

CONSTRUCTING THE NATION THROUGH IMMIGRATION LAW AND LEGAL  
PROCESSES OF BELONGING

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Valerie Molina, BA, University of Western Ontario, 2010

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Valerie Molina  
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Immigration and Settlement Studies  
Ryerson University

## ABSTRACT

The aim of this critical literature review is to define the connection between immigration policies and the construction of a national identity, and to discuss what the implications of such connections may be. Tracing how the *legal subjectivity* of the migrant has developed throughout time and through policy reveals how messages about the nation and Others are created, sustained, and circulated through legal policies. What values are implicit within Canadian immigration policy? How does the migrant ‘other’ help ‘us’ stay ‘us’? How do nationalist ideologies construct the Other and how is this reflected in labour market segmentation? Constructing a national identity involves categorizing migrants into legal categories of belonging, a process in which historical positions of power are both legitimized and re-established through law. Discourses about temporary foreign workers provide examples of how the Other is framed in limited terms and in opposition to that of legitimate members of Canadian society.

**Key Terms:** Citizenship, Discourse, Subjectivity, Immigration Law, Identity, Power, Humanitarianism, Temporary Foreign Workers, Labour Market Segmentation.

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## Dedication

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This work is dedicated to *mi madre*, Rosa Mercedes Murga- the strongest woman I know.

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## INTRODUCTION

“Why are people migrating to begin with?” This was the question that interrupted my colleagues and I as we discussed the many reasons why immigrants have a difficult time settling in Canada. As critical and intelligent students, many of us had been discussing the socio-economic, and political barriers to integration. But when our graduate course professor interrupted our discussion with the aforementioned question, the class fell silent as many of us must have realized that tracing the need to migrate in the first place is rarely something we are urged to think about in such a straightforward manner. Of course answering this question is a long and difficult process. For me, it is a process that has allowed me to define my research interests in a more personal and meaningful way.

Unraveling the reasons why people leave their homelands to migrate to other countries has been an eye-opening experience during which I have thought about the dispersion of power in ways I never had before. As the daughter of Peruvian immigrants I have been in close proximity to some of the legacies of the immigration experience. At the same time, I have also been sheltered from experiencing many of the challenges that other newcomer families are forced to traverse in the immigrant journey. As a Canadian citizen who was born in Canada, I enjoy a certain status and have been awarded certain rights that make living in this country and crossing borders relatively unproblematic. Additionally, my lack of an accent makes it less likely that people will ask me where I am from. But the racial logic that constitutes Canada as a white nation, the colour of my skin, the features of my face or a number of other culturally and racially understood markers of my Otherness compels some people to second-guess my description of myself as

“Canadian.” Who then, looks, behaves, speaks, or is Canadian enough, to be considered Canadian?

Just as my family is proud and feels fortunate to be living in Canada, I too am additionally fortunate for being in a position where I can write about citizenship in a critical way, knowing full well that I occupy a legal and social position in which I can say what I think, without the fear of being expelled legally (or otherwise) from this country. Writing academically on the concept of citizenship and immigration is an example of my place in society- my subject position in a state that is organized more and more on a hierarchy of how much we belong here. As Davies & Harre (1990) describe:

A subject position incorporates both a conceptual repertoire and a location for persons within the structure of rights for those that use that repertoire. Once having taken up a particular position as one's own, a person inevitably sees the world from the vantage point of that position and in terms of the particular images, metaphors, storylines and concepts which are made relevant within the particular discursive practice in which they are positioned. (p. 46)

The vantage point from which ideas about the nation and its members have been defined is a critical precedent in understanding the authority with which particular discussions and practices continually occur. This awareness is crucial to our understanding of individuals living and experiencing the story of the citizen or the Other in Canada.

Bauder (2006) argues that “the labour market situation of international migrants relates to processes of social, cultural and institutional distinction” (p. 8). In this sense, immigrants/migrants are purposefully ‘integrated’ into local labour markets with a distinct ‘economic function’ that predominantly benefits only the governing state.



Citizenship, as the site at which we differentiate ‘us’ from ‘them’, Canadians versus non-Canadians, has become a key element of distinction. Allowing low-skilled temporary workers easy access to citizenship would thus unmask the underpinnings of a system that relies on the ‘Otherness’ of people to get certain, low skilled jobs done—jobs that full members of Canadian society are unwilling to do. Sharma’s (2006) and Ng’s (2006, 1998) research employs the experiences of im/migrant workers to explain the social implications of using foreigners as flexible labour.

As an immigration policy, citizenship helps solve the dilemma of needing, but not wanting, individuals who as citizens (with more enforceable rights) would disrupt a nationally defined socio-economic standard of living. From here, I ask, what other kinds of ‘truths’ or values are implicit within Canadian immigration policy? How do nationalist ideologies construct the Other, non citizen and how is this reflected in labour market segmentation? More importantly, how does the construction of migrant as Other help ‘us’ stay ‘us’? This critical literature review reveals that that constructing a national identity involves categorizing migrants into legal groups of belonging; a process in which historical positions of power are both legitimized and re-established through law. This approach to defining ourselves and Others is justified by national stories, or narratives that have been written to sustain ideas about the nation as a sovereign yet humanitarian state. Discourse about temporary foreign workers provides a good example of how the role of the Other is framed in limited terms (both legally, socially) and in opposition to that of legitimate members of Canadian society. Immigration law has functioned as an extension of nationalist ideologies that have historically been based in, and dependent on, the exploitation of some more than others. As legal categories of belonging, the concept

of citizenship contributes to the belief that only citizens are entitled to basic rights and privileges within the Canadian state. It is within this ideology that migrant workers are constructed as exploitable commodities that reside within our borders, but remain forever outside of the dominant national imagination.

First, I will look at the role Otherness has played in discourses about the nation (historically) and how they have informed/been informed by immigration policy. Second, I will look at the manners in which Citizenship policy works as a nationalist strategy, reproducing imperialistic notions of who does/does not belong and circulating power through discourses about the non-citizen as the Other. Lastly, I will use the experience of migrant workers to discuss the implications of such discourses for those who live as the subjects of the categories. Specifically, I will use three discourses that Bauder (2006) identifies about migrant farm workers in Canada: the economic narrative, the migrant as-labour narrative and the social mobility narrative. Here I will be conducting what Neuman (2000) describes as a ‘secondary analysis’ of Bauder’s primary discourse analysis. I will then relate these particular narratives to the larger stories being circulated about the nation, which create and sustain policies that legitimize an exclusive colonial national identity.

## METHODOLOGY

As I have noted, this paper is primarily organized as a critical review. Conducting such a review allows me to explore a large range of perspectives on how identity is organized and categorized within discourses about the nation. In general terms, a literature review “is a critical summary and assessment of the range of existing materials

dealing with knowledge and understanding within a given field” (Blaxter, et. al., 1996, p. 110). Bruce (1994) notes that while the literature review provides a conceptual and theoretical context for a research topic to be situated in, it can also be understood as “a vehicle for learning” in which the researcher actively engages with the literature as an opportunity for personal development (p. 224-225). Applying a critical analysis to the literature rather than simply comparing and contrasting what I read, was a conscious decision on my part. My approach to the research process was grounded in my family’s immigration experience which revealed to me that Othering happens in a variety of ways. This significantly influenced the themes I chose to discuss in this paper. Rather than write about the more personal story that underpins my work, I wanted to write around this personal experience . Instead I focus on *how* power works through discourse to create distinct realities for different people. For this I turn to the work of Michel Foucault.

Foucault (1972) writes that discourses are “practices that systematically form the objects of which they speak” (p. 49). One implication of this is that it is difficult to identify discourse in action and as a result, the discourses that shape the immigrant as belonging or not are nuanced, variable and difficult to pin down. It is in this light that I approach this critical review of the literature that includes moments of analytic reflection.

Initially, my research was guided by keyword searches using terms like ‘citizenship’, ‘nationalism’, ‘identity’, ‘belonging’, ‘power’, ‘migration’, and ‘migrant labour’. When approaching this topic, I intended to conduct a policy analysis focusing solely on the temporary foreign worker program. Quickly I realized that something was missing. As I began questioning how migration policies come into existence I recognized the need for a critical analysis of national identity that investigates the development of

legislation and policy. To accomplish this, I chose to review literature that employs elements of critical race theory, legal theory, theories of power and which focuses on labour markets to address issues of migration and identity. The work of Harald Bauder, Nandita Sharma and Catherine Dauvergne was especially useful to my project since their work deals with temporary labour, migration law and national identity in the Canadian context.

### RATIONALE

This undertaking is grounded in a power-based analysis of migration as a way of understanding the authority with which migration laws are constructed as ideological concepts that are then reproduced in social practices. The following pages are a focused analysis of the epistemologies used to justify such practices and will lay bare the ways in which we come to know what we know about being Canadian. An analysis of Canada's immigration laws, allows for a better understanding of the conditions under which ideas about the nation have been and continue to be constituted. Since it is my goal to uncover the implicit messages about knowledge and power that are reproduced in the development of immigration policies, a critical assessment of official state discourse will be used to identify systemic methods of domination and subordination. Though I reference a variety of im/migration policies, my discussion is primarily limited to an analysis of citizenship as a social policy concept. In this sense, this paper has elements of both a critical literature review as well as a research paper since I apply the literature I reviewed to my analysis.

As a methodological approach, a genealogy allows the researcher to sift through the rhetoric of day-to-day practices, to evince the values and ideologies that constitute things, ideas, practices, and beliefs that appear common place or rational. Foucault contends that “genealogy... operates on a field of entangled and confused parchments, on documents that have been scratched over and recopied many times” (Rabinow, 1991, p. 77). Thus, a genealogical approach to migration law and national identity forces us to look beyond the superficial terms of that which is considered rational to more accurately appreciate how rationality, as a concept, has a long history of ulterior motives. One can only understand the present if we look to how it is connected to the past and indeed the literature reviewed here does just that.

This past/present connection has been made evident in the deployment of government-sponsored discourses about citizenship and immigration. In June 2011, Jason Kenney—Canada’s Minister of citizenship and Immigration—posted his response to a letter from Amnesty International (AI), which had attacked the Conservative governments’ recent decision to release the names of alleged war criminals residing in Canada. AI had expressed concern over the manner in which information had been released by the government and questioned the methods they had used to identify individuals as war criminals. As AI has outlined:

Care must be taken to ensure that the way these cases are made public does not infringe on the principle of innocence until proven guilty especially given the lower standards of proof and evidence used in Canadian immigration proceedings compared to the criminal justice system. (Amnesty International Canada, 2011)

There have been many debates on this exchange between AI and Minister Kenney (Scheinert, 2011; MacCharles, 2011; Kirkup, 2011). With this said, it is not my intention to support either side but rather to refer to these debates as an example of how constructions about Canada's identity are mediated by and through the Canadian government. As such, Jason Kenney's response to AI sends a clear message about the politics of Canadian identity and the role that government and law assumes in issues of citizenship and immigration. As Kenney states: "the Immigration and Refugee Board (IRB) does not make allegations or accusations – it makes formal findings of fact" (Kenney, 2011). At several points, the AI letter provides legal justifications to answer questions about identity that were not necessarily asked, and that become embedded in the public's social consciousness. Kenney's particular qualm appears to be with challenges to what he describes as "one of the most generous immigration systems in the world" (ibid.). Framed this way, readers are encouraged to recognize his statements as a defense of our good-natured, national identity. As such, national subjects learn to associate the defence of this type of national identity as being in everyone's best interest

The tone of Kenney's response is not wholly surprising. In fact, many members of the public have since applauded Kenney's response to AI's condemnation. This raises a critical question: What is it about discussing legal justice and citizenship status that requires referencing elements of national identity? Both Minister Kenney and AI use ideas about national identity to support their arguments for or against decisions about who should be treated in what way. But highlighting Canada's 'best' features in official discourse redirects our attention to what we have to say about ourselves rather than examining our treatment of Others. Kenney wants to expose war criminals and send them

‘home’, while AI sees this as a human rights infringement. I use this event as an example in this section to highlight the undertone of such communication: to build their argument both Kenney and AI reference the *goodness of Canada as values that Canadians uphold*, but for different purposes.

The Immigration and Refugee Protection Act (IRPA) is a piece of legislation that also exemplifies how immigration becomes centered first and foremost on the best interests of Canada. The IRPA states that the objectives of immigration are “to permit Canada to pursue the maximum social, cultural and economic benefits of immigration” (Immigration and Refugee Protection Act, 2001, Sec. 3). Additionally, IRPA states that the content of this legislation is to be construed and applied in a manner that “furthers the domestic and international interests of Canada” (Ibid.).

The analysis that follows was sparked by my curiosity to trace back the history of belonging to a settler colonial state that is generally regarded as humanitarian, multicultural and immigrant-friendly. Because of this, I purposefully chose not to conduct interviews since it is my intention to understand how messages about identity are first managed and regulated through legal policies/discourses, such as those mentioned above. The first section of this analysis will look at the role Otherness has played in discourses about the nation. The second section will examine how citizenship policy works as a nationalist strategy. The third section will discuss the experience of migrant workers to discuss the economic function of national discourses. This will then be followed by a brief discussion, limitations of this research and a conclusion.

inserted into the inventory of discursive facts by which we judge ourselves and others. In revealing what is institutionalized as 'true', this path also reveals that which is disregarded as true, or in other words, that which is defined as false. A subjectless critique provides an effective way of querying the history of ideas without becoming distracted by subjective concepts like 'the economy', which has been traditionally used to explain the existence of social inequality (Marx, 1884). A focus on the processes through which the economy becomes relevant reveals how power is produced through discourses about the economy, rather than the economy itself acting as the only oppressive force. In other words, the subjectless approach as an analytical tool allows the observer to focus on the *processes* that constitute our very notion of subjectivity (Mills, 1997), highlighting that which is worth categorizing and why. As Mills (1997) argues, discourses represent power and the subject, as a product of discourse itself, "is simply an effect of power" (p. 34). This implies that categories such as 'citizen', 'migrant', 'refugee', 'worker' (and the domestic laws attached to these subjects) are worth deconstructing as a means of not only understanding their subject positions better, but more importantly, to become aware of the conditions and the players responsible for producing such distinctions. This process is necessary in trying to identify and grasp the story of the citizen or the Other in Canada as it allows us to better understand the rationale for distinguishing between each other.

According to Richmond (1994), disciplinary situations provide numerous settings in which humans are made into subjects and objectified as such. Treated in categorical ways, these subjects are divided from others and these 'dividing practices' become 'discursive facts' "that influence how people interact and perceive others" (p. 10).



Measuring the appropriateness of an individual to be allowed into a country highlights the value we assign to categories of distinction. Nietzsche (1998) designated genealogy as a method of historical analysis into the origins of morality—specifically, the morality of good and evil—to ask, under which conditions such value judgments were created in the first place (p. 2-3).

### **Hall, Razack and Narratives of the Nation**

Although it may seem natural that members of the Canadian community (who identify with the dominant, heteronormative identity) have come to rely on legal immigration policies as the primary means by which to sort out how much an individual belongs in Canada, Hall's (1980) notion of 'preferred meanings' provides another way to analyze this practice/belief. In his theory of communication, Hall focuses on the manners in which messages are encoded by the sender and decoded by the reader and concludes that "communication is systematically distorted" (Proctor, 2004, 57). In this sense, the message sent is rarely the one that is received. The ways in which messages are exchanged is important to consider when conducting an analysis about national identity since it offers an opportunity to untangle otherwise normalized or 'common' knowledge. In reference to his concept of the 'popular', Hall suggests that messages may be miscommunicated when we take for granted the 'preferred meanings' that inform the ways in which we 'encode' and ultimately 'decode' messages. This is significant in that it is within these common sense assumptions/readings that one can recognize a 'dominant cultural order' being reproduced and valorized each time one recognizes or uses a preferred reading (Hall, 1980, p. 34). Constructions about citizens, migrants and national

identity are reliant on citizens *and* non-citizens' ability to reach for common-sense reasoning/assumptions when making value judgments about anything within the Canadian nation.

While, discourse involves the production of knowledge through language, it is itself produced by discursive practices or "the practice of producing meaning" (Hall, 2006, p. 165). 'Unmapping' can be used to locate the ideological moments in Canada's history that have given substantial meaning to present-day constructions of national identity and the immigration laws that legitimize a particular identity. Razack (2002) illustrates that racialized narratives not only structure our understandings of Canada's past, but as a result, remain very much present in daily interactions between individuals. The process of "unmapping" that Razack offers, challenges legal categories of citizenship and racialized narratives about the Other as it "undermine[s] the idea of white settler innocence (the notion that European settlers merely settled and developed the land)... to uncover the ideologies and practices of conquest and domination" (Razack, 2002, pp. 5). As a process, unmapping helps disrupt colonial practices embedded in social, legal and spatial realities by turning our attention to the spatial and legal practices involved in maintaining racial hierarchies and positional superiority which are based on such categories. Tracing back the legal subjectivity of the migrant in the Canadian context allows for a better understanding of how legislation and policy has been developed alongside the subject of the im/migrant.

### **Dauvergne, Migration Law, and Identity**

As a legal theorist Dauvergne (2007, 2005, 2004) stresses, the legal connection to identity has arisen with the development of the nation state and following this, it has

become impossible to separate legal subjectivity of migrant from that of the nation. In other words, perceived identities of persons and places inform laws and vice versa, making migration law an especially authoritative route by which to define ourselves and each other. This, Dauvergne argues, has been essential to defining a national identity. Pushing for an identity-focused analysis of the law reveals the legal and social constructions of identity and how—in a settler society—migration law determines what the culture is and who the elite of the nation will be (Dauvergne, 2005). As powerful processes, laws are positioned in such a way that they employ and produce agreed upon understandings of who we are:

Migration law is an important site in searching for an understanding of national identity both because it is an interface between insiders and others and because of the specific role that migration law plays in liberal thought.

(Dauvergne, 2005, p. 50)

Dauvergne argues that as states are losing the ability “to assert exclusive power in a range of policy domains” (2007, p. 489), immigration law and citizenship as a formal legal status are not only becoming increasingly authoritative, but are also “transformed into the last bastion of sovereignty” (Ibid.) through which to make decisions about the nation. This is important to the neo liberal democratic state. Legal actions, allow the nation state to imprint their sovereignty by labeling people as legal, illegal, citizen, non citizen and as a way of managing their economies. An analysis of citizenship as a legally framed concept unveils the discrimination that is inherent in laws that manage migration and its related statuses.

But as Gill (2002) points out, law is a privileged (moral) position that in itself “contributes to the making of normative white Canadian subjects” (p. 159). The authority of law often obscures the biased content of the law, to the point where members of society no longer question the processes involved in their creation. In this sense, power is present in the assumptive nature of law and its ability to manage social issues in a streamlined form that garners little resistance or challenge from the subjects being objectified. Migration law intersects with discourses about national identity to produce narratives about ourselves and Others. It is against this backdrop that I now proceed into a fuller discussion of national identity as it is produced through the concept of citizenship and the social constructions of migrants.

### 1. ROLE OF OTHERNESS: CONSTRUCTING A NATIONAL IDENTITY

Unmapping a national identity is a way to shed light on how im/migrants are interpellated into the subject of the Other which has less value, fewer rights, and becomes less visible. As such, this section examines the various ways that immigrants have been constructed as the Other and the ways in which Otherness is threaded through the national identity.

Haque (2004) argues that the construction of the Canadian nation and Canada’s identity can be “traced in the development of immigration policies” (p. 61). Kelley and Trebilcock (1998) describe Canadian immigration policy as one that has largely been informed and created around the ideals of dominant Europeans; specifically, the settlers who appropriated land from Aboriginals and First Nations peoples and laid the foundations for their Eurocentric/imperialist agendas which were then used as the basis

for national identities. The notion of 'immigrant' in a settler society is important to consider if we seek a better understanding of the ways in which some groups have been disenfranchised and how this informs the national identity. Official discourse about Aboriginals often position them as being merely one of the original *immigrants* to Canada, rather than a group who had an established connection to the land prior to European settlers. In an official attempt at reminding us 'who we are', Canada's Citizenship Study Guide (2009) –the official guide for what is significant to Canadian identity-emphasizes that like other settlers, Aboriginal ancestors *migrated* to Canada (p.10). Curiously, migration discourse changes depending on who is being considered the 'migrant'. Papastergiadis (2000) asks the question "if we are all...the product of migration then how do we distinguish between one story and another? Are we really equally displaced?" (p. 51). Although European settlers are recognized as migrants in the citizenship guide, they are not considered migrants in the same way that Canadian's think about Aboriginals or present day immigrants.

'Migrant' as an official term of distinction, reflects messages similar to those used in distinguishing between European colonizers and Other, non Europeans encountered during the colonial expansion (Hall, 2006). Labeling Canada as a nation of immigrants conjures up the image of a space that is inhabited by people from all over the globe who have equal access to positions of power. But just as the citizenship guide offers an official discourse about the distinct relationship Canadians and Indigenous people have to the land, other legitimated sources of knowledge production also appropriate or tell the story of indigenous peoples' history. As Smith (2006) notes, the process of "colonizing knowledge's" (p. 91) occurs through various legitimate practices that produce

knowledge. It is in this respect that “colonization [becomes] normalized” (Lawrence, 2002, p. 24).

The advent of colonialism constructed Indigenous peoples as strangers while Europeans settlers made themselves at home. Within this ideology the displacement of indigenous groups has been depoliticized (Sharma, 2006). The national identity of Canada thus, has been built on instances in which ‘national’ interests are considered more valid than individual rights to a particular space.

As an element of the nation-building process, citizenship is a story depicting who belongs here in Canada and in what capacity. Narratives about national identity have historically been limited by gender, race and class. As particular versions of our history and identity are circulated, one must remain cognizant of whose rights are being represented in the text of citizenship. More importantly, we must ask whose values have mattered in the past? As I previously described, even a shortsighted glance into Canada’s history reveals how the concept of citizenry has been built upon an understanding that white, privileged heterosexual men are most deserving of the rights and entitlements of the liberalist concept of citizenship (Dudink et. al, 2007, Gorman, 2006, Kelley & Trebilcock, 1998). It is this conditionally exclusive version of belonging that must be recognized prior to accepting the positive connotations of citizenship. As an instrument used to evaluate ourselves and Others, citizenship and immigration law work to re-enact colonial scenarios in new and convincing ways. As a result, ‘law-abiding citizens’ (as legal and national subjects) knowingly and unknowingly reproduce exclusionary messages about the nation when they make any claim based on membership to the state

through the category of citizenship. This is also reflected in relatively recent policies that dictate who deserves to be Canadian and in what capacity.

Developed in 1967 as a regulatory immigration tool, the Canadian points system relies on categorical conditions to award 'points' based on how well one fits in to a particular category (Citizenship and Immigration Canada, 2011) and whether or not they are 'good enough' to become members of Canadian society. This is something that white settlers were never required to do. As such, immigrants are premised on the idea that citizens belong and that they are no longer settlers but the inherent owners and inheritors of space (Folson, 2004). While nationalist ideologies are indeed concerned with constructing a national community, their primary function is to secure legitimate power in order to organize and materialize the difference between citizens and their others within nationalized space (Sharma, 2005). One way of securing this powerful distinction can be observed in the processes of humanitarianism.

### **The Role of the Refugee**

Dauvergne (2005) looks at the connections between the 'nation-building tradition' of immigration and how messages about national identity justify the admittance of persons who do not necessarily reflect national interests. In a rights-based society 'humanitarianism' provides the opportunity for a nation to express their cultural/moral values through the manners in which non-citizens from abroad are welcomed. In this sense, a major function of humanitarianism is to communicate messages about ourselves in relation to the Other. As Dauvergne continues, humanitarianism serves as a "stand in for justice in the immigration realm while reinforcing the boundary between an 'us'

group and a 'them' group' (p. 72). While humanitarianism is premised on ideas of social justice and equality between individuals, it is in actuality "grounded in a specific type of difference created by material inequality" (Dauvergne, 2005, p. 72). Razack (2007) argues that as witnesses to humanitarian crises, individuals engage in a national process of "stealing the pain of others". This requires believing that we, as a nation, are "citizens of a compassionate middle power who is largely uninvolved in the brutalities of the world" (Razack, 2007, p. 376) and it is within this imagined version of ourselves that we come to rely on images and stories of victimized Others "to confirm our own humanitarian character" (Ibid.). The danger of this kind of empathizing occurs when the act of identifying with the "victim" obscures the complicity and/or privilege of the empathizer (Ibid.). When this happens, the act of rescuing becomes the primary message that is circulated and as such, persons become nothing more than victimized bodies awaiting salvation in a similar way to the colonial encounter between white Europeans and first nation peoples. Both Dauvergne (2005) and Razack (2007) argue that like the immigrant and the Aboriginal, the refugee also serves a purpose in shaping and sustaining a colonial notion of national Canadian identity that depends on Others to make "us citizens" feel virtuous. Further, the discursive construct of the Other in relation to the citizen maintains a boundary that is impossible to cross.

In their experience as political refugees from Chile, Gajardo & Macias (2000) provide examples of how the flow of bodies contributes to discourses of nation building through exclusionary narratives of citizenship and belonging: "Our rescuing enables the development of humanitarian discourses that authorize the constitution of a benign and superior Northern Citizen" (Gajardo & Macias, 2000, p. 33). The admittance of refugees



into 'safe' Northern spaces like Canada is often constructed as a demonstration of "goodwill and benevolence that underscores the moral and material superiority of the North" (ibid, p. 27). Such reasoning is precisely what underpins the construction of Canadian national identity. That is, the notion of the 'migrant as refugee' is directly correlated to the construction of the nation whereby bodies peripheral to its center exist as "terrains on which hegemonic relations get played out" (ibid, p. 28). As the places from which refugees arrive changes, so do their metaphoric images as one of 'terrorist' to 'victim' (for instance for political refugees). The construction of migrant-as-refugee continues to be one in which persons are excluded from full and equal membership in the nation since they are often described as powerless as Canada takes on the role of savior. This serves as a reminder that in actuality, humanitarianism is less about offering equal rights to the outsiders and more about "applauding ourselves" (Dauvergne, 2005, p. 73).

Commenting on the authoritative aspect of humanitarianism, Ahmed (2000) critically inquires as to who has authority to embody the other—in other words, what is involved in the act of empathizing and what else might this suggest about the nation? The capacity to empathize, (implicit in the humanitarian national identity) contributes to, what Ahmed calls "narratives of proximity" in which:

Multicultural fantasies of becoming...[release] the Western subject from responsibility for the past, ... confirm his agency, his ability to be transformed by the proximity of strangers, *and...render his transformation a gift to those strangers through which he alone can become.* (p.132 emphasis in the original)

The Other is not only useful to the processes of establishing a national humanitarian identity, but the attempt at empathizing can also be an expression of the North's exceptional power to dominate the Other.

By looking at the *roles* played by foreigners we begin to understand how 'foreignness' is not only a useful way to define 'us' and our national identity, it also works as "a device that gives shape to or threatens existing political communities by marking negatively what we are not" (Honig, 2001, p. 3). This notion of foreignness as functional to the national identity also works as a way to manage domestic issues related to power and social inequality among citizens themselves. The 'myth' of the immigrant functions to "reassure workers of the possibility of upward mobility in an economy that rarely delivers that promise" (Honig, 2001, p. 74). Images of the refugee function as a way to convince us that in Canada, even outsiders can become successful 'insiders'. What the image doesn't address directly is which outsiders are eternally left out of even the immigrant myth. Non-citizens are not included in the discussion, nor expected to be part of the discussion. Even this 'imagined' success is reserved for legitimate Canadians who are hierarchically organized through "differential state categories of belonging" (Sharma, 2006, p. 4).

## 2. CITIZENSHIP AS NATIONALIST POLICY: PURPOSE OF THE OTHER FOR NATIONAL IDENTITIES

In this section I will discuss the ways in which citizenship functions as a nationalist policy that employs the Otherness of migrants to define who we are and who we are not.

The Citizenship Act stipulates that “a citizen whether born in Canada or not, is entitled to all rights, powers and privileges and is subject to all obligations, duties and liabilities to which a person who is a citizen under paragraph 3 (1) (a) is entitled or subject and has a like status to that of such person” (The Citizenship Act, R., 1985, Sec. 6). Just as this policy outlines the protection of some over others, citizenship discourse creates the Other by legitimizing the segregation of people through programs focused around that fragile status. As Baines & Sharma (2006) note, “Canadian nation building and the construction of the Canadian citizenship involves Othering populations that exist beyond the borders of Canada as well as populations that exist within the space occupied by Canada” (p. 209). As a concept that rests on the binary of ‘us’ versus ‘them’, the citizenship binary is essential to the formation of national identity as it plays a significant role in the way that we are expected to treat those we determine to be like ‘us’. As Sharma (2008) asserts, “the very construction and reproduction of the category ‘Canadian Citizen’...activates the category of non- citizens. As such the notion of ‘citizenship’ is ... the mark of a particular kind of relationship that people have with one another” (p. 12).

Canada is well prepared to exploit temporary labour because it does not value such workers as being legitimate prospects for citizenship. Since the flexible, exploitative labour required for the expansion of capital can only be extracted from persons with limited rights (Marx, 1884), migrants who are limited politically and economically, have historically served as the source of this kind of labour (Folson 2004, Kelley & Trebilcock, 1998, Piore 1979). The Temporary Foreign Worker Program (TFWP) serves as an example of how present-day empires contribute to, and benefit from, economic

conditions abroad that force workers to seek employment in wealthier states where they have little choice but to work in (legally) exploitative conditions.

Approaching citizenship policy as a nationalist strategy yields interesting information about how the migrant is positioned in the context of the nation. If one group thinks in terms of ‘us’ versus ‘them’ or ‘citizens’ versus ‘foreigners’, then dichotomous thinking about belonging has the ability to extend into more powerful territories of identity. “Race and ethnicity inform and are likewise informed by notions of national belonging and not belonging” (Sharma, 2005, p.10). National states rely on those with institutionalized subjectivities to make common sense of the differential treatment of ‘others’ and as such, national subject identities come to participate in “relations of ruling” (Sharma, 2006, p. 4). Though “[t]he challenge of every democracy is to bring about a sense of unity and loyalty among its citizens, while at the same time exercising respect for minorities” (Steiner, 2009, p. 98), Kymlicka and Norman (2000) remind us that there is a growing fear that minority rights will erode the motivation, capacity and opportunity for civic participation. In other words, advocates for minority rights are largely interpreted as threats to a strong national identity associated with citizenship. This seems contradictory. If national identity and citizenship are in fact so strong and inherent, then there need not be any fear that it will dissipate. Perhaps this fear surfaces in recognizing that minority rights are meaningful to everyone’s social rights, and as such, challenges to the distribution of rights threaten an entire system and reveal the instability of deeply held values and widely recognized rights. If citizenship is in fact a product of the colonial encounter, then examining it as such “enable[s] us to understand the operation of power through knowledge and how it sets the terms of inclusion and

exclusion in the postcolonial present” (Kapur, 2007, p. 539). A postcolonial perspective of citizenship allows one to unearth the colonial terms and conditions of citizenship and reveal the extent to which “the tools of citizenship were forged on the anvil of empire” (Kapur, 2007, p. 543).

### **How citizens participate in creating a national identity**

National subjects grant legitimacy and authority to rules of governance because they see the state as an essential component of their own power. Because of this, formulations of ‘belonging’ help to legitimize the very existence of the nation state and “its wielding power against foreign objects” (Sharma, 2006, p.53). Under the guise of citizenship status, “opposition to foreigners becomes a way for those self-defined as being at home to argue for their own fuller integration into the nation” (Ibid., p.13). Allowing the Other to exist via an individual who does not have a legitimately recognized form of identity, reinforces the idea that nationality is required to maintain the status quo. The importance of belonging to a nation secures legitimacy for the subordination of people who are legally and socially made into ‘non-citizens’ (ibid). The discursive practice of constructing that which is foreign and that which is ‘Canadian’ provides insight into how state practices are able to situate Canada as a continuing site for capital investment (Sharma, 2002).

### **3. EXPERIENCES OF MIGRANT WORKERS: THE ECONOMIC FUNCTION OF THE OTHER**

In this section, I frame the experience of migrant workers by first discussing some more general features of inequality that inform the concept of citizenship.

Drawing from Foucauldian theories of power and knowledge and Said's concept of Orientalism, Pieterse (2002) suggests "the way others are represented in talk or discourse reflects prevailing regimes of knowledge and their truth claims" (p. 23) and it is within this process that "representation itself becomes a form of power" (ibid.). Echoing this, Baines and Sharma (2004) argue that lesser and non-citizens are a "project of the Canadian state" (p. 209). I contend that while Othering creates real problems for the individuals being manipulated as such, the Canadian government largely understands and appreciates the purposes of the Other. I would even push to argue that the government is reliant on the Other as a means by which to advance the economic agenda of the state. By securing its borders, admitting migrants temporarily and by denying people permanent legal status, the state secures the cheap labour required for the accumulation of state capital.

Understanding these purposeful elements of belonging, Bauder (2008) identifies citizenship as a form of capital and a "key mechanism of distinction between migrants and non migrant workers" (p. 315). The logic of such a mechanism involves examining the temporary foreign labour market as a site in which citizenship (or lack thereof) results in economic benefits for the Canadian economy, but exploitative working and living conditions for foreign bodies. The work being done by foreigners who lack citizenship is thus, 'deregulated' in the sense that it is legally skewed by their lack of citizenship status. As a strategic concept, citizenship is associated with constructions of identity and belonging as but also serves to institutionalize difference (Bauder, 2008, p. 316). Although the value in conceptualizing citizenship as a form of capital is to isolate the strategic nature of citizenship, it also discloses the ways in which citizenship, as a

concept, participates in writing the narratives about migrant workers that then become socially reproduced. As such, social reproduction must be understood as occurring within “interlocking processes of production, social practices, and cultural identities in the perpetuation of inequality” (Ibid.).

### **Global Inequality, Work and Citizenship**

Sharma (2005) explains that immigration policies are made alongside other policies that create global displacement in the name of capital accumulation, knowing full well that “[d]enying permanent legal status to the growing numbers of displaced people makes for a very competitive labour force” (p. 10). Citizenship should be understood more so as a process connected to the national agenda, rather than simply a means by which to represent and celebrate our identities.

Elements of inequality are no more present than in the system of globalization, which have made the investigation and appropriation of areas inhabited by others a standard practice. In a globalized contest, a nation is measured by the amount of ‘business’ they engage in with other countries (Harvey, 2006). This is often defined by the negotiation of lawful trade agreements, between wealthy nations and less wealthy nations. Gorman (2006) discusses the relevancy of citizenship in a climate where global empires assert their power by acquiring foreign areas to control. In a historical sense, citizenship as an institution “provides a practical window to view the political ideology of empire” (Gorman, 2006, p. 2). With this in mind, the standards and practices of citizenship provide opportunities to examine how one identity is defined against another, in present day terms. If the fundamental mission of the neo liberal state is to create a

“good business climate” and to “optimize conditions for capital accumulation no matter what the consequences for social well being” (Harvey, 2006, p. 25), temporary foreign worker schemes are an example of how such ‘favourable’ working conditions are developed on the basis of belonging.

As a way of controlling which workers enter the country and/or restrict workers’ mobility, formal citizenship is used as capital by nation-states to manage their economies (Bauder, 2006). As a lawful category that is “endorsed and valorized by the collective membership of a national community or the political elites that claim to represent them” (Bauder, 2008, p. 320), formal citizenship becomes a way in which to highlight and define the legal contours of identity in an attempt at writing an idealized narrative about the nation and its members. As an official discourse, citizenship works as “an ideological tool to withhold economic rights, deny equal labour market access, exclude workers from protective labour legislation, reduce wage levels, and assign workers to the secondary labour market” (Bauder, 2006, p. 112). Having a legally justified method by which to assign or deny individual rights, the nation-state is able to establish labour market policies that thrive on denying those rights to vulnerable segments of the workforce.

‘Informal citizenship’ as a measure of belonging, captures and communicates to others very specific elements of membership that are based in one’s ability to enact “place particular habitual performances” (Bauder, 2008, p. 324). Informal citizenship works as method by which to discriminate against those who do not play a culturally appropriate part and whom, as a result, do not deserve to be treated like those who know their roles as Canadians. It is in this capacity that symbols of non-belonging become part of everyday discourse surrounding migrants and become “institutionalized” to create



distinctions associated with “belonging and entitlement” (Bauder, 2008, p. 325).

Although the notion of citizenship (as a form of belonging) promises to accept differences by unifying various identities, normative understandings of identity itself are written into policy and ensure that many people (citizens and non-citizens) will be excluded from the national imagination. Acquiring citizenship does not ensure that one will be welcomed into the upper echelons of society with open arms.

### **Different work, for different people**

The social nature of labour is a key element of exploitation since it has the ability to transform ‘people like us’ into bodies that are here to perform work. In this process, the nature of work itself is also socially transformed into something that ‘we’ do or something that Others do for us. As Bauder (2001) suggests, the combination of citizenship status, labour, and the place in which one labours, can result in the conceptualization of space as an area inhabited (both physically and psychologically) by racialized bodies.

Building on themes from the previous sections, I suggest that Piore’s (1979) work links labour market segmentation to labour migration to explain how the cyclical flow of migrants into the secondary labour market sector (blue collar jobs) works to secure the jobs of those workers in the primary sector (white collar jobs). Temporary foreign workers’ precarious status makes them even more vulnerable to invisibility and as a result they experience this stigmatization in a magnified way. Fast-tracking migrants into non-standardized employment (whether through government-regulated programs or not)

contributes to discourses that define national understandings of who belongs and in what capacity.

The Temporary Foreign Worker Program was developed under the presupposition that temporary workers are first and foremost, meant to fill labour shortages in the Canadian industry. It is ironic then that as unemployment rates have gone up so, too, have the number of migrant workers coming into Canada.<sup>1</sup> This can be understood in two ways: either migrants are providing a kind of labour that no other ‘Canadian’ can provide, or it is more economically viable to fill certain jobs with migrants. In other words, through this program the Canadian government has constructed two labour markets: one that is Canadian and one that is foreign-“each with differential entitlements and rights” (Sharma, 2006, p. 107). Both understandings are problematic and essential to the exploitation of the migrant worker. If the migrant worker were fully recognized as invaluable to the Canadian economy, they would need to be compensated as such. Their legal status as outsiders serves as a reminder that we don’t ‘need’ to compensate foreigners accordingly or in the same way in which we would a ‘Canadian’. This has led to a kind of legitimate discrimination based on ideas of nation, belonging and legal status.

As temporary foreign workers take on labour market identities, their status as non-citizens becomes a key marker of distinction that justifies their roles in subordinate social positions. This was most recently exemplified by a Supreme Court decision that ruled to deny migrant workers the right to unionize in “a legal challenge that took on the historic exclusion of agricultural workers from the Ontario Labour Relations Act” (Makin, 2011). In this case, a reading of Ontario’s labour laws and Canada’s Charter of

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<sup>1</sup> See Sharma (2006) p. 122

Rights and Freedom, revealed that the decision to prevent workers from forming unions was justified by the legal fact that the “constitutional right to free association guarantees that “meaningful” negotiations take place between workers and their employers - but it is not intended to police the mechanics of how those negotiations take place” (Makin, 2011). Here one wonders how this decision was informed by (and productive of) discourses that distinguish between migrant workers laboring in the fields (or in the homes of wealthy citizens) and non-migrant workers who work elsewhere. As “place assumes a proactive role in the social segmentation of labour” it also reflects the “uneven power relationships in society...[that are] at the heart of labour market segmentation processes” (Bauder, 2001, p.47).

In tandem with other discourses, this process of Othering ascribes labour market identities that are used to write and read narratives of belonging. “Imagined labour market identities” (Bauder, 2006, p.51) are circulated and sustained through “judgments that associate people with distinct characteristics and qualities and assign them to particular social and economic roles” (Bauder, 2006, p. 29). Through cultural representations we distantly familiarize ourselves with the migrant as the Other—the worker willing and able to do particular kinds of jobs, in particular segments of the labour market. This fiction becomes integral to the processes of identity construction and cultural distinction which work to “ascribe imagined labour market identities to workers with different nationalities” (Bauder, 2006, p. 51). When this occurs, we learn to judge each other by terms that are regulated in day-to-day social interactions.

Judgments made on the basis of legally defined identities are a consequence of relying on legal terms to define who we are and who we are not as people. Dobrowolsky

(2007) contends that “citizenship ideals, statuses, and practices have come to mean much more than [...] having a formal legal connection to the nation-state” (p. 630). In other words, citizenship is not only valuable because of its legal endowments. It acquires meaning and value through the social and political consequences of belonging to a legally recognized category. As such, citizenship leaves a unique impression on those who believe the concept to be true, or recognize its relevance to their own lives. In this sense, citizenship becomes powerful by the meanings we assign to it through social discourse. Regardless of whether one identifies with citizenship as a migrant or a non migrant, its ideological significance and power is reified with each consequent attempt at defining one’s place as a worker in a citizenship regime.

### **Living the experience: Narratives and The Racialization of Foreign Labour**

Upon reviewing the ways in which migrant farm workers in Canada are discursively constructed, Bauder (2006) identified three revealing narratives about the migrant Other “that together constitute a powerful marginalizing discourse of foreign farm labour” (p. 164). The first was the ‘economy narrative’ that constructs labourers as vital for the economic survival of the horticultural industry and positions labourers as a ‘safety valve’ to the Canadian economy. This implies that the economic advantages of recruiting cheap labour directly benefits the economy, while also securing the jobs of those working in primary labour market. As Bauder found, “a common thread through the economy narrative is that offshore workers fill the void created by Canadians, who left the seasonal agricultural sector for work in more stable industries” (p. 166 ). Just as the Canadian government recognizes the fiscal benefits of using temporary foreign labour

to complete certain tasks, non-migrant workers too develop a vested interest in keeping restrictive labour programs in place.

The second is the 'migrants-as-labour narrative', which constructs offshore workers as only being useful as labour and destined to perform manual work. As Bauder, notes this often includes "romanticized images of workers that conceal structural disadvantages and the restrictive conditions" (p. 169) of the Seasonal Agricultural Worker Program (SAWP). This results in migrant workers being constructed as "abstract labour." (Ibid.). Presented this way, non-migrant workers inhabit labour market roles that are legitimate and inherently at odds with migrant workers who labour in jobs that Canadian citizens are not willing nor expected to do. It is through these discourses that foreigners become labeled as suitable candidates for precarious and exploitative employment.

The third narrative is the 'social mobility-narrative' that constructs the SAWP as development assistance and a "win-win situation" which benefits the Canadian economy and allows workers "to achieve their dreams" (Bauder, 2006, p. 173). By framing the offshore program as in humanitarian terms, this contributes to Canada's construction as the benevolent, humanitarian nation, who takes on the challenges of other less fortunate bodies is secured. This narrative ultimately states that we, as a group, allow Others to achieve the upward mobility that they otherwise would never have accomplished on their own. But whether temporary migrants are actually expected to and able to achieve their dreams is questionable.

Far from having found a success story, England & Stiell's (1996) research shows that definitions of which nationalities *should* participate in certain work, have contributed to the social construction of foreign domestic workers. In particular, England notes the

gendered, racialized and classed constructs of national identity that inform the Live-in Caregiver Program (LCP) and the work of those who are in the business of brokering live-in-caregivers:

By stereotyping a particular national identity, certain characteristics are universalized and even naturalized whereas individual differences are neutralized...The legacy of colonialism, coupled with increasing indebtedness of third world countries, has created large supplies of female migrant labour to satisfy the demand of Canadian middle-class families (England & Stiell, 1996, p.197).

As a policy, the LCP is touted as a 'special' piece of legislation, offering a means by which to attain permanent residency status in Canada. But as Stasiulus & Bakan (2004) point out, the recruitment of migrant women workers to perform paid domestic work in first world nations like Canada, is in fact "linked to the uneven process of international economic development, international migration patterns and regulations, as well as racially and ethnically specific ideologies" (p. 229). In this sense, the gendered, heteronormative legacy of imperialism "has combined with modern conditions of indebtedness to generate large pools of third world migrant labour" (Ibid.). As a result, migrant women working temporarily are held captive to their employment agreement as they contend for the rights and privileges awarded to full members of Canadian society. Adding to this, Stasiulus & Bakan note:

The temporary condition is a standard feature of indenture, and is rendered effective in regulating domestic workers precisely because it holds the

promise of increased citizenship rights at the end of a two year term...the stick would not be effective without the carrot. (p. 235)

For these women the promise of citizenship subjects them to working a job that, ironically, Canadian citizens are not legally eligible to perform. While it is noted that Canadian women also work in subservient positions, it is the indentured aspect and conditions of the work that 'foreigners' face that sets it apart from the work that Canadians do.

As the narratives discussed earlier revealed, seasonal agricultural workers working in the SAWP share a similar experience in that they are both needed but not wanted or valued as Canadian citizens and as a result are exposed to unequal living conditions. Through the SAWP program, workers from Mexico and the Caribbean are able to enter Canada legally, but to remain here and to be allowed to return in the future they must carry out their duties to the employer's satisfaction (Binford, 2009). A failing grade in work performance, or behaviour, results in dismissal and deportation. In other words, when a worker is fired, the contract is voided and the right to remain in Canada is automatically suspended (Ibid.). These conditions inform perceptions about migrant workers that then keep migrants in jobs that are unsafe physically, sexually and emotionally. These violent conditions are securely held in place by the very belief that Canada, as a nation, can do no harm.

Basok (2000) posits that while international migration may contribute to some economic growth, structural constraints both here and abroad mean that this growth is limited. This is especially true given that a continued cycle of migration is needed to sustain a barely improved lifestyle and given that individuals distribute remittances

within their families. Binford (2002) argues that temporary migrant workers who are already subjected to working conditions and wages that are unattractive to most domestic workers, are further segmented along racial lines as Canadian farmers replace English speaking migrants from Caribbean commonwealth nations, with Spanish speaking Migrants from Mexico. The idea is that “Employers have learned how to exploit a Mexican labour force made particularly vulnerable as a function of cultural and linguistic differences from Canadian farmers” (Binford, 2002, p. 1).

Scripted elements of belonging are a powerful force in safeguarding privileged members of the national community from ever living the social experience of migrant workers. As jobs requiring manual labour become typified as belonging to migrant workers, citizens become further removed from not just those kinds of jobs/spaces, but locate themselves further away from the identities of migrant workers. An example of this has been observed in the general acceptance of, and attitudes towards, non-standardized jobs, so long as foreigners are the ones doing them. In this way, legal discourses frame foreigners in ways that place them as outside the possibility of belonging, as does the very work they are brought here to do.

As employees, “[m]igrant workers are the most poignant example of people living and working in Canada whose basis for invisibility and exploitation within the country is the legal category and concept of citizenship” (Bauder, 2006, p. 211). Temporary foreign worker programs award limited statuses and take advantage of a flexible, and vulnerable workforce. More significantly, these programs use ideas about citizenship and national identity as basis for that exploitation. As a social category citizenship legitimizes the social, political and economic exclusion of people doing ‘our’ work. The strenuous



nature of seasonal harvesting work is disregarded as an inappropriate option for legitimate members of the national community (Bauder, 2006, p. 51). It is in this moment that the migrant worker as a human being with rights, is obliterated and disassembled into functional parts. Non migrants are rarely required or expected to put the temporary worker 'back together' or envision them as anything other than labourers who are naturally and legally different then us. While the presence of foreigners can make non-migrants feel more at home, the promise of citizenship strengthens an imagined connection to the land and the idea that some of us belong here more than others.

## DISCUSSION

Sharma (2006) states that "post-modern practices of racism and nationalism rely less on ideologies of separation and more on ideas of sanctifying culture" (p.11). My research reveals that citizenship is a policy concept that protects and encompasses national values and identities and, as such, should be understood as a way of sanctifying a particular culture. Just as Canada (as a democratic nation) was founded on ideas that required that the indigenous population be pushed out of the national imagination in ways that benefited colonizers, citizenship too should be considered as a way of purposefully excluding some for the benefit of particular subjects of Canadian national identity. The temporary worker excluded from categories of belonging, thus, remains forever excluded from the national imagination except as a market commodity with a restricted, normative and economic functionality.

'Narratives of the nation' (Hall, 1995) allow for discussions about the nation-state as a group that is unified rather than divided by its differences. The language used in

telling such stories are indicative of underlying assumptions about who the narrator is, who the audience is and more importantly, the nature of the relationship between the two. As national narratives help communicate our history and identity, the truthfulness about who we are becomes notarized by legal policies that define our identities. It is in this sense that “certain descriptions, even if they appear false, can be *made* “true” because people act on them believing that they are true” (Hall, 2006, p. 167). Meanings inferred from discourse have real consequences for those identities being constructed in narratives of Otherness. As Baines & Sharma (2006) explain:

“Hierarchies of belonging organized through...nation states have worked to naturalize the subordinate status of migrant workers through the operation and general acceptance of two related notions:... that it is legitimate for states to discriminate against foreigners, and that only citizens have entitlement to make claims against the state” (Baines & Sharma, 2006, p. 209).

The notion of citizenship prioritizes identities in a way that is palatable and unthreatening to a society that prides itself on its democratic and humanitarian character. It is precisely this loyalty to a legally defined measure of belonging that permits narratives about ourselves and others to “construct a cohesive justification for labour exploitation” (Baines & Sharma, 2006, 173) and create vast discrepancies in benefits, based on what kind of citizen they are considered to be.

As Kapur (2007) has argued “law became one site at which to construct the subjectivity of the Other as distinct and external to the liberal circumference of rights and entitlements” (p. 542). But as Dauvergne (2007) has illustrated, the deployment of *some* migration laws provide insights into the weakness of citizenship law as an absolute

concept. Amnesty law is one such example. As legal exceptions, amnesty laws are structured to bridge the gap between “illegality and membership” (Dauvergne, 2007, p. 507) and are offered in exceptional circumstances when the state is for whatever reason, more concerned with promoting its national values than with applying the rule of law. The fact that amnesty law can trump citizenship law reveals a crucial weakness in concepts that are heralded as finite and unwavering. Given that legal exceptions can be made, Amnesty law dismantles that factualness of jurisprudence to display the “weakness and un-legal construction” (Ibid.) of governmentality, which Foucault describes as the relations that regulate conduct in the interest of securing the prosperity of the nation (Burchell et. al, 1991, p. 102-103).

### LIMITATIONS

Although reading Foucault’s work has given me a more wholesome understanding of discourse analysis as a point of entry into an analysis of power, it has also challenged me in the sense that I realized I had to limit my focus to certain discourses- something that Foucault advises against. Although Foucault suggests disregarding the subject for a full and proper discourse analysis, the time restrictions for the completion of this paper required me to focus in on specific elements of immigration law/policy. As a result, I chose the subjects of citizenship and temporary foreign workers as a means by which to complete my analysis, which is limited in scope and size. Even with these limitations, Foucault’s work proved to be extremely useful for ‘getting at’ the complexities of nation and identity.

In addition, I also recognize that there are hierarchical levels of Otherness amongst Canadian citizens but it is not my intention to cover these experiences in this paper. As a critical analysis, this paper is primarily focused in discerning the ideologies that inform our present day understandings of the Canadian nation and identifying the methods used to secure these ideas. The voice of human beings' experience adds meaning to any discussion, and as such, a future version of this paper would include first-hand accounts of persons living as migrants, refugees and citizens of Canada. In this way, an engagement with their own formulations of what it personally means to be Canadian would be possible.

## CONCLUSION

Bauder's (2008) research reveals that "popular constructions of citizenship continue to hinge on notions of origin, birthplace, and "culture"" (p. 324). Citizenship- as a concept based on maintaining the values of the historically dominant group- has functioned as an extension of nationalist ideologies that have historically been dependent on, the exploitation and exclusion of those considered 'strangers'. Legal categories of belonging contribute to the belief that some people should have more rights than others and that only 'citizens' are entitled to rights and privileges within the Canadian state. It is within this ideology that temporary workers are made into 'homeless', exploitable commodities that reside within our borders, but outside of the national imagination.

As Osborne (2000) explains, citizenship is not designed to overthrow the existing order of things, but rather, it is meant to preserve the status quo. But what if the status quo is rooted in policies aimed to keep Canada as a white, able-bodied, European,

capitalist nation that favours the elite? Does citizenship still achieve something that we should *all* aspire to and trust? Citizenship is problematic because not only is its definition highly contested within academic circles, it also appears to have been the product of a highly racialized (and political/economic) agenda in which Europeans appointed themselves and their values as the model for the national Canadian identity. Because of this, 'Citizenship' in all its legal forms should be looked at rather critically especially when it is cited as justification for the oppression and exclusion of others. As Sharma (2006) contends "ideology of the state acting in the 'common good', often formulated as a democracy, shapes the legitimacy for the exclusion of Others not only from the space of the nation but from claims to entitlements associated with membership in it" (p.16).

Categories, and laws defining those categories, are not natural. They are strategic attempts at controlling behaviours for the benefit of a particular segment of society. Just as Harding's (2004) description of 'strong objectivity' shows that facts are constructed as such by those whom it favours, laws and policies about citizenship and immigration too are in actuality the product of culturally specific norms of the dominant group and should be read with some knowledge about the culture in which they were created/established. As I have attempted to show in this paper, the highly racialized climate of the past has served as the environment in which a small number of people decided (and refined in law) what Canada's identity would be. Temporary foreign workers are one site at which law, identity and Canada's colonial past intersect to reveal worrisome narratives about ourselves and others.

Discursive power has the ability to convince us that we each have particular roles we live in and that as long as we stay within those parameters we remain in control of our

destinies. The irony here is that discourses about Others ultimately relay messages about ourselves. Because of this, understanding the struggles of Other's not only creates an opportunity for collaboration and conversation, but can also generate a greater awareness of the ways in which all persons are involved in the productions of particular kinds of knowledge. For me, this is the first step in contesting and disrupting the systemic mechanisms of power.

Developing a critique of something that is meaningful in so many respects is quite challenging. This work has dealt with an exploration of the theory that builds an understanding of how subjects are interpellated through discourse and how power operates in multidirectional orientations. As such, this paper's aim is to explore the process of marking bodies rather than following a linear analysis of power and policy. While this paper has not dealt directly with my family's immigration experience, my approach is nonetheless informed by a personal recognition of the unstable and difficult nature of managing and negotiating 'difference' within an immigrant family.

A critical analysis of the meanings we attach to laws describing who we are produces significant details about who we should aspire to be. In doing so, we are forced into acknowledging how and why some people get left out of a national identity, in a nation that nonetheless depends on them. It is at this moment that 'we', that is legitimized Canadian citizens, are made aware of how Others are used to preserve the privilege of speaking openly and confidently about ourselves. As the beliefs, values and practices of privileged Canadians are circulated they become institutionalized as valuable while the lived experiences of Others become less significant. This results in the political, social and economic exclusion of racialized bodies whose contributions to Canadian

society are not equally recognized and whose identities are excluded from a national understanding of who we, as Canadians, claim to be. This makes it clear that inviting people to come to Canada is not an invitation to be recognized as contributors to the nation. While the concept of “Good Enough to Work, Good Enough to Stay” may be an activists’ call for justice, it is one that is wholly ignored by Canada.

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