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The Fragmentation of the Concept of the Refugee into Refugees and Asylum Seekers: Analysis of Recent Changes to Policy 2008 to 2013

Susan Doucet
Ryerson University

THE FRAGMENTATION OF THE CONCEPT OF THE REFUGEE INTO REFUGEES AND ASYLUM SEEKERS: ANALYSIS OF RECENT CHANGES TO POLICY 2008 TO 2013

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Susan Doucet, BA, Concordia University, 2009

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Abstract

The current Conservative government of Canada has implemented considerable restrictive changes to the refugee system in Canada, leading to increased vulnerability in the lives of people seeking asylum. A fragmentation of the concept of the Refugee into "refugees" and "asylum seekers" allows the Government of Canada to implement restrictive measures while still maintaining its humanitarian reputation and appearing to uphold its responsibilities as a signatory state to the 1951 Refugee Convention. Using Critical Discourse Analysis, this work examines the ways in which the Government of Canada, through press releases from Citizenship and Immigration Canada, readies the public to accept restrictive policy measures. Four discursive themes are identified: burden, humanitarian concern for "genuine" refugees, a focus on the transgressions of some asylum seekers, and a celebration of Canadian humanitarian values. Each discursive theme, and the resulting legitimizing narratives, makes use of the fragmentation of the concept of the refugee.

Key Words: refugee; asylum seeker; Citizenship Immigration Canada

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The current Conservative Government has implemented considerable restrictive changes to the refugee system in Canada. It has been able to do so, without appearing to contravene its obligations under the 1951 Convention, because of a fragmentation of the concept of the refugee into "refugees" and "asylum seekers". Through simultaneously undermining asylum claims and celebrating refugee resettlement, the Government of Canada sets the tone of the national discourse on immigration and refugee policy. The growing distinction between the concept of the asylum seeker and the concept of the refugee creates even more vulnerability and injustice in the lives of people seeking asylum. The Government of Canada's fragmentation of the concept of the refugee must be critically analyzed, for it represents a position that goes counter to the humanitarian reputation that Canada continues to enjoy. The effects of undermining asylum seeking are far reaching and life threatening for a significant portion of humanity.

There are migrants who make unsubstantiated or false in-land asylum claims in Canada. The global inequality that motivates this form of migration is a topic for another study. At issue in this work are the ways in which state discourse and policy disadvantage *all* asylum seekers, regardless of the legitimacy of their claims. The stereotypes and hostility that are produced through state discourse and policy paint all asylum seekers with the same undermining brush of suspicion. Suspicion and hostility weaken all claims for protection and create an environment that enables the implementation of restrictive policies.

An examination of refugee and asylum policy is an exercise in which a number of different theories intersect. Theories of citizenship, state, globalization and

transnationalism each play a role in helping to understand the actions of the Government of Canada. Throughout the work, I will be drawing on each to inform my inquiry.

This work is structured in the following way: the first section will present the official, legal definitions of "refugee" and "asylum seeker", including a brief discussion of the evolving natures of the terms. It will then examine the recent changes to policy regarding refugees and asylum seekers that were made to the *Immigration and Refugee Protection Act* (IRPA) since 2008. A review of relevant literature follows, examining the contemporary social construction of the refugee. The ways in which the welcome for refugees has waned since the signing of the 1951 Convention is also considered. The analysis will then unpack the ways in which claiming asylum may be interpreted as a challenge or threat to national sovereignty. The literature review will end with a discussion of the ways in which the concept of the refugee is disappearing from current immigration discourse in Canada.

Using Critical Discourse Analysis, the second section will present an analysis of official press releases from Citizenship and Immigration Canada (CIC). It will reveal the ways in which the Government of Canada frames the national discourse on refugees and asylum seekers in order to prepare the public to accept moves that go counter to Canada's obligations to the 1951 Convention. Four discursive themes are revealed through this analysis. The first theme – one of burden – can be sub-divided into two related sections. The first is an emphasis on the financial burden for the Government of Canada that asylum seekers create. The second manifestation of the theme of burden is in the image of an overburdened immigration system struggling with an unmanageable number of

asylum seekers. A second discursive theme is a presentation of restrictive policy as representing the best interests of those "genuine refugees" who do come to Canada. Those who are not deemed "genuine" are the focal point of the third discursive theme – a focus on the transgressions of asylum seekers. The final discursive theme is a restating and reminder to citizens of Canada's international reputation as a country with a strong commitment to helping refugees. The cumulative effects of CIC's press releases will be discussed. Finally, some policy recommendations will be put forward.

PART I – DEFINITIONS & POLICY

Definitions

The definitions of refugee and asylum seeker articulated by the United Nations are legal concepts, designed to be clear and without ambiguity. They are not mutually exclusive, nor are they particularly open to interpretation. According to Article 1 of the 1951 Convention, 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 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" (United Nations High Commissioner for Refugees (UNHCR), 2009:14).

The term asylum seeker refers to "a person who has left their country of origin, has applied for recognition as a refugee in another country, and is awaiting a decision on their application" (UNHCR, nd).

Despite these relatively clear legal definitions, there has been, in recent years, what Farrier calls a "fragmentation and qualification of the concept of refuge" (2011:155). Along with this fragmentation of the concept of refuge, the concept of a person who is *seeking* refuge has undergone a similar fragmentation. A hierarchy has emerged within the category of migrant known as 'the refugee': "the refugee", legitimate, acknowledged, legally protected; and "the asylum seeker", an unofficial seeker of sanctuary, who enjoys none of the protections of "the refugee" and who faces prejudice and restrictive measures.

A fragmentation is possible, in part, because of an "appropriation of recognition" by the state (Farrier, 2001:153). The definition of a refugee is declaratory rather than constitutive. This means that a person becomes a refugee because of his or her life experiences; he or she is then recognized by the state because of these experiences. A person does not become a refugee because he or she is recognized as such by the state. Put simply, it is persecution rather than official protection that creates a refugee. However, *de facto* power to recognize a refugee resides within signatory states of the 1951 Convention (Farrier, 2001).

Farrier's notions of the fragmentation of "the refugee", appropriation of recognition, and the resulting hierarchy between refugees and asylum seekers are evident in an analysis of Canadian immigration policy. The many recent changes to immigration policy have served to strengthen the fragmentation of the refugee.

Policy

In the past five years, there have been many profound changes made to Canada's immigration system. Through the use of omnibus bills, the current Conservative government has been implementing what scholars and political analysts have come to call "creeping changes". The Harper government's creeping changes have significantly and substantially altered the 2002 *Immigration and Refugee Protection Act* (IRPA).

Omnibus bills C-31, the *Protecting Canada's Immigration System Act*, and C-11, the *Balanced Refugee Reform Act,* passed in 2012 have dramatically redesigned the IRPA. They have been designed to impede access to asylum and have also altered in-Canada landscape for people seeking asylum. It is now considerably more difficult for an asylum seeker both to enter the country and to make a successful claim for protection.

Refugee claimants face additional barriers and increasing difficulties at all three stages of their migration process: before arriving in Canada; during the determination process; and after a decision in the determination process. When an asylum seeker manages to avoid the newly imposed 'non arrival measures', they face an in-land refugee determination process that has become more complex and restrictive. For some asylum seekers, there continue to be legislative barriers to integration in Canada even after the determination system has provided refugee status.

Recent legislation has had a significant impact on the numbers of successful asylum claims in Canada. Table 1.1 shows the sharp decline in successful refugee claimants admitted as permanent residents since the new measures were introduced.

Table 1.1; Successful Refugee Claimants, by Year

Category	2005	2010	2011	2012 (targeted)
Successful Refugee Claimants	19,935	9,041	10,741	8,500

Source: Alboim, 2012

The following discussion details the systematic changes to policy that have resulted in the diminished numbers presented above.

Non-Arrival Measures

The first means through which Canada has decreased the number of successful refugee claimants is through what Matthew Gibney calls "non arrival measures" (2006). Non-arrival measures are designed to prevent the entry of asylum seekers through Canada's borders. By preventing asylum seekers from stepping onto Canadian soil, the Government of Canada effectively sidesteps its responsibility to uphold the terms of the 1951 Refugee Convention. If a person who is seeking asylum fails to enter the Canadian territory, Canada has no legal responsibility to that person. One of the main means through which Canada prevents asylum seekers from entering its borders is the imposition of visitor visas. The residents of almost 150 countries are required to obtain a visitor visa before they may enter Canadian borders; of note, over two thirds these countries are in the global south (CIC, 2013).

In July 2009, the government responded to rising asylum claims from Mexico and the Czech Republic. From 2005 to 2009, nearly tripled. Between 2007 and 2009, nearly 3,000 asylum claims were filed by Czech nationals (CIC, July 13, 2009a; CIC July 13,

2009b). The Government of Canada's response was to impose visitor visas on both countries (Alboim, 2012). All Mexican and Czech travellers wishing to enter Canada must be approved before they leave their country of origin. This imposition of a visa requirement makes it considerably more difficult for refugee claimants from Mexico and the Czech Republic to seek asylum in Canada. Rather than providing asylum seekers with a determination hearing, the Government of Canada can limit the number of asylum seekers in the country by simply refusing to grant potential refugee claimants a travel visa.

In addition to imposing visa requirements, Canada has increased the number of border control officers employed in foreign airports. These officers check the travel documents of passengers destined for Canada, ensuring that they have the required visas, preventing those who have not been approved for a visa from arriving in Canada via air travel. The Government of Canada has also made an agreement with the government of Thailand, which ensures that boats are prevented from setting sail from Thailand to Canada (Alboim, 2012).

Changes For In-Land Claimants:

Designated Countries of Origin & Designated Foreign Nationals.

The introduction of two new categories of asylum seeker: Designated Foreign Nationals (DFN) and those coming from Designated Countries of Origin have had significant repercussions for people seeking asylum. The new classifications make it increasingly difficult for certain vulnerable populations to access asylum in Canada. Not only do the classifications make the process of claiming asylum more difficult, but the

new categories also serve to reinforce and heighten negative images and stereotypical representations of asylum seekers in Canada.

Designated countries of origin.

The Designated Countries of Origin category is a grouping of countries that the Minister of Citizenship and Immigration has deemed unlikely to produce refugees. Currently, there are thirty-nine Designated Countries of Origin, twenty-five of which are in the European Union (EU). The Minister may designate countries as Designated Countries of Origin if: "there is an independent judicial system… basic democratic rights and freedoms are recognized and mechanisms for redress are available if those rights and freedoms are infringed… and [if] civil society organizations exist" in the country (Minister of Justice, 2012:74). All refuge claimants who come from a Designated country are subject to a stricter determination process than are those who come from countries that have not been designated.

One troubling aspect of the Designated Countries of Origin system is that, in designating countries, the Minister does not take into account the specific scenarios that could lead to the need for citizens from Designated Countries to make a refugee claim. The situation of Roma and Jewish asylum seekers from Hungary is one such example. In Hungary, there is an independent judicial system, basic democratic rights are recognized, and civil society exists. These facts, however, do not protect many Roma and Jewish refugee claimants from persecution in the country. A similar situation exists for many LGBTQQ2S people in many other Designated Countries of Origin. A Hungarian Roma refugee fleeing a well-founded fear of persecution will face the same additional obstacles

and strict system as a possible "bogus" asylum seeker, a person making a false claim from a Designated Country of Origin (Alboim, 2012).

Designated foreign nationals.

A second newly introduced category of asylum seeker is the Designated Foreign National or "irregular arrival" category. The Minister, "having regard to the public interest," may designate a group of migrants as "irregular arrivals" (Minister of Justice, 2012:16). Irregular arrivals are those who, according to the Minister, arrive in such a way as to make examinations of "the persons in the group, particularly for the purpose of establishing identity or determining admissibility – and any investigations concerning persons in the group" impossible to conduct in a "timely manner" (Minister of Justice, 2012:16). A group may also be labeled as irregular arrivals if the Minister "has reasonable grounds to suspect that, in relation to the arrival in Canada of the group, there has been, or will be a contravention of subsection 117 (1) [organizing entry into Canada] for profit or for the benefit of, at the direction of or in association with a criminal organization or terrorist group" (Minister of Justice, 2012:16).

The most commonly cited examples of irregular arrivals are groups of asylum seekers who arrive by boat to Canada. Being labeled as an irregular arrival turns a refugee claimant into a Designated Foreign National. Once a refugee claimant has become a Designated Foreign National, he or she faces stricter measures and a more difficult determination process (Alboim, 2012).

Restrictive measures.

The repercussions of being from a Designated Country of Origin or a Designated Foreign National are serious, particularly for the latter group. All Designated Foreign Nationals over the age of sixteen are detained upon arrival. Once they are detained, they face longer than normal wait times for their initial detention review. Detained refugee claimants who are not Designated Foreign Nationals will have a review within 48 hours of their detention (Minister of Justice, 2012:38). Those considered Designated Foreign Nationals, on the other hand, must wait two weeks before their initial detention review. Subsequent reviews are also delayed: ordinarily, detained refugee claimants have a second review of their detentions after a week, and third review follows after one month. Designated Foreign National refugee claimants must wait much longer; it is not until six months after their initial review that Designated Foreign National refugee claimants have their detentions reviewed a second time (Minister of Justice, 2012:34).

If a refugee claimant who has been labeled as a Designated Foreign National does succeed in being recognized by the Immigration and Refugee Board (IRB) as a Refugee, he or she must wait five years before applying for permanent residence, obtaining travel documents, and sponsoring his or her family to come to Canada. All other Refugees may do each of these things immediately after a positive decision (Minister of Justice, 2012:9).

A strict measure that claimants from Designated Countries of Origin face is a requirement that they prepare all of their documents for their determination hearing in only thirty days. Claimants from Designated Countries of Origin have one month from the date on which they made their claim for refugee status to prepare their documents. All

other refugee claimants are given double the amount of time to prepare their documents; they have sixty days from the day they made their claim for refugee status (Alboim, 2012).

One positive change in the new legislation is that refugee claimants now have access to appeal if they are not granted Refugee status in their first determination hearing. Neither Designated Foreign Nationals nor refugee claimants from Designated Countries of Origin, however, have access to this appeal process. They must accept a negative decision without appeal (Alboim, 2012).

Table 1.2; A Guide to Claimant Designation presents the restrictions faced by refugee claimants who are assigned to the new categories of Designated Foreign National and Designated Country of Origin.

Table 1.2; A Guide to Claimant Designation[1]

	Designated Foreign National Claimants	**Designated Country of Origin Claimants**	**Undesignated Claimants**
Definition	"Irregular arrivals" claimants who arrive in groups	Claimants from countries deemed unlikely to produce refugees	Claimants without special designation
Timeline for first hearing	Two Months from the day on which claim is made.	One month from the day on which claim is made	Two months form the day on which claim is made
Detention	Mandatory if over 16	Discretionary, only if there is cause to believe claimant is a security or flight risk or if their identity is unknown	Discretionary, only if there is cause to believe claimant is a security or flight risk or if their identity is unknown

[1] Table compiled by the author using information available in the Immigration and Refugee Protection Act.

Detention Review	First review after two weeks of detention. Second review after 6 months of detention	First review after 48 hours of detention. Second review in the first week of detention. Third review one month after detention.	First review after 48 hours of detention. Second review in the first week of detention. Third review one month after detention.
Access to Appeals on negative decision	No	No	Yes
Application for Permanent Residence, travel documents, sponsoring family members	5 year waiting period after positive decision	Immediately after positive decision	Immediately after positive decision

These measures introduced through the creeping changes of the Conservative government create an environment of suspicion towards asylum seekers. While purportedly intended to punish those who plan to make false refugee claims and use the refugee regime as a "back door" through which to enter Canada, the measures equally punishes those who are fleeing genuine persecution (Alboim, 2012).

The combination of the non-arrival measures employed by the government of Canada, the criminalized category of the Designated Foreign National, and the unsupported category of the Designated Country of Origin, leaves very little space for the lawful and neutral entry of an asylum seeker into Canada. These measures effectively produce the discursive disappearance of the refugee that is discussed below.

Refugees Selected Abroad

Making an in-land asylum claim is not the only means through which a person may be recognized as a refugee. Refugees are also selected and sponsored abroad by the Canadian government or private actors. As will be discussed below, the majority of refugees who come to Canada in this way are Government Assisted Refugees. However, there are other means through which a person seeking refuge may come to Canada as a Refugee rather than as an Asylum Seeker.

*Source country class***.**

Before 2011, the Source Country Class for refugees was one such way. The Source County Class allowed residents of the Democratic Republic of Congo, Sudan, El Salvador, Guatemala, Colombia, and Sierra Leone to claim asylum through Canadian embassies in their own countries (Alboim, 2012). This class was intended to provide resettlement assistance to those who were in need of protection, but who were unable to leave their countries of origin (CIC, October 7, 2011). However, in a change to refugee policy that mirrors the non-arrival measures described above, the Source Country Class was repealed in 2011.

Those who, through the Source Country Class, were previously able to apply for asylum without having to make the risky journey outside of their nation's political borders, are no longer able to do so. Those wishing to be granted asylum are now faced with three choices. They may leave their country of origin in order to obtain a referral as a Government Assisted Refugee from the UNHCR. A second option is to leave their country of origin in order to be privately sponsored as a refugee. However, as will be discussed below, the numbers of privately sponsored refugees that are welcomed into

Canada have been reduced. A third and final option is to somehow make the dangerous and likely illegal journey to Canadian soil in order to make an in-land asylum claim (Alboim, 2012).

Private sponsorship.

Another way to come to Canada with refugee status is to come as a Privately Sponsored Refugee. The Private Sponsorship of Refugees Program began in 1979. It has provided protection and welcome to over 200,000 refugees since this time (Canadian Council for Refugees, 2013). The concepts of additionality and naming have been central to the Privately Sponsored Refugees program. Additionality signals that privately sponsored refugees are meant to be additional to government assisted refugees. The program is not intended to replace government action. The concept of naming means that private sponsors are given the power to identify the refugees whom they wish to sponsor, provided that they meet all the refugee criteria in Canadian law. This principle allows Canadian sponsors to support refugees they feel are being overlooked by the Canadian Government and others (Canadian Council for Refugees, 2013).

Through private sponsorship a Group of Five or a community organization may sponsor refugees to come to Canada. A Group of Five is a group of five or more Canadian citizens or permanent residents who collaborate to sponsor a refugee (CIC, 2012). Sponsors assume financial and emotional support for the refugees that they sponsor, typically for a period of one year (CIC, 2012).

Since 2011, there have been a number of changes to policy regarding privately sponsored refugees. The changes give the Government of Canada more control over the choice of refugees sponsored by private actors. The changes also limit the number of privately sponsored refugees who are admitted to Canada (Canadian Council for Refugees, 2013). Perhaps the most significant change has been a cap placed on the annual number of applications that are accepted from national umbrella organizations wishing to sponsor a named a refugee (Alboim, 2012). Due in part to the accumulation of a backlog of 23,300 sponsorship applications of named refugees, the number of such applications accepted each year has been reduced. . A global cap has been placed on applications of named refugees (Alboim, 2012). There is no such cap on the number of sponsorship applications for refugees who have been referred by Canadian visa officers abroad (Alboim, 2012).

A second change is that Groups of Five and community organizations are no longer allowed to sponsor refugees who have not already been recognized by the UNHCR or other states (Alboim, 2012).

The principles of additionality and naming (described above) are less apparent in the changed sponsorship policy. Private Sponsorship has become more of a government-led initiative. Groups such as the Canadian Council for Refugees have expressed concern over increased government involvement in the Private Sponsorship program. They feel that the changes introduced to private sponsorship create a system that is less global and more targeted, as well as one that is at risk of becoming too politicized. They fear that a move away from the principles of naming and additionality will act as a disincentive to

some groups for whom additionality and naming were central reasons for their involvement in the program (Canadian Council for Refugees, 2013:5).

Government assisted refugees.

As mentioned above, the majority of refugees who are selected abroad and resettled in Canada are Government Assisted Refugees (GARs). GARs are generally referred to Canada by the UNHCR. They are referred because they have a heightened need of protection, and have often been in 'protracted refugee situations'. Protracted refugee situation is a term used by the UNHCR to describe refugee populations of 25,000 or more who have been living in exile for over five years. In 2003, the UNHCR estimated that there were 6.2 million refugees in protracted situations – nearly two-thirds of all of the world's refugees (Castles & Miller, 2009).

While the above described changes to the Source Country Class and private sponsorship are restrictive changes, there have also been recent policy changes for refugees selected abroad that are more positive. The government of Canada has expressed a commitment to increasing its support for Government Assisted Refugees. In March of 2010, the government announced an increase of 2,500 in the quota of refugees that it would resettle annually. It also announced a $9 million funding increase to the Resettlement Assistance Program (CIC, March 29, 2010).

Table 1.3 provides a chronological overview of relevant policy introduced since 2009.

Table 1.3; Chronology of Policy changes[2]

Policy Change	Year	Date	Description
Visitor Visas imposed on Mexico and Czech Republic	2009	July 13	Citizens of Mexico and the Czech Republic now require a visa in order to enter Canada
Repeal of Source Country Class	2011	Oct 7	Cessation of assistance, through Canadian embassies in select countries, to Refugees unable to leave their countries of origin.
Cap on Private Sponsorship	2012	January	Cap on number of applications for privately sponsored named refugees is introduced.
Funding increase for Refugee Resettlement Program	2012	March 29	A $9 million funding increase to the Refugee Assistance Program is announced
Increase in annual quota of sponsored refugees	2012	March 29	A planned 2,500 person increase in the annual quota of government sponsored refugees is announced
Designated Foreign National category introduced	2012		With the royal ascent of Bill C-31, the category of Designated Foreign National (DNF) is created. Asylum seekers who arrive in groups in an "irregular" fashion now face restrictive measures.
Restrictions of	2012	Oct 18	Policy introduced

[2] Table compiled by the author using information from the CIC website, CIC press releases and Canadian Council for Refugees documents.

Group of Five and umbrella organization sponsoring.			that prevents a Group of Five or a national umbrella organization from sponsoring refugees who have not been recognized by the UNHCR or other states.
Designated Country Of Origin classification introduced	2012	Dec 15	Countries may now be deemed by a Minister as unlikely to produce refugees; asylum seekers arriving from these countries face restrictive measures. The initial list consisted of 27 countries, 25 of the countries were in the EU.
Countries added to Designated Country of Origin List	2013	Feb 15	Additional countries classed as Designated Countries of Origin (Australia, Japan, Iceland, Mexico, New Zealand, Norway, Switzerland and Israel excluding Gaza and the West Bank)
Further Countries added to the Designated Countries of Origin List	2013	May 31	Chile and South Korea are classed as Designated Countries of Origin

Reflection

The above examination of recent changes to the IPRA points to a drastically changed experience for both asylum seekers and refugees selected abroad. A common theme in the IPRA's amendments is the state's desire to maintain its sovereignty and to control membership in the nation; harsher punishment and more barriers are implemented for those who bypass border controls. These government actions make it increasingly difficult for individuals to claim asylum. Thus, the Government of Canada has, in some ways, reduced the 1951 Refugee Convention's influence over state functions.

In addition to the restrictive changes, there is also an acknowledgment of and commitment to Canada's responsibility as a signatory of the 1951 Convention. This commitment is shown through the 2,500 person increase in the number of GARs sponsored annually, as well as through increased funding for the Refugee Resettlement Program.

This simultaneous undermining of asylum seeking and support of refugee resettlement appears, in some ways, to be a contradiction. How is it possible to increasingly close the borders to those in need of protection at the same time as inviting and supporting the presence of refugees in Canada? What follows is an examination of literature that speaks to this contradiction, as well as an examination of the ways in which the relatively small 2,500 person increase in resettlement quota has been upheld as proof that Canada is honoring its humanitarian obligations. Simultaneous with this celebration of a raised GAR quota, other changes to policy that are less in keeping with the ideals of the 1951 Convention are justified through an undermining of asylum claims and a manufacturing of hostility.

PART II – LITERATURE REVIEW

Contemporary Social Construction of the Refugee

This transformation of the “refugee” into an “asylum seeker”, or an “illegal” in Audrey Macklin’s understanding, is damaging to the justice of the refugee regime. The split between “refugee” and “asylum seeker” is helpful to the Canadian government's desire to control the flow of migrants into the country. In order to control such a flow, and to limit government responsibility for asylum seekers, it is necessary not only to separate those seeking asylum from the category of “genuine” refugees, but also to negate their claims to “genuine” status. To accomplish this negation, there is a discursive production of both incredulity for the claims of asylum seekers as well as a distrust and suspicion of their person. There has been success in transforming the meaning of the category of “asylum seeker”. It is now a term that has lost all neutrality; it is ideologically and politically loaded. An asylum seeker is no longer merely a person waiting for his or her refugee claim to be determined; he or she is now a cheat, a liar, a 'queue jumper', a person who is 'bogus', and 'irregular'.

Asylum seekers have become unwanted migrants, people taking advantage of the refugee regime as a means to gain entry to a country they would not otherwise be invited to join. The term now refers to migrants looking to benefit from membership in a welfare state, as well as migrants leaving their countries of origin in search of employment rather than sanctuary. This understanding of asylum seeking focuses on a refugee claimant's transgression of a state's immigration laws and works to erase any claim to protection and sanctuary an asylum seeker may have. In the place of a legitimate claim to state

protection through the 1951 Convention, asylum seekers are now identified as undeserving of protection, and worthy of hostility. This produced meaning undermines asylum seekers' claims to legitimacy and therefore protection through the "refugee" category of migration.

It is important to note that the suspicion and hostility associated with this title are not related to the actions of such individuals, but rather to the category under which they are filed. Asylum seekers are now a group of people who have been

> singled out [by the state] as legitimate targets for hostility... 'Asylum seeker' is now a term that is used unambiguously, and immediately conjures up cheat, liar, criminal, sponger – someone deserving of hostility by virtue not of any misdemeanour, but simply because he or she is an 'asylum seeker' – a figure that has by now become a caricature, a stereotype" (Schuster, 2003:244).

Through this production and reproduction of stereotypes, it is possible for the state, and to a certain extent, the public to ignore the claims for protection that asylum seekers make. Stereotypes allow for a lessening of concern and a legitimization of unjust policies.

Historical Background: A Waning Welcome for Refugees

The distinction between the concepts of the "refugee" and of "the asylum seeker" that is present in contemporary Canadian policy is an exclusionary distinction. Historically, states did not mark such clear divisions between classes of displaced people or forced migrants. The terms "refugee" and "asylum seeker" were not always so politically and ideologically loaded. They came to be so over a period of thirty years, largely owing to global political and economic changes.

After the Second World War, and the signing of the 1951 Refugee Convention, signatory states had a clear and fairly narrow conception of who qualified as a refugee (Gibney, 2006). At the time, refugees largely aligned with and supported the foreign policy objectives of receiving states.

In the period directly following the adoption of the Convention, the resettlement of Jewish and other eastern European refugees who were displaced by the Second World War was a priority and was a primary focus for signatory states. After this initial large-scale resettlement, refugees were almost always understood to be defectors fleeing communist states in Eastern and Central Europe. A conception of the refugee as communist defector played into the Cold War anti-communism of Western states. It provided a valuable source of propaganda for the West (Gibney, 2006). The 'non departure regime' of the Iron Curtain made it difficult for defectors to leave their countries of residence and to claim asylum. Because of this difficulty, the number of refugees arriving in the West was kept relatively low and states were able to be generous and welcoming to those refugees who did make it to their borders (Castles & Miller, 2009).

In the period following the signing of the 1951 Refugee Convention, Western nations were enjoying strong economies, which led to a mutually beneficial situation for refugees and receiving states. Refugees were provided with protection and states with unskilled and semiskilled labour for the jobs that were created as a result of Western economic prosperity (Castles & Miller, 2009).

The narrow conception of a refugee as a communist defector began to change in the early 1960s. Destructive colonial legacies in Africa, Asia and Latin America led too much political upheaval, conflict, and to the displacement of people. These events dramatically changed the face of the global refugee system. Many Western states were unprepared or unwilling to accommodate these significant ethno-racial changes in the demographic composition of post colonial refugees. In addition, much greater numbers of people were on the move and claiming asylum. In the early 1960s alone, for example, over a million African refugees left their countries of origin (Gibney, 2006:145). By the early 1990s, the end of the Cold War, and the resulting economic globalization, increased inequality. It also fuelled population movements and social transformations. Each of these developments renewed conflicts and further increased the numbers of refugees on the move (Castles & Miller, 2009).

Technological advances also resulted in heightened numbers of refugees claiming asylum in the West. The newfound ease of global travel in the 1960s and 1970s resulted in faster and more affordable intercontinental commercial transportation. The technological developments meant that a much larger population than ever before had access to intercontinental travel. It suddenly became much easier for refugees to arrive in Western states by plane and to make a claim for protection (Gibney, 2006).

Faced with this new global reality of the refugee regime, Western states sought to limit their Convention responsibilities. One of the means through which this was accomplished was a "qualifying of the terms of eligibility for asylum" (Farrier, 2011:154). The terms of eligibility were qualified when states claimed that the situations

of displaced people seeking asylum had changed and now were different from those that the 1951 Convention was designed to address. Whereas the 1951 Convention was designed to address individual persecution, refugees were now making their claims based on war, human rights violations and violence. The permanent resettlement of refugees from the global south was generally viewed as an untenable solution by Western states (Castles & Miller, 2009).

In the 1990s, asylum claims became an increasingly controversial subject. The decade marked a dramatic spike in the number of asylum claims lodged in industrialized countries. As is demonstrated by table 2.1, claims rose by nearly 4,000,000 in the 1990s. In the 1980s there were 2,289,454 claims, and this figure rose to 6,125,140 claims in the 1990s (UNHCR, 2001). The spike in claims, combined with the low rates of acceptance for refugees in Europe resulted in increasing hostility towards those who were seeking asylum. It was during this period that the term "asylum seeker" became increasingly used as a term of derision in public discourse. It was not used to describe a person fleeing persecution, but rather a person who was allegedly taking advantage of the refugee system in order to bypass immigration controls and settle in a welfare state (Gibney, 2006).

Table 2.1; Asylum claims in industrialized countries

Year	Number of claims
1980-1984	793,825
1985-1989	1,495,629
1990-1994	3,373,316

1995-1999	2,751,824

Source: UNHCR, 2001

European states reacted to the rising numbers of people seeking asylum in the late 1980s by changing asylum legislation. Non-arrival policies, designed to make it more difficult for refugees to access asylum, were implemented by governments. A first step was the introduction of mandatory visitor visas, to be obtained in a traveller's country of for citizens of certain (refugee producing) countries who wished to enter Europe (Castles & Miller, 2009). Another non-arrival measure was a decision at the 1990 Schengen Implementing Convention that made the introduction of carrier sanctions mandatory for EU member states. Through carrier sanctions, airlines are fined for each unauthorized migrant they transport into Europe. The introduction of carrier sanctions meant that much of the policing of Europe's borders began to be carried out by private actors, such as airlines, rather than the state (Menz, 2009). Another non-arrival measure introduced during this period was 'safe third country' legislation. This legislation declared certain countries bordering the EU to be 'safe third countries'. Much like Canada and the United States' agreement, any person who travelled through a designated 'safe third country' before arriving in the EU to claim asylum may be sent back, by the EU, to the 'safe' state through which he or she passed. This policy allowed European states to turn those seeking asylum away from their borders without breaking the non-refoulement clause of the 1951 Convention, which prevents states from returning refugee claimants to the country from which they fled (Castles & Miller, 2009).

Non-arrival measures were not the only means through which the EU restricted access to asylum. It also implemented more restrictive interpretations of the 1951

Convention than existed previously. One example of this restrictive interpretation was the exclusion of persecution by 'non-state actors,' for example during a civil war, as a legitimate reason for claiming asylum in the EU (Castles & Miller, 2009).

The beginning of the 2000s saw further changes to the meaning of "asylum seeker". After the events of September 11th, growing concerns about possible links between asylum seekers and terrorism led to even more strict controls and negative perceptions of asylum seekers.

The growth of hostility in both public opinion and policy towards asylum seekers may have also led to another change in the international refugee regime. In the same period as the implementation of the above mentioned non arrival measures, there was a significant drop in the number of sponsored and resettled refugees brought to Western states. Until the 1980s, strong economies in the West allowed not only for the acceptance of refugee claimants who made in land asylum claims, but also for the sponsored resettlement of refugees to Western states. The middle of the 1980s marked the end of a period in which a significant number of refugees were brought to Europe, Australia, Canada and the United States through resettlement programs (Schuster, 2003).

As mentioned above briefly, resettled refugees provided much needed labour for the strong economies of Western receiving nations. However, with repeated economic recessions and growing unemployment, there was no longer a need for the excess labour that resettled refugees provided, and that supported resettlement programs. Economic recession and lack of employment led to a considerable reduction in the numbers of refugees resettled in Europe, Australia and North America. Presently, the majority of

European countries do not have a "quota" of refugees that they resettle at all. Canada, Australia and the United States have continued to sponsor and resettle refugees, however on a much smaller scale. With the shrinking quotas for resettlement after 1980, people seeking refuge are less and less likely to arrive in Western countries as sponsored "refugees". They must now travel without refugee status and prove their claims at the border of a receiving state (Koser, 2001).

Border Control, Sovereignty, and "the Asylum Seeker"

The history above demonstrates, that the moment the refugee regime became unwieldy, Western states began drawing away from the obligations enshrined in the Convention. Commitment to the 1951 Convention began to fade when its obligations required a larger commitment from states than had originally been expected. Faced with the new nature of the refugee regime, states began to interpret the obligations of the 1951 Convention as a challenge to their sovereignty. Given this attitude, measures taken by states to control the entry of asylum seekers can be understood as measures intended to assert their national sovereignty in the face of external influence.

If one understands national sovereignty to include a nation's control over membership in a polity, then the act of claiming asylum could be understood as a challenge to the national sovereignty of a state. By claiming asylum and appealing to a state's Convention obligations, an asylum seeker circumvents a state's power to control entry and membership. All states who have signed the 1951 convention have agreed to Article 33 which states: " [n]o Contracting state shall expel or return ... a refugee in any manner whatsoever to the frontiers of territories where his life or freedom will be

threatened on account of his race, religion, nationality, membership of a particular social group or political opinion" (UNHCR, 2009:30). A person claiming refugee status, then, has the right to remain in the country and may not be sent back to the country from which he or she has fled until his or her claim is determined. For this reason, the arrival of refugee claimants is upsetting for states; the "spontaneous flow of non-citizens possessing a limited legal claim to entry represents a threat to sovereignty-as-border-control" (Macklin, 2005:367).

Further, if a claim is determined to be legitimate and an asylum seeker becomes a recognized 'refugee', the 1951 Convention imposes additional responsibilities on signatory states. States must allow refugees to work, provide them with travel documents, identity papers, access to education, freedom of movement, and they must also ignore any illegal forms of entry (UNHCR, 2009). Refugees are thus entitled to many rights, and a failure to provide recognized refugees with these rights is damaging to a state's international reputation. Because of a state's decision to become a signatory of the 1951 Convention, the arrival of an asylum seeker compels a state to act regardless of that state's desire. A failure to uphold the responsibilities enshrined in the 1951 Convention would involve breaking legal obligations and courting international pressure and scrutiny.

A challenge to a state's control over membership is particularly troubling in an era of change and uncertainty brought along by globalization. Catherine Dauvergne speaks to the ways in which these uncertainties shape the actions and priorities of nation states. The capacity of nation states to "exert policy control in economic and financial matters is challenged by increasing global interconnectedness, control over formal admission to the

polity is not," and so there is an "emerging tendency to define sovereignty in terms of control over people rather than control over territory or policy generally" (Dauvergne, 2009:349).

The bodies that bypassed border controls, the refugees who make in-land claims, are thus guilty, in the eyes of the state, of a grave transgression. The transgression is not reduced by the legal and internationally recognized nature of an in-land claim. Such factors may, in fact, enhance the transgression. By calling upon the gateway provided by the 1951 Convention and circumventing sovereign border control, asylum seekers challenge national sovereignty and the power of the state to determine membership. The state responds by attaching a stigma to these bodies now deemed 'asylum seekers'. The stigma "lies in the fact that they have not waited to be selected, but have taken their future in their own hands; they have arrived... uninvited and unsolicited" (Schuster, 2003a:246).

It is this action of circumventing national sovereignty to enter the country that turns a "refugee" into an "asylum seeker". Refugees entering the country through approved channels do not experience the "asylum seeker" stereotype in the same ways as those who make an in-land appeal for sanctuary. The crucial difference between an "asylum seeker" and a refugee who has been selected abroad is this respect for sovereign control over membership in the polity. A refugee who is selected abroad does not enter Canada uninvited. For the state, the most important difference between refugees selected abroad and asylum seekers "is that the movement of the latter is seen as 'irregular', in

other words their numbers and conditions for arrival are not under strict control of receiving states" (Koser, 2001:89).

An important element of the dynamic described above is that the legal channels through which a person fleeing persecution may enter a country as a refugee are disappearing. Smaller or non-existent quotas for resettling refugees and non-arrival measures create the situation in which those seeking asylum must transgress sovereignty as border control in order to access protection.

The Disappearing Refugee

The challenge to national sovereignty that is central to this split in the category of the Refugee into "refugees" and "asylum seekers" has led to what many scholars describe as a disappearance of refugees from Western borders. Refugees have now been replaced almost completely with what Matthew Gibney calls "'asylum seekers' – mere pretenders to the title of refugee" (2006:140). This is a dangerous development, it can lead to what Audrey Macklin identifies as "the erosion of the idea that people who seek asylum may actually be refugees" (Macklin, 2005:365). Macklin's understanding of the situation is even more dire than Gibney's. Rather than the "pretenders" of Gibney's work, Macklin believes that there is a conflating of the concepts of asylum seeker and illegal immigrant in government discourse and public opinion.

A conflation between the concepts of "illegal immigrant" and "asylum seeker" is particularly dangerous because of the exclusively negative connotations of the term. "Illegal immigrant" as a concept and as a term is highly contested and controversial. So

much so, that the Associated Press has recently changed its stylebook and removed the term from acceptable use. The Associated Press has written that it "no longer sanctions the term 'illegal immigrant' or the use of 'illegal' to describe a person… 'illegal' should be used only to characterize an action… instead of the person taking that action" (cited by Morrison, 2013). Referring to a human as "illegal" is dehumanizing, and makes empathy more difficult. It serves to put a wall between the speaker or reader and the subject of the word. Given that only the actions of a person rather than the person may be described as illegal, scholars and activists have begun calling for the use of alternative terms. One such term proposed is "illegalized immigrant," because it draws attention to the legal and institutional processes that render an immigrant 'illegal' (Bauder, 2013:3).

The use of terms such as "illegal migrants" to describe asylum seekers removes the possibility, from public discourse, that the categories of "illegal migrant" and "refugee" may overlap, that those classed as "illegal immigrants" are in fact refugees. The use of such terms makes it easier to suggest that those who enter the country through unofficial channels are unworthy and undeserving of protection. This leaves very limited possibilities for refugees to exist and be protected in Western states.

The absorption of the refugee by the category "illegal immigrant" is particularly problematic given the protections provided to refugees by the Convention. Article 31.1 of the 1951 Convention prevents states from punishing refugee claimants for illegal entry:

> The 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… 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 (UNHCR, 2011:29)

Scholars who argue that the refugee is disappearing from Western states are not suggesting that there are no longer any refugees in the world. Rather, they are suggesting that for those who feel the current asylum system is too generous, the "real" and legitimate refugees are elsewhere, far from Western borders. They are "suffering quietly and passively in squalid camps far away in places like Afghanistan, Ghana, Tanzania, and Iran. As soon as any of these people clamber onto the back of a truck, stow away in the hold of a ship, or board a plane with false documents, they become illegals" (Macklin, 2005:369). Macklin makes clear the ways in which asylum seekers are punished with identification for their circumvention of state sovereignty as border control. In discussing one strategy the Canadian and American governments have taken to reduce the numbers of asylum seekers who enter their countries, the Canada-United States Safe Third Country Agreement, Macklin questions whether the legislation will radically change or reduce the number of refugees in Canada. "Probably not," she answers, "[t]hey will simply be known by another name: illegals" (2005:426). Illegals are entitled to no protection from the state, no rights of citizenship, and their illegal entry is not exempt from punishment. Such a transformation of the refugee would be disastrous to a just refugee regime.

Nevertheless, this is a transformation that is occurring. As demonstrated above, policy changes increasingly limit the ways in which those seeking asylum may legally enter the country and make a claim for protection. Changes to the refugee determination system also make it more difficult to claim asylum, the process has become more

complex; it is increasingly difficult to ensure a positive decision once an asylum claim has been lodged.

In order to ensure that this process does not continue and that those seeking asylum are accepted by signatory states of the 1951 Convention, it is important to be vigilant and critical of state discourse regarding refugees and asylum seekers. As the state passes legislation designed to limit access to asylum, it presents a discourse that masks the ways in which this legislation has created vulnerability and injustice in the lives of those seeking to remove themselves from danger. State discourse is privileged by its official stature. There are many outlets for the state to share its views and convince the public that it is acting in the most appropriate manner. The sanctioned and authenticated nature of state discourse provides legitimate grounds for its actions. It thereby becomes the dominant national discourse, accepted by the public as an uncontested reality. This process crowds out other, more critical, discourses regarding state actions in the eyes of the people. An understanding of this process and an analysis of state discourse allow citizens, activists, and scholars to present strong counter narratives to that of the state. It also creates a space for effective and informed criticisms of the current refugee regime in Canada.

PART III – METHODOLOGY & ANALYSIS

Methodology

Critical Discourse Analysis (CDA) is an important and useful tool for unpacking and critiquing the state discourse regarding the Canadian refugee system. CDA is

valuable in this regard because of its attitude of opposition and dissent, its concern for the interests of dominated groups and its focus on the deconstruction of discourse used by the powerful (Wodak, 2004). The remainder of this work uses CDA to examine the ways in which the state, through Citizenship and Immigration Canada (CIC) press releases, sets the tone for public acceptance of policy changes that disadvantage asylum seekers. It attempts to unpack the ways in which the state justifies its stance on asylum seeking and readies the public to accept measures that go counter to the obligations that are enshrined in the 1951 Convention

CDA grew out of Critical Linguistics, which was developed at the University of East Anglia in the 1970s and 1980s. Critical Linguistics focused on the relationships between language use and the social conditions of that use; it studied the ways in which language use reflected world social structures (Hart, 2010). A number of key events in the early 1990s led to the creation of CDA, a new field that eventually subsumed Critical Linguistics. The 1990 launch of Teun van Dijk's journal *Discourse and Society*, and the 1989 publications of Norman Faiclough's *Language and Power* and Ruth Wodak's *Language, Power, and Ideology* were important and foundational events. Most crucial to the development of CDA, however, was a symposium held in Amsterdam in January of 1991. Key scholars such as van Dijk, Fairclough, Kress, van Leeuwen and Wodak were able to spend two days together in discussion of theories and methods of Critical Discourse Analysis. This meeting of minds allowed for a more formalized understanding of CDA. With a more formalized understanding of the method, CDA was able to become the established paradigm in linguistics that it is today (Wodak, 2001).

CDA, as it exists today, provides "techniques for analyzing how texts can mystify the responsibility for a particular event" (Hart, 2010:4). It is therefore a powerful tool for the deconstruction of messages delivered by the state. Through careful and deliberate wording and the presentation of selected discursive themes in press releases, Citizenship and Immigration Canada (CIC) is able to mystify its responsibility for increased injustice and vulnerability in the lives of asylum seekers. CDA is an important tool for revealing these mystifications.

CDA as a form of Discourse Analysis is multifarious. There are a multiplicity of approaches that one may take to produce a work of CDA. What unites the diverse forms of CDA, however, and set them apart from Discourse Analysis, is a critical perspective. The idea that discourse is structured by dominance is central to CDA. CDA owes much to the work of Jurgen Habermas who asserts, "language is a medium of domination and social force. It serves to legitimize relations of organized power" (cited by Wodak, 2001:2). In the case of this particular investigation, the relation of power that is legitimized through state language is the position of powerlessness and vulnerability, created in state policy, for those seeking asylum.

Like all critical sciences, CDA focuses on social problems and analyzes the actions of those who are in power, those who are responsible for the social problem in question, and those who are in a position to find a solution (Wodak, 2001). CDA has an overt political bias and researchers take an explicit political stance. The overt political stance, not present in Discourse Analysis, is the "attitude", in van Dijk's assertion that CDA is "discourse analysis 'with an attitude'" (2011:96).

Whenever possible, CDA aims to examine social problems from a perspective that supports the best interest of the dominated group (van Dijk, 2001). The "attitude" of scholars producing works using CDA is one "of opposition and dissent against those who abuse text and talk in order to establish, confirm, or legitimate their abuse of power" (van Djik, 2001:96). This attitude of opposition and dissent is carried out through an analysis of "dominance, power and control as manifested in language" (Wodak, 2001:2).

Analyzing the power and control manifested in language makes clear the ways in which "dominant structures stabilize conventions and naturalize them" (Wodak, 2001:3). CDA holds that "the effects of power and ideology in the production of meaning are obscured and acquire stable and natural forms: they are taken as 'given'" (Wodak, 2001:3). CDA is a means through which scholars can demonstrate that what may appear to be natural assumptions are in fact conventions that have been produced.

CDA's effectiveness in deconstructing naturalized conventions is what makes it such a valuable tool for this analysis of state discourse found in press releases. There are multiple discourses about immigration, refugee, and asylum policies in Canada. Dissenting voices do exist and some are making themselves heard on a national and international scale. However, in keeping with CDA's focus on the discourse of the powerful, what is of interest to this work is the discourse of the state, most specifically the discourse of press releases from CIC. As discussed above, due to its official stature, the discourse of the state is privileged. The state's position of power, and the media structures it has at its disposal, ensures that there are a number of channels through which state actions and decisions can be presented and defended. The official and validated

nature of the government gives credence to state utterances. The state is thus able to convince the public that it is acting in a rational and suitable manner and in so doing its discourse becomes the national discourse. The justifications of the state regarding policy changes are taken up by citizens and cease to be justifications. They become naturalized conventions, or dominant discourse. It is through this process that the state is able to set the agenda for the general understanding of the "refugee crisis" in Canada. The creation of this understanding then legitimizes the actions they take in response to the naturalized convention of the "refugee crisis".

The discourse examined in this work includes only press releases from CIC. Press releases are an important means for the government to communicate and disseminate information to the public. Each release is a public relations tool, designed to present the government in the best possible light. The gradual and piecemeal nature of the changes made to refugee and asylum policy since 2008 has led to the frequent use of press releases to explain and present new policy decisions. The wealth of press release material as made it an ideal medium through which to examine government discourse. The CIC website houses a historical record of departmental press releases. After a thorough review of 76 press releases relating to refugee and asylum policy, released between January 2008 and July of 2013, fourteen press releases dealing explicitly with changing refugee and asylum policy were selected for in-depth analysis. The analysis of these press releases allowed for an examination of the ways in which each policy change has been framed for public consumption. Of particular interest are the ways in which press releases framed policy changes that created insecurity for those seeking asylum. Examination of these

press releases reveals a series of legitimizing narratives and discursive themes that will be discussed in detail below.

Critical Discourse Analysis of CIC Press Releases

This section will analyze the discourse found in CIC press releases regarding refugees and asylum seekers. Teun A. Van Dijk's *Elite Discourse and Racism* offers much insight into CDA's ability to deconstruct state messages. His work, an analysis of racism in elite discourse, including government discourse, has much to offer this particular investigation. He asserts, "racism is not just in the streets… much of [it] is, sometimes subtly and indirectly, enacted and preformulated by various elite groups and their discourses" (1993:2). The same assertion holds true for public opinion regarding asylum seeking. Van Dijk writes that not all racism is based on spontaneous popular resentment. Similarly, negative views of asylum seekers do not appear out of nowhere, they are created, in part through the discourse of the state. An important means of spreading state discourse are press releases. The copiousness and accessibility of government press releases allows for analysis of the discursive strategies of the state. An analysis revealed four primary discursive themes used by CIC to legitimize and naturalize its positions: a focus on burden, both financial and bureaucratic; a presentation of policy moves as in the best interests of refugees; a focus on the transgressions of some asylum seekers; and finally, a celebration of Canada's international humanitarian reputation.

Burden

An overarching discursive theme of burden is prevalent through many of CIC's press releases. The theme can be divided into two separate but related legitimizing

narratives. The first is one of financial burden for Canada and the second is one of program delivery burden for CIC and Canada's immigration system. CIC places responsibility for both types of burden on the shoulders of asylum seekers. It presents limiting access to asylum as the solution for both issues.

Financial burden.

The use of the theme of economic burden in CIC press releases is what Sherene Razack calls "the language of control… masked … by the language of economic rationalism" (1998:101). Press releases announcing policy changes that restrict access to asylum do so first by informing the public of the costs incurred by asylum seekers. The press releases then inform the public of the money that is saved by the introduction of the (restrictive) policy being announced. When announcing the passing of the Balanced Refugee Reform Act in 2010, for example, the press release focused on the "estimated $1.8 billion over 5 years" that taxpayers would save "because failed claimants would no longer be able to stay in Canada for years" (CIC, June 29, 2010: para 2).

Also present is a double discourse, not only of fiscal savings, but also of asylum seekers coming to Canada in order to profit from social assistance. CIC often points out the money it will save in social assistance and education costs. Such a framing of the actions of asylum seekers makes the public more accepting of measure that limit access to asylum in Canada.

Press releases that discuss the Designated Country of Origin list often contain this double discourse. A press release announcing additional countries added to the Designated Foreign Country list informs the public that "[t]he Protecting Canada's Immigration System Act is expected to save provinces and territories $1.6 billion over five years in social assistance and education costs" (CIC, December 14, 2012:para 18).

The following year, in a similar press release the figure of expected savings rose considerably: "The Protecting Canada's Immigration System Act is expected to save provinces and territories at least $2 billion over five years in social assistance and education costs" (CIC, May 30, 2013:para 10).

A critical analysis of the discourse makes clear the legitimizing narrative of financial burden. By presenting asylum seekers as a financial burden to Canada and Canadian taxpayers, CIC is able to produce a link in the public's minds between Canadian financial burden and the presence asylum seekers.

An overburdened system.

A second manifestation of the theme of burden is the presentation, by CIC, of a beleaguered and overburdened immigration system. By presenting the refugee system as "broken", "crippled", out of control, CIC is able to naturalize the restrictive measures that it announces. Presenting a government function as out of control is an effective way to create panic or unease among the public (Van Dijk, 1993:108). An uneasy public is more willing to accept, support and encourage measures that "fix" the broken system.

In 2010, CIC described the refugee regime in Canada as riddled with "problems that are crippling our broken system" (CIC, June 15th, 2010:para 2). The reason for these problems, of course, was an excess of asylum seekers. By framing the problem as a refugee system overrun with asylum seekers, CIC is able to present a simple solution: measures that make it difficult to claim asylum. A simplistic framing and presentation of the issue to the public ignores the consequences that such measures will have for asylum seekers, both "bogus" and "genuine".

Press releases announcing the imposition of visitor visas on both Mexico and the Czech Republic used this technique. CIC presented requests for asylum from both countries as a swelling invasion of bodies wreaking havoc on the immigration system. CIC told the public that Mexican claims "have almost tripled since 2005" (July 13, 2009a:para 2), and "since the visa requirement was lifted on the Czech Republic in 2007, nearly 3,000 claims have been filed by Czech nationals, compared with less than five in 2006" (CIC, July 13, 2009b:para 2). The invasion of bodies then creates "significant delays and spiraling new costs in our refugee program" (CIC, July 13, 2009a:para 3). A press release announcing the Balanced Refugee Reform Act uses the same legitimizing narrative. It first describes the swelling invasion of asylum seekers as "waves of false asylum claims coming from safe, democratic countries" (CIC, June 29, 2010:para 4), and then presents a solution, the Designated Country of Origin category, that will "protect the integrity of Canada's [beleaguered] immigration and refugee systems" (CIC, June 29, 2010:para 4).

CIC's use of figures in the example above is interesting. Van Dijk writes, "[f]igures need not be lied about or exaggerated. It is the way they are presented or extrapolated that makes them impressive" (1993:107). In this case, CIC presents the spike in asylum claim with no context. By neglecting to include any reason for which a Mexican or Czech national may feel compelled to claim asylum, rising claims are presented as irrational and out of control. The denial of claims that are devoid of context and therefore irrational is more palatable to the public. CIC is aware that the public would not be so willing to accept and support restrictive measures if they had a human face of suffering.

For the Sake of "Genuine" Refugees.

A second discursive theme is a highlighting of the harmful effects that the presence of "bogus asylum seekers" has on "genuine refugees". In this case, "the language of control is masked by the language of humanitarian values," rather than economic rationalism (Razack, 1998:101). Policy changes are announced to the public as if they are generous and in the best interest of refugees.

Press releases frequently justify and explain policy measures that disadvantage asylum seeking with a claim that they are intended to do just the opposite, that they are intended to provide protection to refugees in need. This narrative uses the now familiar tactic of dividing the category of displaced people in two: that of "the refugee" and that of "the asylum seeker". The refugee is acknowledged, respected and protected, while the asylum seeker is harassed, suspected, and rejected.

Through rhetorically linking protection for refugees with the exclusion of asylum seekers, CIC attempts to naturalize the convention that it is necessary to be restrictive to asylum seekers in order to help refugees. This legitimizing narrative was the basis for the press release that announced a 2,500 person increased quota for government resettled refugees. The press release announced, "the increase would begin once Parliament approves legislation to be introduced tomorrow to improve the in-Canada asylum system" (CIC, March 29, 2010:para 4).

The above review of policy reveals that recent improvements to the in-Canada asylum system might more accurately be described as restrictions. The release goes on to quote Minister Kenney: "we have been clear that Parliament enacting balanced reforms to our asylum system will be met by more government help for refugees living in desperate circumstances around the world and in urgent need of resettlement" (CIC, March 29:para 4). The normalized convention that it is necessary to be restrictive to asylum seekers in

order to help refugees is at the heart of the often-used expression "balanced reform." The use of "balanced reform," as a term to describe restrictive measures for asylum seekers accompanied by selective increases in refugee resettlement, both lends an air of legitimacy and rationality to state decisions and obscures the reality of the "balanced reform" being proposed. By frequently using of the word "balanced" and continually linking restrictions for asylum seekers with help for refugees, the state creates a normalized convention. It convinces the public that restricting access to asylum is necessary and just.

The legitimizing narrative, however, is more frequently employed when announcing restrictive measures. A press release informing the public of the introduction of the Designated Countries of Origin list announced that, "Canada's new asylum system is providing protection to genuine refugees more quickly, while removing unfounded claimants from the country faster" (CIC, May 30, 2013:para 3). The sentiment is more blatant in a recent press release celebrating the changes that have been made to the asylum system, it assures the public that "the massive decline in claims coming from countries not normally known to produce refugees means that genuine refugees in need will receive Canada's protection more quickly" (CIC, Feb 22, 2013:para 12).

A release announcing the progress of the *Balanced Refugee Protection Act* (note once again, the use of "balanced") stated that "[b]y reducing the abuse of our asylum system by failed asylum claimants, we would be able to devote more resources to those most in need of Canada's protection. That's why we have decided to increase the number of resettled refugees by 20%, or 2,500 refugees per year" (June 29, 2010:para 5). This release directly links a planned increase in quota for resettled refugees with a decrease in

asylum claims. It presents a situation in which the abuse of the refugee system by asylum seekers was responsible for the lower numbers of resettled refugees in past years.

A description of initiatives taken by the Canadian and Australian governments to prevent human smuggling explains the motivations for such actions as a desire to "maintain…Canada's longstanding humanitarian tradition of providing protection to those in need." According to the release, harsher measures against asylum seekers who enter the country through human smuggling will "enable [Canada] to more effectively assist those fleeing persecution and conflict" (CIC, September 19, 2010:para 7).

Perhaps the most explicit example of this form of legitimizing narrative is evident in a release announcing the end of the Source Country Class for refugees. This release begins with a reiteration of the 20% increase in refugee resettlement programs. It then goes on to discuss the Source Country Class: "Since the Source Country Class is not working as it was intended, we plan to repeal it in order to focus our resettlement efforts on refugee situations where needs are the greatest, such as Iraqi refugees in Syria and Bhutanese refugees in Nepal" (CIC, March 18, 2011:para 2). This release creates a false association between the Source Country Class and restricted access to Canada for refugees from Iraq, Syria and Bhutan. Through this legitimizing narrative, the elimination of a means through which refugees can access Canada is turned into a strategy to provide access to Canada for more refugees.

Highlighting Transgressions

What van Dijk calls a "negative other presentation" is employed by CIC in a third discursive theme identified (1993:77). CIC uses the existence of fraudulent claims to paint the entire category of asylum seeker with the same brush of suspicion and

contempt. It attempts to naturalize the convention that the majority, if not all asylum seekers are fraudulent.

When explaining to the public the restrictive actions against asylum seekers from Designated Countries of Origin, CIC justifies the measures with "recognition that some claims for refugee protection are clearly fraudulent" (CIC, June 15, 2010:para 5). Measures such as a fast tracking of appeals for asylum allowing for a faster deportation are justified first by a desire to "fast-track the appeals of asylum seekers determined to have made manifestly unfounded claims" (CIC, June 15, 2010:para 5). The release goes on to say that "[n]either they [those who have made manifestly unfounded claims] nor claimants from designated countries would have automatic stays at Federal Court, thus allowing for a speedier removal from Canada" (CIC, June 15, 2010:para 5). A similar link was made a few weeks previous to this release in another press release on the same subject: "Kenney also highlighted the new fast-track tools included in the Act, which would allow the government to accelerate the treatment of asylum claims for nationals of designated countries, and individuals whose claims are clearly fraudulent" (CIC, June 29, 2010:para 3).

By linking "fraudulent" and "manifestly unfounded" claims with the claims of all asylum seekers coming from Designated Countries of Origin, the government of Canada legitimizes an aggressive asylum policy. The public would not argue with the removal of "fraudulent" claimants. CIC's press releases ignore the fact that not all asylum claims coming from Designated Countries of Origin *are* fraudulent.

The criminality of asylum seekers is also placed in the forefront in press releases regarding human smuggling. In this release, Audrey Macklin's concern that there is a

conflation of the concepts of asylum seeker and "illegal migrant" appears to be well founded. The press release introducing the *Preventing Human Smugglers from Abusing Canada's Immigration System Act* frames the detention of "illegal migrants" in the following way: "The *Act* will also help ensure the safety and security of Canadian communities by… [e]nsuring mandatory detention of illegal migrants for up to one year to allow for the determination of identity, inadmissibility and illegal activity" (CIC, October 23, 2010:para 5). A framing of all those who do not enter the country through the approved channels as "illegal" sidesteps the 1951 Convention's requirement that refugees not be penalized for illegal entry.

Even once an asylum seeker who entered the country illegally has been granted refugee status, it seems the stigma of illegal entry will not to go away. According to the press release, the Act seeks "to ensure that illegal migrants who obtain refugee status can be re-assessed within five years to determine whether they still need protection or can be returned to their country of origin" (CIC, October 23, 2010:para 8). Surely a migrant "who obtain[s] refugee status" becomes a refugee? By focusing on the illegal aspect of a refugee's entrance into Canada, there is an attempt to justify measures that go against the 1951 convention, such as a 5-year wait for travel documents.

"A Longstanding Humanitarian Tradition."

A final discursive theme present in press releases from CIC is a celebration of Canada's humanitarian reputation. Van Dijk identifies "positive self presentation," that is, pride, self-glorification and the positive comparison with other countries as a key defense of states against "potential doubts or possible objections" (1993:73). Canada is no exception. CIC press releases, including those announcing measures that restrict

access to asylum, frequently point to Canada's international reputation as a country with a commitment to helping refugees and displaced persons. Releases speak of "a longstanding humanitarian tradition of welcoming refugees and displaced persons" (CIC, December 8, 2008b:para 5) and of "our country's longstanding humanitarian tradition of providing protection to refugees, which helps make Canada respected and envied throughout the world" (CIC, December 8, 2008a:para 3).

Press releases describing policy changes that go against this celebrated tradition are often also prefaced with a reminder of Canada's generosity. The press release announcing the elimination of the Source Country Class, for example, assured citizens that "Canada will continue to be a world leader in the protection of refugees" (CIC March 18, 2011:para 3). A recent press release drawing attention to the harmful reality of human smuggling as well actions taken to prevent smuggled migrants from entering the country reminds the public that "Canada's generous immigration system…admits more immigrants per capita that any other country in the world" and that "Canada continues to have one of the most generous resettlement programs in the world" (CIC, January 7, 2013:para 9).

CIC's frequent reminders to the Canadian public of Canada's humanitarian reputation, generous resettlement program, and position as a world leader in the protection of refugees suggest that it is responding to claims to the contrary. By working hard to remind the Canadian public of the good they have done, CIC hopes to lend an air of legitimacy, compassion and social responsibility to its policy decisions.

This approach is sometimes combined with the previous discursive approach, that is, a focus on the transgressions of asylum seekers. The positive self-presentation is

combined with a negative other presentation in order to convince the public that the actions of CIC are justified and necessary. In February of 2013, CIC told the Canadian public that "Canada is a fair and generous country, but the message has been received loud and clear that we will not tolerate continued abuse of Canada's asylum system" (CIC, Feb 22, 2013:para 4). One month previously, it informed the Canadian public, "Canada has a generous and legal immigration system, but those who try to get into Canada through the back door using human smugglers will not succeed and are wasting their money trying" (CIC, Jan 7, 2013:para 2). In both of these examples, Canada reminds the public of its reputation as a country with a generous refugee system before placing the blame for restrictive measures on the very people they are designed to restrict.

Reflection.

The cumulative effect of the legitimizing narratives put forward by the government of Canada increases the vulnerability and injustice experienced by those seeking asylum. Asylum seekers are discursively produced as a social problem for Canadians and measures that disadvantage and endanger asylum seekers are therefore justified. A focus, by the state, on the ways in which asylum seekers transgress national sovereignty as border control, ignores the role that the government plays in creating the "illegality" and problematic nature of the asylum seeker. By drastically reducing the means through which asylum seekers may enter Canada legally as refugees, the government has created the problem it is blaming on asylum seekers. Few options remain for those who wish to find safety in Canada and many do turn to unlawful entry. This entry, however, has no bearing on the validity of their refugee claims.

POLICY RECOMMENDATIONS

Three key policy recommendations emerging from this examination of asylum policy in Canada relate to the newly created Designated Country of Origin and Designated Foreign National categories. A first recommendation calls for the elimination of both categories from refugee policy. However, given the current political climate, the elimination of both categories seems unlikely. In the place of their elimination, the following measures are recommend in order to mitigate the effects of classification for asylum seekers.

A first recommendation calls for categories of exemption to be created under the Designated Country of Origin classification. The creation of categories of exception would lessen the vulnerability of refugees coming from countries deemed unlikely to produce refugees. A category of exception could be created, for example, for Roma refugees fleeing Eastern Europe.

A second recommendation calls for an immediate reform of detention practices for refugee claimants deemed Designated Foreign Nationals. Designated Foreign Nationals should not be subject to harsher review processes. They should be granted reviews of their detention in the same manner as all detained refugee claimants.

The third recommendation calls for the elimination of the five year waiting period before Refugees who had been classed as Designated Foreign Nationals may apply for Permanent Residency, sponsor their family members or obtain travel documents. The 1951 Convention specifically protects refugees from being penalized due to unlawful entry. This third recommendation therefore would be consistent with the Convention.

CONCLUSION

The current Conservative government has implemented considerable changes to the immigration and refugee system in Canada in the past five years. Theories of citizenship, state, transnationalism and globalization help to make sense of the recent changes. Many of these changes have been restrictive to asylum and have increased the vulnerability experienced by asylum seekers. Using Critical Discourse Analysis, this work examined the ways in which the Government of Canada, through press releases from CIC, readies the public to accept these restrictive changes. The overt political stance of CDA and its focus on the discourse of the powerful allowed for the identification of four discursive themes. A theme of burden, a theme of concern for "genuine" refugees, a focus on the transgressions of asylum seekers, and finally, a celebration of Canadian humanitarian values were each identified. Each of these discursive themes, and the legitimizing narratives they create, has made use of the fragmentation of the concept of refuge identified by Farrier (2011).

By separating the concept of the refugee into two categories: the "genuine" refugee and the "bogus" asylum seeker, CIC not only creates a "refugee problem", but also finds a suitable scapegoat. Asylum seekers are framed as responsible for each of the problems restrictive measures are designed to solve.

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