

# Refugee legal reforms will have a disproportionate impact on sexually diverse asylum claimants, UK study warns

October 18 2023

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Refugee legal reforms will have a disproportionate impact on sexually diverse claimants, academics have warned.

Researchers have said the Nationality and Borders Act is a missed opportunity to resolve other issues about how to make clear assessments about people's sexual backgrounds and this means that potentially inaccurate decisions will continue to be made.

The commentary, by Alex Powell, from Oxford Brookes University, and Raawiyah Rifath, from the University of Exeter, is published in the journal [Legal Studies](#).

It says the UK government should urgently provide details of how processes of individual assessment, such as those required to be undertaken before any prospective claimant might be transferred to Rwanda under the memorandum of understanding between the UK and Rwanda, will be undertaken.

Dr. Powell said, "Given the lack of any framework of secondary legislation, it is not clear how the question of whether or not a country is safe for a given claimant will be addressed."

The Nationality and Borders Act has created new barriers to asylum claims and this may substantially limit the ability of many claimants to rely on refugee protection in the UK.

Rifath said "The well-established impact of trauma on memory, the limitations on the ability of many claimants to procure objective evidence from their country of origin, and barriers faced while attempting to gather evidence in the UK makes it very hard for people to navigate asylum claims."

"The nature of sexual diversity claims means that claimants often have very limited access to 'objective' tangible evidence expected by the Home Office, this results in their claim heavily relying on their oral testimony and narrative during their substantive asylum interview."

Dr. Powell said, "In recent years there has been a switch from 'discretion' to disbelief, acts as the main barrier for claimants attempting to seek asylum on the basis of their sexual diversity. In the context of the changes to the standard of proof, and the increased focus on the journeys those seeking safety have taken to get to the UK, there are many areas where this disbelief may become exacerbated."

Rifath said, "The Home Office asylum policy instructions guide decision-makers to seek stereotypical and linear narratives from sexually diverse [asylum](#) seekers. These narratives are problematic given the diverse cultures and experiences of claimants. These concerns with Home Office decision-making are an ongoing issue and the legal changes are unlikely to result in improved decision-making."

"We are concerned the changes will contribute to the wider masculine way in which Refugee Status is understood, able to comprehend the claims of those who are engaged in public actions which are self-evidently political, but largely unable to comprehend those whose persecution or nexus grounds occur in private or outside of public view."

As predicted by the commentary, the Government has now abandoned aspects of the Nationality and Borders Act 2022, including the two-tiered approach to protection claims while expediting the Illegal Migration Bill.

**More information:** Alex Powell et al, Sexual diversity and the Nationality and Borders Act 2022, *Legal Studies* (2023). [DOI: 10.1017/lst.2023.21](https://doi.org/10.1017/lst.2023.21)

Provided by University of Exeter

Citation: Refugee legal reforms will have a disproportionate impact on sexually diverse asylum claimants, UK study warns (2023, October 18) retrieved 22 July 2024 from <https://phys.org/news/2023-10-refugee-legal-reforms-disproportionate-impact.html>

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