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When Vulnerability is at Stake:
The Struggles of Asylum Seekers in Marseille



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When Vulnerability is at Stake: The Struggles of Asylum Seekers in Marseille

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Abstract

'Vulnerability' is increasingly propagated and contested in international and domestic governance of migration and international protection. In this article, I draw on participant observation and interviews with governance actors, civil society organizations, and migrants in Marseille to discuss the struggles that take shape around the understanding and operationalization of vulnerability on the ground. I argue that in their current form, vulnerability assessments mainly serve a 'filtering' function to narrow down access to the 'material conditions of reception'. The French authorities do this, not only by prioritizing pre-defined categories of 'vulnerable people', but also through increasingly narrowing the scope of who are included in specific categories. This was particularly evident in the essentialized, but also contradictory, approach to gendered vulnerabilities. Civil society organisations and migrants make strategic, political and affective use of the notion of vulnerability in ways that sometimes uphold state uses, or that may inadvertently uphold and produce structural inequalities. At the same time, such actors also importantly challenge the filtering function of vulnerability and the authorities' failure to take into account the state's structural implication in the production of migrants' precarity.

Keywords: asylum seekers, vulnerability, France, migration governance

Introduction

In March 2020, as I was waiting for one of my interlocutors outside the first reception office for asylum seekers in Marseille¹, I noticed that a poster had been taped to the window. Through illustrations representing various categories of people, we were informed that pregnant women, girls, elderly people, people whose mobility, hearing or seeing are impaired, and those in need of a translator, would be prioritized only on Tuesday afternoons. The poster was one indicator among many that concerns with 'vulnerability' were becoming ubiquitous in the governance of migration and asylum in France, reflecting a broader 'vulnerability turn' in global and regional pacts, international and domestic legislations, and policy interventions in the field of migration and international protection (Flegar 2018, Atak, Nakache, Guild and Crépeau 2018, Leboeuf 2021). As I carried out my fieldwork, I learned that the stakes surrounding vulnerability were high, and that in Marseille the question of how vulnerability is understood and operationalized was at the centre of important struggles between actors invested in the reception of asylum seekers, and asylum seekers themselves. It is these struggles around the rapidly expanding use of the designation of 'vulnerable' that I am interested in exploring. Through unpacking these struggles from the point of view of differently situated actors, this article contributes to the growing literature that critically examines the meanings and functions of vulnerability in the governance of migration and international protection, as well as studies of gendered humanitarian government and the dynamics of the care/control nexus in humanitarian action (Fassin 2001, Ticktin 2011, Freedman 2018, Sözer 2020, 2021).

¹ Structures de premier accueil des demandeurs d'asile (SPADA), previously called Plateforme d'accueil de demandeurs d'asile (PADA), where those who intend to seek asylum pre-register for an appointment with the French Immigration and Integration Office, Office français de l'immigration et de l'intégration (OFII).

Following a contextualization of the Marseille case and a discussion of methods used, I situate the contribution of this article in relation to existing literature on vulnerability and the governance of migration in France. The next sections discuss in some detail how vulnerability as a ‘travelling concept’ made its inroads into French migration legislation and governance. I demonstrate how governance through vulnerability mainly serves a ‘filtering’ function on the ground, producing a hierarchy of rights and scales of deservingness. This filtering happens not only through the prioritization of specific categories of ‘vulnerable persons’, in the way indicated by the poster at the first reception office, but also through redefining and narrowing down the scope of who gets recognised as belonging to the categories. The three subsequent sections pay attention to how understandings and operationalizations of vulnerability are both reproduced and contested by CSOs and migrants themselves. In particular I pay attention to essentialising, albeit contradictory approaches to gendered vulnerabilities. Civil society organisations and migrants make strategic, political and affective use of the notion of vulnerability in ways that sometimes uphold state uses, or that may inadvertently uphold and produce structural inequalities. At the same time, such actors also importantly challenge the filtering function and the authorities’ failure to take into account the state’s structural implication in the production of vulnerability. The last part of the article is concerned with how actors challenge the state’s implication in the structural production of vulnerability through withholding material and legal assistance to those who are not recognised as vulnerable.

Context and methods

Marseille is the second largest city in France, with close to 900 000 inhabitants. Historically, in particular its port function has made Marseille a privileged place for migrants to enter the country (Temime, Echinard and Sayad 2007). Geographically, Marseille is situated in the midst of the EU southern borders and Mediterranean migratory routes, with an approximate three-hour drive to the Spanish and Italian borders. The number of persons seeking asylum in the Provence-Alpes-Côte d’Azur region increased threefold between 2015 and 2018, with 7200 demands in 2018 up from 5118 the year before. A one-stop reception desk³ in Marseille centralises applications for 4 of the 6 departments in the Provence region: Bouches-du-Rhône, Vaucluse, Alpes-de-Haute-Provence and Hautes-Alpes. In 2018, 4,796 applications were recorded by the one-stop reception desk, an increase of 20% compared to the previous year (Mésisni and Dahdah 2021). This progression continued in 2019. The number of persons seeking asylum decreased during the COVID-19 pandemic, but picked up again in summer 2021 (Préfecture de la région Provence-Alpes-Côte d’Azur 2020).

The article is based on ethnographic fieldwork conducted in Marseille in shorter periods between 2020 and 2022.⁴ Fieldwork included a combination of participant observation, semi-structured interviews, and collaborative creative methodologies. Due to restrictions related to the COVID-19 pandemic an initial mapping of actors was conducted based on online ethnographic research, including mining data from publicly accessible webpages, and participating in Facebook and e-mail groups of relevant actors. On-site participant observation was conducted in two selected grassroot CSOs in 2020 and 2021. The core activities of the

³ Guichet Unique pour Demandeurs d’Asile (GUDA).

⁴ The fieldwork was conducted in collaboration with Pascaline Chappart. Chappart has also co-authored the reports upon which this article builds, e.g., Chappart 2021, Jacobsen and Chappart 2021a, Jacobsen and Chappart 2021b, Jacobsen and Chappart 2022.

first organization included the distribution of necessities and orientation towards various support structures, mainly to newly arriving migrants. The other organization regularly arranged socio-juridical ‘permanences’ (reception without appointment) and food distribution, as well as some cultural activities, and mobilized to contest dysfunctions in the asylum reception system.

Adding to the participant observation, 15 interviews were conducted with three types of actors: a) Local authorities and state operators (*opérateur de l'état*).⁵ b) Civil society organizations selected for their diversity in spatial reach and activities in the domain of law, health and basic needs. c) Migrants who were or had been seeking asylum, recruited through the two organizations in which participant observation was carried out and through a reception centre specialized in housing those identified as vulnerable by the authorities. The interviews were semi-structured and conducted at the researchers' residences, in the interlocutors' homes, or other suitable location of the interlocutors' choice. Interviews were digitally audio-recorded and transcribed, or recorded by note-taking, and analysed together with the ethnographic material produced during participant observation. To ensure anonymity all names appearing in the article are pseudonyms. The research received ethical clearance from the Data Protection Officer at the author's university, and efforts were made to maintain high ethical standards throughout the research process, including notably efforts to avoid causing harm to research participants during and after fieldwork.

Analytical perspectives on vulnerability and the governance of migration in France

This article contributes to the literature that critically examines how diverse discourses and practices concerned with ‘vulnerability’ increasingly inform how a range of social issues are understood and addressed (Brown 2017: 667), including in the domain of migration and international protection (Sözer 2020, 2021, Lebeouf 2021, Lind 2020, Heidbrink 2021). It also engages with studies of gendered humanitarian government and the dynamics of the care/control nexus in humanitarian action (Fassin 2001, Ticktin 2011, Freedman 2018, Sözer 2020, 2021). In France, important contributions to this literature have been made within the field of medical anthropology around the question of healthcare for migrants. Fassin (2001) argues that in the course of the 19080s, a humanitarian rationality focused on the suffering body of the foreigner gained a new legitimacy in French migration management and asylum politics. The introduction of a so-called ‘illness clause’ into migration law, made unusual pathologies a road to residency papers for the few, while the majority of undocumented migrants were increasingly criminalized as ‘illegal’ (Ticktin 2011). Through the implication of care for ill bodies in migration regulation, illness came to constitute a last resort for legitimate presence on French territory, thus creating what Ticktin refers to as ‘casualties of care’ (Ticktin 2011).

⁵ State operators are public or private bodies entrusted with a public service mission by the State. Placed under the direct control of the State, they are mainly financed by it and contribute to the performance of the programmes in which they participate. Despite repeated efforts, the local representatives of state authorities were impossible to reach for interviews for this project.

Ticktin argues that the focus on ‘care’ rather than ‘rights’, based on ideas of bodily vulnerability, legitimises the control states exercise over populations residing on their territories, including controlling the presence of (undocumented) migrant populations (Ticktin, 2011). Importantly, Ticktin also demonstrates that who is recognised as vulnerable shifts over time. With increased attention to, and medicalisation of, the global problem of violence against women, the ability to elicit compassion and care increasingly shifted towards the gendered vulnerabilities of women, Ticktin argues.

In a study carried out in France and Greece between 2015 and 2018, Freedman (2018) continues this line of inquiry. Discussing how the notion of vulnerability has been integrated into EU policies, Freedman examines how being labelled vulnerable impacts on women in the French and Greek context. Based on interviews with women in a situation of migration, Freedman criticises the vulnerability label for portraying women as ‘passive subjects in need of humanitarian protection’. As a gendered and racialized concept, vulnerability may reinforce stereotypical representations of migrant women (and Muslim women in particular) as passive and without agency, and reduce them to what they feel is an ‘inferior’ status where their own autonomous strategies and projects are undermined, she argues.

A recurring critique of the concept of vulnerability as a tool of both social policy and social science analysis is precisely that it draws attention to the assumed characteristics of those at the margins of society rather than to structures that produce social inequality (see e.g. Fassin et al. 2000). To illuminate how mutually reinforcing economic and social inequalities become embodied by the most marginal populations, some scholars have mobilised the notion of ‘structural vulnerability’ (Quesada et al. 2011, Holmes 2019). In her works on migrants’ health in France, Musso (2017), criticises the tendency to see vulnerability as intrinsic to certain categories of persons. Foregrounding rather a structural understanding of vulnerability, she argues that vulnerability is produced by the political, legal, economic and social constraints that shape contemporary mobilities, and affects migrants in a non-homogenous way. In her in-depth ethnographic fieldwork at the Minowska Centre in Paris, Laranché (2020) exemplifies how health care for migrants changes when ‘migrant suffering’ is approached through the notion of ‘structural vulnerability’. While a categorical approach to vulnerability that ties it to pre-defined categories of people produces a hierarchy of rights and scales of deservingness, a structural vulnerability approach acknowledges the ways in which people’s positionality within social structures produce inequalities that unequally expose them to harm and illness.

A structural approach to vulnerability has also been foregrounded by the Marseille Asylum Observatory (Observatoire Asile Marseille, 2018, Mésini and Bonis , 2021, Mésini and Dahdah 2021). The Observatory was initiated by the Hopsitality Network⁶ in 2017, as an inter-associational collaboration aiming to document the precarious situation of asylum seekers in Marseille. The testimonies collected in 2017-2018 from asylum seekers and accompanying persons, they argue, show that there are ‘systemic failures’ in the administrative and logistical processing, which violate the human dignity and integrity of persons in a situation of migration. The Marseille Asylum Observatory importantly draws attention to how the restriction of material reception conditions to those deemed particularly vulnerable can itself create vulnerability among migrants and serve to rationalise what Mésini and Dahdah (2021) refer to as politics of dissuasion and a ‘reception with closed arms.’

⁶ Réseau Hospitalité is a sanctuary network created in Marseille in 2006. The term ‘sanctuary’ tends to be replaced by ‘hospitality’ in France because of the formers’ religious connotations which rings uneasy in the context of secularism (*laïcité*).

Vulnerability's inroads into French migration legislation and governance

Vulnerability is becoming omnipresent in mobile policy texts, in the media, in the vocabulary of migrant rights organizations, in courts, as well as in research on migration and international protection. As suggested by Thomas (2008, cf. also Bal 2002 Leboeuf 2021) vulnerability can be characterized as a 'travelling concept'. The concept of vulnerability travels across scientific disciplines in which it receives different meanings and functions and across policy fields in which it faces diverse practical challenges. It also travels across geographical borders. The inroads of vulnerability into French migration governance more specifically can be traced both through its emergence as a category of public policy in the late 1960s and 1970s (Thomas 2008, Brodiez-Dolino 2016) and through 'travelling' international discourses. The 1951 Convention on the Status of Refugees, to which France is a signatory, does not refer to the specific situation of some groups of refugees who may be more vulnerable than others. Such references, however, have made headway in humanitarian discourses related to management of refugee situations (Sözer 2020, 2021) and been included in later policy recommendations from the UNHCR and IOM (Flegar 2018). Leboeuf (2021: 10) traces the 'journey' of vulnerability from UN policy discourse on aid and development into that on migration and asylum and argues that it contributes to the latter's 'humanitarianization'. The concept is by now proliferating in various conventions and policies, including the Global Compact on Refugees (GCR) and the Global Compact for Migration (GCM).

While France is a signatory to these compacts, they are not mentioned in the French national legal framework nor in policy plans. The introduction of the framework of vulnerability into the French legislation on migration and asylum, can be traced rather to the 2015 transposition of the EU directive on reception conditions of asylum seekers (2013/33/EU) into the *Code of entry and residence of aliens and the right to asylum* (CESEDA). It specifies that the French Office of Immigration and Integration is responsible for conducting a 'vulnerability evaluation' to determine whether an asylum seeker has specific reception needs and to inform them about their right to a free of charge health examination, and lists a series of categories that vulnerability assessments aim at identifying, including minors, unaccompanied minors, people in a situation of disability, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons suffering from serious illnesses or mental troubles, and persons having been subjected to torture, rape or other serious forms of psychological, physical, or sexual violence, such as female genital mutilation. The law further states that the specific situation of vulnerable persons will be taken into account in the implementation of asylum seekers rights during the entire instruction period.⁷ The need to take vulnerabilities into account is also acknowledged in the national reception schema and the new regional schema for Provence-Alpes-Côte d'Azur, which focuses in particular on the challenges associated with delays in lodging

⁷ Vulnerability can also be assessed as a factor in the asylum case and be considered a ground for (complementary) protection. In this article, I do not discuss the understanding and operationalization of vulnerability in regard to the question of who obtains protection, but only with respect to reception conditions.

asylum reception claims and thus in the identification and assessment of applicants' vulnerabilities.⁸

In 2020, France was convicted by the European Court of Human Rights for violating the prohibition of inhuman or degrading treatment (article 3) of the European Convention on Human Rights in a case involving three asylum seekers.⁹ The applicants, a 27-year-old Afghan, a 46-year-old Iranian, and 33-year-old Russian waited months for acknowledgement that they had lodged asylum claims, and in the meantime were not able to access housing, did not receive the financial allowance for asylum seekers, were not allowed to work and were at risk of deportation. The applicants argued that the French government seemed not to identify asylum seekers as a particularly disfavoured and vulnerable population. To its defence, the French government argued that due to a temporary saturation of the reception structures, national authorities had prioritized those justifying a particular vulnerability related to their age, their health, or their family situation. The court, however, recognised the applicants as victims of degrading treatment and a lack of respect for their dignity. French authorities were responsible for the conditions in which the applicants had been living for several months: sleeping rough, without access to sanitary facilities, having no means of subsistence and constantly in fear of being attacked or robbed, the court concluded.

In the aftermath, the Interior Ministry adopted a 10-point Vulnerability plan to reinforce the '*pris en charge*' (care) of refugees' and asylum seekers' vulnerabilities. The plan states that: 'The women, men and children who seek asylum in France have often fled atrocities and come to us at the end of a long and difficult journey of exile, which has left a lasting impression. Whether they are suffering from psycho-trauma, are victims of violence, unaccompanied minors, people with physical disabilities or applicants who are vulnerable because of their sexual orientation and/or gender identity, these profiles are now more numerous, and their vulnerable situation requires appropriate care from the moment they arrive.' (*Ministère de l'intérieur* 2021: 3). While intending to strengthen the accompaniment of vulnerable people, the understanding of vulnerability in the action plan and training continues to focus on 'visible' and 'innate' vulnerabilities. The structural vulnerabilities addressed in the condemnation by the European Court of Human Rights produced by the treatment to which asylum seekers are subject in France remain beyond the policy scope.

Identifying and assessing vulnerability

In France reception procedures related to asylum are largely under prefectural execution. The officials of the French Immigration and Integration Office (OFII), present at the one-stop reception desk in Marseille, use a brief questionnaire found in a circular from 2015, to identify those who have specific 'adaptation needs'.¹⁰ The questionnaire lists 'pregnant woman' (asking for the due date to be specified), sensorial disability (seeing, hearing, or speaking), reduced mobility, assistance needs in daily life, and spontaneously reported health

⁸ Schéma national d'accueil des demandeurs d'asile et d'intégration des réfugiés et du dispositif d'orientation régionale (2021-2023) and the Arrêté relatif à l'actualisation du schéma régional d'accueil des demandeurs d'asile et des réfugiés pour la période de 2020 à 2022.

⁹ N.H. and others v. France.

¹⁰ Arrêté du 23 octobre 2015 relatif au questionnaire de détection des vulnérabilités des demandeurs d'asile prévu à l'article L. 744-6 du code de l'entrée et du séjour des étrangers et du droit d'asile. <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000031400890>

problems. The listing considerably reduces the scope established by the EU reception directive and French law. This narrowing down has been criticised by civil society organizations, for instance by the organization ASILE, who argues that the questionnaire reduces vulnerability to what is seen as ‘visible embodied factors’ or ‘objective’ vulnerability.¹¹ Researchers (e.g. Laranché 2020, Freedman 2018) have also criticized the limited scope of the questionnaire for lacking a more complex idea of vulnerability as not a physical or intrinsic quality, but a contingent, contextual, and multi-layered construction. The strong focus on health issues confirms the argument made by Fassin (2011) and Ticktin (2011), that the ill body has gained a particular legitimacy in the French governing of migration.

The introduction of the ‘single desk’ system in 2015 was intended to reduce delays relating to registration and avoid long lines of people waiting in front of Prefectures. However, in practice this additional step led to more complexity and delays in accessing the procedure. Waiting times in Marseille could be as long as three months for an appointment to lodge an application at the one-stop reception desk (see Jacobsen, 2020, Mésini and Dahdah, 2021 Observatoire Asile Marseille, 2018). This waiting period has been identified by local activists and in several studies as crucial to the vulnerabilization of asylum seekers, since it implies postponing vulnerability assessments and access to full rights as an asylum seeker. Waiting times have been significantly shortened since 2020, approximating the stipulated delay of three working days, or ten in periods of exceptional influx. A report from the Court of Auditors¹² recalled however the existence of "hidden delays" preceding access to the first reception office and stressed that "making people wait several weeks or even several months before the deposit of their request and the assessment of their vulnerability is unsatisfactory not only with regard to their rights but also for the effectiveness of the asylum system". Delays are far from the only concern, though, as some of our interviewees told us that the vulnerability evaluation was not carried out during their appointment, or that it happened without an interpreter. Some had only been asked the first set of questions in the questionnaire, which concerns whether they were currently housed by family, third persons, or in emergency housing – in which case the financial aid they receive would be reduced.

Vulnerabilities can also be identified and signalled by the first reception office.¹³ According to one of our interlocutors at this office, some migrants would feel more comfortable speaking about their vulnerabilities there, than at the Prefecture, which is framed as a site of policing and border control. Our interviews confirm the observations of Jacobsen (2000), though, that vulnerability assessments at the first reception office are far from systematic. At later stages in the asylum process, vulnerabilities may also be detected and signalled to the French Office of Immigration and Integration by professionals at asylum reception centres, who are offered some training in the identification and care for vulnerable publics as a follow up to the vulnerability plan. However, interlocutors reported that the

¹¹ https://asile-en-france.com/index.php?option=com_content&view=article&id=9:la-vulnerabilite&catid=8&showall=1&Itemid=117

¹² Cour de Comptes.

¹³ OFII, 2018, “ Prestations de premier accueil des demandeurs d’asile”, Cahier des clauses Techniques Particulières - (C.C.P.) ”, Marché n° 190002.

reception centres had little autonomy with respect to the identification and follow up of vulnerable asylum seekers, and that allocation of accommodation mainly followed lists established by the Préfecture. A challenge with this is also that assessments tend to be ‘frozen’ as it is inscribed in an asylum seeker’s personal file (cf. Heidbrink 2021). Some continued to figure as vulnerable and thus eligible for, for instance, prioritized housing, despite their health situation having improved, while others whose conditions have worsened were not listed as vulnerable. From 2018, vulnerability assessment can also be carried out by the agents of the French Office of Immigration and Integration in detention centres in view of the possible need to adapt the conditions of detention, or its continuation, thus extending the scope also to some migrants categorized as in an irregular situation by the state.

Gendered vulnerabilities

Across the three categories of authorities, civil society organizations and migrants, interviewees uniformly presented ‘women and children’ as particularly susceptible to harm, suggesting that ‘women have an unchanging vulnerability and need protection and care by the state or other paternal powers’ (Butler 2015: 140). Within a paternalistic and patriarchal understanding of gender and vulnerability, women are generally seen as more vulnerable when single and thus without a ‘male protector’. Men, on the other hand, become the ‘designated invulnerable’ (Sözer 2021, Palillo 2022), as demonstrated by the argument of the French state in the *N.H. and others v. France*, that young, single male asylum seekers in good health were not vulnerable enough to be cared for.

The gendering of vulnerability also has consequences for how vulnerability is operationalized in the practices of civil society organizations who assist migrants in their struggles vis-à-vis the authorities. As one of our interlocutors, from an organization that accompanies newly arrived migrants explained: ‘A woman with children will move the administration much more easily, and the administration has certain capacities to support women and children. So we certainly examine the situation more carefully when a woman and children knock on our doors than when a young person asks for support because we know that he has no chance and that we’ll waste our time looking everywhere for something that is impossible [...]. For a young man, it’s true that we are not really searching that much, because we know that he won’t get anything.’ In attempting to obtain assistance for migrants within the given frames, CSOs may thus end up reproducing particular paternalistic and essentializing understandings of gendered vulnerabilities, by foregrounding the vulnerability of women and children.

Civil society organizations and women seeking asylum sometimes used the gendered underpinnings of vulnerability strategically, to mobilize support and access material reception conditions (cf. Mesarič and Vacchelli, 2021). At the time we interviewed them, Joy and Important were waiting for an answer to their asylum claim. They told us how they had been struggling to get accommodation. Being the parents of a toddler and Joy being pregnant, they were offered a short-term stay through the Service Plus in a hotel used for emergency housing. However, the sanitary conditions were extremely poor, and the rooms infected by bedbugs. The authorities offered no alternative, and moving out would mean that they were back on the street. Joy explained that someone from a civil society organisation had taken her to a shelter for women victims of violence, ‘If this organisation knows that you have no problem with your husband or that you are still living with your husband, they don’t house you’. Joy was allowed to stay while they looked for another solution, but Important was not

allowed to stay with her, ‘They said they can't take care of me, only my wife and children. I accepted that because... Sometimes I slept outside, I slept at my friends' houses, but at least they [my wife and my kids] were safe.’

While understandings of women’s vulnerability were sometimes used strategically, women’s vulnerabilities were frequently presumed to be inherent to their gendered bodies, e.g., being seen as physically weaker than men and thus less capable of getting by on the street. Such inherent understandings of women’s vulnerability tend to be mixed in laws, policy documents and practical operationalization with more situational understandings of gendered vulnerability. Situational understandings may focus for instance on harm related to rape, sale of sex, or domestic abuse. Women were generally understood as more exposed to gender and sexual violence in the situation of migration. Civil society organisations who offer accommodation or juridical support sometimes focus on particular groups, such as minors or women victims of violence or trafficking. Through such specialization, they partake in the categorization and filtering of vulnerable migrants. Specialization around particular vulnerabilities is underpinned by funding structures, which makes funding available for work directed at vulnerable populations pre-defined by the state. The use of so-called ‘public contracts’ to select service providers for reception measures, have incorporated many CSOs into such a budgetary logic.

Women were more easily recognised as vulnerable by state authorities, organizations, and migrants themselves, but some interviewees explicitly challenged the representation of young men as ‘designated invulnerable’, pointing out the tabus surrounding men’s experiences of gender and sexual violence, including rape. Such violence was experienced most often during transit in Libya, but male interlocutors also reported having been exposed to both sexual and racialized aggressions and fearing violence while sleeping on the streets in Marseille or working in the informal economy. While gendered vulnerabilities tended to be understood within a heteronormative frame, non-normative gender expressions and sexuality has received increased attention recently. The Interior Ministry published a national call for expressions of interest in establishing specialised reception places for vulnerable LGBT+ persons in 2021. The call specified that ‘this is not a question of creating additional places, but rather of specialising existing places for the reception of this public, at constant cost, since these places do not require any development likely to generate additional costs.’ Such calls have implications for CSOs who are contracted as state operators in particular, in that they entail prioritization of vulnerable categories pre-determined by the state, rather than a more context sensitive approach on the ground, where resources for adapting to ‘special needs’ are already very limited.

While given some attention in recent policy plans, non-normative gender expressions and sexuality are not likely to be identified in the assessment process, since it is not addressed in the vulnerability assessment conducted by the French Office of Immigration and Integration at the one-stop reception desk. Moses, one of our West-African migrant interlocutors, a young homosexual man who had worked in prostitution in Libya and France, told us that during his interview with the French Office of Immigration and Integration no vulnerability evaluation had been conducted besides asking if he was sick and needed to see a doctor. Moses and others were hesitant to speak up about their non-normative gender and sexual identities during the brief interviews with OFII, since they did not feel safe. Some LGBT+ asylum seekers highlighted how non-normative gender and sexual orientation also exposed them to marginalisation from the informal networks of support among compatriots that many rely on

for getting by in a context of very limited support from the state.

The identification of situational vulnerability is sometimes hailed as a means of broadening the protection scope beyond pre-fixed essentialized categories. However, as we see from the cases above, situational definitions can also be mobilized to narrow the scope of protection measures, as for instance when the essentialised understanding of women as vulnerable is replaced by a woman being vulnerable due to having been subject to trafficking or having left her husband because of domestic abuse. Furthermore, while situational understandings of vulnerability may allow for a more intersectional and less essentialized approach to gendered vulnerabilities, they tend to remain focussed on the individual rather than on national or transnational economic, political forces, or on large structural issues affecting all asylum seekers (cf. Brown, Ecclestone and Emmel, 2017).

‘Who are the vulnerable?’

The way in which vulnerability is understood and operationalized by migration authorities has turned it into a ‘filtering’ mechanism which determines access to material reception conditions, notably accommodation in asylum reception centres. This makes the question of whose vulnerability is recognised a site of contention. The polysemy and malleability of the concept as it is deployed across various legal texts, policies, social domains etc., the shifting operationalization of the concept by institutions, and the lack of transparency around criteria used by the administration to identify vulnerability, made it opaque and elusive to asylum seekers and other migrants, and those assisting them. To quote a representative of an organization assisting travellers and newcomers at the railway station, ‘The current interpretation of the notion of vulnerability by the administration seems rather elusive, hence the even greater vulnerability of their [migrants’] situation.’¹⁴ The representative here importantly points to the ways in which missing explicit rationales for differential treatment and opaque exercise of administrative discretion may produce and perpetuate vulnerability. The burden is put on migrants to fit into and prove their vulnerability through elaborate ‘truth procedures’ (Fassin 2001), without the criteria according to which they will be assessed being clear. As one of our interlocutors put it, this makes it ‘very difficult to get the OFII to name you vulnerable’.

The elusiveness of the notion of vulnerability as interpreted and operationalized by the administration was precisely the target of a manifestation arranged by a self-organized group of asylum seekers (Association of the Pada’s Users, AUP) in July 2021. The association was founded in March 2020 to fight for the rights of asylum seekers and to denounce the failure of the administrations in charge of asylum and the state-operator running the first reception office to uphold these rights.¹⁵ Increasingly known among asylum seekers, the asylum seekers’ organization currently gathers more than 500 members, from 25 different countries. The demonstration took the form of a direct interpellation of the French Office of Immigration and Integration (OFII). As one of the demonstrators asked during his speech: ‘Is a person without resources not vulnerable? OFII, tell us what vulnerability is? We don't understand. Who are the vulnerable people? OFII, take your responsibilities! Respect our

¹⁴ Translations from French texts and interviews were done by me.

¹⁵ The SPADA in Marseille is run by a non-profit CSO called Forum réfugiés-Cosi whose stated goals are the reception of refugees, the defence of the right to asylum and the promotion of the rule of law.

rights!’ Two banners dedicated to women and mothers at the front of the march asked: “Isn’t a pregnant woman vulnerable? Isn’t an isolated woman with children vulnerable?”, challenging thus the practice of the French Office of Immigration and Integration of not offering housing to all pregnant women and mothers with children, and revealing the gendered dimension that structures understandings of vulnerability (Chappart 2021).

To get clarity in how authorities understood and operationalized the notion of vulnerability, members of the asylum seekers organization had also obtained a meeting. This meeting only partly cleared things up, though: ‘We found it hard to understand how the authorities apply the criteria of vulnerability, so we went to talk to them. They told us it was first and foremost people who are very ill who are vulnerable enough to get housing’, explained one of the asylum seekers who participated at the meeting. ‘You have to fall sick to get accommodation’, another person told us. This was the case of Nicola, who was waiting for an answer to his asylum application at the time we interviewed him. After having alternated between the street and emergency housing for several months, he was provided with a ‘vulnerability certificate’ upon the detection of a disease. ‘I have proved my vulnerability now, and I am waiting for an answer whether I can get a place in an asylum reception centre’, Nicola told us. Illness seemed also to impact on the recognition of other vulnerabilities, including gendered ones. Inquiring about the lack of housing for pregnant women, one of our interlocutors had been told that ‘pregnancy is not a disease’. Hence the practice of demanding a medical certificate also from pregnant women. As these examples show, the narrow criteria of vulnerability deployed by the French Office of Immigration and Integration, seemed to have coalesced around the legitimacy of the ‘ill body’, easily invested with compassion, but recognised only as a form of biological life to be saved (cf. Ticktin 2011, Fassin 2011). The attention to ‘serious illness’ in vulnerability assessments, rarely acknowledged that health issues may in fact be a consequence of the precarious living situations for those who are not offered shelter

Indeed, some of our CSO interlocutors referred to the ‘illegality’ of the way state authorities and certain state operators defined and operationalized vulnerability criteria, withholding legal and social assistance from the wider group of asylum seekers. They also challenged the legitimacy of these by bringing selected cases before the court (Mésini and Bonis 2021). In December 2018, the interim relief judge of the Marseille administrative court considered that the deprivation of decent reception conditions constituted ‘a serious and manifestly illegal infringement of the constitutional right to asylum’ and enjoined the French Office of Immigration and Integration to grant ‘material reception conditions’ to two parents and three children who had ‘left Syria owing to persecution’ (Mésini and Dahdah 2021).

In the recent judgment in a case brought before the court by a collective of civil society actors, the State was convicted for illegally restricting reception criteria in the Provence region (La Provence 24.11.2022).¹⁶ One of our interlocutors, who had been working closely with the local administration around housing issues, told us about the background. As the number of families arriving in Marseille increased without a similar increase in reception places in the aftermath of the ‘long summer of migration’, the categories of vulnerability were narrowed down and redefined. She told us, ‘I was discussing this with the State and the Prefecture, and then one day a representative of the State said that it was too expensive and from now on we had to find a less expensive solution. I replied that according to the law, we were obliged to find accommodation for families with minor children. The State

representative replied that then we would have to review the majority age.’ The Marseille Asylum Observatory (2018) documented the subsequent restriction of vulnerability criteria allowing asylum seekers to access the so-called ‘Service plus’, which comprises among other things accommodation and social support. While in 2016 it was delimited to families with children under 10 years old, a further restriction in 2018 stipulated prioritization of families with children under 3 years old. For pregnant women access was progressively restricted from six months to eight months with a medical certificate. As a consequence, many asylum seekers, including many families with children, were left on the street or seeking accommodation in some of the city’s squats (see Jacobsen 2022). The new criteria also included ‘women victims of human trafficking and conjugal violence’, which demonstrates how the inclusion of ‘situational vulnerabilities’, may in fact serve to narrow down access to those who do not fit into those narrowly defined categories.

This example reveals some important problems with the way in which vulnerability is understood and operationalized. Previous research has shown how the vulnerable asylum seeker label serves to cut assistance from the supposed larger set of not-so-vulnerable asylum seekers (cf. Sözer 2020). Admission criteria tied to pre-defined categories of people, create a hierarchy of rights and scales of deservingness, and exclude certain people from being considered vulnerable (Freedman 2018, Laranché 2020). This is also the case here. However, the case of accommodation allocation in Marseille demonstrates that filtering does not only happen through the exclusion of some categories, but due to those very categories being redefined so that the scope of who gets to be recognized as a vulnerable person (a child, a pregnant woman) is further narrowed down. Rather than resources being allocated to meet vulnerable asylum seekers reception needs, the categories of vulnerability are shaped to manage a situation of insufficient resource allocation.

Vulnerability as camouflage of precarity

Sözer identifies a recent shift in humanitarianism’s lexicon of concern from forced migrants’ vulnerability to ‘vulnerable’ forced migrants. With this shift, ‘the vulnerable’ becomes an unevenly distributed label, which legitimises the restriction of provision of humanitarian assistance only to segments of forced migrants (Sözer 2020). A similar shift from asylum seekers’ vulnerability to vulnerable asylum seekers has arguably taken place in French migration governance. Our interlocutors problematized this shift by drawing attention to the structural production of asylum seekers vulnerability. While acknowledging the necessity to somehow prioritize in situations where material resources (e.g., housing) were limited, our interlocutors nevertheless insisted that all asylum seekers such be recognised as in a vulnerable situation.

According to Léo, an asylum seeker from Central Africa ‘Some are perhaps more vulnerable than others, but all asylum seekers are vulnerable’. The reasons Léo mentioned for this shared vulnerability spanned the contexts of departure, transit, and reception. ‘Why is every asylum seeker vulnerable? Because it is not with a light heart that one leaves home. When you leave, you lose all the points of reference in your life. And that is what makes you vulnerable in the first place. Because you don’t know where to hold on, you don’t know where to walk, you don’t know anything’. Léo’s analysis resonates with situational understandings of vulnerability. Being physically and socially dislocated makes people fragile in their relational integration. Léo continued by evoking the consequences of non- hospitable reception

conditions, ‘If you give hospitality to someone who comes to your house, the person will not go crazy. But if someone arrives somewhere and he has no shelter and he has no food... hunger causes fights.’ Léo’s analysis resonates with Laranché’s (2020) conclusion that vulnerable positioning within unequal social conditions exposes migrants to psychological distress that may require clinical attention.

Léo also directs attention towards the structural factors that produce vulnerability among asylum seekers. This not only includes exposure to injury in countries they fled or harm suffered in transit, but also by structural factors related to the reception of asylum seekers, such as the lack of housing, the lack of access to food, and the interdiction against working (and thus the possibility of economic independence). Here, the question of who a vulnerable person is also points to the questions of what or who inflicts the injury. By doing so, it challenges the categorical focus on innate vulnerabilities or individual situations of vulnerability and the ways in which it is used as a basis for ‘sorting out’ certain people. Rather, it draws attention to structural dimensions of vulnerability and the vulnerabilities produced by a ‘reception with closed arms.’ As such, it challenges policy efforts to make the question of vulnerability into a question of proper management, filtering and prioritization, rather than a site of social struggle and politics.

Our interlocutors paid particular attention to the precarious housing situation and the lack of accommodation dedicated to asylum seekers. As one interlocutor put it, ‘They are necessarily vulnerable, because they live on the street’. In an interview with a representative from the municipality, they stated that ‘the most important question for people in a situation of exile is the one of accommodation. Obviously, if health problems did not already exist, they will develop because of unsanitary housing conditions.’ The fact that French law prevents asylum seekers from working accentuated housing precarity, as did the restriction on cash withdrawals from the allowance for asylum seekers.¹⁷ During the COVID pandemic, the local emergency housing dispositive in Marseille was expanded. While the effort did reduce the number of people sleeping in the streets, the solutions remained highly provisional (short term, with repeated renewals) and according to our interlocutors seems not to have led to a change in the narrow understanding and operationalization of vulnerability as a tool for filtering (cf. also Marsaud and Bonis 2020).

The unease we had noticed during the interviews with civil society actors and migrants towards the notion of vulnerability, was confirmed at a restitution seminar we organized as part of our fieldwork. The seminar gathered local actors, who in their various functions (as professionals, volunteers, activists) are invested in the reception of asylum seekers and the ‘migrant cause’ in Marseille. One of the participants suggested that it was well known that vulnerability functioned as a form of ‘camouflage’ in migration and asylum governance. ‘Categorizing the public as refugees, *primo arrivants*, beneficiaries of subsidiary protection, and using very specific criteria [of vulnerability] has for long served to camouflage the lacks and capacity limits in the asylum reception system in Marseille.’¹⁸ With the conviction of the State for illegally restricting reception criteria in the Provence region in November 2022, the camouflage was exposed to the public. It remains to be seen whether this exposure will have enduring consequences for the reception of asylum seekers in Marseille, or whether the authorities will continue to find ways of narrowing down access to material reception conditions.

Conclusion

In this article I have shown how important struggles between differently positioned actors occur around the understanding and operationalization of ‘vulnerability’ in the governance of migration and protection of asylum seekers. Such struggles were particularly pronounced around the essentialized, but also contradictory, approach to the vulnerability of women and children. State actors in France increasingly rely on vulnerability as a tool for governing the access of asylum seekers to material reception conditions. The notion of vulnerability is thus transformed from an ethical category of care into a tool of sorting and prioritization (cf. Le Boeuf 2022). The narrowing down and redefinition of who gets to be counted as vulnerable, the state’s prerogative to evaluate reception needs through a number of truth procedures (notably medical certificates), combined with an under-dimensioned and under-budgeted reception system, produces what one of our interlocutors called a ‘a contest for who is the most vulnerable.’ While recent measures such as the new national vulnerability plan intends to enhance identification and ‘follow up’ of the vulnerabilities of asylum seekers and refugees, it continues to focus on ‘vulnerable individuals’ rather than the structures producing precarity among exiled people. Civil society organisations and migrants make strategic, political and affective use of the notion of vulnerability in ways that sometimes uphold state uses, or that inadvertently uphold and produce structural inequalities. At the same time, such actors also importantly challenge vulnerability’s filtering function and the authorities’ failure to take into account the state’s structural implication in the production of vulnerability through withholding material and legal assistance to those who are not recognised as vulnerable.

¹⁶ Including the Abbé Pierre Foundation, Doctors of the World and la Cimade.

¹⁷ Allocation Demandeur d’Asile, (ADA).

¹⁸ ‘Primo arrivant’ is a category in French migration policy designating foreigners in a regular situation arriving for the first time in France and having signed a ‘republican integration contract’ (Contrat d’intégration républicaine, Cir).

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