GENDER, RACE, AND MARRIAGE IN IMMIGRATION: THE SPOUSAL SPONSORSHIP APPEAL PROCESS IN CANADA

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ABSTRACT

Spousal sponsorship and immigration to Canada is a complex process. Using a qualitative and quantitative content analysis, this feminist research examines the relationship between gender, race, and marriage in 93 spousal sponsorship appeal cases. More specifically, this thesis examines how the gendering and racialization of spousal immigrants contributes to Canadian perspectives on spousal sponsorship and how they shape the meaning of marriage for immigration purposes. I argue that marriage for spousal immigration purposes is defined in a white, heterosexual, patriarchal, gendered, Western way. The spousal sponsorship appeal process uses marriage as a mechanism to exclude spousal relationships that do not conform to Western marriage ideals.

Keywords: immigration policy; marriage; gender; race; sponsorship

This thesis is dedicated to the three most important 'men' in my life. To my husband, I thank you for all your love, support, encouragement, and patience in writing this work. To my son, thank you for making me see what's truly important in life- you are my inspiration and source of joy. To Connor, beloved friend, devoted companion, and a wo-man's best friend. You will forever be loved and deeply missed.

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INTRODUCTION

Immigration is an integral part of any successful country as it provides countries with the human capital needed to survive (Daniel, 2005). For the purposes of this thesis, I borrow Peter Li's (2003) definition of an immigrant. He defines an immigrant as a person: "born outside the country who ha[s] been admitted to Canada, as well as symbolic representations of those who, in the eyes of the resident population, should be given or denied entry to Canada" (Li, 2003, p.2). Immigration is a necessary component of Canadian society.

Canadian immigration policies are frequently criticized for their exclusionary politics and perspectives. The racialization of immigrants in Canadian immigration policies is a historical phenomenon even though the policies are officially 'colour-blind' (Chan, 2005; Li, 2003; Ng, 1992; Razack, 1999; Razack, 2000; Thobani, 1999). Winant (2000) defines race "as a concept that signifies and symbolizes socio-political conflicts and interests in reference to different types of human bodies" (p. 172). In other words, race is a socially constructed category that is historically situated which attempts to categorize, classify and (hierarchically) organize groups of people based on skin colour and ascribe collective or group characteristics to racial designations such as 'Black', 'Asian' or 'White' (Brubaker & Cooper, 2000; Omi & Winant, 1994; Winant, 2000). Recent criticisms of Canadian immigration policies and practices uncover a trend towards maintaining (a white) Canadian identity and (forced) immigrant

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'integration'[1]. For example, the recent publication of Canada's newest citizenship guide reinforces the idea that Canada needs to remain a white settler society. The guide entitled "Discover Canada: The Rights and Responsibilities of Citizenship" claims the rights and responsibilities of citizenship "come to *us* from *our* history, are secured by Canadian law, and reflect *our* shared traditions identity and values (CIC, 2009, emphasis added). Critics including Jhappan (2009) and Walia (2009) claim that the citizenship guide reflects increased systemic racism facing immigrants in Canada. As Jhappan (2009) articulates, "[i]f the citizenship guide is intended to coach new immigrants on fundamental Canadian values and how to 'fit in', surely poking them in the eye, insulting their entire cultures, and making them feel unwelcome and inferior citizens is not the way to cultivate the bonds of allegiance a harmonious and civic culture of belonging requires"[2]. This guide selects the 'important' facts an immigrant needs to know in order to belong or to 'become' Canadian (Jhappan, 2009). The racialization of immigrants remains an integral part of the Canadian immigration system.

The racialization of immigrants through Canadian immigration policies contributes to their exclusion from Canadian society. For women in particular, this has serious consequences. Canadian immigration law constructs immigrant women as gendered, raced, and classed individuals in conjunction with the dominant Canadian narrative (Das Gupta, 1999). Racialized women have

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[1] Hiebert and Ley (2004) claim the term integration may only be a more polite way of saying assimilation.

[2] Here Jhappan (2009) is referring to the citizenship guide's reference to "barbaric cultural practices".

historically been targeted for exclusion because they are perceived as threats to Canadian society because of their identities as 'women' (Dua, 2007; Thobani, 1999; Ng, 1992). Immigrant women are raced, gendered, and sexed through Canadian immigration law as a deviant 'other' (Dua, 2007; Espiritu, 20001; Mohanty, 2002; Ng, 1992; Pyke & Johnson, 2003; Razack 2000; Thobani, 1999) which contributes to their 'undesirable' social, political and economic statuses in Canada.

Women's immigration is typically managed through the family class immigration stream as more women immigrate as spouses and dependents instead of as independent or economic migrants (George, 2010; DeLaet, 1999; McLaren & Black, 2005). New amendments to the Immigration and Refugee Protection Act (IRPA) have increased the number of economic immigrants arriving in Canada while recent figures note a decrease in the number of refugees and family class arrivals (George, 2010; Hiebert, 2000; McLaren & Dyck, 2004; Walia, 2009). This decrease will have significant impacts on family (re)unification[3] policies as family class immigration is historically regarded as a burden to the Canadian state (Li, 2003; McLaren & Black, 2005).

This thesis explores the policies and practices involved in spousal immigration, a specific subset of Family Class immigration. Spousal immigration is defined as the migration of one spouse to be (re)united with their partner already living in Canada. Recent statistics published by Citizenship and Immigration Canada (CIC) indicated that spousal immigration accounted for 18

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[3] I use the term (re)unification when discussing family class immigration and spousal sponsorship to account for those families who are being reunited through immigration as well as to include those families who are being united for the first time.

percent of immigration to Canada in 2006, 19 percent in 2007, and 18 percent in 2008 (CIC, 2009). Even though spousal immigrants are not the largest group of migrants to Canada, they do make up more than half of those individuals migrating as family class immigrants (CIC, 2009). Recent concerns about family class immigration and spousal sponsorship are raised in the media. Canadian newspaper headlines include, "I do…and I'm gone (Bielski, 2009), "'Cruel' Ottawa blasted as couples forced apart" (Taylor, 2009) and "Fraud squads chase down marriages of convenience" (Curry, 2008) suggest that spousal immigration is an contemporary social and political issue. Jason Kenny, Canada's current minister of citizenship, immigration and multiculturalism, claims that fraudulent marriages for the purposes of immigration are a significant concern for Canadians (CTV News, 2008).

Research on the policies and practices around spousal sponsorship and immigration in Canada is sparse. To date, there are only a handful of studies completed which focus primarily on the experiences of spousal immigrants after arriving in Canada. Although more scholarship is being produced on the relationship between gender, migration and marriage relatively little attention has been paid to how the law is implicated in the process (Abrams, 2007; Calavita, 2007). In my thesis I examine the multiple ways in which both gender and race impact the spousal sponsorship appeal process[4]. In particular, I argue that even though Canadian immigration law is both race and gender 'neutral', these factors impact appeal outcomes. The gendering and racialization of spousal immigrants

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[4] I acknowledge that class is also an important factor in the analysis of immigrant experiences and may also impact the policies and practices of spousal immigration. However, a class analysis is beyond the scope of this research given the limitations of the data.

in the appeal process affects the perceived 'genuineness' of spousal relationships and influences their appeal outcomes. Moreover, not only do gender and race influence the boundaries of a 'legitimate' spousal relationship, they also help uncover how marriage is defined for immigration purposes. My research demonstrates the need for an ongoing conversation about spousal immigration in Canada. Therefore, this research relates to the wider academic discussion on immigration, law and marriage, paying particular attention to the ways in which spousal immigration contributes to existing debates on immigration.

Chapter Outlines

Chapter One provides a broad overview of the literature related to spousal sponsorship in Canada and immigrant women. This chapter is organized into three sections. I first discuss contemporary issues facing immigrant women in Canada. Secondly, I explain the policies and practices around spousal sponsorship in Canada. Finally, I highlight the current debates and issues concerning marriage and how they impact the spousal sponsorship process. The aim of this literature review is to highlight key concepts and themes relevant to my study.

Chapter Two discusses both the theoretical orientation and methodological approach used. From a feminist legal standpoint, I examine how law continues to essentialize and marginalize women. More specifically, I explore the relationships between 'woman', racialized women, patriarchy and law. This chapter also explains the methodological framework, which combines qualitative

and quantitative content analyses to studying the spousal sponsorship appeal process. This chapter concludes with a discussion of my study's potential scholarly contributions and its limitations.

Chapter Three provides a broad discussion of the relevant variables emerging from the quantitative analysis. In particular, this chapter discusses how marriage, gender, citizenship, reasons for initial refusals and appeal outcomes and appeal success rates impact spousal sponsorship appeal outcomes.

Chapter Four provides an in-depth discussion of the qualitative themes that emerged from the data. Specifically, this chapter examines the ways in which gender and race impact the perceived 'genuineness' of a spousal relationship. Lastly, this chapter explains how gender and race impact the meaning of marriage in the spousal sponsorship appeal process.

Chapter Five concludes this thesis by summarizing its main arguments and identifying potential areas for future research.

1: THE POLITICS OF MARRIAGE AND MIGRATION- A LITERATURE REVIEW

> Marriage is not, nor has it ever been, about a purely "private" relationship; this relationship has very public consequences. (Spaht, 2004, p.1)

Historically, immigration research has focused primarily on the movement of men ignoring women's participation in immigration flows (DeLaet, 1999). Today, women's immigration is a popular topic amongst feminist researchers who examine how women are impacted by and through immigration (Arat-Koc, 1999; Boyd, 2006; Creese, 2005; DeLaet, 1999; Creese, Dyck & McLaren, 2008; Ng, 1992; Walton-Roberts, 2004). Even though feminists are actively engaged in exploring the barriers and issues women face in the immigration process, the process of spousal sponsorship continues to be marginalized in discussions about immigration. Spousal sponsorship is situated within the broader category of family class immigration and accounts for more than half of all female migration to Canada (Boyd, 2006; CIC, 2009). It is estimated that approximately 60 percent of women immigrate to Canada as sponsored dependents, although they do migrate for other social, political, and economic reasons (Boyd, 2006; DeLaet, 1999; George, 2010).

This literature review provides a broad discussion of issues related to spousal sponsorship, as the existing literature on the subject is sparse. First, the relationship between women and immigration policy is explored focusing on the

experiences of immigrant women in Canada. Second, the scholarship on spousal immigration in Canada is discussed situating it within the broader category of family class immigration. Finally, contemporary debates, issues and critiques concerning marriage are addressed, as the presence of a marriage-like relationship is a determining factor in the spousal sponsorship process.

Women and Immigration

The understanding that women are active agents in the immigration process is a relatively recent phenomenon. Feminists in particular, are the driving force behind emerging discussions of women's experiences of migration and immigration. Recent scholarship on women and immigration focuses on the impacts of immigration and settlement processes in Canada. Various examples of issues facing immigrant women today include: intimate partner violence, health disparities, labour market participation and the 'mail-order bride'[5] industry. Through a discussion of these issues, the experiences of female spousal immigrants will demonstrate the gendered nature of Canadian immigration policy.

First, intimate partner violence (IPV) is a significant concern for immigrant women. In a recent study of IPV, Hyman, Forte, Du Mont, Romans, and Cohen (2006) found that length of stay in Canada and immigrant source country are related to the degree of IPV experienced by immigrant women. Of particular interest, is their finding that suggests rates of IPV varies by immigrant source

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[5] I use single quotation marks around 'mail-order' bride to signify it as problematic concept. It draws on historical and negative representations of Asian women as commodities to be bought and sold to Western men. It highlights the sexual colonization of Asian women as helpless victims of globalization. The term does not allow women's agency to be discussed in the process of marriage migration (Constable, 2003).

country. Women who were born in non-Western source countries experienced higher rates of IPV compared to women from Western source countries (Hyman et al., 2006). The authors provide a variety of explanations including the suggestion that IPV is more common in non-Western societies where social and cultural mores are tied to patriarchy and male dominance (Hyman et al., 2006). Similarly, Taft, Small and Hoang (2008) argue that patriarchal community norms do not support Vietnamese women who experience IPV and are seeking help. In addition, Kang (2006) argues that many cases of IPV in the Canadian Indian diaspora are immigration related. With the implementation of IRPA in 2002, new legislation was enacted to help protect female migrants from experiences of IPV and domestic abuse. Individuals who have been convicted of domestic violence without a history of rehabilitation do not have sponsorship privileges under the Act (George, 2006). Although the Canadian government is making an attempt to protect immigrant women through this legislation it is often the community barriers including employment, level of education, level of acculturation, language and cultural beliefs about gender roles that impacts whether or not immigrant women will disclose their experiences of IPV (Taft et al., 2008). Thus, intimate partner violence is a serious concern for immigrant women, immigration officials and researchers.

Secondly, the immigration experience affects the health of immigrant women. Immigrant women often find themselves caught between two worlds as they feel the need to adopt Canadian ways of living while staying true to their own cultural heritage. For instance, this is evident in the way that immigrant

women manage their health and well-being as well as their families' by integrating Western medicines and food with traditional cultural practices and beliefs (Dyck, 2006). Further scholarship has focused on the negative impacts of immigration on health including barriers in accessing health care, poverty, immigration status, cultural differences, language barriers and acculturative stress (Ahmad et al., 2005; Dyck, 2006). For example, South Asian immigrant women are at an increased risk of mental illness due to acculturative stress because of settlement changes and rigid gender roles (Ahmad et al., 2005). Moreover, in a recent study, Oxman-Martinez et al., (2005) argued that women's precarious immigration status acted as a barrier to proper and equitable health care. As this research demonstrates, immigration adversely affects the health of immigrant women.

Third, immigrant women face barriers to actively participating in the labour market. Dyck (2006) claims that family (re)unification migration patterns serve to reinforce the gendered nature of labour distribution. Most often, immigrant women are the ones assuming responsibility for childcare and domestic labour (Dyck, 2006). Moreover, once women arrive in Canada they are faced with a gendered and racialized labour market (Creese, 2005). Women are concentrated in 'traditional' women's jobs in both the sales and service sectors and are earning substantially lower pay than men across all occupational groups and educational levels (Creese, 2005). Creese (2005) suggests that recent immigrants, Aboriginal women and women of colour, all fare much worse in the labour market compared to white, native born Canadians. Furthermore, the gendered nature of 'women's

work' is reinforced through Canada's Live-In Caregiver program. Immigrant women work as domestics in employer's homes for two years and at the end of their contract they are able to apply for permanent residency and subsequently sponsor eligible family members (Oxman-Martinez, Martinez & Handley, 2001). The Live-In Caregiver program has been criticized for reinforcing negative representations of immigrant women, exploiting immigrant women, and serving as a conduit for human trafficking (Oxman-Martinez et al., 2001). As Creese (2005) so effectively points out, "immigrants must successfully negotiate the labour market to become 'good' citizens, yet quickly discover that this is a 'bordered space' designed to restrict entry" (p.10). In short, immigrant women face both racial and gendered barriers to labour market participation.

Lastly, the 'mail-order' bride phenomenon is an industry based on spousal sponsorship. In Canada, there is currently no legislation in place to govern any aspect of the 'mail-order' bride industry with the exception of immigration law, which classifies these women as spouses (Bailey, 2004; Langevin & Belleau, 2000). Furthermore, it is difficult to estimate the number of 'mail-order' marriages that enter Canada each year as no Canadian study has been carried out (Langevin & Belleau, 2000). The literature on 'mail-order' brides is almost exclusively focused on the experiences of immigrant women from the Philippines although a limited number of studies in the United States detail the experiences of Latino brides (Constable, 2003; Constable, 2006; Philippines Women's Centre of BC, 2000; Schaeffer-Grabiel 2004; Schaeffer-Grabiel 2006). Immigrant women who arrive as 'mail-order' brides are sexualized and racialized in Canadian

culture. Popular representations of Asian 'mail-order' brides draw on stereotypical images of Asian women. On the one hand, Asian women are perceived as the "oriental doll'- passive, submissive and subservient (Langevin & Belleau, 2000; see also Constable, 2003). On the other hand, Asian women are seen as devious, conniving and shrewd 'dragon ladies' (Constable, 2003). According to Abidi and Brigham (2008), a 'mail-order' marriage "assumes compulsory heterosexuality and glosses over the racialization and sexualization of the women in these relationships" (p.23). As 'mail-order' brides, immigrant women are racialized and sexualized through the immigration process.

Exploring the phenomenon of gendered migration flows demonstrates how the experiences of women are unique from those of men and that immigration is experienced differently between groups of women. Too often, broad, gendered patterns of immigration see female migration as the movement of wives, workers or prostitutes (Constable, 2006). The homogenization of women's migration into these three categories draws on the same trope of female migration; that poor women from developing nations want to move to a more Western or modern country to have a better life (Constable, 2006; Kapur, 2002). Although this may be one way to explain female migration patterns, it is not the only one. Women migrate for diverse reasons and by exploring the ways in which spousal migration contributes to gendered migration flows, a different perspective on women's immigration can be added to the existing knowledge in this field.

Family Class Immigration to Canada

Immigration to Canada is not an opportunity equally available to everyone. Policies that actively recruit Western, male, European immigrants and restrict women and minorities make up a significant portion of Canada's immigration history (Chilton, 2007). Women immigrating to Canada face unique challenges throughout the migration process, as race and gender play important roles in constructing and influencing women's experiences in both the public and private spheres. Given that family class immigration is the primary category responsible for female immigration to Canada, a discussion of the policies and practices that shape and structure their migration is necessary.

Family class immigration under IRPA refers to sponsored spouses; common-law and same-sex partnerships; children; parents; and grandparents (CIC, 2009; George, 2006). According to the Canadian government, the purpose of family class immigration is to admit relatives of permanent residents or Canadian citizens into Canada. Family (re)unification is a stated aim of IRPA as the Canadian government ensures a "commitment to reuniting families" (CIC, 2009). The most recent figures released by Citizenship and Immigration Canada (2009) show that 26.5 percent of immigrants in 2008 arrived via the family class compared to 60 percent as economic immigrants. Moreover, of the 44,196 spouses and partners who immigrated to Canada as family class immigrants, 27,009 were women making spousal immigration the main migration route for women (CIC, 2009).

Many scholars have criticized the Canadian government's family class immigration policies. Li (2003) argues that even though the Canadian

government has made family (re)unification a priority, immigration discourse

sometimes sees cultural differences in family structures as a challenge to family

class immigration. The immigration discourse "portrays an urgency to control the

family class stream of immigration used more often by non-European immigrants

in order to uphold Canada's living standard and to reserve allotments to those

more deserving, 'selected' immigrants" (Li, 2003, p. 6). Moreover, family class

immigration is almost always in a dichotomous relationship with economic class

immigration. Li (2003) claims the immigration discourse focuses on the social

capital of immigrants noting "Canada's public immigration discourse tends to

treat immigrants as the object of inquiry, focusing on who they are, how they

perform in Canada, and whether they bring economic and social value" (p.1).

Bauder (2008) agrees as he argues Canadian immigration law continues to

select immigrants who are economically beneficial to Canada. Similarly, Walsh

(2008) claims that the present selection of immigrants for Canada reduces them

to their potential economic contributions to the state. The economic

achievements and contributions of immigrants remains a fundamental

component of Canada's immigration legislation (Ley, 1999).

In addition, the Canadian government recently changed its immigration

objectives and announced new targets[6] for increasing the number of economic

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[6] The new targets call for an increase in the number of skilled workers as well as the introduction of the Canadian Experience Class. Individuals desiring to immigrate to Canada under the Canadian Experience Class must meet the following requirements: they must be either a temporary foreign worker with at least 2 years of full-time (or equivalent) skilled work in Canada or a foreign graduate from a Canadian post secondary institution with at least 1 year of full time (or equivalent) skilled work experience in Canada. Secondly their application must be made while living in Canada or within one year of leaving, they must plan to reside outside the province of Quebec and have gained their work experience with proper legal work or study authorization (CIC, 2009).

immigrants arriving in Canada (CIC, 2009). According to CIC, the new immigration regulations seek to realign immigration with labour market needs, as "[e]fforts to meet economic needs must go hand in hand with the goal of building Canada as a nation and integrating newcomers into the social and cultural life of the country" (Canadian Immigration Newsletter, 2008). Therefore, both an existing preference for (male) economic immigrants and the continued promotion of economic immigration to Canada will have repercussions for women as family class immigrants.

In sum, the perception of immigrant women as either wife or domestic worker negatively impacts their immigration experiences. As Dossa (2000) explains, "[i]mmigrant men get preferential treatment compared with immigrant women based on the erroneous premise that men are wage-earners and women 'stay at home'" (p.142). Moreover, as sponsored family class immigrants many women enter Canada as dependents, thus not appearing as independent (economic) agents in the migration process. Women's unpaid contributions as wives and mothers are made invisible (and un-important) through the immigration process (Abu-Laban, 1998; Dyck, 2006). The view of immigrant women as wives rather than workers, combined with the Canadian government's new economic immigration objectives, allows immigration officials to minimize the impacts of these policy changes on women.

Spousal Sponsorship in Canada

The process of spousal sponsorship to Canada began with the enactment of the first Immigration Act in 1869, An Act regarding Immigration and Immigrants

(Cote, Kerisit & Cote, 2001). This act focused on issues of colonial expansion and growth via men's migration. The patriarchal beliefs of the time ensured that a woman's place was in the home and that men occupied the public realm. This distinction cast women as the 'dependants' of men both in life and via immigration policy. Women's migration was overlooked as families (men) had to assume full responsibility for their 'dependents' (women and children) (Cote et al., 2001). Labelling women as the 'dependents' of men began a process of determining which immigrants are 'desirable' and beneficial to Canada and which are not. Clearly, men were defined as 'desirable' and beneficial, while women were seen as 'undesirable', a 'burden' and secondary to men's migration. At the end of the 19th century, women were still not yet recognized as 'persons' under Canadian law and remained the responsibility of men. This designation implied that "the family unit was recognized while the individuals dependent on the 'head of the family' were subject to the conditions imposed by this person who acted as the guarantor to ensure that these family members [women and children] did not become a 'public charge'" (Cote et al., 2001, p.29). This initial provision forms the basis of the current 'sponsor' role in the Canadian immigration system (Cote et al., 2001).

The points system adopted in 1967 is the most important piece of immigration legislation governing spousal sponsorship (Cote et al., 2001). The point system sets out a distinction between familial structures. It separates families based on whether or not the family is accompanying the 'sponsor' on entry into Canada or if the sponsor arrives in Canada first, obtains permanent

residency or citizenship, and then proceeds to send for the family afterwards (Cote et al., 2001; Daniel, 2005). In the latter case, a contractual obligation between sponsor and dependent is required and the sponsor needs to assume full responsibility for the sponsored individual for a pre-determined length of time (CIC, 2009; Smart, 1992). This structure remains the foundation for contemporary Canadian spousal sponsorship policies and practices.

Critics highlight the racial and gendered implications of the points system. The points system assigns a point value to potential immigrants based on their perceived social and economic contribution(s) to Canada. The idea behind moving to a points system was to deracialize the selection process such that the race and gender of the applicant should not matter (Chan, 2005; Daniel, 2005). However, as Abu-Laban (1998) asserts, even though the introduction of the points system abolished overtly racist and sexist immigration policies and practices, it simultaneously forced these issues out of sight. Similarly, Kivisto and Faist (2007) point out, "class, gender, and race/ethnicity are in principle no longer viewed by liberal democracies as appropriate aspects of identity in determining who is to be included and excluded from citizenship. However, in current social practices, particularly evident in current debates about immigration, it is clear that reality often diverges from principle" (p.132). For example, in a recent study of immigration appeal decisions, Chan (2005) concludes that Canadian immigration policies and practices continue to construct and sustain identities of the dichotomous 'good' or 'bad' immigrant. The framing of immigrants as 'good' or 'bad', 'desirable' or 'undesirable' is a critical component in the immigration

process (Chan, 2005). Immigrants of Asian, Indian and African origins are racialized as the 'undesirables' (Cote et al., 2001). As Li (2003) suggests, Canada has retained a racialized cultural framework with which Canadians 'welcome' and judge newcomers.

Not only are spousal immigrants racialized, they are also gendered. Feminists including Kang (2006) and Thobani (2001) discuss the implications of women's construction as 'dependents' in immigration law. Thobani (2001) challenges this construction by arguing that the circumstances governing women's status as spousal 'dependents' makes them extremely vulnerable in contrast to the powerful position of their (male) sponsor. Sponsored women often experience high rates of domestic violence and their sponsors can withdraw their undertaking which can result in the women's deportation (Hyman et al., 2006; Taft et al., 2008; Thobani 2001). In addition to the possibility of being deported, immigrant women must rely on their spouses financially as well. Sponsors must sign an agreement that they will assume full responsibility for their spouse for a three-year or a ten-year period depending on the spouse's age (CIC, 2009). Therefore, by ensuring that women are dependent upon men both financially and for sponsorship purposes, it places them in a precarious situation. In the words of Kang (2006), "the problems of immigrant women in Canada are particularly grave in that they face a double threat due to discrimination on the basis of sex as well as national origin and insecure immigration status. Limited by both their minority and gender status they are doubly oppressed and disempowered, and are the most exploited segment of society" (p.149). From a feminist perspective,

immigrant women are racialized and gendered through the spousal immigration process.

Only a handful of studies exploring the policies and practices of spousal sponsorship are published in Canada. In 2001, Status of Women Canada issued the first report concerning spousal sponsorship (Cote et al., 2001). This report provided an overview of the legal processes involved in spousal migration as well as the experiences of 16 female spousal migrants living in Ontario. The report suggests that the spousal sponsorship process is very difficult for immigrant women claiming they often feel depressed, lonely, frustrated, abused and fully dependent on their spouses. Furthermore, the report highlights the women's concerns about the negative impacts of the sponsorship process on their marriages (Cote et al., 2001). Many women in this study claimed the process of spousal migration was detrimental to their respective relationships (Cote et al., 2001). This report reveals some preliminary insights into the experiences of female spousal immigrants, however it does not provide a comprehensive illustration of spousal immigration to Canada.

More recently, Merali (2009) published the results of a study concerning South Asian spousal sponsorship in Alberta. Ten South Asian sponsored wives from various regions in India were interviewed. Five of the ten women were proficient in English, while the other five were not. The results of this study indicate that women who are proficient in English fare considerably better than women who are illiterate in English. Merali (2009) also found that women who spoke English were better supported by their partners, and understood their

rights as permanent residents and their sponsorship undertaking. Even with the recent spousal sponsorship policy changes under IRPA[i] those women who were not proficient in English experienced severe abuse, neglect and human rights violations (Merali, 2009).

Although both of these studies contribute to the literature on spousal sponsorship, they focus on the experiences of spousal immigrants after they arrived in Canada like much of the existing literature. The studies do not address how the process of spousal immigration, including the policies and practices, impacts women's immigration experiences. Under the family class immigration stream, the policies concerning spousal sponsorship have been revised numerous times throughout the history of Canadian immigration policy-making, although research indicates these changes are not positively impacting the lives of immigrant women (Thobani, 1999; 2001). Therefore, one must look at other societal institutions to help explain why immigrant women remain in highly contested and vulnerable situations. Marriage is one such institution that is inextricably linked to women's subordination and dependency and its implications for women and immigration are addressed in the next section.

Marriage and Immigration

Spousal immigrants must meet the criteria of a 'genuine' marriage in order to be successful in the immigration process. However, how marriage is defined in Canadian society provides another barrier for immigrant women. Even though Heather Brook (2002, p.45) claims marriage is "many things to many people"-

Canadian perspectives on marriage are not all that diverse. How marriage is defined in the Canadian context has repercussions for immigrant women's ability to 'belong' to Canadian society.

Over the years, marriage as an important societal institution has lost some of its social significance (Cherlin, 2004; Coontz, 2004). Historically, the role of marriage served important political and economic functions. In the past, marriage was the most important signifier of adulthood and social respectability and it provided a way of organizing work by age and gender (Coontz, 2004). Today, Cherlin (2004) claims marriage is experiencing a process of de-institutionalization, which is "a weakening of the social norms that define people's behaviour in a social institution" (p.849). Over time, marriage has become more negotiable and less conventional.

Nonetheless, Bernstein (2006) argues marriage is still important for society because it transposes a certain status onto individuals who choose to marry. As Cherlin (2004) explains, "what has happened is that although the practical importance of being married has declined, its symbolic importance has remained high, and may even have increased…It has evolved from a marker of conformity to a marker of prestige" (p.855). Similarly, Thomas (2006) states that marriage provides a privileged status in Canadian society; as marriage evolves into other forms (common-law, or same sex for example) besides the Judeo-Christian understanding of marriage, being a union between one man and one woman, marriage may serve more of a symbolic social function as opposed to a legal one. For some, the decision to marry is an expression of their individuality.

The individualization thesis draws on liberal (and Western) notions of choice and free will; it suggests, that in marriage, you choose your partner because they fulfil your psychological and emotional needs (Smart & Shipman, 2004). On the other hand, entering into marriage may require parental input and consent based on family cultures and the preservation of certain traditions (Khandelwal, 2009; Smart & Shipman, 2004). Others may wish to avoid marriage all together. As Thomas (2006) explains, "[m]any [people] believe that [marriage] has its roots in a patriarchal system, and wish to avoid endorsing such historical underpinnings" (p.2). Even though the role, function and reasons for marriage have changed, many Canadians are still choosing to get married (Wu, 1998). Therefore, marriage remains an important part of Canadian society.

Today, there are various marital practices and unions in Canada that are deemed 'unconventional' as they diverge from the heterosexual love union idealized in Western society. Common law unions, same-sex partnerships and arranged marriages are all contemporary, albeit 'unconventional', forms of marriage. As Smart and Shipman (2004) explain, marriage in Canada is culturally monochrome because common perceptions largely exclude an "understanding of different forms of marriage, relationships and intimacies which are to be found in diverse and complex societies" (p.494). For example, the literature frames cohabitation as a disadvantaged coupledom compared to a heterosexual love marriage (Smart, 2000). In a recent Canadian study, cohabitation is seen as a "prelude or probationary period in which to test the strength of the relationship before marrying" and is "not yet an environment on which to become a parent"

(Le Bourdais & Lapierre-Adamcyk, 2004, p.939). Similarly, although same-sex partnerships have gained legal recognition in Canada, they have done so by demonstrating the similarities between same-sex and opposite-sex couples, thus reinforcing heterosexual norms (Boyd & Young, 2003). Jackson (1996 as cited in Brook, 2002) argues that marriage is heterosexuality's central institution privileging the unions of one man and one woman and while discounting all others. Or as Boyd and Young (2003) explain, marriage is an ideological 'enclosure' because it prioritizes coupledom, privileges heterosexuality and is heteronormative. Lastly, the cultural practices associated with and beliefs about arranged marriage are in direct opposition to the Western hegemonic Judeo-Christian discourse of marriage (Khandelwal, 2009). For instance, from a western perspective, the long standing tradition of arranged marriage in South Asian countries commodifies women, ignoring how they can be active agents in furthering their own marital happiness and love (Khandelwal, 2009). In Canada, marriage discourse privileges the heterosexual 'love' union compared to less common spousal arrangements.

Feminists also challenge the institution of marriage as a site of women's oppression. For instance, many feminists argue that marriage is a sexist and/or patriarchal social structure; marriage is sexist because women's opportunities are limited as a result of being married and it is patriarchal because it is structurally oppressive to women casting them as the 'dependants' of men (Brook, 2002; Thobani, 1999). Furthermore, Josephson (2005) suggests marriage further denies women equal status and perceived access to full

citizenship rights. While these perspectives are critical of marriage as a social institution, they do not call for its abolition as Martha Fineman (2006) does. Fineman (2006) argues that marriage should be all together abolished because it is a regulatory mechanism of the state. She claims that without the institution of marriage the state could not longer use it as a mechanism for distributing privilege; "if no form of sexual affiliation were preferred, subsidized, and protected by the state, none should be prohibited" (Fineman, 2006, p.59). For Fineman (2006), marriage as a legal category should be abolished because it is a necessary step for gender equality as well as to erode the state's interest in controlling sexual relationships.

Feminist legal scholars also criticize marriage. For them, explaining how the law is implicated in women's subordination and societal participation is critical. Marriage and family law are familiar sites of feminist critiques. Boyd and Young (2003) explain marriage and family law are critical sites of feminist analysis because they are deeply connected to women's subordinate status within the family and society. For example, marital status is used as the primary requirement for distributing social and economic benefits as opposed to citizenship status for example (Ingraham, 1994). Josephson (2005) states that feminist political and legal theorists believe marriage is harmful to women's status as citizens because as an institution it reinforces inequality, gender roles, gender hierarchy and male dominance. For feminist legal scholars, understanding the relationship between women's oppression and marriage is crucial to women's full emancipation from gender oppression.

The relationship between marriage and law is particularly important for immigrant women. More so than Canadian-born women, immigrant women face many challenges in having their marriages publicly recognized. For spousal sponsorship purposes, a 'genuine' or legal marriage needs to be valid under the laws of the country in which it took place as well as under Canadian law (Government of Canada, 2010, sec.1). Past research demonstrates that Canadian family law defines 'family' as the hegemonic nuclear family normalizing the heterosexual marriage (Baldassi, 2007; Josephson, 2005). For those who belong to a nuclear family, "a privileged citizenship status is conferred to heterosexuals via marriage, though unequal to men and women" (Josephson, 2005, p.276). However, many immigrant families do not conform to western familial arrangements (Li, 2003). For example, arranged marriages are frequently criticized in Canada for challenging Canadian family values (Khandelwal, 2009). Therefore, the privileging of the heterosexual nuclear family in Canada reinforces traditional gender roles within the institution of marriage and functions to exclude non-western familial arrangements. In addition, immigrant women sometimes find it more difficult to obtain full civic participation because the law constructs women as the dependents of men vis-à-vis marriage (Josephson, 2005; Thobani, 1999). Josephson (2005) maintains that women's dependent status contradicts the qualities of independent judgement required for full citizenship. To illustrate, because the marriage contract adheres to traditional gender norms and roles, when a married couple decides to have children, the marriage contract creates fathers as political beings, while mother's rights to children are biological

(Josephson, 2005). In reinforcing the public/private, masculine/feminine binary system, the marriage contract undermines immigrant women's access to full citizenship. Immigrant women continue to be marginalized as spousal immigrants. The spousal sponsorship process uses marriage as a tool for defining the boundaries of 'acceptability'. Marriage functions to exclude immigrants whose familial arrangements contradict western views of love and marriage and for those women who are 'acceptable', marriage offers them a less-than-equal social and political status.

Conclusion

The literature discussed in this chapter illustrates the gendered and racialized nature of the immigration process in Canada. Specifically, I critically examine how women's lives are impacted by and through immigration. The processes, policies and practices of spousal sponsorship are also explored to evaluate how they contribute to women's immigration experiences. Finally, as marriage or a marriage-like relationship is a defining feature of spousal sponsorship, a discussion of the debates, issues, and critiques concerning marriage and migration are also presented. Even though spousal sponsorship is the primary migration route for women, it remains a vastly understudied area of research. My research attempts to begin to fill this void by examining how marriage is involved in the adjudication of spousal immigration appeal cases.

Chapter Two details the theoretical and methodological frameworks that guide my research.

2: THEORY AND METHODOLOGY

Language matters. Law matters. Legal language matters. (Finley, 1989, p.886)

This chapter is organized into two sections- the theoretical framework and the methodological approach of this thesis. This research takes a critical feminist stance on how the law impacts women. In particular, the theoretical contributions in this chapter will detail how the law genders and racializes women. The second half of this chapter focuses on the methodology used to conduct this research. It discusses the details of the data source, the process of data collection, the sampling procedure and the methods of analysis. This chapter concludes with a discussion of the contributions and limitations of this study.

Theoretical Framework

Feminist legal scholars grapple with how the law impacts women's lives and in particular, how the law constructs, classifies and genders women. According to Conaghan (2000) the goals of feminist legal analysis are threefold. First, feminist legal scholars seek to extrapolate the characteristics of law that posit themselves as neutral and more specifically as ungendered. Second, they challenge the ways in which women are marginalized in society and in turn give women and their individual experiences priority in academic scholarship. Finally, feminist legal analysis seeks to expose how the law is involved in women's subordination and to bring about transformative and social change. Feminist

legal analysis is a useful theoretical position to explore the spousal sponsorship

appeal process. My research adopts a feminist perspective to studying the

relationship between law, gender[7], race and marriage. I examined how the

spousal sponsorship appeal process contributes to the continued marginalization

of immigrant women in Canadian society. This research demonstrates how

immigration policy is a gendering and racializing process that (re)inscribes

essentially gendered characteristics onto spousal immigrants through

immigration policy and practice.

Feminism, Law and 'Woman'

The 'woman' of law is problematic for many feminists (Alcoff, 1988;

Conaghan, 2000; Fegan, 1999; Finley, 1989; Harris, 1990; Kline, 1989;

MacKinnon, 1991; Smart, 1992). How she is constructed and represented in

legal discourse emphasizes the intrinsic, innate, biological characteristics that

make her 'female'. The female identity in law suggests that women are

irrational, emotional, subjective, submissive and passive beings and implies

that somehow these characteristics are innate, or biological even though

Canadian law is 'gender-neutral' (MacKinnon, 1991; Smart, 1995).

Sevenhuijsen (1992) maintains the "[t]he normal woman was designed as

mother and wife" which is accomplished through various techniques including

law, legal reform and citizenship (Sevenhuijsen, 1992, p.184). For instance,

historically, the increased legal regulation of such activities as baby farming,

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[7] Gender is defined here as a socially constructed category as certain characteristics are viewed
as either 'male' or 'female'. Gender is also argued to be the primary reason for many women's
subordinate and inferior social, economic, and political status compared to men.

birth control, abortion and infanticide were all predicated upon a specific construction of motherhood according to various legislations (see Smart, 1992). Single mothers were the most 'deviant' category because they posed a public threat (Drakopoulou, 2000; Smart, 1992). Therefore, a specific image of 'woman' is constructed in law that relies on woman's natural (i.e. biological) characteristics that identify her as 'female' (Smart, 1992). On the other hand, men in law are represented as rational, objective, dominant and aggressive individuals (Smart, 1992). Law is predicated on the understanding that 'man' and 'woman' are antithetical gendered constructs.

Men are privileged through legal discourse because it reflects 'male' experience and social status. Finley (1989) attests, "legal language is male language because it is principally informed by men's experiences and because it derives from the powerful social situation of men" (p.893). Some feminists claim that law is inherently a male discourse as it is created, defined and written to preserve and serve the needs of men (Alcoff, 1988; Conaghan, 2000; Finley, 1989). Men's capacity to define law allows them to become the normative standard in law while everyone else is seen to 'deviate' from their privileged position (Finley, 1989). For women in particular, "it is men's understanding of women, women's nature, women's capacities, and women's experiences-women refracted through the male eye- rather than women's own definitions, that has informed law" (Finley, 1989, p.894). Men's ability to define law provides them the opportunity to enforce their superior and dominant social status over women and minorities.

It is necessary to define and explain 'woman's' position in and in relation

to law to assess how immigration law marginalizes women. According to Arat-

Koc (1999) and Smart (1992), immigration law reinforces women's essential

'femaleness' and subordinate status. The current immigrant selection process is

designed to select those individuals who will contribute to the 'betterment' of

Canada (Li, 2003; McLaren & Black, 2005). Unfortunately for women,

immigrants' economic contributions are prioritized in the selection process

(Green & Green, 1995; Ley, 1999; Walsh, 2008). Gender biases exist in the

immigration process as 'experience' is narrowly defined as paid-work and

educational experience, which tends to privilege male immigrants by ignoring

women's unpaid domestic and childrearing responsibilities (Arat-Koc, 1999;

Boyd, 2006; Man, 2004; Ng, 1992). Furthermore, women's nurturing and caring

nature is reflected in the spousal sponsorship process. Immigrant women are

viewed as wives, mothers and domestic labourers because many of them

migrate as sponsored dependents (McLaren & Black, 2005; Thobani, 1999).

Contemporary immigration policies reflect woman's 'natural' role as wife, mother

and caregiver.

According to some feminist scholars, an essentialist perspective to

studying gender and law is not the best approach (Harris, 1990; Kline, 1989).

Critics such as Angela Harris (1990) and Marlee Kline (1989) argue that

'woman' in much of the feminist literature assumes a white, middle class

privileged social position. The idea that a singular female or woman's

experience can be isolated from or exist independently of the diversity of

experiences (race, class or sexuality) is troubling (Harris, 1990). However, just because women are women, does not mean they share common experiences as women. For instance, a poor white woman may not share the same (privileged) experiences as a middle class white woman nor would either of them experience life in the same way as a Black woman or an Asian woman. An essentialist perspective runs the risk of homogenizing the varied experiences of women and privileging the white female experience. For example, to assume that all women immigrating from the 'Third World' share similar triumphs and challenges denies the ideological, social and historical structures that shape their individual experiences. It homogenizes and reduces immigrant women to the 'average Third World Woman', who Mohanty (1988) describes as, someone who "leads an essentially truncated life based on her feminine gender (read: sexually constrained) and being 'third world' (read: ignorant, poor, uneducated, tradition-bound, religious, domesticated, family orientated, victimized, etc.) (p.65). This representation ignores the diversity of women's experience and obscures their agency in the immigration process.

Gender essentialism raises significant concerns for feminist researchers and in order to mediate some of them, they advocate for the use of woman-centred strategies in law. Woman-centred strategies rely on the articulation of women's individual and shared experiences as the basis for change (Conaghan, 2000). Conaghan (2000) maintains, "a woman-centred epistemology operates to displace and destabilize dominant understandings of social and legal phenomena" (p.364). The primary aim of this approach is to

allow women a space to voice their concerns, to give women the authority to speak about how they are represented in law and to draw attention to the diversity of women's experiences. A woman-centred approach reminds us to explain and represent the plurality of women's experiences, taking care not to allow white women to speak for all women.

My research adopts a woman-centred approach to studying the spousal sponsorship appeal process. Immigration law typically views women *as women*, which ignores immigrant women's diversity. A woman-centred approach to studying spousal sponsorship requires me to prioritize immigrant women's experiences in the process, to recognize their diversity and to challenge women's subordinate legal status.

Feminism, Law and Racialized Women

The Canadian legal system racializes and marginalizes women (and men) of colour. According to St. Lewis (2002) Canadian law is not, nor has it ever been, race-neutral. Canadian law reinforces Western European interests because the "system reflects the perspectives and values of the community it was designated to serve…The law has been constructed within a European, Judeo-Christian framework and is essentially a reflection of European cultures" (St. Lewis, 2002, p.301-302). Because Canadian legal policies and practices are ideologically constructed by Western European interests, it assumes European values, customs and beliefs to be the norm. Similarly, Daly (1994) argues legal practices are racialized. She states, "justice system practices-as-racialized assumes that racial and ethic relations structure criminal law and justice system

practices so profoundly that legal subjects can be expected to be saturated with racializing qualities" (Daly, 1994, p.14). Thus, from a white, European perspective, Canadian law racializes women (and men) of colour as the 'other', as 'different' from the (privileged, white, heterosexual, male) norm (Razack, 2000; St. Lewis, 2002).

Feminist legal scholars argue that the experiences of racialized women[8] in law are either made invisible by focusing on 'women's experience' more broadly, or their individual and diverse experiences are homogenized into neat categories such as 'Black experience' or 'women's experience' for the purpose of legal classification and interpretation (Finley, 1989; Harris, 1990). More often than not, multiple and intersecting forms of subjugation are packaged under the larger and broader umbrella of 'oppression'. Harris (1990) refers to this process as racial essentialism. Thus, for racialized women who often face multiple forms of oppression simultaneously, their experiences are reduced to addition problems. For example, a Black woman's experience can be explained by a sexism 'plus' racism equation (Harris, 1990). Often the law requires racialized women to prioritize and hierarchically organize their identity characteristics (Finley, 1989). Women of colour need to choose between 'being' Black or 'being' female for instance. By oversimplifying the experiences of women of colour, the legal system fails to recognize the multiple and diverse forms of women's experience.

Canadian immigration law is a familiar site for the homogenization, racialization and exclusion of women of colour. Immigration policies and

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[8] By racialized, I am adopting St. Lewis' (2002) definition meaning individuals "who are variously identified as visible minorities, racial minorities, people of colour, and by specific racial/cultural designations such as black" (p.295).

practices allude to the most 'appropriate' gendered and racialized citizenship

(Mohanty, 2002). MacKay (2002 as cited in Wilton, 2009) uses the term 'strategic

essentialism' to explain how immigration law homogenizes specific populations to

benefit receiving countries. 'Strategic essentialism' places the 'other' outside of

the national and political community to create an image of a "homogenous united

population and a state innocent of policies which serve to marginalize specific

groups" (MacKay, 2002 as cited in Wilton, 2009, p.439). Therefore, Canada's

national identity as a 'good', 'honest', 'equal' and 'multicultural' society masks the

processes of exclusion (Razack, 2000; Wilton, 2009).

      The racialization of select immigrant groups functions to reinforce the

belief that Canada is a white settler nation and white Europeans are the most

'desirable' citizens. For example, the Chinese people in Canada faced

discriminatory and exclusionary policies including the Chinese Exclusion Act and

the Chinese Head Tax while South Asians were excluded through the

'Continuous Journey Act' (Li, 1998). These legislative measures were used to

protect Canada as a nation of white Europeans from the racial and social

contamination of Asians and South Asians (Li, 1998). More specifically, the

recognition of the 'foreign' or 'alien' individual in Canadian immigration law

impacts the ways in which 'Canadian identity' is imagined (Razack, 1999).

Razack (1999) states that 'Canadian identity' depends both materially and

ideologically on racialized bodies. To elaborate, "[s]ymbolically, racialized bodies

as degenerate and uncultured, highlight the heroic qualities of the dominant

group, a dark background in a canvass of white subjects. Materially, the

dominant group is secured when people of colour contribute their labour to the nation but do not enjoy equal access to society's resources" (Razack, 1999, p.2). By racializing Asian and South Asian (as well as Black, African and Latino) immigrants as the foreign, homogenous 'other', Canada's identity as white and Western European is maintained.

Women's sexuality is another way in which Canadian immigration law racializes and excludes women of colour. Chilton (2007) argues female emigration work was characterized as immoral, un-feminine and devoid of womanly values. It was not until the mid-to-late 1880's that female migration and emigration work was de-stigmatized for British women (Chilton, 2007). At that time, single, white, Anglo-Saxon middle class women were characterized as the 'ideal' female immigrant for the colonization of Canada, among other British colonies; these women were thought to serve a multitude of regulatory social, moral and political functions (Chilton, 2007; Perry, 1997). More specifically, "white women were the needed antidote to the problem of British Columbia's [and Canada's] large population of footloose white men" (Perry, 1997, p.504). Women's perceived 'natural' feminine characteristics claimed to be the solution to Canada's unruly male population.

However, one of the stated goals of British colonization was to improve the 'types' of women migrating to the colonies (Chilton, 2007). Historically, the sexuality of racialized women is demonized to serve white interests in population control and immigration (Espiritu, 2001). For example, the historical representation of Chinese women as disease-ridden, drug-addicted prostitutes

contributed to the Chinese Exclusion Laws (Espiritu, 2001). Thobani (1999) suggests racialized women were seen "as posing a two-fold threat to the nation: the presence of these racially 'inferior' women was defined as 'polluting' the nation, and their ability to reproduce future generation of 'non-preferred races' was defined as a threat to the whiteness of the nation" (p.11). Racialized immigrant women were dangerous and targeted for exclusion because they were viewed as immoral, highly sexual and they would contaminate the reproduction of a white settler society (Dua, 2007; Thobani, 1999). Racialized women's sexuality justified their marginalization and exclusion.

Today, race and sexuality are still linked to the inclusion and exclusion of women in immigration law. Berger (2009) argues that in order for immigrant women to be welcomed in Canada, they must present themselves as 'acceptable' and 'recognizable' gendered and sexual beings. What Berger (2009) is suggesting is that immigrant women need to be recognizable *as (white) women* in order to be allowed into Canada; for racialized women, this means they need to emphasize their feminine characteristics (such as passivity, domesticity, nurturing, caring) and discount their racial attributes (sexually deviant, cunning, deceitful) to be 'acceptable' immigrants to the Canadian state. The 'mail-order' bride industry provides a good example of how immigrant women market themselves as 'feminine' and desirable spouses. In her study of correspondence marriages, Constable (2003) argues Filipino women are popular choices as foreign brides because Western men believe Filipinas maintain traditional family values and gender roles. As Constable (2003) states, "to the

men who seek them out, Asian women are models of tradition, respectability, morality, and religious piety" (p.96). In addition, so called 'mail-order' brides from Eastern bloc countries are typically represented as 'good mothers' to prospective husbands (Constable, 2003; Robinson, 2007). Here, racialized women are viewed as being 'female' instead of being 'Asian' or 'Eastern European'.

In short, racialized immigrant women experience both racial and gender essentialism in the immigration process because sometimes they are viewed *as women* and at other times *as racialized women* (racially inferior beings not worthy of belonging). These ideological constructs draw on Western understandings of race and gender to maintain the historical construction of racial homogeneity and hierarchy within the Canadian state.

Feminism, Law and Patriarchy

Immigration is in part shaped by race and gender. However, there are other systemic factors involved that contribute to the overall immigration 'experience'. Patriarchy, or systems of male domination and female subordination (Hunnicutt, 2009), is a useful theoretical concept in the analysis of spousal sponsorship processes because it draws attention to the nexus of gender, power and domination. As Ingraham (1994) argues, patriarchy

"is… historically variable, producing a hierarchy of heterogender divisions which privileges men as a group and exploits women as a group. It structures social practices that it represents as natural and universal and which are reinforced by its organizing institutions and rituals (e.g., marriage). As a totality, patriarchy organizes difference by positioning men in hierarchical opposition to women and differentially in relation to other structures, such as race or class. Its continued success depends on the maintenance of regimes of difference as well as on a range of material forces" (p.206).

Thus, Ingraham sees patriarchy as a historical hierarchal organizing principle that positions women in opposition and subordinate to men.

Patriarchy remains a part of Canadian society through various societal institutions including marriage. As I have argued, marital status is a signifier of one's status and belonging in Canadian society. Ingraham (1994) supports this statement as she asks, "[f]or those who view questions concerning marital status as benign, one need only consider the social and economic consequences for those respondents who do not participate in these arrangements, or the cross-cultural variations which are at odds with some of the Anglocentric or Eurocentric assumptions regarding marriage" (p.211). According to Ingraham (1994) the heterosexual imaginary[9] legitimizes and normalizes the patriarchal gender and sex differences between men and women in marriage. To illustrate, Simon (1995) argues there are significant differences in the ways that men and women view their expected roles as husbands, fathers, wives and mothers. One similarity between men and women is how they perceive a 'good' mother and wife. Simon (1995) maintains, "like men, most of the women believe that being a 'good' mother and wife involves more than providing economic support, and that women must provide love, emotional support, and companionship" (p.186). However, those women who combined work and family often felt guilty about their multiple role responsibilities and believed that it adversely affected their respective marriages. These feelings of guilt indicate that these women saw

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[9] The heterosexual imaginary is a particular way of thinking that hides the implications of heterosexuality in structuring gender and removes the ability for a critical analysis of heterosexuality as an organizing institution (Ingraham, 1994, p.203-204).

themselves as a 'bad' wives and mothers (Simon, 1995, p.187). Simon's study demonstrates how a patriarchal gendered structure is normalized and legitimized in marriage. Therefore, marriage is heterosexuality's 'natural' institution (Ingraham, 1994).

Furthermore, patriarchal marital relationships rely on heteronormativity. Heteronormativity is defined as institutionalized heterosexuality, which means that the heterosexual relationship is the most desirable type of relationship and consequently becomes the societal norm (Ingraham, 1994). In preferring heterosexual couples to other types of partnerships including transgendered and same-sex couples for instance, heteronormativity constructs a deviant 'other' (Ingraham, 1994). This construction relies on a binary distinction (man/woman, heterosexual/homosexual, masculine/feminine, married/single) that always hierarchically organizes one characteristic as dominant and the other as subordinate. Those relationships that deviate from the norm are illegitimate and not publicly recognized. Heterosexual, western 'love' marriages are the idealized coupledom because they reinforce traditional western, patriarchal views of love, marriage and family (Boyd &Young, 2003; Khandelwal, 2009; Smart & Shipman, 2004).

Canadian spousal sponsorship policies and practices rely on patriarchal and heteronormative points of view. Thobani (1999) suggests that the separation of immigrants into classes for immigration purposes forms the basis for hierarchal organization and subsequently the gendering and racialization of immigrants. Specifically, Thobani (1999) is critical of the distinction between the independent

(economic) immigration class and the family class as it draws on patriarchal gender ideology. She claims "the very naming of the independent class ideologically constructs it as a masculinized category" (Thobani, 1999, p.12). Independent immigrants are assumed to be the head of the household-economic agents to be evaluated on their ability to be productive members in Canadian society and their (potential) economic contributions to the Canadian economy. In contrast, family class immigration is associated with more feminine characteristics including that of wife, mother and caregiver. Thobani (1999) maintains "the very naming of this category organizes it as a feminized class, a construction which is further reinforced by its designation as a category of 'dependents', thereby associating it with everything not 'masculine'" (p.12). As men are defined as economic agents in the immigration process, women and children are classified according to their dependent relationship to those independent applicants. In addition, the sponsorship role and undertaking function to disable women from actively participating in Canadian society upon their arrival because of the rules and regulations governing their spousal sponsorship (Thobani, 1999). Lastly, immigration law uses the western nuclear family as the norm in its evaluation of family class immigrants (Baldassi 2007; Creese et al., 2008; Wilton, 2009). Canadian immigration policy reinforces patriarchal gender ideology and heteronormativity, which impacts how spousal immigrants are perceived for immigration purposes.

This theoretical framework highlights how law genders and racializes immigrant women. Patriarchy plays an important role in these processes

because it functions to reinforce the traditional gendered division of labour in marriage. In order to be 'acceptable' and 'desirable' immigrants, (racialized) women need to be viewed *as women*. As Mohanty (2002) describes, "it is the intersections of the various systemic networks of class, race, (hetero)sexuality, and nation then, that positions us as 'women'" (p.202).

Methodological Framework

The methodological framework in this study combines elements of both qualitative and quantitative modes of inquiry. Taking documents as my primary date source, an in-depth qualitative and quantitative exploration of spousal sponsorship appeal cases is the focus of this research. In this section I will provide the research questions that guided this research and explain the processes of data collection and analysis. I will conclude with an explanation of the limitations and contributions of my research.

Research Questions

To date, there is little to no research on how marriage in contemporary Canadian society is used to regulate and control the influx of immigrants to Canada. According to Abrams (2007), no one has undertaken a study that explores how immigration law uses and defines marriage. Immigration law uses marriage as a central organizing principle and it functions to shape immigrant marriages (Abrams, 2007). Given the law's power to define and regulate marriage "once the government has decided to use marital status as a means of granting immigration status, it necessarily follows that [government] will define

and interpret what marriage means and shape and regulate marriage through the immigration process" (Abrams, 2007, p.1628). As such, this thesis defined and explored how Canadian immigration officials regulate and interpret the meaning of marriage. Three questions guided this research:

1. How do Canadian immigration policies interpret the meaning of marriage for the purposes of spousal sponsorship decisions?
2. What counts as evidence of an officially sanctioned marriage by Canadian immigration officials?
3. How do spousal sponsorship decisions contribute to and influence immigration debates in Canada?
These questions will enable me to explain how gender, race and marriage impact the spousal sponsorship appeal process.

Data Collection

This study uses both quantitative and qualitative methodological techniques. Creswell (2003) defines a quantitative approach to research as one in which the "researcher uses postpositivist claims for developing knowledge… employs strategies of inquiry such as experiments and surveys, and collects data on predetermined instruments that yield statistical data" (p.18). The stated aim of quantitative analysis is to provide a statistical or numeric description of a particular sample of a population (Creswell, 2003). In contrast, the purpose of qualitative research is to explore the social world from a constructivist perspective (one that sees the social world as made up of multiple meanings and

explanations) and the intent is to develop emergent themes from the data (Creswell, 2003). I chose to combine quantitative and qualitative elements because they complement each other. By combining these two approaches I am able to interpret and explore both broad patterns of change and gain an in-depth understanding of the spousal sponsorship process.

A quantitative and qualitative content analysis of spousal immigration appeal decisions is conducted to highlight the important themes used to describe and discuss spousal immigrants. Content analysis is understood as a methodological process whose focus is to display the "frequency with which certain words or particular phrases occur in the text as a means of identifying its characteristics" (May, 1997, p.171) and is used both qualitatively and quantitatively. Furthermore, May (1997) claims content analysis is a three-stage process. First, a research problem needs to be identified. Second, content analysis involves retrieving the text and employing sampling methods. Finally, the last stage is analysis and interpretation. Content analysis is a useful methodological approach in that it helps uncover themes in the sample documents.

Data Analysis

Spousal immigration appeal decisions are my data source. These documents[10] were retrieved from the RefLex database, an online database

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[10] Documentary research is an important area of inquiry in the social sciences. May (1997) argues, "documents…have the potential to inform and structure the decisions which people make on a daily and longer-term basis; they also constitute particular readings of social events" (p.157). However, documentary research must be situated within a particular methodological frame of reference such as content analysis (May, 1997).

published and maintained by the Immigration and Refugee Board of Canada[11]. I

chose to use RefLex as my data source for two reasons. First, the database

contains publicly available information and the immigration appeal cases are thus

easily obtained. Second, since the information in RefLex is a matter of public

record, the information in this database should be analyzed to explain how the

Canadian government views matters of immigration and citizenship.

My original sample was drawn from the RefLex database on October 8th,

2008. My search for the key word 'Sponsorship' yielded 1049 results from

January 1991 to October 2008. These documents were filtered manually to

exclude sponsorship cases of extended family members and dependant children.

Next, using the document summary provided, cases that used key words

including 'spouse', 'wife', 'husband', 'conjugal partner' and 'marriage' were

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[11] The Immigration and Refugee Board (IRB) outlines four objectives of RefLex. First, RefLex is designed to disseminate information on immigration and refugee protection to decision-makers and staff. Second, the database is designed to further the goal of IRB law by facilitating access to IRB decisions across Canada. Third, RefLex creates a database of immigration and refugee jurisprudence to aid in legal research. Finally, RefLex is needed to create a better understanding of Immigration and Refugee law. As such, RefLex is a select database in that it contains immigration cases that are reflective of key policy decisions or have set precedent. The documents that are placed in RefLex have been selected based on both general and specific selection criteria. The general selection principles outlined by the IRB are threefold. First, the synopses of decisions do not contain information that is incorrect in law. Second, the decisions in RefLex include not only the cases that have had a major impact on immigration and refugee decisions but also the less sensationalized decisions. Third, as much as possible the IRB tries to represent a balance of both positive and negative decisions in RefLex. The specific selection criteria for a case to be included in RefLex are as follows: the reasons set out a new approach to the law, the reasons set out the law in a clear and concise manner, the reasons demonstrate the application of an established legal principle to an unusual or novel fact situation or the reasons are representative of a number of decisions decided on a specific issue from a particular country or are representative of a number of decisions decided in a particular region of the IRB. Once a case is selected for entry into the database, a synopsis is written up and the full text decision is added as an extra link. Finally, although RefLex is specifically designed to meet the needs of IRB staff members and those individuals involved in research and policy, RefLex is available to the public on the IRB website. Thus, RefLex is an important immigration database that reflects key decisions in immigration policy and practice (Immigration and Refugee Board of Canada, 2010).

chosen from the remaining documents and the complete documents were downloaded and organized according to RefLex issue number.

Second, I narrowed my sample to cases that were adjudicated after IRPA was implemented on June 28th, 2002, as contemporary perspectives of immigration are the focus of this research. This was also done to reduce the number of cases in my sample. This narrowed my sample to 194 cases between July 2002 and September 2008. Next, I manually excluded any spousal sponsorship cases that were published in RefLex during this time frame but were still governed by the Immigration Act of 1978. By doing so, 8 spousal sponsorship cases were omitted. The 186 remaining cases were organized chronologically according to RefLex issue number and every second case was placed in my sample for total of 93 spousal sponsorship cases[12].

Lastly, as the goal of this research is to explore how marriage is defined and used to regulate immigrants in Canada, section four of IRPA, the 'Bad Faith' marriage provision, was used to guide the qualitative analysis. After completing a second reading of the cases, 52 spousal sponsorship cases were determined to be governed by the 'Bad Faith' provision, and were thus selected as the sample for my qualitative analysis[13].

Once my sample was obtained, the cases were coded using both quantitative and qualitative measures. The quantitative codes were chosen from the immigration case files themselves and were selected because they provided

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[12] Given the scope and time frame of this research project, 93 cases were determined to be a manageable number. Every second case was chosen so that random sampling was used as opposed to purposive sampling.

[13] The other 31 spousal sponsorship cases were excluded from the qualitative analysis because they were sent to appeal on grounds other than section four of IRPA.

insight into the sample's demographic information. For my purposes, the Statistical Software Package for the Social Sciences (SPSS) was used to organize this information. The quantitative codes are listed in Appendix B. After every descriptor was coded and entered into SPSS frequencies and cross-tabulations were generated.

The qualitative coding process was determined by using what Mason (2004) explains as an interpretive reading of the data. By this I mean, qualitatively, I am involved in the process of "constructing or documenting a version of what [I] think the data mean[s] or represent[s], or what [I] think [I] can infer from them" (Mason, 2004, p.149). The appeal cases were read to see what factors contributed to appeal outcomes. Various themes emerged from the data to explain how marriage is defined for immigration purposes.

Limitations and Contributions

There are a number of limitations and contributions of this study. The first limitation to my study is inherent in the RefLex database. RefLex contains only spousal immigration appeals, not all spousal immigration decisions. Secondly, the RefLex database is not representative of spousal immigration to Canada. However, it does contain up-to-date information on key immigration decisions that influence and reflect immigration policy and practice.

The second limitation of this study is my sample. Although the RefLex database contains immigration case records from 1991-present, my sample was taken from 2002-2008. This was done in order to focus on the contemporary spousal immigration cases after the legislation of IRPA. The time frame limits the

scope of this research; however, a historical comparison of spousal immigration was not the goal of this project.

Third, this research study combined both quantitative and qualitative methods in order to minimize their respective limitations. However, the issues of reliability and validity are still pertinent. The reliability of quantitative research is often strengthened when multiple people code and verify the data. As I was the only person in contact with my sample data I needed to ensure that I was diligent in inputting the data into SPSS. Furthermore, I checked and re-checked the data at two separate times to ensure there were no errors. The generalizability or validity of qualitative research is often questioned because it is a subjective research methodology; I believe that the subjective nature of qualitative research is in fact a strength of this method. As Mason (2004) argues, ""the qualitative habit of intimately connecting context with explanation means that qualitative research is capable of producing very well-founded *cross-contextual generalities* rather than aspiring to more flimsy de-contextual versions" (p.1, emphasis in original). Furthermore, qualitative research should produce explanations or arguments that are generalizable in some way (Mason, 2004, p.8). In order to remain accountable, I am explicitly defining my terms and research process, thus, issues of reliability and validity should be minimized.

There are many contributions of this study. First, this research will highlight the importance and need for future research into spousal immigration. Second, this study will contribute a new perspective to existing feminist debates around immigration in Canada, as it will demonstrate the continued racialization

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and gendering of spousal immigrants to Canada through the meaning of marriage. Next, this research challenges conventional understandings of the neutrality of Canadian immigration law. Finally, this research is not limited to the field of sociology as the results will be applicable to those studying immigration in various disciplines including women's studies, political science and public policy programs.

Chapters One and Two have examined the literature, the adopted theoretical orientation and the methodology used in this research. Chapter Three will discuss the detailed findings of the quantitative analysis.

3: OVERVIEW OF SPOUSAL IMMIGRATION TO CANADA

This chapter presents an overview of the spousal immigration cases in my study. Specifically, this chapter provides a descriptive overview of the research sample highlighting the data concerning marriage, gender and citizenship. These variables were chosen because they are pertinent to answering my research questions. I examine the demographic information from 93 cases to offer a composite picture of my data. The information extracted includes the year of decision, the citizenship of the applicant, the gender of the principal applicant, the reasons for the initial sponsorship application refusal, the outcome of the appeal, the reasons for appealing the outcome, the type of marriage and the panel member who adjudicated each case. The age of the applicant was not provided in many spousal sponsorship appeal decisions; therefore, it was not included in the quantitative overview. This information was manually coded and entered into SPSS. The first part of this chapter begins with a discussion of spousal sponsorship and the appeal process under IRPA. Second, I provide a brief overview of the data. Third, I explain how marriage, gender, citizenship, the reasons provided for initial sponsorship refusals and appeal outcomes and appeal success rates influence spousal sponsorship appeal decisions. I conclude this chapter with a brief summary.

Spousal Sponsorship and the Appeal Process under the Immigration and Refugee Protection Act

Prior to examining the characteristics of my sample, discussions of the spousal sponsorship policies and appeal process are needed to contextualize the experiences of spousal immigrants. The introduction of the Immigration and Refugee Protection Act (IRPA) in 2002 replaced the Immigration Act of 1976. IRPA is an act that governs all the non-administrative aspects of migration including who is admissible into Canada, enforcement of law, immigration offenses, appeals, refugee protection and sanctions (S.C 2001, c.27, p. 6). IRPA is the current legislation regulating immigration in Canada.

The Immigration and Refugee Board (IRB) provides specific regulations that lay out the foundations for interpreting IRPA's framework. This means that many provisions including those that govern family (re)unification are left up to the IRB regulations for clarification and expansion and are not addressed directly in IRPA (George, 2006). These regulations significantly impact immigration because they define the terms, set the number of applications accepted per year/per category, the number of visas issued and the designation of classes of people 'landing' from within Canada (S.C, 2001, c.27). Furthermore, the IRB regulations can be amended at any time (S.C, 2001, c.27). Consequently, there is a lack of transparency in the process as changes to immigration policy can occur with very little accountability on the part of the Canadian government (George, 2006). The clauses, requirements, and exceptions specific to spousal sponsorship are found in these regulations.

The IRB regulations further provide the definitions and the circumstances under which spousal sponsorship applications are deemed admissible or not. According to these regulations, "a marriage [must be] valid both under the laws of the jurisdiction where it took place and under Canadian law" (Government of Canada, 2010, sec.2) in order to be legal and valid for sponsorship purposes. Secondly, under these regulations, a spouse is a person to whom you are legally married, in a common law relationship with, or are same sex partners and these relationships have lasted for at least one year (Government of Canada, 2010, sec.2). A foreign national is a spouse if they are the spouse or common-law partner of their sponsor and cohabit with them in Canada or if they have a temporary resident status in Canada and are the subject of a sponsorship application (Government of Canada, 2010, sec.125). In the case of spousal sponsorship, there are situations in which there are exceptions to the above definitions. Section 125 subsection 1 of the IRB regulations declares that no foreign national will be considered a spouse, common-law partner or conjugal partner if the marriage or partnership is not genuine or was entered into for the purpose of immigration or acquiring any status or privilege under IRPA (Government of Canada, 2010). A spousal relationship will be excluded if the spouse or common-law partner of a sponsor is under the age of 16 years, if the foreign national was at the time of their marriage to their sponsor the spouse of another person, if the sponsor and spouse have lived separate or apart for a period of at least one year and is the common-law partner or spouse of another

person (Government of Canada, 2010, sec.125.1). The IRB regulations have very specific (and narrow) guidelines for their definition of a spouse.

Furthermore, the IRB regulations clarify the criteria and obligations of a sponsor. Sponsors must be at least 18 years of age, reside in Canada, or must agree to reside in Canada once the sponsorship is approved. Sponsors must also comply with all sections of IRPA, file a sponsor's application, agree to the financial obligations, not be convicted of a criminal act, not be on social assistance, not be detained in jail and not be the subject of a removal order (Government of Canada, 2010, sec. 130, 133). In addition, sponsors must be lawfully wedded to or in a common-law relationship with their spouse that they wish to sponsor. The most significant change to spousal sponsorship is a decrease in the amount of time that a sponsor is fully responsible (financially and otherwise) for their spouse. This changed from a period of ten years to three years if the individual who is sponsored is at least 22 years of age otherwise the ten year requirement remains (S.C., 2001, c.27, p. 45). The Canadian government has definitive criteria as to who is a legitimate and 'appropriate' sponsor.

When applying for spousal immigration, the *Immigration and Refugee Protection Act* requires all applicants to answer all questions on the immigration application truthfully and provide the required documentation. For instance, applicants are required to submit to a medical examination, provide photographic evidence of their relationship (upon request) and fingerprint evidence (S.C., 2001 c.27, p.15). In some cases, particularly those involving racialized individuals,

immigration officials can request DNA samples to establish genetic ties between the immigrant and their sponsor (Baldassi, 2007). Individuals can be excluded from entering Canada on the grounds of health, personal finances, security, international or national human rights violations, serious or organized crime, misrepresentation and non-compliance with the Act (S.C., 2001, c.27).

For those spousal sponsorship cases that are unsuccessful in their initial application, some are given the right to appeal this decision. Appeals must be made to the Immigration Appeal Division (IAD) in writing no later that 30 days after the appellant received the reasons for the first application refusal (Government of Canada, 2005). The written appeal needs to state the desired outcome of the appeal, the reasons for the desired outcome, whether or not the sponsor agrees to appeal the application as well as any new evidence that the applicant wants the IAD to consider before it renders its decision (Government of Canada, 2005). Some individuals do not have right to appeal their sponsorship refusals including those cases that were initially refused on the grounds of serious criminality, violating human or international rights, security, organized crime or misrepresentation (an exception applies to spouses, common-law partners and children) (Government of Canada, 2005). An appeal to the IAD may be based on three variables including questions of law, fact or a combination of law and fact, and humanitarian and compassionate considerations[14] (Government of Canada, 2005). Once an application for appeal has been filed,

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[14] Humanitarian and Compassionate grounds cannot be exercised if the applicant is determined to not be a member of the family class nor if the appellant is determined to not be a sponsor (Government of Canada, 2005).

the visa office that refused the initial application must provide an appeal record[15] to the IAD. Once the appeal record has been provided, the IAD can either render a decision based on the appeal record or schedule a hearing (Government of Canada, 2005). IAD hearings are held in public court, thus the sponsorship appeal cases that go to appeal become a matter of public record.

Each year, approximately 70 000 spousal applications are submitted to Citizen and Immigration Canada (Jimenez, 2006); of these applications, 10-15% are denied. These figures indicate there is a significant proportion of spousal sponsorship applications that are viewed as 'illegitimate' immigration cases. Moreover, spousal sponsorship application processing times vary depending on the location where the application is received. For example, the average processing time for a spousal application received in Nairobi exceeds 26 months compared to 14 months in Hong Kong and 8 months for those applications processed in London (Taylor, 2009). These figures do not take into account those applications that subsequently go on to appeal, which can potentially delay (re)unification for another year or so (Government of Canada, 2005). Spousal sponsorship under IRPA is a complex and lengthy process that governs the lives of immigrants.

Sample Characteristics

At a glance, my sample contains both male and female spousal applicants and their sponsors who appealed to the IAD for reconsideration of the negative

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[15] An appeal record contains an application for permanent residence that has been refused, the application for sponsorship and the sponsorship undertaking, any document that the Minister possesses that is relevant to the case and the written reasons for the refusal (Government of Canada, 2005).

decision rendered in their initial spousal sponsorship application. They represent

individuals from around the globe, totalling 26 countries worldwide. For my

purposes, a principal applicant is defined as an individual who puts forward an

immigration application to join members of their family already established in

Canada (Boyd, 2006). Second, an appellant is defined as the principal

applicant's sponsor. Of the 93 cases that were heard by the IAD, 61% were

refused, 36% were allowed and one case was discontinued. Presiding over the

appeal decisions in my sample were 35 different IAD panel members with one

female adjudicator deciding 18% of the appeal decisions. My quantitative

analysis reveals five variables that impact a spousal sponsorship decision.

Marriage

       This section explores the various forms of spousal relationships in my

sample to provide an overview of how marriage or a marriage-like relationship is

represented in the spousal sponsorship and appeal processes. My sample

contains five types of immigrant romantic relationships. Table 3-1 provides a

description of the number of cases and type of relationship in my sample.

Table 3-1

TYPE OF RELATIONSHIP	NUMBER OF CASES
Heterosexual 'love' marriage	64
Heterosexual arranged marriages	16
Heterosexual proxy marriages	6
Heterosexual conjugal partnerships	5
Same-sex partnerships	2

From a legal perspective, marriage is defined in many different ways for immigration purposes. A heterosexual love marriage draws on conventional understandings of and beliefs in marriage. It is the union of one man and one women based on the pursuit of individual happiness, companionship and romantic love (Coontz, 2004; Khandelwal, 2009; Smart & Shipman, 2004). In contrast, heterosexual arranged marriage is defined as a union of one man and one woman that is facilitated by an acquaintance or family member. Typically, arranged marriages are decided between the parents of the prospective bride and groom based on various criteria including cultural compatibility, similarity in social status or caste, family background, education or appearance (Foner, 1997; Merali, 2009). Next, a heterosexual proxy marriage occurs when a man and a woman are married during a teleconference instead of in person[16] (Case 46, 2005). A conjugal relationship is defined as a foreign national residing outside of Canada who is in a conjugal relationship with the sponsor and has been in that relationship for a period of at least one year[17] (Government of Canada, 2010,

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[16] To illustrate, a Muslim proxy marriage requires that a proposal and acceptance are made and received, a dower amount is negotiated, the marriage is contracted in one sitting and the offer and acceptance are communicated in the presence of two (male) witnesses (preferably) (Case 8, 2003, p. 3). Moreover, a proxy marriage usually occurs with one spouse in the presence of a *kasi* (priest) a *vakil* (agent for the appellant), the two witnesses and other guests while the other spouse participates in the ceremony over the phone (Case 8, 2003).

[17] In determining whether or not a conjugal relationships is indeed 'marriage-like' the IAD follows the Supreme Court of Canada's guidelines set out in *M* v. *H* in which the Court identified seven non-exhaustive criteria for identifying a conjugal relationship. These criteria include shelter (whether the parties have ever lived together in the same household), sexual and personal behaviours (whether the parties have had sexual relations), services (whether the parties have maintained a household together), social (whether this relationship is public and that the parties participate in community and family activities together), societal (to what degree the community views the parties as a genuine couple), support (the parties financial agreement) and children

sec.2). Finally, same-sex partnerships[18] are defined as the legal union of two

men or two women. The 'type' of relationships in my sample reflects the diversity

of intimate partnerships in Canada.

Marriage in Canada today is diverse and it is a symbolic social

arrangement compared to the historical social, political and economic functions it

used to serve (Coontz, 2004; Cherlin, 2004; Thomas, 2006). The marriage rate in

Canada has steadily declined since 1972 (Wu, 1998). Various explanations are

provided for this trend including a desire to avoid the patriarchal hierarchy within

marriage (Thomas, 2006) as well as the individual choice to forgo marriage

altogether (Smart & Shipman, 2004). There is also the common perception that

marriage requires a greater commitment than cohabitation (Currie, 1993; Le

Bourdais & Lapierre-Adamcyk, 2004), so more people are willing to 'test the

waters' before deciding to marry. As a result, cohabitation rates are steadily

increasing, particularly in Quebec (Kerr, Moyser & Beaujot, 2006; Le Bourdais &

Lapierre-Adamcyk, 2004; Wu, 1998). The rising number of common law

relationships may be explained by Canada's liberal perspective towards marriage

and intimate relationships. In many western countries where individualism and

free choice are important factors in determining marital choice, there is an

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(the parties attitude and behaviour towards existing children or their desire to have children together) (Case 52, 2005).

[18] Until very recently, same-sex marriage was not a legal option in Canada. It was not until 2005 that the Canadian government legalized same-sex marriage. In the Wake of the *Civil Marriage Act*, same-sex partners are able to take on the rights and responsibilities of marriage (Thomas, 2006). Although these rights and responsibilities have not been extended equally across all provinces, federally, same sex cohabitants are treated as 'spouses' for income tax purposes as well as a myriad of family law issues (Boyd & Young, 2003).

increased likelihood of acceptance for both common-law and same-sex unions (Milan, 2003; see also Boyd & Young, 2003). In contrast, these practices are less likely to be accepted in more traditional Asian or Southern European countries where religion and family preferences are often related to marriage 'type' (Milan, 2003).

According to Milan (2003), only 30% of the Canadian foreign-born population would choose to live in a common law union (Milan, 2003). Individuals with conservative family attitudes tend to choose marriage as the preferred spousal arrangement. In the case of arranged marriages in Canada, immigrant women are committed to maintaining traditional values pertaining to family and home, marriage, childrearing, religion and relationships (Naidoo, 2003). Culture matters in marriage decision-making (Milan, 2003; Naidoo, 2003) often influencing the degree of social acceptability of various spousal arrangements. Despite the diversity of marriage types, the majority of spousal immigrants in my sample are in heterosexual marriages. This point is consistent with the research of both Naidoo (2003) and Milan (2003) who explain that immigrants from non-traditional (non-Western European) source countries tend to have more conservative points of view concerning intimate relationships.

Gender

Spousal sponsorship is a category of immigration that disproportionately affects women. Many scholars claim that spousal sponsorship and immigration is a female migration category. For example, DeLaet (1999) indicates spousal immigration accounts for approximately 60% of all female migration to Canada.

In addition, a more recent estimate by George (2010) suggests that 78% of women immigrate as spouses and dependents of male economic class migrants and 63% as family class dependents. My research supports this claim noting that in more than half of all spousal sponsorship appeals, women are the principal applicants. In 51 (out of 93) sponsorship appeal cases the principal applicant is female. In 41 (out of 93) cases men are the principal applicants and in one case the gender of the applicant is not disclosed. These figures also suggest that more women appeal their initial sponsorship refusals. Spousal immigration policies and practices shape the lives of many female immigrants.

Gender has only recently become a central feature in analyses of immigration in Canada. It was not until 2002, when IRPA was legislated, that Citizenship and Immigration Canada became committed to gender-based analysis[19] (CIC, 2009). The gender distribution by relationship type in my sample is provided in Table 3-2.

Table 3-2

RELATIONSHIP TYPE	MALE PRINCIPAL APPLICANT	FEMALE PRINCIPAL APPLICANT
Heterosexual 'love' marriage	28	35
Heterosexual arranged marriage	8	8
Heterosexual proxy marriage	1	5
Conjugal partnerships	2	3
Same-sex partnerships	2	0

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[19] Gender-based analysis (GBA) is an analytical tool that is used to assess how governmental policies and practices impact men and women differently (CIC, 2009). For a critique of GBA see Walton-Roberts (2004).

More women may immigrate as sponsored wives because of the Canadian government's preference for economic (male) immigrants. Arat-Koc (1999) explains that contemporary immigration policies dis-advantage women through the use of the 'non-discriminatory' points system. The points system selects immigrants based on their potential contributions to Canada. In providing specific definitions of 'skill', 'education', and 'work',[20] immigrant women can be marginalized in the immigration process. Furthermore, gender stratification in sending countries, gaps in women's work histories because of childrearing, limited educational opportunities and work experience can all factor into immigration decision-making under the points system (Arat-Koc, 1999; Boyd, 2006; Kofman, 2005). Since immigrant women are seen as less 'profitable' to the Canadian state, their initial immigration attempts may be more restricted compared to men's migration attempts. Moreover, Ng (1992) maintains family class immigration is for those immigrants (women) who do not qualify as independent (economic) immigrants. Problems facing immigrant women are seen to arise out of 'cultural differences' or the 'adjustment process', but as Ng (1992) attests, their problems are the product of a racist and sexist Canadian society. With multiple barriers barring women's immigration and integration in Canada, female spousal immigrants are also more likely to appeal their initial sponsorship refusals because it may be their only viable legal mode of entry.

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[20] Arat-Koc (1999) argues that Canadian immigration policies define 'skill' in relation to labour force participation while women's domestic labour is 'unskilled'. 'Education' is defined as formal education only. 'Work' is narrowly defined as paid labour in the public work force.

The gender of the principal applicant impacts their experiences of immigration. Immigrant women in particular are at an increased dis-advantage in the migration process because such a large number of them immigrate through the family class. George (2010) exposes a troubling trend as family class immigration to Canada has decreased from 43% of all admittances in 1986 to 28% in 2006. Given this trend, the Canadian government is (un)intentionally decreasing the number of female migrants as well. Immigrant women are already disadvantaged through the immigration process since many do not qualify as economic immigrants (Arat-Koc, 1999; Li, 2003), but by limiting the number of family class immigrants, women will be even further dis-advantaged.

Citizenship

In addition to type of relationship and gender, the citizenship of the principal applicant factors into spousal sponsorship appeal decisions. The citizenship of the principal applicants are organized into categories based on their geographical region for descriptive and analytical purposes. These geographical regions are: South Asian[21], Asian[22], African[23], Middle Eastern[24], European[25], North, Central and South America[26] and Oceania[27]. There are 12

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[21] Countries represented in this region are India, Pakistan and Ski Lanka.

[22] Applicants from the Asian region were from China, Cambodia, Korea, the Philippines, and Vietnam.

[23] Applicants from the African region held citizenships in Algeria, Angola, Cote D'Ivoire, Egypt, Guyana and Morocco.

[24] Applicants from the Middle Eastern Region held citizenships in Iran, Afghanistan, Saudi Arabia and Lebanon.

[25] Applicants from the European region were from the United Kingdom, Ukraine, Romania and Turkey.

[26] Countries represented in this region are the United States of America, Haiti, and Columbia.

[27] The Oceanic region refers to principal applicants from Fiji.

cases where the citizenship of the applicant is not known and are excluded from

this discussion. Table 3-3 provides a summary of the number of cases by the

principal applicant's citizenship region.

Table 3-3

CITIZENSHIP OF PRINCIPAL APPLICANT	NUMBER OF CASES
South Asian	36
Asian	20
African	7
Middle Eastern	6
European	5
North, Central and South American	5
Oceanic	2

These numbers reflect the current immigration trend in Canada where the

top source countries in the past 10 years have been from the Asian Pacific

region. Prior to 1961, Europe and the United Kingdom accounted for 90% of

immigrants to Canada. However, in 2006, this figure decreased to 10.8%

(George, 2010). Currently, the Asian Pacific region is the largest source region

for Canadian immigrants; people from China, India, the Philippines and Pakistan

comprise 61% of immigrants to Canada (George, 2010). The citizenships of the

principal applicants in my sample reflect national trends as immigrant source

countries have shifted over time from traditional countries (white, Western

European) to non-traditional countries (non-white) (Walton-Roberts, 2003).

As immigration increases from non-traditional source countries, particularly Asian countries, public concerns about 'diversity' and 'integration' arise (Chan, 2005). Immigration in Canada is a story about a 'good' and respectable sovereign nation that must serve its citizens by protecting them from the mass of deceitful and cunning 'alien others' focused on 'invading' the country (Razack, 2000). This highly racialized narrative focuses public fears about immigration onto non-white immigrants (Chan, 2005; Li, 2001; Razack, 2000). As Li (2003) argues, "too much diversity from non-white immigrants is seen as undermining Canada's traditional values, changing its social fabric, and weakening its cohesiveness" (p.6). Family class immigration bears the brunt of these criticisms because it is used more often by immigrants of colour (Daniel, 2005; Li, 2003). Concerns about these 'others' shape and define what it means to belong in Canada by maintaining the historical construction of ethnic or racial homogeneity within the nation.

Reasons Given for Initial Refusals and Appeal Outcomes

Throughout the history of Canadian immigration law, policies and practices were legislated to define the boundaries of who can 'belong' to Canadian society. The IRB provides multiple explanations for why initial sponsorship applications are refused and the type of appeal outcomes possible. Explanations for positive decisions in my sample include (but are not limited to): the applicant is a member of the family class or, the appellant is a sponsor and humanitarian and compassionate grounds. In my sample, reasons given for a negative decision include (but are not

limited to): the applicant is an inadmissible class of persons, the applicant

was a non-examined family member on a previous sponsorship

application, the applicant is inadmissible due to serious criminality, the

applicant is not a member of the family class, the applicant is medically

inadmissible and the sponsor defaulted on a previous sponsorship

undertaking. Thus, there are many justifications for the inclusion and

exclusion of spousal immigrants.

The 'Bad Faith' Marriage Provision

In my study, the 'Bad Faith' marriage provision is the most common

justification used to adjudicate a spousal sponsorship appeal. In my

sample, 52 (out of 93) spousal sponsorship appeal cases were

adjudicated based on this provision. The 'Bad Faith' provision states:

> For the purposes of these Regulations, a foreign national shall not
> be considered a spouse, a common-law partner, a conjugal partner
> or an adopted child of a person if the marriage, common-law
> partnership, conjugal partnership or adoption is not genuine and
> was entered into primarily for the purpose of acquiring any status or
> privilege under the Act. (Government of Canada, 2010, sec.4)

This provision is critical to understanding the adjudication of spousal

sponsorship cases in Canada, as it is the primary regulation involved in

determining what constitutes a genuine versus a fabricated marriage for

immigration purposes[28].

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[28] It is also important to note that this provision also covers the legal validity of marriages. In this instance, the focus of the initial refusal and subsequent appeal is whether or not the marriage is admissible in law. For example, a marriage is determined to not be legally valid for sponsorship purposes if it was not performed in accordance with the laws, customs and traditions required in the sending countries (Case 8, 2003).

In my sample, 28 (out of 64) heterosexual marriages were first refused according to this provision. In comparison, 5 (out of 5) conjugal partnerships, 14 (out of 16) heterosexual arranged marriages, 4 (out of 6) heterosexual proxy marriages and 1 (out of 2) same-sex partnerships were refused on the basis of 'bad faith'. This data suggests that, initially, heterosexual marriage is the least scrutinized union amongst those cases that went to appeal. Research by Smart and Shipman (2004) suggests that when we speak of marriage, heterosexual marriage is always implied; conventional understandings of marriage often neglect other forms of marriage including arranged marriages and same-sex partnerships for example (see Boyd & Young, 2003). Given that immigration policies and practices prefer conventional (western) familial arrangements (Li, 2001; McLaren & Black, 2005), it is not surprising, that initially heterosexual love marriages are preferred in the spousal sponsorship process.

In addition, gender also factors into initial sponsorship refusals. The 'Bad Faith' marriage provision is used more frequently to refuse spousal sponsorship applications where the principal applicant is female. In 30 (out of 51) initial sponsorship refusals, women are the principal applicants compared to 21 (out of 41) male principal applicants.

In my sample, immigrant women are more likely to immigrate as heterosexual wives compared to any other relationship category. Past research by Milan (2003) claims that women are more likely to choose marriage over other types of partnerships. Milan's (2003) research suggests women view marriage as

the preferred social union. For some immigrant women, marriage is a source of status and prestige that garners respect in their home communities (Mahalingam & Leu, 2005; Pessar, 1999). Marriage can provide immigrant women the opportunity for social and international mobility. However, some scholars argue that marriage is a patriarchal institution that subordinates immigrant women (Pyke & Johnson, 2003; Walton-Roberts 2004; Wilton 2009). Primarily, arguments that racialized women are marginalized and sometimes victimized through immigration are prevalent (Hyman et al., 2006; Merali, 2009; Taft et al., 2008; Walton-Roberts, 2004; Wilton, 2009). For example, Sikh marriage customs including that of arranged marriage, foster extensive and transnational familial networks. According to Naidoo (2003), arranged marriages in Canada promote "security and stability, permanency, cultivation of a spirit of tolerance, spirituality, and family orientatedness" (p.60). However, this occurs at women's expense. Female spousal immigration can be a conduit for further family immigration thus, women's wants and desires for marriage are sacrificed for the needs of the family (Walton-Roberts, 2004). Furthermore, the South Asian and Asian communities are frequently criticized for their high rates of intimate partner violence (Merali 2009; Taft et al., 2008). In this context, female spousal immigrants are marginalized and victimized in their respective families. Thus, marriage can either help or hinder women's immigration experiences.

Lastly, initial sponsorship refusals can also vary by citizenship under the 'Bad Faith' marriage provision. Of those cases adjudicated under the 'Bad Faith' provision that went to appeal because they were initially refused, 24 (out of 36)

cases were from the South Asian region, 13 (out of 20) cases were from the Asian region, 3 (out of 5) cases were from Europe and the United Kingdom, 2 (out of 6) cases were from the Middle East and 2 (out of 7 cases) were from the African region. Each year, approximately 9,000 overseas spousal sponsorship applications are rejected, or 15% of the total number of applications (Jimenez, 2006). Based on recent figures provided by the government of Canada, Taylor (2009) claims that almost half of all the spousal sponsorship applications from Southern China and Africa are denied. Spousal applications processed in New Delhi have a 15% refusal rate while 14% of applications received in Islamabad are refused (Taylor, 2009). The lowest refusal rates are in Taipei and the United States at 3% and 5% respectively (Taylor, 2009). The geographical location of the applicants intersects with the application of the 'Bad Faith' provision that significantly impacts applicants from non-traditional source countries.

Particular geographical regions are known for 'unconventional' (non-western) marital practices, which may influence spousal sponsorship appeal outcomes. Particularly, immigrants from South Asian countries participate in the practice of arranged marriage. As Wilton (2009), Baldassi (2007) and Li (2001) argue, the Canadian government has a very specific idea of what constitutes a 'family'. Baldassi (2007) recognizes that despite the limited public recognition of the changing definition of family, certain types of people-usually Westernized, upper to middle class and those who emulate the idealized nuclear family are more likely to be recognized as legitimate by the Canadian government. As Daniel (2005) claims, the western nuclear family is used for spousal sponsorship

purposes so that the Canadian government can limit those who 'qualify' as family class members. Thus, spousal immigrants whose cultural practices are inimical to western traditions are more likely to be refused.

The Canadian national story is written in such a way that it depends on the erasure or exclusion of people of colour (Razack, 2000). Wilton (2009) explains, "the perceived threat of the foreign 'other' is mediated through immigration and integration policies that aim to ensure that those admitted will be able to adapt, integrate and contribute to the host society" (p.439). Immigration policies reinforce national borders and construct a national identity by distinguishing how 'we' are different (i.e. better) than 'them'. The race and citizenship of the applicant are factors in the decision-making process (Rousseau, Crepeau, Foxen & Houle, 2002) and in determining who is regarded as a 'desirable' Canadian (Chan, 2005; Li, 2003). Canada's race-neutral stance towards citizenship and immigration does not hide the fact that citizenship is related to spousal sponsorship outcomes.

Success Rates under the 'Bad Faith' Marriage Provision

Due to the popularity of this provision amongst immigration officials, I will examine the success rates of spousal sponsorship appeals. My research reveals that appeal success rates are affected by type of relationship, gender and citizenship. In this section, I will draw on specific examples to help explain emerging trends to demonstrate how the appeal process is both gendered and racialized.

The type of relationship is related to the success of a spousal sponsorship appeal. In my sample, both same-sex partnerships, 4 (out of 5) conjugal partnerships, 6 (out of 16) heterosexual arranged marriages, 1 (out of 7) heterosexual proxy marriages and 8 (out of 64) heterosexual 'love' marriages were determined to be genuine spousal relationships under the 'Bad Faith' marriage provision. This data suggests that 'less conventional' (western) relationships (same-sex and conjugal partnerships) were the most successful on appeal under the 'Bad Faith' marriage provision. One suggestion for this finding is that because appeal decisions are subjective decisions on the part of individual reviewing members, individual adjudicator biases may impact decision outcomes (see Rehaag, 2008). Moreover, the case may be that in order to alleviate any concerns regarding discrimination against sexual minority immigrants (since the legalization of same-sex marriage in Canada) more leniencies are accorded to these appeal cases; however, more research is needed to evaluate the validity of this claim.

Next, appeal success rates also vary by gender. In 11 (out of 15) cases where men are the principal applicants, their appeals were successful, while only 10 (out of 17) women were successful on appeal. Although my sample is small, on appeal men's success rate was 73% compared to 59% for women. Men are historically preferred migrants in Canada (Arat-Koc, 1999; Dua, 2007), which may explain why their appeal success rates are higher than women's.

Lastly, a relationship seems to exist between the citizenship of the

principal applicant and their success on appeal under the 'Bad Faith' Marriage

provision. Table 3-4 summarizes these findings.

Table 3-4

DECLARED CITIZENSHIP OF PRINCIPAL APPLICANT BY GEOGRAPHICAL REGION	SUCCESS RATE ON APPEAL
Europe and United Kingdom	100% (2/2)
North, South and Central America	80% (4/5)
South Asian	33% (12/36)
Middle Eastern	17% (1/6)
Asian	5% (1/20)
African	0% (0/7)

In my sample, applicants from Western immigrant source countries are more

successful on appeal under the 'Bad Faith' marriage provision compared to non-

Western immigrants. Again, the trend demonstrates a preference for immigrants

from 'traditional' (white) source countries.

Amongst the immigrant groups, racialized women are the most dis-

advantaged in the sponsorship appeal process. In 75% of cases (27/36) where

the principal applicant is a racialized woman, the appeal was dismissed.

Racialized men fared slightly better with a dismissal rate of 62% (21/34).

Immigrant women of colour are seen as the least 'desirable' immigrant (Chilton,

2007; Dua, 2007; Thobani, 1999), which may account for their high refusal rate

on appeal. Moreover, in both appeal dismissals from the European region, the

citizenship of the applicant is Eastern European while the only appeal dismissal from the American region is for a Columbian principal applicant. In both instances, arguments are made elsewhere that suggest Latino and Eastern European citizens are also racialized subjects in comparison to Western, White, Anglo-Saxon individuals (Constable, 2002; Orloff and Sarangapani, 2007; Schaeffer-Grabiel, 2006). In sum, of all the immigrant groups, racialized women appear to be highly dis-advantaged through the spousal sponsorship process.

Conclusion

Hiebert (2000) has acknowledged a recent downward trend for family class immigration despite the fact that annual immigration levels are the highest in Canadian history (Ley, 1999). Explanations as to why family class immigration is declining often focus on the shift in Canada's immigration objectives to indicate a preference for economic immigrants over those arriving under the family class (Ley, 1999; McLaren & Dyck, 2004). Furthermore, Li (2001) and Creese et al. (2008) suggest that where immigrants diverge from western ways of living they are often seen as problems for the Canadian state. As family class immigrants, one's relationship type, gender and race can pose challenges to family (re)unification. For racialized immigrant women, this process seems to impact them the most. Das Gupta (1999) argues Canadian immigration policy is sexist and racist but under the guise of 'class preference'; immigrants are routinely excluded from Canada because they do not possess the credentials or desirable skill set to fit into Canadian society. Economic class immigrants are preferred to family class immigrants (Das Gupta, 1999; Li, 2003). Family class immigration is

marginalized in discourses of immigration because it admits those individuals

(women and people of colour) less 'worthy' of belonging in Canada (Li, 2003;

Razack, 2000).

The findings of this descriptive overview suggest that the marital status,

gender and race of the principal applicant are important factors affecting the

outcomes of spousal sponsorship appeals. My data indicates that the 'Bad Faith'

marriage provision is the most commonly used rationale for spousal sponsorship

refusals. This leads me to conclude that the perceived 'genuineness' of a

relationship is the primary factor in spousal immigration case decisions. In the

next chapter, I expand on the importance and meaning of marriage to the

spousal sponsorship appeal process.

4: WHAT'S LOVE GOT TO DO WITH MARRIAGE?: EXAMINING THE ROLE OF 'GENUINENESS' IN SPOUSAL SPONSORSHIP APPEAL OUTCOMES

Misrepresentations of other cultural norms are based, on the one hand, on assumptions of a universal Canadian cultural 'logic', and on simplistic notions or stereotypes of other cultures. (Rousseau et al., 2002, p.62).

In this chapter, I explain how gender and race influence the perceived 'genuineness' of a spousal relationship and how these factors contribute to the meaning of marriage in the context of immigration. First, I discuss the official Immigration Appeal Division (IAD) guidelines that outline the criteria for determining 'genuineness'. Next, I explore more in-depth how gender and race come to influence the spousal sponsorship appeal process. I conclude with a discussion of how marriage is defined and understood in spousal sponsorship appeals.

'Genuineness' and 'Credibility' in the Spousal Sponsorship Appeal Process

'Genuineness' is a critical concept under the 'Bad Faith' marriage provision because it is often the deciding factor in a spousal sponsorship appeal. The purpose of the 'Bad Faith' provision is to determine whether or not the marriage is genuine, or authentic, as opposed to being fraudulently arranged for immigration purposes. In reaching a conclusion as to the 'genuineness' of a marriage or marriage-like relationship, the IAD guidelines provide the following suggestions for consideration: a need to examine whether or not allowing the

appeal would result in reuniting the applicant with close family, the strength of the spousal relationship, the degree to which the applicant is established in their home country, whether the applicant has demonstrated the ability to adapt to Canadian society, whether the spouses have obligations to each other based on their respective cultural backgrounds and whether the applicant is alone in their country of origin. These factors are used to determine the validity of a spousal partnership (Government of Canada, 2005).

In reviewing the spousal sponsorship appeal cases, it is evident that the above guidelines are not the only points for consideration for IAD panel members. For example, one panel member suggests there are other factors to examine including the compatibility between spouses or partners, the details concerning the relationship (how they met, length of relationship, how it evolved), the nature of the engagement, the time spent together prior to the wedding, the wedding ceremony, evidence of ongoing contact before and after the wedding and the frequency of that contact, the knowledge shared between the spouses about their respective pasts, their financial situation, the partners' knowledge of and contact with their families' as well as the families' knowledge of and involvement with the relationship, and their plans for the future (Case 78, 2007). The broadening of the IAD guidelines by many panel members indicates that the information provided by the IAD is merely a set of suggestions to be used at the panel members' discretion.

The adjudicating panel member has the authority to interpret the guidelines and render a decision. During the appeal process, considerable

discretion[29] is given to those making the decisions of "who gets in" (Bouchard &

Carroll, 2002, p.242). My study reveals a diverse set of views on what is an

important or significant element in distinguishing between a genuine and/or a

fabricated relationship. For instance, one IAD panel member emphasizes the

need to probe "the level of exchange of information between the parties" (Case

83, 2007) while another member highlights the importance of the intent of both

the appellant and applicant at the time of the marriage (Case 22, 2004). This

demonstrates the subjective nature of the decision-making process (Bouchard &

Carroll, 2002).

Furthermore, the IAD has broader powers regarding the admission of

evidence than regular courts, because it is not bound by "any legal or technical

rules of evidence" (Government of Canada, 2005, p.12). During a hearing, the

IAD may reach its conclusion regarding an appeal based on evidence it

considers "credible or trustworthy in the circumstances, even if the strict rules of

evidence have not been met" (Government of Canada, 2005, p.12). Both

Baldassi (2007) and Razack (2000) claim that immigration officials view

immigrants, who 'appear' credible, more favourably. Thus, in terms of the

spousal sponsorship process, spousal immigrants who are believed to be

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[29] Bouchard and Carroll (2002) indentify three types of discretion involved in immigration
decisions: procedural discretion (which refers to discretion that is used to obtain more information
about the applicant), selection grid discretion (which refers to the adaptability, resourcefulness,
motivation, initiative, experience and knowledge of Canada possessed by the potential immigrant)
and final decision discretion (which refers to making overall judgments of immigration cases by
field officers). Using discretion, field –level bureaucrats assess "who should get in" and "who can
be one of us" (Bouchard & Carroll, 2002, p.253).

credible and trustworthy individuals have a better chance of having their relationships recognized as 'genuine'.

Much academic attention is paid to the ways in which immigration policies and practices find ways to marginalize and exclude various groups of immigrants (Abu-Laban, 1998; Arat-Koc, 1999; Ng, 1992; Razack, 2000). The point of view that some immigrants are 'more deserving' or are 'better suited' to Canada and Canadian ways of living often factor into immigration and refugee decision-making (Chan, 2005; Hiebert & Ley, 2004; Rousseau et al., 2002). When it comes to immigration policy decisions, individuals involved are less likely to challenge "the broader framework of accepted social values" (Bouchard & Carroll, 2002, p. 240). This suggests decisions are made to reflect the status-quo. As family class immigrants, spousal migrants are impacted by three common themes in the immigration literature that will shape their immigration experiences. First, female immigrants are subjected to patriarchal and sexist decision-making in the immigration process that often reinforces their 'dependent' status (Ng, 1992; Walton-Roberts, 2004). Second, racialized immigrants are represented as 'outsiders' in the Canadian state and therefore, not worthy of belonging (Chan, 2005; Li, 2003; Razack, 1994; Razack, 2000). Third, family (re)unification policies reflect a patriarchal definition of the western nuclear family (Baldassi, 2007; McLaren & Black, 2005; Walton-Roberts, 2004; Wilton, 2009). The following qualitative discussion explores the ways in which these themes influence the spousal sponsorship appeal process.

Gender, Race and 'Genuineness' in the Spousal Sponsorship Appeal Process

Gender and 'Genuineness'

Contemporary debates on immigration policy frame the issues in gender-neutral terms suggesting the gender of the applicant does not (or should not) factor into immigration decision-making (Harzig, 2003). To the contrary, past research demonstrates that gender does matter in the immigration process and that men and women are affected in different ways (Creese et al., 2008; Harzig, 2003). Women most often migrate as the 'dependents' of men who are typically viewed by the Canadian state as the 'heads of households'. This traditional and patriarchal point of view subordinates women and can severely impact their economic, social and individual well-being (Harzig, 2003; Thobani, 1999).

In my exploration of 52 spousal appeals where the 'Bad Faith' marriage provision is applied, the patriarchal image of the 'male breadwinner' as 'head of household' and the 'dependant' female is maintained. On appeal, men are frequently evaluated based on their capacity to financially provide for their family, while immigrant women are discussed in their roles as wife and mother. Both men and women who deviated from traditional gender roles are less likely to be successful in their appeals, re-affirming a preference for the traditional gendered division of labour in marriage.

The spousal sponsorship appeal process sees men as the 'head of household' or the 'breadwinner' of the family. This perspective is reinforced both in the design of the appeal process and in the decisions of individual immigration

officers. First, the demographic trends of spousal immigration[30] dictate that men

are more likely to be responsible for demonstrating the validity of their marriages

because the appeal process requires the appellant/sponsor to do so

(Government of Canada, 2005). The gendered hierarchy between spouses is

maintained as the appeal process accords men the dominant status to speak for

their spouse in defence of their marriage. In addition, to be eligible as a sponsor

men must meet certain financial requirements. According to CIC (2009) a

sponsor "must provide financial support for a spouse, common-law or conjugal

partner for three years from the date they become a permanent resident". Thus,

women are dependent on their male sponsors through the appeal process both

financially and to legitimize their marriages.

Secondly, IAD panel members often focus on the economic

responsibilities of men in their decisions. For instance, Robert's[31] employment

history is a contributing factor to his conjugal partner Catherine's positive appeal

outcome. The panel member accepts that Robert has "a steady job with excellent

prospects and benefits in Canada. The couple decided that this would provide

some financial basis and security to them in starting their lives together" (Case

34, 2004, p.7). Similarly, men are often viewed favourably by the IAD if they are

trying to support children along with their spouses (see Cases 12, 44 and 53 for

examples).

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[30] Research by George (2010) and DeLaet (1999) indicate than men are more likely to be sponsors than sponsored immigrants.

[31] I am using the applicant's first names in this study for two reasons. First, I chose to use their names because I want to humanize each applicant and appellant to demonstrate that these individuals are human beings whose lives and relationships are being scrutinized and (in)validated. Second, since these cases are a matter of public record there is no need to use pseudonyms for confidentiality reasons.

Men who could not demonstrate their potential to be a strong male provider typically have their appeals dismissed. For example, Yassine's appeal is dismissed because the panel member views his marriage to his female sponsor as a 'life preserver'. The panel member states,

> "'[t]he applicant went to a public school; he did not finish high school and he lives off his father and his uncle in Canada, who sends him money from time to time…he is young and unemployed. He was not accepted into a mechanics course and he cannot afford a course in French. This marriage is a life preserver that the appellant is offering to help him improve his financial situation…" (Case 85, 2007, p.3).

This particular panel member evaluates Yassine's appeal based on his inability to contribute financially to his family and is thus viewed as a potential 'burden' to the Canadian state. Canada increasingly selects highly skilled immigrants for their potential contributions to Canadian society (Green & Green, 1995). Family class immigration contradicts Canada's economic immigration objectives and those who cannot contribute are burdensome and a drain on the system (Creese et al., 2008).

The spousal sponsorship appeal process also maintains traditional views of immigrant women. Three prominent themes emerged in exploring how both female principal applicants and appellants were discussed in their appeal outcomes. Together, immigrant women are described as embodying essential female traits in their traditional roles as wife and mother.

First, spousal sponsorship appeal decisions focus on the 'femaleness' of immigrant women. For example, in deciding in favour of Catherine's appeal, the panel member highlights her emotional state. As stated by the panel member, "the applicant was very emotionally distraught. She 'voted with her feet' and

moved to Canada to be with the appellant" (Case 34, 2004, p. 7). Marie's

distressed emotional state is even an acceptable rationale for providing incorrect

responses during her interview, as she is "overwhelmed" by the process (Case

44, 2005). Both Arat-Koc (1999) and Smart (1992) suggest that immigration law

has presumptions about women and their 'inherent' biological female

characteristics. Arat-Koc (1999) explains that immigration treats women *as*

women, "whose natures and capacities [are] perceived very differently from men"

(p.207). Moreover, Ng (1992) claims that sexist decision-making is prevalent in

immigration cases. Immigrant women's 'femaleness' is a contributing factor to

spousal appeal outcomes.

Next, immigrant women's roles as domestic labourers or wives are often

discussed in their appeal decisions. As 'dependent' immigrants, women are

responsible for taking care of the household and the children, while men, the

economic immigrants, participate in the paid labour force (Thobani, 1999). To

illustrate, in appeal decisions, panel members gendered immigrant women's

activities. Immigrant wives are described as going to the market, washing and

mending clothes and preparing meals (see Cases 61 and 65 for examples).

Furthermore, multiple panel members omitted discussions pertaining to the

wives' labour force participation. According to Arat-Koc (1999) married immigrant

women were not allowed to migrate as independent applicants regardless of their

work experience or educational credentials until 1974. Immigrant women as

wives were supposed to fill a supportive (and subordinate) role. More recently,

Dyck (2006) claims that family class migration patterns reinforce the gendering of

household labour and childrearing responsibilities. Thus, women's domestic work remains a relevant factor to consider in the spousal sponsorship process.

Third, women's ability to bear children, or their roles as mothers, is pivotal to the outcomes of their appeals. For many IAD panel members, if a woman recently conceived or gave birth to a child, the marriage is more likely to be viewed as 'genuine' (see cases 7, 14 and 78 for examples). As one panel member explains, "I have given significant weight to the existence of the Child of the Marriage. In my view, when there is a Child of the Marriage, …this is a salient factor to be taken into account on favour of the appellant's case. Absent exceptional circumstances to prove otherwise, a reasonable person accepts this evidence as proof of a genuine spousal relationship" (Case 77, 2007, p.4). In Kamaljeet's appeal, even though the panel member has concerns about the 'genuineness' of her marriage[32], Kamaljeet's current pregnancy is sufficient evidence to indicate otherwise. Her appeal is allowed because the panel member concludes, it "is hard pressed to accept that individuals would contrive to conceive a child for the sole purpose of securing an immigrant visa to Canada" (Case 14, 2003, p.4). Women's physical ability to bear children benefits them in the appeal process reinforcing the belief that immigrant women are biological reproducers of the nation (Arat-Koc, 1999; Perry, 1997; Yuval-Davis, 1996).

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[32] "The panel is not naïve and the distinct possibility arises that this couple simply conceive a child to advance their case on appeal…In my view and given my negative credibility conclusions regarding much of the witnesses' conduct, along with the applicant's stated rationale for the planned pregnancy as being the couple "wanted a baby to play with", it is certainly open to me to conclude the appellant's pregnancy was designed to assist their case on appeal" (Case 14, 2003, p.4-5).

Race and 'Genuineness'

Today, many scholars continue to argue race is a salient and often determinative characteristic in individual experiences of immigration (Chan, 2005; Li, 2003; Johnson, 2000; Razack, 2000). Modern immigration policies are supposedly race-neutral; the race, citizenship or ethnicity of the applicant should not be a factor in the immigration decision-making process (Johnson, 2000). However, critics such as Kevin Johnson (2000) caution, "factors that appear racially neutral, however, may mask legally impermissible racial motives" (p.534). The task then, for both legal and immigration scholars, is to uncover the ways in which race permeates Canadian immigration policies and practices.

Wayland (1997) claims that there is a tendency to avoid race in discussions around immigration in Canada today due to Canada's official multicultural policy. In 2007, the Government of Canada released a report on the current status of multicultural policies. The report assesses the ways in which Canadians "can foster diversity without divisiveness and whether Canada's multicultural policies are in need of review in light of today's social and geopolitical realities" (Kunz & Sykes, 2007, p.7). If we examine this goal by taking race into account, a very different perspective emerges. What could be at issue is how the Canadian government can 'integrate' racially diverse immigrants into adopting Canadian ways of living given the increasing fear of the 'other' in Canadian society. By highlighting how race impacts Canadian society we can see the subtle and complex processes involved in making 'them' like 'us'.

In the spousal sponsorship appeal process, the citizenship of the applicant is never explicitly discussed as a contributing factor to appeal decisions. However, the quantitative analysis determined that citizenship, does indeed, influence appeal outcomes. According to Daniel (2005), national origin is a factor in spousal sponsorship practices. In the spousal appeal process, immigrants with particular citizenships are racialized as deviant 'others' reinforcing the fact that race remains a defining feature of Canadian immigration policy.

My research indicates that immigrant 'credibility' is a contributing factor to the racialization of spousal immigrants. Questions concerning spousal immigrant 'credibility' surfaced during the spousal interview or at the appeal hearing[33]. As one panel member maintains, "significant and basic events ought to be recalled consistently and easily-stated if they have a basis in fact" (Case 30, 2004, p.2). Truth seeking is a very important component of the immigration process according to Razack (2000). She claims the Canadian government has an "obsessive need to know who we are dealing with" (Razack, 2000, p.196). Furthermore, Razack (2000) argues that a very clear distinction exists between the 'credible' and 'non-credible' individual in Canadian law; to be a 'credible' person means to be honest, honourable, enterprising and most of all white. In contrast, racialized persons are seen as dishonest and degenerate (Razack, 2000). This perspective factors into the spousal sponsorship appeal process.

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[33] I found that the applicants' or appellants' testimony, their conduct at the hearing, the truthfulness of their statements, and/or any previous immigration attempts were frequent sites of controversy for immigration officials (see cases 13, 30 and 53 for specific examples).

Racialized immigrants have historically needed to 'prove' themselves to immigration officials. For example, Volpp (2005-2006) claims that Chinese immigrants had to prove his or her identity through various immigration requirements. Chinese immigrants had to act in ways that made them believable to immigration officials[34]. My research uncovers the same trend in the spousal sponsorship appeal process. Of the 52 appeals governed by the 'Bad Faith' marriage provision, 39 cases indicate that immigrant 'credibility' contributed to the appeal outcome. Of the 39 cases, 16 describe racialized immigrants negatively[35]. Only in 3 cases[36], is the racialized individual viewed positively by their respective panel members. Racialized immigrants are typically described as evasive, difficult, untrustworthy, deceitful, self-serving and insincere. As one panel member states, "Contrived, confused, evasive and contradictory answers were the order of the day" (Case 17, 2004, p.9). Immigrants with racialized citizenships are more likely to be viewed as 'non-credible' immigrants in the appeal process. However, as Volpp (2006-2007) proclaims, immigrant 'credibility' is more than just being believed by immigration officials, it requires spousal immigrants to be respectable, reputable and thus worthy of immigration. In appeal cases where the citizenship of the applicant is from a traditional immigrant

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[34] For example, male Chinese merchants were expected to 'look like' merchants, 'dress like' merchants and carry themselves like merchants in order to be believed to be a merchant for immigration purposes. Along the same lines, merchants wives were more likely to be granted immigration status if they adhered to the feminine cultural practices at that time. Chinese women were seen as 'acceptable' immigrants if they had bound feet because this practice acted as a status symbol (Volpp, 2005-2006).

[35] Please refer to cases 5, 6, 16, 17, 30, 33, 41, 49, 55, 56, 59, 61, 73, 80, 83 and 84 for specific examples.

[36] Here, I am referring to cases 12, 54 and 89.

source country, their credibility is never challenged. Non-racialized immigrants are described as reasonable, rational, honest, responsible and believable[37].

Immigrant credibility also functions to reinforce the perceived distinction between the 'good' and the 'bad' immigrant. In liberal democracies overt racism is not tolerated. Somehow, if the story can be transformed in that the Canadian state needs to protect itself from individuals wanting to do harm then their exclusion is justified (Li, 2003; Razack, 2000). In many cases where 'credibility' is a concern, common descriptors such as 'a sham', illegal, 'targeted Canada', and 'reunification scheme' are used to dismiss those sponsorship appeals often vilifying the immigrant in the process. For example, in reaching their conclusion in Harvinder's appeal, the IAD panel member explains, "it is clear the applicant has little respect for Canadian law and has not hesitated to *manufacture* facts and *false* documents to achieve his goal of immigrating to Canada" (Case 16, 2003, p.3, emphasis added). Possessing fraudulent documents puts Harvinder in the realm of criminality and provides an easy reason for dismissal. The Canadian government needs to protect its citizens from individuals, like Harvinder, who want to deceive 'good' and 'honest' Canadians.

In addition, 'bad' or poor immigrant credibility is often discussed in comparison to the 'good' Canadian government. In dismissing Randip's appeal, the panel member states,

> to allow the seeming loop-hole of inserting an intervening marriage in the chain of causality to nullify the effect of the regulation *produces an absurdity thwarting the intentions of parliament. Parliament could not have intended this result and the integrity of Canada's immigration system should not be*

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[37] Here, I am referring to cases 28, 34,38, 52 and 53.

subverted by means of guile. The panel strongly denounces such attempts to gain entry to Canada by means of deception and contrivance. (Case 84 2007: 7, my emphasis)

By positioning Randip and his wife Shailender, as bad, or malicious immigrants, the panel member reinforces the legal integrity or 'good' intentions of Canada's immigration system. Dip's appeal provides a second example. In this case, the panel member suggests, "the appellant was at best a difficult witness, refusing to answer questions…*the panel was highly sympathetic to the appellant's situation, and demonstrated patience with the appellant*, despite him being at best a difficult witness" (Case 59, 2005, p.3, emphasis added). This statement suggests Dip is seen as the 'bad' immigrant for being difficult in front of the 'good', tolerant Canadian government official.

The believability or 'credibility' of immigrants impacts the outcomes of spousal sponsorship appeals. As the IAD guidelines point out, appeal outcomes are decided if the evidence or testimony is considered credible under the given circumstances (Government of Canada, 2005). However, what IAD officials often fail to recognize in this process is the cultural differences that exist in conduct, demeanour or behaviour between immigrants and Canadian society which can alter perceptions and impact appeal outcomes (Rousseau et al., 2002). For example, a panel member may interpret nervousness as deceitfulness and consequently dismiss the appeal (Case 55, 2005; Rousseau et al., 2002). Cultural differences or misunderstandings can negatively impact the spousal sponsorship appeal decisions.

Culture is used as a tool to designate 'difference' (Murdocca, 2009; Razack, 1994); it is used to regulate the spaces between 'us' and 'them' by constructing a deviant 'other'. In Canadian law, 'culture' is a scapegoat for masking broader issues of systemic sexism and racism (Razack, 1994). Razack (1994) argues that there is rampant denial of racism and sexism in the Canadian legal system and by focusing the discussion on 'culture' it shifts the conversation to inclusion and belonging as opposed to discrimination and exclusion. The success of culturalized racism is its ability to obscure the continued marginalization and exploitation of people of colour and Aboriginals in Canada while maintaining white hegemony (Murdocca, 2009). Furthermore, culturalized racism explains how and why denial is so central to how racism works. Razack (1994) states, "if we live in a tolerant and pluralistic society in which the fiction of equality within ethnic diversity is maintained then we need not accept responsibility for racism" (p.898). Finally, cultural differences are used to explain various forms of oppression (Razack, 1994). 'Culture' becomes a symbolic marker of difference, oppression and exclusion.

In the spousal sponsorship appeal process, relationship type is a site of culturalized racism. There seems to be a disjuncture in the ways in which IAD panel members view love unions and arranged marriages. Arranged marriages face more scrutiny by panel members in comparison to love unions. Spousal sponsorship appeals of arranged marriages are referred to as 'hastily arranged' or the panel member emphasizes the 'rushed' nature of the process (see Cases 7 and 14 for examples). In comparison, descriptions of love unions focus on the

degree of planning and level of commitment between partners (see Cases 34, 38

and 52). For instance, in deciding Daniel's appeal, the immigration official states

"[m]arriage is the next step in their relationship…To find otherwise would

penalize them, as a couple, for approaching a commitment such as marriage with

some planning…" (Case 38, 2004, p.5). In a second 'genuine' love marriage, the

panel member praises the couple because their approach to marriage and

having children is "commendable for its caution" (Case 34, 2004, p.8).

Furthermore, the legitimacy of arranged marriages is questioned because they

are viewed as contradictory to Canadian norms and ideas about marriage and

courtship. According to Merali (2009), the practice of arranged marriage is

described as exotic in Western countries, while it signifies 'family values' in

Indian communities. For example, Randip and Shailender's marriage was

arranged by Randip's mother's cousin and after the match was negotiated,

Randip and Shailender met and married within a month of their first meeting.

However, the panel member questions the applicant's quick decision to marry

asking, "How could she possibly know this is a man with whom she wishes to

spend the rest of her life?" (Case 7, 2003, p.5). In posing this question, the panel

member does not factor the traditional practices of arranged marriage into their

decision. Sukhpal's arranged marriage provides a second example. Using the

genuineness criteria provided in the IAD guidelines, her marriage should meet

the definition of a genuine spousal union[38]. However, in dismissing her appeal,

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[38] In this case, the spouses have maintained regular contact with each other, there is evidence of travel (totalling one year), photographs, emails, telephone records, regular financial support between the spouses including life insurance policies and a joint bank account) there was also consistent evidence between the parties at the hearing. The panel member acquiesces that

the panel concludes that Sukhpal's arranged marriage occurred under "a very unusual circumstance" in that the parties married without ever having spoken to each other (Case 83, 2007, p.4). These cases illustrate how 'culture' helps to exclude those relationships that contradict Canadian norms.

Khandelwal (2009) notes that western-style romantic discourse is frequently used to discuss arranged marriage (Khandelwal, 2009). Canada is dominated by a liberal discourse that emphasizes the pursuit of individual goals and happiness; the culture of individualism prioritizes the wants and desires of the individual while discounting cultural and familial obligations in marriage (Rousseau et al., 2002; Smart & Shipman, 2004). As Wilton (2009) discovered, Canadian immigration policy and practice avoid discussions of the family that do not reflect western norms and ideas about what constitutes a 'family' or marriage. In doing so, the perceived cultural differences between western and non-western relationships are exaggerated often marginalizing arranged marriages for their traditional (non-modern) cultural practices (Khandelwal, 2009). By comparing western 'love' marriages and arranged marriages it reinforces their differences. From a western perspective, arranged marriage is defined as a 'backwards' and uncivilized cultural practice (to illustrate, one panel member highlights the role of the "ancestral village" in the marriage) thus, justifying its exclusion (Case 7, 2003). Kofman (2005) suggests that "the association of certain groups with traditional practices deemed to be inimical to standard practices and core cultural values means that their social and cultural reproduction has to be contained"

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there is ongoing contact between the two parties, but from their perspective this was not enough to determine the genuineness of the marriage.

(p.458). Thus, in the spousal sponsorship appeal process marriages that conform to Western notions of love and family are more often seen as 'genuine'.

My suggestion that Canadian cultural norms and standards are used to determine the genuineness of immigrant marriages appears to contradict the findings of Walton-Roberts (2004). She claims that in determining the 'genuineness' of a marriage, Canadian immigration officials are required to adhere to local customs in reaching their conclusions (Walton-Roberts, 2004). For example, Walton-Roberts (2004) refers to the sponsorship refusal of a previously divorced Sikh woman because of the social stigma attached to divorce in the Sikh culture. According to her, "it appears that rather than making Canadian ideals of gender equality universal throughout overseas missions, the Canadian government is exploiting the uneven political landscape of gender rights in order to grasp at *easily defended refusals*" (Walton-Roberts, 2004, p.276, emphasis added). However, Razack (2000) argues that immigration officials will make appeals to culture in situations where the dominant group benefits (Razack, 2000). The key to Walton-Robert's (2004) argument then, is that Canadian immigration officials will use 'culture' in situations that benefit them (to produce easily defended refusals). In her example, the Sikh culture is used to justify exclusion (Walton-Roberts, 2004) while I am suggesting Canadian culture is used in the same way. The common thread then is that 'culture' can be used to exclude racialized immigrants, regardless of the circumstances.

Another way in which 'genuineness' is determined in the spousal appeal process is through examining the 'compatibility' of the spouses. In my sample,

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IAD panel members highlight age, socioeconomic status, country of origin and

religious affiliation as indicators of compatibility. Where there are discrepancies

between spouses, the legitimacy of the marriage is questioned. In the following

two cases, the country of origin of the respective applicants appears to be a

factor in their appeal outcomes. For example, the panel member is wary of the

differences in the spouses' familial backgrounds in Surbjit's relationship. The

member maintains,

> I find the match improbable because of the huge difference in the families
> backgrounds- the applicant [male] comes from a well educated family and is
> very well educated himself whereas the appellant [female] has completed
> high school and works as a hair dresser in her mother's beauty shop- and
> second because the differences in the cultural backgrounds of the appellant
> and applicant- *she was born and raised in Canada whereas the applicant
> was raised in India.* (Case 16, 2003, p. 4-5, my emphasis)

A salient factor contributing to Surbjit's appeal dismissal was the fact that she

was born in Canada and her spouse in India. The panel member implies that the

geographical distance and cultural mores of the two countries contribute to their

incompatibility. In contrast, geographical differences are legitimated in Daniel's

sponsorship appeal, a citizen of the United States. In deciding in favour of

Daniel's appeal, the panel member states, "given the exigencies of employment,

geography, commitments to employment, factors of nationality and other

complications, these two individuals have become a couple" (Case 38, 2004,

p.5). The differences in outcomes between these two sponsorship decisions

could, in part, be attributed to the nationality of the applicant. The former appeal

dismissed an Indian citizen's spousal application because of perceived

differences in Indian and Canadian cultural backgrounds and geographical

distance. In the latter appeal, these same concerns are minimized in a US citizen's appeal. Historically, South Asians were racialized as non-preferred immigrants in Canada (Li, 2003) compared to the British who were seen as the ideal immigrants (Burton, 1990; Perry, 1997). Moreover, Foner (1997) suggests western discussion of immigrant families tend to focus on difference as opposed to sameness. By narrowing the discussion to how 'they' are different from 'us', it provides an easy rationale for their exclusion (Razack, 2000; Walton-Roberts, 2004). The belief that South Asian immigrants are somehow 'backwards' or uncivilized because of their cultural practices as suggested in Surbjit's case, remains a distinct possibility as to why they and other South Asians are often excluded by the spousal immigration process.

Discussion

For the most part, spousal immigrants who conform to western traditional gender roles appear to be more successful in their appeals. Both men and women who are seen as essentially 'male' and 'female' are more likely to receive a positive appeal outcome. As Walton-Roberts and Pratt (2003) and Foner (1997) argue, western perceptions of non-traditional sending countries are mired in stereotypical images of 'backwards' nations. Thus, 'good', model minority immigrants tend to be imagined within the patriarchal confines of the family, while 'bad' immigrants are violent, unproductive and economically dependent on social systems (Walton-Roberts and Pratt, 2003; Ong, 1996). Therefore, immigrant women benefit from being evaluated *as women* in the spousal appeal process. Immigrant men who are not capable of *being men* (meeting the financial

responsibilities of the patriarchal 'head of household') find their appeals

unsuccessful. Immigrant men's inability to 'be' the breadwinner particularly

affects men of colour. Class also factors into the racialization of immigrants of

colour (Ong, 1996). Ong (1996) suggests, "[a]ttaining success through self reliant

struggle, while not inherently limited to any cultural group, is a process of self-

development that in Western democracies becomes inseparable from the

process of 'whitening'" (p.739). Yassine, a citizen of Morocco, finds himself being

racialized as lazy and degenerate because his unemployment taints his

'maleness'[39]. In short, spousal immigrants who reflect and maintain the

patriarchal gendered division of labour in marriage are less 'threatening' to

Canadian norms and values and their relationships are more likely to be

validated for immigration purposes.

Immigrant women's subordinate status within the family as spouses

appears to positively impact their chances on appeal. Because immigrant women

are historically the 'least desirable' immigrant (Dua, 2007), their displays of

femininity may make them more 'acceptable' to Canadian immigration officials.

Berger (2009) argues that sometimes women of colour need to hide or alter

aspects of their identity in order to "cross the line into acceptability" (p.659). For

example, some women need to play into the image of the Third World woman

who is stereotypically seen as uncivilized, backwards and poor and thus in need

of saving by Western governments (Berger, 2009; Kapur, 2002; Mohanty, 1988;

Razack, 1999) to be recognized as 'acceptable' immigrants (because they fit into

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[39] According to Ong (1996) the "racializing effect of class and social mobility has evolved out of historical circumstances whereby white masculinity established qualities of manliness and civilization…" (p.739).

their prescribed stereotypical category). In the context of spousal immigration, for racialized women in particular, their ability to emphasize their femaleness as wife, mother and caregiver may help them on appeal. As sponsored dependents, women benefit from being perceived *as women*. Immigration officials' previously held assumptions, biases and beliefs about the gendered nature of immigrant women's work combined with Canadian marriage 'standards' may influence the decision-making process (Bouchard & Carroll, 2002; Boyd & Young, 2003; Ingraham, 1994; Rousseau et al., 2002; Smart & Shipman, 2004); because immigrant women are seen *as women*, their marriages are may be more likely to be 'genuine'.

In contrast, the racialization of immigrants negatively influences their appeal outcomes. In the spousal appeal process, citizenship is an indicator of immigrant credibility, culture and nationality which all contribute to the perceived 'genuineness' of a relationship. Canada's historical legacy of excluding immigrants of colour is maintained in the spousal sponsorship appeal process (although the number of racialized immigrants has increased over time). In the past, citizenship was used to formally exclude various populations from Canada. As Chan (2005) suggests, "in terms of racial exclusions, simply being non-white was sufficient to be classified as undesirable" (p.160). Today, overt racist policies are no longer tolerated, however, Canadian immigration law has found other ways to exclude immigrants of colour.

Murdocca (2009), Kofman (2005) and Razack (2000) claim 'culture' is the new site of racism and exclusion. Razack's (2000) argument that 'culture' is

used to hide systemic racism and sexism in the legal system is predicated on

racial hierarchy. She cautions us that those individuals who use broad references

to culture as indicators of an individual's identity run the risk of stereotyping or

ranking cultures using a racial hierarchy (Razack, 2000). In the spousal

sponsorship appeal process, appeals to 'culture' are often made to exclude

immigrants. References to culture are not made in the sponsorship appeals of

white immigrants. It is only in the appeals from individuals with racialized

citizenships where culture seemed to matter. For example, in assessing the

'genuineness' of arranged and proxy marriages, panel members felt it was

necessary to rely on 'expert' testimony regarding 'cultural' practices to reach their

conclusions (Cases 92, 77, 55, 9, 8). Furthermore, in the appeal process, there is

the belief that the racialized immigrant needs to demonstrate an "openness to

change" (Case 16, 2003, p.4)[40] in order to be successful on appeal, while those

sponsorship appeals from traditional immigrant source countries do not. The

Canadian immigration system demonstrates a preference for spousal applicants

from western source countries because 'culture' signifies 'difference' and only

those immigrants who can 'belong' are welcomed (Murdocca, 2009).

In Canada, race does factor into the immigration decision-making process

which helps to define who is an 'acceptable' and 'desirable' immigrant (Li, 2003;

Rousseau et al., 2002). The racialization of immigrants in the spousal appeal

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[40] Case 16 involves the spousal sponsorship appeal of Harvinder, a male citizen of India. Among
the contributing factors to the negative appeal outcome, the panel member states, "[t]he
appellant explained that she accepted him because he has a big heart and was open to
change. This appears to contradict the applicant's explanation of the couple's conversation
where he told her she would have to wear Punjabi dresses. This statement does not show an
openness to change" (Case 16, 2003, p.4).

process affects how they are perceived as individuals. Using the criteria of immigrant credibility, immigrants of colour are racialized as deceitful, cunning, malicious and threatening to the moral worth of Canada (Dua, 2007; Li, 2003; Razack, 2000; Wilton, 2009). This perspective is consistent with research of Razack (2000) and Ong (1996) who claim credibility is equated with whiteness. White immigrants are 'good', honest and trustworthy and 'worthy' of belonging. Through the spousal sponsorship appeal process, it becomes clear who are 'acceptable' and 'desirable' spousal immigrants to Canada. The gendering and racialization of spousal immigrants influences how immigration officials define 'genuineness' in the appeal process. In the next section, I explain how marriage is defined for immigration purposes.

The Meaning of Marriage and Spousal Sponsorship

In Canada, marriage has the ability to define the boundaries of a legitimate 'family' (Baldassi, 2007). The federal government has exclusive jurisdiction over marriage while each province has the capacity to control the solemnization of marriage in their respective provinces; what this means is that "provincial legislatures may enact laws governing the formalities of marriage only, while the federal Parliament alone may enact laws on all other aspects of marriage, including the capacity to marry" (Bailey, 2004, p.164). In addition, the Canadian state has moved towards an ascribed status of relationships which means the "Canadian federal and provincial governments assign benefits and obligations to *specific types of relationships* regardless of whether the participants have agreed to these responsibilities or desire public

acknowledgement of their relationship status" (Harder, 2007, p.156, emphasis added). By being able to define who has the capacity to marry, the government provides the boundaries for who can be included and excluded from this social institution.

Lorenz (2006-2007) maintains that spousal relationships are subject to greater unpredictability in immigration because of the ways in which immigration officials interpret legislation. Moreover, as Bouchard and Carroll (2002) and Rousseau et al. (2002) argue, the use of personal biases and stereotypical cultural (mis)understandings permeate immigration and refugee decisions. Therefore, even though a legal marriage needs to be valid under the laws of the country in which it took place and under Canadian law, (Government of Canada, 2010, sec.1) Canadian marriage customs may be prioritized.

My analysis of the spousal appeal process reveals that marriage for immigration purposes requires more than proving that it is valid in law. The Canadian government has very clear boundaries and expectations as to who belongs in a 'genuine' marriage. Individuals who are perceived to be in 'good' or 'genuine' marriages, typically, are also perceived as 'good' and 'desirable' citizens on appeal. For spousal immigrants, their ability to embrace and conform to western understandings of gender, race and marriage positively impacts their immigration appeal outcomes. In contrast, many racialized immigrants are perceived as a deviant 'other' who threaten Canadian society with their unconventional (non-western) marital arrangements and whose cultural practices

are 'foreign' and 'undesirable'. In the context of spousal sponsorship, marriage functions as a tool to keep Canada a gendered, white settler society.

The meaning of marriage for immigration purposes can be explained by Canada's preoccupation with preserving Canadian culture and national identity. The relationship between immigration and integration is closely related to a preoccupation with national identity (Kofman, 2005). Migrants are increasingly seen as threats to social cohesion and national security and as a result, a call to preserve national identity and culture led to more stringent immigration requirements (Kofman, 2005). The degree to which immigrants are perceived to be able to integrate now forms the basis for their inclusion or exclusion in the Canadian state. However, 'integration' can be another way of masking racism (Kofman, 2005). As Kofman (2005) argues, integration is "closely related to the emergence of the new or differentialist racism which postulates the inability of certain groups to fit in or adopt to a society as a result of their inherent cultural traits" (p.461). The Canadian state asserts its role as protector of the Canadian national identity and social cohesion through various policies, including immigration and multicultural policies, enacted to manage and control diversity (Daniel, 2005; Kofman, 2005; Wayland, 1997). Even though the aim of such policies is to shy away from overtly racist and gendering practices that exclude (and include) individuals based on race, gender, class or sexual minority status, past research suggests the opposite. For example, Wilton (2009) found that immigration materials used to promote Canada to new and recent immigrants impose specific, culturally informed definitions of the family and gender that rely

on essentialist notions of immigrants and of host communities. In particular, Wilton (2009) claims that the absence of a discussion on extended familial arrangements reflects a western understanding of 'family'. In publishing such texts, the Canadian government is defining what it means to be Canadian and distinguishing Canadian from 'other' citizenships (Wilton, 2009). Thus, those immigrants who do not meet Canada's image of 'family' are more likely to 'threaten' Canadian norms and are not admitted.

Canadian immigration and marriage laws have the ability to define the boundaries of a 'legitimate' and 'genuine' marriage. These laws provide the context and space within which relationships can exist. Given that Canadian law designates the nuclear family as the norm, the heterosexual marriage confers legitimacy onto these specific spousal arrangements (Baldassi, 2007; Boyd & Young, 2003; Hill Collins, 1998; Smart & Shipman, 2004). Other, less conventional, relationship types are viewed as deviant, particularly those involving racialized individuals. In the context of spousal immigration, my research reveals that marriage is defined in a white, heterosexual, patriarchal, gendered and western way.

5: CONCLUSIONS AND CONSIDERATIONS FOR FUTURE RESEARCH

> Feminist politics should be understood not as a separate form of politics designed to pursue the interest of women *as* women, but rather as the pursuit of feminist goals and aims within the context of a wider articulation of demands. Those goals and aims should consist in the transformation of all the discourses, practices and social relations where the category 'woman' is constructed in a way that implies subordination" (Mouffe, 1992, p.87-88).

Spousal sponsorship policies and practices greatly influence the lives of immigrant women. This thesis explores how spousal immigrants are gendered and racialized through the appeal process. I found that, for both male and female spousal immigrants, their degree of 'acceptability' depended on how they are perceived by immigration officials. Canadian immigration officials are required to select those immigrants who are best suited to Canada or individuals who they think will most likely 'integrate'. Gender, race and the legitimacy of one's marriage are defining features of the spousal sponsorship appeal process.

First, my research of the spousal sponsorship appeal process examined how gender factored into spousal sponsorship appeal decision-making. The quantitative analysis suggests that female spousal immigrants are 'less than desirable' immigrants. Racialized women have the highest refusal rate making them the 'least desirable' immigrant group in my sample. An in-depth look at the spousal immigration appeal cases revealed that spousal immigrants who are perceived as essentially 'male' or 'female' are more successful in their appeals including racialized women. Thus, racialized women's essential 'femaleness'

helped them to be seen as 'acceptable' immigrants to the Canadian state.

Immigrant men continue to be seen as economic immigrants in the spousal

sponsorship process. In this instance, the appeal process plays a mediator role

to ensure that only the 'proper', 'respectable' and 'good' individuals are allowed in

(Razack, 2000). Spousal immigrants' ability to embody western gender ideology

positively impacted their appeal outcomes.

Second, the citizenship of the applicant also factors into spousal

sponsorship appeal outcomes. Even though Canada prides itself as an official

'non-discriminatory' and multicultural society, race still saturates immigration

decision-making. The quantitative overview of my sample reveals a preference

for immigrants from traditional source countries even though more than half of

the immigrants in my sample came from non-traditional source countries. Harzig

(2003) claims that immigration policies are a reflection of national interests and it

appears as though Canada remains steeped in a historical tradition that clearly

favours some individuals over others. Moreover, the qualitative examination of

the spousal appeal cases also demonstrates a clear preference for white spousal

immigrants. Immigrants from traditional source countries are referred to as

'credible', trustworthy and believable immigrants while spousal immigrants from

non-traditional source countries are vilified as a deceitful, cunning and

disrespectful. These portrayals serve to reinforce the common distinction

between the 'good' and the 'bad' immigrant (Chan, 2005; Li, 2003; Razack,

2000). 'Culture' is another site for the racialization of non-white immigrants in the

spousal appeal process. Immigration officials use 'culture' as a scapegoat to

arrive at easily defended refusals. Cultural (in)compatibility is a frequent justification for dismissing an appeal. Immigrants who participate in cultural practices that are 'exotic' or 'different' according to western standards are frequently refused on appeal. Their cultural practices distance them from 'us', which according to immigration officials questions their ability to 'integrate' and 'belong' in Canadian society (Chan, 2005; Kofman, 2005; Li, 2003; Wilton, 2009). Spousal immigrants are racialized as the deviant 'other' in the spousal appeal process which functions to reinforce Canada's national ideology that it is a white settler nation (Razack, 2000).

My exploration of gender and race in the spousal sponsorship appeal process helps characterize how marriage is defined for immigration purposes. The 'genuineness' of a marriage or marriage-like relationship is influenced by three contributing factors. First, immigrant spousal relationships need to conform to western ideals of love and marriage. Atypical spousal arrangements including arranged marriages and proxy marriage are highly scrutinized by immigration officials. This leads me to conclude that western style marriages are preferred for spousal sponsorship purposes because they reinforce the dominant (heterosexual) love marriage and the nuclear family as the idealized family form (Baldassi, 2007; Hill Collins, 1998; Khandelwal, 2009). Traditional western marriages maintain a hierarchical gendered division of labour that positions men as the 'head of household' and women as wife, mother and caregiver. These gendered representations are also preferred for spousal immigrants. For spousal immigrants who maintained these gender roles in their relationships, their

marriages are often viewed as 'genuine'. Finally, a 'genuine' marriage for

sponsorship purposes is between two 'good' and 'deserving' individuals. The

gendering and racialization of spousal immigrants contributed to this perception

as white spousal immigrants are typically viewed as genuine and credible

individuals compared to the negative perceptions of non-white immigrants. This

suggests the Canadian state wants marriage to be defined in a gendered, white,

heterosexual, western way.

Spousal immigration is an important area of research because it highlights

how marriage, in addition to gender and race influence Canadian immigration

policy. How marriage is defined for immigration purposes has repercussions for

Family Class immigration. Past research on Family Class immigration details

how Canadian immigration policies and practices are predicated on the nuclear

'family' (Baldassi, 2007; Li, 2001; Wilton, 2009). Marriage is a critical component

to the making of the nuclear family, thus, how marriage is defined for immigration

purposes will influence Family Class migration flows.

A woman-centred approach to studying spousal immigration allows me to

show how Canadian immigration law influences the lives of immigrant women

(and men). This research highlights how the diversity of immigrant women's

immigration experiences is homogenized *as women* through the spousal

sponsorship appeal process. As Harzig (2003) suggests, "the practice of

constructing a deviant female 'other' has fundamentally shaped our

understanding and function of women in the migration process. It has

encapsulated men and women in specific roles which leave little room for agency

and self-positioning" (p.55). As immigrant women continue to be essentialized by Canadian spousal sponsorship policies and practices, immigrant women's subordinate and dependant status will be maintained. A woman-centred perspective enables me to prioritize immigrant women in the processes and practices of spousal immigration.

Feminists have only just begun exploring the gendered impacts and processes of migration; much more work needs to be done. Future research on spousal sponsorship needs to explore women's diverse immigration experiences. Researchers need to expand upon this study to look more broadly at all spousal sponsorship cases in Canada not just those that go to appeal. This will increase the richness of the data, as individuals need to choose to appeal their cases. In addition, broadening the sample may also provide more details as to the working definition of marriage for immigration purposes. Moreover, an international comparison of spousal sponsorship policies and practices would be beneficial to highlight how spouses are represented around the world.

A second area for future research would be to examine how groups of immigrant women are represented as spouses. This research adopted the broader term racialized women but by focusing on the spousal immigration experiences of Asian women, African women, South Asian women, Middle Eastern women and Latino women in Canada the depth of knowledge about female spousal migration would increase. From a policy perspective, this may help identify the challenges that each ethnic group faces. However, this research

should also examine the diversity within groups to avoid creating a 'South Asian spousal experience' for example.

Future inquiry into spousal sponsorship policies and practices should interrogate the definition, meaning and use of the term 'spouse'. Recent research from the United States on transgender immigrant marriages has complicated immigration discourse. Canadian spousal immigration does not address such relationships. For instance, would transgender marriage be classified as heterosexual or same-sex spousal sponsorship cases? Similarly, how would transgendered individuals contribute to the Canadian definition of spouse? Each of the above suggestions contributes to the broader debates around citizenship and who has the right to 'belong' in and to Canadian society. My examination of the Canadian spousal sponsorship appeal process reveals how gender and race continue to define the boundaries of citizenship.

APPENDICES

Appendix A: Immigration and Refugee Board Immigration Appeal Division: List of Spousal Sponsorship Appeal Cases in my Sample

Case Number	Immigration Appeal Division File Number
Case 1	VA1-02975
Case 2	TA2-02093
Case 3	MA2-03415
Case 4	VA1-02962
Case 5	VA2-02640
Case 6	VA2-02206
Case 7	VA2-02099
Case 8	VA1-00923
Case 9	TA0-14247
Case 10	VA2-02703
Case 11	TA2-20852
Case 12	TA2-16608
Case 13	TA2-19528
Case 14	VA3-00203
Case 15	VA3-00941
Case 16	VA3-00368
Case 17	VA2-03350
Case 18	TA2-25810
Case 19	MA2-08577
Case 20	WA3-00046
Case 21	TA3-04756
Case 22	VA2-02237
Case 23	TA2-20961
Case 24	TA3-11031
Case 25	VA3-01875
Case 26	MA3-02489
Case 27	MA2-05062
Case 28	MA3-08755
Case 29	VA3-04654
Case 30	VA3-02863
Case 31	VA3-00831
Case 32	TA3-10556
Case 33	VA3-04468
Case 34	TA3-22804
Case 35	TA2-13339
Case 36	VA3-04404
Case 37	WA2-00008
Case 38	TA3-21552
Case 39	TA3-04308

Case 40	VA3-02762
Case 41	TA3-11901
Case 42	VA4-00561
Case 43	VA4-01638
Case 44	MA3-10558
Case 45	VA3-02880
Case 46	TA4-04059
Case 47	VA4-01933
Case 48	MA4-01530
Case 49	TA3-11611
Case 50	TA4-00059
Case 51	TA3-24472
Case 52	TA4-07672
Case 53	TA4-11579
Case 54	TA3-20841
Case 55	MA3-00223
Case 56	MA4-01953
Case 57	TA1-05345
Case 58	TA5-05320
Case 59	WA5-00010
Case 60	VA4-01491
Case 61	VA4-00785
Case 62	VA4-02673
Case 63	TA3-19586
Case 64	TA5-13612
Case 65	TA4-10172
Case 66	VA5-00400
Case 67	VA5-00244
Case 68	VA4-02872
Case 69	VA5-01283
Case 70	MA6-01193
Case 71	MA5-00247
Case 72	VA5-01082
Case 73	WA5-00122
Case 74	VA5-02176
Case 75	VA6-01119
Case 76	VA5-02387
Case 77	VA5-02812
Case 78	TA6-08562
Case 79	VA5-00256
Case 80	MA6-01932
Case 81	VA6-00938
Case 82	VA6-00479
Case 83	VA6-00213
Case 84	TA4-16616
Case 85	MA6-01202
Case 86	VA7-00309
Case 87	WA6-00024
Case 88	MA7-02909
Case 89	TA5-10601
Case 90	MA6-07469
Case 91	TA5-14700
Case 92	TA6-04775

Appendix B: Quantitative Coding Manual

Quantitative codes

1. date of decision
   a. 2002 (2)
   b. 2003 (3)
   c. 2004 (4)
   d. 2005 (5)
   e. 2006 (6)
   f. 2007 (7)
   g. 2008 (8)
2. country of origin
   a. India(1)
   b. China (2)
   c. Afghanistan (3)
   d. Cambodia (4)
   e. Morocco (5)
   f. Korea (6)
   g. Vietnam (7)
   h. Sri Lanka (8)
   i. Iran (9)
   j. The Philippines (10)
   k. United States of America   (11)
   l. United Kingdom (12)
   m. Fiji (13)
   n. Angola (14)
   o. Ukraine (15)
   p. Saudi Arabia (16)
   q. Algeria (17)
   r. Haiti (18)
   s. Guyana (19)
   t. Pakistan (20)
   u. Columbia (21)
   v. Lebanon (22)
   w. Egypt (23)
   x. Romania (24)
   y. Cote D'Ivoire (25)
   z. Turkey (26)
   aa. Not available (00)
3. Spouse
   a. Male (1)
   b. Female (2)

4. reason(s) for first refusal

a. bad faith/ marriage was not genuine, not legally valid (1)
b. not a member of the family class (2)
c. serious criminality (3)
d. medical condition (4)
e. appellant is found not to be a sponsor (5)
f. non-examined family member (6)
g. no reasons given (7)
h. other (8)
i. default on previous undertaking (9)
j. inadmissible class of persons (10)

5. Outcome
    a. Allowed (1)
    b. Denied (2)
    c. Dismissed (3)

6. Reason(s) for outcome
    a. bad faith/ marriage was not genuine, not legally valid (1)
    b. not a member of the family class (2)
    c. serious criminality (3)
    d. medical condition (4)
    e. appellant is found not to be a sponsor (5)
    f. non-examined family member (6)
    g. humanitarian and compassionate grounds (7)
    h. no reasons given (8)
    i. other (9)
    j. inadmissible class of persons (10)
    k. marriage is genuine (11)
    l. IAD has no jurisdiction (12)
    m. Appellant is a sponsor (13)

7. Type of marriage
    a. Heterosexual love marriage (1)
    b. Arranged marriage (2)
    c. Conjugal partner (3)
    d. Common law partner (4)
    e. divorced (5)
    f. proxy marriage (6)
    g. same sex sponsorship (7)

8. Signing panel member
    a. Kim Workun (1)
    b. Renee Miller (2)
    c. Deborah Lamont (3)
    d. Robert Neron (4)
    e. James Waters (5)

f. Bana Barazi (6)
g. Joan M. MacDonald (7)
h. Lawrence L. Band (8)
i. Marco Gaetani (9)
j. Kenneth D. MacLean (10)
k. MarieClaude Paquette (11)
l. Margaret Ostrowski (12)
m. Mona Beauchemin (13)
n. Kashi Mattu (14)
o. Mojdeh Shahriari (15)
p. Hope Sealy (16)
q. Andrew Rozdilsky (17)
r. Shirley Collins (18)
s. Rhea M.J. Hoare (19)
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u. Phillipe Patry (21)
v. E. Sangmuah (22)
w. Martine Lavoie (23)
x. Anita Boscariol (24)
y. Shari A. Stein (25)
z. Daniele D'Ignazio (26)
aa. Lorenne Clark (27)
bb. John Munro (28)
cc. John Borst (29)
dd. Galdys MacPerson (30)
ee. M Dominique Lamarche (31)
ff. Sheri D. Weibe (32)
gg. Narindar S. Kang (33)
hh. E.W.A Townshend (34)
ii. Lawrence E. Leonoff (35)

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[i i] First, under IRPA the definition of family broadened to include parents, grandparents and children as well as same-sex and common-law partnerships. In this instance, same-sex and common-law partnerships are viewed as 'marriage-like' relationships (George, 2006). Second, the length of the sponsorship undertaking has been reduced from 10 to 3 years; if the principal applicant is over 22 years of age otherwise the 10-year undertaking remains in effect (George, 2006; Government of Canada, 2010). Third, the act also created an in-Canada landing class for sponsored partners and spouses of both immigrants and refugees and it exempts sponsored spouses, partners and children from inadmissibility based on the grounds of excessive demands on health and social services (George, 2006). Finally, sponsorship obligations have been strengthened on those who default on child-support payments and individuals who have been convicted of domestic violence without rehabilitation do not have sponsorship privileges. People on social assistance, excluding those on disability also do not have sponsorship privileges (George, 2006).

In addition, various changes under IRPA directly affect women. Statements were added to the sponsorship contracts and documents to assist in improving women's understandings of their status as sponsored persons in Canada and the protections that exist for them. For example, the forms that the sponsored person signs now includes a sentence explaining that the sponsor does not have the power to remove the sponsored person from Canada although the sponsor can still revoke their sponsorship prior to landing. Finally, there is also information concerning spousal abuse and violence in the contract and the encouragement to seek help if needed. In the instance of spousal abuse the sponsored women would be eligible for social assistance (Merali, 2009).