CONSTRUCTING CRIMINALS: A CRITICAL FRAME ANALYSIS OF CANADA'S POLICY

RESPONSES TO PEOPLE SMUGGLING AND THE EROSION OF REFUGEE PROTECTION

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ABSTRACT

This paper charts the anti-people smuggling policy changes to Canada's immigration system and uses data since 2010 from government documents, parliamentary speeches and ministerial activity generated by Citizenship and Immigration Canada and related officials. The aim of this study is to demonstrate policy actions and intentions using critical frame analysis to expose underlying narratives and political ideological commitments within the people smuggling discourse. The result shows a constructed understanding of people smuggling as a threat to Canada, and policy violations of international humanitarian obligations according to United Nations protocols. I argue that the current legislation deals with people smuggling through harsh criminalization despite research that shows that the scope, motivations and function of people smuggling vary across time and space. I find that Canada's anti-people smuggling reform, the Designated Foreign National regime, violates Canada's international and domestic humanitarian obligations yet is justified by discursive framing of people smuggling under a neoliberal lens that disconnects the phenomenon from humanitarian considerations. I conclude with policy recommendations and areas for future research needed to better understand people smuggling and develop effective, comprehensive rights-based policy responses.

Key Words: People smuggling, human smuggling, Canada, refugee, security, frame analysis, policy, Designated Foreign Nationals, irregular arrival

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For Granmarie

"We are here for ninety or one hundred years at the very most…"

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LIST OF ACRONYMS:

CIC – Citizenship and Immigration Canada

DFN – Designated Foreign National

IOM – International Organization for Migration

IRPA – Immigration and Refugee Protection Act

TFWP – Temporary Foreign Workers Program

UNHCR – United Nations High Commission for Refugees

UNCTOC - United Nations Convention against Transnational Organized Crime

"Migration is often the subject of shrill debate – a wedge to provoke social tensions, drive political extremes, fan the flames of discrimination and hatred. Let us never forget that in the end, policies and laws are really about people and values. Too many migration policies assume that migrants will behave in ways that most people do not."

-UN Secretary General Ban Ki Moon, November 2009

INTRODUCTION

People smuggling[1] is a complex, multifaceted migration pattern that invokes conflicting debates on crime and humanitarianism, agency and exploitation, and national security and human rights. From depictions of highly organized criminal organizations orchestrating a global architecture of people smuggling to small scale smuggling events coordinated by family members and friends, there remains considerable debate on the scope of the phenomena and how governments ought to respond. Yet as governments increasingly adopt anti-smuggling platforms, and the public is witness to crisis-driven media representations of 'mystery ships and risky boat people' (Bradimore and Bauder, 2011), the appearance of a smuggled person has become a thorn in the side of liberal democratic governments aiming to appease humanitarian obligations while taking a firm stance on unauthorized migration and the alleged criminals that stage it.

In Canada, the Conservative government's overhaul of the state's people smuggling policies demonstrates a clear position that the government believes the phenomenon is a dangerous threat to the immigration system and the Canadian public. Yet the government's hardline approach conflicts with Canada's historical and contemporary image as a

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[1] Literature on people smuggling often includes the terms 'human smuggling', 'migrant smuggling' and 'refugee smuggling' which draw assumptions on the identities of the populations involved. For the purposes of this paper I use the term 'people smuggling' when referring to the phenomenon in general and 'refugee' and 'migrant' smuggling at times when referring to more specific migrations and policies. The choice to use 'people' over 'human' is to promote a people-first discourse that emphasizes agency, diversity and a plurality of individual experiences.

humanitarian nation that provides refuge for people in need of protection. Considering this tension, how does the Canadian government approach people smuggling in discourse and policy? In light of the new restrictive policies that challenge Canada's humanitarian ethos, how and with what purpose is information about people smuggling framed and presented to the public?

My research aims in this paper are two-fold. The first is to question the soundness of Canada's anti-smuggling policy, the Designated Foreign National regime (hereinafter referred to as DFN) in regard to refugee protection and policy success. To do this I evaluate the deterrence measures within the DFN regime and find that this policy is in violation of international and domestic statutes regarding human rights, refugee protection, and people smuggling. I argue that the current legislation deals with people smuggling through harsh criminalization despite research that shows that the scope, motivations and function of people smuggling vary across time and space. Further, restrictive policies linked to detrimental unintended consequences and policy failures provide a window into the potential shortfalls of Canada's anti-smuggling policy action.

My second aim is then to analyze how policymakers, in particular Conservative politicians, frame people smuggling to justify their policy responses. For while the explicit strategy to combat migrant smuggling may be laid out in policy and operational procedures, there are implicit tactics found in the language used by elite political actors to describe people smuggling and justify its deterrence. I argue that the tension between securitization and refugee protection is alleviated by discursive framing of people smuggling under a neoliberal lens that disconnects the phenomenon from humanitarian considerations. These narratives foster public support for policies that 'crack-down' on asylum system 'abusers'.

Importantly, in order to make these claims appear shared and inherent to Canadian public discourse, policymakers use frames that appeal to value systems of neoliberal fiscal conservatism and nationalist dedication that resonate with the general public. Overall, I contend that Canada's anti-smuggling policy action and discourse is indicative of a growing landscape of the Canadian government to detect, prevent, and penalize non-state-sanctioned migration to Canada despite potential harms to human rights and safety.

People smuggling is not a new phenomenon; occurring as long as there have been demarcated borders to cross (Van Liempt & Sersli, 2013). However, government and media reactions to high profile people smuggling events in Canada and abroad, catered to by a growing discourse on the network of global 'criminal enterprises' that profit from people smuggling, have problematized irregular, un-state-sanctioned migration. Harsh reactive enforcement policies have set the stage for states to perform crisis-centered actions and language (Mountz, 2010). This performativity, Mountz (2010) argues, allows states to produce a legal identity of the smuggled migrant who poses a threat to the state and its citizens. Yet considering the relatively low historical precedence of people smuggling to Canada, the question remains why people smuggling has become a key concern of the Canadian government's immigration reform.

This research paper is divided into the following sections. I first discuss my framework and methodology, Interpretive Policy Analysis and Critical Frame Analysis, to identify the strengths of reflective, post-positivist policy analysis. I develop a contextual basis for my case by reviewing literature on issues surrounding people smuggling globally and in Canada, securitization and Canada's political economic policy climate. I discuss the convergence of these themes where they meet in the formation and implementation of

Canada's deterrence anti-smuggling policy, the Designated Foreign National regime. Employing Critical Frame Analysis, informed by interpretive policy perspectives, I then map out the architecture of the people smuggling policy debate by identifying the frames found in governmental texts. Here I critically engage with the underlying ideological foundations and exercises of power that construct and perpetuate a threat centred discourse. I conclude with policy recommendations and future areas for research for a more informed and suitable approach to addressing people smuggling.

A Note On What We Know - and Don't Know - About People Smuggling

Despite the growing attention directed at people smuggling by governments globally, the phenomena remains an under researched area in the migration literature (Kyle & Koslowski, 2011). The scarcity of information on people smuggling reflects the challenges of examining a phenomenon cloaked in covert, illegalized[2] activity that takes multiple shapes and is led by a plurality of actors. Estimates that report millions of people being smuggled worldwide, with global revenues estimated in the billions, may provide a 'big picture' impetus for state action, yet as Kyle & Koslowski (2011) remind us, such estimates are often drawn from ill-supported data and analysis. Indeed, inconsistent definitions of people smuggling and its distinction from trafficking, a lack of background information, weak methodologies, and an inability to gain access to those who have been involved in people smuggling events make sound data difficult to obtain (Kyle & Koslowski, 2011).

Further, as a subcategory of people smuggling, refugee smuggling also lacks significant attention in government and academic literature due, in large measure, to

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[2] I use the term 'illegalized' following Bauder (2013) and others who advocate for terminology that addresses the institutional and political processes in which people are deemed 'illegal' thus constructing an illegalized identity.

conceptual and methodological issues pertaining to smuggled refugee research (Koser, 2011). For example, it can be difficult to know when a smuggled person ought to be conceptualized as a refugee[3], an asylum seeker, trafficked person or an irregular migrant. An individual may fit within each category, which are themselves contested, at different stages of their migration. Starting from their departure from the country of origin one might be considered an asylum seeker, a person who claims to be a refugee yet whose claim has not yet been definitively evaluated ("Asylum Seekers", UNHCR, n.d.). Only after the person has successfully entered a foreign country, claimed refugee status and successfully received a positive determination does the person become a Convention refugee, as defined by the United Nations Refugee Convention. The challenge with this system is that the individual is faced with a period of uncertain immigration status where their rights as a Convention refugee or protected person[4], should they fit such descriptions, remain out of reach.

Here the identity of the person, and subsequent treatment by the state, is subject to the legal and institutional lens of the receiving country. This has important implications for how receiving states handle smuggled migrants at the border and once within its territory. In Australia for example, asylum seekers are processed in 'zones of exception' created by Australia's excision of offshore islands, and are considered 'unlawful non-citizens' who may not lay claim to their rights as a refugee as afforded by the UN Refugee Convention (Billings,

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[3] According to the Refugee Convention relating to the Status of Refugees, a 'refugee' is a 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; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."* ('About Refugees', UNHCR, n.d.)

[4] In Canada, a person can also be deemed a 'person in need in protection' based on proof that they would be subjected to danger of torture, a risk to their life or a risk of cruel and unusual treatment or punishment in their country of origin (CIC, December 2, 2012).

2011). As this analysis will show, Canada's changes to its anti-smuggling policies also entail

lawful and *unlawful* classifications that provide the state with more autonomy in dealing

with smuggled asylum seekers.

There is also the issue of scarce data on smuggling refugees that is impeded by a lack

of human experience accounts. While some researchers have been able to collect migrant

and smuggler perspectives through interviewing (Van Liempt & Sersli, 2013; Herman,

2006; Neske, 2006, for example), it is difficult to access individuals who may be weary of

speaking with researchers due to their precarious immigration status and fear of reprisal

from smugglers. As a result the available hard data on migrant and refugee smuggling rates,

as well as the nuances of smuggling processes, are slim. This presents a central challenge to

policymakers, researchers, and the aims of this paper-namely-what can be said of policies

and campaigns rooted in under informed statistics and scarce human experience accounts?

Furthermore, considering the limited data, what conclusions can be reached in our

attempts to evaluate the existing responses?

To address this issue I focus on the reactions of governments to intercepted

smuggling events and the contexts in which policy responses are constructed. As such this

research is less a commentary on people smuggling and more a critical analysis of how

perceptions of people smuggling makes states act. Consequently, the reality of smuggling

experiences remains relegated to the slim, albeit growing, body of migrant perspective

research.

CONCEPTUAL FRAMEWORK AND METHODOLOGY

Interpretive Policy Analysis

Generally, policy analysis can be conceptualized as a process "designed to supply information about complex social and economic problems and to assess the processes by which a policy or program is formulated or implemented" (Fisher, 1995, p. 2, as cited in Yanow, 2000, p. 2). Yet the tendency of positivist-based policy analyses that rely on cost-benefit evaluative methods to examine policy outcomes leaves gaps in understanding the social realities that lie at the heart of policy issues (Yanow, 2000). Beyond examining *if* a policy is successful or not in its stated endeavors, it is important to understand *how* and *why* a policy response is constructed. To this we must question what value systems lie beneath stated objectives and goals and how such ideological commitments are produced and governed by exercises of power. What are the *meanings* – such as values and beliefs – that inform the perspectives and actions of policy-makers and how are they passed on to public audiences? How is power exercised to construct identities and regulate policy issues? And what role does discourse have in the exercise of power within a policy agenda? In essence, it is useful to ask not only what a policy controls, or is intended to control, but rather what influences the formation of a policy.

This task requires a theoretical framework in which we deconstruct discourse and action to reveal both what guides policy-makers and the tools that empower them to make policy decisions. To begin unpacking this I use Interpretive Policy Analysis (IPA), which provides a reflective, normative perspective that allows analysts to examine the underlying meanings and motivations that inform reality construction and influence policy (Wagenaar, 2011). This approach works to expose the discursive and action landscapes of a policy issue

in order to map out the fundamental values that shape policy actors and institutions (Yanow, 2000).

IPA recognizes the role of the analyst, the policy-maker and the receivers of policy within the fabric of policy construction and analysis. In a liberal democratic context this includes the plurality of values and beliefs that inform different political actors. Here pluralism, rooted in the view that no single actor has a monopoly on social organization or political claims, can challenge policy-makers and analysts who are caught between different perspectives that attempt to put forward 'truths' based on personal assumptions or positions of power (Wagenaar, 2011). Conversely, policymakers can use a pluralistic system to justify decisions by claiming that consultations with different actors yielded a particular response. In order to understand how one perspective can gain dominance over others we ought to understand that power differentials exist in policy contexts. For while the act of policy analysis is an inherently democratic practice that is directed to keep acts of power in check, it remains normative in its exercise and subject to the power dynamics that circulate among different policy actors.

IPA also focuses on how values, feeling and beliefs are communicated to and 'read' by different audiences (Yanow, 2000). This highlights the role of discourse in parlaying meaning. I take on a post-structuralist conception of discourse that allows for examination into the symbolic language and hidden value systems that construct identities (Wagenaar, 2011). Here too must we uncover the veiled ideologies that are manifest in discursive practices and employed through power differentials. For discourse is an exercise of power, "through which the objects and practices that constitute the world are categorized and evaluated, regulated and controlled" (Nyers, 2006, p. 7). It works within people's daily life

as part of social activities, in social practices, and in the social constitution of identity (Fairclough, 2003). Importantly, discourse has the ability to not only socially construct identities, but also to place identities onto the bodies of subjects (Mountz, 2004).

The question then is how to analyze the different policy agendas, and how their underlying values are constructed, maintained and communicated? Here I use Critical Frame Analysis as praxis to dissect sample texts and root out policy frames. This approach, under the umbrella of IPA, dissects the multiple ways in which a policy issue is presented and allows the analyst to root out, and be critical of, the assumptions, beliefs and motivations that instruct discourse and actions.

Critical Frame Analysis

In the humanities frame analysis gained momentum with the work of Erving Goffman in the 1960's and has since made its way into the lexicons of numerous scholars interrogating phenomena such as social movements (Benford and Snow, 2000), media discourse (Gamson and Modigliani, 1989), environmental conflicts (Gray, 2003) and public relations (Hallahan, 1999). Framing is conceptualized as the process in which help people 'make sense' of information and organize representations of meanings (Goffman, 1986). Employing frame analysis can be understood as a process in which the analyst distinguishes and examines frames that reside within particular social, political and economic issues. However there is less attention paid to what influences the initial construction of frames and why certain frames dominate over others in political and social arenas.

As Wagenaar (2011) acknowledges, a central issue with frame analysis is that the approach lacks attention to the role of power in establishing hegemonic policy solutions. What value systems inform, and are hidden behind, hegemonic frames revealed in

discourse? In the policy context, how do these underlying value systems inform the frames of policy-makers, who then communicate them to the populace? Then in the process of receiving frames, how do people come to adopt the ideas presented by policy-makers and how does this in turn inform what people 'know' about a policy issue? The challenge here lies in exposing the latent ideologies and power structures that construct and mediate the manifest frames in a policy discourse. Perhaps most useful in understanding why frames matter at all, is where frame analysis goes beyond sheer descriptions and employs a critical examination of the ideological foundations and power differentials that structure policy schemes and their architects. To begin it is important to distinguish the concepts of 'ideology' and 'power' and their relationship with discourse.

Ideology operates within the policy context to instruct frames held and communicated by policy-makers. To see political ideology as, "sets of political beliefs involving programmes of political action which draw on large-scale views about human nature and/or historical development" (Axford, 1997, p. 174), there are links to be drawn between perspectives on human nature, political activity and the role of the state. For example, in neoliberal ideology, policy frameworks privilege individualism and self-reliance, reductions in government spending on social programs and a shrinking of state involvement in the market economy to allow for free enterprise (Patten, 2013). Such ideological commitments, which have gained traction in Canada's political rationality, describe a position or set of beliefs yet also reveal a distribution of power justified by neoliberal aims. For power acts as a conduit for communicating ideologies to particular audiences while also reinforcing a speaker's own ideals. Drawing on Foucault's concept of power/knowledge, where "the will to power masquerades as a will to truth", we can

understand how power circulates to constantly regulate the individual and their identity within a constructed reality (Bevir, 1999, p. 349). Yet in this perspective power works to not only assemble subjectivities according to a set of beliefs but also repress the subject (Bevir, 1999) under ideological constraints. This also allows for a critical view of ideology, which understands it as a modality of power that aids in the establishment, maintenance and changes of social relations of power, domination and exploitation (Fairclough, 2003). As this analysis demonstrates, discourse is a powerful tool in which these ideological intentions are conducted and maintained in the form of a frame.

Consequently, it is necessary to discuss what 'frames' are, where they are found and how they work in a policy context. Goffman (1986) holds that a frame is composed of our individual ways of making sense of situations, which are guided by organizational principles that govern social events (p. 10). More simply put, a frame can be conceived as an organization of experience. Yet frames also define problems, diagnose the causes of problems, make moral judgments and suggest solutions (Entman, 1993). Rein and Schon (1996) conceptualize frames as "strong and generic narratives that guide both analysis and action in practical situations" (p. 89). Here frames are not passive perspectives but instead provide instruction for action based on the value-systems held by frame authors (Wagenaar, 2011). To identify where frames can be located Entman (1993) distinguishes between the communicators, text, receivers and culture that capture the communication process. First, frames are found in the decisions of communicators who decide what to say based on their own frames informed by their value systems. Second, text reveals frames in the form of keywords, stereotypes, stock phrases and themes. Third, there are frames that guide the receivers of frames that are impacted by the receiver's value-systems and as well

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as communicator and text frames. Lastly, frames are located in the culture that is composed of routinely called on frames. Here the concept of 'cultural resonance' is used to refer to the ability of a discourse to resonate with larger cultural themes (Rein and Schon, 1996). This is important to the success of the frame. As Benford and Snow (2000) point out, in order for a frame to resonate it needs to have credibility in its claims and who is presenting it, as well as have salience to its "targets of mobilization", that is, how important the issue is to the intended audience of the frame (p. 621).

To summarize, in the process of critical frame analysis the analyst has to not only draw out dominant frames that seek to influence perspectives on an issue, the analyst also has to illuminate connections between presented frames and the latent perspectives that drive policy action. To understand the layers that inform how Canadian policy-makers frame the debate on people smuggling it is important to examine the contexts in which policies have been formed. New events and shifting political, economic and social contexts uproot discourses, transforming their construction and interpretation. To ground my analysis I next provide literature reviews in the areas of policy responses to people smuggling in the global context, research on the scope of people smuggling, the increasing securitization of migration and asylum protection, and the ideological structures impacting Canada's immigration system.

LITERATURE REVIEW

Section One: Tracing People smuggling in the Global Context

The United Nations (UN) Smuggling Protocol

In the global context, people smuggling came to the attention of the international community in the 1990's as Italy and other countries called for the creation of an international legal instrument to address the growing incidences of unauthorized boat arrivals on their shores (Brolan, 2003). While human rights groups had previously attempted to gain support in addressing the human rights violations resulting from people smuggling, the phenomenon began to receive international attention when it became a major international law enforcement problem (ICHRP, 2011). In order to address the threat of transnational crime showing up on national doorsteps, leading nations came together in Palermo, Italy in 2000 to craft the United Nations Convention Against Transnational Organized Crime (UNCTOC) which included the Protocol Against The Smuggling Of Migrants By Land, Sea And Air (Smuggling Protocol). In essence, the Smuggling Protocol drafts a strategy that combats the perpetrators of people smuggling while ensuring that states comply with international human rights standards and are prevented from criminalizing irregular migration (ICHRP, 2011).

Notably from a human rights perspective, the Smuggling Protocol explicitly states that migrants shall not become liable to criminal prosecution for being the object of a smuggling event (UNCTOC, 2004), nor shall the measures of the Protocol "be interpreted and applied in a way that is discriminatory to persons on the ground that they are the object of conduct" (UNCTOC, 2004, p. 64). Regarding asylum seekers, the Smuggling

Protocol dictates that states comply with obligations under the 1951 Refugee Convention and 1967 Refugee Protocol (UNCTOC, 2004). However, in regard to domestic state legislation that responds to irregular migration, the Smuggling Protocol remains impartial, leaving state parties free to implement national laws that penalize the actions of smuggled persons. With relative free reign in the implementation of anti-smuggling policy and the treatment of smuggled migrants, states are developing increasingly restrictive responses to the perceived onslaught of smuggled migrants arrived at their doors through the work of global criminal operations.

Crucially, the UNCTOC provides definitions of smuggling and trafficking in their relative protocols, thereby making for the first time in international law the distinction between people smuggling and human trafficking. However, as discussed below these distinctions can be problematic where governments use them to construct 'one size fits all', anti-smuggling and anti-trafficking policies.

Defining People Smuggling

In Article 3 (a), of the Smuggling Protocol people smuggling is defined as,

> "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (UNCTOC, 2004, p. 54-55).

Whereas human trafficking involves,

> "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (UNCTOC, 2004, p. 42).

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There are several elements to highlight in these distinctions. First, in the definition of trafficking the *individual* is the victim at the hands of exploitative traffickers while in the case of people smuggling the *state* is victimized by an illegal entry of a person who has engaged in an economic transaction. Second, through Koser's (2010) concept of choice we can discern how a lack of consent on the part of the trafficked victim constitutes coercion, while smuggled persons are linked with agency in their decision to employ the services of a smuggler. Yet as Koser (2010) reminds us, this division is especially problematic when refugees may be forced to use smuggling as the only available route to safety. Indeed, in interviews with smuggled migrants and smuggled refugees, researchers find that most interviewees revealed that it was safer to travel by assistance rather than stay where they were and face persecution (Morrison and Backers, 2001; Van Liempt, 2011). While individuals may recognize the risks involved with traveling by smuggling means, it is considered a less dangerous alternative than remaining where they are.

The dichotomy between agency and coercion is also divided along the lines of gender and age. Where smuggled persons are viewed as illegalized migratory males, trafficked persons are often viewed as innocent victimized women and children (Van Liempt (2011). As Van Liempt (2011) notes, this is most visible in the title of the Trafficking Protocol, which explicitly states its emphasis on 'Women and Children'. This is problematic as it disregards how differently gendered people of all ages can be both trafficked and smuggled, often within one migration experience. As a result policy responses that cater to assumptions of gendered migration are not inclusive to the population that may be confronted by the policy.

To be sure, trafficking is a deplorable crime that places people in dangerous and often unbearable circumstances for extended periods of time, while comparatively for some, smuggling can involve a reasonably secure, one-time event. However the dichotomy between smuggling and trafficking, as laid out in international law and interpreted by states, encourages a clear distinction between the phenomena that in reality can overlap. Aronowitz (2001) notes that a smuggled person can become a trafficked person if once in the country of destination a debt remains or the smuggler decides to continue the relationship for exploitation. Despite the numerous types of smuggling and trafficking events, both phenomena often involve individuals willing to leave a country at first, and who are both at risk of exploitation due to their undocumented status (Aronowitz, 2001).

This understanding has led some scholars to argue for generalized terms such as 'trafficking' or 'assisted migration' (Van Liempt, 2011) to be used generically to encapsulate both phenomena (Salt, 2000). The latter, 'assisted migration', refers to situations when migrants require assistance in order to cross borders when other legal modes are restricted. Yet others, such as Morrison and Backers (2001) for example, contend that it is important to remain vigilant in the distinction to prevent governments from confusing the issues in attempts to control all migration.

In sum, there is a lack of a consensus on the definition and terminology of people smuggling that encapsulates the motivations, potential human rights violations, and experiences of the phenomenon. As Van Liempt (2011) maintains, existing definitions are more often a reflection of an actor's opinions on the topic rather than being derived from the migrant's experiences or from empirical data. Indeed, as discussed above, scarce data and misguided conceptions of the motivations, scope, blameworthiness, and organization of

people smuggling have instead meant that policymakers, and the public, have inadequate and often faulty perceptions of smuggling events. Ideologically, these beliefs are revealed in anti-smuggling platforms that implement restrictive immigration and border enforcement laws while mediating a discourse centred on illegality and threat. Practically, they can inform departmental responses to smuggling and trafficking events where officials are charged with applying them to real life circumstances (ICHRP, 2010).

I emphasize the issues surrounding people smuggling definitions at length as it exposes the work of international and domestic actors in constructing the identities and motivations of smugglers and smuggled people. This is part of the discursive strategy that establishes a symbiotic relationship between refugees, economic migrants and the criminals who facilitate their journey. While in reality these identities may not always be distinctively separate - the refugee might also be migrating for economic reasons and the smuggler might also be a refugee - their legal classification has direct and important consequences (Macklin, 2005).

For the purposes of this research I utilize Kyle and Koslowski's (2011) definition, where people smuggling is "an individual's crossing of a state's international border without that state's authorization and with the assistance of a *paid* smuggler" (emphasis added, p. 4). I highlight the element of a financial transaction in this description to discursively separate those who assist border crossings for financial gain and those who do so for humanitarian reasons[5]. As will be discussed later, Canada's current definition of smuggling does not involve a financial transaction but rather implicates anyone who assists

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[5] This distinction quickly becomes problematic where asylum seekers are forced to pay for smuggling services as a last resort in reaching safety. It is important to note that a financial transaction does not negate the needs of the smuggled individual, however it does address the role of the smuggler and their motivations.

an unauthorized entry into Canada. This is deeply problematic considering the role of humanitarian actors in assisting asylum seekers in reaching safe ground and in my view is representative of the state's ambitions to deter unauthorized migration, including that of refugees.

Transnational Crime and Organizational Structures

As recognized by the United Nations Office on Drugs and Crime, people smuggling is a complex phenomenon that is difficult to identify and involves a plurality of modus operandi by smugglers (UNODC, 2014). Several scholars examine the organizational structure of people smuggling across time and space. Neske (2006), for example, observes the organization of people smuggling operations to and within Germany, finding that there are different types of smuggling processes including individual led smuggling, 'covered' smuggling through the use of visas, and 'pre-organized state-to-stage smuggling' that relies on multiple actors (p. 122). Similarly, in Içduygu and Toktas's (2002) study, the authors find that smaller scale groups seeking financial opportunity were the main instigators in smuggling and trafficking operations rather than large, international criminal organizations. These findings point to the diversity of smuggling operations that is lacking in state conceptions of the phenomenon.

Another important finding across several studies is the involvement of the family in smuggling events. Saha (2007) for example, finds that in one-third of smuggling cases of Indian citizens who had been deported back to India their families had been involved through contacting smugglers and providing payment. In another study involving smuggled person interviews, Herman (2006) advocates for a network theory approach to people smuggling based on findings that networks of family, friends and acquaintances are key

players in the facilitation of smuggling. While the relationship between smuggler and the smuggled person can be based on exploitation and mistreatment, some experience a mutual understanding with their smugglers, in particular when someone familiar plays the role of the smuggler. Indeed, Van Liempt and Sersli (2013) find that migrants who were helped by family or community members generally spoke well of their smugglers and were understanding of smuggling fees.

Nevertheless, since the adoption of the UNTOC, there have been increasing calls to address the 'underbelly' of globalization that is people smuggling (Van Liempt and Sersli, 2013). In the foreword to the UNCTOC the then United Nations Secretary General Kofi Annan spoke of "the scourge of crime as a global problem" that requires international cooperation to "have a real impact on the ability of international criminals to operate successfully and can help citizens everywhere in their often bitter struggle for safety and dignity in their homes and communities" (UNCTOC, 2004, p. iv). Accordingly, as discussed in the framing section, political framing of people smuggling depict smugglers as international criminals threatening state sovereignty and security. However, this is contrary to scholarly research that demonstrates how people smuggling is often much more socially embedded, and at times indispensable, to escaping persecution.

The emphasis on transnational crime feeds into a securitization discourse that has gained significant political currency in recent decades. In the next section I discuss the securitization of migration and asylum to help better understand how refugee protection and the concept of the refugee has shifted to favour international and domestic securitization objectives.

Section Two: Securitizing Irregular Migration and The Shifting Asylum Paradigm

Securitization of Migration

The securitization of migration is a tool used by institutions to fuel public unease over perceived threats of outsiders while affirming the government's role as the protector (Bigo, 2002). Here the state is conceptualized by politicians who fear a loss of symbolic control over state territory as an entity to be protected. In order to regain control over territorial boundaries, Bigo (2002) argues, state actors play off public unease over immigration by perpetuating divisions between immigrant and non-immigrants. This is aided by further dividing the immigrant and refugee identity into those that worthy of acceptance versus those that are not.

In particular where smugglers and their clients negotiate spaces between and across nation-state boundaries state regulations appear under threat (Mountz, 2006). This calls for reactionary responses to appeal to public unease and maintain a sense of state control. Furthermore, in pursuit of preventing smuggling into national territories, nation-states follow smugglers into transitional spaces where the lines between international and domestic policy is blurred and international agreements are required (Mountz, 2006).

Mountz (2006) argues that while immigration is positioned as a nation-building strategy for economic, multicultural and labour growth, smuggled migrants are positioned as a threat to national security. According to Van Liempt and Sersli, (2013), people smuggling in often framed in political discourse as a crime born of globalization and increased migration from poorer to more affluent regions of the world. Further, where globalization seemingly erodes sovereign state power, migration law and policy are used in response to assert control and demonstrate a nation's "nation-ness" (Dauvergne, 2004, p.

595). So in confronting globalization, Koslowski (2011) explains, policymakers have linked

migration and crime through exaggerated notions of migrant criminality and transnational

crime. This is reflected in the Canadian context as the government maintains that the nation

"is experiencing a trend of globalization of crime and irregular migration" that calls for

increased law enforcement (CIC, 2012, p. 5). While globalization may release capital and

crime from the confines of national borders; people remain restricted by migration policy

and border controls (Brolan, 2003). Basok (1996) asserts that states such as Canada,

despite globalization trends and membership in the international humanitarian regime,

have maintained control in the immigration and refugee sectors. Rather than "withering

away" due to "internationalizing" processes, states exert sovereign power to "erect ever

higher walls" to control both labour mobility and refugee flows (Basok, 1996, p. 134-136).

As a result, migrants are channeled into diverging streams of state authorized migration

and non-state sanctioned migration of illegalized entry.

Fundamental to nation-state power is sovereignty and the exercise of control over

borders, immigration, social and economic membership, and citizenship (Varsanyi, 2008).

From a realist perspective, the justification of acts to maintain sovereign authority is rooted

in the view that sovereign rule is both absolute and territorially bound (Reus-Smit, 2001).

This finds expression in government actions to maintain control over exactly who can cross

over state borders, how many, and when. Yet as Joppke (1998) advocates, there remains a

gap between restrictionist rhetoric and the actual rate of immigration acceptance.

Examining why liberal states accept unwanted migration, Joppke (1998) distinguishes

between sovereignty in the form of "formal rule-making authority" and "empirical capacity

to implement rules" (p. 267). This is an important distinction between the stated goals that appear in policy discourse and the realized goals in policy outcomes.

As Reus-Smit (2001) observes, "when seeking to establish a new norm, rule or principle, or to give an established one new meaning, states will seek to justify their moral claims" (p. 526). Here the criminalization of irregular migration through hardline policies that crack down on irregular movement and unauthorized border crossings provides a basis for security-based policy making that has securitized the process of seeking asylum and made the refugee a security subject.

Securitization of Asylum

In the securitization of asylum, national security interests are prioritized over refugee protection (Hydman and Mountz, 2008). Yet while today governments depict people smuggling as a product of transnational crime galvanized by globalization, historically, heroism was associated with the act of smuggling people out of dangerous places. Refugee smuggling, for example, from Germany and Occupied Europe prior to and throughout World War II was lauded a celebrated act of humanity in the face of war (Koser, 2011) while in later years Cold War politics fostered allegiances with those using smuggling to flee human rights abuses (Morrison and Backers, 2001). Harriet Tubman, a 'conductor' of the Underground Railroad who helped many victims of slavery flee from the South into Canada, is a prominent figure celebrated as a humanitarian, leader and hero by many, including the Canadian Government (CIC, February 4, 2013). Now considered the work of organized criminals and economic migrants that threaten the state (Van Liempt and Sersli, 2013), what is the motivation for the crackdown on smuggling today when historically the act was considered one of bravery? Van Liempt and Sersli (2013) question this dichotomy

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in their study on the discourse surrounding people smuggling in Western Europe and Canada since the 1990's. They argue that a securitization of migration has occurred with a shift of attention in public dialogue from the regimes that people flee from to the individuals and networks that facilitate their escape. Indeed as Macklin (2004) posits, the onus has now turned to *how* people cross a border rather than *why*.

Hydman and Mountz (2008) argue that exclusionary policies that prevent asylum seekers from reaching national territories institute an externalization of asylum protection. For while the UN Refugee Convention may distinguish how states ought to identify and accept refugees, its does little to determine how states are to respond to unauthorized migration at the border, such as we saw with the Smuggling Protocol. Rather, as Millbank (2000) maintains, states "pay increasing lip service to honouring the 1951 Convention's obligations and the right to seek asylum while increasing their expenditure on keeping migrants, including asylum seekers, out" (as cited in Brolan, 2003, p. 574). Yet the 1951 Refugee Convention and 1967 Protocol were not drafted in the context of the large-scale refugee movements witnessed today that include a wider variety of reasons for humanitarian protection such as environmental concerns and prolonged socio-economic discrimination. As a result, the discrepancies between antiquated international refugee law and the realities of today's refugee movements allow individual states to construct domestic laws and systems that cater to national interests and securitization objectives, rather than refugee protection rights. Within this securitization context a criminalized refugee identity politicizes individuals before they receive a fair hearing for their claim for refugee protection.

'Ideal' Refugees and Smuggled 'Queue-Jumpers'

According to Van Liempt (2011), smuggled migrants are generally seen as economic migrants, usually male and with the agency to choose the services of a smuggler. As Hyndman & Giles (2011) explain, a central tenet of the refugee-state relationship is the normative treatment of refugees within a sedentary/mobile dichotomy. This speaks to the notion of the 'good' refugee who does not enter a territory by circumnavigating state laws. For while the 'good', sedentary refugee waits patiently in a refugee camp, the 'bad', mobile asylum seeker illegally crosses state borders. This division is a way of authenticating state controlled refugees while also legitimizing actions that police the uncontrolled 'queue-jumper' or smuggled asylum seeker. Ultimately, the arrival of unauthorized migrants challenges the preferences of nation-states to chose their own immigrants and refugees from abroad (Mountz 2010). The implications of the good/bad refugee dichotomy include a prevailing set of discursive labels, such as 'queue-jumpers', 'bogus', and with Canada's anti-smuggling reform - 'irregular arrivals', that implicate the actions and identity of refugees according to policy-maker assumptions. Here political actors use labels that frame a group as undesirable migrants and justify crackdown measures that prevent their mobility.

It is important to discuss the increasing emphasis placed on the so-called refugee 'queue' that politicians reference in people smuggling debates as it plays a role in the construction and reproduction of the 'bogus' refugee identity and how they are subsequently treated by the state. As stated by the Canadian government, 'queue-jumping' refers to when "those who seek to immigrate to Canada by using the asylum system to meet their objectives ahead of those applicants who are already in the system and awaiting a decision (CIC, 2012, p. 26). Parallel to the problematic distinction between trafficked and

smuggled migrants, wherein the former is considered a victim while the latter a collaborator, is the dichotomy between 'legal' or 'bona-fide' refugee claimants and 'illegal' or 'bogus' queue-jumpers. Macklin (2005) argues that this division emphases the mode of entry rather than the motive, such as fleeing persecution, for crossing a border without authorization. By discursively stripping individuals of a 'bona-fide' refugee label, states are then able to legitimize laws and practices that enforce border controls that restrict access to refugee protection (Macklin, 2005). This ideological stance, which has fueled perceptions of refugee 'bogusness' in lieu of direct government sanctioned refugee resettlement, is now well established in the lexicon of state actors. As Mountz (2006) maintains, it is through these depictions that a transnational subject is constructed through state-controlled scripts and actions. Significantly, it is here that discourse and framing provides a window into the hidden agendas and prerogatives of policy-makers. To understand this, however, it is necessary to first discuss the hegemonic ideological commitments that dominate current Canadian policy-making.

Section Three: Political Ideologies Shaping the Canadian Immigration Landscape

The role of ideology in the framing process is paramount to understanding how frames are constructed, personified by speakers and communicated to audiences. In this section I outline the political ideological streams of conservatism, neoliberalism, nationalism that play into the discourse and framing of people smuggling policy responses.

The Conservative Stronghold

Conservatism is best understood as an ideological family rather than a single theory for it includes a variety of perspectives and beliefs (Farney and Rayside, 2013). In Michael

Freeden's widely shared 'root' of conservatism it is recognized as a perspective that is (1) "resistance to change, however unavoidable, unless it is perceived as organic and natural" and (2) "an attempt to subordinate change to the belief that the laws and forces guiding human behavior have extra-human origins" (Freeden, 1996, p. 344 as cited in Farney, 2012, p. 12). However uniting contemporary conservatism as a resistance to progressive ideology dismisses the plurality of perspectives influencing conservative parties along the political spectrum (Farney and Rayside, 2013). Instead, as Farney and Rayside (2013) argue, it is useful to recognize the central themes from which Canadian conservatism has marked out its own distinct path. These include traditionalism in moral and social arenas, neoliberalism, populism and nationalist perspectives on immigrants and minorities. For the purposes of this paper, I extrapolate on the neoliberal and nationalist beliefs that have particular influence in immigration and refugee policy-making and discourse.

The Conservative Party of Canada (CPC), which was formed in the late 1990's in the consolidation of the Progressive Conservatives and Canadian Alliance, gained an electoral foothold in 2006 and 2008 until winning a majority government in 2011 (Farmey and Rayside, 2013). The party's moral conservative values such as pro-life beliefs and hetero-normative family structures remain at the core of the CPC, yet have been more often sidelined in the party's platforms and policies in order to appeal to an electorate that has seen a leftward shift in public opinion over recent decades (Cochrane, 2013). However, fiscal conservatism presented through neoliberal policies remains a more overt principal of Conservative governance in Canada that has drastically altered the nation's immigration system. This shift has had important implications for humanitarian migration policies that supposedly impede the goals of aggressive economic immigration policy.

The Neoliberal Agenda

Beginning in the mid-1970's, Canada's two major political parties, the Liberals and the Conservatives, began to weave neoliberal commitments into the nation's political economic fabric (Farney and Rayside, 2013). Neoliberalism is a political economy ideology that, "proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade" (Harvey, 2005, p. 2). Its tenets include individual autonomy (including that of businesses and corporations), privatization of assets and enterprise, entrepreneurialism, deregulation of state involvement in public spending, free mobility of capital and a suspicion of governance by majority rule (Harvey, 2005). In particular, the neoliberal state aims to facilitate a free market system that allows for the privatization of state companies, expansion of low wage work, 'tough on crime' enforcement policies, and minimal state involvement in social welfare (Bockman, 2013).

In Canada's immigration context, this meant that policies to increase highly skilled migration were developed to facilitate a recalibration of Canada's immigration points system, followed by the creation of the Federal Skilled Worker class (Ashkar, 2010). Aligning with the neoliberal agenda that favours a competitive 'global reach' in advanced sectors of information technology and business (Walsh, 2008), Canada continues to pursue a competitive role in attracting and choosing its potential newcomer workforce by recruiting the 'best and brightest' as desirable citizens (Menz, 2009). As Richmond (2002) reminds us, "proactive economic migration is the lubricant that keeps the wheels of the global capitalist system turning." (p. 714). As competition with other states places pressure on Canada to be an effective competitor in the global arena, the government enacts policies

that make it easier for those with higher skills to immigrate to Canada. However, the other side of the neoliberal coin finds others not so fortunate, for alongside the increase in work-related immigration is a decrease in family reunification and refugee resettlement (Farney and Rayside, 2013).

The latest legislative Act on immigration, the Immigration and Refugee Protection Act (IRPA), implemented exclusionary measures for migrants including the new designation system for smuggling, a broadening of criminality, removing rights from those deemed criminally inadmissible, and a streamlining of security certificate procedures (Dauvergne, 2003). With more emphasis on inhibiting the rights and movement of migrants labeled 'unfit' for admission to Canada, based on unsubstantiated criminality or a threat to public safety, the IRPA reveals how perceived threats could be perpetuated through policy. Such measures also reveal a key characteristic of capitalist societies: the need to discipline and control mobility (Packer, 2003).

The recent changes proposed to Canada's Temporary Foreign Workers Program (TFWP) are an example of the gap between neoliberalism's theoretical commitments and actual state practices. Beginning in 2013, the Royal Bank of Canada (RBC) came under fire due to whistleblower reports that the major bank was dismissing Canadian employees and replacing them with temporary foreign workers (Tomlinson, 2013). In response the Canadian government announced it would be taking measures to address employer abuse of the temporary foreign worker system. Then in 2014 the TFWP came under media spotlight again as a series of allegations exposed the abuse of the program and its workers by employers (Curry, 2014). Consequently this has led to the introduction of a series of overhauls by the Conservative government to ensure more prevention, detection and

responsiveness to employer abuse through caps on worker numbers and increased fees for employers (CIC, May 22, 2014a). As these reforms are set to be implemented over the next year into 2015, the landscape of Canada's temporary foreign worker will be dramatically altered as employers and provinces are expected to witness a sharp loss in foreign worker numbers in major industries.

Hollifield (2004) argues that guest worker programs exemplify a paradoxical relationship between labour market needs and migrant worker rights. While using guest workers to fill labour market gaps makes for logical economic policy, the reality is that states had "asked for workers, but human beings came" (Hollifield, 2004). To extrapolate, this means that rights of the individual within a liberal democracy came up against governmental desire to maintain a foreign workforce with fewer rights to state protection. As seen with the TFWP fiasco discussed above, neoliberal management of migration causes a tension between economic and political forces that impose on states to regulate and manage migration in contradictory ways. Recruiting temporary foreign workers is a government intervention in the labour market, which is contrary to neoliberal values of non-government involvement in market forces. Yet obtaining a foreign workforce through a deregulated system, in which the capacity of workers to earn fair wages and learn of their rights is inhibited, allows employers to profit from cheap labour. For while neoliberalism prioritizes individual freedom over governmental authority in *most* areas, namely the market and redistribution of wealth, the state seeks to retain intervention in other areas where it could protect private interests (Harmes, 2012).

As Harvey (2005) explains, rights under neoliberalization come under the dominant modes of power: the territorial state and capital. By excluding non-citizens such as

temporary foreign workers or the subject of this paper - smuggled persons - from citizenship, the neoliberal state is able to deprive them of rights and maintain a monopoly on their mobility. This demonstrates how rights under neoliberalism, when the political power chooses not to enforce them, remain empty and out of reach. Neoliberal rhetoric emphasizes improved welfare of all through its actions of privatization and free market enterprise (Harvey, 2005). Yet the rights of the individual outweigh those of the democratic polity.

Despite the neoliberal hegemony in Canada's political economic structure, the TFWP example reveals a tension where liberal democratic and neoliberal responsibilities call for diverging responses based on universalist claims to human rights and privately dedicated economic growth. Yet liberal universalist arguments for refugee rights, for example, which lean on the moral weight of duties to all human-beings including non-nationals such as refugees, do not always account for the significance of state or community membership (Boswell, 2005). As witnessed in the framing of people smuggling, national membership not only provides a root for constructing identity and purpose, it also acts as a tool to justify acts that seemingly protect both the nation and its identity. Indeed, where neoliberalism falls short in gaining electoral support, Gamble (2001) notes, politicians respond by pooling the neoliberal economic agenda with conservative policies that appeal to certain interests. Here public support can be garnered by framing neoliberal policies so that they resonate with public perceptions of commonsense and national identity.

Nationalism

Holding the nation as a basis and justification for action (Hybel, 2010), nationalism is a political ideology that makes claims about politics and about how states should be

organized (Axford, 1997). Becoming more apparent from the late 18th century onwards, nationalism rose out of the gradual growth and centralization of administrative structures that governed law and order, taxation, the military and education (Boswell, 2005). Yet the construction of a national identity grounded in notions of shared characteristics and collective purpose was needed in order to ensure loyalty to a burgeoning national power (Boswell, 2005). Conservative ideology purports that the state has a broad and varied role in facilitating national unity (Axford, 1997). In effect, nationalistic dedication is often presented in support of conservative arguments. Often what is presented as what Canada 'is', and is not, stands in relation to a subjective 'other'. Here duties to the non-national, for example the refugee, can be seen in conflict with national interests that need to be protected (Boswell, 2005).

Yet how does one reconcile the relationship between neoliberal individualism and nationalist stress on unity? Again, distinguishing between neoliberal theory and actual state practice is useful to understanding how other value systems impact neoliberal policy. For while the tenets of neoliberalism and nationalism may be contradictory in their classical sense, there is conjunction between neoliberal policies that are enacted by states and the nationalistic values exhibited in political discourse. Helleiner and Pickel (2005) for example, argue that neoliberals promote policies by appealing to the public through nationalist discourses (Harmes, 2012). Yet, this discourse is seen as more a political tool to gain public support than a true representation of neoliberal ideology. As Boswell (2005) explains, "where a nation defines itself partly through adherence to certain values, then the realization of these ethical goals can constitute a source of national pride" (p. 152).

This sense of national pride has proven to be an effective tool to mobilize public support. For instance, Canada's history of humanitarianism has constructed a national identity that is "good, prosperous, and generous" (Dauvergne, 2005, p. 7). This emphasis on humanitarianism has been seen in the politics of the Conservative party, which has made efforts to make policies seem more in line with what the public understands as Canada's humanitarian role in international affairs. For example, when public opinion regarding Canada's mission to Afghanistan revealed weakening support, Prime Minister Harper began to lessen his emphasis on the national interest in combating terrorism and took to providing humanitarian justifications (Bloomfield and Nossal, 2013). This strategy to appeal to public demand parallels the framing of people smuggling where we witness a Conservative rhetoric that appeals to humanitarian values while at the same time commanding aggressive government action towards a perceived threat. As the following section discusses, the government's responses to people smuggling provides a compelling example of the Conservative government's ability to develop and frame a restrictive policy approach that seemingly meets the needs of Canada and smuggled persons.

Section Four: People smuggling in the Canadian Context

Canada's history with people smuggling is punctuated with several high profile events that made their way into media discourse and invoked government response. From the arrival, and eventual turning back, of the Komagata Maru in 1914 carrying refugee claimants from India (Mann, 2009), to more recent boat arrivals from China in the late 1990's, Canada's previous approach to people smuggling constituted reactive, ad hoc anti-smuggling regulations with few procedural response plans (Mountz, 2006). So in 2009 and

2010, when two boats (the MV Ocean Lady and MV Sun Sea respectively) carrying Sri

Lankan refugee claimants arrived off the coast of British Columbia, border officers, NGO's,

and government officials scrambled to respond to the newly arrived migrants that had

found their ways onto media headlines and public discourse.

Significantly, these mass arrival marine events raised the profile of people smuggling

in Canada and provided a 'policy window' in which the Conservative government publically

denounced and stood up against human smugglers and the people who used their services.

A policy window appears when there are changes surrounding an issue such as an

compelling event or new evidence and/or changes in politics such as a new administration,

that opens up an opportunity for policy advocates to push for their policy interests

(Weimar and Vining, 2011). In the event of the Sri Lankan boat arrivals, the Conservative

government took hold of the opportunity, fostered by the media spectacle of rusty foreign

boats showing up on Canadian shores, and maintained that the arrivals, "made it clear that

Canada is a target for human smugglers planning mass arrivals" (CIC, 2012b).

Publicized government actions, such as a tour of the MV Ocean Lady by Prime

Minister Steven Harper in 2011, were tailored to gather public support for the new anti-

smuggling reforms and send a message that his government would no longer accept that

'abuse' of Canada's immigration system by smugglers (Toronto Star, 2011). By emphasizing

the heightened rate of smuggling boat arrivals the Conservative government capitalized on

what seemed to be a lack of legislative and institutional responses to address large people

smuggling arrivals. What was needed in response, articulated the then Conservative

Minister of Public Safety in a parliamentary address, was new legislation that, "enhance[s]

our ability to crack down on those who engage in people smuggling and try to exploit

Canada's generous immigration system" (House of Commons, June 21 2011). The discourse and actions surrounding mass smuggling events to Canada aim to make the Canadian public aware of the perceived 'threat' of human smugglers while generating support for measures that would address the seemingly emergent risk.

Canada responds to people smuggling events in ways that reveal "distinctly anxious debates" over maintaining Canada's international role as both a refugee-accepting nation yet also a protector of its borders (Mountz, 2004 p. 324). Nevertheless, despite the relative infrequency of smuggling arrivals in Canada, the nation has been well engaged in the construction of international instruments to combat smuggling events (Mountz, 2010) and continues to play a central role in international efforts to address the issue.

Developing a Policy Response

The development of Canada's anti-smuggling policy evolved over a series of bills that were met with considerable debate (See Table 1.1 below). The first two bills, Bill C-49 and Bill C-4, both titled the *Preventing Human Smugglers from Abusing Canada's Immigration System Act*, both failed to pass over two successive years in 2010 and 2011. Although unsuccessful, these bills outlined anti-smuggling measures that would later be successfully passed when included within a larger bill that altered the Immigration and Refugee Protection Act (IRPA). Bill C-31, passed in 2012, included all of the previous anti-smuggling measures and instituted a multi-agency system aimed at deterring and combating human smugglers *and* the migrants who use their services. On an international scale this involves increased cooperation with foreign governments and regions overseas to coordinate responses and share intelligence regarding potential people smuggling ventures directed at

Canada. Domestically, the government instituted legislation and institutional practices that pursue criminal investigations of human smugglers and attempt to discourage potential migrants from using smuggling means. Table 1.1 outlines the timeline of these bills and the smuggling relation provisions.

Table 1.1 Evolution of Anti-Smuggling Policy in Canada Since 2010

DATE & STATUS	BILL	SMUGGING RELATED PROVISIONS
Introduced: October 21st 2010 **Not Passed**	Bill C-49: *Preventing Human Smugglers from Abusing Canada's Immigration System Act*	• Authorized the Minister of Public Safety to designate irregular arrivals (DFN's) • DFN mandatory arrest and detention until final determination on refugee claim in made
Introduced: June 16th 2011 **Not Passed**	Bill C-4: *Preventing Human Smugglers from Abusing Canada's Immigration System Act*	• First detention review not conducted before 12 months, with future reviews conducted after 6-month intervals.
Introduced: February 16th 2012 **Received Royal Assent**: June 28th, 2012	Bill C-31: *Protecting Canada's Immigration System Act.*	• Added as grounds for detention the existence of reasonable grounds to suspect serious criminality, criminality or organized criminality • Provided that the Immigration Division will impose any conditions of release for DFN's • DFN refugee reporting requirements • Broadened offence of smuggling to when a person organizes the coming into Canada, not just profit motive • 5 years bar on permanent/temporary residence applications • No access to appeal a rejected claim • No humanitarian and compassionate consideration for DFN's • Bar on DFN refugee travel document
May, 2012	Changes to Bill C-31	• First detention review changed to within 14 days and then subsequent 6 month intervals until a final determination on refugee claim in made

(House of Commons, 2010; 2011; 2012)

The legislative changes under Bill C-31 created a new system that designates and penalizes those suspected to have entered Canada as part of a people smuggling event. While interdiction measures to halt unauthorized migration in source countries and sharing of intelligence with foreign governments to seek out smuggling syndicates are increasingly employed by the Canadian government, the legislative changes identified in the following section constructed Canada's first anti-smuggling policy designed to 'deter and denounce' migrants who enter Canada with the assistance of smugglers.

Designated Foreign Nationals: The Disincentives Regime

In 2012, the crossing of eight vans on five separate occasions carrying unauthorized migrants across the Canada - U.S border triggered the first ever designations under the new policy, the Designated Foreign National regime (Canada Gazette, 2012). The DFN policy was designed to implement a 'crack-down' deterrence policy against smuggling migration by creating a new law where the Minister of Public Safety has the authority to designate groups of migrants as 'irregular arrivals' if they are suspected to have been smuggled into Canada (Van Liempt and Sersli, 2013). The causality for a designation includes where the Minister feels that (a) examinations of persons in a group cannot be conducted to determine identity in a timely manner or (b) there are reasonable grounds to suspect that the group arrived in connection with organized human smuggling or a terrorist organization (CIC, June 29, 2012a).

Under these new rules, individuals within the group are then labeled as 'designated foreign nationals' (DFN's) and subject to a series of restrictions that inhibit their mobility, family reunification and immigration status. An indicator of the prominence of the MV Ocean Lady and MV Sun Sea in the formation of the DFN regime is that the Minister can

make designations of DFN's retroactively. This measure that was included to ensure that the Sri Lankan refugee claimants who arrived by boat in 2009 would be liable to the disincentive regime and only except from the immediate detention clause unless they were already in custody at the time of the designation. The penalties of the DFN regulation reveal a legal geography of exclusion that begins at the border and extends within national territory for a prolonged period of time. The following provides an overview to the restrictions implemented through the DFN regime.

Table 1.2 Designated Foreign National Disincentives Regime

RESTRICTION	RATIONALIZATION
(a) Mandatory Arrest and Detention on designation (16 years and older)	Identity and Admissibility verification
(b) Residence Restrictions - Bar on permanent and temporary residence applications (5 years)	'Trial' period to conclude if protection needs are permanent
(c) Sponsorship Restrictions - Ineligibility to sponsor family members (5 years)	Prevent 'queue-jumping' / abuse of the system through family sponsorship
(d) Travel Restrictions - Restriction from obtaining a Refugee Travel Document (5 years)	Ensure individual remains in Canada
(e) Annual Reporting Requirements to CBSA	Confirmation that individual remains in Canada as a condition for obtaining permanent residence status
(f) Altered Refugee Claim Process	Restrict appeal opportunity
(g) No access to a health or benefits package	Ensure that DFN's are not receiving 'more healthcare than Canadians'

(CIC, 2012)

(a) Mandatory Arrest and Detention on designation (16 years and older)

DFN's who are 16 years of age and over are subject to mandatory detention on arrival. The original tabled bill proposed a mandatory 12-month detention timeframe that was later altered to reflect a 6-month detention period with judicial reviews after 14 days. This was the result of staunch opposition that argued that the 12-month detention period would violate the Canadian Charter of Right and Freedoms. In addition, the original bill included minors under the age of 16 within the detention measures. However this stipulation was also changed to ensure compliance with CBSA's policies on detaining minors where detention is used only a last resort.

According to CIC, the detention measures ought not to be a deterrent but are instead necessary due to the amount of time required to process irregular arrivals (CIC, 2012, p. 12). It is also noted that the previous existing legislation allowed for the arrest and detention of individuals with *known* criminality, yet did not provide a basis for detention where there is *suspected* criminality. The new DFN regulation however allows officers to detain those suspected of links to organized crime or terrorism before any concrete evidence against the individual is substantiated.

(b) Residence Restrictions - Bar on permanent and temporary residence applications (5 years)

If the claimant is granted refugee protection the five-year bar on permanent residence begins on the day the refugee determination is awarded. Therefore, including the time spent in Canada before the determination, the actual time spent in Canada without the rights and entitlements of a permanent resident can be upwards of six years. Research on restricted access to permanent residence has been shown to impede labour market participation due to lengthy waiting periods and the stigma of having temporary work

permits (Renaud et al, 2003). It has also been shown to facilitate deskilling and credential

non-recognition through a lack of access to federal bridging programs and language classes

(Jackson and Bauder, 2013).

(c) Sponsorship Restrictions - Ineligibility to sponsor family members (5 years)

DFN persons are barred from sponsoring family members to come to Canada for a

period of five years after designation. This is intended to prevent individuals from paying

smugglers high fees in order to come to Canada and later sponsor family members.

(d) Travel Restrictions - Restriction from obtaining a Refugee Travel Document (5 years)

The travel restriction prevents DFN persons from obtaining a Refugee Travel

Document from Passport Canada. This document is recognized as a valid travel document in

all countries, yet cannot be used to return to the country of persecution from which the

person is receiving protection (CIC, August 14, 2014). Removing the right to travel outside

of Canada means that the refugee is unable to visit friends and family members abroad. In

conjunction with the ban on family sponsorship this measure means that people are kept

from reuniting with family members for a prolonged period of time.

(e) *Reporting Requirements to CBSA*

This condition was put in place to ensure that individuals remain in Canada as a

condition for permanent residence status. After a DFN designation has been made

individuals must report to an officer within 30 days of a successful refugee determination

and then annually to the Canadian Borders Services Agency (CIC, August 3, 2012). This rule

allows CBSA to track DFN persons and stay informed on their whereabouts, in particular if

there has been reason to pursue a cessation or vacation of protection status (Canada

Gazette, Aug 2012). Cessation is a process in which the Minister of Immigration can apply to

the Refugee Protection Division for the termination of an individual's refugee status if the Minster can establish that the person no longer requires protection. The criteria for cessation includes (a) the person has voluntarily reavailed themself of the protection of their country of nationality; (b) the person has voluntarily reacquired their nationality; (c) the person has acquired a new nationality and enjoys the protection of the country of that new nationality; (d) the person has voluntarily become re-established in the country that the person left or remained outside of and in respect of which the person claimed refugee protection in Canada; or (e) the reasons for which the person sought refugee protection have ceased to exist (IRPA, 2001, p. 71) . Vacation of refugee protection is where the Minister can apply for a refugee protection claim to be rejected on the knowledge that "the decision was obtained as a result of directly or indirectly misrepresenting or withholding material facts relating to a relevant matter" (IRPA, 2001, p. 72).

(f) *Altered Refugee Claim Process*

DFN's who make refugee claims undergo a multi-step process similar to that of inland refugee claimants however are faced with additional penalties including detention until a positive claim is awarded. For those who receive unsuccessful refugee claims or applications for protected person status there are no access to appeal at the Refugee Appeal Division, face possible removal from Canada, would be ineligible to apply to immigrate to Canada by other means for 5 years, and have no access to a healthcare or benefits (CIC, 2012, p. 24)

(g) *No access to a health or benefits package*

Designated foreign nationals receive extremely limited healthcare. In 2012 the Conservative Government introduced significant changes to the Interim Federal Health

Program (IFHP), a federally funded program that provides temporary health care coverage to protected persons, refugee claimants, rejected refugee claimants and detained persons under the Immigration and Refuge Protection Act (Olsen et al, 2014). These changes removed supplementary care for most pharmacy benefits, all vision, dental and other supplementary benefits and only allowed coverage for medications and vaccines where the individual was deemed a risk to public health and safety (Olsen et al, 2014).

Despite loud opposition from health care providers, refugee advocates and local politicians nation-wide, who cautioned that the changes would create unwarranted suffering for already vulnerable persons and greater costs for the health system in tertiary care down the line, the changes came into force in order to deter 'bogus' refugee claimants from supposedly abusing Canada's refugee and health system. The government maintained the position that, "it is unfair that those who have not followed the rules be rewarded for their actions by having access to more generous benefits than the average Canadian receives" (CIC June 29, 2012b). However, in July 2014 the Federal Court in Ottawa ruled that the IFHP changes were unconstitutional and a form of "cruel and usual treatment" (Fine, 2014). At the time of writing the Federal government is in the process of appealing the decision, yet at the moment has four months in which to reinstate the Interim Federal Healthcare Program to its previous structure.

ASSESSMENT OF THE DFN REGIME

Barriers to Settlement and Integration

Since implementation of the DFN regulations the Minister of Public Safety has made

five designations that constitute one group of irregular arrivals, labeling approximately

sixty individuals as DFN's (Canada Gazette, 2012). There have been no further designations

announced to date. While the impacts of the DFN restriction have yet to be studied, we can

extrapolate from the experiences of other immigration groups, such as inland refugee

claimants and undocumented migrants, who experience inhibited socio-economic

participation and family reunification due to precarious immigration statuses. For example,

inland refugees experience several barriers in labour market participation while waiting to

gain permanent residence status. In a study on resettled refugees and refugee claimants in

Montreal, Renaud et al (2003) found that refugee claimants are less likely to be employed

than resettled refugees after arrival and over a period of three years. While access to

permanent residence did not provide a complete explanation for lack of employment over

time, it did accelerate first job attainment. The authors hypothesize that the lengthy

procedures involved in procuring permanent residence, as well as the stigma of having a

temporary work permit, may place refugee claimants in marginal labour markets (Renaud

et al, 2003).

Precarious residence status has significant impacts on the unification and wellbeing

of the family. Inland refugees are restricted from sponsoring family members while holding

temporary resident status, which results in prolonged separation of families split up in the

journey to Canada (Brouwer, 2005). This denies inland refugees a support network that can

help facilitate resettlement stresses of being in a new and unknown place. Wayland (2006)

found that extended family separation is costly to the wellbeing of refugees and their families. Unaware of the extended periods in which they will be separated from their families, refugees are unable to reply on important family networks that help facilitate settlement needs such as housing or information on how to navigate new places.

There are also trickle down effects of one family member's precarity onto the whole family. Children are particularly vulnerable in circumstances where parents are unable to access necessary settlement services. In a study on the precarious legal status for families and children in Canada, Goldring et al (2007) found that the precarious status of one or two parents can have adverse effects on children who live under the restricted rights of their parents. Even children who are born in Canada and have full access to rights and services undergo a 'chilling' effect of their rights due to precarious parental status (Goldring et al, 2007, p. 110). These include barriers to accessing vital services such as healthcare. Considering the long-term exclusion of DFN refugees from rights and family sponsorship, families and children are susceptible to increased isolation and lack of important services. As highlighted in the Refugee Convention, unity of the family is pivotal to refugee protection (Browuer, 2005). The five-year wait for family sponsorship that DFN refugees must endure creates undue hardship for families and their members both within and outside Canada.

Other barriers are faced in the lack of education opportunities for non-permanent status refugees. Ineligible for private bank loans and required to pay international fees, refugees are often unable to finance post-secondary education once in Canada (Brouwer, 2005). This will have probable long-term impacts on the labour market opportunities of DFN refugee newcomers seeking to start new lives in Canada.

These impacts on the employment, education and well being of refugee claimants without permanent residence status reveal some of the drastic implications for refugee settlement and integration. As I explore next, there are also major consequences for Canada's international obligations as a signatory to the UN Refugee Convention and the Smuggling Protocol.

Evading the UN Refugee Convention and Smuggling Protocol

Punitive restrictions within the DFN regime stand, at face value, in contravention of the UN Refugee Convention. First, the 'disincentives' placed in front of smuggled refugees that limit their movement, rights to family reunification, employment opportunities and other social and economic claims are in violation of Article 31 (1) of the Refugee Convention which instructs that,

> "Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence" (UN Refugee Convention, 2010, p. 29).

Second, the travel restrictions placed on DFN refugees by barring access to a travel document confronts the directives of Article 28 (1) of the Refugee Convention wherein,

> "Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require" (UN Refugee Convention, 2010, p. 28).

However the Government has justified its reforms within a refugee protection context by framing the 'disincentives' as necessary measures to ensure the well being of both refugees and Canada. Here the five year bar on permanent residence applications is positioned as an 'appropriate balance' that allows for naturalization after a 'transitional period' in which

protection needs are reassessed for permanency (CIC, 2012, p. 26). By creating a separate

legal status for smuggled refugees within the state DFN persons are not considered to be

lawfully staying in Canada before they obtain permanent residence status and are thus

liable for deportation if the Minister decides to apply for a stay of their refugee status (CIC,

2012). These measures thus place the refugee in danger of refoulement, the most important

principle of the UN Refugee Convention that provides that "no one shall expel or return

("refouler ") a refugee against his or her will, in any manner whatsoever, to a territory

where he or she fears threats to life or freedom" (UN Refugee Convention, 2010, p. 3). If the

Minister decides to apply for cessation (removal) of refugee status during the five-year wait

for permanent residence status, the individual is vulnerable to loss of protection and

potentially deportation.

UNHCR has communicated concern that states are directing policy responses to

deterrence measures at the cost of humanitarianism. In a report on Bill C-31 UNHCR called

the DFN designation problematic from a non-discrimination lens as it treats some asylum

seekers and refugees differently (UNHCR, 2012). Bill C-31, the report contends, may be in

disagreement with human rights based non-discrimination guarantees outlined in the

International Covenant on Civil and Political Rights (ICCPR) and the Refugee Convention

(UNHCR, 2012). The report also noted that the reform unfairly handed out penalties that,

"may lead to an unwarranted penalization of those in need of international protection, in

effect "blaming the victims" of the smugglers or traffickers for having sought to escape

persecution" (UNHCR, 2012, p. 4). However, to avoid the discrimination charge, the

Government states that the mode of travel to Canada is not an "immutable personal

characteristic" as would provide ground for discrimination under the Charter (CIC, 2012, p. 24).

Broadening the Offence

In the UN Smuggling Protocol, the definition for people smuggling includes a financial or material benefit as motive for smugglers. Under the Immigration and Refugee Protection Act (IRPA), however, Canada's smuggling definition reads, "No person shall organize, induce, aid or abet the coming into Canada of one or more persons knowing that, or being reckless as to whether, their coming into Canada is or would be in contravention of this Act" (IRPA, 2012 p. 81). The lack of profit motivations in Canada's smuggling law broadens the definition of people smuggling by providing that the accused knew of any part of IRPA that would be violated, rather than only the documentation requirement (CIC, 2012, p. 30). In January of 2013 a BC Supreme Court judge ruled that Section 117 was unnecessarily broad and infringed on Charter rights by placing humanitarian workers and family members at risk of persecution for helping undocumented migrants enter Canada (Vancouver Sun, 2014).

However, in 2014 another ruling, this time by the BC Court of Appeal, overturned the previous decision and found that Section 117 was indeed constitutional and that "parliament intended to create a broad offence with no exceptions, directed to concerns of border control and the particular issue of deterring and penalizing those who assist others in entering Canada illegally," (Vancouver Sun, 2014). As a result the cases in question, which include three Sri Lankan migrants who arrived via the MV Sun Sea and a Cuban man found to be smuggling family members into the United States, will now head to the Supreme Court of Canada for the last word (Ottawa Citizen, 2014).

The task of this paper thus far, has been to provide the context for the people smuggling debate. Section One demonstrated that the varying scope, motivations and make-up of people smuggling reveals a complex phenomenon that is difficult to define, comprised of several modes and purposes, and situated in the historical legacy of great humanitarian endeavors. Drawing connections between security, people smuggling policy and refugee protection, Section Two discussed the shifting asylum paradigm that places national security desires ahead of humanitarian principles. Section Three examined the ideological climate that facilitates recent approaches to immigration reform – specifically conservatism, neoliberalism and nationalism - that inform efficiency-based, migration management policies and nationalist discourse. Finally Section Four turned to people smuggling in the Canadian context and discussed the Government's latest policy responses to people smuggling events arriving in Canada. Using the above discussions as context, I now identify how the Conservative Canadian government frames the debate on people smuggling to Canada by providing examples of discursive evidence in texts and actions.

FRAMING PEOPLE SMUGGLING

Sample Texts and Frame Types

In this section I use critical frame analysis to assess governmental discourse surrounding people smuggling and the anti-smuggling regulations included in Bill C-31. To recap what defines a frame: frames are socially constructed storylines that influence how people perceive, evaluate and act on a problem (Entman, 1993). In conducting frame analysis Chong and Druckman (2007) explain that a coding scheme is created using a set of

frames inductively generated, often using prior work as a basis for frame development. To isolate frame types I use identity and characterization frames (Grey, 2003) and general and specific issue frames (Jacoby, 2000). Frame analysis then requires the analyst to select sources for content analysis before locating the pre-established frames in the sample (Chong and Druckman, 2007). Here I examine policy-relevant texts, which involve contexts of debate, persuasion or justification (Rein and Schon, 1996), such as speeches, press releases, CIC backgrounders, legislation, parliamentary debates, and ministerial visits to foreign countries.

Reviewing these texts, I distinguish two types of frames, issue and social construct frames, which are each divided into two sub-frame types. The issue frames divide into general and specific sub-type frames and the social construct frames are separated into identity and characterization sub-type frames. Table 1.3 outlines the total of eight frames identified in this analysis. The issue frames are important tools used by political actors to communicate certain information on an issue, provide an interpretation of a problem, shed a positive light on their proposed actions and ultimately influence public perception on an issue as a strategy to achieve political objectives (Jacoby, 2000). Within issue framing are two types of frames, general and specific frames, that differ in scope and ability to resonate with the public. Frame 1 is a general issue frame that provides an overarching motivation for government policy action while paying little attention to the underlying causes or consequences of the policy (Jacoby, 2000). In my analysis, I posit that through the general issue frame, 'the government needs to combat people smuggling through harsh deterrence'. Though simple, this frame is important as it necessitates an overarching momentum for government actors to act based on assumptions of a designated problem.

Second, specific issue frames link government activities with specific groups in society and include statements that promote policy initiatives, identify justifications and designate who will benefit from the policy action (Jacoby, 2000). Employing this type I identified the frames, *What Canadians Want*, *Efficiency* and *Cracking Down on Crime.* These frames provide particular motivations and justifications for punitive anti-smuggling policy by calling on neoliberal and conservative commitments that emphasize harsh on crime governance, nationalism and neoliberal efficiency.

Then I distinguish identity and characterization frames, which are based on how individuals conceptualize themselves and others to be respectively (Gray, 2003). Two identity frames, *Canada is a Generous Humanitarian* and *Canada is a Victim* are constructions of the self and the group that one belongs to. The two characterization frames, *Smugglers are Organized Criminals and Security Threats* and *'Bogus' Refugees* are constructions imposed on other individuals or groups. When a speaker or author of a text presents assumptions about others or ourselves, a socially constructed identity is conveyed, embodied and then externalized to others once again. This process of constructing identity is often based on comparisons with other groups and rooted in one's beliefs and values. When these identities are challenged, they provide ground for conflicts that call into question the "beliefs and values that undergird who people believe they are" (Gray, 2003, p. 21). Importantly, these types of frames are generally stable and persist regardless of external frames and events, providing a solid basis for political maneuvering. Social construct frames are powerful tools of elite frame communicators to foster the allies and enemies within a policy issue.

It is important to recognize that the receivers of frames often understand the meaning behind texts when there is a shared common background (Wagenaar, 2011). To construct a 'common ground' one must insert assumptions into text, such as statements on what exists, what 'is' or can be and what is desirable or undesirable (Wagenaar, 2011). Using the selected frame types I root out these statements and words to identify the presence of a frame. Then, in the analysis section I draw out and discuss the ideological message or reasoning that informs and supports the frame. Crucially, this analysis focuses on elite framing by the Conservative government. This provides insight on how the communication of ideological assumptions to an audience constitutes an act of power by the speaker (Wagenaar, 2011). It is through this transmission of perceived shared values that policymakers make hegemonic ideologies of neoliberalism and nationalism appear essential to Canadian governance and society.

Table 1.3 People Smuggling Frame Typology

FRAME TYPE	SUB-FRAME TYPE	DESCRIPTION	PEOPLE SMUGGLING SUB-FRAME	KEY WORDS AND THEMES
Issue	General	General interpretation of government action (Jacoby, 2000)	(1) The government should combat people smuggling and its perpetrators	N/A
	Specific Issue	Frames that link government policy with specific targets and promote actions, identify justifications and designate beneficiaries (Jacoby, 2000)	(2) What Canadians Want	Fairness, integrity, public demand
			(3) Efficiency	Overwhelmed, mass arrival, burden, institutional capacity
			(4) Crack Down on Crime	Security, public safety, terrorism
Social Construct	Identity	How individuals conceptualize themselves based on their membership in a group or in comparison with others (Gray, 2003)	(5) Canada is a generous humanitarian	Humanitarian, generous, historical
			(6) Canada is a victim	Abuse, violate, threat, target
	Characterization	How a group or individual conceives others to be (Gray, 2003)	(7) Smugglers are organized criminals and security threats	Criminal organization, dangerous, life-threatening, bloody, lucrative
			(8) Smuggled people are 'bogus' refugees	Irregular arrivals, queue-jumpers, bogus, illegal, rules-breaking

Issue Frames: General and Specific

Frame 1: 'The government should combat people smuggling and its perpetrators'

The general issue frame highlights the overall concern of people smuggling and instructs that the Canadian government has an obligation to respond to people smuggling. This frame describes how the government is the central actor in the policy action, which means that how citizens respond to the policy is influenced by their perspective on the government (Jacoby, 2000). It begs the questions: does the government need to combat people smuggling? And if so, is harsh deterrence justified? While some may see aggressive government action as necessary to protect Canada and its immigration system, others may oppose restrictive 'crack-down' legislation that puts the rights of the state before individuals. Notwithstanding these disputes, the general issue frame works to put the policy debate into action and generate discourse surrounding the perceived problem.

The government presented this frame with a sense of urgency by persisting to implement anti-smuggling legislation within a short timeframe, as seen in the trajectory of Bill 49 to Bill 4 to Bill 31 over a two-year period. Further, public appearances and ministerial visits to foreign countries involved in people smuggling exhibit the importance of combatting smuggling on the government's agenda. For example, in 2010 then Minister of Public Safety Vic Toews, former Minister of Citizenship Jason Kenney and Stockwell Day, the then President of the Treasury Board, held a press release to introduce Bill C-49 in front of the docked MV Ocean Lady, the vessel used to smuggle Sri Lankan refugee claimants in 2009. In September of 2010 Minister Kenney traveled to Australia to tour their immigration detention centres and discuss with Australian ministers about 'effective solutions' to combating the global problem of people smuggling. These public and diplomatic

appearances, together with the new anti-smuggling legislation, attracted public attention and set the stage for more specific issue frames that cater to particular concerns.

Frame 2: 'What Canadians Want'

This specific issue frame provides that the Canadian public demands government action to combat people smuggling. It is diagnostic in that it identifies a problem (breaking of immigration rules), attributes the party responsible (smuggled migrants and refugees) and provides a solution (the DFN regime). Under the light of this frame government actions are justified through claims that the Canadian public calls for a fair and orderly refugee system with tough measures for those that abuse it. Statements such as, "most new Canadians are completely intolerant of those who would abuse our country's generosity or violate our fair rules" (CIC, June 4, 2012), position Canadians as the instigators of the government's position on immigration and its policy reform. Politicians use their political power to create this frame and then reposition it as an idea widely held by Canadians. This extends a notion of public support for the anti-smuggling reform that justifies government action supposedly acting in line with 'what the people want'.

This goal was highlighted in a public address in Toronto in 2012 when former Minister of Immigration Kenney stated, "in order to maintain public confidence, you must maintain the integrity of the system so that there's an orderly system with a fair and consistent application of rules" (CIC, June 4, 2012). Here he spoke of a 'social license' that the government seeks to maintain in regard to immigration and refugee protection, a source of "broad and deep support amongst Canadians" for government's actions towards immigration (CIC, June 4, 2012).

The second assumption, that tough measures for people smuggling are in demand, has been illustrated in House of Commons debates, such as when a Conservative MP stated,

> "The reality in this situation is that Canadians and immigrants to our country have spoken. They have said that this is unacceptable, that for once and for all Canada needs to stand up to these human smugglers, jail them, seize their ships and ensure that we put all of our resources into ensuring the people who need our help get our help. The bill does that." (House of Commons, October 28, 2010, no para)

Another example was when then Minister of Public Safety Vic Toews stated in a speech sponsoring Bill C-4:

> "From coast to coast to coast, Canadians want to help those in need or those who genuinely need our protection, but that does not make us naive and it does not make us pushovers. Canada and Canadians want tough measures to stop those who would abuse our generosity from becoming part of Canadian society." (House of Commons, June 21 2011).

These excerpts use tough-on-crime language to communicate the 'reality' that Canadians have spoken out in favour of government actions towards people smuggling. This invokes a strong nationalist sentiment used to appeal to the populace and construct a sense of unity in the fight against the 'abusers'.

Frame 3: Cracking Down on Crime

Within this frame people smugglers are framed as instigators of "sophisticated, lucrative, transnational ventures" (CIC, 2012, p. 14) who help smuggled persons violate the immigration system. This representation of smugglers, discussed in frame 7 with more detail, fosters a 'cracking down on crime' frame that purports to address those threatening the Canadian state. This frame focuses on governmental action and uses nationalist language to suggest that 'crack down' measures are needed to ensure that the government can "stand on guard for Canada and protect the safety and security of Canadians" (House of Commons, June 21, 2011). This was well extenuated when Kenney stated in 2012, "we will

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do everything we can to ensure that Canada offers itself as a land of opportunity to those from around the world who want to help us to build this country and keep it the true north, strong and free" (CIC, June 4, 2012).

<u>Frame 4: Efficiency</u>

This frame is supported by the discourse that speaks to the administrative 'burden' that is contextualized with mass irregular arrivals of smuggled persons. Communicators use this frame to rationalize the DFN procedures that aid in constructing a fast and efficient people smuggling response system. Policymakers justify the detention measures for example, by highlighting the time and personnel required for the examination process wherein officials interview, fingerprint, photograph and run security and criminal checks. This is rooted in a central claim that irregular arrivals easily overwhelm existing capacities of the Canadian Border Services Agency (CBSA) and hinder verifications of identity and admissibility (CIC, 2012). Therefore, it is deemed necessary to have a system in which a group is immediately detained in order to ensure proper identification and security clearance.

The Efficiency frame also extends the issue from a bureaucratic burden to a security concern. The difficulty in identifying the persons in a mass arrival is noted an "unacceptable risk" that if not addressed would release "potential security and criminal threats" into Canadian communities (CIC June 29, 2012d).

Social Construct Frames: Identity and Characterization

<u>Frame 5: Canada is a Generous Humanitarian</u>

This identity frame relies on and perpetuates a constructed Canadian identity based on human rights protection, an open immigration system and international humanitarian

support. Oft-cited in parliamentary debates, press releases, and ministerial speeches, this frame describes Canada's "long and deep humanitarian tradition as a place of protection" (House of Commons, October 27 2010) as a characteristic of the Canadian national identity. This is often invoked in reference to Canada's refugee protection system, as illustrated by former Minister Jason Kenney introduced Bill C-49 to the House of Commons in 2010, when he spoke of the "remarkable openness of Canada to immigration in general and refugee protection in particular, which makes possible our very generous approach to immigration" (House of Commons, October 27 2010).

To be sure this frame is widely used by political elites and activists along the political spectrum (See House of Commons October 28 2010 and October 3 2011 for example), yet its use in Conservative rhetoric as justification for its people smuggling policy is telling of a strategy to appeal to a presumed national interest in being, or at least appearing, as a humanitarian nation. As noted earlier, there is a tendency for Conservative politicians to use nationalistic commitment to generate support for conservative policies that may not appeal to a more liberal electorate. The communicators are able to present that they have Canadian's national interests at heart by situating the 2012 people smuggling reform within the frame of Canada's perceived humanitarian identity. This is exemplified in texts and speeches that speak of Canada's refugee resettlement system and humanitarian aid. For example, in an article published in the National Post, Jason Kenney highlighted Canada's contributions to the United Nations refugee program while maintaining that the country's high resettlement rate makes Canada "the most generous recipient of resettled refugees in the developed world" (Kenney, 2011).

In presenting this frame communicators reveal assumptions about Canada and humanitarianism. The first assumption is that Canada's humanitarianism was, and currently is, as open and generous as communicators present. Second is that Canadians value humanitarianism as a 'common ground' and maintain a sense of duty to its preservation. The accuracy of these assumptions, whether Canada ought to be considered a humanitarian nation and if people in Canada truly feel attachment to altruistic state activity (See Dauvergne 2005 for example), is not the focus of this paper and beyond its scope. Rather, by identifying these assumptions within the humanitarian frame we can draw out the values of national pride that the communicator relies on for the frame to resonate with the general public.

Frame 6: Canada is a Victim

This identity frame shifts the role of the 'victim' from the refugee to the state in which the refugee seeks protection. Posing Canada and its immigration system as a victim or "target" for human smugglers and their customers (CIC June 29, 2012b) frame communicators make the Canadian state appear vulnerable and under threat. Unlike the humanitarian frame, the victim frame is not presented as a static characteristic of Canada yet one that personifies the Canadian state when it is without adequate anti-people smuggling reforms. The first task of communicators is to outline the threat that places Canada in harm's way. Introducing Bill C-49 in 2010, Kenny narrated this storyline with an urgent tone:

> "Working on that with the UN and our international partners will not stop the fact that criminal networks in Southeast Asian countries are planning to smuggle their customers to Canada. They are in the process right now. People have already paid their upfront fee and are sitting in waiting positions in parts of Southeast Asia. Vessels have been acquired. Officials have been, shall we say, induced to cooperate with these networks. The operations are not abstract. This

is not a possibility. This is not a theory. This is a real and present reality and we must react with real, present and current action to disincentivize the smuggling networks" (House of Commons, October 27th 2010).

This narrative provides a descriptive account of the risk that Canada takes without implementing measures to combat people smuggling. The use of security-centred language to call for action frames the scenario as urgent and in need of government attention. In this sense the victim frame is diagnostic and prognostic as it designates the problem and calls for a solution: smugglers 'abusing' Canada need to be stopped with harsh reform. As explained by Kenney in a speech in 2012, "the bill creates strong measures to deter human smugglers from targeting Canada", which are needed to, "deter bogus asylum claimants from abusing Canada's generosity, to stop them from clogging up the system" (CIC, June 29, 2012c). Evoking the use of diagnostic framing by an aggrieved group to signal an injustice (Grey, 2003) we can see how the government portrays Canada and its immigration system as an aggrieved entity that has been unjustly violated by organized criminals.

Frame 7: Smugglers are Organized Criminals and Security Threats

As discussed in Section one, the notion that most human smugglers are highly organized criminals is a widely shared conviction presented in the international arena. In the Canadian context, the Conservative government reinforces this characterization frame through threat-centred language and 'tough of crime' rhetoric. Here smugglers are depicted as violent criminals and terrorists that evade Canada's immigration and border security systems, endanger the Canadian public and facilitate "a dangerous life-threatening worldwide industry" (CIC, June 29, 2012c).

The smuggler as criminal frame serves to justify the DFN regulations by designating a violent threat. Referring to the need for detention, the former Minister Kenney drew attention to the "violent criminals and terrorists" that "will" be within a group of arrivals and need to be kept from release into Canadian communities (Kenney, 2011). This impression was also articulated by a Conservative MP, who stated in reference to the DFN provisions: "they will help to keep Canadians safe by helping to ensure that dangerous criminals and terrorists are not released into Canadian society" (House of Commons, Oct 28, 2011).

A second assumption is that human smugglers are part of a lucrative, global business from which they reap significant profits. Here CIC refers to people smuggling as a "big business", (CIC, February 16, 2012), that is, "lucrative and bloody" (CIC, February 17, 2012) and propagated by "sophisticated criminal organizations" (CIC, February 16, 2012). The smuggler as criminal frame portrays a one-dimensional view of smugglers that does not account for the variety of smuggling types and scopes as discussed in Section One.

<u>Frame 8: 'Bogus' Refugee</u>

The 'bogus' refugee frame is a characterization frame that constructs smuggled persons as illegitimate, manipulative and unworthy of refugee protection. The first assumption of this frame is that smuggled refugees do not have genuine claims to protection like their historical predecessors or resettled refugees. This was illustrated in an address to the Empire Club when Kenney reminded the audience that, "Canada has a magnificent tradition of being the land of protection for those who have faced persecution, violence, warfare and ethnic conflict", and cited past refugee movements such as the American Loyalists and those who traveled into Canada through the Underground Railroad

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(CIC, June 4, 2012). Yet immediately he went on to warn that, today, there are people who are trying to abuse Canada's generosity in a "wave of almost entirely unfounded asylum claims" (CIC, June 4, 2012).

By differentiating between the refugee movements then and now, the communicator, in this case Kenney, reveals a diagnosis of the 'bogus' refugee frame: refugee movements today are not strictly humanitarian concerns. Recalling the dichotomy between the 'good' and 'bad' refugee, based on the state's ability to choose who is to receive asylum, we can see how the shift in refugee subjectivity impacts perceptions of people smuggling. While the 'desirable' refugee is perceived to be patiently waiting their turn for resettlement, the 'undesirable' refugee takes advantage of the asylum system by crossing the border with the help of a smuggler. Here we see a discrepancy where past refugee movements such as the Underground Railroad, which were facilitated by human smugglers, is not framed alongside the 'bad' refugees migrating by smuggling means today. For when the Underground Railroad took place in the beginning of 19th century, abolitionists within the Parliament of Upper Canada worked to bring in emancipatory acts (Shad et al, 2002), yet there was no refugee system for the early, enslavement escaping asylum seekers to access, or in today's frame, 'take advantage' of. Instead, the current 'bogus' refugee frame fixates on the violations of the refugee system and the integrity of the individual, rather than the reasons individuals seek humanitarian protection. As noted by a Conservative MP, "refugees are not refugees because a smuggler says they are" (House of Commons, Sept 30, 2011).

The second claim is that smuggled refugees are *choosing* not to abide by Canada's immigration rules. An example of this claim is found in the statement of Conservative MP Truppe who stated that,

> "Canada always opens its doors to those who work hard and play by the rules. However, we must crack down on those who seek to take advantage of our generosity and often for financial gain. The preventing human smugglers from abusing Canada's immigration system act would send a clear message to individuals overseas thinking about smuggling people that they should not to do it." (House of Commons, October 3, 2011).

The speaker first distinguishes the rule-following desirable migrant by presenting Canada as an 'open door' to those who 'work hard' and 'play by the rules' before arguing that Canada ought to 'crack down' on those who do not follow the rules and 'take advantage' of Canada's generosity. There is a distinction between what rewards or punishments are given out to those who abide by state rules and those who do not.

'Bogus' refugees are also framed to penalize the 'bonafide' refugees who come to Canada through resettlement and seemingly wait their turn in line for Canada's protection. As noted in a CIC backgrounder, the anti-smuggling measures in Bill C-31 are to safeguard that those "apply to come to Canada legitimately and play by the rules are not penalized by those who try to jump the queue" (CIC June 29, 2012a). Here the 'bogus' frame seeks to demarcate a further divide within refugee populations by identifying those that appear to abuse the rights of other refugee claimants.

The devious identity of the smuggled person is further emphasized by claims that people use smuggling as a method of family sponsorship. As explained by Kenney, "people who pay the smugglers up to $50,000 to come to Canada are doing so because they are banking that as a cost that will be spread out over additional family members, who will

subsequently be sponsored into the country" (CIC, June 4, 2012). Again, the bogus refugee frame is associated with rule breaking and deception.

ANALYSIS

At first glance, the frames surrounding people smuggling and the Canadian government's policy reform collectively construct a plan of action and justifications in the name of national security and well-being. The identity and characterization frames reveal how actors within people smuggling policy discourse are socially constructed and endorsed by frame communicators, indicating who ought to be protected, who is to blame and who is to be punished. The general issue frame provides an overarching problem, people smuggling, that ought to be addressed while the specific issue frames validate isolated concerns of institutional efficiency, crime and public demands for security and order.

Yet frames are more meaningful where they reveal what we can be made to believe and how we make such beliefs - in the Foucauldian sense - a 'regime of truth'. For these stories are not authored by their communicators but rather reworked and rephrased to best appeal to the audience. As Arendt expresses, "the disclosure of the "who" through speech, and the setting of a new beginning through action, always falls into an already existing web where their immediate consequences can be felt" (Arendt, 1958/1998, p.184). How do we come to accept that a refugee who arrives without state permission has done something wrong, that people smuggling threatens our security, or that our immigration system is generous enough as it is? If a frame and its communicators are not passive in construction and performance, neither are its receivers in their acceptance and response. Here it is useful to look to the beliefs we hold, on which frame communicators capitalize, and confront them. It is valuable to remember that actors give weight to assumptions when

they lay within shared value systems. Equally important is the knowledge that presenting frames as common sense allows them to seem universal despite their hegemonic location in ideologically informed governance.

The reason these frames resonate with the public is that they are facilitated through the work of conservative and nationalist politics that appeal to a form of nationalism and appease public concerns over the proverbial 'outsider' threat that allegedly causes disorder in our immigration system, challenges who we are as humanitarians and risks the safety of our communities. This is the work of neoliberal ideology where it shapes public concern and then provides solutions to the 'problem' as if they are commonly demanded in public discourse. For people smuggling these solutions come in the form of securitized borders, safeguarding of individual entitlements, protection of national pride, and enhanced institutional efficiency.

The decline of democratic rights, replaced by individual rights, under the neoliberal project works to control the rights of smuggled persons through framing in two ways. As individuals the smuggled person and smuggler are deemed risky and a threat to public order. Here the *'Bogus' Refugee* and *Organized Crime* frames are useful to demonstrate to the public how undesirable border crossers look like and act. Using the Canada is a *Generous Humanitarian*, *Canada is a Victim and What Canadians Want* frames political actors invoke nationalist sentiment as a call for action in the face of so-called 'bogus' refugee flows and organized crime threats. Putting 'Canadians first' appeals to public interests in protecting citizens and the symbolic loyalty of national membership, thereby justifying the restrictive DFN regulations that ensure state security.

The criminalization of smuggling identities is useful for policymakers as it rationalizes why the DFN policy ought to enforce law and order. Here the *Crack Down on Crime* frame invokes securitization impulses that cater to the unease fostered by threat centred frames such as *Smugglers are Organized Criminals and Security Threats.* Importantly, framing is a process that is not static, but evolves over time (Chong and Druckman, 2007). As noted earlier, this is demonstrated in the historical progression of smuggling once seen as an act of heroism yet now is situated as an issue of crime and security.

The *Efficiency* frame reveals an inclination for neoliberal management of state resources. While the latest arrival of the MV Sun Sea caused a spike in irregular migrants in 2010, to 810 from 187 in the previous year (CIC, 2012) spontaneous boat arrivals to Canada have occurred sporadically over the last century. According to Perrin (2013), approximately 1760 individuals have been smuggled on boats into Canada since 1986 on 11 separate incidences. In Australia, by comparison, approximately 13,100 persons arrived in 2013 on unauthorized boats in one year alone (Philips and Spinks, 2013). Despite these numbers Canada's emphasis on the administrative burden of a large arrival, as performed by the *Efficiency* frame, provokes a sense of crisis that requires institutional responses.

The prevalence of these frames in the Canadian discourse surrounding people smuggling demonstrates the strength of neoliberal ideology in generating support for punitive, restrictive policies for smuggled people that violate international humanitarian statutes and Canada's humanitarian legacy. Where the human rights of the smuggled person meets their supposed threat to national safety and order, the former is discounted, leaving individuals without their rights to freedom, due process in the refugee

determination system and family reunification. These frames disclose how the public is

supposed to perceive people smuggling. Furthermore, as the following section discusses,

there is evidence to support that the DFN policy reform is not best suited to its goals to

deter people smuggling to Canada and may result in policy failure and unintended

consequences.

ON THE PATH TO POLICY FAILURE

Castles (2004) sees policy failure as occurring "when a policy does not achieve its

stated objectives" (p. 854). Research on irregular migration and policy responses in Canada,

the U.K and the U.S. finds that restrictive immigration and border enforcement policies

meant to prevent irregular migration are ineffective in combating people smuggling,

diminish refugee protection and can been shown to trigger an increase in smuggling rates

(Cornelius, 2001; Arbel & Brenner, 2013; Mountz, 2006; Czaika & Hobolth, 2014; Van

Liempt & Sersli, 2013). In light of these outcomes, discussed below, there is evidence of

unintended consequences and policy failure.

In a recent study on border security measures along the Canadian-U.S. border, Arbel

and Brenner (2013) find that Canada's bilateral agreements with the U.S. that restrict the

mobility of asylum seekers are increasing people smuggling rates across the Canada-U.S.

border. In a report by the Canada-U.S. Integrated Border Enforcement Team (IBET) it was

noted that people smuggling activity into Canada rose by 58% in 2011 from the previous

year (Arbel and Brenner, 2013). This increase was attributed to the Safe Third Country

Agreement in interviews with practitioners and a 2007 IBET Threat Assessment. Further, a

2010 CBSA Evaluation Study suggested that the rise in irregular migrants entering Canada

between ports of entry was in part due to refugee claimants wanting to avoid being turned

back at the border as a result of the Safe Third Country Agreement (Arbel and Brenner, 2013).

This unintended consequence of increased irregular migration between ports of entry was also found in a study in the United States. Cornelius (2001) finds that the United States' 'prevention through deterrence' strategy and tightened controls rechanneled irregular migration into less controlled places. Where apprehensions dropped in areas with significant border enforcement such as California and Texas, other areas such as Arizona saw a dramatic increase of 351% between 1994 and 2000 (Cornelius, 2001). Researchers in the United Kingdom also find that restrictive refugee policy created what they term "deflection into irregularity" (Czaika & Hobolth, 2014, p. 8). Using data from 2001 to 2011, Czaika & Hobolth (2014) find that a 10% increase in asylum rejection rates was paralleled by a 3% increase in irregular migration. Further, another way in which anti-smuggling policies may not reach their goals is where they fail to account for the sophistication of smugglers who find ways to circumvent new restrictions (Koser, 2001; Içduygu and Toktas, 2002). For example, Koser's (2001) study on smugglers in Iran found that the smugglers were well informed of asylum procedures in destination countries and instructed customers how to act depending on the designated country.

Its creators may see the DFN policy as a success where it conducts neoliberal strategy to decrease the individual rights of smuggled persons and smugglers and highlight the threat of criminal threat to gain political support. Those deemed 'undesirable' and unproductive for the labour market are kept from joining the Canadian economic fabric and kept under regular surveillance. Yet the restrictive measures of the DFN policy may create unintended consequences of increased smuggling rates and spatial reconfiguration of

border crossings if individuals and their families continue to require smuggling as the only foreseeable option to reaching safety.

The above studies highlight policy failures where immigration and border enforcement policies failed to serve their stated goals. However this is premised on the assumption that policy objectives are explicit and genuine to a policymaker's actual intentions. Instead, notes Castles (2004), in order to truly understand the reasoning behind a policy one must deconstruct official stated goals to seek out the hidden agendas that are driving policy actions. Again we must ask what assumptions policymakers rely on to circulate their perspective or agenda regarding a policy issue. As I demonstrate, this is seen in the DFN policy discourse where frame communicators appeal to neoliberal, conservative and nationalistic values to foster support and justify discriminatory anti-smuggling policy. The 'disincentive' measures are framed to effectively act as a deterrent and inform the cost-benefit decision-making processes of the persons involved. However what fails to be acknowledged is the real life circumstances that influence people to act as they do.

TOWARDS MORE DURABLE SOLUTIONS

Policy Recommendations

International migration organizations such as the International Organization for Migration (IOM) and the United Nations High Commission for Refugees (UNHCR) recognize that current irregular migration policies are not fulfilling their goals (Brolan, 2003). In 2012 UNHCR stated that, "given an increasing number of obstacles to access safety, asylum seekers are often compelled to resort to smugglers to reach a safe place in which to claim asylum" (UNHCR, 2012). A call for rights-based, informed irregular migration policies was

illustrated in a report by the United Nations Department of Economic and Social Affairs (UNDESA), which stated that "[t]here is no "one size fits all" policy to curb irregular migration. There is a need to establish comprehensive, rights-based approaches that address the root causes of irregular migration, especially those related to labour market demands" (UNDESA, p. 92). In sum, policies directed at combating illegal migration through criminalization are not only ineffective but can foster growth in unauthorized migration. What is needed is a more holistic approach to people smuggling that addresses these realities. The following policy recommendations address the shortcomings of the current anti-smuggling policy responses in Canada and abroad.

1.) Discontinue the 'Disincentive' measures within the Designated Foreign National regime.

The punitive deterrence measures of the DFN regime violate Canada's humanitarian obligations and will likely impede the settlement success of designated individuals and their families. There is no sound evidence that deterrence measures work to deter smuggling ventures, and employing 'disincentives' to individuals who may require humanitarian protection infringes on their rights as provided by the UN Refugee Convention, UN Smuggling Protocol and Canada's Charter of Rights and Freedoms. Further, keeping smuggled persons from integrating into the Canadian labour market by way of residence restrictions is unnecessary and will generate greater costs for Canada if individuals are then forced to rely on social assistance for a prolonged period of time. This report recommends a complete removal of the disincentive measures in order to align Canadian policy with international standards for human rights and ensure that those who are allowed to stay in Canada are faced with fewer barriers to settlement and integration.

2.) Increase involvement and support for non-governmental organization (NGO) and newcomer-serving non-profit responses to smuggling events.

NGO's and newcomer serving non-profits are vital resources for individuals arriving through smuggling means. Programs such as the Canadian Red Cross's First Contact Program, which provides an emergency multi-lingual phone line for refugee claimants to access information on available resources such as shelter, food, legal assistance, transportation and health, are fundamental to ensuring that the needs of smuggled persons are addressed on arrival in Canada. The government's claim that mass arrivals overwhelm existing institutional capacity to identify and process persons of a large arrival could be eased by increased involvement of newcomer serving agencies and NGO's. More support to improve the capacity of these organizations could provide for more culturally appropriate services that better connect with individuals to improve identity verification and ensure the needs of smuggled persons and families are met.

3.) Increase Canada's political involvement in conflicts that produce irregular migration and refugee movements.

Smuggled events hardly exist independent of geo-political, civil or governmental unrest that uproot populations and cause migration. Addressing the causes of migration, both economic and forced, requires attention to the increasing disparity of wealth, good governance and social conditions between the global North and South (Castles, 2004). Castles (2004) contends that non-migration policies such as foreign trade partnerships, aid and conflict resolution may be more effective in controlling migration than migration policies themselves. Increasing Canada's political involvement in conflicts, such as through conflict resolution and peace building, may provide more avenues for decreasing conflict renewals that generate recurring emigration patterns. While this process is complex and

requires long term planning, it could provide a more durable response than reactionary 'doors closed' migration policies of receiving states.

4.) Increase Refugee Resettlement Rates

One solution to addressing the increasing rates of asylum seekers employing the use of smugglers is to increase the resettlement rates of refugee-receiving countries (Koser, 2010). The Canadian government states that it is committed to increasing its resettlement rates to remain a 'global leader in refugee protection', however 2012 and 2013 saw one of the lowest rates of resettlement in 30 years (CIC, December 7, 2012; CCR, 2013). Opening more direct legal routes for refugee protection may lessen the demand for smuggling services.

5.) Align Canada's people smuggling legislation with the UN Smuggling Protocol.

While party to the UN Smuggling Protocol, Canada's current legislation does not align with the Smuggling Protocol. This report recommends three changes that would better align Canada's policy response to people smuggling with its international obligations. First, Canada's legislation needs a non-discrimination clause for smuggled persons as provided in Article 19.2 of the Un Smuggling Protocol. Including this clause would mean that smuggled persons could not be treated discriminately, with measures such as the designated foreign national regime, based on their engagement with smuggling. Second the Canadian legislation should include a clause that better protects the rights of asylum seekers as afforded by the Refugee Convention. Adopting Article 19.1 of the Smuggling Protocol, which instructs that no measures of the Smuggling Protocol shall impede on the rights and obligations of states as set forth in the Refugee Convention, would ensure that Canada maintains its legal humanitarian obligations.

Finally, unlike Canada's definition of people smuggling, the Smuggling Protocol's definition includes a 'for profit' motive. Family members, friends and NGO workers who assist the unauthorized arrival of asylum seekers fleeing dangerous situations ought not to be designated and prosecuted as human smugglers. This risks the wrongful prosecution of individuals and groups acting under humanitarian intent. By including the motivation for material benefit in Canada's definition of people smuggling the government will be able to direct attention to those who gain significant profits from engaging in smuggling ventures.

Directions for Future Research

Root causes and push factors for people smuggling: Why do people resort to people smuggling and in what ways is smuggling made a viable option for migration? While the rates of displaced people have increased worldwide in conjunction with tightened immigration policies in numerous receiving states, there remains a lack of information on the extent that diminishing legal options to migrate or seek refuge impact the decision making processes of people from different countries or regions. Due to scarce research, it is difficult to establish a casual link between a restrictive policy and smuggling rates. However understanding the causal link between policies and individual decision-making is vital to generating sound, effective policies that protect individuals engaging in people smuggling while also diminishing the demand for smuggling services. More research on the causes and decision-making processes of smuggled people is needed to improve policy responses.

Experiences of People Smuggling to Canada: As stated at the onset of this paper, the lack of migrant-perspective research on people smuggling poses a serious restraint for policymakers and analysts to create well-informed, effective smuggling policy. In particular, there is a need for more research on the experiences of people smuggling including both

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smuggled people and their smugglers. What information do people have regarding their options for migration or how to engage with smuggling ventures? What are the experiences of smuggled persons when they arrive in the country of destination? More research on the experiences of those who have been smuggled into Canada would provide a more nuanced idea of how, in what capacity and with what purpose people smuggling is conducted to Canada.

Impact of policy framing on public opinion: Public opinion research is needed to better understand the impact of elite framing on public opinion and discourse. What does the public know about people smuggling? How does the public respond to discourse and publicized actions of the government regarding people smuggling? Do most Canadians consider irregular migration a threat to Canadian security and the immigration system? Addressing these questions would allow analysts to gain a clearer understanding of why some frames resonate more powerfully within the general public and are more successful in shaping public perspectives.

Impact of restrictive measures on settlement and integration: As only two years has passed since the first DFN designation, the full impact of deterrence measures have yet to be determined. Longitudinal research on the short and long-term implications of detention, reporting requirements and the 5-year bar on residency applications, family sponsorship and travel, is needed to understand the impact on individuals and their families. Understanding the outcomes of these restrictions is vital to ensuring that refugees who come to Canada in seek of protection are not relegated to the outer margins of the Canadian socio-economic setting which could create more costs to Canada down the line.

CONCLUSION

The purpose of this research was to examine Canada's anti-people smuggling policy reform and the surrounding discourse that shapes public opinion. This task first revealed that Canada's anti-smuggling reform is a violation of its international and domestic humanitarian obligations, punitive to smuggled persons and may result in policy failure and unintended consequences. The current policy approach creates a new legal identity of the designated foreign national that focuses on the criminal intent of smugglers and the illegitimacy of smuggled people. Yet as the literature on the scope of people smuggling reveals, there are considerable variances in the types of smugglers and motivations for people to access smuggling as a means of migration. At times the choice can be between staying put and facing persecution, or leaving through smuggling and undertaking a potentially perilous journey in pursuit of refuge. The reforms mean that those arriving in Canada, today, are faced with a different course of restricted rights and disciplinary treatment by the state. In particular for smuggled refugees, the government's tactical policy reform strips individuals of their right to protection and compromises the integrity of Canada's humanitarian protection system.

In principle, the Refugee Convention and Smuggling Protocol are important to the stability of refugee and smuggled person rights, as the statutes ought to be resistant to domestic party politics and changing governments. However, as the DFN policy reveals, states have the ability to sidestep Convention and Protocol conditions to pursue national agendas. On the global scale this may require changes to the existing international laws that fall short in mandating how states treat refugees and smuggled persons. Yet as this paper

examines, it is also critical to address the national policies that challenge individual human rights and the underlying structures that influence political action.

Crucially, understanding the nuances of a policy requires the interpretive analyst to look beyond stated objectives to unpack the latent agendas that truly motivate policy action. Using Critical Frame Analysis I located discursive frames and action within the recent anti-smuggling discourse. Elite framing of people smuggling and policy reform, embedded within the ideological commitments of both frame communicators and receivers, has generated a perspective on people smuggling that justifies criminalization and harsh deterrence policy. Locating these underlying motivations as they appear in discourse exposes the landscape of ideology and power that implicate policy actors and the public within a framework of assumptions, claims, values and justifications on a policy issue. Here neoliberalism, made palatable through nationalist and conservative rhetoric, drives the undercurrent of anti-smuggling discourse and reform. The smuggled person is disciplined for actions that are not in line with state rules and objectives while being depicted as a criminal abuser of Canada's overburdened, generous immigration system that is under constant threat. As Harvey (2005) contends, "to live under neoliberalism also means to accept or submit to that bundle of rights necessary for capital accumulation" (p. 181). The question remains to what extent the rights and freedoms of smuggled persons, including refugees who have rights enshrined under international law, will be inhibited under the project of neoliberal policy reform aided by securitization and nationalist impulses.

Examining the process of frame construction and communication, as well as their underlying agendas, is vital to understanding how policy responses that violate international and domestic statutes can be presented to appeal to a wider audience. The

highlighted frames have the ability to make the anti-smuggling reforms look like products of Canadian public demand. The 'crack-down' measures of the DFN regulations convey an important message that there are different standards for those able to follow state rules and those who may have been forced to act differently. Through framing, Canadians are led to believe that this is in the best interest of Canada, its immigration system, and smuggled people themselves. The challenge here is to question these assumptions and hold their communicators, and ourselves as receivers, accountable.

Instead of reassessing the policies and practices that have yet to effectively tackle people smuggling we witness a shift in the facilitation of migration flows from a legal, humanitarian responsibility to a political stage whereby human rights become managed and controlled. Illegalizing the actions of the smuggled person disregards when smuggling is necessary in order to escape persecution. With intensified regional conflicts, increased failed states, unprecedented rates of people displaced and tightening immigration systems worldwide, the number of people without legal routes to safety continues to grow. According to UNHCR, the end of 2013 saw a staggering 51.2 million people displaced worldwide by conflict, violence and human rights violations, including 16.7 refugees and close to 1.2 million asylum seekers potentially on the move (UNHCR, 2014). While further research is needed to understand the intersections of people smuggling and these migration rates, it is clear that a greater response is needed to address the growing populations of displaced people globally. Importantly, what we are learning about people smuggling and migration needs to be used to inform more appropriate government responses that ensure that the root causes of people smuggling are addressed, humanitarian obligations are fulfilled and the human rights of individuals are upheld.

REFERENCES

Arbel, E., & Brenner, A. (2013). Bordering on failure: Canada-U.S. border policy and the politics of refugee exclusion. *Cambridge: Harvard Immigration and Refugee Law Clinical Program*, Harvard Law.

Arendt, H. (1998). *The human condition. (2nd ed.).* Chicago: University of Chicago Press*.*

Aronowitz, A. A. (2001). Smuggling and trafficking in human beings: The phenomenon, the markets that drive it and the organisations that promote it. *European Journal on Criminal Policy and Research, 9*(2), 163-195.

Ashkar, G. J. (2010). Oh Canada! We stand on guard for thee: Bill C-50 and the negative impact it "may" have on immigrant hopes, immigration objectivity, and the immigration and refugee protection act of 2002. *Southwestern Journal of International Law, 17*(1), 143.

Axford, B. (1997). *Politics: An introduction.* Florence, USA: Taylor & Francis

Basok, T. (1996). Refugee policy: Globalization, radical challenge, or state control? *Studies in Political Economy,* (50), 133-166.

Bauder, H. (2013). Why we should use the term illegalized immigrant. *Ryerson Centre for Immigration and Settlement Research Brief.. 1*

Benford, R. D., & Snow, D. A. (2000). Framing processes and social movements: An overview and assessment. *Annual Review of Sociology, 26*(1), 611-639.

Bevir, M. (1999). Foucault, power, and institutions. *Political Studies, 47*(2), 345-359.

Bigo, D. (2002). Security and immigration: Toward a critique of the governmentality of unease. *Alternatives: Global, Local, Political, 27*(1 suppl), 63-92.

Billings, P. (2011). Juridical exceptionalism in Australia law, nostalgia and the exclusion of 'others'. *Griffith Law Review, 20*(2), 271-309.

Bloomfield, A , & Nossal, K . (2013). A conservative foreign policy? Canada and Australia compared. In D. M. Rayside, & J. H. Farney (Eds.), (pp. 139) *Conservatism in Canada.* Toronto, ON, Canada: University of Toronto Press

Bockman, J. (2013). *Neoliberalism*. Los Angeles, CA: Sage Publications, Inc.

Boswell, C. (2005). *The ethics of refugee policy.* Hampshire, England: Ashgate

Bradimore, A. & Bauder, H. (2011). Mystery ships and risky boat people: Tamil refugee migration in the newsprint media. *Canadian Journal of Communication, 36*(4), 637.

Brolan, C. (2003). An analysis of the human smuggling trade and the protocol against the smuggling of migrants by land, air and sea (2000) from a refugee protection perspective. *International Journal of Refugee Law, 14*(4), 561-596.

Brouwer, A. (2005). Permanent protection: Why Canada should grant permanent residence automatically to recognized refugees. *Refuge, 22*(2), 88.

Canada. (2001) Immigration and Refugee Protection Act (IRPA)(S.C. 2001, c. 27).

Canada. Parliament. (2010). House of Commons Debates. Volume 145. Number 088. 3rd Session. 40th Parliament. Wednesday, October 27

Canada. Parliament. (2010). House of Commons Debates Volume 145. Number 089. 3rd Session. 40th Parliament Thursday, October 28

Canada. Parliament. (2010). Bill C-11: An Act To Amend The Immigration And Refugee Protection Act And The Federal Courts Act, (2010). 3rd Session, 40th Parliament.

Canada. Parliament. (2010). Bill C-49: An Act To Amend The Immigration And Refugee Protection Act, The Balanced Refugee Reform Act And The Marine Transportation Security Act. 3rd Session, 40th Parliament

Canada. Parliament. (2011). House of Commons Debates Volume 146. Number 024. 1st Session. 41st Parliament. Friday, September 30.

Canada. Parliament. (2011). House of Commons Debates Volume 146. Number 025. 1st Session. 41st Parliament. Monday, October 3.

Canada. Parliament. (2011). Bill C-4: An Act To Amend The Immigration And Refugee Protection Act, The Balanced Refugee Reform Act And The Marine Transportation Security Act. 1st Session, 41st Parliament.

Canada. Parliament. (2012) Bill C-31: An Act To Amend The Immigration And Refugee Protection Act, The Balanced Refugee Reform Act, The Marine Transportation Security Act And The Department Of Citizenship And Immigration Act. 1st Session, 41st Parliament.

Canada Gazette. (2012). Government Notices. Department Of Public Safety And Emergency Preparedness Vol. 146, No. 50 — December 15.

Canadian Council for Refugees (CCR) (2013). *CCR decries dramatic drop in refugees resettled to Canada.* Retrieved July/20, 2014, from https://ccrweb.ca/en/bulletin/13/03/07

Castles, S. (2004). The factors that make and unmake migration policies. *International Migration Review, 38*(3), 852-884.

Chong, D., & Druckman, J. N. (2007). Framing theory. *Annual Review of Political Science, 10*(1), 103-126.

Citizenship and Immigration Canada (CIC). (2012). *Human smuggling legislation: Evergreen questions and answers for committee appearances. February 1-May 31, 2012.*

CIC. (February 16, 2012). *Backgrounder — better tools to successfully prosecute and impose mandatory prison sentences on human smugglers.* Retrieved July/15, 2014, from http://www.cic.gc.ca/english/DEPARTMENT/media/backgrounders/2012/2012-02-16j.asp

CIC. (February 17, 2012). *Speaking notes for the honourable Jason Kenney, P.C. (privy council), M.P. (member of parliament) minister of citizenship, immigration and multiculturalism At a news conference following the tabling of bill C-31, protecting Canada's immigration system act.* Retrieved July/12, 2014, from http://www.cic.gc.ca/english/department/media/speeches/2012/2012-02-16.asp

CIC. (June 4, 2012). *Address to the empire club speaking notes for the honourable Jason Kenney, P.C. (privy council), M.P. (member of parliament) Minister of citizenship, immigration and multiculturalism.* Retrieved July/14, 2014, from http://www.cic.gc.ca/english/department/media/speeches/2012/2012-05-25.asp

CIC. (June 29, 2012a). Backgrounder — designating human smuggling events. Retrieved June 20, 2014 from http://www.cic.gc.ca/english/department/media/backgrounders/2012/2012-06-29f.asp

CIC. (June 29, 2012b). Backgrounder — cracking down on human smugglers who abuse Canada's immigration system. Retrieved July/02, 2014, from http://www.cic.gc.ca/english/department/media/backgrounders/2012/2012-06-29j.asp

CIC. (June 29, 2012c). *Speaking notes for the honourable Jason Kenney, P.C. (privy council), M.P. (member of parliament) Minister of citizenship, immigration and multiculturalism. At a news conference to announce royal assent of the protecting Canada's immigration system act.* Retrieved July/12, 2014, from http://www.cic.gc.ca/english/department/media/speeches/2012/2012-06-29.asp

CIC. (June 29, 2012d). *Backgrounder — protecting our streets and communities from criminal and national security threats .* Retrieved July/04, 2014, from http://www.cic.gc.ca/english/department/media/backgrounders/2012/2012-06-29k.asp

CIC. (August 3, 2012). *Notice of proposed regulatory amendments – reporting requirements for designated foreign nationals.* Retrieved June/27, 2014, from http://www.cic.gc.ca/english/department/media/notices/notice-foreign.asp

CIC. (December 2, 2012). *Determine your eligibility – refugee status from inside Canada.* Retrieved July/26, 2014, from http://www.cic.gc.ca/english/refugees/inside/apply-who.asp

CIC. (December 7, 2012). *Resettlement.* Retrieved July 10, 2014 from http://www.cic.gc.ca/english/refugees/reform-resettle.asp

CIC. (February 4, 2013). *Black history month — Harriet Tubman: Humanitarian. leader. hero..* Retrieved July/30, 2014, from http://www.cic.gc.ca/english/department/media/multimedia/video/bhm/tubman.asp

CIC. (May 22, 2014). *Changes to the temporary foreign worker program.* Retrieved July/22, 2014, from http://www.cic.gc.ca/english/department/acts-regulations/forward-regulatory-plan/changes-tfwp.asp

CIC. (August 14, 2014). *I am a refugee and I need to travel outside Canada. what documents do I need to travel?.* Retrieved July/13, 2014, from http://www.cic.gc.ca/english/helpcentre/answer.asp?q=610&t=11

Cochrane, C. (2013). The structures and dynamics of public opinion. In D. M. Rayside, & J. H. Farney (Eds.), *Conservatism in Canada* (pp. 21)

Cornelius, W. A. (2001). Death at the border: Efficacy and unintended consequences of US immigration control policy. *Population and Development Review, 27*(4), 661-685.

Curry, Bill. (2014). *Low-wage foreign worker program faces elimination: Kenney.* Globe and Mail. Retrieved July/27, 2014, from http://www.theglobeandmail.com/news/politics/elimination-of-foreign-worker-program-will-be-on-the-table-in-2016/article19322845/

Czaika, M., & Hobolth, M.(2014). Deflection into irregularity? *International Migration Institute Working Paper Series.* (84).

Dauvergne, C. (2003). Evaluating Canada's new immigration and refugee protection act in its global context.(special issue: Globalization and the law). *Alberta Law Review, 41*(3), 725-744.

Dauvergne, C. (2004). Sovereignty, migration and the rule of law in global times. *The Modern Law Review, 67*(4), 588-615.

Dauvergne, C. (2005). *Humanitarianism, identity, and nation: Migration laws of Australia and Canada.* Vancouver : UBC Press

Doomernik, J., & Kyle, D. (2004). Introduction. *Journal of International Migration and Integration / Revue De l'Integration Et De La Migration Internationale, 5*(3), 265-272.

Entman, R. M. (1993). Framing: Toward clarification of a fractured paradigm. *Journal of Communication, 43*(4), 51-58.

Fairclough, N. (2003). *Analysing discourse: Textual analysis for social research.* London ; New York : Routledge

Fine, Sean. (2014). *Ottawa's refugee health-care cuts 'cruel and unusual,' court rules.* Globe and Mail. Retrieved July/28, 2014, from http://www.theglobeandmail.com/news/politics/ottawas-refugee-health-cuts-cruel-and-unusual-court-rules/article19459837/

Gamble, A. (2001). Neo-liberalism. *Capital & Class,* (75), 127.

Gamson, W. A., & Modigliani, A. (1989). Media discourse and public opinion on nuclear power: A constructionist approach. *American Journal of Sociology, 95*(1), 1-37.

Goffman, E. (1986). *Frame analysis: An essay on the organization of experience. Boston : Northeastern University Press*

Goldring, L., Berinstein, C., & Bernhard, J. K. (2009). Institutionalizing precarious migratory status in Canada. *Citizenship Studies, 13*(3), 239-265.

Gray, B. (2003). Framing of environmental disputes. In R. J. Lewicki, B. Gray & M. Elliott (Eds.), *Making sense of intractable environmental conflicts: Frames and cases* Washington: Island Press. (pp. 11).

Hallahan, K. (1999). Seven models of framing: Implications for public relations. *Journal of Public Relations Research, 11*(3), 205-242.

Harmes, A. (2012). The rise of neoliberal nationalism. *Review of International Political Economy, 19*(1), 59-86.

Harvey, D. (2005). *A brief history of neoliberalism.* Oxford: Oxford University Press.

Helleiner, E., & Pickel, A. (2005). *Economic nationalism in a globalizing world.* Ithaca, N.Y. : Cornell University Press.

Herman, E. (2006). Migration as a family business: The role of personal networks in the mobility phase of migration. *International Migration, 44*(4), 191-230.

Hollifield, J. F. (2004). The emerging migration state. *International Migration Review, 38*(3), 885-912.

Hybel, A. R. (2010). *The power of ideology: From the Roman Empire to Al-Qaeda.* London ; New York : Routledge

Hyndman, J., & Mountz, A. (2008). Another brick in the wall? Neo-refoulement and the externalization of asylum by Australia and Europe. *Government and Opposition, 43*(2), 249-269.

Hyndman, J., & Giles, W. (2011). Waiting for what? The feminization of asylum in protracted situations. *Gender, Place and Culture, 18*(3), 361-379.

Içduygu, A., & Toktas, S. (2002). How do smuggling and trafficking operate via irregular border crossings in the Middle East? Evidence from fieldwork in Turkey. *International Migration, 40*(6), 25-54.

International Council on Human Rights Policy. (ICHRP) (2010). *Irregular migration, migrant smuggling and human rights: Towards coherence.* International Council on Human Rights Policy.

Jackson, S., Bauder, H. (2013). Neither temporary, nor permanent: The precarious employment experiences of refugee claimants in Canada. *Journal of Refugee Studies, fet048.*

Jacoby, W. G. (2000). Issue framing and public opinion on government spending. *American Journal of Political Science, 44*(4), 750-767.

Joppke, C. (1998). Why liberal states accept unwanted immigration. *World Politics, 50*(2), 266-293.

Kenney, J. (2011). *Jason Kenney: Our plan to combat human smuggling.* National Post. *Retrieved July/10:* http://fullcomment.nationalpost.com/2011/09/27/jason-kenney-our-plan-to-combat-human-smuggling/

Koser, K. (2001) The smuggling of asylum seekers into Western Europe: contradictions, conundrums and dilemmas. In: Kyle, D and Koslowski, R, (eds.) *Global Human Smuggling: Comparative Perspectives*. (1st ed. pp. 58.) Baltimore: John Hopkins University Press

Koser, K. (2011). The smuggling of refugees. In D. Kyle, & R. Koslowski (Eds.), *Global human smuggling: Comparative perspectives* (2nd ed., pp. 256). Baltimore: The Johns Hopkins University Press.

Koslowski, R. (2011). Economic globalization, human smuggling and global governance. In D. Kyle, & R. Koslowski (Eds.), *Global human smuggling: Comparative perspectives* (2nd ed., pp. 60). Baltimore: The Johns Hopkins University Press.

Kyle, D., & Koslowski, R. (2011). *Global human smuggling: Comparative perspectives.* (2nd, ed.) Baltimore: The Johns Hopkins University Press.

Macklin, A. (2005). Disappearing refugees: Reflections on the Canada-US safe third country agreement. *Columbia Human Rights Law Review, 36*, 365-426.

Mann, A. (2009). Refugees who arrive by boat and Canada's commitment to the refugee convention: A discursive analysis. Refuge. *26*, 191-206

Menz, G. (2009). The neoliberalized state and migration control: The rise of private actors in the enforcement and design of migration policy. *Debatte: Journal of Contemporary Central and Eastern Europe, 17* (3), 315-332.

Millbank, A. (2000). *The problem with the 1951 refugee convention.* Information and Research Services, Department of the Parliamentary Library. Research Paper 5 2000-01.

Morrison, J., & Backers, S. (2001). Commentary. *Race & Class, 43*(1), 71-81.

Mountz, A. (2004). Embodying the nation-state: Canada's response to human smuggling. *Political Geography, 23*(3), 323-345.

Mountz, A. (2006). Human smuggling and the Canadian state. *Canadian Foreign Policy Journal, 13*(1), 59-80.

Mountz, A. (2010). *Seeking asylum: Human smuggling and bureaucracy at the border. Minneapolis : University of Minnesota Press.*

Neske, M. (2006). *Human smuggling to and through Germany*. Oxford, UK: Blackwell Publishing Ltd.

Nyers, P. (2006). *Rethinking refugees: Beyond states of emergency.* New York: Routledge

Olsen, C., El-Bialy, R., Mckelvie, M., Rauman, P., & Brunger, F. (2014). "Other" troubles: Deconstructing perceptions and changing responses to refugees in Canada. *Journal of Immigrant and Minority Health,* 1-9.

Ottawa Citizen. (2014). *Supreme Court to hear three people-smuggling cases, including sun sea appeals.* Retrieved July/30, 2014, fromhttp://www.ottawacitizen.com/news/Supreme+Court+hear+three+peoplesmuggling+cases+including/9748258/story.html

Packer, J. (2003). Disciplining mobility: Governing and safety. In J. Z. Bratich, J. Packer & C. McCarthy (Eds.), (pp. 135). *Foucault, cultural studies, and governmentality*. Albany : State University of New York Press

Patten, S. (2013). The triumph of neo-liberalism within partisan conservatism in Canada. In James Farney and David Rayside (Ed.), *Conservatism in Canada.* Toronto, ON, Canada: University of Toronto Press

Perrin, B. (2013). Migrant Smuggling: Canada's Response to a Global Criminal Enterprise. *International Journal of Social Science Studies*, *1*(2), 139-153.

Phillips, J., Spinks, H., *Background Note: Boat arrivals in Australia since 1976* (2013) Parliament of Australia: Parliamentary Library Retrieved August 13 from http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2012-2013/BoatArrivals

Rayside, D. M., & Farney, J. H. (2013). *Conservatism in Canada.* Toronto, ON, Canada: University of Toronto Press.

Rein, M., & Schön, D. (1996). Frame-critical policy analysis and frame-reflective policy practice. *Knowledge and Policy, 9*(1), 85-104.

Renaud, J., Piche, V., & Godin, J. (2003). "One's bad and the other one's worse": Differences in economic integration between asylum seekers and refugees selected abroad. *Canadian Ethnic Studies, XXXV* (2), 86.

Richardson, R. (2010). Sending a message? Refugees and Australia's deterrence campaign. *Media International Australia, Incorporating Culture & Policy,* (135), 7-18.

Richmond, A. H. (2002). Globalization: Implications for immigrants and refugees. *Ethnic and Racial Studies, 25*(5), 707-727.

Saha, K. C. (2007). Smuggling of Indian citizens: Preliminary findings. *Journal of Immigrant & Refugee Studies, 5*(1), 55-69.

Salt, J. (2000). Trafficking and human smuggling: A European perspective. *International Migration, 38*(3), 31-56.

Shadd, A. L., Cooper, A., & Smardz Frost, K. (2005). *The Underground Railroad: Next stop, Toronto!* Toronto: Natural Heritage Books.

Sharone Backers. (2001). Risking it all: The implications of refugee smuggling. *Race and Class, 43*(1), 75.

Tomlinson, K. (2013, April 06). RBC replaces Canadian staff with foreign workers. *CBC*. Retrieved July/25, 2014, from http://www.cbc.ca/news/Canada/british-columbia/rbc-replaces-canadian-staff-with-foreign-workers-1.1315008

Toronto Star. (2011). *Harper tours migrant ship, vows crackdown on human smuggling.* Retrieved June/28, 2014, from: http://www.thestar.com/news/Canada/2011/02/21/harper_tours_migrant_ship_vows_crackdown_on_human_smuggling.html#

United Nations High Commissioner for Refugees. (UNHCR). (2014). *UNHCR global trends 2013.* United Nations.

UNHCR. (n.d.). *About refugees.* Retrieved July/20, 2014, from http://unhcr.org.au/unhcr/index.php?option=com_content&view=article&id=179&Itemid=54

UNHCR. (n.d.). *Asylum seekers.* Retrieved July/26, 2014, from http://www.unhcr.org/pages/49c3646c137.html

United Nations Convention against Transnational Organized Crime (UNCTOC), (2000).

United Nations Department of Economic and Social Affairs (UNDESA). (2013). *International migration policies government views and priorities*. New York: United Nations.

Van Liempt, I. (2011). Different geographies and experiences of 'assisted' types of migration: A gendered critique on the distinction between trafficking and smuggling. *Gender, Place & Culture, 18*(2), 179-193.

Van Liempt, I., & Sersli, S. (2013). State responses and migrant experiences with human smuggling: A reality check. *Antipode, 45*(4), 1029-1046.

Vancouver Sun. (2014). *B.C. court of appeal upholds harper government's human-smuggling law.* Retrieved July/20, 2014, from http://www.vancouversun.com/news/Court+Appeal+upholds+Harper+government+human+smuggling/9791693/story.html#ixzz3AKhPgMBk

Varsanyi, M. W. (2008). Rescaling the "alien," rescaling personhood: Neoliberalism, immigration, and the state. *Annuals of the Association of American Geographers, 98*(4), 877-896.

Wagenaar, H. (2011). *Meaning in action: Interpretation and dialogue in policy analysis.* Armonk, N.Y.: M.E. Sharpe

Walsh, J. (2008). Navigating globalization: Immigration policy in Canada and Australia, 1945–2007. *Sociological Forum, 23*(4), 786-813.

Wayland, S. V. (2006). *Unsettled: Legal and policy barriers for newcomers to Canada.* Community Foundations of Canada, & Law Commission of Canada. Retrieved from http://www.cfc-fcc.ca/doc/LegalPolicyBarriers.pdf

Weimer, D. L., & Vining, A. R. (2011). *Policy analysis: Concepts and practice*. Boston: Longman

Yanow, D. (2000). *Conducting interpretive policy analysis*. Thousand Oaks, California: Sage.