FEMINIST JURISPRUDENCE, ADMINISTRATIVE JUSTICE AND ASYLUM

SHARON COWAN[1] AND SIMON HALLIDAY[2]

Pre-print copy: accepted for publication in Michael Adler (ed) *A Research Agenda for Social Welfare Law, Policy, Practice and Impact* (Cheltenham: Edward Elgar), forthcoming, 2022

Introduction

While much research on social welfare examines the evolving nature of welfare needs, and debates the kinds of welfare provisions that should form the basis of law and policy, an equally important strand of research focuses on the processes by which such policies are delivered. Such decision-making by various kinds of welfare agencies represents the lifeblood of social welfare systems. It is important, then, as this collection of essays demonstrates, to frame the question of the acceptability of decision-making processes as being central to any research agenda around social welfare.

This topic of the acceptability of the processes that respond to people's welfare needs is a key concern within the field of administrative justice research (Adler 2012, Mullen 2016). Inspired by the pioneering work of Jerry Mashaw (1983) over the last 40 years or so, scholars have observed various forms of decision-making process within the modern welfare state. Furthermore, on the basis of those observations, theoretical work has been developed, drawing out various 'models' of 'just' decision processes (Mashaw 2022). These are best seen as 'ideal types', in the sense developed by Max Weber (1978) and, as such, are not intended to describe reality accurately. Rather, they are artificial analytical devices: 'exaggerated or one-sided depictions that emphasise particular aspects of what is obviously a richer and more complicated reality', as Kronman (19883) put it. Their utility thus lies in their capacity to illustrate key points of difference and so to aid comparison. With reference to administrative justice, the benefit of this theoretical approach has been to demonstrate that trade-offs between key decision-making values are inevitable in the practical world of policy implementation. As Mashaw (1983: 23) noted in his ground-breaking work:

[1] Professor of Feminist and Queer Legal Studies, University of Edinburgh
[2] Professor of Socio-Legal Studies, University of York

> the internal logic of any one of [the models of administrative justice] tends to drive the characteristics of the others from the field as it works itself out in concrete situations.

The ideal typical schema developed by administrative justice scholars are intended to help us to identify these trade-offs.

In this chapter, we re-assess this strand of administrative justice research through the lens of feminist jurisprudence.[3] We argue that feminist perspectives have (at least) two key contributions to make to this research field. First, feminist legal scholarship suggests a different methodological approach to the development of theoretical models, one that is grounded in the voices and experiences of those who are the subjects of decision-making processes – something that has been largely absent from this body of research. Thus, feminist jurisprudence can challenge administrative justice scholars to regard the perspectives of ordinary people as theoretically essential. Second, by centring the voices and experiences of those seeking welfare assistance, feminist research can shed new light on the content of existing constructs of good decision processes. Specifically, it can complicate the notion of participation as a decision-making value. In relation to this second contribution, we turn to feminist scholarship within the field of asylum law, policy and practice that considers the experiences of asylum-seeking women to illustrate our point.

This chapter proceeds as follows. In the next section, we provide a brief overview of the administrative justice research that has sought to develop ideal types of decision processes, focusing particularly on the methods used for theoretical development. We then contrast the methodological approaches of administrative justice scholarship with those of feminist legal scholarship, where the voices and experiences of women have been central in theory development. We do not ourselves engage in developing further models or ideal types of administrative justice; rather we make the point that, from a feminist perspective, the failure to frame the lived experiences of ordinary people as theoretically relevant within administrative justice is a significant shortcoming. The following section sets out an additional benefit that may flow from a consideration of the lived experiences of those who are subject to welfare

[3] While some might argue that jurisprudence is a sub-theory of the broader more encompassing term legal theory, in this chapter we use the terms feminist jurisprudence and feminist legal theory interchangeably.

decision processes. It reviews feminist legal research on asylum decision-making to illustrate the point that experiential narratives can complicate key concepts within administrative justice scholarship: specifically, feminist work on asylum law and policy has shed important new light on the notion of participation within the administrative justice system. The chapter then concludes briefly with some key recommendations for the field.

Models of Just Decision-Making

Scholars have expended considerable energy in devising ways of describing the variety of decision processes used by welfare agencies to resolve applications for assistance. Mashaw (2022) provides a review of this body of work. More accurately, perhaps, the research endeavour here has been to capture the normativity that lies within the variety of decision processes. Implicit to each decision-making process is a tacit normative claim, namely that the particular process being used is a good way of making the decision. It is for this reason that Mashaw (1983: 24) defined 'administrative justice' in terms of 'the qualities of a decision process that provide arguments for the acceptability of its decisions.'

Mashaw originally proposed three ideal types of administrative justice, which he termed 'bureaucratic rationality', 'professional treatment', and 'moral judgment'. Bureaucratic rationality stressed the values of accuracy and efficiency, professional treatment stressed the value of servicing the particular needs of an applicant, whereas moral judgment stressed the value of fairness in terms of affording the applicant an opportunity to participate in the decision-making process so as to present their arguments for obtaining their desired entitlement. Some twenty or so years after Mashaw's typology, Adler (2003, 2010) renamed Mashaw's existing types as 'bureaucratic', 'professional' and 'legal' and then supplemented them to reflect developments in New Public Management (Hood, 1991). Adler added three new ideal types of administrative justice: 'managerialism', which promoted the value of improved performance, 'consumerism' which valued customer satisfaction, and 'markets' which promoted economic efficiency. Independently of Mashaw and Adler, Kagan (2010) proposed a four-fold typology of institutional design for administrative decisions (bureaucratic legalism; adversarial legalism; expert judgement; negotiation/mediation), while Halliday and Scott (2010) attempted to subsume all three schemas within a larger framework informed by grid-group cultural theory.

There has been some debate within this literature about the extent to which the suggested additions should be seen as helpful to, or truly distinctive from Mashaw's original schema (Halliday 2004, Cane 2009, Craven 2021) including a recent assessment by the author himself (Mashaw 2022) of these various contributions. However, irrespective of the merits or otherwise of various typologies of administrative justice, in this chapter we seek to draw attention to the methods employed in this scholarship when developing ideal typologies.

Three basic methods have been used. First, Mashaw, whose work focused on social security disability law, analysed the critical literature about its administration at the time. From his review of these critiques, he extracted his three basic models of administrative justice. Adler, by way of contrast, developed his supplement to Mashaw's work from observed trends in public management, specifically the rise of New Public Management. We can compare this with the work of Kagan, who adopted an analytical method that was, perhaps, closest to that of Weber: combining two dimensions, each representing variation on a spectrum (legal formality *vs* legal informality; hierarchy *vs* participation) and producing a 2 x 2 typology. Halliday and Scott did the same, though their two dimensions were explicitly an application of broader grid-group cultural theory as developed by Mary Douglas (1982a, 1982b).

What is missing from all these approaches is any consideration of the perspectives of those who sit at the heart of administrative justice: those seeking welfare assistance because of their sense of need. Scholars in the parallel field of criminal justice, e.g., Tyler (1988), have recognised the importance of ordinary people's perspectives when considering the notion of procedural justice. Equally, the importance of the perspectives of ordinary people for the theorising of 'dignity' in social security systems has been acknowledged in social policy research (Patrick & Simpson, 2019). However, such an approach has not yet properly informed administrative justice work where, in developing models of justice and identifying their inherent values, the voices of those who are the subjects of decision processes have been largely overlooked. The same can be said in relation to considerations of value trade-offs when thinking about which 'type' of administrative justice is most appropriate for a particular policy decision. It is clear from the work on ideal types of 'good' decision processes that the promotion of one form of good decision-making frequently comes at the expense of another and that trade-offs between decision process values are unavoidable. However, the perspectives of ordinary people about what they regard as the most important values in the decision processes that respond to their particular welfare needs, notwithstanding the trade-offs that

ensue, have not yet been seen as theoretically relevant. In this chapter we turn to the area of asylum law, policy and practice, and specifically feminist asylum research, to argue for a shift in focus in administrative justice research towards narrative. Asylum is particularly instructive here because, as Millbank (2009) has said, it is perhaps the most intensely narrative arena for adjudication. We suggest that feminist research on experiential narrative and storytelling in the asylum context provides a critical challenge to the methods employed by those offering theoretical analyses of decision processes, posing the fundamental question of why the lived experiences of those subject to decision-making processes are not considered as a key aspect of theory development. From the perspective of feminist jurisprudence, as we discuss next, this is a serious omission, and one that should be addressed in future research in this field.

Feminist jurisprudence: the inclusion of experience in justice thinking

The phrase 'feminist jurisprudence' is often attributed to Ann Scales, who, in 1981, published an essay entitled 'Towards a Feminist Jurisprudence'. In this essay, Scales acknowledged the risk that feminist jurisprudence would be seen as a partisan political theory of law that sacrificed neutrality and generality for the sake of self-interest. While some may still hold this view some 40-odd years later, Scales made a convincing argument that law benefits from a feminist jurisprudential analysis (and, that feminism more generally benefits from the insights of jurisprudence). Feminism is, of course, a house with many rooms in that there are many different sorts of feminist perspectives and approaches. It is therefore unwise to be overly prescriptive about what counts as feminist jurisprudence (or indeed feminism), except to say that feminist jurisprudence takes as its premise that the law is formed through and suffused with masculinist (and other oppressive) norms and structures that produce (and are produced by) our social world.

The Canadian feminist legal theorist Mary Jane Mossman (1987) has astutely observed the ways in which the very structures of conventional legal procedure and reasoning have been built upon and through masculinist (as well as classist, racist and ableist) norms and practices. Take for example the way that relevant factual and legal issues are identified by judges. Mossman argues that judges often treat the relevance or otherwise of certain issues as self-evident. They characterise legal issues narrowly, explicitly or implicitly excluding the surrounding social and political context as extra-legal and therefore irrelevant, all the while casting themselves as neutral and objective. Likewise, they can rely on the relevance of certain ideas (that maintain the *status quo*) through the concept of precedence, or through statutory

interpretation, casting aside opposing ideas or challenges as irrelevant. Margaret Davies (2012) has warned that these practices risk the law becoming 'moribund, inhibited by dogma, and pointlessly attached to tradition'.

Over time, influenced by the insights of black feminist scholars such as Patricia Hill Collins (1990), Kimberlé Crenshaw (1991), Angela Davis (1981), and Angela Harris (1990), feminist theory – and particularly feminist legal theory - moved beyond a one-dimensional approach of seeing gender as the sole or most important anchor point for a critical analysis of law. Feminists began to theorise that the effects of misogyny and patriarchy are experienced differently by different communities and groups of women, and that patriarchy as a system of power works through and alongside other systems of power such as race and class. This perspective, known as intersectionality, is most frequently associated with the work of the US-based feminist legal theorist Kimberlé Crenshaw. Crenshaw (1090, 1991) compared the multi-factorial forms of discrimination faced particularly by women of colour with the intersection point in a road traffic system, where traffic (discrimination) flowing from different directions has its nexus. Intersectionality provides a feminist lens, method and praxis that highlights how categories of social identity and experience are often disaggregated in ways that fail to recognise the interconnected forms that inequality and discrimination often take. Inspired by her work, feminists, e.g., Spellman (1988) and Fuss (1989), began to analyse the multiple dimensions of women's experiences of discrimination, and challenged the extent to which sex or gender can provide a universal category that describes the social and legal inequality suffered by 'all' women.

Contemporary feminist legal theorists (and activists, since the two are not neatly separable) have critiqued the heteropatriarchal, classist, ableist and racist foundations and effects of law in a number of different fora and through various methods; but one popular technique currently is that of Feminist Judgments Projects (FJPs). Rewriting key judicial decisions as though the judge had been a feminist (and using only materials available to the original court), the now global set of FJPs[4] fundamentally challenge traditional legal methods, such as: identification of the factual and legal issues at play; identification of the relevant legal sources such as constitutions, legislation and case law; and application of these to the facts at hand. FJPs re-

[4] Originating in Canada, FJPs have been initiated and / or completed in Scotland, England and Wales, Northern/Ireland, the US, Australia, New Zealand, Africa, India, Mexico, and Pakistan.

route these orthodox legal methods and modes of reasoning through a series of feminist 'traffic checks', asking: what the consequences of these traditional legal methods are for the parties to the case? Is a more equitable process or outcome achievable if the judge were to apply a feminist perspective in the case? By countering the reasoning and / or outcome of the original case in this way, FJPs demonstrate how the court could have come to a different decision, even under the existing law in place at the time, thus highlighting the normative choices that are often obscured by apparently 'neutral' legal principles and processes.

A key aim of FJPs is to challenge the unjust exclusion or distortion of women's (and other marginalised groups') accounts and experiences of law. Miranda Fricker (2007) has termed this 'epistemic injustice', whereby particular voices, narratives and ways of knowing are systematically silenced or side-lined. FJPs therefore focus on centring the voices and narratives of women whose stories have not been told or attended to, asking, for example, who can speak, who is heard, and who is speaking on behalf of whom? In so doing, they highlight not only the missing voices in past cases, and the gendered and other effects of their absence in particular cases, but also the implications of their absence on the trajectory of legal change to date and into the future, and 'on the framing, language and methods that continue to be relied upon in the judging process' (Cowan, Kennedy and. Munro 2019: 9). In this sense, FJPs challenge conventional ways of knowing, telling and hearing stories, and provide a road map for how to develop legal concepts, processes and decision-making in more equitable ways. To adapt an insight from Robert Cover (1995), in centring the voices of women and marginalised groups, feminist legal theory and activism, and projects like FJPs, can give 'depth of field' to our analysis of law.

Centring women's experiences and stories in this way – what Katharine Bartlett (1990) has called 'asking the woman question' – has formed the bedrock of feminist praxis for decades. This enduring feminist history of sharing and documenting stories, prioritising personal testimony, and challenging stories told about women or on behalf of women, has been an essential part of valuing women's voices and subjectivities and challenging traditional forms of knowledge production, emphasising the importance of building theory from the ground up. In this sense, narrative methodologies have allowed us to 'introduce marginalised voices to the historical record…; to create counter narratives that refute universal claims; or to conduct empirical studies that are more inclusive than previous research' (Bano and Pierce 2013). Such methods appear to offer some of the sharpest tools available to feminists in their excavation of

the oppressive foundations of legal knowledge and practice. This is crucial, given Audre Lorde's (1984) exhortation not to rely solely on the master's tools to dismantle the master's house.

Given these insights from contemporary feminist legal theories, and projects such as FJPs that centre the stories of women, the fact that theory building within administrative justice research has largely overlooked the perspectives of those who are subject to decision-making processes is a methodological problem. Feminist jurisprudence thus can be framed as a challenge to the administrative justice field to examine the perspectives of ordinary people about what 'good' decision-making entails, and about what decision-making values should be paramount in a given setting, even if they require the sacrifice of alternative competitive values. Such an empirical and bottom-up approach to theory building may (probably will) produce 'types' of just decision-making that unsettle and challenge existing typologies. That, of course, is precisely where their benefit lies.

Additionally, however, the examination of ordinary people's perspectives and experiences of welfare decision-making can shed new light on some key decision process values. By centring the experiences of those who engage in a decision-making process as a result of their welfare needs, we may develop better or alternative perspectives on the meaning of decision process values. We illustrate this point in the next section through an examination of feminist work in the field of asylum.

Feminism, storytelling and asylum law, policy and practice: rethinking 'participation'

It has been a key priority for feminist activists working in the asylum field to bring first-hand narratives of asylum-seeking women to the fore, for example in circulating the testimonies of such women through public campaigns.[5] In fact, in 2006, Godin and her colleagues (Godin, Kishan, Muraskin and Newhouse 2006) showed that biographical life stories about individual refugees and asylum seekers took up significant space on the websites, in the publications and other literature produced by UK-based 'pro-refugee' organisations, as part of a strategy to counter the negative portrayal of refugees appearing in the UK media. By telling their stories, individual women can be offered - and take up - opportunities to exercise agency and be granted

[5] See for example the British Academy funded project 'Feminist Representations' (https://feministrepresentations.com/).

what Wendy Larcombe (2011) has called 'occasions of respect', in a context in which they are often constructed as passive, traumatised victims who are too damaged to be agents (Smith 2017).

This sort of resistance to hegemonic narratives can also work at a community level, where women tell their stories to counter national, religious, racial and other stereotypes about how certain categories of women behave and what sorts of stories are sufficiently likely and credible to convince asylum decision-makers. This group-based stereotyping was evident in Jubany's (2011) research. She found that certain modes or techniques of storytelling were typically associated with claimants from particular national or racial backgrounds (and were also tied to assumptions about credibility and truth-telling). She suggested that this reflects an exercise of discretion, supported by reference to group practices and experiences, that is shared among immigration officers (Jubany, *op cit*: 87). Similarly, Baillot, Cowan and Munro (2011, 2014) found that these working practices intersect with varying degrees of individual cultural ignorance, stereotyping or blindness, as well as the well-documented operational and institutional 'culture of disbelief' in asylum decision-making.[6] Individual women's stories can challenge the way that assumptions are made about claimants on the basis of their membership of a particular group, and they can help to enrich impoverished repertoires of stories or facts, told about people and their circumstances, that flatten or collapse a diversity of human experience (Laster and Raman 1997: 210; Bower 1994: 1019). This kind of storytelling must be 'persuasive' to non-group members (but also be legible to those within the group) if it is to promote thicker descriptions and deeper understanding of intra-group diversity (Fajer 1993). And the more that people in groups tell their stories, the more expansive and varied the set of stories associated with that group becomes. As Angela Harris (1990: 615) states in a slightly different context, we need to inject the law with 'stories, accounts of the particular, the different and the hitherto silenced'.

However, the bringing of first-hand narratives of asylum-seeking women to the fore has additional significance for our understanding of administrative justice. Specifically, these narratives complicate the meaning of some key decision-process values that feature in discussions of administrative justice. Here, we focus on 'participation'. The notion of an

---

[6] On the culture of disbelief (and denial) in the asylum system see Souter (2011). It has also been referred to as a 'negative decision-making environment' (Anderson et al 2014). On cultures of denial in entitlement decision-making systems more generally, see Halliday 2021.

applicant's participation in the decision-making process, by giving them 'voice', is a key element in many analyses of administrative justice. For example, the extent of participation is a dimension structuring both Kagan's and Halliday & Scott's ideal typologies (*op cit*). It is also implicit to Adler's 'consumerism' ideal type (*op cit*) and an explicit aspect of the 'legal' ideal type, developed by Mashaw and Adler (*op cit*), and of Thomas (2011)'s treatment of fairness in the asylum context. More generally, applicants' participation is thought to show respect for their dignity as the subjects of decision processes that determine whether they receive welfare assistance (Mashaw 2011; Patrick & Simpson, 2019). The study of women's experiences of asylum-seeking provides us with a new and challenging perspective on this idea.

Orthodox understandings of the value and meaning of participation can be challenged by empirical work examining personal experiences of the decision-making process. It is now well accepted within feminist studies of asylum law, policy and practice that many claimants feel reluctant to participate in ways that are expected of them by the state. Asylum-seekers may feel reticent about disclosing their personal stories to state actors, such as Home Office officials, during asylum applications, especially if these stories include experiences of sexual violence and / or torture, not least because of shame and ongoing trauma. This is now well-documented (See Bögner, Brewin and Herlihy 2010, Bögner, Herlihy and Brewin 2007, Pasupathi, McLean, and Weeks 2009). In the field of asylum decision-making specifically, where claimants may be in a heightened state of trauma, and where decision-making has life and death consequences, it might be tempting to think - as some decision-makers have been shown to do - that a claimant would be willing to disclose any information that could have relevance to the evaluation of the claim. But Pasupathi *et al* and Bögner *et al* (*op. cit*) have both demonstrated that people are less likely to disclose highly traumatising life events because of the emotional consequences of doing so. This reluctance can be intensified by deep-seated distrust of those acting on behalf of the state, as well as familial, religious and / or cultural beliefs or practices that inhibit people from talking about distressing events, and difficulties arising from language or dialect differences (Baillot, Cowan and Munro 2012).

The silencing – or mis-hearing – of stories can also be compounded by institutional and bureaucratic factors. These include the ways in which interpreters literally translate and lawyers (if available) legally 'translate' claimants' experiences into facts and statements that decision-makers can understand (Gibb and Good 2016, Woolley 2017), the misunderstanding – or 'distortion' - of cultural cues (Kalin 1986), the truncated timescales in which to engender

sufficient trust in the system to enable disclosure to the appropriate authorities (Baillot, *op cit*), and the processes of asylum interviews which are often structured in such a way as to preclude free-flowing narratives (such as recording answers to interview questions by hand, with pen and paper). Moreover, as discussed earlier, stories can become concretised in essentialising and universalising ways. Indeed, the asylum laws and procedures themselves can work to produce an idealised form of asylum story - or rigid colonial 'plotlines' - which individual claimants are measured against (Wooley *op. cit*: 378-379). As Slaughter puts it, the law enables 'some narrative plots and literary genres over others' (2009: 11, cited in Wooley, *op. cit*: 377). This means that the risks of storytelling must be skilfully navigated, to ensure that the inherent instability of narratives, and their failure to measure up to dominant gender / racial norms, is not understood as an indication of a lack of veracity, or inauthenticity.

On the other hand, partial narratives, or indeed complete silence – refusing to tell one's story – are also important features of how many people deal with traumatic events. In a context where 'unspeakable' events must be related in order to gain refuge, silence is an active form of resistance to what is often experienced as a hostile system (Pasupathi, McLean, and Weeks (2009), Johnson (2011), Smith (2015, 2017)); and can be read as an effort to retain some control over the framing and content of the claim. Although feminist jurisprudence has shown the importance of centring experiential narrative and voice within legal processes, it has also demonstrated the power of silence. Baillot *et al* (2011, 2012) found evidence in their study that some of the women who made allegations of rape as part of their asylum application expressed explicit refusal to engage in detailed discussions with decision-makers about these events, indicating active resistance. However, decision-makers were too quick to attribute silence to a lack of agency, passivity, cultural norms, trauma or a lack of credibility, all indicators of belonging to the overly dichotomous categories of passive victim or lying asylum seeker. Whilst these may be valid categorisations in some cases, it is clear that there are other reasons for, or uses of, silence within the asylum process, including resistance to intrusive forms of state surveillance and control, and a desire to avoid the epistemic injustice of being wrongly defined or categorised. Toni Johnson (2011), for example, evocatively describes this in terms of 'restive silence', i.e., a form of silence that is uneasy and impatient, that infuses and embodies its 'host', and is a form of tactical (non)engagement. She argues that narrative testimony can only be one part of the evidence of refugee experience, and, if claims are to be properly understood, asylum processes (in her context, tribunals) must try to understand the meanings and ambiguities within silences.

Silence can thus be a way of making sense of one's own narrative identity (this is mine, not yours, I will not tell you). Experiences become part of one's narrative - and narrative identity - by *not* being shared (Pasupathi *et al.* 2009: 91). This may be particularly important in the asylum context where truncated timescales do not allow for claimants to form the bonds of trust necessary for disclosure, and where there is significant potential for legal and / or procedural mishandling of highly personal and often traumatic experiences. Of course, feminist scholarship has also long highlighted the oppressive sense in which silence works to negate women's and marginalised others' experiences (particularly within the context of sexual violence and domestic abuse), and we are not arguing that silence should unquestionably be taken as a sign of agency. Yet, at times, it is precisely this. Our intention here is to emphasise that experiential narrative - including the gaps in narrative that emerge under conditions of procedural constraint and trauma, as well through choice - is crucial to understanding the perspectives and needs of those who participate in justice systems. Feminist research in asylum law has provided clear evidence of this, and the findings of such research should be of particular concern for administrative justice scholars.

Conclusion

In this chapter, we have argued that feminist critiques of asylum law, policy and practice have produced insights about the significance of narrative for knowledge production and theory building, that could be particularly valuable for the administrative justice field in at least two ways. Specifically, we have suggested, first, that in generating theoretical models of decision processes, researchers should take account of the voices and experiential narratives of those who are subject to those decision processes by adopting a more bottom-up approach to theoretical modelling. Second, we have argued that a consideration of feminist contributions to asylum research challenges our understanding of one of the key values that administrative justice researchers have identified as significant for many decision processes - participation. Feminist research has shown that asylum processes can, alongside traumatic experiences of persecution (as well as the journey to seek refuge), limit the opportunities for story-telling, and thereby, meaningful participation in asylum decision-making. Moreover, asylum claimants may prefer to stay silent rather than expose themselves to further traumatisation within a system that is described and experienced as hostile, or to actively resisting that very hostility. This complicates the orthodox understanding of what we mean by meeting the needs of participants in decision processes.

Feminist jurisprudence, through projects such as FJPs, has confronted traditional concepts and practices of law, asking us to centre the voices and experiences of legal subjects when making decisions about them, and to allow them to speak for themselves rather than being spoken about or 'on behalf of'. Feminist research, specifically on asylum decision-making, has shown how narratives - whilst crucial to the adjudication of claims - are produced and curtailed in ways that often diminish claimants' ability to meaningfully participate in that system. These insights offer challenges - and opportunities - for the future research agendas of administrative justice scholars in social welfare law, policy and practice.

References

Adler, Michael (2003) 'A Socio-Legal Approach to Administrative Justice', *Law and Policy,* 25(4), 323-352.

Adler, Michael (2010) 'Understanding and Analysing Administrative Justice' in Michael Adler (ed) *Administrative Justice in Context*, Oxford: Hart Publishing.

Adler, Michael (2012) 'The Rise and Fall of Administrative Justice - A Cautionary Tale', *Socio-Legal Review*, 8(2), 28-54.

Baillot, Helen, Cowan, Sharon and Munro, Vanessa (2011) 'Crossing Borders, Inhabiting Spaces: The (In)credibility of Sexual Violence in Asylum Appeals' in Sharron FitzGerald (ed.) *Regulating the International Movement of Women from Protection to Control*, London: Routledge.

Baillot, Helen, Cowan, Sharon and Munro, Vanessa (2012) '"Hearing the Right Gaps": Enabling and Responding to Disclosures of Sexual Violence within the UK Asylum Process' *Social and Legal Studies*, 21(3), 269–296.

Bano, Samia and Pierce, Jennifer (2013) 'Personal Narratives, Social Justice, and the Law' *Feminist Legal Studies,* 21(3), 225-239.

Bartlett, Katharine (1990) 'Feminist Legal Methods', *Harvard Law Review*, 103(4), 829–888.

Bögner, Diana, Brewin, Chris and Herlihy, Jane (2010) 'Refugees' Experiences of Home Office Interviews: A Qualitative Study on the Disclosure of Personal Information' *Journal of Ethnic and Migration Studies,* 36(3), 519-535

Bögner, Diana, Herlihy, Jane and Brewin, Chris (2007) 'The Impact of Sexual Violence on Disclosure during Home Office Interviews, *British Journal of Psychiatry,* 19(7), 75-81.

Bower, L.C. (1994) 'Queer acts and the politics of "direct address": Rethinking law, culture, and community, *Law* and Society Review, 28(5), 1009–1033.

Cane, Peter (2009) *Administrative Tribunals and Adjudication*, Oxford: Hart Publishing.

Christoffersen, Ashlee (2020) "Barriers to operationalizing intersectionality in equality third sector community development practice: power, austerity, and in/equality", *Community Development Journal*, 5, 139-158.

Christoffersen, Ashlee (2021) 'Is intersectional racial justice organizing possible? Confronting generic intersectionality', *Ethnic and Racial Studies*, 1-24, DOI: 10.1080/01419870.2021.1928254

Collins, Patricia Hill (1990) *Black Feminist Thought: Knowledge, Consciousness and the Politics of Empowerment*, New York: Routledge.

Conaghan, Joanne (2009) 'Intersectionality and the Feminist Project in Law' in Emily Grabham, Davina Cooper and Jane Krishnadas, *Intersectionality and Beyond: Law, Power and the Politics of Location*, London, Routledge-Cavendish, 21-48.

Cover, Robert (1995) 'Nomos and Narrative' in Martha Minow, Michael Ryan and Austin Sarat (eds), *Narrative, Violence, and the Law: The Essays of Robert Cover*, Ann Arbor, MI: University of Michigan Press.

Cowan, Sharon, Baillot, Helen and Munro, Vanessa (2014) 'Reason to (dis) believe: Evaluating the rape claims of women seeking asylum in the UK', *International Journal of Law in Context*, 10(1), 105–139.

Cowan, Sharon, Kennedy, Chloe and Munro, Vanessa. (2019) *The Scottish Feminist Judgments Project* : *(Re)Creating Law from the Outside In,* London: Bloomsbury Publishing.

Craven, Richard (2021) 'Managing Dissonance: Bureaucratic Justice and Public Procurement' *Regulation and Governance,* published online.

Crenshaw, Kimberle (1989) 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' *University of Chicago Legal Forum,* Article 8, available at: http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8.

Crenshaw, Kimberle (1991) 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color', *Stanford Law Review,* 43(6), 1241-1299

Davies, Mairead (2012) 'The Law Becomes Us: Rediscovering Judgment', *Feminist Legal Studies*, 20, 167–81.

Davis, Angela (1981) *Women Race and Class* New York, Random House.

Douglas, Mary (1982a) 'Introduction to Grid-Group Analysis' in Mary Douglas (ed) *Essays in the Sociology of Perception*, London: Routledge and Kegan Paul.

Douglas, Mary (1982b) 'Cultural Bias', in Mary Douglas (ed) *In the Active Voice*, London: Routledge and Kegan Paul.

Fajer, Marc (1992) ‘Can two real men eat quiche together? Storytelling, gender-role stereotypes and legal protection for lesbians and gay men’ *University of Miami Law Review,* 46(3), 512-651.

Fricker, Miranda (2007) *Epistemic Injustice: Power and the Ethics of Knowing*, Oxford, Oxford University Press.

Fuss, Diana (1989) *Essentially Speaking: Feminism, Nature and Difference*, New York, NY: Routledge.

Gibb, Robert and Good, Anthony (2017) ‘Interpretation, translation and intercultural communication in refugee status determination procedures in the UK and France’ in Alison Phipps and Rebecca Kay (eds) *Languages in Migratory Settings: Place, Politics, and Aesthetics*, London: Routledge.

Godin, Marie, Kishan, Jennifer, Muraskin, David and Newhouse, Léonie (2006) ‘The Medium of Testimony: Testimony as Re-Presentation’, Working Paper No. 37, Oxford: University of Oxford Refugee Studies Centre.

Halliday, Simon (2004) *Judicial Review and Administrative Justice*, Oxford: Hart Publishing.

Halliday, Simon (2021) ‘Administrative Justice and Street-Level Emotions: Cultures of Denial in Entitlement Decision-Making’, *Public Law*, 727-746

Halliday, Simon and Scott, Colin (2010) ‘A Cultural Analysis of Administrative Justice’ in Michael Adler (ed) *Administrative Justice in Context*, Oxford: Hart Publishing.

Harris, Angela P. (1990) ‘Race and Essentialism in Feminist Legal Theory’, *Stanford Law Review*, 42(3), 581-616.

Hood, Christopher (1991) ‘A Public Management for All Seasons?’, *Public Administration*, 69(1), 3-19

Johnson, Toni (2011) ‘On Silence, Sexuality and Skeletons: Reconceptualizing Narrative in Asylum Hearings’, *Social Legal Studies*, 20(1), 57-78.

Jubany, Olga (2011) 'Constructing truths in a culture of disbelief: Understanding asylum screening from within', *International Sociology* 26(1), 74-94

Kagan, Robert (2010) ‘The Organisation of Administrative Justice Systems: The Role of Political Mistrust’ in Michael Adler (ed) *Administrative Justice in Context*, Oxford: Hart Publishing.

Kalin, Walter (1986) ‘Troubled Communication: Cross-Cultural Misunderstandings in the Asylum Hearing’, *The International Migration Review*, 20(2), 230–241.

Kronman, Anthony (1983) *Max Weber*, Palo Alto, CA: Stanford University Press.

Larcombe, Wendy (2011) ‘Falling Rape Conviction Rates: (Some) Feminist Aims and Measures for Rape Law’, *Feminist Legal Studies,* 19(1) 27-45.

Laster, Kathy and Raman, Padma (1997) ‘Law for one and all? An intersectional legal subject’, in Ngaire Naffine and Rosemary Owens (eds.) *Sexing the Subject of Law*, Sydney: LBC Information Services; 193–212.

Lorde, Audre (1984) *Sister Outsider: Essays and Speeches*, Trumansburg NY: The Crossing Press.

Mashaw, Jerry (1981) ‘Administrative Due Process: The Quest for a Dignitary Theory’, *Boston University Law Review*, 61(4), 885-932

Mashaw, Jerry (1983) *Bureaucratic Justice: Managing Social Security Disability Claims,* New Haven: Yale University Press.

Mashaw, Jerry (2022) ‘Models of Administrative Justice’, in Mark Hertogh, Richard Kirkham, Robert Thomas and Joe Tomlinson (eds) *Oxford Handbook of Administrative Justice*, Oxford: Oxford University Press.

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.

Mossman, M.J. (1987) ‘Feminism and Legal Method: The Difference It Makes’, *Wisconsin Women’s Law Journal*, 3, 147–68.

Mullen, Tom (2016) ‘Access to Justice in Administrative Law and Administrative Justice’ in Ellie Palmer and others (eds), *Access to Justice: Beyond the Policies and Politics of Austerity*, Oxford: Hart Publishing.

Pasupathi, M, McLean, K. and Weeks, T. (2009) ‘To Tell or Not to Tell: Disclosure and the Narrative Self’ *Journal of Personality,* 77(1), 88-123.

Patrick, Ruth and Simpson, Mark (2019) ‘Conceptualising Dignity in the Context of Social Security: Bottom-Up and Top-Down Perspectives’, *Social Policy Administration* (54), 475-490

Sainsbury, Roy (2008) ‘Administrative Justice, Discretion and the Welfare to Work Project’ 30 *Journal of Social Welfare and Family Law*, 30(4), 323-338.

Scales, A. (1981) ‘Towards a Feminist Jurisprudence’, *Indiana Law Journal*, 56(3), 375-444.

Slaughter, J. (2007) *Human Rights Inc.: The World Novel, Narrative Form, and International Law*, (New York: Fordham University Press).

Smith, K. (2015) ‘Stories Told By, For, and About Women Refugees: Engendering Resistance’ *ACME: An International Journal for Critical Geographies*, 14(2), 461-469.

Smith, K. (2017) ‘Women, Asylum and Resistance: A Feminist Narrative Approach to Making Sense of Stories’ in Joanna Woodiwiss, Kate Smooth and Kelly Lockwood (eds) F*eminist Narrative Research: Opportunities and Challenges*, London: Palgrave Macmillan.

Souter, J. (2011) ‘A Culture of Disbelief or Denial? Critiquing Refugee Status Determination in the United Kingdom’, *Oxford Monitor of Forced Migration* 1(1), 48-59.

Spelman, E. (1988) *Inessential Woman: Problems of Exclusion in Feminist Thought,* Boston, MA: Beacon Press.

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

Tyler, Tom (1988) ‘What is Procedural Justice? Criteria Used by Citizens to Assess the Fairness of Legal Procedures’, *Law and Society Review*, 22(1), 103-136

Weber, M. (1978) *Economy and Society: An Outline of Interpretive Sociology* (Berkeley: University of California Press.

Woolley, A. (2017) ‘Narrating the “Asylum Story”: Between Literary and Legal Storytelling’, *Interventions*, 19(3), 376-394.