



“Incorrigible slag,” the case of Jennifer Murphy's HIV non-disclosure: Gender norm policing and the production of gender-class-race categories in Canadian news coverage

Jenny Roth^{*,1}, Chris Sanders²

Lakehead University, 955 Oliver Road, Thunder Bay, Ontario P7B 5E1, Canada

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ABSTRACT

In Canada, HIV non-disclosure is a criminal offence captured under the rubric of aggravated sexual assault. How the crime is reported, however, supports dominant gender schema that are constituted in relation to class and race. This article uses the critical discourse paradigm to analyze the narrative discourses in news reports about Jennifer Murphy, charged with HIV non-disclosure, in relation to both gender policing and the broader case of her over-representation alongside the over-representation of racialized men. Doing a close reading of the narratives used by reporters, within their social, political, and ideological contexts reveals that, in the case of Murphy, as in the case of racialized men, unsafe sexual bodies are a trope for other power relations.

Introduction

In “Callous, Cold and Deliberately Duplicious: Racialization, Immigration and the Representation of HIV Criminalization in Canadian Mainstream Newspapers,” Mykhalovskiy, Hastings, Sanders, Hayman, and Bisaillon (2016) explored the institutionalization of racism in news surrounding criminal cases of HIV non-disclosure in Canada. They found that the long-standing discursive “connections between race, crime, and immigration” lead to the overrepresentation of racialized men, generally, and recent immigrant men, in particular, in HIV non-disclosure coverage. Their study found that media reports of the men often reflected historically-bound racist stereotypes of ‘hypersexual’ black men who pose a public health threat to individual (white) women and, more broadly, to the imagined Canadian nation (Mykhalovskiy et al., 2016: 8–9; for a brief historical recap of the texts that constructed Eurocentric narratives about black male ‘hypersexuality’ see: Africanus 1600: 38; Bacon 1670: 26; Ogilby, 1670; Long 1774: 382–3; Jordan 1977: 7; among many others). In addition to being the largest known study on this subject in Canada, Mykhalovskiy et al.’s findings confirm long-standing concerns about the representation in popular media of people living with HIV as racialized (see ACCHO, 2010). The report clearly shows that racism overlays the ease with which racialized men are overrepresented in cases of HIV non-disclosure under criminal law, as well as Black men’s over-coverage in

newspapers when they transgress; that is to say, Mykhalovskiy et al. found that ongoing imperialist, racist, representations of Black men lay the foundation on which the law and newspapers built easy re-tellings of tropes such as “sharp criminal-victim dichotomies, the construction of Black men as hypersexual and predatory, the inflation of HIV risk [because Black men are presumed to be from ‘elsewhere’, that is, Africa, where HIV rates are higher than in the economic North], the representation of Black men as ‘foreign’ others, and the virtual silencing of perspectives from defendants” (Mykhalovskiy et al. 2016, 17).

There is another layer to the discourse of HIV reporting that appears briefly in their report, and which this paper pursues further: news coverage of Jennifer Murphy, a non-racialized HIV-positive woman who was also over-determined in Canadian news coverage. News reports about Murphy reveal ongoing fears related to women’s sexuality and physical place within the discursive framework of imperialist patriarchy that similarly shapes the over-representation of racialized men (see Mykhalovskiy et al., 2016). Murphy’s case stands out because of the volume of media coverage she received. The fact that she is one of the few women who have been charged in Canada, and yet one of the most-reported transgressors shows that alongside racialized men, white women who transgress are also easily represented as a threat. This stands in contrast to racialized women, who, when charged, rarely appear at all.

As the relative over-representation of racialized men in reports

^{*} Corresponding author.

E-mail address: jroth@lakeheadu.ca (J. Roth).

¹ Jenny Roth is a faculty member in the Department of Women’s Studies at Lakehead University.

² Chris Sanders is a faculty member in the Department of Sociology at Lakehead University.

reflects the tenacity of structural racism, the over-representation of Jennifer Murphy in relation to non-racialized men and racialized women upholds an historical discourse that structures ‘appropriate’ gender norms for (white) women’s bodies that come from Eurocentric, middle-class gender norms which assume heterosexuality, women’s connection with private spaces and the home, and which produce nonconforming bodies as ‘unruly’ threats to public health. While “[a] vast body of research has repeatedly emphasized how the news media sensationalize the risk of HIV transmission and fuel social anxieties by representing certain categories of people, for example, gay men, sex workers, people who use drugs, immigrants and racialized people, as dangerous others” (Lupton, 1994; McKay, Thomas, Holland, Warwick Blood, & Kneebone, 2011; Miller, 2005; Oppenheimer, 1988; Patton, 1986; Persson & Newman, 2008; Watney, 1987), we want to reflect on the Imperial relationship between the gender norm policing of Murphy in news coverage alongside the over-representation of racialized men, and the comparative absence of racialized women and non-racialized men.

As Mary Beard (2017) has recently argued about historical influences on attitudes towards contemporary women’s speech, “[t]his is not the peculiar ideology of some distant culture. Distant in time it may be. But ... this is a tradition ... to which we are still, directly or more often indirectly, the heirs” (20). We argue that the Imperial discourse of ‘degeneracy’ that drew connections between working-class women and racialized men can be read in the way that HIV non-reporting is covered by the Canadian news media. This is because the coverage exists within history, not outside of it; contemporary culture is embedded in its historical continuum of Imperial ideas, stereotypes, and categories of race, gender, and class that affected the laws, family-forms, rights, and gender- and race- relationships which echo today. In making these connections, we want to reflect on the ways in which gender norm policing is contextualized by the historical colonial discourses that shaped Canada, where race, gender, and class continue to be constituted through and in relation to one another in ways that discursively link the bodies of racialized men and white women, and symbolically erase racialized women, to their great detriment (see McClintock 1995: 7).

The discursive relationship we identify is in line with work by others who note that the relationship is born from colonial constructions of gender-race-class categories, and although we do not mean to suggest that the representations today directly mirror the language and stories that were circulated in the British Imperial period, we do want to consider how the historical continuum of dominant discourses produces narratives that echo colonial constructions of the sexual licentiousness of poor women and racialized men, while relegating racialized women to a position of relative discursive non-existence. As historian Anne McClintock argues in her important analysis of the constructions of race-gender-class categories in the British Imperial imagination, the control of sexuality was “central to the policing of the ‘dangerous classes’ ... Colonized peoples were figured as *sexual* deviants, while gender deviants were figured as *racial* deviants,” because, she illustrates, white women who were sexually active were perceived to be ‘degenerating’ towards the sexual licentiousness thought to be exhibited by colonized peoples in the racist taxonomies of the Imperial imagination (McClintock 1995: 182; see also, for example: Jordan, 1992; Spencer, 1992; and Crozier-De Rosa, 2009). Furthermore, her work shows the Imperial narrative discourses by which working-class women were “*racialized* ... African men were *feminized* ... [and] Black women, by contrast [were] rendered virtually invisible” (McClintock 1995: 224–5; see also, for example, Bonnett, 1998). We would like to continue the reflection on the ongoing and “elaborate analogy *between* race and gender” that is produced when mainstream media over-represents racialized men and a white woman as perpetrators of the sexual crime of HIV non-disclosure, a form of aggravated sexual assault in Canada, and leaves racialized women and white men relatively invisible, especially when the latter account for the majority of total perpetrators where

race can be identified (Mykhalovskiy et al. 2016: 22).³

Methods

Methods - news articles

Jennifer Murphy first came to media attention in the early 2000s (Kilty, 2014; Mykhalovskiy et al., 2016). To develop our dataset of newspaper articles about Murphy, we conducted an English-language search of Canadian Major Dailies (CMD). The CMD database provides full-text format, archival access to the top national and regional newspapers in Canada. We searched keywords “Jennifer Murphy” and “HIV” or “AIDS” between 2000 and 2018, which yielded 239 hits. Next, we reviewed each article to omit erroneous hits and duplicate articles. This left 103 relevant newspaper articles published between 2005 and 2013.⁴ We noted two types of articles with regard to publication length: short summaries (50 words or fewer) and stories (50+ words). Perhaps not surprisingly, short summary articles lacked substantive detail and discursive content; they provided brief factual updates on Murphy’s case and tended to be buried within newspaper sections and obscured by larger, full-length stories about other events in the news. Stories, by contrast, were longer in length and more prominently featured closer to the front page. Stories often had eye-catching titles (e.g., “Accused predator once a victim” [Verma & Teotonio, 2005], “Party-goer accused in HIV assault of CFB Borden soldier” [Verma, 2005a, 2005b]). Stories also had more substantive details and discursive content linking Murphy and her behaviour to broader narratives about gender, morals, disease, and risk and danger. In the analysis presented here, we focus our attention on the discursive content of ‘story’ articles from our dataset.

Our analytic approach uses the method of critical discourse analysis of narrative discourses (e.g., van Dijk, 1987b, 1990). Mass media newspaper articles about criminal cases of HIV non-disclosure are more than just reportage of events from the perspectives of different social actors. The ways by which these stories make both explicit and implicit connections between HIV, gender, crime, sexual relationships, and immoral and salacious behaviour are cause for concern. While there is no single approach by which audiences interpret and respond to news media (Kitzinger, 1998), many researchers agree that mainstream media play a critical role in shaping public perceptions about HIV/AIDS (see, for example, Lupton, 1994; Swain, 2005), and although different readers may come from different social locations, there are dominant gender schema that are socially and culturally fairly consistent, through which the articles are narrated and received.

Methods - critical discourse analysis and gender norms in the gender-class-race paradigm

Discourse analysis examines how communication is a series of texts, and defines texts broadly to include body language, speech, symbols such as punctuation and other signs, and any other communicative

³ In Canada, people living with HIV/AIDS (PHAs) can be charged with a crime for not disclosing their HIV-positive serostatus to sexual partners—what is colloquially termed “HIV criminalization.” In *R. v. Cuerrier* [1998], the Supreme Court of Canada ruled that PHAs have legal duty to disclose their serostatus to sexual partners prior to activity that poses a “significant risk” of HIV transmission. This decision was revisited in *R. v. Mabior* [2012] and *R. v. D.C.* [2012], at which point the Court refined the original language of “significant risk” to “realistic possibility”, which enables such factors as the accused’s viral load and whether condoms were used to be taken in account during prosecution or sentencing. Most of the media reportage about Jennifer Murphy took place during the era of the *Cuerrier* decision.

⁴ Most of the reportage clusters around three periods in 2005, 2007, and 2011, when Murphy was charged with non-disclosure. We reason that there is relatively little reportage of the 2007 case as it was dropped early on, whereas the cases in 2005 and 2011 went to trial and were drawn out over a longer time period thus providing greater opportunity for media coverage.

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