Contesting credibility in Australian refugee visa decision making and public discourse

Laura Smith-Khan

Bachelor of Arts (Languages), Bachelor of Laws (Hons) (University of Sydney)

Master of Applied Linguistics (Monash)

Postgraduate Diploma of Legal Practice (Australian National University)

Contents

Figures and tables

Summary

Whether or not we can trust the people who come to Australia to seek protection as refugees is increasingly a topic of public debate, across politics and in the mainstream media. Such discourse justifies harsh asylum policies. Further, questioning the genuineness of those seeking asylum means that credibility assessments have become a central element of refugee visa decision making processes. However, the way credibility is conceptualized - both in these public debates and within decision making processes – inevitably impacts on refugees' and asylum seekers' ability to fairly and successfully seek protection and establish themselves in Australia.

This multi-level critical discourse analysis examines these two key interconnected sites of discourse on refugee credibility. The first part examines key credibility assessment guidance aimed at Australian refugee visa merits review decision makers, and a corpus of published review decisions that discuss credibility. The second part entails a case study of a Somali refugee whose participation in a public "debate" with the Immigration Minister was heavily reported in the media. The study draws on a corpus of newspaper articles, a press release by the Minister and a handwritten statement from the refugee.

The study explores how dominant discourses, in public debates and in visa decision making, present refugees and asylum seekers and the social actors who interact with them (van Leeuwen, 1996). In particular, it aims to uncover how these discourses construct language, communication and diversity, and how they present discourse creation itself. It compares these constructions with the sociolinguistic realities in these settings, exploring how communication occurs and the individual, interactional and structural influences and limitations on refugees' ability to communicate credibly and produce a credible identity.

The study finds that dominant discourses in these settings problematically construct credibility as an individual attribute of the refugee. It finds that this contradicts the sociolinguistic realities: credibility is constructed discursively, and whether a refugee can communicate in the manner required to be regarded as credible relies on a number of factors beyond their individual control. These include the impact of other persons involved in their interactions, and the institutional and legal structures they must navigate. However, these factors are largely erased from the discourse. Therefore, the discourse unfairly places a burden of performing credibility on the refugee, dictating criteria for this performance that are often difficult and sometimes impossible to satisfy. Beyond its immediate impacts for the individuals

in question, this construction of credibility also acts to limit their ability to challenge the dominant discourse.

This conclusion has implications for the way in which credibility assessments are administered, and their broader overall validity. However, given the connections drawn between the public discourse and institutional processes, the findings suggest that meaningful improvement to institutional approaches to credibility assessment are unlikely without significant changes in the prevailing political discourse.

Statement of Originality

This work has not previously been submitted for a degree or diploma in any university. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made in the thesis itself.

Signed: *[signature]*   Date: 24 July 2018

Laura Smith-Khan

Ethics project ref. number 5201500085

Acknowledgements

I am grateful for the support of the Department of Linguistics, Faculty of Human Sciences, at Macquarie University. What an incredible place to undertake this research, surrounded by talented academics, excellent support staff and inspiring Higher Degree Research colleagues.

My doctoral research experience and resulting outcomes would not be possible without the exceptional supervision of Professor Ingrid Piller. She provided insightful guidance, high quality critical feedback and equally valuable assistance with the practical and administrative sides of my candidature. Her patient, timely and valuable contributions throughout the research for and writing of this thesis and the papers that constitute it have greatly increased my confidence as a researcher and writer. Her support has extended far beyond the thesis itself. I am particularly grateful for the peer support network she offers me and other candidates she has supervised through the Language on the Move research group, and more broadly for providing me advice and support for my future career. Dr Daniel Ghezelbash, my associate supervisor, has been a valuable mentor for me throughout my academic journey, in both my research and teaching, across two universities and three degrees. His helpful reflections and feedback on migration law and practice helped refine my research and he has acted as a crucial connection to the world of refugee legal assistance providers and other migration professionals. To these professionals I am grateful not only for their support in this and previous research, but also for the work they do every day in the face of the difficult discourses around refugee policy and decision making that I explore in this study.

The members of the Language on the Move research group and co-PhD candidates past and present have provided me a wealth of support in so many forms. They have given me feedback on my writing, shared their own experiences conducting and presenting their research, and offered me their encouragement and friendship. I have heard that completing a PhD can be lonely, but having them in my life has made it an enriching and positive experience.

I am likewise grateful for the insightful feedback I received from participants when presenting my research at conferences at Sydney Law School (21-22 Feb 2018), London School of Economics and Political Science (19-21 April 2016), Western Sydney University (9-11 December 2015) and Harvard Law School (24 January 2015), and at an invited seminar at Leicester University, UK (4 May 2016). I equally appreciate the valuable reviews and constructive criticism from the journal editors and referees from *Discourse & Society,* the *International Journal of Refugee Law* and *Language in Society.*

A special thanks to Professor Mary Crock for giving me my "big break", working on the *Protection of Refugees with Disabilities* project, along with fellow-Chief Investigators Ron McCallum and Ben Saul. She has encouraged me and supported my development as an academic, creating all kinds of incredible opportunities: from carrying out fieldwork on the Turkish-Syrian border and refugee settlements in rural Uganda, through presenting our research at the United Nations, to co-authoring my first book.

My family, especially my parents Allison and Des, have worked so hard to give me educational opportunities and encouraged me to develop an inquisitive mind right from the very beginning. Thanks for supporting me to be the first in our family to travel overseas, for helping me move to Sydney to pursue my tertiary studies and for supporting me in every way to get to the end of that journey, especially in these last months. Grace, thank you for being my academic buddy, for reading my work and giving enthusiastic feedback.

To Bilal, thanks for being my advocate and supporter in this and in all my ventures. It has been quite a journey so far and I know that this is only really the beginning. And to Adam, I thank you for the joy you have brought to my life and for helping me keep it all in perspective.

1. Introduction

1.1. Genesis of the project

In late 2011, during the final semester of my undergraduate law degree, I was trying to select a research essay topic for a unit on refugees and forced migration. Even though it was my favourite unit of study, I had been struggling to decide on a focus for the essay. Little did I know at the time, as I browsed my University library's online database, reading through the results of my search would spark the beginning of a series of events, ultimately resulting in this thesis.

I stumbled across some articles on communication in refugee visa applications (Barnett, 2006; Eades, 2003; Jacquemet, 2011; Norman, 2007). They emphasised how important communication was in asylum procedures, especially as institutional and public discourses increasingly focused on scrutinizing whether or not asylum seekers were "genuine". Given my experience as a paralegal, assisting with refugee-related visa applications in Sydney, and my own background as a language learner, with an interest in linguistics, these articles caught my attention. I could relate them to the concerns that my clients had about whether or not they would be believed, the importance their legal representatives placed on the structure and consistency of their submissions and written and oral statements, and their language-related choices, such as whether to use an interpreter or speak English in immigration interviews.

This short research essay eventually resulted in my first peer-reviewed publication (Smith-Khan, 2012). It was also the catalyst for a Master's project, in which I interviewed four young Afghan refugees, who had sought asylum in Australia, and four migration agents and lawyers, exploring language policy and planning around the asylum interview process (Smith-Khan, 2017). In turn, this project was a stepping stone for the current study, where I have had the opportunity to look more closely at the all-important themes of credibility and communication in refugee discourses.

I grew up and attended university during a period of Australia's history in which refugees had become politicized and where governments were elected and re-elected, at least in part, thanks to increasingly harsh policies aimed at deterring or punishing those seeking asylum (see arguments in Every & Augoustinos, 2008). This, combined with my direct contact with some of the very people affected by these policies, led me to question their impact on social justice. Meanwhile, language learning during high school and university (covering eight languages formally, and another couple outside the classroom), my experiences as an exchange student,

my linguistically and culturally diverse circle of friends, and my marriage to a migrant of non-English-speaking background, had combined to create a strong interest in everything language and communication-related.

So that day, when I discovered the area of research that brought together my interests in social justice for refugees and language and communication, I felt inspired. The process of researching and writing that essay invigorated me. I told myself (and anyone else willing to listen) how much I would love to extend my stay at university and research, teach, speak and write about these types of issues. Another seven years later, having worked as a research assistant on a project focused on refugees' experiences (Crock, Smith-Khan, McCallum, & Saul, 2017), completing my Master in Applied Linguistics and being admitted as a legal practitioner, I find myself fulfilling that dream.

This thesis is therefore the product of much more than its more obvious parts. It is a culmination of twelve years of undergraduate and postgraduate study in languages, linguistics and law, life-changing international research experience as a young law graduate, interacting with refugee and non-refugee research participants across three continents, and professional experience assisting refugee applicants here in Australia.

In 2018, as I finalize my thesis by publication, seven years after its central theme first started developing in my mind, refugee credibility remains as important an issue as it was in 2011. As I seek to demonstrate throughout this thesis, the "genuineness" of refugees remains a hotly debated point of discussion in institutional, political, media and public discourse in Australia. Significantly, the policies that are justified by questioning refugees' genuineness create a range of serious difficulties for refugees in their attempts to communicate in a way that best promotes their credibility. This is the case both within visa application and appeal processes (as I argue in chapters 2 and 3), and more broadly when seeking to challenge the public discourse, as promulgated by the mainstream media and politicians (as I explore in chapters 4 and 5).

In the remainder of this introductory chapter, I first provide an overview of the existing literature that led me to the key questions underlying my research. I then explain my methodological and analytical approach, including why I elected to conduct my thesis by publication. The chapter concludes with a brief overview of the remaining chapters making up the thesis and how they relate to the study's central research questions.

1.2 Refugees and credibility

Credibility is a common theme in research on refugees in the Global North, across a broad range of disciplines, focusing on different levels and actors. As explained below, it is a prevalent issue throughout the literature, on the macro level of public commentary on refugees by the media, politicians and other actors, the meso level of institutional guidance and the micro level of individual decision making.

1.2.1 Public discourse on refugees

Throughout the Global North, media and political commentary has become increasingly interested in whether or not those arriving to seek asylum can be trusted. Media reporting commonly categorizes asylum applicants as either "genuine" on the one hand, or "bogus" or "fraudulent" on the other (Lawlor & Tolley, 2017; Molnar Diop, 2014; Philo, Briant, & Donald, 2013). This is equally true for the Australian media, in which "genuine" was the most common qualifier for "refugee" in a large corpus study of recent newspaper articles (Stirling, 2015a, 2015b).

In the Australian context, the media has participated in the politicization of asylum seekers and asylum policy most notably since 2001, when the then Conservative government, led by John Howard, commented publicly on two particular episodes involving asylum seeker boats trying to reach Australia. One of these, which became known as the "Children Overboard" affair, involved government spokespeople, including the Immigration Minister,[1] incorrectly suggesting that the asylum seekers on a vessel in Australian waters had threatened to throw their children out of the boat, and then actually had done so, to force Australian officials to rescue them so that they would have to take them to Australia, rather than force their vessel back to Indonesia. The government's claims turned out to be false – the asylum seekers' boat was sinking and its passengers were actually in need of rescue. Nonetheless, the incident sparked a political turning-point: the government capitalized on the situation to present asylum seekers as "cynical and calculating invaders" rather than victims deserving sympathy (MacCallum, 2002, p. 41). This one specific episode was thus used to frame asylum seekers and refugees more generally in a new, negative light. The government commentary was heavily reported in the media and the new approach of questioning refugees' credibility was such a political success that it was argued to have contributed to the Howard Government's re-election that year (Every & Augoustinos, 2008, p. 650; MacCallum, 2002).

---

[1] For consistency and clarity, I generally refer to the "Immigration Minister" and the "Immigration Department" etc. However, see explanation below at 1.3.4.

While public discourse may present refugees as "calculating" actors with agency, they may in fact have very little opportunity to challenge this very discourse and defend their credibility. Their migrant status and ethnic and linguistic background often conspire for them to have less control over discourse creation and disruption than their more powerful antagonists in the government and mainstream media (van Dijk, 2008).

Public discourse that treats refugees as suspicious or dishonest, or otherwise heavily focuses on their credibility has serious implications for both refugee policy and its implementation. It can influence or be used to justify far-reaching changes in migration policy. For example, in Australia, section 46A(1) of the *Migration Act 1958* bars "unauthorized maritime arrivals" from applying for a refugee visa.[2] Further, such discourse is likely to influence the individual officials who are responsible for refugee visa applications (Baillot, Cowan, & Munro, 2014; Hamlin, 2014). As explored below, this means that even those persons who have the opportunity to apply for a refugee visa may experience difficulties in being believed.

1.2.2 Refugee procedure and decision making

Credibility has indeed become a central focus on the meso level of policy-making and the drafting of procedural guidelines for government officials. It is also often a key issue at the micro level, in individual decisions.

Those arriving in countries in the Global North to seek asylum must pass through a series of procedures to receive refugee status and obtain a visa. Given that they generally have little in the way of documentary evidence to prove their merit, they rely heavily on their ability to present a convincing narrative of their experience as a refugee. Their credibility often becomes a central consideration in determining whether their story should be accepted, and therefore whether or not to grant them a visa. As a result, institutional guidance for decision makers on how to assess credibility is common across several receiving countries, including Australia.

Credibility assessments generally involve a set of common indicators, which are presented by their creators as objective measures of credibility. Such indicators have been identified in asylum processes in Australia, Canada and New Zealand (Coffey, 2003; Luker, 2013; Millbank, 2009), Europe (Maryns, 2006; Noll, 2005), the United Kingdom (Cohen, 2001; Sweeney, 2009; Thomas, 2011) and the United States (Anker, 1992; Durst, 2000; McKinnon,

---

[2] Referred to in the Australian context as a "protection visa": see *Migration Act 1958,* section 36. Section 46A was originally introduced by the Howard Government in 2001: see *Migration Amendment (Excision from Migration Zone) Act 2001,* banning "offshore entry persons" from applying for a visa. The term "unauthorised maritime arrival" was introduced by the *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013.*

2009). These indicators include internal consistency between the different texts and interviews throughout the application process; and external consistency between the applicant's claims and third-party information on their place and group of origin. Further, the decision maker considers whether the applicant's story is plausible and coherent. They may also consider whether the applicant's demeanour supports their claims; although this indicator has attracted particularly strenuous criticism (see e.g. Coffey, 2003).

Research exploring the objectivity of these assessments suggests they rely on problematic assumptions about language and communication. While no existing sociolinguistics research focuses centrally on credibility assessments in asylum procedures or the discourse underlying them, studies examining the construction of the refugee narrative contribute to problematizing these assessments. Rather than the applicant producing the refugee narrative in isolation, the different contexts, structures and participants involved in the asylum application process influence the production of the applicant's narrative. Legal and institutional requirements closely dictate how the refugee narrative should be communicated, in terms of both structure and content (Mayo, 2012; Zagor, 2014). These strict expectations can prove difficult for applicants to reconcile with their complex and individual lived experiences (Blommaert, 2001; Millbank, 2009; Shuman & Bohmer, 2014). Decision makers shape the narrative through their control over the questions asked in interviews, but the effects of this and other persons' participation may be largely obscured in the official written summary they produce when recording their decision (for an explanation of this process see Jacquemet, 2009).

The applicant may be influenced in their language choices by the advice they receive from legal representatives and other persons (Smith-Khan, 2017). There may also be an interpreter present during immigration interviews or when preparing statements, who themselves is a social actor who makes language choices, such as how to best translate certain vocabulary or convey tone (Inghilleri, 2003; Tipton, 2008; Van der Kleij, 2015). In some cases, their proficiency or dialect may cause communication barriers or confusions for the applicant or other participants (Maryns, 2005, 2006). Further, their perceived identity may affect the way in which the applicant communicates and the types of information they feel comfortable sharing (Merlini, 2009).

Finally, the evaluation of these indicators draws heavily on the decision maker's perception and expectations, which are inevitably influenced by their own socialisation and understandings about language, culture and communication, both within the application process and more broadly regarding the applicant's experiences (Dowd et al., 2018; Herlihy, Gleeson, & Turner, 2010). These impact what the decision maker will regard as plausible or

coherent, as well as how they evaluate consistency or demeanour (see arguments in Noll, 2005; Sweeney, 2009; Tipton, 2008).

This creates serious concerns for the objective application of credibility evaluations and highlights the value of investigating the beliefs or assumptions about language, communication and culture presented (through discourse) in the procedural texts guiding these assessments and by the individual decision makers carrying them out.

Therefore, at the macro level of public discourse and at the meso and micro levels of institutional guidance and individual decision making, the theme of refugee credibility emerges as an important focus of attention and discussion. Across these settings, the existing research, summarized above and set out in more detail in each of the following chapters, problematizes the way credibility is evaluated, and refugees' communication is presented. This suggests a disjuncture between, on the one hand, mainstream discourse about refugees and their credibility, and, on the other, their actual experiences and practices navigating asylum procedures and ultimately making a home in Australia.

1.3   Researching refugee credibility

Therefore, I seek to examine the impact on refugee credibility of the ways discourses present refugees and other actors who interact with them. I aim to uncover the ways these discourses present language, communication and cultural diversity and thus how they conceptualize discourse creation, and compare these with the discourse-creation resources these key actors *actually have*. The study thus complements the growing number of non-linguistic studies focused on credibility assessments, responding to the concerns they have raised related to how communication is conceptualized in these processes. Further, it extends beyond existing sociolinguistic research on asylum procedures that has tended to focus more heavily on how communicative and discursive resources impact narrative construction, to explore how they impact credibility specifically. It also complements much of the literature that critically examines public and media discourse on refugees by extending the examination to the structural level: exploring how the order of discourse impacts different social actors' ability to participate and challenge this discourse. Finally, through these examinations, I aim to explore the impact this discourse - as both action and structure (see Fairclough, 2001, discussed below) has for how and how much various social actors are able to influence discourse creation and policy making in this area, and ultimately the implications this has for refugees.

The existing literature has found that refugees' credibility is a key point of focus in a range of important settings, and that refugees face many difficulties when trying to present credible identities or reclaim their credibility in these settings. Heller (2014, p. 215) argues that to make sense of different social actors' language practices in their interactions, contextualization is key. This involves first asking what type of communicative resources these actors are likely to have, based on their social positions. Then it is necessary to consider how resources are usually distributed in the particular setting in which the interaction is taking place. Finally, the "longer-term consequences" of these interactions are explored. To achieve this, Heller recommends using "ethnographically-informed sociolinguistic methods" that enable an examination of linguistic resources "at work in local interactions, with local consequences" as well as uncovering how these are related to other interactions and broader "institutional activities and processes" (Heller, 2014, p. 215). She therefore advocates for a multi-level analysis, but with the understanding that micro-level interactions are inherently influenced by and also have the potential to influence or perpetuate broader structures and context.

Therefore, as I set out to explore settings in which refugees communicate to create and defend their credibility, I do so with an understanding that these different settings, that I described as micro, meso and macro levels, are interrelated and interconnected and that exploring each level will help make sense of the others. I therefore commenced by including meso/macro-level legal and policy texts, and also sought to collect observational data from refugee visa interviews and/or hearings.

However, in practice, the latter was very difficult to achieve. While some existing research includes interviews or hearings, such data is not readily accessible in the Australian context. These sessions are conducted privately and data collection would require both applicant and institutional consent, which are difficult to obtain (Luker, 2013, is a notable recent exception). Indeed, for previous research, I sought the assistance of the Immigration Department and the Refugee Review Tribunal ("RRT"), including a request to approach and interview decision makers. The RRT was responsible for reviewing unsuccessful refugee visa applications until 2015, when responsibility was transferred to the Administrative Appeals Tribunal ("AAT") and the RRT was disbanded. In the case of the Immigration Department, my requests were unanswered. The Tribunal referred me to publicly available guidelines and reports and explained that they did not have the capacity to assist with research. For the current project, I contacted the AAT, specifically inquiring about the existence of training for decision makers related to the "accommodation of diverse clientele". I was given a link to guidance documents publicly available online, but was told they could not provide me with copies of training

materials. Following further probing, I was provided with a link to the AAT's Annual Report, which includes a brief overview describing learning and development strategy, and mentions the existence of "cultural competency training" (AAT, 2015, p. 59). The report from the following year also mentioned that credibility assessment was among the professional development topics focused on at the three-day AAT National Conference in 2016 (AAT, 2016, p. 49). However, no further details were provided of what this involves.

I therefore attempted, with ethics approval, to approach people who were already permanent residents in Australia and who had been granted a protection visa in recent years. However, for them to have a copy of audio recordings from the Immigration Department interview or Tribunal hearing, they generally needed to have been unsuccessful in the interview or hearing: usually these are not provided to successful applicants and the applicants have little reason to seek copies once they are granted their visa. Further, ethics approval restricted the way I could approach potential participants: I had to work through third-party gatekeepers (migration agents, lawyers and community legal centres) and these gatekeepers were restricted to reaching out to eligible past clients only once. I was also reluctant to negatively impact these gatekeepers, who operate on tight schedules and with limited resources to assist their clients, by asking them to continuously identify and approach new potential participants. In the end, this meant that I had great difficulty gaining access to the desired data.

Ultimately, I was forced to rethink my approach and search for publicly accessible sources that evidenced micro-level interactions. This led me to adopt a Critical Discourse Analytical (CDA) approach, which I believe allows me to make a novel contribution to the already large, albeit not Australian, body of sociolinguistic research involving asylum interview data. At the same time, I complement the existing research on media discourse on refugees, which does often adopt a CDA approach, by using a sociolinguistic ethnography to explore and compare this discourse with communicative realities. I explain these approaches in more detail below.

Supporting my original motivations, CDA involves examining the ideologies and power structures that influence the discursive perpetuation of social inequality with the goal of "contributing to specific social change in favour of the dominated groups" (van Dijk, 2008, p. 7). This approach has proven particularly fitting for this study, given the apparently intentional lack of transparency around refugee policy implementation in Australia, demonstrated both in the difficulties researchers face gaining government cooperation and in the other explicit legislative and policy barriers. Some of these barriers are unsurprising and exist for good reasons, given the importance of confidentiality for minimizing potential risks for asylum seekers and encouraging full disclosure. However, as discussed in this thesis (particularly in

chapter 5), other barriers may be motivated by goals other than promoting the wellbeing of refugees and may act to reinforce inequality.

Given the focus on challenging majority discourse and the ideologies that inform it, the data is taken from settings in which this discourse is both present, and in which its effects are obviously significant for the minority participants. Therefore, I include at the micro level, individual visa decision making as published in official AAT decisions, and meso-level AAT guidance texts. These allow me to compare the influence of institutional processes and discourse on individual decision makers, as well as the limitations these create for refugees' participation. At the macro level, I then focus on political statements and mainstream media reporting: two more sites that clearly demonstrate majority discourse. Analysis of the micro and meso levels formed the basis for the first two papers (chapters 2 and 3), and the macro-level case study resulted in a further two (chapters 4 and 5). Below, I explain my data collection and analytical approach. I then reflect on my positionality and how this influences the research. Finally, I present my reasons for electing to conduct the thesis "by publication".

1.3.1 Data collection

Micro level: Individual decisions dealing with credibility

As discussed above, and in chapters 2 and 3, a growing body of research challenges the objectivity and appropriateness of credibility assessments in refugee application and appeals processes. This makes it a key site for exploring how institutional discourse and ideology influences decision making and ultimately the impacts this has on how refugees can communicate credibly.

While interview data was unavailable, I had the opportunity to access examples of individual decision making: the AAT (and previously the RRT) anonymises and publishes a percentage of their written decision records, which are available for free to the public via the Australasian Legal Information Institute (Austlii) online database. The AAT is responsible for reviewing negative decisions issued by the Immigration Department, effectively reassessing the merits of the asylum seeker's claim. Its review responsibilities cover only those applicants who seek asylum onshore in Australia (as opposed to those who arrive by boat). This cohort typically has a lower rate of positive decisions. For example, in 2012-13, the visa grant rate for onshore applicants was 48.4 percent while offshore applicants (ie boat arrivals) had an 88 percent overall grant rate (Department of Immigration and Border Protection, 2014, pp. 73-74). This substantially lower success rate arguably makes credibility a more important point of consideration for decision makers.

I undertook a word search of recent decisions, using the term "credib*", sorted according to relevance by the website's search engine, to find decisions explicitly assessing credibility. While the initial search results were in the thousands, the level of relevance in the search results tapered off rapidly, with the lower-ranked decisions not explicitly dealing with credibility in any detail. Further, in the RRT search, many of the results pre-dated the creation of the guidelines. Therefore, I collected the top 10 results from the AAT, reflecting the short time the AAT had been responsible for refugee review decisions, and the top 20 results from the RRT. I then excluded three of the RRT decisions that were made before the period when the current guidance on credibility assessment was published. This corpus of 27 decisions formed the basis for part of my analysis in chapter 2. These decisions were selected to enable an in-depth qualitative analysis, with the goal of exploring how credibility is explicitly dealt with in this setting. Chapter 2 includes a table and more detailed description of this corpus (Chapter 2, Table 1). As I explain in more detail below, I selected two decisions from this corpus to use as case studies in chapter 3.

Meso level: Institutional guidance on credibility

As already mentioned, decision makers rely on and are constrained by institutional guidance when making refugee status determinations, and more specifically, when assessing credibility. I therefore carried out a comprehensive search of the documents used to guide Australian decision makers, via LEGENDcom. This online database of migration-related law, regulations, policy, application forms and other texts, is administered by the Immigration Department for use by immigration officials, and legal practitioners and migration agents. From this search, I identified a number of relevant guidance documents aimed at either the departmental staff who make first instance decisions on refugee visa applications, and/or the Tribunal "Members" responsible for reviewing these decisions (see Table 1, Chapter 3). I selected one key text for closer analysis, based on its relevance and its application in the review decisions included in my micro-level data: the AAT Migration and Refugee Division's "Guidelines on the Assessment of Credibility" ("Credibility Assessment Guidelines"), which remains in use as of 2018, and replicates the guidelines previously used by the RRT. These Guidelines are not explicitly binding, rather providing "general guidance" (see paragraph 2 of the Guidelines and also chapter 3, 3.1). However, while not binding themselves, they effectively summarise and explain the law (which is binding) around what decision makers must do and may do when assessing credibility. These Guidelines were selected for close examination as they are the sole guidance document with credibility as its central focus that is produced by the Tribunal itself

and aimed solely at review decisions, in contrast with other guidance documents produced by the Immigration Department for first instance decision makers, as well as being applicable in review decisions. As such, the Guidelines constitute a key text to explore institutional discourse, representing the Tribunal's understanding of credibility and how relevant legislation, case law and other procedural requirements related to credibility apply to review decisions.

Macro level: A public debate on refugee policy and credibility

While I worked on my analysis of the micro- and meso-level data, in 2015, the case of a Somali refugee came to the attention of the Australian media. Given the pseudonym "Abyan", this young woman's experience in Nauru (a small Pacific island nation) and then in Australia, became the basis of a public debate, involving high-level Australian politicians, including the Prime Minister and Immigration Minister, high-profile human rights lawyers and advocates, and – as will be seen in chapters 4 and 5 – Abyan herself.

As had been the case in the "Children Overboard" affair, much of the "debate" and accompanying media coverage focused on who was telling the truth. The credibility of the individual participants in the debate seemed tied to the merit of their respective positions on refugee policy, and vice versa. Given its focus on credibility, this presented itself as a valuable case study, to explore the broader socio-political context in which refugee visa decision making and policy making takes place.

I began by gathering a corpus of newspaper articles through online Google searches, using the keyword "Abyan", and then following the links and references in these articles to other pieces on the subject. I then conducted further keyword searches through the ProQuest database in order to access newspapers articles that were behind a paywall. As explained in Chapter 4, this allowed me to gather articles from a range of mainstream Australian news outlets. I used this corpus first to construct a detailed timeline of Abyan's experiences, as well as the reporting and commentary related to them (see Appendix A).

Based on this, I identified two further texts that appeared significant in the debate: a press release by the Immigration Minister, and a handwritten statement from Abyan that was published in the media the following day, which appeared to be a response to the Minister (see Chapter 5). I saved these for closer analysis, and then limited my newspaper corpus to those articles published within a week from the publication of these two texts (see Table 1, Chapter 4).

1.3.2   Critical discourse analysis: representations of social actors

The way we talk about a social situation is influenced by our beliefs. These "diverse representations of social life" are known as discourses: "different social actors 'see' and represent social life in different ways" (Fairclough, 2001, p. 123). At the same time, this choice of language can help perpetuate a particular view and thus promulgate this perspective onto others.   Critical Discourse Analysis (CDA) seeks to uncover these linguistic choices as a way of interrogating and denaturalizing the beliefs they embody. In proposing a multi-level approach to exploring linguistic practices, Heller (2014) finds that the "local consequences" of interactions involve constructing "discursive social space[s]", allowing dominant ideologies to be reproduced. Discourse is thus created or reproduced through these social interactions, leading to CDA's "focus on action" (see Fairclough, 2001). But at the same time, dominant discourse also creates representations of how various social actors interact, and therefore dictates how different actors are able to take part in such discourse creation. The social practice of discourse creation and *discourse about the social practice of discourse creation* are thus inherently structurally interconnected within what Fairclough (2001, p. 124) terms an "order of discourse". Therefore, the analysis must go beyond exploring the discourse related to refugee credibility as present in any one isolated text or interaction, and incorporate a "focus on structure" (Fairclough, 2001). It requires considering how discourse characterises and therefore legitimates or rejects specific forms of discourse creation by different actors, thereby ultimately facilitating or limiting the way refugees are able to produce or defend their credibility in particular social situations.

To critically examine both discourse creation and discourse *about* discourse creation in the data, I therefore draw on van Leeuwen's (1996) "representation of social actors" approach to Critical Discourse Analysis. This involves examining the socio-semantic choices made in constructing texts, by identifying the roles and agency assigned to different social actors, through the way they are named and other grammatical choices. This applies not only to the words of a text: van Leeuwen (1996, p. 34) argues that this framework can and should also be applied to visual representations and other elements of multimedia texts (see Chapter 5).

He presents his approach as a way of exploring how:

> social practices [are] transformed into discourses about social practices – and this both in the sense of *what means we have for doing so*, and in the sense of *how we actually do it in specific institutional contexts* which have specific relations with the social practices of which they produce representations (van Leeuwen, 1996, p. 35, emphasis and numbering added).

Much like Heller's and Fairclough's approaches, this perspective assumes that there is a "dialectical relationship" between discourse and its creation: "discourse constitutes social practice and is at the same time constituted by it" (Van Leeuwen & Wodak, 1999, p. 92).

Further, it similarly recognises that discourse can impact social conditions in a variety of ways, including by helping to reinforce or justify a certain status quo, or seeking to challenge or transform it (Van Leeuwen & Wodak, 1999). Therefore, any critical examination of discourse involves a consideration of the social context in which (and through which) it is created, and the power and interests of the various actors involved in this social context (van Dijk, 2008). Crucially, this means that CDA has the potential to uncover social problems for minority actors and problematize aspects of the social order that disadvantage them (Fairclough, 2001; van Dijk, 2008).

Therefore, I aim to interrogate and examine the interrelationship between discourse and social practice in multiple, intersecting layers. First, I seek to identify the discourses about refugees and their credibility that are presented in the corpus of Tribunal decisions, institutional guidance and public discourse texts included in this study. I then reflect on the resources the various key actors have at their disposal to create or challenge these discourses, thus examining the interaction between structure and action. Finally, I compare these two points, uncovering any tensions or contradictions between the actors' discourse creation resources and how these are represented in the texts.

1.3.3 Researcher positionality

In chapters two and three, I argue that discursively presenting the officials tasked with refugee review decision making as neutral actors is highly problematic. Equally, as a researcher, I must acknowledge my own subjectivity, background and social context. Indeed, this is arguably a fundamental element of Critical Discourse Analysis, in which researchers "are not 'neutral', but commit themselves to an engagement in favour of dominated groups in society…[They must] recognize and reflect about their own research commitments and position in society" (van Dijk, 2008, p. 6).

As I have explained in my introduction above, while I was born and raised in an Anglo-Australian, monolingual English-speaking family, I have lived and travelled in various non-English-speaking countries and have experience learning and communicating in a variety of languages. However, above all, I come to this research as a young lawyer, with experience assisting migrants and asylum seekers in particular, and as a young academic, whose research to date focuses primarily on issues related to refugee rights. This means that far from being

neutral, the focus and aims of my research stem from motivations that are inevitably socio-political. These goals make it all the more important that my methods are rigorous and arguments convincing (see van Dijk, 2008, pp. 6-8). Therefore, in conducting this research, I see myself as responding to Michael Clyne's (2003, p. 5) call to linguists to "encourage vigilance concerning the power of language and demonstrate the importance of our discipline in issues of social justice and community relations". This motivation also influenced my choice to complete my thesis by publication, as I explain below.

1.3.4　　Thesis by publication

While gaining in popularity, completing a doctoral thesis "by publication" remains a somewhat novel option in Australia (Jackson, 2013). My choice to complete my thesis in this manner was driven by multiple factors. First, my recent experience working as a researcher and publishing my first four journal articles gave me some sense of familiarity with the process of preparing papers and submitting them for peer review. This experience also impressed upon me how highly important frequent, high-quality publishing is for young academics.

This approach is also in line with my aim to ensure that my research is of high quality and rigorous. The process of preparing and submitting articles for review creates the opportunity for additional expert feedback from the journals' editors and one or multiple reviewers and ultimately, public recognition and validation of the value and quality of the work by senior academic peers. Publishing during my doctoral studies also meant that I could be closely mentored throughout this process by my supervisor and associate supervisor to a degree that I would not expect outside their supervision duties.

The nature of my data also lent itself to this approach: migration law and policy changes so rapidly in Australia (and elsewhere) that research findings are most valuable when published in a timely manner (a benefit of the PhD by Publication highlighted by Jackson, 2013, p. 364). A minor example is that of the constantly changing name and reach of the minister and department responsible for migration matters in Australia. Changes usually occur with each new government. Between 2007 and 2013 it was called the Department of Immigration and Citizenship. It then became the Department of Immigration and Border Protection, and in 2018, it changed again to the Department of Home Affairs. The fact that my research has social justice aims makes its timely and wide dissemination even more crucial.

Having two separate sets of data and two data collection stages also facilitated my publication approach. Once it became clear that I would not be able to gain access to interview data, my first data sets were easy to collect, comprising already published material. By late

2016, less than two years after commencing my doctoral research, I had submitted my first two papers in close succession to two eminent journals across two relevant disciplines (linguistics and law), *Discourse & Society* (Chapter 2) and the *International Journal of Refugee Law* (Chapter 3). After some minor revisions, these two papers were accepted and published in mid to late 2017.

This approach also allowed me to share my research in a variety of formats, from quite early in my candidature, presenting at conferences in Australia and the UK between 2015 and 2018. I have also shared my findings publicly in research blog posts, appearing from 2015 to present. This approach, along with targeting journals of different disciplines, has allowed me to maximise the reach and impact of my research and has led to various invitations, including to act as a peer reviewer and to present my emerging findings as an invited guest lecture at Leicester University in the UK.[3]

The staggered nature of my data collection meant that while I was revising and finalising the first two papers for submission, I was able to complete my data collection and begin my analysis for the public discourse case study. This resulted in another two separate papers that I prepared and submitted to journals in January and March 2018. Both submissions were referred on to peer reviewers. The latter of the two, submitted to *Language in Society,* was reviewed in later June 2018 and revised and resubmitted in early July. Reviews for the former remain pending. While awaiting reviews for these papers, I was then able to commence drawing my thesis together as a whole, preparing this Introduction, a Conclusion and bridging material for each substantive chapter. I explain the structure of my thesis in further detail below.

1.4 Overview of the thesis

Following this introductory chapter are four substantive chapters – one for each of the publications comprising this thesis - which seek to explore how key actors in refugee-related texts (and settings) are discursively constructed in terms of their credibility, with special consideration of how conceptualizations of language, communication and cultural diversity impact and limit these discourses.

Presented chronologically, in order of preparation and publication, the four chapters explore these questions across three levels. The first two, chapters 2 and 3, focus on the micro and meso levels of individual decision making and institutional guidance. Chapters 4 and 5

---

[3] See https://www2.le.ac.uk/departments/sociology/dice/news/government-interactions-on-refugees

then move to a macro level case study, involving a "public debate" and its representation in the mainstream Australian media.

Chapter 2, first published in *Discourse & Society* in June 2017, centres on an analysis of the AAT's Credibility Assessment Guidelines and the corpus of 27 published decisions from the AAT and RRT, which dealt heavily with credibility. I explore and compare how these texts represent the key actors involved in refugee merits reviews, namely, the applicant, the decision maker, and other actors, including legal representatives, interpreters and witnesses. I found that the Guidelines present the applicant as the primary participant in creating the refugee narrative, that the decision makers are presented as uniform or neutral, and the roles of other actors are largely minimised and backgrounded. While only two of the tribunal decisions make explicit reference to the Guidelines, I argue that the decisions mostly share the same discourse in the way they represent the key actors and their roles, and in how they reject or overlook issues related to language and the interactive nature of communication. These discourses created significant challenges for applicants in their quest to present themselves as credible and overcome any concerns in this regard. Still, while appearing to be influenced by the institutional discourse, I argue that the variety of ways in which different decision makers set out their reasons and refer to themselves and other actors actually undermine the ideologies behind this discourse: they are far from being the uniform, standard actors the discourse assumes them to be.

Chapter 3, published in the *International Journal of Refugee Law* in November 2017, involves a closer examination of a key issue that emerged from the analysis presented in Chapter 2. In that chapter, I found that while the applicant is presented as a subjective "cultural and social being", the Guidelines present the decision maker as capable of neutrality or objectivity. I argued that this led to a situation in which decision makers would not be encouraged or expected to be self-reflexive or consider how their own culture, socialization or life experiences would affect their evaluations.

Therefore, in Chapter 3, I examine more closely the way cultural diversity is conceptualised in the Guidelines and in two decisions in the corpus, and the impacts this has for applicant credibility. The two decisions were chosen as case studies due to the heavy focus that was placed on issues related to cultural and linguistic difference. I argue that while the Guidelines' inclusion of instructions to accommodate culturally and linguistically diverse applicants promises fair procedures, the reality is more complex. The discourse in the Guidelines in fact appears to "Otherize" the applicants, tying them inextricably to cultural groups, as perceived by decision makers who themselves are implicitly expected to be able to

rise above their own socialization and act and think objectively. I demonstrate this through an examination of the two case study decisions. These provide ample examples of how the applicants' cultural, social and linguistic diversity is simplified, or the decision makers' (largely unjustified) expectations of what these "diverse" people should do is preferred over the applicants' own explanations. Once again, therefore, I find that applicants face serious difficulties when attempting to defend their credibility, especially when their experiences or choices do not align with the decision makers' expectations.

A key finding in the analyses in the second and third chapters is that the institutional discourse expects that decision makers can behave and make decisions neutrally, and their own social context (unlike that of the applicants) is backgrounded, with no encouragement for them to reflect on how this may impact their expectations or assumptions when assessing applicants' credibility. Further, in both the guidelines and decisions, there was a strong focus on the applicant's role in constructing the refugee narrative, with little recognition of how linguistic diversity, interaction or social context influence communication.

The common focus on credibility prompted my decision to include the macro-level case study (set out in chapters 4 and 5) in my research. However, the findings regarding decision maker neutrality and applicant responsibility for the narrative from the micro/meso-level analysis added further weight to the decision for two reasons. First, the fact that decision makers are not encouraged to be self-reflexive and are positioned as capable of objectivity means that there is a lack of acknowledgement of the socio-political context in which they are making their decisions, and the impacts this may have on their expectations of applicants and their credibility. Second, I considered it possible that the institutional discourse's treatment of refugees' linguistic and cultural diversity and communication practices may reflect or be influenced by the broader public discursive framing of the same.

Chapter 4, the first of the second set of papers, therefore involves an analysis of a corpus of newspaper articles reporting on a debate about Abyan's experiences and decision making while seeking medical assistance in Australia. It examines how Abyan, the Immigration Minister and the other actors involved in the public "debate" regarding her experiences and treatment are presented, and what implications this has for Abyan's credibility and refugee credibility more broadly.

The final paper, chapter 5, once again takes one finding from chapter 4 as the basis for further exploration. Chapter 4 found that Abyan was presented as a key participant in the public debate. Chapter 5 interrogates this construction by exploring in detail Abyan's and the Immigration Minister's respective communicative resources, with respect to two written

statements they made. In other words, similar to the second of the micro-meso level chapters, it compares how the two key actors are presented as communicators in the mainstream discourse with an examination of how the two key actors actually do communicate in the production of two key texts. Identifying the contradictions in this comparative analysis, I once again reach the conclusion that refugees face substantial difficulties to defend their credibility at the level of public debate, just as they do at the procedural level.

The thesis concludes in Chapter 6 with a summary of the findings across the project, as presented in the preceding four chapters. Finally, it discusses the methodological, conceptual and broader implications of these findings. This includes explaining the benefits of the multi-level approach adopted in this research and a call for rethinking how credibility is conceptualized. Finally, it concludes by discussing the implications the research findings have on how credibility assessments are conducted, and the role of political discourse in shaping those assessments and limiting the reframing of credibility within them.

2. Telling stories: Credibility and the representation of social actors in Australian asylum appeals

The first complete paper, this article is the product of an analysis of the Administrative Appeals Tribunal guidance on credibility assessment and a corpus of published decisions dealing with credibility. Earlier iterations of the analysis were presented at the Australian Linguistics Society conference in 2015, as part of a panel on Language and Migration, at the Annual Conference of the Association for the Study of Ethnicity and Nationalism at the London School of Economics and Political Science and at an invited seminar at Leicester University in 2016.

The paper was submitted to *Discourse & Society* in December 2016. *Discourse & Society* is a high-ranking journal in its discipline(s), with a 2017 Journal Impact Factor of 1.339 (Clarivate Analytics, 2018), and ranked 54 out of 719 for Language and Linguistics, 42 out of 427 for Communication (Scimago, 2017).

In March 2017, publication was recommended, with minor revisions. It was first published online in June 2017 and appeared in the issue of the journal published in September of the same year. It has been cited twice since its publication (Pennell, 2017; Zhang, 2017). To increase its audience, a summary of the article was published on *Language on the Move* in June 2017 (Smith-Khan, 2017e). The article appears here in its published form.

Telling stories: Credibility and the representation of social actors in Australian asylum appeals

Laura Smith-Khan
Macquarie University, Australia

Abstract
To secure protection in the global North, asylum-seekers must overcome restrictive government policies and present a convincing refugee narrative. Their credibility becomes their main asset and must survive the multiple challenges arising from intercultural communication and interactions involving multiple institutional actors. Aiming to explore the impact institutional understandings of refugee narrative creation have on credibility assessment, I present the findings of an analysis of a corpus of documents from the Australian tribunal responsible for the administrative review of asylum decisions. I critically analyse these texts to identify how the tribunal and its agents discursively present the various actors involved in asylum appeals. I argue that despite the cautions of existing scholarship, these texts present the asylum-seeker as the sole author of the final refugee narrative, regardless of the role that decision-makers and other actors, such as lawyers and interpreters, play in its co-construction. Thus, the institution places disproportionate responsibility on the asylum-seeker for communication outcomes, creating significant challenges for their credibility.

Introduction

The small portion of the world's displaced people who reach the global North to seek asylum must contend with increasingly exclusionary government policies (Crock and

Corresponding author:
Laura Smith-Khan, Department of Linguistics, Macquarie University, Level 5, Building C5A, Balaclava Road, North Ryde, NSW 2109, Australia.
Email: laura.smith-khan@hdr.mq.edu.au

Ghezelbash, 2010; Maryns, 2004: 243). Australian policy is no exception, with suspicion of those who seek protection underlying public and institutional discourse. Indeed, this has led to an almost complete ban on asylum applications from those arriving by boat without authorisation (Department of Immigration and Border Protection, 2016). Those who arrive in Australia by regular means with a visa are allowed to seek asylum but still face challenges. Given that they often lack documentary evidence of the persecution they claim to fear, developing a credible refugee narrative becomes a crucial step in the quest for recognition as a refugee (Crock and Martin, 2013; Jacquemet, 2011: 478).

The 1951 United Nations *Convention Relating to the Status of Refugees* ('Refugee Convention') is the central instrument governing the rights of refugees, defining them as anyone who

> owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country. (Article 1A(2))

The Convention allows states to create their own assessment procedures, and credibility has become an important element of these in many receiving countries (Kagan, 2003). However, research identifies many challenges to how credibility is assessed. The purportedly objective credibility indicators create unrealistic expectations of the way credible applicants communicate. These expectations partly stem from language ideologies – beliefs about the nature of language.

For example, McKinnon (2009) explains how credible asylum-seekers are expected to tell 'logical, linear, truthful stories' (p. 213). Yet various psychological factors mean it is rare for people to recount stories consistently over time (Cohen, 2001). Cultural and individual differences mean that they may remember details differently from institutional expectations (Evans Cameron, 2008; Jacquemet, 2011).

While asylum-seekers may be held responsible for the final refugee narrative (and thus its credibility), in reality, other participants – such as the decision-maker, lawyers and interpreters – all play a role in its construction. Decision-makers control questioning and create the final record (Blommaert, 2001; Jacquemet, 2011; Maryns, 2006). Lawyers help draft statements and influence their clients' communication-related decisions, such as deciding whether to use an interpreter. Whereas interpreters may be considered to simply reproduce a message from one language to another, they must choose between sometimes competing translation norms (see Inghilleri, 2003; Tipton, 2008; Van der Kleij, 2015). Their attitudes and personal attributes may also influence the asylum-seeker's communication (as discussed by Merlini, 2009; Pöllabauer, 2004).

Therefore, I seek to uncover the institutional discourse that shapes credibility assessments. Focusing on administrative appeals, I analyse the key Australian guidelines for assessing credibility, along with a corpus of recent published decisions dealing with credibility concerns. Guided by Van Leeuwen's (1996) 'sociosemantic' model for Critical Discourse Analysis, I consider how these texts represent the various actors involved in asylum processes and explore the ideologies underpinning these representations.

In the following I first provide an overview of the Australian asylum system, the research data set and analytical approach. I then present my analysis of the key credibility guidelines and the corpus of published appeal decisions, respectively. This article concludes with a critical discussion of the impact of institutional discourse on credibility assessment, identifying ongoing challenges, in light of the existing literature. I conclude by suggesting that highlighting the multi-party interactional construction of the refugee narrative may constitute a challenge to the official discourse and indeed to the claim that credibility is assessed objectively.

Australian refugee reviews and policy guidance on credibility as discourse on seeking asylum

In this section I introduce the Australian asylum process and the research data. I then explain the analytical approach I adopt to uncover the institutional discursive construction of the key participants involved in these appeals and the resulting challenges.

The institutional setting and the data set

Asylum-seekers who travel to Australia with a valid temporary visa (e.g. as students or tourists) may apply for a permanent protection visa from the Department of Immigration and Border Protection ('Immigration Department'). This involves lodging a written application on prescribed forms and attending an interview.

If unsuccessful, asylum-seekers may then apply to the Migration and Refugee Division of the Administrative Appeals Tribunal (AAT) to reconsider the merits of their case (the AAT took over from the separate Refugee Review Tribunal (RRT) in July 2015). Applicants prepare a written submission, including any new information or evidence, and attend a hearing. Usually, a single tribunal member conducts the hearing and makes a decision. They ask questions and present adverse information – including any credibility issues – to the applicant for a response. If the applicant is again unsuccessful, they have limited grounds for seeking judicial review, making the tribunal stage crucial.

The primary text aimed at guiding credibility assessment in these reviews is the *Migration and Refugee Division Guidelines on the Assessment of Credibility* (AAT, 2015). These 'Guidelines' are an official policy document, prepared by the AAT, drawing on other Immigration Department instructions and citing relevant case law. They are aimed at AAT decision-makers but are publicly available. Consisting of 51 paragraphs of instructions and advice, plus endnotes, they are effectively identical to the previous RRT Guidelines.

AAT decision-makers must prepare a written decision for each appeal based on the evidence they collect, including the Immigration Department application and interview, and the tribunal submissions and hearing (in which they ask questions and 'test' the evidence; AAT, 2015: para 16).

In addition to the Guidelines, this study includes a corpus of 27 decisions, selected from the body of anonymised tribunal decisions publicly available online via the *Australasian Legal Information Institute* website. I selected the decisions by running a keyword search of 'credib*', including the top 10 search results from the AAT and the top

20 from the RRT (sorted by the search engine by relevance). I eliminated three decisions from 1995 to 1996, published before the introduction of the Guidelines. In total, 18 different individuals made these decisions, with one joint decision by two people. Three were successful appeals, and applicants came from 12 different countries (Table 1).

Analysis

Existing research suggests serious concerns with the way credibility assessments operate in asylum decision-making. While the various actors involved in the refugee application process each contribute to constructing the official narrative (Inghilleri, 2003; Smith-Khan, 2017; Tipton, 2008), institutions and their agents may not recognise these processes, due to conflicting language ideologies – that is to say, the beliefs that they have about language.

These ideologies are represented discursively in the institution's texts. They influence how decision-makers interact with applicants (and other participants) and how they respond to the applicant's language and communicative behaviour when reaching their decision. Such beliefs and choices undoubtedly affect credibility assessment.

Therefore, I focus on uncovering institutional beliefs about the role that each participant plays in this institutional setting. Van Leeuwen (1996: 35) proposes a 'sociosemantic' approach to critical discourse analysis. This involves identifying how linguistic choices shape the way actors and their actions are represented and exploring the beliefs or values underlying these representations. In the present analysis I apply this approach to identify how the actors involved in asylum claims are represented by the official texts outlined earlier and the underlying beliefs influencing these representations. For example, I analyse the authors' choices in naming the various participants and consider phrase structure and the assignment of agency.

Furthermore, I explore how the texts (and appeal participants) explicitly engage with communication and language-related issues, drawing on examples from the tribunal decisions and comparing these with instructions given in the Guidelines. I identify the ideologies underlying these approaches. Finally, I consider the consequences of the identified discourses for individual decisions, in light of the challenges identified in existing research, and the broader implications for the operation of credibility assessments.

The Guidelines

As the primary institutional document governing credibility assessment, the Guidelines offer key insight into institutional discourse on the Australian asylum application and appeal process and the roles of its various participants. They advise consideration of 'the overall consistency and coherence of an applicant's account' against 'contradictions, inconsistencies and omissions' (paras 28–29) and other factors echoing common credibility indicators identified in the existing literature (e.g. Coffey, 2003; Hunter et al., 2013; Millbank, 2009; Sweeney, 2009).

The decision-maker and applicant are the main participants discussed in the Guidelines, with some mention of interpreters, legal representatives and expert and other witnesses. Next I examine how the Guidelines present each of these participants by

Table 1. Decisions corpus.

Short name	Citation	Tribunal	Decision-maker	Successful	Applicant origin
Carlton1	1315946 (Ref) (2015)	AAT	Carlton	No	Sri Lanka
Carlton2	1319097 (Ref) (2015)	AAT	Carlton	No	Sri Lanka
Carlton3	1408142 (Ref) (2015)	AAT	Carlton	Yes	Sri Lanka
Henry	1300325 (Ref) (2015)	AAT	Henry	No	India
Joliffe1	1406144 (Ref) (2015)	AAT	Joliffe	Yes	Sri Lanka
Short1	1319789 (Ref) (2015)	AAT	Short	No	Iraq
Short2	1403553 (Ref) (2015)	AAT	Short	No	Sri Lanka
Short3	1411183 (Ref) (2015)	AAT	Short	No	Ghana
Syme&E	1502929 (Ref) (2015)	AAT	Syme & Eteuati	No	India
Webb	1313904 (Ref) (2015)	AAT	Webb	Yes	Sri Lanka
Cullen	1415919 (2015)	RRT	Cullen	No	China
Joliffe2	1315977 (2015)	RRT	Joliffe	No	Sri Lanka
Bray	1401357 (2014)	RRT	Bray	No	Malaysia
Millar1	1319407 (2014)	RRT	Millar	No	India
Syme	1313153 (2014)	RRT	Syme	No	Vietnam
Cosentino	1210091 (2013)	RRT	Cosentino	No	India
Millar2	1300938 (2013)	RRT	Millar	No	Bangladesh
Murphy	1210413 (2013)	RRT	Murphy	No	Zimbabwe
Godfrey	1206873 (2012)	RRT	Godfrey	No	Sri Lanka
Hely1	1204285 (2012)	RRT	Hely	No	Nigeria
Grau	1108620 (2011)	RRT	Grau	No	Zimbabwe
Hely2	1100115 (2011)	RRT	Hely	No	Lebanon
Hely3	1102389 (2011)	RRT	Hely	No	Egypt
Derewlany	0908977 (2010)	RRT	Derewlany	No	China
Wilson	1001085 (2010)	RRT	Wilson	No	China
Younes1	0801041 (2008)	RRT	Younes	No	China
Younes2	0801661 (2008)	RRT	Younes	No	China

identifying some key discursive choices. I explain how these choices reflect certain ideologies about these participants and the nature of the process itself, as well as how these relate to the challenges raised in existing research.

The 'applicant': Person, cultural group member and evidence giver

The Guidelines refer to the asylum-seeker as 'applicant', thus classifying them according to their relevant function: they are *applying* for a visa (Van Leeuwen, 1996: 54). By calling them applicants, we understand that they are attempting to obtain a visa: they are only potential refugees – their credibility is unconfirmed.

Throughout, the Guidelines assign these applicants an active role in constructing the narrative, by using possessive constructions and making them the subject in transitive sentences relating to narrative construction, as set out in Table 2. The '*applicant's* claims' are explored, and the *applicant* is the one who presents evidence.

Table 2. Count of possessive and subject positioning of the asylum-seeker in Credibility Guidelines.

Asylum-seeker as possessor	Count	Asylum-seeker as subject	Count
'applicant's claim/s'	11	'applicant/s to present his or her/their case'	3
'applicant's/his/her/their case'	6	'ability to provide/give (oral) evidence'	3
'a person's evidence'	3	'a person provides … evidence'	2
'applicant's oral evidence'	3	'if an applicant raises a claim'	1
'applicant's account'	3	'(new information or) claims are presented by applicants'	2
'a person's account'	1	'applicant … presents evidence'	1
'a person's testimony'	1	'review applicant raises new claims'	1
Total	28	Total	13

Thus, the Guidelines discursively construct the applicant as the principal, if not sole, creator of the official refugee narrative.

There are multiple references (17 of the 51 paragraphs) to the applicant's subjectivity, addressing some of the challenges raised by existing research. They advise that individuals may remember things in different ways and that trauma can affect behaviour and memory (concerns raised in Byrne, 2007 and Cohen, 2001). They require the decision-maker to assess each case in its individual circumstances and context, with references made to cultural and social background. This is another caution presented by existing research: that, for example, while the institution may value proper names and time indicators such as dates, these may not be culturally significant to the applicant, so they may not remember or express them in expected ways (Jacquemet, 2011).

Paragraph 34 allows negative credibility findings based on demeanour, but warns that '[t]he tribunal should also be aware of the effect of cultural differences on demeanour and oral communication'. This is a mild caution, compared with the criticism demeanour receives in the literature (Coffey, 2003; Millbank, 2009). Even without considering cultural difference, visual cues have been found to be unreliable indicators of deception (Nolan and Goodman-Delahunty, 2015), and decision-makers may have trouble setting aside their 'human response' to such cues, even when advised to do so (see UK decision-makers' accounts in Thomas, 2011: 150).

The guidance presents the applicant as a 'person' whose actions, beliefs and choices are inherently linked to their cultural and social background. For example, it emphasises accommodating intercultural communication and accounting for psychological factors that may affect recall and behaviour. As I explore next, however, this differs significantly from the discursive presentation of the decision-maker. Indeed, I argue that in many ways, the applicant's role construction results from what the other participants are *not*: the applicant's responsibility is reinforced by the lack of recognition of other actors' roles in narrative construction.

The reasonable decision-maker: Institution over individual

In contrast to the agency assigned to the applicant regarding narrative construction and their characterisation as a cultural and social being, the Guidelines emphasise the

decision-maker's objectivity or neutrality. Rather than being assigned a function-based classification like the 'applicants', they are referred to as 'members' (of the tribunal) 10 times in the text. This affiliative identity indicates their position as institutional and societal insiders: they belong. This contrasts with applicants, who are outsiders, *applying* for acceptance into a new country and society.

However, even more commonly, the text refers to decision-makers as 'the tribunal' (75 times in total). Thus, these actors become 'spatialised' (Van Leeuwen, 1996: 59): they are classified according to the place in which they carry out their activities, *literally* representing the institution. Hence 'the tribunal' is an actor that 'may doubt' and 'have regard' and keep an 'open mind'. This naming choice is likely influenced by legal linguistic conventions (e.g. references to 'the court' rather than judges; Tiersma, 1999). The effect is that the decision-maker is impersonalised. The individual making the decision is effectively backgrounded, along with their personal attributes, life experiences and beliefs. They are not just part of the institution, they *are* the institution: a uniform actor, with few personal characteristics. They are further referred to as 'it', suggesting the ultimate removal of their personhood, but without diminishing their status. Rather, this strips them of their humanness in a way that makes them nearly superhuman. It reinforces their position as objective and neutral, rather than as an active participant involved in co-constructing the official narrative through their (inevitably) subjective interpretations.

The decision-maker has different roles and responsibilities in the text compared to the applicant. The vast majority of the time decision-makers are discursively constructed as thinkers. There are a total 89 instances in which verbs or verbal nouns indicate cognitive processes decision-makers should or may undertake. These include 35 relating to the process of reaching a decision, 36 regarding conclusions or opinions and finally 18 relating to expectations and awareness (Table 3).

The remaining acts assigned to the decision-maker relate to collecting information: questioning and taking evidence (six mentions), listening and hearing (three mentions) and challenging evidence: raising, directing attention to, making aware and confronting (five mentions). They are also responsible for conducting the hearing (three mentions) and accommodating other participants (four mentions). Finally, in reaching their findings, they should provide reasons and clear explanations (four mentions).

Thus, decision-makers are constructed primarily as receivers and testers of information that others present, rather than being involved in creating that information themselves. Reference to the decision-maker's subjectivity as a social actor is very limited. Where this occurs, unlike the applicant whose behaviour derives from their cultural group membership or background, decision-makers are individuals divorced from such deterministic group attributes. Paragraph 9 reminds them that

> Findings made by the tribunal on credibility should be based on relevant and material facts. What is capable of being believed is not to be determined according to *the Member's subjective belief or gut feeling* about whether an applicant is telling the truth or not. A Member should focus on *what is objectively or reasonably believable* in the circumstances. (Throughout, italics indicate my emphasis)

Decision-makers must also 'maintain, and be seen to have, an open mind' (para 18). While these instructions recognise potential subjectivity, they equally imply that

Table 3. The decision-maker's cognitive processes.

Cognitive processes					
Deciding process (35 mentions)		Reaching conclusions (36 mentions)		Awareness/expectations (18)	
Term (count)	Examples	Term (count)	Examples	Term (count)	Examples
Consider (13)	The tribunal considers all the evidence	Find (11)	The tribunal should make clear and unambiguous findings	Be aware/ mindful (11)	Be aware of the possible barriers to communication
Assess (12)	The tribunal assesses evidence	(Dis)believe (5)	… if an applicant is disbelieved …	Exercise care (3)	The tribunal should exercise care
Have regard (4)	The tribunal will have due regard to	Accept/be satisfied (6)	Whether it accepts certain evidence …	Expect (3)	Where greater detail … might be expected
Weigh/test (4)	It is the tribunal's task … to weigh each piece of evidence	Decide (4)	Requires the tribunal to decide	Understand (1)	Contents of this paper will be well understood
Determine (2)	Not to be determined according to	Form view/opinion (4)	The tribunal to form its own view		
		Refuse/reject (3)	The tribunal must refuse		
		Doubt (3)	Tribunal may doubt		

decision-makers can actually achieve objectivity. There is no suggestion they should practise self-reflexivity and consider how their own social and cultural context and experiences influence their evaluations.

This belief in the potential for objectivity is reinforced by instructions calling for the decision-maker to apply their expectations based on their knowledge (informed by government-issued country information) of people from particular countries of origin. For example,

> [t]he tribunal may doubt part of a person's evidence if a person's testimony is incoherent or vague or lacks the detail or knowledge *where greater detail or knowledge might be expected of a person in the person's claimed position or from the person's social or cultural background.* For example, the tribunal is entitled to have regard to an applicant's level of knowledge of matters about which the applicant would *reasonably be expected to know* if his or her claims were truthful. (Para 32)

Thus, the decision-maker is trusted to determine the reasonable level and type of knowledge an individual from a certain background should have. This presents obvious challenges for people who come from socially stigmatised groups that fall outside institutional or stereotypical expectations of what is reasonable for certain people (see discussion in Shuman and Bohmer, 2014). It also reinforces the difference between applicants and decision-makers: applicants' behaviour and knowledge are inherently linked to their cultural or social group, whereas decision-makers are individuals.

Rather than explicitly identifying the decision-makers as agents who must decide whether the person has presented sufficient detail or knowledge, the expression is abstracted: 'where greater detail or knowledge might be expected … matters about which the applicant would reasonably be expected to know'. This neutralises the individual decision maker's socially, culturally and experientially informed evaluative processes, implying that 'what is expected' is somehow neutral or standard (resembling observations made in Noll, 2005 and Tipton, 2008). This aligns with the discursive strategy of identifying the decision-maker as the tribunal: they assume authority and uniformity in the discourse, and are therefore construed as capable of applying purportedly objective tests.

Other participants

While the Guidelines primarily deal with the decision-maker and applicant, they also mention other potential participants, including legal representatives, interpreters and expert and other witnesses. However, these participants receive much less attention, thus reinforcing the applicant's role as primary creator of the refugee narrative. Legal representatives are mentioned directly only once: 'It is hoped that the contents of this paper will be well understood and made use of by members, applicants and *representatives*' (para 51). Apart from this, there is a single acknowledgement that

> There may be good reasons why new information or claims are presented by applicants at a later stage in the application process. These reasons may include stress, anxiety, *inadequate immigration advice* and uncertainty about the relevance of certain information … (Para 12)

Here, the Guidelines do not explicitly mention legal representatives as actors, but rather acknowledge that advice (presumably something they produce) may be lacking. While an important concession, this structure makes the applicant the sole actor, responsible for the provision of information. This downplays the significance of the involvement and assistance of legal representatives in the process, which can make a substantial difference to credibility outcomes (a key finding in the pioneering article by Anker, 1992). Legal assistance has been found to increase the likelihood of a visa grant (Schoenholtz et al., 2014: ch. 7), with lawyers performing an important role in presenting a 'parallel narrative', using their legal linguistic skills and contextualising the claim (Kjelsvik, 2014; Zagor, 2014: 334). Lawyers may also interject to overcome misunderstandings, when applicants feel powerless to do so (Smith-Khan, 2017).

The Guidelines also only briefly mention interpreters, with three instructions: members should 'be mindful of the difficulties of assessing oral evidence provided through an interpreter' (para 21); they should 'consider who is present at the time the evidence is to be given and whether it would be appropriate for an interpreter of a particular gender to assist' (para 24); and finally, paragraph 34 instructs them to 'exercise particular care if it relied on demeanour in circumstances where a person provides oral evidence through an interpreter'. While these instructions recognise that interpreting adds challenges to communication, all three still frame the applicant as the giver of evidence. The idea of evidence being provided '*through* an interpreter' evokes the ideology of interpreters as machines or instruments for translating information. This downplays their role as active social participants who make choices about how to translate (Pöllabauer, 2004; Van der Kleij, 2015) and are influenced by their beliefs about what constitutes good or institutionally valued interpreting (Inghilleri, 2003; Jacquemet, 2011). Thus, even though the Guidelines recognise basic communication challenges, the applicant remains the primary creator of the evidence.

Finally, there are multiple references to 'other persons' and 'experts' as witnesses. Nine paragraphs mention experts, expert evidence or opinion. Experts have a valued status, referred to as 'appropriately qualified' and having 'expertise' (para 39). Similar to tribunal members, experts are assumed capable of giving an 'objective, unbiased opinion' (para 40), assigning them a higher level of authority or capability than normal people. Finally, the Guidelines note that expert evidence is 'generally submitted in the form of written reports' (para 39). The remaining six references are to 'other persons', which could include experts, but also encompasses lay witnesses. Here, references reflect (and sometimes accompany) the role construction of the applicant. For example, paragraphs 14 and 16 note that members ask questions and *take* evidence from the applicant and other persons, whose role is to *give* evidence. Decision-makers may assess the credibility of 'other persons' (para 8) and both 'applicants and other persons giving evidence swear an oath …' (para 14). Finally, the Guidelines note that evidence provided by two or more persons may differ and that this 'may be due to an individual's ability to recall an event and the emphasis and perspective placed on particular aspects of an event' (para 30). While this acknowledges individual difference between witnesses, the influence of other participants remains invisible. Thus, these individuals' differences in emphasis or memory alone are responsible for the shape the narrative takes, rather than the way the

decision-maker emphasises certain events or features through their questioning or indeed the involvement of interpreters and legal representatives.

Tribunal decisions

By denying decision-makers' individuality and subjectivity and instructing them to make assessments based on objectivity and reasonableness, the institution demonstrates that it values a standard approach. This is premised on the potential for the objective application of credibility indicators, expert information and advice (paras 38–42). Undoubtedly, this reflects a broader tradition within legal institutional discourse. However, the objectivity of legal fact-finding processes is not without challengers. Within the legal realist tradition, for example, fact sceptics question reliance on objective reasonableness in judicial fact-finding by arguing that such processes conceal 'a plethora of motivations such as policies, principles, personal idiosyncracies, ideologies, and standards of morality' (Saltman, 1991: 71). Such criticisms stimulate critical reflection of the dominant discourse underlying judicial processes. Within the asylum context, objectivity is also challenged by statistics that demonstrate large variances in success rates between different immigration offices and individual decision-makers (Luker, 2013; Schoenholtz et al., 2014: ch. 9).

Therefore, while applicants are subjective, the system's fairness is premised on uniform decision-making processes, measured against standard, purportedly objective information. The asylum-seeker's subjectivity must align with standardised institutional expectations of the typical person from a particular country of origin and background.

Administrative law requires that decision-makers make all the legally required relevant considerations before reaching a decision. It also requires procedural fairness for applicants: they must generally be informed of any issues or material that may be adverse to their case and be given the chance to respond to this (in Australia, the decision in *Kioa v West* (1985) 159 CLR 550 sets out this principle). The member's written decision constitutes the official record of both the hearing and the decision-making process and is used to seek judicial review. Naturally, this legal process influences the way these decisions are written, in terms of both form and substance.

The decisions follow a uniform structure, with set headings. While the level of detail varies somewhat between decision-makers, all decisions mention the relevant law, often in verbatim standard paragraphs. They outline the evidence included, paraphrasing or copying sections of applicant statements, first instance decisions and parts of the tribunal hearing. They include particular issues raised and the applicant's responses, and usually also refer to official country information.

Next I present an analysis of published decisions. I identify the way the decision-makers construct the participants' roles and the implications this has for outcomes. I deal with the applicant last in order to contrast their role with those of the other participants as well as to identify ways in which applicants challenge the discourse, and the results of such challenges.

The decision-maker

Decision-makers often follow the institutional naming convention, referring to themselves as 'the Tribunal'. Of the 18 decision-makers, 13 consistently refer to themselves

as 'the Tribunal'. Two others alternate between 'the Tribunal' and personal pronoun 'I'. The remaining three use only 'I'. All the decision-makers follow their choices across all their decisions in the corpus, demonstrating that they value uniformity. The effect of impersonal language is significant:

> It appears as an objective and powerful finding, made not by one frail human being, but endorsed by a venerable and powerful institution … This usage thus helps legitimate the judicial system by making it appear above the fray of human emotions and biases. (Tiersma, 1999: 68)

Indeed, Western tradition favours third-person narration for this reason. Williams (2005) argues that third-person use helps to 'reinforce the idea of impartiality and author-itativeness in legal texts' (p. 37). It is also popular in academic writing. For example, Verschueren (2012: 84) notes that dominant third-person usage helps to background author subjectivity. This choice creates the impression that the text is written by an omniscient, neutral bystander, observing the interaction and describing the applicant's and decision-maker's actions, rather than it being written by and from the perspective of one of these participants themselves.

Various other choices contribute to the decision-maker's discursive representation. These often reflect constructions in the Guidelines; however, there is variety between different decision-makers. While a majority (12 of 18) refer to themselves in active forms when recounting the hearing, the types of actions they associate with themselves reflect the roles assigned to them in the Guidelines. Many mention acts around question-ing, for example 'The Tribunal asked about her son' (Murphy, para 67), and confronting the applicant, for example 'I put to the applicant' (used frequently throughout Short1). However, even the minority who background their questioning and confronting roles by using passive constructions still tend to use active language when describing their cogni-tive processes. So, for example in Bray's decision, backgrounded questioning contrasts heavily with decision-making, with statements such as 'I attach no weight to …' (para 60) and 'I do not accept uncritically …' (para 63). Henry takes a similar approach, mak-ing statements such as 'The Tribunal has also considered' (para 71) and 'the Tribunal is not satisfied' (para 80). Thus the decision-makers present their roles in similar ways to the Guidelines, most universally emphasising their roles as thinkers and deciders. For those who make some mention of their interactive role in the hearing, the verbs chosen centre around questioning and confronting, but these occur less frequently and not across all decision-makers – just as they occur less frequently in the Guidelines.

These decisions highlight the influence of the institution's ideologies, present in the Guidelines: the decision-maker's primary role is as receiver and processor of informa-tion, rather than as an active participant in its creation. Still, approaches vary, in terms of both self-referencing choices and backgrounding practices. This indicates that while all decision-makers demonstrate that they are influenced by the institution, practice can vary between individuals. This variation (and variations in how they present other par-ticipants) exemplifies the way in which – contrary to the discourse and as raised in the literature – decision-makers are indeed diverse, drawing on their own idiosyncrasies and beliefs, evident in how each chooses to structure and present their written decisions. It is

not difficult to imagine that each would equally have their own preferences and styles for oral communication and interaction in the hearings they conduct, making their interactions unique rather than uniform.

Other participants

Like in the Guidelines, the decisions infrequently mention other participants. Just as decision-makers vary in portraying the applicant's role, there are different approaches to acknowledging and describing the contributions of other actors. In some decisions, it is not even clear whether a legal representative or interpreter was present at any stage of the application. In others, the decision-maker mentions them in an introductory sentence but does not acknowledge their involvement thereafter, despite a strong focus in the written decisions on describing what was communicated in the hearing. Some describe their involvement in some detail. Finally, the credibility of experts and other witnesses or evidence appears to depend on applicant credibility, rather than being independently assessed.

Interpreters. Similar to the Guidelines, there is very little mention of interpreter participation in the decisions corpus (Figure 1).

Four decisions make no mention of the language the applicant used for the hearing or whether an interpreter was present (Cullen, Short1, Short2 and Short3 – this included one applicant from Ghana who perhaps may be presumed to speak English). A further three mention (either explicitly or indirectly) that they were conducted in English (Murphy, Hely1 and Grau).

In total, 11 of the 27 decisions include only a pro-forma style reference to interpreting (Carlton1, Carlton2, Carlton3, Henry, Joliffe1, Joliffe2, Syme&E, Webb, Cosentino, Godfrey and Younes2), for example, the frequently occurring structure:

> The applicant appeared before the Tribunal on 24 March 2015 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Sinhala and English languages. (Webb, para 3)

A further six decisions mention the interpreter beyond the initial pro-forma statements, but only in response to issues raised by the applicant (or their representative) (Millar1, Millar2, Hely2, Hely3, Derewlany and Younes1). For example,

> In this regard the Tribunal notes the first applicant's comments in response to its letter under s.424A that the interpreter did not properly interpret the husband's query to the Tribunal. However the Tribunal is satisfied that the husband's query was satisfactorily interpreted. (Derewlany, para 103)

The remaining three decisions do describe some interpreter participation beyond basic responses to explicit applicant concerns (Bray, Syme and Wilson). Wilson provides the most extensive descriptions, including by noting, 'The interpreter said she was not sure of the translation of the specific movements. The applicant said the first one, something, means "putting holding the hands"' (para 30). Later, he mentions asking the interpreter for a translation:
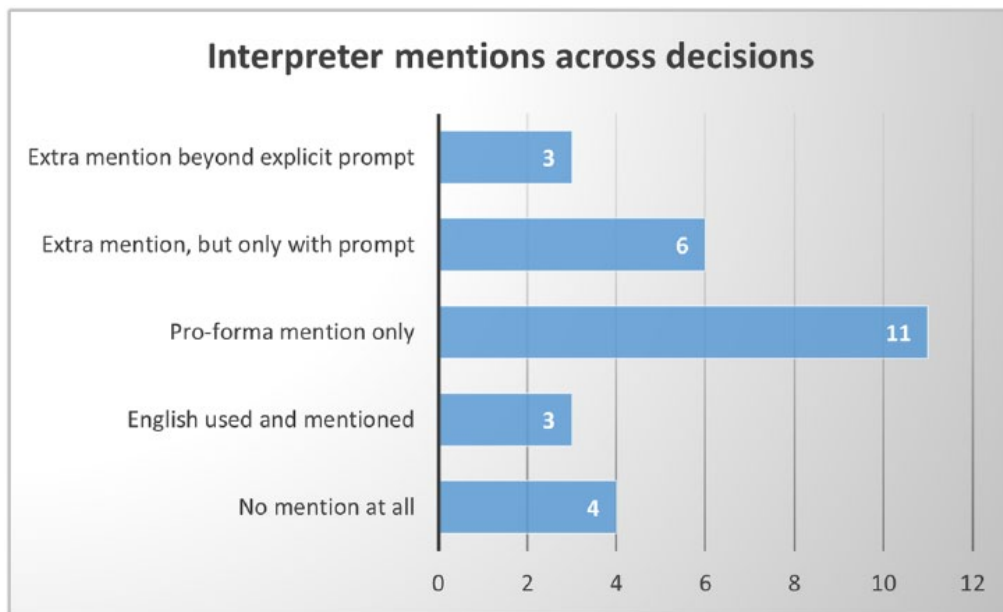
Figure 1. Type of mentions of interpreters (number of decisions employing each approach).

> the Tribunal asked the interpreter what [Company A] meant in English. She said that she needed the Chinese characters written down as she cannot really tell. The applicant was asked to do so. (Para 64)

This provides some details of the interaction between the decision-maker and interpreter, including meta-communication and negotiation around challenges with meaning. It also gives information about at least one personal attribute of the interpreter – her gender.

While on their own these examples may seem banal, they highlight what is missing in the majority of the other decisions. In the latter, details of the actual participation of the interpreter – their personal attributes, their approach to interpreting and the way they interacted with and influenced other participants – are effectively invisible. The exception is the few cases in which the applicant or migration agent raises interpreting issues themselves (I elaborate on these below). The result is that, overall, the decisions reinforce the Guidelines' construction of the interpreter: they are not quite a fully fledged participant; rather they act as an invisible channel of communication through which the applicant presents information to the receptive decision-maker.

Legal representatives. Legal representatives also receive scant attention from most decision-makers. In some cases, some of their contributions are acknowledged. A popular approach is describing how they supplied an initial or follow-up written submission. Even then, however, the decisions differentiate between the applicant's primary role and the legal representatives' more neutral participation. While some decisions describe how the legal representatives claim or explain something, in others (Carlton1, Joliffe1, Joliffe2, Murphy and Webb), the submission itself becomes the actor. For example,

> The applicant's representative provided written submissions … those submissions referred to additional information provided by the applicant … The submissions seek to address the delegate's concerns … The submissions, as indicated, also provided a copy of an International Committee of the Red Cross document … The submissions state that the delegate made an error. (Joliffe1, para 25)

Van Leeuwen (1996) calls this 'utterance autonomisation' (p. 60): the actor is represented by referring to their medium of communication. This lends 'a kind of impersonal authority to the utterances' and is often used to reflect official or high status.

In contrast, four decisions assign agency to the representative (Millar1, Millar2, Short1, and Short2). For example,

> In the submissions [in] May 2013 the representative recites the various claims and evidence put forward by the applicant about his protection claims and submits that he is at risk in Bangladesh because of that. (Millar2, para 122)

In one case, where the applicant wrote his own submission, the language assigns him agency (Hely1). Finally, despite the representative having drafted the submission, another decision assigns agency *to the applicant*:

> By letter dated [in] June 2011, *the applicant* provided the following reply to the Tribunal's s 424A letter:
>
>> First, I would like to thank you for giving us the chance to put in writing all issues you have raised in your letter. *In relation to [the applicant]'s application* for protection visa … (Hely3, para 64)

Therefore, in a majority of decisions mentioning a written submission, the representative's personal involvement is either backgrounded, by assigning agency to the document, or else it is reassigned to the applicant. This reinforces the applicant's responsibility for shaping the narrative while neutralising the representative's role: they are hidden behind the (often) written form of their acknowledged contributions.

Another choice is whether to mention the existence of a legal representative at all. In seven decisions it seems the applicants are unrepresented – that they had no professional assistance in their appeal. Yet, in only *one* decision is this clearly stated: 'The applicant, who was not represented, did not raise a claim that future persecution would be for a Refugee Convention reason' (Syme&E, para 28). Syme and Eteuati thus acknowledge that lack of assistance affected the applicant's ability to make a claim. This contrasts with the other six decisions in which it would appear that the applicants are unrepresented, but where this fact remains completely unacknowledged, despite at times the quality or focus of their arguments or their lack of legal knowledge obviously having an impact on the success of their appeal (Bray, Cosentino, Cullen, Derewlany, Hely1 and Short3). For example, for an applicant who claimed to have been abused by her ex-husband, Cullen differentiates between her past struggles, or 'tough life', and future persecution:

> the Tribunal is not satisfied that the applicant faces a real chance of persecution involving serious harm were she to return to China in the reasonably foreseeable future for any of the reasons she claims associated with having a tough life. (Cullen, para 100)

In this and the other cases of apparently unrepresented applicants, there was often a lack of strong third-party evidence and submissions constructed around refugee law concepts, or what Zagor (2014: 334) calls the 'parallel narrative', essential for a successful claim and hard to construct without professional assistance.

Both the backgrounding of representatives when describing their written submissions and their complete absence from the text in other cases mean the decisions tend to reinforce the Guidelines' discursive position on the insignificance of legal representatives. This minimises the vital role that legal assistance can play in preparing applicants for their interactions with decision-makers and supporting them with a parallel legal narrative to help focus and legitimise their experiences for this specialised setting, thus maximising their institutional credibility.

Witnesses and experts. In 12 decisions, applicants included some type of written witness evidence in their application. Five included written expert statements to support claims related to injuries or mental illness (Webb, Bray, Millar1, Hely2 and Hely3). In 10 cases, written statements came from a variety of other witnesses, including relatives, friends, political party members, business associates or fellow religious adherents (Carlton2, Syme&E, Bray, Millar1, Millar2, Murphy, Hely2, Derewlany, Younes1 and Younes2).

Responses to the applicants' witnesses vary, but the common trend is a clear alignment of the witnesses or evidence with the applicants. In the most extreme form, for example, some of the written statements are simply disregarded as suspected fraud. In other words, the applicant has created the document themselves, perhaps inventing the person named in the document, for example an alleged political party official (Murphy). Alternatively, statements provided by friends or relatives are construed as being written simply to support the applicant's claims, under the applicant's direction. In other cases, such as for medical and psychological reports, while the decision-maker may trust the writer, they limit the document's significance by arguing that it relies on the applicant's self-reports to the expert, meaning such documents offer no additional support to the claims the applicant has already made.

In none of the reviews did expert witnesses attend in person, and in only three cases did lay witnesses attend the hearing to support the applicants. In one of these, where practising Falun Gong was central to the applicant's claim, the witness ('Ms A') was a fellow adherent (Derewlany). While the applicant's explanations of her history with Ms A are presented in some detail, Ms A's participation in the review is summarised in two short paragraphs:

> [Ms A] confirmed that she had provided a letter of support for the first applicant and had stated in the letter that she knew the first applicant in China, and that the first applicant had been persecuted because of her Falun Gong practice. She confirmed that the first applicant worked in the children's hospital in China because her relative's child had been hospitalised and cared for by the first applicant. She had phone contact with the first applicant (from China) who told her she was scared because she had been threatened by the police.

> The first applicant submitted a letter of support from [Ms A] dated [in] January 2010, stating that she was a Falun Gong practitioner and met the first applicant at the Children's Hospital in

[Location 1], adding that the first applicant had been responsible for the care of a relative in the hospital. The letter stated that the first applicant commenced her study and practice of Falun Gong in the summer of 2005. It was stated that the first applicant was persecuted in China because of her practice and came to Australia to seek protection. (Paras 83–84)

No further mention is made until the 'Findings and Reasons', where Derewlany finds 'that [Ms A]'s evidence does not overcome the significant problems of the evidence relating to the first applicant's and concludes it has been contrived for the purposes of boosting the first applicant's refugee claims' (para 114).

In another case, a friend of the applicant, now living in Australia, explained how he had witnessed the applicant being attacked. The decision-maker states,

> The Tribunal also found [Mr A] to be an unconvincing witness and does not accept that his evidence was truthful. From his own evidence, he had met [Applicant 1] only once or twice in person before he claimed that [Applicant 1] rang him to tell him that he was married in February 2005. He claimed that he travelled to visit [Applicant 1] at his home in the Punjab and arrived just as he was being attacked by his wife's relatives. The Tribunal does not believe that this incident ever occurred. (Henry, para 80)

In the third case, the witness claimed to have been in a relationship with the applicant, whose claim centred on being homosexual (Millar1). Despite the fact that 'the Tribunal found him to be sincere in discussing his own sexuality and accepts that he himself is homosexual' (para 58), Millar takes issue with various inconsistencies in the applicant's case and rejects the applicant's claim that he is homosexual. He then uses this conclusion to reject as not credible the claims made by the witness (and written claims of another witness) attesting to the applicant's homosexuality, rather than considering this evidence separately. Effectively, this means that the applicant's own credibility appears to predetermine his witnesses' credibility, rather than each person's credibility being assessed separately. In this representation, the applicant remains the primary narrative constructor, who may present other persons or evidence simply as props or agents in the applicant's construction activity.

The reception of witness evidence in the corpus demonstrates how witnesses, as participants in asylum appeals, are discursively very closely connected with applicants. This is similar to the way witnesses are linked to applicants in the Guidelines. This has serious implications for the ability of applicants to provide evidence to support their claims and boost their credibility: if the decision-maker finds inconsistencies or implausibility that affect an individual's credibility, there appears a risk of circular reasoning in which additional evidence that may support credibility is rejected because credibility is already tainted.

The applicant

Reflecting the Guidelines, decision-makers generally refer to 'the applicant', which is unsurprising since published decisions anonymise applicant details. Other language also reflects the Guidelines, with frequent expressions across the corpus such as 'the

applicant's claims', 'the applicant's account' and 'the applicant gave evidence'. Some decision-makers more frequently use neutral verbs such as 'the applicant said' and 'the applicant stated', while others prefer marked language such as 'she has now claimed' and 'allegedly'. Certainly, the latter are useful devices to communicate disbelief in particular aspects of an applicant's account, thus supporting negative conclusions. Regardless of whether they use value-laden terms, the language reflects the belief, as presented in the Guidelines, that the applicant is primarily responsible for narrative construction. This belief is reinforced when contextualised against the role construction of the other participants, as explored earlier. However, this does not prevent applicants from challenging this assumption.

Challenging the discourse. In some cases, the applicants or their representatives challenge the decision-maker's (and institution's) discursive construction of participant roles in order to respond to credibility concerns. These challenges mostly relate to redistributing responsibility for narrative construction across the various participants, thereby challenging the discursive representation of the applicant as sole author. Their arguments (presumably unwittingly) echo those made in the literature: that the narrative is co-constructed and that this official version is entextualised through the series of interactions that make up the application and appeal process (for detailed discussions on entextualisation, see Blommaert, 2001; Jacquemet, 2009, 2011; Maryns, 2006: 340). Thus, while the Guidelines acknowledge the need to accommodate intercultural communication, their focus on cultural difference may actually obscure the interactional and linguistic factors impacting applicants' participation (see Piller, 2011 and Smith-Khan, in press for arguments regarding this practice in intercultural communication discourse).

Numerous responses to credibility concerns (such as inconsistency or missing detail) draw attention to the role of the interpreter or translator. For example,

> The Tribunal indicated to the applicant that there appears to be inconsistencies in the evidence, namely that in oral evidence he had said that he was *giving* the customer some material whereas in writing he has claimed that he was *sending* the material. *The applicant stated that the mistake had been made by the translator.* The Tribunal indicated that the inconsistency could raise doubts about the veracity of his claims and his credibility generally. (Younes1, para 74)

In this case, Younes not only holds the applicant responsible for the inconsistency, but also disregards the fact that the inconsistency she identifies is between two terms in the translated rendition, rather than those used in the original Mandarin utterances. This approach reflects the ideology, described above, that the interpreter is a mere machine, capable of faithfully reproducing verbatim the utterances of the speaker, and overlooks in this case the possibility that there may not be a perfect alignment of terms across languages or that different interpreters or translators may make different lexical choices.

Responding to a concern that a certain detail had not been mentioned in the first instance interview, another applicant noted that the interpreter had been 'slow', spent time taking notes and perhaps had not mentioned this specific detail in his translation. Again, the decision-maker assigns responsibility to the applicant: 'The Tribunal stated that she had not raised any issue regarding the interpreter with the Department' (Derewlany, para 38). This reflects an expectation that the applicant should know that a

detail was missed in the English rendition of her speech in her first interview, even though she is not made aware of this until the Tribunal hearing, linguistically not having access to the English rendition at the interview. The expectation that the applicant would make a general complaint about the interpreter's aptitude, especially without being aware of the specific details of any errors or oversights, overlooks the impact of power dynamics in such settings, as well as the basic linguistic barriers (see discussion and examples in Smith-Khan, 2017).

The applicant who claimed to face persecution based on being homosexual highlighted the interpreter's role as a social actor. During the hearing he gave details of his first relationship and sexual encounter, which appeared inconsistent with an earlier written statement. Responding to this concern, the applicant described his 'stress, shyness and confusion' in sharing this information with a female Indian interpreter. The decision-maker does not accept that the social dynamics or the sensitive and personal nature of the subject matter explained the way the applicant had 'prevaricated and put forward the vague responses' (Millar1, paras 13–14).

Another example involved both linguistic issues and access to legal assistance: to address inconsistencies arising from his initial written statement, the applicant explained that there had been no interpreter to facilitate communication between the applicant and lawyer when the latter prepared the statement. Yet the influence of other credibility concerns meant the decision-maker rejected this point, stating that he 'placed some reliance on this inconsistency in undermining the applicant's overall credibility' (Hely3, para 95). Thus he dismissed the real concern that linguistic (and presumably financial) barriers had materially undermined the applicant's access to quality legal assistance and consequently the impact this had on the development of a credible (consistent) narrative – a narrative he is held responsible for constructing despite these barriers.

The same applicant also drew attention to the structure of the application and appeals process and the role that different decision-makers play in developing the narrative through their particular style of questioning:

> The Tribunal noted its concern that his accounts of what happened in respect of who attacked his brothers did not appear to have been consistent. The applicant responded that it was possible *the Department officer did not ask the question in the same way as was asked by the Tribunal*. (Para 55)

He went on to explain the initial absence of certain elements of his claim with a similar focus on the questioner – 'the Tribunal had only asked who opened the door but he had not been asked if someone else had spoken before the door was opened' (para 59), and 'he was not asked in his interview if he went to the police station' (para 60). Hely rejected these explanations, leading to multiple apparent inconsistencies, which cumulatively discredited the applicant.

The examples described above deal with explanations made by applicants that challenged the institutional discourse uncovered in the Guidelines and decisions: that the applicant produces and owns the final refugee narrative, with minimal impact from other actors, linguistic factors or the structures of the process itself. The reception of their arguments suggests two conclusions: first, that while asylum-seekers may face power asymmetries, they are not completely without agency in terms of challenging institutional

processes. Second, however – and very importantly, when these challenges conflict with core institutional ideologies, it is – perhaps unsurprisingly – improbable that the decision-makers will accept their arguments.

Fair go? Reining in credibility assessments

In this article I have critically analysed the official text guiding credibility assessment in Australian asylum reviews and a corpus of published decisions dealing explicitly with credibility. By identifying the roles assigned to each participant in these texts, I have uncovered key institutional ideologies about asylum procedures. First, I identified a belief that the applicant constructs the official narrative that comes out of the application and appeals process. While the decision-maker is represented as playing an important role in thinking and questioning, their role as narrative co-constructor is minimised. Next, there is a contrast between the belief that asylum-seekers (and other witnesses) are subjective beings and the assumption that decision-makers are capable of objectivity and neutrality when assessing credibility. Finally, when considering the question of credibility, the institution pays little attention to the influence of other participants, such as legal representatives and interpreters.

These assumptions overlook significant factors highlighted by existing research. The nature of the setting creates the parameters for what story should be told and how: asylum-seekers must perform a limited version of themselves – the part that faces persecution for Refugee Convention reasons (see Vogl, 2013 for a discussion on specialised refugee narratives). Rather than the applicant constructing a narrative in a vacuum, in reality the process is a group effort: each participant involved in the application process has a role to play in its creation. Furthermore, the power imbalances in this setting mean that instead of being able to lead or drive narrative construction, applicants have to comply with structural limitations (answering questions and filling out forms) and may often defer to others with higher status: decision-makers, lawyers and interpreters. Far from being capable of perfect objectivity, decision-makers draw on their own experiences and perspectives in the evaluative process of applying credibility indicators. The varying approaches taken by different decision-makers in the corpus exemplify this point. Furthermore, the narrative is officially presented from their perspective, rather than the applicants'. This means that even when applicants do challenge the discursive, structural and linguistic barriers they face, the decision-maker makes the final decision on the legitimacy of their arguments.

In the decisions analysed here, while seeking to address credibility concerns, applicants and their advisers – perhaps often inadvertently – presented challenges that reflect the findings and arguments of research on credibility. This entailed highlighting the significant role interpreters and legal representatives play in shaping the narrative, as well as pointing to the structure of the interactions involved in applying for asylum and appealing a negative decision, including the way decision-makers steer the narrative through their questioning. Yet when applicants (and other participants) challenge credibility concerns by drawing attention to such factors, they face a formidable challenge: they must confront and overcome institutional discourse – as uncovered earlier – that ignores or contradicts these phenomena. In the current analysis, these attempts are therefore unsuccessful.

It is altogether possible that in the cases examined, the conclusions reached were just: not all applicants have genuine claims. However, uncovering the ideologies that underlie the representation of the various actors raises serious questions. Can credibility assessments based on problematic assumptions about communication and participation ensure fair outcomes in all cases? While not surprising, the fact that the explanations applicants presented in response to credibility concerns were rejected because they clash with dominant language ideology is troubling. If the discourse was different, issues framed as significantly affecting credibility, for which applicants are held responsible to their detriment, may not be considered issues at all. The discourse around the objectivity of applying credibility indicators only helps to further obfuscate the matter. Credibility concerns that are considered a matter of objective fact rather than arising out of evaluative processes influenced by institutional ideologies and individual idiosyncrasies are much less open to scrutiny or self-reflection and thus much harder to effectively challenge.

However, uncovering this troubling discourse does not lead to a dead end. Rather, identifying and drawing attention to this discourse highlights a need for critical reflection and action. As a former Canadian decision-maker suggests, this involves 'looking inwards – at our own values, prejudices, orientation and perspective' (Macklin, 1998). In part, this could entail a stronger emphasis on professional development and sensitisation, drawing on the rich and ever-growing body of interdisciplinary scholarship on narrative construction in refugee procedures. This is a valuable resource for starting a conversation, challenging and reformulating dominant institutional discourse, and ultimately improving the chances of fair credibility processes.

Acknowledgements

Declaration of conflicting interests

Funding

References

Administrative Appeals Tribunal (AAT) (2015) *Migration and Refugee Division Guidelines on the Assessment of Credibility*. AAT.

Anker D (1992) Determining asylum claims in the United States: A case study of the implementation of legal norms in an unstructured adjudicatory environment. *NYU Review of Law & Social Change* 19: 433–528.

Blommaert J (2001) Investigating narrative inequality: African asylum seekers' stories in Belgium. *Discourse & Society* 12: 413–449.

Byrne R (2007) Assessing testimonial evidence in asylum proceedings: Guiding standards from the international criminal tribunals. *International Journal of Refugee Law* 19: 609–638.

Coffey G (2003) The credibility of credibility evidence at the Refugee Review Tribunal. *International Journal of Refugee Law* 15: 377–417.

Cohen J (2001) Questions of credibility: Omissions, discrepancies and errors of recall in the testimony of asylum seekers. *International Journal of Refugee Law* 13: 293–309.

Crock M and Ghezelbash D (2010) Do loose lips bring ships? The role of policy, politics and human rights in managing unauthorised boat arrivals. *Griffith Law Review* 19: 238–287.

Crock M and Martin H (2013) Refugee rights and the merits of appeals. *University of Queensland Law Journal* 23: 137–155.

Department of Immigration and Border Protection (2016) Illegal maritime arrivals. Available at: http://www.ima.border.gov.au/en/Illegal-maritime-arrivals

Evans Cameron H (2008) Risk theory and 'subjective fear': The role of risk perception, assessment, and management in refugee status determinations. *International Journal of Refugee Law* 20: 567–585.

Hunter J, Pearson L, San Roque M, et al. (2013) Asylum adjudication, mental health and credibility evaluation. *Federal Law Review* 41: 471–496.

Inghilleri M (2003) Habitus, field and discourse: Interpreting as a socially situated activity. *Target* 15: 243–268.

Jacquemet M (2009) Transcribing refugees: The entextualization of asylum seekers' hearings in a transidiomatic environment. *Text & Talk* 29: 525–546.

Jacquemet M (2011) Crosstalk 2.0: Asylum and communicative breakdowns. *Text & Talk* 31: 475–497.

Kagan M (2003) Is truth in the eye of the beholder? Objective credibility assessment in refugee status determination. *Georgetown Immigration Law Journal* 17: 367–415.

Kjelsvik B (2014) 'Winning a battle, but losing the war': Contested identities, narratives, and interaction in asylum interviews. *Text & Talk* 34: 89–115.

Luker T (2013) Decision making conditioned by radical uncertainty: Credibility assessment at the Australia Refugee Review Tribunal. *International Journal of Refugee Law* 25: 502–534.

McKinnon SL (2009) Citizenship and the performance of credibility: Audiencing gender-based asylum seekers in U.S. immigration courts. *Text and Performance Quarterly* 29: 205–221.

Macklin A (1998) Truth and consequences: Credibility determination in the refugee context. In: Macklin A (ed.) *The Realities of Refugee Determination on the Eve of a New Millennium: The Role of the Judiciary* (3rd conference of International Association of Refugee Law Judges, October 1998). Ottawa, ON, Canada and Haarlem: International Association of Refugee Law Judges, pp. 134–140.

Maryns K (2004) Identifying the asylum speaker: Reflections on the pitfalls of language analysis in the determination of national origin. *International Journal of Speech, Language and the Law* 11: 240–260.

Maryns K (2006) *The Asylum Speaker: Language in the Belgian Asylum Procedure*. Manchester: St. Jerome Publishing.

Merlini R (2009) Seeking asylum and seeking identity in a mediated encounter: The projection of selves through discursive practices. *Interpreting* 11: 57–92.

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: 1–33.

Nolan M and Goodman-Delahunty J (2015) *Legal Psychology in Australia*. Pyrmont, NSW: Thomson Reuters.

Noll G (2005) Evidentiary assessment under the refugee convention: Risk, pain and the intersubjectivity of fear. In: Noll G (ed.) *Proof, Evidentiary Assessment and Credibility in Asylum Procedures*. Leiden and Boston, MA: Martinus Nijhoff Publishers, pp. 141–160.

Piller I (2011) *Intercultural Communication: A Critical Introduction*. Edinburgh: Edinburgh University Press.

Pöllabauer S (2004) Interpreting in asylum hearings. *Interpreting: International Journal of Research and Practice in Interpreting* 6: 143–180.

Saltman M (1991) *The Demise of the 'Reasonable Man': A Cross-Cultural Study of a Legal Concept*. New Brunswick, NJ and London: Transaction Publishers.

Schoenholtz AI, Schrag PG and Ramji-Nogales J (2014) *Lives in the Balance: Asylum Adjudication by the Department of Homeland Security*. New York: NYU Press.

Shuman A and Bohmer C (2014) Gender and cultural silences in the political asylum process. *Sexualities* 17: 939–957.

Smith-Khan L (2017) Negotiating narratives, accessing asylum: Evaluating language policy as multi-level practice, beliefs and management. *Multilingua* 36: 31–57.

Smith-Khan L (in press) Different in the same way? Language, diversity and refugee credibility. *International Journal of Refugee Law*.

Sweeney JA (2009) Credibility, proof and refugee law. *International Journal of Refugee Law* 21: 700–726.

Thomas R (2011) *Administrative Justice and Asylum Appeals: A Study of Tribunal Adjudication*. Oxford and Portland, OR: Hart Publishing.

Tiersma PM (1999) *Legal Language*. Chicago, IL and London: The University of Chicago Press.

Tipton R (2008) Reflexivity and the social construction of identity in interpreter-mediated asylum interviews. *The Translator* 14: 1–19.

Van der Kleij S (2015) *Interaction in Dutch Asylum Interviews: A Corpus Study of Interpreter-mediated Institutional Discourse*. Utrecht: LOT Publications.

Van Leeuwen T (1996) The representation of social actors. In: Caldas-Coulthard CR and Coulthard M (eds) *Texts and Practices: Readings in Critical Discourse Analysis*. London: Routledge, pp. 32–70.

Verschueren J (2012) *Ideology in Language Use: Pragmatic Guidelines for Empirical Research*. Cambridge: Cambridge University Press.

Vogl A (2013) Telling stories from start to finish: Exploring the demand for narrative in refugee testimony. *Griffith Law Review* 22: 63–86.

Williams C (2005) *Tradition and Change in Legal English: Verbal Constructions in Prescriptive Texts*. New York, Oxford, Wien: Peter Lang: Bern, Berlin, Bruxelles, Frankfurt am Main.

Zagor M (2014) Recognition and narrative identities: Is refugee law redeemable? In: Jenkins F, Nolan M and Rubenstein K (eds) *Allegiance and Identity in a Globalised World*. Cambridge: Cambridge University Press, pp. 311–353.

Author biography

Laura Smith-Khan is a Doctoral Candidate in the Department of Linguistics at Macquarie University, conducting research on Australia's refugee policy and procedures, under the supervision of Professor Ingrid Piller. She has also conducted research across six countries on disability in refugee populations, with Professors Mary Crock, Ron McCallum and Ben Saul, presenting their project findings at the United Nations and in published reports, articles, book chapters and a forthcoming book. She holds a BA (Languages) (Distinction) and LLB (Hons) (University of Sydney), a Graduate Diploma in Legal Practice (Australian National University) and a Master's in Applied Linguistics (Monash University). She has been admitted as a legal practitioner in the NSW Supreme Court and has taught and conducted research at Sydney Law School and Macquarie Law School.

3. Different in the same way? Language, diversity and refugee credibility

The second complete paper for the project, this article evolved out of the analysis of the Tribunal guidance and decisions corpus and during drafting the first paper. An invited seminar at Leicester University presented an opportunity for me to start exploring the issue of how diversity is reified: a theme that I identified in both this project and in other research that I have conducted (Crock et al., 2017). In that seminar, I explored the presentation of refugees' diversity in credibility assessment guidance and other procedural texts aimed at refugee status determination decision makers in Australia and overseas.

This article draws on the preliminary discussion in that presentation, as well as using the findings of the first article as a foundation for its analysis and arguments. It was submitted to the *International Journal of Refugee Law,* a leading journal on this topic, in December 2016. In April 2017, the peer reviewers recommended its publication, with minor revisions, and it was accepted for publication by the editor in June 2017. The article was first available online in November, and appeared shortly afterwards as the lead article of the issue in which it was published. It appears here in its published form.

As of 18 July 2018, the article has been downloaded in full 180 times, has been cited once (Dowd et al., 2018) and has an Altmetric Attention Score in the top five percent of all outputs. To broaden its reach and impact, a summary of the article was published on Language on the Move in November 2017 (Smith-Khan, 2017a).

Different in the Same Way? Language, Diversity, and Refugee Credibility

Laura Smith-Khan*

ABSTRACT

There is a growing awareness of the challenges associated with communicating and decision making in the intercultural setting of refugee status determination processes. However, the way institutions conceptualize diversity has significant implications for how accommodating these processes will actually be of diversity, including in credibility assessments – a key component of many asylum regimes.

This article aims to explore how Australian guidance on credibility for refugee review decision makers discursively presents diversity, and the impacts this has on decisions in which asylum seekers' credibility is a central concern. With reference to institutional guidelines, it identifies how applicants for asylum use the issue of diversity when seeking to overcome credibility issues, and how decision makers respond to this.

The article argues that, far from fairly accommodating all the diverse participants who must navigate these procedures, institutional discourse on diversity can create obstacles for applicants when it comes to maintaining or re-establishing their credibility. It finds that this is due to clashes between the way the merits review tribunal understands diversity, and the way it is conceptualized and presented by applicants when explaining their experiences and motivations, and when challenging structural and communicative barriers threatening their credibility. It shows that decision makers and applicants are constructed as different types of people, with the latter assumed to be affected by, and inextricably tied to, their social and cultural difference, while the former are assumed to represent a 'normal' or neutral way of being and thinking.

1. INTRODUCTION: CREDIBILITY IN DIVERSITY

Migration regimes in the global North commonly use credibility assessments as part of the refugee status determination process. These assessments are fraught with difficulties, given the often challenging linguistic, cultural, and psychological environments in which they take place, coupled with increasingly restrictive asylum policies. An anomaly in organized migration programmes based largely on national economic interests, asylum seekers are sometimes viewed as posing an existential challenge to modern-day States, whose sovereignty is based on their right to limit citizenship or, in the words of a former Australian prime minister, to 'decide who comes to this country and the circumstances in which they come'.[1]

Therefore, it is perhaps unsurprising that those seeking asylum are increasingly required to prove their merit and honesty. Since other evidence is often lacking, oral testimony is usually central to refugee assessments. Deciding whether applicants and their testimony are credible is therefore an essential part of the refugee status determination process. In Australia, guidelines have been created to control how first-instance decision makers in the Department of Immigration and Border Protection (Immigration Department) and review decision makers at the Administrative Appeals Tribunal (AAT) (formerly the Refugee Review Tribunal (RRT)) assess the credibility of those seeking protection.[2] The implementation of these guidelines by individual decision makers is evidenced in review decisions published online, in which the applicants' details have been anonymized.

Given the variety of participants involved in these processes and the intercultural communication difficulties they present, this article aims to explore how institutional guidelines and published decisions discursively present diversity, and the implications this has for applicants' ability to maintain or regain their credibility, and the credibility of their testimony.

It argues that, while the guidelines raise awareness of diversity and the need to accommodate it, they do not view all participants equally. Not everyone is different in the same way. Rather, the diversity discourse presented in the guidelines risks creating a situation in which 'othering' is actually reinforced, rather than overcome, and systemic procedural, social, and communicative inequalities remain invisible and thus largely incontestable. This could lead to negative credibility assessments that fundamentally harm asylum seekers' claims.

In what follows, part 2 reviews the scholarship on asylum credibility assessment and critical studies on diversity in institutional settings. Part 3 provides an overview of the research setting, data, and analytical approach. Part 4 analyses the AAT Credibility Guidelines, and part 5 presents a case study of two review decisions that centre on credibility and raise various issues related to accommodating diversity. The article concludes in part 6 by reflecting on the impacts of the diversity discourse adopted in the

---

[1]   John Howard, Election Speech (Sydney, Australia, 28 October 2001) <http://electionspeeches. moadoph.gov.au/speeches/2001-john-howard> accessed 11 November 2016.

[2]   Administrative Appeals Tribunal (AAT), Migration and Refugee Division, 'Guidelines on the Assessment of Credibility' (2015) (Credibility Guidelines).

Guidelines, including its effect on the case study decisions and the broader implications for credibility assessment in Australian asylum procedures.

2. CREDIBILITY, CULTURE, AND LANGUAGE

States parties to the 1951 Convention relating to the Status of Refugees commit to provide protection to persons fitting the definition of a refugee. This includes anyone who:

> owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.[3]

Those seeking asylum often have little more than oral evidence to support their claims of persecution, so assessing credibility has become integral to determining who meets the Convention definition of a refugee. Jurisdictions throughout the global North have adopted what they consider to be objective methods to assess the credibility of applicants and their evidence. However, the bodies tasked with credibility assessment are aware of the difficulties presented by existing mechanisms and the criticisms aimed at their objectivity.[4]

The section below outlines the key difficulties in credibility assessment identified by existing research. Given that accommodating diversity is one of these difficulties, the article then reviews critical scholarship on the representation of cultural and linguistic diversity in institutional texts guiding intercultural communication. This provides a conceptual basis for the analysis.

2.1 Credibility assessment in asylum cases

For receiving countries in the global North (including Australia), assessing an applicant's credibility has become key to determining refugee status. Yet, for at least the past three decades, researchers have cautioned against overreliance on credibility assessments. In his foundational paper, Kälin explained how different ways of speaking and seeing the world significantly affect credibility evaluations.[5] Asylum seekers' different

---

[3]   Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art 1A(2).

[4]   For example, in Australia, Luker argues that creation of guidelines for assessing credibility 'suggests that the increasingly critical attention to credibility assessment has been recognised in calls for accountability in decision making': Trish Luker, 'Decision Making Conditioned by Radical Uncertainty: Credibility Assessment at the Australian Refugee Review Tribunal' (2013) 25 International Journal of Refugee Law 502, 514. The same study uncovered 'a level of uncertainty about credibility assessment' among Tribunal Members: ibid 533.

[5]   Walter Kälin, 'Troubled Communication: Cross-Cultural Misunderstandings in the Asylum-Hearing' (1986) 20 International Migration Review 230.

cultural backgrounds and experiences, in interaction with the structured questioning format of asylum hearings, may harm their credibility.

More recent studies from Europe,[6] the United Kingdom (UK),[7] the United States (US),[8] Canada, New Zealand, and Australia[9] explore credibility assessment in more detail. They identify common (or similar) indicators against which decision makers in these jurisdictions must assess credibility. Internal and external consistency require applicants' accounts to be consistent throughout the different procedural stages and aligned with other available information, such as government-prepared information about the country of origin. Coherence and plausibility require that the asylum seeker's narrative coincides with the expectations of the decision maker. Finally, decision makers may draw on demeanour, such as facial expressions and body language, as indicators of truthfulness.

While policymakers may believe these indicators can be applied objectively, the research suggests otherwise. Assessments based on demeanour can be particularly problematic, especially given the intercultural and emotionally charged setting of asylum hearings.[10] Even ignoring culture and trauma, visual cues are known to be generally unreliable for determining deception.[11] While such warnings mean demeanour is now less likely to be explicitly relied upon, it appears to continue to play an implicit role, with decision makers referring to applicants' behaviour as vague or evasive when justifying negative decisions.[12]

---

[6] Katrijn Maryns, *The Asylum Speaker: Language in the Belgian Asylum Procedure* (St Jerome 2006); Gregor Noll, 'Evidentiary Assessment under the Refugee Convention: Risk, Pain and the Intersubjectivity of Fear' in Gregor Noll (ed), *Proof, Evidentiary Assessment and Credibility in Asylum Procedures*, The Raoul Wallenberg Institute Human Rights Library, vol 16 (Brill Nijhoff 2005).

[7] Juliet Cohen, 'Questions of Credibility: Omissions, Discrepancies and Errors of Recall in the Testimony of Asylum Seekers' (2001) 13 International Journal of Refugee Law 293; James A Sweeney, 'Credibility, Proof and Refugee Law' (2009) 21 International Journal of Refugee Law 700; Robert Thomas, *Administrative Justice and Asylum Appeals: A Study of Tribunal Adjudication* (Hart Publishing 2011).

[8] Deborah Anker, 'Determining Asylum Claims in the United States: A Case Study of the Implementation of Legal Norms in an Unstructured Adjudicatory Environment' (1992) 19 NYU Review of Law & Social Change 433; Sara L McKinnon, 'Citizenship and the Performance of Credibility: Audiencing Gender-Based Asylum Seekers in US Immigration Courts' (2009) 29 Text and Performance Quarterly 205; Irene Durst, 'Lost in Translation: Why Due Process Demands Deference to the Refugee's Narrative' (2000) 53 Rutgers Law Review 127.

[9] Guy Coffey, 'The Credibility of Credibility Evidence at the Refugee Review Tribunal' (2003) 15 International Journal of Refugee Law 377; Jenni Millbank, '"The Ring of Truth": A Case Study of Credibility Assessment in Particular Social Group Refugee Determinations' (2009) 21 International Journal of Refugee Law 1; Luker (n 4).

[10] Durst (n 8); Luker (n 4); Rebecca Hamlin, *Let Me Be a Refugee: Administrative Justice and the Politics of Asylum in the United States, Canada, and Australia* (Oxford Scholarship Online 2014).

[11] Mark Nolan and Jane Goodman-Delahunty, *Legal Psychology in Australia* (Thomson Reuters 2015).

[12] Coffey (n 9); Millbank (n 9).

Culture also arises in discussions about plausibility and coherence, as the latter are inevitably shaped by a decision maker's perspective.[13] Decision makers may simply disregard applicants' backgrounds, relying on their own cultural and social assumptions when deciding whether a given narrative is believable.[14] However, referring to applicants' backgrounds can also present difficulties. Australian decision makers report drawing on their research and knowledge of an applicant's country of origin or social group when assessing plausibility.[15] This is perhaps unsurprising, given that refugee status hinges on individuals presenting identities fitting within one of the five grounds for persecution listed in the Convention's refugee definition.[16] Yet the risk becomes one of essentialization: the applicant (and his or her adviser) may create a 'victim narrative' to conform to the 'required' legal identity in this setting, but in doing so can perpetuate stereotypes about refugees generally, and about people from his or her particular social and/or cultural group more specifically.[17]

Such discourses are centred in generalized understandings of typical behaviour or experiences expected from social, ethnic, regional, or national groups (often informed by institutionally approved country information), while actual individual experiences may be far more complex, reflecting other – less legally relevant – aspects of identity and experience.[18] For example, individual 'home narratives' may clash with official narratives:

> Whereas the home narratives were shown to have a localizing function – personalizing the story and anchoring it in particular spatial and deictic frames – the highly modified versions of the story we find in the letters from the authorities show a completely different contextualization of the story: away from the local, away from the experiential, the affective, the emotional, the individual positioning of people in conflicts, towards generalizable categories and space-time frames.[19]

These official records demonstrate the preference for generalized information as a purportedly objective way to decide the plausibility of particular circumstances or actions, contrasting with the more complicated reality of individual experience. This

---

13   Sweeney (n 7) 705, notes that plausibility grounds are 'the most subjective'.

14   See foundational US study by Anker (n 8).

15   Luker (n 4).

16   Discussed by Matthew Zagor, 'Recognition and Narrative Identities: Is Refugee Law Redeemable?' in Fiona Jenkins, Mark Nolan, and Kim Rubenstein (eds), *Allegiance and Identity in a Globalised World*, Connecting International Law with Public Law (Cambridge University Press 2014).

17   Jessica Mayo, 'Court-Mandated Story Time: The Victim Narrative in US Asylum Law' (2012) 89 Washington University Law Review 1485. See also Sigurd D'hondt, 'Others on Trial: The Construction of Cultural Otherness in Belgian First Instance Criminal Hearings' (2009) 41 Journal of Pragmatics 806, discussing this practice in Belgian criminal defence narratives.

18   See examples in Durst (n 8), where complex claims were disbelieved without justification.

19   Jan Blommaert, 'Investigating Narrative Inequality: African Asylum Seekers' Stories in Belgium' (2001) 12 Discourse & Society 413, 442, describing applications for asylum in Belgium.

is especially so for marginalized groups, where decision makers may expect applicants to act in specific ways, drawing on their own stereotypes or limited understandings of the group. In doing so, they may essentialize applicants' identities and overlook the complex intersections of other aspects of individuals' life experiences, backgrounds, and contexts.[20]

Linguistic accommodation and beliefs about language can play an equally important role in adjudicating asylum claims and can affect credibility assessment. For example, the use of linguistic analysis to determine the likelihood that certain applicants come from a particular country or group may rely on problematic assumptions – that linguistic practice is inherently tied to geographical or political borders, and that people with certain linguistic backgrounds (for example, native speakers) are adequately qualified to undertake such analyses.[21]

Language and beliefs about language and communication have an impact when applying the various credibility indicators. For example, when procedural guidelines regard interpreters as being capable of seamlessly reproducing communication across languages, it denies the role that interpreters play as social actors with their own beliefs – actors who make choices between different norms when interpreting.[22] Interpreters may also influence applicants' communicative choices. The way applicants perceive the identities and allegiances of interpreters can affect how comfortable they are discussing certain experiences.[23] This may lead to perceived internal inconsistencies or make responses appear vague or lacking in detail. If decision makers are unaware of the potential sociolinguistic factors behind these issues, they may attribute responsibility to applicants, thus undermining their credibility.[24]

The way institutions understand and accommodate diversity has a significant impact on how decision makers assess credibility and, ultimately, on the final result for applicants. The next section therefore presents some key concerns in the literature regarding

---

[20] Millbank (n 9) presents some striking examples. See also Amy Shuman and Carol Bohmer, 'Gender and Cultural Silences in the Political Asylum Process' (2014) 17 Sexualities 939.

[21] John Campbell, 'Language Analysis in the United Kingdom's Refugee Status Determination System: Seeing Through Policy Claims about "Expert Knowledge"' (2013) 36 Ethnic and Racial Studies 670; Diana Eades, 'Testing the Claims of Asylum Seekers: The Role of Language Analysis' (2009) 6 Language Assessment Quarterly 30; Katrijn Maryns, 'Identifying the Asylum Speaker: Reflections on the Pitfalls of Language Analysis in the Determination of National Origin' (2004) 11 International Journal of Speech, Language and the Law 240; Steve Norman, 'Assessing the Credibility of Refugee Applicants: A Judicial Perspective' (2007) 19 International Journal of Refugee Law 273.

[22] Rebecca Tipton, 'Reflexivity and the Social Construction of Identity in Interpreter-Mediated Asylum Interviews' (2008) 14 The Translator 1; Moira Inghilleri, 'Habitus, Field, and Discourse: Interpreting as a Socially Situated Activity' (2003) 15 Target 243; Susanne Van der Kleij, *Interaction in Dutch Asylum Interviews: A Corpus Study of Interpreter-Mediated Institutional Discourse* (LOT Publications 2015).

[23] Raffaela Merlini, 'Seeking Asylum and Seeking Identity in a Mediated Encounter: The Projection of Selves through Discursive Practices' (2009) 11 Interpreting 57.

[24] Sonja Pöllabauer, 'Interpreting in Asylum Hearings' (2004) 6 Interpreting: International Journal of Research and Practice in Interpreting 143.

discourses of diversity in institutional settings and considers the implications for those applying for asylum.

2.2 Cultural diversity in institutional settings

Increasingly, institutional guidance for refugee review decision makers includes sensitization to the need to accommodate social, cultural, and linguistic diversity. Yet, the way such institutions approach the idea of diversity may significantly affect how well applicants are accommodated and thus whether procedures are actually as fair as is claimed.

Critically examining policy documents and procedural guidelines aiming to promote diversity through sensitization is important in evaluating refugee status determination processes, particularly in considering their impact on the construction and assessment of credibility. Such sensitization has been analysed in various professional settings,[25] with criticisms that it may 'actually normalize and perpetuate racism by ignoring the structural inequalities that permeate social institutions'.[26] Culture can be presented as an 'immutable difference' and used for control or domination. While it may be beneficial to consider factors such as language and beliefs in interactions with clients, sensitizing officials to different cultural practices is sometimes done in ways that give it an 'objective, essential and ahistorical status'.[27] Failing to see culture as a 'negotiated process' between groups, rather than as an 'independent variable', becomes an exercise in defining groups 'in terms of their adherence to or deviations from social, political and economic norms'.[28]

In legal settings, culture may be used in an essentialized, static way to mitigate in sentencing, all while potentially reinforcing negative stereotypes about the group in question. Further, different actors have unequal access to culture as a resource in these encounters:

> Categorizing the defendant as a cultural other … prompts the defense attorney to invoke *specialist knowledge* about the defendant *which is not accessible to the defendant him/herself.* … These attorney-initiated culturalizations mobilize common-sense understandings of 'culture' (which lack a clearly defined legal status …), without posing a threat to the judiciary's self-representation as 'empty'.[29]

Thus, despite the fact that culture most commonly attaches to minority participants, they are not authorized to use it in the same way as their more powerful 'specialist' counterparts, whose own culture remains unacknowledged.

Understood in this way, culture becomes an attribute of the 'other' – a way to describe how certain groups are different from an implicit 'neutral' way of being. Creating uniform or stereotypical groups of others is almost a prerequisite to maintaining a clear

---

[25]   In health services, see Rebecca J Hester, 'The Promise and Paradox of Cultural Competence' (2012) 24 HEC Forum 279, and in social work, Laura S Abrams and Jené A Moio, 'Critical Race Theory and the Cultural Competence Dilemma in Social Work Education' (2009) 45 Journal of Social Work Education 245.

[26]   Abrams and Moio (n 25) 250.

[27]   Hester (n 25) 284.

[28]   ibid.

[29]   D'hondt (n 17) 817 (emphasis added), discussing research on Belgian criminal court cases.

differentiation between them and the 'normal' majority, but in the process silences the voices of the less powerful members of these groups, and denies the impact of power structures and the dynamism of culture and identity.[30] Discourse adopting this construction of culture thus becomes a tool to reinforce a hierarchy of normalness and difference, and obfuscates systemic and structural inequality, making it difficult to challenge.

2.3   Language as an element of cultural diversity

Ironically, commentary on intercultural communication may largely overlook one key aspect in such interactions: language. Rather than being due to a lack of relevant cultural knowledge, negative outcomes can often be explained by 'linguistic proficiency and communicative competence (or their lack), and inequality and injustice'.[31]

Even when language is considered, discourse may present language as a marker of difference. This may result in a similar asymmetry as occurs when associating cultural diversity only with certain groups. For example, in Australian institutions, the classification of 'culturally and linguistically diverse' people arises from and presents:

> contemporary diversity discourses [which] are part of social processes that reify difference, create boundaries and hierarchies, and undergird social inequality. Diversity discourses thus contribute to injustice precisely by concealing inequality at the same time that they create inequality by marking one group as 'normal' and the other as 'diverse'.[32]

Thus, communicative inequality may be invisible or misunderstood when viewed from the perspective of the institution or the privileged social group. For example, people for whom English is not a first language may be disadvantaged in their interactions in a tribunal or court. They may find it difficult to access information and to construct an unfragmented narrative, and their language choices (for example, swapping between different languages (code-switching) or using an interpreter when they have some English language ability) may inadvertently indicate negative traits such as dishonesty.[33] Even when they are proficient in English, they will often lack specialist language skills, and rely on assistance from a legal professional who is well versed in the expected specialist language of refugee statements.[34] Power dynamics may also create barriers.

30   Floya Anthias, 'Moving beyond the Janus Face of Integration and Diversity Discourses: Towards an Intersectional Framing' (2013) 61 The Sociological Review 323.

31   See argument in Ingrid Piller, 'Linguistics and Intercultural Communication' (2007) 1 Language and Linguistic Compass 208, 215.

32   Ingrid Piller, *Linguistic Diversity and Social Justice* (Oxford University Press 2016) 19.

33   See findings in Philipp Sebastian Angermeyer, *Speak English or What? Codeswitching and Interpreter Use in New York City Courts*, Oxford Studies in Language and Law (Oxford University Press 2015), analysing interpreter-mediated sessions in small claims courts.

34   Anthea Vogl, 'Telling Stories from Start to Finish: Exploring the Demand for Narrative in Refugee Testimony' (2013) 22 Griffith Law Review 63; Zagor (n 16). For a discussion of this process in the UK, see John R Campbell, *Bureaucracy, Law and Dystopia in the United Kingdom's Asylum System* (Routledge 2017) ch 4.

Participants may be expected to raise communication issues themselves but feel compelled to defer to the authority of 'professionals'.[35] Finally, through a process called 'entextualization', the various communications involved in an asylum application are summarized into an official record by the decision maker. This process may obscure the intricacies of the interactions to the applicant's disadvantage, especially when assessing apparent inconsistencies.[36]

These challenges stem from majority language ideologies – such as the expectation that all people communicate in certain ways (for example, as monolinguals, using only one language) and the belief that interpreting entails verbatim reproduction of one language into another.[37] These institutional beliefs about languages can have a profound influence upon the participation of people for whom English is a second language and may ultimately impede their access to justice, all without institutional awareness of the nature of these communicative and participatory inequalities.

Discourse that emphasizes the difference of society's 'others' can thus be harmful on two levels. First, it may reinforce a hierarchy in which one group implicitly represents the norm, while others are seen as deviant, and must be assisted or trained to conform. This discourages the 'normal' elite (who have the privilege of 'normality' attached to their culture and ways of being) from questioning their own socialization and the effects that their own experiences and beliefs have on how they perceive the world and interact with others, and the ways in which social and political structures may privilege some and disadvantage others. Secondly, in doing this, the discourse may also essentialize diversity in a way that ignores the full implications of intercultural communication, especially where these implications conflict with popular or institutional language ideologies. This results in the creation or maintenance of invisible inequalities that disadvantage 'diverse' others in unacknowledged – and therefore largely incontestable – ways.

Diversity discourses can thus create and perpetuate ideological and structural challenges for people seeking asylum, who may be confronted with systems that purport to be inclusive and accommodating but effectively reinforce an unequal cultural and linguistic hierarchy.

3. AUSTRALIAN ASYLUM DECISION MAKING AND THE ACCOMMODATION OF DIVERSITY

Given the impact that diversity discourses can have on institutions' expectations of certain individuals and groups, this part seeks to uncover the discourse on diversity in Australian guidance on credibility assessment, and to explore its impact in two

---

[35] This was an issue for an applicant using an interpreter in Laura Smith-Khan, 'Negotiating Narratives, Accessing Asylum: Evaluating Language Policy as Multi-Level Practice, Beliefs and Management' (2017) 36 Multilingua 31.

[36] Marco Jacquemet, 'Transcribing Refugees: The Entextualization of Asylum Seekers' Hearings in a Transidiomatic Environment' (2009) 29 Text & Talk 525; Maryns (n 6).

[37] See also Robert Gibb and Anthony Good, 'Interpretation, Translation and Intercultural Communication in Refugee Status Determination Procedures in the UK and France' (2014) 14 Language and Intercultural Communication 385.

decisions that turned on credibility. Following an overview of Australian asylum procedures, this part examines the key guidance dealing with credibility and accommodating diversity, and then introduces the data and explains the analytical approach adopted.

3.1 Guidance on assessing credibility and understanding diversity

Asylum seekers arriving in Australia with a valid temporary visa may apply for a permanent protection visa from the Immigration Department[38] (whereas those arriving without a visa no longer have this right).[39] They must lodge a written application and attend a departmental interview. If the decision maker rejects the claim, the reasons must be explained in writing. To appeal such a decision, asylum seekers apply to the Migration and Refugee Division of the AAT.[40]

For the review, applicants must prepare a written submission, explaining the merits of their case and including any new information or evidence.[41] They must then attend a hearing, which is more formal than the first-instance interview by a government official. An administrative staff member officiates oath-making and oversees audio recording of the hearing. Usually, a single 'Tribunal Member', tasked with assessing the case, leads the hearing, asking questions and presenting any queries or adverse information to the applicant for a response, including issues affecting credibility.[42] The process is inquisitorial (rather than adversarial),[43] and, while formal legal representation is not permitted,[44] applicants may be accompanied and assisted by a lawyer or migration agent.

Numerous policy documents guide departmental and review decision making, including specific texts on credibility assessment, many of which mention diversity. Fewer texts are aimed at review (AAT) decision makers than at first-instance or primary (Immigration Department) decision makers, although there is scope for the first-instance documents to be accessed and used in review decisions, and there are often cross-references or similarities between the documents. Table 1 presents some of the key documents guiding credibility assessment in Australia. These documents also make reference to diversity and cultural considerations. From personal email correspondence with the AAT, it is apparent that, while staff are offered short courses on various topics – presumably, although not explicitly, including cultural and linguistic diversity – these materials are not publicly available and therefore could not be assessed as part of this analysis.

There is one key document aimed at AAT decision makers regarding credibility assessment – the AAT Credibility Guidelines. Decision makers are not strictly bound by these. Rather, the Guidelines set out 'general guidance concerning the assessment of credibility',[45] which remains 'a matter for [decision makers] to determine'.[46]

---

[38] Migration Act 1958 (Cth) s 36.

[39] ibid s 46A(1) prevents 'unauthorised maritime arrivals' from making a valid visa application.

[40] Until July 2015, reviews were conducted by the stand-alone body, the RRT.

[41] Migration Act 1958 (Cth) s 423.

[42] ibid s 424AA-A.

[43] ibid ss 424 and 427.

[44] ibid s 427(6)(a).

[45] AAT Credibility Guidelines (n 2) para 2.

[46] ibid para 5.

Table 1. Key credibility and diversity guidelines in Australia (September 2016)

Document/Relevant Sections	Short Name	Description	Length (approx)
Migration and Refugee Division, 'Guidelines on the Assessment of Credibility'	Guidelines	Instructions for decision makers responsible for migration- and refugee-related appeals in the AAT. Replicate guidelines previously used in the RRT.	11 pages
Migration and Refugee Division, 'Guidelines on Gender'	Gender Guidelines	Aimed at AAT decision makers. Include credibility considerations.	9 pages
'Refugee Law Guidelines', in *Procedural Advice Manual 3 (PAM3)*	RLG Credibility Chapter	Chapter 15 deals with credibility assessment. Aimed at primary (Immigration Department) decision makers. AAT Credibility Guidelines instruct that AAT decision makers *must* also refer to this chapter.	10 pages (chapter 15)
'Asylum Claims – Assessing Credibility', in *PAM3: Refugee and Humanitarian – Refugee Law Guidelines*	AC Credibility Guidelines	Aimed at primary decision makers, but the RLG Credibility Chapter refers to them as suggested reading (meaning that AAT decision makers *may* use them).	25 pages

As demonstrated below, these Guidelines include multiple references to accommodating diversity. The AAT also has Gender Guidelines, which include a section on gender-related considerations when assessing credibility.[47] The first-instance (Immigration Department) guidance includes a set of targeted notes related to specific groups of people (for example, Christian converts from Iran), often including explicit instructions on how to assess the credibility of individuals claiming to come from these groups. Finally, international guidelines are also available to decision makers and may play some role in influencing them.[48]

---

[47] AAT, Migration and Refugee Division, 'Guidelines on Gender' (2015) paras 21–22 (Gender Guidelines).

[48] See eg International Association of Refugee Law Judges, *Assessment of Credibility in Refugee and Subsidiary Protection Claims under the EU Qualification Directive* (IARLJ 2013) <https://www.iarlj.org/general/images/stories/Credo/Credo_Paper_March2013-rev1.pdf> accessed 3 April 2017; UNHCR, 'Guidelines on International Protection No 9: Claims to Refugee Status Based on Sexual

3.2 Institutional understandings of diversity: what impact on credibility?

Given the concerns raised in the literature, this section explores how institutional guidance discursively constructs diversity and considers the effects this discourse has on credibility assessments. To achieve this, a critical discourse analysis of the key AAT text on credibility is provided, with a particular focus on its construction of culture, language, and diversity more generally.

Next comes a case study analysis of two review-level decisions, selected from a corpus of publicly accessible decisions from the AAT and RRT. A corpus of 27 decisions was selected from the Australasian Legal Information Institute (Austlii) online database[49] by searching on the term 'credib*', thus prioritizing decisions that explicitly dealt with credibility. The top 10 results from the AAT and the top 20 from the RRT (sorted by relevance by the search engine) were included; three results from a period prior to the Credibility Guidelines' existence were eliminated. From this corpus, two decisions were chosen for analysis because of their extensive reliance on credibility issues to reach negative decisions, and their explicit inclusion of issues related to diversity when assessing credibility. While analysis of the hearings and other communications between applicants and government would be valuable, analysis was limited to these published decisions (since access to these other interactions would require applicant and Tribunal consent, which is rarely obtainable).[50]

The analysis of these decisions explores how applicants (and their representatives) raise diversity in their responses to credibility concerns, and how decision makers address diversity in their decisions, and relates this to the institutional guidance. On the basis of this analysis, the article considers how institutional discourse influences the way diversity is accommodated, and the effect this has on credibility assessment.

4. CREDIBILITY GUIDANCE AS DIVERSITY DISCOURSE

Elsewhere, I discuss the effects of the discursive representation in the AAT Credibility Guidelines of the various actors involved in refugee appeals, noting particularly that the applicant is constructed as the primary creator of the refugee narrative and the giver of evidence.[51] In contrast, the decision maker is presented as a receiver of evidence who must think and make decisions. The Guidelines make minimal mention of other actors, such as migration agents and interpreters, effectively backgrounding their participation in the construction of the narrative. This discourse then influences how decision

---

Orientation and/or Gender Identity within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees', UN doc HCR/GIP/12/01 (23 October 2012). See also recent influential reports: UNHCR, *Beyond Proof: Credibility Assessment in EU Asylum Systems* (UNHCR 2013); Gábor Gyulai and others, *Credibility Assessment in Asylum Procedures: A Multidisciplinary Training Manual* (Hungarian Helsinki Committee 2013). Australian guidance documents are available online to subscribers at: <http://www.border.gov.au/Trav/Visa/LEGE> or to the public at: <http://www.austlii.edu.au/>.

49 Available at: <http://www.austlii.edu.au/>.

50 Luker (n 4) 509.

51 Laura Smith-Khan, 'Telling Stories: Credibility and the Representation of Social Actors in Australian Asylum Appeals' (2017) 28 Discourse & Society 512.

makers understand narrative creation and make credibility considerations in their published decisions.

Against this backdrop, discourse on diversity may constitute an additional mechanism to reinforce the differential treatment of applicants, compared to other participants, and influence the way their credibility is assessed. Conversely, it could draw attention to these differential presentations and challenge the structures and processes that affect participation. Referring to the AAT Credibility Guidelines, the next section explores how diversity is presented and highlights some key discursive elements. This provides a framework for subsequently analysing the case studies.

4.1   The applicant as diverse

The Guidelines construct the applicant as diverse through a number of references to their socialization, cultural, and personal experiences. One-third (namely 17) of the 51 paragraphs constituting the Guidelines describe these elements of difference. Culture is mentioned specifically in multiple places, both in terms of how applicants act in hearings, as well as how to accommodate them. For example, the Guidelines advise that:

> Members need to be mindful that a person may be anxious or nervous due to the environment of a hearing and the significance of the outcome. A person from a different social and cultural environment may experience bewilderment and anxiety. The educational, *social and cultural background of a person* may affect the manner in which a person provides his or her evidence and the depth of understanding of particular concepts. A person may have had traumatic experiences or be suffering from a disorder or illness which may affect his or her ability to give evidence, his or her memory or ability to observe and recall specific events or details. There may also be a mistrust in speaking freely to people in positions of authority.[52]

Again, the Guidelines instruct:

> All claims, particularly those of a sensitive nature should be carefully considered in a respectful and *culturally sensitive way*. Claims relating to a person's sexual orientation or to sexual assault or domestic violence, require particularly sensitive investigation. The tribunal should consider who is present at the time the evidence is to be given and whether it would be appropriate for an interpreter of a particular gender to assist with the hearing.[53]

The Guidelines allow negative credibility findings based on demeanour, noting once again the possibility for 'cultural difference':

---

[52]   AAT Credibility Guidelines (n 2) para 22 (emphasis added).
[53]   ibid para 24 (emphasis added).

The tribunal should exercise care if it makes adverse credibility findings based on demeanour. A person's demeanour may be affected by any number of factors and circumstances set out in this paper. The tribunal should also be aware of *the effect of cultural differences on demeanour and oral communication*. The tribunal should exercise particular care if it relies on demeanour in circumstances where a person provides oral evidence through an interpreter or where a person is not before the tribunal and can only be observed via a video-link.[54]

Linking cultural difference with oral communication backgrounds the arguably more obvious influence on oral communication of *linguistic* difference. The latter is not mentioned here or anywhere else in the instructions, except for references to the challenges involved in presenting evidence through an interpreter,[55] reflecting Piller's criticisms.[56]

Finally, when assessing issues of consistency and vagueness, the Guidelines advise that:

The tribunal may doubt part of a person's evidence if a person's testimony is incoherent or vague or lacks the detail or knowledge where greater detail or *knowledge might be expected of a person in the person's claimed position or from the person's social or cultural background*. For example, the tribunal is entitled to have regard to an applicant's level of knowledge of matters about which the applicant would reasonably be expected to know if his or her claims were truthful.[57]

Thus, decision makers should apply their expectations of what a person from a particular group should know in a given set of circumstances.

In each of these explicit references to culture (and difference), it is constructed as something that is possessed by the applicant (rather than the decision maker). It is thus a phenomenon discursively attributed to applicants as a social group representing foreign, non-members of the State, as distinct from the decision makers who represent – and act as gatekeepers for – the State and its members. This reflects the critical literature: diversity thus presented may act to reinforce a hierarchy of difference. Asylum applicants are constructed as deviant: they are affected by culture and group membership in a way that differs from the unspoken, assumed norm of the social majority. They are expected to be affected by their culture and other differences in standard, typical ways – which can then be used to evaluate their knowledge or their behaviour in the hearing.

4.2 The objective and individual decision maker

While it may be appropriate to sound a cautionary note on the possible effects of cultural difference, what remains hidden in the text is the impact of culture and other factors on the decision makers themselves. While applicants are framed as being deterministically

---

[54]   ibid para 34 (emphasis added).

[55]   ibid paras 21 and 34. The only other advice is 'to be aware of the possible barriers to communication': ibid para 15, but this para contains no mention of linguistic difference.

[56]   Piller (n 31).

[57]   AAT Credibility Guidelines (n 2) para 32 (emphasis added).

affected by their group's culture, decision makers seem only to be prone to subjective acts or thinking on an *individual* basis. For example, the Guidelines state that:

> Findings made by the tribunal on credibility should be based on relevant and material facts. What is capable of being believed is not to be determined according to *the Member's subjective belief or gut feeling* about whether an applicant is telling the truth or not. A Member should focus on *what is objectively or reasonably believable* in the circumstances.[58]

Decision makers are required to 'maintain, and be seen to have, an open mind'.[59] Thus, while subjectivity is possible, there is no reference to the deterministic effects of decision makers belonging to a particular cultural group, and their inability to divorce themselves from this during their decision making. Instead, the instructions imply that, with conscientious effort, decision makers can be objective – untouched by all the factors that may affect applicants. This supports the hierarchical construction of decision makers and applicants as different types of people: the latter affected by, and inextricably tied to, their social and cultural difference, the former representing a normal or neutral way of being and thinking.

As I have argued elsewhere,[60] the decision maker's neutrality is further supported by how the Guidelines name them. They are called 'Members' (10 times) – and therefore presented as social and institutional insiders, and are most often referred to as 'the Tribunal' (75 times), further reinforcing their normalcy and their capacity for objectivity: no difference is expected between one decision maker and another, unlike applicants who are affected by their membership of diverse social and cultural groups.

The possible effects of this differing construction of the two main participants mentioned in the Guidelines are multiple. First, such a construction of applicants creates the expectation that certain standard behaviours or experiences can be attributed to certain groups. This may pose serious problems for applicants whose personal histories do not align with the typical narratives or experiences expected of the social and cultural groups to which they are confined. Their unique and complicated experiences *as individuals* may appear incredible when compared with these expectations. Secondly, by linking applicants with subjectivity, and decision makers with objectivity and 'normality' (that is, rejecting a socially inclusive, dynamic conceptualization of diversity), there is little encouragement for decision makers to act and think self-reflexively.[61] They need not consider their own diversity and how their own social, cultural, and linguistic characteristics influence their evaluations of what is reasonable. The next part considers the effects this has on credibility-centred decision making.

---

[58] AAT Credibility Guidelines (n 2) para 9 (emphasis added).

[59] ibid para 18.

[60] Smith-Khan (n 51).

[61] See arguments in Noll (n 6); Tipton (n 22); Emily C Barry-Murphy and Max Stephenson Jr, 'Recognizing and Confronting State Subjectivity in Asylum Adjudications' (2015) 31 Refuge 3.

5. TRIBUNAL DECISIONS ON CREDIBILITY

Having considered how the Guidelines discursively present diversity, this part explores how such instructions apply in practice. The two decisions discussed below refer to 'diverse' social, cultural, and linguistic groups and practices. These decisions demonstrate the many ways in which individual decision makers incorporate or consider cultural and linguistic diversity and respond to applicants' engagement with these issues. Both decisions focus heavily on credibility and thus provide the opportunity to consider how particular conceptualizations of diversity affect it.

One case involved an appeal by an Indian applicant whose claim was based on his homosexuality. The other case concerned an Egyptian man who feared persecution based on his Christian identity.[62] The decisions have some commonalities in terms of form and substance. First, each relies heavily on credibility to justify the decision maker's rejection of the application, despite each applicant being able to provide an explanation to address the credibility concerns. Secondly, each follows a standard structure, citing similar relevant law and other guidance, and referring to official 'country information'.

While both decision makers may well have reached correct outcomes (that is, it is not possible to know for certain whether these applicants were actually eligible for protection), this article considers how their approaches reflect the institutional guidance and discourse, and the broader implications this has for credibility assessment. For each decision, an overview is presented to highlight the main facts and the reasons given for the negative outcome in each case. Next, the main challenges with respect to how each engages with diversity are identified and discussed, reflecting on the incorporation of institutional discourse. In doing so, it is shown how the explanations provided by the applicants to redeem their credibility often rely on understandings of diversity that clash with the institutional discourse. Finally, the effect this has on how the decision makers deal with diversity and respond to the applicants' explanations is considered.

5.1 1319407: Homosexual applicant from India

An applicant from India claimed to fear persecution on account of his homosexuality. In the majority of his reasoning, the decision maker focused on the credibility of various aspects of the claim and evidence. He presented a list of credibility concerns to cumulatively support his finding that the applicant was not a 'witness of truth'. He first identified internal inconsistency issues between a written statutory declaration and oral responses to questions before the Tribunal regarding the applicant's narrative of sexual encounters in India, and his descriptions of relationships and sexual activity in Australia.

The decision maker rejected the applicant's explanations that he felt uncomfortable sharing information with a female Indian interpreter. He found the reasons given for not seeking out a sexual partner until several years after his arrival in Australia to be implausible. When the decision maker highlighted an inconsistency in the dates that the applicant cited for when he used a dating website and frequented a gay sauna, and

---

62   1319407 [2014] RRTA 705 (18 September 2014); 1102389 [2011] RRTA 525 (28 June 2011) respectively.

other times when he claimed to be in a relationship, the applicant corrected himself, but unsuccessfully.

Further, internal inconsistency between the applicant's evidence and that given by a witness (with whom the applicant claimed to have had a relationship) was also raised, and the applicant's explanations were again rejected as implausible. The decision maker also raised the matter of plausibility in terms of the applicant's delay in applying for protection after arriving in Australia, and the explanations he gave to justify it.

A final potential inconsistency was highlighted by referring to a record of interactions which the applicant had had with the Immigration Department concerning issues with his student visa, and the fact that the applicant had not raised his sexuality during the first interaction. The decision maker did not accept the applicant's explanations for this, and ultimately found that the applicant lacked credibility based on this list of identified inconsistencies and plausibility concerns.

5.1.1   Standard expectations of identified diverse groups

When making asylum claims, applicants need to emphasize particular elements of their identity or experience to align with the legal and bureaucratic understanding of what it means to be a refugee. Thus, if a person claims to fear persecution resulting from his or her sexual identity, unsurprisingly, sexual identity becomes a central focus of both the narrative and the subsequent decision. However, when confronted with a diversity discourse that tends to essentialize diversity into standard types or groups, applicants may face challenges. For the applicant in 1319407, this may explain why some of his explanations and past behaviour appeared implausible to the decision maker.

The decision maker found it hard to believe that the applicant, if genuinely homosexual, would not start dating until several years after his arrival in Australia. The applicant provided multiple reasons for this, including that he needed to work, had initially been busy with study, lacked English language skills, and had a limited social network. He also explained that there was a period when Indian students were being attacked, deterring him from going out at night. He feared being identified as a homosexual by the Indian community and the repercussions for his sisters if their in-laws found out. Yet none of these aspects of his life or identity appeared as important as his sexuality to the decision maker. His response sets this out in striking language:

> The Tribunal acknowledges the various grounds advanced by the applicant for *his failure to attempt to meet other homosexuals* prior to 2012. The Tribunal does not believe that, in essence, being busy with work and study and wanting to save money would prevent the applicant from attempting to meet homosexuals before 2012.[63]

The language here – particularly the use of the word 'failure' – suggests only one type of acceptable and expected performance: that he should 'attempt to meet other homosexuals'. Thus, it assumes particular actions as prerequisites to sexual identity: it is insufficient for the applicant to self-identify as homosexual – his homosexuality means that

---

[63]   1319407 [2014] RRTA 705 (18 September 2014) para 20 (emphasis added).

he should behave in particular ways (expected by the decision maker). This is despite institutional guidance that cautions against assessing sexuality-related claims based on actions rather than identity. For instance, the AAT Gender Guidelines advise:

> When conducting a hearing based on sexual orientation or gender identity, a Member should ask questions in relation to the applicant's realisation and experience of sexual orientation or gender identity rather than questions that focus on sexual acts.[64]

The Gender Guidelines cite UNHCR guidelines on sexual identity-based claims, which also caution that:

> stereotypical images of LGBT persons must be avoided, such as expecting a particular 'flamboyant' or feminine demeanour in gay men, or 'butch' or masculine appearance in lesbian women. Similarly, a person should not automatically be considered heterosexual merely because he or she is, or has been, married ….[65]

The decision maker's approach also demonstrates a kind of hierarchy of expected attributes for the applicant. The emphasis on his refugee-narrative-relevant attribute, which is also a source of 'diversity' as mentioned in the Guidelines, is emphasized and takes precedence over other aspects of who he is. This reflects one of the identified risks of diversity discourses: that applicants' diversity becomes essentialized, rather than allowing scope for applicants to be recognized as complex individuals who may differ from others in their assigned group in their life experiences and choices.[66] In fact, the summary of the applicant's explanations effectively erases the social and linguistic reasons he mentioned, retaining only financial and practical ones.[67]

This approach in some ways also re-entrenches hierarchical othering which is clearest if one considers the 'normal' against which this group is contrasted. It is unlikely that decision makers would expect heterosexual applicants actively to seek out a sexual partner in the same way. Rather, their heterosexuality is accepted as a normal and backgrounded part of their individual circumstances. They would not be expected either to pursue or avoid relationships at particular times because of their sexuality. Thus, whereas members of the 'normalized' group may be regarded as individuals, the actions of homosexual individuals are expected to be guided primarily by their homosexuality, surpassing all other aspects of their life and personality.

5.1.2   *Diverse in one way only?*

The applicant in 1319407 faced another challenge when explaining why he lived with Indian people in Australia, while at the same time claiming to fear that the Indian

---

[64]   AAT Gender Guidelines (n 47) para 21.

[65]   UNHCR, 'UNHCR Guidance Note on Refugee Claims relating to Sexual Orientation and Gender Identity' (UNHCR 2008) para 36.

[66]   See Millbank (n 9) 19.

[67]   1319407 [2014] RRTA 705 (18 September 2014) para 20.

community would discover his sexual identity. The decision maker stated: 'Having said he was in fear of the Indian community discovering he was homosexual, it seemed extraordinary that he would choose to live with Indians in his claimed circumstances'.[68] Shuman and Bohmer discuss the institutional 'paradigmatic' homosexual asylum seeker – a male public activist who openly shows his sexuality. They argue that the further an applicant's activities and persecution move from the public to the private, the less success they will have. This decision in 1319407 seems to demonstrate an expectation that the applicant should be incapable of hiding his sexuality, despite having done this before coming to Australia. The decision thus demonstrates a preference for this paradigm of the public homosexual.[69]

The applicant's sexuality again appeared to take precedence over other elements of his identity and circumstances. His homosexuality was expected to conquer all other competing motivations and challenges that he faced when finding accommodation because expressing his sexual identity should have been the most important.

In this case, sexual diversity was seen as a stand-alone attribute attached to the applicant, sometimes at the expense of, or despite, all his other attributes – even including his cultural and linguistic background. Once again, finances were the only element retained in the summarization,[70] with other elements, such as his sociolinguistic background, being Indian, having a limited social network, and facing linguistic challenges, erased.

Arguably, these could be relevant elements of his 'social and cultural background' that should be considered and reflected in the decision. However, attention to the Guidelines highlights another gap. There is no explicit instruction to accommodate diversity when assessing past behaviour or motivation. The instructions only cover how applicants communicate or understand things *during the hearing* and their level of knowledge of certain topics. The decision maker's reasoning thus demonstrates the shortcomings this may present for credibility assessments. This gap also appears to limit the amount of justification decision makers feel obliged to provide when assessing plausibility. This echoes research on UK decision making, where assumptions about past behaviour have been found to be a key challenge to credibility, with decision makers similarly disinclined to present explanations for findings of implausibility.[71]

5.1.3 *The social nature of institutional communication*

This decision also presents difficulties regarding the inclusion of language and sociolinguistic considerations. This in part reflects their backgrounding in the Guidelines, and in part involves apparently overlooking explicit guidance. The applicant raised

---

[68]   1319407 [2014] RRTA 705 (18 September 2014) para 39.

[69]   Shuman and Bohmer (n 20) 945–46. See also Senthorun Raj, 'Queering Fears: Pro-LGBTI Refugee Cases' in C Ashford, A Reed, and N Wake (eds), *Legal Perspectives on State Power: Consent and Control* (Cambridge Scholars Publishing 2016).

[70]   1319407 [2014] RRTA 705 (18 September 2014) paras 38–39.

[71]   Jane Herlihy, Kate Gleeson, and Stuart Turner, 'What Assumptions about Human Behaviour Underlie Asylum Judgments?' (2010) 22 International Journal of Refugee Law 351. See also Sweeney (n 7).

the identities of two key participants with whom he had institutional interactions in his response to credibility concerns. The first concerned an apparent inconsistency (between the Tribunal hearing and an earlier statement) in how he described his first sexual encounter with a man in India. The decision maker recounted:

> the Tribunal reminded the applicant of this account in his statutory declaration and put to him that it was inconsistent with the evidence to the Tribunal that he and [Mr A] did not have sex on the first occasion the applicant went to his home. In response, the applicant repeated the account he gave the Tribunal and then said that sex can take different forms such as oral sex, hugging and kissing. The Tribunal asked the applicant whether he was saying that the pair had oral sex when he first went to [Mr A]'s home. In response, the applicant was vague saying it did happen; it did not happen; he could not say the term. Then he said if kissing and hugging was oral sex then that is what they did.[72]

The applicant later sent a further statutory declaration to the Tribunal, reportedly explaining that 'due to stress and nervousness at the hearing and because the interpreter was an Indian woman he gave the Tribunal evidence that was incorrect' and that actually he had had sex on the first meeting with 'Mr A'.[73]

The decision maker dismissed this explanation, arguing:

> The applicant could have easily said that [he had had sex on the first occasion] at the hearing when the Tribunal brought to his attention his account in his statutory declaration of 25 June 2013. Instead, at that point in the hearing, the applicant prevaricated and put forward the vague responses set out above. His claims about being in the presence of a female Indian interpreter and being under stress do not explain or excuse the inconsistency in his evidence on this matter.[74]

Both the line of questioning, explicitly dealing with sexual acts, and rejecting the applicant's explanation about being uncomfortable communicating in front of a female Indian interpreter appear to contradict the Guidelines' recommendations. The need for cultural sensitivity and respect when dealing with claims related to sexuality is mentioned explicitly, along with the instruction to 'consider who is present at the time evidence is to be given and whether it would be appropriate for an interpreter of a particular gender to assist'.[75] The next paragraph further instructs: 'The tribunal should be mindful that an applicant may find it particularly difficult or embarrassing to discuss claims in relation to his or her sexual orientation'.[76] Taken alongside the Gender Guidelines that advise against focusing on sexual acts,[77] it is quite shocking that this line of questioning was pursued and that greater significance was not given to cultural considerations and issues related to interpreter identity.

---

72   1319407 [2014] RRTA 705 (18 September 2014) para 11.
73   ibid para 13.
74   ibid para 14.
75   AAT Credibility Guidelines (n 2) para 24.
76   ibid para 25.
77   AAT Gender Guidelines (n 47) para 21.

A further issue not considered was the interpreter's possible role in creating vague or undetailed descriptions. In this case, the applicant indicated that his discomfort affected his account; interpreters – as social actors – can also be affected by the sensitive nature of narratives, and this has implications for interpreting decisions such as detail and lexical choice. Alternatively, in this case, the interpreter may simply not have known what constituted oral sex.[78]

The applicant also provided sociolinguistic explanations why he had not raised his sexuality in an immigration interview relating to his student visa. There were two issues. First, he was unaware of the option to apply for protection. Secondly, he did not feel comfortable raising his sexuality with the officer, a woman of Indian background. Perhaps unsurprisingly, the applicant did not explicitly draw attention to the conventions associated with bureaucratic interactions such as these. This means that an important point was missing from his arguments: generally, in an interaction relating to the regularization of student visa status, there would be no obvious expectation for individuals to offer details about their sexuality. Therefore, faulting the applicant for not having mentioned it would seem unreasonable. However, the decision maker again rejected the applicant's explanations without further justification.

The unspoken or unidentified issue throughout this case – for the applicant in his responses, the Tribunal Guidelines, and the Tribunal Member – was the lack of acknowledgment or understanding that linguistic relativity affects what different individuals express. While there was some focus on identity (and some acknowledgment of cultural and social influences), this effectively obscured the main issue: that what can be or will be expressed is linguistically relative. For example, the decision maker's expectation that the applicant would understand or express sexual identities or practices in a 'standard' way ignored the fact that the meaning of such practices or concepts varies across time and culture. For example, in Western societies, 'homosexual' as an identity only came into being in the 19th century[79] and the way homosexuality is understood has continuously evolved since then.[80] In Indian and Pakistani societies (and in Hindi and Urdu languages), the 'hijra', while carrying homosexual connotations, has a very different social meaning in terms of gender status, as well as behaviour and social standing, and likewise is not a static category but continues to evolve.[81]

In conclusion, this decision raises issues regarding the accommodation of diversity and points to a significant gap in the Guidelines. Standardized, essentialized, and static conceptualizations of homosexuality overshadowed the applicant's individuality, undermining his explanations for his behaviour and choices. His explanations were

---

[78] Maryns provides an example where an applicant offers a detailed description of sexual violence which is then largely summarized by the interpreter, seriously affecting the narrative impact: Katrijn Maryns, 'Disclosure and (Re)performance of Gender-Based Evidence in an Interpreter-Mediated Asylum Interview' (2013) 17 Journal of Sociolinguistics 661.

[79] Michel Foucault, *The History of Sexuality*, vol 1 (Pantheon Books 1978).

[80] Deborah Cameron and Don Kulick, *Language and Sexuality* (Cambridge University Press 2003) 21–23.

[81] For an overview, see Kira Hall and Veronica O'Donovan, 'Shifting Gender Positions among Hindi-Speaking Hijras' in Victoria L Bergvall, Janet M Bing, and Alice F Freed (eds), *Rethinking Language and Gender Research: Theory and Practice* (Addison Wesley Longman 1996).

thus often considered implausible – all without the decision maker having to reflect on his own difference. Issues with credibility also arose because the decision maker down-played or dismissed sociolinguistic factors (also largely ignored in the Guidelines), despite the impact these appear to have had on the applicant's communicative choices. In other instances, such as when exploring actions related to the applicant's homo-sexuality, rather than stemming from a flaw in the Guidelines *per se*, the shortcoming appears to be in the way decision makers choose to implement them.

5.2 1102389: Christian applicant from Egypt

The applicant in this matter was a Coptic Christian from Egypt. He claimed to have had a disagreement with a Muslim family who then sought to have false charges laid against him, leading to a court sentence of imprisonment for proselytization. The deci-sion maker described his interaction with the applicant (and his adviser) in some detail, setting out the different issues raised during the hearing and afterwards (in a letter to the applicant, along with the applicant's and his adviser's responses). The 'findings' sec-tion of the decision was similar to that in the decision discussed above, in that most of it outlined a list of credibility concerns, with the key indicators relied upon being primarily those of internal consistency and plausibility. The decision maker identified inconsistencies between evidence in the applicant's departmental interview, various documents provided (such as police and medical certificates), and his oral evidence during the hearing. He found implausible the explanations provided by the applicant and his adviser for these inconsistencies.

These explanations can be divided into three types. First, some inconsistencies were explained by the fact that some incidents had occurred when the applicant was not in Egypt. He had therefore provided details second-hand, relying on statements made by his family (who were involved in the incidents). Secondly, explanations were pro-vided about cultural or location-specific differences in social interactions (for example, door-answering practices in Egyptian and Muslim society, and communal or family involvement or responsibility in disputes), and bureaucratic processes (for example, practices around lodging police reports or accessing hospital services). Finally, a third type of explanation concerned the structure of communication in the Immigration Department and the Tribunal, and issues relating to language. For example, on some occasions, the applicant claimed that the reason he provided differing accounts was due to the form of questioning or issues involving interpreting.

In rejecting each of these explanations as implausible, the decision maker often noted that while he may have accepted such an explanation in isolation, he had to reject it when viewed in combination with his other concerns about credibility. Thus, it was the cumulative effect of the list of smaller specific credibility concerns that led the deci-sion maker to conclude that the applicant was not a credible witness.

5.2.1 Diversity considerations in the narrative

As in 1319407, multiple points in 1102389 demonstrate that the decision maker did not feel the need to justify why he considered certain of the applicant's actions or expla-nations to be implausible. Two concerns involved inconsistencies that the applicant (and his adviser) argued were not truly inconsistencies at all, but rather the result of social or cultural difference. First, the applicant had initially described how 'Mr A', the

man with whom his family had had a dispute, had answered the door to him, yet at another time described Mr A's mother as the person who answered the door. The decision maker described this as the applicant providing 'a different account',[82] emphasizing that during the hearing the applicant had only mentioned Mr A answering the door, 'without mentioning anyone else'.[83]

In response, the applicant explained in the hearing that the mother had first called out, asking who was at the door, and then Mr A opened the door and came out. He contextualized this account with reference to local cultural practices: 'usually in Egypt when you knock on the door someone then asks from the inside who you want to see'. The applicant's adviser reinforced this in a post-hearing written submission, referring to differences in housing design, security concerns, and Islamic practice in terms of ascertaining the identity of the caller before opening the door. In doing so, he referred to 'tradition', 'religion', and 'all Muslim countries', contrasting these with a 'western standard'.[84]

However, this detail, which the applicant may have initially thought unnecessary to mention – or potentially threatening the 'expected pattern of sequential event narrating'[85] – was considered important. The decision maker stated:

> in isolation, such an inconsistency … is not a matter of great significance. However, when viewed in combination with the other credibility concerns … this inconsistency adds further weight to its [the Tribunal's] overall finding that the applicant is not a credible witness.[86]

Therefore, he regarded it as an inconsistency and rejected the culture-based arguments put forward, without offering any explanation as to why. His reasoning instead rested on an external factor: he gave weight to the inconsistency because of other credibility concerns.

The decision maker also suggested that it was implausible that the applicant would go to Mr A's house alone to speak with him, after his two brothers had earlier been attacked when visiting Mr A's house. The applicant again referred to the social or cultural context to explain his actions: '[H]e thought that if he went with someone else it would look like he was going to make trouble, whereas if he was by himself it would show that he was trying to act peacefully'.[87]

This response, too, was rejected without further explanation or any consideration of the fact that cultural or social factors – or indeed the individual's idiosyncrasies – may influence such choices. Rather, the decision maker stated that 'in light of the Tribunal's various credibility concerns with the applicant in this matter the Tribunal rejects this explanation'.[88]

---

[82] 1102389 [2011] RRTA 525 (28 June 2011) para 93.
[83] ibid para 94.
[84] ibid para 64.
[85] Blommaert (n 19) 428.
[86] 1102389 [2011] RRTA 525 (28 June 2011) para 94.
[87] ibid para 40.
[88] ibid para 92.

It is concerning that in the examples above (and also in 1319407), explanations for individual inconsistencies were rejected because the applicant's overall credibility had been damaged by the cumulative effect of these same inconsistencies. Scholars have warned against adopting an overly 'broad' approach in credibility assessments, arguing instead that assessments should be restricted to the credibility of evidence, rather than to applicants' 'general' or 'overall' credibility.[89] In both this decision and the one considered above, the social or cultural reasons provided by the applicants were rejected without explanation. This indicates the risks associated with the lack of emphasis in the Guidelines on the decision maker's own self-reflection, resulting from the hierarchical representation of diversity. It also reflects the absence of any instructions to consider diversity in applicants' past behaviour and motivations, as opposed to their behaviour during the hearing.

5.2.2 Language, context, and inconsistency

The applicant in 1102389 attempted to address other points of inconsistency by drawing attention to the context in which communication took place during the application and review process, and how this affected the development of his narrative. Two points on which the decision maker relied in reaching a negative credibility finding related to how the applicant described the injuries sustained by his two brothers during an incident in Egypt (which occurred while the applicant was in Australia). At his departmental interview, the applicant reported that one of his brothers had injured his right side, which a medical report later described as an injury to his right thigh. He stated that his other brother had broken his arm, but later said that he had broken his leg and dislocated his shoulder.

In responding to these inconsistencies, the applicant attempted to draw on various linguistic and social-contextual arguments, addressing issues both within the application process and in his interactions with his brothers outside the application process (which contributed to his narrative). He explained that he did not see his brothers until several months after the reported incident, and thus relied on information they provided to him, as well as his own visual impression of their injuries at that later date, when only his brother's dislocated shoulder remained an issue. He argued that his primary concern in discussions with his brothers was ascertaining their general well-being, rather than the particular details of their injuries.

The applicant also suggested that the details he provided when initially questioned about his brothers' injuries by the Immigration Department resulted from how he was questioned – that is, what details were requested – and by how well the interpreter relayed this information.[90] Finally, he noted that in his initial written statement – prepared with the assistance of a lawyer, but without an interpreter – 'he did not know the English word for shoulder so said arm instead.'[91]

Again, the decision maker rejected each of these explanations, reasoning that:

---

89   See Sweeney (n 7), and Thomas (n 7).

90   The Guidelines advise caution when conducting hearings using an interpreter and to be 'aware of the possible barriers to communication': AAT Credibility Guidelines (n 2) paras 21 and 15 respectively. See part 4.1 above.

91   1102389 [2011] RRTA 525 (28 June 2011) para 33.

in the circumstances of such a serious attack and where this attack subsequently formed a central basis of the applicant's claim for protection, and also given the Tribunal's general credibility concerns with the applicant, the Tribunal rejects this explanation as implausible in the circumstances.[92]

Similarly, he stated that he did not believe that the applicant's brother would have only mentioned being injured on his side rather than on his thigh.

The decision maker did not explicitly consider the applicant's suggestions that interpreting or questioning structures, or the lack of an interpreter and lexical gaps in English, may have affected his communication of these parts of the narrative. He also underplayed the particular linguistic issues raised, despite their merit. 'Shoulder' is a more complex term than 'arm'. It is therefore unsurprising that a non-native English speaker may know and use the latter and be less likely to know or use the former, more specific term. Although this point was not raised, when the interpreter stated 'thigh' in the original interview, this could have been misheard as 'side', given the assonance of these two words in English. Otherwise, it is equally possible that language usage in Egyptian Arabic may differ from the decision maker's own socially and culturally informed expectations or experiences of using language, and that it may be more socially acceptable to use a general term, such as 'side', rather than explicitly mentioning a 'thigh'. This aligns with the applicant's explanation of his primary concern being his brothers' well-being, rather than what may be considered – socially and contextually – medical terminology, or perhaps even taboo, since the thigh constitutes part of the *awrah* ('shameful' or private parts) for men in Islamic societies.[93]

Like 1319407, this case presents some key challenges to the accommodation of diversity in credibility assessments. Again, social and cultural arguments and explanations appeared to be routinely dismissed as implausible, and sociolinguistic and structural concerns were given little weight. These arguments present issues that are largely absent from the Guidelines, but nonetheless relate to the diversity of those participating in reviews. Self-reflection on the part of the decision maker appeared minimal, and the cumulative effect of multiple credibility concerns contributed to a discounting of the explanations given for individual credibility issues.

5.3 Discussion

In the two case studies presented above, there were many factors that could have led to a negative decision. This article has dealt with only a handful of the issues presented by the decision makers, and it is possible that their ultimate decisions to reject the applications for asylum may have been correct, when all factors were taken into account. Further, the lack of access to the series of interactions leading up to the decisions limits full scrutiny. Indeed, the process of entextualization (the creation by the decision

---

[92]   ibid para 85.

[93]   Anissa Hélie and Homa Hoodfar, *Sexuality in Muslim Contexts* (Zed Books 2012) ix. The Guidelines also caution against imposing 'too high a standard when assessing an individual person's level of knowledge … if this knowledge would not be expected of a person in the position claimed by a person': AAT Credibility Guidelines (n 2) para 33.

maker of a summarized official record)[94] means that only these final texts are available to the public.

In both cases, listing multiple points that would be potentially insignificant in isolation had the cumulative effect of justifying a negative credibility finding. However, it is difficult to ascertain whether the negative credibility conclusions were reached due to these multiple issues having an overwhelming effect, or whether there was one particular credibility issue that pushed the decision makers 'over the edge', but they still felt the need to list all the issues to justify their conclusions.

Perhaps the most obvious difference between the two cases is that, in the first, there was a strong emphasis on the refugee status-relevant aspect of the applicant's difference. This is perhaps unsurprising, given that the point of contention appeared to be whether or not he was actually homosexual. In contrast, in the second case, the applicant's refugee status-relevant religious identity was not contested – rather, the question was whether he faced danger if removed. This might be why his religious identity was not strongly emphasised in the decision. Regardless of why it occurred, the hyper-sexualization of the applicant in 1319407 created serious challenges for him in his subsequent responses to the inconsistency and plausibility issues raised by the decision maker. At times, this approach seemed to disregard very explicit recommendations made in the Guidelines on the treatment of sexual diversity.

Despite the different points of concern in each case, both decision makers largely dismissed the applicants' socially and culturally centred justifications for their choices and actions. What was arguably plausible behaviour from the applicants' perspectives was implausible for the decision makers. Effectively, both applicants were expected to act rationally (as defined by the decision maker). Furthermore, and most obviously in the case of the applicant in 1102389, the acts and speech of their associates were also expected to be consistently reasonable or rational, and when this was not the case, the decision makers attributed blame to the applicants for others' choice of words or actions. Far from allowing for diversity of choice, what was regarded as plausible was limited to consistent rationality. In other words, these culturally diverse applicants were not afforded the luxury of individual flaws or idiosyncrasies.

However, it was not only in examining plausibility that the decision makers found it difficult to accept the applicants' arguments. When the applicants tried to draw attention to the relevance of language and cultural diversity in context, they also faced challenges. In 1319407, the relevant context related mainly to interactions with the Immigration Department, while in 1102389, the relevant context also included the applicant's and his relatives' interactions in the events making up his refugee narrative. In both cases, while the applicants' arguments centred mainly on issues of identity, what was missing was an explicit general acknowledgment that the use of culture and language are always context-specific. This would have reinforced the particular examples raised by the applicants in terms of how language, and social and cultural identity affected their behaviour, and would have helped to challenge the decision makers' unquestioned neutrality. As discussed above, both these issues are largely absent from the Guidelines, which may well have influenced the way they were dealt with by the decision makers.

---

94   See explanation of 'entextualization' in part 2.3 above.

Overall, while dealing with very different claims, both cases indicate that the way diversity was conceptualized limited its discursive value in the applicants' attempts to overcome the many credibility challenges with which they were confronted. This has serious implications for credibility assessment more broadly.

6. CONCLUSION

The particular issues explored in this article, in light of the diversity discourse presented in the AAT Credibility Guidelines, lead to some important conclusions on how conceptualizations of diversity can influence how diversity is dealt with in refugee status decision making, particularly in the assessment of credibility.

In the two case studies examined above, the applicants identified multiple social, structural, and linguistic factors that appeared to affect their experience in communicating with the Immigration Department and the Tribunal – both in preparing written documents and in responding to questions in interviews and hearings. However, in the examples explored, the decision makers rejected the applicants' explanations without providing detailed justifications for doing so. This was despite – in some cases – the existence of explicit guidance cautioning against the very issues raised: namely, cautions related to dealing with sexuality-based claims. It is difficult to explain definitively why this occurred, although the relative silence of the Guidelines on sociolinguistic factors before and during the hearing process may explain why such issues were not readily accepted.

Further, the analysis identified a number of other potential issues that were not raised by the applicants, nor acknowledged by the decision makers. For example, in 1319407, the focus on one particular element of diversity (sexuality) seemed to overshadow other aspects of individual diversity, experience, and choice. Essentializing or generalizing points of diversity can make it difficult to accept the complex and inherently personal and individual stories that applicants present. Similarly, it may mean that one particular element of their diversity – probably the one most relevant to their refugee claim – may be overemphasized at the expense of other factors. This appeared to create significant difficulties for the applicant in 1319407 when attempting to justify his living arrangements and social activities. This provides an additional explanation for the troubling trend already identified in the literature regarding the application of stereotypical expectations of the behaviour of sexual minorities in asylum claims.[95]

This approach also reinforces the invisibility of structural inequalities, such as those the applicants attempted to raise. Viewing diversity as a fixed (minority) attribute, rather than as something that is developed, expressed, and experienced through processes and interactions, may lead decision makers to dismiss or overlook the ways in which procedures and contexts can lead to participatory inequality. In the case studies, this may have contributed to how the applicants' explanations relating to the role of interpreters, language, and the structure of questioning at different stages in their applications were ultimately rejected. In some instances, this included what appeared to be explicit rejection of Tribunal guidance, but usually reflected the way in which sociolinguistic issues are downplayed in the decisions. This approach can be contrasted

---

[95]   Millbank (n 9); Shuman and Bohmer (n 20).

with that taken in other settings, such as international criminal tribunals, where judges have used their inquisitional powers to explore cultural and linguistic factors affecting witness testimony.[96] As Byrne has argued, the 'proactive role of the judge serves as a corrective mechanism' that may help to address structural inequality in such settings.[97]

Finally, the reification of diversity reinforces the superior position occupied by the decision maker within the Tribunal, and means that his or her own difference, experiences, and context and – importantly – how these affect his or her perceptions and expectations, do not require extensive interrogation. In the two decisions explored above, findings of implausibility relating to past events, or explanations related to cultural or other types of diversity, posed an insurmountable challenge for both applicants. The unacknowledged privilege resulting from the reification of diversity contributed to allowing the decision makers to feel comfortable presenting these plausibility findings without justification or explicit self-reflection. Of course, the decision makers' privilege extends beyond their discursive neutrality: their institutional role means that the decision is ultimately theirs, regardless of their self-reflexivity, and despite any suggestions in the Guidelines, as long as they meet the report structure mandated by the institution and the law. In any case, the institutional discourse does not acknowledge cultural and linguistic relativity. Nor does it allow for individual idiosyncrasies: by expecting applicants seeking asylum to act in uniformly rational ways, they are held to a higher standard of behaviour than those whose actions are not examined in this way (that is, those not seeking asylum). This means that while they are apparently discursively 'diverse', they are simultaneously punished for deviating from an expected standard of reasonableness.

This article has demonstrated that the way diversity is understood and discursively presented in refugee status determination cases and decision-making guidelines can significantly affect how difference is negotiated and accommodated. In high-stakes settings like asylum decision making, not all participants are different in the same way. Yet, the implications of discourses that essentialize and stratify diversity, and deny individuality, are serious. Systemic participatory inequalities and the decision makers' own diversity and privilege may remain unaddressed and invisible, and the way applicants' diversity is conceptualized may affect the types of narratives and identities that are considered institutionally acceptable. In turn, this affects what may be accepted as credible. Ironically, this may mean that while giving the impression of accommodating diversity, the institution's procedures and agents may actually create or reinforce barriers to fair outcomes, and thus ultimately undermine access to refugee protection for those who need it.

---

[96]   See eg *Prosecutor v Akayesu*, International Criminal Tribunal for Rwanda, Trial Chamber Judgment (2 September 1998), where the Trial Chamber drew on expert linguistic testimony, and *Prosecutor v Kupreškić, Josipović, Papić, and Santić*, International Criminal Tribunal for the former Yugoslavia, Trial Chamber Judgment (12 July 1998), in which an anthropologist was called to address cultural and linguistic issues in the assessment of evidence. See discussion in Rosemary Byrne, 'Assessing Testimonial Evidence in Asylum Proceedings: Guiding Standards from the International Criminal Tribunals' (2007) 19 International Journal of Refugee Law 609, 634.

[97]   Byrne (n 96) 637.

4. Debating credibility: Refugees and rape in the media

This paper is the first of two involving the case study of a Somali refugee, "Abyan", whose experiences and an ensuing "debate" made headlines throughout Australia in late 2015. The timing of this case was such that I had begun to analyse and draft the first two articles when I first came across this "debate" in the news. The fact that credibility was a central theme throughout the reporting led me to incorporate it as a case study in my research, after completing and submitting my first two papers for review.

The result of this analysis is the paper presented in this chapter. I submitted this paper to the *Australian Review of Applied Linguistics* in January 2018 and it remains under submission. I chose this journal for multiple reasons. First, I wished to include an Australian-focused journal among those in which I shared my research. Second, existing research to which I make reference and draw comparisons was published in this journal (Macken-Horarik, 2003a). My paper thus provides an update on an ongoing theme of interest to the journal: the way politicians with and through the media present individual incidents involving refugees to support a broader discourse of distrust.

The paper appears in this chapter in its submitted form, with minor changes to formatting to facilitate reading.

Abstract

In recent decades, credibility has become an increasingly popular focal point in Australian media discourse on asylum seekers and refugees. This paper explores public debates about credibility in media discourse related to a Somali refugee who was raped on Nauru. Given the pseudonym "Abyan" in the Australian press, she was living on Nauru as a result of Australian refugee policy and was brought to Australia for medical assistance. Her treatment by the Australian authorities became the subject of a heated debate and was widely discussed in the Australian media. Data for this research include a corpus of media articles, reporting and commenting on this debate. The analysis explores the way each key actor is represented by the media, and considers how these impact their credibility. Reflecting existing research on media discourse on refugees, this paper finds that Abyan's experience is drawn on to support broader arguments about asylum policy. Further, the discourse presents Abyan as being a key speaker, even though in reality her ability to construct and defend her credibility is actually quite limited. The paper concludes that credibility remains an important theme in public discourse on refugees and that the power asymmetries hidden within this discourse create obstacles for those wishing to challenge it.

4.1. Introduction

Whether or not we can believe the claims made by individuals who arrive seeking protection is a matter of ongoing debate within political and media discourse in countries like Australia. In fact, a recent study of mainstream Australian media articles indicated that whether refugees are "genuine" has become the key question in public discourse (Stirling, 2015a). Research has further uncovered how discourse in the global north presents refugees and asylum seekers negatively, describing them as threats or dangers (KhosraviNik, 2009), natural disasters (e.g., "flooding", "streaming", "influx"), invaders and pests (Baker & McEnery, 2005, pp. 210-211).

By presenting refugees in these ways, stringent and exclusionary policies are justified (see argument in Every & Augoustinos, 2008, pp. 648-649). Further, arguably, portrayals of refugees as "deviant" in these discourses encourages immigration decision-makers to question their credibility as refugees (Pickering, 2001, p. 179). Thus, these discourses have the potential to impact not only on refugee policy, but also on the outcomes of individual decision-making in refugee status determination (RSD) processes.

This paper seeks to explore the issue of credibility as it arises in a collection of Australian media articles relating to the experiences and treatment of a Somali refugee called "Abyan",

living on Nauru as the result of Australian asylum policy. It considers the way each of the key actors is presented in the media corpus: how their identities and actions are portrayed and how their credibility is constructed or challenged as a result. The paper concludes that refugee credibility is a key theme in political debates on refugee policy; while the power asymmetries that restrict refugees' ability to challenge this discourse and defend their credibility largely remain hidden.

The paper is organized as follows: the case of Abyan is introduced and existing research on refugee credibility in media discourse is reviewed. The research questions and analytical approach are then set out. These involve an exploration of the media's portrayal of Abyan and the other key actors involved in her experiences in Nauru and Australia, reflecting on how the credibility of refugees is constructed in public discourse. After introducing the key themes arising from the corpus, the paper examines how the key actors are represented, with special attention to how they are each assigned particular roles in the debate. The paper concludes with a discussion of how these constructions help produce, reinforce or challenge Abyan's credibility and a consideration of the resulting implications for the public discourse on refugees more generally.

4.2. "Abyan" and media discourse on refugees and credibility

4.2.1. The case of "Abyan"

In October 2015, the case of a refugee, who was living on Nauru as a result of Australia's offshore processing policy, caught the Australian media's attention. The individual in question, who was given the pseudonym "Abyan", had travelled to Australia by boat to claim asylum. Under Australia's "Operation Sovereign Borders" asylum seekers who attempt to reach Australia by boat without authorization are liable to be transferred to third countries to have their asylum claims processed. Generally, these individuals have no prospect of ever being resettled in Australia (for a summary of the policy see Opeskin & Ghezelbash, 2016). Sometime after being granted refugee status on Nauru, Abyan approached the health services on the island and when it became apparent that she was pregnant, she explained that this was due to having been raped by a local person on Nauru in July 2015 (Australian Border Force, 2015). A number of other female refugees on Nauru had reported rapes in the same year, one of whom had had her claims dismissed by the police due to lack of evidence and whose identity was then revealed to the media by the Australian PR agency representing the Nauruan Government (Allard, 2015; Doherty, 2015).

Australian Government officials arranged for Abyan to be transported to Australia to have treatment and presumably to terminate the pregnancy - a procedure unavailable in Nauru. However, within five days of arriving in Australia, Abyan was returned to Nauru by the Australian Government (hereafter, "the Government") despite Australian lawyer, George Newhouse, attempting to seek an injunction to prevent her removal. Abyan was removed without terminating the pregnancy or having the opportunity to meet with Mr. Newhouse.

Thereafter, a debate arose over the reasons for which the Government had returned Abyan so speedily, the situation gaining a significant amount of media attention. In a number of press releases, press conferences, interviews, and in Parliament, the Government, and more specifically the Immigration Minister, Peter Dutton ("the Minister"), claimed that she had been returned because she had decided not to have an abortion. In response to the Minister's first press release following her return to Nauru, a handwritten statement from Abyan was shared by Mr. Newhouse with the media and reproduced in various newspaper articles (including many in the current corpus). He and various refugee advocates also participated in media interviews and made other public statements on the case, contesting the Government's claims. They argued that Abyan had had much more limited access to medical and psychosocial services than the Government had claimed, and that she had not made a definitive decision to not have an abortion before being removed from Australia, but rather needed more time and support before making a final decision. They also criticized the Government's action in taking Abyan away so suddenly, claiming that this was done to prevent Abyan seeking legal assistance.

A Freedom of Information (FOI) request was made by another lawyer, Kellie Tranter, to access the Government's communications and preparations regarding Abyan's case. These documents – an email chain between various Government officials - were made public (through the media) in January 2016 and appeared to mainly support Abyan's version of events (Symons-Brown, 2016). For example, on 15th October, while Abyan was still in Australia, an email from an anonymized health official to an immigration official noted:

> Unfortunately despite 30 mins on the phone to [the Telephone Interpreting Service] I was unable to access a Somali interpreter. She does, however, understand and speak very basic English and was happy to proceed with the consultation. She confirmed that she does not want the termination now, but she did make it clear that she hasn't completely changed her mind (p. 77)

After Abyan was returned to Nauru and the same official was later quizzed, the official explained:

> As per our previous discussions, after she declined the procedure I asked her (more than once) whether she changed her mind and no longer wanted a [termination of pregnancy (TOP)]. She consistently said that she still wanted to have a TOP, she just didn't want it that day or the following week …(p. 93)

> I explored her reasons for declining the procedure but she just stated that she felt 'too mentally unwell' and wouldn't elaborate….I asked whether she had changed her mind altogether, and she said no…. (p. 94).

There were also emails supporting the claim that the Government decision to remove Abyan from Australia was (at least partly) motivated by a desire to avoid legal action that would keep her in Australia. For example, on 14th October, Neil Skill, the First Assistant Secretary, Detention Services, Australian Border Force, wrote:

> If she decides to proceed, she will then be returned to Nauru as soon as medically fit to travel. If she decides not to proceed, we will make arrangements to have her return to Nauru ASAP. If she continues to vacillate, we will make a decision early next week about return to Nauru. I think the lawyer is buying time so he can seek legal intervention (p. 25).

After Abyan's return to Nauru, the media coverage decreased rapidly, with only a few articles reporting the Government announcement that she would be returned to Australia for further treatment. An article in January 2016, discussing the FOI documents, reported that she remained in Australia and was "receiving medical care" (Tranter, 2016). No further information is publicly available about what has happened to Abyan since this time.

4.2.2.   Media and political discourse on refugees

In Australia, refugees have been highly politicized in the media and public discourse, most notably since 2001, when Australia began implementing a suite of measures aimed at preventing asylum seekers from reaching Australian territory by boat. This has included measures such as forcing boats back to Indonesia and where this is not possible, transferring asylum seekers to the neighboring island nations of Nauru and Papua New Guinea (PNG) (see Opeskin & Ghezelbash, 2016). After one such operation, the Government claimed that some asylum seekers had threatened and then proceeded to throw their children out of their boat, apparently in an attempt to coerce the Government to take them to Australia. John Howard,

then Prime Minister, used the reports of this incident, which became known as the "Children Overboard" affair, to support his government's tough stance on asylum seekers, transforming the discourse surrounding refugees from being "pitiful victims of circumstances beyond their control, thoroughly deserving of aid and pity, to cynical and calculating invaders in search of an improved lifestyle" (MacCallum, 2002, p. 41). While evidence emerged disproving the reports, the Howard Government was able to capitalize on the new discourse of dishonest and calculating illegals, which arguably contributed to their re-election (Every & Augoustinos 2008, p. 650).

Since that time, given its broad-reaching implications for migration policy and election outcomes, scholars have been interested in analyzing Australian political and media discourse around refugees. Some have gone as far as to argue that there is a professional duty to draw attention to a situation in which a "discourse of hatred" has become respectable, and in doing so, "encourage vigilance concerning the power of language" and acknowledge its role in social justice (Clyne 2003, p. 5).

Analyses of both the written language and use of images in media coverage of the Children Overboard incident uncovered the way different groups and individuals were discursively represented, and drew links between these portrayals and the political discourse relating to refugees, noting – among other things – the way government officials discursively linked this specific event to broader claims about asylum seekers more generally (Macken-Horarik, 2003a, 2003b).

Research elsewhere has also identified credibility or trust as a key theme in media and political discourse on refugees and asylum seekers. For example, it is a common trend for those who are unsuccessful in their claims for asylum to be discursively presented in the UK media as "bogus" or "fraudulent" (Philo, Briant, & Donald, 2013, ch 3 & 4). The discursive binary of "bogus" claimants versus genuine refugees has also been used in Canada to support more restrictive legislation (as discussed by Molnar Diop, 2014, exploring the treatment of Roma refugee claimants). In the Canadian media it has also been found that constructions of "bogus" applicants tend to arise most frequently around the time of and in response to "episodic events" relating to individual asylum seeking arrivals, which are then linked with broader policy discussions (Lawlor & Tolley, 2017).

In Australia, focusing on individual cases and incidents appears to remain popular, with both politicians and advocates reacting to and drawing on specific events and individual experiences to support competing positions on broader issues surrounding asylum seekers and refugee policy. The 2015 case of Abyan, introduced above, gained substantial attention by

refugee rights advocates and the media. As with the Children Overboard incident, there was much debate over the facts of the case, with accusations of dishonesty appearing to be made on all sides. Credibility was therefore a central issue - a prerequisite to deciding on the preferred version of facts, and thus on the relative merit of the particular side of the refugee policy debate those facts supported.

The effects of this type of public discourse are significant. First, it influences or justifies migration policy on a broad scale, for example, legislation to exclude certain groups from even applying for asylum at all – as is the case in Australia for "unauthorised maritime arrivals" (*Migration Act 1958*, section 46A(1)). Second, political pressures and discourse also influence refugee decision makers' credibility assessments and fact-finding, leading them to treat asylum claims with suspicion (Baillot, Cowan, & Munro, 2014; Hamlin, 2014). This means that credibility has also become a central issue in status determination processes (Smith-Khan, 2017b, 2017d). Therefore, the way credibility is dealt with at the macro level of public discourse is inextricably connected with how credibility is conceptualized and incorporated at the individual or micro level. Conversely, as will be seen in the case of Abyan, individual examples may also affect or be used to influence broader discussions on asylum seekers and refugee policy.

Therefore, this paper seeks to explore the media's portrayal of Abyan, and the other key actors involved in her experiences in Nauru and Australia. In particular, it aims to uncover the way these actors are assigned particular identities and actions and how this affects their credibility. In doing so, this research aims to make a contribution to understanding how the credibility (or lack thereof) of refugees is discursively constructed in public discourse.

The following section sets out the methods and data used to address these questions.

4.2.3. Exploring the discourse on credibility and communication

As mentioned above, the key issue emerging from a preliminary reading of news articles and opinion pieces discussing Abyan was a debate over the facts surrounding her treatment while in Australia and the reason for her being returned to Nauru so promptly. The case merits closer attention not only due to the level of media attention it received, but also due to the themes and arguments it prompted. Within public statements made by the key actors and in the media coverage, the issue became one of credibility: who was telling the truth about what had happened? Establishing credibility became a prerequisite to evaluating the situation and considering the implications of different versions of events, and was also significant for the broader ongoing debate regarding Australian refugee policy.

Given the central role that the credibility of the different key actors appears to have been given in this media debate, the paper seeks to explore how each of these actors is represented discursively in a selection of online news reports and opinion pieces relating to the debate. In doing so, special attention is paid to how their communication is conceptualized and the way their identities are constructed and consider how this impact their credibility.

An initial corpus of articles was gathered through online Google searches with the keyword "Abyan", and then using a snowballing approach by following links in these articles referring to other pieces on the topic. To ensure a broad variety of texts and opinions, other mainstream newspapers were searched online through the ProQuest database - to access articles that are usually behind a paywall. Reading through this corpus led to the identification of the key issue to be explored, as introduced above: the debate surrounding whose version of events was correct. The media sample was then limited to pieces from Australian news outlets with a high readership, and which were published within a week from the publication of the Minister's first press release and Abyan's handwritten statement (i.e. 19th-24th October 2015) (see Table 1).

This approach has been used in other analyses involving media discourse on refugees in Australia. Notably, Mary Macken-Horarik (2003a, 2003b) used a social actor analysis with the Children Overboard story, examining the discourse in a corpus of newspaper articles on this event. Similarly, the current analysis concentrates on the key social actors mentioned in the collection of media texts dealing with Abyan's case.

In the following, the media corpus is introduced and contextual information provided regarding where these texts were published. This is followed by an exploration of the way each text links Abyan's individual case to more general arguments and opinions regarding Australian refugee policy, identifying the key themes in this broader debate. The analysis then proceeds to an examination of how each of the actors has been represented "sociosemantically" - how they are named and described and how they are attributed certain actions and roles, with a particular focus on their communication (van Leeuwen, 1996, p. 32). This analysis concentrates specifically on how these choices contribute towards supporting or challenging the actors' credibility.

4.3.   Presenting the debate: Abyan in the media

Similar to the heavy coverage of the Children Overboard incident, the dispute over why Abyan was transported out of Australia so rapidly after her arrival became the subject of numerous news reports and opinion pieces across mainstream Australian media. Before commencing the analysis, the corpus is introduced below.

Table 1: Media corpus

Reference	Title	Type	Author	Source	Date
AUS19	Nauru offers home to hundreds as asylum rape battle rages	News article	Joe Kelly	The Australian	19/10/2015
CN19	A counsellor should be sent to Nauru to help 'Abyan'	Comment/Opinion	Michelle Grattan	The Conversation	19/10/2015
DLY19	Treatment of Abyan exposes hypocrisy of anti-violence initiatives	Comment/Opinion	Samah Hadid	Daily Life	19/10/2015
GRD19	Somali refugee flown out of Australia denies saying she declined termination	News report	Ben Doherty & Shalailah Medhora	The Guardian Australia	19/10/2015
SMH19a	Peter Dutton says advocates for Somali refugee 'Abyan' have let her down	News report	Latika Bourke	Sydney Morning Herald	19/10/2015
SMH19b	Refugee rape victim says Immigration Minister Peter Dutton is telling lies about abortion	News report	Tom Allard	Sydney Morning Herald	19/10/2015
AUS20	Rape refugee seeks new abortion location	News report	Chris Kenny	The Australian	20/10/2015
MMA20	Abyan does want abortion, just not in Australia	News report	Shauna Anderson	MamaMia	20/10/2015
NM20	Abyan's Plight Is Not A Travesty Of Justice, It's A Deliberate Denial Of It	Comment/opinion	Matthew Kenneally	New Matilda	20/10/2015
TL20	Deceptively tricky dilemma	Comment/opinion	N/A	The Daily Telegraph	20/10/2015
AUS21	Refugee declines to report rape to police	News report	Chris Kenny	The Australian	21/10/2015
TL21	When human life is a political football	Comment/opinion	Miranda Devine	The Daily Telegraph	21/10/2015
ABC22	Silenced and sidelined: We've already passed judgment on Abyan, so why bother with courts	Comment/opinion	Michael Bradley	ABC News	22/10/2015
AGE24	Losing the plot: the sad tale of refugee Abyan	Comment/opinion	Michael Gordon	The Age	24/10/2015
SMH24	Somalian refugee Abyan becomes a political pawn after abortion request on Nauru	News report	Tom Allard	Sydney Morning Herald	24/10/2015

The corpus represents a variety of Australian news outlets. *The Australian* and *The Daily Telegraph* are owned by News Corp Australia (News Corp Australia, 2017), part of Rupert Murdoch's international media conglomerate. They are regarded as populist publications, inclined to support conservative governments (McKnight, 2012). *The Age* and *Sydney Morning Herald* are owned by News Corp's main competitor, Fairfax Media. Fairfax also owns *Daily Life,* which provides "news and lifestyle content for busy Australian women" (Daily Life, 2017). Fairfax has traditionally attempted to be "more subtle" and "moderate, fair and responsible" in its handling of politics, although it has sometimes been seen as supporting the Australian Labor Party - the less conservative of the two main political parties (Griffen-Foley, 2002). The Australian Broadcasting Corporation (ABC) is state-owned and funded. It has been accused by conservative commentators and politicians of being biased and presenting a "leftist" perspective. Its online component was launched in 1995 and includes the ABC News website (Jolly, 2014).

The remaining publications are exclusively internet-based. The *Guardian Australia,* the Australian online edition of the UK-based newspaper, launched in 2013 and presents itself as "independent" and "showing all sides of the story" (Viner, 2013) and is generally regarded as politically to the left (Wake, 2013). Established in 2004, *New Matilda* is "predominantly reader-funded and remains fiercely independent, with no affiliation to any political party, lobby group or other media organisation" (New Matilda, 2017) and emphasizes its role as an alternative to mainstream media, especially focusing on "political analysis and social justice issues" (Barnes, 2013, p. 811). *Mamamia* presents itself as "the largest independent women's website in Australia" and includes "news, opinion, social commentary, political analysis" among other topics (Mamamia, 2017). Finally, *The Conversation's* Australian edition also presents itself as independent, with its "news and views" "sourced from the academic and research community", and much of its initial funding coming from universities and other research bodies (The Conversation, 2017).

Therefore the corpus includes texts from a variety of sources, attracting a diverse cross-section of Australian audiences. The following sections examine this corpus, which includes articles that were published within the week following Abyan's return to Nauru and the release of the Minister's and Abyan's statements detailing the disputed facts. First is an exploration of the major themes covered in these articles, noting how Abyan's case is contextualized within the broader debate around refugee policy in Australia. Next is an examination of how these articles represent Abyan. The analysis then explores the representation of other actors,

including the Government and Abyan's lawyers and supporters. Finally, the implications that these representations have for credibility construction are considered.

4.3.1.   Specific to general: Abyan and the larger policy debate

As discussed below, the choice to assign the refugee at the centre of this case-study a first-name pseudonym personalizes the issue to which her experience relates and attracts the audience's interest. While the pseudonym acts to identify a single person, the whole corpus demonstrates a tendency to use this individual story as an example of the broader issues around refugee policy in Australia. As one article points out, "In the case of Abyan, she is becoming a totem of Australia's harsh offshore processing system for refugees" (SMH 24).

This reflects the trend already established in the existing literature (Lawlor & Tolley, 2017), including what was observed regarding the Children Overboard incident (Macken-Horarik, 2003a, 2003b).

Regardless of the authors' respective opinions, every article in the corpus contextualizes Abyan's situation within the larger refugee policy debate in some way. The approaches taken vary across the corpus, depending on the argument the author wishes to support, but they generally fall within various common categories. First, many authors (mainly from traditionally centre/left-leaning publications) refer to Abyan's experiences to criticize the harshness of Australia's policy of sending refugees to Nauru and PNG, or for using immigration detention more generally, listing the negative consequences of these policies (AGE24, DLY19, GRD19, NM20, SMH19b, SMH24).

> It's no surprise our immigration department refused to display a shred of decency and sent Abyan to the very place that brought on such trauma without the medical care requested. The department has, after all, been led by ministers who try to outdo their predecessors in their mistreatment of asylum seekers (DLY19).

> Abyan's fears are borne from personal experience, and that of others. There have been three reported sexual assaults of refugees outside the detention centres this year, including her own. Between September 2012 and April 2015, detention centre operative Transfield Service logged 33 sexual assault incidents, including nine judged critical or major. Although Abyan has not gone to Nauru's police, two others have (SMH24).

In some cases this issue is contrasted with the Government's human rights-related pursuits in other fields (CN19, DLY19).

But apparently not when it happens to refugees in Australian care. This sort of violence did not feature in the Prime Minister's clarion call to end violence against women. This sort of violence is not only ignored but dangerously perpetuated by bureaucratic processes and political decisions (DLY19).

Some refer to the "deterrence" justifications used to support this policy approach – either approvingly or critically (AGE24, NM20, SMH24, TL20, TL21).

But the inescapable conclusion is that Abyan's story is simply further evidence that the centres on Nauru and Manus are unsustainable, and that both continue to damage vulnerable people for no other purpose than to deter boat arrivals (AGE24).

Remember, too, that many if not most in the refugee advocacy movement actually supported the so-called "humane" asylum seeker policies of the previous government policies that filled detention centres beyond capacity and left more than 1000 dead at sea (TL20).

Some criticize the "fiction" of presenting Nauru and PNG as being responsible for the refugees sent there, when in fact this process exists as a result of Australian Government policy and entails its ongoing involvement (ABC22, AGE24, CN19, DLY19, NM20).

...though the government likes to pretend, disingenuously, that it is at arms length from much of what happens in those places (CN19).

In contrast, another article that is not critical of Government policy frames the Nauruan Government as solely responsible for the refugees there:

The Pacific Island nation of Nauru will resettle hundreds of people deemed to be genuine refugees after its government opted to accelerate the processing of asylum-seekers…. and nearly all refugee determinations had been concluded (AUS19).

Further, rather than focusing on potential harms of the offshore policy, those articles that do not criticize Australian Government policy highlight the facilities provided to refugees in Nauru, referring to "Abyan's beachside refugee housing complex" (AUS21) and explaining that:

The resettled refugees will be provided with housing, a living allowance and employment opportunities until a more permanent resettlement location can be found. The [Nauruan] government confirmed that

additional accommodation, with "air-conditioning and self-catering facilities", was being built (AUS19) (see also AUS20).

Many of the articles mention the fact that refugees transferred to Australia for medical reasons are able to access the Australian legal system while there – something that is not possible from Nauru (ABC22, AGE24, AUS20, MMA20, SMH19a, SMH19b, SMH24).

> Approximately 200 asylum-seekers and refugees who were on Nauru and have travelled to Australia for medical attention remain in Australia after lodging bids for asylum. Their return to Nauru awaits rulings by Australian courts (AUS20).

A related focal point is on the lack of transparency or oversight in refugee-related operations (ABC22, NM20, SMH24):

> Australia's exchange of cash for prison space with Nauru is, like any trade agreement, built on comparative advantage. Nauru's comparative advantage is an absence of the rule of law. Asylum seekers can be held in detention indefinitely (NM20).

This leads some to conclude with recommendations for oversight mechanisms (AGE24, CN19, GRD19):

> The appalling saga of the pregnant Somali woman known by the pseudonym of "Abyan" shows the urgent need for some neutral watchdog in such a situation to ensure the person's interests are protected and what is done is transparent (CN19).

Therefore, Abyan's experiences are indeed used as a "totem" or channel through which the authors are able to share their opinions on Australia's refugee policy, despite these being varied and sometimes opposing. This resembles the findings of the Children Overboard analysis in that those commenting use the particular event and persons involved as a link to the broader debate on refugees and refugee policy (see Macken-Horarik, 2003a) (for a more general exploration of the linking of individual cases with broader discussions on refugees see Lawlor & Tolley, 2017). In both cases, a key theme is the trustworthiness of the refugees involved.

Therefore, the next section considers how the corpus represents Abyan, the Government and other actors. It explores the types of actions each actor is assigned, paying particular attention to how their ability and opportunities to communicate are represented in the corpus.

It also examines how their identities are shaped through how they are named. In each case, the analysis considers how these constructions impact on credibility.

4.3.2.   Abyan, woman…. refugee?

Across the corpus, regardless of the authors' opinions of the situation, the most common naming choice by far is the first-name pseudonym, "Abyan", which appears most frequently in every single text. Second-most common (with the exception of three articles – AUS20, AUS21, ABC22) is "woman".

Using a pseudonym serves a practical referential function: without a name the media would be left calling her "the woman" and would need to provide further information for the reader to understand to whom the story related. Ironically, even referring to her as "the Somali refugee who was raped on Nauru" would not be specific enough to single her out, given that another young Somali woman reported having been raped at a similar time.

The use of "Abyan" is an example of informal nomination, but also involves "name obscuration" (van Leeuwen, 1996, p. 53), as Abyan is a pseudonym. Individualization is a strategy often used to communicate the author's empathy with the subject (KhosraviNik, 2009). Ironically in this case, the first-name pseudonym appears on the one hand super-personal, yet reveals very little about the actual individual. Further, unlike in KhosraviNik's examples (2009, pp. 484-485), the nomination is not accompanied with other types of individualization, such as details about profession or education, or everyday activities. Therefore, while naming and dealing with the experience of this one individual may appear to somewhat humanize or individualize her, the lack of other details limits this. Indeed, this is a reflection of the legal, physical and presumably communication barriers between Abyan and most of the journalists whose articles are included in the corpus, as a direct result of Government policy – a challenge only a few of these authors underline (e.g., ABC22). As explored below, the actions and experiences assigned to her are largely limited to those regarding her transfer to and from Australia and experiences directly relating to those transfers, rather than personal attributes or experiences. This limits her "humanization".

Abyan is frequently named "woman" and therefore categorized by gender. This suggests Abyan does not have any other qualities or characteristics that are as relevant or noteworthy as her gender – or that any more specific characteristics are unknown to the writers. This contrasts with other actors in the corpus who are referred to by their (often professional) functions – e.g., Minister, police, lawyers, doctors etc. – which lends these actors legitimacy and authority. Calling her "woman" also echoes the Minister's own usage in his public statements regarding

the case (e.g., Dutton, 2015), demonstrating how the media draws on the Government discourse.

Referring to Abyan as "woman" may also bring her credibility into question. Where authors wish to stress the innocence of a female crime victim, it is common practice to favor qualifiers or personalizing elements. Victims may be described with reference to valued social roles they play, for example, "loving daughter" or "new mum" (Lloyd & Ramon, 2017, p. 126). The use of the term "woman" alone contrasts with this and creates a more questionable victim, free of any valued legitimizing social roles. Further, research suggests that female victims of crime are more likely to be negatively depicted if they are poor or part of a minority group, and the crimes to which they are victim rationalized through suggestions that they were in the wrong place or that the crime had occurred as a result of decisions they had made (Collins, 2016).

Abyan is also categorized – although less frequently – as a refugee. She is also sometimes described as an asylum seeker (AUS19, DLY19, TL21). Under international law, a refugee is any person who:

> owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country (*Convention Relating to the Status of Refugees*, 1951, Article 1A(2)).

At a national level, however, the term "asylum seeker" is used to denote someone who has yet to pass through domestic procedures for determining whether they meet the refugee definition. Thus, describing someone as an asylum seeker or a refugee indicates their stage in this process at a given point in time. As some of the other articles point out (GRD19, SMH19b, ABC22, AGE24), Abyan had already been assessed in Nauru and was found to meet the refugee definition, meaning that the three articles describing her as an asylum seeker are factually incorrect. The use of "asylum seeker" in these articles therefore suggests that first, fact-checking around her legal status was regarded as unimportant to the issue at hand and that these aspects of her personal experience were not interesting or pertinent. Second, the term "asylum seeker" holds even more negative associations than "refugee" does, meaning it is thus unsurprising that it is used in two articles in News Corp-owned media (see for example, the findings in a large corpus study in Baker & McEnery, 2005, p. 222). The use of this term therefore suggests that Abyan has not yet proven her credibility or merit as a refugee.

Overall, explicit references to Abyan being a refugee (or asylum seeker) are low, although this is likely due to this being understood within the broader context of the articles. Still, the confusion in some articles over her status perhaps helps to demonstrate how her refugee status in not considered of particular importance: her pre-asylum-seeking experiences or genuineness as a refugee are only infrequently used to contextualize or validate the seriousness of her experiences in Nauru and Australia. Where this is mentioned, it is only done so in texts that more generally support her credibility and criticize Government policy. For example:

> It is hard to imagine a more anguished predicament for any young woman, let alone someone who fled the terrorist group al-Shabaab in her war-torn homeland and has spent two years in detention on Nauru with no prospect of a new home (SMH24).

Examples like this are limited in the corpus, perhaps understandably due to the restricted access the journalists have to Abyan and her life and experiences. They only have Abyan's one written statement and statements made by others to glean any information about her.

What is clear from the above is that in naming and describing Abyan, the corpus is restricted to creating only the most basic outline of an individual. Very little is known about her other than her gender, age, nationality and residence. As discussed above, the limited information available about this unknown person creates a significant obstacle for the creation and maintenance of trust and empathy in the reader.

Beyond the names she is given, Abyan is also assigned a number of roles through the way she is positioned as an agent or patient in the texts. These are explored below.

4.3.3.   Abyan, speaker and decider

Most of Abyan's acts involve verbs relating to either saying or asking, or deciding or wanting. In contrast, in other types of actions, she appears as a patient in passive constructions where the agent is unidentified or absent.

Actions related to communication are most common (161 out of 447 of Abyan's actions (36%)). Abyan "says", "claims", and "reports" and "requests". The second most common category of actions revolve around thinking and feeling - primarily making decisions or wanting something (106/447 (24%)). Every article also assigns agency to Abyan in terms of having an abortion, usually linked with these other verbs – e.g., wanting or asking for one, or deciding (not) to have one (61/447 (14%)). Most commonly, these actions of thinking and speaking involve no other actors: Abyan asks or decides, without direct reference to the actors with whom she is communicating or interacting. There is variety in terms of which particular

verbs or nouns are used to reflect these actions (i.e., more or less colloquial, value-laden – e.g., "alleged" versus "says").

Regardless of this variety, in all except one article (ABC22), communication and thought actions comprise over half of the actions assigned to Abyan. This is perhaps unsurprising given that the journalists must rely nearly solely on the one written statement from Abyan when discussing her actions. However, Abyan is often misleadingly presented as explicitly accusing her "adversaries" in the debate of telling lies. Apt examples of this construction include statements like "Abyan has said Mr. Dutton's description of events - backed by Prime Minister Malcolm Turnbull - were false" (SMH19b) and "Abyan said the government was not telling the truth" (GRD19). In reality, her written statement includes no mention of the Minister or any statements he has made, focusing simply on her experiences, with statements like "I was raped on Nauru. I have been very sick. I never said that I did not want a termination".

The overall result misconstrues the reality. Readers are left with the impression that the journalists are in a position to report on what Abyan wants, thinks or says, despite the fact that there is very little direct contact with her. In fact, only one journalist, Chris Kenny, had the opportunity to travel to Nauru and speak with Abyan and their interactions became the subject of a separate debate, including Abyan reporting media harassment (Allard, 2015).

This emphasis on what Abyan has said or thinks creates the impression that Abyan's actions are key to how the events unfolded: that she was in control. Her one written statement is transformed into her having a fair opportunity to present her side of the "debate", putting her on the same level as the Minister and Government. This is despite the great inequalities in her opportunities to speak, her access to information and her communicative and identity-building resources (for an in-depth discussion on these inequalities, see Smith-Khan (Under review)). This asymmetry is only acknowledged in a few exceptions in the corpus. The inclusion of "the rape claim" in many cases only goes to further bring into question the credibility of Abyan's claims, as explored below.

4.3.4. "The alleged rape"

The articles vary in how they refer to the rape. The veracity of the rape claim is significant in this case because it contributes towards the discussion of whether or not we accept Abyan as a credible witness more generally. Understandably, in the context of news reporting, pieces dealing with accused persons will use language like "alleged" as a way of acknowledging the principle that people are innocent until proven guilty, and to avoid interfering with ongoing court cases or investigations. However, in this case, the articles do not focus on any alleged

perpetrator, but rather on the victim, and there are no active investigations or cases related to her claims. However, as Healicon (2016) argues, when a woman reports having been raped, this immediately puts into process an assessment of her credibility.

This perhaps goes some way to explaining why most articles in the corpus (nine) present the rape as an allegation or claim rather than fact, for example, "pregnant as the result of an alleged rape" (GRD19), "her rape claims" (AUS20). Only three of the 15 articles (DLY19, ABC22, SMH24) consistently use language that presents the rape as fact, and these are articles in which the author takes a position in favor of Abyan more generally – criticizing Abyan's treatment and Australian asylum policy. Construing her report of being raped as a claim rather than fact acts to draw Abyan's credibility into question more generally.

One article even takes the "rape claims" for primary focus, and reports that Abyan "declined" to make a statement or lodge a complaint with police (AUS21, also referred to in TL21). The author further notes that Abyan did not provide information about the identity of the perpetrator(s).

> In her interview with *The Australian*, Abyan repeated her claim that she was raped but declined to provide any details about when, where or by whom. She refused to say whether the alleged assault was committed by another refugee, a Nauruan or someone else (AUS21).

Abyan is presented as actively choosing not to provide details, rather than acknowledging the possibility that she either lacks knowledge about this information or else does not wish to share it with the specific interlocutor, journalist Chris Kenny. In an earlier article, the same journalist contextualizes Abyan's "claim" with that of another young woman whose complaint was set aside due to limited evidence, suggesting that the two cases may be similar.

> Abyan's case comes after another rape allegation made by a Somali refugee on Nauru, reported by the ABC's 7.30. Police have investigated that complaint and determined that it was fabricated (AUS20).

This construction acts to further undermine her credibility and contrasts with other articles where references to other refugees' similar experiences were used to support criticisms of the situation on Nauru and Abyan's treatment (AGE24, SMH24). Another article from *The Australian,* not included in the corpus (but cited critically in ABC22) describes how refugees "Get pregnant and dump it on [the] Australian conscience in the hope…lawyers win you a free ride that includes residency". This suggests that far from being the result of rape, Abyan intentionally got pregnant as a means to gain access to an Australian permanent visa. Further,

the headline of TL21 carries a similar theme – "When human life is a political football" (the human life is a reference to the embryo). This construction echoes the claims made about the Children Overboard incident, that asylum seekers were using their children as pawns and risking their lives to manipulate the Government into granting them a visa.

Suspicion around the "rape claims" in this case resembles the well-documented difficulties of women seeking to have their reports of sexual violence believed in criminal settings or RSD processes. Baillot et al. (2014, p. 131) describe how "targeted scepticism surrounding women's claims of rape" can lead decision makers to employ interrogation-style, insensitive approaches and undermine access to a fair hearing. Existing research demonstrates that when asylum seekers' narratives include a "failure" to report sexual violence to authorities in their home country they may be disbelieved. This is even the case where the reasons for not reporting the rape seem strikingly compelling, for example where an applicant did not make a report to the police after she was raped by an army corporal (Anker, 1992, p. 519). Delays in disclosing rape during the RSD process have also been found to harm general credibility, despite research and procedural guidance urging caution (Baillot et al., 2014).

A construed failure to share details about the identity or motivations of persecutors may also harm credibility (Bohmer & Shuman, 2007, p. 610). Responsibility is transferred to the victim for information that they understandably may be unable to obtain from their persecutors. Bohmer and Shuman (2007, pp. 614-615) note a further knowledge-related risk: that those tasked with assessing credibility may find a person's story too recognizable or familiar compared to past cases, and make a negative finding on this basis. In such situations, the very fact that experiences of sexual violence are pervasive in certain settings act against its victims. Both these issues appear to work against Abyan in the approaches of some of the articles' authors.

The veracity of Abyan's claim is particularly important to the debate given the fact that it happened in a setting created by Government policy. Effectively, the experience of rape is an added layer of the "charges" of bad treatment made against the Government, along with the issues regarding Abyan's access to appropriate medical support and transfers to and from Australia. Yet, unsurprisingly perhaps, the connection between Australian policy and Abyan's experience of rape on Nauru is generally only explicitly highlighted in the articles most critical of Government policy (e.g., DLY19, GRD18, SMH24).

What is evident from the above is that the "rape claim" is just another opportunity for commentary for or against Abyan's credibility. Moreover, Abyan is arguably in a comparatively difficult position: her gender, nationality, linguistic, and migration background

mean that she faces intersectional challenges to defending her credibility (see argument in Baillot, Cowan, & Munro, 2009, comparing asylum seekers with claims of sexual violence to local persons navigating the criminal justice system). Further, Abyan's credibility is tied to the credibility of other actors. Whether they are politicians, advocates or journalists, the very limited information publicly available about Abyan and her experiences means that these speakers have broad scope in their choices for how they present her and whether they support or challenge her credibility.

4.3.5. The Minister, the Government and the debate

There is a clear division in the media corpus in the roles assigned to Peter Dutton, the Immigration Minister, and those assigned to the "Government" as an actor. Once again, this closely resembles the Minister's own approach. In his first public statement following Abyan's return to Nauru, passive, agent-less structures are used when describing what happened to Abyan. For example, he states that "A woman was flown by charter flight from Nauru to Sydney" and "The woman was chartered back to Nauru". The only active grammatical structure involving the Government relates to its general policy position - "The Government remains absolutely resolute that people who have attempted to come to Australia illegally by boat and are on Nauru or Manus will not be coming to settle permanently in Australia."

Likewise, in the media corpus, while the Minister is referred to frequently across the texts, his primary role is nearly uniquely one of speaking or commenting, rather than being assigned any actions directly related to Abyan's experiences. The Minister "says", "claims" and "lists details".

> Mr. Dutton said the government would not have gone to the expense of flying the woman to Australia if it had no intention of giving her the medical treatment she had requested (SMH19a).

> Mr. Dutton insists she changed her mind about the termination (AUS19).

Further, as in the Minister's statement, when it comes to actions for which Abyan is the patient, there is often no agent mentioned and the phrases are passivized, or the agent is the "government", rather than identified or named individuals.

> Abyan was rushed back to Nauru on Friday despite her lawyer filing an urgent injunction to stop her removal (MMA20).

The government brought her here, but after several days she was flown back on Friday without having had the procedure (CN19).

This resembles findings in Baker and McEnery (2005, pp. 214-216) where the news corpus had descriptions of "forced returns" and asylum seekers being "rejected" without mention of an agent. In the same study, descriptions of people being "displaced" were usually agentless, or the agent was a non-person, for example "fighting" or "conflict" (pp. 210-211, referring to corpus of UNHCR texts).

The effect of such constructions is to foreground Abyan and her choices, minimizing the responsibility, power and influence of other individuals in the events that occurred. It creates the impression that the Minister has similar power and opportunities to speak. He and Abyan are both described as communicating in similar terms, meaning his power as the Immigration Minister is broadly under-acknowledged. Further, the choice of the "government" as actor rather than specific individuals largely takes the attention away from the role that particular individual interactions and individuals' communication styles and decision-making would have played in the way the events unfolded. The "government" is impersonal and anonymous. The fact that the corpus largely adopts similar constructions to those used by the Minister further demonstrates the power of the Government's statements in influencing the media discourse.

4.3.6. Advocates, lawyers and the debate

While references are made in all texts to Abyan's "lawyers" or "advocates", they appear less frequently than the Government or Abyan and are referred to in varying ways. Abyan's lawyer, George Newhouse, is referred to most frequently, with ten texts mentioning him by name (AUS19, CN19, GRD19, SMH19a, SMH19b, AUS20, AUS21, TL21, AGE24, SMH24). The way he is described varies. For example, the *Guardian* article refers to him as "A special counsel for Shine Lawyers, George Newhouse" (GRD19), compared with the *Telegraph*, where in one case he is not named and referred to only as "advocates" (TL20) and in another, when mentioned by name, is described as "Advocate George Newhouse" (TL21).

The term "advocate/s" occurs in eight texts (AUS19, GRD19, NM20, SMH19a, SMH19b, SMH24, TL20, TL21), and "lawyer/s" appears in all except one text (DLY19, which refers to Abyan's "legal representation" and "legal and support team"). Although these terms are often grouped together, the presence of both generally suggests two separate types of actors. Therefore, naming George Newhouse an "advocate" carries different meaning to choosing to call him a "lawyer". The Macquarie Dictionary defines "advocate" as: "someone who defends,

vindicates, or espouses a cause by argument; an upholder; a defender" ("The Macquarie Dictionary Online," 2017). While this definition is suitable for a lawyer, it carries broader meaning, which is obvious in the fact that it used to describe other actors who are not lawyers. Being described as an advocate rather than a lawyer emphasizes Newhouse's lack of neutrality, reinforcing his depiction as a "politically-motivated" actor.

Once again, this lexical choice also reflects the language choice in the Minister's statement, which initiated the debate around credibility:

> Comments from some advocates to the contrary are a fabrication, while others appear to be using this woman's circumstance for their own political agenda. They should be ashamed of their lies.

Research on advocates in the Australian refugee policy debate suggests that they can play a powerful role in challenging and influencing public discourse (Every & Augoustinos, 2008). Given this context, it is unsurprising that the "advocates" involved in this debate may be seen as aiming to influence this larger discussion. What is not clear in the texts is what this means for Abyan personally. Frequent use of the terms "advocates" and "lawyers" gives the impression that Abyan has a team of experts at her disposal: valuable resources in terms of communicative power in the debate. Yet we cannot discern the exact nature and extent of Abyan's relationship with these actors. There is tension between this portrayal, on the one hand, and the fact that it appears she had limited access to these persons, on the other. This suggests that the role these actors played in shaping the debate and their ability to defend Abyan's credibility is limited. Or, at least, the real level of interaction between Abyan and these actors and the level of agency or knowledge Abyan has in these interactions remains unknown, and the audience must largely rely on the advocates' choices in how they present this. Once again, our lack of direct contact with and information about Abyan means that we must rely on these third parties to present her and their interactions according to their own perspectives and motivations. Yet this generally remains unclear in the media discourse.

Despite their depiction by the Minister as "politically-motivated", and the fact that their presence in the articles gives the impression that Abyan has resources and support, the advocates' role in the debate over who is telling the truth is backgrounded in most of the corpus. Nine articles present the debate as either primarily or solely between Abyan and the Government (and its various spokespeople). For example:

The Somali refugee who says she was raped and impregnated on Nauru has flatly denied claims by the Minister for Immigration that she changed her mind about ending the pregnancy after being flown to Australia for an abortion (SMH19b).

Only four present the advocates as the primary counter-claimants rather than Abyan. For example:

The announcement comes amid a clash between refugee advocates and Immigration Minister Peter Dutton over whether a 23-year-old Somali asylum-seeker and alleged rape victim transported from Nauru to Sydney changed her mind about having her pregnancy terminated (AUS19).

As mentioned earlier, one article does not directly refer to the debate, instead focusing on Abyan's "refusal" to report the rape to Nauruan police (AUS21). Apart from this outlier, the majority of the corpus presents advocates and lawyers as, on the one hand, a powerful resource for Abyan, thus creating the impression of a level of equality in the debate; while on the other hand, portraying Abyan as primarily responsible for communication in the debate. This portrayal conflicts with the fact that we know little about how much support or contact Abyan has with these persons, or her decision making power or knowledge in these interactions, and the only "direct" communication we have from Abyan – her handwritten statement – is not really direct, but rather was delivered to the public by her lawyers.

The fact that these actors are considered as representatives of Abyan, despite the shortcomings this presentation entails, means that their speech and actions are interpreted primarily as her own. It thus becomes a logical step that the media should present Abyan as a key competitor in the battle for credibility, rather than focusing on the advocates who were the original target of the Minister's accusations and the ones who actually made several public statements challenging the government's stance and encouraging the debate (Newhouse; Refugee Action Coalition Sydney).

4.3.7. A level playing-field?

In contrast with most of the corpus, one article explicitly challenges the presentation of Abyan as a primary actor in the debate:

Abyan. She is missing from the picture. She is silent, silenced and removed. This is not a clever lawyer's artifice. Abyan's physical absence from the Abyan argument breaches the most basic protection that our rule of law affords us: the right to access the courts of this country and have them determine our fate (ABC22).

Another also highlights the power imbalances in the debate, arguing:

> We cannot meaningfully judge who is telling the truth between the Minister who refuses to discuss "operational matters", and a 23-year-old who, having restricted access to media or lawyers, must communicate through a brief handwritten note (NM20).

As indicated in these outlying articles in the corpus, some of the barriers to communicating with Abyan result directly from Government policy. This has included the introduction of punitive laws aimed at deterring Australian Government employees and contractors from publicly disclosing information about the experiences of refugees and asylum seekers in detention (Gartrell, 2017. See: *Border Force Act 2015*, section 42). Changes to the Nauruan visa system have also largely restricted access to foreign journalists, with Chris Kenny being a notable exception in this case (The Government of the Republic of Nauru, 2017).

ABC22 and NM20 provide a useful reminder that the angle and focus of the majority of reporting involve a choice to present Abyan as an active participant, with a voice and opportunity to speak, on par with that of other powerful actors, such as the Immigration Minister. As the authors of those articles argue, this is far from the reality. Indeed the public – the audience of the media corpus, and the journalists who have produced it (with the only one exception) – have no direct access to Abyan. We do not even know her name. Even if we were physically and legally able to meet her, it is likely there may also be linguistic barriers to direct communication. Yet, in the corpus, Abyan is presented as a principal actor and speaker, and one with reasonably good resources to participate in the debate, including a team of lawyers.

4.4.   Discussion and conclusion

This paper has introduced the case of Abyan, a young Somali refugee whose experiences seeking medical assistance in Australia captured the attention of the media. She became the centre of a heated debate, used as an opportunity to support various sides of the broader ongoing discussion around refugee policy. As explored above, the media's attention in the period following Abyan's transfer to and from Australia focused on contested facts, with the government claiming that Abyan had decided against having an abortion and that she was rapidly returned to Nauru for that reason. Abyan and those claiming to speak on her behalf denied that she had made a definitive decision. During this period, Abyan had one chance to

communicate somewhat "directly" with the Australian public, through a short handwritten statement.

In reality, Abyan, has limited power to present a trustworthy identity to the audience: we know little about her beyond very basic facts like her age, gender, and nationality. We do not even know her real name. Compared with the Minister, the Government, and the advocates, Abyan has very limited opportunities to speak. Significantly, many of the barriers she faces exist as a direct result of concerted Government policy to restrict asylum seekers' and refugees' access to the Australian public, media and legal system (and vice versa).

Yet, in the media coverage of this situation, this is not always clear. The way Abyan is named only goes to demonstrate the limited information we have about her identity. This results in a depiction of her which lacks the humanizing effects which would be gained from more personal details, as in the examples presented in other research on refugee discourse in the media (eg KhosraviNik, 2009). Therefore, much like in the Children Overboard case, even though the story here involves a particular refugee, the lack of information about Abyan means she is not humanized: we lack details about her that could contribute to credibility production. The inclusion of information about the reason she required medical attention – that she became pregnant as a result of rape – adds an extra threat to her identity construction as a credible speaker. Those claiming to have been raped immediately set in motion a process of credibility assessment. The fact that she is a refugee acts in a similar way: a key element to RSD processes is the assessment of the credibility of the individual seeking asylum. In both situations, the fact that there is often very little corroborating evidence means that the trustworthiness of the person making the claims often becomes a central point of focus and prerequisite to accepting their narratives.

This lack of detail about Abyan's identity also means that it is open to other actors to choose how they present her. She can be presented as a calculating migrant or an innocent victim or something else altogether. The limited information available and Abyan's limited ability to respond leaves it open to the media and other commentators to choose from a broad range of angles, with very little likelihood of being contradicted by Abyan herself – in any credible way.

Despite the very limited information on which the articles are based, especially in terms of Abyan's own communication, Abyan is largely portrayed as an active and vocal participant. She is most commonly presented as speaking and making decisions. This is perhaps unsurprising considering we have very little information about anything else she may do. However, it leads to a problematic outcome. When viewed beside the commenting and debating

role given to the Minister, the overall impression created is that Abyan and the Minister are two parties engaged in a reasonably equal or balanced debate.

Further, even where it is clear that the persons presenting themselves as lawyers or advocates for Abyan have had more opportunities to speak than she has, the discourse in most of the corpus still constructs her as the principal actor and speaker. This is despite what we know about Abyan's very limited opportunities and resources for communication. While the advocates' responsibility in the debate may be presented as secondary to Abyan's, their presence creates a – perhaps – exaggerated impression of Abyan's resources: we cannot know the level of agency or access she has in her interactions with them. Therefore, with the exception of some outlier articles, identified above, most of the corpus thus overlooks or backgrounds the significant power asymmetries in this supposed debate.

Some three months after the contested events, government emails regarding Abyan's treatment were made public, largely supporting Abyan's version of events. Abyan had been rapidly returned to Nauru to avoid any legal action to keep her in Australia, despite the fact that she had said that she had not made a final decision for or against an abortion, but rather needed more time. However, this outcome did not attract anywhere near the same amount of coverage as the earlier debate itself. The media had moved on.

Once again, the parallels with the earlier Children Overboard case are striking: there, information also became available that the government knew from early on that the asylum seekers had never threatened to throw their children from the boat, but had chosen to present the "facts" in that way. However, in that case as in this one, by the time this information became public it was too late: the damage had already been done. In both cases, what would remain in the minds of the public would be the questionable credibility of refugees, rather than the Government officials' fallacious accounts.

As the above analysis demonstrates, the choices of how to represent the various actors in the media corpus appear to have been directly influenced by the Minister's own discourse on the matter. The issue credibility raised by the Minister shifted away from focusing on the advocates to a contest between the Minister and Abyan – through her presentation as a principal actor and speaker. However, it was arguably the Minister's choice to flag credibility an issue in his first statement that led it to being a key focus at all.

Both this case and the Children Overboard incident were thus based on contested (and ultimately disproven) facts, stemming from restricted access to information as a result of explicit government policy. The media and public discourse that arose in both stories linked the specific with the general, using these individual episodes to support various positions on

the more general debate over refugee and asylum seeker policy in Australia, thus contributing to the development and evolution of the broader discourse. In both cases, the discourse highlighted credibility as a key point of focus when discussing asylum seekers and refugee policy in Australia. This discourse is self-reinforcing: refugees' credibility is brought into question, all while the difficulties they face defending it are made invisible.

This paper has demonstrated that credibility remains an important factor at the level of public and media discourse on refugees and that the way media discourse portrays refugees significantly affects how their credibility can be constructed and defended. Given the powerful influence this discourse can have in both policy and decision making, it merits ongoing critical examination in both research and beyond.

5. Communicative resources and credibility in public discourse on refugees

When carrying out the initial analysis of the Abyan case study, it became clear that the majority of the reporting was interested in public responses relating to the key event of Abyan's precipitous return to Nauru from Australia. Therefore, not only the reporting itself, but the public statements that were being quoted in the new articles were relevant to understanding the "debate". I was interested in understanding the particular perspectives presented in these public statements and the linguistic devices used to communicate them.

Given the statements and the media reports quoting them were closely interconnected, I first intended to analyse and present both within one article. However, as in conducting the media analysis, it became clear that there were two separate and logical steps in this process, requiring different analytical approaches. The media corpus involved a critical discourse analysis, while the statements required an examination and comparison of communicative resources.

Critically examining the discourse in the media corpus, I found that Abyan was presented as a key participant in the debate, against the Immigration Minister. From a basic understanding of the various policies affecting refugees like Abyan, this construction was clearly problematic. Dedicating a separate paper to examining this issue through the analysis of two public statements, one by the Immigration Minister and another by Abyan, I was able to more comprehensively identify and compare their respective communicative resources and demonstrate that the equal participant status they were given in the media discourse is indeed problematic.

The completed paper was submitted to *Language in Society* in March 2018. I selected *Language in Society* as it is a leading international journal in sociolinguistics. Further, my research once again complements existing work published in the journal (Blommaert, 2004), which analysed a text written by an asylum seeker that underwent credibility assessment.

The referees' reviews were received in late June. They requested revisions in regards to the paper's theoretical underpinnings, providing clearer details of the media reporting, and explaining the implications of the study's findings. Following their suggestions, revisions were made to the paper in early July 2018. Along with adding references to theory and integrating more detailed findings from the media analysis, substantial changes were made to the concluding discussion, where the practical and theoretical implications and contributions of the paper are laid out. The paper is now awaiting further review. The paper appears here in its revised form (resubmitted to the journal on 4 July 2018), with minor formatting changes.

Abstract

This paper examines how communicative resources affect the construction of credible texts and identities in a public debate on Australia's treatment of a refugee. It centres on two key written statements – one from the Immigration Minister, and another from a Somali refugee. The analysis is divided into four levels, exploring the parties' respective linguistic, material, identity and platform resources, and how these impact their statements' creation and reception, and their participation in discourse creation more generally. The paper finds that the media's presentation of the statements in parallel, and their authors as equal participants, is far from accurate. There are inequalities on all four resource levels that largely undermine the refugee's ability to present a credible text and identity and challenge mainstream discourse on refugees. The paper demonstrates how a multi-level analysis of communicative resources can challenge assumptions about participation and uncover inequalities invisible in the prevailing discourse.

5.1.   Introduction

In October 2015, the story of a Somali refugee gained significant media attention in Australia. The young woman, who was living in the small island nation of Nauru as a result of Australian refugee policy, sought medical assistance after becoming pregnant as the result of rape. The Australian government transferred her to Australia to be able to access medical services, including pregnancy termination, however she was returned to Nauru shortly afterwards without having the procedure. Given the pseudonym "Abyan", her case was reported widely in the media where a debate emerged over the reasons for her prompt removal from Australia, with the Australian Government insisting that she had decided not to have an abortion and Abyan's Australian lawyer suggesting this was not the case. The media reporting frequently referred to an official statement made by the Immigration Minister following Abyan's removal, as well as a handwritten statement from Abyan herself, giving her version of events.

Asylum seekers and refugees are a highly politicised topic in Australia, where, since 2001, successive Australian governments have gained popular support by building a public discourse revolving around discussions of whether they are "genuine" or "bogus" (MacCallum, 2002; Macken-Horarik, 2003a, 2003b; Stirling, 2015a). As explained in greater detail below, credibility was likewise a focus in the reporting and commentary on Abyan's case. Here it extended to questioning who out of a variety of speakers was telling the truth: the Immigration Minister or Abyan, and to a lesser extent, her lawyer and advocates (Smith-Khan, Submitted).

This paper has its origins in a critical discourse analysis of a corpus of media reports on the case. That analysis found that the inclusion of the handwritten statement in media reports was used to present Abyan as an active and equal participant in a debate against the Immigration Minister (Smith-Khan, Submitted).

This paper problematizes this presentation by more closely examining the Minister's and Abyan's respective communicative resources and demonstrating their inequalities across multiple levels.

The aim of this paper is therefore to examine the communicative resources of the Minister and Abyan, using their two written statements as a point of departure, and to explore the impact of these resources on their respective abilities to participate in the "debate" and to more generally influence discourse on refugees. The paper first outlines the background of the case and summarises existing research on communicative resources and credibility construction. This is followed by an exploration and comparison of the Minister's and Abyan's communicative resources on four levels: linguistic resources, identity resources, material resources and platform resources. As set out in the final discussion and conclusion, this analysis confirms that there are significant inequalities between these two participants. This means that they have very different capacities to engage in the debate, to construct and defend their own credibility, and, in doing so, to contribute to the broader creation of discourse on refugees and refugee policy. Therefore, the media's construction of Abyan's participation as equal is a dangerous misrepresentation that risks damaging her credibility even further, and more broadly reinforces and contributes to a broader discourse that questions refugees' credibility.

5.2.   "Abyan", communication and power

5.2.1.   The Abyan debate

This case study focuses on the highly publicized case of a Somali refugee living on Nauru as a result of Australian Government policy. Referred to by the pseudonym "Abyan", this young woman had travelled by boat to seek asylum in Australia. As part of Australian policy, people who seek asylum without a visa are transferred to the Pacific island state of Nauru or Manus Island, in Papua New Guinea (PNG) and generally have no right or opportunity to be resettled in Australia (see explanation of policy in Opeskin & Ghezelbash, 2016). Abyan had her asylum claim assessed on Nauru and was granted refugee status and moved from the Australian-funded detention facilities into Australian-funded accommodation outside the detention centre, on Nauru.

At the beginning of September 2015, Abyan sought medical assistance with the health services contractor on the island when she became unwell, and it was discovered that she was pregnant. She reported to the health contractor that this was due to having been raped by a Nauruan local, some two months earlier. Her report came amidst similar ones made by other young female refugees on Nauru, including another Somali refugee who reported her rape to the Nauruan police. That case was dismissed for lack of evidence, and the individual was later criticized by the Nauruan Government and had her name made public by the Australian PR company representing them (Allard, 2015; Doherty, 2015).

Following her first contact with health officials, Abyan's case was brought to the attention of the Australian media and public in early October by Australian lawyer, George Newhouse. Identifying himself as her lawyer, Newhouse spoke to the media and launched a petition, calling on the Australian Government (hereafter, the "Government") to bring Abyan to Australia for 'urgent medical treatment' (Newhouse, 2015). Pregnancy termination procedures are not available on Nauru and medical facilities there are generally limited. Thereafter, Abyan's situation was acknowledged by the Government, and arrangements were made for her transfer.

On the 11th of October, Abyan was flown to Brisbane, Australia, where she visited a hospital, before being moved to a detention centre in Sydney the following day. She was flown back to Nauru five days later, on the 16th of October, without terminating the pregnancy and without meeting her lawyer. This was despite Mr Newhouse seeking an injunction in court to prevent her removal, which happened too late – she was already out of the country.

Abyan's precipitous removal attracted criticism and led to a public debate over the reasons why she was removed so soon after arriving. The Immigration Minister, Peter Dutton (hereafter the "Minister"), and other Government officials made several statements related to the case, claiming that Abyan was removed because she had decided not to proceed with the termination. In his first public statement after her removal, the Minister further accused refugee advocates of "fabrications" and implied that they attempted to use medical transfers for a "migration outcome". The following day, Mr Newhouse shared a handwritten public statement from Abyan with the media, in which she outlined the various interactions she had had with medical officials while in Australia (some details of which were in dispute) and stated that she had never said that she had made a decision not to have the termination. Mr Newhouse and various refugee advocates also communicated directly with the media, taking part in interviews and making public statements through other means, like online petitions.

Abyan was eventually returned to Australia towards the end of October for further medical assistance, although this received much less media attention (Anderson, 2015).

A Freedom of Information (FOI) request led to the release some months later of a chain of emails between various Government officials regarding Abyan. These communications, which were shared with the media following their release in January 2016, largely confirmed the advocates' and Abyan's claims (Symons-Brown, 2016). This included emails from a health official, who described the last discussion with Abyan, based on which it had been claimed that she had decided not to have a termination. The official explained:

> Unfortunately despite 30 mins on the phone to [the Telephone Interpreting Service] I was unable to access a Somali interpreter. She does, however, understand and speak very basic English and was happy to proceed with the consultation. She confirmed that she does not want the termination now, but she did make it clear that she hasn't completely changed her mind (p. 77).

During investigations following Abyan's return to Nauru, the same official further responded:

> …after she declined the procedure I asked her (more than once) whether she changed her mind and no longer wanted a [termination of pregnancy (TOP)]. She consistently said that she still wanted to have a TOP, she just didn't want it that day or the following week …I explored her reasons for declining the procedure but she just stated that she felt 'too mentally unwell' and wouldn't elaborate….I asked whether she had changed her mind altogether, and she said no…. (pp. 93-94).

It appears likely that the Government officials were aware that Abyan was far from having made a final decision regarding the termination. The above emails also suggest that there were issues that undermined Abyan's ability to communicate with the medical professionals she interacted with, such as not having access to an interpreter and relying on limited English language skills. This may have also created issues with Abyan being able to give informed consent to participate in this pivotal final consultation in the first place – a point that appears to have been overlooked by the health official (similar examples are analysed in Angermeyer, 2016, p. 168, where non-English-speaking litigants were led to agree to arbitration in situations where they were not always properly informed about the consequences of doing so). Abyan had also flagged her mental health as a barrier to making such an important decision. Therefore it is clear from the above emails that the Government's claim that Abyan had made a decision not to have a termination was tenuous at best.

Further emails indicate a likely motivation for Abyan's swift removal: the Government's wish to prevent legal action to keep her more permanently in the country. For example, on 14th October, a senior official wrote:

> If she decides to proceed, she will then be returned to Nauru as soon as medically fit to travel. If she decides not to proceed, we will make arrangements to have her return to Nauru ASAP. If she continues to vacillate, we will make a decision early next week about return to Nauru. I think the lawyer is buying time so he can seek legal intervention (p. 25).

Following Abyan's return to Nauru, there were relatively few media reports on the ongoing events affecting her, including the Government's announcement that it would return her to Australia for further treatment. Even fewer articles shared the release of the documents from the FOI request in January 2016. These articles indicated that Abyan was still in Australia, "receiving medical care" (Tranter, 2016), but there is no other more recent publicly available information regarding her case.

5.2.2. Credibility, refugee policy and power

The debate that arose out of Abyan's experiences involved the various parties disputing the truth of what their "adversaries" were claiming had happened during Abyan's time in Australia. In determining which version of events was correct, the credibility of the speakers became of point of central contention. This included Abyan, who was presented by the media as a key participant in the debate (see my analysis in (Smith-Khan, Submitted)).

This paper draws on a study of a corpus of 15 news articles, representing a cross-section of the Australian media, representing different political positions, from publications which are generally supportive of the conservative government, to those considered more "leftist". That study found that the way the debate was presented in the media contributed to and reinforced the existing broader public discourse on refugees (Smith-Khan, Submitted). This discourse increasingly involves questioning asylum seekers' and refugees' credibility, presenting a binary of genuine refugees versus "bogus" claimants (see arguments in Molnar Diop, 2014; Philo et al., 2013).

Further, often, individual stories or events are used to reinforce this discourse in support of more general arguments about refugee policy (for examples from Canada and Australia, see respectively Lawlor & Tolley, 2017; Macken-Horarik, 2003a). This was also the case for the reporting on Abyan, where her situation was nearly always explicitly linked to more general debates about refugees, across a variety of media sources, regardless of political leaning. Those

critical of government policy contextualize her experiences in offshore detention and explain how, for example, "the government likes to pretend, disingenuously, that it is at arms length from much of what happens in those places" (Grattan, 2015). Those in favour contextualise her case with a more positive framing of Nauru, referring to, for example, "Abyan's beachside refugee housing complex" (Kenny, 2015) and the provision of "housing, a living allowance and employment opportunities" for "resettled refugees" in Nauru (Kelly, 2015) (see Smith-Khan, Submitted).

This discourse and the way it is created require close scrutiny, given its significant impacts on refugees and asylum seekers, on multiple levels. Discourse which negatively presents those seeking asylum can help shape and justify policy making, such as barring applications from "unauthorised" arrivals for a refugee visa in Australia (*Migration Act 1958* s 46A(1)). Further, discourse that questions refugees' credibility can lead - and arguably has already led – to a "culture of disbelief" amongst refugee visa decision makers (Baillot et al., 2014, p. 130; see also Hamlin, 2014). This means that even when the law permits people to apply for a refugee visa, their chances of success may be undermined by institutional attitudes and credibility assessment processes which are difficult to navigate (as explored in Smith-Khan, 2017b; Smith-Khan, 2017c, 2017d).

It is unsurprising that this discourse portrays asylum seekers and refugees in a negative light given that they are evidently not its creators, and are likely to have limited opportunities to challenge it, let alone control its production. In his discussion of discourse and power, van Dijk (2008) explains:

> We must ask who has access to the fundamental power resource of public discourse, who has access to political discourse, educational discourse and scholarly discourse. Who is able to control production of such discourse, as is the case for press conferences and press releases and other ways of influencing journalists and media? Because once you control part of the production of public discourse, you also control part of its contents, and hence, indirectly, the public mind – **maybe not exactly what people will think, but at least what they will think *about***. What we find is that while 'white' elites control such public discourses and their production ethnic minorities and immigrants have virtually no access and hence their views and opinions seldom reach the press and public opinion. They are mostly only talked *about*, and usually negatively…Hence power is related to control, and control of discourse means preferential access to its production and hence to its contents and style, and finally to the public mind (van Dijk, 2008, p. viii, my emphasis).

Credibility is a central theme in the reporting on Abyan, whose story appears to be discursively linked to broader public debates on refugees. Therefore this paper seeks to explore

how credibility is produced, reproduced and challenged in this debate. While the below examination sets out a number of potential negative interpretations of Abyan's language use, it is possible that uptake could vary across audiences. However, this is not the fundamental point of concern. Given the potential power inequalities in the current case study, the analysis involves a detailed examination of the key speakers' communicative resources and how these affect their ability to participate credibly in the debate, and their broader ability to contribute to and challenge discourse.

5.2.3. Exploring communicative resources and credibility in the Abyan debate

In exploring the connections between language and power and explaining the concept of "cultural capital", Bourdieu (1992, p. 55) argues that:

> The competence adequate to produce sentences that are likely to be understood may be quite inadequate to produce sentences that are likely to be *listened to,* likely to be recognized as *acceptable* in all the situations in which there is occasion to speak.

The analysis below draws on this concept of "cultural capital", proposing and examining four different types of resources Abyan and the Minister have at their disposal to present themselves and their respective texts as credible, in this public debate.

It was acknowledged in the public statements and in the Government email communications that Abyan had limited proficiency in English. This is also evident in her written statement, which is included and analysed in the following section. Language proficiency can have significant effects on the ways individuals are able to participate in society. Further, as Bourdieu indicates, what is important is not the ability to produce specific linguistic forms, but rather how particular language use is accepted and valued in a given context. At worst, when speakers do not have the requisite competence it may compound situations of injustice. For example, while a person who speaks English as a second language may feel comfortable explaining something in an informal conversation, they may not be able to communicate the same information in a formal setting with strict communicative requirements, such as in a court hearing. In such a situation, the inability to communicate in the prescribed way may limit or distort the information the speaker is able share, or even completely silence them, with potentially very serious repercussions (such as the situation described in Piller, 2016, pp. 60-61) (see also examples in Angermeyer, 2015; Eades, 2003, 2008, 2012).

The way in which a spoken or written text will be interpreted by its recipients depends on more than just the way language is used. The author's identity, including how it is perceived through the text's multimodal elements, such as pictures and visual framing, may influence its reception and play a role in creating meaning (see Blommaert, 2004; Macken-Horarik, 2003a; van Leeuwen, 2007, for examples of multimodal analyses). Some speakers benefit from the power of their personal or delegated authority to legitimate their speech (Bourdieu, 1992, pp. 107-113; van Leeuwen, 2007, p. 94).

However, legitimate usage depends on more than just identity: it must be in a legitimate form and context (Bourdieu, 1992, p. 113). This means that material factors such as the medium of publication are also of importance, and whether the form they take is considered valid, valuable and legitimate will depend on socio-political context (as argued in Teo, 2000, who explores racism in Australian newspaper reporting; and in van Dijk, 2006, analyzing political speech in the UK). Blommaert's (2004) case study of documents produced by an African asylum seeker in Belgium is an apt example. There, it was argued that the text's value - and ultimately its author's credibility - may be undermined in the Western bureaucratic context in which it is received, due to expectations regarding written language, such as consistency and accuracy of spelling, which may not have applied in the country of origin.

Ultimately, to influence discourse, the communicated opinion or version of events must be able to "make an impress" on a particular audience (Piller, 2017, p. 43). Regardless of language, whether a particular version of contentious events is accepted as the truth "will depend upon the degree and pattern of its admission into communicative events" (Hymes, 1974, p. 18, as cited by ; Piller, 2017, p. 40). In other words, not only must the form and substance of what they say be acceptable to their interlocutors, the successful party needs to have the platform required to ensure their version of events reaches the intended audience: they must have the best opportunities to speak and be heard.

An analysis of a corpus of media articles discussing Abyan identified that Abyan was presented as a primary participant in the debate around what had happened while she was in Australia, pitted against the Immigration Minister, who offered an alternative, competing version of events (Smith-Khan, Submitted). This was achieved by presenting Abyan as an agent in sentences where she is assigned verbs related to speaking, such as "claims" and "reports", which are also her most commonly assigned actions, in all but one article in the corpus (36% of all actions). It was further reinforced by misconstruing her statement as explicitly accusing her "adversaries" of lying. For example, one article claims that Abyan said that the Immigration Minister's "description of events – backed by Prime Minister Malcolm Turnbull – were false" (Allard, 2015) and another states that "she said the government was not telling the truth" (Doherty & Medhora, 2015).

The majority of the articles in the corpus explicitly referred to Abyan's handwritten statement, the existence of which undoubtedly influenced their choice to portray her as a key participant. Abyan's statement was published a day after a written statement of similar length was made by the Minister, by way of press release, which also received frequent mentions in the media corpus. Given their importance in the media corpus, the current analysis therefore takes as point of departure these two statements. It explores how their authors, Abyan and the Minister, use their respective communicative resources in these statements to support their version of events and thus their potential to influence this "debate" and discourse creation more broadly. The analysis is carried out on four interconnected levels, exploring linguistic resources, identity resources, material resources and platform resources. At each level, it identifies the participants' respective resources and explores how these resources affect their ability to construct and defend their individual credibility and the credibility of their respective statements. In doing so, the paper aims to uncover the way inequality in communicative resources affects credibility construction and impacts on an individual's power to influence and challenge discourse.

5.3. Credibility and communicative resources in the Abyan debate

The corpus centres on a dispute over facts between Immigration Minister Peter Dutton and the Australian Government on one side and Abyan and her lawyers and advocates on the other. Two key written statements enumerate the two versions of events. The first (Figure 1), published online on 17th October 2015, was the Minister's first official statement after Abyan's removal from Australia. The second (Figure 2), a handwritten statement, was released to the media by Abyan's lawyer the following day, largely contradicting the claims the Minister made in this statement and in other opportunities he had to speak to the public, both through the media and in Parliament.

In what follows, the texts are introduced, along with an examination of how their respective authors present the debate. Each author's respective communicative resources are then explored on four different levels: linguistic, identity, material and platform. On each level the analysis considers how the credibility of these two texts (and their authors) may be promoted, defended or challenged as a result of the authors' communicative resources and constraints.

Figure 1: Minister's statement (17 October 2015)
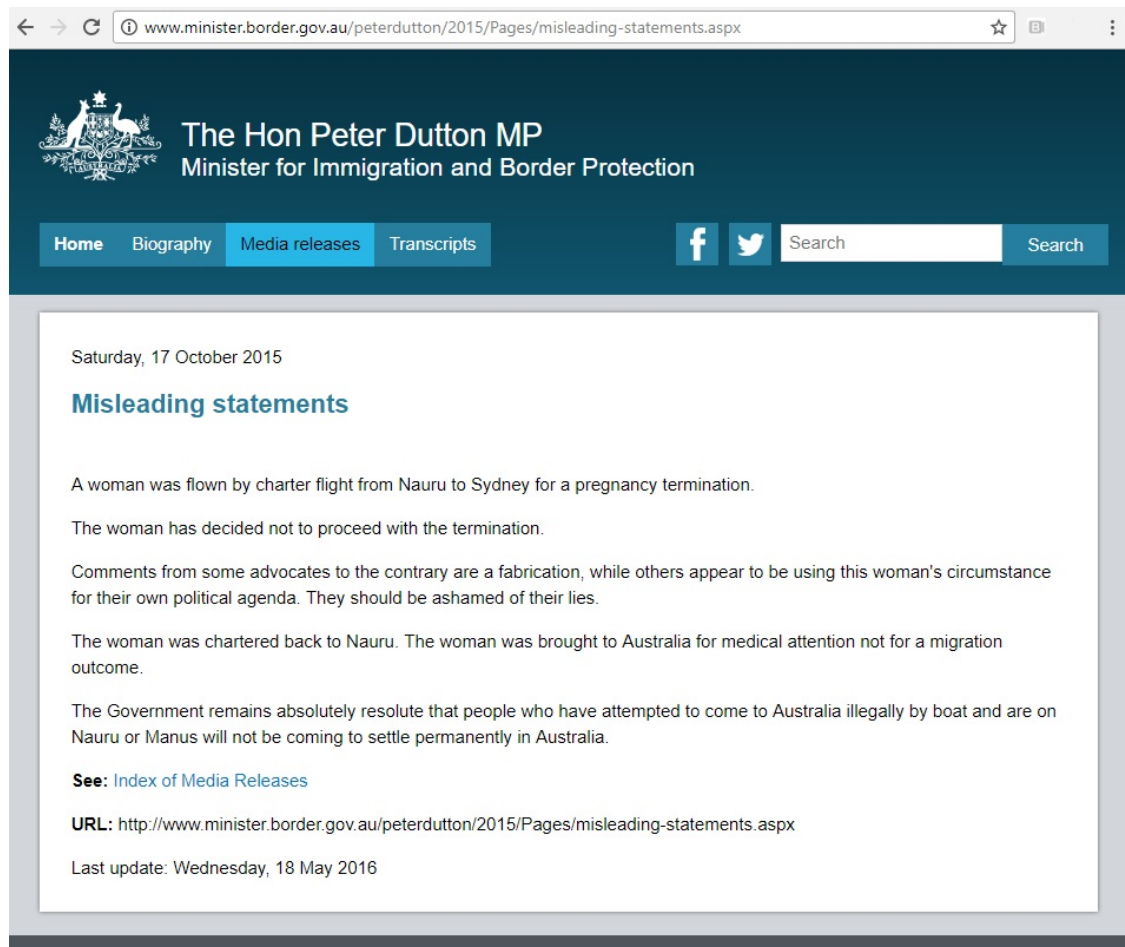
5.3.1.   Linguistic resources

To be successful in political discourse requires "special training", as Bourdieu (1992, p. 176) explains. This entails not only acquiring "the corpus of specific kinds of knowledge … produced and accumulated by the political work of the professionals of the present or the past". It also requires "mastery of a certain kind of language and of a certain political rhetoric" (Bourdieu, 1992, p. 176).The Minister's statement reflects this training, mobilizing the specific linguistic resources required for the particular context in and for which the text has been produced. Furthermore, it is free from any grammatical or spelling error and includes a variety of structures that result in a carefully crafted text that strategically aligns with and contributes to the prevailing political discourse on refugees.

Abyan is de-personalised and anonymised as far as possible, consistently referred to simply as "a woman" or "the woman". At no point is there any mention of her status as a recognised refugee, or her Somali nationality or any other aspect of her individual identity or experience. This is consistent with how he describes her elsewhere also, referring to her only by gender (e.g. calling her "the lady", during a press conference outside Parliament House

(Bourke, 2015). By referring to her gender rather than her status as a recognised refugee, any human rights-related responsibilities Australia may have related to her refugee status on either a moral or legal level are backgrounded.

She is allocated a passive role in relation to her movements to and from Australia and the treatment she received. She "was flown by charter flight from Nauru to Sydney for a pregnancy termination" and "was chartered back to Nauru" and "was brought to Australia for medical attention, not for a migration outcome." This is contrasted clearly with one case where Abyan is allocated an active role: "The woman has decided not to proceed with the termination". This contrast adds weight to the truth claim of this statement: Abyan is framed here as having made a clear and definitive choice about the termination. This is important, as it is the central issue in contention between the different parties involved in the debate. No information is given about how she came to make this decision, how she communicated it, or to whom.

The third and fourth sentences in the Minister's statement contrasts sharply with the first two: "Comments from some advocates to the contrary are a fabrication, while others appear to be using this woman's circumstance for their own political agenda. They should be ashamed of their lies." After the impersonal and neutral language used in the first two sentences, this paragraph is particularly emotive: advocates should be "ashamed". Their credibility is directly challenged with the two nouns they are presented as possessing. The advocates' comments are "fabrications" and they should be ashamed of their "lies". Thus, the advocates involved are assigned a negative moral position.

Without explicitly pointing to the Government or himself, this presents the Minister as occupying a relatively higher moral position. Finally, by suggesting that the advocates' actions stem from "their own political agenda", the reader is left to understand that the advocates are selfish ("their own" can be taken as being motivations apart from what is best for Abyan herself) and politically motivated. The choice of the term "advocates" rather than "lawyers" also accentuates the political nature of their actions, given that advocates are understood to be politically motivated actors, as opposed to lawyers, who carry out professional functions for their clients.

Once again, the unspoken opposite position is then occupied by the Government, whose decisions can be assumed to be more neutral or selfless. The choice not to explicitly refer to himself or the Government directly in relation to Abyan's situation has an additional effect beyond this. It acts to distance the reader's attention from the reality that the Government and the Minister are in fact powerful key decision-makers and agents, and of course have their own motivations, aims and expectations. However, by mentioning Abyan's decision, and the

advocates' "fabrications" and "agenda", we are led to focus on these actors as the sole or primary agents who brought about the set of events as they unfolded, assigning them primary responsibility for the outcomes. This is further entrenched by the lack of mention of any other actors (as becomes clearer in contrast with Abyan's statement).

Figure 2: Abyan's statement (18 October 2015)
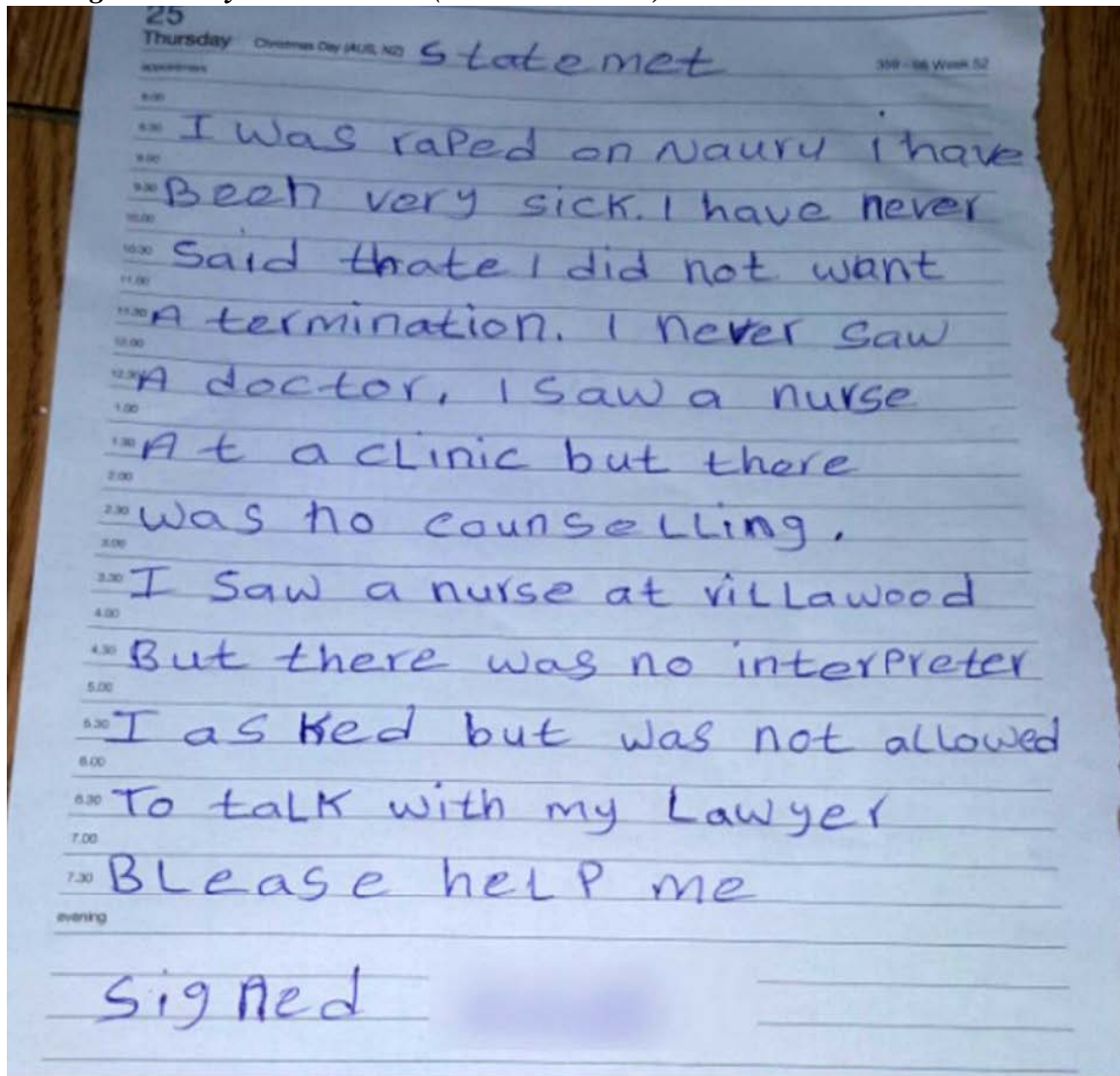
In contrast with the Minister, Abyan's linguistic resources are limited in this context. While Abyan's full linguistic repertoire is not public knowledge, her resources in English, the language mandated in the circumstances of the "debate", are limited. Her language and literacy skills might be valuable elsewhere, but that value does not transfer into the setting under consideration. Abyan's situation thus resembles that of the Burundese asylum seeker whose written documents were examined by Blommaert (2004). The issue is that as texts move "from the peripheries of the world system to its centers" "this move in space is also a move across

different economies of literacy, involving differential allocation of function and value" (Blommaert, 2004, p. 661).

Abyan's statement includes a number of features that suggest she has limited English language proficiency. While we cannot be sure that she wrote this statement independently, it can be assumed at best, it represents Abyan's written proficiency in the English language and that, if she did receive assistance with it, her proficiency is even lower. In the statement, Abyan frequently uses personal pronoun "I" and recounts her experiences. For example:

I have been very sick

I have never said that I did not want a termination

I never saw a doctor,

I saw a nurse at a clinic

I saw a nurse at Villawood

I asked… to talk with my lawyer

Further, she also makes a number of errors. These include three obvious spelling errors, including one in the heading, "Statemet", incorrect use of uppercase letters and inconsistent and insufficient punctuation, leading to run-on sentences.

Applying international guidelines on measuring language proficiency, these features would suggest that Abyan has only a basic ability. For example, the Common European Framework (Council of Europe, 2001, p. 232) describes level A2 ("Basic User" – "Waystage") writing ability as follows:

I can give short, basic descriptions of events and activities.

I can write very simple personal letters expressing thanks and apology.

I can write short, simple notes and messages relating to matters of everyday life.

I can describe plans and arrangements.

I can explain what I like or dislike about something.

I can describe my family, living conditions, schooling, present or most recent job.

I can describe past activities and personal experiences.

Limited proficiency in written (and presumably spoken) English understandably restricts Abyan's ability to engage in the debate through the use of any complex or detailed structures, in the way the Minister and other actors can. As a person with limited access to English language and literacy, and limited assistance, she would have been at a distinct disadvantage in terms of her ability to navigate the Australian legal system or advocate for herself in the

political sphere (see discussions of similar cases involving persons for whom English was not a first language in Angermeyer, 2015, discussing participants in Small Claims Courts in New York; and Eades, 2012, discussing the case of a group of young Aboriginal litigants, their treatment in court and depiction in the media).This is without even considering lack of pragmatic competence or sociocultural or contextual knowledge to best appeal to the Australian public as an audience. Further, the use of repetitive structures with "I" as the subject, which are characteristic of basic proficiency (see above), may also suggest agency and self-centeredness.

Limited English language proficiency does more than restrict the grammatical structures Abyan has at her disposal. Errors in written texts have been found to have a negative effect on how readers perceive the writer. For example, Appelman and Bolls (2011) found that readers were less likely to believe news articles that contained grammatical errors. Spelling errors in job applications have been found to elicit similar negative perceptions, including decreased credibility (Martin-Lacroux, 2017). Finally, arguments in online student forums are less likely to be accepted when they contain spelling or grammar errors (Jeong, Li, & Pan, 2017).

While in certain settings, such as in education and business, non-native speakers' errors may be treated with some leniency (Wolfe, Shanmugaraj, & Sipe, 2016), this may not be the case for Abyan, who is identified neither a student or a professional. Rather, Abyan's audience may perceive her lack of proficiency as a sign of laziness or lack of effort, based on the problematic assumption that anyone can learn a language if they work hard enough (see Blommaert, 2004; Piller, 2016, pp. 42-50). Language skills and migration outcomes are often linked: proving a certain level of language proficiency is increasingly a prerequisite to obtaining citizenship in the global north (Capstick, 2016, p. 81).

As a refugee, Abyan may even find herself trapped between two competing, negative discourses on migrant language learning: if she were *too* fluent in English, this could also undermine her credibility. It would clash with common assumptions about refugees having poor English skills. This assumption is apparent in other media reporting, like the 2009 case of a Sri Lankan asylum seeker interviewed in the media whose refugee status was questioned due to his education level and skills in the English language (Piller, 2016, pp. 54-55). It has also been identified in refugee status determination (RSD) processes, for example, the instruction to Kosovars attempting to speak English that "proper refugees were not expected to know foreign languages" (Jacquemet, 2011, p. 482). In RSD, it also manifests specifically when asylum seekers' country or group of origin is contested and their language use indexes an origin that clashes with institutional expectations. For example this caused an issue for "Joseph'", an

asylum seeker whose claim to be Rwandan was disbelieved because of his use of English, which ironically resulted from his experience of displacement (Blommaert, 2010. See also ; Campbell, 2013; Corcoran, 2004; Eades, 2005, 2009; Maryns, 2004).

The different linguistic resources that Abyan and the Minister (and his officials) have result in two very different texts. Paradoxically, Abyan's being limited to "I"-subject structures may create the perception of control or agency. Yet these simple structures suggest that she has limited proficiency in English, meaning that she is more restricted in the way she can speak about her situation and defend her credibility to an Australian English-speaking audience. The spelling and grammatical errors in her text further undermine its legitimacy. This contrasts clearly with the Minister's text, which includes a variety of linguistic devices supporting the Government's presumably preferred representation of the various actors involved: absent or invisible actors from the Government's side, in passivized phrases, emotive language to describe the advocates' motives, and an active structure to describe Abyan's decision-making. What the above crucially demonstrates is that the two authors' unequal access to linguistic devices has an impact on their respective ability to craft credible statements and support the creation of credibility-specific refugee discourse.

5.3.2. Identity resources

It is impossible to examine linguistic proficiency and its reception in isolation: the way communication is perceived is inherently linked with its speaker or author. As Piller (2016, p. 14) explains:

> In linguistically diverse societies injustices arise because the ways in which people communicate are valued differently. The language practices of those who are disadvantaged in other ways – because of their legal status, their gender, their race, or their class – are usually the ways of speaking that are least valued, and language thus becomes one aspect of cumulative disadvantage in diverse societies.

A recent study of the use of the term 'broken English' across two large corpora similarly found that this descriptor was more likely to be applied to low-status persons, and in texts presenting these individuals in a negative light, or with suspicion (Lindemann & Moran, 2017)

Therefore, while Abyan's linguistic resources may impact the way her identity is perceived by her audience, her identity resources may also impact the way her communication is interpreted. Below I explore how Abyan's and the Minister's identities impact on their ability to communicate credibly and construct and defend their credibility.

In this situation, Peter Dutton does not speak as a private individual, but rather as the Minister – a senior Government representative. The language of his titles further reinforces his status and credibility. He is an MP – a *member* of Parliament – an institutional insider. He is also the "Hon." – *Honourable*. Therefore, his communication is legitimized by the authority vested in him by this institution. Van Leeuwen (2007, p. 94) explains:

> In the case of undiluted personal authority, legitimate authority is vested in a person because of their status or role in a particular institution, for example, parents and teachers in the case of children. Such authorities then need not invoke any justification for what they require others to do other than a mere 'because I say so'.

Moreover, whether or not they agree with his politics or decision-making, the Australian public know who Peter Dutton is – they regularly come across his name, his face, and the sound of his voice. It is possible to find his CV online, and read his biography, know where he has lived, who his family is, where he studied. These details act to personalize him – he is a real and complete individual.

In contrast, the reader knows very little about the person being called Abyan. While she has been given this pseudonym presumably in an attempt to personalise her, there is really very little available information about her beyond her age, gender and nationality. This lack of information is not coincidental. At least in part, it is the inevitable result of concerted efforts by the Australian Government to limit transparency of their programs in Nauru, PNG and also Australian onshore detention centres. This is explained in greater detail below.

Further, the nature of the events which brought her into the public eye may mean that Abyan does not wish to publicise her identity or discuss details of her experiences – indeed, her response to the journalist, Chris Kenny, when, as discussed below, he sought to interview her, suggests this may be the case. Healicon (2016) describes the traumatic process sexual violence survivors undergo after making a complaint:

> It is this evaluation of her personhood, the assessment of her credibility, that is prioritised over scrutiny of incidents of abuse and the role of the perpetrator in them. If deemed credible and therefore believable, then sexual violence took place and she is legitimated as a victim of abuse. If not, then she is castigated as a liar. Either way, the implications for her sense of self are significant (Healicon, 2016, p. 41).

Aside from potentially wishing to remain anonymous to avoid the social stigma and psychologically damaging scrutiny that victims of rape may attract, revealing her identity could

put her in physical danger. She has been the victim of rape by a local person in a very small community (Nauru has a population of just over 11,000 people (Central Intelligence Agency, 2018)) in which she has a limited ability to defend herself or remain safe. This places Abyan in an impossible situation: she may wish to remain private and anonymous, but in doing so, she is restricted in how she constructs a credible identity for those questioning the credibility of her claims.

Research on the visual representation of refugees in Australian newspapers elucidates the effects of a lack of personalising information. Bleiker, Campbell, Hutchinson, and Nicholson (2013) studied the depiction of refugees and asylum seekers on the front pages of two main Australian newspapers, finding that the scarcity of images of individuals led to a dehumanisation of refugees: readers find it much harder to empathise with groups of unknown persons. They argue:

> The images that dominate media coverage of asylum seekers are thus unlikely to evoke the type of compassion in viewers that images of a single victim with clearly recognisable facial features trigger (Bleiker et al., 2013, p. 411).

Likewise, in his review of UK newspaper discourse on refugees and immigrants, KhosraviNik (2009) found that positive discourses about migrants were presented by providing individuals' personal details to humanise them and create empathy.

Therefore, for Abyan, the lack of detailed information available about her as an individual limits the potential for building trust and empathy, effectively undermining the perceived legitimacy of her written statement. The lack of details publicly available about Abyan makes it possible for other actors to present her in a variety of ways – anything from helpless victim to conniving foreigner, as there is little available information to contradict these or any other constructions.

Further, the only elements of her identity that are publicly available are potentially problematic, being groups the Australian public are taught to mistrust: she is a "foreigner", a refugee and a woman who has claimed to have been raped. "Foreign" identity can impact on interlocutors' perception of proficiency and in turn can undermine their assessments of a speaker's knowledge and the quality of what they say (see discussion in Piller, 2016, p. 53). Her identity as a refugee is unlikely to contribute in a positive way to her credibility, given the fact that the trustworthiness or genuineness of people seeking asylum is a key concern in mainstream Western public and media discourse (see for example findings in Every &

Augoustinos, 2008; Pickering, 2001) and that assessing their credibility is often a prerequisite to accepting the refugee narrative they rely on to obtain a refugee visa (as discussed, for example, in Smith-Khan, 2017b, 2017d; Sweeney, 2009). Similarly, as explained above, when a woman claims to have been raped, this triggers a process of assessing her credibility, as a prerequisite to determining the veracity of the claim (Healicon, 2016). Therefore the three elements of Abyan's identity to which the public *is* privy only reinforce the questionable nature of her credibility, rather than act to support it.

The above demonstrates that Abyan and the Minister have unequal identity resources that impact the way their communication is likely to be interpreted and trusted. This creates an advantage for the Minister, who is able to harness superior identity resources to add credibility to his statement, while there is little to draw on for the public to perceive Abyan as trustworthy.

5.3.3.   Material resources

There is a clear contrast between the two statements in terms of their provenance and medium, demonstrating the different material resources Abyan and the Minister have to support their credibility.

The Minister's statement has a number of features that support its legitimacy. It is published on an official government website, alongside a plethora of similar statements released throughout his term in office, and more broadly amongst many official texts published by his department. It is published and stored directly by the institution responsible for its creation, rather than relying on intermediaries for its distribution. The text is given further authority by the Minister's official header and Government coat of arms, a fixed URL and uniform, conventional formatting and font style. These features index his status as an elected government official.

Abyan's statement appears in a photographed image of a lined piece of paper, on a table top, torn from an old diary, on the page showing the date of 25th December (creating a factual mismatch with the actual date on which it was written), and handwritten using a blue pen.

Titled "Statemet", this text somewhat resembles the statutory declarations or statements common in asylum applications. Writing a statement like this is thus a deployment of communicative resources to resemble a particular genre which is given high value in official, government/bureaucratic settings. However, the fact that it is handwritten suggests something lacking – official statements in legal and bureaucratic settings are most commonly typed. The paper and writing in this case thus suggest a lack of professional assistance and a deviance from the expected norm. Further, the parallels with the refugee statement suggest that the text

represents a contested version of events: refugee narratives are the subject of close scrutiny, with credibility assessments often a pivotal prerequisite to believing their contents (this is acknowledged in an extensive body of literature. See, for example, Sweeney, 2009). This means that from the outset, the genre of the text suggests to the reader that the truth of its contents is a matter to be determined, rather than accepted per se.

The fact that Abyan's statement appears in this medium suggests that she lacks the resources to communicate in other, arguably more legitimate forms. However, even if she had access to a computer and the internet, she would still lack the ability to present her statement on an official website in the way the Minister can.

5.3.4. Platform resources

The opportunity the speakers have to construct and defend their credibility also depends on the platforms they have from which to communicate. Although this paper primarily focuses on one statement from the Minister, in reality he, and the Government more generally, have many opportunities to speak about Abyan's case. Conducting the research, it became clear that there were numerous occasions on which the Minister and his colleagues publicly commented on the case.

7 Oct: Minister speaks to press outside Parliament

12 Oct: Attorney General is questioned in Parliament

15 Oct: Minister is interviewed on 2GB radio

17 Oct: Minister issues the statement

17 Oct: Prime Minister responds to questions at press conference with NZ PM

19 Oct: Minister is interviewed on Sky News (TV)

19 Oct: Minister is interviewed on ABC radio

19 Oct: Senate Estimates Inquiry regarding Abyan - various officials questioned in detail

19 Oct: Minister answers questions in Parliament

19 Oct: Minister speaks at Press Gallery Doorstop

20 Oct: Minister speaks at Press Conference

22 Oct: Minister is interviewed by 2GB radio

23 Oct: Minister speaks at Press Gallery Doorstop

26 Oct: Minister is interviewed by 2GB radio

28 Oct: Minister is interviewed on Sky News (TV)

29 Oct: Minister is interviewed by 2GB radio

30 Oct: Minister is interviewed on ABC Breakfast (TV)

8 Nov: Minister is interviewed on ABC Insiders (TV)

Beyond these occasions, it should also be recognised that the Minister and the Government would have been – and remain - able to publicly comment on Abyan's case, whenever deemed appropriate or beneficial.

In contrast, Abyan had very limited chances to speak and in many cases, the limitations she had were the intended result of explicit and government policy. We cannot be sure what information she had regarding her case or knowledge of how it had been discussed in Australia. We do not even know what role she played in drafting the handwritten statement: whether a lawyer or someone else guided her in its content, whether she physically wrote it or orally made this statement herself, or whether she was assisted by another person.

Refugees and asylum seekers in detention in Australia and those transferred to Nauru or PNG are largely inaccessible to the Australian public and media as a direct result of government policy. This policy has emphasised limiting the transparency and public scrutiny of these operations and effectively excludes refugees and asylum seekers from accessing Australian courts. This has included legislative measures to restrict access to and sharing of information concerning refugees in detention, as well as visa changes in Nauru.

In 2014, the Government of Nauru raised the visa charges for media representatives from AU$200 to an AU$8000 non-refundable fee (The Government of the Republic of Nauru, 2017). Journalists from various Australian and international news outlets have reported being denied a visa, sometimes even before making a formal application, leading some to suggest that a de facto ban on foreign media has been established in the country (ABC Media Watch, 2015). There had been no media visa grants for 18 months before Chris Kenny was granted a visa. Kenny is a journalist for *The Australian*, a newspaper with a conservative readership (McKnight, 2012), and previously worked as Chief of Staff for politicians in the Liberal Party (the conservative party in government in Australia from 2013) at both State and Federal levels (Sky News). The fact that he was granted a visa when many other journalists were not and his interactions with Abyan while in Nauru drew criticism. In fact, his two interviews with Abyan, one involving taking her photograph and the presence of local police, were the subject of their own separate debate: advocates claimed that Kenny forced Abyan to participate in the interviews (a claim he denied), and Abyan reported "media harassment" (ABC Media Watch, 2015; Allard, 2015). Government policy that restricts access to Nauru to all but a select few journalists in this way limits media scrutiny of Australia's refugee policy and more specifically

in this case, access to Abyan herself. This is a clear example of the government's influence over the media and thus control of the public discourse.

The Australian Government has also taken legislative steps to limit the sharing of information concerning refugees in Australian detention or in facilities in Nauru and PNG. It introduced secrecy provisions in its *Border Force Act 2015* to prevent Government employees and contractors who work with refugees from reporting concerns regarding their treatment, attracting a penalty of two years' imprisonment (section 42). Under public pressure, health professionals were exempted from this provision, and following a legal challenge the provisions are to be amended to further limit their application (Gartrell, 2017).

The Government also took punitive measures in response to contracted workers in Nauru who made public claims about sexual abuse occurring in detention there. A group of workers from Save The Children, the contracted organisation operating in detention in Nauru at that time, were suspended from their employment following these claims, although they have since successfully obtained compensation for their treatment, following two inquiries and legal action (Whyte, 2017).

Finally, the Government has also attempted on multiple occasions to limit asylum seekers' communication means while in detention, most recently seeking to pass legislation (Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017) to prevent those detained in Australia from having mobile phones, arguing that they could be used for criminal activities (Davidson, 2017).

Therefore, Abyan and the Minister have very different platforms from which they can communicate and construct and defend their credibility. In large part, Abyan's opportunities are directly undermined by policy created by the Minister's own government department, reflecting a further dimension of inequality and a clear aim to restrict the platform resources of refugees like Abyan.

5.4. Discussion and Conclusion

This paper has examined Abyan's written statement and a statement of similar length issued by the Immigration Minister a day earlier. It set out to challenge the media's discursive representation of the two parties as equal participants in a debate, by critically analysing these statements, and uncovering the large asymmetries between their authors, in terms of their ability to construct and defend their own credibility – an essential prerequisite to gaining audience trust.

While the Minister (and Government) and Abyan may be considered as two parties presenting conflicting versions of a set of events, their very different communicative resources and opportunities to speak lead to a power imbalance in terms of how they are able to produce and defend their respective credibility. The Minister and the Government start from a position of authority and have access to a wide range of highly-valued means and frequent opportunities to communicate and clarify their position. In contrast, Abyan is limited in her ability to construct a trustworthy identity and has few resources and opportunities to communicate in a credible manner or respond to others' challenges to her credibility.

Even when third parties, like advocates, attempt to challenge the discourse in what they consider the best interests of a refugee or refugees more generally, their actions are understood against this discursive background. The centrality of refugees' credibility as a topic and the invisibility of their limited means as participants in challenging the discourse means that advocates' actions and words may be construed as the refugee's own words (as in the media reporting on Abyan), even where their input is unsolicited and therefore beyond the refugee's control.

However, whether it is the input of third parties or the individual's own words, the rules of the game do not change and are beyond the control of these actors. These rules are set by the dominant discourse and result in unequal control over this discourse, as has been demonstrated in the above analysis. Discourse underlies what is "sayable or unsayable, thinkable or unthinkable" (Bourdieu, 1992, p. 172), and attributes more or less value to different forms of communication and identity types in particular settings. Effectively this means that credibility is a construct of this discourse rather than a phenomenon or attribute that exists in isolation.

The implications of the unequal resources uncovered in this analysis therefore extend beyond the individual case at hand, to the creation and preservation of dominant discourse on refugees and their credibility. Most obviously, their unequal communicative resources means that different social actors have unequal means to produce, reproduce or challenge discourse.

Further, the centrality of refugee credibility in the dominant discourse, or, in van Dijk's (2008) words, the fact that it is something that the public *"think about"*, helps preserve this very discourse: from the outset we are taught to focus on and question the credibility of those who may protest against the discourse and its detrimental effects.

The invisibility or erasure of these unequal resources in the dominant discourse only further acts to entrench this inequality. It is not something the dominant discourse directs us to think about and is therefore more difficult to challenge.

This is problematic not only for equal participation in discourse production. It also has serious social and political implications. Control over discourse production means the ability to influence the status quo: discourse has the potential to "play a decisive role in the genesis, production and construction of certain social conditions" (van Leeuwen & Wodak, 1999, p. 92). While ever focusing on refugees' credibility remains as politically expedient to Australian governments and opposition parties as it has been in recent decades, it will likely remain so in the future. This discourse then justifies or even demands punitive policies that reflect a lack of trust in those seeking asylum. For those seeking asylum in recent years, this has meant facing indefinite detention in Nauru or PNG, in conditions that have led to the deaths of twelve persons in the past five years, as a result of suicide, violence or unaddressed health needs (Doherty, Evershed, & Ball, 2018). Overall, these conditions constitute serious human rights abuses for thousands of men, women and children (UN Committee on Economic, Social and Cultural Rights).

It may go some way to explaining the increasing centrality of credibility assessments in refugee status determination (RSD) processes: mechanisms that have been widely criticised (eg. Coffey, 2003; Evans Cameron, 2008; McKinnon, 2009; Thomas, 2011), with decision making in this setting described as involving a troubling "presumptive scepticism" (Anker, 1992; Byrne, 2007). Further, the conceptualization of credibility in the public discourse, ignoring the socially situated nature of communication and erasing the inequalities discussed in this paper, may help explain similar constructions uncovered in the decision-making context. There, it has also been found that refugees are disproportionately held responsible for communication and narrative creation, with the impacts of immediate interactions and broader legal, social and discursive structures largely erased (Smith-Khan, 2017b, 2017d).

In 2003, Michael Clyne (2003, p. 5) responded to the advent of refugee-vilifying political discourse with a call for action, suggesting that "we have a duty as linguists, when we see this happening, to alarm anyone who cares to listen" and encouraging a critical examination of how language can have an impact on social justice. Taking up the call for action, this case study responds to a pervasive discourse throughout refugee policy and decision making in the global north that presents refugees as isolated actors whose speech and actions should be interrogated to determine their credibility. It challenges this discourse by demonstrating the socially and discursively situated nature of their communicative resources and thus the way these structures impact on their apparent credibility.

6. Conclusion

6.1.   Revisiting the research problem

In this thesis, I sought to examine the impact on refugee credibility of the ways discourses present refugees and other actors who interact with them. I aimed to uncover how these discourses present language, communication and cultural diversity, and thus how they conceptualize discourse creation, and compare these with the discourse-creation resources these key actors *actually have*. Finally, I sought to explore the effects these constructions have on how various social actors are able to communicate and influence discourse creation and policy making in this area, and ultimately the implications this has for refugees.

In order to achieve this I conducted a series of case studies, spanning micro-, meso- and macro-level discourse. These studies constitute the four papers making up Chapters 2 to 5 of this thesis. Chapters 2 and 3 involved an analysis of institutional guidance provided to merits review decision makers at the Australian Administrative Appeals Tribunal ("AAT") and previously at the Refugee Review Tribunal ("RRT"). In these two chapters, I also analysed a corpus of AAT and RRT published decisions that dealt with credibility, and selected two of these to form a detailed case study in Chapter 3. Findings show that the institutional guidance places disproportionate responsibility for the creation of the refugee narrative on the visa applicant. The decision maker's role in shaping this narrative is largely invisible, and they are presented as neutral and capable of objectivity. The roles of other actors, such as lawyers and interpreters, is also largely overlooked or downplayed. In contrast to these implicit assumptions, the variety of ways the decision makers draft their written decisions demonstrates their diversity. At the same time, in practice, the institutional discourse shapes the way the interviews and decision making processes are conducted and conceptualized, creating a range of challenges for the applicants when it comes to defending or attempting to regain their credibility.

Chapter 3 examined these challenges in more detail. It explored the effect of the institutional guidance's emphasis on the applicant's subjectivity and the fact that applicants' social and cultural backgrounds are framed as inevitably affecting their behaviour. This framing of diversity as including and affecting only applicants means that decision makers are not encouraged to reflect on their own backgrounds and how these may influence their perception. The impacts of this unequal framing of diversity were explored in a case study of two of the decisions from the corpus, which each involved applicants who sought to overcome credibility concerns by pointing to linguistic and cultural factors. It found that while the

institutional guidance appears to be particularly concerned that the "diverse" applicants should be accommodated, the way it conceptualizes diversity limits how well decision makers actually accept the applicants' diversity-related arguments. In particular, the absence of any significant mention of linguistic diversity in the guidance greatly limits the way the many issues around language are understood and accommodated in these two decisions. Further, diversity being understood as an unshakeable group-based characteristic makes it unacceptable for applicants to have individual idiosyncrasies, meaning deviations of expected behaviour based on group membership threatens their credibility.

Chapters 4 and 5 uncovered similar discursive constructions and related challenges in a different setting. Those chapters entailed a case study of a Somali refugee who was transferred to Nauru after attempting to seek asylum in Australia. Credibility was a key issue in her case, which came to be presented as a "debate" by the media and by leading Australian government officials. Chapter 4 examined a corpus of newspaper articles presenting this debate. Much like the constructions in Chapters 2 and 3, the media greatly emphasise the refugee's role as a speaker, presenting her as an equal participant in the debate, against the Immigration Minister. The roles of other actors, in this case the refugee advocates and lawyers championing her cause, are again backgrounded. Furthermore, the refugee's individual case is connected to broader public discussions on refugees more generally: she is used as a "totem", discursively representing and linked to the more general category of "refugee".

Chapter 5 more closely pursued the issue of framing this particular refugee as an equal debate participant, examining her communicative resources and those of the Immigration Minister, to uncover the contradictions between how she was presented in the public discourse and the communicative barriers she faced in reality. It explored communicative resources on four levels, as linguistic, identity, material and platform resources. Far from being equal, the Immigration Minister, unsurprisingly, has access to substantially greater resources across all levels. Further, many of the communicative barriers the refugee faced resulted either directly or indirectly from government policy. This meant that while the refugee and her credibility were scrutinized through what was framed as a public debate, in reality she had very little opportunity to participate or respond to the challenges made against her credibility. Therefore the "debate" was beyond her control, but in a way that remained invisible in the prevailing discourse: a discourse that she had little ability to challenge.

Therefore, across these cases studies, the research uncovered the way dominant discourse presents refugees and their credibility. Specifically, it focussed on how the discourse

conceptualizes language and communication, how it understands diversity and finally, it compared this discourse with an examination of participants' communicative resources, as will be discussed in more detail below.

6.2   Refugee credibility, communication and discourse creation

The research examined how mainstream discourse represents refugees and other key participants. The following sub-sections explore in more detail the patterns emerging from the research. The first sub-section discusses how linguistic inequality and unequal responsibility for communication contribute to issues around credibility. Then, diversity is discussed, with a discussion of how identity resources impact credibility. Finally, the research identified how power, policy-making and differential communicative resources play a role in both the way this discourse is made, and how it can be challenged.

6.2.1   Responsibility for communication and linguistic inequality

The research demonstrated how in both public debate and visa decision making, refugees and asylum seekers are given disproportionate responsibility for the production of texts. This is connected to how communication and language are conceptualized. The discourse throughout these contexts generally ignores the interactive nature of communication, backgrounding the roles that other actors have in shaping what was characterized as the refugee's or applicant's communication, and the impact of laws, procedural guidelines and other structures that dictate communicative norms. Linguistic issues more generally feature rarely in the discourse.

In Abyan's case, this is apparent on two levels. First, it is evident in how her decision making around seeking a termination is reported by the Immigration Minister and the media, with little acknowledgement of the interactions she had or how she came to communicate her decision. Second, her handwritten statement in response to these characterizations is presented as evidence of her supposedly equal participation in a debate alongside the Immigration Minister. The linguistic and other communicative challenges she faced are for the most part unacknowledged. The review applicants face similar difficulties. While it is unsurprising that the applicants are represented differently to decision makers, given the diverse roles they have in the procedures, the nature of these representations have implications for their credibility. Not only are they presented as the "owners" or creators of the refugee narrative and its constitutive parts, linguistic considerations are generally overlooked. Institutional guidance only very briefly mentions interpreting and legal assistance, with no other discussion on language. This means that when applicants offer explanations related to language and

communication to respond to issues within the procedures, or to explain their behaviour or past experiences outside the procedures (in events forming part of their refugee narrative), they are typically dismissed. In some cases their lack of identity resources, as explained below, appears to contribute to this: their "general" or "overall" credibility undermines the acceptability of their arguments related to language.

In both public debate and visa decision making, when attention is drawn to the way interactions impact on refugees' communication, or to other difficulties they face regarding language within these specific contexts, these concerns are often dismissed. There are two explanations for this. First, this is arguably a consequence of the inequality of the participants. In both cases, one party has much to lose and stands to be significantly affected by the outcome of the interaction. The other parties have the privilege of not being in a position where they need to interrogate issues around language and communication in the same way. As for any form of privilege, those with communicative privilege may be unaware that they have it: "the linguistically dominant can remain oblivious to the workings of linguistic diversity" because it simply does not affect them negatively (Piller, 2016, p. 208). There is thus less impetus to share the burden of intercultural communication. Second, the greater context influences or constrains the way in which such issues can be incorporated. In the review setting this is quite obvious in that decision makers act as institutional agents and must follow law, regulations and procedural guidance in carrying out their role. It is natural, therefore, that decisions will reflect the little attention given to language-related concerns in the guidance.

As examined in more detail in Chapter 5, communication and identity are interconnected: a speaker's identity influences how they are heard and whether they are believed. At the same time, their ability to communicate and the way their communication is perceived and discursively presented, affects their capacity to create a credible identity. As I discuss below, the unequal positions held by minority and majority participants in terms of their identity exacerbate linguistic inequality and the way responsibility for communication is divided between them.

6.2.2 Diversity and objectivity: the reification of difference

While dominant discourse constructs communication in a way that presents challenges for refugee credibility, its conceptualization of diversity is equally problematic. Effectively, refugees and asylum seekers are presented as diverse, in contrast to other participants. Their diversity is essentialized: they are portrayed as possessing immutable attributes connected with being a member of the particular group with which they are identified. Conversely, the majority

or mainstream participants have the privilege of individual attributes and are assumed to be able to overcome their own (largely invisible) socialisation and other attributes to achieve objectivity.

In Abyan's case, this essentialization is evident in the way her individual actions are linked with refugees as a whole (and vice versa). The few aspects of her identity that are known to the public, her foreignness, her gender and her status as survivor of rape, limit her capacity to present a credible identity, thus undermining her participation in the "debate". In the Tribunal decision making and guidance, applicants are presented as diverse, inescapably linked to group attributes, meaning that they may be negatively evaluated for individual deviations from expected norms. Their behaviour is assessed against institutionally mandated instructions and institutionally produced information on the applicant's background, and individual decision maker understandings of how people from their respective groups behave, closely circumscribing their ability to present a credible identity.

In both settings, the individuals representing the government and institutions benefit from a position of privilege in terms of their identities. Put another way, as explained in Chapter 3, diversity is reified. These individuals are not assigned restrictive group-based identities like their refugee and asylum seeker counterparts. In the case of the politicians, while they may not be universally liked, they draw on their status as members of parliament and government, official titles and accessible public profiles to present a credible identity and speak with authority. Review decision makers are likewise high-status individuals, vested with authority and legitimacy through their appointment to the Tribunal, considered capable of separating themselves from their own *individual* subjectivity when conducting hearings and evaluating applicant credibility. Therefore there is no encouragement for them to reflect on the impact of their own socialization in the way they evaluate credibility. Further, their capacity to accept applicants' explanations of "unexpected" behaviour is further undermined by the institutional requirement to measure this against official "knowledge" in the form of "country of origin" reports and other materials.

The result of this unequal construction of diversity is that refugee participants have limited identity resources on which to draw when attempting to communicate credibly. They are not considered experts of their own identity or experiences. Rather, their characteristics are essentialized by the dominant discourses in ways that often only reinforce their questionable credibility. When their experiences or actions clash with institutional expectations, their personal credibility is only further damaged. In turn, the difficulties they face mobilizing a

credible identity limits the way they are able to raise language and communication-related concerns or more generally how well their interlocutors will accept their communication.

6.2.3   Power, policy and communicative resources

As explored above, the institutional and political contexts of the case studies have an impact on the way in which refugees and other participants communicate and types of identities they are able to mobilize. Law, policy and other institutional texts control these processes, both directly, by mandating certain actions, and indirectly through the discourses these texts promulgate.

In Chapter 5, a closer examination of Abyan's and the Immigration Minister's communicative resources provided a challenge to the discourse presented in the media corpus, and an apt example of how power plays a role in the creation and preservation of majority discourse. The analysis there found that Abyan's resources to communicate a credible text and identity are undermined across all four levels: she lacks the requisite linguistic, identity, material and platform resources to make her an equal participant in what the media presents as a "debate" against the Minister. Not in small part, such resources are denied by the very refugee policy for which this Minister and his government are responsible. Partly, this policy constitutes a set of laws aimed at excluding from Australia both physically and legally asylum seekers and refugees who have arrived by boat, and limiting the ways in which they are able to communicate with the Australian public.

Further, the majority discourse itself, as evidenced in the Minister's statement and in the institutional texts analysed in the earlier part of this thesis, consistently ignores or backgrounds the structural disadvantages that refugees face when communicating, defending their credibility or more generally attempting to challenge discourse.

Just like in any other setting, different social actors will have different communicative resources and more or less power to shape the discourse around credibility. The invisibility of these disadvantages within the mainstream discourse only acts to further entrench them: as van Dijk (2008, p. viii) argues, having power over the production of discourse means control over what people think about. This means that such disadvantages are generally not brought to the attention of the public where it is not in the interests of those controlling it to do so.

6.3   Methodological and conceptual contributions

The research has resulted in both methodological and conceptual contributions around the study of refugee credibility. The first sub-section below explains how my sociolinguistic

ethnographic approach complements and extends the existing literature, combining CDA with an examination of communicative resources to challenge the discursive representations that have been uncovered in the research. It includes a discussion regarding the benefits of multi-level analysis and how it promotes the goals underlying CDA. The second sub-section then presents the major conceptual contribution of the research, namely a call to rethink how we understand credibility.

6.3.1 A critical multi-level sociolinguistic ethnography of refugee credibility discourse

The critical sociolinguistic ethnographic approach adopted in this research allowed greater insight into the difficulties faced by asylum seekers and refugees in communicating credibility. In its CDA of institutional texts guiding credibility in Australian refugee status determination (RSD), the study complemented existing (mainly international) sociolinguistic research, which has predominantly focused on analysing interactional data or decision records (e.g. Blommaert, 2001; Gómez Díez, 2011) and focused more heavily on the micro level of first instance interviews (e.g. Maryns, 2006). At the same time, it offers a sociolinguistic lens to complement studies from other disciplines that do focus on critically analysing these texts (e.g. Coffey, 2003; Sweeney, 2009; Thomas, 2011). Similarly, it contributes a novel approach to existing media and public discourse CDA-based studies of refugee credibility (e.g. Macken-Horarik, 2003a; Macken-Horarik, 2003b; Stirling, 2015a, 2015b) by adding a sociolinguistic examination of communicative resources.

Further, in line with the approach recommended by Heller (2014), focusing on these different case studies allowed an exploration of how discourse is produced and reproduced across multiple, interconnected levels or settings. It thus focused on not only discourse as action but also discourse as structure (Fairclough, 2001). This approach uncovered common trends across the different research sites. As discussed above, the data typically place the spotlight on the refugee "other". Significantly, across the data, the discourse assigns disproportionate responsibility to refugees and asylum seekers for text production, backgrounding the influence of other participants and the constraints of institutional and legal structures, and denying the interactive nature of communication and text production.

These trends also suggest that discourse in these different situations is interconnected and that the discourse created in one setting influences the other (and vice versa), or rather that they help to create and reinforce the larger (institutional, legal, discursive) power structures that undergird both. It helps paint a more holistic picture of the difficulties faced by minority participants in overcoming or challenging dominant discourse: they are not confronted with

pieces of problematic discourse in isolation, rather it pervades every facet of their representation. Understanding institutional and political discourse helps uncover the limitations or influences at play in the individual examples of Abyan's situation and the Tribunal decision case studies. And vice versa: these individual examples help reveal the shortcomings of the assumptions and ideologies present in the official discourses.

This last point became particularly clear with the exploration in Chapter 5. The analysis of the media discourse in Chapter 4 revealed an assumption that Abyan was an equal participant or speaker in a public debate with the Australian Immigration Minister. Rather than simply flagging this construction as obviously problematic, the research extended to exploring the participants' respective communicative resources, once again across multiple levels: from the written statements that formed the central focus of the media reporting, to the policy and legal structures aimed at controlling refugee mobility and political participation. The findings of this multi-level sociolinguistic analysis provide support to challenge the assumption uncovered in the CDA. The same can be said for the analysis of individual review decisions in Chapters 2 and 3: by comparing individual decisions with the institutional guidance, the analysis considers how institutional discourse actually influences the actors it targets. The communicative realities flagged by the applicants in the case studies demonstrate some of the difficulties created by how the institutional guidance conceptualizes credibility, communication and diversity. Their lack of success indicates how difficult it is to challenge hegemonic discourse.

Therefore, this research demonstrates the benefits of adopting a sociolinguistic ethnographic approach when examining credibility in refugee-related settings. The methods adopted allowed the research to uncover not only the individual challenges refugees and asylum seekers face when attempting to communicate or perform credibility. It also identified the contextual forces – political, legal and discursive – that impact these performances.

6.3.2   Rethinking credibility

The research involved two main elements. Firstly, it identified mainstream discourse on refugee credibility in various settings. It found that this discourse presents credibility as a phenomenon or attribute that attaches to individual refugees and can be assessed through an examination of their communication in specific contexts. Meanwhile, both the impact of other participants' involvement and structural forces are largely erased or invisible in this discourse.

Secondly, however, it problematized these constructions, uncovering the way contexts – both immediate interactional context as well as institutional, legal and socio-political contexts – impact how refugees and other speakers are able to communicate, and ultimately how

credibility is produced. It thus highlighted the invisibility in the discourse of other participants' contributions, and broader structures, in both the way refugees and asylum seekers communicate and whether they are considered credible.

Therefore, the research findings encourage a shift in the way we conceptualize credibility. Credibility cannot be understood solely as a characteristic inherent to particular individuals. Instead, it is to a significant degree a phenomenon that is based in discourse rather than objective fact. Like any other discursive construction, it is produced and reproduced by and through social interactions and structures.

However, this construction of credibility contributes to creating and preserving a dominant discourse which is politically expedient for its creators. It thus echoes a Gramscian conceptualization of language as a tool for hegemony: "dominant social groups can solidify their hold on elite positions within society by using their language to exclude" (Ives, 2009, p. 672). This applies not only in the immediate sense of social inclusion, but also exclusion "from the type of knowledge and skills required to grapple with questions of national politics and power"(Ives, 2009, p. 672).

Reframing credibility in the way proposed above acknowledges that individuals navigating government procedures or engaging in public "debate" do not simply produce a credible text or identity in isolation. It means that a significant recalibration is required in terms of how government, policy makers, and indeed society, think about and respond to refugees. Continuing to assess and discuss refugee credibility the way it has been done is simply untenable or, put another way, lacks credibility.

When it becomes clear that the texts from which we assess "their" credibility are actually the product of a combination of factors, many of which have nothing to do with the individual and are beyond their control, placing responsibility for the end product on the individual asylum seeker or refugee is no longer reasonable. This requires a radical reconsideration of responses to those seeking asylum. The implications of this reconceptualization are set out in greater detail below.

6.4   Implications

This study has focused on dominant discourses of refugee credibility in two key settings impacting asylum seekers and refugees in Australia. It has found that these discourses create sometimes insuperable challenges for those seeking protection in Australia. It has uncovered how conceptualisations of language and diversity contribute to these challenges, by linking

refugee credibility to supposedly individual and isolated performances of identity and communication. In contrast, it has demonstrated how producing credibility is a discursive, interactive process, in which a variety of actors may participate, both directly, as interlocutors, or as readers or evaluators of texts, or indirectly through contributing to broader discourse, laws and policies that influence the communication and interpretation of credibility.

The findings of the research present significant implications for the incorporation of credibility assessments in refugee status determination processes. When credibility is reconceptualised as discursive and the communication based on which it is assessed is shown to result from interactive processes and structural influences, the current approach loses legitimacy. This is of particular consequence, given that establishing credibility as an applicant seems to be a prerequisite to a positive decision, even though honesty should not equate to merit in refugee status determination (Hathaway & Foster, 2014, 2.6). Further, judicial review of Tribunal decisions is greatly restricted, especially in decisions involving credibility assessments, which are generally regarded a form of fact finding. This means that success may often closely depend on how the Tribunal deals with credibility.

In the first instance, uncovering the institutional discourse's differential treatment of decision makers and applicants leads to the conclusion that decision makers need to be encouraged to reflect on their own "diversity" or socialization, and how this affects their perception of others. Further, it could be suggested that they require greater sensitisation regarding the challenges of intercultural communication for minority participants and encouraged to take on a greater share of the communicative burden. Both of these steps would undoubtedly assist in improving the accessibility of procedures.

Similarly, acknowledging the effects that legal representatives and interpreters have on communication in these processes at least prompts a review of their involvement. It would likely also lead to the conclusion that procedural fairness requires access to high quality legal assistance and interpreting and translation (if required) throughout the entire application process, including during application preparations. These actors may equally benefit from increased sensitisation regarding the interactive nature of communication in this setting, and other issues identified in this research, to inform the way in which they conduct their work.

However, such conclusions may be too simple by themselves and require further interrogation. Framing this as an issue of individual attitude or action can obscure and reinforce the broader structural, and indeed discursive, forces that disadvantage refugees and asylum seekers by holding them individually responsible for communicating a credible identity, through processes of which they are actually not in control. Even with high quality assistance,

communication remains the result of multiple parties' contributions and interactions. Further, crucially its content and form do not exist in isolation: rather, they are shaped by procedural and legal requirements, and reflect the order of discourse of the legal and institutional contexts in which they take place. Thus, for example, those seeking a protection visa are viewed as applicants, given the centrality of this facet of their identity in this context, and similarly decision makers are conceptualized primarily as thinkers.

In this setting, communicative inequality results not so much from interpersonal communication, but rather from law and policy that dictate the operation and implementation of these assessments. Regardless of the individual attributes, intentions and skills of the other participants involved, the fundamental issue remains that such evaluations rely on an understanding of credibility as an individual attribute or product of one person's communication.

Since the research has demonstrated that credibility is discursively constructed and has uncovered the various communicative inequalities, interactive processes and structures influencing its production, it may be argued that designing assessments to objectively and fairly test a *person's* "general" or "overall" credibility is an impossible task. At the very least, this conclusion points to the need for institution-level change.

The research findings offer sociolinguistic-based support for existing studies from other disciplines that advocate for a modified application of credibility assessments, invoking changes to legislation and procedural guidance. For example, these mechanisms should more explicitly acknowledge the shortcomings inherent in evaluations of credibility (as suggested by Coffey, 2003). Instructions should insist on more thorough inclusion and examination of expert evidence relating to credibility that provides insight into some of the issues highlighted in this research (Coffey, 2003). Guidance could also mandate for more systematic and comprehensive opportunities for applicants to meaningfully respond to adverse credibility-related evidence, another key challenge uncovered in the current study (and also suggested by Coffey, 2003).

Increasing or clarifying the inquisitorial role of Tribunal decision makers could help shift the onus onto them to more critically explore the reasons for an apparent inconsistency or plausibility before arriving at a decision (Byrne, 2007; Coffey, 2003). In particular, by understanding that narrative and credibility construction are interactive processes, influenced by a range of participants and the broader institutional, political and discursive contexts, decision makers may be more likely to adduce expert evidence related to language and communication. Specialised training or guidance drawing on the findings of this study (and on

other research on narrative construction) could assist in developing this understanding. This would mean that decision makers could fulfil their inquisitorial role and be less reliant on applicants (or their representatives) to introduce this type of evidence, and more receptive to its inclusion than seemed to be the situation in the case studies in Chapters 2 and 3. Finally, credibility assessment may also be improved by increasing the currently very limited scope for judicial review and thus providing increased incentive for decision makers to more comprehensively justify their evaluations; however, this would involve substantial legislative amendment in Australia (Coffey, 2003).

Fundamentally, however, given the problems highlighted by this study regarding the discursive construction of credibility as something pertaining to the applicant, the above suggestions would likely be ineffective without a substantial change in how credibility is defined or conceptualized in procedural guidance and legislation. This conclusion echoes calls for a "narrow" approach to credibility (Kagan, 2003; Sweeney, 2009). Deciding on the facts of a refugee claim is a difficult but necessary step in granting protection to asylum seekers. However, to achieve this, credibility assessment can be limited to deciding on the admissibility of pieces of evidence rather than making evaluations of when a particular applicant is credible as a person. This conceptual shift would arguably help separate the task of determining an applicant's refugee status away from their (perceived or actual) honesty, which should not be a prerequisite to meriting protection. Explicit instructions regarding credibility assessments applying to pieces of evidence, and strictly excluding the assessment of a person's (or the person's refugee claim's) overall or general credibility would go some way to addressing some of the key issues raised in the research findings. Even then, however, the types of discursive issues, power imbalances and broader structural factors highlighted throughout this study that affect credibility assessments would still need to be acknowledged and taken into account. Otherwise there would still be a risk of pieces of evidence being excluded for the same reasons as have been discussed in the research.

However, the changes to legislation and institutional guidance suggested here require political will. As discussed throughout this thesis, successive Australian governments have benefited politically from promoting a discourse that calls into question refugees' credibility. This discourse then justifies, or even requires, a range of laws and policies that reflect a distrust of refugees, seek to "test" them and make them prove their credibility as a prerequisite to gaining acceptance into Australian society. Therefore, this means that these types of changes on a legislative or institutional level are highly unlikely unless the public discourse first undergoes substantial change.

The question then is whether such change is possible or likely. The findings of the media and public debate case study in Chapters 4 and 5 suggest that while refugees are attributed identities and are held responsible for actions that damage their credibility, individual refugees or asylum seekers attempting to challenge these harmful characterisations may lack the communicative resources needed to do so successfully, even when they seem to have a platform to challenge them. In part this lack of resources stems from the fact that laws and policies have acted to exclude and control refugee and asylum seeker participation in Australian society, undermining their ability to communicate and access legal redress and limiting transparency and government accountability.

Moreover, both this lack of communicative resources and the fact that this lack partly results from concerted government efforts are often invisible in the discourse. This is unsurprising given that those in positions of power will seek to preserve favourable discourse through the range of resources they have at their disposal. They thus shape law, policy, and also discourse itself, to retain control over discourse about refugees and continue to benefit politically from the conceptualizations of refugees and their credibility that it promotes.

Directing attention to those parts of existing discourse, law and policy which undermine participation may assist in creating a larger platform for refugees and asylum seekers to advocate for themselves, both within media and political debates and in other forms of policy reform and social participation. However, the power-driven nature of discourse production and the structural forces limiting refugees' participation in this process leads to the conclusion that others must also engage in challenging the dominant discourse. To achieve this effectively, the contradictions and difficulties behind refugee credibility evaluations in public and institutional settings must continue to be highlighted and undergo critical examination. This conclusion leads me to echo Michael Clyne's (2003, p. 5) call to "encourage vigilance" as a matter of social justice, both within academia and beyond. Developing guidance or training for those in positions of power in the settings included in this study, such as decision makers, journalists and advocates, may help draw attention to the issues highlighted in this study. Even if such guidance were not officially adopted by the Tribunal or other relevant bodies, its publication and circulation could help to challenge dominant discourse and offer an alternative view that could prompt critical self-reflection

While this study focused on discourse produced by dominant participants, and explored the communicative resources of government officials and refugees, it also highlighted the large absence of third-party participants within discourse in and about these settings. Whereas the literature review uncovered ample sociolinguistic research on the role of interpreters in asylum

procedures, other actors have received less attention. Future research would therefore benefit from exploring the roles of other actors, such as lawyers and other advocates. This would assist not only in better understanding the effects these participants have on the types of processes discussed in this research. It would also contribute to a paradigmatic shift away from problematizing minority participants; an exercise that may inadvertently reinforce their difference and reify their diversity vis-à-vis an unspoken norm, as is the case in the dominant discourse on refugees uncovered in this research. This approach would help fulfil sociolinguists' responsibility to approach dominant discourse critically, and challenge its reproduction within research and beyond.

References

ABC Media Watch. (2015, 26 October 2015). Exclusive Nauru access for The Australian. Retrieved from http://www.abc.net.au/mediawatch/transcripts/s4339385.htm

Abrams, L. S., & Moio, J. A. (2009). Critical race theory and the cultural competence dilemma in social work education. *Journal of Social Work Education, 45*(2), 245-261.

Administrative Appeals Tribunal (AAT). (2015). Migration and Refugee Division Guidelines on Gender: AAT.

Administrative Appeals Tribunal (AAT). (2015) *2014/2015 Annual Report*: AAT.

Administrative Appeals Tribunal (AAT). (2016) *2015/2016 Annual Report:* AAT.

Allard, T. (2015, 24 October 2015). Somalian refugee Abyan becomes a political pawn after abortion request on Nauru. *Sydney Morning Herald*. Retrieved from http://www.smh.com.au/federal-politics/political-news/prisoners-island-offers-little-hope-for-new-life-20151022-gkggkx.html

Anderson, S. (2015, 28 October 2015). Pregnant refugee Abyan to return to Australia from Nauru for medical treatment, Peter Dutton says. *ABC News*. Retrieved from http://www.abc.net.au/news/2015-10-28/pregnant-refugee-abyan-to-return-to-australia/6893174

Angermeyer, P. S. (2015). *Speak English or What? Codeswitching and Interpreter Use in New York City Courts*. New York: Oxford University Press.

Angermeyer, P. S. (2016). Promoting litigant consent to arbitration in multingual Small Claims Court. In S. Ehrlich, D. Eades, & J. Ainsworth (Eds.), *Discursive Constructions of Consent in the Legal Process* (pp. 163). New York: Oxford University Press.

Anker, D. (1992). Determining Asylum Claims in the United States: A case study of the implementation of legal norms in an unstructured adjudicatory environment. *NYU Review of Law and Social Change, 19*, 433-528.

Anthias, F. (2013). Moving beyond the Janus face of integration and diversity discourses: towards an intersectional framing. *The Sociological Review, 61*, 323-343.

Appelman, A., & Bolls, P. (2011). Article Recall, Credibility Lower with Grammar Errors. *Newspaper Research Journal, 32*(2), 50-62.

Australian Border Force. (2015). *Freedom of Information Documents*: released 1 January 2016.

Baillot, H., Cowan, S., & Munro, V. E. (2009). Seen but Not Heards? Parallels and Dissonances in the Treatment of Rape Narratives across the Asylum and Criminal Justice Contexts. *Journal of Law and Society, 36*(2), 195-219.

Baillot, H., Cowan, S., & Munro, V. E. (2014). Reason to disbelieve: evaluating the rape claims of women seeking asylum in the UK. *International Journal of Law in Context, 10*(1), 105.

Baker, P., & McEnery, T. (2005). A corpus-based approach to discourses of refugees and asylum seekers in UN and newspaper texts. *Journal of Language and Politics, 4*(2), 197-226.

Barnes, R. (2013). Understanding the affective investment produced through commenting on Australian alternative journalism website New Matilda. *New Media & Society, 17*(5), 810-826.

Barnett, M. (2006). Mind Your Language - Interpreters in Australian Immigration Proceedings. *University of Western Sydney Law Review, 10*, 109-138.

Barry-Murphy, E. C., & Stephenson, M. O. J. (2015). Recognizing and Confronting State Subjectivity in Asylum Adjudications. *Refuge, 31*(2), 3-13.

Bleiker, R., Campbell, D., Hutchinson, E., & Nicholson, X. (2013). The visual dehumanisation of refugees. *Australia Journal of Political Science, 48*(4), 398-416.

Blommaert, J. (2001). Investigating narrative inequality: African asylum seekers' stories in Belgium. *Discourse & Society, 12*(4), 413-449.

Blommaert, J. (2004). Writing as a problem: African grassroots writing, economies of literacy, and globalization. *Language in Society, 33*(5), 643-671.

Blommaert, J. (2010). *The Sociolinguistcs of Globalization*. Cambridge: Cambridge University Press.

Bohmer, C., & Shuman, A. (2007). *Rejecting refugees: Political asylum in the 21st century*. London and New York: Routledge.

Bourdieu, P. (1992). *Language and Symbolic Power*. Cambridge: Polity Press.

Bourke, L. (2015, 19 October 2015). Peter Dutton says advocates for Somali refugee 'Abyan' have let her down *Sydney Morning Herald*. Retrieved from http://www.smh.com.au/federal-politics/political-news/peter-dutton-says-advocates-for-somali-refugee-abyan-have-let-her-down-20151018-gkc8f8.html

Byrne, R. (2007). Assessing Testimonial Evidence in Asylum Proceedings: Guiding Standards from the International Criminal Tribunals. *International Journal of Refugee Law, 19*(4), 609-638. doi:10.1093/ijrl/eem056

Cameron, D., & Kulick, D. (2003). *Language and Sexuality*. Cambridge: Cambridge University Press.

Campbell, J. (2013). Language analysis in the United Kingdom's refugee status determination system: seeing through policy claims about "expert knowledge". *Ethnic and Racial Studies, 36*(4), 670-690. doi:10.1080/01419870.2011.634506

Campbell, J. (2017). *Bureaucracy, Law and Dystopia in the United Kingdom's Asylum System*. London, New York: Routledge.

Capstick, T. (2016). *Multilingual Literacies, Identities and Ideologies: Exploring Chain Migration from Pakistan to the UK*. London: Palgrave Macmillan.

Central Intelligence Agency. (2018). The World Factbook: Nauru. Retrieved from https://www.cia.gov/library/publications/the-world-factbook/geos/nr.html

Clarivate Analytics. (2018). InCites Journal Citation Reports. Retrieved from http://www.jcr.incites.thomsonreuters.com

Clyne, M. (2003). When the discourse of hatred becomes respectable does the linguist have a responsibility? *Australia Review of Applied Linguistics, 26*(1), 1-5.

Coffey, G. (2003). The Credibility of Credibility Evidence at the Refugee Review Tribunal. *International Journal of Refugee Law, 15*, 377-417.

Cohen, J. (2001). Questions of Credibility: Omissions, Discrepancies and Errors of Recall in the Testimony of Asylum Seekers. *International Journal of Refugee Law, 13*(3), 293-309. doi:10.1093/ijrl/13.3.293

Collins, R. E. (2016). "Beauty and bullets": A content anlysis of female offenders and victims in four Canadian newspapers. *Journal of Sociology, 52*(2), 296-310.

Convention relating to the Status of Refugees. (1951).

Corcoran, C. (2004). A critical examination of the use of language analysis interviews in asylum proceedings: a case study of a West African seeking asylum in The Netherlands. *International Journal of Speech, Language and the Law, 11*(2), 200-221.

Council of Europe. (2001). *Common European Framework of Reference for Languages: Learning, teaching, assessment*. Cambridge: Cambridge University Press.

Crock, M., & Ghezelbash, D. (2010). Do Loose Lips Bring Ships?: The Role of Policy, Politics and Human Rights in Managing Unauthorised Boat Arrivals. *Griffith Law Review, 19*(2), 238-287.

Crock, M., & Martin, H. (2013). Refugee Rights and the Merits of Appeals. *University of Queensland Law Journal, 23*(1), 137-155.

Crock, M., Smith-Khan, L., McCallum, R., & Saul, B. (2017). *The Legal Protection of Refugees with Disabilities: Forgotten and Invisible?* Cheltenham: Elgar Publishing.

D'hondt, S. (2009). Others on trial: The construction of cultural otherness in Belgian first instance criminal hearings. *Journal of Pragmatics, 41*, 806-828.

Daily Life. (2017). About Us.   Retrieved from http://www.dailylife.com.au/about_us.html

Davidson, H. (2017, 13 September 2017). Peter Dutton introduces bill to ban phones from immigration detainees. *The Guardian*. Retrieved from https://www.theguardian.com/australia-news/2017/sep/13/peter-dutton-introduces-bill-to-ban-phones-from-immigration-detainees

Department of Immigration and Border Protection. (2014). Australia's Migration Trends 2012-13. Retrieved from https://www.homeaffairs.gov.au/research-and-stats/files/migration-trends-2012-13.pdf

Department of Immigration and Border Protection. (2016). Illegal maritime arrivals. Retrieved from http://www.ima.border.gov.au/en/Illegal-maritime-arrivals

Doherty, B. (2015, 12 October 2015). Nauru police close case of alleged rape of Somali refugee citing lack of evidence. *The Guardian*. Retrieved from https://www.theguardian.com/world/2015/oct/12/nauru-police-close-case-of-alleged-of-somali-refugee-citing-lack-of-evidence

Doherty, B., Evershed, N., & Ball, A. (2018, 20 June 2018). Deaths in offshore detention: the faces of the people who have died in Australia's care. *The Guardian*. Retrieved from https://www.theguardian.com/australia-news/ng-interactive/2018/jun/20/deaths-in-offshore-detention-the-faces-of-the-people-who-have-died-in-australias-care

Doherty, B., & Medhora, S. (2015, 19 October 2015). Somali refugee flown out of Australia denies saying she declined termination. *The Guardian*.

Dowd, R., Hunter, J., Liddell, B., McAdam, J., Nickerson, A., & Bryant, R. (2018). Filling gaps and verifying facts: Assumptions and credibility assessment in the Australian Refugee Review Tribunal. *International Journal of Refugee Law, ahead of publication*.

Durst, I. (2000). Lost in Translation: Why due process demands deference to the refugee's narrative. *Rutgers Law Review, 53*, 127-179.

Dutton, P. (2015). Misleading statements [Press release]. Retrieved from http://www.minister.border.gov.au/peterdutton/2015/Pages/misleading-statements.aspx

Eades, D. (2003). Participation of second language and second dialect speakers in the legal system. *Annual Review of Applied Linguistics, 23*, 113-133.

Eades, D. (2005). Applied Linguistics and Language Analysis in Asylum Seeker Cases. *Applied Linguistics, 26*(4), 503-526. doi:10.1093/applin/ami021

Eades, D. (2008). Telling and retelling your story in court: Questions, assumptions and intercultural implications. *Current Issues in Criminal Justice, November 2008*, 209-230.

Eades, D. (2009). Testing the Claims of Asylum Seekers: The Role of Language Analysis. *Language Assessment Quarterly, 6*(1), 30-40. doi:10.1080/15434300802606523

Eades, D. (2012). The social consequences of language ideologies in courtroom cross-examination. *Language in Society, 41*(4), 471-497.

Evans Cameron, H. (2008). Risk Theory and "Subjective Fear": The Role of Risk Perception, Assessment, and Management in Refugee Status Determinations. *International Journal of Refugee Law, 20*(4), 567-585. doi:10.1093/ijrl/een032

Every, D., & Augoustinos, M. (2008). "Taking advantage" or fleeing persecution? Opposing accounts of asylum seeking. *Journal of Sociolinguistics, 12*(5), 648.

Fairclough, N. (2001). Critical discourse analysis as a method in social scientific research. In R. Wodak & M. Meyer (Eds.) *Methods of Critical Discourse Analysis* (p. 121). London: SAGE.

Foucault, M. (1978). *The History of Sexuality* (Vol. 1). New York: Pantheon Books.

Gartrell, A. (2017, 13 August 2017). Peter Dutton abandons detention centre secrecy rules amid High Court challenge. *Sydney Morning Herald*. Retrieved from

http://www.smh.com.au/federal-politics/political-news/peter-dutton-abandons-detention-centre-secrecy-rules-amid-high-court-challenge-20170812-gxv128.html

Gibb, R., & Good, A. (2014). Interpretation, translation and intercultural communication in refugee status determination procedures in the UK and France. *Language and Intercultural Communication, 14*(3), 385-399. doi:10.1080/14708477.2014.918314

Gómez Díez, I. (2011). Asylum interviews as interrogations to unmask bogus refugees: The case of Belgian asylum agencies. *Journal of Applied Linguistics and Professional Practice, 8*(1), 23-47.

Grattan, M. (2015, 19 October 2015). A counsellor should be sent to Nauru to help 'Abyan'. *The Conversation*.

Griffen-Foley, B. (2002). The Fairfax, Murdoch and Packer Dynasties in Twentieth-century Australia. *Media History, 8*(1), 89-102.

Gyulai, G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L., & Udvarhelyi, É. T. (2013). *Credibility assessment in asylum procedures: A multidisciplinary training manual*: Hungarian Helsinki Committee.

Hall, K., & O'Donovan, V. (1996). Shifting gender positions among Hindi-speaking hijras. In V. Bergvall, J. Bing, & A. Freed (Eds.), *Rethinking Language and Gender Research: Theory and Practice* (pp. 228-266). London: Longman.

Hamlin, R. (2014). *Let me be a refugee: Administrative justice and the politics of asylum in the United States, Canada, and Australia*: Oxford Scholarship Online.

Hathaway, J. C., & Foster, M. (2014). *The Law of Refugee Status* (2 ed.). Cambridge: Cambridge University Press.

Healicon, A. (2016). *The Politics of Sexual Violence: Rape, Identity and Feminism*. Basingstoke: Palgrave Macmillan.

Hélie, A., & Hoodfar, H. (2012). *Sexuality in Muslim Contexts*. London, New York: Zed Books.

Heller, M. (2014). Undoing the macro/micro dichotomy: Ideology and categorisation in a linguistic minority school. In N. Coupland, S. Sarangi, & C. N. Candlin (Eds.), *Sociolinguistics and Social Theory*. London: Longman.

Herlihy, J., Gleeson, K., & Turner, S. (2010). What Assumptions about Human Behaviour Underlie Asylum Judgments? *International Journal of Refugee Law, 22*(3), 351-366.

Hester, R. J. (2012). The Promise and Paradox of Cultural Competence. *HEC Forum, 24*(4), 279-291. doi:10.1007/s10730-012-9200-2

Howard, J. (Cartographer). Election Speech. Retrieved from http://electionspeeches.moadoph.gov.au/speeches/2001-john-howard

Hunter, J., Pearson, L., San Roque, M., & Steel, Z. (2013). Asylum Adjudication, Mental Health and Credibility Evaluation. *Federal Law Review, 41*(3), 471-496.

Hymes, D. (1974). *Foundations of Sociolinguistics: An Ethnographic Approach*. Philadelphia: University of Pennsylvania Press.

Inghilleri, M. (2003). Habitus, field and discourse: Interpreting as a socially situated activity. *Target, 15*(2), 243-268. doi:10.1075/target.15.2.03ing

Ives, P. (2009). Global English, Hegemony and Education: Lessons from Gramsci. *Educational Philosophy and Theory, 41*(6), 661-680.

Jackson, D. (2013). Completing a PhD by publication: a review of Australian policy and implications for practice. *Higher Education Research & Development, 32*(3), 355-368.

Jacquemet, M. (2009). Transcribing refugees: the entextuaization of asylum seekers' hearings in a transidiomatic environment. *Text & Talk, 29*(5), 525-546.

Jacquemet, M. (2011). Crosstalk 2.0: asylum and communicative breakdowns. *Text & Talk, 31*(4), 475-497. doi:10.1515/TEXT.2011.023

Jeong, A., Li, H., & Pan, A. J. (2017). A sequential analysis of responses in online debates to postings of students exhibiting high versus low grammar and spelling errors. *Education Technology Research and Development, 65*(5), 1175-1194.

Jolly, R. (2014). The ABC: an overview. Retrieved from http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1415/ABCoverview

Kagan, M. (2003). Is truth in the eye of the beholder? Objective credibility assessment in refugee status determination. *Georgetown Immigration Law Journal, 17*, 367-415.

Kälin, W. (1986). Troubled Communication: Cross-Cultural Misunderstandings in the Asylum- Hearing. *International Migration Review, 20*(2), 230-241.

Kelly, J. (2015, 19 October 2015). Nauru offers home to hundreds as asylum rape battle rages. *The Australian*.

Kenny, C. (2015, 21 October 2015). Refugee declines to report rape to police. *The Australian*.

KhosraviNik, M. (2009). The representation of refugees, asylum seekers and immigrants in British newspapers during the Balkan conflict (1999) and the British general election (2005). *Discourse & Society, 20*(4), 477-498.

Kjelsvik, B. (2014). "Winning a battle, but losing the war": contested identities, narratives, and interaction in asylum interviews. *Text & Talk, 34*(1), 89-115.

Lawlor, A., & Tolley, E. (2017). Deciding who's legitimate: News media framing of immigrants and refugees. *International Journal of Communication, 11*, 967-991.

Lindemann, S., & Moran, K. (2017). The role of the descriptor "broken English" in ideologies about nonnative speech. *Language in Society, 46*, 649-669.

Lloyd, M., & Ramon, S. (2017). Smoke and Mirrors: U.K. Newspaper Representations of Intimate Partner Domestic Violence. *Violence Against Women, 23*(1), 114-139.

Luker, T. (2013). Decision Making Conditioned by Radical Uncertainty: Credibility assessment at the Australia Refugee Review Tribunal. *International Journal of Refugee Law, 25*(3), 502-534.

MacCallum, M. (2002). *Girt by sea: Australia, the refugees and the politics of fear*. Melbourne: Black Inc.

Macken-Horarik, M. (2003a). A telling symbiosis on the discourse of hatred: Multimodal news texts about the "Children Overboard" affair. *Australian Review of Applied Linguistics, 26*(2), 1-16.

Macken-Horarik, M. (2003b). Working the borders in racist discourse: The challenge of the "Children Overboard Affair" in news media texts. *Social Semiotics, 13*(3), 283-303.

Macklin, A. (1998). Truth and Consequences: Credibility Determination in the Refugee Context *The Realities of Refugee Determination on the Eve of a New Millennium: The Role of the Judiciary (3rd Conference: October 1998)* (pp. 134). Ottowa, Haarlem: International Association of Refugee Law Judges.

The Macquarie Dictionary Online. (2017). Retrieved from https://www.macquariedictionary.com.au

Mamamia. (2017). What is Mamamia? Retrieved from http://www.mamamia.com.au/about-mamamia/

Martin-Lacroux, C. (2017). "Without the spelling errors I would have shortlisted her…": The impact of spelling errors on recruiters' choice during the personnel selection process. *International Journal of Selection and Assessment, 25*(3), 276-283.

Maryns, K. (2004). Identifying the asylum speaker: reflections on the pitfalls of language analysis in the determination of national origin. *International Journal of Speech, Language and the Law, 11*(2), 240-260.

Maryns, K. (2005). Monolingual language ideologies and code choice in the Belgian asylum procedure. *Language & Communication, 25*(3), 299-314. doi:10.1016/j.langcom.2005.03.009

Maryns, K. (2006). *The Asylum Speaker: Language in the Belgian Asylum Procedure*. Manchester: St. Jerome.

Maryns, K. (2013). Disclosure and (re)performance of gender-based evidence in an interpreter-mediated asylum interview. *Journal of Sociolinguistics, 17*(5), 661-686.

Mayo, J. (2012). Court-mandated story time: The victim narrative in U.S. asylum law. *Washington University Law Review, 89*(6), 1485-1522.

McKinnon, S. L. (2009). Citizenship and the Performance of Credibility: Audiencing Gender-based Asylum Seekers in U.S. Immigration Courts. *Text and Performance Quarterly, 29*(3), 205-221.

McKnight, D. (2012). Henry Mayer Lecture 2012: The Market Populism of Rupert Murdoch. *Media International Australia* (144), 5-12.

Merlini, R. (2009). Seeking asylum and seeking identity in a mediated encounter: The projection of selves through discursive practices. *Interpreting, 11*(1), 57-92. doi:11.1075/intp.11.1.05mer

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.

Molnar Diop, P. (2014). The "bogus" refugee: Roma asylum claimants and discourses of fraud in Canada's Bill C-31. *Refuge, 30*(1), 67-80.

New Matilda. (2017). About Us.   Retrieved from https://newmatilda.com/about-us/

Newhouse, G. (2015). This young girl was raped and left stranded – bring her to Australia for urgent treatment.   Retrieved from https://www.change.org/p/malcolm-turnbull-this-young-girl-was-raped-and-left-stranded-bring-her-to-australia-for-urgent-treatment

News Corp Australia. (2017). Our Brands.   Retrieved from http://www.newscorpaustralia.com/our-brands

Nolan, M., & Goodman-Delahunty, J. (2015). *Legal Psychology in Australia*. Pyrmont, NSW: Thomson Reuters.

Noll, G. (2005). Evidentiary Assessment Under the Refugee Convention: Risk, pain and the intersubjectivity of fear. In G. Noll (Ed.), *Proof, Evidentiary Assessment and Credibility in Asylum Procedures* (Vol. 16). Leiden and Boston: Martinus Nijhoff.

Norman, S. (2007). Assessing the Credibility of Refugee Applicants: A Judicial Perspective. *International Journal of Refugee Law, 19*(2), 273-292. doi:10.1093/ijrl/eem015

Opeskin, B., & Ghezelbash, D. (2016). Australian refugee policy and its impacts on Pacific Island countries. *The Journal of Pacific Studies, 36*(1), 73-90.

Pennell, R. (2017). Can historians capture refugees' voices from the records of their applications for asylum? *Oral History Australia Journal*(39).

Philo, G., Briant, E., & Donald, P. (2013). *Bad News for Refugees*: Pluto Press.

Pickering, S. (2001). Common sense and original deviancy: News discourses and asylum seekers in Australia. *Journal of Refugee Studies, 14*(2), 169.

Piller, I. (2007). Linguistics and Intercultural Communication. *Language and Linguistic Compass, 1*(3), 208-226.

Piller, I. (2011). *Intercultural Communication: A Critical Introduction*. Edinburgh: Edinburgh University Press.

Piller, I. (2016). *Linguistic Diversity and Social Justice*. Oxford: Oxford University Press.

Piller, I. (2017). *Intercultural Communication: A Critical Introduction* (2 ed.). Edinburgh: Edinburgh University Press.

Pöllabauer, S. (2004). Interpreting in asylum hearings. *Interpreting: International Journal of Research & Practice in Interpreting, 6*(2), 143-180.

Raj, S. (2016). Queering Fears: Pro-LGBTI Refugee Cases. In C. Ashford, A. Reed, & N. Wake (Eds.), *Consent and Control: Legal Perspectives on State Power* (pp. 124). Cambridge: Cambridge Scholars Publishing.

Refugee Action Coalition Sydney. (17 October 2015). Peter Dutton's misleading statements on Abyan.   Retrieved from http://www.refugeeaction.org.au/?p=4407

Saltman, M. (1991). *The Demise of the "Reasonable Man": A cross-cultural study of a legal concept*. New Brunswick and London: Transaction Publishers.

Schoenholtz, A. I., Schrag, P. G., & Ramji-Nogales, J. (2014). *Lives in the Balance: Asylum adjudication by the Department of Homeland Security*. New York: NYU Press.

Scimago. (2017). Scimago Journal and Country Rank.   Retrieved from https://www.scimagojr.com

Shuman, A., & Bohmer, C. (2014). Gender and cultural silences in the political asylum process. *Sexualities, 17*(8), 939-957.

Sky News. Chris Kenny.   Retrieved from http://www.skynews.com.au/connect/sky-news-team/chris-kenny.html

Smith-Khan, L. (2012). Genuine Improvement or Paying Lip Service: Conquering the communication complexities in protection assessments. *Migration Australia, 2*, 58-62.

Smith-Khan, L. (2017a, 14 November 2017). Are we all different in the same way? Retrieved from http://www.languageonthemove.com/are-we-all-different-in-the-same-way/

Smith-Khan, L. (2017b). Different in the same way?: Language, diversity and refugee credibility. *International Journal of Refugee Law, 29*(3), 389-416.

Smith-Khan, L. (2017c). Negotiating Narratives, Accessing Asylum: Evaluating language policy as multi-level practice, beliefs and management *Multilingua, 36*(1), 31-57. doi:10.1515/multi-2015-0072

Smith-Khan, L. (2017d). Telling stories: Credibility and the representation of social actors in Australian asylum appeals. *Discourse & Society, 28*(5), 512-534.

Smith-Khan, L. (2017e). Telling stories? Credibility in asylum interviews.   Retrieved from http://www.languageonthemove.com/telling-stories-credibility-in-asylum-interviews/.

Smith-Khan, L. (Under review). Communicative resources and credibility in public discourse on refugees.

Smith-Khan, L. (Submitted). Debating credibility: Refugees and rape in the media.

Stirling, A. (2015a). *Asylum seekers and refugees in Australian print media: A corpus-assisted critical discourse analysis*. Paper presented at the Linguistic Society of New Zealand 2015 Conference, University of Otago.

Stirling, A. (2015b). *Representations of asylum seekers and refugees in Australian print media: A corpus-assisted critical discourse analysis*. Paper presented at the Australian Linguistic Society Conference, Parramatta, NSW.

Sweeney, J. A. (2009). Credibility, proof and refugee law. *International Journal of Refugee Law, 21*(4), 700-726. doi:10.1093/ijrl/eep027

Symons-Brown, B. (2016, 2 January 2016). Pregnant Somali asylum seeker Abyan had not ruled out abortion, FOI documents reveal. *ABC News*. Retrieved from http://www.abc.net.au/news/2016-01-02/pregnant-asylum-seeker-wanted-an-abortion-foi-documents-say/7064038

Teo, P. (2000). Racism in the news: a Critical Discourse Analysis of news reporting in two Australian newspapers. *Discourse & Society, 11*(1), 7-49.

The Conversation. (2017). Who we are.   Retrieved from https://theconversation.com/au/who-we-are

The Government of the Republic of Nauru. (2017). Visa Requirements.   Retrieved from
http://www.naurugov.nr/about-nauru/visiting-nauru/visa-requirements.aspx

Thomas, R. (2011). *Administrative Justice and Asylum Appeals: A study of tribunal adjudication*. Oxford and Portland, Oregon: Hart Publishing.

Tiersma, P. M. (1999). *Legal Language*. Chicago and London: The University of Chicago Press.

Tipton, R. (2008). Reflexivity and the Social Construction of Identity in Interpreter-mediated Asylum Interviews. *The Translator, 14*(1), 1-19.

Tranter, K. (2016, 2 January 2016). Immigration officials knew refugee Abyan still wanted abortion, emails show. *The Guardian*. Retrieved from
https://www.theguardian.com/australia-news/2016/jan/02/immigration-officials-knew-refugee-abyan-still-wanted-abortion-emails-show

UN Committee on Economic Social and Cultural Rights. (2017). Concluding observations on the fifth periodic report of Australia.

UNHCR. (2008). *UNHCR Guidance Note on Refugee Claims Relating to Sexual Orientation and Gender Identity*. Geneva: UNHCR Protection Policy and Legal Advice Section.

UNHCR. (2013). *Beyond Proof: Credibility Assessment in EU Asylum Systems*. Brussels: UNHCR.

van der Kleij, S. (2015). *Interaction in Dutch asylum interviews: A corpus study of interpreter-mediated institutional discourse*. Utrecht: LOT Publications.

van Dijk, T. A. (2006). Discourse, context and cognition. *Discourse Studies, 8*(1), 159-177.

van Dijk, T. A. (2008). *Discourse and Power*. Basingstoke: Palgrave Macmillan.

van Leeuwen, T. (1996). The representation of social actors. In C. R. Caldas-Coulthard & M. Coulthard (Eds.), *Texts and Practices: Readings in critical discourse analysis* (pp. 32-70). London: Routledge.

van Leeuwen, T. (2007). Legitimation in discourse and communication. *Discourse & Communication, 1*(1), 91-112.

van Leeuwen, T., & Wodak, R. (1999). Legitimizing immigration control: a discourse-historical analysis. *Discourse Studies, 1*(1), 83-118.

Verschueren, J. (2012). *Ideology in Language Use: Pragmatic guidelines for empirical research*. Cambridge: Cambridge University Press.

Viner, K. (2013, 27 May 2013). Welcome to Guardian Australia. *Guardian Australia*. Retrieved from
https://www.theguardian.com/media/insideguardian/2013/may/26/welcome-to-guardian-australia

Vogl, A. (2013). Telling Stories from Start to Finish: Exploring the Demand for Narrative in Refugee Testimony. *Griffith Law Review, 22*(1), 63-86.

Wake, A. (2013, 31 May 2013). The Guardian: too local for Australian lefties? *The Conversation*. Retrieved from https://theconversation.com/the-guardian-too-local-for-australian-lefties-14664

Whyte, S. (2017, 31 January 2017). Government pays compensation to Save the Children workers removed from Nauru. *ABC News*. Retrieved from
http://www.abc.net.au/news/2017-01-31/save-the-children-workers-government-pays-compensation/8217686

Williams, C. (2005). *Tradition and Change in Legal English: Verbal Constructions in Prescriptive Texts* (Vol. 20). Bern: Peter Lang.

Wolfe, J., Shanmugaraj, N., & Sipe, J. (2016). Grammatical versus pragmatic error: Employer perceptions of nonnative and native English speakers. *Business and Professional Communication Quarterly, 79*(4), 397-415.

Zagor, M. (2014). Recognition and narrative identities: is refugee law redeemable? In F. Jenkins, M. Nolan, & K. Rubenstein (Eds.), *Allegiance and Identity in a Globalised World* (pp. 311). Cambridge: Cambridge University Press.

Zhang, H. (2017). *Self-representation of Chinese Migrants Using Digital Storytelling for Social Inclusion.* (PhD), Curtin University.

Appendix A: Timeline of events in the Abyan debate

Date	Event
1/9/2015	Health staff in Nauru treating Abyan for illness ascertain she is pregnant. She tells them this is due to rape.
17/9/2015	Health authority requests Australian immigration authorities arrange medical trip to Australia
6-7/10/2015	George Newhouse, presenting himself as Abyan's Australian lawyer, approaches media and launches public petition to encourage Government action
9/10/2015	Immigration Minister makes first public acknowledgement of the case, as does Prime Minister Malcolm Turnbull
11/10/2015	Abyan flown to Brisbane, Australia
12/10/2015	Abyan transferred to Villawood Detention Centre (Sydney). She is seen by mental health nurse and primary care nurse (with interpreting) (Government claim)
13/10/2015	Abyan again reviewed by medical professionals & doctor, with an interpreter (Government claim)
14/10/2015	Abyan seen by nurse and doctor (Government claim)
	Abyan taken to clinic and termination procedure explained, but not seen by doctor (advocates'/Abyan's claim)
15/10/2015	Abyan sees a doctor (Government claim)
	Abyan only sees in-house nurse (advocates'/Abyan's claim)
	No interpreter present (agreed)
16/10/2015	Abyan's Australian lawyers seek injunction to prevent her removal from the country. In court, Government reveals she is already out of the country en route to Nauru in RAAF jet.
17/10/2015	Minister releases statement regarding Abyan's experiences in Australia and subsequent removal.
18/10/2015	Lawyers share handwritten statement from Abyan with the media
19/10/2015	Protests outside Immigration offices in Melbourne & Sydney
20/10/2015	Chris Kenny (from *The Australian*) interviews Abyan in Nauru. Abyan reports media harassment at medical clinic and spends the night in detention centre instead of returning home.
21/10/2015	Chris Kenny follows Nauruan police to Abyan's house where they ask her to report the rape. She declines and Kenny publishes article on this.
27/10/2015	UN issues statement urging Australia to offer appropriate support to Abyan.
28/10/2015	Minister announces Abyan will be returned to Australia for further treatment, but gives no further details.
1/1/2016	Freedom Of Information request released and shared with media.
2016	Reports suggest Abyan was returned to Australia for medical treatment and remained in Australia as of January 2016.

MACQUARIE
University
SYDNEY·AUSTRALIA

15 May 2015

Professor Ingrid Piller
Department of Linguistics
Faculty of Human Sciences
Macquarie University
NSW 2109

Dear Professor Piller

Reference No: 5201500085

Title: *Language, Communication, and Forced Migration: Examining Language and Communication in Australian Refugee Applications and Appeals.*

Thank you for submitting the above application for ethical and scientific review. Your application was considered by the Macquarie University Human Research Ethics Committee (HREC (Human Sciences & Humanities)) at its meeting on 27 February 2015 at which further information was requested to be reviewed by the HREC (Human Sciences and Humanities) Executive.

The requested information was received with correspondence on 8 April 2015.

I am pleased to advise that ethical and scientific approval has been granted for this project to be conducted at:

- Macquarie University

This research meets the requirements set out in the *National Statement on Ethical Conduct in Human Research* (2007 – Updated March 2014) (the *National Statement*).

This letter constitutes ethical and scientific approval only.

Standard Conditions of Approval:

1. Continuing compliance with the requirements of the *National Statement,* which is available at the following website:

http://www.nhmrc.gov.au/book/national-statement-ethical-conduct-human-research

2. This approval is valid for five (5) years, subject to the submission of annual reports. Please submit your reports on the anniversary of the approval for this protocol.

3. All adverse events, including events which might affect the continued ethical and scientific acceptability of the project, must be reported to the HREC within 72 hours.

4. Proposed changes to the protocol must be submitted to the Committee for approval before implementation.

It is the responsibility of the Chief investigator to retain a copy of all documentation related to this project and to forward a copy of this approval letter to all personnel listed on the project.

Should you have any queries regarding your project, please contact the Ethics Secretariat on 9850 4194 or by email ethics.secretariat@mq.edu.au

The HREC (Human Sciences and Humanities) Terms of Reference and Standard Operating Procedures are available from the Research Office website at:

http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics

The HREC (Human Sciences and Humanities) wishes you every success in your research.

Yours sincerely

Dr Karolyn White
Director, Research Ethics & Integrity,
Chair, Human Research Ethics Committee (Human Sciences and Humanities)

This HREC is constituted and operates in accordance with the National Health and Medical Research Council's (NHMRC) *National Statement on Ethical Conduct in Human Research* (2007) and the *CPMP/ICH Note for Guidance on Good Clinical Practice*.

Details of this approval are as follows:

Approval Date: 15 May 2015

The following documentation has been reviewed and approved by the HREC (Human Sciences & Humanities):

Documents reviewed	Version no.	Date
Macquarie University Ethics Application Form	2.3	July 2013
Correspondence from Professor Piller responding to the issues raised by the HREC (Human Sciences and Humanities)		Received 8/04/2015
MQ Participant Information and Consent Form (PICF)	1.0	8/04/2015
Revised Draft email to potential participants		15/05/2015