

**“They told me to shut up and stop denying what I am”:
On Claims of Asylum, Nigerian Women Fleeing Witchcraft-Motivated Violence and
Intersecting Canadian Structures of Othering**

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Abstract

According to existing literature, English-speaking countries that receive refugees fleeing witchcraft-motivated violence see claims of asylum from Nigerian women more than from any other nation. Witchcraft-motivated violence is a gender-based issue that occurs in various forms in countries all over the world, and occurs when an individual, especially a woman, is accused of witchcraft and experiences violence as a result. Research in the sphere of witchcraft-motivated violence and asylum-seeking focuses on the context of international refugee law, particularly with regards to belonging to a ‘particular social group.’ This thesis aims to expand upon existing literature through focusing on exclusively decisions from Canada’s Refugee Appeal Division. Through conducting a thematic content analysis of five cases of Nigerian women seeking asylum in Canada between 2019 and 2020, I demonstrated how intersecting Canadian structures of oppressive ‘Othering’ led to immigration decision-makers arriving at different conclusions about the lived realities of witchcraft-motivated violence than those presented by the women. I attribute these intersecting structures of Othering to a combination of what Said observed in his work *Orientalism* and Western social constructions of witchcraft and witch hunts rooted in misogyny. The importance of these findings contributed to the knowledge production in the sphere of witchcraft-motivated violence and asylum seeking, and highlights fundamental issues within the culture of the Refugee Appeal Division, and the Immigration and Refugee Board more broadly.

Table of Contents

Acknowledgments	ii
Abstract.....	iii
Acronym List.....	vi
Introduction.....	1
1. Literature Review	8
Introduction.....	8
Section 1 – Witchcraft-Motivated Violence and Perceptions of Witchcraft in Africa	9
Section 2 – Women, Witchcraft and Sociocultural Influences in the West.....	19
Subsection 2.1 – Witchcraft Accusations and Misogyny in America, Europe, and Colonies	19
Subsection 2.2 – Canadian Witchcraft Laws and Misogyny	28
Section 3 – Guiding Critical Feminist Literature.....	31
Section 4 – Orientalism, Othering and Africa in the Western Imagination	32
Section 5 – State and Discursive Violence within Immigration Law	34
Section 6 – Credibility and Refugee Determination in Canada.....	38
Section 7 – Witchcraft-Motivated Violence and Refugee Jurisprudence	43
Conclusion	50
2.Theoretical Framework.....	52
Introduction.....	52
Section 1 -- The colonial implications of the terms ‘witch’ and ‘witchcraft’	53
Section 2 -- Overview of the two-pronged approach.....	56
<i>The Two-Pronged Intersecting Structures of Othering Visualization.....</i>	<i>58</i>
Section 3 -- A feminist perspective of Western witchcraft accusations	59
Section 4 -- Logics of Orientalism and Othering.....	63
Section 5 -- Witch-hunts, discursive truths and State Violence	68
Recap.....	73
3. Methodology	76
Introduction.....	76
Section 1-- Epistemological Approach	77
Section 2 -- Methodological strategy and central concepts	80
Section 3 -- Sampling.....	81

Section 4 -- Data analysis	82
Section 5 -- Codes	84
Section 6 -- Ethics	87
Section 7 -- Evaluative Criteria.....	91
Section 8 -- Limitations	92
4.Results and Analysis	95
Introduction.....	95
Section 2 – Results: The Immigration and Refugee Board’s Culture of Disbelief.....	100
2.1 – Witchcraft-Motivated Violence	102
2.2 – Disbelief Results.....	105
2.3 – Internal Flight Alternatives (IFAs) Results.....	116
Section 2 –Recap.....	119
Section 3 – Intersecting Structures of Othering and Canada’s Culture of Disbelief	121
3.1 – Overview of theoretical structure and concepts	122
3.2 – Determinations about the Lived Realities of Witchcraft and the Witch as the Foreign Other	122
3.3 – The Burden of the Culture of Disbelief and State-Sponsored Othering.....	131
3.4 – The Band-Aid of “Expert” Testimony	136
Conclusion	142
5.Conclusion	144
Appendix 1 – Art of Witch Hunts in Europe in <i>Caliban and the Witch</i>.....	148
References	150

Acronym List

AA	Associate Appellant
BOC	Basis of Claim
CanLII	Canadian Legal Information Institute
COI	Country of Origin document
<i>Convention</i>	United Nations Convention Relating to the Status of Refugees
<i>Code</i>	Criminal Code of Canada
IFA	Internal Flight Alternative
IRB	Immigration and Refugee Board
IRPA	Immigration and Refugee Protection Act
MA	Minor Appellant
PA	Principal Appellant
PSG[s]	Particular Social Group[s]
RAD	Refugee Appeal Division
RIR	Response to Information Request
RPD	Refugee Protection Division
UN	United Nations
UNHRC	United Nations Human Rights Commission
WMV	Witchcraft-motivated violence
WRV	Witchcraft-related violence

Introduction

Violence perpetrated against women because of the belief they are a witch or practice witchcraft is a centuries-old form of gendered violence. While many in the West may associate witchcraft accusations and violence with the witch trials in Salem, Massachusetts that occurred in the 17th century, or even witch hunts committed across Europe between the 15th and 17th centuries, the fear of witches, and subsequent violence, still occurs in a variety of cultures, including Western ones, today. While it should be noted that a belief in witchcraft does not necessarily mean a community is inherently violent (Schnoebelen, 2009, 3), violent acts carried out against accused witches regularly occurs across the world, including torture, forced isolation, physical violence, sexual violence, and murder. As such, displacement and asylum-seeking becomes a part of this landscape, with many women fleeing to other countries to escape threats or instances of violence because of the belief they are a witch or practice witchcraft. However, the ways these claims of asylum are treated seem to reproduce dynamics of violence through the use of different forms of disbelief and Western constructions of Othering. This thesis is focused on instances of women¹ in Nigeria being accused of witchcraft, being subjected to a wide array of violent acts and threats, and seeking asylum in Canada because of such violence. Therefore, my central research question throughout this project is: *What traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?*

¹ I would like to highlight that men do experience accusations of witchcraft and violence, but at a rate far less frequent than women. Other works in this area do discuss cases of men, but I chose to focus on women because of the aspect of gendered violence, and works from many Nigerian and African authors identifying witchcraft accusations as mainly levied against women.

‘Witchcraft-motivated violence’², or WMV refers to violence committed against someone (especially women) because of the *belief* they are a witch or practice witchcraft, regardless of whether they actually do (however, in the majority of cases, the women accused do not claim to practice or engage in witchcraft). These types of violence include being physically assaulted, being sexually assaulted, experiencing female genital mutilation, being starved and isolated, and enduring other kinds of horrific violence. ‘Intersecting structures of Othering’ refers to my theoretical framework, which incorporates both the study of misogynistic Western constructions of witchcraft and Saidian *Orientalism*, and borrows from concepts of intersectionality to discuss how they combine to oppress the women seeking asylum in Canada.

I chose to look specifically at instances of women fleeing Nigeria because this is the country from which Canada received the most witchcraft-related³ asylum cases, and I chose to examine Canada’s approach both because of the availability of domestic data, but also because of my own curiosity about how my country specifically approached these cases. In order to accomplish this, I selected five cases decided by the Refugee Appeal Division, which reviews decisions on asylum requests by the Refugee Protection Division of the Immigration Refugee Board. These cases span between 2019 and 2020, as available through CanLII. Other work examining witchcraft-motivated violence and asylum-seeking (Luongo 2015, 2020, 2023; Dehm and Millbank, 2019; Millbank and Vogl, 2018) examined multiple countries in the Anglosphere at once, and so by focusing on Canada, I hoped to fill a gap in research examining WMV cases in

² It should be noted other authors like Dehm and Millbank (2019) and Millbank and Vogl (2018) refer to the same issue as ‘witchcraft-related violence’ or WRV. WMV and WRV are, however, the same thing.

³ It should also be noted that because of the nature of RAD and RPD decisions, it is not publicly accessible what kinds of terms these women used while testifying and which words panellists and stenographers put in their mouths. In some cases where direct quotes are sparingly used, the women do use the term ‘witch’ or ‘witchcraft’, but language varies between cultures in Nigeria. For example, the Igbo use the word ‘amusu’ instead of ‘witch.’ However, for the sake of consistency in this project, I will use the terms ‘witch’ and ‘witchcraft’ throughout my thesis.

this specific context. I also sought to fill a gap in research by examining through a sociolegal lens how Western constructions of witchcraft and Orientalism might impact the adjudication of these cases. Other research studied women accused of witchcraft as belonging to a ‘particular social group’ or PSG as outlined in the *Convention*, and examined the adjudication of these cases in the context of international law and refugee jurisprudence. I instead chose to examine the cases through a more domestic lens, both because that is where my curiosity for this subject naturally led, and because I felt I did not have much to contribute to on the topic of women accused of witchcraft as PSGs, given the incredible work already in the field (Luongo 2015, 2020, 2023; Dehm and Millbank, 2019; Millbank and Vogl, 2018). My main goal for this project was thus to contribute, in my own unique way, to an already unique field of study, which sits at the intersections of sociolegal studies, anthropology, law, history and political science.

The Refugee Determination Process in Canada

An overview of both the refugee determination process in Canada and of the structure of the institution in charge, the Immigration and Refugee Board of Canada, is pertinent at this moment. According to itself, the Immigration and Refugee Board of Canada “is Canada’s largest independent administrative tribunal. It is responsible for making well-reasoned decisions on immigration and refugee matters, efficiently, fairly and in accordance with the law.” (Immigration and Refugee Board, 2024) The IRB states that it is responsible for decisions on who requires refugee protection out of “thousands” of cases they receive each year (Immigration and Refugee Board 2024). They additionally state their “decisions have an impact on the lives and security of the individuals appearing before the IRB. They contribute to the security of Canadians, the integrity of Canada’s immigration and refugee systems, and the strength and diversity of our nation.” (Immigration and Refugee Board, 2024)

The IRB is comprised of four divisions: the Refugee Protection Division, the Refugee Appeal Division, the Immigration Division and the Immigration Appeal Division. However, the Refugee Protection Division (RPD) and the Refugee Appeal Division (RAD) are the most central to this project, and so they will be the only two discussed here. According to the IRB, the RPD “hears and decides claims for refugee protection made in Canada in keeping with the international Geneva Convention, as implemented through the *Immigration and Refugee Protection Act*.” (Immigration and Refugee Board, 2024) The refugee determination process begins with the RPD, and a claim for refugee protection can be made at any port of entry upon arriving in Canada through speaking to an officer from the Canadian Border Services Agency (CBSA), or to an officer from either the CBSA or the Immigration, Refugee, and Citizenship Canada (IRCC) at an office. This officer then decides if the claim is eligible to be referred to the IRB, and if they decide it is, the claim is then referred to the RPD to begin the determination process. The case then appears before the RPD tribunal, where the RPD decision-maker makes a determination on whether the asylum-seeker satisfies the conditions to have a successful claim and be found to be a refugee under the Geneva Convention.

However, should the RPD either decide to allow or reject the claim for asylum, the Refugee Appeal Division (RAD) can allow for appeals of these decisions. The RAD may decide to confirm the RPD’s decision, to send the case back to the RPD to hear again and give conditions to the RPD that it considers appropriate. As such, the RAD can decide the RPD decision-maker erred in its legal reasoning and can substitute its own decision about whether the asylum claim should be successful. However, they clarify that, “In most cases, there will be no hearing as the RAD will base its decision on the documents provided by the parties involved and the RPD record.” (Immigration and Refugee Board, 2023)

The structure of the thesis

In Chapter 1, I conduct a literature review which examines a variety of work at the intersections of the study of witchcraft-motivated violence and claims of asylum. The review is divided into seven sections. The first section discusses work studying witchcraft-motivated violence across various African countries, including Ghana, Cameroon and South African, with particular emphasis on works studying cases in Nigeria, and works done by Nigerian authors. This was done to prioritize the voice of Nigerians on their own culture and experiences, as I believe they can explain it better than any non-Nigerian (and certainly any Westerner) could. This section also discusses the colonial implications of the terms ‘witch’ and ‘witchcraft.’ The second section moves into witch hunts and misogyny across Europe, various European colonies between the 15th and 17th centuries, North America, and Canada’s history of witchcraft-related laws. The third section examines various critical feminist literature, including Black, Marxist, and radical feminist works. The fourth section examines Said’s *Orientalism* (1978) and Orientalism-related works, especially around belonging and Africa in the Western consciousness. The fifth section examines various forms of state-sponsored violence, especially the forms it takes in immigration law, and its impacts. Lastly, sections six and seven examine existing literature in credibility and the Canadian refugee determination process, and witchcraft-motivated violence and asylum-seeking in Canada in order to provide a better understanding of existing work.

Chapter 2 presents my theoretical framework, which takes a two-pronged form, which I refer to throughout the project as ‘intersecting structures of Othering’ or simply ‘Othering’. The first prong takes the form of Othering as engrained in *Orientalism* and a misapprehension of evidence on the decision-makers part as rooted in Orientalist logics. The second prong takes the

form of different conclusions about the social realities of witchcraft-motivated violence as rooted in Western conceptions of witchcraft and ‘witch-hunts’, and the cognitive dissonance between the form the decision-maker thinks Nigerian WMV *ought* to take, versus the form it *actually* takes. As such, I will argue that in a form similar to that of intersectionality, these two prongs converge to create these intersecting structures of Othering, which I argue then lead to negative findings of credibility. I also employ concepts like the ‘culture of disbelief’ to further expand upon the actionable forms my theoretical framework takes. The chapter concludes with sections on feminism and witchcraft accusations, orientalism and state violence.

Chapter 3 outlines my methodological approach for this project, including my methods of data analysis, how I chose the five cases I used and why I selected them from the RAD specifically. I will discuss why I chose to use a constructivist paradigm and a thematic content analysis⁴ of the Refugee Appeal Division’s decisions, specifically how my thematic content analysis was informed by my theoretical framework. I also explain how I went about coding concepts of belief and credibility throughout the cases. Chapter 3 also outlines the important ethical considerations I had for this case, what I kept in mind throughout the coding and data analysis process, and why it was important for me to keep these considerations at the forefront of my project.

Chapter 4 consists of my analysis of the five cases I chose and is separated into three major sections. The first section provides a more in-depth discussion of Nigerian witchcraft-motivated violence specifically with the goal of providing the reader with a more in-depth contextual background before I begin discussing the data. The second section is results-focused

⁴ There is some disagreement among scholars about whether a thematic content analysis exists on its own, or whether it is a combination of a thematic analysis and a content analysis. My method is a combination of a thematic analysis where I examine the themes present in my cases, and a content analysis where I discuss how often certain phrases or themes appear in the cases.

and will discuss the results of the analysis of my cases, including the origins of each woman's accusation, the subsequent violence, and whether she was believed by decision-makers, especially in questions of arriving at a different conclusion about her lived reality than she presents. RAD or RPD members drawing on Western notions of WMV are the most central points of analysis in this chapter. The third section, as such, mainly examines questions of whether the accused woman was believed by IRB decision-makers, and answers 'why or why not' through the lens of my theoretical framework, and other central concepts like state violence and the culture of disbelief. This section finishes with a discussion of possible solutions and ways forward, and questions of who has 'expertise' and 'authority.'

1. Literature Review

Introduction

This literature review examines current work that will assist in exploring cases of African women seeking asylum in Canada because they are fleeing witchcraft-motivated violence⁵ in their home countries. The review will argue that the best way to approach the understanding and analyzing of these cases is by examining the sociolegal and sociocultural elements that influence actors' decision-making within legal and migratory regimes. Information deemed relevant in the review included works that illuminate various discussions of witchcraft-motivated violence in various African countries, works that highlighted the sociocultural and legal relevance and importance of witchcraft (especially concerning women) in the West and Canada, and works that explore witchcraft-motivated violence's adjudication in migratory systems, legal debates and subsequent mobilities.

The literature review is separated into seven sections: first discussed is literature examining witchcraft-motivated violence in Africa, with particular attention paid to Nigeria, and works done by Nigerian authors. The second section will examine witch hunts and misogyny in Europe, North America, and various colonies from the 15th to 17th centuries, and misogyny with regards to witchcraft-related laws in Canada. The third section will treat guiding critical feminist literature that comprises the first half of my theoretical framework, including radical, Black, and Marxist feminist literature. The fourth section examines the second half of my theoretical framework – Saidian Orientalism, and theories around othering, belonging, and Africa in the Western imagination. The fifth section will discuss state-sponsored violence, particularly with regard to immigration law, the state's treatment of immigrants, and the impacts of different kinds

⁵ Throughout the literature review, 'witchcraft-motivated violence' is used to describe violence perpetuated against an individual because of the belief they are a witch or practice witchcraft. Some scholars use terms like 'witchcraft-related violence,' which for the purposes of the literature review are interchangeable.

of state-sponsored violence. The sixth section provides an overview of existing literature on credibility determinations in the asylum-seeking sphere, and questions of authority in that process. Finally, the seventh section provides an overview of existing literature in the witchcraft-motivated violence and asylum-seeking space in order to provide a better understanding of current research, and the gaps this project seeks to fill. This literature review also provides the beginnings of the foundational knowledge necessary to properly analyze appellant tribunal cases and Immigration and Refugee Board decisions, which will constitute my data sources for my thesis. Furthermore, many of the pieces of literature reviewed take a feminist or intersectional approach, as this will be the theoretical lens guiding my project.

1 – Witchcraft-Motivated Violence and Perceptions of Witchcraft in Africa

Amber Murrey's article *Decolonising the Imagined Geographies of 'Witchcraft'* discusses the issue of western imagined geographies of 'witchcraft' as having been central to othering which denotes ideas of the 'native' or 'savage' as uncivilized and spiritually impoverished and underdeveloped. She also discusses the epistemologies of Cameroonian 'witchcraft,' more accurately called 'la sorcellerie,' 'la malchance,' and 'la magie.' She discusses that these are often used as ways to explain modern sociopolitical, medical and economic despair among some groups in Cameroon. For example, the people of Nanga-Eboko and Bribi both employ the language of sorcellerie to describe government officials or figures of oil consortium, specifically concerning local petrol companies like Esso. Ultimately, Murrey argues that sorcellerie, la malchance and la magie are crucial facets of Cameroonian life and colour the way they understand and view the world.

Murrey (2018) also found that la sorcellerie was used by the Cameroonians she spoke with as a way to explain environmental tragedies and misfortunes that had befallen the community, including the construction of the Chad-Cameroon Oil Pipeline, which deeply

harmed the local ecosystem and the local community. Chadians also accused the companies behind the pipeline of employing witchcraft as a means to gain power and build it, in spite of the damage it would do to local communities (Murrey, 2018). She also says, interestingly, that witchcraft can be used as a mechanism for political resistance. For example, in the mid-1990s to the 2000s, many Cameroonians began accusing several ministers and even the president of using witchcraft to gain and keep power (Murrey, 2018). Additionally, the then-President Paul Biya, who was seldom seen in the media, made an appearance on state television in 2008 to decry Cameroonians protesting rising food and fuel costs across the country by calling them ‘apprentice sorcerers.’ (Murrey, 2018, 5)

Murrey’s approach to understanding witchcraft as a colonial term brings in interesting conversation in comparison to the works of Okonkwo et al., Eboiyehi, Fisiy, and Geschiere and Nyamnjoh who all use the terms ‘witch’ and ‘witchcraft’ without calling into concern its colonial connotations. This brings in the question of who should be ‘believed’ in terms of the language that ought to be used in these scholarly contexts. Murrey is an academic from Oxford who spent time in Cameroon and is familiar with specifically the West’s understanding of ‘witchcraft’ and ‘witch,’ whereas the other authors mentioned come from across Nigeria and Cameroon (save for Geschiere). This demonstrates a lack of consensus among scholars concerning whether ‘witchcraft’ is an appropriate or colonial term in the context of African spiritual practices⁶.

Sylvia Federici’s *Witch-Hunting, Globalization and Feminist Solidarity in Africa Today* (2018) argues that witch-hunting can, in part, be attributed to the globalization of European capitalism via “colonization and Christianization” and would ensure this tradition was carried on in colonized communities who would eventually turn against their own (2018, 21). She defines

⁶ The same can be argued for the term ‘occult.’

witch-hunting as the “recurrence of punitive expeditions by young male vigilantes or self-appointed witch-finders, often leading to the murder of the accused and the confiscation of their properties.” (2018, 21) She also encourages the understanding of witch-hunts through the lens of the liberalization and globalization of African economies and their sociocultural consequences in that capitalism has effectively devalued the social positions of women in their communities, and has caused fierce intergenerational conflict. Federici also calls on feminists mobilizing against witch-hunts to hold accountable the actors who have fostered the conditions (both social and material) that have enabled the attacks, including African governments, the World Bank, the IMF, and the UN, who she argues “pays lip service to women’s rights” (2018, 22) but prioritizes neoliberalism and economic growth over everything.

In his article *Witchcraft and the State in South Africa* (2000), Johannes Harnischfeger discusses the prevalence of witch hunts and witchcraft-motivated violence in South Africa, the government response and colonialism. He discusses how the majority of South Africans believe in the existence of witchcraft, and that new legislations need to acknowledge this and make witchcraft a criminal offence. Harnischfeger also critiques lingering colonial legislation where Europeans enshrined in law their demonization of all kinds of African ‘magic.’ He also discusses the way Europeans tried to outlaw practices they identified as witchcraft because, in Harnischfeger’s view, they remembered and wanted to prevent the witch-hunts that occurred in their home countries. Ultimately, he argues this did nothing to stop witchcraft-motivated violence and instead drove it underground where it continued and instead, South African legislation needs to be “Africanized” in order to meet the cultural needs of the people who believe in witchcraft, also by holding a trial against the accused witch in order to better control and regulate the violence and that modern South African law needs to reaffirm African culture after centuries of

western and colonial suppression. This is similar to Murrey's discussion of how many ideas of 'witchcraft' in the west are based in ideas of the 'west knows best,' where they also try to overrule and overwrite African issues to fit western ideas and standards. He also reflects the discussions of Okonkwo et al. and Fisiy who concern themselves with possible legal remedies to witchcraft-motivated violence.

In their article, *Debating Witchcraft and "Witch Camps" in Ghana*, Mutaru and Alakija Sekyi (2023) conducted an eight-month long ethnographic study between 2016 and 2017 in the six known accused women's settlements in northern Ghana (30). The term 'accused women's settlements' was chosen by the authors instead of the government and NGO's chosen term, 'witch camps.' The authors believed that the term 'witch camps', which was first coined by several international NGOs working in the area, carried with it a negative connotation that did not exist among the local people, including among the accused women. They also discuss the post-modern framework of 'multiple realities' as a way to explain witchcraft in Ghana; specifically, that there can exist side-by-side the reality for some that witches do not exist, and the accused women are victims of a misogynistic attack, and the reality that for some witches are powerful women that seek to harm the community and must be kept away (Mutaru and Alakija Sekyi, 2023, 31).

In dealing with these notions of belief, Mutaru and Alakija Sekyi contend that concerns over witchcraft go beyond simply notions of belief or disbelief. Rather, they say that "victims of witchcraft and their families see 'perpetrators...[as] dangerous and powerful figures, not members of vulnerable groups', which is how NGOs and human rights groups portray them." (2023, 34) Mutaru and Alakija Sekyi say the Western-centered human rights framework that opposes the beliefs of locals, drives the cyclical debate of 'witch camps.' (2023, 34) They also

discuss the perpetuation of colonially-rooted biases against witchcraft, and argue that though some government officials and international NGOs view those who believe in witchcraft as no less rational or intelligent than non-believers, many still see those who believe in witchcraft as “primitive” and “superstitious”. (Mutaru & Alakija Sekyi, 2020, 33) They also suggest an approach to the camps that balances the state’s views on human rights and the views of the accused women and local community in order to improve the women’s quality of life (Mutaru & Alakija Sekyi, 2020, 46).

Interestingly, some of the women interviewed said they did not want to be a part of the re-integration efforts spearheaded by international NGO ActionAid and local NGO Songtaba, because they feared for their safety if they were forced back into the local community (Mutaru and Alakija Sekyi, 2023, 32). The guardian of a settlement, a *tindana*, said after the disbandment of one settlement by the local government and NGOs, accused women from there came to his settlement because they believed they would be safer in an accused women’s settlement than back in their communities (Mutaru and Alakija Sekyi, 2023, 31). What this demonstrates more broadly is the complex difficulties of returning home faced by women accused of witchcraft. They cannot simply return to their communities, or to surrounding ones, out of fear their accusers would find them or others would find out about the accusations they’d experienced, and so travelling to another settlement was safer. It also demonstrates the importance of highlighting the experience and voices of those affected by witchcraft-motivate violence and listen to their needs.

In their article, Mutaru and Alakija Sekyi mirror the points made by Murray, Harnischfeger, Briggs and Federici, in that they reject the Western, colonial notion that beliefs in witchcraft mean someone is less rational, educated or intelligent than a non-believer. In fact,

Mutaru and Alakija Sekyi make similar points to Ngozi Atata, whose study found no major difference in belief or non-belief in witchcraft when comparing educated and non-educated interviewees. Furthermore, Mutaru and Alakija Sekyi bring an important perspective as two Ghanaian academics to the issue, and assert, as do all the African authors, that the concerns and problems surrounding witchcraft accusations require solutions from locals rooted in a unique cultural sensitivity only those belonging to said culture can provide.

In their article *Gender Disparities in Witchcraft Beliefs: A Challenge to Nigerian and African Historiography* (2021), Okonkwo et al. seek to contextualize how witchcraft as a phenomenon challenges assumptions about gender in African historiography, as well as broader views on how Nigerian society views witchcraft, since the authors believe academia is ill informed on broader societal perspectives on witchcraft. Ultimately, they argue that the issue is very prevalent in Nigerian society, especially in the realm of gender politics and it is important to situate witchcraft accusations as such. They also propose a “re-ordering” of people’s minds to change their perspectives on witchcraft from skewed towards women in order to avoid the stigmatization of innocent people (2021, 461).

Witchcraft takes many forms across Africa, but one commonality that ties many accusations and beliefs is the use of witchcraft as an explanation for misfortune or tragedy; “Witchcraft stigmatizations, up to the point of this writing, are strong factors considerable in the everyday life of African people.” (Okonkwo et al., 2021, 460). As demonstrated in the literature review, witchcraft-related violence takes many forms across Africa, but one commonality that ties many accusations and beliefs is the use of witchcraft as an explanation for misfortune or tragedy (Murrey 2017, Mutaru and Sekyi 2023, Gerschere and Nyamnjoh 1998). For example, Murrey, an English academic, conducted an ethnographic study of the epistemologies of

Cameroonian beliefs in witchcraft alongside her Cameroonian partner, which they refer to as ‘la sorcellerie’, ‘la malchance’ and ‘la magie’ (4, 2017). As will be later discussed, misfortune is a theme running through all of the accusations levied against the women in the IRB cases.

This article, like Eboiyehi (2017), provides a perspective from Nigerian scholars of their own issues of witchcraft motivated violence, in contrast to Murrey and Harnischfeger’s articles which both provide more western perspectives. However, like Murrey, Eboiyehi, much of the literature in section 2 and the UN reports from Crisp and Schnoebelen, Okonkwo et al. also highlight the persecution of elderly women by accusations of witchcraft. This highlights the vast consensus and therefore importance of discussing the uniquely targeted persecution elderly women face across Africa (and the globe) concerning accusations of being a witch or practicing witchcraft.

In Convicted without Evidence: Elderly Women and Witchcraft Accusations in Contemporary Nigeria, Friday A. Eboiyehi (2017) discusses the widespread issue of the persecution of elderly women who are suspected of being witches, especially in the context of international human rights issues. More specifically, Eboiyehi discusses the 1993 Declaration of the UN General Assembly on the elimination of violence against women in Africa, and how the torture and violence committed against elderly women accused of witchcraft is a major infringement of their human rights under the Universal declaration of Human Rights. The paper also attempts to fill the gap formed by little scholarly work as well as insufficient Nigerian government policies to address these issues.

Eboiyehi also offers a differing perspective than Luongo and Millbank and Vogl, who all use Evans-Pritchard’s definition of ‘witches’ and ‘witchcraft’ by instead asking, “if witchcraft is an imaginary offence and a witch has no real existence as affirmed by Evans-Pritchard (1937)

why do the accusations and persecution of elderly women accused of such practices persist?”

(2017, 250) Eboiyehi and Okonkwo et al. have both highlighted the particular issue of the persecution of elderly women accused of witchcraft. Furthermore, Eboiyehi also provides a Nigerian perspective, while also highlighting the perspective of international human rights legislation. Notably, in contrast to Eboiyehi, Okonkwo et al. discuss more spiritual-based solutions and concerns whereas Eboiyehi is more concerned with the intersection of ageism and misogyny.

Ngozi Atata also mirrors Eboiyehi’s emphasis on the victimization of elderly women by witchcraft-motivated violence and witchcraft accusations in her 2019 article *Aged women, witchcraft, and social relations among the Igbo in South-Eastern Nigeria*. Ngozi Atata points to various statistics demonstrating that in various countries across Africa including Tanzania, Nigeria, Zimbabwe, South Africa and Ghana, elderly women are regularly accused of witchcraft and thus face violence, abuse, and murder (232, 2019). More specifically in Nigeria, abuse and violence continues to be perpetrated against elderly women across the South-Eastern Nigeria in a variety of Igbo communities (232, 2019). Ngozi Atata conducts a study where she interviews both elderly women accused of witchcraft and their accusers among the Igbo people in South-Eastern Nigeria, providing a rich description of both the impacts and motives of such accusations. For example, she interviews an elderly woman who was sentenced to death for being a witch, who says, “My children said that I am a witch, that unless I am dead, they will not progress in their life. That is why they kept me here to die.” (2019, 238) A child of another woman accused of witchcraft, stated, “My mother is a ‘chronic’ witch; she is wicked...She is stopping our progress...How can I graduate without a job and my siblings do not have a good job too. For all I know, she is a confirmed witch.” (238, 2019)

These examples demonstrate the crux of Ngozi Atata's findings: that often in Igbo society, witchcraft accusations are levelled against elderly women both because of their vulnerability, due to them being reliant on their children for socioeconomic and health support, and as a scapegoat for explaining misfortune (241; 245, 2019). Ngozi Atata and Eboiyehi also both provide crucial perspectives as Nigerian academics on the issue of elderly women who are accused of witchcraft, and the motives behind such accusations. What both articles crucially do is call for the Nigerian government and community members to provide better education and protection for the elderly, and to encourage better care for the elderly.

In his article *Containing Occult Practices: Witchcraft Trials in Cameroon* (1998), Cyprian F. Fisiy describes how postcolonial actors view a belief in witchcraft or other "occult forces" (143, 1998). Subsequently, the Cameroonian government has aimed to contain, if not eliminate, witchcraft, which Fisiy argues is an extremely difficult task. This article provides an example of the solution proposed in Harnischfeger's article of prosecuting accused witches through the court systems, instead of leaving the trials and justice to locals, which he argued may quickly divulge into violence or may not result in a fair trial at all. Fisiy also differs from other articles discussed in this section in that he discusses the persecution of witch-doctors, who often accused people of witchcraft. He also explores how previously, cases brought against witch-doctors and accused witches and finds that accused witches were often let go, whereas witch-doctors were persecuted under defamation laws for having accused someone of witches. However, Fisiy concludes the reverse seems to be true now and courts will convict witches if there is overwhelming circumstantial evidence (including hearsay), if there is a confession on the part of the accused witch and when accusations are initiated and supported by the village, often including evidence brought by a witch-doctor.

In their article *Witchcraft as an Issue in the “Politics of Belonging”: Democratization and Urban Migrants’ Involvement with the Home Village* (1998), Peter Geschiere and Francis Nyamnjoh discuss the increasing importance of ‘belonging’ and ‘autochthony’ in Cameroonian politics has exacerbated the issue of witchcraft (1998, 69). As such, there has been a push to control witchcraft and subsequent violence (as discussed by Fisiy) which has mainly been organized by urban elites. However, Geschiere and Nyamnjoh caution against the effectiveness of the efforts, especially because of disparities between elite urban migrants and their home areas, which the authors argue often reproduces witchcraft. They elaborate that often the villagers will accuse the urban elites of using witchcraft or other occult methods to enrich themselves and assure their positions of power, while the urban elites will often suspect the villagers of using witchcraft out of envy or hatred. Geschiere and Nyamnjoh also discuss how this relation is not surprising, as witchcraft in Cameroon usually “thrive[s] in relations that are marked by a mixture of intimacy and inequality.” (1998, 72)

What many of these articles demonstrate, including Eboiyehi, Murray, Ngozi Atata, Geschiere and Nyamnjoh, and Fisiy, is witchcraft accusations are not necessarily born out of pure malice or a desire to be rid of an individual specifically. Rather, they are often used as a way to explain social problems or misfortunes befalling a family or a community. Whether it be environmental issues (Murray), employment and education struggles (Ngozi Atata), or poverty and subjugation by higher socioeconomic classes (Geschiere and Nyamnjoh), a common thread prevails. That is, witchcraft often serves as a mechanism for explaining tragedies or obstacles that otherwise seem inexplicable. What I also aim to demonstrate here is that witchcraft is a part of modern life in a variety of places across Africa, which can be surprising to some Westerners who associate the term either with the image of the Halloween witch with a warty nose, and a black cat on a

broomstick, or with European and North American witch hunts, which conjure the image of a pilgrim or Dark Ages woman being burnt at the stake. As such, I feel it important to provide a proper context for the origins of these accusations, and how much a part of daily life they are for many people across Africa, just as other religions and spiritual beliefs serve as explanations for misfortunes and tragedies in Western countries.

Section 2 – Women, Witchcraft and Sociocultural Influences in the West

This section discusses many of the differing theories surrounding witchcraft accusations, women's persecution and the law as reflected in the West. In addition to discussion the positions of women in broadly Western society, this section also covers literature discussing women and the Salem trials. As the most well-known case of witchcraft-motivated violence in Western consciousness, it is certainly one of the first things that comes to mind concerning witchcraft, violence and women specifically. As such, it warrants an initial examination of its theorizations, which could then lend themselves to further understandings of Western sociolegal constructions and conceptions of witchcraft.

This section is divided into two subsections: first, I discuss literature on misogyny pervasive in witchcraft accusations in North America (especially Salem, Massachusetts) and Europe from the 15th to the 17th century, and as a mechanism for social control and oppressing racialized women in European colonies, including America, the Caribbean and Latin America. In the second subsection, I discuss literature examining the current state of witchcraft-related laws in Canada.

Subsection 2.1 – Witchcraft Accusations and Misogyny in America, Europe, and Colonies

To begin, in her 2017 book *Witchcraft Accusations as a Mechanism for Marginalization*, Samantha Spence employs a feminist lens and interdisciplinary approach to examine modern-day witchcraft around the world and its effect on women. She also seeks to evaluate whether

international human rights law is sufficient to protect women in cases of accusations of witchcraft and subsequent violence. She ultimately argues that witchcraft accusations grow out of negative emotions and behaviours (2017, 36) and that women, especially in patriarchal societies, find themselves marginalized and persecuted by witchcraft accusations because of their roots in misogyny. She ties a lot of influence of witchcraft and misogyny to some sects of Christianity, including discussions of women as the ‘original sin’ originating from Eve in the Bible (2017, 58). Ultimately, Spence argues that the idea of women as weak-willed in contrast to strong-willed men is pervasive in witchcraft accusations today. Lastly, she also argues that the view that “all witches are women and all women are potential witches” (2017, 61) implicates that it is specifically men who benefit from such stereotyped and direct associations because of increased power originating from leading these hunts and accusations (especially concerning the image of the witch hunter as an ideal image of masculinity). Spence’s book provides useful groundwork concerning women and witchcraft-motivated violence (both in the West and beyond) in its thorough overview, especially from a feminist orientation.

Karlsen, Godbeer and Reis’ works all examine the Salem trials as they pertain to women’s treatment, both within Puritan society and the trials themselves. However, each proposes a different possible explanation as to why the trials occurred, which can also illuminate a Western perspective on witchcraft accusations and subsequent violence, in contrast to the proposals of the scholars in the previous section, who are almost all informed by African perceptions⁷. Karlsen, Godbeer and Reis all highlight various approaches to analysing and understanding the Salem trials, which could prove useful in analysing broader Western attitudes concerning witchcraft-motivated violence.

⁷ Though it should be noted, as Harnischfeger does, that some scholars argue a lot of African law and ideas surrounding witches and accusations stems from European colonial influences.

More specifically, Karlsen in *The Devil in the Shape of a Woman* (1987) discusses how many of the victims were elderly or single women because they were seen as a burden within their communities. More specifically, she argues women over the age of 40 were much more vulnerable to accusations than other women, mainly because they could not bear children, and if they were widowed, they could not provide for themselves and were viewed as a burden on their communities. In this way, she echoes Spence in terms of the importance of considering questions of age in addition to questions of gender when examining certain possible causal factors behind the Salem, and more broadly Western, witch-hunts of the time.

Also, Karlsen differs from Godbeer and Reis because in addition to the Salem trials, she also examines the role of women in Puritan society concerning colonialism. Ultimately, she argues hierarchy was incredibly important in Puritan society, especially concerning male power over women, and any woman who challenged that power dynamic were seen as the embodiment of the Devil. In this way, she echoes Spence in terms of the importance of considering questions of age in addition to questions of gender when examining certain possible causal factors behind the Salem, and more broadly Western, witch-hunts of the time.

Reis also discusses women's deviance and its influence on their victimization and accusations during the trials. In *Damned Women: Sinners and Witches in Puritan New England*, (1997) she presents her theory concerning the way the Salem trials went, while removing power from women certainly, did give them power as well. Reis she argues a different perspective on the motivations of the Salem trials from Godbeer and Karlsen which removes the focus of men accusing women and holding power over them. Reis argues that the trials awarded unprecedented power to women and girls in Puritan society because the central accusers, who lead the first and majority of cases, had their opinions and voices valued, which then might have

pushed them to cause further accusations. In an extremely patriarchal society where women's voices were not listened to nor valued, Reis argues it makes sense that these girls would continue to accuse because they were, for the first time, being treated as equal to the men in terms of the importance of their opinions, experiences and voices (1997, 120-2).

Richard Godbeer's article *Salem witches and their accusers* (2017) makes a slightly different argument still from Karlsen and Reis in that he incorporates religion in his explanation. He argues that the Puritans did not inherently believe women were eviller than men, but did believe they were weaker and therefore more susceptible to sin than men. He also argues that women who fulfilled their roles in Puritan society were seen as virtuous and godly women, whereas those who could not fulfill their roles (for example, not attending church, being widowed or unwed or not having children for any reason) were seen as "servants of Satan." (2017, 1) He gives the example of one of the first victims of the Salem trials, Bridget Bishop, who was widowed and had been given control of her first husband's property after he died before she remarried, as a way to illustrate this point (2017, 2).

In his article, Godbeer also echoes Spence's discussion of the popular theories behind the Salem trials, and religiously-motivated misogyny, which paints women as inherently weaker-willed and therefore more dangerously susceptible to witchcraft. Godbeer also reflects Okonkwo et al.'s perspective in the importance of including religion, specifically Christianity, in conversations about the influences of witchcraft-motivated violence and accusations of witchcraft.

Clark mirrors Godbeer's discussion of religiously-motivated misogyny and the lines of 'logic' used by demonology which claimed women were more weak-willed than men and thus more prone to witchcraft and being involved with Satan. In his 2001 conference paper *The*

Gendering of Witchcraft in French Demonology: Misogyny or Polarity? Clark states that in French witch-hunts, demonologists would often claim women were naturally weaker than men concerning their intellect and psychology, were unstable and thus more likely to commit sin (2001, 56). Furthermore, they were more likely to fall for demonic tricks and the vices used to drive claims of witchcraft were stereotypically attributed to women – curiosity, pride, vain, vindictiveness, ambition, and lust, to name a few (2001, 56). Clark's theories also mirror those of Reis, Frigon and Karlsen, who state that women were more likely to fall prey to witchcraft because of their proclivity towards sin, often attributed to Eve being the committer of the Original Sin in the Bible. These all couple with works by Federici, Toivo and Spence who argue that much of the European and North American witch hunts are rooted in misogyny and manifest in violence, especially against older women.

In her chapter of *The Routledge History of Witchcraft* called *Gender and Witchcraft* (2008), Raisa Maria Toivo discusses the generalizations and analyses typically made by scholars surrounding what they know concerning witches, witchcraft, and/or witch trials throughout early modern Europe. In terms of general observations made concerning European witch trials, while women were often overrepresented in them, Toivo also argues that older women specifically were overrepresented in all instances, even in regions where male 'witches' dominated the trials. In this way, she also echoes the importance of considering age when examining the motivations behind accusations of witchcraft and construction the idea of the typical 'witch,' like Godbeer and Spence.

However, she also highlights an alternative argument about age which posits that fertility during these times was also important, and a lack of fertility in older women, coupled with this social power and a struggle in supporting themselves, would have dually made them the targets

of accusations of witchcraft. Toivo, like Reis, ultimately seeks to push the typical, broad understanding of misogyny in witch-hunts that in while investigating witchcraft accusation trials, more work needs to be done not only on the influence of gender through various actors (like judges, witnesses and bystanders) aside from just the accused and the accuser. She also argues that, while considering gender as a way to explain witchcraft trials during this time in Europe, there is a considerable risk in examining gender in a light that highlights only a negative or ‘weakening’ effect on society, which presents a contrast to the other authors mentioned, like Spence, Godbeer, Okonkwo et al., and Eobyehi mentioned who place great emphasis on the importance of gender in the understandings and constructions of witchcraft.

In his book *Witches and Neighbours* (1999), Robin Briggs, like Toivo, examines the history of European witch hunts. But unlike Toivo and authors like Spence, Clark, Godbeer and Karlsen, Briggs argues that the witch hunts in Europe were not specifically perpetrated against women and were not gendered violence or even tools of persecution at all. Instead, Briggs says witchcraft was a very pervasive, normalized part of daily life in various European countries in the 16th and 17th centuries, and that any skewing of accusations towards women over men was more an outcome of the ‘logic’ followed by demonologists, rather than deliberately targeting women. What Briggs’ book serves as is a contrast to authors like Toivo, Spence, Federici, Clark, Godbeer and Karlsen, who argue that witchcraft accusations were perpetuated specifically against women – especially older women, as a mechanism of misogyny and social control through fear. This also provides a more fulsome understanding of the academic discussions surrounding European witch-hunts and the witchcraft moral panic.

In her influential book *Caliban and the Witch* (2004), Silvia Federici examines the history of women’s bodies and how they were influenced by the transition from feudalism to capitalism

in Europe. In her book, she argues the witch hunts played a major role in shaping the modern world, and this role often goes unappreciated and ignored. Ultimately, she aims to reconstruct the struggles against feudalism in the Middle Ages in Europe and the ways in which the European proletariat resisted the transition to capitalism (2004, 9). Federici's impact with *Caliban* will be further explored in the theoretical chapter of this project.

Federici further discusses the issue of witchcraft and state violence in a 2021 talk given at Queen's University as part of their Witch Institute symposium titled *State Violence and Witch-Hunting in the Colonization and Globalization Process*. In the talk, Federici argues the creation of a centralized state was crucial to the reproduction and creation of witch-hunts and the image of the witch as we know her today, and that witch-hunts were a key weapon of Europeans during the transatlantic slave trade in Latin America and Africa (2021). Accusations of witchcraft were also often used to justify the execution of Indigenous leaders in Latin America, or to destroy sparks of revolution in Caribbean plantations, while also severing the last spiritual and cultural ties African people had to their home lands (2021). Federici makes the point that witchcraft continued to be an important tool of the state-sponsored violence used by European colonizers to dehumanize and demonize the racialized people they oppressed for centuries to come (2021). The points Federici makes about witchcraft and witch-hunts being weaponized by colonizers to justify their violence is also mirrored by Harnischfeger (2000), who also argues that witchcraft is often used as a weapon by colonizers. For Harnischfeger, this takes the form of anti-witchcraft laws in South Africa, which were used to oppress the spiritual and cultural practices of the people under the guise that they were witches and thus needed to have their practices 'controlled.' Federici's work also reflects Games (2010), whose work argued Europeans in

American colonies would use witchcraft to demonize Indigenous people and their spiritual practices, make sense of their fight against colonization, and dehumanize them.

Federici's work also contrasts Toivo's concluding argument in that she presents gender concerning witchcraft not as a site of negativity, but as a way to understanding women's bodies as so powerful and threatening to the dual powers of capitalism and patriarchy that the idea of the powerful and threatening 'witch' and subsequent violence to suppress her, is empowering. Furthermore, Federici offers a different argument from many typical understandings of witch-hunts and the construction of 'witch' in that she discusses it in the context of capitalism, by arguing that witch-hunters were less interested in punishing specific offences (as Reis and Godbeer argued were the cases in Salem). Rather, they sought to "[eliminate] generalized forms of female behaviour which they no longer tolerated and saw had to be made abominable in the eyes of the population." (2004, 170) Furthermore, Nyamjoh and Federici both highlight the importance of considering financial capital in the context of witchcraft accusations, but in very different ways. Whereas Federici critiques witchcraft-motivated violence as a product of globalization and capitalism, Nyamjoh and Geschiere discuss accusations as sometimes originating due to the socioeconomic disparities between the urban elites and those in villages.

In her book *Witchcraft in Early North America*, Alison Games (2010) discusses the landscape of witchcraft and witch-hunts in colonial North-America. In it, she argues that witchcraft accusations were often used as tools of revenge against both men and women, and as ways to explain disastrous or tragic events, which believers often struggled to explain otherwise (2010, 10). She also argues that, in contrast to Europe, witch-hunts remained a staple for longer in North America and were a way for the various races that occupied it in colonial times to understand and make sense of one another. She also argues that witchcraft became a way for

Europeans to make sense of resistance by Indigenous people, especially in New France.

Furthermore, Games provides a contrast to the other authors discussed in that she prioritizes the inclusion of primary documents in her book, as she believes this is the best way to understand the kind of environment and community that might have pushed someone to accuse another of witchcraft.

In this way, Games provides a contrasting view to the other authors, some of whom (Reis and Godbeer) do make use of primary documents to explain the construction of witchcraft, but do not prioritize it as she does. Furthermore, Games reflects Murrey's discussion of how 'witchcraft' in Cameroon is often used to explain that which is not otherwise easily explainable (for example, locals might attribute witchcraft to explain a certain government official being elected that did not seem otherwise popular). Furthermore, Games provides a contrast to other sources discussed in that she prioritizes a communal and environmental understanding to witchcraft accusations, in contrast to the more patriarchal lens of other sources.

Frigon (1999), like Games, provides a unique perspective on witch hunts and violence in her chapter *A Gallery of Portraits* in the book *Post-Critical Criminology*. In the chapter, Frigon builds off of the theories of the view of the witch developed by Szasz (1971). Szasz proposes three theories of the witch: the witch as a mental patient, the witch as a healer, and the witch as a scapegoat. Frigon builds off Szasz's theories by proposing a fourth theory called the witch as a sexual deviant, which she argues is an important theory in making the connection between the Inquisition and witch-hunts and gender/sexual roles (1999, 89). Like Clark, Karlsen and Reis, Frigon points to the *Malleus Maleficarum*, a central text in the witch hunts in Salem and Europe, as a driving force behind establishing that women are sinful, lustful and insatiable, and as such are more prone to being accused of being vulnerable to the influence of Satan (1999, 90). Frigon

also uniquely argues that the fear of witchcraft is related to the fear of woman, her body, and her blood and that witch trials show how women's bodies have been simultaneously seen as in danger and dangerous (1999, 90). Furthermore, women were painted as irrational and unpredictable due to being at the mercy of their 'raging' hormones, thus further perpetrating the pervasive idea at the time that women were the weaker sex (Frigon, 1999, 101) as discussed by Godbeer, Games, Karlsen, Reis, Spence and Clark. Therefore, Frigon, along with the previously mentioned authors, demonstrate the multitude of theories surrounding the rationalizations behind the witch-hunts that terrorized women in North America and Europe in the 15th, 16th, and 17th centuries. However, all the authors' theories (with the exception of Briggs) are tied together with the common thread that witch hunts were rooted in various forms of misogyny, which sought to subjugate women and prove that they were the weaker sex. These misogynistic practices are also manifested in various Western laws still seen today, and in the not-so-distant past.

Subsection 2.2 – Canadian Witchcraft Laws and Misogyny

Forsyth, McDonald, and Bahkt and Palmer all discuss witchcraft as found in law in the West, and the ways we can understand why it appeared as it does in Western laws. These sources both provide a basis for understanding the sociolegal construction of witchcraft and the motivations behind illegalizing witchcraft in the first place.

In *The Regulation of Witchcraft and Sorcery Practices and Beliefs* (2016), Miranda Forsyth discusses the literature emerging concerning the regulation of witchcraft beliefs and practices, and sorcery. She argues that the most "visible" (2016, 332) forms of witchcraft and sorcery are the "violent exorcisms, banishment, torture and killing inflicted upon those accused of practicing sorcery and witchcraft." (2016, 332) She also highlights the various ways states have gone about regulating witchcraft and dealing with legal harms arising from witchcraft-motivated violence at a domestic level. This is helpful in understanding the various ways 'witch'

and ‘witchcraft’ are constructed in the West in a sociolegal context, as well as the credence tribunals and courts might give to cases surrounding witchcraft-motivated violence in a domestic context. She also discusses the various approaches different countries might take to regulating witchcraft and any subsequent violence, including implementing state-norms in this realm into legal practice by arguing that laws are the first line of defence in maintaining social control (2016, 345-6).

In her 1999 thesis *Witchcraft and occult crime within a contemporary Canadian context*, Tracesandra Jade McDonald examined eleven cases of prosecution under section 365 of the Canadian *Criminal Code*. Abolished in 2016, s. 365 made it illegal to fraudulently practice witchcraft, or carry out any act related to the occult, including fortune-telling, palm-reading, astrology, tarot card reading, speaking to the deceased and more. In her work, McDonald found that nine of the eleven cases were levied against women, while the other two cases involved multiple defendants whose genders were unclear (76). Crucially, McDonald asserted “it is relatively safe to assume that the crime of witchcraft continues to be a woman’s domain.” (1999, 76) Furthermore, she states that the law targeting fraudulently practicing witchcraft targets those which would previously be persecuted under the laws Canada imported from the United Kingdom that made being a witch a crime (1999, 77; 80-1). Though s. 365 was removed from the *Code*, the legacy and the law’s longstanding nature demonstrate the depth of Canada’s history with witchcraft-motivated violence as enshrined in law, especially the use of such a law against women. As such, McDonald’s findings mirror those of authors like Federici, Reis, Toivo, Clark, and Frigon, in that she too asserts that prosecution for participating in, or fraudulently practicing, witchcraft has always been a crime meant to target women.

In the article *Modern Law, Modern Hammers: Canada's Witchcraft Provision as an Image of Persecution* (2014), Natasha Bahkt and Jordan Palmer, like McDonald, discuss Canada's Criminal Code 365, which made it a crime to "[pretend] to practise witchcraft." (123) They made the argument that the offence has deep patriarchal roots and serves as a "method of social control for minority groups and women." (2014, 123) Bahkt and Palmer point out that the practice of targeting women is not exclusive to Canada, but occurs all over the world (including in Nepal, Ghana and India). They also analyse the persecution of women accused of witchcraft in order to contextualise the offence and legal treatment of witchcraft in Canada. Furthermore, they discuss the cross-cultural nature of the offense of witchcraft according to the UNHCR. Ultimately, they argue that the offense of witchcraft in Canada, rooted in British law, originates from misogynistic stereotyping and Christian-centric beliefs about other religious practices. Furthermore, offenses similar to 365 across the world are often used as a mechanism to control women and vulnerable groups, while also pointing out the scope of *Charter*-protected religious beliefs (2014, 146).

McDonald and Bahkt and Palmer discuss the impacts of s.365 in similar ways – McDonald asserts that the law was used as a way to control and persecute traveler and Romani women, while Bahkt and Palmer also say. The law was used to target minority groups, including female minorities. Meanwhile, Bahkt and Palmer and Forsyth's articles contrast each other in that Bahkt and Palmer seek to understand Canada's sociolegal conceptions and criminalization of witches and witchcraft as rooted in misogyny, while Forsyth examines this same topic as a way for the state to control violence perpetuated by citizens⁸. All three works serve to treat Canada's

⁸ Forsyth also reflects Harnischfeger and Fisiy's discussions of the desires of states to regulate witchcraft-motivated violence, whether this is a good idea and the ways this can occur. However, Forsyth differs from the other two articles in that she discusses a Western perspective and approach to this criminalization and sociolegal construction.

approach to witchcraft in law, and the ways this has manifested over the years, from beginning as an overtly anti-witchcraft law imported from the United Kingdom, to a law used to more subtly control the spiritual and cultural practices of minority women through state-sponsored fear, to a pervasive culture of bias in refugee jurisprudence (as will be discussed in section 5).

3 – Guiding Critical Feminist Literature

This section will discuss some of the critical feminist literature used in my theoretical framework to guide my feminist analysis of the cases. This is not meant to be a comprehensive look at the landscape of all critical feminist literature, or even the sub-types of literature featured here. Rather, I want to highlight the works within Black feminism, radical feminism and Marxist feminism that have been impactful for this project's framework and approach to my analysis. These works are used in tandem with the previously discussed work on misogyny and feminist critiques of the image of the witch, witch-hunts, and witchcraft law in the West.

bell hooks' work *Feminist scholarship: ethical issues* (1988) have been a large influence for my theoretical framework. Firstly, *Feminist scholarship* examines how liberatory struggles initiated by groups of people who have historically been seen as objects begins with a revolutionary process where they assert that they are subjects, not objects. hooks (1988) also argues that cross-ethnic work in the feminist space should emphasize the value of the author's work and the unique perspective they bring to the subject. More specifically, she also discusses many important points white feminist researchers should bear in mind when doing work involving people of colour, especially that even if the 'authorities' on their work are progressive and caring, as long as their authority is maintained and established by the absence of the voices whose experiences they address, the domination and unequal power dynamics are reinforced (1988, 43). hooks also argues that literature about people of colour written by white people should not be more valued than the writing of people of colour about their own experiences

(1988, 43). Furthermore, hooks points out that white researchers rarely cite the ethical issues that are present when doing research involving racialized people and their lived experiences (1988, 44). As such, hooks' work presents important theoretical and methodological considerations for this project and for examining the broader literature, in that it emphasizes the importance of ethical considerations and power dynamics between white researchers and the people of colour they research.

In her work *Catherine MacKinnon and Feminist Jurisprudence* (1992), Emily Jackson provides a different feminist perspective than hooks, as she examines radical feminist Catherine MacKinnon's approach to feminism in the law, and a radical feminist understanding of how the law and jurisprudence affect our daily lives as women. This will be further discussed in the theoretical framework.

Lastly, Federici's work reflects hooks' in that they both agree that women, in different ways, are viewed as objects, not subjects. Whereas hooks' discussion is centred on women of colour, Federici's contends with ageism and women, and how a woman's value is measured in her reproductive capacity. Federici also coincides with Jackson's work on MacKinnon, in that Federici argues that the capitalist system was created by wealthy men to benefit other wealthy men, produce more labourers, and grow their profits.

4 – Orientalism, Othering and Africa in the Western Imagination

This section discusses the theories and approaches that make up the second pillar of my theoretical framework – Saidian Orientalism and Othering. While the theoretical proposals of Edward Said in *Orientalism* will be discussed in Chapter 3, this section of the literature review will examine works that build off Said's ideas that present angles that are pertinent to this project. The section will also discuss works covering 'Othering', belonging, and how the state and broader societies decide who does and does not belong. This literature will assist in

providing important context to the operation of immigration regimes in Canada, and how foreign countries become constructed in the Western imagination.

In his 1993 article, *“Orientalism” and West African Intellectuals in the Nineteenth Century*, Dalhousie University professor Philip Zachernuk examines how Orientalism occurred and manifested in African contexts, particularly its influence on African intelligentsia. In his work, Zachernuk argues that during the 19th and 20th centuries, the colonial discourse around Africa mirrored many of the claims of Orientalists that they know the “truth” of the African people (1993, 4). This also builds off Said’s work in *Orientalism*, in that Zachernuk argues there is a dialogue between the ‘studied’ (the African people and scholars) and the ‘studiers’ (the European scholars). Zachernuk’s work is also discussed more in-depth in the theoretical framework.

Chris Richardson also builds off *Orientalism* like Zachernuk, but applies Said’s theories to a Canadian context in his 2014 article, *Orientalism at home: The case of ‘Canada’s toughest neighbourhood’*. The article examines the representations of Jane and Finch, a community in Toronto deemed ‘Canada’s toughest neighbourhood’ by the Canadian media. By exploring how the mainstream news media negotiate a sense of Canadian identity within this marginalized space. It also highlights the insights *Orientalism* creates when translated into a Canadian context, especially with class struggles. In the article, Richardson argues the process of constructing ‘Others’ was created to introduce conceptions of belonging and citizenship, rather than the group of ‘Orientals’ being used to distinguish them from Europeans (2014, 81). As such, Richardson, like Zachernuk and Said, engages in conversations about who Westerners and Europeans do and do not grant authority and belonging. Richardson’s discussion also allows for deeper

understanding of who the Canadian state grants ‘belonging’ to through the process of citizenship and immigration.

Lastly, Isin builds off concepts of the ‘Other’ through engaging with understandings of citizenship and belonging, like Richardson, in his book *Being Political: Genealogies of Citizenship* (2001). The book discusses how genealogies of citizenship can be understood through conceptions of ‘otherness’ and ‘othering.’ Isin also argues the concept of the Other is built domestically by the state during the construction of citizenships, rather than being a pre-existing facet of citizenship. In his work, Isin reflects Said’s *Orientalism* by arguing that “the root of the occidental conception of citizenship lies in the invention of the oriental city as the Other.” (2002, 5) He also discusses the importance of who occupies different spaces, how “space is a condition of being political” (Isin, 2002, 43), and that space itself is critical to how citizens negotiate their rights, privileges and obligations. As such, in *Being Political*, Isin uses parts of Said’s *Orientalism*, and reflects the works of Zachernuk and Richardson, in also emphasizing how who does and does not ‘belong’ (in this case, taking the form of citizenship) and is awarded the privileges that come with not being Othered. His discussion of the ‘Other’ as being actively built by the state, rather than an organic element of citizenship, also provides context to the ways the Canadian government makes its decisions around immigration and asylum-seeking.

5 – State and Discursive Violence within Immigration Law

At the centre of understanding how the Immigration and Refugee Board operates, the language it uses, and the motivations behind Canadian immigration and refugee laws is understanding how these laws are weaponized. The use of language by the state and its laws have been a crucial part of how Western countries seek to control and subjugate immigrants and refugees. These include various forms of social control, which seek to control the way refugees and immigrants behave, express their experiences, and interact with the state. This is important

for this project in that it illuminates the logic of the state and regimes of immigration, why they use certain language, how they treat refugees, and how the treatment of individuals who've experienced this system impact their integration into Canadian society.

Dawson explores these themes in her 2011 article *On Thinking Like a State and Reading (about) Refugees*, where she examines how refugees are read about in Canada. She seeks to examine the ways contemporary Canadian writers and artists respond to the state regulation of citizenship. What this unique article does is it provides a unique lens through which to understand how refugees in Canada go about expressing and understanding their treatment by the State and refugee regulation regimes. Dawson's examination also highlights how the Canadian government illustrates itself as a benevolent, generous organization to which refugees are meant to be grateful (2011, 64). As such, this article provides a good starting point for understanding not only how the Canadian government wants to be perceived when it comes to its approach to refugees, but also for how Canadian refugees go about contending their relationships with the government and broader Canadian society.

In her book *Reckoning the Ends of War in Guatemala* (2009), Nelson also discusses the various interactions individuals have with their states, including the creative ways they seek to express their discomfort, mistreatment and oppression. More specifically, she presents the interesting concept in chapter 6 of the State being comprised of two bodies: the first, an individual who carries out the state's will in daily life, and the second, a larger body politic transcending just one individual (Nelson, 2009, 238). Nelson's discussions of the body politic and the state and being both present in its individual representatives, and in a broader form, illustrate the different forms state-sponsored social control can take, and the role the state's language plays in it (2009, 238-9).

Menjívar and Abrego also discuss the different forms state-sponsored social control takes through their 2012 article *Legal Violence: Immigration Law and the Lives of Central American Immigrants*. Their work discusses the weaponization of immigration law as an important form of harm against Central American immigrants. They argue this harm is perpetrated in the form of causing daily anxiety and emotional distress in the lives of immigrants, while also attempting to create the façade that it is a net benefit to society. As such, Menjívar and Abrego make similar points to Dawson, who also discusses the contrast between the image the state attempts to create (one of benevolence, human rights, and warmth) with the reality experienced by immigrants and refugees (fear, anxiety, oppression). Menjívar and Abrego (2012) argue that state-created violence in the form of immigration laws aims to paint immigrants, both undocumented and documented, as criminals and people who must be inherently surveyed and around whom caution must be taken (393). As such, they argue that though the system itself claims to protect its citizens (the United States for Menjívar and Abrego, and Canada for this project) through allowing in ‘good’, law-abiding immigrants, it treats both undocumented and documented racialized immigrants with the same level of scrutiny and create the same climate of fear which makes them unable to fully belong and integrate in the state claiming to welcome them (2012, 394).

Jackman, like Menjívar and Abrego, considers the different types of violence enacted by the state and the way it seeks to justify them in her 2002 article *Violence in Social Life*. In her work, Jackman argues some kinds of violence are justified by society and the state itself if the by-product of the violence is seen as positive. She also argues for the importance of considering types of violence beyond physical violence. More specifically, she argues there are two assumptions within examinations of violence – first that it is the “willful intent to cause harm,

presumably resulting from hostility” (Jackman, 2002, 388) and second, that “violence is socially or morally ‘deviant’ from mainstream human activity.” (Jackman, 2002, 388). Jackman also points out that the rationale that justifies violence when it is the by-product of positively-perceived processes ignores other outcomes of violence beyond physical injury like “fear, shame, anxiety...stigmatization, exclusion, banishment and imprisonment, all of which can have deeply devastating consequences for human beings.” (2002, 393) As such, Jackman reflects the arguments of Menjívar and Abrego that positively-perceived processes enacted by the State can nevertheless have long-lasting harms and effects, especially on already vulnerable populations like immigrants. Both also discuss the double-sided impacts of State-sponsored processes that claim to uplift ‘good’ citizens while rightfully punishing ‘bad’, law-breaking ones, thus demonstrating the multifaceted nature of State violence.

State violence through immigration law can also take a variety of forms as demonstrated in the 1997 report *Providing protection: Towards fair and effective asylum procedures: Report and recommendations* prepared by the United Kingdom’s Justice department, the Immigration Law Practitioners’ Association (ILPA) and the Asylum Research Centre (ARC). The report examines ongoing issues within the UK’s asylum-seeking procedures, particularly its “culture of disbelief” which creates an unnecessarily high bar to clear for any asylum-seeker. The report states that it is believed the asylum decision-making process “operates to a high threshold test, governed by a ‘culture of disbelief’, where any inconsistencies or evidential gaps will result in negative findings of credibility.” (Justice/ILPA/ARC, 1997, 38) They also say that the decision-making process is unfairly shrouded in mystery and that refusals “may rely on unpublished notes and guidance; they may contain untested asserts; they are often inadequately reasoned, and do not clarify the facts and issues in dispute.” (Justice/ILPA/ARC, 1997, 38) This demonstrates the

forms of discursive violence enacted by the State and regimes of immigration, through creating a high bar for asylum-seekers to clear, thus making the process unjustly difficult. Furthermore, by shrouding the decision-making process in mystery, this also reproduces the phenomena discussed by Menjívar and Abrego and Jackman, in that the fear and anxiety surrounding difficult, mysterious asylum processes are seemingly justified because they are the by-product of a positive-seeming process – that is allowing what Menjívar and Abrego would call ‘good’ immigrants who are by-the-book in, and keeping ‘bad’, ‘illegal’ immigrants out.

Section 6 – Credibility and Refugee Determination in Canada

This section will set out to build upon the discussion of the refugee determination process in Canada, paying particular attention to questions of belief and credibility, the culture of disbelief within the Immigration and Refugee Board’s different tribunals, and how different circumstances and characteristics affect an IRB decision maker’s determination of whether the asylum seeker is to be believed. This section, as such, will provide an overview of this important facet of the literature on the refugee determination process in Canada, and these questions of credibility which are central to the rest of this project.

There are multiple factors which can influence the decision-making processes of an IRB official, including their relationships with the parties to these processes, their backgrounds, their approaches to fact-finding and their trainings. Tomkinson discusses this in their 2018 article *Who are you afraid of and why? Inside the black box of refugee tribunals*, where they conducted an ethnographic analysis combining her observations of hearings, interviews with various parties to these decisions, and archival research (184). They found that there are two general diverging approaches to fact-finding among decision-makers: interrogation or interview, with the former seeking a single truth through consistency, chronology and documentary evidence and the latter seeking “verisimilitude”, spontaneity and details (Tomkinson, 2018, 191). Tomkinson points out

that at worst, refugee claimants are seen as people who are “trying to game the system and gain legal status they do not deserve”, and cause questions about security and financial burden they place on the Canadian state (2018, 200). At best, refugees are seen as vulnerable people deserving of protection, and while the IRB emphasizes sensitivity in addressing these claimants, Tomkinson asserts the importance of understanding their decisions within this context (2018, 200). They also make the point that the way Members of the IRB decide to grant or deny someone refugee status isn’t just a straightforward judgement, but is also based on how they use their authority in the hearing to question the claimant and to evaluate testimony, all in order to decide what a ‘genuine’ refugee looks like (Tomkinson, 2018, 201).

In a similar vein, Colaiacovo’s 2013 article *Not Just the Facts: Adjudicator Bias and Decisions of the Immigration and Refugee Board of Canada (2006-2011)* discusses bias and traits of decision makers that impact their determinations on the status of a claimant. Colaiacovo states that the success rates of asylum seekers among different IRB members varies widely, with some granting asylum only 10% of the time, and others granting asylum over 90% of the time (122). Additionally, Colaiacovo (2013) found that the identities and experiences of IRB adjudicators could be correlated with how likely a case was to be successful – for example a case had a higher probability of being successful if the adjudicator is female (126). They also found the grant rate varied among tribunals in various cities including Toronto, Vancouver, Montreal, Ottawa and Calgary (127-8) and that in their sample from 2006 to 2011, Nigeria was the 5th largest source of cases behind Colombia, China, Haiti and Mexico (129). Additionally, Colaiacovo found that more highly educated board members had higher grant probabilities, as did past work experience with immigrants or refugees (137) while previous experience in law enforcement was correlated with a lower probability of claim acceptance (140).

Overall, Colaiacovo's (2013) work demonstrates the importance of the characteristics, identities and experiences of decision-makers in assessing the likelihood of the access of a claim, and much like Tomkinson (2018), there is no one-size-fits-all approach to understanding adjudication, and much of the decision-making process is left up to the discretion of the adjudicator. As such, Colaiacovo's findings of the effects of an adjudicator's background how likely they are to believe and accept a claim can be connected to Tomkinson's discussion of the two differing perspectives on who refugees are. That is, whether they are a burden to the Canadian state seeking to game the system, or vulnerable populations deserving of protection (2018, 200). As such, based on Colaiacovo's work, an individual with experience working with refugees and immigrants, who is female and highly educated (especially with a post-graduate degree like a JD, LLB or Master's) is more likely to find refugees to be vulnerable people deserving of protection, while an adjudicator who is male, with less post-graduate education who has a background in law enforcement is more likely to find refugees to be individuals who want to game the system and who would be a burden to Canadian society.

The questions of credibility assessment posed by Tomkinson and Colaiacovo are discussed by Millbank in her 2009 article *'The Ring of Truth': A Case Study of Credibility Assessment in Particular Social Group Refugee Determinations*. Millbank argues that credibility assessments have played and increasingly central role in asylum refusals, and negative credibility assessments are not always based on "well-reasoned or defensible grounds." (1) She also argues that the term 'ring of truth' which appears in the cases she examines in her article creates the narrative that the story the asylum-seeker is telling is self-contained and self-evident in its truthfulness, rather than it being reliant on the decision maker who is deciding to believe or disbelieve the person telling the story (Millbank, 2009, 5). Millbank further argues this type of

language depicts ‘truth’ as something “objective and discoverable by a decision-maker who is a fact ‘finder’ – rather than say...one who knows that their state of knowledge...[is] imperfect.”

(5)

The article further discusses existing suggestions for improving the consistency of credibility assessments in asylum-seeking cases, which congregate around two themes – stricter control of discretion and improving the calibre of decision-makers (22). Additionally, Millbank calls back to the original structure of the Canadian asylum-seeking system, which was characterized by a two-member tribunal, rather than the contemporary single-member tribunal (30). This two-member system allowed for better ‘checks and balances’, and worked more in-favour of the asylum-seeker because in the event of a stalemate between the two adjudicators, the determination was positive (Millbank, 2009, 30). There also existed an early iteration of an upper-tribunal review panel composed of three members to act as a check and balance for single-member decisions, but this legislation was never implemented (Millbank, 2009, 31). As such, Millbank provides not only a rich understanding of the flawed nature of the current structure of asylum-seeking in Canada, but also a glimpse into what was, what could have been and, indeed, what could be again in order to provide better ‘checks and balances’ and a more fair system for asylum-seekers.

In continuing with Millbank’s discussion of credibility assessments, Rehaag’s 2017 article, *“I simple do not believe...”: A case study of credibility determinations in Canadian refugee adjudication* discusses findings of truth and the key role of credibility assessments in the refugee adjudication processes. The article, interestingly, follows the decisions of adjudicator David McBean during his first three years of his tenure at the IRB, and the fact that he denied every case that came across his desk (38). Rehaag assesses that credibility findings are often

based on many factors, like “unexplained inconsistencies or omissions in the claimant’s evidence” and inconsistencies between the claimant’s evidence and documents about country conditions (40-1). Rehaag also states that the RPD has been cautioned against “over-vigilant or microscopic analyses of trivial or minor inconsistencies.” (41) They also highlight some key themes in existing literature in the sphere of credibility determinations in Canada and abroad, like credibility determinations being poorly understood, assumptions underlying assessments that can be contradicted by social science findings, and a “culture of disbelief” towards refugees in recent years (41-2).

Overall, Rehaag found two main conclusions from his observations of McBean’s decisions – the first being the stakes in refugee determinations are high because uncorrected false negatives leave vulnerable people at risk (54). The second is despite the requirement that refugee determination processes need to comply with the principles of fundamental justice, there is evidence pointing to claims coming down to the “lucky of the draw” and are reliant, in part, on who the adjudicator is (54). This naturally ties into the findings of Colaiacovo and Tomkinson about adjudicator backgrounds and biases and their impacts on the determination process and whether a claim will be successful. Rehaag also points to some of the more problematic aspects of the refugee determination process, courts are deferential to the RPD determinations of credibility during a judicial review (58). Meaning, cases where claims are denied due to adverse findings of credibility are less likely to be overturned than those that are denied on other grounds (58). Lastly, Rehaag states that decision-makers shouldn’t only ask themselves if they’ve been persuaded by the claimant’s evidence, but they should also ask if any of their colleagues, especially those more likely to grant protection, would’ve been persuaded by the claimant’s evidence. (68)

Ultimately, Rehaag's work presents findings not only for findings of credibility and assessments, but also findings overall for adjudicator bias, which tie into the works of Millbank, Colaiacovo, and Tomkinson, each of whom point out the importance of studying and considering the individual biases of decision-makers in the refugee determination process. In particular, each author discusses the heavy amounts of discretion that are given to the adjudicator, making considering biases all the more important. Rehaag cites the work of Mackline – “the reasons [an adjudicator provides for their decision] do not interrogate or explain the adjudicator's choices. Rather, the reasons obscure those choices.” (68)

Section 7 – Witchcraft-Motivated Violence and Refugee Jurisprudence

The importance of understanding the adjudication and legal approaches in terms of the construction of witches and witchcraft is critical for properly beginning to comprehend why decision makers and legal bodies make the choices they do. However, equally important is understanding how these cases are adjudicated in practice by regimes of immigration, why they do this and what we can take from this adjudication. This moves into the eighth and final section of the literature review: the treatment of cases of witchcraft-motivated violence in legal regimes. This section also explores ongoing debates surrounding witchcraft-motivated violence in international spaces, including the UN.

In terms of the prevalence of these cases across the Anglosphere, Dehm and Millbank (2019) found in their study there were 103 total decisions on refugee cases pertaining to witchcraft-motivated violence. There were 79 in Australia, 70 in Canada, 3 in New Zealand, 16 in the United Kingdom and 8 in the United States between 1993 and 2016. This issue is particularly examined by a variety of works by Professor Katherine Luongo of Northeastern University, who argues there are a variety of reasons behind adverse findings of credibility among Western

regimes of immigration when it comes to WMV asylum cases including the United Kingdom and Australia.

In Luongo's article, *"The Problem of Witchcraft": Violence and the Supernatural in Global African Refugee Mobilities* (2019), she discusses the intersection of the supernatural, law and politics in Africa and the intersections of African witchcraft and forced migration. She also offers an analysis of legal structures, instruments and histories which are very present in the refugee status determination process in Canada and Australia. She also argues there is a the 'culture of disbelief' demonstrated in cases surrounding witchcraft belief, meaning often the asylum seeker faces disbelief on the part of the immigration decision-maker when it comes to demonstrating they had a supported fear concerning witchcraft-motivated violence. Luongo also includes the controversy surrounding whether individuals involved in these cases should qualify under a particular social group (PSG) as discussed in the UN Refugee Convention of 1961. In this article, Luongo also builds off of her previous works, some of which are discussed here, to further discuss the issues facing African people seeking asylum from witchcraft-motivated violence because of the inherent misinformation among immigration bodies in the Anglosphere specifically.

Another of Luongo's works, *Allegations, Evidence and Evaluation: Asylum Seeking in a World of Witchcraft* (2015) engages in a close reading of records of asylum proceedings in Commonwealth countries. She also argues that asylum seekers from Africa have had to engage with the "official rhetoric of refugee protection" (2015, 184) to argue that their relationship to witchcraft, combined with a lack of protection in their home countries provide them with the criteria. She also discusses the issues of the challenges immigration decisions makers run into when they are faced with these kinds of cases in what she calls a "double disability" (2015, 190)

stemming from limited knowledge of the seeker's home country and the spiritual beliefs of said country.

Lastly, Luongo's third work I reference is her 2023 book *African Witchcraft and Global Asylum-Seeking: Border-Crossing Beliefs*. The book examines how three immigration regimes (the United Kingdom, Canada and Australia) treat asylum-seekers from English-speaking African countries fleeing witchcraft-driven violence. In particular, she examines how the expansion of the 1951 United Nations *Refugee Convention* reflects the increasing willingness of immigration regimes to consider how persecution can originate from cultural practices and beliefs. The book also considers how legal pluralism and cultural relativism impact asylum adjudication, especially examining refugee status determination and the adjudication of particular social groups (PSGs). She also examines how international humanitarian organizations, including NGOs and the United Nations, have responded to witchcraft-motivated violence as a 'push factor' for the displacement of individuals within and beyond Africa. Luongo also heavily advocates for greater weight to be given to expert evidence in asylum adjudication to fill in gaps in immigration decision makers' knowledge and understanding (2023, 71). She argues for this because "both generalized and individual risks stem in large part from the absence of state protection from persecution, it is crucial that immigration authorities understand the deep legal background of the state's failure to protect, whether...from the absence of relevant law or the unwillingness or incapacity to enforce existing law." (Luongo, 2023, 71-2)

All of Luongo's works reflect much of the ongoing debates surrounding the adjudication of witchcraft-motivated violence and the controversies surrounding how that process occurs. While her 2015 and 2023 works offers a broader overview compared to her 2019 work, all three reflect the importance of the consideration of an alleged victim of witchcraft accusations in the

context of particular social groups (PSG). Furthermore, Luongo's work reflects Forsyth's, who suggests that scholars engaging in these debates assess empirically how various regulations and policies impact witchcraft-motivated violence, and proposes a comparative and interdisciplinary approach, while suggesting only using legislation and case law can only provide a partial perspective (2016, 346). In this way, Forsyth provides insight to the limitations of methods like Luongo's (and Millbank and Vogl's and Dehm and Millbank's) in terms of their ability to fully, holistically assess witchcraft-motivated violence and its adjudication. This therefore points to an important gap in the literature, where while discussions of cases of asylum-seeking in Canada due to witchcraft-motivated violence are present in the literature, there is a lack of this holistic, interdisciplinary approach to fully seek to understand all facets and angles of this issue.

In terms of another important facet of the discussion of issues surrounding witchcraft and violence, in *Witchcraft Accusations as Gendered Persecution in Refugee Law* (2019) Dehm and Millbank discuss "witchcraft-related violence" (2019, 202) as a manifestation of specifically harm related to gender, and how it illustrates gaps in refugee jurisprudence. The article also focuses on cases where the asylum seeker feared harm from an accused witch in addition to those fearing harm from persecution because they are viewed as a witch. Ultimately, the article seeks to highlight gaps in approaches in cases which fall at the intersection of religious and gendered persecution, including the problematic approach of filing these claims under the particular social group category. They also discuss the importance of understanding instances of asylum-seeking due to witchcraft-motivated violence by arguing that these cases are emblematic of larger ontological problems within the refugee status determination process in a variety of countries in the Anglosphere (2019, 219). In fact, they rightfully argue that the erasure of WMV as a form of "gender-related harm and as religion-based persecution...demonstrates that [WMV] is still

largely understood as outside of the scope of protection offered under the *Refugee Convention*.” (Dehm and Millbank, 2019, 219) They also point out that in excluding, and even exoticizing, WMV as a form of harm from legal frameworks, decision-makers largely lost sight of the fundamental questions the *Convention* poses, like the scope of state protection for vulnerable populations (Dehm and Millbank, 2019, 219).

As such, Dehm and Millbank explore the same issue of particular social group categorization and witchcraft-motivated violence as Luongo. They also echo Luongo in their discussion of decision makers struggling with the “unknown, unknowable Other.” (2019, 205) However, they differ from Luongo’s work slightly in that, in addition to exploring cases where someone was fleeing witchcraft-motivated violence, they also discuss individuals fleeing threats of violence they believe to be perpetuated by a ‘witch’ or practitioner of ‘magic.’ The question of an individual fearing persecution because of witchcraft is also discussed in Harnischfeger and Fisiy, who both highlight this issue in the South African and Cameroonian contexts.

In *Adjudicating Fear of Witchcraft in Refugee Law* (2018), Millbank and Vogl argue that witchcraft-related violence (WRV) is a “manifestation of gender-related harm...which exposes major failings in the application of refugee jurisprudence.” (2018, 370) They argue that there is a lack of attention to the intersection of religion and gender under Convention grounds, which leads to, in their words, misunderstandings on the part of the decision makers, who would often dismiss cases of witchcraft-related violence as grudges. The approach Millbank and Vogl take, much like both of Luongo’s and Dehm and Millbank’s, is to examine available cases of asylum-seeking which pertained to witchcraft-related violence in the anglosphere (Canada, the United Kingdom, the United States, Australia and New Zealand). Luongo, Millbank and Vogl and Dehm and Millbank all employ a content analysis of cases adjudicated by immigration regimes,

demonstrating the usefulness and popularity of this technique in examining immigration cases of those seeking asylum due to witchcraft.

Millbank and Vogl (2018) argue that often the Nigerian seeker's way of knowing is fundamentally and deeply at odds with the Western (in this case Canadian) decision maker's, and thus were incomprehensible to the decision maker (388). In particular, the seeker's ways of knowing and understanding fear are often difficult for a Western decision maker to understand, and require them to suspend their disbelief in witchcraft or "accept the possibility of other possibilities." (Millbank and Vogl, 2018, 388) Furthermore, the language used by asylum seekers often differs from the bureaucratic vernacular of immigration regimes or the language of international human rights laws (Millbank and Vogl, 2018, 388). As such, there are a variety of challenges that asylum seekers fleeing witchcraft-motivated violence experience: the difficulties of overcoming the knowledge deficit of decision makers of their country and their spiritual beliefs, and the challenge of translating this lived experience into a language and a way of knowing that will be understood by the decision-maker.

Millbank and Vogl differ from Dehmn and Millbank as well as Luongo 2015 and 2019 in that they cover exclusively fear of witchcraft, rather than witchcraft-motivated violence. Furthermore, Millbank and Vogl discuss male asylum seekers in contrast to many of the other sources used which focus on women. This is useful to explore the differences between the kinds of success female asylum seekers experience versus male asylum seekers, as Millbank and Vogl point out women are more likely to seek asylum due to witchcraft-motivated violence, while men are more likely to see asylum due to witchcraft-related violence.

In *Witchcraft Allegations, Refugee Protection and Human Rights: A Review of the Evidence* (2009), Jill Schnoebelen for the UNHCR Refugee Agency covers recent human rights

concerns regarding the persecution of alleged witches all over the world. She discusses the violence perpetuated against them, as well as the protection concerns that can occur in their home countries, and in the “context of forced displacement or voluntary migration.” (2009, 2) Additionally, Schnobelen emphasizes that the validity of witchcraft beliefs should not be an issue of concern, but rather it needs to be acknowledged that witchcraft, its effects and its violence are very real for those who believe in it, and the beliefs often stretch beyond the boundaries of class, education, and age. The paper also examines the link between witchcraft accusations and displacement, but arguing that accusations may cause displacement via force exile or a personal decision to flee.

Schnobelen’s paper fills in a gap in discussion covered in other papers in the section in that she discusses violence and witchcraft as it occurs in refugee camps. Furthermore, she discusses witchcraft-motivated violence as it is perpetuated in other parts of the world aside from Africa, including violence perpetuated by migrants when they settle in their new country due to witchcraft (for example, against children they believe to be possessed by witches). While her work does not discuss specific cases or court proceedings or legal decisions, it does highlight Nyamjoh and Geschiere’s discussion of witchcraft as othering and as ‘us versus them’ view, which is reflected in Schnobelen’s analysis.

In his brief, *Witchcraft and displacement* (2008), Jeff Crisp of the UNHRC discusses the “longstanding and well-documented relationship between human displacement and witchcraft allegations.” (2008, 1) This includes the most well-known example of the Salem trials in New England, which he argues can be attributed, in part, to refugees who fled to Salem town ship from their homes after raids from Indigenous people and French people. Crisp then goes on to highlight recently identified cases of interest by the UNHCR. This short report differs from other

sources discussed in that it provides a brief overview of other cases covered by the UNHCR in terms of witchcraft and refugee/human rights concerns. The report not only highlights the importance and continued relevance of the Salem trials in Western understandings of modern-day witchcraft-motivated violence (thus highlighting the importance of Reis, Godbeer and Karlsen) but also highlights the importance of understanding the importance of migration and displacement in understanding the motives behind someone seeking asylum or moving communities (like Games and Schobelen).

Conclusion

The above discussed literature demonstrates the multifaceted aspects surrounding witchcraft-motivated and witchcraft-related violence, and the different factors which may influence decision makers. From the influence of African perceptions of witchcraft-motivated violence and the various sociocultural and sociolegal implications, to the influences of Western understandings of witchcraft both in major cultural events like the trials in Salem, to the link between witchcraft and misogyny, to the influence of Orientalism on Western understandings of Africa and non-Westerners, these are also certainly things that might sway a decision maker when faced with a case concerning witchcraft and violence. Furthermore, the literature also highlighted important discussions between scholars concerning the adjudication of witchcraft-motivated violence by states, and the shortcomings that may negatively influence or cause concerns when decision makers are faced with cases of witchcraft-motivated violence from asylum seekers in Canada.

My research question is: *What traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?* This question originates primarily from Luongo (2015 and 2019), Dehm and Millbank and Millbank and Vogl's influential works,

combined with a desire to understand how sociocultural conceptions of witchcraft may illuminate the decisions made. This question fills a gap in current literature in that it not only narrows the lens of the adjudication of these cases to Canada, but also seeks to further contextualize the decisions made in order to understand if there is a fundamental issue brought about by misinformation due to these Western conceptions. And how those could be corrected, if they exist, in order to ensure the women seeking asylum have their cases treated with the severity, understanding and integrity they deserve.

2. Theoretical Framework

Introduction

Fundamental to understanding the decisions of Nigerian women seeking asylum in Canada because they are fleeing witchcraft-motivated violence is to examine the two-pronged way they face oppression and disbelief within the Immigration and Refugee Board, specifically the Refugee Protection Division (RPD), which is the first panel to hear asylum-seekers plead their cases. As we will see, this two-pronged way involved Othering rooted in Orientalism *and* in Western conceptions of witchcraft, which then cause the decision-maker to arrive at different conclusions about the lived realities of witchcraft than that described by the women seeking asylum. Both of these converge to create an overall structure of Othering that, when coupled with the culture of disbelief, leads to adverse findings of credibility.

While grounding the discussion in understandings of discursive, state-sponsored violence rooted in the history of witch-hunts in Europe and its colonies, I combine the works of various liberal and Marxist feminist authors in conjunction with Said's theories of the Orient and the Other, to propose a theory to understand the treatment of women accused of witchcraft in the West: Othering. This theory is used to expand upon the concept of the 'culture of disbelief', which was first presented in a 1997 joint report between the UK's Department of Justice, the Immigration Law Practitioner's Association (ILPA) and the Asylum Research Centre (ARC), refers to the high threshold test within which the asylum decision-making process operates, and where "any inconsistencies or evidential gaps will result in negative findings of credibility." (Justice, ILPA, ARC, 1997, 38). The chapter attempts to demonstrate that, through the combination of the aforementioned theories, we can begin to understand the treatment of these women by the various arms of the IRB, and their plight to have their situations believed.

Through this framework, I will attempt to present the treatment of these women's cases by various agencies of the Immigration and Refugee Board as fundamentally rooted in viewing these women as foreign Other who is incapable of translating their 'exotic' experiences into easily digestible bites for the panellist in charge of deciding her fate.

I begin this chapter by discussing the important colonial origins and implications of the use of the terms 'witch' and 'witchcraft.' I will then further discuss Szasz and Frigon's frameworks of how 'witches' in the West have been understood throughout history before proposing my contribution to these frameworks, and the central concept of my theoretical chapter – Othering. I will then elaborate on this in a two-pronged theoretical approach which combines Western conceptions of witchcraft, which are rooted in misogyny, and Saidian Orientalism. First, the feminist understanding of witch hunts in Europe and Salem and their impacts on broader Western cultural understandings of witchcraft-motivated violence, particularly as a form of gendered violence. The second prong examines how Saidian approaches to discussing Orientalism can be applied to the way Canadian decision-makers engage in questions of authority and belief in these cases. I then bring the two prongs into conversation with one another and how they create the overarching conception of 'Othering.' Finally, I will conclude the chapter by discussing witchcraft in the context of discursive and State violence, and its impacts.

1 -- The colonial implications of the terms 'witch' and 'witchcraft'

Firstly, it is important that I clarify one of the key concepts of this project: witchcraft-motivated violence, also called witchcraft-related violence (WRV) or witchcraft violence by other academics. Katherine Luongo of Northeastern University, one of the leading researchers on WMV and immigration, defines it as "a harmful speech act, a mode of epistemic violence that

gives rise of physical violence against an alleged witch, often resulting in the accused 'witch's' death." (Luongo, 2010, 179) As shown by Luongo, a common misconception about witchcraft-motivated violence is that it is an attack on someone's spiritual practices or beliefs, while the individuals who are experiencing these accusations and subsequent violence are women who are being victimized through the accusation of being one (*independently of their spiritual practices or believes*).

It is additionally important to establish that 'witch' and 'witchcraft' are Western conceptions of non-Western notions of spirituality, superstitions, and traditional practices and rites. Thus, although the use of the term 'witch' and 'witchcraft' is prevalent in each of the cases discussed in the data (and in the broader literature discussing women from all over the world experiencing violence and persecution because of such accusations), it should nevertheless be noted that 'witch' is not necessarily a culturally accurate term used by Nigerians. Rather, it is a term used to translate the type of accusation facing these women into a way a Canadian panellist at the RDP or Refugee Appeal Division (RAD) could understand.

It should also be noted that because of the nature of RAD and RPD decisions, it is not publicly accessible what kinds of terms these women used while testifying and which words panellists and stenographers put in their mouths. However, for the sake of consistency between my analysis and theoretical framework and the language used in the cases, I will use the terms 'witch' and 'witchcraft' throughout my thesis.

Concerns about the ties between the terms 'witch' and 'witchcraft' and colonialism are raised by Murrey (2017) and Okonkwo et al. (2021), Eboiyehi (2017), Fisiy (1998), and Geschiere and Nyamnjoh (1998). This does, of course, raise questions about how these women are made to mould their experiences into the Canadian language and understanding of spiritual

rites and practices time and time again. Murrey, for example, argues that the use of Eurocentric terms like ‘the occult, sorcery, and witchcraft’ have been and continue to be prominent facets of colonial productions of knowledge (2). Furthermore, she argues that by dismissing nuanced and different forms of African spirituality, especially those falling outside the realm of Judeo-Christian beliefs, Europeans were able to more effectively carry out and even justify their expansions of colonialism and capitalism into Africa (2-3). As such, it is crucial to remember the colonial and Eurocentric roots of terms like ‘witch’ and ‘witchcraft’ and remain critical of their use within the RAD decisions.

It is important to consider how Western histories and narratives of witchcraft might inform the framing of the accusations the women of this study have faced. For example, it would be difficult to argue that European witch hunts and the infamous Salem witchcraft trials do not in some form contribute to witchcraft’s presence in the Western and Canadian imaginations. Briggs (1996), for example, argues that for “industrialized societies of the modern Western world...belief in witchcraft is generally stigmatized as a sign of primitivism.” (3) Furthermore, Harnischfeger (2000) argues that Europeans who colonized South Africa demonized and criminalized various kinds of African spirituality, which they called “magic” (100). The colonizers also criminalized various practices they deemed to be witchcraft to prevent a repeat of the brutal witch-hunts they had experienced in Europe (Harnischfeger, 2000, 100). As such, it is important to recognize the colonial character and implications of using words like ‘witch’ and ‘witchcraft.’

Now, witch craft has its own place in the recent legal history of Canada. For example, McDonald’s 1999 thesis examined 11 cases of persecution under previous s. 365 of the *Criminal Code* in Canada, which made it illegal to fraudulently practice witchcraft or carry out any

activities related to the occult like fortune-telling, palm-reading, astrology, tarot card reading, speaking to the deceased, and so on. In her analysis, 9 of the 11 cases McDonald examined resulted from charges laid against women, while in the other two cases, there were multiple defendants whose genders were unclear (1999, 76). McDonald argues, “it is relatively safe to assume that the crime of witchcraft continues to be a woman’s domain” (1999, 76), and that often, these cases involved what one judge described as “entrap[ing] the accused into committing a breach of the law.” (McDonald, 1999, 77)

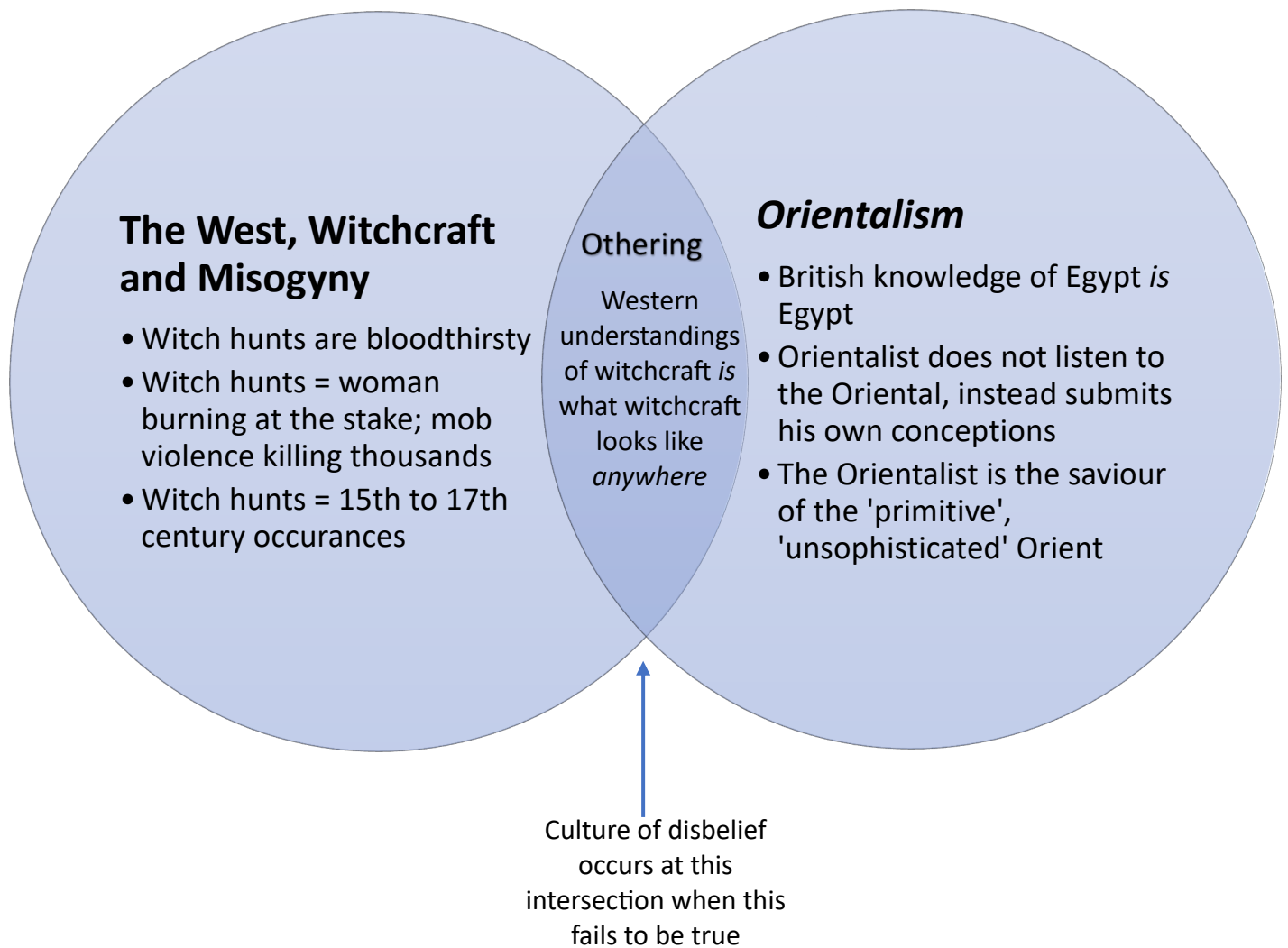
Furthermore, McDonald asserts that the same types of individuals continue to be targeted by the laws prohibiting the use of witchcraft as those who were targeted by laws persecuting accused witches – the only difference is the law’s view on witchcraft (1999, 80-1). This analysis illustrates an important point in contemporary Canadian law, witchcraft and misogyny. While s. 365 was eventually removed from the *Code* in 2018 through Bill C-51 which axed many so-called ‘zombie laws’ which were deemed outdated and no longer reflective of modern Canadian needs as they relate to criminal law, the timing demonstrates that witchcraft and misogyny in the Canadian legal system is not as antiquated as many might like to think. As McDonald argued, the law still targeted women accused of witchcraft, whether by police like one woman who was accused in 2018 just days before the law was repealed (Harris, 2018), or by clients or community members, the bones are still the same as they were in witch hunts in Salem or antiquated Europe.

2 -- Overview of the two-pronged approach

The two-pronged theoretical approach I will take to my theoretical framework incorporates both Western conceptions of witchcraft and the feminist approach to them, and Said’s 1978 book *Orientalism* and its logics around Westerners as authorities over non-Western

experiences. I will first discuss Western conceptions of witchcraft and witch hunts as examined through a feminist lens. These conceptions will include both witch hunts in Europe and Salem, their construction and feminist understandings of the impacts of these events, and Canada's now-abolished 'witchcraft law', s.365 of the *Criminal Code*. I will then move into a discussion of Said's *Orientalism*, particularly his discussion of how the Western Orientalist constructs knowledge of the Orient and how his image of the Orient and the 'Oriental' *becomes* knowledge of the Orient and Oriental among other Westerners. These will then be discussed in tandem to create the over-arching structures of Othering that are pervasive in the decision-making process of these cases. I argue that Western constructions of witchcraft and its misogynistic history of witch hunts and witchcraft-motivated violence converged with Said's *Orientalism* to create what I call *intersecting structures of Othering*. The intersecting nature of these two forms of oppression converge in a way similar to that described by scholars of intersectionality like the Combahee River Collective. For a visualization of this framework, see below.

The Two-Pronged Intersecting Structures of Othering Visualization



3 -- A feminist perspective of Western witchcraft accusations

Firstly, a feminist lens assists in laying the landscape of sociolegal constructions of ‘witchcraft’ and ‘witch’ in law and policy as rooted in misogyny. One text that examines misogyny and witchcraft is Samantha Spence’s book *Witchcraft Accusations and Persecutions as a Mechanism for the Marginalization of Women*. In it, she discusses how all members of a society are theoretically vulnerable to accusations of witchcraft, but in reality, women find themselves accused much more than men. Spence argues this is because of the construction of witchcraft as a woman’s crime and shortcoming; more specifically, a Western patriarchal society historically constructed witchcraft as the manifestation of the weaknesses of women and the realization of men’s greatest fears.

In her work, Spence refers to the very influential *Malleus Malleficarum*, a book written in 1487, constructed women as vulnerable to witchcraft and the Devil because they caused the Biblical “original sin,” and their wills are naturally weaker than those of men, and so they are more susceptible to ‘sinful’ influence, leading them to be witches (Spence, 2017, p. 60). This notion is rooted in Christianity, a very influential religion both in Canada and in Nigeria and various other African countries, where Eve, a woman, was the committer of the Original Sin who caused the fall of man by being tempted by Satan and biting the forbidden fruit. As such, women are often inherently tied to notions of witchcraft, evil and demonic forces, though it should be noted that some historians argue that the gendering of witchcraft was not done to specifically target women themselves.

Rather, the skewing of accusations towards women more than men was an outcome from the various lines of ‘logic’ followed by demonologists of the time (Briggs, 1996; Clark, 2001). Such reasonings included the belief that women were naturally weaker than men with respect to their intelligence and psychology; they were feeble minded, unstable and were flawed people

who were therefore more likely to commit sin (Clark, 2001, 56). Additionally, because of these targets, women were allegedly inherently preferred targets for Satan because they would more easily fall for demonic tricks and would be more easily persuaded to abandon their faith (Clark, 2001, 56). Lastly, other vices used to substantiate claims of witchcraft were often attributed to women: that is being overly curious, prideful, vain, vindictive, ambitious, lustful, and so on (Clark, 2001, 56). These traits that were attributed to women made it so that, even if men were not subconsciously or officially targeting them in witch hunts, women were the more common victims of witchcraft-motivated violence in Europe and North America compared to men during the times of the witch-hunts.

Spence argues that there was a pervasive belief across Europe that maternal bloodlines are responsible for passing down witchcraft (Spence, 2017, p. 95). Spence argues that this belief allows misogynistic myths to persist and marginalize women through witchcraft accusations even in otherwise “matriarchal societies” (2017, 96). As such, a feminist perspective as the one of Spence understands historical and contemporary notions of witchcraft as concrete illustrations of the misogynistic stereotypes that paint women as ‘evil,’ ‘weak willed,’ and ‘immoral’ (Spence, 2017, 207). This is especially evident in the kinds of women, Spence argues, that are usually targeted by accusations of witchcraft – widowed, unable to have children or too old to bear children anymore.

Thus, feminism understands the construction of ‘witch’ and ‘witchcraft’ as fundamentally rooted in misogyny because it is emblematic of male supremacy, which inherently seeks to justify gender inequalities. Additionally, Spence argues that the basis of a woman’s risk of being targeted by accusations and subsequent acts of violence due to witchcraft lies in how ‘useful’ she is to men reproductively. This also mirrors Toivo’s and Karlsen’s discussion of how older

women were overrepresented in witch trials across Europe for this reason (Toivo, 2019, 224; Karlsen, 1998, 65). This is an issue much of feminism grapples with – women’s treatment in a patriarchal society as objects valued insofar as they can reproduce or serve men. As such, feminism then discusses at a theoretical level what has been and continues to be observed concerning misogynistic patterns with witchcraft-motivated violence and accusations.

The aforementioned Canadian *Criminal Code* s. 365 illustrates that there can be a belief of some kind in witchcraft, but fundamentally that it is the law that decides who is and is not a ‘real’ witch. In her thesis, McDonald states that “it is relatively safe to assume that the crime of witchcraft continues to be a woman’s domain.” (1999, 76) Furthermore, she also argues that the law prohibiting the fraudulent practice of witchcraft targets those which would previously be persecuted under the laws Canada imported from the United Kingdom that made being a witch a crime (1999, 77; 80-1). Though s. 365 was removed from the *Code*, the legacy of the multiple, long-standing forms anti-witchcraft laws took in this country demonstrates Canada’s history with witchcraft-motivated violence as enshrined in law, especially the use of such a law against women.

In following this logic about witchcraft as a law against women, Catherine McKinnon argues that legal equality in a patriarchal society will never be possible because of the law’s intrinsic maleness (Jackson, 1992, p. 208). Meaning in a legal system fundamentally constructed by men for the needs of other men, it is nearly impossible for women to be equal. Furthermore, any women who achieve ‘equality’ under the law are usually those few who already have “that which pervasive equality systemically denies most of their sex.” (Jackson, 1992, p. 208). To truly be free of patriarchal oppression, all women, not just the least-oppressed few, must benefit from the same freedoms. MacKinnon believes this cannot be achieved by legal reform alone but

by a complete overhaul of the legal system, coupled with a fundamental change in societal ideology and daily life (Jackson, 1992, 212).

This is relevant to my analysis of the sociolegal construction of ‘witch’ and ‘witchcraft’ in Canadian law as misogynistic and a tool for targeting women no longer viewed as ‘useful’ or women who have too much power within society. If the law is inherently male and constructed by men for other men, it then follows that men would also use the sociolegal construction of witchcraft to target women. This is because men, whom feminism argues possess the power and decision-making abilities within the law, regardless of optics of equality, make the decisions about witchcraft within the law.

For example, the witch hunts that terrorized women throughout Europe and in the colonies differ from the modern experience of women and witchcraft. I want to emphasize that my work is not so much concerned with women who are pagan or who label themselves as witches but rather with the experiences of women labelled as witches by others, regardless of their spirituality or practices. As such, witchcraft in the law is examined in my project as an oppressive label only when forcibly pushed on women, not when women take it on themselves. Of course, these are not mutually exclusive, and a woman could self-identify as a witch and then experience the law identifying them as such. However, I will focus more on women assigned the label of the witch, regardless of their practices and how this might contribute to their persecution.

Much of the work done surrounding witchcraft-motivated violence, whether looking at it as a general issue or looking at it through the lens of asylum-seeking, has focused on feminist theorizations and approaches. As such, intersectionality (as discussed in the Combahee River Collective Statement [1977]) does provide what I think to be a critical guiding point for my research. However, I do not want to exclude the possibility of racism these women might face

when seeking asylum in Canada, especially concerning the undoubted tone of ‘othering’ present in witchcraft-motivated violence, as we will see next. As such, I employ elements of intersectionality into my project as it seeks to avoid flattening the experiences of Nigerian women into just ‘woman’ or just being a ‘foreigner’ or ‘refugee’ (Combahee River Collective, 1977). I propose that it is through exploring both Orientalism *and* the misogyny inherent in understanding witchcraft accusations via Marxist and radical feminism that the adjudication of these cases can be best understood.

4 -- Logics of Orientalism and Othering

Having established the relevance and importance of witchcraft through a feminist lens in the Western perspective, I will now examine Saidian logics of *Orientalism* and notions of who constructs knowledge and authority through the discussion of the Orientalist and the Orient. This is especially important in examining my cases because a central pillar of my analysis is RAD or RPD members drawing on Western notions of WMV and lapses in legal reasoning, which are built on the foundation of a decision-maker asserting they know better than the seeker.

Conceptions of knowledge and authority, who has it, who can give it and the way these questions are rooted in Western supremacy are central to both my analysis, and to Said’s work in *Orientalism*, making it the best theoretical framework through which to approach these questions.

In *Orientalism*, Said (1978) asserts that “orientalism is the discipline through which the Orient was (and is) approached systematically, as a topic of learning, discovery, and practice.” (73) He also defines orientalism as a “political vision of reality, whose structure promoted the difference between the familiar (Europe, West, ‘us’) and the strange (the Orient, the East, ‘them).” (Said, 1978, 43) What these definitions ultimately describe is Orientalism is built off the

fundamental ideas of ‘othering’ – of re-asserting the ‘logical and civil’ West against the ‘illogical and uncivil’ East. In this context, what I do is apply Said’s line of logic to the case of the RAD and RPD’s approaches to Nigerian spirituality and witchcraft accusations. Meaning, its process of constructing Nigerian or other African cultures, mimics that of the way Western academia constructs the Orient. Said demonstrates this as well when he argues that, for example, British knowledge of Egypt *is*, as far as they are concerned, Egypt (1978, 32). Canada does the same thing where Canadian knowledge of Nigerian witchcraft *is* Nigerian witchcraft. It doesn’t much matter what the women seeking asylum do or say to convince the decision-makers of their lived realities – if what they say contradicts previously-held beliefs about witch hunts and WMV (either through prevailing cultural understandings influenced by European or Salem witch hunts, or through government documents defining Nigerian witchcraft), then it is not a ‘real’ witch hunt or real’ WMV causing actual harm or violence.

Furthermore, Said proposes that “the Oriental is *contained* and *represented* by dominating frameworks” (1978, 40) and that the Orient is something that is reproduced through Western law, studies, schools and prisons (Said, 1978, 41). As such, in considering the Othering and West reproduces false and fabricated understandings and ideas of the Orient, this can also be applied to how the RPD and RAD might reproduce false narratives surrounding WMV, its characteristics and its motives. This further ties into Luongo’s (2015) argument that that asylum seekers from Africa have had to contend with the “official rhetoric of refugee protection” (184), which can present quite a challenge for them, especially given the difficulties present in providing an accurate translation of their complex cultural experiences. Lastly, the Justice/ILPA/ARC report (1997) discusses a “culture of disbelief”, which refers to the high threshold test within which the asylum decision-making process operates, and where “any

inconsistencies or evidential gaps will result in negative findings of credibility.” Luongo also builds on this concept by stating a culture of disbelief exists surrounding panellists deciding on whether the WMV asylum-seeker had reasonable grounds for fear of violence such that they warrant being deemed a Convention refugee (Luongo 2023, 7, 52, 64, 68, 84; Luongo, 2020, 663, 671). This is further echoed in a report done by the United Nations Human Rights Commission, where they argue that “harm from witchcraft practice is much less likely to be viewed as credible by Western aid workers and asylum officers because of disbelief and lack of evidence.” (Schnoebelen, 2009, 29) refers to the high threshold test within which the asylum decision-making process operates, and where “any inconsistencies or evidential gaps will result in negative findings of credibility.” (Justice, ILPA, ARC, 1997, 38)

Said goes on to elaborate that for Orientalist and British Foreign Secretary Arthur Balfour, “it doesn’t occur to [him] to allow Egyptians to speak, because those who do would surely be agitators who ‘raise difficulties,’ rather than the good native who ‘overlooks’ the difficulties of foreign domination.” (1978, 33) While I would argue that something quite so outwardly bigoted would stand little chance of being as socially acceptable today, what exists instead is the insulting posturing of listening to these women, their traumas, their concerns, and their pain after which their testimonies are critiqued for failing to be ‘good refugees’ who are able to properly mould their experiences into neatly understood packages for IRB decision-makers to consume. As Said says, “No matter how much a single Oriental can escape the fences places around him, he is first an Oriental, second a human being, and last an Oriental.” (1978, 102) For these women, the labels with which they are affixed by the Canadian government is two-fold, and the same for which my theoretical framework has been named: a witch, and a

foreign other. They are, no matter what they do, first a foreign, ‘othered’ refugee witch, second a human being, and third a foreign, ‘othered’ refugee witch.

Isin (2002), building off Said, argues that “the root of the occidental conception of citizenship lies in the invention of the oriental city as its Other” and that the concept of ‘Other’ is produced *internally, during* the construction of citizenship, rather than being a pre-existing concept of citizenship (5). Richardson, in turn, argues that the process of creating ‘Others’ (like the concept of Orientals and the Orient) was expressly created to introduce conceptions of citizenship, rather than ‘Orientals’ being created to distinguish Europeans from them (2014, 81). I argue that we can use these concepts to understand the adjudication of WMV cases in front of Canadian immigration establishments because the concept of the accused witch being the ‘Other,’ is produced *during* the process of her seeking asylum and citizenship *by* the IRB, RAD and RPD. So, in a way, these women experience othering twice – once by their home communities when they are ostracized and treated for being an accused witch, and again as an ‘Other’ during the citizenship and asylum-seeking processes by the Canadian legal system.

Philip Zachernuk, a current professor of history at Dalhousie University, further explores the relationship between West Africa, Orientalism and postcolonialism. Zachernuk points out that, especially during the 19th and 20th centuries, much of colonial discourse around Africa mirrored Orientalism’s claim of knowing the “truth” about the African people (Zachernuk, 4, 1993). He argues that in these areas of study, it is always the European, not the African, whose knowledge production has the answer and the truth, and as such, rules over and triumphs the African knowledge. However, Zachernuk points out, as does Mudimbe (1988) in their book *The Invention of Africa*, that much of the discourse in ‘postcolonial’ West Africa in the 19th and 20th centuries between West African intelligentsia and European intelligentsia was a dialogue, unlike

in Orientalism. Mudimbe (1988) argues that the West heavily influenced many African academics and intelligentsia, whether it be through Westernized education or adopting Western ideas and conceptions. While certainly, an interesting and important discussion is necessary, I will set this aside for the sake of my project and fear that its scope does not allow me to do this topic justice.

The point I aim to make here about the internalization and even institutionalization of Western academic norms and ideas in West Africa is to demonstrate the pervasiveness of colonialism and Western supremacy in African intelligentsia and the reproduction of notions of what is ‘Africa’ and what does it mean to be African, much like Said’s discussion of the Orient and what it means to be ‘Oriental.’ Zachernuk concludes by remarking that “The [Nigerian] colonial intelligentsia held an innovative dialogue with European thought; they were not simply victims of colonial discourse, trapped as silent Others... If the Europeans invented an Africa suited to their imperial ambitions, it seems the Africans also invented one suited to their colonial situation.” (Zachernuk, 6, 1993)

This discussion serves to highlight the important distinctions I want to make, rather than broadly painting the IRB’s relationship to Nigerian refugees with the Orientalist brush. Rather, what Zachernuk and Mudimbe demonstrate that parts of Orientalism are that Africa and West Africa are not necessarily entirely constructs of the West not rooted in the social reality of experiencing witchcraft as described by these women. Rather, while some of those elements are still pervasive, to paint the African context this way entirely would be to rob African intelligentsia of their innovation and autonomy and the ways in which they were about to use modern, ‘postcolonial’ discourses about Africa to their advantage to leverage their own ideas and philosophies around modern Africa and what it means to be a part of it. While I maintain that, as

I will elaborate upon in my analysis, much of the discussion surrounding witchcraft-motivated violence done by the RPD mirrors Orientalist notions of Western supremacy in that they seek to speak over others in the pursuit of constructing and maintaining their ideas of the region, group and culture in question (whether it be the Orient or West Africa), there are important distinctions to be made between the Orient and ‘postcolonial’ Africa and West Africa.

Through combining both of Luongo’s concepts and Said’s Orientalism, I propose that we can see the multifaceted ways in which the accused witch becomes an ‘Other’ who’s lived reality is questioned both on the grounds of a lack of knowledge of her home country and its spiritual beliefs, but also in how these fabrications of Nigerian WMV can become enshrined and reproduced in Canadian immigration and legal systems. The accused witch as the ‘Other,’ who comes from a foreign world with “irrational, depraved (fallen), childlike, ‘different’” (Said, 1978, 40) beliefs, stands in contrast to Canada’s European, Western “rational, virtuous, mature, ‘normal’” (Said, 1978, 40) values. As such, I argue this belief illustrated through *Orientalism* manifests in Luongo’s conceptions of the “double disability” (Luongo, 2015, 190) and the “culture of disbelief” present in these cases (Luongo 2023, 7, 52, 64, 68, 84; Luongo, 2020, 663, 671) to create a perfect storm of sorts that risks leading to difficulties in legal reasoning on the part of RAD or RPD members who have drawn on Western notions of WMV and the dangerous and dire circumstances in which these women find themselves. This then intersects with the history of misogyny in Western understandings of accusations of witchcraft that date back to the days of European witch hunts and the trials of Salem.

5 -- Witch-hunts, discursive truths and State Violence

Often central to discussions of witchcraft-motivated violence is the State’s role in the creation and reproduction of witch-hunts. Federici argues that throughout the centuries, witchcraft was used throughout Europe as a way to subjugate and control women’s bodies,

especially during the 16th century transition from feudalism to capitalism (2004; 2021). While witch-hunts were certainly not exclusively the product of state violence, Federici argues that the creation of a centralized state was instrumental in the reproduction and creation of witch-hunts and the image of the witch (2021). Notably, witch-hunts and accusations of witchcraft were also weapons of Europeans when they began to colonize Latin America and Africa, and during the beginnings of the transatlantic slave trade (Federici, 2021). Often, witch-hunts were synonymous with state-sponsored terrorism; used to keep rebellious Indigenous and African people ‘in line’ and subjugated (Federici, 2021). Whether they were used in Latin America to justify the torture and execution of Indigenous leaders, or in plantations in the Caribbean as a way to snuff out sparks of revolution and sever ties African people had to their home spirituality and culture, witch-hunts have continued to be an important part of state-sponsored violence throughout history (Federici, 2021).

In attempts at justifying carrying out these acts of terrorism, Europeans would often engage in using various forms of discourse to create an institutional truth about witch-hunts and people accused of witchcraft and Devil worship. For example, the term ‘red devils’ were often used to describe the Indigenous people of Latin America, who were coloured as Devil worshippers who needed to be persecuted for their ‘immoral’ and ‘inhumane’ beliefs (Federici, 2021). This type of villainization of racialized people is also seen through the discourse created by modern immigration laws.

According to Mary Jackman (2002), there exist two dominant assumptions within examinations of violence – first, that it is motivated by the “willful intent to cause harm, presumably resulting from hostility” (388) and second, that “violence is socially or morally ‘deviant’ from mainstream human activity.” (388) Jackman further argues that when violence is

the by-product of other positively-perceived processes or outcomes, it is socially accepted and overlooked (2002, 388). However, she points out that this approach ignores other products of violence outside of physical injury, like “psychological outcomes of fear, shame, anxiety or diminished self-esteem, stigmatization, exclusion, banishment and imprisonment, all of which can have deeply devastating consequences for human beings.” (393) As Menjívar and Abrego (2012) argue, symbolic, state-sponsored violence is intrinsic in immigration laws, which reproduce discourses that colour immigrants, both undocumented and documented, as criminals inherently deserving of suspicion and surveillance. This treatment and system, while purporting to protect the nation (America in *their* article, Canada in my project) and allowing ‘good,’ ‘legal’ immigrants in to thrive, simultaneously reveals meaningful harm to immigrants’ daily life, as they are designed to perpetrate a feeling of constant anxiety and unease in their work, family and school lives (Menjívar and Abrego, 2012, 1380).

What Menjívar and Abrego serve to illustrate is the hand-in-hand weaponization of the law against racialized people as a form of state violence. While witchcraft was historically used as a manner of subjugation of racialized people during the early colonial period and the creation of the so-called ‘New World,’ state violence of racialized people today has taken on a variety of forms, including modern immigration law. Here we can see the various forms of Othering as state-enacted discursive violence against African people. First, we see the violent destruction of their connections to their spirituality during the transatlantic slave trade period, where they were demonized as witches and Devil-worshippers. Crucially, the very first person accused of witchcraft in the famous Salem trials was Tituba, an enslaved woman who worked for Salem’s Reverend, Samuel Parris, and whose spiritual practices were accused of being witchcraft by various young white women in Salem. Not only does this demonstrate the weaponization of

whiteness against a woman of colour (it is often debated whether she was Indigenous or African), but it also shows the power of discursive violence as a way to justify the torture and murder of enslaved people for their spiritual practices throughout that period.

Secondly, in the modern period, this Othering comes in the form of immigration laws that seek to violently target immigrants through fostering a climate of constant unrest and anxiety. As such, I argue that immigration laws, including migrant raids, have turned from a literal witch-hunt against people of colour to a metaphorical witch-hunt, where, much like the accused witches of the past, modern African immigrants find themselves, through institutional discourse, made into distorted, demonized figures whose experience of violence is, as Jackman argues, justified as a means to an end, or an unfortunate by-product of the noble cause of protecting Canadian borders. As such, we see a metamorphosis of the African migrant from enslaved individual subjugated, tortured, killed, and demonized for their spirituality and cultures (among other things certainly) into the modern newcomer who is judged on a sliding scale of how worthy they are of safety, comfort and respect, based on how strictly they adhered to jumping through the endless hoops set up by the Immigration and Refugee Board. Should they fail to achieve that, much like the stereotypical witches of the past, they find themselves subjected to discourse pumped out by the Immigration and Refugee Board where they are made into villainous caricatures that seek to leech off public services and harm (often white) ‘good’ Canadians.

A sense of anxiety and unease was also weaponized against women during early European witch hunts according to Federici (2004). Witchcraft accusations were often used against women as a way to control their bodies and their capacity for reproduction and thus, the creation of new workers to benefit the newly-emerging capitalist system (Federici, 2004, 192). Witchcraft’s discursive violence in 16th century Europe often emerged as a way to target older

women who were both unable to work and unable to have more children and produce more workers. As such, they were inherently seen as societal burdens and thus, the capitalist state needed a way to be rid of them – and the discursive violence of the witch-hunts was born. Federici argues that “many of the women accused and tried for witchcraft were old and poor” and witch-hunts “turned the image of the old woman upside down: traditionally considered a wise woman, she became a symbol of sterility and hostility to life.” (2004, 193)

In returning to the Salem trials, which I argue are an inseparable part of the Western imagination surrounding the terms ‘witch-hunts’ and even ‘witch,’ the second and third women, after Tituba, to be accused were Sarah Good, an elderly beggar with a hot temper and without children or a husband, and Sarah Osborne, an elderly, sickly woman. These serve to demonstrate Federici’s observation of the trend of accusations of witchcraft falling on the shoulders of women seen as societal burdens, both because they had no money of their own, and because they had no more offspring to provide – meaning they were seen as dually without use in a capitalist system. As such, state-sanctioned discursive violence which accused these women of witchcraft and weaponized the judicial system against them was seen as justifiable in that if they were of no use for the state’s capitalist means, they didn’t deserve to continue to live in that state.

Important to the conversation about early European state-sponsored witch-hunts is the importance of Catholicism and Christianity in the justification of these acts of violence and as talking points in the discourse surrounding the justification of the hunts. Federici points out that the language of witch-hunts created woman as a sub-species, who was both more “carnal and perverted by nature” (2004, 192), but who also was more prone to sin. This again ties back to the Biblical roots of witchcraft accusations in 16th and 17th century Europe and North America – women were understood to be descendants of Eve and as such, are to blame for the Original Sin

(Eve being tempted by Satan posing as a snake in the Garden of Eden and convincing her to eat the Forbidden Fruit against God's express instructions, thus causing humankind's first sin). Churches were indisputably important facets of daily life during this period, including during the Salem Trials where Reverend Parris¹³ was seen as the leading authority in the village on deciding who was and was not a witch and who did and did not deserve to be put to death. As such, we see the way religion has been an intrinsic part of the discourse and subsequent state violence surrounding witchcraft and witch-hunts.

Recap

So, to summarize, my theoretical chapter begins by outlining elements of the discussion surrounding the colonial and Western supremacist implications of the use of the terms 'witch' and 'witchcraft.' I then discuss how witchcraft-motivated violence cases can be analysed through a two-pronged theoretical approach. The first prong is Western constructions and conceptions of witchcraft, as analyzed and understood through a feminist lens. These constructions include both a discussion of Western witch hunts, and Canadian witchcraft laws, especially the now-abolished s. 365 of the *Criminal Code*. The second prong builds on Said's 1978 book *Orientalism*, and mainly discusses questions of the authority and knowledge monopoly the Orientalist claims to have over the Orient and the Oriental, and how these logics are present in the RAD and RPD decisions. I then finish my theoretical chapter by discussing witchcraft in the context of discursive and State violence, and its impacts.

As such, my central research question is the following: *What traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?*

¹³ Reverend Parris' role also interestingly reflects that of the Refugee Protection Division and Refugee Appeal Division decision-makers today.

I further propose that treating and viewing the witch as the foreign ‘Other’ can also explained and manifested by building on the culture of disbelief discussed earlier (Justice, ILPA, ARC, 1997, 38; Luongo 2023, 7, 52, 64, 68, 84; Luongo, 2020, 663, 671). That is, the reason these women face disbelief at one point or another in their asylum-seeking process (typically at the stage of the RPD hearing their case) is the converging of the elements. So, the accused witch often finds herself treated as this ‘Other’ who fails to fit into Western notions of witches and a victim of witchcraft-motivated violence, thus resulting in her receiving this stamp of the ‘Other’ and being on the receiving end of disbelief from RPD decision-makers, resulting in often overturned decisions that she is not a Convention refugee because the process by which she has been accused of witchcraft and has experienced violence does not fit into Canadian constructions of both ‘Western’ and ‘African’ witches.

I argue that in the West, including Canada, the unignorable subtext of witchcraft accusations and subsequent violence is tied to cases such as the Salem witch trials (hence my earlier discussion of them). Furthermore, pre-conceived notions exist of what African ‘witchcraft’ is and how violence resulting from such accusations arises. However, as previously discussed, the Western conceptions of African and Nigerian witchcraft are deeply flawed, and mirror Said’s discussion of the Orient as being the product of a Western fantasy (or as a Western set of ideas/Western fantasy). Meaning, these conceptions are based on false narratives and constructions of what Nigerian witchcraft *ought to look like*, that are then continually perpetuated in the West. However, I argue that through the analysis of the cases of these women before the RPD, I will demonstrate the misogyny involved in the law speaking over women while simultaneously seeking to discredit them because their experiences fail to fit into the Canadian system’s outlines of what does and do not count as a valid experience of a Nigerian person

experiencing witchcraft-motivated violence. As such, my theoretical framework sought to borrow from conceptions of intersectionality, which examine how intersecting structures of oppression impact the lives of Black women (in this case, I use these logics to examine the cases of Nigerian women) (Combahee River Collective, 1977). It sought to combine feminist theorizations of Western conceptions of witchcraft and witch hunts with Saidian logics of *Orientalism* and his construction of notions of who does and does not have authority over the knowledge of the experiences of non-Westerners (in his case, Orientalists over Orientals, in my case decision-makers over asylum-seekers). This framework will then be used to analyse my chosen cases in order to provide a holistic analysis of why adverse findings of credibility on the part of decision-makers happen, and what can be done to address them.

3. Methodology

Introduction

The following chapter will outline my methodological approach to collecting and analyzing my data, in addition to the ethical considerations I've taken during my project. By using a constructivist paradigm, and a thematic content analysis of the Refugee Appeal Division (RAD)'s decisions, I will seek to answer my research question: *What traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?* In order to answer this question, my research goals will consist of: (1) to analyze cases to identify traces of the influences of Western notions of witchcraft motivated violence and witchcraft in written decisions; (2) to complete a thematic content analysis of RAD decisions to identify how the reasonings of the officials in these cases about the legitimacy of Nigerian witchcraft-motivated violence as a reason to seek asylum, as observed in their written decisions, can be examined through the lens of Othering; (3) Examine how these written decisions may provide a lens into the framing of Western notions of witchcraft among the RAD and RPD decision makers in these five cases.

This section will begin by firstly outlining my epistemological approach, which is rooted in constructivism and the way it will shape my approach to analyzing my data. Secondly, I will outline my methodological strategy as influenced by Saidian Orientalist paradigms in addition to my thematic analysis approach. The third section of this chapter will discuss my ethical considerations for this project, and the various sociopolitical positions that are critical to my work. Finally, the last two sections will outline my data analysis method and my evaluative criteria for my data.

1-- Epistemological Approach

The central epistemic paradigm that will be informing my thesis is constructivism.

Defined by Lindgren as "A multifaceted theoretical orientation...referring to a complex world of ideas the limits of which are difficult to find..." (2004, 4), constructivism can take various forms.

One of the most pervasive understandings of this paradigm is that people impose meanings on the world (Hammersley, 2010, 135), and there are no meanings independent of us.

Constructivism also focuses heavily on the influence of social relations on different constructions of reality (hence, the symbolic interactionist influence) (Lindgren, 2004, 6). Furthermore, the way the paradigm goes about understanding 'facts' allows those who employ social constructivism to explore how social reality is created and to what extent this reality is the product of various social actors (Collin, 1997, 9). It is also, Collin argues, a very democratic way of understanding social realities and the construction of knowledge and phenomena, as it understands reality as being constructed through the consensus and the collective consciousness of everyday people, rather than elites or social scientists (1997, 13-4).

Constructivism takes a relativist approach concerning its central ontological approach (Guba & Lincoln, 2003, 26). That is to say; realities are dependent upon the individual and even the culture from which someone comes; no two individuals will, concerning some social facts, have the same understanding of what that social fact is or means (Guba & Lincoln, 2003, 26). Furthermore, the ontological approach associated with constructivism examines both interpretations and meaning-making surrounding objects or phenomena (Glesne, 2010, 8). So, for my project, one of the disparities that this paradigm can help illuminate and inform concerns those between how Canadians (or the decision-makers) and Nigerians (the asylum-seekers) understand 'witchcraft' and 'witch,' and what those concepts mean and their resulting realities. Crucially, Guba and Lincoln emphasize that one construction is not more or less 'true' than

another (2003, 26). Instead, the 'truths' as they are understood tend to change from society to society. Additionally, Collin points out some philosophical contentions surrounding constructivism are whether truth is as relative as some constructionists believe or like to posit (1997, 18). While this debate is certainly something important to consider and explore, for my thesis and project, the ontological approach of relativism will only be focused on and applied to ideas of 'witch,' 'witchcraft,' and violence. This will support my approach to analyzing the cases I've chosen because it provides a very helpful lens through which to understand how misconceptions of WMV and witchcraft come to be and how they manifest in the adjudication process. It will also assist in framing the often-contrasting understanding of WMV of Nigerian asylum-seekers and Canadian decision-makers.

Secondly, for the epistemological approach, constructivism employs a transactional and subjectivist lens (Guba & Lincoln, 2003, 26). This means that the researcher and the subjects' findings are intrinsically linked and cannot be separated from one another, and the researcher generates the findings as their project goes on (Guba & Lincoln, 2003, 27). Guba and Lincoln (2003) assert that the line which is usually drawn between ontology and epistemology for most theoretical approaches becomes more blurred for projects with a constructivist paradigm (27). Since epistemology is, of course, concerned with knowledge production, it would then follow that part of the epistemology of constructivism is that researchers can produce knowledge through examining relativist social realities. This will be an intrinsic part of my project and my knowledge production because it will assist in framing my analysis of how the various social realities relating to witchcraft-motivated violence are formed, particularly how the social realities of the severity of WMV differ between asylum seeker and decision-maker and the ways this impacts the outcomes of my chosen cases.

Furthermore, the constructivist epistemology discussed by Guba and Lincoln (2003) and Lindgren (2004) highlights the researcher's impact on their work in that the researcher is responsible for much of the identification of the constructed realities. In other words, my project will be significantly shaped by what I identify as indicative of the Canadian constructions of 'witch' and 'witchcraft.' As such, constructivism inevitably takes into account and involves the researcher's own social and personal characteristics (Hammersley, 2010, 128). The role of the social scientist using a constructivist approach can also take the form of examining the interpretations others have of social phenomena and the way these actors also interpret the actions of others around them (Glesne, 2010, 8). According to Glesne, the role of the research material in knowledge gathering and generating involves much empathetic understanding of the research subjects and phenomena, as well as personal involvement (2010, 9).

My constructivist approach is also influenced by Saidian notions of constructivism. That is how the West creates and re-produces notions of the Orient through various facets of its society, including law, studies, schools, and prisons (Said, 1978, 40-1). As such, Said argues that the Orient does not really exist, but is constructed by Western academics who claim their construction of the Middle East in the form of the Orient *is* the real Middle East (Said, 1978, 40). My project uses Said's logics relating to Orientalism and its reproduction to examine the similar process through which Nigeria and Nigerian witchcraft beliefs are created and re-produced by Canadian society (as opposed to, for example, British knowledge of Egypt). Therefore, Said's approach to constructivism is a central tenant to my approach to constructivism as my epistemological approach.

Lastly, the methodological position of constructivism is both hermeneutical and dialectical (Guba & Lincoln, 2003, 27). Hermeneutical, in this case, refers to the study of

interpretations, and dialectical refers to the discussion of ideas and opinions. Guba and Lincoln argue that the methodological approach of constructivism, more specifically, revolves around understanding the interactions both "between and among investigator and respondents" (2003, 27) and how they can illuminate individual constructions of a given subject or phenomenon. This is also reflected in Glesne's discussion of the methodological approach of a constructivist paradigm, where they argue that the research would also involve interacting with individuals in their environments to gather information about their perceptions and understandings (2010, 8). They also argue that constructivism mostly begins with a more open, exploratory approach where the researcher allows themselves to be, in part, guided by the answers they receive and the information they gather (Glesne, 2010, 8).

2 -- Methodological strategy and central concepts

My thematic content analysis will be oriented by Saidian reflections on othering as they are presented in his reflections on orientalism. In this research, othering refers to the intersection of oppression experienced by Nigerian women seeking asylum due to WMV, which manifests both in Western notions of WMV in Africa and in misogyny rooted in Western constructions of witchcraft. However, the material is specifically rooted in Edward Said's approach to the Western construction of the Orient and in the way misogyny is central to the West's storied history of witchcraft accusations and subsequent violence (specifically, in the way Federici analyzes it in *Caliban and the Witch*); both of these are central to constructing 'Othering'. However, for the sake of my analysis, when seeking manifestations of Othering in the cases I am analyzing, I look and code mainly for decision-makers drawing on Western notions of WMV, causing them to arrive at conclusions about the realities of witchcraft that differ than those described and argued by those seeking asylum. The way RPD and RAD decision-makers construct these will be more thoroughly discussed in my analysis, but contextually, Othering

manifests either in dismissing the severity of the witchcraft accusation because it was not carried out a manner consistent with Western conceptions or in dismissing claims that the cultural weight of an accusation is so severe that no matter where the asylum-seeker goes in Nigeria, it will follow and continue to put them in danger.

A sub-concept that will also be employed throughout my analysis is the ‘culture of disbelief.’ First used in a 1997 report co-authored by the United Kingdom’s Department of Justice, the Immigration Law Practitioner’s Association (ILPA) and the Asylum Research Centre (ARC), the culture of disbelief refers to the high threshold test through which the asylum decision-making process is operated, and where “any inconsistencies or evidential gaps will result in negative findings of credibility.” (Justice, ILPA, ARC, 1997, 38). This concept will mainly illustrate how Othering is manifested in the outcomes of these asylum-seeking cases, whether at the RPD or RAD levels. Ultimately, what my use of the culture of disbelief seeks to demonstrate is that Othering manifests into decision-makers not believing, or being very highly skeptical of, witchcraft-motivated violence as a ‘good’ or ‘legitimate’ reason for seeking asylum.

3 -- Sampling

My data source consists of five cases presented before the Refugee Appeal Division (RAD). These cases have been retrieved from CANLII, a free, online Canadian database of various legal cases, and were adjudicated between from 2019 to 2020.

Cases from the RAD were chosen over those from the Refugee Protection Division (RPD) or other tribunals due to the RAD decisions being more widely accessible. Furthermore, in cases where the RAD overturned the RPD’s decision, the decision-maker would point out where the RPD had erred or misappropriated evidence surrounding witchcraft-motivated violence. This made analysis from the perspective of what is and is not admissible according to

the IRB's standards much easier for me than attempting to learn their guidelines and analyze the RPD's decisions based on my knowledge. The five cases were chosen through a keyword search in CanLII of both "Nigeria" and "witchcraft", and cases were then selected both on recency, country of origin, and content, with cases where fleeing witchcraft-motivated violence was the central tenant of the refugee claim being prioritized. Five cases were chosen in order to provide more data because RAD cases are heavily redacted to protect the claimants' identities, with names, ages, and, in some cases, specific details of the case being removed, rendering them quite short at around 10 to 15 pages in average length.

4 -- Data analysis

For my method of analysis, I chose a thematic content analysis¹⁶. While a critical discourse analysis examining the language choices of the decision makers from both the RPD and RAD would have been useful as well, I found that learning this specialized skill was outside the time and scope of this project, but future projects in the area could undoubtedly benefit from employing CDA. Furthermore, I found that a thematic content analysis would get me the results I was seeking in terms of understanding the sentiments and approaches the decision-makers took to making judgment calls on the cases before them. Additionally, due to the redacted nature of the cases to protect the identities of the asylum seekers, it is impossible to know the exact language they used in recanting their stories, as any direct quotes are excluded from the decisions. As such, though their exact languages are filtered through that of the RAD official writing their judgement, the themes of the fear they felt, the implications of the accusations, and the cultural impacts of witchcraft-motivated violence remain. As such, a thematic content

¹⁶ There is some disagreement among scholars about whether a thematic content analysis exists on its own, or whether it is a combination of a thematic analysis and a content analysis. My method is a combination of a thematic analysis where I examine the themes present in my cases, and a content analysis where I discuss how often certain phrases or themes appear in the cases.

analysis allows for the high-level approach needed in the absence of detailed data from the asylum-seekers themselves.

Furthermore, a thematic content analysis will allow me to examine how the two different streams of Othering manifest. The first being Western constructions of Nigerians and African witchcraft and the second being Western notions of misogyny rooted in its history of witchcraft accusations – both individually and in tandem. That is, this high-level methodological approach will best assist in being able to analyze and identify how central concept of Othering and sub-concepts, including the culture of disbelief, manifest in the approaches of both RPD and RAD decision-makers, as well as state-created guidelines in the form of documents created for decision-makers to reference on witchcraft-motivated violence.

My primary data analysis *method* used NVivo, which I chose as it allowed me to best organize my cases into their own files, organize my sub-codes, and easily reference the number of times a certain code appeared across each case. NVivo also allowed me to easily code, and to reference specific codes (for example, having certain codes be highlighted in the text when I was specifically analyzing them). It also allowed me to refer at-a-glance to what I had coded in each case so I could easily reference how the code was present in specific cases. When I organized my cases, I assigned each of them names for easy reference throughout my project, as most RAD decisions are referred to by long RAD file names. As such, each case was named as the following in NVivo:

- **Case A:** RAD Files TB9-16786 and TB9-16787, decided on July 27, 2020
- **Case B:** RAD File MB8-24781, decided on October 24, 2019
- **Case C:** RAD Files TB9-20264 and TB9-20265 decided on November 8, 2019
- **Case D:** RAD Files TB9-08005, TB9-08006, and TB9-08007 decided on October 2, 2019
- **Case E:** RAD Files TB9-29875, TB9-29876, TB9-29877, and TB9-29878 decided on January 13, 2020

5 -- Codes

Before beginning my coding, I identified four deductive codes, and four sub-codes: 1) witchcraft in Nigeria and its sub-code witchcraft-motivated violence; 2) disbelief and credibility and its sub codes credibility of decision-makers, credibility of seekers and decisions; 3) a lapse in legal reasoning based on Western notions of WMV and 4) RAD or RPD members drawing on Western notions of WMV, causing them to come to differing conclusions about the question of WMV in Nigeria than the asylum-seekers. Witchcraft in Nigeria was chosen to code for mentions of witchcraft within the seeker's home country and community, without mentioning witchcraft-motivated violence. Witchcraft-motivated violence was chosen as a sub-code to specifically analyze instances where the seeker directly mentions the violence and accusations levied against them. Disbelief and credibility were used for discussions of credibility issues that *did not* stem from the decision-maker drawing on Western notions of WMV or a lapse in legal reasoning based on Western notions of WMV. This was divided into three sub-codes: the credibility of the decision-maker, for instances where the decision-maker's credibility was questioned by the asylum seeker; the seeker's credibility, which coded for the inverse of the decision-maker's credibility; and the decision-maker's final decision, which coded for the ultimate finding of credibility. This code was also mainly used for any discussions of credibility that I found did not fit into the final two deductive codes: a lapse in legal reasoning based on Western notions of WMV or RAD or RPD members drawing on Western notions of WMV. These codes, I argue, are sister-codes in that both identify where, in the decision-making process, the RAD or RPD official drew on Western notions of witchcraft and witchcraft-motivated violence, causing them to come to a conclusion about the social reality of experiencing WMV in Nigeria that is different than the lived realities described by the women seeking asylum. The first of these sister-codes, a lapse in legal reasoning based on Western notions of WMV, originated

from the Refugee Appeal Division (RAD) decision maker directly saying the Refugee Protection Division (RPD) decision maker “misapprehended”, “misunderstood” or “mistook” evidence, or some variation on that language. Here, the RAD decision-maker uses this language to simply identify a lapse in legal reasoning. I used this code to state this lapse in legal reasoning was caused by the decision-maker drawing on Western notions of witchcraft and witchcraft-motivated violence. The second of this sister-codes was instances where I determined the decision-maker (whether RPD or RAD) drew on Western notions of WMV, causing them to come to a different conclusion about the lived realities of witchcraft-motivated violence in Nigeria than the ones described by the women seeking asylum. I determined this through identifying if the decision-maker demonstrated an understanding of the evidence presented to them by the seeker that was different than the reasonings and findings of the seeker themselves (for example, demonstrating an understanding a cultural practice leading to a negative determination of credibility).

I identified one inductive code as I began my analysis: Internal Flight Alternatives or IFAs. These are defined by the Immigration and Refugee Board as something that “arises when a claimant who despite meeting all the elements of the *Convention* refugee definition in their home area of the country nevertheless is not a *Convention* refugee because the person has an IFA elsewhere in that country.” (Immigration and Refugee Board, 2021) I found that IFAs were a central part of the decisions of these cases, especially whether the decision-maker found the seeker’s asylum claim to be credible enough to be allowed to remain in Canada as a *Convention* refugee. As such, under the IFA code, I coded each time an IFA was mentioned in a case.

I went through the coding in four rounds -- the first focusing on mentioned of witchcraft in Nigeria and witchcraft-motivated violence, which are the central basis of claim (BOC) of each

case. The second focused on the codes on a lapse in legal reasoning based on Western notions of WMV and RAD or RPD members drawing on Western notions of WMV leading to differing social realities about WMV in Nigeria, where I first coded for mentioned of “misunderstanding,” “misapprehension,” “mistook” and other similar words as the RAD official identified a lapse in legal reasonings that they argue are simple lapses in reasoning and I argued were lapses rooted in Western notions of WMV. I then coded for instances where I identified that the RAD official or RPD official, in the written decisions, came to a conclusion about the social realities of witchcraft-motivated violence that differed than those described by the women seeking asylum. I chose to code these before the findings of general credibility that did not involve concerns about legal reasoning as to make the categories more distinct, since the use of terms like ‘misapprehension’ or ‘misunderstanding’ were more easily identifiable. In the third round, I coded for credibility and disbelief – first for the credibility of seekers by decision-makers (e.g. whether certain documents were credible and admissible), then the credibility of decision-makers by the seekers, then the final decision by the adjudicator. Lastly, in the fourth round I coded for any mention of Internal Flight Alternatives (IFAs) and discussions surrounding which locations the adjudicator proposed, and the rebuttals from seekers as to why the proposed location was not viable.

My codes involve emic and etic perspectives – that is, what people think/subjective categories (emic) and an objective, external ponderation not dependent on what people think respectively (etic) (Bernard, 2006, 31). Bernard (2006) discusses the usefulness of switching back and forth between emic and etic perspectives in providing a rich analysis of your data (453), which supports the combination of both emic and etic codes in my analysis. Thus, the codes for legal reasoning rooted in Western notions of witchcraft come from an etic perspective

(e.g. my coding for the language of “misapprehension” “misunderstanding” “mistaken” etc.) but the code itself also has emic foundations (that is, it is rooted in the idea that it was the thought process rooted in Western notions of witchcraft). Codes for the conclusions about the social realities of witchcraft, disbelief and credibility (and its sub-codes) are all emic codes about the thought processes of the decision-makers. Codes for mentions of Internal Flight Alternatives, mentions of witchcraft in Nigeria and witchcraft-motivated violence were all emic codes because they coded for specific, objective mentions of a category or a topic.

I do want to emphasize again the distinction between credibility and disbelief and the lapse in legal reasoning, and RAD or RPD members drawing on Western notions of WMV leading to differing conclusions about the lived realities of witchcraft in Nigeria. The codes for the lapse in legal reasoning as rooted in Western constructions and notions of WMV are the most central to my thesis, as will be further discussed in my analysis chapter. The credibility and disbelief category was used for any discussion or finding of credibility that did not fall into the lapse in reasoning or decision-makers drawing on Western notions of WMV category, as I felt it was still important to include them to provide a more holistic picture of the trial itself.

6 -- Ethics

Taking in consideration the ethics of my work, especially my sociopolitical position will be a crucial pillar of my approach to this project, and as such requires a careful and thorough approach before beginning my analysis. Returning to my central epistemological approach and how it frames ethical considerations for research, constructivism also argues that the researcher cannot be objective, nor can they remove themselves entirely from the research process (Glesne, 2010, 9; Guba & Lincoln, 2003, 29). It doesn't want to exclude values from its research or discussions. Instead, values take a head seat at the methodological table, with the researcher

acting as the central figure in ensuring their inclusion and respect in the research process (Guba & Lincoln, 2003, 33).

This also ties into the obstacles I might experience as a researcher throughout my project. One of the central concerns (which could serve equally as a source of external and internal pressure) deriving from my approach would be the way I understand and perceive the constructions of 'witch' and 'witchcraft' and the ways they are reflected in decision-making, and the effects these might have on the women seeking asylum. In other words, what might be identified by a researcher who is a person of colour, especially a Nigerian researcher, as constructions of 'witchcraft' or 'witch' rooted in xenophobia and racism, I might overlook. This is reflective of hooks' (1988) concerns with white researchers doing projects that involve examining the experience of people of colour:

"Even if perceived 'authorities' writing about a group to which they do not belong and/or over which they wield power, are progressive, caring and right-on in every way, as long as their authority is consisted by either the absence of the voices of individuals whose experiences they seek to address...the subject-object dichotomy is maintained, and domination is reinforced." (43)

hooks goes on to argue that literature written by white or non-Black people about the experiences of Black people should also not be valued more than Black people's writings and accounts surrounding their own experiences (1988, 43). So, keeping hooks' (1988) points in mind, one of the central parts of my analysis will be ensuring that my perspectives and positionality in terms of understanding 'witchcraft,' and 'witch' and their construction are informed by works surrounding both racialization and interpretations of witchcraft-motivated

violence in Africa. So, while my voice and what I identify as an important aspect of the social construction of these topics will be central to my work, I also want to maintain the importance of having my voice in this space informed as much as possible by African scholars who study witchcraft-motivated violence and the experience of racialized individuals in Canadian regimes of immigration.

To further elaborate, because of my background as a white, Canadian-born woman, there are certain things I risk overlooking because I do not possess the nuanced understanding of racial discrimination, as do people of colour, nor do I understand the intersectional issues facing Black women or immigrant women (or both). As such, when conducting a thematic content analysis where a person of colour might identify a decision, remark or excerpt of a court or tribunal decision as racist, I might not notice this because of my privileged perspective, despite best efforts. There is also the risk that I identify something as racist when a person of colour might not, and as such, doing justice to bigoted undertones through my thematic content analysis poses a risk for me as a white woman.

The main way I will work to address these blind spots is through working with reflexivity and ensuring this is a major part of my work. Charmaz highlights Keane's conception of what she calls "methodological self-consciousness." (Morse et al., 2021 162-3) This is fundamentally designed to help novice researchers develop a solid sense of reflexivity by encouraging not only an "openness to participants' words" but also encouraging the development of a researcher's own self-awareness (Morse et al., 2021 163).

Given the fact that I will conduct a documentary analysis, it is pertinent to reflect on who would speak in my research. One such methodological consideration would be what Said in *Orientalism* calls "strategic location." (1978, 20). He defines it as a way of describing the

author's position in relation to the 'Orient', while its corresponding concept 'strategic formulation' is a way of analyzing the relationship between various texts and the larger culture. Said further emphasizes the importance of centring the relationship between the Orient, produced works on the Orient, and audiences (1978, 20). Meaning that while I produce work on what could be considered the equivalent of the Orient in my thesis – Nigeria in the context of witchcraft – I will need to be cognizant of the relationship between myself, my audience and the fictional creation of Nigerian witchcraft in the Western imagination. This will look like attempting to keep in mind and address the influences of Western-centric narratives that create this false understanding of Nigerian witchcraft, which is often formed and influenced by white supremacy and Eurocentrism. Additionally, I want to make clear that I will be employing the same theoretical and methodological approaches Said uses in his discussion of the West's production of the Orient. However, instead of the Orient, I will be using his approach to analyze how the same process is used to construct an imaginative Nigeria, specifically in the context of witchcraft and witchcraft-motivated violence.

To treat the determinations of Appeal Division decision-makers as objective and free from bias is a disservice to the women who are fighting to have their cases believed and heard. The way the State seeks to construct and maintain ideas of the 'good' refugee, who 'deserves' to come to Canada, is important in this regard as well. Nelson discusses the State as being made of two bodies: one, an individual who carries out their will in day-to-day life, and the second, a body politic that transcends just one person (2009, 238). In this case, the individual is the members of the Appeal Division judge, and the transcendent body politic is the overall legal apparatus and its constructions, as in the case of the 'refugee,' which surpasses one appellant and one decision maker on their own and instead points to the larger sociolegal implications of the

'good refugee.' What I mean by 'good refugee' is someone who perfectly and seamlessly adheres to the Canadian State's construction of what a refugee ought to do and who they ought to be. For example, a 'good refugee' is someone who upholds the State's pervasive narrative that Canada is a cultural mosaic that never discourages dissent nor promotes homogeny and amalgamation. For example, Guatemalan-Canadian performance artist and refugee Fransico-Ferndando Granada points out that the refugee is supposed to be eternally grateful and "talking about the struggles of institutionalized discrimination or the brutalizing refugee certification process would not fit in those frames." (Dawson, 2011, 64)

However, because of the deeply personal nature of the work, as previously discussed, there is the risk of me imposing my own subjectivities in a harmful way. Working from a constructivist paradigm, removing myself is impossible and also not something I want to do in my work. Furthermore, because I want to examine how these constructions might reinforce bigotry and harm against the asylum-seekers, I will also keep in mind hooks' considerations of the ethical issues surrounding being a white woman studying an issue involving African (or Black when they become racialized in Canada) women (1988, 43). In fact, hooks points out that white researchers rarely cite the ethical issues that come into play when doing work involving racialized, or more specifically, Black people and their lived experiences (1988, 44). These ethical considerations will be central to my work and will be a part of the reflexivity and the "methodological self-consciousness" (Morse et al., 162-3) I will seek to develop throughout my research journey.

7 -- Evaluative Criteria

Concerning the evaluation criteria I'll use to examine the value of my research, I would lean more on Ezzy's interpretive model of rigour (2002, 54-5). Ezzy posits that this model looks at the complex meanings and interpretations participants and researchers have of a particular

phenomenon, primarily through thick, high-quality descriptions (2002, 54). It rejects traditional views and understandings of things like validity and reliability and instead itself concerns how people interpret different things (Ezzy, 2002, 54). This mirrors Guba and Lincoln's discussions that measures of goodness or quality in constructivist research are more concerned with transparency and accuracy than traditional conceptions of validity or reliability (2003, 29). Instead, constructivism typically flips these notions and uses terms like dependability in place of reliability, conformability in place of objectivity, transferability in place of external validity and trustworthiness in place of internal validity (Guba & Lincoln, 2003, 32).

Guba and Lincoln also assert that there has been much debate surrounding using these terms as measures of the value and quality of one's research because of their similarities to positivistic criteria (2003, 32-3). As such, given the debates surrounding the evaluation criteria set out by Guba and Lincoln, following Ezzy's (2002) interpretive model seemed the best way to ensure the value of my work as a constructivist. This would likely involve keeping in line with their discussion of researchers closely examining the interpretations of their subjects (the decision-makers) while also understanding and appreciating the complexity of this work (2003, 54).

8 -- Limitations

One of the most central limitations in this project is the source of my data – the RAD trinubal decision documents. A project such as this would certainly be more fulsome if the source was instead interviews with the asylum-seekers themselves, so they could, in their own words and without censorship, convey their experiences both in facing and surviving WMV, but also with the Canadian immigration system. Unfortunately, interviews with such subjects would be incredibly difficult and is outside the scope of a Master's-level thesis, but it is my hope that one day scholars who have done and continue to do projects like mine will conduct interviews

and provide a voice to the women who want to share their stories. My data is also restricted in that I chose to use cases available via CANLII, which does restrict the availability of my sources. Additionally, there were some cases that had to be excluded, either because they were from a federal court decision and did not fit in with the RAD cases, or because WMV was not the central reason behind the asylum-seeker(s)'s motivation to come to Canada. While WMV is certainly an important part of the experiences of mothers and daughters who came with their families to Canada for other reasons, to my mind it made more sense in the scope of the project to focus on instances where WMV was the central concern and thus, warranted more discussion from the decision-makers, which gave me more data to work with compared to a case where WMV was an important, but secondary, reason for the request for asylum.

A second limitation is my method of analysis, which is a thematic content analysis. As previously discussed, a critical discourse analysis would provide a very detailed and in-depth understanding of how the choices of language and wording by the decision-makers might be influenced by, and even illuminate, both 'Othering' and 'the culture of disbelief.' Again, CDA would require extensive training, which is outside the timeline of this project.

Lastly, as discussed at length in my ethics section, as a white, Canadian-born woman, there are racial and cultural nuances that I lack in my analysis that a Nigerian scholar would possess. While centering the findings of Nigerian scholars is important in attempting to provide a better picture of the experiences of these women from a culture standpoint, they can unfortunately only get me so far in attempting to develop a proper understanding of the relationships between Nigerian people and witchcraft. It is also important to note that Nigeria is comprised of a multitude of groups and cultures, and as such, no two perspectives on witchcraft

will be the same. As such, I have decided to center my analysis on the gaps in the decisions made by RAD and RPD officials in the hopes of better understanding of these problems originated and thus, how they might be addressed, through my analysis.

4. Results and Analysis

Introduction

This chapter aims to discuss the results of my analysis of five Refugee Appeal Division Cases from the Immigration and Refugee Board. These cases, as discussed in my methodology, range in years from 2019 to 2020, and are comprised of Nigerian women seeking asylum in Canada because they were fleeing witchcraft-motivated violence in their home communities. The cases underwent a qualitative, thematic content analysis in NVivo, and five codes were identified, with four sub-codes in total added as well.

The analysis chapter is divided into three sections. The first will examine witchcraft accusations in Nigeria in order to give more context behind what witchcraft-motivated violence looks like, and how it occurs. This will also include how these asylum claims came to be, with an examination of what other authors say about witchcraft-motivated violence and asylum-seeking¹⁸. The second section will examine the results of the analysis, including what was revealed by the thematic analysis in terms of themes of disbelief and belief, witchcraft-motivated violence in these cases, and Internal Flight Alternatives (IFAs) as an indicator for belief or disbelief. Lastly, the third section will include the discussion of my results through the application of my theoretical framework. This includes how the codes for a lapse in legal reasoning based on Western notions of WMV and RAD or RPD members drawing on Western notions of WMV serve to demonstrate Othering dynamics, how the culture of disbelief serves as a mechanism of state-sponsored Othering, and understanding the heavy burdens these women bear, and possible ways forward.

¹⁸ Crucially, I again want to emphasize this chapter, and indeed this project is not an exercise in critically examining Nigerian witchcraft beliefs, the inaction of Nigerian state officials or the views of witchcraft-motivated violence by international bodies. Instead, in the first section which follows, I aim to provide a more in-depth highlight of the works of Nigerian authors to provide a more holistic view of witchcraft-motivated violence.

Ultimately, the goal of this chapter is to show how Othering can be used as a tool to understand assumptions on credibility by the State (which ultimately determine if an appeal is or is not successful) by answering my research question: *What traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?*

Section 1 – Witchcraft Accusations in Nigeria, and Their Violent Implications

This section seeks to establish the origins of witchcraft-motivated violence in Nigeria, the forms of violence it takes, and provide an overall context for the following cases. This section will highlight exclusively Nigerian authors and their works on witchcraft accusations and witchcraft-motivated violence. This was done deliberately to allow Nigerian voices and opinions on WMV to shine, and to discuss their perspectives on how witchcraft accusations manifest, their sociocultural implications, and why the Nigerian state seems to avoid getting involved.

Nigerian authors Eboiyehi (2017), Ngozi Atata (2019), and Okonkwo et al. (2021) examine witchcraft accusations as a mechanism for explaining misfortune. For Eboiyehi (2017), she examines the implications of witchcraft allegations against elderly women, including cases from Tanzania, Zimbabwe, Burkina Faso, Ghana and the Central African Republic (247-8). She says of witchcraft accusations, “In the urban areas they are the destitute and traders who have been targeted and accused by men who clearly perceive them as competitors or a threat to their power...Every evil misfortune that seems to be incapable of rational explanation is attributed to them.” (Eboiyehi, 2017, 252) For rural areas, traditional healers are often consulted by families who have suffered loss, death, illness or misfortune, and healers might point to a specific family member or a member of the broader community and accuse them of using witchcraft to place this misfortune on the family (Eboiyehi, 2017, 252).

Witchcraft accusations are also often used as a mechanism for assigning blame, with the more common targets being working-class, rural women; “Women as witches are patriarchal scapegoats.” (Okonkwo et al., 2021, 450) Elderly women are also often the targets of accusations, and their alleged witchcraft is often used as an explanation for the misfortunes of their families and the broader community (Ngozi Atata, 2018, 232; 238-40), which may include “marriages breaking up, the loss of jobs, death, and health and economic problems...” (Ngozi Atata, 2018, 240). Accusations can also be levelled against suspected political or business rivals as a way to discredit one’s competitor (Okonkwo et al., 2021, 460). However, many scholars, including Eboiyehi (2017), Ngozi Atata (2018) and Okonkwo et al. (2021), attribute witchcraft accusations and witchcraft-motivated violence against women in Nigeria as the product of misogyny. In fact, Ngozi Atata says the vocabulary used to describe witches in the Igbo language lend an “attributed female personality to the representation of a witch...women are more likely to be labelled a witch more than men.” (2018, 241)

The violence that arises from a witchcraft accusation can range depending on the beliefs of the local community, and the cleansing rituals, or punishments, they follow. The types of violence enacted against accused witches vary across communities and the country, with differences among beliefs for cleansing rituals and the approaches to accused women. However, some examples of the physical manifestations of witchcraft-motivated violence include murder, flogging, burning, stoning, asphyxiation, chaining to furniture, starvation, neglect, having nails driven into their heads, being forced to ingest toxic substances like cement or chemicals, being buried alive, female genital mutilation (FGM), and other methods of torture and physical abuse (Eboiyehi, 2017, 247; 253; 257; Ngozi Atata, 2018, 232). Ngozi Atata travelled across South-Eastern Nigeria to interview members of the Igbo community who were both accused witches

and their accusers to understand the impacts of the accusations on these communities. The interviews she conducted provide first-hand accounts of the impacts of a witchcraft accusation. For example, one accused elderly woman says “I was beaten several times. They said they want to beat the witch out of me...See my body; the beating is severe. I have three children, but they do not want to see me again. I will die here; please tell them to bury me anywhere.” (Ngozi Atata, 2018, 240) A relative of another elderly woman labeled as a witch said, “No one can say that old people are not witches, especially women. They deserve the isolation and treatment they get from people. They are the cause of many deaths in this community; they should be killed.” (Ngozi Atata, 2018, 239)

In addition to physical abuse and even death, these women also endure social and psychological repercussions of the accusations, including rejection from friends, family and spouses, ostracization by the broader community, long-lasting psychological trauma and stress, and the psychological challenges associated with having to flee their home communities, including seeking asylum in other countries (Eboiyehi, 2017, 257; Ngozi Atata, 2018, 245). I also want to highlight that according to my data, extended family affairs and tragedy befalling the accused woman’s in-laws was present in *every single one of the five cases*, indicating the use of women as scapegoats for tragedies specifically affecting men. As discussed later in the results of the analysis, many of the women seeking asylum have been diagnosed with post-traumatic stress disorder (PTSD) and report experiencing anxiety, panic attacks, and depression following their accusations and the subsequent violence and fear they experienced. This demonstrates the long-lasting effects of witchcraft-motivated violence that go beyond physical attacks. What this subsection thus demonstrates is the complex, ubiquitous nature of witchcraft accusations against women in various aspects of Nigerian society, and aims to give a more holistic view of

witchcraft-motivated violence, its origins and why it is so crucial for women fleeing it to be taken seriously and treated with sensitivity and respect.

I also want to highlight that witchcraft is a crime under section 210 of Nigeria's *Criminal Code Act*, but it is distinct from many of the cases¹⁹ in a few key ways. The section, which deals with "offences in relation to witchcraft and juju", anyone who (a) by statements or actions represents themselves as being a witch or having the power of witchcraft; (b) accuses or threatens to accuse any person with being a witch or having the power of witchcraft; (c) makes, sells, uses, assists, or takes part in selling any "juju, drug or charm" which can compel someone to act in a certain way, or which is alleged to have the power to cause a natural phenomenon, disease or epidemic; (d) directs, controls, presides over, is present at or takes part in the worship of any "juju" banned by the President or Governor of a State; (e) is in possession of or has control over human remains to be used in the worship or invocation of any "juju"; or (f) makes, uses, assist in making or using, or possesses anything believed to be associated with human sacrifice or other unlawful practice. Anyone convicted of an offence such as these is guilty of a misdemeanour and can be imprisoned for up to two years.

As such, while witchcraft laws on paper would mean the women accused of witchcraft (none of whom claim to be a witch, have witchcraft powers, or practice witchcraft) would be protected by 210(b) and their accusers would be prosecuted under that section. However, as discussed by several authors (Eboiyehi, 2017, 259; Federici, 2008, 22, 32; Schnoebelen, 2009; Dehm and Millbank, 2019, 206, 219) and as referenced throughout the cases, state protection is often unavailable to these women, either because the police see witchcraft as a family issue,

¹⁹ In only one of the five cases, the concept of a woman being possibly charged or questioned by the police for being a witch and violating the law is mentioned. In the others, they don't discuss witchcraft being a criminal offence.

because the officer themselves fears being affected by witchcraft, or because of corruption among police (as is present in one of the cases).

Section 2 – Results: The Immigration and Refugee Board’s Culture of Disbelief

This section presents the results of my analysis of five cases of WMV put before the Immigration and Refugee Board’s Refugee Appeal Division (RAD) between 2019 and 2020. Overall, four large themes emerged from our thematic content analysis with some sub-codes; these sub-codes were then divided into four sub-sections.

- The first is witchcraft-motivated violence, where I coded for references of witchcraft accusations, their circumstances, and the violence that followed. This section will provide more specific examples of the forms WMV took in the chosen cases, what led up to the accusations, and the overall impacts the witchcraft accusations posed.
- The second section will discuss the results of belief and disbelief, among the decision-makers and appellants. It is also comprised of several sub-codes, including disbelief of the appellant by the decision-maker (called disbelief of the appellant), disbelief of the decision-maker by the appellant (called disbelief of the decision-maker), and the final, decision of the adjudicator.
- The third section is RAD or RPD members drawing on Western notions of WMV and a lapse in legal reasoning based on Western notions of WMV. These two emic sister-codes were coded for through the use of the actual terms “misapprehended” or “misunderstood” before changing the title of the code to RAD or RPD members drawing on Western notions of WMV. Through the RAD saying the RPD failed to understand the initial evidence, or through my own analysis where I assert the RAD or RPD members drew on Western notions of WMV, causing them to arrive at different conclusions about the lived realities of witchcraft-motivated violence than the ones presented by the seekers. This

section is especially important because it is the primary, and most explicit, way I discuss the lapses in legal reasonings rooted in Western constructions of witchcraft, and different conclusions about the lived realities of witchcraft-motivated violence cases, witchcraft in Nigeria, and the overall themes of ‘Othering’ examined in this project.

- The last code is Internal Flight Alternatives (IFAs), which the Immigration and Refugee Board defines as something that “arises when a claimant who despite meeting all the elements of the *Convention* refugee definition in their home area of the country nevertheless is not a *Convention* refugee because the person has an IFA elsewhere in that country.” (Immigration and Refugee Board, 2021) These are often used by RAD adjudicators to point to alternative areas within Nigeria for the women seeking asylum to flee. I argue that the IFA can be used as a indicator for how well the adjudicator understands and listens to the evidence the asylum-seeker presents about the nature of witchcraft in Nigeria, and whether they find the violence the seeker faces is credible in the adjudicator’s eyes.

A couple of notes on the procedures of the RAD are pertinent before presenting my results: Public records of RAD, and indeed the IRB more broadly, decisions are unique compared to courts or other tribunals, because several identifying factors are removed from the tribunal document, including the seeker’s names, some identifying information like the name of their accusers and professions. The names of the cases are also quite long, and are identified by RAD files, so I will refer to each case as the following:

- RAD Files TB9-16786 and TB9-16787, decided on July 27, 2020 is **Case A**
- RAD File MB8-24781, decided on October 24, 2019 is **Case B**
- RAD Files TB9-20264 and TB9-20265 decided on November 8, 2019 is **Case C**

- RAD Files TB9-08005, TB9-08006, and TB9-08007 decided on October 2, 2019 is **Case D**
- RAD Files TB9-29875, TB9-29876, TB9-29877, and TB9-29878 decided on January 13, 2020 is **Case E**

Furthermore, the woman seeking asylum is referred to as the ‘Principal Appellant’ in the cases, aside from Case E where the accused woman is called Mrs. F. As such, the accused women in most cases will be referred to as the ‘Principal Appellant’ or PA. It should also be noted that in some of the cases, the accused woman has a daughter who is also supposed to undergo violent cleansing rituals or who has been accused of being a witch by-proxy, but it is the Principal Appellant who had the main accusation levied at her.

2.1 – Witchcraft-Motivated Violence

The first major code theme I began with was witchcraft-motivated violence and its sub-code witchcraft in Nigeria. These were both deductive codes, and I added witchcraft in Nigeria for the discussion of witchcraft as a cultural element of Nigerian life, without outright discussing violence or the accusation against the individual. Witchcraft-motivated violence was used to code instances where the case directly mentions the violence resulting from witchcraft accusations levied against the asylum-seeker, the accusation and how it came to be, and the overall impact of witchcraft-motivated violence on the seeker themselves.

In total, 38 references were coded for witchcraft-motivated violence across all five cases, and 35 references were coded for witchcraft in Nigeria across four cases. Furthermore, in all of the five cases, the women were each accused because a misfortune or a tragedy befell their husband or their in-laws.

The Motives Behind the Accusations

In Case A, the Principal Appellant was accused of witchcraft because her husband’s family were concerned that she and her husband hadn’t had a child over the years, so they went

to an oracle who told them the Principal Appellant was a witch and thus couldn't conceive. When the PA also refused to participate in the cleansing rituals, her in-laws threatened to expose her as a witch to the community.

In Case B, the Principal Appellant and her husband were caring for his mother in their home, when she fell and broke her leg and required surgery. Unfortunately, the PA's mother-in-law passed away during the surgery, and her in-laws subsequently accused her of being a witch and causing her mother-in-law's death.

In Case C, the PA's brother-in-law moved into the family's home, but the PA and her husband soon found him to be a poor influence on their children, and as they were expecting another child, they asked him to leave. The PA's brother-in-law then set out to turn his family against the PA, causing the PA's husband then grew distant from his family and refused to contribute to his brother's education. The PA's in-laws then accused her of being a witch and causing a rift in their family, and ordered her and her daughter to undergo cleansing rituals. The PA was also accused of using witchcraft to become pregnant with the Minor Appellant, so her in-laws wanted the MA to undergo cleansing rituals as well.

In Case D, the Principal Appellant's common law spouse, with whom she had two children, was killed in a terrorist attack in 2015. At his funeral, her in-laws blamed her for her husband's death, and accused her of being a witch and causing his death.

Lastly, in Case E, (the most complicated of the five) after the death of the PA's father in 2015, the Principal Appellant and his wife Mrs. F were approached by his uncle, the Chief of their village, who said their family were chosen by an oracle to produce a female child who would then become the oracle to serve the goddess Osun for eighteen years. The family, who are Christians, were also ordered to undergo dangerous rituals, especially Mrs. F. Furthermore, the

Chief blamed a death in his family and the burning down of one of his businesses on Mrs. F being a witch, and said she was also a witch because she refused to participate in the oracle rituals. The family heads also all agreed the death of the relative, and the burning down of one of the Chief's shops were the result of Mrs. F's witchcraft powers.

The Subsequent Violence

Each case has also resulted in physical or threatened violence, including involving dangerous cleansing rituals and, in some cases, experiencing assault at the hands of the community or her in-laws. In Case A, while she doesn't go into details, the PA says she feared she may be harmed or killed either during the rituals, or by the broader community because of the accusations she was a witch. The PA also said she worried that she would be kidnapped and forced to experience the rituals, or be exposed as a witch, which she fears would put her at risk of violence or being killed by the community.

In Case B, the PA said she was physically assaulted at her mother-in-law's funeral and was kidnapped and sexually assaulted by a group of men who then told her she would pay for her witchcraft. The PA testified the attack left her bleeding, that she was beat for an hour, and was repeatedly verbally and physically assaulted. The PA also said she was hit on the head and told to "shut up and stop denying what I am."

In Case C, the Principal Appellant was ordered to undergo dangerous cleansing rituals, along with her daughter, the Minor Appellant. The set of rituals also included female genital mutilation, among other dangerous, but unspecified, rituals. One of the Uncles in the PA's husband's family also sent the police to their home after the PA and her children had gone to hide with one of her relatives.

In Case D, the PA said she was physically assaulted by her in-laws at her spouse's funeral, and said her in-laws took over the home she and her husband shared in Lagos, kicking her and her children out. The PA also alleged her in-laws threatened to kill and maim her and her children, and demanded they undergo traditional rites. She also said that her in-laws had set a deadline for the PA and her children to report to them to undergo the rites, if not they'd come after them to force them to follow through.

Lastly, in Case E, Mrs. F and her child who'd been chosen as the oracle would be required to undergo dangerous rituals, including female genital mutilation (FGM). The family also stated in 2018, the Chief came to the Appellants' home with a police escort, and the PA was beaten and threatened with jail time because Mrs. F failed to show up for the for the scheduled rituals. The PA's mother also hired a security guard to watch her house while she fled to stay with a friend in Benin. The guard stated some men came to the house looking for the PA and Mrs. F, forcibly entered the house, and beat him.

2.2 – Disbelief Results

The next theme I coded for were areas broadly concerned with disbelief and belief. I examined instances where the asylum seeker's credibility was questioned by the RPD or RAD decision-maker, where the decision-maker's credibility was questioned by the asylum-seeker or another decision-maker (e.g. the RAD questioning the RPD), and the penultimate findings of the seekers' credibility in the form of their decisions. In this sub-section, I will provide an overview of the areas of credibility determinations between the seekers and decision-makers, and the decisions.

The Decision-Makers' Credibility

In the cases, there were seven references coded overall for the seekers questioning the decision-makers' credibility. These mainly included alleging the RPD erred in its reasonings,

especially in the decision-makers finding that the appellants do have a viable Internal Flight Alternative (IFA), or that the RPD erred in its assessment of the credibility of the documentary evidence produced by the seekers. This code was used to examine the over-arching issues the asylum-seekers had with the decision-makers' findings of credibility, but the core issues behind the negative findings of credibility will be discussed in the following sub-section, a lapse in legal reasoning based on Western notions of WMV, and RAD or RPD members drawing on Western notions of WMV. In all of the cases, each of the seekers demonstrated issues with the credibility of the decision-makers' findings, hence their appeal of the decision to the RAD. However, the *why* of the adverse findings of credibility by RPD and, in Case A, the RAD, were adverse will be discussed in subsection 2.3, which examines RAD or RPD members drawing on Western notions of WMV and a lapse in legal reasoning based on Western notions of WMV.

The Seeker's Credibility

In the cases, there were 21 total references coded for the decision-maker questioning the credibility of the asylum-seeker. These were coded through examining instances in the decision where the RAD or RPD decision-maker either questioned the credibility of the evidence presented by the seeker, or why they could not find a viable IFA within Nigeria. The difference between this code and the coding for a lapse in legal reasoning based on Western notions of WMV or RAD or RPD members drawing on Western notions of WMV is the issue the decision-maker took was not necessarily rooted in a lapse in reasoning. Rather, it is a broader finding of the credibility of the evidence, like the authenticity of affidavits or whether they constituted hearsay, as was discussed in Case C. Or, in Case A, the RAD decision-maker discussed the seekers presenting them with an obituary for one of the people that accused them of witchcraft, but the death of this person happened long before their hearing, or the seekers even leaving

Nigeria. In cases like these, where I identify the decision-maker questioned the credibility of the seekers but it did not come from a place of a lapse in legal reasoning or differing conclusions about the lived realities of witchcraft, they were coded into this category.

Lastly, in Case E, the RAD decision-makers submits that the new documents the seekers submitted were not all admissible because they didn't provide detail as to why they 'could not reasonably have been expected to present this evidence prior to the RPD rejection.' For example, the seekers also claimed they could not previously submit a letter from the PA's mother describing the events before the RPD's decision, because they feared for her well-being. However, the decision-maker says the seekers don't explain how a private letter mailed to Canada could come to the attention of agents of persecution in Nigeria or affect her well-being. So, in this instance though the seekers withholding the letter is certainly a question of credibility, I don't necessarily find the decision-maker's determination came from reasonings rooted in Western notions of witchcraft-motivated violence and witchcraft more broadly.

What this category also demonstrates is the high bar evidence has to clear, and the evidentiary burdens places on the seeker. For example, it is the burden of the seeker to explain why they do not have a viable IFA within their country of origin, and to provide the evidence. For example, in Case A, the appellants claim they were not adequately informed of Lagos as an IFA the RPD had considered for them, but the decision-maker said they were given clear notice 'the IFA could be a determinative issue' and they had opportunity to respond about their issues with Lagos at the hearing. Case A also had the most references coded for credibility issues the decision-maker had (12 in total), which made sense given it was the only case of the five where the appellants were *not* granted asylum in Canada.

The Decisions

Finally, I coded for the decision-makers' final decisions and thus, their overall findings of the credibility of the appellants. In Case A, the RAD decision-maker found the Appellants have a viable internal flight alternative (IFA) in Port Harcourt in Nigeria and as such, their appeal was dismissed. Previously, the RPD had found the Appellants had a viable IFA in Port Harcourt, and that they did not establish there was a serious possibility of persecution in Port Harcourt, or they would be subjected to the dangers or risks they had set out. The RAD found that though the testimony of the Appellants' was credible, they did not establish they would be at risk in Port Harcourt, especially because they failed, in the tribunal's eyes, to establish the family members they were fleeing had the power, influence and capacity to locate them in Port Harcourt.

In Case B, the RAD decision-maker decided the RPD erred in its credibility assessment and the Appellant is a *Convention* refugee. The RPD had previously rejected the Appellant's claim for refugee protection in 2018 on the basis that she lacks credibility. Specifically, the RPD questioned the credibility of the Appellant's testimony about her beatings and sexual assault, and alleged her testimony was "as if by rote memory." They also questioned her lack of detail about the attack, all determinations which the RAD rebuffed.

In Case C, the Principal Appellant is a *Convention* refugee, but the Minor Appellant was not found to be a *Convention* refugee. This was because the Minor Appellant is a citizen of the United States and Nigeria, and because no claim was advanced against the US on her behalf, the appeal must fail. However, the decision-maker stated that the IRPA (Immigration and Refugee Protection Act) has a family reunification objective that allows protected persons in Canada to include their family members in their applications for permanent residence, and the Appellants may pursue this option to remain reunited in Canada.

In Case D, the RAD decided that the Appellants were *Convention* refugees, and that the RPD erred in its negative credibility finding, and that they, in the RAD's words, 'misapprehended' the Principal Appellant's testimony and 'improperly relied on a subjective fear finding as determinative of the Appellants' credibility.' (4) The RAD also found the Appellants did not have a viable IFA because the PA is a single woman, and documentary evidence shows single women in southern Nigeria often face deeply-rooted misogyny which can create barriers to finding a job, renting on their own, and travel to specific areas. Particularly, the Appellant is a widow and in southern Nigeria, where widows are especially vulnerable to extreme poverty and homelessness.

Lastly, in Case E, the RAD decided the Appellants were *Convention* refugees due to the serious possibility that Mrs. F could be arrested, prosecuted or 'dealt with' as a witch, and/or the Appellants will be forced to engaged in dangerous rituals that are against their Christian faith. The RPD previously found the Appellants had a viable IFA in Port Harcourt because there was no evidence in their determination that the Chief could locate them anywhere in Nigeria, however the RAD disagreed and found he could due to his influence over local police, and police information-sharing practices.

As such, in four of five cases, the RAD decision-maker overall sided with the Appellants and submitted they were *Convention* refugees. The decision-maker siding with the Appellants also often came with the finding that the RPD decision-maker had, according to the RAD decision-maker, 'misapprehended or misunderstood' the presented evidence.

2.3 -- A lapse in legal reasoning based on Western notions of WMV and RAD or RPD members drawing on Western notions of WMV – Results

This sub-section examines the results of the sister-codes: a lapse in legal reasoning based on Western notions of WMV, and the decision-maker drawing on Western notions of WMV. I argue that the most prominent way the culture of disbelief manifests is in the use of “misapprehension and misunderstanding” in the RAD decisions and RAD or RPD members drawing on Western notions of WMV. This section was the third-largest of my codes, with 19 instances coded where the words ‘misunderstood,’ ‘misunderstand,’ ‘misapprehend,’ ‘mistook,’ or similar were used across the five cases. With this code in particular, much like in my methodological chapter, I want to emphasize that while the RAD uses this language to describe a simple issue with the legal reasoning, I argue this lapse in legal reasoning was caused by determinations rooted in Western constructions and notions of WMV. So, while the conclusion that there was an issue with the reasoning is the same, where the RAD officials and I differ is *why* there was an issue there. There were eight total references coded where I determined the decision-maker drew on Western notions of WMV, causing them to arrive at a different conclusion about the realities of WMV in Nigeria than the women seeking asylum, as presented in the written decisions.

Case A is the case where I coded the most instances where the decision-makers drew on Western notions of WMV causing a lapse in legal reasoning, and where their conclusions about the lived realities of WMV differed that those of the women in the cases, which ultimately resulted in the Appellants not being found to be *Convention* refugees and thus, having their claim rejected. The RAD decision-maker focused their assessment of credibility on whether the main individual who had levied the accusation of witchcraft against the PA was able to locate them in Port Harcourt and would then pose a danger to them. In the case, the Appellant testified she could not travel anywhere in Nigeria because ‘once you are exposed as a witch, you will be

killed no matter your location.’ (9) For their part, the RAD decision-maker states ‘determining whether there are consequences for witchcraft in the IFA was not the point of the IFA analysis. The point was to determine whether the Appellants were at risk in the IFA for any reason...’ Furthermore, they state there is no evidence the people in the proposed IFA ‘have knowledge at present or will be advised in the future that she has been accused of being a witch.’ (12) While the problematic nature of this deduction will be fully analysed in the following section, I do want to highlight these sections of Case A, as they were coded as the most prominent instances, I identified of both lapses in legal reasoning rooted in Western notions of WMV and RAD or RPD members draw on Western notions of WMV causing them to arrive to a different conclusion about these lived realities than the asylum seekers.

The other cases (B to E) have more overt findings of lapses in legal reasoning and differing determinations of social realities of Nigerian WMV as influenced through Western notions of WMV, especially because the RAD decision-makers find the RPD decision-makers erred and instead submit that the Appellants are *Convention* refugees. In Case B, the terms ‘misapprehended’ and ‘mistakenly’ appear six total times. In the case, not only does the RPD mistakenly refer to the Appellant’s attack as having taken place in 2015 instead of 2016, but it found that the Appellant could not provide details about how the attack occurred, and the identity of the head of the family who initiated the attack. The RAD official states the RPD misapprehended the testimony, and the Appellant identified the head of the family by name, and noted the various relations he had to her partner’s family (e.g. he is the eldest, he is her mother-in-law’s brother, and her partner’s uncle). She also testified that the village in which she lived was full of their extended family, and because the family is so large, she did not know them all by name. She also provided details about the attack, including the sequence of events, the

witchcraft accusation, where she was hit (e.g. she testified she was bleeding from her shoulder), that the event was one hour long, and how she felt throughout it.

The RPD decision-maker also questions the fact that the Appellant was sexually assaulted, because she didn't remember the extent of her sexual assault-related injuries when she arrived to the hospital, even though she testified that she was unconscious, and the medical report also indicated she was unconscious. The RPD decision-maker also claims the Appellant changed her testimony about how extensive the injury to her head was, but the RAD official found in that the audio recording, the Appellant remained consistent in her testimony that she was not severely injured on her head, but instead that someone hit her on the head and "asked me to shut up and be quiet and stop denying what I am." (9) In fact, the RAD decision-maker uses the phrase "I find that the RPD has misapprehended the Appellant's testimony" on three separate occasions throughout their decision. They conclude by stating, "The majority of the RPD's adverse findings were based on a misapprehension of the Appellant's testimony and evidence...I note the Appellant's testimony was both consistent and detailed." (11)

In Case C, the term 'misapprehended' appears only once, however, instances where the RPD members drawing on Western notions of WMV evidence appeared four times. Mainly, the RPD did not accept that the Principal Appellant and Minor Appellant had a credible fear of female genital mutilation (FGM) because the PA's in-laws did not seek to have her other daughters circumcised. However, the RAD official found the RPD misapprehended the nature of the FGM risk because the risk arose not from a general family practice, but from a set of rituals meant to cleanse the PA of her witchcraft. The RAD also found the PA's in-laws sought cleanse the Minor Appellant, and not the PA's other daughters, because of the in-laws' belief that the PA used witchcraft to become pregnant with the Minor Appellant, thus corrupting her with

witchcraft. As such, the RAD found the RPD misapprehended the Appellants' evidence around the motives and reasoning behind the use of FGM.

The RAD official also overturned the RPD's decision that the Appellants did have a viable IFA in Nigeria. The RPD found that the Appellants' in-laws were wealthy and influential and that an uncle had bribed the police to seek out the Appellants, but it stated there was no evidence of a broader police interest in them, or that their in-laws had the ability to track the Appellants to other parts of Nigeria. However, the RAD found the RPD ignored accounts from family members that this uncle had gone to the Appellants' home multiple times since they'd left Nigeria, and had enlisted the help of the police on each occasion. They also found that whether the police were acting in an official capacity, because of information-sharing practices between law enforcement agencies in Nigeria, the wide-spread beliefs of witchcraft, and long-standing evidence that people accused of witchcraft do not have access to state protection, the PA could be found in a new city. Furthermore, because practicing witchcraft is a criminal offence in Nigeria, there is a likelihood that the PA was put on a criminal watchlist that would then be shared with other law enforcement agencies across the country. As such, the RAD found the RPD erred in its analysis, misapprehended the evidence, and the Appellants are *Convention* refugees.

In Case D, the term 'misapprehended' is used five times throughout the decision, and there were three additional instances I coded where the RAD decision-maker found the RPD misapprehended the evidence. Specifically, the RAD found the RPD misapprehended the timeline of events leading up to and following the accusation of witchcraft, particularly when the PA left her children in Nigeria with a relative to go work in the US as a caregiver for two five-month periods in 2016 and 2017. The RPD questioned why she would leave her children if her "in-laws had already threatened to kill and/or maim the other claimants" (4), however the RAD

points out the PA's Basis of Claim (BOC) and her oral testimony are clear that her children were threatened *after* she had returned to Nigeria. The RPD also questioned why the PA did not file a claim in the US, but the RAD found that while this point could generally be a consideration of whether a claim is well founded, it is not necessarily "determinative on its own of credibility."

(6)

Furthermore, the RPD questioned why the Appellants would be provided a deadline six months in the future for the rites to take place, and states that the deadline "does not suggest any sense of urgency and is inconsistent with the allegations that her in-laws were thirsting for these rituals to be carried out." (5) However, the RAD official points out nowhere in any of the testimonies or in the BOC did the Principal Appellant state her in-laws were 'thirsting' to have her undergo the rites, and that the six-month deadline was not "outside the realm of what could reasonably be expected" or that "the documentary evidence demonstrates the events could not have happened in the manner alleged." (5) As such, the RAD found that the RPD misapprehended the evidence of the nature of the witchcraft accusations and cleansing rites.

Lastly, in Case E, there were two instances of the RAD stating the RPD 'misapprehended' or 'misconstrued' evidence, but I coded for seven total instances of the RAD or RPD members drawing on Western notions of WMV, causing them to possibly arrive at a different determination of the social realities of witchcraft than the ones presented to them. In particular, the RPD found that though the Chief had been able to call on corrupt police to help him in 2018 when he beat the PA for failing to attend the cleansing rituals with Mrs. F, the RPD did not think he had the power to do so again, nor that the Chief could locate the Appellants anywhere in Nigeria. However, the RAD official points out that the Chief had the influence to not only bribe the police into accompanying him and beating the PA, but he was also able to

place an ad in a national newspaper which gave public notice of the allegations of Mrs. F's witchcraft, and that the police began an official investigation into her. As such, the RAD found these events did show the Chief has power and influence over state actors, and could use said influence to locate and persecute the Appellants anywhere in Nigeria.

Furthermore, the RPD found that the Appellants at no point claimed they had the powers of witchcraft and could harm the Chief or his family, so they could not be prosecuted by the police for the crime of witchcraft. They also stated that rather than demanding they come in for questioning, the letter the PA and Mrs. F received from the police calling them into the station to investigate the case was an invitation, and there was, again, no evidence the police intended to prosecute them. However, the RAD found the Chief told the police he wanted the Appellants arrested for the death of one of his aunts, and for the fire that destroyed one of his shops, which he states were crimes caused by Mrs. F's witchcraft powers. Furthermore, the document presented to the Appellants by the police stated they were "*required* [emphasis added] to report to Nigeria Police" due to them "investigating a case of WITCHCRAFT" [letters were capitalized in original document]. As such, the RAD argues the witchcraft accusation and charges would likely be in Nigeria Police's national database, which would likely result in Mrs. F being detained or arrested at the airport upon her return to the country.

Lastly, and crucially for all the cases, the RAD official wrote that country condition documents state "witch branding" can result in torture or death for anyone accused of it, and the UNHRC Special Rapporteur on Judicial, Summary or Arbitrary Executions wrote "...in too many settings, being classified as a witch is tantamount to a death sentence." As such, the RAD states, "there appear to be worse potential consequences for being labelled as a witch than simply being prosecuted under the law...the false accusation itself could result in harm coming to her"

and “there is little political will to bring [accusers] to justice for the cult crime of witchcraft persecution.” (11)

2.3 – Internal Flight Alternatives (IFAs) Results

Internal Flight Alternatives are defined by the Immigration and Refugee Board as something that “arises when a claimant who despite meeting all the elements of the *Convention* refugee definition in their home area of the country nevertheless is not a *Convention* refugee because the person has an IFA elsewhere...” (Immigration and Refugee Board, 2021) The IFA test consists of two prongs, which come from two cases, *Rasaratnam* and *Thirunavukkarasu*. The first prong is “...the Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds and IFA exists” and the second prong is “...conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable, in all the circumstances, including those particular to the claimant, for him to seek refuge there.” (Immigration and Refugee Board, 2021) *Both* prongs must be satisfied for the Board to find the claimant has a viable IFA. Additionally, the onus is on the Claimant(s) to prove why the proposed IFA is not viable, why no IFAs are viable and why they should be allowed protection in Canada. Further important are considerations for the serious possibility of persecution in the potential IFA, for example whether the agents of persecution could locate the claimants in the proposed IFA, if the individual would have to remain in hiding to avoid danger, whether family members could reveal the claimant’s whereabouts to agents of persecution, and that large urban areas cannot be assumed to be an IFA by virtue of their population size.

IFAs became an inductive code in my data, as I realized their importance as a measure of whether the RAD official believed in the possibility of persecution due to witchcraft accusations, and how well the official understood the pervasive nature of witchcraft allegations and WMV in

Nigeria. IFAs became the second-largest code in my data, with 34 references coded across all five cases. As such, IFAs and whether the RAD decision-maker thought the Appellant had a viable one, became a litmus test for the credibility of the asylum-seeker in the RAD's eyes. I should, however, note that even in cases where the RAD decision-maker finds a viable IFA did not exist, their logic and understanding surrounding witchcraft-motivated violence and accusations in Nigeria can still be problematic. Case A was the only one of the five where the RAD and RPD agreed that the Claimants had a viable IFA and thus were turned away from Canada. However, I will also discuss why the RPD thought the individuals in Cases B through E had a viable IFA, and why the RAD disagreed and instead submitted they were *Convention* refugees and allowed protection in Canada.

In Case A, 23 references to IFAs were coded, and the crux of the case was whether the Appellants had a viable IFA in Port Harcourt, Nigeria. The RPD found that despite the Appellants' credibility, they did not successfully establish they'd be at risk in Port Harcourt on a balance of probabilities, or that the agent of persecution had the power, influence or capacity to locate the Appellants in the proposed IFA. It further found that the Appellants didn't provide convincing evidence that the agents of persecution would be able to find out the Appellants had returned to Nigeria at all and now lived elsewhere in the country. The PA stated she was concerned her stepson would tell the agents of persecution where she had relocated. However, the RAD official stated that it was speculative to assume their son (the PA's stepson and the Associate Appellant's son) would tell his family his father and step mother's whereabouts without knowing he would be putting them at risk, and it is up to the Appellants whether to tell their son their new location. As such, the RAD member found that the Appellants did have a viable IFA, and their appeal was denied.

In Case B, the Appellant's Counsel argued the proposed IFA locations, Port Harcourt and Lagos, were not safe or reasonable because witch hunts occur across Nigeria and as such, her circumstances differ from those outlined in the Jurisprudential Guide for IFA locations in Nigeria for individuals fleeing non-state actors. The RAD found the proposed cIFAs failed the first prong of the test because the Appellant's occupation has a professional online registry where her information would be publicly accessible *and* her husband is still in Nigeria and remains in contact with his family, the Appellant's agents of persecution. As such, expecting the Appellant to abandon her profession is unreasonable, and the Appellant does not have the power to keep her husband from speaking to his siblings. As such, the RAD found the Appellant did not have a viable IFA.

In Case C, the RAD decision-maker also found the Appellants do not have a viable IFA because the proposed IFA fails the first prong of the test because the agents of persecution would be able to locate the PA in another city because the PA's Uncle had successfully bribed the police to seek out the Appellants, and had attended the PA's home multiple times since she had fled, thus showing his motives to find the PA. Furthermore, the RAD considered a 2017 report from the IRB's Research Directorate on police information sharing, which shows a degree of information sharing among police in Nigeria, meaning, regardless of whether they were acting in an official capacity, there existed the possibility of police in Nigeria seeking out the Appellants because they were accused of witchcraft, which is a criminal offence.

In Case D, the RAD proposed Port Harcourt, Abuja and Ibadan as possible IFAs. Counsel argued an IFA was not safe or reasonable because the agents of persecution work as traders and could locate the Appellants, and gender-based violence and discrimination are prominent in the proposed locations. The RAD found the IFAs fail on the second prong, because while the RAD

disagreed with Counsel that the Appellants could be located in cities with “populations of well over two million people” (despite the IRB website stating the population of a city was not an adequate explanation its suitability as an IFA). They also found that though single women in similar circumstances might face discrimination and hardship, these challenges were not severe enough for the IFA to be unreasonably or unduly harsh. However, the RAD ultimately walked back their decision and stated that there were significant obstacles for single women in Nigeria to obtain housing or employment, and widowed women in particular often experience obstacles and financial difficulties, and landlords often will not rent to single women without male sureties. As such, the RAD found that the IFAs were unreasonable and unduly harsh and failed the second prong.

Lastly, in Case E, the RAD disagreed with the RPD and found the Appellants did not have a viable IFA in Nigeria. The RAD found that the Chief and other agents of persecution had both the intent and capability of locating and persecuting the Appellants anywhere in Nigeria, specifically due to the Chief’s power and political influence, as demonstrated not only by him using the police to beat the PA, but also having them place an ad in a national newspaper naming the Appellants and asking for information on them because of a case of witchcraft. As such, the RAD found the IFA failed on the second prong of the test, and the Appellants did not have a safe alternative.

Section 2 –Recap

As such, what I aimed to demonstrated in the above section was the results of my analysis of five cases of individuals seeking asylum in Canada due to fleeing witchcraft-motivated violence in Nigeria. The five cases occurred between 2019 and 2020, and four cases resulted in a successful determination that the claimants were *Convention* refugees, while one found the claimants were not *Convention* refugees. The section was divided into four sub-

sections, each discussing the various thematic codes I'd created for my analysis. The first sub-section examined the results of witchcraft-motivated violence, and aimed to discuss the various reasons for the accusation, the subsequent violence and its effects on the claimants. The second sub-section discussed over-arching themes of belief and disbelief, and was divided into three smaller sections: first, issues of the disbelief of the decision-makers by the seekers; secondly, issues of the disbelief of the seekers by the decision-makers; and thirdly, the ultimate findings of credibility in the form of the RAD's final decision.

The third sub-section discussed the results of two sister codes about Western notions of WMV and conclusions and reasonings surrounding both lived realities and legal reasonings. The first code examined lapses in legal reasonings as rooted in Western notions of WMV where I coded for instances where either the RAD used the terms 'misapprehended', 'misunderstood' or similar terms to describe the RPD's reasonings. The second code consisted of instances where I identified the RAD official's reasonings in these written decisions were rooted in Western notions of WMV, causing them to come to a different conclusion about the lived realities of witchcraft in Nigeria than the women seeking asylum. This sub-section will serve as the main source of my analysis, as these sister-codes demonstrate more than other codes my theoretical framework based in themes of Othering. Lastly, the fourth sub-section coded for discussions of Internal Flight Alternatives (IFAs), why the RPD proposed them initially for each case, and whether the RAD agreed. The IFAs were chosen as I found they were not only prominent points of discussion in the appellant cases, but also that whether the RAD decided the Appellants did have a viable IFA, and the RAD's reasonings, served as a good litmus test for how well the decision-maker understood the culture surrounding witchcraft in Nigeria. Having established the

results of the analysis of my cases, the next section will begin analyzing these results more in-depth and through the lens of my theoretical framework.

Section 3 – Intersecting Structures of Othering and Canada’s Culture of Disbelief

The goal of this section is to critically examine how the Immigration and Refugee Board, the Refugee Protection Division and the Refugee Appeal Division come to their conclusions, and their lines of reasoning. I will also aim to intersect my data and my theoretical framework together to answer my central research question: *What traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?*

This section will be divided into four sub-sections. The first will provide a brief overview and recap of my theoretical framework and concepts which will be used to analyse my data. The second, and largest, section examines the two codes for instances of lapses in legal reasoning as rooted in Western constructions of WMV, and decision-makers drawing on Western notions of WMV, causing them to make different conclusions about the lived realities of Nigerian witchcraft than the women seeking asylum. Both of these codes coincide, as I will demonstrate, with my central theoretical paradigm – Othering. It will involve analyzing the instances where the RPD and RAD came to different conclusions about witchcraft in Nigeria than those described by the women in these cases and instead substituted their own understandings, which are rooted in Western constructions of witchcraft. The third section will examine the ‘culture of disbelief’ as a mechanism of state-sponsored Othering and state violence, especially in immigration and refugee spaces. Lastly, the fourth section will examine the heavy burdens these all place on the women seeking asylum, and possible ways forward, as informed by both my own research, and the opinions of others in this area of study.

3.1 – Overview of theoretical structure and concepts

My theoretical framework utilizes Saidian logics of Orientalism and Canada's legacy of witchcraft laws and misogyny converse to create the interlocking structures of 'Othering' that then result in adverse findings of credibility in asylum cases of witchcraft-motivated violence. I also argue that witch hunts and witchcraft-motivated violence in the Western imagination inform the assumptions put forth by the decision-makers in these specific cases.

I further argue the 'Other' and 'Othering' manifest as the culture of disbelief present in Canadian regimes of immigration²⁰. The culture of disbelief was first referenced in a 1997 report co-authored by the United Kingdom's Department of Justice (Justice), the Immigration Law Practitioner's Association (ILPA) and the Asylum Research Centre (ARC), and refers to the high threshold test through which the asylum decision-making process is operated, and where "any inconsistencies or evidential gaps will result in negative findings of credibility." (Justice, ILPA, ARC, 1997, 38) This, I argue, is the primary way in which the 'Othering' is weaponized against individuals seeking asylum in these cases, and it serves as a form of state-sponsored Othering and state-sponsored violence.

3.2 – Determinations about the Lived Realities of Witchcraft and the Witch as the Foreign Other

This subsection will serve to analyze instances where the RAD or RPD members drawing on Western notions of WMV, causing them to possibly arrive at different conclusions about the parameters of witchcraft in Nigeria and instead substituted their own understandings, which I argue are rooted in Western constructions of witchcraft and witchcraft-motivated violence. In these cases, I argue the source of drawing on these notions is two-pronged. First, the decision-maker arrives at fundamentally different conclusions about the cultural elements of the

²⁰ By 'regimes of immigration', I'm referring to the imposing power structures in place that form the systems of immigration in Canada (and indeed in other Western countries).

witchcraft accusations, where it comes from, and the subsequent violence through Orientalist-type logics. That is, the evidence as it is presented to them by asylum-seekers does not fit their constructions and conceptions of witchcraft, so there is a disconnect between what they think ought to be, and what is (or between their constructed reality and reality conveyed by these women). The second is the decision-maker instead substituting their own constructions of witchcraft-motivated violence as rooted in Western events, and therefore finding the current reality of the seeker's experiences as invalid or implausible because they don't fit in these Western social constructions.

The first prong's line of logic is best understood through re-visiting Edward Said's influential work, *Orientalism*, whose logics have much-informed my analysis and framework. This logic is most simply demonstrated when Said states that, in the context of the British colonization and study of Egypt, "British knowledge of Egypt *is* Egypt" (1978, 32); and this knowledge is reproduced continually through Western law, studies, schools and prisons (1978, 42). Additionally, Said argues that to Orientalist Arthur Balfour, "it doesn't occur to [him] to allow Egyptians to speak, because those who do would surely be agitators who 'raise difficulties,' rather than be the good native who 'overlooks' the difficulties of foreign domination." (1978, 33) Ultimately, the Orientalist's rationality and principles are the Orient's rationality and principles (Said, 1978, 129). This Orientalist logic is reflected heavily in the instances of RAD or RPD members drawing on Western notions of WMV; the knowledge of Canadian regimes of immigration about Nigerian witchcraft *is* Nigerian witchcraft, and much like the 'Oriental' with the Orientalist, it doesn't much matter what the oppressed individual says, the oppressor will continue to submit and follow their own lines of logic.

This is plainly evident in each of the cases where the RPD or RAD decision-maker blatantly ignores what they were told by the asylum-seeker and instead submit their own conclusions with the goal of steamrolling over the voice of the asylum-seeker. For example, in Case B, the RPD decision-maker questioned the Appellant's injuries, from her not recalling the extent of her sexual assault (despite her falling unconscious), to questioning why her injuries from the attack weren't worse. This shows the RPD decision-maker's adverse finding of credibility as rooted in the Appellant failing to conform to the adjudicator's idea of what an attack against a woman accused of witchcraft in Nigeria *ought* to look like – that is incredibly brutal, and incredibly violence.

In Case C, the RPD decision-maker argued that the woman seeking asylum and her daughter could not be at serious risk of being forced to undergo female genital mutilation (FGM) as part of a cleansing ritual, because her other daughters had not been forced to do so. This was despite the risk arising not due to a broader family or community practice, but due to the belief that the woman used witchcraft to become pregnant with her youngest daughter, and as such the two needed to undergo cleansing involving FGM. This also shows a lapse in a determination of the evidence about female genital mutilation, and again an adjudicator disbelieving an asylum-seeker because the harm they faced due to a witchcraft accusation did not fit the mould of what the decision-maker thought the harm *ought* to have been. In this case, the RPD implied it would have believed the appellant the first time, had the FGM risk arisen in a different way than it had – that is, as the result of a broader family practice, rather than the targeted nature the risk had taken.

In Case D, the RPD decision-maker argued that a six-month deadline for traditional rites to cleanse the woman seeking asylum was “outside the realm of what could reasonably be

expected” (5), and that the woman’s in-laws were supposedly “thirsting” to undergo the rites. This conclusion was reached despite no evidence that rites could not occur in the future in some cultures, and no testimony from the woman that her in-laws were “thirsting”. The RPD asserting that the deadline was “outside the realm of what could reasonably be expected” demonstrates an implied issue the decision-maker was taking with the Appellant’s account – that is, her lived reality was outside the realm of what *the adjudicator* expected. There was no evidence cited in the RPD’s decision demonstrating there was no possibility that some cultures don’t schedule cleansing rites, because there is no evidence to dispute that at all (which the RAD points out). Therefore, because the Appellant’s lived reality did not fit the “real of what could reasonably be expected” according to the decision-maker, they dismissed her accounts.

In Case E, the RPD said the couple seeking asylum had never represented themselves as having witchcraft powers, and so they could not be convicted by the police, despite them searching for Mrs. F due to allegations she had used her powers to kill one of her in-laws and burn the Chief’s shop down. However, this demonstrates a stark lack of comprehension of the evidence, especially because if the RPD’s conclusion that the couple could not be persecuted because Mrs. F had never claimed to have witchcraft powers were true, then the police would not be putting ads in national papers, seeking them out, beating Mrs. F’s husband and summoning them for questioning. This too demonstrates the RPD ignoring the lived realities of witchcraft laws in Nigeria and instead disbelieving the testimony they were given because it did not fit their understandings of witchcraft law in Nigeria, regardless of whether they were right or not.

Lastly, in Case A, the only one where the RPD and RAD agreed the seekers were not *Convention* refugees, the RAD decision-maker states that determining whether there were consequences for witchcraft in the proposed IFA was not the point of the IFA analysis, but the

point was to determine whether the Appellants were at risk in the IFA. This blatantly ignores the fact that a witchcraft accusation and subsequent violence does put the accused individual at risk, and this decision gives the message, whether directly intended to or not, that the danger posed by being the target of an accusation of witchcraft is not risk enough. Additionally, a core part of the fears the woman seeking asylum expressed in her appeal was that she was threatened to be exposed for being a witch to the broader community if she did not undergo the dangerous cleansing rituals. She testified if she was exposed, she feared she would be attacked by the community. Both the RAD and RPD decision-makers brushing off that a witchcraft accusation follows the person against whom it has been levied (see Case E's decision where the adjudicator cites 'witch branding'), and continues to pose danger to them. This can be attributed to these adjudicators not understanding, and even refusing to accept, the reality that witchcraft-motivated violence is incredibly dangerous, and continues to affect the individual who has been accused of it (Eboiyehi, 2017; Okonkwo et al., 2021; Ngozi Atata, 2018; Federici, 2008; Luongo 2015, 2019, 2023).

The issue of IFAs also demonstrates a lack of genuine comprehension on the part of the decision-maker about the nature of witchcraft accusations across Nigeria. In much of the literature I have examined, authors have a consensus that witchcraft accusations and a belief in witchcraft is pervasive across Nigeria (Eboiyehi, 2017; Okonkwo et al., 2021; Ngozi Atata, 2018; Federici, 2008). Even in the cases themselves, decision-makers state the documentary evidence to which they have access demonstrates the incredible risk to an individual who has been accused of witchcraft. For example, in Case E, the decision maker cites a UNHRC report which states "...in too many settings, being classified as a witch is tantamount to a death sentence." Of course, it should be remarked that not every individual in Nigeria believes in

witchcraft, however it remains a part of many cultures and individual beliefs across the country and is considered a crime under section 210 of Nigeria's *Criminal Code Act*. In Ngozi Atata's work, she found that there were not notable differences in beliefs in witchcraft-motivated violence between formally educated and not formally educated individuals (2018, 238).

However, I argue that the unique circumstances posed by witchcraft accusations, coupled with the lack of state protection available to someone accused of witchcraft (often either due to the reluctance of Nigerian police to get involved in what they call 'religious' or 'family' matters, or due to their own fears of witchcraft) (Federici, 2008, 23; Dehm and Millbank, 2019, 206; Luongo, 2015, 194-6; Ngozi Atata, 2018, 234), nowhere would be safe for a woman accused of witchcraft in Nigeria. It is, in these cases, tragedies and misfortunes that originated the accusation of witchcraft as a means of explaining the events, and even the decision-makers themselves agree the documentary evidence shows that witchcraft accusations are often used to explain misfortunes. To that, I wonder what would stop an individual in a different area of Nigeria from finding out about the aspect of the asylum-seeker's life that led to the accusation, and not reaching the same conclusion? As such, I would argue that in cases where the decision-maker states there is no reason to believe someone could be accused of witchcraft again in a new place of origin neglects the evidence presented by both the asylum-seeker, and broader literature that witchcraft accusations are pervasive across the country, and are incredibly dangerous.

What all of these examples demonstrate is the logics Said discussed in his work – that is, the Orientalist's knowledge of the Orient *is* the Orient, regardless of what the 'Oriental' has to say about it. In each of these examples, the asylum-seeker clearly and explicitly explains their fears, the violence that they were experiencing and the ways they were threatened by the agents of persecution who attacked them, but in each case, whether in one instance or several, the

decision-maker instead ignored what they said and submitted their own line of logic about what ought to have happened. As such, they again demonstrate there is not a concern for what the woman says she has experienced, but there is instead a concern for what the decision-maker thinks ought to have happened based on their own biases. Not only is this dangerous, and even life-threatening for these women, but in cases where they are finally believed by the RAD decision-maker, they have had to endure re-hashing a deeply traumatic and painful event in their lives, one that caused them to leave their children and families behind, as well as their home communities. And in the case of women like that in Case A, despite fighting to be believed and enduring being re-victimized multiple times and having your credibility, your memory and your culture picked apart and analyzed by someone who often, as Luongo argues (2015, 190), lack the knowledge of both your country and its spiritual beliefs, but you can endure all of this and still have your case be rejected and forcibly returned to your country, where you continue to live in fear that you will be discovered and accused once again.

This lack of knowledge often also results in the decision-maker instead submitting their own assessment of the evidence and the sequence of events as they *ought* to have happened according to their imagination. I argue this substituted logic is rooted in Western conceptions of witchcraft-motivated violence and witch hunts, including Canada's own history with witchcraft law (for example, the now-removed s. 365 of the *Criminal Code*), and infamous events like the Salem trials and the witch-hunts in Europe. The lived experiences the decision makers say the women seeking asylum *should have had* mirror that of Western social construction of witchcraft-motivated violence, namely the witch hunts which have been described as "a 'panic,' a 'craze,' an 'epidemic.'" (Federici, 2004 164)

Throughout Sylvia Federici's influential work *Caliban and the Witch*, she features art from the 14th through 15th centuries depicting witches and the witch hunts in Europe, especially France [see Appendix 1 for images]. In the pieces, the attacks against women are depicted as frantic and brutal, including Jan Lukyen's piece *The execution of Anne Hendricks for witchcraft in Amsterdam in 1517*, which depicts poor Anne tied to a ladder, being lowered over a roaring bonfire by two men while onlookers cheer (Appendix , figure 1; Federici, 2004, 162). In another piece, an anonymous engraving from the 16th century is titled, *In the market of Guernsey, England, three women are burnt alive*, and depicts three women tied to stakes over a roaring bonfire (Appendix 1, figure 2; Federici, 2004, 185). Lastly, in a third piece, *The execution of the Chelmsford witches in 1589*, three women are depicted being executed by hanging. One of the victims, Joan Prentice is shown with her 'familiars', which are animals that supposedly helped witches in their crimes, and could include cats, dogs, hares, frogs, birds, or other animals (Appendix 1, figure 3; Federici, 2004, 194-5).

The Salem witch hunts conjures the image of a woman in pilgrim clothing being burned at the stake (never mind that no one was burnt alive in Salem). These are the pervasive images Westerns think of when they imagine a 'witch hunt' or a 'witchcraft accusation', and this sense of 'madness', 'panic' and indeed ideas that witch hunts are things of the past and no longer present a 'real' threat to modern women are all seen in the substituted logics in these instances of lapses in reasoning and determinations about social realities that differ from those of the asylum-seekers. Even the figurative use of the term 'witch hunt' in the West evokes a connotation of the deliberate levelling of blood-thirsty harassment against someone purely based on the 'mob' having opposing views to their target. For example, former President Donald Trump and his

supporters have used the term several times to describe the multiple criminal and civil cases mounted against him in recent years (Blake, 2024; Lind, 2024; Associated Press, 2023).

In Case D, the RPD decision-maker states that a six-month deadline for traditional rites was “outside the realm of what could reasonably be expected” and that the woman’s in-laws surely must have been “thirsting” to have her and her daughter undergo the rites. This, despite no documentary evidence cited showing that setting a timeline to have rites performed is out of the ordinary in any Nigerian cultures, and the woman at no point stated her ‘in-laws were “thirsting” to perform the rites. I argue that this substituted logic by the decision—maker comes from the above-outlined Western constructions of witch-hunts – that is, something carried out with urgency and with blood-lust. This can even be reflected in the figurative use of the term ‘witch hunt’, which also evokes the image of an angry mob baselessly attacking someone else,

In Case B, the RPD decision-maker questions the credibility of the evidence presented by the Appellant, mainly that the injuries she sustained were not ‘bad enough’ for being attacked for an hour, because she had ‘only’ sustained a swollen wrist, bruising and some bleeding. Not only did they, as the RAD puts it, ‘misapprehend’ her testimony, as the woman claimed she had not been beaten *continually* during that hour, but I argue that questioning her credibility because the beating wasn’t ‘bad enough’ is again rooted in the Western construction of witch-hunts and attacks, in that they must always be brutal, bloody, and severe.

In Case C, the RPD decision-maker does not accept the risk of FGM to the Principal and Minor Appellants as credible because the PA’s in-laws did not seek to have her other daughters mutilated as well. Again, I argue this can be tied to the Western images of witch-hunts as being wide-sweeping and fueled by blood lust and frenzy; for example, in the Salem trials which infamously resulted in 25 deaths, or in the European witch hunts where death estimates range

from tens of thousands, to as large an estimate as 9 million women (Briggs, 1996 8). Regardless of knowing exact statistics, I would argue that invariably the thought of witch hunts in the Western conscious conjures the image of widespread bloodlust and many lives lost. Anything less than that is not ‘severe’ enough to be taken seriously, regardless of what the seeker says themselves.

Crucially, I want to highlight a passage from Katherine Luongo’s 2023 book, *African Witchcraft and Global Asylum-Seeking: Border Crossing Beliefs*, where she says, “Decision-makers are culturally conditioned to be incredulous about the existence of ‘witchcraft’ and the cases analyzed in this chapter bring the ‘gap between the reality in the country of origin and the assumption of decision-makers in the country of asylum’ into high relief.” (83)

3.3 – The Burden of the Culture of Disbelief and State-Sponsored Othering

The culture of disbelief is a high threshold test through which the asylum decision-making process is operated, and where “any inconsistencies or evidential gaps will result in negative findings of credibility” (Justice, ILPA, ARC, 1997, 38) and is pervasive throughout the cases. I argue that the culture of disbelief is where the Orientalist structures and Western conceptions of witchcraft intersect, creating the overarching reason for negative findings of credibility in these specific cases. The culture of disbelief in these specific cases is therefore created at this intersection, through the convergence of arriving at different conclusions than the ones presented by the seekers about Nigerian culture and spiritualities through Orientalism, and then the decision-maker submitting their own understandings of what *ought* to be according to their understandings of witch-hunts, as rooted in Western social constructions.

As such, I argue that the culture of disbelief examined through the data manifests in adverse findings of credibility in general, in lapses in legal reasoning as rooted in Western notions of WMV, and RAD or RPD members drawing on Western notions of WMV, which

culminate in the rejection of the seeker's application. In understanding how these three codes manifest, it is also helpful to return to Luongo's 'double disability', where she argues that both the decision-maker's limited knowledge of the seeker's home country and the spiritual beliefs of that country (2015, 190; 2019, 678). I argue that the asylum seeker has a 'triple disability', where not only do they need to overcome the limited knowledge of their home country and its spiritual beliefs, but they also need to overcome the stereotypes decision-makers have in mind about what witch-hunts should look like. In order to overcome this triple disability, the asylum seeker must be a 'good refugee,' which is reflected in what Said discusses as the 'good native.'

Said says that for an Orientalist like Balfour, it doesn't occur to him to actually allow Egyptians to speak and share their culture and stories "because those who do would surely be agitators who 'raise difficulties,' rather than the good native who 'overlooks' the difficulties of foreign domination." (Said, 1978, 33) This reflects the 'good refugee', who much like the 'good native', must overlook the difficulties of the decision-maker's challenges, and successfully translate their cultural experiences into a vernacular understandable by the decision-maker (Luongo, 2015, 190). And even in those instances where they translated their experiences in an attempt to overcome the first two disabilities, as evidenced by the cases used in this project, there is unfortunately every chance they still will be unsuccessful.

As such, these conceptions are based on false narratives and constructions of what Nigerian witchcraft *ought to look like*, that are then continually perpetuated in the West. We see this from the beginning using terms like 'witch,' 'witchcraft,' 'juju,' 'sorcery,' and so on in the West. None of these terms accurately describe the various intricacies of Nigerian spirituality and spiritual practices. Nevertheless, through the colonization of Nigeria and continual perpetuations of Orientalism-like discussions on the topic, this false idea and narrative surrounding who a

witch is and what danger she poses have imbued discussion of witchcraft-motivated violence with terms like ‘witch’ and ‘witchcraft.’

Furthermore, these are all terms created and upheld here, which carry, I argue, one of two connotations in Western popular culture – the woman with the hooked nose, green skin, pointy hat and broom; or, in the case of ‘accused witch,’ the woman in pilgrim clothes being burned at stake. How can we then expect the women coming in from Nigeria to surmount these cultural connotations, explain the nuances of spirituality in their home community, and combat the deeply-imbued cultural connotations of witches in Canada? What is also important from a feminist perspective is why Nigerian *women*, more than men, experience accusations of witchcraft and subsequent witchcraft-motivated violence. As illustrated in my literature review by Eboiyehi (2017) and Okonkwo et al. (2021), one of the major driving forces being witchcraft accusations against women in Nigeria is the belief/understanding that once a woman is seen as no longer able to be of service in a patriarchal society, she becomes almost dead weight.

Additionally, because of the patriarchal nature of many cultures in Nigeria, as illustrated by Eboiyehi (2017), men are seen as having inherently more value than women, and as such, their lives are prioritized over that of women. This then creates a dangerous position for many married Nigerian women, as will be explored in my analysis, where when misfortune befalls their husbands or in-laws (groups of people seen as having more value than a wife), she who is now without a husband or whose in-laws have experienced loss is then seen as less valuable and therefore vulnerable to witchcraft allegations and accusations. When violent misogyny drives her from Nigeria to Canada, the accused witch is then made to attempt to fit her story and her experience into the understanding of witchcraft and Nigerian witchcraft constructed and perpetuated in the West. If she fails, she is determined not to be a Convention refugee and is then

made to go through the process again and re-live her trauma, this time with the RAD instead of the RPD. Through this process, she experiences Othering and becomes someone made to attempt to fit her experiences into Canadian connotations of witchcraft and witches, who is then judged on how well she accomplishes this task set out before her by Canadian immigratory bodies.

Not only is she ‘foreign’ and ‘Other’ in the sense of not yet being Canadian, but she is foreign and other because her experiences of witchcraft and witchcraft-motivated violence fail to conform to Canadian understandings of the same subject. Here, I argue that witchcraft accusations are viewed as archaic relics, perpetually associated with either the trials of 18th century Europe and Salem or an old ‘quirky’ section of the Criminal Code that made *pretending* to practice witchcraft. Importantly, when s. 365 was removed by Bill C-51 in December 2018, which wiped out so-called ‘zombie laws’ that were, according to the bill, either deemed to be unconstitutional, presented possible *Charter* challenges, or were “obsolete, redundant or that no longer have a place in criminal law.” (*An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act*, 2018) So, this demonstrates the necessity of these women not only to have to mould their stories into Canadian conceptions of Nigerian witchcraft but also to overcome sociolegal and sociocultural conceptions of witchcraft that place it perpetually in the past as a ‘quirky’ or even slightly embarrassing part of the past that the now-Enlightened West has long since overcome and forsaken as archaically misogynistic.

I also argue that the culture of disbelief acts as a source of state-sponsored violence against refugees seeking asylum in Canada. For example, Dawson highlights the hypocrisy of the image the Canadian government projects of itself (that it is good, benevolent, and generous, and an entity to which refugees should be grateful) and the reality that is it harsh, discriminatory and

racist (2011, 64-7). The struggles and burdens of having to be the ‘good refugee’ are also outlined in an essay written in 2010 by Guatemalan-Canadian artist and refugee Francisco-Fernando Granados, who states that a documentary he did with the *Vancouver Sun* about refugee claimants in Canada “became increasingly frustrating as it became obvious that their interest in our stories had less to do with creating some kind of discussion around our work in the community and more to do with repeating an idealized version of Canadian multiculturalism where everyone...had a chance to speak...Refugees are meant to be grateful, and talking about the struggles of institutionalized discrimination or the brutalizing refugee certification process would not fit these frames.” (2010, 30)

In a similar vein, Menjívar and Abrego (2012) argue that state-created violence in the form of immigration laws aims to paint immigrants, both undocumented and documented, as criminals and people who must be inherently surveyed and around whom caution must be taken (393). Furthermore, the American system (though I would argue the Canadian system paints a similar self-portrait) claims it allows in ‘good’, law-abiding immigrants, and keeps out ‘bad’ ‘illegal’ immigrants, it treats both undocumented and documented racialized people with the same level of scrutiny and create the same climate of fear which makes them unable to fully belong and integrate in the state claiming to celebrate multiculturalism (2012, 394). However, as Dawson points out, and as is echoed in Said’s idea of the ‘good native’, the ‘good’ refugee is not supposed to ‘complain’ about these issues, and about the struggles they face when filing a claim, the re-victimization they endure at each step of the process, and the frustration, anger and struggles to have their stories believed, no matter how plainly and clearly, they illustrate them.

As such, this culture of disbelief and the triple disability creates an impossible challenge for these claimants to meet. Not only must they clearly and concisely explain their

circumstances, but they must also act as an expert on Nigeria, on Nigerian witchcraft beliefs, and on overcoming Western stereotypes about witch hunts in order to get the decision-maker to understand Nigerian spirituality at all. And even in cases, like Case A, where they do all they can to meet this incredible challenge, there are instances where it still won't be enough. In Case A, the decision-maker still fails to understand the danger posed by a witchcraft accusation, by stating they aren't considering the consequences of witchcraft in assessing if there is a viable IFA, but if the asylum-seekers are at risk, plainly implying the consequences of witchcraft do not pose a real risk. As Dawson says, "Poems about refugees do not save lives, but refugee narratives, especially those seen to conform to the strictures set out by the state, can do so." (2011, 64)

3.4 – The Band-Aid of “Expert” Testimony

In terms of a possible solution to the experiences of women seeking asylum due to witchcraft-motivated violence, multiple sources point to the importance of expert testimony, and how it should take a larger role in these cases (Luongo 2015, 2019, 2023; Schnoebelen, 2009). In particular, Luongo, who is the leading researcher in this (admittedly niche) field, argues that, "Giving greater weight and a more expansive role to expert evidence in asylum adjudication would aid significantly in filling gaps in immigration authorities' knowledge and understanding." (2023, 71) She also cites Benjamin Lawrence and Gayla Ruffer in stating that an expert witness is a person who "is believed to have special subject matter knowledge beyond that of the average person sufficient that others rely on him for his opinions." (Luongo, 2023, 83) In cases such as these, Luongo states that an expert witness is usually a social scientist who can "undertake the complex epistemological and discursive labour of cultural translation on the asylum-seeker's behalf." (2023, 83)

Luongo also points to lack of weight given to expert testimony, and a lack of availability of experts for asylum-seekers to use, especially because of their prohibitively high cost (Luongo, 2023, 83). In the cases studied in Luongo's research, as in mine, no expert testimony was used in order to better illuminate the experiences of the women seeking asylum. She argues that the expert witness can be a crucial member of the decision-making process, and undertakes the "discursive labour of cultural translation on the asylum-seeker's behalf." (Luongo, 2023, 83) In fact, one of the largest issues faced by decision-makers who are adjudicating these cases is their "double disability", which refers to both the decision-maker's limited knowledge of the seeker's home country and the spiritual beliefs of said country (Luongo 2015, 190; Luongo, 2019, 678). Luongo (2015) also highlights the cultures of disbelief that are present across immigration regimes in the Anglosphere, including Australia (675), Canada (663) and the United Kingdom (2019, 191).

Millbank and Vogl (2018) argue that often the Nigerian seeker's way of knowing is fundamentally and deeply at odds with the Western (in this case Canadian) decision maker's, and thus were incomprehensible to the decision maker (388). Furthermore, the language used by asylum seekers often differs from the bureaucratic vernacular of immigration regimes or the language of international human rights laws (Millbank and Vogl, 2018, 388). As such, there are a variety of challenges that asylum seekers fleeing witchcraft-motivated violence experience: the difficulties of overcoming the knowledge deficit of decision makers of their country and their spiritual beliefs, and the challenge of translating this lived experience into a language and a way of knowing that will be understood by the decision-maker. It also then follows that if adjudicators lack the sufficient knowledge to assess generalized risks with regards to country-based issues, they would also lack the knowledge to "make determinations about the risks that

culture-based persecution poses to an individual asylum seeker.” (Luongo, 2019, 678) Again, I want to emphasize not only how incredibly difficult this challenge is, but also how high the stakes are for these women, who, if unsuccessful, could face horrific physical and psychological violence, and even be killed.

Dehm and Millbank also make crucial points about the importance of analyzing and understanding instances of asylum-seeking due to witchcraft-motivated violence by arguing that these cases are emblematic of larger ontological problems within the refugee status determination process in a variety of countries in the Anglosphere (2019, 219). They also point out that in excluding, and even othering, cases of witchcraft-motivated violence as a form of harm from legal frameworks, decision-makers have lost sight of the fundamental questions the *Convention* poses, like the scope of state protection for vulnerable populations (Dehm and Millbank, 2019, 219). Dehm and Millbank’s arguments thus demonstrate some of the large-scale problems that decision-makers have not only with understanding the unique experiences that comprise witchcraft-motivated violence but also a struggle to understand these accusations within the scope of existing refugee and human rights standards.

What an expert, as Luongo (2023) illustrates them, would do in this instance is not only bring a sense of authority to a case, but would also provide a sense of validation to the experiences described by the asylum-seeker as backed up by their own research and work. For example, Luongo states an expert might provide an annotative background to an asylum-seeker’s affidavit, or prepare their own reports to be submitted along with the asylum-seeker’s evidence (2023, 83). They might also be called upon to provide written or oral testimony before the immigration body (2023, 83). Overall, the current Canadian migratory regimes are imbued with a sense of Western supremacy and a perpetually cocked eyebrow at everything witchcraft-

related. This means that expert testimony remains one the best avenue forward until broader reform and change is brought to the way decision-makers fundamentally approach these cases.

While certainly in an ideal world, an asylum-seeker would not need an ‘expert’ to speak for them and to speak to their experiences, and instead a decision-maker would simply listen to the asylum-seeker’s experiences and make a decision based on their narrative, possibly supported by some documentary evidence to provide the decision-maker a contextual understanding. However, as seen in these cases this unfortunately is not realistic as the Canadian system currently stands. Even when an asylum-seeker, in clear and plain language, does their absolute best to translate their experiences in their own voice, the decision-maker still struggles, and in some cases fails, to understand witchcraft-motivated violence and the incredible danger it poses to those who have faced it. The asylum-seeker’s counsel themselves might also struggle to fully understand the social science context behind the asylum-seeker’s experiences, and thus might have difficulties with that cultural translation element Luongo (2023) describes. I should also note counsel in these cases are rarely, if at all mentioned, hence was there is so little discussion of the role of counsel in this project, and in others like it.

It should also be acknowledged that expert testimony is very difficult to obtain, especially in such a niche area and given their high cost. Luongo’s cases, as in mine, do not feature any expert witnesses, and any social science research in both of our samples were incorporated into country of origin (COI) documents (2023, 84). For example, in Case E where the decision-maker cites a report from a Rapporteur from the UNHRC on witchcraft, or where vague ‘documentary evidence’ is cited that discusses the violence experienced by those accused of witchcraft (for example in Cases D and B).

As it currently stands, according to the IRB's website, there are two documents available to decision-makers about witchcraft-motivated violence in Nigeria, or witchcraft in Nigeria at all. The first is a Response to Information Request (RIR) which are research reports on country decisions requested by RAD and RPD decision-makers. One was written on witchcraft in Nigeria in 2013, and the decision-maker requested a report on "Whether Yoruba and Ibo cleansing rituals for women in their thirties include circumcision in the states of Ogun, Niger, Anambra, and Adamawa; whether women who have been accused of killing a family member through witchcraft would be circumcised during a cleansing ritual." (Immigration and Refugee Board, 2013) The second document is Eboiyehi's 2017 article *Convicted without Evidence: Elderly Women and Witchcraft Accusations in Contemporary Nigeria*, which I have previously cited throughout this project.

What I would problematize about these two documents is that these are the *only* COI documents that are available to decision-makers, who are effectively deciding whether to send someone back to an dangerous and life-threatening environment or not. While Eboiyehi's article is fantastic, it should not be the only source of information a decision-maker uses when deciding these cases. The RIR for its part is incredibly specific, and while FGM has been threatened against individuals in two of the cases I examine, none of the four decision-makers involved in the two cases reference the RIR and in fact in Case C, one of the core 'misapprehensions' the RAD identifies from the RPD decision-maker was about the practice of female genital mutilation against a woman accused of bringing harm to her husband's family through witchcraft. As such, the current resources the IRB makes available to its decision-makers are absolutely not enough to support their decisions, and even when they are available, decision-makers will still overlook and fail to reference them, even in incredibly relevant cases.

I do also want to highlight another incredibly important point about the issue of ‘expert’ evidence, especially a Western ‘expert’ speaking for a Nigerian asylum-seeker. Said (1978) would certainly raise valid concerns about what an ‘expert’ has to say on witchcraft in Nigeria, that is in the same logic as English Orientalist Arthur Balfour claiming that because he had lived in colonized Egypt, he is an expert on the Egyptians and their ways of life, despite not allowing them to speak or really considering what they have to say at all (32-3; 73; 86; 97). This further evokes a quote from *Orientalism* which has become central to my work; “British knowledge of Egypt is Egypt” (Said, 1978, 32). That is, expert knowledge of Nigerian witchcraft *is* Nigerian witchcraft, a trap which I have been very careful to, and have hopefully, avoided throughout this project. Additionally, having an expert speak for an asylum-seeker also invokes the image of the Western ‘saviour’ who is ‘protecting’ and indeed ‘saving’ the poor Nigerian asylum-seeker. As Said says, “...the modern Orientalist was, in his view, a hero rescuing the Orient from the obscurity, alienation and strangeness which he himself had properly distinguished.” (1978, 121)

As such, Said’s questions of the Orientalist’s authority and dominion over the Orient, regardless of what its inhabitants have to say, are important to consider in looking to expert testimony as a Band-Aid to the problem of the culture of disbelief, and the problem of decision-makers demonstrating a lapse in legal reasoning as rooted in Western notions of WMV. Said’s work also raises further questions of authority, who it’s given to and who evokes it in the asylum-seeking process. Certainly, in the above analysis, I would firmly argue that very little to no authority is given to the asylum-seekers in these cases, leading to the lapse in legal reasoning rooted in these Western notions of WMV and RAD or RPD members drawing on Western notions of WMV causing differing determinations of social realities than the asylum-seekers observed in these written decisions. Even in cases where finally they are given the authority they

deserve over their own experiences and being experts in their own cultures, they had to fight through being misbelieved first, leading to further traumatization; traumatization and re-victimization which could have been even slightly alleviated in they were believed the first time. The irony should not be lost that the ‘Refugee Protection Division’ in these cases does very little to protect the people it says it does, and instead fails to listens to their experiences and understand them, fails to use its resources to better understand these cases, and thus contributes to the re-traumatization and re-victimization of refugees.

While an ideal situation might include a more detailed, fulsome COI with information about witchcraft-motivated violence from Nigerian authors, there is also obviously an overhaul that must be done at the IRB’s tribunals in terms of the culture of disbelief that permeates the ways decisions are made and carried out. It would also help to establish more consistency in the reasonings given by adjudicators on these cases, as there were often contradictory statements given between different officials. For example, though the IRB’s policy says the population of an IFA is not reason for its safety or a guarantee the agents of persecution could not locate the claimant, the official in Case D states they thought it was speculative the agents of persecution could find the claimant “given that each of the IFA locations have populations of well over two million people.” Admittedly, this is a very ambitious goal, but one I argue that must be done if the IRB wants to realize its self-image of a fair board that looks to allow ‘good refugees’ in and foster the multiculturalism it claims to uplift and foster.

Conclusion

My analysis chapter has discussed the results of the analysis of five Refugee Appeal Division Cases (RAD) from the Immigration and Refugee Board (IRB). These cases, as discussed in my methodology, range in years from 2019 to 2020, and all deal with women seeking asylum in Canada because they were fleeing witchcraft-motivated violence in their home

communities. The analysis chapter was divided into three sections. The first provided a contextual overview witchcraft accusation in Nigeria to better explain the forms witchcraft-motivated violence takes and why it occurs. The second section examined the results of the analysis, including what was revealed by the thematic analysis in terms of themes of witchcraft motivated violence, disbelief and belief, lapses in legal reasoning rooted in Western notions of WMV and RAD or RPD members drawing on Western notions of WMV causing different conclusions about the social realities of witchcraft in Nigeria, and Internal Flight Alternatives (IFAs) as a metric for belief or disbelief. Lastly, the third section used theoretical framework – Othering – to analyse the results, including the sister-codes lapses in legal reasoning rooted in Western notions of WMV, and RAD or RPD members drawing on Western notions of WMV coming to differing conclusions social realities than the asylum-seekers, is a metric of Othering, how the culture of disbelief serves as a mechanism of state-sponsored Othering, and the way forward, including reforms to COIs and the role of expert testimony.

Ultimately, this chapter sought to accomplish the goal of answering my research question by examining *what traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence?* It also sought to examine the problematic status quo of questions of who is and is not believed and listened to in immigration regimes, and hopeful reforms for the future, especially informed by the works of others in this space.

5. Conclusion

My research examined *how traces of intersecting Canadian structures of Othering can be identified through examining the written decision of RAD board members on cases of Nigerian women fleeing witchcraft-motivated violence*. To answer my question, I selected five cases ranging from 2019 to 2020 that were decided by the Refugee Appeal Division that each involved a woman fleeing witchcraft-motivated violence in their home community in Nigeria. I analyzed each case through a thematic content analysis in NVivo through multiple rounds of coding, my theoretical framework of ‘intersecting structures of Othering’ and concepts like the culture of disbelief, triple disbelief, double disbelief and state violence.

In my analysis chapter, I’ve demonstrated how both the logics of Said’s *Orientalism* and Western constructions of witchcraft converge to impact the way RAD or RPD members draw on Western notions of WMV, leading to difficulties in their legal reasonings in cases of witchcraft-motivated violence. Specifically, I demonstrated how decision-makers have adverse findings of credibility because of the dissonance between what they think witchcraft-motivated violence in Nigeria *ought* to look like versus how it *actually* is, according to the lived experiences of the women seeking asylum. I argue that this manifests both in Orientalist understandings of expertise and authority, and how the Orientalist (in this case, the decision-maker) asserts that their knowledge over the Orient (in this case, Nigeria) *is* the Orient. Furthermore, I point to the RAD’s findings of the RPD decision-maker having lapses in their legal reasoning, which they argue are simple issues in reasoning, but I argue are also the result of applying stereotypes of what a witch hunt *ought* to look like according to Western conceptions of witch craft (mainly, that it is blood thirsty, a mob mentality, and decisive). I also argue that Internal Flight Alternatives serve as a good litmus test for how well a decision-maker understands the threats faced by the asylum

seeker, because I argue, as do other scholars on witchcraft in Africa and witchcraft in Nigeria, that once someone is accused of witchcraft, that accusation follows them and they face a considerable level of risk everywhere they go in the country. As such, I argued that if a decision-maker (as many RAD officials did) understands the risk associated with a witchcraft accusation, they find the asylum-seeker does not have a viable IFA anywhere in Nigeria. If the decision-maker finds they do have a viable IFA, this demonstrates the intersecting structures of Othering coming together to affect their decision and leading to an adverse finding of credibility.

In my analysis, I also argued that the culture of disbelief is the manifestation of these structures of Othering. I further demonstrated that it also acts as a tool of state-sponsored Othering, which is especially manifested in oppressive immigration and refugee laws that affect asylum seekers even after they've been found to be credible and have been granted asylum. I do this by examining the dissonance between the oppressive experience of the women seeking asylum in the cases I examined, and Canada's self-portrait as a benevolent, welcoming cultural mosaic.

Lastly, I also examine questions of expert testimony and expert knowledge in asylum cases like these, as many others who have done work in the field of WMV and asylum-seeking argue for the use of expert testimony. I both critically examine how decision-makers, despite having resources on these topics and the opportunity to seek out further research at their request through RIRs, still arrive at a different conclusion about the social realities of witchcraft-motivated violence than the ones presented by the women, or choose not to take advantage of these resources. I also point to Said's questions of expertise and who is and is not granted authority through the lens of *Orientalism*. As such, in my analysis I have demonstrated the complex, interwoven structures of Othering and their resulting oppression that impact the women

seeking asylum in Canada because they are fleeing witchcraft-motivated violence, and the barriers that are present that prevent them from receiving the support and fair decision-making processes they deserve.

While this thesis would have ideally looked at other cases in this vein in the Canadian immigration and legal systems (for example, cases from the Federal Court of Appeals), that was unfortunately outside the scope of this project. Future research could not only explore cases from additional sources, but could also conduct a more in-depth analysis of witchcraft and witch-hunts in the Canadian conscious in order to provide more detail about how these historical events impact modern Western perceptions of witchcraft-motivated violence. Further work could also follow more closely in the footsteps of academics like Millbank, Vogl, Dehm and Luongo through conducting a more in-depth analysis of these cases through the context of both international law and particular social groups (PSGs), and Canadian domestic laws. Lastly, expert knowledge and testimony is virtually never, used in asylum cases and witchcraft-motivated violence, but should that change in the future, research related to questions of expertise in these cases and its role would also be an important sphere of this area to explore.

The implications of my research bring forth not only a unique theoretical and analytical approach to a unique and under-studied area, but also highlight important questions of expert testimony and resources in asylum-seeking cases. More specifically, my thesis aimed to not only be the first project of its kind to focus on Canadian cases in particular, but was also the first to consider how Western social constructions and conceptions of witchcraft may affect the decision-making process of RPD and RAD officials. It was also the first to combine these Western witchcraft considerations with an Orientalist lens. Both of these goals were carried out with the hope of not only expanding the knowledge production of witchcraft-motivated violence and

asylum-seeking, but also expanding on how this issue manifests in Canada specifically. This project could also have more broad implications for questions of how popular culture affects the decision-making processes of RAD and RPD officials, and indeed decision makers in other sociolegal spheres of Canadian society.

My project has ultimately sought to discuss questions of human rights, popular culture and refugees in Canadian regimes of immigration and sociolegal spheres. While this project was born out of a personal curiosity for witchcraft-motivated violence, it quickly became, in my mind, a microcosm of broader issues with the Immigration and Refugee Board's culture of disbelief. As such, I hope my project has provided valuable insight into these issues, and into the inter-disciplinary world of witchcraft-motivated violence and asylum-seeking.

Appendix 1 – Art of Witch Hunts in Europe in *Caliban and the Witch*



Figure 1: *The execution of Anne Hendricks for witchcraft in Amsterdam in 1571 by Jan Lukyen. 1685. Engraving.*



Figure 2: *In the market of Guernsey, England, three women are burnt alive by Anonymous. 16th century. Engraving.*



Figure 3: *The execution of the Chelmsford witches in 1589* by Anonymous. 16th century. Woodcut.

References

- Associated Press, (2023, August 1). *Trump campaign calls latest indictment part of a politically motivated 'witch hunt.'* Public Broadcasting Service.
<https://www.pbs.org/newshour/politics/trump-campaign-calls-latest-indictment-part-of-a-politically-motivated-witch-hunt>
- Bahkt, N., & Palmer, J. (2015). Modern Law, Modern Hammers: Canada's Witchcraft Provision as an Image of Persecution. *Windsor Review of Legal and Social Issues*, 36, 123-46.
- Bernard, H. Russel. (2006). *Research Methods in Anthropology: Qualitative and Quantitative Approaches*. AltaMira Press.
- Blake, A. (2024, April 16). *Most reject Trump's claims of persecution. Some still have concerns.* The Washington Post. <https://www.washingtonpost.com/politics/2024/04/16/most-reject-trumps-claims-persecution-some-still-have-concerns/>
- Briggs, Robin. (1996). *Witches and Neighbours: The social and cultural context of European witchcraft*. Blackwell Publishing.
- Clark, S. (2001). The 'gendering' of witchcraft in French demonology: Misogyny or polarity? *French History*, 5(4). P. 426-437.
- Colaiacovo, I. (2013). Not Just the Facts: Adjudicator Bias and Decisions of the Immigration and Refugee Board of Canada (2006–2011). *Journal on Migration and Human Security*, 1(4), 122-147. <https://doi.org/10.1177/233150241300100401>
- Collin, Finn. (1997). *Social Reality*. Routledge.
- Combahee River Collective. (1977). *The Combahee River Collective Statement*.
- Crenshaw, K. (1989). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics. *University of Chicago Legal Forum*, 1989(1), 139-67.
- Crisp, J. (2008). *Witchcraft and displacement*. (Report No. 74). Forced Migration Review. United Nations High Commissioner for Refugees.
- Dawson, C. (2011). On Thinking Like a State and Reading (about) Refugees. *Journal of Canadian Studies*, 45(2). Pp. 58-75.
- Dehm, S., & Millbank, J. (2019). Witchcraft Accusations as Gendered Persecution in Refugee Law. *Social & Legal Studies*, 28(2), 202-26.
- Eboiyehi, F.A. (2017) Convicted without Evidence: Elderly Women and Witchcraft Accusations in Contemporary Nigeria. *Journal of International Women's Studies*, 18(4), 247-65.

- Ezzy, D. (2002). *Qualitative Analysis*. Routledge.
- Federici, S. (2004) *Caliban and the Witch: Women, the Body and Primitive Accumulation*. Autonomedia.
- Federici, S. (2018). Witch-Hunting, Globalization and Feminist Solidarity in Africa Today. *Journal of International Women's Studies*, 10(1), 21-35.
- Federici, S. (2021, August 16-22). *State Violence and witch-hunting in the colonization and globalization process*. [Paper presentation]. Witch Institute, Kingston, ON, Canada. <https://witchinstitute.com/events/talks/state-violence-and-witch-hunting/>
- Fisiy, C.F. (1998) Containing Occult Practices: Witchcraft Trials in Cameroon. *African Studies Review*, 41(3), 143-63.
- Forsyth, M. (2016). The Regulation of Witchcraft and Sorcery Practices and Beliefs. *Annual Review of Law and Social Science*, 12, 331-351.
- Frigon, S. (1996). A Gallery of Portraits: Women and the Embodiment of Different and Deviance. In O'Reilly Fleming, T. (ed), *Post-Critical Criminology*, (pp.78-110). Prentice-Hall.
- Games, A. (2010). *Witchcraft in Early North America*. Rowman & Littlefield Publishers.
- Geschiere, P.& Nyamnjoh, F. (1998) Witchcraft as an Issue in the "Politics of Belonging": Democratization and Urban Migrants' Involvement with the Home Village. *African Studies Review*, 41(3), 69-91.
- Glesne, C. (2010). Ways of Knowing. In *Becoming Qualitative Researchers*. Toronto: Pearson.
- Godbeer, Richard. (2017). *Salem witches and their accusers*. Macmillan Learning.
- Guba, E. G., & Lincoln, Y. S. (2003). Competing paradigms in qualitative research. In Hesse-Biber, S. and Leavy, P. *Approaches to Qualitative Research. A Reader in Theory and Practice*. New York: Oxford University Press.
- Godbeer, R. (2017). Salem witches and their accusers. *Oxford Dictionary of National Biography*.
- Hammersley, M. (2010). *Methodology: Who Needs It?* London: Sage Publications.
- Harnischfeger, J. (2000). Witchcraft and the State in South Africa. *Anthropos*, 95(1), 99-112.
- Harris, K. (2018, December 19). *Woman charged with witchcraft just 2 days before offence scrubbed from law*. Canadian Broadcast Corporation. <https://www.cbc.ca/news/politics/witchcraft-criminal-code-charge->

[1.4951071#:~:text=1216-.A%20northern%20Ontario%20woman%20was%20charged%20with%20fake%20witchcraft%20just,return%20for%20lifting%20a%20curse.](#)

hooks, b. (1988). Feminist scholarship: ethical issues. In *Talking Back: thinking feminist thinking black*. Toronto: Between the lines.

Immigration and Refugee Board. (2013). *Nigeria: Whether Yoruba and Ibo cleansing rituals for women in their thirties include circumcision in the states of Ogun, Niger, Anambra, and Adamawa; whether women who have been accused of killing a family member through witchcraft would be circumcised during a cleansing ritual*. Retrieved from the Immigration and Refugee Board website: <https://irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=454546&pls=1>

Immigration and Refugee Board. (2021). *Chapter 8 – Internal flight alternative*. Retrieved from the Immigration and Refugee Board website: <https://www.irb-cisr.gc.ca/en/legal-policy/legal-concepts/Pages/RefDef08.aspx>

Immigration and Refugee Board. (2023). *Refugee appeals*. <https://www.irb-cisr.gc.ca/en/refugee-appeals/Pages/index.aspx>

Immigration and Refugee Board. (2024). *Immigration and Refugee Board of Canada*. <https://www.irb-cisr.gc.ca/en/Pages/index.aspx>

Isin, E. F. (2001). *Being Political: Genealogies of Citizenship*. University of Minnesota Press.

Jackman, Mary. (2002). Violence in Social Life. *Annual Review of Sociology*, 28. Pp. 387-415.

Jackson, E. (1992). Catharine MacKinnon and Feminist Jurisprudence: A Critical Appraisal. *Journal of Law and Society*, 19(2). Pp. 195-213.

Justice, Immigration Law Practitioners' Association, Asylum Rights Campaign. (1997). *Providing protection: Towards fair and effective asylum procedures: report and recommendations*. Justice/ILPA/ARC Asylum Research Project (Great Britain).

Karlsen, C.F. (1998). *The Devil in the Shape of a Woman: Witchcraft in Colonial New England*. W.W. Norton.

Lind, M. (2024, February 23). *American democracy won't survive the anti-Trump witch hunt*. The Telegraph. <https://www.telegraph.co.uk/us/comment/2024/02/23/donald-trump-legal-case-fani-willis-election-fraud/>

Lindgren, S. (2004). Social Constructionism and Criminology: Traditions, Problems and Possibilities. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 6(1). Pp. 4-22.

- Luongo, K. (2015). Allegations, Evidence and Evaluation Asylum Seeking in a World of Witchcraft. In Berger, I., Redeker Hepner, T., Lawrance, B. N., Tauge, J. T., Terretta, M. (Eds.), *African Asylum at a Crossroads: Activism, expert testimony, and refugee rights*. (pp. 182-202). Ohio University Press.
- Luongo, K. (2019). "The Problem of Witchcraft": Violence and the Supernatural in Global African Refugee Mobilities. *African Studies Review*, 63(3), 660-82.
- Luongo, K. (2023). *African Witchcraft and Global Asylum-Seeking: Border-Crossing Beliefs*. Routledge.
- McDonald, T. J. (1999). *Witchcraft and occult crime within a contemporary Canadian context*. [Unpublished Master's thesis]. University of Ottawa.
- Menjívar, C., & Abrego, L. (2012). Legal Violence: Immigration Law and the Lives of Central American Immigrants. *American Journal of Sociology*, 117(5). Pp. 1380-1421.
- Millbank, J. (2009). 'The Ring of Truth': A Case Study of Credibility Assessment in Particular Social Group Refugee Determinations, *International Journal of Refugee Law*, 21(1), 1–33.
- Millbank, J., & Vogl, A. (2018). Adjudicating Fear of Witchcraft Claims in Refugee Law. *Journal of Law and Society*, 45(3), 370-97.
- Morse, J., Bowers, B. J., Charmaz, K., Corbin, J., Clarke, A. E., Porr, C., Noerager Stern, P. (2021) *Developing Grounded Theory: The Second Generation Revisited*. 2nd ed. New York: Routledge.
- Mudimbe, V. Y. (1988). *The Invention of Africa: Gnosis, Philosophy, and the Order of Knowledge*. Indiana University Press.
- Murrey, A. (2017). Decolonising the imagined geographies of 'witchcraft.' *Third World Thematics: A TWQ Journal*, 2(2-3), 157-79.
- Mutaru, S. & Alakija Sekyi, N.A.S. (2023). Murder at Kafaba: Debating Witchcraft and 'Witch Camps' in Ghana. *Nordic Journal of African Studies* 32(1). Pp.28-49.
- Nelson, D. M. (2009). *Reckoning: The Ends of War in Guatemala*. Duke University Press.
- Ngozi Atata, S. (2018). Aged women, witchcraft, and social relations among the Igbo in South-Eastern Nigeria. *Journal of Women & Aging*, 31(3). Pp. 231-247.
- Okonkwo, U.U., Eze, V.O., Ukaogo, V., Okoye-Ugwu, S., & Orabueze, F.O. (2021). Gender Disparities in Witchcraft Beliefs: A Challenge to Nigerian and African Historiography. *Journal of International Women's Studies*, 22(1) 446-64.

- Pernecky, T. (2016). *Epistemology and Metaphysics for Qualitative Research*. Sage.
- Rehaag, S. (2017). Simply Do Not Believe: Case Study of Credibility Determinations in Canadian Refugee Adjudication. *Windsor Review of Legal and Social Issues*, 38, 38-70.
- Reis, E. (1999). *Damned Women: Sinners and Witches in Puritan New England*. Cornell University Press.
- Richardson, C. (2014). Orientalism at home: the case of 'Canada's toughest neighbourhood.' *British Journal of Canadian Studies*, 27(1). Pp. 75-95.
- Said, E. (1978). *Orientalism*. Pantheon Books.
- Schnoebelen, J. (2009). *Witchcraft allegation, refugee protection and human rights: A review of the evidence*. (Research Paper No. 169). New Issues in Refugee Research. United Nations High Commissioner for Refugees.
- Spence, S. (2017). *Witchcraft Accusations and Persecutions as a Mechanism for the Marginalisation of Women*. Cambridge Scholars Publishing.
- Toivo, R.M. (2019). Gender and Witchcraft. In Dilinger, J. (Eds.), *The Routledge History of witchcraft* (pp. 219-32). Routledge.
- Tomkinson, S. (2018), Who are you afraid of and why? Inside the black box of refugee tribunals. *Canadian Public Administration*, 61, 184-204.
- Zachernuk, P. (1993). "Orientalism" and West African intellectuals in the nineteenth century. *Program of African Studies, Northwestern University*, 6. Pp. 4-7.

Case Law

X (Re), 2020 CanLII 124708

<https://www.canlii.org/en/ca/irb/doc/2020/2020canlii124708/2020canlii124708.html>

X (Re), 2020 CanLII 93766,

<https://www.canlii.org/en/ca/irb/doc/2020/2020canlii93766/2020canlii93766.html?resultIndex=1&resultId=69b5554653c34a979a7465fa82d43919&searchId=2024-04-15T18:41:30:918/78fd81ac56964a4fabd4bde138e73b88&searchUrlHash=AAAAAQAKVEI5LTISOdcIIAAAAAAB>

X (Re), 2019, CanLII 136690

<https://www.canlii.org/en/ca/irb/doc/2019/2019canlii136690/2019canlii136690.html>

X (Re), 2019, CanLII 143584

<https://www.canlii.org/en/ca/irb/doc/2019/2019canlii143584/2019canlii143584.html>

X (Re), 2019, CanLII, 136670

<https://www.canlii.org/en/ca/irb/doc/2019/2019canlii136670/2019canlii136670.html>

Statutes

C-51, *An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another*, 1st session, 42nd Parliament, 2018.

<https://www.parl.ca/legisinfo/en/bill/42-1/c-51>

Criminal Code Act, Cap C38, Laws of the Federation of Nigeria, 2010 Sections 30; 351 and 357.

Criminal Code, RSC 1985, c C-46.