Identity, Refugeeness, Belonging: Experiences of Sexual Minority Refugees in Canada

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Cet article explore les résultats d'un projet de recherche communautaire qualitatif sur les expériences intersectionnelles des réfugiés minorités sexuelles vivant à Montréal et Toronto. Menée entre 2007 à 2010, cette étude a examiné les expériences des réfugiés minorités sexuelles, incluent leur immigration au Canada ainsi que leur processus de détermination du statut de réfugié. Nous étudions la façon dont les mesures politiques sur les réfugiés, les institutions sociales et les discours dominants contribuent à la construction sociopolitique des réfugiés minorités sexuelles. Nous concluons par une réflexion critique à propos des stratégies pour accroître la protection des réfugiés minorités sexuelles.

This article explores the results of a qualitative community-based research project on the intersectional experiences of sexual minority refugees living in Canada. Undertaken between 2008 and 2010, this study examines sexual minority refugees' multifaceted experiences of migration, the refugee determination process, and settlement. Through an analysis of the inter-related themes of identity, refugeeness, and belonging, we hope to further investigate the ways in which Canadian refugee policies, social institutions, and dominant discourses contribute to the sociopolitical construction of sexual minority refugees. We conclude with an exploration of strategies for increasing protection of sexual minority refugees in Canada.

IN 1991, CANADA BECAME ONE OF the first Western nations to grant refugee[1] status on the basis of sexual orientation (LaViolette 2009a; Rehaag 2008). Subsequently, the landmark Supreme Court of Canada ruling *Canada (A.G.) v. Ward* in 1993, while not specifically about a sexual minority refugee claim, explicitly defined the parameters of the refugee convention concept of ''particular social group'' to include sexual orientation within Canadian refugee law[2] (LaViolette 1997). In 1995, the Canadian refugee tribunal become one of the first ''to have adjudicator training on these issues and to produce in-house human rights information on the situations of sexual minorities in different countries'' (LaViolette 2009a:438).

Since this time, the Canadian Refugee Protection Division (RPD) has adjudicated thousands of refugee claims based on Sexual Orientation and Gender Identity (SOGI) and has one of the highest acceptance rates of such claims (Millbank 2009). While exact numbers are not available, a 2002 article in *The Globe and Mail* reported that close to 2,500 people from 75 different countries made an SOGI-based claim between 1999 and 2002 (LaViolette 2009a). In addition, 1,351 SOGI-based refugee claims were adjudicated in 2004 (Rehaag 2008).

The theoretical, descriptive, and analytical work that is required in order to begin to articulate the sexual minority refugee experience in Canada is one that is both multidimensional and multidisciplinary. Taking into consideration historical, social, economic, political, cultural, and psychological dimensions of the intersection between *migration* and *sexuality* reveals the complex ways in which the Canadian refugee regime organizes the lives and disorganizes the psyches of sexual minority refugees. While their lives are profoundly structured by transnational cultural and social forces, sexual minority refugees also repeatedly demonstrate their agency, perhaps the most poignant example being when they flee from persecution and harm by escaping their country of origin. This article explores the results of a qualitative community-based research project on the intersectional[3] experiences of sexual minority refugees[4] living in Canada.[5] Undertaken between 2008 and 2010, this study gathered information on the ex-

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[1.] A Convention refugee is defined as ''a person who, owning to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion, is outside the country of his nationality and is unable or owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it'' (Article 1, Convention amended 1967, see UN High Commissioner for Refugees (UNHCR) 1967.

[2.] This Supreme Court ruling identified sexual orientation as an immutable (innate or unchangeable) personal characteristic, therefore, declaring gay and lesbian refugee claimants as belonging to a ''particular social group'' (LaViolette 1997).

[3.] For the definition and further exploration of the term *Intersectionality*, see Crenshaw (1991).

[4.] Within the context of this paper, our definition of ''refugee'' includes those at various points in the process of claiming refugee status in Canada (i.e., refugee claimants, accepted refugees, refused refugee claimants, and nonstatus individuals).

[5.] See Brotman and Lee (2010). *Speak Out! Lesbian, Gay, Bisexual, Trans and Queer Refugees in Canada: Exploring Intersections of Sexual, Gender and Cultural Diversity*. SVR Research Team. McGill School of Social Work.

periences of sexual minority refugees in Canada by examining their multifaceted experiences of migration, the refugee determination process, and settlement.

Through critical analysis of the interrelated themes of *identity*, *refugeeness*, and *belonging* we hope to contribute to queer migration scholarship[6] in North America. By placing both queer migration scholarship and Canadian empirical literature about sexual minority refugees in critical dialog with our key findings, we aim to further investigate the ways in which Canadian refugee policies, social institutions, and dominant discourses contribute to the sociopolitical construction of sexual minority refugees. Moreover, centering the experiences of sexual minority refugees themselves will help foster an understanding of how they respond to and resist constraining sociocultural forces. Finally, we identify the tensions between the discursive complicities and material consequences of entering into sexual rights based discourses in order to promote sexual minority refugee rights and conclude with an exploration of strategies for increasing protection of and advocacy with sexual minority refugees in Canada.

Before turning to a review of the scholarship, we wish to be explicit about the varying sexual and gender identity labels used throughout this article, as there is considerable debate on how and which labels should be employed. Our strategic employment of these labels has been informed both by the scholarship and the ways in which the participants of our study defined themselves. In addition to using the terms lesbian, gay, bisexual, and trans, we invoke the term *queer*[7] when speaking to *lesbian, gay, bisexual, trans, and queer advocacy and activism* and when referring to the scholarly area of *queer migration studies*.

We emphasize the term *sexual minorities* in order to cover a range of sexual and gender identities which challenge heteronormativity beyond the limited categories described by lesbian, gay, bisexual, and trans (Rehaag 2008, 2009). By shifting between all of these labels we call attention to what Lionel Cantu (2009) explains as the *limitation of existing identity categories*

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6. Queer migration scholarship argues that sexual minority refugees are empirically very similar to other "queer migrants" (i.e., legal or undocumented immigrants) who oftentimes shift from one migration category to another, thereby directing analytical attention "to the ways that these distinctions function as technologies of normalization, discipline and sanctioned dispossession" (Luibhéid 2005:xi). Therefore, we pay attention to this critical theoretical framework, especially since our study includes not only those who have been accepted as convention refugees, but also asylum seekers, former temporary foreign workers, former international students, and failed refugee claimants (now living undocumented).

7. Within Anglophone, North American culture, the term queer has historically been used to disparage gays and lesbians. During the past three decades, this term has been "reclaimed" by lesbian, gay, bisexual, and trans activists and scholars (Carlin and DiGrazia 2003). However, the term queer has also been argued to be a largely white construct, failing to acknowledge the ways in which sexuality and gender have been historically constructed and presently negotiated differently for contemporary racialized communities than from white North American activists and scholars who first reclaimed the term (Ryan et al. 2008). Interestingly, many critical scholars producing queer migration scholarship who have chosen to deploy the term queer, have done so in order "to acknowledge that all identity categories (i.e. lesbian or gay) are burdened by legacies that must be interrogated, do not map neatly across time and space" (Luibheid 2007:170). Luibheid (2005) explains this to "mark the fact that many standard sexuality categories were historically formed through specific epistemologies and social relations that upheld colonialist, xenophobic, racist, and sexist regimes" (p. xi).

in capturing the complex ways in which the participants in our study understood and expressed their sexual and gender identities.

QUEERING MIGRATION SCHOLARSHIP

Placing migration scholarship and sexuality scholarship in critical and sustained conversation with each other has resulted in what Eithne Luibhéid (2008) has described as *unruly body of inquiry*, intersecting within and between multiple fields of study and emerging in the 1990s as a distinct area of inquiry known as *queer migration scholarship*. An important aspect of queer migration scholarship has been the production of knowledge related to the movement of sexual minority asylum-seekers, mostly from the Global South, seeking a pathway to citizenship in the Global North. This scholarly focus on sexual minority refugees has opened up space for critical inquiry into the tension embedded into ''on the one hand, providing protection to people who are persecuted by national governments and, on the other hand, respecting the sovereignty of individual nation-states'' (Luibhéid 2005: xvii).

Articulating the ways in which the present day experiences of sexual minority refugees living in Canada have been profoundly influenced by transnational histories of colonialism and imperialism will allow for a historicized and context specific analysis into the particular consequences of dominant, interlocking[8] systems of race,[9] class, gender, ability and sexuality, indelibly marked onto queer migrant bodies and psyches. As such, Luibhéid's (2008) critical appraisal of the social relations of power between sexual minority refugees and normative (Western) citizenship practices reflects ''the anxious, ongoing (re)production of national heteronormativity—including through border controls and immigrant management—(and) is connected with wider neo-colonial and neo-imperial processes, historically and at present'' (p. 175). Therefore, critical questions have been raised about the sociopolitical construction of refugees whose expressions of sexual or gender identity fall outside of the heterosexual norms that have historically and are presently dictated by Western nations (Luibhéid 2005, 2008; Manalansan 2006).

Just as regulations and discourses of heteronormativity have historically been driven by Western nations, so too has the development of an international refugee regime.[10] Recently, this regime has been increasingly articulated as a series of competing discourses centered between refugee

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8. For more the definition and further exploration of the term *Interlocking*, read the following texts: Razack (1998, 2008).

9. The term *race* is understood as socially constructed, rather than a biologically determined concept or category espoused by colonial and white supremacist epistemologies in which skin color among other visible, socially selected traits are used to classify groups hierarchically (Ryan et al. 2008).

10. The defining of the term *refugee* and coalescing of an *international refugee regime* took place with the enshrinement of the *United Nations Convention relating to the status of Refugees* in 1951 and then subsequently the *Protocol relating to the status of Refugees* in 1967. The initial purpose for the 1951 Convention and 1967 Protocol were to provide refugee protection to displaced Europeans from former communist nations post World War II (Loescher, Betts, and Milner 2008).

migration as a ''humanitarian issue'' and as a ''post 9/11 security threat'' (Lacroix 2004). Influenced by this international context, the social, political, and legal constructions of refugees within the Canadian refugee regime takes on particular characteristics and produces what Lacroix (2004), citing Malkki (1995), describes as *refugeeness*, emerging ''as a way of understanding the particular subjective experience in relation to existing refugee policies'' (p. 163).

The subtle ways in which heteronormativity frames the Canadian refugee regime and therefore the construction of *refugeeness* has particular ramifications for those fleeing persecution because of their sexual or gender identity. As a result, the expression of diverse sexual and gender expressions, identities, and behaviors converge with a refugee politics that is simultaneously concerned with being humanitarian AND exclusionary. Sexual minority refugees, therefore, become what Alice Miller (2005) explains as ''part of a self-regarding, nationally-inflected public debate, mostly informed by media-mediated announcements of legal decisions about which asylum seekers are allowed to enter a nation, and why'' (p. 144).

This linkage between the past and present provides a historicized pathway to examine the complex and oftentimes contradictory ways in which the regulation of sexuality, in conjunction with immigration controls, has been a central organizing practice, continually reconfiguring the nation state and therefore, its citizens (Luibhéid 2005). While immigration policies and practices of Western nations have changed over time, Luibhéid (2008) argues in favor of a *fractured continuity* in the ways that ''geographies and histories of empire, global capitalism, slavery, coerced labour, forced transportation and exile have materially shaped queerness, migration and queer migration, both past and present, including through the effects of haunting'' (p. 178).

These *fractured continuities* have resulted in contemporary refugee discourse and policies taking on distinct characteristics, particularly with respect to their impact upon the lives of queer migrants, and in particular, sexual minority refugees. One dominant discourse attached to sexual minority refugees has been the dominant framing of their arrival onto North American soil in what Luibhéid (2005) would describe as ''a narrative of movement from repression to freedom, or a heroic journey undertaken in search of liberation'' (p. xxv). Jenicek, Lee, and Wong (2009) examined media representations of sexual minority refugees in the post 9/11 mainstream Canadian press and found this discursive maneuver of Canada being constructed as a *safe haven* in relation to those *Other* homophobic nations (from where the sexual minority refugee came) being consistently repeated and affirmed. This simplistic framing of what is a complicated migratory process not only results in the silencing of more complex narratives dictated by sexual minority refugees themselves, but also produces a discursive erasure of the very real forms of heterosexism and homo/transphobic violence present in Canada today (Gosine 2008; Jenicek et al. 2009).

While this narrative plays out at the discursive level, it also has material consequences, in its impact upon how sexual minority refugees negotiate the refugee determination process. For example, Alice Miller (2005) describes how sexual minority refugee claimants are oftentimes forced to describe their country of origin in racist and colonialist ways in order to heighten their credibility and substantiate their reason for fleeing. The result, as explained by Jenicek et al. (2009) is a reinforcing of a *culturally racist paradigm*, whereby ''there is a perverse incentive for sexual minority claimants to demonize their countries of origin—thereby reinforcing imperialist shortcuts—and glorify Canada's merits'' (p. 647). This effectively silences the intersecting forms of racism, sexism, classicism, and heterosexism which sexual minority refugees encounter throughout the refugee determination process. Queer migrants occupy what Gosine (2008), citing Gayatri Gopinath (2005), eloquently describes as *spaces of impossibility*, as bodies who are ''*potentially* crossing nation through queer sexual identification and simultaneous invocations of colonial-imperialist narratives about race'' (p. 225).

Furthermore, rather than participating in what Jenicek et al. (2009) have identified as the *culturalization of homophobia*[11] or transphobia, Luibhéid (2005) contends that particular forms of homophobia/transphobia are inextricably linked with and emerging from Western colonial and imperialist histories. For example, a recent Human Rights Watch research report traces the history of colonial laws which criminalized same sex sexual activity, in what Alok Gupta (2008) describes as ''the strange afterlife of a colonial legacy'' (p. 5). Gupta (2008) explains how over half of the 80 countries which still criminalize consensual same sex activities between adult men and adult women have these laws as a result of their historical involvement in British colonial regimes which ''attempt(ed) to set standards of behaviour, both to reform the colonized and to protect the colonizers against moral lapses'' (p. 5).

Therefore, a number of critical queer migration scholars caution queer citizens from Western nations against engaging in what Luibhéid (2008) describes as *queer complicities*, whether it be through Duggan's (2003) concept of *homonormativity*,[12] or Jasbir Puar's (2006) notion of *homonationalism*,[13] therefore ''reinforc(ing) racial, cultural and other hierarchies within queer communities, with significant consequences on local, national and transnational levels'' (p. 179).

[11.] Jenicek et al. (2009) describe the *culturalization of homophobia* whereby ''this particular form of oppression becomes a specific and racialized practiced attached soley to *Other* cultures'' (p. 647).

[12.] Luibhéid (2008), citing Duggan (2003), describes homonormativity as ''a politics that does not contest dominant heteronormative assumptions and institutions, but upholds and sustains them, while promising the possibility of a demobilized gay constituency'' (p. 179).

[13.] Luibhéid (2008), citing Puar (2006), describes homonationalism as ''colluding with hegemonic forms of nationalism, including as it is deployed for capitalist profiteering and neo-imperialism'' (p. 179).

Another important source of tension surfacing within queer migration scholarship is the contradiction embedded within a rapidly developing global consciousness of a universalized gay identity. This is what Luibhéid (2008:181), citing Benedicto (2008), described as an *imagined gay globality*, whereby sexual and gender identity categories have been universalized, and indeed, globalized. However, some scholars have cautioned against the promotion of an international gay subjectivity that is universalized and therefore sustained through Western-driven sexual and gender identity categories (Luibhéid 2008; Manalansan 2003).

As Lisa Duggan (2003) contends, ''any gay politics based on the primacy of sexual identity defined as unitary and essential residing clearly, intelligibly and unalterably in the body or psyche and fixing desire in a gendered direction, ultimately represents the view from the subject position 20th century Western white gay male'' (p. 57). Their aim is therefore to move toward a politics which acknowledges that expressions of sexuality and gender are not universal, but are in fact context and site specific, constructed through complex, intertwined histories of indigeneity and colonialism.

In subtle contrast to these perspectives, Lisa Rofel's (1999) research challenges the notion of a universal gay identity being a totalizing consequence of Westernization. While Rofel (1999) acknowledges that constructions of sexual or gender identities will not look exactly the same in any one place across the globe, she argues that migrants who claim ''gay'' or ''queer'' identities are not simply assimilated and therefore aligned with dominant Western sexuality norms. Rather, Rofel (1999) contends that ''when migrants claim queer identity, they strategically invoke, inhabit and transform the term in relation to these wider cultural and historical processes'' (cited in Luibhéid 2005; p. xxxi). This kind of complex analysis may indeed reveal additional ways in which sexual minority refugee agency is asserted.

REVIEW OF CANADIAN EMPIRICAL LITERATURE

Over the past decade, there has been an increase in theoretical and empirical scholarship about sexual minority refugees across Western nations.[14] In addition to the cultural/media texts mentioned in the previous section under the rubric of queer migration scholarship (Gosine 2008; Jenicek et al. 2009), published empirical literature focusing on the Canadian context has been primarily situated within legal scholarship (LaViolette 1997, 2003, 2007, 2009a, 2009b, 2010; Rehaag 2008). Furthermore, Berg and Millbank (2009), Fairbairn (2005), McGhee (2001, 2003), Millbank (2002, 2009), and Rehaag (2009) have produced empirical legal scholarship which engages with a comparative analysis of a variety of Western nations, including Canada, in order to explore the historical underpinnings and contemporary

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[14]. We chose to focus on empirical literature which either focused on the Canada or included Canada in a comparative analysis. For a comprehensive list of references, see Brotman and Lee (2010).

implications related specifically to refugee determination procedures for SOGI-based claims.

An important site of tension within this legal scholarship revolves around how sexual orientation has been defined within Canadian refugee law. Initially, sexual minorities were constituted as a particular social group because of their ''immutable'' personal characteristic (LaViolette 1997; Rehaag 2008). This particular interpretation of sexual orientation within Canadian refugee law has been critiqued, with Rehaag (2008) suggesting that SOGI-based refugee claims would be better situated under a *fundamental human dignity approach*,[15] thereby acknowledging the fluid and contextual nature of sexual and gender identity, and thus moving toward a *queer refugee jurisprudence*.[16] More recent, Canadian refugee law appears to have shifted in this direction, with the Federal Court having rendered several decisions which has acknowledged the contextual and fluid nature of sexuality (Berg and Millbank 2009; Millbank 2009).

In addition, LaViolette (2007) has argued for a *social constructionist approach* in determining refugee status for sexual minorities through the expansion of Canada's gender-based guidelines,[17] in order to include sexual minorities who face persecution because of not conforming to societal gender norms, therefore taking into account ''the power relations that characterize relations between men and women'' (p. 170). However, Rehaag (2009) also identified the potential merits of strategically keeping sexual orientation defined as ''immutable,'' contending that if dominant societal constructions of sexual orientation becomes viewed as ''mutable'' (therefore flexible and socially contingent) versus ''immutable,'' there is a risk that ''sexual minorities facing persecution will no longer meet the refugee definition'' (p. 419).

Furthermore, the application of certain procedures related to the Canadian refugee determination process which negatively impact SOGI-based refugee claims have been described as both arbitrary and inconsistent (Fairbairn 2005; LaViolette 2003, 2007; Lidstone 2006; Millbank 2002, 2009; Rehaag 2008, 2009). Decision makers were found to be inconsistent in their evaluation of the consistency, plausibility, and demeanor of sexual minority claimants and their responses to questions during the refugee hearing in order to assess the credibility of a claimant's sexual orientation (Millbank 2009), coinciding with inconsistencies of credibility assessments

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[15]   This type of ''particular social group'' would be for those who associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association (Rehaag 2009).

[16]   For instance, sexual minority refugee cases brought before Immigration and Refugee Board (IRB) adjudicators should qualify within the definition of Convention refugee under a ''particular social group,'' for reasons fundamental to their human dignity, rather than because of lesbians and gays having an immutable personal characteristic (Rehaag 2008).

[17]   Since 1993, IRB adjudicators are expected to follow a set of guidelines titled *Women Refugee Claimants Fearing Gender-Related Persecution* (later revised, see IRB 1996). These guidelines have been recognized as a *tool of persuasive evidence* and have served as a systematic and structured way for IRB adjudicators to evaluate gender-related refugee cases (LaViolette 2007).

identified at a systemic level for refugee claimants in general (Crépeau and Nakache 2008; Rousseau et al. 2002).

Miller (2005) contends that many adjudicators assess the credibility of a claimant's assertion that they are a sexual minority based on their own *folk knowledge*, which is a culturally specific form of ''juridical common sense'' (p. 138). When it comes to sexual minority refugee claims, *folk knowledge* oftentimes taps into a heterosexist world view, and therefore results in what Jenicek et al. (2009) explain as ''both hetero-normative (rife with stereotypes) and homophobic (rife with fear), leading to myopic interpretations of sexual and gender identities'' (p. 638). These interpretations are therefore heavily imbued with dominant Western conceptions of an innate and linear sexual identity formation (Berg and Millbank 2009).

Perhaps no other group of sexual minorities are more vulnerable to the heteronormative *folk knowledge* of any given adjudicator than bisexual refugee claimants (Rehaag 2008, 2009). These claimants have been found to be less successful in gaining status than their gay, lesbian, or trans counterparts, in addition to encountering prejudices specific to the notion of bisexuality in their refugee decision (Rehaag 2008, 2009). Decision makers either did not believe in the claimant's bisexuality, held negative views about bisexuality, or believed that a claimant's bisexuality could remain invisible (Rehaag 2008, 2009).

LaViolette (2007) and Miller (2005) have also found evidence of IRB adjudicator confusion and inconsistent rulings with *gender conforming* sexual minority refugee claimants, with masculine looking men not being believed to be gay, while feminine looking women have not been believed to be lesbian, in addition to the conflation of trans identity with being gay. All of these inconsistencies reflect what Berg and Millbank (2009), citing Noll (2006), describe as a relational power dynamic which ''dictate that the construction of the applicant's life story cannot challenge foundational tenets of the decision-maker's understanding of the world'' (p. 197). The likelihood of having a successful refugee claim then becomes dependent on the interpretive lens and *folk knowledge* of a particular IRB adjudicator impacting *how* they assess evidence and hear testimonies, rather than on Convention refugee guidelines and protocols.[18]

In slight contrast to the viewpoint of Millbank (2009), LaViolette (2009a) contends there has been a shift in the ways in which IRB adjudicators have assessed more recent SOGI-based refugee cases, with many refugee claims having failed, not because of an inability to prove their sexual orientation or gender identity, but because of lack of country conditions documentation (related to Lesbian Gay Bisexual and Transgender

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[18]. Although the UNHCR recently created the *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity* (November, 2008), in order to increase the level of consistency from which SOGI-based refugee claims are determined, it is important to note that this guidance note is less authoritative than a *Handbook* or *Guidelines* (LaViolette, 2009b, 2010).

[LGBT] human rights violations), availability of state protection, internal flight alternatives, and the distinguishing between discrimination versus persecution.

While there has been an increase in the documentation of human rights violations against sexual minorities by both international human rights organizations and sexual minority advocacy groups, leading to an increase in its usage at the refugee hearing, there continues to be an absence of country conditions from regions where a significant number of sexual minority refugee claims are being made (LaViolette 2009a). Due to underreporting and lack of documentation, limitations were identified in gathering evidence of violence against LGBT individuals (LaViolette 2009a:447, citing Arbour 2006). This led to refugee tribunals using inappropriate sources as substitutes. For example, the IRB used material promoting Mexico's gay tourist industry, an assertion described by one refugee lawyer as unreliable, inherently promotional and "highly prejudicial, as it relied on stereotypical notions of gay men as primarily interested in socializing, parties and sexual activity" (LaViolette 2009a:449).

Persecution under Canadian refugee law has been defined as "acts of harassment, cruelty, punishment, injury or annoyance inflicted in a persistent, systematic or repetitive manner" (LaViolette 2009a:450). While LaViolette (2009a) explains the difference between persecution and discrimination to be the "degree of seriousness of the harm," there are clear inconsistencies in how they have been differentiated at refugee tribunals for SOGI-based claims, especially since discrimination is an aspect of persecution and a series of discriminatory acts can become persecution. This ambiguity and interrelationship between persecution and discrimination, in conjunction with the lack of human rights documentation, results in inconsistencies in how decision-makers have assessed sexual minority refugee claimants from the same region or country (LaViolette 2009a).

In addition to inconsistencies in how individual adjudicators have assessed the availability of state protection for SOGI-based refugee claims, there has also been an increase in the use of "internal flight alternative" (IFA) to deny refugee status, usually based on lack of evidence to negate the possibility of an IFA (LaViolette 2009a). This has been problematic for many sexual minority refugee claimants, especially those from Mexico (LaViolette 2009a). In 2005, the RPD identified Mexico City as an IFA for gay men and lesbians, through the use of a "persuasive decision."[19] However, after a number of individual adjudicators challenged the notion that Mexico City was a safe place for all sexual minorities, the RPD eventually revoked this determination in May 2008 revealing that "the findings of the persuasive decision in relation to Mexico City as an IFA were not in fact persuasive" (LaViolette 2009:461).

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19. LaViolette (2009a) identifies the 2005 decision, *Gutierrez v. Canada* "as having persuasive value regarding the availability of an IFA in Mexico from refugee claims on grounds of sexual orientation or gender identity" (p. 461). A *persuasive decision* is not binding for decision makers, but is viewed as a model of sound reasoning to be used in appropriate circumstances and are also encouraged to be used in the interests of consistency (LaViolette, 2009a).

Unpublished Canadian empirical research has begun to emerge which describes sexual minority refugee claimant experiences of the refugee determination system and settlement (Jordan 2010a; Lidstone 2006; O'Brien et al. 2006; Parrish 2006). These studies describe the impact of escaping violence and abuse in their country of origin, in addition to examining social, legal, and psychological barriers facing sexual minority refugee claimants in their navigation of the refugee determination process upon arrival to Canada (Jordan 2010a; Lidstone 2006; O'Brien et al. 2006; Parrish 2006).

By drawing critical linkages between sexual minority refugee youth and HIV vulnerability, O'Brien et al. (2006) describes the difficulties facing these young people in relation to social isolation, mental health issues, transphobia/homophobia and fear of rejection from family or community. Experiences of racism and discrimination due to language barriers were also identified, along with the issue of having to choose between one's culture and sexuality (O'Brien et al. 2006). In addition, O'Brien et al. (2006) connects systemic barriers within health care, education, and social services to experiences of racism and poverty within these services.

Several researchers explicitly acknowledge the under representation or invisibility of lesbian, bisexual, and trans refugee experiences within Canadian empirical research (LaViolette 2007; Lidstone 2006; Miller 2005; O'Brien et al. 2006; Rehaag 2008). Furthermore, while the continued production of legal scholarship about sexual minority refugees is imperative, there is a vital need for empirical research which goes beyond legal procedures and addresses the broader cultural and social dimensions of sexual minority refugee interactions with the Canadian refugee regime (Jordan 2010b). This article seeks to build upon and extend knowledge production in this area.

METHODOLOGY

The current study undertook a community-based qualitative research program which used an adapted ''grounded theory'' methodology (Charmaz 2006; Glaser and Strauss 1967; Strauss and Corbin 1990) in order to uncover the multiple experiences which emerge in the migration experience of sexual minority refugees. Our main partners were the Canadian Council for Refugees (CCR),[20] Coalition MultiMundo,[21] and the Express program.[22] Since the beginning of the project, there was continual engagement with the advisory committee. Over the course of two years, we

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[20.] The CCR is an umbrella organization representing refugee advocacy and support programs across the country and abroad (http://www.ccweb.ca).

[21.] Coalition MultiMundo is a coalition in the Montreal area of Lesbian, Bisexual, Gay, Transgender, and Queer (LBGTQ) cultural community organizations and their allies (http://ca.groups.yahoo.com/group/Coalition-MultiMundo/).

[22.] Express, an SOY (Supporting Our Youth) program for LGBTQ newcomers is organized out of the Sherbourne Health Center (http://www.soytoronto.org/current/express.html).

undertook 28 interviews in both Montreal (14) and Toronto (14) with sexual minority refugees and their advocates.

Before beginning the interview process, we engaged in six to eight months of community networking and knowledge exchange with key stakeholders in the community (these included sexual minority refugees themselves, advocates and support workers in refugee support, queer health, and queer racialized voluntary organizations). From this work we developed research advisory groups in Montreal and Toronto to oversee the project in its entirety. In conducting the study, we engaged in a snowball sampling strategy in which participant recruitment decisions emerged from an exploration of people's experience. This was articulated as a stepwise iterative process of recruitment, interviewing and analysis with each phase allowing time for the team (including the advisory committee) to review the cohort of people interviewed, reflect upon who was missing and respond to recruitment gaps along several social locations including gender, gender identity, geographic region of origin and settlement, family status, and age. Our strong connection to community groups through our advisory committee facilitated trust building and decision making with the community. Engaging in a participatory and social justice oriented research project ensured that community members, both refugees and community activists, were assured of the usefulness of project outcomes for social change efforts.

Each research participant engaged in one 1.5–2 hour long semistructured interview. At the beginning of each interview, the interviewer provided an information sheet and asked each research participant to read and sign a consent form which both informed the participant of the research objectives and outlined the participant's rights within the research interview. Participants were provided with a reference list for counseling support upon request. Ethics certification was received through the McGill University Research Ethics Board.

All interviews were audio recorded and transcribed. Interview guides were developed for both the refugee and service provider/advocate participants. The interviews with refugee participants began with the creation of a visual concept map of their migration pathway. The interview then proceeded with questions that focused specifically on experiences upon arriving to Canada, the refugee determination system, finding housing and employment, accessing settlement and social services, and questions around identity and social location. For service providers/advocates, interview guides included questions to explore their work lives, experiences of providing support, and knowledge of issues facing sexual minority refugees in Canada. In addition, perceptions of the role and structure of the system in determining access and service delivery were addressed. Twenty interviews in English and four interviews in French were conducted by the research coordinator. An additional four interviews were conducted in Spanish by a trained interviewer. The transcription process removed all references which would identify the participant.

The researchers worked closely with the advisory committee at all stages to insure credibility of the analysis and the applicability of the emerging concepts to practice (Lincoln and Guba 1985). Analysis of our findings consisted of content analysis of all data in the form of coding (Gilgun 1994:119). Analysis was undertaken by the research coordinator who met regularly with the principal investigator and advisory group members to reflect upon and adjust analytic themes. Qualitative analysis of data was conducted on an ongoing basis as the research proceeded, alongside data collection; analysis informed data collection in an iterative process.

Before turning to our findings, it is important to acknowledge the exploratory nature of our study. Twenty-eight interviews is a small sample size considering the thousands of sexual minority refugees who have gone through the Canadian refugee determination process and the many service providers/community advocates who have supported them. Because of the qualitative nature of our study, rather than aiming to generalize our findings, our goal is to establish credibility and thickness in description in order to be able to attain a degree of transferability of our findings (Creswell 2007:209). This means critically analyzing how sexual minority refugees interact with particular facets of the Canadian refugee regime, in addition to identifying shared patterns of experience across interviews and thus be able to potentially transfer these findings to similar sexual minority refugee contexts and situations.

FINDINGS

Over the course of two years, semistructured interviews were conducted with two distinct yet at times interrelated cohorts, namely, (1) sexual minority refugees themselves and (2) those who worked with sexual minority refugees within advocacy initiatives and settlement programs in Montreal and Toronto. Twenty-eight people in total were interviewed, with 22 sexual minority refugees themselves, four refugee support workers and/or advocates and two who were both sexual minority refugees and refugee advocates at the time of the interview. Out of the 24 sexual minority refugees that were interviewed, 11 were men, eight were women and five were Male-to-Female trans. Furthermore, these participants came from countries within Latin America, the Caribbean, the Middle East, Asia, and Africa. Ten participants had already been accepted as refugees, while 13 were still in the claimant process and one was refused refugee status (and living undocumented) at the time of the interview.

This section examines the three interrelated themes of identity, refugeeness, and belonging. Two key vectors incorporated into these findings and subsequent discussion is the instructive role of *trauma* and *intersectionality* in relation to these three themes. Thus, sexual minority refugee experiences of the Canadian refugee regime can be conceptualized through an articulation and analysis of political and structural forms of

intersectionality.[23] In addition, experiences and consequences of profound *trauma* was a persistent force, constantly flowing through the lives of sexual minority refugees. Indeed, one of the consequences of navigating the refugee determination process was the significant role of multiple *retraumatizations* in how these participants conceptualized their identity, refugeeness and belonging (or not belonging) within multiple communities.

Constructions of Sexual and Gender Identity

Sexual minority refugee conceptualizations of sexual orientation and gender identity were fluid and contextual, shifting. and changing over time. This ever shifting relationship between their social location and conceptualization of their sexual and gender identity were profoundly influenced by complex social and cultural forces before, during and after their arrival to Canada.

For some, changes in how they identified came as a result of access to a particular language which could articulate how they felt about themselves. For others, shifts resulted from experiences over the life course.

> I cannot find (the) word to describe this, but it's just because I (went) through two phases . . . the first one was I didn't know anything about homosexuality. I was just thinking I was sick, I am not normal. After going to university, I started to . . . discover a little bit about homosexuality . . . then, ok, I started to learn about the word "gay" . . . (and) label myself "gay." But it had to be hidden. Nobody knew about it.

> When I was living in (my country), I wasn't really aware of how to identify my sexuality. I knew I was different . . . I knew I was gay, but it's like I was in denial. It was a subject that I couldn't confront, so I couldn't say that I was a part of any kind of "gay" group . . . even while I was with my boyfriend, we never talked about it . . . maybe it was a way to protect myself . . .

For the majority of our Male-to-Female trans refugees, there was a high degree of certainty in their gender identity from early in life.

> I've never had any doubt . . . I was transsexual from my childhood . . . that has not changed . . . there is no ambiguity.

However, this assertion of labeling oneself as trans did not always happen quickly, as some of the trans participants had earlier on labeled themselves as gay and later on in their lives transitioned into a trans identity. While some of the sexual minority refugees interviewed clearly identified themselves as lesbian, gay, bisexual, trans, or queer, others expressed discomfort in having to label their sexual and/or gender identity at all. For example, one participant did not want to use any labels to identify her sexual orientation. She was a successful refugee claimant who gained status

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[23.]   *Political intersectionality* can be defined as when identity categories become compartmentalized because individuals are situated in at least two subordinated groups that frequently pursue conflicting political agendas (Crenshaw 1991). The *structural intersectionality* examines the ways in which multiply oppressed individuals experience particular oppressive practices embedded within social structures (Crenshaw 1991).

alongside her female partner, but presently chooses not to use the label ''lesbian'' to identify her sexual orientation.

> I think eventually those words should really by taken off . . . we're not like a different species of humankind, so I really don't think we should be given names . . . (and then) the acceptance of sexual orientation would be wider and by that time I hope that people just don't need names. People just need a reason to be happy. People just need a reason to live. I think that should be the most important thing.

In contrast, this participant described how she felt constrained by her experiences of the refugee determination process which contradicted how she ''truly'' wanted to label her gender identity.

> I'm a trans woman refugee claimant. That's the best term I can use. I would love to say (I'm) just a woman refugee claimant, which would be more according to reality, but for a lot of things, I can't. I still have to label myself as ''trans woman refugee claimant.''

Sometimes, a participant's coming into awareness of their sexual orientation or gender identity was coercively and violently defined through traumatic experiences. For example, this trans refugee claimant spoke about being identified and then persecuted by her community due to her feminine mannerisms and therefore identified as ''gay.''

> all my life, my community . . . they identify me before I even know who I was . . . I knew I was something different but I didn't know what it was called. I didn't have no idea of what I was and in the process of searching for me, I was identified by my community in a very derogatory way, as in being bashed all the time, calling (me) ''Faggot'' . . . I couldn't walk alone, people throw stones at me . . . because they say I'm gay.

Refugeeness

The construction of refugeeness for these sexual minority refugees began even before they entered the Canadian refugee regime. Their experiences of persecution in their countries of origin contain traumatic stories which ultimately shape their conceptualization of refugeeness. These traumatic stories remained with them as they navigated Canadian refugee policies and were linked to both their particular experience of trauma and the tensions involved with identifying as or being identified as lesbian, gay, bisexual, trans, or queer.

While we did not ask specific questions related to histories of persecution in participants' country of origin in order to minimize retraumatization, some participants did choose to share some of their experiences of persecution during the interview process (the majority of people only referred to these incidents very briefly). From collective analyses of these diverse responses, it is clear that these participants had a variety of complex reasons for being forced out of their countries of origin and for selecting Canada as their destination country. While the majority of participants had made or were in the process of establishing an SOGI-based refugee claim, a small number of those we

interviewed had gained refugee status for reasons other than those related to persecution on the grounds of sexual orientation and/or gender identity.

All of the refugees we interviewed had experienced persecution (or the fear of persecution) due to their sexual orientation and/or gender identity, with some having lived through particular experiences of state incarceration, police brutality, familial, and/or community violence. For some, seeking refugee protection in Canada was something they had prepared for before leaving their country of origin and for others, making the difficult decision to apply for refugee status came after arrival. One participant, for example, initially came to Canada as a temporary foreign worker, while another arrived as an international student. For many, arrival to Canada signified a hopeful new chapter in their lives.

> arriving in Montreal was a very important moment in my life that I can never forget . . . just getting off the plane, you know, and just . . . breathing in freedom.

At the same time, the majority of participants reflected upon both the pervasive impact of being reminded of their refugeeness and the ways in which structural barriers created and recreated intersectional discrimination. For some, these discriminatory experiences occurred upon arrival in Canada, as described by these sexual minority refugees who declared their refugee status at the airport, a key site where refugeeness was produced and contested.

> the officer was very upset . . . she was a bit arrogant . . . the officer and I were quarreling and she said once more ''why do Mexicans make up stories, you can come to Canada in another way.'' I showed them a book I carried with me of a writer . . . where he describes the murders committed between 1995 and 2005, the gay murders in Mexico, the most well-known cases.

> it was really really stressful and very depressing both for me and my partner . . . after they made the decision that we were gonna be detained, they didn't tell us exactly for how long we'll be detained, so there was this uncertainty . . . they put handcuffs on us and we felt like we were being convicted as criminals.

The latter quote describes the experience of a gay man and his partner who were detained at a detention center for 10 days because of being identified as a ''Flight Risk'' by Canadian government authorities. Upon arrival at the detention center, the participant was physically separated from his partner, even though a government official had previously told him that this would not happen. Because they were living on separate floors, they could only see each other once a day (during a 30 minute break).

> the worst part was that we didn't know what's gonna be the next step, what's gonna happen to us and we couldn't really communicate with each other . . . there was this unnecessary excessive excitement and anxiety whenever I would see him . . . I wanted to cry but I couldn't . . . we wanted to hug and kiss, but then it is a detention center and there are so many people out there.

This participant described a number of difficulties during his 10-day stay at the detention center. Not only was he psychologically traumatized, he also had to deal with the deterioration of his physical health. He got sick

and felt he did not receive adequate medical care by the doctor. Even after receiving permission to leave the detention center, he continued to live with negative psychological and physical health consequences, including those stemming from frustration with not being provided a clear rationale for decisions being made throughout the process.

While sexual minority refugees we interviewed were able to escape sexual and gender identity-based persecution they faced in their country of origin, they described their continued exposure to heterosexism and transphobia/homophobia while living in Canada. One trans refugee came to Canada with a number of people from her country of origin under a temporary foreign worker program, ending up in a small city about three hours away from an urban center. While working at a hotel, she received numerous threats from co-workers (mostly from her country of origin) because of being viewed as gay and feminine. Another gay refugee described his partner's perceptions of how he was treated in a homophobic fashion by immigration officials.

> my partner, he . . . told me that he felt like some people, some workers at the airport, the immigration office, they were also homophobic . . . you come from a homophobic country to Canada and then, these are the first people you meet and you get that impression that this is not truly a free country for gay people.

Two key areas which contributed to participants' complex conceptualizations of refugeeness related to housing and employment. Finding stable and safe housing proved to be a challenging obstacle and was most often experienced as transient, fluid and insecure particularly in the first few months upon arrival. This included staying with family, friends, or refugee/youth shelters. While most sexual minority refugees we interviewed transitioned into a rental apartment within a few months of arrival, many of them described experiences of systemic racism, language barriers and intersectional marginalizing experiences (due to racism, sexism, and heterosexism) especially during their time in refugee/youth shelters and searching for stable housing.

With respect to employment, many of the participants described long waits before obtaining work permits and subsequently being forced to access the welfare system, resulting in feelings of frustration and shame. Having a social insurance number differentiating refugee claimants from permanent residents and citizens resulted in many participants experiencing discrimination in their search for employment as employers would oftentimes identify their work permit as temporary and refuse to hire them. In addition, some of the participants described experiencing systemic barriers to employment because of their lack of Canadian work experience. Many of the trans refugees described the profound impact of transphobia in blocking their employment opportunities, due to having a masculine name while presently as feminine.

The refugee determination process has been identified as a critical site which contributes the construction of refugeeness. Many of the sexual minority refugees interviewed described the various obstacles they encountered

throughout the process, including, finding legal representation, lengthy wait times (upward of three years), and intersectional marginalizing experiences due to racism, sexism, and heterosexism. For any refugee claimant, the IRB hearing is one of the most important events in their lives. All of the sexual minority refugees described experiencing high levels of stress, worry, and fear leading up to their hearing. One participant described her frustration with the arbitrary nature of her hearing process.

> The first time we went for our hearing, it got canceled because they lost our file. And it was a good thing it got canceled because the judge that we got had a 1 percent rate of acceptance . . . at the end of the day, I could go to Judge #2 which I went to on my second hearing, and get a yes right there and then in the room.

Furthermore, one support worker described the tension experienced by some sexual minority refugees in having to provide evidence to affirm their experience of persecution, while at the same time, having to say negative things about their countries of origin. He explained the difficulty for refugees to publicly situate themselves as being against their country, even when they were at risk of persecution if returned, because of sentimental attachment to their country of origin. This participant explained the importance of his country of origin in shaping his identity.

> In spite of what happened to me, I'm still (from my country) and I'm proud of being (from my country), you know. I'm just not proud of what's happening in (my country) . . . this is where I was born, this is where I was bred . . . this is where I had all my memories, you know, this is where I have my family . . . I cannot forget about this.

A unique aspect of proving persecution for sexual minority refugees is the requirement of having to prove their sexual and gender identity to the IRB adjudicator. One support worker that was interviewed described how this was a difficult aspect of the refugee determination process for the refugees he supported because of the various stereotypes that certain IRB members may have about what sexual minorities may look like or how they are supposed to behave. According to these participants:

> it's not a very good feeling. Somebody scrutinizes your life and makes a decision on it, it's like, "what!" You have to prove certain things that are really obvious, you think.

> you have to prove is that you are gay . . . we were pretty offended because, how do you have to prove it? I think that was the hardest part.

For many sexual minority refugees that we interviewed, the challenges in managing their mental health were related to both dealing with difficulties they encountered while in Canada and experiencing retraumatization when remembering their past experiences of persecution. Oftentimes, the refugee determination process itself triggered this retraumatization as participants were forced to tell and retell their story of persecution.

the memories of the reasons why you're here then overtake you ... because they're so heavy. And it's really difficult to stop thinking about it, because you're living here because of that. But then, you have to repeat your story over and over and over and it's so retraumatizing ... I was kind of running away from my own story when I was telling my own story.

Throughout the refugee determination process, trans refugees encountered particular structural barriers related to the inability to legally change their name on documentation. Because of the inconsistency of looking and sounding like a woman and having a masculine name, trans refugees described repeated, everyday exposure to transphobia, particularly when interacting with government officials.

there was this time I called the government offices to know if they have my ... results. They didn't give me the information because the woman on the telephone told me, you sound like a woman ... the information you're asking is for a man so I can't give it to you because you are not that person.

One participant we interviewed was rejected during his refugee hearing and was living undocumented at the time of the interview. This participant spoke about the emotional and psychological trauma of presently being undocumented in Canada and revealed the depth to which his refugee process has impacted his sense of self. This speaks to the profound depth to which repeated trauma and constructions of refugeeness can seep into the human psyche.

you feel like you are invisible. You don't feel like you are a human. You feel like a monster or something ... You feel like you are zero, like you don't belong to ... a society. You don't belong anywhere so this is weird feelings and everything is not right, it's not fair.

Belonging

Just as trauma weaves its way through complex constructions of identity and refugeeness, so to does it complicate how sexual minority refugees come to understand questions of belonging. How sexual minority refugees negotiate their interaction within communities reveal encounters with intersectional forms of marginalization and exclusion. However, just as belonging (or not belonging) can be linked with trauma and isolation, so to can it be linked with connection and solidarity. Therefore, an integral aspect to how sexual minority refugees survive and thrive may be the *degree to which* they establish support networks within affirming communities. In striving to establish community linkages, many sexual minority refugees we interviewed encountered both racism within mainstream queer communities and homophobia/transphobia within their particular racialized community, resulting in complex intersectional experiences of exclusion. Experiencing subtle and overt forms of racism was an important factor in how participants negotiated mainstream queer communities. For example, this participant shared an overt experience of racism within a queer social space.

> I was walking up the street (in the gay village) and this guy . . . he touch me on my bum. So I'm like ''If you do that I'll break your hands'' . . . so when I was walking off, he's like ''You dirty nigger'' . . . I was shocked. I stood there, for like a minute and I took, like, ten deep, deep breaths and then, I'm like, you know what? I'm going to ignore that . . . and he's like ''yeah . . . run off like you're used to nigger.'' And I just held my head straight and I walk(ed).

Some participants explained the subtle ways in which women were marginalized from queer communities. For example, one participant noted her disappointment in discovering how ''male dominated'' queer spaces were in the city in which she lived. Many of the trans participants discussed their apprehensions with the queer community, especially after having experiences of transphobia.

> I remember this one (gay guy) told me ''Oh, it's bad enough that you're gay. You're pushing it to, you're taking it to a next level, becoming something you're not, becoming a woman.''

Despite the reality of discrimination, many of the participants identified the important role of the queer community in their everyday lives. For example, one trans refugee described her positive connection with the queer and trans communities.

> I found really wonderful the way . . . it's been with my linking to the gay community, to the lesbian community, to the bisexual community, to the trans community in particular, I mean, It's been really really huge and different.

All of the sexual minority refugees we interviewed reflected upon their fears of exposure to and actual experiences of homophobia/transphobia from members of their particular racialized community, resulting in complex psychological and emotional responses. Some of the participants spoke about the complex relationship they had with their particular racialized community. One gay refugee described a purposeful decision to withdraw from his community in order to have more space to live out his sexuality. Another participant described experiencing a more subtle form of homophobia.

> when I told some people (from my community) I was gay, I sensed they pulled back . . . from me and behaved differently.

While the relationship between sexual minority refugees and their particular racialized community is indeed complex and contradictory, some participants identified the importance of allies within their racialized communities and the need to affirm their particular cultural identity. This gay refugee described how, over time, he was able to negotiate his sexualty with his cultural identity and move toward affirmation.

> I went to a party within my community . . . with my partner . . . and people knew and accepted me regardless . . . I never had any problems . . . this helped in my affirmation process so I could say to myself ''you can have a life with your partner'' and I can still belong to my community . . . its my culture, my identity. So if I can marry the two, that's good.

One of the most powerful spaces where sexual minority refugees found a place of belonging and affirmation were support groups and organizations that were either sexual minority refugee-specific or queer cultural focused. These collective spaces broke social isolation, fostered self-affirmation, and built community.

> because you can express yourself and find out what other people are going through and talk about what you were going through . . . it gives you a sense of hope and knowing that you're not . . . the only one who may be here and going through stuff and being a refugee claimant.

> in order to elevate my self-esteem, I became involved with groups like [this organization] to meet other Africans like me. That helped me a lot. Because you can say to yourself ''I'm not the only one, there are others like me!'' This allowed me to be happy and feel normal.

The importance of building and sustaining queer racialized communities was identified often by participants. However, establishing queer racialized communities did not necessarily result in equal participation, with women and trans refugees in particular experiencing exclusionary practices within these spaces. Having said this, our study suggests that sexual minority refugees with stronger linkages with queer racialized communities, mainstream queer communities, and their particular racialized community were able to better push back against structural barriers and intersectional marginalizing experiences.

With all of the difficulties and challenges that sexual minority refugees face when they arrive to Canada, the individual strengths and resourcefulness of the participants were very apparent. These refugees shared some of their most intimate thoughts and stories, including the role of spirituality and activism in their lives.

> Sometimes I feel like my mother comes and says ''Come on. Come on. Don't give up. Go, go, go.'' Because sometimes I feel totally down, like giving up, throw in the towel. You know what I mean? And angels from I don't know where, they come and give me the strength to keep on going.

> what I did is I just speak out, and that's the most important, don't feel fear and speak out . . . in this life, to have a voice is the most important (thing).

DISCUSSION

The findings from this research project reveal the complex ways in which sexual minority refugees experience transnational processes of migration. The traumatic set of circumstances which led to migration was inextricably linked to how sexual minority refugees navigated the Canadian refugee regime. While the policies and practices which make up the Canadian refugee regime profoundly organize the everyday realities of all asylum seekers, our findings have identified particularities in how refugee subjectivity is

constructed for sexual minorities. The three interrelated themes of *identity*, *refugeeness*, and *belonging* reveal the multiple and overlapping facets of sexual minority refugee subjectivities in Canada. Furthermore, the ways in which trauma and intersectionality *mediate* sexual minority refugee experiences of Canadian refugee policies and practices, reconfigure notions of identity, refugeeness and belonging, in particular, context-specific ways.

The vast majority of scholarship about sexual minority refugees, particularly within the Canadian context, has been produced within a legal framework and has therefore focused primarily on very specific legal procedures which are directly linked with the application of International and Canadian refugee law for SOGI-based claims. We pay attention to this legal scholarship because our study examines how sexual minority refugees experience the application of legal procedures within the refugee determination process, including the pivotal role of the refugee hearing. Moreover, this body of knowledge is crucial in order to advance refugee policy and advocacy initiatives that will improve the legal processes which determine whether sexual minority refugees are given refugee status or deportation orders.

However, focusing only on Canadian legal scholarship limits our capacity to understand additional dimensions related to how sexual minority refugees interact with the Canadian refugee regime. Very little has been written about how sexual minority refugees interact with the Canadian refugee regime outside of these legal processes, including at the border, detention center, social institutions, settlement (i.e., employment, housing), and multiple community settings (Jordan 2010b). Therefore, we prioritized interviewing sexual minority refugees themselves and service providers/community advocates, rather than lawyers, in order to render visible these broader cultural and social forces. By placing sexual minority refugee experiences at the center of our knowledge production, we aim to place SOGI-based refugee claims and the refugee determination process within the broader context of how the Canadian refugee regime organizes their everyday realities. In addition, we prioritize the development of an argument which pays attention to the complex ways in which sexual and gender identities are conceptualized, refugeeness is negotiated, and belonging is both lost and found.

In fact, our findings suggest that sexual minority refugee conceptualizations of their sexual and gender identity shifts and change over time and do not always align with Western notions of a linear and essentialized sexual identity trajectory.[24] Participants varied in their rejection, unawareness, or acceptance of Western identity labels to define themselves, indicating that conceptualizations of sexual and gender identity are complex and contested. While some sexual minority refugees clearly took up Western notions of

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[24]. For more information about the traditional model of homosexual identity formation, see Cass (1979).

sexual identity formation, others partially or completely rejected aligning themselves with Western conceptualizations of gender and sexual identity.

These findings affirm the potential dangers in assuming that sexual minority refugees will adhere to a stage model of sexual identity formation, which ''overlooks the extent to which culture and social context powerfully contribute to self-perception and behavior'' (Berg and Millbank 2009:207, citing Vance 1989). In fact, Parks, Hughes, and Matthews (2004) contend that most ''research on sexual identity formation has been conducted with white, middle-class, older men'' (p. 242), extending this critique beyond sexual minority refugees, to include questioning the effectiveness of a linear sexual identity model for queer people of color and white queer women living in North America (Parks et al. 2004; Savin-Williams and Diamond 2000).

Almost all of the men we interviewed self-identified as gay and male, while the women and trans participants self-identified in more complex sexual and gender identity configurations. For example, while some women self-identified as lesbian, others refused to identify as lesbian. These findings extend beyond sexual minority refugees and affirm the scholarship on sexual identity formation which assert that ''stage theory of identity development . . . was originally based upon male accounts'' (Berg and Millbank 2009:211). In addition, some trans participants self-identified their sexual identity as heterosexual, other self-identified as gay while one trans person identified herself as bisexual (although she clearly stated that she was applying for refugee status because of being trans rather than because of her bisexuality).

This suggests that the sexual identity formation of trans refugees are complex and do not necessarily adhere to what Viviane Namaste (2005) explains as ''a lesbian/gay framework'' (p. 2). In order to take into account the specificities of trans refugee experiences and to counter *trans erasure*[25] (Namaste 2000), we recommend that future scholarship related to this topic employ the term *cis* (cissexual/cisgender) in order to identify those who are not trans and ''who have only ever experienced their subconscious and physical sexes as being aligned'' (Bauer et al. 2009:349, citing Serano 2007).

While this study certainly brings to the foreground the experiences of trans and women refugees, thus challenging what Jenicek et al. (2009) describe as their *invisible otherness*, there is an underrepresentation of participants who self-identified as bisexual. This could perhaps affirm Rehaag's (2009) assertion that the *invisibility of bisexuality* is indeed tied to ''a naturalised conception of human sexuality, in which human beings are understood to be either essentially heterosexual or essentially homosexual''

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[25]. Bauer et al. (2009), citing Namaste (2000), defines *trans erasure* as ''a defining condition of how transsexuality is managed in culture and institutions, a condition that ultimately inscribes transsexuality as impossible'' (p. 350).

(p. 424). Future qualitative research could perhaps elucidate this particular aspect further by (a) including open-ended questions to sexual minority refugees, service providers/community advocates, and refugee lawyers which explore in-depth how individuals have come to understand their sexual identity in relation to this socially constructed naturalized binary, and (b) during the participant recruitment process, strive to attain a specific number of refugee claimants who explicitly self-identify as bisexual.

While attempting to fully decipher how expressions of sexuality and gender identity differ globally is beyond the scope of this article, this complex understanding does point to the importance of not assuming that Western conceptions of sexual and gender identity are universal. Therefore, sexual and gender identities (including labels used) need to be context and site specific and ''consider the complex, multiple relations of power in which (these) categories are embedded . . . and critical(ly) address . . . hierarchies including race, gender, class and geopolitical location in experiences of migration'' (Luibhéid 2008:171).

For some sexual minority refugees, *trauma* played a central role in coercively imposing and entangling constructions of sexual or gender identity. One participant described encountering persecution due to her gender nonconformity, resulting in a kind of forced conflation of her sexual and gender identity as a young child. In this case, trauma has been intricately sewn into conceptualizations of her identity. For the majority of the participants we interviewed, the various forms of trauma they experienced in their country of origin resurfaced (in their memories) in numerous contexts throughout their refugee determination process. This affirms Berg and Millbank's (2009) assertion that premigration trauma can transform into posttraumatic stress, shame, depression, and memories for sexual minority refugees, therefore influencing how sexual and gender identities are formulated, how the Canadian refugee regime is negotiated, and how *refugeeness* is constructed.

For all refugees, *refugeeness* is a structured subjectivity that is forced upon them. Lacroix (2004) describes this as ''a contradiction in experience— their files become who they are while they define themselves otherwise'' (p. 161). The various organizing principles embedded into Canadian refugee policies and practices (i.e., lengthy wait times, work permits, the hearing) structure refugee lives in such a way that constructions of refugeeness become wrapped up in what has been described as a *violent gift* (Miller 2005, citing Walker 1996), whereby the gift of citizenship is given to those deemed ''genuine'' while various forms of structural violence are imposed upon all who enter the refugee determination system.

While sexual minority refugees are forced to negotiate this *violent gift* just like any other refugee, they also face compounding identity contradictions when seeking refugee status due to sexual or gender identity. While their traumatic experiences of persecution are very real, they must ensure that they fit into a particular kind of Western conceptualization of

sexual and gender identity as defined within Canadian refugee law. When sexual and gender identity can be framed by an IRB adjudicator as an immutable personal characteristic, this leaves little room for sexual minority refugees to articulate their own definitions of sexual or gender identity.

Our findings affirm the use by some IRB adjudicators of *folk knowledge* in their decision-making process of identifying a ''genuine'' lesbian, gay, bisexual, or trans refugee claimant as they work ''within a system that privileges simplified analogies, (where) they may create rules for 'seeing' persecuted gayness that preclude or exclude unrecognizably 'gay' persons, or others fleeing abuse for their sexual or gender difference'' (Miller 2005:146). These analogies of sexuality are inextricably connected to conceptions of race as Heller (2009), citing Morgan (2006) explains that ''the criteria used to ascertain whether or not the applicant's identity and behaviour meet the evidentiary requirements are based on racialized sexual stereotypes and white gay norms'' (p. 302).

This has major implications for sexual minority refugees, especially if at some point during their refugee process they are perceived as stepping outside of the boundaries of a linear and rigid sexual identity formation, revealing what Berg and Millbank (2009) identify as *cultural* and *gender blindness* within the Canadian refugee regime since ''the refugee is most likely to be seen when she or he looks like 'us' or, when that is not possible, looks like what is being *looked for*'' (p. 197). In order to ensure a successful claim, sexual minority refugees oftentimes *become visible* to IRB adjudicators by aligning their sexual and gender identity with dominant Western, white, middle-class, and male cultural norms of sexual identity formation,[26] and what Miller (2005) describes as a *transnational recognizable gay identity*.

For example, our findings reveal that no matter how much a trans refugee claimant may want to identify herself as a woman refugee claimant, the *violent gift* (structural violence embedded within the refugee process) that she has inherited disallow her this power of self-identification. As some participants of our study struggled with labeling themselves, exhibiting the necessary characteristics and providing proof of their sexual or gender identity, they (and their refugee advocates) participated in an adjudication process dependent upon what Luibhéid (2008) describes as ''constructs of immutable identity refracted through colonialist, reified models of culture shorn of all material relations'' (p. 179).

Ironically, it was only when sexual minority refugees gained refugee status that they could shed this construction of refugeeness and reclaim power of self-identification. These processes speak to the powerful ways in which *cisnormativity*[27] and *heteronormativity* are embedded within

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26. For critiques of linear sexual identity formation, see Consolacion, Russell, and Sue (2004), Harper, Jernewall, and Zea (2004), and (2004), Ryan et al. (2008).

27. *Cisnormativity* is defined as the assumption that everyone is *cissexual/cisgender*, so anyone who has ''only ever experienced their subconscious and physical sexes as being aligned'' Bauer et al. 2009:349, citing Serano 2007).

Canadian refugee policies and practices. While beyond the scope of our study, further research could benefit from interviewing refugee lawyers who have been legal counsel for sexual minority refugees in order to gain further knowledge about these legal *and social* processes.

Furthermore, our findings revealed ways in which additional aspects of the Canadian refugee regime are bound by practices of *cisnormativity* and *heteronormativity*, and therefore, unable to account for or acknowledge the constant reappearance of structural violence experienced by sexual minority refugees. First, there is the forced retelling of stories of persecution which all refugees must encounter throughout their refugee determination process, along with a constant question of whether or not their story is in fact credible. Berg and Millbank (2009), citing Bogner, Herlihy, and Brewin (2007) report that for many refugees "the first time they talk about the traumatic event was after their arrival . . . and for a majority this was during the refugee intake process itself" (p. 201). While empowering for some refugees, this systematic retelling of violent stories can potentially trigger profound psychological consequences and retraumatization.

Yet, what reveals the *cisnormativity* and *heteronormativity* embedded within Canadian refugee policies and practices is the structural heterosexist violence imposed through the repeated, forced "coming out" of sexual minority refugees throughout the refugee determination process, a phenomenon which Heller (2009), citing Yoshino (2006), describes as *reverse-covering*. Many sexual minority refugees survived in their country of origin by hiding their sexual or gender identity in order to prevent being persecuted. Ironically, sexual minority refugees who have been profoundly traumatized must "come out" repeatedly and in a systematic way, in order to be deemed a viable refugee.

Sexual minority refugees are therefore, forced to not only "out" themselves as refugees, but they are simultaneously "outed" as a sexual minority. This affirms Berg and Millbank's (2009) critique of *the progress meta-narrative*, whereby sexual minority refugees must demonstrate that they have achieved "the ideal or healthy end state of this (coming out) process (as) one of a full and final disclosure" (p. 215). This does not take into consideration the many reasons for why sexual minority refugees may choose to conceal their sexuality (while in their country of origin or in Canada) nor does it acknowledge how the "coming out" process is not one definable moment but rather "an activity that is continually repeated over time to a multitude of people in different contexts, with varying meaning and effect" (Berg and Millbank 2009:215).

This repeated "coming out" happens the minute they apply for refugee status upon arrival to Canada, for example, when speaking to border officials and airport authorities or when they meet their lawyer, their doctor, their psychologist, their social worker, or even in their workplace. For trans refugees, this "outing" can occur before they even have a chance to speak, if their gender expression does not correspond with their legal name. Along

with this ''outing'' comes potential exposure to homophobia/transphobia in their interactions with almost any social institution, service provider or employer. For sexual minority refugees, rather than it solely being viewed as a liberatory experience, being compelled to ''come out'' can actually be complicit with the structural heterosexist violence embedded within a *cisnormative* and *heteronormative* Canadian refugee regime.

These findings put into question any promotion of what Luibhéid (2005) describes as a *liberationist narrative* which permeates dominant discourse in terms of how sexual minority refugees experience their lives in Canada. Certainly, our findings suggest that sexual minority refugees overcome overwhelming odds in order to come to Canada and seek freedom from persecution. At the same time, it is abundantly clear that they deserve a rendering of their narrative which affirms the kinds of structural violence and resulting retraumatizations that are an intrinsic aspect of their everyday realities as sexual minority refugees.

Another point of interrogation is the construction of refugeeness for sexual minority refugees from particular regions of the world. For example, our findings revealed a degree of systemic racial discrimination toward Mexican refugee claimants.[28] Nearly all of the sexual minority refugees from Mexico described being (or observing fellow refugees being) stereotyped or discriminated against at least once because of being Mexican (and Latina) by landlords, social workers, doctors or immigration officials. One immigration official at the airport openly told a lesbian refugee that she was making a false claim precisely because she was a sexual minority from Mexico. While this was one incident, the boldness and overt racism demonstrated by this immigration official reveals a degree of social acceptability in openly stereotyping and disbelieving sexual minority refugees from Mexico.[29] This disbelief of Mexicans being ''genuine'' refugees corresponds with the dominant discourse within the mainstream Canadian press about Mexico being the producers of ''fake'' sexual minority refugees (Jenicek et al. 2009).

These results together suggest the occurrence of a structural form of racial discrimination, resulting in increased harassment and discrimination toward this specific group, and rendering invisible the very real forms of *cisnormative* and *heteronormative* persecution occurring in Mexico today (as documented by organizations such as Human Rights Watch). Jenicek et al. (2009) caution against placing a restrictive, racialized lens when it comes to assessing the legitimacy of sexual minority refugees, as it can

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[28]. These experiences occurred in the months before Canada imposing a visa on all Mexicans in July of 2009.

[29]. Interestingly, this person arrived from Mexico to Canada just a few months after the Canadian government in July of 2008, imposed a visa on all Mexicans, in order to curb ''bogus refugees'' (Jenicek et al., 2009). Only two months before the imposition of this visa, the ''persuasive decision'' regarding the availability of an IFA for sexual minority refugee claimants from Mexico *had been revoked* by the RPD (LaViolette 2009a).

''lead to the essentialization of countries, cultures and consequently, refugee claimants . . . helping to perpetuate expressions of racism toward certain bodies'' (p. 649).

Finally, the detention experience reflects an increasing trend over the past decade of what Crépeau, Nakache, and Atak (2007) describe as the *securitization of migration*, revealing how sexual minority refugees can get caught in the web of ''the motif of the immigrant-as-security-threat'' (Macklin 2001:384). This motif questions the concept of ''national security'' as Kinsman, Buse, and Steedman (2000) asks critically ''whose national security are we talking about? What is the nation that we are talking about, whose security are we actually concerned about when national security is mentioned over and over again?'' (p. 17). While investigation of this particular experience is outside the scope of this article, further research may reveal the very real possibility that a degree of state sanctioned systemic racism had a significant role to play in this gay refugee and his partner being viewed as a ''risk'' and therefore worthy of detention.

Our third theme examines the impact of belonging (or not belonging) in contributing to the social inclusion/exclusion of sexual minority refugees in Canada. Partly in resistance to racist encounters within mainstream queer communities and transphobia/homophobia within particular racialized communities, sexual minority refugees themselves articulated a sense of belonging within queer racialized and sexual minority refugee communities. These spaces were places where sexual minority refugees themselves could build community and resist against the heavy burdens of mental stress they experienced from dominant cultural and social forces.

However, these sexual minority refugee and queer cultural specific communities must acknowledge the particular intersectional burdens experienced by women and trans refugees (due to sexism and transphobia), in order to build safe and inclusive spaces which break their social isolation and affirm their identities. Furthermore, our study identified the importance of building grassroots, community-based support structures (formal or informal), by bringing sexual minority refugees together, raising critical consciousness, and providing opportunities for self-representation when engaging in knowledge production and social justice-related activities. This kind of community engagement and mobilization served to push back against the kinds of structural violence and resulting retraumatizations experienced by sexual minority refugees within the *cisnormative* and *heteronormative* Canadian refugee regime, in addition to countering racist and heterosexist discourses about ''bogus'' refugees.

CONCLUSION

Our findings reveal the ways in which conceptions of sexual and gender identities interact with a *cisnormative* and *heteronormative* Canadian refugee regime, resulting in particular constructions of *identity*, *refugeeness*,

and *belonging* among sexual minority refugees in Canada. Furthermore, there is an investigation into the potential ways in which *trauma* and *intersectionality* mediate sexual minority refugee experiences of Canadian refugee policies and practices. Our findings reveal that while Canadian refugee policies and practices systematically organize and oftentimes traumatize the lives of sexual minorities seeking asylum in Canada, the social and legal barriers that sexual minorities encounter are also challenged and resisted by refugees themselves.

We conclude with some critical reflections about the engagement of potential strategies for increasing protection of and advocacy with sexual minority refugees in Canada. This includes potential strategies related to producing knowledge which centers the experiences of sexual minority refugees themselves, in addition to a cautionary engagement of a sexual rights based discourse which further what Miller (2005) describes as *queer asylum advocacy*. Our study highlights the complex ways in which intersecting categories such as sexuality, race, gender, class, ability, and citizenship status produce, yet at the same time destabilizes the lived experiences of sexual minority refugees living in Canada, by incorporating a critical analysis within ''a global field structured by historic legacies and contemporary forms of inequality and exploitation between and among nations and regions'' (Luibhéid 2005:xxvi).

A potential avenue for ensuring scholarship is centered by the experiences of sexual minority refugees, is through incorporating what Ryan et al. (2008) articulate as *an intersectional approach*, which ''acknowledge that different systems of oppression (such as racism, classicism, sexism, etc) are interwoven and that in order to unpack and better understand the complications of these systems, one needs to look into the intersection of oppression, rather that simply pondering the hierarchy in which the operate'' (p. 315). Embarking on an intersectional approach, therefore, provides intellectual space for critical theorizing which ensures that sexual minority refugee voices are not only included, but an essential part of conceptualizing regimes, social structures, discourses, and social practices.

Another important source of tension surfacing within *queer asylum advocacy* is the politics embedded within a rapidly developing global consciousness of an international queer human rights movement. This convergence of ''gay rights'' as ''international human rights'' has resulted in heightened desire for engagement by leading international human rights organizations (i.e., Amnesty International and Human Rights Watch) and a growth of queer-specific organizations (i.e., International Gay and Lesbian Association and International Gay and Lesbian Human Rights Commission). This has led to a sustained commitment by these organizations to increase their focus on human rights violations against sexual minorities across the globe (LaViolette 2009a).

The potential for transnational solidarity between queer communities and across borders may indeed open up transformative possibilities.

However, some scholars have cautioned against the prioritizing of an international gay subjectivity that is universalized and therefore sustained through Western-driven politics (Luibhéid 2008; Manalansan 2003). Moreover, Luibhéid (2008) contends that the potential essentializing of sexual rights discourse by the international queer human rights movement may lead to ''a larger problem about how queers with relative privilege may appropriate queer migrant figures to serve various agendas, without understanding or critically engaging with the politics of contemporary migration'' (p. 180).

Within a Canadian context, those engaging in queer asylum advocacy should first incorporate into their analysis an accounting for histories of colonialism and imperialism, in addition to larger cultural, political, economic, and social forces and therefore, ''the West's implication in the contemporary patterns of global economic exploitation and the political contexts that produce the world's refugees'' (Razack 1998:91). Furthermore, by identifying the multifaceted ways in which the Canadian refugee regime structures the everyday lives of sexual minority refugees, and obstructs their marginal path to potential citizenship, queer asylum advocates can begin to develop strategies to counteract these oppressive structures within policy and political arenas. One salient example of this has been the recent opposition to Bill C-11, resulting in both the creation of a pan-Canadian policy advocacy initiative and community organizing with sexual minority refugees themselves.[30]

Furthermore, rather than relying on simplistic liberationist refugee narratives, queer asylum advocates should identify how dominant media representations of sexual minority refugees in Canada function in mutual collaboration with destabilizing refugee policies, producing a coherent, yet problematic message which risks the very lives which this ''generous'' nation is supposedly saving. In order to counteract these dominant oppressive discourses, Miller (2005) suggests, queer asylum advocates ''must self-consciously re-construct the key elements of aslyees' stories as they become 'human rights narratives', especially if we do not want to replicate the 'colonial', nationally driven, ageist, or sexist exclusions of asylum as a gatekeeping mechanism'' (p. 168).

In order for queer asylum advocacy to strive toward social justice and transformation, it must center the voices of sexual minority refugees themselves within organizing practices and community building. This means attending to the micro politics of advocacy work and asking critical questions related to who has power, who is talking, and who is making decisions. Finally, a sexual rights discourse which critically engages with the politics of contemporary migration and centers the experiences and lives of queer migrants may help to push the International and Canadian queer human

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30. For more information about the queer refugee advocacy in relation to Bill C-11, see the following: (1) http://www.xtra.ca/public/National/Queers_get_props_for_winning_refugee_amendments-8772.aspx and (2) Policy Brief: Lee, E.O. (2010). Human lives at stake: Refugee reform Bill C-11 and its potential impact on lesbian, gay, bisexual, trans and queer refugees.

rights movements to avoid appropriating queer migrant figures for their own benefit and to serve their own particular agendas. As Miller (2005) reminds us ''real harm, real fear is driving the movement, real bodies are seeking justice'' (p. 169).

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