

**Suffering and the Law:
Idioms and Contradictions in Asylum Seeking**

Polly Rossdale
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University of Montpellier
Supervisor: Professor Olivier de Frouville

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*For G.
with admiration*

CADA	Centre d'Accueil des Demandeurs d'Asile
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CIMADE	La Comité Inter-Mouvements Auprès Des Evacués
CNDA	Cour National de Droit d'Asile
COMEDE	Comité Médical pour les Exilés
CRC	UN Convention on the Rights of the Child
ECHR	European Convention on Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for ex-Yugoslavia
NGO	Non-governmental organisation
OHCHR	Office of the UN High Commissioner for Human Rights
OFPRA	Office Français de Protection des Réfugiés et Apatrides
PTSD	Post Traumatic Stress Disorder
R2P	Responsibility to Protect
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

ABSTRACT

The institution of asylum brings together two professional discourses: the Law and the Clinic. Each understands and constructs their subject, the asylum seeker, differently. This research suggests that 'suffering' is a common language between the discourses of the Law and the Clinic and the experience of the asylum seeker. The three groups construct suffering differently. The Law increasingly co-opts the Clinic but their separate disciplinary intentions may produce contradictions and the concepts which they deploy are sometimes mutually unintelligible. Using an ethnographic approach, conducting participant observation, interviews, questionnaires and discussions with asylum lawyers and asylum seekers, this research sets out to examine this disjuncture. This work first analyses the tenets used by the Law to deal with suffering in the asylum context - well-founded fear, persecution, torture and inhuman treatment - and juxtaposes them to those of the Clinic which in particular privileges 'trauma'. It looks at how these play out in the practice of the lawyers who are 'doing human rights'. It then adds the voices of the asylum seekers suggesting that their language and agency form an essential component of this tripartite relationship. In the current mis-match between the discourses of the Law and the Clinic and the subjectivity of the asylum seeker a new terrain can be envisaged. Mapping this provides an opportunity for creating a new space in which to implement human rights.

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