relative and travels to Germany, where she attempts to seek asylum on the grounds of a well-founded fear of persecution in her country of origin. However, when

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<sup>14</sup> Ibid., 180.

asked by officials, “Why did you leave?”, Fariba initially fails to disclose the fact that she was persecuted in Iran for embarking on an adulterous relationship with a married woman (Shirin). As a result, her asylum application is rejected and she is issued with deportation orders. On the morning of her scheduled deportation, however, Fariba discovers the body of fellow Iranian refugee, Siamak Mustafi, who has committed suicide. Fariba decides to take on Siamak’s identity and, using his temporary permit of sojourn, she is relocated to the provinces of Swabia in rural Germany. Desperate to obtain the money to purchase forged documents before Siamak’s permit expires, Fariba procures an illegal, seasonal job in a sauerkraut processing factory where she meets and falls in love with Anne, another worker in the factory. As Siamak’s permit expires and he is ordered to return to Tehran, Fariba decides to reveal her true identity to Anne. The two women then proceed to engage in car theft to enable Fariba to obtain the money to acquire a forged passport. However, when Anne’s ex-lover, Uwe, discovers Fariba’s female identity and, by extension, the lesbian relationship between Fariba and Anne, he violently assaults both women, leading to the appearance of the police. After inspecting Fariba’s documents, the police arrest her on the grounds of illegal asylum; she is deported to Iran the following day. Before the plane prepares to land, Fariba, fearing imprisonment or worse upon her return, resumes Siamak’s identity.

The English title of the film “Unveiled” was conceived not by Maccarone but by Wolfe, the U.S. distributor of the film, although the original German title is “Fremde Haut”, which may be translated as “stranger’s skin” or “alien skin”. In Germany, the term “in orbit” was also used as an alternative title for the film. The

latter is the term often employed by the United Nations to refer to asylum-seekers who are forced to move from place to place, “orbiting” planet Earth, as it were, in the hope of finding legal domicile and respite from persecution. Maccarone’s original title of “Fremde Haut” was intended as a response to the ways in which citizenship and national belonging are typically defined in relation to the figure of the “alien”—in this case, the immigrant—who becomes identified as such by the law and set apart from society at large.<sup>15</sup> In *Unveiled*, Maccarone literalizes this dehumanization of asylum-seekers by showing how the very process of becoming an asylum-seeker forces Fariba to take on an “alien skin”. As she puts it,

The fact that Fariba is forced to assume a different identity, to transform herself into a “foreign body”, adds even more gravity to the condition of exile. She has to submit, not only to an external exile, but also to an internal one. Fariba, who speaks several languages, is suddenly robbed of her voice.<sup>16</sup>

Fariba’s transformation into a “foreign body” in *Unveiled* serves as a commentary on the treatment of asylum-seekers more generally. For Fariba, the experience of exile

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<sup>15</sup> The *Oxford English Dictionary* defines “alien” both as “a person belonging to another family, race, or nation; a stranger, a foreigner”, and as “one separated, or excluded *from* (the citizenship and privileges of) a nation”. As Sara Ahmed explains, “The alien stranger is hence, not beyond human, but a mechanism for allowing us to face that which we have already designated as the beyond”. See Sara Ahmed, *Strange Encounters: Embodied Others in Post-Coloniality* (New York and London: Routledge, 2000), 3. For a discussion of the concept of the “illegal alien” in relation to citizenship and immigration more generally, see Katarzyna Marciniak, “Immigrant Rage: Alienhood, ‘Hygienic’ Identities, and the Second World”. *Differences: A Journal of Feminist Cultural Studies* 17/2 (2006): 33-63. Also see Katarzyna Marciniak, *Alienhood: Citizenship, Exile, and the Logic of Difference* (Minneapolis: University of Minnesota Press, 2006).

<sup>16</sup> Wolfe Video, “*Unveiled* press release” (2005). Currently unavailable (accessed September 2007), 6.

becomes one of being out of place with her female body; the physical violence and psychic ruptures caused by exile are figured as leading to a crisis of the body, whereby even this first and most intimate dwelling place of humans no longer feels like home. Fariba's transformation into a "foreign body"—a "stranger's skin"—only adds to her sense of loss.<sup>17</sup>

As Maccarone has revealed in interviews, what interested her was the subject of identity and of what it means to be human: "We wanted to tell a story about someone who loses basically everything that makes a person a person: her work, where she lives, who her friends are, her family, her language, and her sexual identity":

"Identity", that which is unmistakable about a person, is made up of a variety of interlaced factors. What moves me – at the same time as it fascinates and scares me – is the question: Who am I, once all the co-ordinates onto which I anchor my own self suddenly fall by the wayside? What remains of me when I have to leave the place where I live? When I lose the people who are near to me? When I have to leave my work, my home and most of my possessions behind?...Who are we when all of these self-defining elements are gone? What is at the core of a human being and of being human?<sup>18</sup>

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<sup>17</sup> While for many transgender-identified individuals, "transitioning" is often akin to "coming home", this is clearly not the case for Fariba. In *Unveiled*, Fariba uses transgendered identity primarily as a means of resisting deportation, a form of resistance that ultimately has the effect of intensifying her sense of loss and displacement.

<sup>18</sup> Wolfe Video, "*Unveiled* press release", 6.

In *Unveiled*, Fariba has no choice but to relinquish all legal rights when she leaves Tehran—she does so in order to save her life. And yet, as Maccarone points out, upon arrival in Germany Fariba is once again brought to the point of virtual self-denial by a system that is truly relentless in its attempts to “gun down” and criminalize basic human rights—in this case, the right to citizenship and protection from persecution.

As discussed in previous chapters, the issue of immigration is increasingly being linked to national and international security, rather than concerns over social justice. In Germany, as in the United Kingdom, asylum-seekers are portrayed as “parasites” (“schmarotzer”) and criminals, attempting to “steal” from an already weakened welfare state.<sup>19</sup> As with Jan Dunn’s film *Gypo*, *Unveiled* similarly calls attention to the ways in which the right to claim asylum has become increasingly criminalized post-9/11. In *Unveiled*, Fariba is left with little option but to enter Germany with forged documents, becoming the product of a political system that is responsible for creating the very category of the “illegal immigrant” it supposedly fears.

It is the harsh and, one might say, self-fulfilling asylum policies so prevalent throughout much of Europe which provide the impetus for the deconstructive critique that drives *Unveiled*. For Maccarone, *Unveiled* is a film primarily about Germany and the latter’s increasingly xenophobic attitude towards immigration. As she has revealed in the presskit which accompanies the film,

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<sup>19</sup> See Christina Boswell, *Spreading the Costs of Asylum Seekers: A Critical Assessment of Dispersal Policies in Germany and the UK* (Anglo-German Foundation: York, 2001).



I become furious when I see how the border between “us” and “them” is firmly cemented in the majority of images one sees. “We” sit in front of the TV and watch as “they” attempt to gain entry to Fortress Europe. “We” could not possibly find ourselves in the same situation. Or could we?<sup>20</sup>

With *Unveiled*, Maccarone seeks to get beyond the dualisms of “us” versus “them”, “citizen” versus “immigrant”, “public” versus “private”, and “legal” versus “illegal”, through the creation of a cinematic “border consciousness” reminiscent of Gloria Anzaldúa’s literary conception of queer borderland spaces in *La Frontera: The New Mestiza*.<sup>21</sup> Like Anzaldúa’s *Borderlands*, *Unveiled* constitutes an eloquent meditation on the violence of borders—borders which are psychological as well as geographical. As Maccarone comments,

I believe that such dualisms as good/evil, male/female, legal/illegal, civilized/primitive are too restricting to accommodate reality in all its contradictions... I believe the world, the human, is more complex than that. The simple solutions that are suggested by polarities are dangerous... What interests me is the political in the private sphere, and that which is private in the political sphere, the inalterable and the alteration of one’s own identity, the transgression of the borders...<sup>22</sup>

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<sup>20</sup> Wolfe Video, “*Unveiled* press release”, 6.

<sup>21</sup> See Gloria Anzaldúa, *Borderlands: The New Mestiza=La Frontera* (San Francisco, Aunt Lute Books, 1987).

<sup>22</sup> Wolfe Video, “*Unveiled* press release”.

The director's attempt to cultivate a kind of "dual", or "border consciousness" in *Unveiled* is reflected at the level of form as well as content. *Unveiled* adopts many of the formal features identified both in the introduction and in chapter one as characteristic of transnational lesbian cinema, including location shooting; frequent use of transnational spaces and border zones, especially airports, detention centers, and immigration controls; along with the striking juxtaposition of "open" and "closed" forms. In interviews, Maccarone has discussed the challenges of creating a visual language for a character such as Fariba who is so restricted in terms of her self-expression. Specific cinematic techniques employed by Maccarone and cinematographer Judith Kaufman in *Unveiled* to capture Fariba's sense of displacement consist of heavy reliance upon natural lighting and a documentary-style aesthetic characterized by frequent use of a handheld camera. At the beginning of the film, Kaufman relies on numerous long shots designed to convey Fariba's state of exile, shots which push the protagonist to the edge of the frame, making her seem out of place. Maccarone and Kaufman also draw upon the repeated motif of the airplane, contrasting images of planes taking off with the barbed wire of the airport detention centre designed to keep refugees imprisoned and immobile. In this context, the airplane stands as a symbol of both freedom and mobility, while also evoking the constant threat of deportation.

### ***Music and Sound***

In *Unveiled*, music and sound also play a crucial role in the production of the film's exilic, or transnational consciousness. Maccarone uses contrasting styles of film music to create a sense of narrative tension that, in her words, "hovers between restraint and

explosion”, and that mirrors the feelings of uncertainty with which Fariba, as a lesbian asylum-seeker, constantly struggles.<sup>23</sup> In Maccarone’s film, the musical soundtrack is characterized by its combination of non-diegetic electronic world pop and diegetic traditional lyric song. While the former works to situate the film within a global economy, it is the latter that is most interesting in terms of the film’s narrative of lesbian migration.<sup>24</sup> In *Unveiled*, Fariba performs a traditional Persian lyric song in response to one of her co-worker’s requests that she tells her more about where she is from. After another co-worker’s racist suggestion that Fariba entertain them with an “expressive dance”, Anne proposes instead that Fariba “sing something”. Fariba accepts Anne’s invitation to sing and engages in an unaccompanied rendition of an unidentified Persian lyric song. One of the primary functions of Persian lyric song is said to be that of alleviating the pain of the individual’s condition by enabling one to acknowledge and articulate one’s grief.<sup>25</sup> Indeed, sung poetry is highly valued in

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<sup>23</sup> *Ibid.*, 7.

<sup>24</sup> By “world music”, or “world pop”, I am referring primarily to the marketing term that is used to describe the products of a musical “cross-fertilization” between the global North (e.g. the US and Western Europe) and the global South (primarily Africa and the Caribbean basin). As Deborah Pacini Hernandez elaborates, “The distinctions between world music and world beat are not absolute, but in general, the world music category tends to privilege adherence to traditional musical practices and their concomitant auras of authenticity; world beat musics, in contrast, are rhythm-dominant, eclectic, fully modern, technologically-sophisticated musics that rely heavily on cross-fertilization of styles from multiple locations, but especially from throughout the African continent. The appeal of both world music and world beat musics to northern audiences has relied mainly on their perceived differences from Euro-American popular music—even though in the case of world beat, the aesthetic and technological distance from Western rock and pop is often relatively small”. See Deborah Pacini Hernandez, “Race, Ethnicity and the Production of Latin/o Popular Music”, in Andreas Gebesmair and Alfred Smudits, eds., *Global Repertoires: Popular Music within and Beyond the Transnational Music Industry* (Aldershot: Ashgate, 2001), 57-72.

<sup>25</sup> For more information on Persian lyric song, see Jean During, *The Art of Persian Music* (London: Mage Publishers, 1991) and Hormoz Farhat, *The Dastgah Concept in Persian Music* (Cambridge: Cambridge University Press, 2004).

Iranian culture. The voice is central to Middle Eastern music in general because it is considered to be the primary instrument of human communication.<sup>26</sup>

What is particularly interesting about Fariba's turn to song at this point in the film is the context for her performance, and specifically the disquieting effect of her voice on those around her, for, with the exception of Anne, who proclaims the song "really beautiful", Fariba's confrontational performance of traditional music is greeted with stunned silence and muted applause. In short, the music works to unsettle both the spectators in the diegesis and the overarching narrative of the film as a whole; unlike the non-diegetic music of the opening scene—electronic world pop—which serves to position the film within the kind of global, transnational economy that generates migration and border crossing, Fariba's turn to Persian lyric song here works not to advance the narrative but rather to call it to an abrupt halt.

While "world pop" can be both transnational and *translational*, as Jocelyn Guilbault has pointed out, I would argue that it is precisely because Fariba's song *fails* to perform the work of cultural translation in the above scene that it has such a disquieting effect upon both the characters within the diegesis and the spectators outside the diegesis.<sup>27</sup> As Naficy has suggested elsewhere, it is often the case in exilic and diasporic films that music "poses translation and displacement as theoretical problems" for both diegetic and non-diegetic subjects alike.<sup>28</sup> Indeed, Fariba's song in *Unveiled*—unlike the electronic world pop used at the start of the film—is "non-translational" in a literal as well as a metaphorical sense. As is often the case in

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<sup>26</sup> During, *The Art of Persian Music*, 1.

<sup>27</sup> See Jocelyne Guilbault, "Interpreting World Music: A Challenge in Theory and Practice". *Popular Music* 16/1 (1997): 31-44 (at 31).

<sup>28</sup> Naficy, *An Accented Cinema*, 124.

transnational and diasporic films, the lyrics for Fariba's song are not provided, which in turn creates a sense of cultural distancing on the parts of both diegetic and non-diegetic spectators. For the majority of spectators watching *Unveiled*, Fariba's performance of Persian lyric song remains fundamentally unintelligible. The strategic refusal on the part of the director to translate Farsi here signals an attempt to, as Naficy puts it in another context, "cunningly provoke in the spectator the same alienation experienced by a displaced person, reminding us, through inversion, of the asymmetry in social power between exiles and their 'host communities'".<sup>29</sup> Fariba's song, in other words, renders her listeners both out of context and out of place.

As Sneja Gunew has commented on the connections between language and home, language works to remind one of home in palpable ways. In her words: "It is the meanings we first encounter in a specific language that structure our later lives psychically and physically".<sup>30</sup> A crucial component of exile is mourning for one's lost homeland. As an account of lesbian identity fractured through exile, loss, and violence, *Unveiled* is haunted by motifs of "home" and "homeland". For Fariba, lesbianism and lesbian desire in the text work to make "home" unthinkable; home can no longer be viewed in nostalgic terms as a safe space to which the subject desires to return. In *Unveiled*, it is "home" that Fariba, as a refugee, must learn to abject. As Stuart Hall has commented, "Migration is a one way trip. There is no 'home' to go

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<sup>29</sup> Ibid., 64.

<sup>30</sup> Sneja Gunew, "The Home of Language: A Pedagogy of the Stammer", in Sara Ahmed, Claudia Castaneda, and Anne-Marie Fortier, eds., *Uprootings/Regroundings: Questions of Home and Migration* (Oxford and New York: Berg, 2004), 41-58 (at 42).

back to”.<sup>31</sup> In Maccarone’s film, the impossibility of “home” is staged most explicitly through music and through Fariba’s vocal rendition of Persian lyric song. If “exile”, literally translated, means “to leap outside” (from the Latin “ex-salire”), then it is music, rather than language, that symbolizes the exilic gap, or *aporia*, in *Unveiled*.

What is also interesting about Fariba’s vocal performance in *Unveiled* is that it raises a number of important questions about the relationship between music, gender identity, and disembodiment. For, it is only following Fariba’s confrontational performance of Persian lyric song that Anne begins to question the former’s identity. The feminizing effects of music and song in *Unveiled* are further underscored by the fact that it is directly after Fariba’s emotional performance in the bar that her male co-workers pay for her to have sex with a prostitute in the red light district of Stuttgart. Clearly intended as an attempt on the part of her co-workers to “re-masculinize” Siamak, Fariba is forced into a position with the sex worker where she has little choice but to reveal her female identity. In the context of *Unveiled*, as in *Maple Palm*, then, music is used primarily as an agent of feminization.<sup>32</sup> If *Unveiled* is about the pain of exile, about the loss of homeland that in turn leads Fariba to inhabit her body differently, then music arguably provides a way for Maccarone’s heroine to “reconnect” with her female body through a kind of aural “unveiling” which comes dangerously close to exposing Fariba’s true self.

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<sup>31</sup> Stuart Hall, “Minimal Selves”, in Houston A. Baker, Jr., Manthia Diawara, and Ruth H. Lindeborg, eds., *Black British Cultural Studies: A Reader* (Chicago and London: University of Chicago Press, 1996), 114-119 (at 114).

<sup>32</sup> As numerous feminist musicologists have pointed out, music is frequently associated with femininity and sensuality in the history of Western musical aesthetics. However, the discipline of historical musicology—from its emergence in the early twentieth century to the present—has had an unfortunate tendency to negate, or rather “repress”, this particular association. See, for example, Suzanne G. Cusick, “Gender, Musicology, and Feminism”, in Nick Cook and Mark Everist, eds., *Rethinking Music* (Oxford and New York: Oxford University Press, 1999), 471-498.

As Naficy has commented on the voice's privileged relation to interiority in one of the few sections of *An Accented Cinema* devoted specifically to the soundtrack:

One of the characteristics of sound that distinguishes it from vision is that sound is perishable, evanescent, and unstable...sound exists only when it is dying or coming into being...While images may exist separately from their producing agency, no voice exists without the force that generates it, the breath. Thus there exists a unique relationship between voice, interiority, and identity, and it is perhaps because of this that voice and speech are...associated with potency and magical power.<sup>33</sup>

For Fariba in *Unveiled*, her “uncanny” relation to home takes place through voice and music as well as through the body. I would suggest that it is Fariba's melancholic incorporation of home as a lost object, or what Julia Kristeva might refer to as the “abject”, which both unnerves Fariba's listener-spectators and which disrupts the narrative of the film.

In *Powers of Horror*, Kristeva defines abjection as the violence of mourning for an object that has already been lost. Because the partial object is excluded, according to Kristeva, it returns as an inscription of limits, as that which calls into question borders and which threatens identity.<sup>34</sup> I would further argue that the musical inscription of limits and transgression of borders in *Unveiled* serves as a form of

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<sup>33</sup> Naficy, *An Accented Cinema*, 121.

<sup>34</sup> See Julia Kristeva, *Black Sun: Depression and Melancholia*. Trans. Leon S. Roudiez (New York: Columbia University Press, 1989).

critique, not merely of “home” and the past as that which makes lesbianism and lesbian desire impossible, but of the present, too. At the end of the film, Fariba finds herself coming up against the limits of a political system which not only brings her to the point of virtual self-denial, but where she is subject to virulently racist and homophobic attacks. As the film concludes, Fariba, like many transnational characters, has become eternally displaced, her exile writ large not only on her body, but in terms of her sexuality, too.<sup>35</sup> Given the fact that in Iran, transsexual surgery is now actively encouraged as a legal alternative to the punishment and execution of homosexuals, the final image of Fariba in *Unveiled*, having assumed a transgendered identity to the song, “Point of No Return”—which accompanies the final credits—can only be read ironically and poignantly so.<sup>36</sup> The musical production of home in *Unveiled* shows the limits of an identity predicated on such abjection.

### ***The Challenges to Lesbian Asylum Claims***

It is the violent effort to erase lesbian desire at the end of *Unveiled*, initiated by Uwe’s homophobic attack on Anne and Fariba, that I would argue is central to the film’s political project and, more specifically, the director’s attempt to grapple with the kinds of challenges facing the lesbian asylum-seeker. For, as we can see in *Unveiled*, desire between women is as brutally subject to homophobic violence and erasure in rural Germany as it is in urban Tehran. At the end of the film, Maccarone presents the

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<sup>35</sup> As Naficy writes, “The return home sometimes requires as profound an adjustment as the exilic relocation in the first place, thereby extending the exile into yet another realm”. See Naficy, *An Accented Cinema*, 232.

<sup>36</sup> See Afsaneh Najmabadi, “Transing and Transpassing Across Sex-Gender Walls in Iran”. *Women’s Studies Quarterly* 36 (2008): 23-42.



lesbian asylum-seeker at the same time as she erases her, articulating her presence only to render her an impossible subject later on. As one of my students eloquently put it when I taught *Unveiled* in the context of the Introduction to Feminist, Gender, and Sexuality Studies core course at Cornell University, “In order to become who she is, Fariba must become someone she is not”. It is no coincidence that in Maccarone’s film, it is Siamak Mustafi, a male political activist and member of a student opposition group, who is granted temporary political asylum in Germany, rather than Fariba, the lesbian asylum-seeker. Indeed, it is the latter that propels the narrative of the film as a whole. In *Unveiled*, it is lesbian rights, or the right to adopt a particular position in relation to desire, that come to mark the limits of both human rights and human life.<sup>37</sup>

The problem with the Universal Declaration of Human Rights and, by extension, international refugee law, as *Unveiled* suggests, is that it constructs an international “human” who is located prior to existing social structures of gender, race, class, sexual orientation, and national identity. However, when categories are abstracted in this way, particular “humans” are prioritized over others and existing social inequalities go unchallenged. In the case of international refugee law, it is the male refugee who becomes the privileged subject of human rights. As noted at the beginning of the chapter, international refugee law has only recently begun to address the specificities of female or—in this case—lesbian oppression. The “well-founded fear of persecution” clause in the 1951 convention has historically meant that refugees must present “direct, credible evidence” of state persecution or punishment supporting

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<sup>37</sup> As Judith Butler argues, “When we struggle for rights, we are not simply struggling for rights that attach to my person, but we are struggling *to be conceived as persons*”. See Judith Butler, “On Being Beside Oneself: On the Limits of Sexual Autonomy”, in Nicholas Bamforth, ed., *Sex Rights: The Oxford Amnesty Lectures 2002* (Oxford: Oxford University Press, 2005), 48-78 (at 69).

their claim for asylum. As we know, however, the majority of human rights abuses inflicted upon women occur at the hands of non-state agents, making such persecution even less well-reported and well-documented, and thus more difficult to prove. It is only since the mid-1990s that international refugee law has been interpreted to account for persecution on the basis of gender, much of which takes place within the private sphere. However, courts judging LGBT asylum claims still tend to privilege those applicants who have either experienced physical assault at the hands of the state or who have faced the threat of capital punishments in their country of origin.

The inability of asylum adjudicators to comprehend persecution resulting from female sexual orientation is particularly evident in the case of Elena Pitcherskaia, who was denied asylum in the United States in the late 1990s on the grounds that the forced psychiatric treatment she underwent in Russia, including electric-shock therapy, did not constitute persecution. In its defense, the U.S. Board of Immigration Appeals (BIA) came up with the breathtaking claim that the Russian government had “intended to treat or cure [Pitcherskaia’s] supposed mental illness” and thus “not to punish”.<sup>38</sup> After numerous appeals, however, Pitcherskaia was eventually granted asylum and her case now serves as a legal precedent for subsequent lesbian asylum cases in the U.S. (The outlook for lesbian asylum-seekers has since improved, although only marginally so.)

Courts also have a tendency to mistrust any information gathered by LGBT human rights organizations for use in lesbian and gay asylum cases. In Canada, for instance, an asylum adjudicator ruled that the documentary evidence provided by the

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<sup>38</sup> Cited in IGLHRC, “Lesbian Issues: Packet”.

International Gay and Lesbian Human Rights Commission for a lesbian asylum applicant derived from sources that were “self-serving in nature”, which in turn “tainted their objectivity”.<sup>39</sup> (Somewhat predictably, perhaps, the latter charges are rarely leveled at any other political, national, or religious organizations providing documentation on behalf of refugees and asylum-seekers.)

For Fariba in *Unveiled*, as we can see, providing adequate evidence even of state persecution on the basis of her sexual orientation is extremely difficult, if not impossible. With respect to German immigration policy more specifically, the recent tightening of refugee law in terms of what constitutes both a “legitimate” refugee and a “well-founded fear” of persecution, has meant that only a very narrow conception of persecution on the grounds of political opinion is accepted as a basis for asylum.<sup>40</sup> Hardly surprisingly, such a policy change has had a disproportionately negative impact upon both women and sexual minorities seeking asylum in Germany.

Not only must the lesbian asylum-seeker demonstrate a “well-founded fear of persecution” in order to be considered eligible for asylum which, as we’ve seen, is easier said than done, she must also prove that she has been persecuted on the grounds of her “lesbian orientation”. Because it is sexual identity, rather than sexual activity, that is protected under refugee law, any persecution resulting from sexual activity must be transformed into persecution on the basis of sexual identity.<sup>41</sup> As one asylum

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<sup>39</sup> Ibid.

<sup>40</sup> See Boswell, *Spreading the Costs of Asylum-Seekers*.

<sup>41</sup> For a discussion of the ways in which the acts v. identities debate plays out within the context of Australian refugee law, see Kristen L. Walker, “Sexuality and Refugee Status in Australia”. *International Journal of Refugee Law* 12/2 (2000): 175-211.

adjudicator put it in the case of a Honduran woman seeking asylum in the U.S. on the basis of sexual orientation,

The respondent had a complex burden in this case. She had to demonstrate not only that she was raped, but also that she was raped because she was a lesbian, that this was done by a person or group whom Honduras is unwilling or unable to stop, and that her fear of persecution would be countrywide.<sup>42</sup>

However, “demonstrating” one’s lesbianism for the purposes of asylum claims is far from straightforward. Lesbians, like all queer migrants, must grapple with the assumption that all immigrants are straight and all asylum-seekers on the basis of sexual orientation are criminals or frauds. As Jill Power has observed, “The most frequent reason for refusal [of asylum] is that a person is not believed to be LGB or T. Even when they are believed, they can be told to go back to their country and be ‘discreet’ or that they can relocate to a different area”.<sup>43</sup> Asylum adjudicators, in other words, tend to disbelieve LGBT claims in particular on the grounds that “allegations” of gay identity are easy to make and hard to disprove. “Straight until proven otherwise”, lesbian asylum applicants are frequently judged on the basis of Western/Euro-American stereotypes about how lesbians “look” and “live” and, in the

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<sup>42</sup> Cited in Critoph, “Dissertation on Sexual Orientation Asylum Claims”, 5.

<sup>43</sup> Jill Power, “Lesbian, Gay, Bisexual and Trans People and Persecution: Experiences of LGBT People and the UK Asylum System”, in Oreet Ashery, *Staying: Dream, Bin, Soft Stud and Other Stories* (2009), 10. Available at

[http://www.artangel.org.uk/projects/2010/staying/download\\_the\\_publication/download\\_the\\_publication](http://www.artangel.org.uk/projects/2010/staying/download_the_publication/download_the_publication) See also Laurie Berg and Jenni Millbank, “Constructing the Personal Narratives of Lesbian, Gay and Bisexual Asylum Claimants”. *Journal of Refugee Studies* (2009): 195-223.

worst case scenario, on the basis of asylum adjudicators' personal prejudices and heterosexist assumptions about lesbian sexuality.

The National Center for Lesbian Rights has observed that the general perception about lesbians in the context of asylum claims is that they are young, unmarried, childless, independent of their families, and that they subvert gender norms, particularly with respect to physical self-presentation.<sup>44</sup> Lesbians are often refused asylum on the grounds that they have been married and/or have children. For instance, a self-identified lesbian who fled to the United Kingdom from Sierra Leone in 2002 after being forced, through physical abuse, into marriage, and who later became pregnant as a result of marital rape, was denied asylum on the grounds that she had a child and therefore "cannot be a lesbian". As the Senior Presenting Officer in the case commented, "The appellant cannot be a lesbian, as she has had a relationship with a man and had a child with him".<sup>45</sup> In extreme cases, no sexual experience with the opposite sex is often a prerequisite for establishing credibility as a lesbian in the context of asylum claims.

Judges have also been known to reject asylum claims because an applicant doesn't "look gay" or "lesbian", the reason given that the individual may return to their country of origin and avoid persecution if they do not "appear gay".<sup>46</sup> A judge in Australia denied asylum to a lesbian applicant from rural China in the late 1990s, arguing that "a homosexual-lesbian can avoid the risk of harm by being discreet in her

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<sup>44</sup> See NCLR, "The Challenges to Successful Lesbian Asylum Claims".

<sup>45</sup> Cited in Barry O'Leary, "We Cannot Claim Any Particular Knowledge of the Ways of Homosexuals, Still Less of Iranian Homosexuals...": The Particular Problems Facing Those Who Seek Asylum on the Basis of Their Sexual Identity". *Feminist Legal Studies* 16 (2008): 87-95 (at 89).

<sup>46</sup> Judges will frequently state to applicants that they "don't look like lesbians". See Walker, "Sexuality and Refugee Status in Australia".

conduct”.<sup>47</sup> Because the woman in question had merely *desired*, but never actually *experienced*, a sexual relationship with another woman in China (she was too afraid to do so), but wanted to have the freedom to act on her attraction to women, the asylum adjudicator in charge of the case concluded that she was not a “practicing lesbian”, and that there was no evidence that she would “pursue an overt relationship should she return”, or that “her sexuality had been forcibly repressed”.<sup>48</sup> If an asylum applicant identifies as “bisexual”, meanwhile, it is similarly suggested that they can “function heterosexually” and so avoid persecution by virtue of a heterosexual relationship, or by being able to “pass”.<sup>49</sup>

Age and relationship history can also present significant obstacles when it comes to proving one’s lesbianism for the purposes of asylum. In a recent Canadian case, a judge rejected an asylum applicant on the grounds that she was “too old” to be a lesbian due to the fact that she chose to “come out” at the age of 56. As he commented,

The claimant was asked when she realized about her sexual orientation. She replied that it was only when her relationship with N began [when the claimant

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<sup>47</sup> The trope of the “discreet homosexual” is a particularly prevalent one in the context of the Australian Refugee Review Tribunal, as well as in Britain. As one Australian judge commented of a gay male asylum applicant, “It is not unreasonable for the applicant to exercise discretion in giving expression to his homosexuality and... this restriction on his activities would not constitute Convention persecution”. Cited in Walker, “Sexuality and Refugee Status in Australia”, 203. In another case, the Australian RRT suggested that it was “not an unreasonable imposition” for the gay male asylum applicant in question to be “discreet”, as he “has no particular mannerisms of dress or behavior which mark him out in any way”. Cited in Jenni Millbank, “Imagining Otherness: Refugee Claims on the Basis of Sexuality in Canada and Australia”. *Melbourne University Law Review* 7 (2002): 1-35 (at 32).

<sup>48</sup> Cited in Millbank, “Imagining Otherness”, 37.

<sup>49</sup> See, for instance, some of the cases discussed in Walker, “Sexuality and Refugee Status in Australia”, 188.

was 56]. While this is unusual, it is possible. But things must be probably so, not just possibly so. On a balance of probabilities, I find that most homosexual people have some realization with respect to their sexual orientation when they begin to explore their sexuality in their teens or early twenties, even if they suppress it, hide it, or fail to acknowledge it.<sup>50</sup>

In a 2006 Canadian case, meanwhile, a lesbian asylum application was rejected because the woman in question had been in three “unsuccessful” lesbian relationships and was therefore not trying “hard enough” to be a lesbian. The judge in charge of the case ruled that, “it is, on a balance of probabilities, not plausible for the claimant to make three unsuccessful relationships”.<sup>51</sup> As one Canadian attorney, who has represented more than sixty gay refugee claimants has commented on the often absurd ways in which LGBT asylum applicants must “prove” their identity: “I used to call it Gay 101. Immigration and Refugee Board members ask claimants what day the Gay Pride parade was on; where the gay bars in Toronto are located; and whether they were in a relationship”.<sup>52</sup>

In a scene towards the end of *Unveiled*, Fariba confesses to Anne that the reason she lied in her application for asylum was because she had no proof of either her lesbianism or her imprisonment and torture in Iran. As she tells Anne, “They can just arrest you, lock you up for months...torture you, rape you...but I can’t prove anything”.

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<sup>50</sup> Cited in Berg and Millbank, “Constructing the Personal Narratives of Lesbian, Bisexual, and Gay Asylum Claimants”, 212.

<sup>51</sup> *Ibid.*, 213.

<sup>52</sup> *Ibid.*, 154.

Not only are LGBT asylum applicants like Fariba faced with the burden of proving both a well-founded fear of persecution and membership of a particular social group; they must also “come out” to the legal representative in charge of their case almost immediately in order to be considered a worthy applicant for asylum. “Being out” is highly significant in claims for refugee status. Many legal attorneys will go so far as to impose rigid and highly regulatory “coming out” narratives on the LGBT asylum applicants they represent as a way for the latter to provide further “proof” of their sexuality. Because race, religion, nationality and political opinion are understood to be characteristics so fundamental to one’s identity that they cannot be changed, in order for homosexuality to be recognized within international refugee law as “membership of a particular social group”, gays and lesbians must similarly express their sexuality in language connoting immutability. In the context of lesbian asylum claims, no ambiguity regarding sexual orientation can be permitted if the applicant is to stand any chance of being granted asylum. This is nowhere more apparent than in the case of countries with particularly harsh asylum and immigration policies, such as Germany and the United Kingdom. In response to a lesbian applicant seeking asylum in the U.K. who, when asked to “describe” her sexuality in an interview, stated “I am attracted to women. I am still very confused about my sexuality and that is why I am getting the help of a psychologist and a counselor”, the judge in charge of the case replied:

It is not believed that you are confused about your sexuality or that you are attracted to other women because during the same interview you were asked if



you had been in a relationship with another woman in this country and you stated that you had not. It is believed that if you were attracted to other women then with *all the freedom to choose* a sexual partner of your choice in this country you would have a relationship with another woman (my italics).<sup>53</sup>

As the judge went on to conclude, “The Secretary of State is of the view that you can conceal your homosexuality to avoid harm”.<sup>54</sup>

Although Fariba ultimately remains in Germany, unlike Siamak, her asylum claim is denied, in part because of her failure to “come out” about her relationship with Shirin in her preliminary interview with immigration officials. We are not shown the scene in the film where Fariba’s asylum application is rejected, although in a private conversation with Siamak shortly afterwards, Fariba seems to regret the fact that she lied during her initial interview:

Fariba: I didn’t tell them the truth. I didn’t flee the country for political reasons. The real reason is that I was with a woman.<sup>55</sup>

Siamak: But I’m sure you can explain that to them.

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<sup>53</sup> Cited in O’ Leary, “We Cannot Claim Any Particular Knowledge of the Ways of Homosexuals, Still Less of Iranian Homosexuals...”, 90-91.

<sup>54</sup> Ibid.

<sup>55</sup> By “political reasons”, Fariba is referring to persecution on the grounds of ‘political opinion’; in order to be granted asylum, however, gays and lesbians are encouraged to apply for refugee status primarily on the basis of “membership of a particular group”, rather than on the grounds of “political opinion”.

Fariba: I did, but they're sending me back home anyway.... They don't believe a word I say anymore.

Like many other women in her situation, Fariba clearly believes that revealing her sexual orientation to border officials would automatically have resulted in her deportation (this was in fact the case in the United States until as late as 1990). “Coming out” as lesbian or gay for the purposes of asylum can be a difficult and even traumatic process for many lesbian asylum-seekers, especially if their lives have depended upon remaining silent about their attraction to women. As one lesbian asylum applicant in the United Kingdom recently commented, “It was very difficult to talk about my sexuality because I was very sensitive and didn't know who to trust”.<sup>56</sup> Indeed, the person interviewing LGBT asylum applicants can have a crucial influence upon whether or not the applicant feels safe enough to reveal their sexual identity. The impact of shame, trauma, and depression on LGBT asylum-seekers often means that they will delay making an LGBT refugee claim, or presenting sexuality as the basis for their claim. The length of time between asylum interviews can also increase discrepancy rates in autobiographical narratives. As Jenni Millbank and Laurie Berg have commented, “Advisers should therefore not be surprised if sexual orientation is first mentioned by the applicant relatively late in the process, and may indeed be prefaced by a false, or weak, claim on another ground”.<sup>57</sup> In *Unveiled*, Fariba likewise faces a male asylum adjudicator in her initial interview and similarly struggles to

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<sup>56</sup> Cited in Anna Webster, “Insane Asylum”, in *DIVA* 28-29/139 (2007): 28-29.

<sup>57</sup> Berg and Millbank, “Constructing the Personal Narratives of Lesbian, Bisexual, and Gay Asylum Claimants”, 199.

speak of her sexual identity, which in turn hinders her credibility as a lesbian asylum applicant. In this way, Maccarone's film calls attention to the general lack of sensitivity shown towards the kinds of psychological struggles faced by many LGBT asylum applicants, struggles which directly impact upon how lesbian asylum-seekers frame their narratives of self-identity within the context of asylum interviews.

The privileging of a western-identity—or “coming out”—based model of homosexuality on the parts of asylum adjudicators is particularly apparent in the evaluation of the following, successful lesbian asylum application by a Pakistani woman, Nighat Chagtai, in Canada, in 2000. As the Presiding Member in the case concluded,

The panel has found the witness to be a credible witness.... The panel is conscious of the fact that she comes from a society which is puritanical in terms of the governance of relations between men and women and even more highly puritanical when it comes to same-sex relationships. And that social reality, I think it fair to say, *sheltered* the sexual awareness of the claimant and in large part contributed to the fact that it was not until she became a *mature* and *more worldly* individual here in Canada that she really came to grips with self-knowledge in respect to her own sexual orientation.... [S]he testified that living in Pakistan in any *overt* way as a lesbian would be practically impossible.... The claimant made the decision to *live overtly* as a lesbian here in Canada. She has testified that she has a lesbian relationship here of about a year's standing, that she does go to clubs and to institutions, which are lesbian,

that she does do volunteer work for a television station, which espouses the same-sex lifestyle. All of these things are *overt commitments to living clearly* and in the *open* in a lesbian same-sex situation. Therefore, she has made that decision here in Canada and going back to Pakistan and *reverting to a closeted lifestyle*, the panel feels, would not be really a viable possibility for her (cited in IGLHRC 2000) (my italics).<sup>58</sup>

The repeated references to the applicant's "openness", along with her decision to "live overtly", and even her involvement with a local gay television station in Canada, are all examples of the ways in which lesbian sexuality becomes judged solely in relation to visibility and an identity in the public sphere. In the above case, lesbian identity is constituted through the invocation of a colonialist narrative of oppression, according to which the victimized "Third World Woman" escapes from a regressive East (Pakistan) to find "maturity" and "self-knowledge" in a supposedly Enlightened and liberal West (Canada).<sup>59</sup> In order to be successful, lesbian asylum-seekers, like all asylum applicants, are encouraged to comply with imperialist narratives of Western "progress", narratives that require painting one's country of origin in racist terms and

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<sup>58</sup> Cited in the IGLHRC, "Lesbian Issues: Packet".

<sup>59</sup> The Canadian case cited above is representative of the majority of successful lesbian asylum cases. For a discussion of a similar successful lesbian asylum case in the U.S. featuring Monica, a lesbian from Columbia, see Berger. As Berger notes, Monica's asylum narrative of lesbian identity also fits the connection between visibility and gay activism. In her words: "Monica states in her narrative that she discovered her sexuality in the free atmosphere of a U.S. university, that she shaved her head after coming out, has put on weight, and dresses in a less feminine manner. She lives with her female companion and is socially and politically active in the gay community...She ultimately links visibility and emancipation geographically to the United States". See Berger, "Production and Reproduction of Gender and Sexuality in Legal Discourses of Asylum in the United States", 680. I must point out here, however, that the kinds of neocolonialist narratives being reproduced in the context of lesbian asylum claims are typical of the vast majority of successful asylum cases, not merely those on the basis of sexual orientation.

disavowing the role of developing nations in contributing to the oppressive conditions from which one has fled. Refugee law as it is interpreted in the above example—and in the vast majority of asylum cases—is little more than a continuation of the western colonizing project, whereby the West constructs the body of the other in its own image, which in the case of the lesbian asylum-seeker, means passing as visibly and stereotypically lesbian as possible.<sup>60</sup>

As becomes apparent from the cases discussed above, the ways in which lesbian asylum applications are evaluated is a product of how certain forms of gender and sexual identity are racialized. Differences of race and class, as well as gender and sexuality, have a significant impact in LGBT asylum cases in terms of determining who is most likely to be granted asylum.<sup>61</sup> As we have seen, judges are invited to use their “discretion” in evaluating LGBT asylum applications, which in practical terms means buying into a series of stereotypes about both homosexuality and developing countries, according to which all gays and lesbians are racially “unmarked” (read: white) and all immigrants are homophobic (read: heterosexual). The current asylum system which, as Deborah Morgan has argued, discriminates against asylum applicants who do not conform to racialized sexual stereotypes and behavioral white gay norms, leaves no room for the existence of an LGBT person of color.<sup>62</sup> Indeed, the

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<sup>60</sup> Clearly, a similar logic was at work in the evaluation of Pegah Emambakhsh’s application for asylum. Emambakhsh, who is forty-two years of age, is not independent of her family, who happens to be married with two children and, perhaps most crucially of all, does not visibly challenge gender norms, clearly contradicts many of the stereotypes about lesbians alluded to above. In other words, because her personal history did not conform to Western narratives about how lesbians “look” and “live”, Emambakhsh’s application for asylum was rejected.

<sup>61</sup> As noted in chapter two, the kinds of policies that grant same-sex couples immigration rights throughout much of Europe similarly construct idealized migrants along both racial and class lines.

<sup>62</sup> Deborah Morgan, “Not Gay Enough for the Government: Racial and Sexual Stereotypes in Sexual Orientation Asylum Cases”, *Law and Sexuality Review* 15 (2006): 135-61 (at 150).

kinds of stereotypes of homosexual identity invoked by asylum adjudicators which require applicants to be “out”, and which are based primarily on upper-class white male norms of behavior, pose particular challenges to lesbian asylum-seekers given the lack of published decisions internationally featuring successful lesbian asylum cases.

### ***Lesbian Asylum and LGBT Human Rights Advocacy***

Successful lesbian asylum cases, such as the ones alluded to above, exert a decisive influence over LGBT asylum advocates, who often encourage gay and lesbian asylum-seekers to conform to Western norms of gender and sexuality in order to be granted refugee status. For instance, legal activist and solicitor, Barry O’Leary, who works on behalf of lesbian asylum-seekers in the United Kingdom, has responded to the kinds of challenges facing lesbian asylum claims outlined above by “teaching” applicants how to reproduce dominant narratives predicated on visibility and an identity in the public sphere.<sup>63</sup> O’ Leary has encouraged lesbian asylum applicants, upon arrival in Britain, to sleep with as many women as possible (preferably British citizens), in order that the latter may then testify on behalf of the asylum applicant’s sexual identity in court.

Ideological objections to such advice aside (surely this kind of advocacy merely works towards reproducing, rather than undermining, the sorts of misconceptions about queer sexualities that result in the challenges to lesbian asylum claims in the first place?), O’ Leary’s recommendation ignores the fact that many asylum-seekers are often detained on arrival and, if not imprisoned in detention centers like Yarl’s Wood, for example,

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<sup>63</sup> See O’Leary, “We Cannot Claim Any Particular Knowledge of the Ways of Homosexuals, Still Less of Iranian Homosexuals...”

are nonetheless forced to live on food vouchers. Anyone seeking asylum in the U.K. is not given the right to work, has no access to full benefits, and will often be forced to embark on begging or undocumented work for sub-minimum wages. Lesbian asylum applicants, in addition, may also have been raped and/or tortured in their countries of origin as a result of having expressed desire for women. How, in this context, one wonders, can lesbian asylum applicants possibly be expected to have either the financial means or the psychological inclination to engage in the kinds of activities (e.g. frequenting lesbian bars, having multiple sexual partners etc.) that would enable them to meet O' Leary's and, by extension, the Border and Immigration Agency's (BIA) criteria for success?

LGBT human rights organizations have a similar tendency to take up lesbian and gay asylum claims in ways that support global capitalism and reproduce colonial power relations between so-called developed and developing nations.<sup>64</sup> The International Gay and Lesbian Human Rights Commission's mini-documentary, *Everyone, Everywhere*, that accompanies *Unveiled* is a case in point. The documentary is littered with references to Stonewall as the foundational moment in global gay rights activism. At one point in the documentary, a local gay rights victory in Asia is even referred to as the "Stonewall of Taiwan". Not only does the International Gay and

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<sup>64</sup> As Eithne Luibheid has commented, "This process reflects a larger problem about how queers with relative privilege may appropriate queer migrant figures to serve various agendas, without understanding or critically engaging with the politics of contemporary migration. In these cases, queer migrants provide the material ground for dialogue among others, while becoming silenced. Thus, queer migrants disappear 'in the very exchange that depends on [them] for its moral weight'" (Luibheid, 180). For an example of a liberal feminist approach to lesbian asylum that ends up reinscribing colonialist stereotypes about so-called "Third World oppression", see Victoria Nielson's article, "Homosexual or Female". Nielson's article presents all lesbian asylum-seekers as "victims" of patriarchal forces outside their control. She concludes her article by suggesting that, "The United States continues to serve as a beacon of hope for many who live under repressive governments" (10).

Lesbian Human Rights Commission employ Ian MacKellan to supply the “voice over” for the documentary, thus placing a particular kind of queer subject within a position of authority over the narrative, but the organization enlists a musical soundtrack that is blatantly orientalist. The prominent use of a chromatic melody at the beginning of the documentary represents the stereotypical Western musical language deployed to indicate “racial otherness”, a formal device designed to render the “West” universal in relation to the particularities of the “Other”.

In “Re-Orienting Desire: the Gay International and the Arab World”, Joseph Massad argues that the kinds of orientalist narratives reproduced by organizations such as IGLHRC are indicative of the emergence of a new “Gay International”, or a neocolonial model of socio-economic development according to which developing countries are positioned on an evolutionary path leading to the full embrace of lesbian and gay rights.<sup>65</sup> Massad asserts that the “missionary efforts” of organizations such as the International Lesbian and Gay Association and the International Gay and Lesbian Human Rights Commission, are motivated by “orientalist” fantasies of rescuing the “Third World Other”. He suggests that the image of the “Gay International” perpetuated by organizations like IGLHRC is leading countries such as Lebanon with un-enforced laws against homosexuality to begin criminalizing homosexual behavior. Massad believes that it is primarily by inciting homophobic legislation in this way that the “Gay International” disseminates its missionary discourse—namely, a Euro-American model of identity-based homosexuality.

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<sup>65</sup> See Joseph Massad, “Re-Orienting Desire: The Gay International and the Arab World”. *Public Culture* 14/2 (2002): 361-385. For a discussion of the relationship between LGBT human rights activism and U.S. nationalism post-9/11, see Jasbir K. Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Durham and London: Duke University Press, 2007).



The kinds of orientalist discourses being invoked in the context of the International Gay and Lesbian Human Rights Commission documentary that accompanies *Unveiled* are also evident in the distribution practices of LGBT mail-order video companies such as Wolfe Video. For instance, Wolfe's new title for Maccarone's film has the effect of implying that Fariba moves from "oppression" (read: veiling) in Iran to "freedom" (read: "unveiling") in the West, a narrative subtext that implicitly links "coming out" as lesbian for the purposes of asylum with being "unveiled" and hence "liberated" from an oppressive patriarchy. Interestingly enough, the *Oxford English Dictionary's* various definitions of the veil as (1) "something which conceals, covers or hides"; (2) "a disguising mechanism, a cloak or mask"; (3) "the act of hiding or concealing the true nature of something"; and (4) "to refrain from discussing" or "to keep from public knowledge", could just as easily be referring to the closet. Wolfe's new title clearly derives substantive meaning from such a slippage as it has the effect of conflating orientalist perspectives on the veil and "making visible" what is hidden with "coming out" as lesbian in the context of asylum claims. Such an association represents "coming out" as a sign of progress, while simultaneously linking homophobia in Iran with gender oppression, symbolized in this context by the veil which is constructed as an obstacle to modernization and progress.

In lesbian asylum cases, as with colonial fantasies of "unveiling" the oriental woman, what is at stake is the universality of the West. In much the same way that orientalist discourses on the veil enable the Western subject to define its identity in relation to a "primitive" and "exotic" "Third World Other", the visibility of the lesbian asylum-seeker—or perhaps, more precisely, lesbian rights—becomes the point at

which contemporary Western nation-states are able to anchor their identities as “liberal” and “democratic”. By rendering the bodies of others hypervisible in this way, the Western subject assures its own unmarked and universal position. It is this system of close bodily surveillance, whereby “other” cultures are subjected to a Euro-American model of sexual identity, which in turn assures the West’s own “unmarked” subject position. As we have seen, such neocolonial representational practices are evident not only in the context of successful lesbian asylum cases and global gay rights advocacy, but in the distribution of lesbian and gay independent feature films, too.

### ***Lesbian Asylum and the Problem of Representation***

Despite its problematic framing within an international DVD distribution chain, however, Maccarone’s film is clearly more complicated than its initial packaging might lead us to believe. As the director has commented in interviews, her decision to make the film’s protagonist Iranian was part of a conscious effort to resist the kind of First World/Third World and urban/rural opposition that has become a defining feature of the vast majority of gay liberation narratives.<sup>66</sup> Maccarone justifies the decision to have her protagonist originate from Iran in the following terms:

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<sup>66</sup> For an analysis of queer migration narratives in the U.S., see Kath Weston, “Get Thee to a Big City: Sexual Imaginary and the Great Gay Migration. *GLQ: A Journal of Lesbian and Gay Studies* 2 (1995): 253-277. For a discussion of how the rural/urban opposition plays out in terms of transgendered identities, see Judith Halberstam, *In a Queer Time and Place: Transgender Bodies, Subcultural Lives* (New York: New York University Press, 2005).

Iran is a non-European country with a very “modern” standard of living and allows the main character to be an educated middle-class person from a huge city like Teheran whose expectations and visions of the “free world” are turned upside down in rural Germany...I wanted to play with expectations and prejudices: Fariba is from a big town, knows a lot, even though she is considered to be the “simple” one since she is not from a Western industrial country.<sup>67</sup>

Unlike most legal advocacy on behalf of the issue of lesbian asylum, which equates migration to the receiving country with discovering one’s “true” identity, *Unveiled* problematizes the stereotypical “coming out” narrative and the notion that sexual relations between two women automatically make those women lesbians. In *Unveiled*, Fariba never uses the word “lesbian” to describe her sexuality. Rather, as she comments to Siamak of her past experience in Iran, “I was with a woman”. If *Unveiled* is a “lesbian film”, in other words, it becomes so primarily in the context of distribution and reception.

Maccarone’s decision not to impose a Western identity-based model of homosexuality on Fariba is underscored by the fact that we never actually “see” the scene in *Unveiled* where Fariba subsequently “comes out” to the immigration adjudicators in charge of her case. In Maccarone’s film, Fariba’s ability to “pass” as both male and heterosexual undermines the assumption that lesbian visibility is necessarily positive or even desirable. For Fariba in *Unveiled*, “passing” functions as

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<sup>67</sup> Cited in the *Unveiled* press release. Wolfe Video, 2005. Currently unavailable (accessed 5 September, 2007).

an extra layer of protection that keeps her undocumented status from being exposed. In this way, the film stresses the equivocal nature of lesbian visibility. For, while invisibility can indicate self-surveillance, as Gail Mason suggests, it can also symbolize a form of resistance, or “a means of reclaiming power by attempting to ensure that the individual (and not a homophobic culture) determines when and how she or he identifies as lesbian or gay”.<sup>68</sup> In *Unveiled*, “passing” becomes a way for Fariba to take control of the circumstances through which her sexuality is rendered visible. Maccarone uses passing to create an alternative narrative to the kinds of identity-based narratives typically reproduced within global gay rights discourses, one that raises important questions about which kinds of stories of persecution become culturally intelligible and under what circumstances. As Fariba’s experiences suggest, “coming out” is not a single definable moment but a performance that is continually repeated and that varies according to time and place.

By linking the subject of lesbian asylum with debates surrounding queer visibility—of what can and cannot be seen—*Unveiled* calls attention to the problem of representation within the context of lesbian asylum claims. Indeed, the issue, as we can see, both with respect to the legal cases mentioned earlier and in terms of Maccarone’s film, is one of visibility, evident in the notion that “a homosexual-lesbian can avoid the risk of harm by being discreet in her conduct”. As the National Center for Lesbian Rights notes, “The primary challenge facing a lesbian asylum applicant is proving her persecution or well-founded fear of persecution in a world that denies her

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<sup>68</sup> Gail Mason, “Heterosexed Violence: Typicality and Ambiguity”, in Gail Mason and Steven Tomsen, eds., *Homophobic Violence* (Sydney: Hawkins Press, 1997), 15-32 (at 31).

visibility as a lesbian and the visibility of her abuse”.<sup>69</sup> In many cases, the lesbian asylum-seeker becomes trapped in a perpetual double-bind, whereby to avoid persecution in her country of origin she must conceal her identity, and yet, when she flees, these same efforts at self-preservation severely hinder her asylum plea by making it more difficult to prove she is a lesbian. As *Unveiled* suggests, the issue of visibility and “proving” one’s lesbianism for the sake of obtaining refugee status and, ultimately, citizenship rights, is frequently subject to a heteronormative and homophobic frame of reference according to which the only really viable subject/citizen/rights-bearing individual becomes the male political activist (in this case, Siamak).

The invocation of the stereotype of the masculinized lesbian on the parts of asylum adjudicators—the demand that the applicant either be masculine, in other words, or feminine and therefore discreet—is a clear example of the ways in which lesbian sexuality is judged in terms of a heteronormative conceptual framework, whereby sexuality only becomes visible in relation to a male/female, masculine/feminine binary. Within the kind of binary sex/gender system where gender is always already constituted by heterosexuality, lesbian sexuality either imitates heterosexuality, functions for the benefit of the male spectator, or is, quite simply, inconceivable. What feminist and lesbian theorists have helped us to recognize, is that within compulsory heterosexuality, lesbians are represented in terms of their *unrepresentability*, that the lesbian possibility, in other words, is denied.<sup>70</sup> As Judith

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<sup>69</sup> NCLR, “The Challenges to Successful Lesbian Asylum Claims”, 9.

<sup>70</sup> See, for example, Luce Irigaray *This Sex Which Is Not One*. Trans. Catherine Porter. Ithaca and

Roof has commented on the ways in which heteronormative culture tends to displace its internal contradictions onto the figure of the lesbian: “Operating as points of systemic failure, configurations of lesbian sexuality often reflect the complex incongruities that occur when the logic or philosophy of a system becomes self-contradictory, visibly fails to account for something, or cannot complete itself”.<sup>71</sup>

The “impossible” status of lesbianism within compulsory heterosexuality directly plays out in terms of the ways in which immigration laws and policies in the West figure lesbian sexuality. The inability of asylum adjudicators to think outside a binary sex/gender system is evident in the following judge’s response to the testimony of a lesbian applicant seeking asylum in Canada who, after revealing that she tended to take the “initiative” in her relationships with women, was then asked three times whether she adopted “the man’s role” during her sexual encounters.<sup>72</sup>

Legal activists and scholars working for the International Gay and Lesbian Human Rights Commission and the National Center for Lesbian Rights have responded to the kinds of representational challenges confronting lesbian asylum-seekers by suggesting that lawyers representing lesbian asylum applicants need to offer detailed analyses of how gender, sexual orientation, nationality and ethnicity

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London: Cornell University Press, 1985); Monique Wittig, *The Straight Mind and Other Essays* (Boston:

Beacon Press, 1992); Judith Roof, *A Lure of Knowledge: Lesbian Sexuality and Theory* (New York and London: Columbia University Press, 1991); Judith Roof, *Come As You Are: Sexuality and Narrative* (New York and London: Columbia University Press, 1996); Annamarie Jagose, *Lesbian Utopics* (New York and London: Routledge, 1994); and Annamarie Jagose, *Inconsequence: Lesbian Representation and the*

*Logic of Sexual Sequence* (Ithaca and New York: Cornell University Press, 2002).

<sup>71</sup> Roof, *A Lure of Knowledge*, 5.

<sup>72</sup> Cited in IGLHRC, “Lesbian Issues”.

intersect in specific accounts of lesbian identity and oppression.<sup>73</sup> While an intersectional approach to advocacy on behalf of lesbian asylum-seekers is clearly crucial, however, an analysis of *Unveiled* suggests that the former also needs to be combined with a more thorough theoretical understanding of some of the problems of representation and in/visibility that are specific to lesbian asylum claims. Legal activists and scholars' failure to address the issue of lesbian in/visibility is due, at least in part, I would suggest, to the fact that within the context of international refugee law, it is second wave feminist theorizations of the relationship between gender and sexuality that still provide the conceptual framework for understanding violence against women. As noted in the previous chapter, while the literature on homophobic violence has a tendency to subsume gender under (*male*) homosexuality, the majority of second wave feminist literature on gender-based persecution has a tendency to subsume gender under female (*hetero*)sexuality, all of which serves to reinscribe a particular (read: heteronormative) set of assumptions about the relationship between sex, gender, and sexuality.<sup>74</sup>

By calling attention to the problem of lesbian representation in the context of asylum claims, *Unveiled* has consequences for activism on behalf of lesbian asylum-seekers more generally. Rather than merely tackling the symptoms of prejudice and heterosexism on the parts of lesbian asylum adjudicators, *Unveiled* suggests that legal

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<sup>73</sup> See Minter, "Lesbians and Asylum" and NCLR, "The Challenges to Successful Lesbian Asylum Claims". As Kimberlé Crenshaw has argued, any political response to subordination must take into account the intersectionality of identity. See Kimberlee Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and the Violence against Women of Color". *Stanford Law Review* 43/6 (1991): 1241-99.

<sup>74</sup> I am thinking in particular of the work of Catherine MacKinnon, and especially her influential argument that it is gender that constitutes female (hetero)sexuality. See Catharine A. MacKinnon, "Feminism, Marxism, Method, and the State: An Agenda for Theory". *SIGNS: Journal of Women in Culture and Society* 7/3 (1982): 515-544.

advocates and scholars need to address some of the underlying structural inequalities that give rise to such misguided perceptions in the first place. In other words, rather than attempting to reconcile lesbian asylum claims with existing interpretations of refugee law produced by asylum adjudicators, *Unveiled* encourages us to challenge the conceptual “misrecognition” that gives rise to lesbian invisibility, along with the framework that produces visibility as a “solution” to the problem of lesbian representation. Merely recognizing differences is not the same as actively using those differences to critique and reconstruct the conceptual framework of both refugee law and international human rights through which lesbian asylum claims are evaluated. At the heart of the matter, as *Unveiled* shows, is how and under what circumstances, lesbian sexuality becomes visible. As Gail Mason has observed with respect to the issue of homophobic violence more generally,

The terms of visibility are crucial. Anti-lesbian and anti-gay violence makes its target visible, but it does this according to the values of heterosexism. It renders lesbians and gay men visible in derogatory terms—terms that are not of their own making.<sup>75</sup>

Homophobic violence, in other words, has implications for the ways in which lesbian bodies are “looked at”. For Mason, both homophobia and heterosexism which are, by definition, always already linked to a series of statements about representation and its limits, become a form of contestation over visibility. It is the limits of visibility as an

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<sup>75</sup> Gail Mason, *The Spectacle of Violence: Homophobia, Gender and Knowledge* (New York and London: Routledge, 2002), 31.



effect of conscious activism to which feminist and queer advocates working on behalf of the issue of lesbian asylum need to attend. The question is: if, as *Unveiled* appears to be implying, refugee law is set up in such a way as to render desire between women experientially and fundamentally unintelligible, how can the lesbian asylum-seeker become visible in a system in which she doesn't exist, in which violence against her takes place through the form of exclusion? Is it possible to create an alternative politics of lesbian asylum from such a site of unrepresentability? Conversely, how can we engage in a politics of lesbian asylum *without* confronting such sites of unrepresentability?

### ***Lesbian Rights, Human Rights***

As *Unveiled* seems to be suggesting, there is a need to think both within and outside discourses of visibility when considering the issue of lesbian asylum. In *Unveiled*, as is made apparent through the denial of Fariba's asylum claim, it is lesbian rights that come to constitute the limits of human rights. For this reason, Maccarone suggests, it is important to advocate on behalf of lesbian rights as a fundamental aspect of human rights, or "human life". Lesbian rights—in this case, the right to asylum—need to be rendered visible because international human rights discourses cannot protect subjects that they cannot "see". *Unveiled* grapples with a paradox that is central to lesbian human rights advocacy, or the tension we are perpetually forced to confront whenever we try to advocate on behalf of lesbian rights as human rights: that is, whether it is possible to both defend and uphold lesbian rights while simultaneously deconstructing the category "lesbian". As Maccarone demonstrates via her deconstruction of the

category of the “human” in *Unveiled*, it is imperative that we get lesbian rights more prominently positioned on the international human rights agenda. It is clearly a matter of great political urgency that we establish lesbianism as a fundamental aspect of human rights, or human life.<sup>76</sup> However, in doing so, we also need to ensure that the category “lesbian” does not become legible solely through a heteronormative and westernized lens. While activism may demand that we elaborate the fiction of lesbian rights for the sake of asylum claims, it is equally important that the term “lesbian” continues to remain opaque. As Eithne Luibhéid has argued in another context, “Unqualified use of the term ‘lesbian’ may arrogate immigrant women’s experiences to [Euro-American]-based paradigms that do not allow for theorization of the ways that immigrant status, allied with experiences of racism, cultural difference and class exploitation, complicates sexual identities”.<sup>77</sup> Asylum adjudicators and advocates, in other words, need to respect lesbian asylum seekers’ fundamental right to differ; how “lesbian” emerges within the context of asylum claims must be answered in historically and geographically contingent terms, for “lesbian” comes to mean different things in different places.

The kind of “lesbian self” produced at the end of *Unveiled* is a complex and contradictory self, the kind of self that emerges at the interstices of both local and global politics. As Afsaneh Najmabadi has observed, although the promotion of transsexuality as a legal alternative to the punishment and execution of homosexuals

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<sup>76</sup> As James Wilts has argued, “It is incumbent upon sexual minorities to demonstrate, through cross-cultural documentation, that sexual minorities are a global phenomenon, of relevance to all cultures and societies, and thus an appropriate object of regulation by international law”. See James D. Wilts, “Conceptualizing Private Violence Against Sexual Minorities as Gendered Violence: An International and Comparative Law Perspective”. *Albany Law Review* 60 (1993): 1022.

<sup>77</sup> Eithne Luibhéid, *Entry Denied: Controlling Sexuality at the Border* (Minneapolis: University of Minnesota Press, 2002), 96.

in Iran has worked, on the one hand, to erase homosexuality by transforming same-sex desire into opposite-sex desire, it has also worked, somewhat paradoxically, perhaps, to open up a space for gay and lesbian existence.<sup>78</sup> Because it is possible in Iran to live a transgendered life without necessarily having surgery, transgendered identity is increasingly being used strategically by Iranian homosexuals as a way of engaging in same-sex activity. As Najmabadi puts it, “The very mechanisms of [the Iranian government’s] project to filter and sort homosexuals from transsexuals depends on turning a blind eye to the ‘space of passing’ across the very walls they have tried to erect”.<sup>79</sup> At the end of *Unveiled*, Maccarone thus leaves us with an ambiguous image of female homoerotic agency, one which alludes to a queer “space of passing”, at the same time as it evokes the reality of transsexual surgery as a “solution” to the “problem” of homosexuality in Iran. In this way, I would argue, the kind of transnational lesbian cinematic consciousness embodied in *Unveiled* provides a useful point of departure for rethinking the relationship between the “local” and the “global” in the constitution of lesbian subjectivities and desires.

With respect to Maccarone’s film, however, we ought to remain wary of the type of transnational lesbian cinematic consciousness that continues to make the subject of queer migration an upper middle-class white body and thus fails to sufficiently challenge the connection between lesbian migration and racial privilege. In *Unveiled*, as in *Maple Palm* and *Gypo*, whiteness is rendered transparent and not interrogated for the inherent privilege it embodies. The fact that Maccarone’s film similarly reproduces the kind of queerness that allows itself to “look white” is

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<sup>78</sup> See Najmabadi, “Transing and Transpassing Across Sex-Gender Walls in Iran”.

<sup>79</sup> *Ibid.*, 33.

especially pernicious given the ways in which successful LGBT asylum cases, like the ones mentioned earlier, have a tendency to reinscribe both white gay norms and racialized sexual stereotypes.

Although *Unveiled* fails to sufficiently interrogate the impact of racial and class privilege on queer mobility and migration, Maccarone's film is nonetheless an important text, I would argue, insofar as it works against the reification of the term "lesbian", encouraging us to view "lesbian" not as a fixed identity category, but rather as a critical space within specific social structures. While asylum and immigration policies continue to generate essentialist constructions of lesbian sexuality predicated on visibility and an identity in the public sphere, *Unveiled* suggests that it is not lesbian identity, but the right to adopt a particular position in relation to desire, that must form the basis of what constitutes the category of the "human" and, by extension, human rights. In doing so, Maccarone attempts to create a "universality without universals" (as Brooke Ackerly has termed it in the context of the implementation of women's human rights), or a human universality that paradoxically appreciates lesbian difference.<sup>80</sup> As Judith Butler reminds us, while there is "a political necessity to use some sign", we need to use it in such a way that its "futural significations" are not "foreclosed".<sup>81</sup> For Butler, following Ernesto Laclau and Chantal Mouffe, it is only by preserving the political signifier as a site of possible "rearticulation" that "democratic promise" can remain alive.<sup>82</sup>

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<sup>80</sup> See Brooke Ackerly, "Women's Human Rights Activists as Cross-Cultural Theorists". *International Feminist Journal of Politics* 3/3 (2001): 311-346 (at 330).

<sup>81</sup> Judith Butler, "Imitation and Gender Insubordination", in Diana Fuss, ed., *Inside/Out: Lesbian Theories, Gay Theories* (New York and London: Routledge, 1991), 13-31 (at 19).

<sup>82</sup> *Ibid.*

In the case of lesbian human rights, while we need to affirm the constitutive role played by lesbian desire in defining the human, we also need to keep both “lesbian rights” and “human rights” open to future articulation. In practical terms, what this suggests is that we use international norms strategically as the basis for developing a cross-cultural theory of lesbian human rights. It is particularly important, as *Unveiled* suggests, however, that we continue to subject categories such as “lesbian rights” and “human rights” to critical scrutiny for the limits of their “translatability”. As Derrida would tell us, translation always constitutes an “imperfect” compromise between two idioms, a process that inevitably requires sacrificing some of our most fundamental categories to possible rearticulation as they encounter the limits of an available system. It is precisely through such a process of translation *as transformation* that the category of the “human” stands a chance of being reconstructed in ways that are more inclusive of difference.

### ***Conclusion***

Angelina Maccarone’s film *Unveiled* is a useful example of how cinematic “translation” of a particular issue—in this case, the politics of representation in the context of lesbian asylum claims—can challenge us to think in new ways about the kinds of strategies we need to pursue in order to effect social change. *Unveiled* is an important text, I believe, insofar as it opens up a crucial theoretical space for deconstructing and reformulating the philosophy of international human rights from the position of one of its most marginalized figures: the lesbian asylum-seeker. That said, a great deal more work is still urgently required that addresses how lesbian rights

are appearing within transnational as opposed to merely national locations. It is particularly important that we continue to connect academic research across both the humanities and social sciences with activism on behalf of immigrant rights more generally. With respect to lesbian asylum claims in particular, there is a need for more nuanced documentation and expert testimony in the form of greater interaction between immigration law and policy and academic scholarship on sexuality. Both LGBT human rights advocates and asylum adjudicators alike must become more aware of critical theories of sexuality in order to better account for the complexities of lesbian lives and lesbian agency.<sup>83</sup>

Afsaneh Najmabadi's work is a particularly good example of how legal advocates representing lesbian asylum-seekers might benefit from the kinds of academic and theoretically-informed comparative transnational analyses that examine the impact of colonial and neocolonial power relations on the formation of sexual subjectivities and desires. When considering sexual orientation asylum claims from Iranian women in particular, Najmabadi's work suggests that asylum adjudicators need to take into account both the possible impact of the legalization of transsexuality on lesbian identity and visibility, along with the ways in which notions of "acceptable" gender inform the emergence of sexual subjectivities and desires in Iran.

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<sup>83</sup> As Valerie Traub has commented on the level of progress that has been made within sexuality studies over the past two decades: "The state of sexuality studies is such that we are now in a position to insist that what is meant by sexual identity be more precisely defined, taking care to differentiate between such concepts as sexual inclination, tendency, preference, predisposition, orientation, consciousness, subjectivity, self-perception, and subculture". See Valerie Traub, "The Past Is a Foreign Country? The Times and Spaces of Islamicate Sexuality Studies", in Kathryn Babayan and Afsaneh Najmabadi, eds., *Islamicate Sexualities: Translations Across Temporal Geographies of Desire* (Cambridge, Mass.: Harvard Center for Middle Eastern Studies, 2008), 1-40 (at 20).

If it is the applicant's story that provides the primary foundation for LGBT asylum claims, then more attention also needs to be given to this aspect of female agency. How do lesbians themselves encounter state power in the form of immigration controls? To what extent does lesbians' active participation in their asylum narratives both contest *and* reinforce existing power dynamics? How do lesbian asylum-seekers challenge the ways in which the state frames their identities? The debate on lesbian asylum needs to account not only for the challenges *to* successful lesbian asylum claims, but rather for the challenges posed *by* successful lesbian asylum claims to international refugee law and state immigration policies alike. If heteronormativity is inherently unstable, as Judith Butler reminds us, where are the spaces of resistance?

In short, asylum as a "gift" bestowed on the lesbian refugee raises important questions about the ways in which women who desire women negotiate their sexual identity when the threat of deportation structures the language they use. As Derrida has argued in *Given Time*, "We cannot be sure that there is ever a gift".<sup>84</sup> If the gift has a destination, then it is not a gift, according to Derrida, but an exchange; the gift is annulled the moment at which it enters the economy of exchange. In this way, the gift produces the receiver at the same time as it creates the sender, a gesture which, as Derrida puts it, "speaks of indetermination but produces determination".<sup>85</sup> The gift, as Derrida understands it, functions as an interruption in the circuit of economy which determines the identity of both the receiver and the sender. As he writes, "It is the receiver who is the determining factor of the gift... It is only the other, at the moment

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<sup>84</sup> Jacques Derrida, *Given Time*. Translated by Peggy Kamuf (Chicago: University of Chicago Press, 1992), 3.

<sup>85</sup> *Ibid.*

of receiving it who decides the destination, and who says “it is me who answers” or “it is mine”’.<sup>86</sup> Derrida encourages us to be aware of the fact that the gift only emerges—becomes “visible”, in other words—at the moment of its annulment. The challenge thus becomes to trace the precise routes and directions through which the gift annuls itself. As Derrida writes, “Know still what giving wants to say, know how to give...know how the gift annuls itself, commit yourself even if commitment is the destruction of the gift by the gift, give economy its chance”.<sup>87</sup>

In the case of the lesbian asylum-seeker, lesbian identity does not exist prior to the gift of asylum but rather becomes part of the economy of gift exchange in a global market. We need to be attentive to the kinds of narratives offered in the form of the gift and ask what the gift of asylum has to tell us about global power relations that limit and circumscribe female sexuality. The ways in which lesbians “appear” within the context of asylum claims cannot be divorced from more general concerns about global security, as manifest in the increasing securitization of immigration post-9/11. The so-called global “war on terror” is being fought in terms of citizenship practices aimed at protecting, proving, and securing identity, by which new methods of surveillance adopted in the wake of 9/11, such as the USA Patriot Act and the British anti-terror legislation, are designed primarily to regulate mobility and authenticate identity. This new “securitization of identity”, whereby border officials and immigration judges read for racial, ethnic, and sexual difference in order to determine the “bogus asylum-seeker” from the “genuine refugee”, means that lesbian asylum-seekers must “look” and “act” like lesbians, arguably more so now than ever before.

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<sup>86</sup> Ibid.

<sup>87</sup> Ibid.



What is clear is that we have a political imperative to contest the kind of “lesbian international” that is emerging within the context of lesbian asylum cases in the West. For, while greater inclusion in mainstream culture can be an indication of progress and social transformation, it can also be a sign of increasing commodification and assimilation. Globalization may have provided LGBT rights advocates with a human rights framework and thus an expanded terrain of intervention; however, its role in the production of a new “lesbian international” is symptomatic of some of the ways in which globalization can also become a site of violence, exclusion and economic oppression. In the case of the lesbian asylum applicant, who is interrogated and subjected to surveillance on the basis of how well she conforms to Western stereotypes of lesbian sexuality based on visibility and an identity in the public sphere, “looking” and “acting” “like a lesbian” has become, quite literally, a matter of life and death. Refugee law, I would argue, is a point at which we can and must begin to contest cultural constructions of sexuality predicated on visibility, a goal which, as Rosemary Hennessey and others have aptly demonstrated, is inextricably bound to consumption and global capitalism.<sup>88</sup>

As I have tried to demonstrate here, despite its complicity with discourses of neoliberalism and global capitalism, film and visual media can nonetheless provide an important site for theorizing visibility and its limits. By its very existence, then, *Unveiled* becomes part of the solution to the problems of invisibility and

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<sup>88</sup> See Danae Clark, “Commodity Lesbianism”, in Henry Abelove, Michele Aine Barale, and David Halperin, eds., *The Lesbian and Gay Studies Reader* (New York and London: Routledge, 1993), 186-201; Rosemary Hennessey, *Profit and Pleasure: Sexual Identities in Late Capitalism* (New York and London: Routledge, 2000); and Alexandra Chasin, *Selling Out: The Gay and Lesbian Movement Goes to Market* (New York: St. Martin’s Press, 2000).

representation it portrays. In the case of *Unveiled*, the film's assertion of lesbian rights becomes an important way of intervening in the social and political process by which the "human" is rendered culturally intelligible. Moreover, through its focus on pleasure and desire, rather than visibility and identity, *Unveiled* queers human rights and, with it, "lesbian" as a political signifier. For, as *Unveiled* shows, in a world where sexual rights are increasingly being articulated in the language of human rights, "lesbian" as a political rallying point for something called "lesbian asylum" needs to stand. As *Unveiled* also suggests, however, what "lesbian" in the context of asylum comes to mean should remain permanently open to question.

## CONCLUSION

As this dissertation has sought to demonstrate, while lesbian independent cinema is showing clear signs of moving in a transnational direction post-9/11, it needs to go much further in terms of addressing the connections between lesbian rights and the cultural politics of neoliberalism. Neoliberal principles, as the previous chapters have shown, profoundly affect how we come to conceive of and imagine lesbian rights within a transnational frame. The fact that neoliberal ideologies continue to be reproduced across numerous sites—popular culture, immigration policy, and lesbian human rights activism alike—means that we need to remain vigilant at all times. How filmmakers and visual artists frame lesbian desire in this context thus becomes crucial. As Hannah Arendt reminds us, the framing of rights discourses (literally: the right to have rights) has been, and will continue to be, one of the most significant of all political decisions.<sup>1</sup>

In the case of transnational lesbian cinema, what becomes clear is that we need a transnational lesbian cinematic consciousness that engages with the problem of white privilege in a more substantive way. The latter becomes increasingly urgent in view of the ascendancy of neoliberal political ideologies and the kinds of queer politics that call for sexual equality without attending to matters of race and class. The category of transnational lesbian cinema needs to account for race and class, together with gender and sexuality as organizing principles within the context of migratory discourses and human rights narratives alike. The key challenge for transnational

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<sup>1</sup> See Hannah Arendt, *The Origins of Totalitarianism* (London: Secker and Warburg, 1951).

lesbian cinema is that of representing the complexities of sexual desire in a globalized world when the vast majority of advocacy seems to demand strategies of simplicity. Articulating a political economy of rights—a politics not just of legal and cultural recognition but of redistribution—is essential amidst neoliberal attempts to privatize subordination. It is precisely the above objective, however, that a transnational lesbian cinematic consciousness must strive to accomplish if it is to become a progressive force for social, cultural and political change. As I have argued here, by critically engaging with cultural representations of lesbian rights, we can begin to imagine alternative modes of advocacy that are more inclusive of difference. For, within queer and transnational cinema, lesbians *do* cross borders. The question we need to keep asking ourselves is: at whose expense?

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