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LEARNING TO BE LGBT: SEXUAL ORIENTATION REFUGEES AND LINGUISTIC INEQUALITY

Abstract:

This paper explores how adjudicators in the Canadian refugee determination system assess sexual orientation refugee claims. I outline how predetermined social knowledge in adjudicators' terms and questions about a refugee claimant's sexual identity operate as a cultural formation through which particular Western normative arrangements of sexual practices and identities are privileged as social facts. These assumed 'social facts' reveal adjudicators' application of understandings about 'authentic' sexual identities derived from guidelines and / or 'common-sense' assumptions reflecting a privileged set of cultural, gendered, raced and classed experiences. The imposition of this arrangement re-inscribes a homonationalist mode of gatekeeping that may have profound consequences for a refugee claimant whose answers do not satisfy the adjudicator's expectations.

Keywords:

refugee discourses ♦ homonationalism ♦ queer migration ♦ queer terminologies ♦ Canadian immigration

Introduction

The burgeoning field of queer migration studies explores how overlapping regimes of power and knowledge generate and transform identity categories particularly as they relate to gender and sexuality. This body of scholarship has been enabled by understandings of sexuality as constructed within multiple intersecting relations of power including race, ethnicity, gender, class, citizenship status, and geopolitical location. It foregrounds ongoing transnational ties of desire that occur between migrants and their homelands, and how migration affects sexual minority communities in both old and new homelands. Additionally, this body of scholarship reveals the fundamental ways in which sexuality undergirds the organization and boundaries of nation-state. Notable here is Puar's seminal concept of homonationalism, a privileged racialized and classed narrative celebrating same-sex sexual citizenship and national belonging, developed out of a combination of normalizing LGBT discourses, anti-terrorist panics and protectionist politics in post-9/11 America. Puar and other queer migration scholars draw connections between sexuality, migration, nationalism, transnational capitalism and neo-imperialism. Queer migration studies is also critical of the various distinctions made between "legal immigrants, undocumented immigrants, guest workers, temporary visitors and / or refugees", as these terms are less reflections of empirically verifiable differences among queer migrants (who often shift from one category to another) than techniques of the nation state's power which classifies migrants in order to delimit the rights they may have or be denied, and the forms of surveillance, discipline, normalization and exploitation to which they will be subjected. More recently, queer migration scholars have begun to examine queer activism and resistance to nationalist bordering logics and heightened forms of securitization (Cantú 2009; Decena 2011; Epps, Valens & Johnson González 2005; Espin 1999; Glick Schiller et al. 1992; Hart 2002; Luibhéid 2002; Luibhéid 2008; Luibhéid & Cantú 2005; Manalansan 2003, 2006; Murray 2016; Patton & Sanchez-Eppler 2000; Perez-Sanchez & Munro 2017; Povinelli & Chauncey 1999; Puar 2007; Weston 2008; White 2013).

However, many studies of queer migration come up short in their thinking about language, if they address language at all. There is often reference to the ways in which bureaucratic and legal terminologies and discourses create particular identity formations that meet the needs of their makers (nation-states, governments and their multiple branches) but do not accurately represent

the lived experiences of those labeled as such (for an important exception, see Decena 2011). We need to ask more questions about these terminologies and discourses and their formations, articulations and locations in wider chains of vocabularies, socio-linguistic communities and affective registers: For example, how do sexual identity terms invoke different limitations and possibilities as they intersect with other forms of inequality and discrimination in migrant, multi-lingual and / or cross-cultural contexts? How are these terms adapted, redefined and / or rejected by individuals and groups located within government bureaucracies, local communities, migrant and / or socio-sexual networks in ways that may be new and strange, or all too familiar? More specifically, how do language, speech, rhetoric and discourse contribute to the investigation of (homo)nationalism, sexuality, migration and refugees? How do linguistic work (taken in the widest sense) and sexual diversity impact movement across borders and vice-versa? Finally, how might anthropological theories, concepts and methods address the operations of sexuality and language in the making, unmaking and remaking of these borders?

Sociological and anthropological studies of language and sexuality often emphasize linguistic practices in relation to ‘fixed’ identities like sex, race or gender, often in ‘fixed’ locations like nation-states or regions (Cameron & Kulick 2003; Ehrlich, Meyerhoff & Holmes 2014), or they focus on linguistic practices associated with local versus global ambiguities of sexual sameness, with an emphasis on the political economy of these relationships (Leap & Motschenbacher 2012: 2; see also Leap & Boellstorff 2004). However, there has been relatively little attention paid to what happens in the border-zones of linguistic and sexual contact, and the attendant struggles for meaning and belonging that are produced through movement and contact. This paper begins to address these lacunae in migration, sexuality and linguistic studies through attentiveness to language and linguistic practice in movement, with a particular focus on the actions, reactions and transformations of desiring bodies as they attempt to move, voluntarily or involuntarily, across geo-political borders. It also addresses discourses, vocabularies, and rhetoric that form the horizon of intelligibility for the nation-state in its gate-keeping work, where sexual identities form a crucial component of the operations around asylum, immigration and citizenship.

More specifically, this paper explores how adjudicators in the Canadian refugee determination apparatus assess sexual orientation refugee claims. By focusing on the discourse and terminology of questions utilized in the refugee claimant’s hearing (a quasi-judicial event in which the refugee claimant answers questions posed by the Canadian Immigration and Refugee Board (IRB) Member), I outline how Board Members’ questions contain predetermined social knowledge and thus operate as a cultural formation through which particular arrangements of sexual and gendered practices and identities are privileged which, in effect, re-inscribe a homonationalist mode of gatekeeping that may have profound consequences for a claimant whose narrative and / or performance fails to utilize appropriate linguistic choices. My goal in

this paper is therefore to identify the discursive linguistic contours through which sexual orientation refugee cases are assessed, that is, to examine the discourse and terminology utilized in the hearing by the Member to assess the credibility of the claimant.

In all refugee hearings, the claimant must provide ‘credible evidence’ to prove that they are eligible for refugee protection. For sexual orientation and gender identity (SOGI) claimants, ‘the burden of proof’ that must be demonstrated is generally twofold: First they must prove to the Board Member they are a member of a ‘particular social group’, which in the Canadian context is generally defined as someone who identifies as lesbian, gay, bisexual or transgender in their sexual orientation or gender identity. Second, the claimant must prove that as a member of this social group they face persecution in their country of origin. Needless to say, sexual and gendered desires, practices, identities and prejudices are organized in deeply different ways within and across social, cultural, and national borders. Providing credible proof of sexual orientation or gender identity as a ‘gay’, ‘lesbian’, ‘bisexual’ or ‘transgender’ person and proving credible persecution based on membership in this social group becomes deeply entangled in sexual and gender identity terminologies with pre-existing socio-cultural determinate concepts which may be well understood by the Board Member but not by the claimant (McConnell-Ginet 2006: 228). Misunderstanding and / or misinterpreting the meanings of sexual and gender identity terms may influence a negative evaluation of the latter by the former, thus imposing and reinforcing a homonationalist framework.¹

An additional challenge in the hearing is that much of the adjudication is based on the personal narrative and oral testimony of the claimant; unlike claims based on political opinion, race, nationality or religion, which tend to have some form of independent verification of group membership, sexual orientation claims depend mostly on the presentation of internal, often unspoken, or unspeakable qualities, desires and practices such that extremely private experiences infuse all aspects of the claim (Berg & Millbank 2009: 196). Once again, complex, intimate and / or traumatic experiences and desires may be difficult to articulate or render ‘credible’ if they do not ‘make sense’ in relation to the Member’s conceptualizations inherent in their use of particular sexual identity terms, and so the Member may utilize a ‘social aesthetics’ of eligibility—visual or emotional cues, based on assumptions about LGBT identities—in their decision making process (Cabot 2013; see Murray 2016 for further discussion on emotional or affective cues).

My findings support Berg and Millbank’s arguments that in SOGI refugee cases, adjudicators often make evaluations that reflect their training and / or ‘common sense’ understanding of sexual identities which are based on a staged model of sexual identity development derived from specific and privileged cultural, gendered, raced and classed experiences. That is, most IRB

Members I spoke with or observed in the hearing operated with particular assumptions about sexual identity as fixed, discoverable and moving from a position of closeted to ‘coming out’, in which the hearing serves as the apotheosis to this narrative, reflecting popular, hegemonic North American narratives about ‘gay’ and ‘lesbian’ sexual identity development that, in turn, reflect primarily white, middle-class cis-gendered experiences, histories and politics (Berg & Millbank 2009: 207–215). However, I want to extend this argument by locating its key points in the IRB training documents and guidelines for these types of claims, thus extending the discursive terrain beyond the bureaucratic event of the hearing itself and connecting it to wider chains of socio-legal discourses of migration and sexuality. This discursive terrain produces an institutionalized speech genre (oral evidence based evaluation techniques) which produces linguistic inequality through pretextuality; that is, the Board Member’s socially preconditioned meaning assessments influence communicative behavior and reinforce the privilege and authority of those who are trained in, and familiar with, those preconditions (Maryns & Blommaert 2002: 12–14). The deployment of this institutionalized speech genre in a department of the Canadian immigration apparatus further embeds and reinforces a homonationalist framework in the everyday gate-keeping operations of the contemporary nation-state and its narratives of citizenship.

Sexuality Terms and the Hearing

All IRB hearings in Toronto that I attended took place on the 4th and 5th floors of a non-descript office building in the downtown core. Each floor has a waiting area; the 4th floor waiting area has one wall of thick glass, with the refugee claimants, lawyers, friends and family on one side and the IRB staff on the other. The rest of each floor is divided into identical small rooms in which the hearings take place. It is a strange experience walking down hallways, peering into room after room with the exact same placement of furniture, lighting, computer, Canadian flag, coat of arms, and security camera mounted in the ceiling. Each room has four desks arranged to form a square, and two doors, one opening into the hallway where the refugee claimant and legal counsel enter, and one opening into a private hallway that is only accessible to IRB staff. One desk has a computer and telephone—this is the Board Member’s desk, and the other desks are bare except for microphones used to record voices. These other desks are for the claimant, legal counsel and other IRB staff. In most rooms there is also a box of tissues on the refugee claimant’s desk. The refugee claimant and the Board Member face each other directly. Friends, witnesses, or observers sit in a row of chairs behind the refugee claimant so no eye contact can be made.

Every hearing I attended followed the same general format. The Board Member would enter the room from the door located behind their desk. We would stand up as s/he entered, and once seated the Board Member would announce that this is the hearing of (claimant’s name), followed

by asking the claimant if she understood English (if no translator was present) and then asking her to take an oath “to solemnly affirm the evidence you give today is the truth”. The Board Member and legal counsel would then engage in a discussion about the organization of documents in the file, confirming that, for example ‘item C1’ is the personal information form, and ‘item C4’ is the letter submitted by a psychologist. In a number of cases, additional ‘last minute’ documents such as a letter from an overseas family member were submitted by counsel which then had to be accepted by the Board Member and given a specific file number. The refugee claimant would sit quietly observing this conversation, and a number of them told me afterwards they had no idea what was going on, other than that they recognized ‘their’ documents were being discussed in some manner.

Showler aptly describes these opening formalities as “more priestcraft [...] (that) were mainly for the record to satisfy the procedural requirements of the Federal Court. Claimants rarely understood the legal folderol...it simply confused and alienated them” (Showler 2006: 187). Opening the hearing with a required oath to ‘solemnly affirm’ telling the truth, followed by a conversation in which documents are identified by combinations of numbers and letters in a sequence known only to the legal counsel and Board Member immediately crystallizes the moment as both a bureaucratic event and formal judicial ritual utilizing an institutionalized, procedural and technical discourse which the claimant has little to no familiarity with, thus rendering them marginal and unequal by virtue of their ‘illiteracy’ in relation to the other participants in the ritual who, through their relaxed familiarity with the proceedings and bureaucratic terms, can be perceived to be occupying the roles of priest and ritual expert (Showler 2006; Maryns & Blommaert 2002: 19).

Following this opening ritual discourse, the Board Member normally identifies the key ‘issues’ for the claimant and counsel, that is, the areas of the claim that are problematic and / or require further clarification through questioning. For many of the SOGI refugee claimants, two key issues are identified: their credibility as members of a particular social group (the veracity of their claim to being gay, lesbian, bisexual or transgender), and the credibility of their claim to being persecuted as a member of that social group (is their story of why they left their country of origin true, and if so, does it meet the UNHCR Refugee Convention definition of ‘persecution’?). The refugee claimant is then reminded to answer all questions as accurately as possible, and if they don’t know or forget a particular date or location, to say so instead of making something up. After identifying the issues, questioning begins, often with a few benign background information questions like “how many members in your family?” or “how big is the village you grew up in?” These questions are often short in length, seeking out ‘factual’ information, and most claimants answered them with relative ease. Then, in most cases, there would then be an abrupt switch in the form and content of questioning from factual details to a completely different topic like “Are

you a homosexual?” or “When did you realize you were gay?”, followed by “What does the acronym LGBT stand for”? In another case, a claimant might be asked a series of detailed questions about his son’s birth certificate (i.e., “why is there no middle name initial on the certificate when you provide this middle name on your personal information form?”), immediately followed by a series of questions about his first boyfriend in high school.

Prior to attending hearings², I wrongly assumed that the Board Member’s questions would be ordered in the same sequence as the events outlined in the claimant’s Personal Information Form (PIF)³, which usually began in adolescence and progressed chronologically through to adulthood, highlighting events and actions relevant to the claimant’s stated sexual orientation / gender identity that eventually forced them to leave their country. I was therefore surprised by the highly detailed and apparently random order of questioning at the hearing, in which the sequence and timing of a particular event would be cross-examined in minute detail and then the Board Member would suddenly switch to asking detailed questions about a particular personal document like a college transcript. Refugee claimants would often confirm feeling confused and disoriented by the Board Member’s questions when I spoke with them after the hearing. In an interview with a Board Member I asked whether rapid shifts in question topics were a specific strategy for eliciting evidence and / or testing the truth of particular claims, but she responded that because there is only a limited amount of time in which to assess the claim, and because most claims contain a few key issues that required cross-examination in order to determine credibility, she could not afford the luxury of asking questions chronologically. However, the effect of these multiple temporal and topical jumps was disorienting to say the least, and while some claimants were impressively adept at adjusting to these rapid shifts, others became visibly agitated and increasingly unfocused or vague in their answers, which could lead the Board Member to infer that there was inconsistency in the testimony, which could in turn lead to a decision that the claim was not credible.

In addition to the random order and movement of questioning, the wording of the questions themselves warrants closer examination in order to better understand what kind of information or knowledge the Board Member was trying to elicit and / or considered a ‘good’ answer. I am particularly interested in Board Members’ questions that asked about and utilized terms referring to the claimant’s sexual orientation, as they formed a critical component of the overall assessment of the credibility of the claim. As noted above, questions about sexual experiences, sexual identification and / or knowledge about sexual cultures could come out of left field at any point in the hearing. One minute a claimant might be asked if she knows about the laws pertaining to sexuality in her country of origin and then the next question might be about where the LGBT refugee support group meets in Toronto. Despite the (apparent) random order of

questions assessing the credibility of the claimant's sexual identity, I often heard similar questions being asked in the hearings I attended.

Constructing Knowledge of 'Credible' Sexual Identities in Hearings

Not surprisingly, the appearance of similar questions pertaining to sexual identity in multiple hearings is not a random coincidence. In interviews with Board Members and IRB staff, I was repeatedly told that SOGI refugee claims are now a standard component of all Board Members' training. One staff member reminded me that the IRB has come a long way since the first lesbian and gay refugee claims were lodged in the early 1990s (see also LaViolette 2010). Whereas it used to be the case that some Board Members dismissed a claim if the person didn't look or act gay or lesbian, now all Board Members get three weeks of in-class training, and SOGI claims are a standard module of the training package. This module was developed by IRB staff members in consultation with national lesbian and gay rights groups like EGALE and expert consultants in sexuality, gender and migration law. One of these consultants gave me a copy of the guidelines provided to Board Members to help them better understand the particularities of these claims.⁴ The guidelines begin by noting that "assessing the veracity of a refugee claimant's homosexuality is a very difficult, sensitive and complex task in the context of an administrative or quasi-judicial hearing" (LaViolette 2004: 3). They then outline some general principles such as "there are no universal characteristics or qualities that typify sexual minorities" (2004: 4) and that many factors may intersect with the sexual orientation of an individual (the primary example provided is gender; i.e., sexual minorities often challenge dominant gender values, 2004: 6). The guidelines emphasize the centrality of 'credibility' in the determination of a claim: that the onus of proof is on the claimant, and that in rejecting a claimant's testimony regarding his sexual orientation, Board Members must be careful to clearly identify the contradictions, inconsistencies, omissions or implausibilities that support a negative conclusion on the issue of membership in the particular social group. This is followed by a note indicating that Board Members have to be careful when it comes to implausibility: "[...] The Federal Court has cautioned that because refugee claimants come from different cultures, actions which appear implausible when judged from Canadian standards might be plausible." (LaViolette 2004: 10). As will be seen below, the challenge of determining (im)plausible sexual desires, identities and relationships based on written and oral testimony can be extraordinarily difficult, if not impossible, given the potential for mistranslation and / or misinterpretation based on privileged North American / Anglo definitions and meanings deployed in the institutionalized terms and discourses of the hearing.

The guidelines include "a proposed model of questioning claimants about their sexual orientation", and it is in this section we see the possible origin of the similar questions that I

heard in various hearings. It is somewhat telling that this section begins with the statement, “It cannot be stressed enough, however, that there are no true answers to these questions” (LaViolette 2004: 12), which, I would argue, reveals more about linguistic inequalities in the refugee determination process than perhaps any other sentence in the guidelines, and which I will return to below. There are three general “Subjects of Inquiry” in this section, each containing a series of suggested questions:

- 1) **Personal & Family:** When did you come to realize your homosexual orientation? What did you personally believe about homosexuality when you realized you were lesbian or gay? Have you been involved in a relationship with someone of the same sex in the past? Have you told anyone about your sexual orientation?
- 2) **Lesbian and Gay Contacts and Activities in the Country of Origin & Canada:** Where do gay men or lesbians go to socialize in your country of origin? How do they meet each other? Did you know of any lesbian or gay groups in your country of origin? What do you know about gay and lesbian communities in Canada? Do you socialize in gay and lesbian bars? Which ones? How different are lives of gays and lesbians in Canada compared to back home?
- 3) **Discrimination, Repression & Persecution in the Country of Origin & Canada:** What do you fear if you return to your country of origin? What are the official laws on homosexuality in your country of origin? Do you know the legal status of gays and lesbians in Canada? (LaViolette 2004: 13–16)

I would like to focus on the sexual identity terms utilized in these questions which may be asked in the hearing and the claimants’ answers to these questions, in order to better grasp how pre-existing knowledge (or lack thereof) and (un)familiarity with these terms produce linguistic inequality and reinscribe a homonationalist framework, with potentially severe consequences for the refugee claimant. In some hearings a claimant might be asked a question like: “When did you first realize you were homosexual?”, followed by “Where did you realize this?” Some claimants would answer the first question with a specific age like ‘14’, but in one hearing I attended a claimant paused long enough for the Member to ask, “Did you understand the question?” The claimant then hesitantly answered, “When I was in university”. The claimant’s long pause could have been interpreted to be problematic by the Member because this question is included in the training guidelines, implying that the claimant should be able to provide an answer in a relatively straightforward and decisive manner. Someone who is pausing could be interpreted to be lying because someone who is telling truth should be able to quickly recall such a significant moment, based on the guidelines’ implication that self-consciousness of one’s sexual orientation is a significant event and therefore easily recalled. However, the question “When did you realize you were a homosexual?” is freighted with particular socio-cultural assumptions about sexual desires,

identities and the association between them. Terms like ‘homosexual’ and ‘gay’ have been identified in historical and anthropological research as socio-cultural concepts formulated in Euro-American colonial worlds representing primarily white, middle class men’s experiences but which now have extensive transnational mobility and interpretive variability (Leap & Boellstorff 2004; Cruz-Malave & Manalansan 2002). Ethnographic research has demonstrated how connections between sexual practices, desires, relationships, identities and terminologies are historically and culturally variable, such that terms like ‘homosexual’ and ‘gay’ may be unfamiliar and / or have different meanings related to different socio-cultural contexts. Not all societies may have sexual identity terms that easily equate with ‘gay’ or ‘homosexual’, and even in societies with identity terms for people who engage in same-sex relationships, there may be significant temporal and / or cognitive gaps between the memory of initial desire for someone of the same sex and realizing that one’s desires are associated with a particular sexual identity term. There is also evidence demonstrating that those who engage in same-sex sexual practices may not identify with a same-sex sexual identity term from their native language, even if they are aware of that term, due to the pejorative connotations of such terms (Boellstorff 2011; Gosine 2013).

If we return to the claimant’s pause after the question posed above, it could be the case that the claimant was trying figure out what the Board Member was asking; perhaps the claimant had same-sex relationships when he was younger, but hadn’t thought of himself as ‘a homosexual’ at that point in time; perhaps he hadn’t thought of himself as ‘a homosexual’ until he was accused of being one by someone else; perhaps he hadn’t thought of himself as ‘a homosexual’ until he arrived in Canada and filed a refugee claim, because in his country of origin he had married a woman and had a child while he continued to have sexual relationships with men and didn’t therefore perceive himself as ‘that kind of person’. It is also possible that the answer to the Board Member’s question was written in the claimant’s PIF, where these kinds of events and moments are usually noted with details of specific dates and locations, so the claimant may have been pausing to remember exactly what was written there in order to make sure the written and oral evidence corroborated one another.

The pause taken to possibly remember the details of one’s life written in an official form requiring a particular format and style also reveals how, in addition to assumptions about sexual desires being attached to a particular moment of self-consciousness in which one identifies as ‘gay’, ‘lesbian’ or ‘a homosexual’, sexual identity terms in the hearing are defined and evaluated through precise spatial and temporal grids through which the claimant and their antagonists move. Complex mental, emotional and sensorial experiences become precisely timed and located ‘facts’ written in chronological order on the PIF (and in other documents) which the claimant is expected to be able to reproduce accurately in their oral testimony.

In most cases, it was impossible to know how the Board Member interpreted the claimant's answer to their question, as they would not give an opinion on how well the question was answered. However, in one case, when a claimant told the Board Member that she realized she was lesbian when she was 14, the Member responded, "That's very young to have that kind of realization", simultaneously conveying his pre-existing knowledge / assumptions about 'lesbian' sexual identity formation and his moral judgment about when one *should* know their sexual identity.

I also found that the Board Members' questions pertaining to the claimant's knowledge of "lesbian and gay contacts and activities in Canada" contained similar pre-existing conceptualizations of and connections between sexual desires, identity terms and cultural practices associated with those terms that reflected hegemonic lesbian and gay (white, middle class and cis gender) narratives. For example, in some hearings, a claimant could be asked if they knew what the acronym "LGBT" stood for. While some claimants had no problem with this question, others struggled with the terms. One claimant only remembered 'gay', and then started to mumble words to himself as he searched for the other terms. Finally he said, "The other words have jumped out of my head." Board Members might move on to a different set of questions, but then return to the acronym again later in the hearing (often there was no change in the answer). Other claimants might be asked whether or not they went to LGBT bars and clubs in Toronto, and if so, where they were located. In one indicative case, a Board Member held up a photo of a claimant marching down Yonge Street with another woman during the annual Pride parade in Toronto, asking the following questions:

Board Member (BM):	What day was that?
Refugee Claimant (RC):	Pride was in....I think June?
BM:	In June?
RC:	June...I don't remember the exact dates.
BM:	It's not that long ago... you don't remember the first time you had physical contact with this woman?
RC:	It was at night after Pride
BM:	But you don't know when it was
RC:	I don't know the date
BM:	You think it was June
RC:	I think it was
BM:	Beginning, middle, or end of June?
RC:	(sighing)...I think between the middle and end...

This line of questioning could have been derived from the guidelines, which state, "Many gay men and lesbians find it easier in Canada to meet other gay people, to get involved in social

activities, to go to bars or access gay and lesbian culture” (LaViolette 2004: 18). While this may be true for some refugee claimants, it may not be the case for others. A number of the refugee claimants told me that they did not spend much time in the bars and clubs on Church Street, the centre of Toronto’s ‘gay village’. One woman, Anna, said that she would like to go more often, but she lived in Etobicoke, a suburb of Toronto, and it would take her too long to get home on public transit; furthermore, she was working long hours at a nursing home as a personal support worker, and was usually too tired to go out. Alimi, from Nigeria, had recently attended his first ever Pride parade, and while he had been amazed at how “open” everyone was, he was also intimidated by the public displays of sexuality, and he tried to stay away from cameras because he was worried that a photo of him might be seen “by the wrong people”. While most of the people I interviewed were aware and appreciative of the openness of sexual diversity in certain neighbourhoods of Toronto and the relatively easy and safe access to queer spaces and social life (compared to where they came from), there were other factors that caused them to not feel safe or secure. Most of the interviewees could not afford to live in queer-friendly but expensive downtown neighbourhoods, and many were often finding accommodation in shelters, homes of family members who did not know about their sexual orientation or apartments in the outer suburbs where significant numbers of people from similar ethno / national backgrounds lived, resulting in what many felt was a need to continue to be discreet about where and with whom they were seen. The precariousness of accommodation and work, combined with long internalized feelings of fear and distrust of any queer space or gathering meant that a number of interviewees did not have a well-developed sense of mainstream Toronto LGBT topography and culture in the way that the Board Member training guidelines implied they should.

Furthermore, we might want to question exactly who, what and where is Canadian ‘LGBT culture’? The Board Member’s (and training guidelines’) assumption that queer people congregate in the same spaces and at the same events, or that queer people should be knowledgeable of these spaces and events, elides significant racial, gendered, sexual and ethno-national differences that produce multiple ‘queer’ sites, networks and communities across the greater Toronto area. In other words, to assume knowledge of certain clubs, groups and locations associated with the “LGBT” acronym is once again an example of socially preconditioned meaning assessments reflecting particular raced, classed and gendered narratives, thus imposing a homonormative vision of queer life. The fetishization of time and place in questions aiming to determine the credibility of a sexual identity reflects a juridico-legal framework operating with hegemonic Euro-American meanings in its application of socio-sexual identity terminologies, i.e., a specific set of terms that are premised upon a staged model of sexual identity development and community belonging that is raced, classed and gendered.

Conclusion

In this paper, I have examined how Canadian refugee claim adjudicators assess the credibility of sexual orientation refugee claimants by asking questions which contain terms imbued with particular socio-cultural, historical and political meanings. As Miller notes, the particular kind of identity created, named and rewarded in these hearings is one constrained by asylum's historically specific development and role in the modern regulation of the movement of people:

Articulating gayness within the asylum process, bringing queer sexuality in to the national consciousness of who is here, or who should be here, can be seen as part of a broader engagement with multi layered legal principles, national prejudices, and struggles for public space involving not only asylum seekers but their advocates including NGO champions. All are caught up in the process of making meaning for one's national and international audience at the same time as an individual subject seeks refuge. (Miller 2005: 144–145)

Over the past 20–25 years, the Canadian refugee apparatus has increasingly recognized sexual orientation and gender identity as particular kinds of social groups worthy of protection under the refugee laws of Canada. One of the outcomes of such recognition is increased attention to and assessment of the definitions and meanings of sexual orientation and gender identity terms—that is, determining appropriate modes of questioning that will help adjudicators determine the ‘credibility’ of sexual orientation or gender identity of the claimant. While training guidelines indicate that adjudicators must be careful in their assessment of the ‘implausibility’ of sexual orientation and gender identity claims, and that in fact there may be ‘no true answers’, the order and content of questions in the hearings I attended revealed the application of Euro-American socio-sexual identity terms with socially preconditioned (historic, geographic and political) meanings about sexual identity development, culture and community manifesting gendered, raced, and classed experiences and / or knowledge that may work against a refugee claimant who does not share this experience or knowledge. The Board Member's questions, based on guidelines derived from recommendations of some LGBT scholars and activists, assume a particular kind of ‘queer literacy’, and assumptions about what constitutes a correct answer belie how sexual and gender identity terms are embedded with particular forms of knowledge in juridical bureaucratic events and enable authority to be claimed and retained.

What is relatively new here is the way in which a particular discourse about ‘authentic’ desire, sexuality, gender and identity is now being utilized by the bureaucratic machinery of the nation-state as a form of migrant gate-keeping, such that learning and understanding this discourse and its key terms improves one's chances of being recognized as an ‘authentic’ SOGI refugee, opening the door towards ‘legitimate’ citizenship. Herein lies the subtle yet powerful evidence of

homonationalism at work, in that a particular white, middle class and mostly male narrative of sexual identity development and practice operates as the benchmark through which the ‘credibility’ of a SOGI refugee claim is assessed. Yet while some refugee claimants demonstrate competency with this narrative, others do not, and in hesitating or stumbling over an answer they risk losing credibility, having their claim rejected, and being deported to their country of origin.

In his overview of the governmentality of immigration, Didier Fassin observes a paradox: that as asylum is increasingly disqualified both quantitatively and qualitatively, nation-states develop increasingly sophisticated instruments to scrutinize the ‘truth’ of applicants who, in the great majority of cases, will be rejected and end up added to the pool of illegal aliens after they have exhausted every possible appeal (2011: 221; see also Fassin & Rechtman 2009: 250–274). In this paper, I have observed that refugee adjudicators’ terminological registers are employed to assess the credibility of sexual orientation of refugees, and operate as some of the instruments of this ‘truth finding’ machinery. Board Members wield significant power with their ability to support or reject refugee claims and must be recognized as one of the key nodes in the migration gate-keeping mechanisms of the nation-state. The effect of heightened suspicion and scrutinization and the deployment of linguistic registers containing pre-determined socio-cultural knowledge creates a situation of linguistic inequality for the SOGI refugee claimant, leading to the possibility of an increased number of rejected asylum seekers (based on mutual misunderstandings and misinterpretations), which then confirms the nation-state’s claim to need to further increase security and surveillance of asylum due to higher rates of ‘bogus’ asylum claims. It is a pernicious circular logic, indicative of the heightened securitization and gate-keeping mechanisms of the late-liberal nation-state and the subtle, yet powerful operations of language through which forms of citizenship are granted in ways that privilege and give life to particular racial, gendered and classed formations while rendering others illegitimate, unworthy and ultimately disposable. The ways in which this logic is enacted through the deployment of particular sexual and gender terminologies, vocabularies and discourses in various locations of the migration apparatus require immediate and sustained critical inquiry from queer, feminist and migration scholars, in order to better understand and question the ways in which they serve to buttress the interests of the state while simultaneously undermining and endangering the lives of vulnerable queer migrants.

Acknowledgement

Funding for this research was provided through grants from the Social Sciences and Humanities Research Council of Canada and the Faculty of Liberal Arts and Professional Studies at York University.

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Endnotes

¹ It should be noted that while ‘sexual orientation’ and ‘gender identity’ are often presented as one category in refugee law and international human rights discourses, there are substantial differences in terms of how refugee claimants and their files are assembled, processed and evaluated according to hegemonic Euro-American categories of ‘gay’, ‘lesbian’, ‘bisexual’ or ‘transgender’. See, for example, Rehaag 2008 regarding bisexual refugee claims; Lewis 2010 regarding lesbian refugee claims; and Bach 2013 regarding transgender refugee claims. In this paper, I focus primarily on the influence and impact of sexual orientation terminologies on refugee claim assessments as these were majority of cases that I worked with.

² Details of Board Members’ and refugee claimants’ identities, narratives and questions in IRB hearings have been altered in order to ensure confidentiality of information provided at the hearing.

³ This form is no longer utilized following changes to the refugee claim determination process instituted by the federal government in 2012.

⁴ This consultant worked with the IRB in the early 2000s. IRB SOGI refugee claim guidelines have modified and revised since that period. For example, See <http://www.irb-cisr.gc.ca/Eng/BoaCom/references/pol/GuiDir/Pages/GuideDir09.aspx>