

Book Reviews

Adjudicating Refugee and Asylum Status: The Role of Witness, Expertise and Testimony



Edited by Benjamin N. Lawrance and Galya Ruffer
New York: Cambridge University Press, 2015

Adjudicating Refugee and Asylum Status is an excellent collection that explores how, in industrialized countries, the personal narratives of asylum-seekers are scrutinized and in some instances replaced by an expanding array of expertise deployed to establish the credibility of asylum claims. The ten chapters were drawn from an international conference in 2012, and the authors comprise a diverse array of academics and practitioners reflecting a wide disciplinary field.

The volume examines the discursive production of refugees through what the editors describe as the “asylum dialectic” (5). They define this concept broadly in terms of the “performance of legal process as the dialectical relationship between asylum adjudicators and expert witnesses” (6). Through detailed and fascinating case studies, examples, and personal reflections, it considers how the credibility of refugee claimants is increasingly determined on the basis of a “productive interdependence” (6) between adjudicators and the experts that inform their judgments. These interdependencies do not necessarily establish the “hard facts” of refugee claims but focus on more intimate and indirect betrayals, traces and confirmations of identity, presence, and experience. Importantly, this book approaches such expertise not simply as judicial progress or technical enlightenment, but as reflective of a global political order that is less concerned with the protection of the rights of those who have fled their countries and more intent on proving (or disproving) testimonies of suffering and persecution. The book therefore offers a critique of the increasing use of technologies of suspicion in refugee status determinations, as well as the arbitrariness of its deployment and the inaccuracy of some of its claims. The book covers both well-established and emergent forms of expertise that appear in asylum adjudications. It provides useful insight into the dynamics of country of origin expertise (or COI), linguistic, medical,

and psychological assessments, as well as potential of biometrics and genetics. Each chapter offers expanded case studies, detailed discussion, as well as thoughtful reflection on the roles and responsibilities of experts. The richness of these different perspectives contributes greatly towards strengthening both the interest and analytical value of this unique collection.

Following a thought-provoking and comprehensive introduction, the substantive section of the book is divided thematically into two parts. Part I explores how tensions that arise from social and cultural misunderstanding play out in asylum adjudications, highlighting the role of experts in both reconciling and aggravating them. “Reconstructing Babel,” by Einhorn and Berthold, includes revealing insight into an experienced United States immigration judge’s efforts to make sense of the narratives of asylum-seekers in a legal context that offers little formal clarity or guidance. This exposes a strong personal and professional commitment that is frequently missing from less nuanced critiques of asylum adjudication processes. The chapter by Kam, which follows, is a fascinating account of the emergence of language analysis as a technique for uncovering the “true identity” of asylum-seekers in Europe. This particularly detailed piece exposes multiple reasons to question the authoritative claims of language analysis as a reliable determinant of national origin. Two disturbing studies that follow examine testimonies of rape survivors and the potentially ambiguous, haphazard, and ultimately flawed role of experts in establishing their credibility follow. The piece by Ruffer considers how the notion of rape is configured in asylum contexts in narrow terms of political persecution, set in contrast to the broader experience of rape as a pervasive consequence of gender identity for many victims. Marton’s chapter expands on this exploration of rape victims as vulnerable to further abuse and trauma by the adjudication,

and the role of experts in either addressing or worsening this situation. Good's chapter concludes this section on cultural misunderstanding by highlighting the increasingly prominent role that country of origin information plays in judicial decision-making in asylum cases. In this instance, Good contrasts the notions of ethnographically derived forms of COI knowledge and legal evidence, highlighting some of the tensions that arise between them.

Part II examines the increasingly prominent role of medical expertise in the adjudication of asylum-seekers. The chapter by Ardan, "Expert as Aid and Impediment," explores, from the perspective of an attorney who represents asylum-seekers, how expert testimonies are not always consistent, further undermining the credibility of claimants in ways that may be unfair, unintended, and arbitrary. This chapter highlights the need for close collaboration between experts and attorneys, to avoid the risks of such misunderstanding. The report by Chelidze et al. considers survivors of torture and the forms of expert psychiatric care that they receive, or don't receive, as the case may be. It describes the approach of a medical human rights clinic run by students in New York City, which provides forensic evaluation to survivors of torture and persecution that include a range of medical and psychological interventions. The chapter by Smith et al., "Incredible Until Proven Credible," focuses on the role of experts where asylum claims are adjudicated on the basis of mistrust. It highlights how the testimonies of mental health experts are produced in ways that may vary considerably, suggesting widespread inconsistency and limitations of certainty of opinion. Contrary to the intentions of adjudicators, mental health practitioners may be limited in their contributions towards uncovering deception by asylum-seekers and its causes, or identifying the precise cause of individual trauma or distress. Furthermore, mental health assessments may be conducted in environments where asylum-seekers are subject to the ordinary effects of time on memory, poor translations, fear of the process, or the embellishment of facts out of desperation or at the suggestion of both well-meaning and mischievous third parties. Whilst these factors may erode the chances of a successful claim, their careful exploration skilled clinicians may also enhance refugee credibility. The chapter highlights in particular the burden of proof that is placed on African asylum-seekers to demonstrate their credibility and how their efforts to confront it may produce the opposite effect. The chapter by Tutton et al. explores growing state interest in

forensic biomedicine as a tool for determining the national identity and geographic origins of asylum-seekers. Noting that some claims of accuracy of genetic testing for ancestry and isotope-testing for this purpose are still open to question, the authors examine government experiments to expand this technology in refugee adjudications. The discussion focuses on a pilot project conducted between 2010 and 2011 in the United Kingdom, which the authors argue contributed towards "a vicious circle of criminalization and victimization of asylum seekers," advancing the replacement of testimonies of asylum-seekers with highly impersonal methods of genetic and biological markers of ineligibility. The final chapter, by Lawrance, develops out of a comparison between two similar cases of migrant struggles to maintain access to health care in European countries, under the threat of forced return to their respective countries of origin. The outcomes were very different, and the author uses this to explore the important role of human rights protection in health-related claims.

The strength of this important collection lies in the range of professional perspectives that it reflects—often candid, self-critical, and modest in their struggles to establish truth, credibility, and state of mind. For the most part, this is not a story of heroes and villains, but one of collective dedication to an imperfect system and frustration at the limits of ensuring fair asylum procedures and outcomes. Overall it does a superb job of linking the discursive shift in state representations of refugees—from rights-bearing subjects to purveyors of deception—to the roles and functions of experts in responding to this shift. Regrettably, despite its practitioner-oriented focus and intentions, *Adjudicating Refugee and Asylum Status* offers few clear practical solutions, beyond fairly general calls for more collaboration and increased sensitivity to the complex predicaments of asylum-seekers. This is not necessarily a shortcoming of the book, but perhaps reinforces the intractability of some of the problems that it seeks to highlight.

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