

**REFUGEE QUEERINGS:
SEXUALITY, IDENTITY AND PLACE
IN CANADIAN REFUGEE DETERMINATION**

by

Robert S. L. Lidstone
B.A. (Hons), The University of Western Ontario, 2003

THESIS
SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

In the
Department
of
Geography

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SIMON FRASER UNIVERSITY

Spring 2006

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APPROVAL

Name: Robert Scott Lorne Lidstone
Degree: Master of Arts
Title of Thesis: Refugee Queerings: Sexuality, Identity and Place in Canadian Refugee Status Determination
Examining Committee:
Chair: Dr. R.B. Horsfall, Assistant Professor

Dr. J. Hyndman, Associate Professor
Senior Supervisor
Department of Geography, SFU

Dr. N.K. Blomley, Professor
Committee Member

Dr. Michael Brown, Associate Professor
Department of Geography, University of Washington
External Examiner

Date Approved: January 19, 2006



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ABSTRACT

Over the past decade, the Immigration and Refugee Board (IRB) of Canada has granted asylum to several thousand refugee claimants on the basis of sexual orientation. To receive refugee status, claimants must demonstrate “membership in a particular social group” – homosexuals – and a future likelihood of persecution for this reason. Drawing from interviews, media and government texts, and observation of refugee determination hearings, I examine the geographical imaginations shaping asylum decision-making, and consider how identity and place are articulated and assessed in refugee determination proceedings. Often predicated upon essentialized, heteronormative and ethnocentric representations of sexuality and space/place, analyses of sexual orientation-based asylum cases must be queered in the interests of promoting a more just and humane refugee system. I contend that the scale of the body, as well as differences of gender, sexuality, race, nationality, and class, should be foregrounded in considering the security of sexual dissidents.

DEDICATION

To the Rainbow Refugee Committee of Vancouver and its participants, who consistently provided me with valuable insights into the refugee claims process, bravely shared difficult stories, and warmly included me in the group's activities.

ACKNOWLEDGEMENTS

My sincere gratitude goes to the refugee claimants who courageously allowed me to observe hearings and pose questions on sensitive and deeply personal topics, in some cases while they remained in the precarious position of awaiting a decision on refugee status. I also thank the refugee lawyers and one immigration consultant for their forthright and thoughtful comments on the refugee determination process.

Jennifer Hyndman, my principal supervisor, has provided me with invaluable intellectual, practical and personal guidance during my time at Simon Fraser, for which I am deeply grateful. I thank Nick Blomley for his careful and well-considered thoughts on earlier drafts, and for offering much needed understanding and encouragement at some pivotal moments. Michael Brown's stimulating and challenging questions as external examiner brought fresh and productive ideas to my perspective on the topic. Thanks to Adrienne Burk for a truly compelling and useful introduction to geographical ideas in my first semester, and for crucial moral support along the way to my completion.

I thank my family and friends for their continued faith and love, as well as their interest in my research. Fellow graduate students Rini, Jesse, Sean, James, Kathy, Julie, Leah and Lindsay were wonderful classmates, colleagues and friends.

I acknowledge the financial support of a C. D. Nelson Memorial Graduate Scholarship from Simon Fraser University, and a Canada Graduate Scholarship from the Social Sciences and Humanities Research Council of Canada.

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CHAPTER ONE.

INTRODUCTION: QUEER BODIES AND BOUNDARIES

Boundaries are drawn by mapping practices; 'objects' do not pre-exist as such. Objects are boundary projects. But boundaries shift from within; boundaries are very tricky. What boundaries provisionally contain remains generative, productive of meanings and bodies. Siting (sighting) boundaries is a risky practice (Haraway 1991, p. 201).

[D]e Certeau's aphorism, 'what the map cuts up, the story cuts across,' also points to transgressive travel between two different domains of knowledge: one official, objective and abstract –'the map'; the other one practical, embodied and popular –'the story' (Conquergood 2002, p. 145).

Published on the International Lesbian and Gay Association (ILGA) website,¹ a map entitled *State Homophobia* illustrates the legal status of homosexuality (understood here as sexual relations between persons of the same sex) in countries worldwide (Hellman and Muller 2004). Understood as a technology that constructs a perception of geographical reality rather than simply reflecting essential external truths about the world, the map creates a series of powerful impressions about the relationship between states and 'homosexuals'. The *State Homophobia* map exemplifies an influential way of seeing –one that views the world as a series of nation-states, and conceives of homosexuality in more strictly 'sexual' terms, as embodied exclusively in sex acts. Both of these perspectives enjoy wide circulation and legitimacy as naturalized constructs, and both inform the practice of sexual orientation-based asylum that has emerged in

¹ Available at <http://www.ilga.org/statehomophobia/StateHomophobia3.jpg>

Canada and other countries over the past decade and a half, in which individuals are granted protection because they risk being persecuted for their sexualities.²

As the map indicates, sexual relations between persons of the same gender are, as of 2004, explicitly criminalized in over 80 national jurisdictions worldwide according to the most recent survey by the International Gay and Lesbian Human Rights Commission (IGLHRC 2003). Yet *State Homophobia* betrays a more complex reality in which a variety of factors, not just the criminalization of homosexual sex, crucially shape individual experiences of security. These include, but are not limited to: the use of 'public morality' laws to target sexual dissidents for prosecution, the vulnerability of sexual dissidents to extralegal violence and harassment by state (police and military forces) and non-state actors, and systematic discrimination on the basis of sexual orientation in areas of employment, housing, education, health services and other basic facets of human well-being and security. The introduction of these considerations problematizes the map significantly; indeed, such conditions could arguably be said to exist in nearly every country in the world. A crucial distinction made in refugee law, however, is whether the state in question is willing and able to offer protection against these various forms of persecution. In this sense, the map reflects the state-centred conception of security upon which the international legal system (including refugee law) of sovereign nation-states is predicated. What I intend to argue is that while refugee determination systems require that we consider the safety of individual persons on a country-by-country basis, it is highly problematic to conceive of the security of the person solely at the level of the state, or as determined only in the formal law of the country. As I hope to demonstrate, the relationship between identity, sexuality, security and the state

² This project does not explicitly consider refugee claims based on gender identity (transgendered persons) or bisexuality. After embarking upon the research process, I decided that these claims raise issues that are beyond the scope of what I can potentially consider here in a meaningful way. My hope is that future research will tackle transgendered and bisexual refugee claims with the specificity they deserves.

is sufficiently complex that such a restrictive interpretation of 'state homophobia' fails to adequately account for or contribute towards the improvement of the situation of sexual dissidents globally.

This thesis examines the mapping practices and boundary projects involved in queer asylum,³ and their relationship to the objects ('homosexual', 'refugee') over which the state seeks to exert its control. In carrying out its mandate, the process both explicitly and implicitly apprehends, marks and records space in particular ways and at multiple scales. I acknowledge, following Haraway (1991), the generative role of (metaphorical, imagined, material) maps and boundaries and the risks involved in these geographical undertakings. My discussion also attempts to travel between 'the map' and 'the story,' by bringing interview testimonies from queer refugee claimants and lawyers into critical dialogue with the official texts of refugee determination. I do not suggest that we throw out the map, but instead use the story's nuances to inform and redraw it.

In order to conduct a discussion on queer asylum, it is necessary to begin with a brief outline of international and Canadian refugee protection standards and procedures. The *United Nations Convention Relating to the Status of Refugees* (1951) (hereafter 'Refugee Convention' or 'Convention'), and its supplementary Protocol, constitute the foundation of refugee law internationally. Each signatory state interprets its obligations under the Refugee Convention differently, in terms of how it defines the language of this law in relation to the practical governance of refugee claims. The Convention defines a refugee as a person with a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion", and mandates asylum for persons deemed Convention refugees by signatory states. While

³ I use the term 'queer asylum' through the thesis in reference to the concept of sexuality-based refugee status, in order to encourage a new approach to thinking about and deciding such claims. Typically the term 'queer' is not used in IRB discourse, which generally employs terms such as sexual orientation, homosexual, gay, lesbian.

sexual orientation is not explicitly mentioned as a protected ground in the original wording of the Convention, Canada and other queer asylum states have accepted that 'homosexuals' may be considered to form 'a particular social group' for Convention purposes. In 1992, Canada's Immigration and Refugee Board (IRB) granted refugee status to a gay man from Argentina in *Re Inaudi* (IRB, 1992, April 09), the first Canadian case ever to accept sexual orientation as a ground for persecution. The Supreme Court of Canada indirectly affirmed the IRB's interpretation in its *Ward v. Canada (A.G.)* (1993) decision, which reasoned that 'membership in a particular social group' included "groups defined by an innate or unchangeable characteristic", such as "sexual orientation," which it listed as an example. A subsequent IRB decision in 1994 accepted that 'gender identity' could also form the basis for 'membership in a particular social group,' thus extending refugee protection to transgendered persons fleeing persecution. Several other countries around the world have issued similar decisions in refugee cases, including: Australia, Denmark, Germany, the Netherlands, Sweden, the United Kingdom and the United States.

In Canada, the IRB is responsible for determining refugee status, while the Federal Court of Canada (FCC) considers appeals on refugee decisions in some cases. Since my research began, the IRB has not had an appeals process, and at present the FCC is the only venue in which to launch an appeal of a denial of refugee status.⁴ Several other avenues for gaining status exist in Canada, including a request to the Minister of Citizenship and Immigration for consideration on humanitarian and compassionate grounds, and the pre-removal risk assessment (PRRA) process administered by Citizenship and Immigration Canada (CIC), although neither of these categories offers a significant chance of acceptance. Upon making an initial application

⁴ The FCC overturns IRB decisions in roughly one percent of all cases (Jimenez 2004, July 24: A6).

for asylum, refugee claimants are required to submit to an interview with CIC (which concentrates upon assessing security risks), and a medical examination. They must also declare all information relevant to their claim in the Personal Information Form (PIF), which later enters into the refugee determination process as documentary evidence, against which the claimant's testimony at an oral hearing is evaluated for consistency. All refugee claimants in Canada are entitled to a hearing before a single member of the IRB, who is appointed by the Prime Minister's Office in accordance with a series of basic criteria. Until recently, these were political appointments, handed out often more for patronage purposes than for professional merit.

Recent media coverage has focused on the significant discrepancies in decision-making between individual IRB members. According to *the Globe and Mail*, some adjudicators have 80 to 100 percent rejection rates, while others accept upwards of 70 percent of claims they heard (Jimenez 2004, July 24). Also significant is a regional discrepancy between offices of the IRB in Vancouver and Toronto, which accepted 43 percent versus 58 percent of claims respectively from 2001 to 2003 (Jimenez 2004, July 24). A Vancouver lawyer comments that "a gay Mexican claimant will have a very hard time getting accepted in Vancouver, but that is not the case in Toronto," naming sexual orientation-based claims in particular as showing a wide regional discrepancy (Jimenez 2004, July 24). Many have criticized the politics of IRB appointments as partially responsible for substantial differences in decision-making between members, who are afforded a significant degree of personal discretion in issuing decisions, thereby permitting individual biases to exert a greater influence over outcomes. To improve the fairness and consistency of its decision-making, the IRB chairperson has issued a series of adjudication guidelines, which although non-binding demand that members issue reasons for deviating from guideline criteria. In 1996 the IRB enacted guidelines for gender-related persecution cases, which have sometimes been employed in the

adjudication of sexual orientation and gender identity-based claims (IRB 1996). At present, the organization has not issued formal guidelines for the latter categories of claim, despite calls from the Canadian Council for Refugees (1995) to do so. The IRB chairperson is also empowered to designate refugee decisions with precedential value as 'persuasive' decisions. A number of sexual orientation persecution decisions have been designated as 'persuasive,' and their precedent is understood as affecting similarly situated claimants, typically those of the same national origin. Nonetheless, media coverage of IRB decision-making has continued to emphasize the extent to which decision-making varies significantly, and in some cases enormously, between individual members of the IRB on cases from the same countries. The Canadian government compiles statistics on the number of refugee claims and positive or negative decisions by country of origin, but not by protected Convention ground (ie. 'race,' 'membership in a particular social group'). It is therefore unknown as to how many sexual orientation-based claims have been made or accepted in Canada since the inception of queer asylum.

Research Problem and Rationale

Despite the growth of media coverage and public interest in the phenomenon of queer asylum, as evidenced by a series of media reports and a recent documentary that aired on the CBC, social scientists in Canada have to date had little to nothing to say about the topic. Legal scholars have made a number of valuable contributions to the study of queer asylum in Canadian law as well as several other national contexts (see Chapter 2). An emergent body of literature now exists around the subject of queer migration in a variety of disciplines, including geography. A few notable publications have focused on queer asylum in Australia, Britain and the United States. Social scientists and geographers have begun to study relationships between sexuality,

migration and the state, yet much work remains to be done on this subject and on productively joining scholarship on migration, transnationalism and refugees, on one hand, and sexuality studies, on the other. It is in relation to these academic lacunae and emerging discussions that I position my own project on sexual orientation-based asylum determination in Canada. My own work involves qualitative research with queer refugee claimants and service providers themselves, in addition to examining state and media discourses on queer asylum. Despite the strength of existing analyses, to date there are few studies that draws from qualitative primary research with actors involved in queer refugee claims (Cantu 2005 is one notable example), suggesting the need for work that incorporates multiple voices and perspectives, in particular those governed by this process. This analysis can function at both practical and theoretical levels, attending to matters of policy and practice as well as conceptual knowledge and critical debate.

Research Questions

Approaching queer asylum from an explicitly, though not exclusively, geographical perspective, I wish investigate the social constructions of identity and place that underwrite the refugee claim adjudication process and the ways in which the two are forged in relation to each other. My analysis centres around the following principal research question:

How are 'identity' and 'place' articulated and assessed in the Canadian asylum determination process for sexual orientation-based refugee claims?

'Identity' here refers to the constitution of individual claimants' sexual orientations as genuinely 'homosexual'⁵, such that they meet the definition of Convention Refugee in law. It also speaks to the multiple identifications that characterize queer refugee subjectivities (see supplementary question 2 below). I use 'place' to refer to the representation of countries of origin, transit and reception, and particular spaces within them, that are framed in relation to the legal concept of persecution. Rather than viewing 'identity' and 'place' as discrete categories, my analysis attempts to consider their articulation in relation to each other, emphasizing both the geographical embeddedness of identity and the ways in which human subjectivities understand and shape the spaces they occupy.

Extending out of this central inquiry, I pose a series of supplementary questions that endeavour to situate this research question in relation to academic work, queer asylum decision-making and the lives of queer asylum seekers. They include:

- 1) How are identity and place understood in relation to important concepts in refugee law, namely "Convention Refugee," 'membership in a particular social group,' 'persecution,' 'state protection,' and 'internal flight alternative'?

With this inquiry, I consider how particular representations of identity and place facilitate the application of key terminology in refugee law to queer refugee experiences, shaping the state's practices of interpretation and decision-making.

⁵ I use the term 'homosexual' primarily in reference to state discourses regarding sexuality, in order to connote a particular series of understandings regarding sexuality that are embedded in these discourses. Refugee determination discourse also employs the terms 'sexual orientation' (understood as either homo or hetero), 'lesbian,' 'gay' and in a few instances 'bisexual'. Drawing from the insights of queer theoretical work and a growing popular usage of the word 'queer' as an identifier, I employ the terms 'queer' or 'sexual dissident' to suggest the spatio-temporal contingency of sexual identifications and avoid the essentialist underpinnings of 'homosexual' (while acknowledging the potential for terms like 'queer' to generate novel forms of essentialism).

2) How do differences of gender, race, nationality, citizenship status and class intersect with sexuality to shape understandings or experiences of identity, persecution, migration and asylum? How are these differences assessed?

Informed by feminist theory and methodology, this inquiry aims to consider the articulation of sexual identity in relation to other axes of social difference. I apply this question to interpretive practices in refugee determination in order to encourage a more complexly situated geographical analysis.

3) To what extent are identity and place constructed in essentialist terms in queer asylum discourse?

This question examines whether representational practices in refugee determination discourse understand the meanings of identity or place as characterized by a fixed, inherent or intrinsic essence, thereby denying their historical and geographical contingency. In order to avoid reproducing heterosexism, racism and neo-imperialism in refugee determination discourse, it is important to reject essentialist representations of sexuality and place and encourage more nuanced asylum geographies.

4) What does queer refugee determination discourse tell us about the changing relationships between sexuality, mobility, citizenship, security and the nation-state?

I pose this question in order to locate my study among broader debates about the representational and material powers of the state in relation to sexualized migrants, citizens and spaces. This fourth and final supplement to my research question places Canadian queer asylum in a wider political and geographical context.

Outline of the Thesis

In the subsequent chapter, I conduct a review of relevant social scientific scholarship on migration and refugees, sexuality, and an emerging body of work on queer migration, as well as legal scholarship on queer asylum. This review examines

these works in relation to queer asylum with the objective of drawing out their insights and connections as well as limitations, and identifies the potential contributions of a geographical analysis. The following chapter outlines my methods, and then moves into a discussion of selected methodological themes: identity, positionality, reflexivity, location, politics and activism. I then present my empirical findings in the next two chapters.. Chapter four examines how refugee claimant subjectivities are produced as 'genuinely' homosexual in asylum proceedings, via a series of dominant understandings of homosexuality: as appearance, coming out of the closet, same-sex intimacy and relationships, and community. Each essentialized representation of homosexuality depends upon a particular rendering of geography, which I attempt to problematize by highlighting spatial heteronormativity and social differences among the category of 'homosexual'. Chapter five looks at how the legal definition of persecution is evaluated in relation to the situation of sexual dissidents in the country of origin, which is deemed either safe or unsafe for the refugee claimant. I consider how important concepts in refugee law, including persecution, state protection, and internal flight alternative, are interpreted in relation to the circumstances of queer refugees, and the constructions of sexuality that support these interpretations. I call into question the 'signs of gay life' in a country of origin, including gay spaces, gay politics and gay tourism, that are sometimes interpreted to undermine the legitimacy of queer refugee claims. The chapter also critiques ethnocentric narratives of sexuality, development and progress that frequently underwrite the queer asylum process, demonstrating the need for a more geographically nuanced asylum discourse and decision-making. Finally, I close the thesis by reviewing my arguments, discussing their limitations, and re-imagining sexual orientation-based refugee determination as queer asylum.

CHAPTER TWO.

LITERATURE REVIEW: PLACING QUEER(S) IN MOTION

It is time for queer intellectuals to concentrate on the creative production of strategies at the boundaries of queer and nation –strategies specifically for queering the state. In formulating the terms of address in this situation, we are also now faced with the problem of a gap between the languages of our classrooms and scholarship, and the languages of public debate on the subject of homosexuality (Duggan 1994, p. 3).

What might it mean to queer the state and its practices? As Duggan argues, a crucial component of this project must be to translate the theoretical insights and arguments of queer theory into a language that can be understood in the political arena, where decisions affecting citizenship, state protection, identity and sexuality are made. Around the same time Duggan wrote her article “Queering the state” (1994), Canadian and other national refugee protection programs were accepting the first sexual orientation-based asylum claims. The acceptance of these claims has been largely based upon a gay and lesbian identity politics and its efforts to secure equal rights and protection from the state. Despite the enormous growth of queer scholarship since then, sexual orientation-based asylum has continued to operate in an identity politics mode that remains largely ignorant of queer theoretical critiques. Similarly, scholarship on migration and refugees has remained mostly untouched by queer insights. Luibheid (2004b) argues that heteronormativity characterizes the vast majority of studies on immigration, and queer migrants are frequently invisible in the work of migration scholars. A few notable studies have emerged recently at the intersection of sexuality

and transnational migration studies (Luibheid 2003; Luibheid and Cantu 2005), neither of which consider a Canadian context.

My objective, then, in this review, is to 'queery' refugee and migration studies by mobilizing the insights of queer studies, but also to spatialise both accounts of sexuality and asylum, using a geographical perspective. I benefit from an existing body of legal literature on queer asylum, which I review with the objective of demonstrating the potential contributions of a queer geographical analysis. This approach is especially attuned to questions of the social construction of space/place, scale, movement/mobility and sexual identity, and moves beyond legal reasoning to examine contestations of the social and political dimensions of the law. My work also considers the unique interpellation of sexuality and refugee protection in Canada, while attempting to formulate insights with wider applicability.

Sexuality Studies: Queer Identities, Spaces and Politics

In this section, I review work around several themes related to refugee determination: sexuality, space and citizenship; critiques of 'identity politics'; and queer 'metrocentrism' and postcoloniality. Various studies of sexual citizenship (Bell 1994, 1995; Binnie 1997; Lister 2002; Richardson 2000; Stychin 2001; Valentine 2002) have investigated the relationship between sexuality and the state and shown how sexual dissidents are frequently excluded from the category of citizen. Understanding the state's investments in rhetorics and regulations around sexuality can crucially shape perspectives on citizenship and security for sexual dissidents, which are of central concern in refugee determination. Waitt's (2005) research on sexual citizenship in Latvia argues that heterosexuality is constructed as central to Latvian national identity in political discourse, in which the Western constituted homosexual appears as a threat to national survival and sovereignty (what Bachetta 1999 calls 'xenophobic queerphobia').

Despite Latvia's accession to the European Union and its adoption of legal anti-discrimination provisions for sexual orientation, sexual dissidents are systematically envisioned as outside of the Latvian nation and the fragile rule of law in the country renders them continually vulnerable to human rights abuses. Critical geographical perspectives on sexual citizenship such as this one have important consequences for refugee protection, as they highlight the ongoing exclusion of sexual dissidents from state protection through constructions of national identity.

Sexual citizenship in the West also rests upon the boundary between public and private realms, which in refugee protection is projected into other geographical contexts through decisions granting asylum. The status of sexual dissidents shifts in relation to different constructions of this boundary (Bell 1995); for example, Richardson (2000) distinguishes between conduct-based, identity-based and relationship-based rights claims. In each paradigm, boundaries of tolerance/rejection and inclusion/exclusion are inscribed at different locations, from the right to various forms of sexual practice in private relationships, to the right to proclaim a sexual identity publicly without discrimination, to the legal sanctioning of same-sex couples. Canada inscribes this imagined boundary at particular locations in various different countries through the decision to grant refugee status, thereby becoming implicated in the construction of sexual citizenship in nations around the world. The extent to which conceptions of public/private sexuality are understood similarly across different cultural and national contexts, however, is not certain. A queering of asylum therefore poses the question of whether it is appropriate to view sexual dissidents' experiences through the lens of public/private.

In examining sexuality in a transnational frame, we must also be attuned to multiple axes of difference that shape individual experiences, including gender, race, nationality, citizenship status and socioeconomic class (Grewal and Kaplan 2001).

Scholars have attempted to articulate a coalitional 'politics of affinity' in place of a beleaguered 'identity politics' model (Stychin 2001) that maintains the hegemony of white, affluent gay male subjects. Binnie (1997) acknowledges the Anglo-American bias of most work produced thus far in the area of sexual geographies, and the focus on economically privileged queer subjects in metropolitan locations. This research has largely ignored the issue of how space is sexualized in different national/local contexts, and how queer mobility is differentiated along various other axes of difference. The degree of commonality amongst non-heterosexually identified persons across national boundaries and other axes of difference is not sufficient to constitute a shared political identity, the idea of which may actually be dangerous in its tendency to obscure internal variation and marginalize many constituents (Duggan 1994; Nast 2002; Stychin 2001). A politics of affinity respects the different positionalities of its constituents whilst uniting them around a shared point of reference: sexual dissidence.

Critiques of identity politics are not limited to concern for multiple social differences, they have also attacked restrictive and disempowering constructions of sexuality. Duggan makes the additional arguments against identity politics that the 'homosexual-heterosexual' paradigm is "historically recent and culturally specific" (1994, p. 4), not eternal or universal, and that "[i]dentity politics only replaces closets with ghettos" (p. 5). Identity politics reinforces the marginalization and isolation of gay and lesbian persons by fixing the location of same-sex desires in space (both at the scales of body and community). The larger society is relieved of its anxiety around sexual difference and homosexuals are constructed as a fixed minority with parochial concerns. These are important issues for a queering of asylum geographies, which are heavily imbued with the fundamental premises of identity politics, as I argue in later chapters. Specifying and spatializing the effects of the homo/heterosexual paradigm in asylum decisions therefore constitute a central objective of this project.

Duggan shares Kobayashi and Peake's (1994) skepticism towards 'strategic essentialism,' which they argue risks replicating the social constructions of racist and sexist agendas. Despite the political expediency of articulating an essential homosexuality in asylum discourse, these warnings suggest the potential for discourses of essentialized homosexuality to be employed equally by homophobic movements seeking to exclude queer identities from national communities elsewhere. Duggan asserts that identity politics fails to attack the natural and preferred status of universalized heterosexuality. Destabilizing heteronormativity may offer a more politically effective and theoretically informed approach to sexual politics. This leads Duggan to adopt the notion of 'sexual dissent,' understood as "a constellation of nonconforming practices, expressions and beliefs" around gender and sexuality (1994, p. 11). This framework recognizes that sexual difference is both malleable, in that it varies over time and space, but also highly resistant to coercive change –much like, for legal/political purposes, religion. While Duggan's analogy between sexuality and religion has clear limitations, as do analogies between (homo)sexual and racial/ethnic identities, it is worth thinking about –particularly in the context of refugee law, in which both 'race' and 'religion' are enumerated grounds for protection from persecution. This connection might help to discourage the logic of sexual 'discretion' sometimes deployed in queer asylum, by establishing that having to hide one's same-sex desires or religious faith to guarantee safety are equally demonstrative of persecution.

Several geographers have discussed the ways in which public space is heterosexualized (Duncan 1996; Myslik 1996; Valentine 1993, 1996), and how 'public' homosexuality is marked as transgressive of dominant gender and sexual norms. The heterosexualization of space is accomplished through a series of social processes, "including self-policing by lesbians and gay men, their physical exclusion from particular spaces, the manifestation of moral disapproval, and the threat or use of violence"

(Brickell 2000, p. 163). These phenomena serve to naturalize and universalize heterosexuality in public space (Duncan 1996), leading Brickell to declare that “heterosexuality is invisibly visible” (2000, p. 166), both present through its pervasiveness and absent because it is taken-for-granted. This literature has focused largely upon Anglo-American examples, and while its arguments cannot be unproblematically extended into other geographical contexts, it nonetheless offers some important considerations for understanding how persecution is enacted upon queer subjects in public spaces constituted as implicitly (or even overtly) heterosexual. An understanding of how space is heterosexualized and queer expression marked as transgressive of this spatial order is crucial to recognizing a situation of persecution against sexual dissidents.

Sexuality scholars have also begun critiquing the ways in which metropolitan locations and western constructions of sexuality occupy a privileged position in relation to ‘backwards’ or ‘less enlightened’ places and worldviews. For instance, Knopp and Brown (2003) critique ‘metrocentrism’ in geographic studies of sexuality. They challenge the conventional ‘diffusion’ model, which assumes a hierarchal transfer of knowledge and cultural practices from a metropolitan location outwards, drawing upon studies of sexuality in non-metropolitan locations. This diffusion model not only disempowers those on the ‘receiving end’ of a spatial hierarchy, but also proves inaccurate in that it fails to capture the complexity and spatially diffuse nature of challenges to heteronormative power. Instead, they emphasize the importance of ‘counterflows’ and the spatially hybrid nature of queer subjectivities. However, their examples draw from a western context, illustrating the need to consider how ‘metrocentrism’ operates globally.

Migration and asylum processes also need to be contextualized in relation to rights discourses and queer movements in various countries around the world. Patton (2002) warns against a tendency in Western philosophy and social theory to conflate

'modern' and 'Western,' such that becoming modern means replicating a Euro-American form of governance and rejecting alternatives:

We must interrupt the ways national and supranational bodies demand the use of rights rhetoric as a means of displaying a tie to the Euro-American-dominated 'community of nations.' Rights rhetoric, coin of the global realm, not only provides a modern face, but is often a prerequisite to securing funds from national and supranational monetary and development bodies. In another global flow, the corporate media use rights rhetoric to smear countries that are out of favour: when news media report only 'human rights violations,' they implicitly valorize, as points of comparison, the supposedly humane countries ... The model nation to which offenders are compared is highly duplicitous: which nation is it whose citizens have these fantasized rights? (Patton 2002, p. 200).

Rarely are such depictions of human rights violations in 'other' countries situated in relation to the economic violence, military campaigns, domestic racism and homophobia perpetrated in or by 'Western' nations. This begs the question of whether queer refugee determination constitutes another site at which the hegemony of western ideologies and practices is confirmed, as Razack (1994) has argued regarding gender-based asylum in Canada. A queering of asylum discourses must consider ways of addressing refugee protection without reproducing racist or imperialist worldviews.

Related work by Massad (2002) suggests that the projection of 'gay rights' discourse by white western male-dominated organizations like ILGA and IGLHRC into international space has actually caused many nationalist movements to adopt explicitly anti-homosexual stances in response to a perceived western imperialism. The mission of the 'Gay International', as he calls these groups, is to liberate Arab and Muslim queers from oppression by transforming them from practitioners of same-sex contact into subjects who identify as homosexual, gay and lesbian. "The Gay International," he writes, "is destroying social and sexual configurations of desire in the interest of reproducing a world in its own image, one wherein its sexual categories and desires are safe from being questioned" (2002, p. 385). Problematically, however, agency seems to rest almost solely with the so-called Gay International in his account, and illustrates the

need for more complex investigations of sexual subjectivities in an era of sexual globalization (Binnie, 2004).

Eurocentric understandings of modernity and development, also pervade representations of non-Western sexualities, as Hoad (2002) argues. He examines the construction of modern male homosexual identity in the west and its connection to imperial and neoimperial discussions of difference, in particular categories of race, gender, nation and class. This analysis reveals a disturbing congruence between ideologies of oppression and liberation; both discourses around development and sexuality tend to employ the language and assumptions of Darwinian evolutionary theory, creating a hierarchy of human difference. Hoad's work demands that scholarship on sexual dissidence, especially in a transnational context, consider carefully the implications of colonial and neocolonial power relations and the ontological assumptions often embedded in discourses on social difference and development. Space is temporalised and difference hierarchicalized, such that sexualities in 'other' parts of the world are loosely cast as precursors to an advanced western form of sexual expression or identity: "we were like them, but have developed, they are like we were, and have yet to develop" (Hoad 2002, p. 148). Again, the critiques leveled by Hoad and Patton suggest the potential for these discourses, and their assumptions, to be reproduced in asylum proceedings. Refugee protection requires, on the one hand, that we draw distinctions between countries where a reasonable level of safety for sexual dissidents is guaranteed, and countries where it is not. However, placing countries along a single continuum of sexual development, with a Western sexual ontology placed at the higher end, constitutes a form of ongoing imperialism in which the racist assumptions of 'other' sexualities as backwards and inferior continue to shape our worldviews.

Migration and Refugee Studies

While sexual dissidents are often constructed as outside normative models of (hetero)sexual citizenship as threats to national survival, asylum-seekers are similarly viewed as endangering the sovereignty and security of the nation-state (McMaster 2003). He argues that modern notions of citizenship have failed the asylum-seeker, who is dehumanized by being stripped of legal personhood with its accompanying rights and privileges. Instead, refugees become persons outside citizenship, existing in a precarious limbo between (rather than within) sovereign states. In this sense, conservative models of citizenship act to doubly marginalize queer asylum seekers, who both trouble the heteronormative basis of nation and expose a gap in the sovereign order of nation-states. By queering asylum, I introduce the sexual into notions of state protection and citizenship to consider how queer migrants are uniquely and rather precariously positioned in relation to the nation-state.

Nyers (2003) approaches the issue of asylum-seekers and citizenship through the concept of 'abject cosmopolitanism,' a seemingly paradoxical term that he uses to think about responses to the nation-state's logic of exclusion. He examines practices of resistance among non-status Algerians in Canada, who 'take space and speech' as political subjects, despite their characterization as non-citizens by the state. To what extent are queer migrants able to contest and resist state practices of exclusion in this way?

Like queer and feminist scholarship, research on race and immigration has also tackled issues of imperialism, essentialism and the trope of cultural 'Other' in legal settings. Koptiuch's (1996) analysis reveals two competing arguments in American jurisprudence: the so-called 'cultural defence,' in which an ostensible sensitivity to cultural diversity is presented as a mitigating factor in sentencing immigrant defendants, and the 'civilizing mission' of liberal feminism, which figures the immigrant other as

backward and barbaric. Koptiuch problematizes both constructions, arguing that “cultural defence cases set up immigrant Third World women as passive victims claimed by an essentialist cultural logic of always-already-Otherness” (1996, p. 226). Liberal feminist rebukes of the cultural defence similarly deprive the Asian Other of any agency, and neo-colonial intervention in the name of sexual equality becomes necessary to ‘save’ the passive Other from the inherent misogyny of her culture. Razack (1998) shares Koptiuch’s concerns in her critique of gender-based asylum determination in Canada, which essentializes cultural differences, erases western complicity and confirms western superiority. This model of adjudication, suggests:

[W]ith a little practice and the right information, we can all be innocent subjects, standing outside hierarchical social relations, who are not accountable for the past or implicated in the present. It is not our ableism, racism, sexism or heterosexism that gets in the way of communicating across differences, but their disability, their culture, their biology, or their lifestyle (Razack 1998, p. 10).

Questions of social difference and of power relations cannot be divorced from one another, Razack argues. By viewing refugee determination as an encounter between dominant and subordinate groups, she highlights how symbols of the Other’s barbarism and oppression are mobilized in the asylum setting, functioning as markers of difference that reinforce their opposition and inferiority to a civilized, liberated West. Koptiuch’s and Razack’s studies raise the question of whether legal decisions necessarily fall into essentialist traps. The question of how to encourage more nuanced representations of identity, culture and place is crucial for my study of queer asylum.

Refugee determination can be usefully understood through Foucauldian analysis as a complex discursive field characterized by ‘representational struggle,’ in which different actors offer competing versions of reality in an effort to constitute the individual subject in question as a ‘genuine’ or ‘bogus’ refugee (Hardy 2003). Despite the ambiguous and ambivalent nature of information upon which they rely, Hardy’s study suggests that adjudicators view their own roles as discoverers of ‘truth’. For instance,

government sources (from the Foreign Affairs department) and reports from human rights NGOs (such as Amnesty International) often clashed, and different decision-makers varied in their negotiation of such contradictions. Her approach would benefit from a geographical perspective that demonstrates how the social construction of space/place is central to the political struggle to define the 'objects' and 'settings' of refugee determination.

While theoretically driven analyses of power and discourse in refugee determination can offer important insights, they must be balanced by a regard for practical approaches that speak in terms understood by actors in the refugee determination field. This means engaging with questions of policy and procedure. Working from a multi-disciplinary perspective, Rousseau et. al. (2002) emphasize that the system is fraught with complexity, noting that the adjudicator's role demands a sufficient knowledge of country of origin conditions, a capacity to bear psychological trauma as relayed through testimony, and a proper understanding of international refugee law and quasi-judicial procedure. Their major criticisms include the charge that rejections based on a finding of non-credibility in the claimant are often supported by "unconvincing, if not merely speculative" reasons (Rousseau et. al. 2002, p. 45), as well as alleged difficulties in cross-cultural communication. They also observe that many decisions represent simplistic, stereotypical or even false renderings of socio-political realities in the country of origin, and a lack of understanding with respect to the psychological effects of trauma. Rousseau et. al. examine refugee determination for a wide range of case typologies, suggesting the need for further critical social scientific work that focuses on more specific refugee claim categories, such as sexual orientation-based asylum. The psychological effects of living under heteronormativity as a sexual dissident may not be well enough understood by adjudicators, and country of origin information on sexual dissidents may be sparse (as Waitt 2005 indicates in relation to

Latvia) or misconstrued where sexual identity and persecution are not adequately spatialized.

Refugee determination and policy are also powerful vehicles through which refugee claimant subjectivities are shaped by legal discourse and decision-making (Lacroix 2004). 'Refugee' exists as a temporary subjectivity, Lacroix writes, imposed largely by governing apparatuses, adopted out of necessity and later discarded. Refugee claimant experiences, Lacroix argues, reflect a tension between official discourses of Canadian humanitarianism that welcome refugees, and the material practices of the Canadian state and society that impede their self-actualization. Her study is relatively limited, however, in that it draws from the experiences of eight male refugee claimants fleeing several African countries (the exact bases of their claims are not discussed). It demonstrates the need for further exploration of refugee subjectivities that examines the experiences of claimants from other countries of origin, women, children or sexual dissidents. It would also be productive for a queering of asylum to address parallels between refugee and sexual identities, both of which are often cast as aberrations, and both of which exemplify a certain degree of fluidity in relation to shifting social and political contexts.

Legal Studies

Legal scholars have examined the evolution of queer asylum in several different geographical contexts, including Australia (Dauvergne and Millbank 2003b; Walker 2000), Canada (LaViolette 1997, 2001), the United States (Bennett 1999; Cox 2001) the United Kingdom (Millbank, 2005) and comparative cross-national studies (Dauvergne and Millbank 2003b; Millbank 2002; Ramanathan 1996). This body of literature focuses primarily on the inclusion of sexual orientation and gender identity under the 'membership in a particular social group' clause of protected categories in the 1951

Convention, and various interpretations of what constitutes 'persecution' for Convention purposes. Further legal studies have explored discourses of public/private in queer asylum, but have yet to fully consider other geographical themes such as the construction of space/place in relation to sexual identities. I review the work of legal scholars in this section in order to illustrate the legal framework through which queer asylum occurs, and suggest a role for geographical inquiries of queer asylum.

Persecution is succinctly defined as "the sustained or systemic violation of basic human rights demonstrative of a failure of State protection," including actions which "deny human dignity in any key way" (Hathaway 1991, p. 105-107, as quoted in Walker 2000, p. 191). The reference to 'state protection' here is essential: persecution exists only where the state (usually defined broadly) is the agent thereof, or where it fails to protect against or sanction persecution by 'private' actors (Ramanathan 1996). Most queer asylum jurisdictions, including Canada, now recognize prosecution for homosexual sex or transgenderism, extralegal violence, torture or detention, excessive or inhumane punishment and involuntary medical treatment may constitute 'persecution' (Walker 2000). Beyond these parameters, considerable disagreement still exists over 'discrimination' and 'harassment' as persecution. The United Nations High Commissioner for Refugees (UNHCR) acknowledges that discrimination may amount to persecution against an individual in cases of "serious restrictions on his right to earn a livelihood . . . or his access to normally available educational facilities," or where measures of discrimination produce "a feeling of apprehension and insecurity as regards his future existence" (UNHCR 1979, para. 53, as quoted in Walker 2000, p. 193). Such measures must involve be 'severe' and involve a 'cumulative' element. It is up to the individual adjudicator, guided by legal precedent and bureaucratic guidelines, to give these provisions meaning within the specific circumstances of a claim –thereby leaving

open the potential for heteronormative understandings of sexuality and space to influence their application.

A finding of credibility in the refugee claimant is a central part of asylum procedure, as Bennett (1999) explains. An applicant's testimony may independently meet the requirements for establishing persecution if it is "credible, persuasive, and specific", as well as "consistent", "plausible and coherent" (1999, p. 291). Though he and other scholars (Rousseau et. al. 2002) have noted the inherent difficulty and relative inconsistency of how these terms are understood and applied both within and between national contexts, their analyses have not problematized these standards in the context of queer asylum claims, and the potential for heteronormative evaluations of credibility. How are concepts like 'plausibility' and 'persuasiveness' assessed in a context characterized by differences of geographic location, culture, race, gender, class, and sexuality?

The 'immutability' standard used to define the basis for 'membership in a particular social group' has also raised concern (LaViolette 1997; Walker 2000). This interpretive approach, which Ramanathan (1996) terms the 'control test,' identifies innateness or involuntariness as the unifying principle for all five grounds of protection listed in the Convention. Though widely accepted in American, Australian, British and Canadian jurisprudence, the 'immutability' standard seems to convey some idea of an 'unchangeable' identity that may obscure the extent to which sexual and gender identifications and behaviours may be fluid or multiple as individuals move between spatial and temporal contexts. The relative ambiguity of such terms requires that we investigate exactly how they are given practical form in the decision-making process. Are standards of 'coherence,' 'consistency' and 'immutability' at odds with the relative fluidity of sexual experience and identification through space and over time, as expressed in queer scholarship? Walker (2000) asserts that movement in and out of the

'particular social group' should not matter to the analysis; the crucial test is whether the individual is persecuted for adopting the identity of the 'particular social group'. A dilemma arises, however, for claimants who have begun to identify as queer only after arriving in the country of asylum, and have not necessarily experienced persecutory treatment. Further studies of queer asylum must scrutinize decision-making for evidence of how this standard is met.

While there is a strong geographic dimension to the issue, the spatial aspects of sexuality, persecution and asylum are not adequately foregrounded or theorized in much of the legal examination of queer refugees. A notable exception is the work of Millbank (2002), who undertakes a closer analysis of the public/private distinction in her review of queer asylum decision-making in Australia and Canada. She argues,

The result of this projected sense of the public/private divide is to trap applicants in a tightly woven paradox: if they are too public they are transgressive, repellant and in danger of being rejected as being deserving of the abuse they have experienced. If they are too private, they run the risk that their claims will not qualify as persecution and will be regarded as merely private and/or readily avoided (2002, p. 144).

Her study thus demonstrates how refugee adjudication in both countries is heavily predicated upon Western understandings of the relationship between expression of a 'homosexual' identity and the public and private spheres. It also explores the way in which these understandings are highly gendered. Lesbian sexuality, Millbank posits, is constructed as properly private and therefore not often requiring of protection, while gay male (and lesbian) sexual expression is frequently characterized as 'too public' and therefore undeserving of protection (p. 145). Being 'gay' or 'lesbian' in public, she suggests, is not just expressly offensive to the norms of the country of origin, but also implicitly offensive to the norms of decision-makers in Australia. She found that decision-makers were frequently unable to appreciate the idea that sexual relations in private were not an option for many claimants, and formed their rejections around the

assertion that claimants had transgressed norms prohibiting public sexual behaviour that were applied to all members of society, and not just queers.

Closely related to the public/private distinction is the Australian 'discretion test' for queer asylum cases, examined by Dauvergne and Millbank (2003a, 2003b) and Walker (2000). This standard, which was rejected earlier on in Canadian jurisprudence, considers whether claimants might avoid persecution by hiding their sexuality (Dauvergne and Millbank, 2003b). The discretion test is based upon the principle that Australian refugee law limits protection of sexual orientation to private consensual sex, and excludes instances of 'indiscriminate disclosure' and 'overt manifestations of homosexuality' in public (2003b, p. 104). An Australian tribunal's statement that "public manifestation of homosexuality is not an essential part of being homosexual" (2003b, p. 106) illustrates Brickell's (2000, p. 166) claim that heterosexuality is rendered "invisibly visible" in public space, and thus creates the illusion that all displays of sexual orientation are confined to the private sphere. While the discretion standard has been explicitly rejected in Canadian refugee jurisprudence, to what degree does its logic continue to more subtly influence decision-making?

Lest we assume that contemporary Canadian practices for evaluating sexual identity in the legal arena are uniformly more sophisticated than their Australian counterparts, LaViolette's (2001) analysis of the link between gender-related persecution and sexual minority refugee cases in Canada tells us otherwise. In a review of one case involving a lesbian asylum-seeker from Colombia, she reveals that decision-making by IRB members displays a surprising reliance upon stereotypical constructions of lesbian sexuality as something which manifests itself externally through appearance (LaViolette 2001, p. 308). LaViolette faults this analysis for failing to appreciate the role of social and cultural values that would render the claimant identifiable as a lesbian, such as her living situation (alone or with a woman), her job, her interaction (or lack thereof) and

manner of expression with men and women. A geographical inquiry would contextualize the shifting positions of the subject in social space, attending more carefully to the ways in which spatial context shapes the construction of identity.

Queer asylum decisions Australia have contained numerous false analogies to 'our country,' that tended to emphasize the degree to which the experiences of homosexuals in Australia were still characterized by discrimination and (sometimes violent) harassment, thereby downplaying the relative safety of the Australian environment (Millbank 2002, p. 151). In Australia, the "depersonalized and almost mythical" narratives of 'independent' country-of-origin evidence (describing conditions for sexual minorities) were transferred from case to case in a "cut-and-paste" fashion that Millbank claims had the effect of "dulling" the decision-maker to the lived reality of the individual claimant's experiences (2002, p. 157). The RRT (Refugee Review Tribunal, of Australia) rendered unintelligible the 'queer' narratives of claimants where they did not match up with the monolithic 'country evidence' narratives. Though seemingly contradictory, the very existence of venues for public sex (based on country 'evidence' obtained through internet sites) was interpreted in some Australian decisions to indicate a 'thriving' or 'visible' 'gay scene,' despite the obviously gendered nature of such phenomena (as dominated by gay men) and the questionable basis it provides for claims of safety or openness in a society. Gay and lesbian experience, Millbank asserts, may be 'unreadable' by adjudicators, who insert their own preconceived notions of (heterosexual) self into the resultant space of unintelligibility. I believe that this relatively limited discussion of how 'place' is represented in asylum discourse, often in remarkably simplistic and uni-dimensional terms, can and should be expanded to problematize some of the geographical assumptions that support unjust decision-making.

Queering Migration and Asylum

To date, a limited but compelling body of work has developed at the intersection of sexuality and migration. Here, I mobilize the insights of this emergent field to suggest further inquiries for studying queer asylum in Canada. Geographical imaginations of queer life in 'other' places are central to refugee determination. To not only queery asylum, but spatialize it as well, we must consider how the process of claiming asylum demands a particular rendering of geography. Addressing transnational studies of sexuality, Grewal and Kaplan (2001) note that the process of migration to metropolitan locations is often characterized as a movement from repression to freedom, and argue that asylum claims may require the deployment of this narrative in order to be successful. In other words, refugee claims require that we talk about 'place' (both 'here' and 'there') in particular ways, in order to construct a movement from persecution to safety, oppression to liberation.

As noted earlier, queer migrants may find themselves caught in a double bind, between the heterosexism/homophobia and racism/racialization. Espin's (1999) psychological study of how women's sexuality is transformed through the process of migration suggests that queer immigrants may find themselves experiencing extreme isolation, marginalized as queers among an immigrant community in Canada and challenged by the demands of acculturation to the new society (including queer communities) and as well its racism. She also found that lesbian migrant interviewees (though a very small sample) appeared to prefer discussing issues of sexuality in English, rather than their first language, suggesting the socially constructed and contextual nature of sexual identification. Lesbian migrants, she suggests, may lack the necessary vocabulary to discuss sexuality in their first language, or may carry negative

associations with this vocabulary in light of past experiences in their home country.⁶

Given the centrality of language and textual representations of sexuality in refugee claim proceedings, it is important to further consider these issues in an asylum-specific context.

Coming out narratives and representations of 'home' as homophobic are often central to the expression of sexuality, but conventional accounts of this experience have failed to adopt a more complex spatiality. A recurring theme in 'coming out' narratives is the fulfillment of a 'true' homosexual self outside of the family home (Fortier 2003), yet queer migrants also frequently experience a fraught relationship to new places and a sense of nostalgia for places left behind (Knopp 2004). Both Fortier's and Knopp's accounts problematize a linear emancipation narrative that constructs migration as a movement from oppression to freedom, and question the utopian imagination behind it. Coming out is rarely experienced as a decisive moment, Knopp argues, but instead as "an always unfolding and very compelling process, involving multiple parties, over which the individual possesses only partial control at best" (2004, p. 125). Sexuality and modes of self-identification do not suddenly crystallize at particular points in time-space, but are instead constantly being reworked and negotiated in relation to shifting sociospatial contexts. To what extent do aspatial understandings of coming out structure asylum decision-making, and how might these lessons be applied to refugee determination?

Knopp critiques the notion of placelessness as absence or lack, insisting instead on placelessness as "an embodied and material form of agency" (2004, p. 130), borne out of the ambivalence of queer relationships to place and identity and queer affections

⁶ A majority of queer refugees whom I encountered declined to have a translator at their hearings. Although they do not constitute a representative sample, this may reflect Espin's findings on language and sexuality. It may also reflect claimants' fears of homophobia or heteronormativity on the part of the translator.

for movement. While terms like 'affection' may run the risk of romanticizing placelessness, particularly when it is forced upon those fleeing persecution and encountering it as both a symbolic and material reality, it is also important to recognize the agency of queer refugees in reconstituting their lives through movement across borders. Fortier's discussion of 'homing desires,' which she defines as "the work of physically or symbolically (re)constituting spaces which provide some kind of ontological security in the location of residence" (2003, p. 9), might easily apply to the experiences of queer refugees. Her analysis could serve a wider purpose if expanded transnationally to consider movement across state borders, which may also be said of Knopp and Brown's (2003) paper critiquing the 'diffusion' model of queer identities, discussed above. In order to complicate the liberation narrative invoked in refugee determination, we must examine how countries of origin and reception are discursively constructed in relation to one another, and how refugee claimants conceive of their relationships to both places.

Social scientific and legal scholarship on queer migration have yet to adequately consider how the state becomes actively involved in the creation of queer subjectivities through the refugee determination process. One notable exception is McGhee's (2000) work on queer refugee cases in the U.K., which uses the precedent-setting case of Romanian Ioan Vraciu as a window onto the creation of 'homosexual' identities through legal discourse and practice. McGhee reviews the process of the legal 'authentification' of a 'homosexual' identity through the examination of particular 'facts' brought forward (by those with authorized knowledge) as evidence. The Vraciu case was especially significant in that the claimant, Mr. Vraciu, did not present evidence of his own identity as a 'homosexual' other than his own oral testimony to that effect. McGhee distinguishes between the 'lay' self-knowledge of homosexual identity, deemed insufficient for the purposes of legal verification, and "the legal technology for producing a homosexual

identity” (2000, p. 34), deployed in the form of legal, medical and psychological inquiry. He asserts, “ the person who is alleging to be a homosexual cannot be the author of this own subjectivity before the law; he remains an object, whose legal subjectivity must be made for him by an authorized knower and speaker of it” (p. 34). This analysis calls our attention to the way that the structures of legal discourse delegitimize particular forms of speech and knowledge in order to maintain the hegemonic position of the law.

State attempts to identify, monitor and regulate subjectivities marked by signs of ‘homosexuality’ have also characterized queer experiences of US borders. Luibheid’s (1998) analysis seeks to problematize the way in which institutions like the US Immigration and Naturalization Service (INS) try to create clear boundaries around homosexuality, and in doing so perform a constitutive function with respect to ‘homosexual’ identity. Border checkpoints, in her estimation, served as “particularly dense points where dominant institutions constructed (and individuals contested) the possible meanings of lesbian or gay identity, and of who should be included within these categories” (p. 481). Luibheid stresses that such surveillance procedures did not simply ‘find’ queer subjects in their (un)natural state, as these identities were and are never reducible to unproblematically observable traits. Suggesting the ‘strategic’ deployment of essentialized ‘homosexual’ traits, the author discusses the process of ‘straightening up’ that many queers would undergo prior to an encounter with INS officials (p. 485). Though this practice clearly reproduces dominant gender norms and understandings of homosexuality (as gender reversal/confusion), it does possess a subversive element in which these stereotypes are stealthily reconstructed by queer subjects seeking to circumvent practices of territorial exclusion. Sexual surveillance has now been redirected in the US and elsewhere to seek out the ‘authentic homosexual’ (or transsexual). As such, we must turn our critical senses toward the ongoing practice of

identifying and verifying sexuality -this time ostensibly redeployed in the interests of protection.

Both the queer subjects of Luibheid and McGhee's articles exhibited resistance to the respective labels of 'lesbian' and 'homosexual' foisted upon them by the state. Luibheid notes that the act of declaring oneself a lesbian may damage or sever ties to familial/ethnic communities, and as such many Latina lesbians opt to remain publicly silent regarding their sexuality. She writes, "Latina lesbians have survived because of that silence, and the protection it has provided, despite the many limits and compromises it has imposed" (1998, p. 500). In other words, some sexual minorities, especially those coming from particularly homophobic communities and societies, may have become accustomed to the relative safety of 'the closet' (itself a Western construct). A similar conditioned response to homophobia arises out of the Vraciu case: he demonstrates extreme reticence toward any overtly public display ('proof') of his sexuality (McGhee 2000). McGhee surmises that Vraciu's determination to protect his own privacy, even at the cost of losing his appeal, originates from the hostile environment from whence he came. "It was Mr. Vraciu's control of the presentation of this 'private' identity and corroborative evidence from within the ambit of this 'privacy' which protected him from the social and legal hostility towards homosexuals in Romania" (p. 46). As indicated in the literature reviewed above, public declaration and 'authentification' of a queer identity is not an unproblematic undertaking for many queers.

Since I wrote the first draft of this literature review, a collection of essays has emerged to begin answering many of the questions I pose around sexuality, migration and asylum. Edited by Eithne Luibheid and the late Lionel Cantu (2005), this volume contains several chapters that explicitly consider queer asylum in the US context. Randazzo's (2005) article surveys the jurisprudential and political history leading to

queer asylum in America, and highlights a number of key challenges facing queer migrants as they navigate an increasingly securitized immigration system and the social realities of migration and resettlement that are specific to queers. Cantu (2005, with Luibheid and Stern), served as an expert witness for five sexual orientation-based claims from Mexican men. He reflects upon the essentialist underpinnings of the legal standard of 'immutability' used to assess sexual identity, and the prevalence of racist, colonialist scripts of US 'progressiveness'/Third World 'backwardness' in these asylum proceedings.

Before his death, Cantu had begun to problematize the essentialist representations of sexuality in asylum proceedings, observing that they restricted asylum possibilities for those who did not conform to the stereotypical image of an effeminate gay man. He was also examining how persecution was attributed to an ahistorical notion of backwards, oppressive Mexican 'culture,' separated from other factors such as race, gender, class, globalization, neocolonial relations and unequal US-Mexico ties. This narrative easily reinforced the US as a "land of liberty and a bastion of progress," (2005: 65) positioned to 'save' Mexican gay men, and ignored American complicity in creating material conditions of oppression in Mexico and the hardships faced by gay Mexican immigrants in the US –racism, homophobia, economic exploitation and language barriers. Cantu posited that "even while globalizing forces had multiplied the range of available sexual identities and political projects, the asylum system was generating new, essentializing constructions of sexuality that functioned within strictly nationalist logics, thereby reinscribing borders that globalization had blurred" (2005: 68-9). The brief essay concludes with an invitation to other scholars to take up the work that Cantu had begun, which remains provisional despite its many insights. My own research examines and expands upon some of these issues, situating them in the

Canadian context and investigating more precisely the conceptual categories through which sexuality and persecution are understood in refugee determination.

Conclusion

This review of literatures on sexuality, refugees, law and queer migration has drawn a series of connections between relatively discrete bodies of work with the objective of queering asylum; that is, posing a series of questions about asylum discourses and practices that attempt to mobilize the insights of queer scholarship to inform work on immigration and refugee protection. I have also highlighted the spatial dimensions of sexuality, migration and the law to demonstrate the role of a geographical analysis of queer asylum. My goal is not only to establish a mutually enriching dialogue between queer and refugee studies in Canada and elsewhere, but also to consider how the combined knowledge of these fields can address the practical concerns of refugee determination. Dominated since its inception by an identity politics model of sexual identity, sexual orientation-based asylum can and must be queered by joining together critiques of the politics of sexuality and asylum to address the unique positions of queer refugees.

CHAPTER THREE. QUEER RESEARCH POSITIONS: METHODOLOGICAL APPROACHES AND THEMES

So location is about vulnerability; location resists the politics of closure, finality, or, to borrow from Althusser, feminist objectivity resists 'simplification in the last instance'. That is because feminist embodiment resists fixation and is insatiably curious about the webs of differential positioning (Haraway 1991, p. 196).

I use this chapter to reflect upon my methodological experiences and the "webs of differential positioning" across which my research, its participants and my own subjectivities are situated, albeit in ways I can never fully know (Rose 1997). This chapter provides a venue for discussing the inherent 'messiness' of research, centred around the themes of identity, location, politics and performance. I begin by outlining the methods I employed in this project. The chapter then turns to situating myself and my research participants with a discussion of our multiple subjectivities and in particular our shared identification as sexual dissidents. While our positions differed in a number of important ways, it was this shared identification that proved to be crucial both methodologically and politically. Subsequently, I examine the location of my work in relation to constructs of 'home' and 'field,' a distinction that I discovered to be particularly powerful and reflective of my privilege as a researcher. At the same time, this distinction was constantly blurred through the research process, both intentionally and by circumstance. Lastly, I reflect upon my involvement with the Rainbow Refugee Committee, a community-based organization dedicated to assisting queer refugees, and the politics of queer refugee activism in Vancouver. This involvement was an important

way of demonstrating my commitment to queer refugee struggles, and it also significantly shaped my perspective on the topic of queer asylum.

Methods

I employed a series of qualitative research methods in the implementation of this research, drawing from feminist and critical approaches in human geography and related social scientific disciplines. In gathering information, I used the ethnographic techniques of semi-structured interviews and participant observation, and drew from multiple documentary sources, including media and human rights reports, government research, IRB decisions and administrative guidelines.

Interviews

From July 2004 to March 2005, I conducted 20 semi-structured interviews, including three interviews with refugee lawyers and one interview with an immigration consultant representing a predominantly GLBT (gay, lesbian, bisexual, transgendered) clientele, as well as 16 interviews with refugee claimants. Interviews were conducted in both Vancouver and Toronto. I began the interview process primarily through my involvement with the Rainbow Refugee Committee (RRC) of Vancouver, a non-profit, grassroots organization operating out of the GLBT Centre in Vancouver and offering procedural advice, personal and practical support to queer refugee claimants in Greater Vancouver. By attending monthly meetings of the RRC, I was able to establish contact with a lawyer and immigration consultant specializing in GLBT immigration, and meet a number of potential refugee claimant interviewees. My contacts in Toronto were established first by conducting an internet search for lawyers specializing in this field, and then requesting introductions from the lawyers for queer refugee clients willing to participate in interviews.

As a novice researcher, the process of recruiting research participants for interviews was often challenging and fraught with uncertainties about how best to approach individuals while remaining respectful of individual choices and levels of comfort. Admittedly, I found it much easier to request interviews of lawyers and consultants, as I viewed their positions as relatively privileged. In contrast, approaching refugee claimants, and in particular those who had not yet received decisions on their claims, proved more difficult in practice. I explicitly chose not to interview claimants prior to their hearings, both because I wished to question individuals about the hearings themselves, and also to avoid interfering with the determination process in a way that might negatively affect the claimant or the research. Recognizing the vulnerability of persons situated precariously in relation to the state, I tried to be sensitive to the psychological stress faced by claimants as they waited for news of a decision,⁷ and wished to avoid exploiting this situation for research purposes. However, most of the claimants I approached responded enthusiastically to my request for an interview, insisting that they wanted an opportunity to tell their stories and be heard without the constraints forced upon them in encounters with the state. While a minority of others were more reluctant, due in part to concerns about whether or not their interview with me would affect their status or the outcome of their case, they too stated their appreciation for having a venue in which to make their experiences known.

Observation of Refugee Determination Proceedings

I also attended seven IRB refugee status hearings, at which I was able to observe proceedings and take notes, with the caveat that I was not to disclose information that would infringe upon the privacy and anonymity of persons involved. My

⁷ While some claimants receive an oral decision at the conclusion of their hearing, many others wait several weeks or months before learning the outcome of their claim. Several of the claimants I interviewed fell into this latter category.

attendance at hearings was secured either through a contact with the lawyer representing the claimant, who requested the claimant's permission in advance, or by approaching the claimant myself and requesting permission to attend. In the latter case, I was already well acquainted with the claimants through my involvement with the RRC. Given the chosen focus of my project on the decision-making process in refugee determination, the hearings were perhaps the most valuable source of information to which I obtained access. My presence enabled me to observe first-hand the interactions between adjudicator, claimant, lawyer, and in some instances interpreter and refugee protection officer (RPO).⁸ I gained insight into practices of questioning and responding, argumentation, evidence and evaluation that were simply not as visible through my reviews of written decisions published by the IRB. However, my knowledge of the refugee determination system of course remains partial, mediated by my own positionality and the limited degree of familiarity provided by such a brief encounter with the process.

Documentary Sources

A third major methodological component of this project was to conduct a review of documentary sources relating to queer asylum published by the IRB, human rights and refugee non-governmental organizations, foreign governments and media outlets. These sources provided further insight into refugee determination practices, including rules of procedure, 'country information' research, and standards of decision-making on asylum claims. NGO and foreign government documents provided a comparative context for Canadian sources, while media reports enabled me to situate queer refugee determination in relation to societal discourses around immigration, identity and asylum.

⁸ RPOs represent the Minister of Citizenship and Immigration, and are not present at all hearings. They may pose a series of questions to the claimant, usually designed to highlight aspects of a claim that the claimant's counsel might not raise.

As Hardy and Phillips (1999) argue in their study of political cartoons depicting Canada's refugee system, refugees are produced not only by the official discourses of this system but also by "much broader discourses that occur at a societal level, and that act as a resource and a constraint for actors within the field". By investigating media texts surrounding queer asylum, I challenge a framing of refugee determination as limited solely to the official spaces and texts of adjudication. Media reports on queer and refugee identities and actions provide a crucial source of representations drawn upon by adjudicator, refugee claimant, politician, and activist alike as they struggle to position themselves and others in the complex field of refugee policy and practice.

Initially, I set out to obtain the Personal Information Forms (PIFs) of queer refugee claimants with whom I had contact; however, PIFs were made available to me in a very limited number of cases, and as such they did not form a significant component of the research. One claimant, whose case had reached the FCC level, at which his original decision was overturned and a new hearing ordered, possessed an enormous docket of information containing everything from media reports on his case to hearing and court transcripts to the supporting documentation from his hearing. This docket was compiled by the government, and as the claimant put it, his "entire life" was in this binder (Interview 254). As a researcher I was briefly overcome by (irrational) feelings of resentment and frustration when he stated that he was not willing to share the documents with anyone, although he offered to let me look through it briefly, under his supervision. Sensing the emotional and psychological (not to mention physical) weight of the docket for the claimant, I realized that it was essential to 'leave some stones unturned' in conducting fieldwork. Having his "entire life" in one book was a serious violation of the claimant's privacy, one that he withstood in order to remain in Canada and guarantee his own security.

As its name suggests, the PIF is a very personal and extensive disclosure of all information relevant to a claim. The comprehensiveness of these documents, and their authority and permanency as texts, suggest that they constitute a potent objects of evidence in refugee determination, often wielded against the claimant in challenging his or her credibility at the hearing. Conquergood writes,

For many people throughout the world, however, particularly subaltern groups, texts are often inaccessible, or threatening, charged with the regulatory powers of the state. More often than not, subordinate people experience texts and the bureaucracy of literacy as instruments of control and displacement, e.g., green cards, passports, arrest warrants, deportation orders” (2002, p. 147).

If we view the PIF, hearing transcripts, refugee decisions and the host of other documents detailing the lives of migrants as state technologies of ‘intextuation,’ it should not be surprising, then, that most of the participants in my research declined to share this document, even while consenting to an interview.

Participant Observation with the RRC

Lastly, as mentioned, I attended the monthly meetings of the RRC. This exercise was important to me not only in order to facilitate the recruitment of participants by establishing contact and trust, but also to demonstrate my commitment as an individual to the group’s activities and causes. I will further discuss my relationship with the RRC and my successes and failures at creating reciprocity between myself and the group, but for now I will simply outline my participation as a source of information. Meetings provided me with valuable insights into the personal contexts surrounding refugee determination: refugee claimants’ experiences of persecution, migration, arrival, settlement, preparation and integration. I witnessed, and as time went on, participated in discussions around the challenges involved in relocating lives and securing the protection of the Canadian state. These conversations highlighted a number of crucial issues and tensions related to identity, security, mobility and migration that I discuss in

this thesis. Without them, my project would lack the contextual information that allowed me to situate (again, partially) queer refugee determination in a broader web of social and geographical processes.

Analysis of Qualitative Data

In reviewing qualitative data from interview transcripts, documentary sources (including media), and observational notes, I drew upon a discourse analytic perspective. Discourse analysis examines how language constitutes social reality, how social actors use language to represent and organize their worlds, and how discourses serve to maintain or challenge particular configurations of power (Shurmer-Smith, 2002). Guided by my research questions, I sought to identify a series of themes in queer asylum discourse by systematically reviewing data for evidence of common or particularly significant representations of identity and place. I established a series of conceptual categories to reflect trends in queer asylum discourse with respect to authenticating homosexual identity (the imperative of demonstrating membership in a particular social group for Convention purposes). I also examined how legal concepts central to refugee determination are given meaning in relation to the particular circumstances of a claim, again developing a series of conceptual categories that identify common ways of defining place and identity (the Convention imperative of demonstrating future likelihood of persecution).

So, Are You Gay?: Identity, Positionality and Research ‘Outings’

Who am I, who am I researching, and how do our subjectivities shape our relationships to each other and to the research project? I use this section to respond to these deceptively simple questions as part of a reflexive research praxis, informed by feminist geographical discussions of positionality. I will discuss several axes of

difference along which I and my research participants are positioned, including gender and gender identity, race, nationality, citizenship status, class, and sexuality. These categories crucially shape relations of power, but are not exhaustive or comprehensive, nor do I intend to use them in a reductionist manner. My discussion then moves to foreground the question of sexual identification, its possibilities and limitations for queer research (whether that is research done 'by' and/or 'on' queers). Binnie (1997) cautions against the naivete of imagining that being a gay or lesbian identified researcher creates the ground upon which to produce 'accurate' or 'truthful' representations of gay and lesbian geographies. It is crucial to take account of differences between sexual dissidents, and avoid obscuring crucial ways in which our exp. However, I do not seek to exhaustively catalogue the differences, or similarities, between myself and my research participants as such, and the positivist assumptions that such a project entails. I aim to interrogate my position as a white, gay, middle class academic male with Canadian citizenship, researching and representing queer refugee claimants, who are non-citizen, predominantly persons of colour seeking membership in a white-dominated Canadian polity.

Gender and Gender Identity

I situate my work on queer asylum within feminist political geography (see Brown and Staeheli 2003), though admittedly it is 'sexuality' and not 'gender' or 'women' that has formed the central analytic category through which I have approached this topic. While I do not consider my work to be gender-blind, and have endeavoured to examine the ways in which gender differentiates experiences of persecution and refugee adjudication, I have not addressed, and likely overlooked, a number of important issues specific to queer women claiming asylum, suggesting a need for further research in this area. With naïve ambition, I originally set out to consider transgendered refugee

claimants as part of my study, but quickly realized that achieving any kind of representational justice in this respect would be beyond the capacity of this particular project. I did interview one transgendered woman Convention Refugee, whose experiences raised a multitude of issues and concerns unique to transgendered claimants, again suggesting a need for further research that focuses specifically on gender identity-based asylum claims in Canada and elsewhere.

In the absence of official statistics on queer asylum, it is nonetheless safe to say that women are severely underrepresented in this category of refugee claims (and among refugee claimants generally), accounting for an estimated 15-20 percent of sexual orientation-related persecution claims represented by the lawyers I interviewed (Interviews 101, 102, 103). This substantial disparity suggests that access to asylum systems is mediated considerably by gender and the disadvantaged economic and social positions of women relative to men around the globe. This disparity calls for further investigation into and action against the structural barriers to women asylum seekers, and in particular lesbian and transgendered refugee claimants.

Of 17 queer refugee claimants whom I encountered directly, either through an interview or observation of a hearing, four were lesbian-identified women and one was a transgendered woman. These interviews varied widely in terms of the level of comfort and disclosure that interviewees demonstrated. As a white man conducting research on women of colour, I experienced some trepidation around the power dynamics of my relationship with these participants, as they probably also did. My efforts to convey an attitude of respect and sensitivity notwithstanding, it is impossible for me to know just how our respective identities influenced the exchange of ideas and information, and the degree of safety experienced by women and transgendered claimants in the space of the interview. As I discuss below, the issue of sexual identification proved especially

important to this dynamic, though by no means did a shared identification as queer allow me to evade other questions of power and positionality.

Class, Race and National Citizenship

The class backgrounds of my project's participants varied widely, as do those of queer refugee claimants in general. Many do not possess significant resources upon arrival and are in most cases dependants of the Canadian state for the first portion of their time in Canada. Their educational, employment and family backgrounds are relatively diverse, but lawyers I interviewed speculated that on the whole queer refugee claimants tend to be of a higher socioeconomic class background (generally middle income or wealthy) than other refugees (Interviews 101, 102, 103), which attests to the ways in which access to the asylum system is predicated upon possessing the degree of resources necessary to reach Canada in the first place. In many cases, my socioeconomic background was not substantially different than those I have researched prior to the migration process. However, by transgressing the political or social norms of their own societies, migrating abroad and launching an asylum claim, most queer refugee claimants are placed in a position of economic insecurity, having separated themselves from familial support networks at home and sometimes nationality-based community groups in Canada as well. Many of them arrive in Canada with next to no material possessions or financial resources, and face the difficulties of obtaining social assistance, housing and employment once here.

While the majority of queer refugees possess a high degree of fluency in English upon arrival (again attesting to their class backgrounds in the country of origin), some do not, and also face linguistic as well as cultural barriers to participation in Canadian society. Often isolated from immigrant or ethnic minority communities in Canada because of their sexual orientation, they face the 'double-edged sword' of homophobia

and racism or classism from a predominantly white, affluent gay community (see Espin 1999). All of the refugee claimants whom I encountered through the RRC in Vancouver were visible minorities, whereas I and three out of four of the other Canadian citizens regularly involved in the group were white. The privilege conferred by national citizenship also became apparent to me after talking with newly arrived immigrants and those already designated as Convention Refugees or Permanent Residents. The former groups' status as refugee claimants produced significant feelings of doubt, insecurity and apprehension, while the latter group were notably more confident and possessed a sense of legitimacy and entitlement to the rights of citizenship.

Research 'Outings'

Adopting Cupple's (2002) discussion of research and the field as a 'landscape of desire' (while keeping in mind the limitations of this metaphor, see Rose 1997), I now turn to questions of sexuality and self-representation in methodological practice. An important lesson emerged from reflecting upon my research practices and positionality on an ongoing basis: though I was in many ways different from and privileged in relation to my research subjects, our shared identification as queers was crucial to creating sentiments of trust, comfort and mutual affinity between myself and others. Cupples writes that "awareness of the need for cultural sensitivity and a concern not to offend members of a researched community mean that as ethnographers we might behave in ways that either conceal or augment aspects of our sexuality," in relation to shifting geographical contexts and their unique demands (2002, p. 384). In my case, I read widely prior to beginning research about the diversity of sexualities globally, and the different ways in which societies and individuals around the globe and throughout history conceive of and speak about their sexual identities or practices. As such, I became reticent to assert a shared marker of identity as sexual dissidents between myself and

those I was researching. Wanting to be respectful of the diverse ways in which people represent or do not represent their sexualities to others, I was reluctant to force labels of 'gay,' 'lesbian,' 'queer,' 'homosexual' on others who might not choose to identify as I did.

At the same time, I had grown accustomed to people I encountered assuming that I was openly gay, particularly after I disclosed the topic I was researching. This had proven to be true, I think, with most of my colleagues at school and people I met in my social life; who but an 'out' homosexual would be conducting this research, I thought? Unwittingly, I carried this assumption into meetings of the RRC, with which I became regularly involved, as well as research interviews. Rather than beginning my interactions with the statement "I am gay", or "I am conducting this research as an openly gay man", I simply identified myself as a student researching queer asylum for a masters degree thesis project at Simon Fraser University. While there were likely other ways in which I might have implied or let others infer that I myself was gay, I did not systematically or purposefully identify myself as 'gay' or 'queer'.

My assumptions were soundly defeated when, at the conclusion of my eighth interview, with a lesbian refugee claimant, she asked if I was gay and indicated that other members of the group (RRC) were unsure about my sexual identity. Somewhat surprised, I responded that yes I was gay, and inquired about whether she thought others had assumed that I was straight or were uncertain. Her response suggested that by aligning myself with an academic institution and identifying myself first and foremost as a researcher, I had also represented my sexuality as neutral (ie. ambiguous) or even implicitly heterosexual. This experience reinforces Cupples' (2002) point that research participants will attempt to sexually position the researcher, constructing his or her sexuality even as s/he attempts to 'put it aside'. Often, Cupples argues, a researched community may have preconceived notions of who the researcher is, that draw from a series of stereotypical sexualities, in my case of 'whiteness' or 'researcher'. (what about

my stereotypes of their sexuality? Exotic/romantic etc.) Gradually, others in the group learned that I was indeed openly gay (though not so open as I had thought!) and this 'coming out' coincided with a growth in familiarity and comfort between myself and the group more generally. I began to feel a greater degree of acceptance from others at meetings and in interviews, attesting to the importance of tactically 'outing' oneself as a queer researcher doing queer research.

Ethically, I am not sure whether it is important to enter research scenarios by explicitly 'outing' myself, but I have little doubt that practically this exercise crucially affected the way I related to queer refugee claimants. Given that they leave their countries because they feel insecure as sexual dissidents, and may continue to fear heteronormative or homophobic responses from others after arriving in Canada, identifying myself as a gay man was important in most cases to putting the claimant at a greater level of ease. This was crucial to their subjective feelings of comfort and security in disclosing often sensitive information about their lives and experiences. With respect to refugee lawyers and service providers whom I encountered and interviewed, I believe that my identification as a gay man was also important to establishing trust in me as a researcher; by remaining silent or ambiguous about my sexual identity, I invited suspicion around my objectives in research and the political, social or academic aims of my project. I draw these conclusions, albeit tentatively, not in order to essentialize my sexual identity or theirs, or to suggest that a heterosexually identified person could not conduct similar research. Rather, I believe that these experiences attest to the meaning attached to various forms of sexual identification in practical and politicized settings, and the apparent benefits that resulted from asserting a shared identity and sense of solidarity with those whom I researched.

At Home in the Field?: On the Location(s) of Research

Where is my research located? In a material sense, I have conducted this project at various sites in Vancouver and Toronto, Canada, in the spaces of my own home and those of others, the university, queer community centres, IRB hearing rooms, offices, and even on the street. Oftentimes however, the borders between field and home became invisible or ceased to exist. As Hyndman argues in her discussion of fieldwork as 'here and now, not there and then,' a conception of the field as "a physical location, conveniently cordoned off from the life of the researcher" is insufficient (2001, p. 263). The division between home and field became simultaneously more and less meaningful for me as I carried out my research project. It frequently seemed irrelevant or trivial as personal, professional and political spaces constantly blurred (particularly in comparison to colleagues who traveled over great distances to reach 'the field'). It also became emblematic of my privilege as a researcher with the ability to exclude myself from situations of material and psychological hardship that many of research participants experienced as ongoing realities. While I could choose to leave the work behind for a while when I became fatigued or distressed, many of the refugee claimants I encountered lived in suspense, awaiting hearing dates, IRB decisions or even deportation orders.

While I could easily designate interviews, committee meetings or observing hearings as 'fieldwork,' what happened when the tape recorder shut off, during breaks at the meeting, or over coffee after a hearing? Better yet, what was it to encounter research participants in more obviously 'social' or non-professional spaces like nightclubs or internet chat rooms? When and where was I doing or not doing research? As a novice researcher, these questions seemed rather intimidating but clearly loaded with ethical, practical and personal implications. Ethically, I remained faithful to principles of anonymity and confidentiality, and have tried to maintain and practice an

attitude of respect for the privacy of those whom I encountered. However, it would be dishonest to say that this research has been shaped solely through my experiences in the 'formal' settings of fieldwork, as all of my interactions during the time I carried out this project have in some way influenced my thinking the topic of queer asylum. These interactions extended beyond the scope of research activities to include discussions with a wide variety of friends and acquaintances on the subject of my research, in which I encountered attitudes ranging from interest and acceptance to skepticism and disapproval. It was often in these settings that I began observe the stereotypical assumptions and criticisms to which queer refugee claimants are regularly subjected, whether subtly or overtly.

As Hyndman (2001) writes, the act of delimiting the field in time-space maintains a hierarchy between research subjects and researcher, whose authority to know and represent is buttressed by the supposition of detachment and objectivity. She explains that this distinction of field-worker as outsider is a powerful act that may be resisted by research subjects. The inverse is also true; attempting to establish oneself as both researcher and 'insider' may be met with equal suspicion (and rightfully so). I sat uneasily in relation to insider/outsider roles as researcher, student, citizen, activist, friend, sexual dissident, and have not proven capable of maintaining myself as one or the other. Admittedly, my strongest motivations were often the demands of the research and graduate school process, which situated me more as an outsider. Confronted with the fraught realities of actually doing participatory or activist research as part of an academic project, I realized that I could neither simply invoke nor disavow my status as a researcher, nor avoid the political and personal entanglements associated with either. I occupied what Cindi Katz has called "spaces of in-betweenness, a place neither inside nor outside" (1994, p. 72).

Homework'

At one meeting of the RRC, a new refugee claimant, recently arrived from Pakistan, came to the group in search of accommodation after having unsuccessfully approached local shelters and even spending a night on the beach. As a member of the group, I offered temporary, if meager, lodging in my own apartment for a short while until a better situation could be arranged for the claimant. My decision to host a refugee claimant was spontaneous and unplanned but also reflected my desire to commit myself to the group's aims and activities beyond passive observation. I also saw an opportunity to contribute positively to the situation of queer refugees in a very small way, one that demonstrated my political alignment with the RRC. Ultimately this was a very minor act, as the claimant soon after found more permanent accommodation. Nonetheless, it literally transgressed the boundary between 'field' and 'home,' as I brought my 'work' home with me. This act was also fraught with complications and a host of issues I had not really thought about extensively. It placed both my roommate and I and the claimant in the somewhat awkward situation of living with a complete stranger, and I gave my roommate assurances that I would be present while our guest was in the house so as to avoid placing any undue responsibility upon him. This no doubt created an atmosphere of suspicion or at least reluctance for the claimant in what was already a very difficult, emotionally and physically draining time for him.

At present, he is no longer a refugee claimant, but instead a Convention Refugee, now living on his own, gainfully employed and apparently happier than ever. We run into each other frequently at meetings or in public, and our familiarity and affection for each other has grown significantly since his first difficult days in Canada. The experience challenged my own sense of comfort in relation to the project, which during that short time took on an intensity not since matched, as I witnessed some of the hardships faced by queer asylum seekers as he went through them. 'Professional' study

became very personal and emotionally charged, and admittedly after the few days he spent with me I was eager to reinstate the boundary between 'field' and 'home,' perhaps not having previously appreciated the privilege associated with being able to 'come and go' at will from the work as I wished.

My research experiences challenge conventional framings of the location of research not only in terms of the field/home distinction, but also with respect to 'place'. Working with migrants, a simple straightforward understanding of place as material setting fails to encapsulate the complex geographical attachments experienced by asylum seekers. Studying refugee determination entails not only a consideration of the physical settings in which processes of immigration, asylum and settlement take place, but also the broader geographical context of these processes. The sites of refugee determination are complexly situated in relation to countries of origin, transit and reception (as they are rather clinically termed), to various spaces within these countries, and the networks of social affiliation or economic and informational exchange that cut across them.

Between Performances: Politics, Activism and Research

She is situated, not by what she knows, but by what she uncertainly performs (Rose 1997, p. 316).

I began this research project with a desire to produce knowledge relevant not only to academic studies of sexuality, identity, migration and the state, but also to fields of knowledge and practice outside the academy (see Mountz 2002). While the success of this objective is still difficult to judge as I write, and in many ways remains elusive, I approached the research with the goal of improving the process of queer refugee determination in Canada through consultation with queer refugees themselves and their legal representatives. My early intentions to establish a 'collaborative' relationship with

the RRC were significantly tempered once I began to appreciate the difficulty and complexity of establishing meaningful collaboration, particularly as a novice researcher writing a masters thesis. However, I was and am still mindful of what Ong (1995) refers to as the 'ethnographic anxieties' associated with activist research, and the concern that relationships between researchers and their participant-collaborators are exploitative or serve primarily to buttress the professional development of the research. She reminds us that "the most critical point is not that we [researchers] reap material and social benefits from their [participants'] stories but that we help to disseminate their views and that we do so without betraying their political interests as narrators of their own lives" (p. 354). Encouraged by this line of thinking, I have endeavoured to make the research accountable through research analyses and practices that were both respectful of and relevant to those engaged in the process of claiming asylum.

To this end, I began fairly early in my research to establish a relationship with the RRC and its members, which I mentioned above. In this section, I would like to discuss the politics of my involvement with the group and my participation in its activities, as well as the politics of queer refugee activism in Vancouver. While these experiences provided me with an incredible range of insights, I will concentrate my remarks around the relationship between queer refugee activism, the politics of asylum and sexuality in Canada and my own research project.

The Rainbow Refugee Committee

The RRC formed in Vancouver in 1998, originally as a part of LEGIT, the Lesbian and Gay Immigration Task Force, a national organization with chapters in several Canadian cities. In response to a growing number of queer refugees seeking information and assistance from LEGIT (either in person at meetings or via phone calls and email), its coordinators decided that the issues presented by queer asylum claims

and by same-sex partnership immigration were substantially different and merited a separate but related organizations. Meetings take place monthly and are run primarily by the LEGIT coordinator, a local GLBT issues-oriented lawyer, and a staff person from the Centre, the Greater Vancouver GLBT organization's headquarters. Conducted on a drop-in basis, meetings are largely group-directed usually begin with self-introductions by all present, followed by a brief canvass of issues and needs at stake for those in attendance. From its inception, then, the group has been primarily service-oriented, focusing first on the interests of new and ongoing queer refugee claims and providing them with necessary legal and bureaucratic advice, personal support, and sometimes assistance with settlement needs (housing, social assistance allowances, education/language training, employment). Also involved were several members of the community who were not themselves refugee claimants or service providers, including myself and a community activist involved with Salaam, an association of queer Muslims with chapters in Vancouver and Toronto.

Typically, participants are at various stages in the refugee determination process: some have just arrived and made a claim at a port of entry, others have lived in Vancouver or Canada for some time and have not yet made a claim; some are awaiting an IRB hearing or hearing date while others await their decisions or permanent resident status. Thus, with members at all phases of the process, of various genders, races, nationalities, classes, sexualities and ages, the RRC is an incredibly diverse group. It is clear from meetings that this diversity is regarded as a strength, both a testament to the group's accessibility and inclusiveness, and its capacity to provide information to claimants of many different backgrounds and situations. The organizational structure of meetings and activities, or in fact, the lack thereof, may be in many ways responsible for the group's accessibility and its success in providing a venue for open dialogue and mutual support of many kinds. Though loosely 'chaired' by three people, most

decisions, ranging from agenda to the spending of (limited) funds, event-planning and involvement in political activities, are made in a consensus-building style.

During my time with the RRC, it embarked upon a theatre project designed to raise awareness around a number of refugee settlement-related issues in British Columbia, as well as participation in demonstrations in coalition with a series of other social justice and immigration rights organizations in Vancouver. These more overtly politicized activities took the group beyond its usual activities of offering information and support to individual refugee claimants, and attempting to promote changes in government policy through lobbying efforts. In the latter instance, political action took the form of advocating for change through 'official' channels, facilitated either by the coordinator's relationship with local politicians or the lawyer's involvement in legal professional associations with links to government. The theatre and demonstration initiatives espoused relatively different methods for raising awareness and promoting policy change, situated at a 'grassroots' level rather than at an 'official' level. While all members of the RRC consistently maintained an attitude of respect for the political orientations of other members, discussion at meetings suggested some significant differences in how (and in fact, 'where') members envisioned political change taking place.

Refugee Theatre

Originally conceived as a way of raising community awareness around a series of pressing settlement-related issues encountered frequently by the RRC, the theatre project endeavoured to inform the public, and in particular the queer public, with the objective of securing material support for queer refugees in their first months in Canada. While the dynamics of this project, both in and of itself and in relation to my research, could easily merit extensive consideration on their own, I will briefly describe 'queer

refugee theatre' and situate it in relation to my work, the work of the group, and the surrounding political and policy environment.

After taking office in 2001, British Columbia's Liberal Party government, emboldened by its overwhelmingly strength at the polls, embarked on a series of reforms and financial cuts to social support systems in the province. These included the introduction of a three week 'waiting period' for social assistance, and substantial cuts to legal aid. Both were justified under a neoliberal economic agenda of reducing government overspending and promoting economic growth in BC. The effects of these policies were to seriously damage the position of refugee claimants in BC, who, upon arrival to the country and often without any resources, were subjected to a three week welfare rule that often became more like five weeks. Refugee claimants could also no longer depend as they once had upon the legal aid system to provide financial support for hiring a lawyer and navigating the complexities of the immigration and asylum process. New rules were introduced that severely curtailed the amount of paid time with a lawyer for refugee claims, as well as the number of refugee claimants eligible for assistance at all. Some refugee claimants were flatly denied access to legal aid, without the disclosure of clear criteria on how these decisions to grant legal funding for refugee claims were made. Several categories of asylum-related legal actions, including pre-removal risk assessment and Federal Court of Canada appeals, were completely removed from the legal aid funding scheme.

In light of the experiences of several RRC members with the BC welfare system, the group chose to focus the theatre project on social assistance issues by dramatizing welfare interviews between refugee claimants and welfare workers. These scenarios were compiled from a series of real accounts from queer refugee claimants, who told their stories at meetings and in special theatre-preparation meetings that utilized improvisational techniques to recreate interactions with the welfare system. Several

queer refugee claimants were initially ruled ineligible for welfare or for a waive of the three-week waiting period. While one was told that by living with a women with whom she had begun a relationship, she was now the common-law partner of her girlfriend, who was consequently financially responsible for her. Other claimants were questioned about why they could not obtain financial support from their families (from whom they were separated after coming out) or their home states (from which they were fleeing). Some were denied eligibility because they could not establish proof of a history of employment and financial independence (in another country!). As a result, several claimants found themselves in states of financial, material and psychological insecurity, left without money for accommodation, food and other basic needs after arriving in Canada.

The 'refugee theatre' performances took place at several times and locations and attempted to expose the heterosexism and racialized effects of the welfare system. As a member of the RRC, I participated in the theatre project not just as an observer but as an active participant, helping to envision a strategy for creating skits, aiding in the writing and rehearsing of skits themselves, and playing a role in one of the scenarios. This at times challenged my own comfort level and touched upon my insecurities related to acting, but the experience was rewarding on personal, political and professional levels. While my contribution was fairly minimal, being involved in the project as 'more than an observer' allowed me give something back to the group and demonstrate my commitment to its causes. Though the subject material of the theatre project was not directly applicable to my thesis research, my involvement brought great insight to the social and political context that surrounds queer asylum determination and permitted me to shift the terms of engagement with my research 'subjects'. I came to know them not just as interviewees but as complex beings facing conditions of material and psychological hardship but also espousing great hopes and aspirations for their futures

and exhibiting tremendous determination to remain in Canada and establish new lives here.

Inspired by the theatre project, which initially developed from a suggestion made by one of the RRC members, I began to consider questions of performance more explicitly in my research, both in terms of 'content' (the refugee determination process) and 'form' (research methodology). Pratt's (2000) discussion of 'research performances' suggested ways of thinking and writing that I had not previously considered. Although this thesis is written in the pervasive 'realist' style that she critiques, I have tried at certain points, particularly in this chapter, to reflect upon my own subjective experiences of research as of way of contextualizing some of my claims – not in order to improve their 'accuracy' (see discussion of transparent reflexivity in Rose 1997), but to foreground my embodiment as a researcher engaged in various performances. Examining refugee determination through the lens of performance also proved fruitful, and highlighted some of the ironies of 'refugee theatre,' which were hardly lost on the actors. As we rehearsed for and nervously awaited our performance 'gigs,' skit participants reflected upon the parallels between rehearsals for refugee theatre and for refugee hearings. Indeed, theatrical metaphors were common at RRC meetings, and members sometimes counseled each other in ways that mimicked dramatic rehearsals. Advised by others, the group considered what adjudicators were looking for, and those with upcoming hearings attempted to memorize their narratives (mindful of sticking to details declared in the PIF).

On the Inquisitive 'Logics' of Refugee Determination and Research

Throughout the immigration and asylum process, agents of the state subject queer migrants to 'logical' inquisitions that attempt to assess a claimant's identity, experiences and motivations through a lens of 'rational' thought. In fact, these

inquisitions extend beyond the official spaces of governance to informal encounters with 'members of the public' in the spaces of everyday life, as queer migrants struggle to define and explain themselves in relation to various sociospatial contexts. This constant demand to account for oneself and one's actions can prove psychologically taxing, in that individuals are called to answer for a variety of 'decisions' and actions in their pasts.

As I designed an interview questionnaire and fashioned my research objectives, I was concerned primarily with accessing the logics behind refugee determination discourse, in order to subject them to critical evaluation. What I did not fully realize was the way in which this tended to produce a series of questions that mimicked the encounter between the migrant and the state in refugee status hearings and other immigration proceedings. By the time I consciously noticed this rather disturbing congruence, I was well into the interview process. While I believe that interview experiences suggested a significant degree of trust and good will between myself and participants, this tendency may have proved alienating to interviewees in the same way that it often does in asylum proceedings.

While the project unfolded, I also began to notice the ways in which my own quest for knowledge of claimant's lives and circumstances mirrored the inquisitive practices of the state as it probed claimants for intimate, personal details and demanded that they explain themselves 'rationally'. My encounter with one interviewee and his weight case docket of information (see above) again comes to mind as an example. Having already had the details of his life subjected to 'rational' legal judgment, he wished to avoid a similar experience with 'rational' research.

I tried to avoid unearthing absolutely everything that could be relevant to the claim and respect the privacy of participants and their right to decline to answer questions or terminate an interview. However, I began to realize the power of simply posing a question, and the expectations that this act placed upon participants. I think that my

discomfort in asking certain questions reflected my discomfort with, and skepticism toward, the inquiries adopted by the state. This experience highlights the potential for unintentional collusion between research and state discourses, and begs a reconsideration of the ways that questions are posed to research participants.

My intention, after all, is not to subject the details of individual claims to a superior form of procedural logic than the ones deployed in official spaces. Instead, I concentrate upon critiquing these logics⁹ themselves, and their assumptions about sexuality and space. This position attempts to recognize the partiality of my research as an intervention, rather than an implicitly better reading of the specific persons and events at issue in individual claims.

Having cast a geographically wide 'net' by not limiting my analysis of queer refugee claims to particular source countries, I am certainly not in a position to offer competing, or implicitly better, renditions of what it is like to be queer in a given country. Because sexuality is articulated very differently in various geographical contexts and by different individuals, reflecting unique and evolving interpellations of 'local' and 'global' influences (Binnie 2004), there cannot be any definitive report of what it is to be queer in different places. I have tried to limit my commentary to the refugee determination process in Canada and some of the assumptions about sexuality and space that are displayed there. At times, by way of example, I discuss the cultural construction of sexuality in a given location in order to problematize these assumptions, but I do not wish to enter into a sustained debate about what it is 'really' like 'over there'.

I endeavour instead to review some of the more common understandings of identity and place at/from various points in the process of refugee determination and hopefully demonstrate how they are put in practice to determine movements/belongings

⁹ Logic is pluralized here in order to recognize that refugee determination is characterized not by any single 'state' position or mode of interpretation, but by multiple state perspectives embodied by a diverse set of actors and institutions called the Canadian state (see Mountz 2002).

and influence subjectivities. Ideally, this project will contribute towards a re-visions of the interaction between the state and sexual dissidents seeking asylum, and the wider fields of inquiry and governance that surround it. In order to ground this objective, however, I will close the thesis with a series of more concrete suggestions, not as a definitive statement on queer asylum, but rather as a commitment to dialogue between academic work and the practical settings from which it draws its subject matter.

Concluding Positions

I have used this chapter as a venue for outlining the basic research methods employed in the project, as well as for discussing several interrelated methodological themes –each of which defines the meaning of ‘research position’ a bit differently. I began by positioning myself and my research participants along multiple axes of difference that crucially shape our relationships to each other and various modes of governance and belonging. I then positioned the research project in relation to a tenuous division between field and home, and a wider geographical network of migration. Finally, I considered the political positions of my research by describing my activist commitments, the politics of queer refugee activism, and the objective of influencing decision-making approaches in queer asylum determination.

The performative invocation of various identities and boundaries (same/other, citizen/refugee, sexual dissident, field/home, academic/activist, nation, to name a few) comprises a series of key moments through which my research methodology shapes and is shaped by the social forces around it. I do not discuss research, identity or boundaries as performative undertakings in order to suggest them as ephemeral or easily changeable, however; we are all invested to greater or lesser degrees in particular performances and frequently tend to experience them as ‘real’. The dramaturgical metaphors involved in my discussion of performance, especially in reference to the

theatre project, might be construed as frivolous or playful when in fact, in the refugee hearing, the consequences of a decision could scarcely be more dire. Instead, viewing my research project and the practices (of identity formation and state regulation) it studies as performances emphasizes their partiality and geographical/historical contingency. My arguments about the identification as queer shared between researcher (me) and research participants, the geographical framing of research location (field/home, country of origin/reception), and the espousal of activist and academic objectives are all predicated upon particular performative invocations. The point I would most like to make, then, with respect to methodology, is how these distinctions were or were not invoked shaped the research process in often unforeseen yet crucial ways. Doing research without espousing conventional methodological framings (objective detachment, field/home, theoretical/practical), I tread a sometimes fraught, uncertain path between different performances and commitments, finding myself in a variety of queer research positions.

CHAPTER FOUR.

REFUGEE QUEERINGS: SEXUALITY, IDENTITY AND PERFORMANCE IN ASYLUM DETERMINATION

At the police station they asked me if I was a homosexual and I said yes; then they asked me if I was active or passive and I took the precaution of saying that I was passive. A friend of mine who said he played the active role was not allowed to leave; he had told the truth, but the Cuban government did not look upon those who took the active male role as real homosexuals. There were also some women psychologists there. They made me walk in front of them to see if I was queer. I passed the test, and a lieutenant yelled to another officer, 'Send this one directly.' This meant that I did not have to go through any further police investigation. They made me sign a document stating that I was leaving Cuba for purely personal reasons, because I was unworthy to live within the marvelous Cuban Revolution (Arenas 1993, p. 281).

To alienate conclusively, definitionally, from anyone on any theoretical ground the authority to describe and name their own sexual desire is a terribly consequential seizure. In this [the 20th] century, in which sexuality has been made expressive of both identity and knowledge, it may represent the most intimate violence ever possible. It is also an act replete with the most disempowering mundane institutional effects and potentials. It is, of course, central to the modern history of homophobic oppression (Sedgwick 1990, p. 26).

Refugee protection in Canada proceeds with the objective of freeing individuals from situations of persecution on the basis of race, religion, nationality, political opinion, or membership in a particular social group. In order to receive the protection of the Canadian state, however, individuals must prove that they are, in fact, persecuted on one or more of these grounds –in the category at hand, because of their sexual orientation. The emergence of queer asylum is a notable moment in the history of sexuality, for it is a phenomenon whereby the state marks individuals as sexual dissidents not for the purpose of repression but in order to liberate them.

A significant precursor to the contemporary practice of queer asylum in Canada and several other countries were the events surrounding the so-called Mariel boatlift of 1980. During this time, 125 000 Cubans left for the US from the port of Mariel, among them political dissidents, homosexuals, mental patients and criminals (Pedraza 1996). Arenas (1993) writes about the experience of having to demonstrate his homosexuality to state officials in Cuba for the purposes of 'screening'. Concerned that others would try to leave the country via this means, the Cuban government sought to discern 'authentic' homosexuals from the general populace through interrogation and examination. In the encounter he describes above, excerpted from his autobiography, he submits to a series of questions about his homosexual behaviours, while a panel of psychiatric 'experts' examines him for bodily signs of homosexuality (in this instance, the way he carries himself while walking). He is then made to legally acknowledge the 'personal' reasons for his expulsion from Cuba, and his lack of fitness for citizenship in the nation. This account appears in Arenas' autobiography as one of a series of profoundly alienating encounters with the state, to which he is set in opposition by virtue of his position as a avowed homosexual and a writer openly critical of the government.

Operating in the reverse mode, the process of queer asylum investigates the sexuality of individuals and produces refugee claimants as authentically homosexual for the purposes of their inclusion in the receiving nation. To what extent does this process of 'authenticating' the sexual identity of individuals mirror practices of exclusion, or reproduce their logics? At first glance, it may seem rather tenuous to compare the activities of a benevolent state and its efforts to free individuals with situations in which bodies are marked as sexual dissidents through their targeting for acts of repression and violence. Certainly, there are important differences, not only in the rationales underlying these processes, but also in their strategies. Nonetheless, I was struck by a number of similarities upon revisiting *Before Night Falls* after conducting research on queer asylum

in Canada. My objective here is not to paint all acts of state identification of homosexuality with the same, broad brushstrokes. Instead, I wish to pose a series of questions around the production of sexual identity in refugee determination proceedings that critically examine how the state comes to know a subject as homosexual and what consequences these procedures of 'finding out' have. If we take the warnings of Eve Sedgwick (1990) seriously, the consequences are indeed significant, and I argue in some cases, potentially threatening to the security of individuals. Extending her caveat, I contend that the kind of definitional seizure of sexual identity that she describes is also central to the modern history of homosexual 'liberation'.

This chapter examines asylum determination proceedings as a site at which the social construction of sexual identities is revealed, as refugee claimants struggle to 'prove' their homosexuality through a series of performances. I consider how subjects are discursively produced as 'queer' and as 'refugee' through a series of performative utterances. Refugee determination proceeds by eliciting various performances of sexual identity, the credibility of which are judged by IRB members. Their readings of these performances are filtered through dominant Western constructions of sexuality, in particular the homosexual/heterosexual binary. I argue that 'evidence' of a homosexual identity is produced through and structured by various hegemonic understandings of what it is to be gay/lesbian: sexuality as appearance, as 'coming out,' as sexual intimacy or relationships, and as community. Are these understandings of sexuality essentialist, and might we consider performances of sexuality in refugee status proceedings as a kind of strategic essentialism? I employ these understandings as conceptual categories more for analytical clarity than to suggest that they operate as distinct entities in the field of queer asylum. This section will explore the geographical dimensions of these conceptions of sexual identities and the ways in which various places and spaces are framed in relation to refugee claimant subjectivities.

Before examining the empirical context of queer asylum, I will first investigate the term 'homosexuality' and its relation to the production of a homosexual subject. Michel Foucault, in the first volume of the *History of Sexuality* writes of the emergence of a distinct 'homosexual' identity in medical discourse during the nineteenth century:

As defined by the ancient civil or canonical codes, sodomy was a category of forbidden acts; their perpetrator was nothing more than the juridical subject of them. The nineteenth-century homosexual became a personage, a past, a case history, and a childhood, in addition to being a type of life, a life form, and a morphology [...] The sodomite had been a temporary aberration; the homosexual was now a species (1978, p. 43).

He situates the transformation of sexuality from practice into identity, as new forms of power-knowledge created a homosexual subject out of multiple, scattered thoughts, pleasures and acts. The nineteenth century invention of this subject also created for it a series of characteristics said to be integral to homosexual identity, such that homosexuality came to represent not only a behaviour but a kind of *being* who embodied certain traits. In this chapter, I will demonstrate some of the ways in which the idea of the homosexual subject as exhibiting particular sets of characteristics is at work in refugee hearings.

Judith Butler poses the critical question of "whether homosexuality is not the kind of term that threatens –or promises –to become its own referent, that is, to constitute the very sexuality to which it refers" (1997, p. 108). The term 'homosexuality,' she argues, "cannot exhaustively or fully perform its referent" (p. 108); that is, it fails to capture the complexity and ambiguity of sexual desire and expression. Rather than describing an already existing entity, it only constitutes this entity in language. In refugee law, the unwieldy array of thoughts, acts and traits (both exterior and interior) said to constitute sexuality are translated into language and condensed into the term 'homosexuality'. Certainly, there are non-discursive elements to refugee determination. At the refugee hearing, the adjudicator observes the claimant 'in the flesh' and his or her bodily signs of

'refugeeness,' which may factor into decision-making. Nonetheless, any justification for a decision must appear in the form of language, so that the law might function coherently, even if it is through the simple enunciation: "I accept on a balance of probabilities that you are a homosexual" (IRB 2001, March 13). This statement is typical of queer asylum decisions, which generally draw a formal conclusion as to the claimant's identity as homosexual/gay/lesbian. The danger here is that the term 'homosexual,' especially with respect to so potent a force as the law, may potentially exclude alternatives to a hegemonic conception of what it is to be 'gay,' instead enforcing a uniform and universal vision of 'the' homosexual subject.

Edkins and Pin-Fat write about sovereignty and subjectivity as performatively constituted, in relation to one another: "The inscription of particular forms of subjectivity produces and legitimizes the political arrangements of sovereignty . . . the residues of this process of writing are erased, giving the appearance of already existing entities or objects and obliterating the production and operation of power" (1999, p. 2). Refugee determination proceedings, then, play a generative role; far from simply uncovering pre-existing categories of persons such as 'refugee' or 'homosexual,' the state actively produces these subjectivities through activities such as the asylum hearing.

Demonstrating a failure of state protection is therefore crucial to meeting the definition of Convention Refugee precisely because it reveals a lack in the sovereign order of states, a temporary aberration that the Canadian state is meant to fix by assuming the responsibility for protection of the individual in question. Following the argument of Edkins and Pin-Fat, who draw from Foucauldian understandings of power and subjectivity, I consider queer asylum not as a site at which identity is simply verified, but where identities of 'refugee' and 'homosexual' are actually produced through state institutions, mirroring dominant understandings of what it is to be gay or lesbian.

Surrounding queer asylum is a rather pervasive sense of anxiety around the possibility of abusing this new category of immigration. Certainly, the fear of claimants “faking” stories of persecution or personal characteristics in order to gain asylum is not unique to *queer* refugee cases (Jimenez 2003, December 06). Nonetheless, a visible concern has arisen over the potential for people to ‘pretend to be gay’. The headline for a special report in *The Globe and Mail* reads: “Mohammed Syed says his sexuality puts his life in danger back home and he prays that Canada will grant him sanctuary. Trouble is, so many asylum seekers are claiming to be gay when they’re not” (Jimenez 2003, December 06). Though it is impossible to know how many fraudulent queer claims have been advanced in Canada, the newspaper depicts this possibility as a “loophole” in the system, rife with the potential for abuse. The article continues, “Canada is renowned for its sexual tolerance, but many of the same-sex newcomers have run into a problem: The authorities suspect that many of them simply aren’t what they claim to be” (Jimenez 2003, December 06). Against the backdrop of a benevolent ‘gay-friendly’ state, the issue of fraudulent claims is presented as serious burden for genuinely queer claimants, in that it has given rise to an atmosphere of heightened suspicion around sexuality-based claims.

The article then outlines the IRB’s response to the possibility of “faking” a queer identity, through an investigation of methods for ascertaining the truth of a homosexual identity. “The copycats may not realize that the IRB expects to see proof and will ask them all manner of questions about their personal lives. Panel members will want to know about their first sexual experience, meeting places for gays in their home country, the history of homosexual persecution and what kind of gay lifestyle they are now leading” (Jimenez 2003, December 06). This account presents the series of questions around sexuality and identity posed during the asylum process as a legal means for producing “proof” of a sexual identity and thereby screening out fraudulent claims. The

above statement reflects several, though not mutually exclusive, understandings of sexuality, with the latter part conceptualizing of homosexuality as embodied not just through particular sex acts or sexual relationships, but in a “gay lifestyle”. But what precisely does this mean?

Looking the Part: Homosexuality as Appearance

The visual, or that which gets seen, is driven by and redeploys particular cultural knowledges and blindnesses (Luibheid 1998, p. 486).

To what extent does a claimant’s appearance influence the outcome of his or her claim? Is the apprehension of readily observable characteristics, including style of dress, comportment, mannerisms, speech patterns or other visible markers of identity, an important consideration in determining refugee status? In reviewing IRB decision-making, it is clear that readily observable stereotypes of homosexuality are not typically cited as reason for doubting the veracity of a claimant’s testimony as to his or her sexual orientation. In some cases, however, a member’s analysis has suggested that because the claimant’s sexuality is not readily apparent to other members of society, he or she may not face persecution. Addressing the role that stereotypical masculine or feminine traits play in asylum adjudication, a lawyer commented, “I’ve had decisions where board members have actually said things like, ‘you come across as being fairly feminine, so why should you be worried about being seen as a lesbian?’” (Interview 101). He further added that he had witnessed adjudicators employing this same logic in gay men’s claims, and that this rationale had been used in deciding to reject some claims. In other cases, we can only speculate as to whether a claimant’s relative success or failure to ‘look the part’ of a homosexual has any bearing upon decision-making.

Anecdotal accounts of queer asylum taken from interviews suggest that observable markers of identity continue to play a role in refugee hearings. A lesbian refugee

claimant recounted to me, "In my hearing, the presiding member said, I have no doubts about your sexuality, that you're a lesbian. Based on my PIF, I think, and also the way I look" (Interview 211). The claimant, now a Convention refugee, considers that her appearance makes her visibly identifiable as a lesbian, with a short, cropped haircut, and more 'masculine' clothing and physical comportment. She suggests here that because of her appearance, it seemed logical to her that the adjudicator would not question her claim to a lesbian identity. Claimants whose personal characteristics are not so readily identified as "homosexual", may find their claims challenged on this basis. An immigration consultant I interviewed commented:

I've had people come back to me [after a refugee hearing] and [the board member] commented on things like, well, you don't look like a lesbian. It's clear that within the context of the hearing, there is the necessity to demonstrate that yes in fact you are a member of this particular social group. So you do have to demonstrate that you are indeed a gay man or a lesbian or a transsexual, clearly that's part of the process. But, certainly the experience that the refugee claimants have is that they hear that with some level of judgment. That when they're asked, that when it's said you don't look like one, it kind of challenges them to prove what they are despite what they look like" (Interview 301).

The consultant's analysis highlights an epistemological tension that arises in queer asylum claims over the authority afforded to the self-knowledge of claimants versus the legal authority of adjudicators charged with the task of 'authenticating' a claimant's homosexual identity. The statement, "you don't look like a lesbian" presents a clear challenge to a claimant's self-knowledge.

The case of Fernando Enrique Rivera, a Mexican gay male claimant, though perhaps anomalous in terms of its reasoning, illustrates the problem of "looking the part" in refugee hearings. An IRB member rejected his claim in 2002, reasoning that Rivera was not "visibly effeminate", and would therefore not be perceived as gay or consequently subject to persecution in Mexico (Jimenez 2004, May 04). "Effeminate gestures come naturally and unconsciously," she concluded, "If he were indeed visibly effeminate, I do not think it is likely he would have been able to easily land a job with the

'macho' police force of Puerto Vallarta" (Jimenez 2004, May 04). The member's analysis conflates homosexuality and effeminate behaviour or appearance; while she does not directly doubt the claimant's homosexuality, her conclusion is premised upon an understanding of queer persecution in which perceptions of effeminacy and homosexuality are necessarily intertwined.

In *The Advocate*, a US gay and lesbian publication, the headline read: "Too butch to get asylum: the Canadian government says Fernando Enrique Rivera is not nelly enough to be in danger of persecution, so it's sending him home" (King 2004). This invokes a masculine "butch" image of the homosexual male, one who is indistinguishable from his straight counterpart, unlike a more effeminate image of homosexuality embodied by the "nelly". Accompanying the article is a colour photography of Rivera, who clearly embodies the stereotypes of a 'straight' masculinity. *The Globe and Mail* offers several of Rivera's attributes as indicative of his masculinity: he "lifts weights, wears his hair closely cropped and favours jeans and conservative sports shirts [...] Handsome and chivalrous, Mr. Rivera always opens doors for women and walks on the side closest to the curb. He enjoys soccer and computer games" (Jimenez 2004, May 04). The body's display of "masculine" traits, pursuits and behaviours become culpable in rendering its 'true' sexuality illegible to the stereotyping eyes of an asylum adjudicator, and, it is alleged, agents of persecution. Because Rivera does not 'look and act the part,' he is not initially read as gay.

Rivera reveals the performed aspects of sexual identity in asylum proceedings as he comments, "I know some gay refugees who put on lipstick and dressed effeminately for their hearings because they thought it would help their case. But that is not who I am" (Jimenez 2004, May 04). According to his account, some claimants actively adopt or 'play up' effeminate characteristics, employing stereotypical renditions of homosexual identity in order to establish themselves as gay within a hegemonic framework.

Ironically, these are the very features of a 'visible homosexuality' that many sexual dissidents are at pains to hide in contexts where they feel at risk of persecution:

Women generally have longer hair, they don't have short hair. Men really curb their behaviour, how they are, in terms of their bodies, gestures, speech patterns. They're very careful in terms of trying to behave in a way that doesn't show them as being gay or lesbian. So, clothing people wear, make-up that they use or don't use. So I think a lot of those visible, external things are the first, that's kind of the first impression (Interview 301).

These visual aspects of conformity are crucial to ensuring a feeling of greater security by 'passing' as heterosexual and avoiding the additional scrutiny that comes with 'looking' queer. As Hyndman and de Alwis explain, "[p]eople actively construct their identities in ways that will reduce harassment and threats –either perceived or real" (2004, p. 550).

The body figures here as the crucial scale at which appearance, comportment and mannerisms are closely monitored in different contexts: by sexual dissidents trying to avoid being targeted by potential persecutors, by queer asylum seekers trying to improve their chances of success, by board members examining the body for evidence of an effeminate homosexuality (as would agents of persecution, she argues), and by a gay man resisting a stereotype of homosexuality and asserting his own 'authenticity'.

At meetings of the Rainbow Refugee Committee, of which I was a part, the group would often attempt to prepare claimants for their hearings through discussion of strategy for testifying and potential lines of inquiry adopted by board members and refugee protection officers. A member of the group suggested that ascertaining sexuality was not just about 'looks,' it was about 'energy,' and in particular masculine or feminine energy. This suggestion forms part of the notion of 'gaydar' popularized among gays and lesbians seeking to identify each other in a heteronormative social environment. However, 'gaydar,' as a learned process of picking up on ostensibly 'gay' traits, may be utilized not just by queers but by others seeking to ascertain the truth of an individual's sexual identity –in the case at hand, agents of persecution and asylum

adjudicators. Though it presents a highly problematic approach to ‘assessing’ sexuality, ‘gaydar’ inevitably factors into asylum proceedings, just as it does in the everyday experiences of queer people and those around them.

Readings of homosexuality as appearance are also problematic because of their aspatiality; individual subjects are not geographically contextualized but instead evaluated in the abstract space of the hearing room. One lawyer representing GLBT refugee claimants asserts,

[IRB members] say ‘well, you’re not effeminate’. Well, first of all, they’re making an assessment of femininity and masculinity based on North American understandings of those concepts. I remember reading a paper by an African American lesbian woman who lived in Jamaica, where she talked about not only did she have to go into the closet when she was in Jamaica, but she had to actively assume a heterosexual identity. When you’re talking about Latin America, where’s there is a certain sort of machismo culture, where there’s an expectation that a man will behave a particular way, in the context of women, in the context of manifestations of his sexual prowess [...] Somebody who’s gay, whether they’re overtly feminine or not, has to assume a particular persona within that social context [...] I may not be particularly quote/unquote effeminate, but what about the people I socialize with? If I’m in a group of people that has, y’know, butches and femmes, I may not be a femme, but would I be targeted, as sort of guilty by association? And again, the perceptions of what is masculine and what is feminine, what we as North Americans have defined as masculine, might not be defined in some other cultural contexts as masculine. In some contexts, masculinity means that you have a girlfriend or girlfriends, that you brag about your sexual conquests, and so forth, and that’s reality. If people are unable or unwilling to do that ... [trails off]” (Interview 101).

His comments highlight the geographical embeddedness of various readings of masculinity, femininity, heterosexuality and queerness. Aside from the problematic assumption that it is only deviation from gender norms in appearance and demeanour that mark individual subjects as queer, board members also make assessments of masculine and feminine behaviour based on ‘North American’ understandings of gender and sexuality. While even the category ‘North American’ is itself not monolithic, the lawyer’s point is nonetheless an important one. Attempting to place themselves in the positions of potential agents of persecution, adjudicators attempt an impossible feat;

their own assumptions about who 'looks' queer cannot possibly stand in for an actor situated in an entirely different geographical context.

This lawyer's assessment also suggests that being perceived as queer is about 'more' than just appearance; it also has to do with one's situation in social space. For instance, he explains, an individual's location within particular sociospatial contexts may mark him or her as queer, or "guilty by association". Queer sexuality may also be figured in relation to an absence or lack of heterosexuality, and not simply in terms of an explicitly 'homosexual' appearance. The lawyer's explanation depicts heterosexuality in certain contexts (in this instance, he refers explicitly to 'machismo' culture in Latin American countries) as an active performance of identity, the truth of which is produced through the performative invocation of sexual exploits with women and a kind of masculine bravado. This conduct performs its natural referent: heterosexuality. According to the interviewee, a failure to engage in this sort of performance marks individuals, particularly men, as queer.

Get Out and Stay Out: Homosexuality as 'Coming Out of the Closet'

Much of the claimant's description of his social activities as a gay male in the past in Mexico was not appreciably dissimilar to his activities since he has been here in Canada. He led a somewhat discrete lifestyle there and he has generally continued to do so here (IRB 2001, May 18).

The IRB case excerpted above, on the refugee claim of a gay man from Mexico, stands in sharp contrast to a successful claim from a Mexican gay man in March 2005. In the latter decision, the IRB member opted to grant asylum owing largely to the claimant's 'outness'. This claimant had repeatedly faced persecution while trying to live openly with his male partner in Mexico, and refused to disavow his sexual orientation when other members of society confronted him with his apparent 'homosexuality'. While the claimant did not embody readily observable stereotypes of an effeminate

'homosexual' masculinity (as discussed above), he regularly identified himself as gay to others and did not attempt to hide his relationship with his partner. Largely because of his refusal to be closeted, and his 'out' personality, this claimant received asylum, while the 2001 claimant referred to above did not. The adjudicator reasons in this decision that the claimant's lives in each country are too similar; in both countries, he exercises 'discretion' around his sexuality, thereby demonstrating a lack of well-foundedness in his claim. The difference in the outcomes of these two claims suggests that the performance of an 'out' homosexuality once in Canada serves to reinforce the narrative of repression/freedom that often structures asylum thinking.

What do these cases tell us about the concepts of the closet and coming out as they are understood and applied in refugee determination proceedings? I argue that adjudicators' readings of the claimant's relative 'outness' or 'closetedness' are crucial to understanding whether he or she meets the refugee definition. I also provide examples of how 'evidence' of homosexuality is produced through coming out narratives: claimants are often asked about or offer stories of their experiences of coming out to themselves, their friends and families, or 'outing' themselves to people at work, on the street or in other settings. These narratives function as a way of eliciting performative speech acts from the claimant which provide the law with a (homosexual) subjectivity over which it can exercise control. Brown's (2000) work reviewing gay men's oral histories is instructive in this regard, as he considers how these subjects "conceptualise and operationalise the closet in their narratives in order to infuse performativity with a geographical imagination: one that tacks between metaphorical and material closet space for the individual body" (p. 28). In refugee determination, geographies of the closet heavily influence the decision to grant asylum, both at the scale of the body and of nation. Performing 'outness' in Canada and 'closetedness' in the country of origin are sometimes prerequisites for receiving refugee status.

Encounters between Amy, a lesbian claimant from Malaysia, and the presiding member and refugee protection officer (RPO) at her hearing, illustrate the importance of the closet concept in refugee determination proceedings. In the following episode, the board member and RPO attempt to understand the claimant's testimony through the structure of the closet, which is crucial to how the claim is decided. Amy arrived in Canada to make her refugee claim after an extended stay in the US of over a decade and a half, during which time she lived and worked almost entirely within a community of Chinese-Malaysian Americans. During her time in the US, the adjudicator surmised, she had almost exclusively remained 'in the closet'; she did not connect with "the gay and lesbian community" (a repeated emphasis of the adjudicator) other than to attend a pride parade on two separate occasions. Her sexual experiences were limited to a brief encounter with a female co-worker, who declined her attempts to initiate sexual intimacy. When quizzed about the extent of her involvement in "gay venues", or with "the gay and lesbian community in Canada", Amy responded that she had become involved with the Rainbow Refugee Committee, volunteered with the local GLBT centre, participated in gay and lesbian badminton nights, and occasionally ate dinner with friends at the Fountainhead, a local restaurant with a predominantly gay clientele. She recounts these activities as performances not only of a lesbian identity, but also of an 'out' queer woman, in sharp contrast to her experience in the US, which is performatively constructed as 'in the closet'. The RPO demanded, in a decidedly skeptical tone, that the claimant account for this 'switch': why she was "so active here, and not in the US?". Amy replied that her illegal status in the US was the reason for her lack of 'outness'. She also added that she "just didn't think about it [her sexuality]". The RPO and the board member appeared particularly confused by this response; the RPO asked, (in a rhetorical tone) "Why would being a lesbian have anything to do with being illegal in the US?", while the board member insisted that "you could be out in the US and it would

have no bearing whatsoever on illegality”. The member continued, stating that the claimant “could have stepped outside the Asian community” and “could have led a double life”, further posing, “is it important to you to be out?”.

Amy’s experience of her expired immigration status in the US and her lesbian sexuality were tightly coupled, such they were almost inseparable in her mind. As an ‘illegal alien’ and a sexual dissident, she felt positioned insecurely with respect to society and the state. The board member and the RPO did not appear to accept, at least at first, this connection; for them, the claimant’s sexuality was not a legal matter and held no bearing on her status in the US (even though, at the time she arrived, neither the US nor Canada accepted refugees on the basis of sexual orientation, and the legal environment for sexual dissidents was substantially less supportive or accommodating than at the present time). Amy’s lack of association with “the gay community” especially troubled the adjudicator’s logic. She further commented that “If you didn’t think about it, it can’t be that important to you,” and that if she were a lesbian, “she could walk four blocks over in New York City and find a community to support me . . . start hanging out in gay clubs and reading gay magazines”. This approach presents a rather problematic geography: not only does the adjudicator speculatively insert herself into the claimant’s position, despite differences of race, culture, class and sexuality, she also conceives of the social geography of the city in remarkably simple terms. She suggests a “double life” as an obvious way of negotiating between a dissident sexuality (as a lesbian) and participation in an ethnocultural community (as a Chinese-Malaysian in America), seemingly ignoring the extent to which access to the gay community (if indeed, such an entity exists in ‘straightforward’ terms) is partially determined by wealth, cultural and linguistic fluency, and gender.

The board member’s comments drew a distinct trajectory of metaphorical movement out of the closet that corresponds with Amy’s geographical movement from

Malaysia to the United States and then Canada. In her decision, she noted that the claimant “lived a very closeted life” in Malaysia, and was “so closeted” that her family was not aware of her sexuality. She further summarized that Amy had also remained largely in the closet during her time in the US. The board member then offered that it was only upon Amy’s arrival and settlement in Canada that she came out, became more active in the gay (queer) community and “woke up” to the reality that she did not have to continue living in the closet. Characterizing the situation of homosexuals in Malaysia as “oppressed”, owing to the requirement that they remain discrete with respect to their sexuality, she concluded that the claimant “could no longer pretend to be straight,” and would not be able “to go back into the closet now”. The member specifically referenced Amy’s statement that she “would tell everyone” about her sexuality if she were granted asylum as “a turning point” in her decision to find Amy to be a Convention refugee. Furthermore, after rendering her decision she advised the claimant in an offhanded remark to tell her father about her sexuality, referencing an earlier discussion about why Amy had not yet told her father that she was a lesbian. The member also remarked, “you’re kidding!” in response to a witness’ admission that she herself had not come out to her father, tempering her response somewhat when she discovered that the witness’ father continued to reside in Malaysia.

This straightforward and rather simplistic application of the closet concept to Amy’s situation obscures a more complex reality, instead narrating her migration to Canada as a movement from oppression to liberation, from inside the closet ‘there’ (in Malaysia) to ‘out’ in the queer community ‘here’ (in Canada). The board member’s apparent expectation that the claimant be ‘out’ in Canada in order to justify her claim ignores the ways which sexual dissidents continuously experience heteronormativity and negotiate it differently in various contexts. Amy’s movement out of the metaphorical closet is unidirectional; in other words, the board member understands her to be ‘out for good’. She

concluded in her decision that the claimant had not 'outed' herself in the US by becoming involved in the "gay community" because she was shy, and had not pursued a relationship with a woman there because she feared that if it "went sour", the partner could report her to the authorities. Notably, this explanation does not consider other reasons why Amy might not have involved herself in "the gay community" in the US, which I investigate further below.

Claimants are often solicited to give testimony about their experiences of sexual self-realization and coming out of the closet to others as a means of corroborating their sexual identities. The epistemology of sexuality is crucial to this process, in which the credibility of claimants is assessed through analysis of their accounts, as the following decision on the case of a lesbian woman from Poland illustrates:

The claimant in her PIF alleges she was 17 when she realised her sexual identity. The claimant's sister gave evidence to corroborate the claimant's sexual orientation. She stated that she suspected that the claimant was gay because when the witness would be at home with her girlfriends the claimant would act oddly and her friends would laugh at the claimant because they thought she was different. The claimant had stated that she was 17 when she realised she was gay. The claimant's sister's evidence was confused on this issue. She stated she knew the claimant's sexual orientation about 22 years ago, and then she clarified this to be when she herself was 19 or 20. This would have been approximately 1980, which is not consistent with the claimant's evidence that she knew herself when she was 17, which was approximately 1986. [Paragraph break] The witness's attempt to clarify this evidence simply became more confused. When asked specifically when she knew the claimant's sexual orientation, she stated that she left Poland 12 years ago and that maybe it was about 8 years ago that she found out. When asked to clarify the apparent contradiction between knowing for 22 years and knowing for 8 years, the witness explained that she had serious suspicions that her sister was strange and different and that she absolutely knew when she was told by their mother. However the witness's evidence remained contradictory about whether she was told by their mother 8 years ago or as she later stated, she was told when she was leaving the country, which as she stated earlier was 12 years ago. The witness appeared to be trying to make her evidence fit the claimant's assertion that she herself knew she was a lesbian when she was 17. [Paragraph break] As a consequence of these unresolved contradictions the panel finds the witness's evidence to be untrustworthy and cannot rely on it regarding the claimant's sexual orientation (IRB 2002, November 01).

This reading reflects an understanding of the claimant's coming out as located at a singular point in time. Because the claimant and her sister locate coming out at different points in time, the adjudicator doubts the claimant's credibility on the grounds that the testimonies are "contradictory". A more nuanced reading of the case reveals multiple representations of outness and coming out, which do not fit together in the coherent, logical fashion favoured by a legal epistemology. There are the temporally scattered "suspicions" of the claimant's lesbianism, the claimant's mother's labeling of her daughter's sexuality as lesbian, the claimant's own self-realization of her same-sex desires, and her explicit coming out to others. If we approach coming out as processural, as Knopp (2004) advocates, none of this is surprising, nor does it suggest that the evidence presented is "unreliable". Instead, the rather scattered, inconsistent and incoherent account of the claimant's outing(s) comes to appear as a rather usual state of affairs, reflective of the difficulty of representing desire, sexuality and identity in language. If adjudicators expect to locate coming out at a single point in time-space, they will inevitably run into trouble.

Noe Hernandez, whose claim was initially rejected by the IRB after he arrived in Canada in 2000, was eventually accepted as a Convention Refugee after the Federal Court of Canada ordered his case to be reheard. The presiding judge, Francois Lemieux, ruled that while "ordinary" homosexuals regularly faced harassment in Mexico, Hernandez was at greater risk "because he was a high-profile, gay-rights activist who criticized publicly [Mexican police] behaviour" (decision as quoted in Tanner 2003, April 06). The success of his case, then, was predicated upon both membership in a particular social group and political opinion. Notably, his lawyer, Robert Kincaid, explained that the ruling would not "open the door to massive numbers of refugee claims from Mexican homosexuals" (Tanner 2003, April 06). Characterizing the case as "unique", Kincaid added, "He was found to be an in-your-face political gay person . . . it's

those very people who get targeted the most" (Tanner 2003, April 06). These comments are significant for the way in which they, firstly, invoke the spectre of a flood of 'homosexual' refugees from Mexico (whose nationals do not require a visa to enter Canada), and secondly, carefully separate the category of a 'politicized' homosexual from "ordinary" homosexuals (whose refugee claims are presumed to be invalid). But what is an ordinary homosexual, and who might qualify as politicized? In queer refugee cases, the line between personal and political is constantly blurred by the particular circumstances of place and identity, between the need to stay safe and the desire to live openly. Whether by active choice or through circumstance, sexual dissidents become politicized by challenging a heteronormative social order and heterosexualized public space.

Homosexuality as Same-Sex Desire and Same-Sex Relationships

Perhaps the most persuasive 'evidence' of gay or lesbian identity in asylum proceedings is what many people take to be constitutive of homosexuality itself: sex acts between two persons of the same gender, or perhaps in a less strict definition, a same-sex relationship involving shared emotional and physical intimacy and/or cohabitation. For claimants who have a same-sex partner, the burden of 'proving' their identity is often considerably lighter, though they may nonetheless be compelled to produce other evidence of their sexual identity. Others may face a series of questions relating to their personal histories of same-sex attraction and sexual experiences with persons of the same gender. In this section I trace the various ways in which 'homosexuality' is performatively invoked through these sorts of accounts in order to produce sexual identity in law. These accounts may or may not be considered in relation to a particular geographical context, which I argue plays an important role in how sexual and relationship histories are understood and evaluated.

In his Personal Information Form (PIF), a gay male claimant from Turkey recounts his first sexual encounter with another male:

My first experience of gay sex was when I was at boarding school in XXXXX. I was fifteen years old at the time. XXXXX was a boy in my class. He was from XXXXX, and we were in the same dormitory at the school. We used to meet a few nights a week after lights out (which was at 10:30 p.m.), once we thought it was safe. We used to meet in the washroom, in a corner stall. There we would kiss and hug, and explore each other's bodies (Personal Information Form 232).

Through the written testimony of the PIF, the claimant relays his experience of sexual intimacy with a person of the same sex, who is explicitly named and situated in relation to the claimant. Detailed information such as age, names and locations (made anonymous here) can later be used in the refugee hearing to ascertain the claimant's consistency in reporting details, taken as a sign of credibility. This account not only performatively constructs the claimant as a homosexual by describing particular sex acts, but also conveys the concern around 'safety' that is central to queer refugee claims.

Cathy, a lesbian woman from Malaysia, relays the experience of attraction to other females as a child, which she included in her PIF:

I had felt attraction, like a school girl crush, looking up to a popular girl, I had felt those things even when I was in kindergarten. I was like a little boy. I was always like, oh, that girl is really pretty, I want to be with her, not like, oh, I want to look like her, but I want to be with her. When I was 11, was when I outwardly expressed it. There was a girl in my class, and I started watching her, following her everywhere. Innocent stalking. I was trying to steal kisses from her (Interview 211).

This story establishes a history of both feelings and acts of same-sex attraction, similar to Foucault's discussion of "a past, a case history, and a childhood" that is particular to the modern homosexual subject in the west. Cathy's narrative conveys, as do those of

countless other queer refugee claimants, these experiences as a way of performing her lesbian sexuality for an adjudicator

John, a Malaysian man, faced the same question in his hearing as Reinaldo Arenas did when leaving Cuba as a homosexual. His board member asked whether he was the 'insertive' or 'receptive' partner during sexual intercourse with men, and he replied that he preferred the receptive role. The exact purposes of this question are not evident, but the exchange clearly functions as a way of creating a kind of discourse about homosexual acts that can underwrite John's claim to a gay identity. In the excerpt with which I began, taken from Arenas' autobiography *Before Night Falls*, the 'passive' or 'receptive' role is constructed as authentically homosexual from the perspective of the Cuban government, while the 'active' or 'insertive' role is not. When considered in relation to a view that in some cultural settings, the 'active' sex partner in intercourse between men may not be understood or perceived as 'gay,' this question and the response it elicits takes on a heightened significance. Is the performative invocation of a stereotypically 'passive' homosexuality the (politically) correct response to this question?

In contrast, IRB adjudicators rejected the case of an Iranian man claiming persecution on the basis of his sexual orientation, asserting that he would not be considered 'homosexual' in Iran as the active partner in intercourse. This case was unusual for a number of reasons, among them the claimant's attempt to 'prove' his homosexuality by showing a videotape of himself and a male partner engaged in oral and anal sex as evidence. The claimant alleged that he and his same-sex partner in Iran faced state persecution (in particular, death by stoning) both on the basis of political opinion, as monarchists, and as homosexuals. In his account, the claimant reported that he and his partner had videotaped themselves having sex on a number of occasions, and that these videotapes were later discovered by authorities when their home was raided by police. The panel, however, found that the tape still in the claimant's

possession, which he played in the hearing, had been fabricated for the very purpose of gaining refugee status in Canada. A number of other serious inconsistencies and implausibilities convinced the adjudicators that the claimant was not credible, although, they were “prepared to accept that the claimant is a homosexual.” The written decision in this case does not include any other discussions of the claimant’s sexuality aside from a lengthy analysis of the videotape:

The oral sex scene is not very clear. The other man, who appears much smaller than the claimant, and with dark complexion, was performing oral sex on the claimant. The next scene involves the claimant in the act of having anal intercourse with the man who appears to be the passive partner. The homosexual acts are devoid of any intimate interaction between the claimant and his Oriental-looking partner who did not seem to be enjoying the encounter. It appears more like the claimant is having sex with a stranger rather than with a lover. When asked by Member Ross why the partner looked like a Malaysian, the claimant admitted he looked like a Malaysian or Oriental but XXXXX really came from the region in Iran where the people have darker complexion. There is no evidence that the man in the videotape was really his alleged boyfriend XXXXX (IRB 2001, February 21).

While I take issue with several aspects of this reading of the videotape, it seems clear for a variety of reasons outlined by the board member that it was in fact fabricated, and does not depict the claimant’s alleged partner. The troubling invocation of the sex partner’s “Oriental” race operates in tandem with the adjudicators’ reading of the encounter as lacking in intimacy as a way of discrediting the authenticity of the videotape. Of course, that elusive question of the claimant’s ‘true’ sexuality remains. The board members avoid deciding this question definitively, leaving open the possibility that the claimant is ‘really’ a homosexual and instead insisting that “simply being a homosexual in Iran does not make one a refugee”. The decision references at length an IRB research document citing ‘expert’ knowledge of gender and sexuality in Iran: “a “homosexual” is the person who duplicates the submissive or passive behavior of a woman, while the person playing the male role would still be considered virile.” It further explains that a man who plays the “active, penetrator role” in sex between men still behaves like a man, and is not seen by society as homosexual.

This second account of the Iranian case differs from the accounts of John and Arenas, as the stories are situated in diverse geographical and personal contexts where different sexual acts and identities do indeed carry different connotations. Nonetheless, the ease by which the tropes of 'active' and 'passive' homosexualities are deployed in support of decision-making in this process remains problematic. Is it merely the issue of a claimant's role in same-sex intercourse that creates him as queer in the eyes of society? Is it simply a question of sex, or is there more to it than this?

One lawyer attempts to overcome a stereotype of homosexuality as manifested primarily through sexual encounters by linking it to a more stable, multi-dimensional, committed relationship that he argues should be afforded the status of a family relationship:

The point that I make is that there is certain conduct, that, is intrinsically linked to identity, so being, seeking out other men for physical, emotional relationships is intrinsically linked to being gay, it's not like you can just go there and hide it, it's like asking a woman to go back and hide her gender. I make the point that being gay is not just about furtive, clandestine sexual encounters, it's about establishing committed relationships with members of the same-sex on a long term basis. And I ask the question, can that happen in some of these countries? And if it can't, then that's persecution. And I often, if my clients do have a same-sex relationship, with a Canadian, or whatever, I ask, can this couple, which is a family unit, now defined by law as a family unit, can this couple go back and survive in that country as a family unit? What are they going to say when an Egyptian and a Canadian set up a household in Cairo, what would be the reaction? A lot of times I argue that the family relationship itself, the same-sex family relationship, brings them within a particular social group, a social group of being a same-sex family (Interview 102).

This lawyer's comments contain a number of claims about what a 'gay' identity is. He attacks a stereotypical reduction of gay identity to sex acts between men, isolated from any wider context of shared commitment, emotional bonds, cohabitation or familial relationships. His view posits a stable, long-term intimate same-sex relationship as an ultimate form of gay identity that he asserts is unrealizable in many countries. By demanding consideration for relationships between queer refugees and their same-sex partners, he demands inclusion into the family, a social institution afforded a high level of

sanctity and value in the dominant imaginary. 'Active' or 'passive' models of homosexuality here become irrelevant, as same-sex relationships are constructed along the lines of the heterosexual family. Indeed, it is not merely this question of 'sex' that places queer refugees at risk of persecution, but also their attempts or desires to establish multifaceted relationships with persons of the same gender. I caution, however, against linking sexuality to the possibility of "committed", "long-term" relationships or setting up a "household" as a way of achieving protection for gay and lesbian refugees (Reddy 2005). That such relationships are not possible in some contexts, or not desirable for some individuals, should not deter from the validity of their claims.

In cases where a claimant has established a relationship with a Canadian partner, the task providing 'evidence' of a homosexual identity becomes much easier. A Toronto lawyer explains, "Sometimes also they have partners, they establish relationships by the time that their hearing comes around, which can be six or seven months after their arrival, and, however casual these relationships are, we usually get a letter from the Canadian partner, attesting to their sexual orientation" (Interview 102). Such a letter functions as a way of authenticating a claimant's sexuality by introducing corroborative evidence from a third party. That a letter from a sexual partner, "however casual", is afforded this sort of authority attests to the location of true homosexuality in acts of intimacy between two persons of the same gender. The statements contained in this letter affirming a knowledge of the claimant's sexual orientation are performative, in that they call into being, into the realm of truth, the homosexuality of the claimant. This process locates a superior knowledge of sexuality in the same-sex partner.

Where a claimant's same-sex partner is present at the hearing, the burden of proving sexual identity is greatly lessened, if not removed altogether. For example, the board member for the hearing of an Indonesian man declared at the outset that his

sexual orientation would not be at issue in the proceedings, given the presence of his American male partner, who was not called upon to testify. Alternatively, at the hearing of a Malaysian woman, two of her friends were called upon to answer the board member's questions with respect to the witnesses' knowledge of her experiences as a lesbian.

Returning to the context of Amy's hearing, the board member posed a series of questions about her sexual history, and past relationships with women. As it became clear that Amy had not formed any intimate relationships with women during her nearly two decade-long stint in the United States, the board member's skepticism appeared to increase. She inquired, "Is it your wish to be in a relationship with a woman, or do you want to be alone? [...] Have you done anything to have this wish fulfilled?"

Furthermore, she asserted that Amy would fall under "a different risk category" if she did not wish to be in a relationship. The claimant's apparent timidity and 'failure' to form an intimate relationship with a woman since living in Malaysia introduced a higher level of doubt around her identity as a lesbian. The presumptive logic of the board member dictated that if she were indeed a lesbian woman in danger of persecution, actively seeking out and forming sexual/emotional bonds with women would be central to her identity. She theoretically places Amy in a "different risk category" based upon her responses to the above questions, such that a higher risk of persecution (or perhaps a risk of persecution at all?) relates closely to being in a same-sex relationship.

Persecution, because it is presumed to rely upon observable 'homosexual' characteristics, depends upon others in society perceiving the claimant to be a lesbian.

What does it mean to be 'homosexual'? In dominant imaginaries of sexuality, homosexuality is perhaps most crucially about sexual acts or intimate relationships between two persons of the same sex. Relationships of this nature mark the individual as authentically homosexual from the perspective not only of the board member, but of

potential agents of persecution in the country of origin, for whom the board member must act as a temporary substitute. What else might it mean to be 'homosexual,' or to approach the issue differently, what might it mean to be 'queer'? For many sexual dissidents, and certainly for Amy, it meant not being in a heterosexual relationship, and in particular not being married. This fact alone marked her as different, and with it came the persistent question of why she had not found a man to marry and begun to have children. She reported that her life had improved in the US because she was not continually subjected to these sorts of questions; she was largely free to live her life independently. It is not my intention here to construct queerness as some kind of lack or absence, as simply 'not heterosexual,' but only to point out the importance of freeing oneself (at least to a greater degree) from the restrictive expectations of compulsory heterosexuality. While it can certainly be argued that moving to North America does not erase these strictures, for Amy, place 'mattered' –she claimed to experience greater freedom 'from' heterosexual presumption after migrating.

If dominant constructions of sexuality create long-term, monogamous same-sex relationships as the necessary consequence of 'homosexuality' along the lines of a heteronormative model of self, family and society, they foreclose alternative forms of sexuality and ways of living. Where this sort of presumption is at work in refugee determination proceedings, it risks denying protection for those who live their lives differently, perhaps outside of a stable, committed relationship, for whatever reasons. I would also extend this caution to imaginations of queerness as necessary involving 'sex'. After all, it has been a decade and a half since Eve Sedgwick outlined a series of differentiated sexualities beyond a simple hetero/homo binary that she took as axiomatic in *Epistemology of the Closet*: "Sexuality makes up a large share of the self-perceived identity of some people, a small share of others; some people spend a lot of time thinking about sex, others little; some people like to have a lot of sex, others little or

none” (1990, p. 25).¹⁰ The gender of object choice, she argues, is only one of many aspects of difference between individual sexualities, which may also vary in terms of preference for and meaning of particular genital acts, autoeroticism, spontaneity, single or multiple sex partners, the degree to which sexuality is connected to other aspects of life and relationships, the relative ‘durability’ or ‘fluidity’ of orientations toward particular facets of sexuality, the importance of gender meanings and differentials, and so forth.

Gay by Association: Sexuality as Community

A fourth common theme I have identified in refugee determination discourse is the performative invocation of a “gay community” in the production and authentication of “homosexual” identity. As part of the process of performing sexuality for the state, claimants often produce testimony and written evidence of a connection with a “gay community” (rarely “queer”) in Canada, and sometimes in the country of origin. Such “proof” of an association with the gay community is understood and accepted as supporting the claim to a particular sexual identity. These performances create refugee claimants as gay or lesbian through their situation within a particular community identified by itself and the mainstream as “gay”, often with specific spatial referents to a “gay ghetto” in the city of resettlement. I argue that through these performances, the state itself becomes complicit in producing and perpetuating the notion of a “gay community” in particular terms, and compels new queer arrivals to become part of this community as a means of identifying themselves to the state.

Amy’s lack of association with “the gay community” especially troubled the adjudicator’s logic. She further commented that “If you didn’t think about it, it can’t be that important to you,” and that if she were a lesbian, “she could walk four blocks over in

¹⁰ Sedgwick’s list of differentiations of sexuality is much longer and includes other provisions that I consider equally important (1990, p. 25).

New York City and find a community to support me . . . start hanging out in gay clubs and reading gay magazines". This approach presents a rather problematic geography: not only does the adjudicator speculatively insert herself into the claimant's position, despite differences of race, culture, class and sexuality, she also conceives of the social geography of the city in remarkably simple terms. She suggests a "double life" as an obvious way of negotiating between a dissident sexuality (as a lesbian) and participation in an ethnocultural community (as a Chinese-Malaysian in America), seemingly ignoring the extent to which access to the gay community (if indeed, such an entity exists in 'straightforward' terms) is partially determined by wealth, cultural and linguistic fluency, and gender. Returning to the concept of the closet, the board member conceives of 'outness' as central to queer identity. Amy's failure to make any sustained effort to connect with a "gay community", and make her sexuality known to those around her, or pursue an intimate relationship with a woman, is called into question in the hearing. When Amy said that she would find life "depressing" in Malaysia if she were to have to return, the member referred to the claimant's long stay in the US and stated, "You didn't connect with your community. Wasn't that depressing?". Again, the board member seems to conceive of a gay community as the likely and proper place for the claimant, though it is equally or even more likely that the claimant would have felt comfortable in her own ethnocultural community.

The following is an excerpt from an IRB member's written decision on the refugee claim of a gay man from Belarus:

Since the claimant has come to Canada, he testified orally that he has become involved in the gay community to some extent. [...] A letter from the claimant's partner indicates that they visit gay establishments in the gay section of Toronto. The claimant was asked what sort of social life the two of them have and he described where they go in the Church Street area (IRB 2002, June 20).

This understanding of sexuality is explicitly geographical, in that it involves a consistent presence in particular locations and a knowledge of particular places conceived of as “gay” by society. Identification with specific commercial and social spaces known as “gay”, whether shops, restaurants, nightclubs or community organizations, produces the individual’s sexual identity in the eyes of the state. Testimony and documentary evidence situating the claimant within a gay community also (re)produces that community as a geographical entity. The Church Street “gay ghetto” of Toronto is constructed as the likely and proper place for gay (queer?) people, regardless of class, race or ethnicity, language, age and citizenship status (refugee claimant, immigrant). The state, through the refugee determination process, becomes involved in articulating and reaffirming a particular notion of a gay community, as a spatial and social entity. Determination procedures compel claimants to ‘perform community,’ and perform membership in that community, in particular ways. The “gay community” is brought into being and maintained as a recognizable entity through a series of reiterative statements invoking the community as an ensemble of material locations. By situating themselves within those locations, refugee claimants perform sexual identity as geographically manifested.

Notably, the Member conceives of a “gay” community, rather than a queer community, although this referent is not too surprising given that “gay” is a more commonplace term used by the media, society-at-large and even many (perhaps most) members of queer community to refer to itself. Additionally, given that a commercial and residential district like Toronto’s Church street is owned, operated, populated and patronized predominantly by gay men (while acknowledging the significant though minority presence of lesbian, bisexual and trans people), it is hardly inaccurate to refer to this community as “gay”.

A high profile refugee claim made by a young Ukrainian gay man exposes the problematic nature of this assumed connection between sexuality and community. In 2002, the Federal Court of Canada ordered a new hearing for Yuriy Trembliuk, after the original IRB member erred in his reasoning for denying refugee status at the initial hearing. Because the claimant had not sought out Toronto's gay community, knew nothing about Gay Pride Day in Toronto, attended Catholic school and church services and allegedly lived with a Catholic priest, the member was not satisfied that he was in fact gay. The Federal Court decision surmised that "The RPD [Refugee Protection Division] applied to the applicant a stereotypical view of the lifestyle and preoccupations of homosexual persons, including a view that a person such as the applicant, if he were homosexual, would dissociate himself from the Roman Catholic church and from Roman Catholic schools, despite the fact that he was born Catholic" (Tribunal relied, 2003, November 24). The Court further concluded that "Those inferences were based on stereotypical profiles that simply cannot be assumed to be appropriate to all persons of homosexual orientation and to all Roman Catholic priests" (Tribunal relied, 2003, November 24), and acknowledged that it was unusual to overturn a tribunal decision on the plausibility of a witness' testimony.

Again, the claimant in his original hearing appears to have been questioned regarding his connections, or lack thereof, to a perceived gay community in Toronto. The absence of any substantial knowledge or connection between the claimant and this community (as it figured in the imagination of the adjudicator) undermined the claimant's profession to a gay sexual identity. The situation of the claimant within a Catholic community in Toronto, and his location in the particular sites of school, home (with a priest) and church in this community, further discredited his claim in the eyes of the adjudicator. Trembliuk's self-identifications as a Roman Catholic and a homosexual were deemed incongruous, as they would place him in spatially and socially distinct

environments. The member's analysis demonstrates the clear problems associated with asserting a necessary link between sexuality and membership and residence within or even knowledge of a community.

A 2001 decision rejecting a claim made by a Mexican gay man displays similar skepticism regarding a connection between a homosexual individual and organized religion. The member writes:

One final note: the panel finds it curious that even here in Canada, the claimant has worked for and continues in touch with persons in the XXXXXXXX church from whom he allegedly has had to and continues to have to hide his sexual orientation. This makes no sense to the panel, and puts in question the real motivation for the claimant's decision to claim refugee status in Canada (IRB 2001, May 15).

This estimation perceives a gay sexual identity and participation in a church community to be necessarily at odds, particularly in the context of Canada versus that of Mexico.

The member's reasoning contains the tacit assumption that migration between the two countries would remove any motivation for continued involvement at church, and characterizes the claimant's account as illogical ("makes no sense") and therefore suspect. Again, the idea that a claimant would necessarily become dissociated from his or her religious background in order to avoid having to conceal a homosexual identity is problematic; queer sexuality does not negate the possibility of participation in organized religion, given the enduring importance of spiritual beliefs and community to many queer people in spite of a conflict with church doctrines concerning homosexuality.

Nonetheless, the member conceives of gay and religious communities as discrete from one another.

The example of a Lithuanian gay male claimant also troubles this assumed connection between sexuality and community and reveals it as a performance in the context of a refugee claim. At his hearing in 2004, which I attended, the claimant submitted a series of photographs of himself at Gay Pride celebrations in Toronto in support of his claim to a homosexual identity. The member questioned him with respect

to photos taken at the parade event, asking him what group he had marched with. The claimant appeared confused and was not able to respond effectively, and as such the member abandoned this line of questioning, herself appearing somewhat confused at the claimant's muddled response. Following the hearing, I mentioned the exchange to the claimant's counsel, who explained that the claimant, who was quite reserved, had simply gone to the parade on his own, following counsel's advice to establish links with the queer community in order to support his claim. The claimant did not march with a group as the member assumed, but was simply a spectator at the parade, and had taken photos documenting his presence at the event. The member appeared to be examining the claim for 'evidence' of homosexuality as manifested through association with a particular queer-specific group. Notably, the claimant did not have a partner at the time of the hearing and could not 'corroborate' his claim to a gay identity through evidence of a same-sex relationship.¹¹ This account is indicative of the way in which sexuality is performed for the benefit of the state, in order that it might 'know' the claimant's homosexuality as authentic. By visual documentation his geographical situation within a gay community, specifically at the definitive celebration of this community, the claimant performs his sexual identity through association with a particular place and time.

While it appears relatively rare for the IRB to deny an asylum claim owing to a lack of credibility with respect to sexual identity (based on interview and anecdotal information), this case offers a rather blatant instance of such a practice, albeit one that was later remedied by the judicial system. It is possible, however, that analyses premised upon this tenuous link between sexuality and community may work to the detriment of some claimants, particularly if they are not attune to effective practices of self-presentation and performance of sexual identity in the hearing and in supporting documentation.

¹¹ The claim was accepted, and the claimant deemed to be a Convention refugee at the hearing.

The group discussed how Patricia, a lesbian claimant from Malaysia, might demonstrate the truth of her lesbian identity through a series of community affiliations. She had participated in a variety of queer organizations and activities in Vancouver, from which she had produced photographs and letters attesting to the letter writer's familiarity with her and knowledge of her as a lesbian, as well as her involvement in the relevant group. Patricia displayed some anxiety over the problem of demonstrating her sexuality prior to coming to Canada, and recounted how, in Malaysia, she and other women were always reluctant to get too close to one another in photographs, for fear of creating visible proof of same-sex attraction in a place where homosexuality was banned by the state. The group also discussed tactics for testimony around persecution in Malaysia. Other committee members cautioned her against saying she would ever go back to Malaysia, even to visit, and counseled her to put an abstract fear of persecution into her own individual context if possible. She made the statement, "I can't be a lesbian in Malaysia, I can't be myself", as an example of the kind of testimony she aimed to provide in the hearing. Patricia's statement, which is a typical claim made by queer refugees in determination procedures, constructs the country of origin as a place where the possibility of queer sexuality is foreclosed by a homophobic state or social environment, a foreclosure that prevents the individual from living as his or her own authentic self.

An adjudicator may also compel a claimant not only to perform his or her situation within a particular community, but also recount a knowledge of that community as evidence of homosexuality. Claimants are sometimes asked questions about where they go, and why, and are even called upon to offer opinions and evaluation of gay community venues. Consider Manuel's account of his hearing:

At the hearing, [the board member] asked me questions about Vancouver, like which places where I go, where are the best clubs, where are the bad things, things like that [...] He asked me like, where do you like to go, what's your favourite place? So I was like, I like the Odyssey,

and I don't like Celebrities. So then he asked me, well, why don't you like it? I said because I think it's boring, and we kept going with some other questions, and then he would go back to it, and ask, what is the worst place. It's like we're talking about this club, and then we're talking about something else, and then we would go back to that. It's like constantly, he was trying to find out if I was or not. I just told them what I think, where I go. [...] I said what I think is the worst place is the park, because it's very dangerous (Interview 219).

Through a line of questioning that requires the claimant to demonstrate not only a vague knowledge of gay venues in the city, but a 'true' familiarity and lived experience of them, the asylum process extracts an expert knowledge of gay places as proof of an inner sexual truth. After all, only a genuinely gay man would be able to readily offer such information, including detailed accounts not only of places frequented but of reactions, opinions, and experiences of those places. The topic of discussion in the hearing appears to have switched a number of times, but each time the board member persistently returns to this line of questioning, so that the claimant's knowledge and authenticity might be properly 'tested'. This approach is central to the production of the claimant as "credible", and the veracity of a claim to a sexual identity is tightly bound up with an assessment of credibility in the hearing.

The gay community is also performatively invoked in particular ways in this account. The Odyssey and Celebrities are both local nightclubs catering specifically to a gay clientele, while "the park" refers to Vancouver's Stanley Park, and specifically a portion of the park frequented by men seeking out sexual encounters with each other. This section of the park is adjacent to the West End, a Vancouver neighbourhood home to the Davie Street gay village (where both nightclubs mentioned are located) and the highest concentration of gay-identified men in the city. Manuel's testimony creates him as an aspiring "good" gay citizen: he distances himself from the negative stereotypes of gay park sex, while figuring himself as a thoughtful consumer of local gay business establishments (he later mentions a couple of restaurants he frequents, again located in

the Davie village). He offers a performance of sexual identity as manifested through a presence in (good) gay places in the city, subsequently read by the adjudicator as proof of a genuine homosexuality.

Conclusions

I began this chapter by quoting Sedgwick on the disempowering effects of foreclosing upon individuals' accounts of sexuality and self, alongside Arena's history of homosexual 'inquisition' upon being leaving Cuba. The taxonomic drive of state power to catalogue and classify individual sexualities into tidily identifiable categories is not unique to the Cuban or other 'Third World' countries, nor can it be relegated to the history of sexuality in 'the West'. It is not only alienating, but in the case of queer refugees, potentially threatening to individual security, for if a claimant fails tests of 'gayness' or 'outness,' he or she risks being sent back to a situation of greater insecurity.

In this chapter, I argued that refugee claimants are produced as 'authentic' homosexuals through the deployment of a series of dominant understandings of sexuality: as appearance, coming out of the closet, same-sex intimacy and relationships, and community. These categories reflect an investment in maintaining the hetero/homosexual binary in constructions of sexual citizenship. They often rely upon problematic constructions of social space (or fail, in fact, to consider space at all), and differences of race, nationality, class and gender that crucially influence the security of sexual dissidents.

Even as adjudicators grow in their appreciations and understandings of a more nuanced rendition of human sexualities, the struggle to 'make things fit' continues. Predicated upon a need for legal closure, refugee determination rarely accepts the ambiguity surrounding the category of sexuality, but instead seeks to establish its own certainties so that the power of the law may be sustained. Beyond the more obvious

threats of physical violence or systematic discrimination in cases where individuals may be returned, however, is another series of significant acts of “intimate violence”. What happens when the refugee hearing, as an initiation of sorts of the individual into the receiving society, is heavily invested with problematic constructions of sexuality that are rooted in dominant (mis)conceptions of queerness? These “mundane” details and consequences of state power are difficult, if not impossible, to locate and describe, and yet they permeate everyday existence.

CHAPTER FIVE. GEOGRAPHIES OF QUEER ASYLUM: PERSECUTION AND PLACE-MAKING

The Orientalist surveys the Orient from above, with the aim of getting hold of the whole sprawling panorama before him –culture, religion, history, society. To do this he must see every detail through the device of a set of reductive categories [...] Since these categories are primarily schematic and efficient ones, and since it is more or less assumed that no Oriental can know himself the way an Orientalist can, any vision of the Orient ultimately comes to rely for its coherence and force on the person, institution or discourse whose property it is. Any comprehensive vision is fundamentally conservative, and we have noted how in the history of ideas about the Near Orient in the West these ideas have maintained themselves regardless of any evidence disputing them. (Indeed, we can argue that these ideas produce evidence that proves their validity) (Said 1978, p. 239).

I begin with this excerpt from Edward Said's *Orientalism* because I think that it offers a critical way of understanding refugee determination practices. It conveys the enormity of the task of creating geographies of persecution for countries all over the globe. Like the Orientalist, the refugee claim adjudicator struggles to understand the claimant's country of origin and meld a complex array of sources into a single vision of place. To accomplish this task, s/he evaluates country of origin information and testimony through a series of 'reductive categories'. These categories facilitate consistency, efficiency and coherence in decision-making. Like the 'Oriental,' the refugee claimant cannot know him/herself objectively as a victim of persecution as defined in law; instead, institutions, persons and discourses of the state fashion their own vision of the country of origin and the claimant. While the extent to which these visions are flexible or conservative is controversial, they are supported by a geographical

imagination that posits the West as the location of progress and liberation in subtle yet potent ways.

My own discussion begins by outlining the concepts of persecution, state protection and internal flight alternative as they are applied to queer asylum cases. My discussion then moves to how 'signs of gay life' in a country often work to undermine refugee claims made by queer nationals. These signs are filtered through dominant understandings of sexuality and space that often fail to appreciate the complexities of sexual subjectivity, place and persecution, and differences that distinguish individuals within the category 'homosexual'. I relate these signs back to central concepts in refugee law to demonstrate how their geographies facilitate particular decision-making outcomes. The next section draws from postcolonial critiques of sexuality, development and imperialism. I argue that asylum discourse becomes complicit in reinforcing existing structures of western superiority, domination and racism through its representations of 'here' (Canada and Western nations) and 'there' (countries of origin). This leaves sexual dissidents vulnerable to the charge of 'nation-traitors,' through the asylum imperative of denigrating a claimant's homeland in order to save her/him from it. Finally, the chapter closes by contextualizing these representations of place in a broader global geography of sexuality, and offers several concluding arguments that emphasize the need to reconsider how place/space are articulated and assessed in relation to sexuality and persecution.

Proving Persecution

For contexts in which homosexuality is explicitly criminalized by the laws of the state, the burden of demonstrating a likelihood of persecution is significantly more straightforward than for contexts in which no such laws exist. A lawyer simply states, "I have to tell you, it's much easier to establish a refugee claim if the claimant is coming

from a country where there is an explicit law on the books, than from countries where it's legal to be gay, but there's just societal prejudices" (Interview 102). The relative ease of proving persecution where same-sex relations are illegal reflects a politics of visibility that is central to refugee determination: laws are easily 'seen,' understood and evaluated, while the same is not so true for social beliefs, attitudes and norms around sexuality that may create a situation of persecution. The legal apparatus of the state, understood as a set of written rules governing a country, forms a kind of lens through which concepts such as 'democratization' are assessed. While in many cases, the Canadian refugee determination system proves capable of grasping a more nuanced relationship between the state and its citizens, the comments of this lawyer and others I interviewed suggest that the distinction between legal and social persecution still holds sway in some cases, in which asylum may be denied in part because of a failure to 'see' persecution happening through extralegal channels. I will return to the issue of how 'sexual citizenship' is understood in refugee determination in my discussion of assessing the availability of state protection in queer asylum cases.

Serious gaps in information on the situation of sexual dissidents in various national contexts contribute towards the invisibility of queer persecution and hence the illegibility of some queer refugee claims. Where little to no information exists to establish persecution, claimants are left without a crucial geographical backdrop to their testimony. As LaViolette (2004) notes, very little information on human rights violations against sexual dissidents is available for many countries, as some human rights NGOs do not recognize sexual rights as human rights, or lack the capacity to effectively monitor them. She also writes that a lack of documentation may itself be indicative of severe homophobia in a country, such that even where human rights violations occur, individuals are afraid to come forward and denounce them or seek state protection for fear of further persecution. In such instances, queer refugee claimants are left only with

their own testimonies. Having amassed a substantial body of research on the situation of sexual dissidents in some countries, and conducted seemingly extensive searches for information (usually via the internet), the IRB may have unduly created an impression that persecution of queers can be known where it does happen. Unfortunately, however, it does not systematically mark the gaps in information, leading some adjudicators to read safety into invisibility.

Persecution versus Discrimination

Refugee law makes a crucial distinction between discrimination and persecution. In practice, however, it is sometimes difficult to distinguish a situation of severe discrimination from one of persecution. In *Ward v. Canada (A.G.)* (1993), the Supreme defined persecution as "acts of harassment, cruelty, punishment, injury or annoyance inflicted in a persistent, systematic or repetitive manner" (p. 78). Again, a distinction between persecution and discrimination only acquires meaning once it is established by an adjudicator in reference to the specific elements of a claim. The outcome therefore depends heavily upon an individual decision-maker's discretion and her/his assessment of the claimant's particular situation and country of origin conditions. In the following decision on a Moldovan gay man's claim, the board member characterizes the situation in question as falling outside the parameters of persecution:

Once again, I cannot emphasize enough how reprehensible I find these incidents and obviously the prejudicial attitudes that seem to prevail among private citizens within Moldova. However, I cannot find that there is a repeated, systematic pattern to the discrimination and harassment, which the Claimant suffered during the period in Kishenev from 1993 until his departure in 1999, or in the previous time period in Krikova. Therefore I cannot conclude that there is an objective basis to the claimant's fear of persecution. I note that, for example, XXXX had been walking the Claimant home quite frequently on a weekly basis, or somewhat less than a weekly basis, for the entire period of time that the Claimant lived in Kishenev, and yet it was only on the two occasions that they were attacked (IRB 2000, July 05).

While the adjudicator describes the treatment of sexual dissidents in Moldova as 'prejudicial,' she categorises treatment of the claimant as discriminatory and not persecutory. Because the claimant "began practising as a homosexual in the early 1980s" and had not faced "repeated, systematic" discrimination and harassment since that time, she finds that he is not indeed of protection. The history of events he discloses constitute in her eyes a series of "isolated incidents" spread over a number of years: threatening and harassing phone calls and anonymous letters, workplace discrimination, and two violent attacks, one of which produced physical injuries. The ignored geographies of queer persecution facilitate the classification of this claimant's experiences as 'discrimination,' not 'persecution.' While 'discretion' around sexual identity is not discussed in this claim, it remains a crucial factor in determining the invisibility of oppression.

The adjudicator also finds that the claimant has failed to rebut the presumption of state protection, having at no time complained to the authorities, police or otherwise. The claimant's justification for this 'failure' is that "he had heard in discussions with other homosexual friends, such as XXXX and XXX and of course XXXX, that there would be no point and that the police attitudes were just as bad as those of the private citizens" (Ibid). This suggestion that pursuing state protection is futile in an social environment of generalized homophobia corresponds with an informational vacuum in terms of knowledge about the situation of sexual dissidents in Moldova following the decriminalization of homosexuality. The response to information request document quoted in the decision states:

There have been no reports to/by the Committee of cases of violence against homosexuals based on their sexual orientation in 1998 in Moldova. Correspondingly, there is no information on the state authorities' reaction. After the abrogation of the criminal provisions on homosexuals, there seems to be no active manifestations against them, although the population is not particularly happy about their sexual orientations. They do not tend to show these orientations in the

public too much, therefore do not present a hot issue for the population. There is no clear evidence of their harassment or discrimination (IRB 2000, July 05).

The document acknowledges the continued social disapproval of homosexuality following its decriminalization in Moldova, and implicitly characterizes this intolerance as passive rather than 'actively' manifesting itself. The apparent confinement of dissident sexualities to the private realm forms a crucial backdrop for evaluating the situation of queers in Moldova. While the general population holds "a very negative perception of homosexuals", as the adjudicator concludes, the claimant is not at risk of persecution because homosexuality is not a 'hot issue' in the country. I argue, however, that this reading of the situation relies upon the imbrication of privacy and security; in order to keep safe, gays and lesbians in Moldova may attempt to be discrete about their sexualities. Yet this attempt to establish individual security at the scale of the body also reinforces a public invisibility of sexual dissidence that is reflected in the corresponding absence of reports on persecution of queers.

Protect Yourself: Demonstrating a Failure of State Protection

How do assumptions about identity, space and power shape evaluations of state protection? As with the definition of persecution, claimants must show that the state is unable or unwilling to adequately protect sexual dissidents from persecution, such that they risk being persecuted if they return home. Assessing the level of state protection in a given country is hardly a simple task, however. It begs a series of questions: who or what is the state? What is meant by protection? Is there a substantial gap between legal protection of sexual dissidents and the security of the person in everyday life? Central to my analysis of state protection is the concept of geographical scale; following feminist problematizations of security discourses located at the national scale, I argue

that we must examine security at the scale of the body in considering the persecution of sexual dissidents.

Mexico is perhaps the most controversial context for assessing state protection. Canada continues to receive hundreds of GLBT asylum applicants from Mexico every year, yet increasingly, only transgendered or HIV positive individuals are accepted as Convention refugees. The following excerpt from a 2001 Mexican decision succinctly illustrates this reasoning:

Finally, the panel finds that the claimant has not rebutted the presumption of state protection. States are presumed to be capable of protecting individuals. The documentary evidence indicates, as elsewhere, that the situation is not perfect, but it is improving, particularly in Mexico City where the claimant lives. The claimant has been unable to provide clear and convincing proof of the state's inability to protect him (IRB 2001, May 15).

In refugee law, as this decision indicates, there exists a presumption that states will protect the security of their citizens, despite institutionalized heteronormativity and homophobia that often place queer persons outside of the state's protection. With respect to Mexico, where there is no formal discrimination on the basis of sexual orientation in terms of state protection, this failure is difficult to establish convincingly. I wish to consider this question in part as a matter of legibility: a failure of state protection is most easily identified in contexts where the state discriminates against queers in providing security to its citizens, and less 'readable' where no such formal sanction exists in the law. For Mexico, and other contexts in which sexual orientation clauses have emerged in state protection discourse (whether at the level of the national constitution, or at the civic scale in discrimination ordinances), demonstrating a failure of state protection has become 'an uphill battle' for queers, who must now work to show an incongruence between (highly visible) laws and the (less visible) everyday practices of the state.

A 2002 decision on the claim of a lesbian from Costa Rica references a Federal Court of Canada ruling that the burden of demonstrating a failure of state protection is proportional to the level of democratization in the country of origin. The decision states, “The more democratic the state’s institutions, the more the claimant must have done to exhaust all the courses of action open to him or her” (IRB 2002, December 20). In situations where legal recourse is available to a claimant, therefore, he or she becomes obligated to pursue state protection through existing administrative or judicial channels before resorting to fleeing the country. Yet how precisely is democratization assessed for refugee determination purposes? To what extent is democratization, or more importantly, perceptions thereof, bound up in an approximation of a Western state form? And where Western-style legal and political rights-oriented solutions to the issue of state protection are present, do they translate into security on the ground?

This tension arises in two decisions on Costa Rica, both for the lesbian claim I have just mentioned and for a joint claim made by a gay male couple in 2002. The lesbian claimant contests the adjudicator’s reading of the political situation of sexual dissidents in Costa Rica, contrasting an official version of effective and available legal recourse for discrimination on the basis of sexual orientation with her own anecdotal knowledge of the inefficacy of these institutions. The IRB member emphasizes the legal avenues available to victims of sexual orientation persecution, stating:

The documentary evidence also reveals that individuals who have a distinct sexual preference enjoy the protection of various organizations, including the Office of the Ombudsman and the Constitutional Court, which can assist them in protecting their rights if those rights are threatened [...] Costa Rica has enjoyed a long and stable tradition of constitutional democracy and has an independent judicial system providing effective means for dealing with cases of individual violence (IRB 2003, September 23).

This reasoning emphasizes the formal legal structures designed to ensure state protection of individuals regardless of sexual orientation. The decision lists a series of potential recourses available in cases of police blackmail and extortion, extralegal

detention, workplace discrimination, health services discrimination, threats to the person and violations of other legal rights. It then concludes, "In light of all the documentary evidence, the panel is of the opinion that the Costa Rican government is making serious efforts to protect all its citizens, including sexual minorities" (IRB 2003, September 23).

Against this account, the claimant offers her own experience (whether personal or vicarious) of security as a sexual dissident in Costa Rica. Summarizing her position, the decision states:

She [the claimant] further stated that she had not filed a complaint with the Office of the Ombudsman. She subsequently indicated with respect to the whole of the evidence, that the information we have from Costa Rica indicating that the country is democratic and that there are remedies is not true since she has experienced problems. She stated that all of these fine laws and citations are not applied in reality. She later stated that she did not believe that the people who had reported this documentary evidence were telling the truth because there are many pages on the Internet that tell of people who have reported instances in which the law was not applied and that she herself knew how things happened (IRB 2003, September 23).

This response to the issue of state protection, declared determinative in the outcome of the claim, is rejected in favour of the documentary evidence, having proven inadequate in demonstrating a failure of state protection. The claim is characterized by an epistemological conflict between the knowledge of the claimant and the legal-rational knowledge of country information, implicitly deemed more credible because of its 'objective' basis. Rules in law and rules on the ground, the claimant insists, do not coincide, an assertion that implicitly refers to the scale at which security is conceived and experienced. Judged at the scale of the nation-state and its formal laws, security appears adequate for citizens regardless of sexual orientation. However, the claimant's experience of the 'everyday' practices of the state, at the scale of the body and the local community suggest that sexual dissidents remain vulnerable to systematic discrimination and harassment.

Performing a failure of state protection also means performing sexuality.

Individuals must 'out' themselves to the state in order to secure its protection. A lawyer asks:

Do you understand what the social context is, when you're talking about Mexico where 70 percent of the population generally is hesitant or afraid to go to the police. How then do you expect somebody who's gay or in the closet to go to the police and ask for protection? I've had clients [to whom] I've said, well, why didn't you go to the police, and they've said, well if I went to the police, and I told them that I was attacked, they would want to know where I was, and what happened, and what was said to me, and why I was attacked, which would mean that I'd have to tell them that I was gay. And if I tell them that I'm gay, well, I know what the police are like and what their attitude is, and they wouldn't help me anyway, and maybe also subject myself to harm from them, and also risk outing myself to my family. So, when you're talking about queer people in the South, you're not talking about anybody on the street who can just go in and say this is what happened to me, because there's all these layers of issues (Interview 101).

Refugee lawyers often prepare their clients for the hearing by posing questions that will be asked by the adjudicator or refugee protection officer, such as the questions asked here. While police corruption is a pervasive problem in many countries, it renders queers more vulnerable than the population-at-large. They may become targets of persecution by police precisely because heteronormativity acts to marginalize them. In such cases, pursuing state protection by going to the police may only worsen a situation; requests for protection and justice may be met with indifference, harassment, detention or violence. Where sexual dissidents disclose the motivations of their persecutors as rooted in homophobia, they potentially 'out' themselves to state authorities, family, and sometimes the media (Interview 212). 'Outing' themselves often further damages their security. If ostracized by family, they may find themselves without the necessary resources to survive; if 'outed' to society through the media or word-of-mouth communication, they may find themselves subject to even more discrimination, harassment and violence.

Bedri, a gay man claiming asylum relays his experiences of persecution his home country of Turkey, problematizing disembodied accounts of the state as a set of

laws and institutions. Instead, his account reminds us that the security of individual citizens is enacted at the scale of the body, through the protection offered by police and other authorities of the state. As well, the multiple (often 'personal' rather than institutional) affiliations between nationalist political movements that conceive of homosexuals as 'outside the nation' and the Turkish state's security apparatus (police and military) make distinctions between 'private' agents of persecution and state actors rather meaningless for queers. Where law enforcement actors discriminate against queer in the delivery of state protection, or even target queers themselves, an absence of formal criminal sanctions against homosexual acts is hardly a guarantor of security.

I got beaten up, and when I went to a bar, I got detention [arrested by police in raids of gay nightclubs]. And they insult me and assault me, the police. In authority, like police force, like government, every authority in Turkey, consists of such people, either religious or nationalist people. There is no minority. For example, they can raid the bar and take you to police station and get beaten up. I have experienced this, because all of Turkey consists of this people. If they observe that you are gay, you experience these obstacles. For example, there are some people related to the nationalist party. You are strolling somewhere in Istanbul and they come and beat you. It's a very offensive thing, and you have no right to go and make a claim and arrest them, you can't do that because they are related with police as well. If you go to a police station and say I am gay, they can beat you up (Interview 241).

Bedri has experienced persecution both at the hands of 'private' and 'state' agents. He explains how, as self-described effeminate male, he is often labeled as gay in public and subject to discrimination, violence and harassment as a result. To seek state protection risks further persecution, whether he explicitly 'outs' the motivation of his persecutors or whether state actors themselves perceive him as a homosexual. Minorities, including non-Muslims, non-Turks and queers, are situated outside of the nation in the imaginary of some members of nationalist and religious movements and state authorities.

Seeing Homosexuals: Sexuality, Persecution and the Spatiality of Identity

Questions of individual security in queer asylum cases relate crucially to discourses around identity, sexuality and discretion. A queer refugee service provider reflects upon issues of visibility and security:

I think that the safety comes in not being obvious, or being more closeted. It's almost like that expectation that if you can pass, then you'll be safe. But it's up to you to make sure that your behaviour is such that you are safe. I know when we were talking about the [Amnesty International] video [on the situation of sexual dissidents in several countries around the world], and I talked with some of the refugee claimants [...] what we see in the videos is the part that involves the organizing and the work that's done. What we don't know, is that oftentimes these marches last a very short amount of time, and that people very quickly disperse, and that oftentimes people are forced to disperse because of police action. So, certainly there are some gains, on the one hand, where you've got people who are willing to organize and take some of those risks, and we celebrate that. And that's kind of what's out in the public domain, in terms of the public image. And what doesn't get out a lot of coverage is the aftermath, and what happens to people after they've taken some of those actions (Interview 301).

The public/private divide figures prominently into this discussion, both in terms of where sexuality emerges as identifiable and how media coverage shapes perceptions of sexual identity and security. The service provider locates queer security primarily at the scale of the body, where efforts to 'pass' as straight or identify as queer are manifested. The day-to-day security of queer individuals in many geographical contexts depends, she suggests, upon their 'passing' as heterosexual in order to avoid being labelled as queer and subjected to persecution. Purposeful public self-identification of queerness, as in the demonstrations to which she refers, are often depicted out of context in media coverage. Such depictions, she argues, do not reveal the temporary and precarious nature of queer occupations of public space, the spectacle of which attracts more attention than the 'everydayness' of the aftermath. Only by situating queer activism in a more nuanced, if banal, social and political context can we begin to evaluate meaningfully the security of sexual dissidents in their daily lives. Police repression of queers, whether official or unofficial, as well as discrimination and harassment

perpetrated by 'private' social actors on a regular basis may cumulatively (or even singularly) produce a situation of appreciable insecurity for queer individuals. That the option of resisting violence, harassment and discrimination by staying in the country of origin exists for queers (or other Convention refugee groups) does not remove the necessity of offering refugee status to those who choose not to risk their personal security and instead relocate.

How do individual identities come to be marked as transgressive, and therefore become vulnerable to persecution? This question is often central to refugee determination as adjudicators struggle to assess the credibility of testimony. Available country information (often sparse, inconsistent, and biased in various ways) as well as the geographical imaginations of adjudicators inform this process. In the following decision on a lesbian Polish woman's claim, the adjudicator contests the claimant's rendering of the geography of identity and place:

The claimant asserts that she was known by everyone in her town to be a lesbian. The claimant's evidence in support of this assertion is not credible. [Paragraph break] The claimant stated that her home town is small but when asked for the population the claimant indicated that it had a population of 80,000 people. The panel finds the claimant's evidence to be exaggerated and implausible. A population of 80,000 people is a significant size place even by Polish standards. The panel finds the claimant, in saying it was a small town, to have exaggerated to bolster her assertion that she was known by everyone. [Paragraph break] The claimant gave no credible explanation as to how she would be physically identified by everyone in a town of 80,000 people. The claimant asserted that she was constantly thrown out of shops, cafes, church because of her sexual orientation being known by everyone. The panel finds this to be exaggerated and not supported by any credible evidence. The claimant gave no evidence of any position or activity that would have given her any public profile in her town. She also asserted that on one occasion she and her partner held hands on top of the table in a public place. The panel simply finds that such limited public behaviour could not reasonably lead a population of 80,000 people to know the claimant's sexual orientation and to have resulted in being constantly told to get out of shops, being sold bad fruit and other discriminatory treatment (IRB 2002, November 01).

The adjudicator further reasons that, other than wearing manly clothes and periodically cohabiting with other women, the claimant failed to offer sufficient evidence of why

people in her hometown would consistently identify her as a lesbian and subject her to mistreatment. She specifically takes issue with the idea that “everyone” in a town of 80,000 people could “know” the claimant’s sexual orientation, and objects to the characterization of the hometown as “small”. Beneath this reading are the assumptions that a set of specific, observable characteristics will universally mark an individual as homosexual or heterosexual, that in order to be known, homosexuality must somehow overtly announce itself. The adjudicator is also skeptical of the idea that an individual marked as homosexual may become widely identified and acted against in a place of this size without a “public profile” that would support notoriety. Nowhere are the particularities of Polish sexual citizenship accounted for, and while it is beyond the scope of my inquiry to delve into this issue, it is nonetheless worth remarking that a conspicuously uniform and universalized geography of sexuality often seems to be superimposed upon a wide range of places in refugee determination. Strangely, essentialized representations of homosexuality such as gender inversion (wearing manly clothing) which are elsewhere accepted as proof are here dismissed as insufficient to establish a history of persecution.¹²

Queer Relocations?: Internal Flight Alternative

The question of internal flight alternative (IFA) pertains to whether or not a claimant can be relocated within his or her home country in order to avoid persecution. Applications of this concept are supported by a particular rendering of geographical reality. IFA relies upon representing a space within the country of origin as being acceptably tolerant of sexual dissidence such that an adequate level of safety exists for queer residents.

According to lawyers with whom I spoke, and my review of decision-making, IFA is (not

¹² The Rivera case, discussed earlier, comes to mind as an example in which the claimant’s masculinity is presumed to suggest an appearance of heterosexuality. Implicitly, homosexuals must assume characteristics of the ‘opposite’ gender in order to be recognized, yet in this Polish claim, testimony of gender inversion is apparently not enough to satisfy the adjudicator.

surprisingly) raised more often in some national contexts than others, in which it may not or only briefly be raised. With respect to the context of queer asylum in Canada, IFA is perhaps most often discussed for Mexico. The following decision on a Mexican gay man's claim reasons:

The panel has not found the claimant's evidence to be credible or trustworthy that he suffered persecution at any time in the past in Guanajuato. If, for any reason, he did not wish to return to that state, there would not appear to be any barriers to prevent him from relocating to another part of Mexico. For example, he could relocate to Mexico City and experience the more liberal attitudes found there in the Federal District. It is one of the largest cities in the world and has a much larger gay community. There, the claimant would also have greater employment possibilities in his chosen field (IRB 2001, May 18).

This decision constructs Mexico City as a more "liberal" location, home to a sizeable 'gay community,' a place with better economic opportunities and a city with global status.

One of the lawyers I interviewed takes issue with the way that internal flight alternative is understood and applied in queer contexts, and in particular for Mexico:

But when you talk about internal flight, the issue is not where you are, it's who you are. And many of my clients tell me, well, it's the same throughout my country. Again, coming back to Mexico, you can be in Mexico City and have problems with the police. So where am I supposed to go? This is the largest, most cosmopolitan city in Mexico. If you look at Mexico, the majority of the population is actually afraid of the police, and that's straight, gay, whatever. If I live in Aguascalientes, and they tell me to go to Mexico City, well the police are still corrupt, and still do all this sort of thing generally and particular to queers. So how is that a safe place for me? (Interview 101).

His comments explicitly emphasize identity over place in evaluating persecution and personal security. Rather than employing a spatially defined notion of safety, he argues, in which particular spaces are understood as safe for queers, refugee law must instead consider how an individual's identity puts them at risk. The lawyer asserts that police corruption, though it may affect the wider population generally, specifically places sexual dissidents at risk as a category of persons with a higher vulnerability due to practices of stigmatization, discrimination and social exclusion. Because targeting of sexual

dissidents persists even in Mexico City, characterized as the country's largest and most cosmopolitan city, it cannot be designated as a safe space for queers.

A refugee service provider also raises objections to the application of IFA, but instead focuses on the economic dimensions of relocating within the country of origin:

It's a very simplistic answer as a solution, because people's lives are oftentimes rooted in their own communities, and so there's whole economic issues around living somewhere else. Housing, for example, can often be a big barrier. Oftentimes there's not the options for housing, and so people have to stay at home, stay closer to relatives in order to have housing. [...] I lived in Santiago, and in large parts of the city, economically a young person who grew up at home and finished secondary school, it's not like there's an apartment that they can just go and rent, it's just not a option, it's not available. It's not quite the simple thing where you can just uproot yourself and go somewhere else and find work and a place to live. I also think that there's an assumption that if you're living in a larger city, then of course you're not going to be as big a target. But people don't go and live in a larger city and never go back to their homes. They're still going to go back and see their families and friends, and there's still the possibility of not receiving protection in their local area (Interview 301).

Though refugee protection explicitly rejects economic rationales for asylum and attempts to confine itself solely to 'political' matters, the service provider's comments highlight the economic subtext of queer migration often present in refugee claims. IFA, she suggests, is less meaningful in a national context in which opportunities for accommodation independent of a traditional family structure do not exist in the way that they do in North America. By applying IFA in contexts such as Mexico and Chile, the refugee determination process transposes assumptions around living arrangements from one geographical context to another, without regard for the ways in which differential economic and social geographies render the internal relocation option far less meaningful. The service provider also stresses the spatial confinement implicit in notions of IFA. In delimiting a space of security constructed around the concept of the 'bigger, more tolerant and anonymous' city, the concept of IFA circumscribes the mobility of the individual. This view, she asserts, is at odds with the lived realities of queer refugees, who often maintain connections with home and family.

Signs of 'Gay' Life

The legal concepts of persecution, state protection and internal flight alternative central to refugee determination are assessed not only in relation to the experiences of individual asylum claimants, but also to the broader social and political context of the country of origin. This context may be understood as adequately safe for sexual dissidents where evidence exists to suggest that queers can exist in a country without persecution. I argue that apparent 'signs of gay life' in a country, such as greater 'homosexual' visibility, gay-identified 'public' spaces, gay rights and activism, and gay tourism, support the denial of refugee claims from its queer nationals. These constructions of place are filtered through heteronormative spatial imaginaries that also reflect a Western bias.

The following decision on a 2001 claim from Mexico illustrates a series of 'gay' signifiers at work in refugee adjudication:

There are numerous examples in the documentary materials to indicate a continuing improvement in the treatment of sexual minorities in Mexico. Private sexual acts between consenting adults are not illegal. In December 1998, the national Congress repealed a penal law in the Federal District (which includes most of Mexico City) that had discriminated on the basis of sexual orientation. Homosexual publications are available for sale in major cities in Mexico. Public homosexual activism such as gay parades and protests are tolerated by the authorities and are increasing in frequency and in the numbers of participants in various cities. There are numerous homosexual organizations operating in major cities, along with recreational facilities such as bars etc. that target gay consumers. In education, media, and the arts, homosexuals are becoming more prominent participants and more open about their concerns (IRB 2001, May 18).

Beginning with changes in the legal and political situation of sexual minorities, this decision first demonstrates an improvement in homosexual rights. It then outlines the considerable visibility of 'homosexuality' in public space, including media, activism, consumption, education and the arts. This queer presence in Mexican public spaces works to discredit claims for asylum.

Gay Spaces?

The emergence of gay-identified spaces a country often contributes towards a perception of security for queers. The apparent emergence of gay commercial and social spaces is understood to suggest a corresponding rise in the level of security for sexual dissidents. For example, a Columbian IRB decision notes, "The material indicates that there are more than 70 commercial locales in Bogata catering to the gay community and locations within most cities in which gays can socialize rather freely"(IRB 2000, March 07). It is unclear exactly what constitutes gay public space; that 70 'commercial locales' cater to a clientele marked as queer could suggest any number of possibilities, not all of which include a guarantee of safety. That 'gays can socialize freely' in these spaces is a rather ambiguous claim. Even if 'freely' suggests freedom from persecution, what happens when queerness appears outside of these spaces?

Public leisure spaces designated as gay are a powerful signifier of freedom, carrying an implication that queers are free to express their sexualities and enjoy themselves. Mario, a gay man from Argentina who was refused refugee status in 2005, recalls:

One of the questions that the judge asked me, was, well, what about the gay beaches, you know, it seems like everything is great, Argentina has changed a lot in the last couple of years. We talked about that, and we still have a lot of issues going on, and things don't change. The fact that now, they have laws that protect us ... the population, people's minds haven't changed. [Gays in Argentina] still have a lot of problems (Interview 219).

The IRB member for Mario's claim views the existence of 'gay beaches' as suggesting a growth in tolerance of gays in Argentina. However, Mario contests the assumed correspondence between legal protection of homosexuals and popular tolerance of homosexuality. While it 'seems like everything is great' if gays can enjoy themselves at their own beach, the existence of gay-identified public leisure spaces is not itself indicative of queer security on a daily basis. Rather, it may suggest that tolerance of

homosexuality remains spatially circumscribed, that expression of same-sex desires may be acceptable as long as they do not appear in heterosexualized spaces such as the street or the workplace.

In attempting to understand the situation of gays and lesbians in the country of origin, IRB members and RPOs conduct extensive research in preparation for the hearing and decision-making process, drawing upon copious literatures produced by the Canadian and foreign governments, independent human rights monitors, media sources and internet websites. As the following excerpt from an interview with a lesbian claimant from Malaysia suggests, internet searches for virtually any country in the world will reveal 'signs of gay life':

If you look on the internet, you can pretty much find gay hangouts for like, Abu Dhabi. You can find gay hangouts in every country. The Board Member said, I bring up Malaysia, and there you go, you've got this forum, and this bar. And I said, well, those aren't actually gay bars, if they were known as gay bars, they would be closed down right away. There are bars, you can go there, and there might be gay men around, but it's not like a gay bar. And if you want to scrape the bottom of the barrel, you can find that in any city. There's going to be an alley, that they hang out in, there's going to be a house that they hang out in. They're all male-centred. Women usually go underground. They go to the internet. There are Malaysian lesbian groups that exist only on the internet, and in private homes. They even had to stage the Vagina Monologues in somebody's home, it can't be a public play. So that's the community that exists there, in the underground (Interview 211).

Attempting to form an impression of gay life in the claimant's country, the board member canvasses a series of online sources that create an imagined geography of homosexuality in Malaysia. However, the virtual queer space of the internet may prove far more extensive than material queer spaces. This claimant contests her adjudicator's rendition, drawing upon her own embodied knowledge of place as a lesbian woman who grew up in Malaysia. She problematizes the category 'gay/homosexual' that the board member employs by highlighting the gender-blind assumptions of this official version; public spaces for lesbian women to interact are virtually non-existent, she says, such that meetings of lesbians and queer-friendly women take place "underground". She also

contests the imagined geography of sexuality that arises from internet searches through reference to Abu Dhabi, a place she tacitly assumes to be particularly homophobic. Aware that a similar claimant from that location would likely face little resistance in gaining asylum, she mentions this example to expose the absurdity of the member's assumptions and discredit the objective, disembodied knowledge upon which it relies. Indeed, her account reveals an epistemological conflict that commonly arises in asylum proceedings: a crucial tension between the embodied, subjective view of place as offered by refugee claimants, and the official, rational perspective of the law (through its enforcer, the asylum adjudicator).

Gay Rights, Politics and Activism

As greater rights are secured for sexual dissidents in a country, so too does the perception of their security increase. Again taking Mexico as a prominent example, the IRB research document on the treatment of homosexuals in that country asserts a substantial improvement in the situation of sexual minorities, owing to newly enacted nationwide legislation prohibiting discrimination on the basis of 'sexual preference' (IRB, 2004). This same document relays a critique of the weak enforcement provisions of this new law leveled by a Mexican queer rights advocate. Nonetheless, multiple sexual orientation decisions on Mexico have cited this law as a sign of Mexico's growing sexual tolerance and a reason for denying refugee status.

The existence of openly queer political figures is used to support the denial of asylum. A Mexican decision reads:

For example, although still isolated, the Mexican federal legislature now has an openly gay member, Patria Jimenez. Also, in February 1998, it was reported that Mexico had appointed an openly bisexual man, Pedro Joaquin-Coldwell, as ambassador to Cuba. Joaquin-Coldwell had had much experience in public life, including as head of the National Tourist Development Fund and governor of the state of Quintano Roo (IRB 2001, May 15).

An openly lesbian politician and an out bisexual diplomat serve to reinforce the notion that queers in Mexico are not vulnerable to persecution, yet nowhere are the positionalities of politicians and regular citizens in Mexico sufficiently differentiated.

In the following interview excerpt, a lawyer argues that a more nuanced understanding of state protection is necessary to understanding queer persecution in Mexico:

Mexico City has passed a law that protects people from discrimination, including on the basis of sexual orientation. But, what is the spectrum of that protection? What kinds of things are protected? Who are you being protected from? The ordinance in Mexico City, for example, doesn't deal with police, and it deals with discrimination. And what are the enforcement mechanisms around that protection? What is the process, and what is the system, and what is the outcome? You can have a law that says that you're protected on the basis of this, this, and this. But if there's no adjudication mechanism, and no enforcement mechanism, and what is the restitution that's being offered? The ordinance in Mexico City for example doesn't address what happens if you're being targeted by the police, and being blackmailed by the police? They're not sue-able. You can say that oh, you can go through this mechanism. But again, what are the parameters of that mechanism, in terms of how successful are people? If people in general, forget queers, are not, this is an ineffective system to protect people. Its mere existence on paper, or even if it's more than just on paper, what is the efficacy of the system, what is the protection that is actually provides? (Interview 101).

These remarks emphasize the crucial position of police forces in ensuring the security of individual members of society. In situations where police are corrupt and operate outside or contrary to their formal legal authority, the position of already vulnerable segments of society, such as sexual dissidents, becomes even more tenuous. Laws promising freedom from violence, threats to personal security and discrimination are rendered meaningless in instances where authorities charged with enforcing the law are themselves agents of persecution. Though some may argue that police corruption is 'endemic' to many countries and does not constitute persecution for Convention reasons, the extralegal conduct of authorities disproportionately effects queer people because they are queer and an already marginalized element of society. The lawyer's comments also illustrate the difficulty of assessing state protection in refugee

determination, and the problem of visibility. While formal state protections mechanisms may exist in the law, their efficacy in creating a situation of appreciable security for queer individuals in their everyday lives is far less 'visible' to refugee adjudicators -particularly given legal standards of objectivity that operate against the personal testimony of asylum seekers.

Carla, a lesbian-identified Convention Refugee from Peru, shares her experience with queer activists in her home country:

Yeah, there was a gay organization. They don't really help, though. It's just, an office thing. Even like, to get into there, you have to look around, so nobody sees you getting in there. You get put down, if people see you getting in places like that. They don't really offer much help. There's nothing much they can do. I even tried contacting them once I was in the States, and then once I was in Canada, for evidence about gay abuse, towards gay people. I never got an answer. When I called, they said, well there's nothing here for you. I sent a friend of mine to go and look for information. They said, well, we have nothing, sorry. When I talked to someone once, they said it's because they receive funding from the government, but I'm not sure about it. If they receive funding from the government, it's probably minimal, and they would be without it if they went against the government. So if they know it's for an asylum claim, they wouldn't do anything, because it goes against the government (Interview 210).

Carla's remarks highlight the tenuous status of queer activism in Peru. Asked whether she had approached them for help while living in Peru or once she got to the US and Canada, she explains that the organization's ability to address experiences of persecution is limited, and in the case of asylum claims, denied. The precise nature of the organization's relationship to the Peruvian state is unclear, but Carla insists that regardless of whether or not the group receives state funding, it did not help her in her situation.¹³ Whatever activism the organization does engage in, she suggests, it avoids action that carries too high of a risk in offending the government, such as supporting

¹³ Carla shared that she had experienced ongoing incidents of homophobic harassment, discrimination and violence while living in Peru, and avoided revealing her sexual orientation in most contexts for fear that she would experience further persecution.

queer asylum claims.¹⁴ It is also apparent from her comments that entering queer activist spaces marks individuals as queer and as such, exercising discretion is crucial to security. The mere existence of an organized queer movement in a country, does nothing to ensure the safety of sexual dissidents, and may even correlate with a heightened policing of sexual boundaries as the movement achieves greater visibility in society.

Travel, Positionality and Experiences of Place

Perceptions of place are influenced by processes from the scale of the tourist body all the way up to the level of geopolitical arrangements. I wish to further contextualize the refugee decision-making procedure through a discussion of travel experiences and international relations as important, albeit less formalized, factors influencing the asylum system.

Where adjudicators travel, so too do they form their own impressions of different places, in moving from the spaces of home to the tourist spaces of the global South, from which most refugee claimants originate. Mexico is a common vacation destination for Canadian tourists, an economic partner in the North American Free Trade Agreement (NAFTA), as well as a source country for a significant number of queer refugees. A refugee service provider comments:

Mexico is a country that is very easily accessible by Canadians, and so there's a lot of contact between Canada and Mexico with people from Canada going to Mexico. And so I think a lot of people have the tourist's view, including members of the IRB, have the tourist's view of Mexico. And certainly, there are a lot of queer Canadians who go to Mexico on vacation. So certainly around the resort areas, there's clear acceptance of queers within that context, as tourists (Interview 301).

¹⁴ Queer activist organizations may also decline to assist queer refugees, and do in other country contexts, because their interests are perceived to be at odds; while activists continue to 'stay and fight,' refugees have opted to abandon their home country and the movement to improve the situation of its sexual dissidents.

Many Canadians, including both refugee adjudicators and 'out' gay and lesbian tourists, visit Mexican resorts on holiday and encounter tolerance and even acceptance of homosexuality while abroad. The service provider characterizes this experience of the country as "the tourist's view", a perspective mediated by crucial differences of race, nationality and class. How might this vision of place be distinguished from those of queer refugees from Mexico?

At times, tourism information is employed in the refugee determination process as country information –that is, as evidence of conditions in the country of origin that inform assessments of sexuality and persecution. As one lawyer notes,

Evidence of gay tourism for a particular country has been used by board members in the making of negative decision. But, it doesn't address the reality of the people who live there. For many countries, the tourist dollar is incredibly valuable, so whether the money comes from straights or from queers is really irrelevant, because it's money (Interview 101).

Documentation attesting to the existence of a gay-oriented travel industry in various countries suggests the relative safety of homosexuals in an atmosphere of apparent tolerance, permitting some decision-makers to conclude that asylum should not be granted. However, as the lawyer points out, the economic context of gay tourism is crucial to understanding the safety of queers in a given country. Particularly where tourist spending provides a much-needed economic boost to an area, travelers often experience attitudes of greater tolerance and may not be subject to the same treatment as 'local' queers. The lawyer continues,

People who come in as tourists come in for a finite period of time, live within a particular confines, or within a particular circumstance, and then they leave. They don't have to go looking for work there, they don't have to go shopping to the market, they don't have to find a place to live, they come and they go (Interview 101).

A more complex spatialized understanding of the tourist experience, as offered by the lawyer here, indicates that tourists, gay and straight alike, have more limited and qualitatively different kind of contact with the host society. Persecution may be located

more in the realities of 'everyday life' for sexual dissidents who do not experience the relative geographical isolation of tourists or their economic privilege. For those queer locals who become more involved with tourist enclaves in places like Mexico, their identification with foreign gay travelers has in some instances threatened their security.

I have many people [refugee claimant clients] who worked in resorts and in the tourism industry and actually had problems because of that. By being in the tourist industry and being more exposed to queers, becoming a little more open and being identified, has then led to them having fundamental problems (Interview 101).

Contact with a visibly gay (temporary) community of tourists, and the 'outness' associated with this contact, have led in some cases to individuals experiencing greater levels of discrimination and harassment as they return to their 'everyday' lives in Mexican society. In other cases, some queer Mexicans have deliberately relocated to tourist enclaves in order to feel more secure as sexual dissidents. Gloria, a lesbian claimant, was denied refugee status in Canada in 2004 and returned to Mexico shortly thereafter. Rather than resettling in suburban Mexico City, where she had experienced heightened fear and insecurity as a lesbian, she relocated to a resort town popular with queer tourists and found work in the travel industry. Her experience exemplifies the concept of 'internal flight' in a practical context; having failed to obtain asylum in Canada, she moved to a location within her country of origin that she perceived as more secure, while maintaining an aspiration for Canadian citizenship via the independent 'points system' category. However, this move remains fraught with uncertainty for her and other sexual dissidents. As she prepared to leave Canada, she recounted to me how she was actively assuming a more 'feminine' appearance and behaviour in preparation for her return to Mexico, and remained deeply afraid of encountering further harassment and discrimination in her home country. Her fears relate to the continued reality of extralegal conduct against sexual dissidents by police forces and other members of Mexican

society, despite an official endorsement of gay tourism and efforts to institutionalize state protection of queers. The lawyer argues:

The ministry of tourism has been actively supporting gay tourism in some parts of Mexico. And at the same time, you still have the police, who vampire off even tourists. We do have documentation, testimonials from white Americans, for example, who've gone down to Mexico, who've been detained, who've been blackmailed, who've been extorted money, all sort of stuff like that, [in 2003]. A lot of people don't even report it. Even for the white Americans who go down to Mexico, not all of them may be out. The reality is, if you do complain, you out yourself. But also, the reality is, they just want to forget about it, they just want to go home. But imagine living with that as a constant factor. The ministry of tourism may be supportive of gay tourism, but at the same time, you still have the police and the local population that respond very differently to them. You need to look at it sort of holistically (Interview 102).

His comments highlight a number of ambiguities that characterize accounts of queer life in Mexico. On one hand, the state seeks out the economic benefits of gay tourism, while on the other, its enforcement arm continues to discriminate against sexual dissidents, both foreign and domestic, as a population more vulnerable to extortion, detention and harassment. While the lawyer's comments suggest that even white American tourists may experience sexual orientation persecution, he also emphasizes the important differences between tourist and local experiences of place. The 'holistic' view for which he argues provides a more nuanced rendition of identity-in-place that enables us to see the ways in which sexual dissidents in Mexico experience persecution despite the ambivalence of official responses to queer sexualities.

Sexuality, Imperialism and 'Progress'

What is required of the Oriental expert is no longer simply "understanding": now the Orient must be made to perform, its power must be enlisted on the side of "our" values, civilization, interests, goals (Said 1978: 238).

Refugees claimant, including queer refugees, are often depicted as traitors of the nation. *The Globe and Mail* interviewed a representative of the Mexican consulate in Toronto, who claimed that he had met many Mexican men who lied about their sexual

orientation in refugee claim proceedings in order to get into Canada and stated “They are clearly taking advantage of the system, and giving Mexico a bad name” (Jimenez 2004, April 24). He also denied that ‘homosexuals’ are systematically persecuted in Mexico, noting an annual gay festival in the resort town of Cancun and a guidebook listing various gay-friendly bars and bathhouses in the country. His comments subtly conflate ‘authentic’ and ‘inauthentic’ sexual dissidents into a single category of persons claiming asylum in Canada and giving Mexico “a bad name” in the process.

The often stark geographies of asylum adjudication obscure a more ambivalent reality experienced by many queer refugee claimants. While the refugee determination process frequently demands that claimants speak about their homelands in negative or derogatory terms, in order to establish a likelihood of persecution, my interviews and discussions with queer refugee claimants indicate that many retain a fondness for, pride in and loyalty to their home countries. Susan, a Convention Refugee woman from Malaysia, admits:

I feel kind of ashamed talking about my country that way, and I feel pretty isolated from the rest of the Malaysian community, straight Malaysians. I didn't join any of the international groups, the Malaysian groups, because I feel like they'll disagree with what I say, because they experience it [Malaysia] as a straight person. But they would think that I'm a traitor for painting Malaysia in such a way. Malaysia is great to visit, you can go there as a tourist, it has islands and beaches and palm trees, it's wonderful (Interview 211).

Susan's account suggests a series of ambiguities in her relationship to home and to fellow Malaysian immigrants living in North America. The necessity of denigrating her country of origin in order to secure permanent status in Canada is fraught with feelings of shame, guilt and isolation, to the extent that she depicts herself as treasonous in the eyes of other Malaysians. At the same time, she acknowledges the importance of her position as a sexual dissident in relation to a nation, and a national community abroad, experienced as heterosexist. The claimant also emphasizes the beauty of her homeland, suggesting it as a ‘wonderful’ place to visit as a tourist. The set of conflicting

representations she puts forward of her relationship to home suggests the substantial difficulty encountered by queer refugee claimants in negotiating the migration, asylum and resettlement process. Like many others, Susan experiences multiple and sometimes conflicting attachments and belongings, exclusions and alienations, in establishing herself as a refugee and living as a queer woman of Malaysian origin in Canada.

A refugee service provider's comments suggest that Susan's experiences are by no means uncommon:

I have found from talking to people that it's hard for people who come here to make the refugee claim against their own country, because there's still that sense of connection and loyalty to their homeland, and so it is for some of them very difficult to have to do that. To denounce their own home (Interview 301).

Again, the cohering tendencies of refugee determination often seem to demand that claimant's speak about their countries in uniformly negative terms, betraying whatever attachments to home exist in order that a clear and unambiguous representation of place may be produced. Refugee claims force many individuals to become more 'political' than they might otherwise be comfortable with; by initiating a claim 'against' their home country, they enter into a complex and political charged field of identity, place and representation. Claiming asylum means criticizing home in no uncertain terms, in effect 'denouncing' home as the service provider suggests. This act places queer refugee claimants in opposition not only to the nation of origin, but also in some cases to a diaspora of immigrants who retain a sense of national belonging abroad. These lines of identification cut not only across location but class and sexuality as well. By no means are other queer immigrants from home consistently supportive of queer refugee claims by fellow nationals. The service provider recalls a workshop for queer immigrant parents, at which she encountered resistance to queer asylum claims:

They had no acceptance of people coming from their countries as refugees based on sexual orientation. Now whether that's a dynamic that says, well, I had to work

hard to get here, I came and I came on my own, and you know, I did this myself. I don't really know what's behind that (Interview 301).

As this account suggests, queer immigrants cannot be lumped into a single category of collective identification; instead, it draws our attention to the importance of economic factors behind queer migration and the influence of class in shaping the relationship between sexuality, nation and identity. Clearly, some queer immigrants may view the refugee claims of other queers from home with scepticism, perhaps challenging the authenticity of such individuals as 'genuine' refugees or viewing asylum seekers as 'queue-jumpers' who came not on their own merit but by 'selling out' the nation of origin. From this sort of perspective, the queer refugee emerges as nation-traitor from whom even other queers may be quick to distance themselves. In other instances, speaking with a Turkish gay man claiming asylum for example, fellow nationals 'homo' and 'hetero' alike proved supportive of queer refugee claims from Turkey.

Earlier, I reviewed Hoad's (2000) article on evolutionary narratives of difference in literatures on sexuality that encompass both ideologies of oppression and of liberation. Certainly, the Canada refugee protection system, by its very name, espouses the latter goal of liberating persecuted individuals from situations of political and social repression. To what extent are countries of origin figured as essentially 'backward,' or emblematic of an earlier stage of western development? My review of refugee determination discourse found that the trope of evolutionary development commonly appears in discussions of difference and place. Terms such as "progress" also appear widely in refugee determination discourse, to denote the level of development or advancement in practices and attitudes towards sexuality. The IRB's 2004 update on Mexico states:

While the homosexual community has made some progress within the political and legal landscape of Mexico, traditional attitudes of intolerance and evidence of mistreatment still persist in certain areas (IRB 2004, April 15).

This excerpt from the report, which is meant to guide the decision-making process in queer claims from Mexico, also references ‘tradition’ as the complementary opposite of progress. The terms “still” and “persist” temporalize space, as Hoad argues, by constructing the situation in Mexico as an earlier stage of evolution towards enlightened approaches to the politics of sexuality and identity.

The following excerpts are taken from an IRB decision on the refugee claim of a gay man from India, in 2000. It cites an article called “Hidden homosexuals: Fugitives in their own land,” from the publication *India Abroad*.

...99 percent of the country’s gay men and women remain closeted all their lives. A sexual revolution may have come to India’s heterosexual world, but *it is yet to touch theirs....*

...Aware that their homosexuality arouses loathing, they *remain in hiding....*

...A bulk of the gays still live in hiding. They tell their secret to nobody. Not to parents, not to friends, not to relatives. There are very few Indians who publicly acknowledge they are gay....

...Essentially, however, India is *decades behind the West* in the understanding of sex -- especially homosexuality. Until that understanding *spreads*, gays in India will remain fugitives in their own land (IRB 2000, June 07) (emphasis added).

These excerpts reinforce the idea of an evolutionary trajectory in the development of sexual identities, positing India as “behind” the West, which is correspondingly valorized as a site of enlightened knowledge about sex and in particular “homosexuality”. It constructs the so-called “sexual revolution” as a liberating force that implicitly began in the West and will gradually diffuse to other parts of the world, though for the time being it has not yet “touched” Indian “homosexuals”. The use of terms such as “remain” or “still” create India as an anachronistic place in a world of globalizing gay sexuality, a place so primitive that “gay men and women” continue to live in the closet (itself a Western concept that associates “outness” and “liberation”, which as I have argued in an earlier paper is fraught for many queer refugees attempting to negotiate their identities across multiple axes of difference). Public acknowledgement of “homosexuality” constitutes liberation and progress, in this perspective. This article is uncritically admitted as

evidence of the treatment of sexual dissidents in India, the claimant's country of origin; the adjudicator simply quotes this excerpt, alongside a series of other "country conditions" sources, and then renders his decision to grant refugee status, finding that "the societal and police attitudes towards homosexuality are nationwide" (Ibid). The decision identifies the claimant as a Muslim, and quotes a gay Indian activist and designated "expert" on sexuality in India and Pakistan who "states that in the Muslim faith gays are considered inherently 'unholy' and 'therefore, harming or killing a gay person is considered a divine duty'" (IRB 2000, June 07). Islam stands here as a monolithic religion that is inherently persecutory of queers and even invokes violence against gay people as a Muslim duty.

This invocation of Islamic or Muslim faith as a kind of shorthand for establishing persecution is by no means unique to this case. Indeed, references to Islamic persecution of queer people pervade refugee determination discourse. The following statement taken from a 2003 decision on the refugee claim of a gay man from Pakistan states:

The claimant refuses to return to Pakistan because of his homosexual orientation. Homosexuality is prohibited by Islamic Religious Laws and by the Secular Laws of the country. [...] The documentary evidence in Exhibit A-3 indicates that homosexuality remains outlawed in Pakistan and that penalties differ from two years to life in prison and or flogging. The same document also states that under Islamic Law, the penalties can include death by stoning (*IRB Reference MA3-01597 2003*).

The spectacle of primitive forms of justice and punishment such as "death by stoning" are commonly emphasized in refugee decisions on countries in which Shariah law operates, though occasionally tempered by the caveat that such provisions are rarely enforced (which is not the case in the decision I have just referenced). Nonetheless, the barbaric trope of death-by-stoning, or the threat thereof, haunts these decisions and comes to symbolize the inherent backwardness of places like Pakistan. Similarly, in a

2005 decision I witnessed on the claim of a lesbian woman from Malaysia, the board member noted in her decision that “Malaysia is an Islamic country, shunned by the international community because of treatment of minorities, and its human rights abuses,” and specifically mentioned an article in the country’s Penal Code (377a) used to criminalize homosexual intercourse. Furthermore, she commented that despite its good reputation among travelers, Malaysia had “a very dark underbelly”. The racialized tones of this latter statement are particularly troubling in a setting envisioned as emancipatory.

Discussions on the ‘culture’ of the country of origin are common in refugee determination discourse, which often essentialises the perceived homophobia of non-Western cultures. An exchange between a witness and the adjudicator at the March 2005 hearing of a lesbian woman from Malaysia highlights the way in which the category of “culture” is sometimes deployed to contrast liberated Western versus oppressed “Other” sexual dissidence. The witness suggests, “The way our culture is, it’s really hard for one to just be out. It took me a long time as well,” and further emphasizes the “cultural problem” in response to a question about barriers to coming out in Malaysia. This witness, a friend of the claimant’s, and a resident of the United States for nearly 20 years, is called upon to verify the claimant’s own testimony. When asked by the adjudicator whether she is out to her father, her negative response provokes a reaction of surprise and puzzlement until the board member learns that her father still resides in Malaysia. The member then offers, ““You just let him figure it out, left it in the silence. Is that cultural?” After the witness elaborates on her ‘reasons’ for not coming out to her father, the board member adds, “It’s not the Canadian way, or the American way for that matter, sort of in your face.” This encounter implicitly valorizes Canadian and American “culture” in relation to its backward Malaysian counterpart, employing a stereotype of Asian passivity in contrast with North American openness. Homophobic repression, it

would seem, is somehow built into Malaysian culture, whereas Canadian and American gays and lesbians have liberated themselves by making their sexual identities public. The considerable ease with which the board member reconfigures her view of the witness' father in learning that he lives in Malaysia and not the US betrays her rather stark imagined geography of sexuality and otherness.

Conclusions

I began this chapter by outlining several important concepts in refugee law, including persecution (versus discrimination), state protection and internal flight alternative, and how they are applied to queer asylum cases. I then discussed how 'signs of gay life' in the country of origin are used to represent it as safe for sexual dissidents, and how these signs influence the practical interpretation of legal concepts. These signs often reflect a heteronormative spatial imaginary that is also frequently ignorant of social differences like race, nationality, gender and class that shape experiences of place and security. Country of origin evidence is filtered through dominant western constructions of the state, rights, sexual identity and development. Asylum discourse reinforces the notion of western superiority and the cultural backwardness or primitiveness of countries of origin. It also compels refugee claimants to adhere to this implicit geography by uniformly denigrating 'home' and valorizing the country of reception. Having outlined the serious limitations and risks of prominent modes of analysis in queer asylum adjudication, and in particular their heterosexist and neo-colonial dimensions, I will turn in my conclusions towards replacing rigid accounts of 'sexuality' and 'place' with a more nuanced and geographically informed approach.

CHAPTER SIX. CONCLUSIONS: QUEERING THE GEOGRAPHICAL IMAGINATIONS OF ASYLUM

The manner in which legal geographies are defined can have problematic effects, both in an immediate and a more indirect sense ... Legal categories and distinctions not only draw upon consciousness, but form it, such that everyday language becomes imbued with the vocabulary of rights, property and legality. The geographies of law may serve a similar constitutive function, both shaping and constraining the social, imaginary, and popular readings of the spatiality of social life. At the same time, it must be recognized that such geographies, like histories of law, are necessarily conditional and partial. Not only are they often contradictory, but alternative legal maps can be constructed to challenge those which are dominant (Blomley and Bakan 1992: 670).

I began the introduction to this thesis by discussing a map of State Homophobia that creates a particular vision of the relationship between law and sexuality, one that takes written law as the central determinant of the status of 'homosexuals' in society. Refugee determination engages in similar kinds of mapping practices and boundary-making, albeit usually without the illustrative technology of a pictorial map. Throughout this thesis, I have problematized the geographical imaginations of refugee determination in sexual orientation-based asylum claims, preparing the ground for constructing 'alternative legal maps'. By mobilizing the insights of queer and geographical studies, we can re-imagine the geographies of queer asylum in the interests of promoting a more just and humane refugee determination system.

My conclusions start with a review of my central inquiries and arguments about identity and place in refugee protection discourse. I then discuss how my research findings inform ongoing theoretical debates about around sexuality, migration and

citizenship, and make a series of recommendations for the refugee protection decision-making process. Finally, I will outline some important shortcomings and limitations of my thesis, and explore the potentials for further research exposed by this project.

I set out to explore how 'identity' and 'place' are articulated and assessed in Canadian refugee determination for sexual orientation-based asylum claims. More specifically, I examined how key legal concepts in refugee law are given shape and meaning through particular constructions of sexuality and geographical space. Chapter four focused upon how claimants demonstrate their 'membership in a particular social group': homosexuals. I argued that decision-making reflected dominant understandings of sexuality as appearance, 'coming out,' same-sex intimacy and partnership, and community, which function to define refugee claimant subjectivities as authentically 'homosexual'. Often misconstrued or applied restrictively, these ideas about what constitutes homosexuality at times worked unjustly to discredit individual claims to a homosexual identity and thereby limit the possibilities of queer self-expression. Those who fall outside these constructions also fall outside the protection of the state.

In addition to adjudging the authenticity of the claimant's homosexuality, decision-makers also formulate an opinion regarding the likelihood of persecution and possibility of state protection or internal flight alternative. Chapter five explored how country information is assembled and assessed to inform this judgment, and how 'signs of gay life' in a country, such as greater 'homosexual' visibility, gay-identified 'public' spaces, gay rights and activism, and gay tourism, support the denial of refugee claims from its queer nationals. I argued that these constructions of place ignore the ways in which space is heterosexualized and queer bodies are marked as transgressive, as well as the influence of gender, race, nationality and class upon experiences of security.

Homosexual/Heterosexual

Queer asylum discourse presents a troubling preoccupation with maintaining a discrete boundary between homo and heterosexuality by marking 'authentic' homosexuality. Informed from its inception by gay and lesbian identity politics, sexual orientation-based asylum discourse mirrors many of the assumptions of this approach. It envisions sexuality as fixed and mutually exclusive, either homo or hetero, and universal, in that essentially homosexual persons can be found throughout the world and its history. Queer theorists have contested these premises by asserting that the homosexual/heterosexual divide is recent and culturally specific, a modern Western development that differs from other constructions of same-sex desire that prevailed or prevail in other times and places.

Broader social anxieties around refugee claimants as a threat to the nation, and homosexuals as a threat to heteropatriarchy, converge around the figure of the queer refugee. Careful circumscription of this category of asylum therefore contains the threat of homosexuality by locating it in a set of essentialized characteristics possessed only by homosexuals (Duggan 1994), and prevents abuse of the refugee protection system perpetrated by so-called 'economic migrants' and 'violent foreigners' (the trope of the Muslim terrorist, for instance). The latter two figures threaten the economic well-being of society and national security, respectively. Thus there exists an impetus to limit asylum categories generally by carefully defining who may qualify for refugee protection. Essentializing homosexuality is the most straightforward and expedient way to accomplish this objective of circumscribing immigration categories.

The text of the 1951 Refugee Convention, as the crucial document determining Canada's international legal obligations to asylum seekers, leaves decision-makers with the somewhat awkward category of 'membership in a particular social group' (MPSG) through which GLBT refugees are accepted. My research suggests that the way in

which this phrase is understood by adjudicators may be crucial to the understanding and evaluation of queer refugee experiences. Concerted and repeated attempts to establish individual claimants as genuinely homosexual are to some extent encouraged by the MSPG clause of the Convention. Decision-makers must take care to recognize this category as a legal construct and a means for flexible interpretation of the refugee definition. As I have discussed throughout the thesis, conceiving of 'gays and lesbians' or 'sexual minorities' as a social group is problematic, because sexual dissidents do not always form a cohesive group with shared characteristics, other than experiencing their sexualities outside of or in opposition to dominant heteronormative sexuality. As ruled in *Ward v. Attorney-General (Canada)* (1993), it is 'sexual orientation' and not 'homosexuality' that forms the basis for inclusion of sexual dissidents in asylum provisions. The apparent concern for establishing individual claimants as authentically gay or lesbian (and more rarely, bisexual) demonstrated in many of the cases I reviewed seems motivated more by a desire to circumscribe and limit the category of sexual orientation-based asylum and less by the necessities of refugee protection.

Queer asylum discourse demonstrates the ongoing centrality of the homo/heterosexual distinction to sexual citizenship in Canada, even as the state moves to remove sexual orientation-based discriminations in the law. The public/private division of space is also crucial to formulations of sexual citizenship in Canada and the West, as it provides the necessary frames for narratives of coming out of the closet that are deemed to be a primary component of queer identity. Indeed, refugee protection discourse at times demands that claimants represent themselves publicly as gay or lesbian, not just in the spaces of adjudication but throughout their lives in Canada, despite the importance of sociospatial context to sexual identifications not just for queer refugees but for sexual citizens generally. Sexual identities are continuously being forged in relation to changing sociospatial surroundings, and sexual dissidents find

themselves constantly encountering heteronormative presumption. In order to preserve an attachment to home, many queer refugees, for example, may not reveal their same-sex desires to other members of their immigrant community in Canada. This situation should not be read to suggest that they are not genuinely 'homosexual'.

Evaluating Identity

The scale of the body is crucial to evaluating the security of sexual dissidents. A claimant's appearance may be relevant to a decision in that it may mark him or her as a sexual dissident and thereby contribute to a likelihood of persecution. Efforts to conform to socially prescribed gender norms (ie. appropriate hair, make-up, dress, mannerism, speech etc.) may be legitimately interpreted as attempts to avoid persecution, as is currently accepted in Canadian decision-making. The opposite proposition, that a claimant's appearance would not likely be read as homosexual and therefore he or she does not face a serious risk of persecution, is clearly problematic for reasons I identified earlier. Individuals may be marked as queer not only through their appearances, but through their social associations, living arrangements and situation in spaces marked as queer, for example. Because gender-specific norms of appearance and conduct vary geographically (both between and within cultures and places), we cannot always rely upon an adjudicator's evaluation of masculinity, femininity and gender transgression. This kind of evaluation cannot form the basis for rejecting a claim, as was decided in the case of Mexican claimant Rivera (see Chapter Four), and adjudicators should look to other ways in which a claimant's sexual expression places him or her at risk of persecution if a claimant does not raise the issue of his or her appearance as a factor that contributes to a fear of persecution. Challenging an individual's claim to sexual dissidence on the grounds of appearance is neither productive nor respectful, and

serves merely to reinscribe a fictional boundary between homosexual and heterosexual appearances.

‘Coming out’ must be more complexly spatialized in queer asylum proceedings. Adjudicators must not draw inappropriately rigid boundaries between countries of origin and reception when it comes to evaluating outness. Apparently ignorant of heteronormative presumptions that continually re-closet individuals, some have tended to conceive of coming out as a single moment, after which the individual is always and everywhere out. They have also applied the coming out concept as something that is universal rather than culturally or geographically embedded. If an individual is judged to have led a ‘discrete lifestyle’ in Canada as well as the country of origin, his or her mode of sexual expression should be respected rather than used to undermine the validity of the claim. Concerned with assessing security rather than offering normative judgments, refugee determination analyses should focus on the consequences of a breach of this ‘discretion’.

In questioning a claimant about his or her sexual and relationship history, adjudicators should keep in mind the objective of assessing the claimant’s security in the country of origin. Inquires regarding the claimant’s role in sexual intercourse, for example, are puzzling in that they fail to support this objective and do nothing to establish the veracity of a claimant’s identity. Active partners in intercourse can be marked as queer in ways other than their sexual behaviour. The number of sex partners a claimants has had, or the frequency with which he or she engages in sexual activity, are not necessarily relevant pieces of information in evaluating a risk of persecution. There is no one set of sexual practices common to queer sexualities. With respect to partnerships, adjudicators must also recognize the diversity of queer lives. While some individuals live with same-sex partners in long-term, committed relationships, others may

not. In either situation, individuals may face persecution for transgressing accepted norms of sexuality, including the expectation of heterosexual marriage and cohabitation.

Notions of sexuality and community in queer asylum discourse must also become more spatially nuanced. The tendency to view the gay community as a discrete entity, situated in the commercial and social institutions of the urban gay ghetto, can be misleading. While gay ghettos no doubt exist in Canadian cities, they by no means encompass the scope of queer refugee lives. Individuals may maintain or forge links with non-gay communities, in which they may or may not be out of the closet. At first glance, such affiliations may appear contradictory, until an adjudicator realizes that identity is not singular but instead multiple and spatially contingent. Thus, a claimant may identify as both gay and Catholic, and participate in both gay and Catholic communities. Access to and a desire to participate in the well-known institutions of gay communities such as nightclubs, Pride parades and festivities, or queer activist groups may be importantly differentiated along lines of race, class, gender, language and personality. Thus, adjudicators should not assume that a claimant's failure to participate in these institutions or events detracts from his or her identification as queer.

My study also reinforces the importance of examining security at the scale of the body as well as the scale of nation. Individuals monitor their appearances and behaviours in order to promote their own security in relation to changing sociospatial contexts. The significant gap between sexual orientation anti-discrimination laws and the homophobic practices of police and society in many countries, what Waitt (2005) terms the fragile rule of law, is a crucial consideration for refugee protection decision-making. The tendency to 'see like a (heteronormative) state' instead of 'seeing like a (queer) body' exemplified in some asylum decisions risks jeopardizing the safety of queer refugee claimants. In some instances, claimants are required to perform a gap in state protection by pursuing the help of institutions like the police who may themselves

be characterized by homophobia, such that state authorities display either indifference towards the insecurity of sexual dissidents or actually contribute towards it through arbitrary harassment, detention and violence. These acts are arbitrary in the sense of being extralegal, but not arbitrary in that they are often motivated by homophobia and a desire to discipline transgressive sexual identities.

Sexuality and Signs of Development

In examining how places come to be understood as safe for sexual dissidents, my research found that a common theme of sexual development structures many readings of the country of origin. Sexual development is understood here to follow a singular path towards the full inclusion of gays and lesbians in society through the granting of equal rights and the removal of discriminations on the basis of sexual orientation. This narrative seems to draw from Western histories of sexual enlightenment, which constitute the path of progress for all other countries to follow. A series of markers from this history, I argue, are used to read the situation in other countries: greater homosexual visibility and activism, gay-identified public spaces, gay rights, and gay tourism. While these markers do indeed indicate improvement in some respects (for instance, electing openly gay politicians or the introduction of anti-discrimination clauses in the law), I take issue with their underlying logic of progress and their extension to the situation of all sexual dissidents regardless of other differentiations of identity.

The transformation of sexualities and sexual identities across the globe is not occurring along a single, uniform continuum. Rather, complex flows of local, national and global discourses and practices are interacting to reshape sexuality in a multitude of ways, such that the expression of sexual desire or identity takes a unique form in each location. Boellstorff's (1999, 2004) analyses of sexual citizenship in Indonesia, for

example, stresses the unique use of the terms *gay* and *lesbi* in Indonesian language, which he italicizes to signify that they cannot be understood as reducible to the English terms gay and lesbian. He observes that “gay men usually marry women and do not assume that this contradicts their being gay, and they rarely use metaphors of the closet or speak of ‘coming out’” (2004b: 368). At the same time, these subjects participate in networks of *gay* and *lesbi* zine production, socializing and activism. The cultural construction of sexual identity is place-specific, but at the same clearly linked to national and transnational conceptions of sexuality. A rise in violence perpetrated by Muslim extremists against gay and lesbi civil rights movements in recent years, Boellstorff contends, contradicts with the historical rarity of violence against non-normative men in Indonesia, “to a degree unimaginable in many Euro-American societies, where assaults on homosexual and transgendered men are familiar elements of the social world” (2004a: 468). The transformations occurring in the sexual landscape of Indonesia problematize one-way readings of ‘progress’. Similarly, the sexual dissidents of Waitt’s (2005) study of Latvia have in many ways experienced greater insecurity following the emergence of visible homosexual identities in Latvian media and a growing public consciousness of homosexuality. Male to male affection or closeness did not historically attract the attention that it now commands as a possible expression of homosexual identity. In both cases, nationalist or religious reactions to non-normative sexualities, often posited as emanating from the West, may render sexual dissidents at great risk of persecution, even as progressive laws are adopted by the state.

A spatialized understanding of sexual dissidence and persecution problematizes many ‘signs’ of sexual development. Gay-identified public spaces may be tolerated precisely because they are spatially circumscribed. Gay beaches and nightclubs, for example, are not significant of a situation of security that extends throughout the daily lives of sexual dissidents in a country. Queer activist demonstrations and parades are

also spatio-temporally limited events, staking a temporary claim to public space and visibility that may vanish afterwards.

It is also important to ask, 'progress for whom'? The development of gay-identified public spaces, for instance, may offer queer men a place to gather, but what about women, ethnic minorities, or people with less wealth? Tolerance of openly gay politicians does not necessarily translate into tolerance for other queers in society, as socioeconomic class often strongly influences encounters with police and other social actors, rendering those of a lower standing more vulnerable to persecution. Spaces where gay tourism is accepted by society are also not universally accessible, nor are tourists subject to the same normative expectations as locals. Positionality, in other words, crucially shapes experiences of security such that a uniform category of 'homosexual' fails to appreciate the ways in which further differentiations of identity render individuals more or less vulnerable.

Limitations and Directions for Further Research

In thinking about and executing this project, more questions arose than could feasibly be answered or sufficiently investigated. Unsure as to what possibilities would exist for obtaining information, I framed my initial inquiry in rather broad terms. At the outset, I had hoped to address transgendered refugee claims as well, an important objective which quickly proved beyond the parameters of my project. This goal is essential for further studies to tackle, as it was frequently mentioned by research participants that the standards of decision-making as well as the overall success of claimants were substantially different from sexual orientation-based claims. My study does address gender differences in experiences and assessments of persecution, albeit on a rather limited basis. Further studies focusing specifically on queer women asylum

claimants could more carefully consider their circumstances as well as the effects of the IRB's gender-related persecution guidelines.

I also declined to limit the geographical scope of my inquiry, such that I interviewed claimants from a diverse range of national, linguistic, cultural and religious backgrounds. Working across such a variety of cultural contexts made it impossible to address any single country context in great depth, yet in many ways a more geographically focused analysis could reveal greater insights into the dynamics of queer asylum. Because sexuality is articulated and practiced differently in various geographical contexts around the world, greater geographical specificity could enable a more detailed investigation of country of origin conditions for sexual dissidents. I tried to stay away from assessing the accuracy of IRB country information and instead focus upon the logics of the refugee determination process in Canada, but in many ways it is difficult to accomplish the latter without engaging with the details of country of origin conditions.

I have already outlined some of the shortcomings of this project in the chapter on methodology. In order to be truly collaborative, this research project would have had to engage a group like the Rainbow Refugee Committee more closely in establishing research questions and frameworks. This objective proved to be beyond my capacity, and I regret that I did not involve research participants more heavily in the analytical work of the project, which remained entirely my own endeavour. I also would have liked to engage more directly with agents of the state, through interviews with government actors involved in the IRB process. While procedurally more challenging, I believe that this exercise would yield an entirely new dimension to the project of studying queer asylum and provide greater insight into the process of decision-making.

Through my involvement in queer refugee activism, I became aware of a huge range of unique issues and struggles facing queer refugee claimants, and queer

migrants more generally, in the area of settlement and integration. Many of my activities with the RRC, for instance, focused upon obtaining access to housing, social assistance, employment and becoming integrated into communities in Canada. A sustained investigation of queer immigration and settlement issues is needed to address the situation of queer migrants and refugees, about whom little is known in Canada. While there is more to be accomplished in the way of queering asylum discourse and practice, a queering of immigration and settlement studies remains an equally pressing concern.

Queering Away from Strategic Essentialism

Strategic essentialism must be contextualized, Razack (1998) argues, by distinguishing acts of resistance from acts of domination. Who employs it, by what means, and to what ends? Engaged in a humanitarian mission to save ‘the other other’ (Millbank 2004), the state has created an essentialized identity category as the basis for sexual orientation-based asylum: the homosexual. This move represents an effort to set limits to Canada’s generosity by framing and containing sexual and racial/ethnic others. The state draws a boundary around sexual identity as an exercise of control to limit ‘abuse’ of the refugee system, and to reinforce the homo/heterosexual distinction. Queer refugee claimants strategically essentialize their own identities in order to ‘fit’ the category of homosexuality established by the state, while at the same time confounding its boundaries with their testimony. As my arguments suggests, those who represent their identities and countries of origin in conformity with the state’s essentialized notions of sexuality and space are more likely to receive refugee status. My critique of ‘strategic essentialism’ is therefore directed at the state, and the ways in which its discourses of gay liberation through asylum conceal underlying strategies of control. I have also discussed it in relation to research methodology. Wishing to avoid asserting the primacy of shared ‘queerness’ over other axes of difference in my relationships with research

participants, I note that 'strategically' identifying as queer can help create relationships of trust and mutual affinity. However, this shared identification must be invoked with the greatest care, suggesting solidarity in political struggles but not sameness. The interrogation of domination and subordination, in both research and politics, must be ongoing. Practices of identification must never be divorced from questions of power.

Following Kobayashi and Peake's (1994) arguments about the dangers of strategic essentialism, I argue that essentialized representations of sexuality and place pose a series of risks, whether they appear in queer asylum discourse, in academic rhetoric, or elsewhere. As the authors warn, theories are not just 'stories,' and neither are personal testimonies, country conditions reports, or refugee decisions. All have "real and durable effects" (342). We may be overlooking more complex and just ways of representing and organizing, in the interests of political expediency, by employing strategic essentialism. Its tactics, as I remarked at the outset of chapter four, bear a disturbing resemblance to strategies of exclusion and oppression. Indeed, an essentialized 'homosexual' identity is precisely the trope that gets picked up by agents of persecution, by those who decry 'sodomy' as a sinful Western import that must be wiped out or disavowed. Essentializing 'place' as homophobic runs an equal level of risk; by rejecting particular spaces, cultures, faiths as inherently anti-queer, we foreclose the possibilities for social change in 'other' places –change not necessarily pursuant to a Western model of sexual 'enlightenment' and 'gay liberation' but rather, change on 'their' own terms. This strategy of saving homosexuals from an essentially homophobic homeland reinforces a notion of Western superiority and the neocolonial relations of power and knowledge that accompany it. Articulating strategic essentialism at the juncture between diverse spaces and subjectivities, where refugee determination occurs, serves to facilitate cultural and political hegemony. Particularly as the much-theorized 'forces of globalization' reconfigure relationships between 'local' identities and ideologies

in increasingly complex ways, practices of self-representation will themselves diversify. Calling oneself 'gay,' then, should not be assumed to carry with it any singularly complete identity. Individuals may, and do, identify themselves in particular ways ('homosexual') in order to be legible in a Western context (itself an untidy category), but not necessarily to encapsulate their past selves or experiences, or their future ones.

The organizational structure of this thesis, inasmuch as it arbitrarily separates a discussion of 'identity' from 'place,' also serves to illustrate my argument. Too often, the understandings and analyses of 'identity' and 'place' that are reflected in my reading of refugee determination discourse are not sufficiently contextualized, divorced from one another as are the two chapters. We have, on the one hand, a series of exercises intended to 'prove' the claimant's 'homosexuality,' and on the other, a review of circumstances in the country of origin. Not all refugee decision-making is structured by this separation; I have been witness to numerous adjudications (whether 'live' or written) that offer a more complex, nuanced analysis of the relationship between the individual claimant's sexual orientation and his or her geographical location. One particular decision on the claim of a gay man from Indonesia stands out in this regard, as the board member granted refugee status after considering the unique vulnerability of the claimant as a member of Chinese and Christian minorities in the country. Her decision considered the intersection of these axes of difference in putting the claimant at higher risk of persecution on multiple, mutually reinforcing grounds. This decision and others like it offer hope that asylum can indeed be more complexly spatialized and eventually queered.

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