Gendered Perspectives on Refugee Determination in Canada

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Abstract

This paper discusses refugee determination from an intersectional perspective to unpack the impacts of gender on the refugee determination hearing in Canada. The paper highlights the importance of dominant discourses in a legal context, focusing particularly on how discursive constructions of subjectivity affect refugee determination where claimants' trustworthiness not only depends upon their abilities to describe their past experiences, but also how well their story corresponds with dominant discourses about refugees. It also discusses how these dominant discourses are racialized, classed, gendered and heteronormative, and how feminist theories of intersectionality could be of use to deconstruct the ways they affect different groups of women and men. The paper concludes by considering the implications of the newly shortened timelines in refugee adjudication.

Introduction

Refugee determination has become an increasingly debated and contested process in Canada within the last few years, culminating with the implementation in December 2012 of Bill C-31, "Protecting Canada's Immigration System Act". Questions have circulated over who is a "genuine" refugee, who is not, who is a "bogus" claimant, and how that determination should be reached. New measures are currently being implemented which are supposed to offer a progression towards answering these questions, yet many refugee advocates have significant doubts.

One aspect of the old system that has been maintained within the implementation of the new one is the oral hearing. As a result of the 1985 Supreme Court Singh decision, every asylum-seeker should have access to a full oral hearing to explain their claim, and adjudicators should assess their case based on a knowledge of country of origin conditions, as well as a recognition of the claimant's subjective fear of persecution. Within this hearing process, it has been argued that the claimant must "produce a successful refugee image" (Rousseau et al. 2002,

52) in the recounting of their experience of persecution, an image which is based on intersecting essentialized ideas of gender, race, class and sexuality, among others. The Western-centric preconceived ideas about the racialized and orientalized ways asylum-seekers should perform their gender and their fear within their narratives of persecution can have significant impacts on the adjudication of their claim. While the new determination process has received royal assent and has been implemented, this paper will focus on adjudication prior to June 2012, since little research is available on the impact of the changes. However, it will be argued that the findings can have implications for the new processes and subsequent related research.

Looking at the essentialized identity categories constructed to frame "refugeeness" in the Canadian determination system prior to Bill C-31 from an intersectional analytical framework, this paper will draw on what Leslie McCall (2005) identifies as the intracategorical complexity approach where "[t]he point is not to deny the importance-- both materially and discursive-- of categories but to focus on the process by which they are produced, experienced, reproduced, and resisted in everyday life" (1783). Categories, such as gender, race, class and sexuality, will be deconstructed to allow for a broader theoretical and analytical understanding of how interactions and power relations contribute to the production and reproduction of these categories. This will also allow for the recognition of a greater diversity of experiences beyond those expected from reified identity constructs (Gimenez 2001, 5, Lutz, Herrera Vivar and Supik 2011, 7), while at the same time recognizing the material implications of categories within people's lived realities. Refugee subjectivity is constituted and reconstituted at different moments, from the point of fleeing a country of origin, to the experiences of migration, to the refugee determination process, based on complex and contradictory discourses, interactions and embodied experiences. While

asylum-seekers interact with numerous and diverse actors and institutions throughout their forced migration, state policies and government agencies play a specific role in imposing this refugee subjectivity on claimants (Lacroix 2004, 164), a "damaged" subjectivity that the claimant may or may not adopt for a multitude of reasons (Judge 2010, 20). These designated identities may or may not subsequently affect their designation as "genuine" refugees.

Intersectionality

Intersectionality was introduced as a concept and framework which would challenge a dominant form of feminist analysis that was seen to essentialize women's experiences, ignoring and rendering invisible certain other knowledges and realities. Coined and elaborated by Kimberlé Crenshaw in 1989, intersectionality enabled an analysis of a multitude of experiences without necessarily conceptualizing any particular identities as inherent or static. As an analytical perspective, it has enabled a more nuanced approach to conceptualizing the ways inequality, discrimination and oppression intersect and overlap. It also allows for a recognition of the limitations of any single analytical category or lens, challenging the dominance of gender or race as ontological certainties. Instead, intersectionality highlighted "the relationships among multiple dimensions and modalities of social relations and subject formations" (McCall 2005, 1771). Therefore, within a feminist intersectional framework, identity categories are understood as relational. They are based on historical contexts, social constructs and power relations, with no one category carrying more importance at all times, though individual categories may be focused on at different moments, for different purposes. This type of approach allows for an emphasis on the "constructedness" of social identity categories and the processes that produce

and reproduce them (Silvey 2004, 498). As such, it is possible to avoid constructing lived experiences as homogeneous and to "remain sensitive to possible new admissions, de-namings and exclusions" (Lutz, Herrera Vivar and Supik 2011, 4), while these categories change and evolve as people "cooperate or struggle with each other, with their pasts, and with the structures of changing economic, political and social worlds" (Donato et al. 2006, 6). This also allows for the feminist epistemological understanding that knowledge is situated, thus differently located experiences enable the world to be seen in different ways (Yuval-Davis 2011, 4, 7).

The deconstruction of identity categories, along with a theoretical and conceptual analysis of how the categories intersect in the conceptualization of subjectivities, is part of understanding how inequalities are continuously reproduced. Since symbolic and material violence is tied to relational identity categories, understanding how they are constituted recognizes the power relations that are maintained through these processes, and therefore deconstructing these can open possibilities for social change (Lutz, Herrera Vivar and Supik 2011). This change becomes possible at different moments and on different operational scales, since identity is constituted at the micro, meso and macro level. It is argued that an intersectional approach can offer a historically and socially contextualized analysis at the level of the body, the household, the regional, the national and the supra-national (Silvey 2004, 492) and that social change is subsequently possible on all those levels.

McCall (2005) offers three types of intersectional analysis, suggesting that methodological approaches used thus far have fallen into one of the three, labeled as anticategorical complexity, intercategorical complexity and intracategorical complexity. She elaborates these in terms of their approach to categories, how they interpret and analyze

categories to explore and explain social life. Anticategorical complexity considers social interactions and lived experiences, subjects and structures, as too complex to enable any fixed categories to describe them in any realistic way. At the other end of the continuum is the intercategorical complexity approach, which requires the strategic use of categories to highlight inequalities between social groups and the evolution and reproduction of these inequalities. Finally, intracategorical complexity deconstructs naturalized boundaries and the processes that produce these boundaries, like in the first approach, but acknowledges the "stable and even durable relationships that social categories represent at any given point in time" (1773). It is this last approach that I will draw on throughout this paper.

Academic research and writing on migration has historically framed migrants as disembodied, rational actors, reacting to social, economic and political conditions. These approaches have been widely critiqued, and intersectional approaches have increasingly gained prominence. The recognition that migration is a complex process, influenced and affected by competing forces, expectations and power relations, allowed for more nuanced approaches, enabling a representation of the heterogeneity of migrants while taking seriously migrants' divergent experiences. The introduction of migrants' diverse identities was an influential and critiqued shift in migration studies. The early move to study dichotomous gender relations was an important step to highlighting the divergent experiences of women and men, while enabling an easy shift within quantitative research. However, it has been argued that this approach was limited in the scope of its analysis of the power relations involved (Donato et al. 2006, 4). Migration is a gendered, racialized and classed process, which requires an analysis that conceptualizes the complexity, malleability and rigidity of these categories. It is an embodied

process (Silvey 2004, 501), which is experienced beyond the inflexible categorizations of race and class and the dichotomous and heteronormative conceptualizations of gender. Migrants are gendered, racialized and classed in different ways throughout their movements, as certain rigid constructs stick to some bodies in certain contexts and others shift and change. As a result, the migrants' subjectivities become constituted and reconstituted through the processes, interactions and acts of migration.

Asylum-seekers, refugees and others who have been displaced as a result of forced migration may experience the process and the articulation of identity and subjectivity in ways that may or may not differ from other migrants at various points. Frequently, in order to be understood socially, politically and economically as forced migrants, their subjectivity must reflect and reaffirm a predefined experience in which distinct expectations regarding gender, race, class, sexuality, age and ability are central. These constructed categorizations fall into a particular representation of "helplessness" and victimhood intrinsic in Western ideas of refugeeness. While under international law the definition of a refugee has remained constant, refugeeness has changed quite significantly. As Judge (2010) argues, with the end of the Cold War, the political-legal approach to the conceptualization of refugeeness shifted from protecting a political actor to managing a helpless victim (11). Yuval-Davis (2011) also emphasizes this point, explaining that the formal refugee convention was developed heavily in the West to accept political dissidents from the Eastern block, while post 9/11 state policies define actors resisting their governments as potential terrorists (37). Therefore, not only did forced migration become depoliticized, criminalized and de-historicized at the point of fleeing and arriving, this shift to victimization also individualized refugee subjectivity, which facilitated Othering and

paternalistic "protection" (Judge 2010, 11). These shifts in the construction of refugee

subjectivity had important intersectional implications based on "who" could be a victim, in what

ways, and who became a criminalized "bogus" claimant.

Canadian Policy

Political systems and civil society in destination countries play important roles in

constituting migrant subjectivity through discourses, power relations and embodied interactions.

While Canadian government officials purport the country's immigration policy to be efficient,

fair and compassionate (CIC 2011), and Canadians are lauded as welcoming and hospitable, the

system has historically and contemporarily proven to be highly exclusionary, based on racialized

and classed, as well as gendered admission criteria. From racist policies that have directly

excluded Chinese, Japanese, South Asian and Indigenous populations from full citizenship, to

the "Women's Division" created within the immigration department to "care" for immigrant

women who could be deported if found to have engaged in sexual relations outside of marriage,

the policies have historically contained and excluded particular gendered and racialized bodies

(Bhuyan and Smith-Carrier 2012, CCR 2006). These policies have shifted and changed through

the last century with differing communities tolerated or targeted at different moments. Therefore,

while "exclusions of the past were explicitly racist and were justified by discourses of racial

purity and biological degeneration, present day racist constructions heighten the dominance of

classifications [...] and are mediated more by cultural stereotypes than by biological typologies"

(Pratt and Valverde 2002, 138). Though current policies may be more subtle in their

exclusionary tactics, the intersections of gender, "race" and class are still predominant factors in

determining which migrants experience efficient and compassionate immigration as promoted, and which do not. Richmond (2001) exposes the more recent, predominantly subtle exclusionary tactics, such as imposing visas for the travel of certain nationals, limiting the number of visas to citizens of certain countries, and establishing few offices able to process these visas or other applications (as opposed to the large number able to process American and European applications) (6). As a result of these policies, migrants are conceptualized in specific ways that essentialize and generalize their experiences and desires, marking some as "desirable" new society members and the rest as "Other", to be limited, controlled and contained. These conceptualizations allow for "cardboard cut-out characterizations", which Lewis (2005) argues "is one key strand that runs across the struggles over citizenship between those who govern and those who are governed," reifying the differences and hierarchies between citizen and non-citizen, those who can become citizens and those who cannot (538).

As a signatory to the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol, Canada has internationally recognized obligations towards refugee protection. These obligations include recognizing the international definition of who qualifies as a refugee, the rights that must be accorded to those who qualify, and not returning individuals to states where their life or freedom are threatened. Despite the provisions of the Convention and Protocol, refugees attempting to reach Canada for protection are subject to the same subtle, yet powerful exclusionary practices described above. While some are able to claim asylum from outside Canada's borders, the persecution faced by others obliges them to flee to Canada as a first step, and subsequently claim asylum. For those who are able to travel to Canada and then claim asylum, either at the border or inland, the refugee determination process establishes

whether or not they are able to receive Canadian protection and citizenship rights. Though this process is mandated under the international Convention, specific policies are under the auspices of state sovereignty and have been progressively designed to decrease the number of asylum-seekers through administrative means (Lacroix 2004, 149). Consequently, the process has become increasingly complex and difficult to navigate in order to exclude many applicants. As a result, asylum-seekers who are unable or unwilling to complete the process for any reason are largely portrayed as 'bogus' or 'undeserving', and rather than recognizing the multitude of reasons people are unable to achieve Canadian protection, they are criminalized and demonized.

The Canadian refugee determination process involves a complex and intricate series of appointments to make and attend, forms to fill out and file, and the final hearing to prepare for, where claimants are expected to freely and fully tell their story of persecution without fear or intimidation. Failure to complete any aspect appropriately, or within the precisely defined timeline, can lead to the rejection of the claim. This process has become increasingly stringent with the implementation of Bill C-31, yet the particularities of how are beyond the scope of this paper.

Though each stage has its own complications and complexities, the hearing itself is where all of the information provided at each stage, as well as an oral description of the claimant's experience of persecution, are supposed to come together and the final decision is made. Therefore, the Immigration and Refugee Board (IRB) members who make the final decisions have enormous power to grant protection, or to maintain narrow definitions of "refugeeness" and subsequent low acceptance rates. These are necessarily complex decisions to make, since, as Rouseau et al. (2002) point out:

the decision-maker [must] have a sufficient knowledge of the cultural, social and political environment of the country of origin, a capacity to bear the psychological weight of hearings where victims recount horror stories, and of consequent decisions which may prove fatal (43).

The hearing itself is declared to be a non-adversarial process, where officials are trying to uncover the truth of the claimants' situations, and asylum-seekers are supposed to unreservedly share the narratives of their experiences. However, this is often a contradictory approach since the methods and rhetoric of officials range from generous protection to an implied understanding of the claimant as a "liar" and a "criminal" (66). The claimant is thus left unsure of how to approach the hearing and how to represent their experiences, which necessarily has important consequences for adjudication.

Adjudicators are supposed to grant the claimants the benefit of the doubt where documentation is lacking or unavailable due to the ambiguities and subjectivities involved in the description of fear (Rouseau et al. 2002, 47). Within the 'well-founded fear of persecution', there are requirements for both subjective and objective fear (LaViolette 2010, 439). Therefore, not only does a claimant need to appear genuinely fearful of their situation, there must also be documentation to support this fear. Despite the low burden of proof mandated and the benefit of the doubt that is supposed to side with the claimant, many claims are excluded based on a lack of credibility or an implausibility as determined by the Adjudicators and their often Western-centric conceptualizations of gendered and racialized fear.

Identity, Subjectivity and the Refugee Determination System

Refugee determination has been criticized as a male-centered process, as questions were widely raised regarding the male dominance in refugee claims and the masculinized construction

of the refugee/persecuted dissident. Following the signing of the Refugee Convention and

subsequent Protocol, the initially recognized forms of persecution were conceptualized in the

West within what has been identified as more masculine experiences. Adjudication was therefore

determined on related expectations, thus ignoring other forms of persecution. In order to address

these issues and biases, the Canadian government was the first to develop and implement the

Gender-Based Persecution guide in 1993, with many other states following suit. The resulting

guidelines constituted a significant advancement in recognizing different forms of persecution

and providing Board Members new contexts for adjudication. Consideration was extended to

persecution related to kinship, gender discrimination and violence by public authorities or

individuals where the state is unable or unwilling to provide protection (including domestic

violence), or discrimination or violence based on perceived transgression of legal, religious or

social expectations of the way gender should be enacted (Boyd 2006, 2). However, these

guidelines also build on certain essentialized, racialized, and classed constructs of gender that

may exclude claimants who do not conform. Moreover, despite the important addition of

domestic violence as a recognized form of persecution, Sadoway (2008) argues, in cases where

the same forms of violence are common in the destination country, refugee designation may be

harder to achieve as it may simply be considered a larger societal problem (245).

  Significant effort has been devoted to acknowledging and mainstreaming the recognition

of gender-based violence and persecution in Canadian refugee determination procedures. While

this has been lauded by many and recognized as a best practice by other governments and

institutions, others have critiqued the essentializing and cultural relativism that has occurred as a

result of the guidelines. Therefore, conforming to narrowly defined gender, "race", class and

sexuality constructs has been crucial in order to be recognized within the guidelines. For example, cases where women fear female genital mutilation, forced marriage or bride burning may be more acceptable to IRB Adjudicators, building on colonial tropes and constructing the female-identified claimant as a victim in need of saving, while demonizing her country of origin. This consolidates an "us" and "them" discourse, which constructs 'bad patriarchies' as dominant in distant countries and on foreign bodies (Mulinari 2007, 169) disavowing the inherent local patriarchal structures and violence. It also positions the Adjudicator as the chivalrous protector, able to save such claimants from their violent culture.

This accepted narrative of victimhood constitutes claimants' subjectivities through specific intersections of "race", gender, class, ability and sexuality, narrowing the spectrum of claimants who can meet the necessary expectations. Throughout there are dominant and intersecting constructs of a particular form of heteronormative femininity, with its associated vulnerability, and a 'cultural' racialization based on demonizing specific cultures as different and violent. This nearly eliminates women's ability to claim asylum on grounds of resistance (Boyd 2006, 23); and if the claimant shows too much strength, beyond what is conceptualized as appropriate within these constructs, she may be refused on the grounds that the Adjudicator believes she should be able to protect herself (Murdocca 2008, 258). Moreover, as Judge (2010) argues, the intersectional construction of women's vulnerability within this paradigm becomes almost inseparable from heteronormative motherhood. This construct creates 'women and children' as a "hybridized figure of vulnerability," which not only infantilizes women and their encounters, but once again acts to depoliticize women's experiences (24).

Also included within the Canadian Gender Guidelines is persecution based on sexual

identity and orientation. Sexual orientation and gender identity involve a diverse spectrum of perspectives, constructs and self-articulations. Within these categories of claims, the intersecting constructions of gender, sexuality, "race", age and class also have important implications for adjudication. Western-based stereotypes about how sexuality should be experienced and performed by different people in various locations can affect the success of these claims (Sadoway 2008, 245, Rehaag 2008a, 53). As Sean Rehaag argues, this erases more complex subject positions and ignores differing realities (Ibid.). Those who do not, or cannot, conform to gendered constructs and the related experiences that are expected have their identity and orientation questioned and challenged. The intersections of class, age and ability become particularly evident in the expectations regarding claimants' lifestyles. These stereotypical understandings of how sexuality should be performed involve the frequenting of gay bars and clubs, and embodiment of specific gendered characteristics, such as the adoption of masculine traits by female-identified claimants and the effeminacy of male-identified claimants (Rehaag 2008b, 72). This process often also involves the demonization of the country of origin, casting other locations and populations as homophobic and violent. Claimants from states in which LGBT communities are publicly criminalized often receive the most sympathy from Board Members (LaViolette 2010, 451), further reinforcing "Us" versus "Other" dichotomies. Therefore the claimant's citizenship must intersect with their other identity constructs in the articulation of their experience of persecution.

Nicole LaViolette (2010) illustrates how the IRB's handling of sexual orientation and gender identity claims has evolved over the last two decades, concluding that LGBT claimants are still at a disadvantage with regards to objective evidence of persecution. She outlines how the

lack of human rights documentation on issues of sexual orientation and gender identity has

hindered claimants, with Adjudicators citing the lack of documentation as an absence of

persecution. However, she also highlights the contradictory fact that documenting violence and

persecution of LGBT individuals may be particularly dangerous or even impossible in situations

and locations where homophobic violence is widespread. On an individual level this may also

disadvantage claimants, where social stigma and violence may have prevented them from

reporting particular incidents, leaving them with little or no proof of assaults or attempts to seek

state protection. LaViolette also points to the fact that the agents of persecution may be

individuals, whether family or community members, leaving the possibility of state protection in

question. Evidence of the lack of state protection has become increasingly important in claims

based on sexual orientation. Yet, despite a lack of direct evidence (for many of the reasons

already stated) state protection may still not be attainable.

Building on the understanding that sexual orientation is "flexible and fluid", Sean Rehaag

(2008b) investigates the outcomes of refugee claims based on bisexuality. He argues that bi-

sexual claimants are further disadvantaged within the refugee determination process that

misidentifies and misinterprets their lived experiences. While sexual minority asylum-seekers on

average have similar success rates to other claimants, people seeking asylum from persecution

based on bisexuality have much lower acceptance rates (59). These transgressions of gender

norms are read by IRB Adjudicators as shifting and changeable, which is then interpreted as a

fraudulent way to claim asylum. Rehaag found that in a majority of cases claimants were not

believed, and female-identified claimants were refused much more frequently than male-

identified bisexual claimants. Dichotomous constructions of gender and sexuality thus have

import impacts on refugee adjudication as experiences outside of these binaries are misunderstood and essentialized in order to fit them within specific Western categories that do not represent people's different realities. Compartmentalizing identities and lived experiences may simplify adjudication based on precedents set and experiences expected, as Board Members work to differentiate "genuine" refugees from other claimants. However, this may put the lives of people at risk as they fail to conform to expectations of a "genuine" refugee.

Since the end of the Cold War, the shift from the construction of the refugee as a political dissident actively contesting their government, to a helpless "victim" unable to defend themself has had important implications for male-identified refugee claimants as well. Those who "may not fit comfortably into the confines of these discourses of the ideal refugee, with exceptional talent, or displays of gendered notions of trauma and vulnerability as markers of their authenticity" (Judge 2010, 8), are at a particular disadvantage. Thus, the male asylum-seekers who cannot or will not conform to the expected notions of victimhood and the subsequent need for paternal protection may be excluded from refugee determination. Taking on this constructed subjectivity may be particularly difficult for male-identified claimants, since the dominant gendered expectations of appropriate masculinities often clash with the conceptualization of the traumatized and vulnerable victim. As Judge goes on to argue, those who cannot demonstrate the loss of agency necessary for these constructs risk being vilified and criminalized (12). Since the mid-1990s, the Canadian government has actively instilled the metonymic association between the "bogus" refugee and the "foreign violent criminal" (Pratt and Valverde 2002, 144). The discourses propagating these associations are often extremely gendered and racialized, disproportionately affecting men of colour, who consequently need to be disciplined or excluded.

Therefore, asylum-seeking men who are unable or unwilling to embody the appropriate victim narrative are constructed as fraudulent criminals who migrate to exploit social services or to commit violent acts against the state and its population. These perceived threats are then used to justify increased detention and ever-restrictive policies.

Another obstacle faced by asylum-seekers in the recounting of their experiences of persecution are the preconceived ideas Board Members may have of the manner in which fear should be articulated. Though Adjudicators profess to be neutral and objective, even these concepts are socially constructed and may be antithetical to cultural understanding of fear and vulnerability (Rousseau 2002, 50). Asylum-seekers must prove to IRB Members that they are not only in danger, but also genuinely afraid. While the proof of danger may come in documented evidence, the subjective fear may be harder for Adjudicators to identify. Hilary Evans Cameron (2008) suggests that Board Members have refused claims where the asylum-seeker "acted in a manner inconsistent with a subjective fear of persecution" (567). In these cases claimants may have stayed in their country longer than expected in the hope the threat would go away, or travelled back to ease the pain of separation from loved ones, yet board members may not accept these "naïve" explanations (574). Moreover, as Rousseau et al. (2002) argue, the post-traumatic psychological effects claimants may experience can also have significant impacts on the manner of recounting their narrative before the IRB as well as on the content (48). During the hearing, these effects may lead to avoidance, inconsistencies or mistakes, which may be interpreted as a lack of credibility or genuine fear by the Adjudicator. Therefore, not only is the psychological ability of the claimant overlooked in the demands of the hearing, but the limitations of the claimant based on shame or humiliation experienced are ignored in the expectation that they will

freely speak of their fear. Having reviewed Rousseau et al.'s findings, Steel, Frommer and Silove (2004) also found that traumatized claimants often have great difficulty presenting a coherent account of the experience of traumatization with the expected affect, which may be interpreted by decision makers as non credible (517).

In addition, culturally based presentations of fear and understandings of how it should be managed may differ and thus be difficult to decipher by an IRB Adjudicator (Evans Cameron 2008, 584). At the same time, claimants' articulations of their fear may not meet the gendered ways fear is expected to be experienced, managed and performed. As a result, gendered and racialized constructs play a role not only in what types of persecution can be experienced, but how those experiences of persecution are revealed to determining institutions. This process may, however, be subtle and even invisible in terms of the cultural clashes and misinterpretations, leaving both claimants and Adjudicators unaware of the social constructs that delineated the hearing (Rousseau et al. 2002, 51).

The biases and preconceived ideas of Adjudicators are particularly significant since the implementation of the Immigration and Refugee Protection Act (IRPA) in 2001, which reduced the number of Board Members determining each claim from two to one. With two Adjudicators, so long as one believed the claim being made, the asylum-seeker would generally be accepted. However, with only one person determining the credibility of a claimant's story, biases about how the claimant should understand their situation, embody their identity and represent their experiences can have significant impacts on their chances of regularizing their status.

According to Rehaag's (2011) preliminary research on the gender of the Adjudicator and acceptance rates in Canada, male Adjudicators had higher grant rates than females. These

findings were even more pronounced when the principal claimants were women and the claims were based on gender-based persecution. While Rehaag's earlier research found that acceptance rates varied significantly between Adjudicators, the initial incorporation of gender into the analysis adds a component for seeking patterns of correlations in outcomes (628). While Rehaag clearly outlines the limitations of the study and acknowledges the lack of intersectional analysis based on Adjudicators other identity constructs, his findings do leave interesting questions about the gender of applicants, Board Members and corresponding acceptance rates.

Conclusion

As the related discourses continue to circulate, policies shift, and the immigration process becomes increasingly restrictive, it is important to understand the ways essentialized constructions of claimant subjectivities based on intersecting ideas of gender, "race", class, and sexuality limit people's possibilities for self-determination and increase the precarity of their status. Though the oral hearing gives asylum-seekers the crucially important time and space to recount their narrative of persecution, the social constructs relied upon by Adjudicators limit the experiences that are deemed acceptable and genuine. Recent changes to the Canadian Refugee Determination System demand that the refugee hearing take place between forty-five and sixty days from the time when the initial claim was made, as opposed to the current one- to two-year wait. Thus, with less time to prepare the "appropriate" performance of gender, "race", sexuality, class and importantly, fear, based on specific Western constructs, this new adjudication could have significant implications for claimants seeking Canadian protection who cannot, will not, or do not know to conform.

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