ACCESSING THE BORDER

THE MOBILITY RIGHTS OF ASYLUM SEEKERS WITH PRECARIOUS STATUS

by

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Accessing the Border: The Mobility Rights of Asylum Seekers with Precarious Economic and Social Capital

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Abstract

The mobility rights of migrants have been presented as universal and non-discriminatory in United Nation declarations, protocols and conventions. These inherent rights are often placed in opposition to states' sovereign right to control their borders. The international refugee regime has faced challenges to the defence and advocacy of human rights. The right to seek asylum has faced questions of security, and terrorism. Politicians have successfully re-framed asylum seekers as active 'threats' to the social, cultural and economic security of the state and campaign to enforce the protection of the state. By de-linking the border from the territorial boundaries of the state, Canadian officials have excluded, deterred and halted the movement of asylum seekers seeking refuge in Canada, adding to the surmountable geographic barriers the state holds to resettlement.

Key Words

Asylum seekers and refugees, migration, human rights, mobility, border, politics.

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Introduction

In this major research paper (MRP), I will address the growing issues associated with individuals who attempt to exit their countries in order to seek asylum. This paper will deal with the ways in which these individuals are socially constructed, and how these socially shared understandings and terms frame their experiences and rights during their journey. I will seek to determine what the mobility rights of asylum seekers[1] are, and how these rights, which are embedded in international conventions, are interpreted in Canadian policy. My primary research question is what are the barriers to mobility for asylum seekers at the Canadian border and beyond? To answer this question, in the first section of the MRP, I will discuss the research problem in depth; I will cover the issues of protracted refugees, changing immigration policies and the economic barriers to migration. This will provide context for the research question. In the second section, I will discuss the conceptual framework for this paper. This section will frame the approaches that will be used to attempt to answer the research question and the limits to the study. In the third section, there will be a comprehensive literature review. This section will examine relevant scholarly literature on the topics of international law and human rights, border politics, the securitization of migration and geopolitics and the economic precarity of refugee claimants. The fourth section will discuss the methodological implications for the research study and the sources of data that will be used to evaluate immigration law in Canada.

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[1] The terms 'asylum seeker', 'asylum claimant' and 'asylum' have been categorized based on socially shared understandings of migrants seeking refuge. This understanding has been codified in international law and is now widely used today. However, the unofficial definition of asylum seeker has also been continuously redefined and influenced by social phenomena that has produced negative connotations for the term. While, asylum seekers have been recognized as a common term in international conventions and protocols, however it is not particularly defined. Heckman points out that there is no universal definition of asylum, however it has come to be understood as "the sum total of protection offered by a state on its territory in the exercise of sovereignty" (2003, p.224). Therefore the term 'asylum seeker' will refer to a person who has left their country of origin or habitual residence due to fear of persecution and is trying to seek asylum in another country.

The fifth section will present a content and discourse analysis of current policy documents that organize Canadian immigration policy. In the sixth and final section, a discussion of the results will be used to help answer the research question. The MRP will conclude with a series of policy recommendations will be made.

Research Problem / Background

By the end of 2014, some 19.5 million refugees[2] and 1.8 million asylum-seekers sought protection from persecution, in large part due to continuing civil and armed conflicts in the Middle East and North Africa (MENA) and sub-Saharan African regions (The United Nations High Commissioner for Refugees "UNHCR", 2014, p. 8). In the last few years, asylum seekers travelling from countries undergoing conflict or war have tended to move and claim asylum in countries that are geographically close to their countries of origin. According to The United Nations High Commissioner for Refugees (UNHCR), due to the conflict in "the Syrian Arab Republic, compounded by the crisis in Iraq, the MENA region has shifted the balance in terms of both the source of and asylum for refugees around the world" (The United Nations High Commissioner for Refugees "UNHCR", 2014, p. 27). This has encouraged large populations of refugees to settle in developing countries worldwide. Major migrant flows have taken residence in receiving countries, which may be facing internal conflict themselves. According to the

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[2] The term 'refugee' is defined by several international legal conventions and declarations. For the purposes of the research paper, the 'type' of refugee that will be focused on are primarily convention refugees who have arrived in Canada at a port of entry and claimed asylum. According to the 1951 convention and protocol relating to the status of refugees, a refugee is a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" (United Nations General Assembly "Refugee", 1951).

International Organization for Migration (IOM), "In 2015, South-South migration exceeded South-North migration by two percentage points... 90.2 million international migrants born in developing countries resided in developing countries in 2015, compared to 82.2 million in 2013" (Global Migration Data Analysis Centre, 2015, p.7). Over the past five years, state-based conflict and war has occurred just beyond the fringes of many economically developed countries. Yet, according to the UNHCR, "By the end of 2014, developing countries hosted 12.4 million refugees or 86 per cent of the global refugee population" (The United Nations High Commissioner for Refugees "UNHCR", 2014, p. 9). In 2015, the largest numbers of asylum seekers claiming refuge travelled to Kenya, Ethiopia, South Africa, Turkey, Jordan, Lebanon, Pakistan and Iran (See Appendix A, Figure 1). Nevertheless, all over the world the degradation of asylum law has lowered the threshold for asylum seekers to access their right to mobility. To manage the considerable numbers of people seeking refuge in developing nations, the UNHCR has worked with many local governments to establish refugee camps[3] to house large numbers of prima facie refugees[4]. Despite international or humanitarian commitments, a significant number of refugees continue to wait in limbo for resettlement, or for a sign that conflict has abated in their country of origin. The additional strain on such countries due to the unequal distribution of refugees across United Nations (UN) 1951 convention member states has recently prompted discussions about burden sharing. Far removed from the 1950's conception of 'sharing the burden', which is acknowledged in the preamble of the UN 1951convention relating to the status of refugees, recent discussions of burden sharing have been addressed in a regional scope (UN

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[3] Such as the Dadaab camps of north-eastern Kenya, the Zaatari camp in Jordan, and the camps on the Thai-Cambodian border.

[4] The distinction is made by Hyndman and Giles who state that there is "a legal distinction between prima facie refugees who are designated as such on a group basis, usually for the purposes of temporary status before a solution to their situation can be found, and Convention refugees, whose eligibility is determined on an individual basis" (2011, p. 369)

General Assembly, "Refugee", 1951). These conversations place less emphasis on international

corporation and more on shared mechanisms to manage migration. In these cases, regional blocs

can serve as both gateways and barriers to migration. The European Union (EU) has (since the

1990s) discussed a model for integrating a common asylum policy for all 28 member states,

which would in theory ease some of the burdens some members states face. However as Betts

and Milner point out "European states are willing to pay for, but not host, refugees…[and]

European proposals will lead to burden-shifting, not burden-sharing, with African host

states"(2006, 36 as cited in Hyndman and Giles, 2011, p. 371). In the wake of large-scale

migration from Africa and the Middle East into Europe, EU member states on the shores of the

Mediterranean Sea have struggled to cope with thousands and in some cases millions of

refugees[5]. Discussions on burden sharing have however have not driven permanent change in

Europe's refugee regime and barriers to mobility remain a superficial or utopian issue. Further,

discussions by state leaders in many cases in Europe and around the world do not address the

effects existing immigration policies have had on migration in the first place. Efforts to constrain

or halt the movement of people crossing international boundaries have pushed migration into

precarious spaces. Migratory routes for people seeking asylum have been pushed back by states

in efforts to curtail the flow of people. The phenomenon, which essentially has introduced

policies of deterrence or interdiction, has extended the border to grant immigration agents greater

authority over the territorial border. According to the IOM, "migration has increasingly become

unsafe… [and] tougher border controls and restrictive migration policies exacerbate the migrant

death toll. Many commentators have suggested that deaths would decrease if there were greater

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[5] According to the IOM "The EU-28 as a whole received over 1.2 million new asylum claims in 2015, more than double the number of asylum claims in 2014 (almost 563,000)… most of these claims were made in Germany, followed by Hungary (174,425), Sweden (156,120), Austria (85,500), Italy (83,240) and France (70,565)" (Global Migration Data Analysis Centre, 2015, p. 9).

opportunities for safe and legal migration" ("Fatal Journeys", 2016, p.1). It has become apparent that movement for any purpose other than international trade or commerce is highly regulated. While states move to break down barriers to the movement of goods, they are simultaneously erecting boundaries for the movement of people. People seeking asylum still enter states in hopes of finding refuge, nonetheless, immigration and refugee law have attempted to criminalize and discourage this type of movement; creating procedural and substantive arguments against individual's human right to move.

While fleeing persecution from their country of birth or nationality, many asylum seekers move across borders and take dangerous paths to get to safety (See Appendix A, Figure 2). In the media, highly publicized cases of migrants being intercepted at sea are used to generate crises and condemn cases of human smuggling (Mountz, 2010 as cited in Mountz, 2011, p. 322). Yet, amid this moral panic, there is a lack of consideration for the role geography and policy play in these cases. According to Mountz, geography represents an "interplay between state authorities, human smugglers, asylum seekers and other migrants" (Mountz, 2011, p. 324). Migrants seeking refuge travel by land and if they can afford it, by sea, often taking routes that threaten their lives. With the danger of the journey, the number of migrant deaths have grown in recent years (See Appendix A, Figure 3). According to the IOM, in 2015, 3,770 and thus far in 2016, 2,859 migrants died along transportation routes in the Mediterranean alone ("Fatal Journeys", 2016, p.3; "Mediterranean Update", 2015, p. 2). In an effort to control international migration, many states have adopted policies that compromise and degrade the human rights of asylum seekers. Policies such as: the Dublin Regulations, the Australian policy to detain asylum seekers who arrive by boat[6], the American interdiction of Haitian refugees, and the lack of policy for

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[6] Which ultimately leads towards holding asylum seekers without a valid visa in off-shore detention centres.

displaced Rohingya people in South East Asia have, over the past few decades, contributed to the systemic dismissal of asylum seekers rights. Administrative or procedural mechanisms degrade rights regimes by placing asylum seekers in situations that remove their group or individual agency. State-sponsored strategies of deterrence have succeed by isolating migrants and denying them basing human rights. These strategies in many cases have gained public approval by rendering asylum seekers visible to the public (and constructing them as queue jumpers, criminals or illegitimate) and simultaneously invisible due to their confinement in detention centres or representation in the media in large numbers (as argued in Mountz, 2015). The extension of the geographical boundaries that states create influences the decision making process for asylum seekers. Countries of settlement may be determined by what paths asylum seekers can take to get to safety, or those that offer better prospects for themselves and their family. Even so, individuals who use their own resources to be able to move (whether through legal means or illegal ones) still may face barriers once arriving in the state by way of domestic immigration policies designed to exclude them.

In Canada, immigration policies have erected barriers for asylum seekers. Such policies, which will be discussed in full later in the paper, aim to deter asylum claimants as a means to accelerate refugee case processing and discourage fraudulent or undeserving refugees from arriving in Canada (Citizenship and Immigration Canada, 2013). Two examples of recent policies include the Canada- United States (U.S.) Safe Third Country Agreement and the Designated Country of Origin (DCO) list, which both aim to reduce the asylum claims made in Canada. In addition to this, political rhetoric and government bureaucracy has also served to deter asylum seekers. Former federal Minister of Citizenship and Immigration Canada, Jason Kenney, had created a backlog of 62,000-asylum claims in 2009, reportedly by questioning the

'legitimacy' of refugees entering Canada (Hyndman and Giles, 2011). According to Payton, "In September 2009, Minister Kenney stated that 'fake' applications in Canada are hurting those waiting abroad (2009, as cited in Hyndman and Giles, 2011, p. 368). The resistance of local politicians to adopt and follow principles of international law, as well as the physical and financial limitations of asylum seekers coming from areas of conflict and war poses a challenge for the option of Canadian resettlement. The framework of international humanitarian law has established the respect for the sovereignty of the state. This has fragmented the international refugee regime, and forced the reliance on a case-by-case based standard. The set of rules and procedures aimed to protect persons seeking asylum which has categorized the international refugee regime, has been divided and interpreted individually by state signatories. In the Canadian context, this has occurred through the interpretation of international law by the federal court system. The Supreme Court has addressed, for asylum claimants and refugees who are able and willing to stand through a lengthy administrative process, the recognition of these rights. However, for many, access to the courts cannot be granted at border or even beyond the border. Thus, in this paper it is my contention that the state and state policies influence the accessibility of asylum claimants' rights.

This research paper will seek to address the mobility rights of asylum seekers and refugee claimants. The question that will be researched is: what are the barriers to mobility for asylum seekers at the Canadian border and beyond[7]?

The research question is important for its ability to address the research problem and delve into the issue of the accessibility of rights for persons with precarious status. Asylum claimants with limited resources, according to The United Nations High Commissioner for Refugees (UNHCR) statistics, reside in urban areas and planned/managed refugee camps in neighbouring countries in their attempt to flee conflict (The United Nations High Commissioner for Refugees "UNHCR", 2014, p.8). By focusing on the role of policy, this paper will seek to determine how far domestic law has deviated from international law.

Conceptual Framework

The conceptual framework used in this paper has developed from my interests, values, and the existing research on the topic selected. Therefore, the type of conceptual framework that is

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[7] The term "borders and beyond" has been formed as a combination of the legal term of borders and the common understanding of beyond. Past the traditional definition of a national border, which is a legal demarcation of the territory of the state in which it exercises its sovereign power, the border has a come to be defined differently. Borders have taken a geo-political security dimension. Pécoud and de Guchteneire state that "Although borders used to stop everything—money, goods, and people—today they stop mostly people" (2006, p. 80). Therefore the focus on this term will highlight the ways in which borders have come to be constructed to halt international migration of certain migrants. The term beyond will refer the interaction of asylum seekers with the state beyond their passage through ports of entry. The reference to beyond thus represents a spatial and temporal connotation.

used in this paper is eclectic and follows a broader understanding of conceptual frameworks

rather than a single one that focuses solely on theory (Ravitch and Riggan, 2012, p. 6).

Theoretical Framework

The eclectic theoretical framework of this paper has been developed due to its relevance to

the research problem. It has developed as a tool to study the types of questions that will arise

during the research process in the study of a marginalized and precarious group of people.

Therefore, the theoretical lens used will examine the perspectives that shape the types of

questions asked, and will inform how the data is collected and analyzed (Creswell, 2014, p.98).

The main theory that will be used to frame the research will be social constructivism, a

macro-level theory. Social constructivism claims that reality is in large part a representation of

socially shared understandings within society. Social constructivists believe that "individuals

seek understanding of the world in which they live and work [through] subjective meanings of

their experiences— meanings directed toward certain objects or things" (Creswell, 2014, p. 37).

Social constructivism therefore concludes that individuals use their social interactions, common

understandings and popular discourses to understand their world. This theory will frame the

research in terms of establishing that political objectives and policies regarding immigration are

products of social interactions, shared meanings and collaboration. Social constructivist theory

has been chosen as the main theory for this paper because it allows for a comprehensive

understanding of the impact that global events have had over the last ten years on immigration

policy. Of particular importance has been the concentration by politicians and the media on

security. Subjective perceptions of security have been constructed based on world events that

have been deemed 'acts of terrorism'. Individual feelings of insecurity have in large part,

manifested as a product of national strategies to 'secure' the state that have greatly impacted

immigration. In Canada, border security on the 49th parallel, has been constructed as a major

fault in the agenda to secure both states. Migrants passing through these lines are framed by

states as either unwanted or desirable. Social constructivism helps to illustrate that shared

perspectives of the refugee problematize migration and influence strategies to harmonize control

over human migration. Social constructivism explains that neoliberal liberal policy makers who

have facilitated trade and economic growth as the national agenda have set the context in which

asylum seekers have been represented in the media and in the national environment. This has

greatly motivated public perceptions of security, prosperity and the threat of terrorism, which has

been linked by the state to migrants, triggering images of danger. This has also shaped public

perception of the refugee and how they fit into the national agenda. The state's rhetoric and

attitudes towards refugees and asylum seekers who attempt to 'cheat the system' and 'jump the

queue' affects the general public's perception of asylum seekers and in turn the precarity of their

legal status. This theory enables a closer examination of overt and covert social interactions and

comments, which affect the perception of asylum seekers and refugees at the Canadian border

and continue to affect them in their community. Theories such as neoliberalism[8] and realism[9]

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[8] Neoliberalism has been understood as a theory which largely argues for a return to the idea of the self-regulating free market economy. Key aspects of neoliberalism include liberalization, privatization of the public sphere, and deregulation of the economy which; neo liberals argue will facilitate economic growth. Neo liberals claim that these conditions will lead to "a largely unregulated capitalist system (a 'free market economy') ... achieves optimum economic performance with respect to efficiency, economic growth, technical progress. and distributional justice" (Kotz 2002:64 as cited in Amin-Khan, 2015, p. 122)

[9] Realism as a theory has a long history. Kenneth Waltz argues that states are sovereign and have the power to protect and defend their territorial integrity (1979, as cited in Hollifield, 1992, p.568). Classical realists according to Hollifield argue that "is that governments must regulate international migration to protect the national interest" (Hollifield, 1992, p.569). The national interest has included the population, and demographics of its residents. Realism focuses on the role of state power and its interests, therefore relationships between states and individuals are heavily influences by the state's international relations (Hollifield, 1992, p.574).

may provide support for analyses of the economic motivations behind immigration policy, or the promotion of statism and sovereignty over the safety and security of non-citizens. However, these approaches do not account for the way in which language drives the discussion and perception of both people in positions of power and citizens who welcome refugees in their communities. The use of theory in this paper will take on an eclectic style and will incorporate other theoretical perspectives as well.

A second theory/ lens will be used in this paper. Critical discourse analysis will be used to study the way that asylum seekers and refugees have been constructed by the Minister of Citizenship and Immigration since 2010. Conservative neoliberal agendas which have shaped and guided the national agenda of the Minister of Citizenship and Immigration during this period have prioritized business migration and trade and in-turn disparaged the right of asylum seekers who arrive in Canada seeking asylum. Past Ministers have shaped the public perception of refugees and asylum seekers by using inflammatory language and rhetoric which constructs the refugees as 'bogus', 'illegitimate' and/ or 'criminal'. By using the media and other channels to communicate this message, the state and its officials have managed to shape the national discourse on refugees and asylum claimants who arrive by boat, by air and sea at Canada's ports of entry. This approach will focus on the words, context and tone used to convey the country's progress and plans for immigration policy during this time. This study will uncover the way in which social and political context ultimately direct and control the national discourse on migration. This approach will also present a critical analysis of the way asylum seekers are represented by the Minister and to Canadian Parliament. This will provide a way to theorize the construction of the refugee, and unpack how discourse informs the politics of a claimant's race, class and gender. Further, the use of critical discourse analysis will identify and highlight how

securitisation discourse has been used by politicians and within policy frameworks to reinforce state-sponsored rhetoric of fear and illegalisation. Securitization is a process of social construction which has traditionally framed politics though a lens of international security. Developed at the Copenhagen school of International Relations, Ole Waever coined the term in reference of the political sphere[10]. The securitization of migration has emerged as a phenomenon in which public space or the state has been threatened by migration. Migration has essentially threated the security of the state and thus securitization discourse has justified the promotion of migration controls. According to Crépeau, Nakache and Atak "Recent policy developments and ongoing international cooperation implementing systematic interception and interdiction mechanisms have led to the securitization of migration" (2007, p. 311). The safety of the state has been inter preted in numerous ways. The most notable example has been the threat to the physical security of people and citizens inside the state, however state safety and security has also been broadly defined to reference the health, social welfare, religious and cultural cohesion, as well as the 'values'[11] enshrined in our legal system. The securitization discourse poses barriers for asylum seekers at the Canadian border and beyond due to their constant framing by state leaders as threats to the state. Asylum seekers' experiences at the border and within society are constructed as opposition to state goals, which incurs negative treatment from the public who has been convinced that they have in fact threatened state security.

Critical discourse analysis has been chosen as a tool to examine the process of the disparaging and marginalization of the asylum seeker. Critical discourse analysis is the

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[10] According to van Munster, the traditional principle of securitization "Is a discursive process by means of which an actor (1) claims that a referent object is existentially threatened, (2) demands the right to take extraordinary countermeasures to deal with that the threat, and (3) convinces an audience that rule-breaking behavior to counter the threat is justified" (2012, p.1).
[11] Such as democracy and free speech.

preferable to content analysis because it allows for the analysis of more than content but for the inclusion of context of the words used.

The use of theory will follow both an inductive and deductive style of reasoning. Inductive and deductive reasoning will draw on the strengths of both approaches and will identify and explain how theory connects the data and the variables presented in the literature. Inductive reasoning involves the development of theory through generalizations, which emerge from the data collection process. This style of reasoning will be useful to unpack immigration policies and politician's discourse. Unpacking bureaucratic language will help to support or reject the use of social constructivism. Further, by also using a deductive approach, theories found in both the literature and the data analysis will allow for a more insightful explanation of how the placement and use of certain words or phrases contribute to a negative perception of the refugee. During the data collection process, the selection of documents will influence the application of the theory selected. This process may begin by including documents from a pre-determined set of assumptions based on the theories used, but each document reviewed will establish a comprehensive set of themes emerging in the subject area. This process follows the deductive style of reasoning. Deductive reasoning involves the testing of theory and common research questions from that theory during the research process (Creswell, 2014, p. 93). While this is primarily found in quantitative studies, the strength of using of deductive reasoning in this research paper is that theory will help develop the framework for the entire study, and help organize the model for the data collection procedure (Creswell, 2014, p. 93). The research process will involve collecting documents to test the applicability and relevance of this theory, and reflect on the results for its confirmation or disconfirmation (Creswell, 2014, p. 93). The

documents examined in the research paper will focus on the use of language that has become popular in political policy circles. The use and placement of key words will be observed to determine how social understandings influence or impact the generation of political opinion and policy. Social constructivism will be used to test how the human rights of asylum seekers (and their mobility rights in particular) are constructed in Canadian social environments. This approach questions the universalist theory of the application of international law, and suggests that social and political factors play a large role in the application of international principles, especially in local communities.

Limits

The nature of the research project does not permit the inclusion of perspectives of politicians or immigration authorities (Canada Border Service Agency officers) to expose common profiling practices in regards to the demographics and relationships of asylum claimants at the border. Had the research period been extended, qualitative interview data would have been an ideal addition to the project. Further, data collected by the UNHCR and the Immigration and Refugee Board of Canada (IRB) on refugee arrivals reveals a limit to the availability of both primary and secondary data on asylum claimants. Secondary data such as the refugee claim forms, which are used by the Canada Border Service Agency (CBSA), would have been useful to capture information on asylum claimants that has not been made publically available by Immigration Refugees and Citizenship Canada (IRCC). Therefore, this data cannot be readily accessed.

The delimitations of the research will be asylum seekers who have landed in Canada at any port of entry. This group will be restricted to those who have claimed asylum and are awaiting their hearing at the IRB. Further, this group cannot include individuals in administrative detention, or those who enter through irregular channels. Those individuals excluded from making claims (section 1F of the UN refugee convention) will also not be discussed. According to Citizenship and Immigration Canada (CIC), claims may not be eligible for referral to the IRB if that person:

> Has been recognized as a Geneva Convention refugee by another country to which they can return; has already been granted protected person status in Canada; arrived via the Canada-United States border; is not admissible to Canada on security grounds or because of criminal activity or human rights violations; has been convicted of a serious crime; has made a previous refugee claim that was found to be ineligible for referral to the IRB; has made a previous refugee claim that was rejected by the IRB; or abandoned or withdrew a previous refugee claim (Schwartz 2015).

Literature Review

Introduction

The purpose of this literature review is to research how the mobility rights of asylum seekers are interpreted by the state by looking at the interaction between international law, Canadian state-level policies and bureaucracy for the delivery of rights in local spaces. International human rights law and refugee law have been characterized by the interpretation and application of legal norms between national courts, regional and international treaties, conventions and protocols (Heckman, 2003). International documents such as the United Nation's 1951 Convention and 1967 Protocol Related to the Status of Refugees have created a legal precedent for the treatment of asylum seekers and refugees at the border and beyond. The

1951 convention and 1967 protocol have helped establish asylum seekers' right to enter state

borders to seek asylum and the state's subsequent responsibilities to them. However, the

application of these principles have tended to only extend to countries that have signed or ratified

these and similar documents. This has contributed to the unequal treatment of asylum seekers by

states.

Canada did not legally recognize refugees until 1969 when it signed the UN Refugee

Convention. And while Canada has recognized this and other international treaties and

conventions relating to rights of non-citizens[12] , it has faced difficulty in reconciling international

and domestic law in cases of refoulement[13] and the right to seek asylum. As Kissoon argues,

there remain some common barriers which present challenges to the process of making a refugee

claim in Canada (2010, p.9). The prioritizing of regional trade and the passing of the Canada-

U.S. Smart Border Act has been one example[14]. The political motivations to recognize

international law and have it reflected in domestic policy, suggests that while the labour of

migrants may be desirable, domestic mechanisms to ensure their rights are not. Asylum seekers

attempting to cross borders are doubly penalized. Determining desirability moves beyond

economic suitability and scrutinizes asylum seekers in a more personal method. Their story,

body, religion and nationality can be cast as undesirable. The way in which states frame refugees

and asylum seekers to the broader public also influences how the public perceives them, thereby

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[12] As in the case Suresh v. Canada (Minister of Citizenship and Immigration) [2002]. According to Crépeau, "[The Court] found that the Canadian Charter prohibits return to torture in principle, but allows it in "exceptional cases"... According to the Court, return to torture is not possible under international law" (2011, p. 36).

[13] The principle of non-refoulement has been enshrined in the UN convention related to the status of refugees. As stated in the convention "It provides that no one shall expel or return ("refouler") a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom"(UN General Assembly, "Refugee", 1951). The protection of the refouler has become a fundamental condition in international law.

[14] Canada has yet to sign on to the migrant workers convention that protects their rights and the rights of their families.

determining the national discourse on 'the refugee'. State-sponsored rhetoric of asylum seekers have operated to push forward the neoliberal agenda by casting business travel as a positive and irregular migration as a negative. Thus, the construction of asylum seekers by states has continuously evolved to reflect the needs and desires of the state. As such, international instruments which have laid the foundation for rights – based rhetoric have been juxtaposed with the increasing effort of states to remove the rights of migrants by controlling, excluding, interdicting and deterring international migration (Heckman, 2003). Such measures lead to increased hardship for asylum seekers attempting to flee from civil conflict or political upheavals.

Canada's signature on the UN refugee convention and protocol signifies a logical starting point for the sources of institutional and procedural norms for the regulation of asylum seekers. Refugee law in Canada has however, been continuously degraded since 9/11. Further, the discrepancy between state-interpreted laws and international principles has contributed to the degradation of human mobility rights at the domestic level. The heavily policed borders of western states have transformed to be increasingly mobile, which results in the shrinking of spaces of asylum (Mountz, 2011). Asylum seekers attempting to access these countries must navigate multiple sites of onshore and offshore detention which arrest their mobility (Mountz, 2011). Within the literature, scholars have argued that while states have implemented strict border policies, they still fail to address complex migration flows (Pécoud and de Guchteneire, 2006; Mountz 2015, p.190; Crépeau et al. 2007, p.322). Obstacles to access asylum can include policy barriers, financial needs and the geographic distances, which is only one aspect of the challenge in accessing Canada's refugee regime. The second, perhaps equally challenging task for those who make it past the border, is to be granted asylum and status in Canada as a refugee.

Once within the state, asylum claimants face additional barriers to mobility such as unemployment, poverty and marginalization in urban areas. These barriers will be explored in depth for their influence on asylum claimant's mobility at and beyond the border.

Interpreting International Mobility Rights

The development of international human rights principles in the post-war era has stressed the importance of the recognition of human being's 'inherent human dignity' and 'inalienable rights' (Taran, 2000; Wickramasekara, 2009; Heckman, 2003). These scholars have argued that the delivery of human rights for asylum seekers and refugees are largely up to the discretion of states. The codification of international human rights principles in federal law in Canada 'guarantees' the delivery of rights to Canadian citizens. However, a gap exists for asylum seekers. Asylum seekers are in many cases not guaranteed rights in domestic law, which has created a grey area that must be interpreted by the Supreme Court. As Dauvergne states, "Canada has ratified [The UN 1951 convention] but [sections have] not been incorporated by either national or provincial legislatures—key steps for Canada's dualist, federal democracy" (2012, p.310). The universal human rights outlined in international law for asylum seekers have in many cases not undergone the doctrine of "transformation" which allows for international conventions to be implemented in Canadian domestic law via legislation (Heckman, 2010, p. 231). This necessary adoption allows conventional international law to be joined to domestic law in Canada's dualist legal system. According to Heckman, "Canada ratifies most international human rights treaties without adopting implementing legislation on the assumption that the existing Canadian constitutional, statutory and common law regime conforms with the treaty norms" (2010, p. 231). The state's failure to define the relationship between international human rights, refugee law and domestic law, has resulted in the constant negotiation and interpretation

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of rights by the Supreme Court of Canada. This demonstrates that despite the use of 'normative traditions' which have come to categorize international human rights law in a globalized context, the universality of international law in Canada has failed to succeed in its main goal. In contrast, some scholars have taken a social justice and 'judicial globalization' position to Canadian law in regards to its humanitarian commitments (Knop, 2000 as cited in Heckman, 2010, p. 235). This position claims that the all-or nothing model for the domestic interpretation of international law and international norms does not necessarily follow from delivery of human rights (Heckman, 2010, p. 235). The availability of international norms by other states has been argued to be sufficient as a means to practice and uphold international law agreed upon in the treaties and conventions Canada has already signed (Knop, 2000 as cited in Heckman, 2010, p. 235).

Canada's independent judiciary have made efforts to bypass the transformative process of international principles so that they can be applied domestically. In 1985, the Supreme Court of Canada ruled that the human rights principles outlined in the Canadian Charter of Rights and Freedoms which extend to "everyone" (notably section 7 which prescribe the right to Life, liberty and security of person), should be interpreted to mean "every person physically present in Canada and by virtue of such presence amenable to Canadian law" (Singh v. Minister of Employment and Immigration, 1985). This ruling created a legal precedent in Canadian law to include asylum seekers within the group of 'everyone' and grant them legal rights within the state. While a notable example for acknowledgement of international law, the goal of adhering to international human rights commitments is to incorporate them in domestic law. Canada's federal legal system requires that international principles from treaties, declarations and protocols must be translated into national legislation for it to be practiced. State actors have contested the Supreme Court's rulings, which have gone against the 'national agenda'. This

ensures that the state maintains control of which international norms take precedent in Canadian courts (Heckman, 2003). Procedural norms for the regulation of asylum seekers in international law create a precedent for the treatment of asylum seekers at the border, and in the state as a whole. However, Canadian law and policy has incorporated multiple systems of power which attempts to control the flow of international migration[15] through immigration policies of deterrence[16], prevention, exclusion (Pécoud and de Guchteneire, 2006; Taran, 2000). As a result, asylum seekers experience the conflicting intersection of state-level policies and bureaucracy in the development and implementation of their legal rights. Taran states that regrettably, this has become a trend and the migration regime has been categorized by these systems of control, often at the expense of the migrant's individual human rights (2000, p. 28).

The Courts ruling in the case of Singh v. Canada (1985) led to protecting the rights of asylum seekers claiming asylum, and the creation of the right to appeal an immigration decision. However, it has not explicitly addressed the gaps in domestic law, which continue to curtail asylum applications in Canada. The court remains guided by the Canadian Constitution, and is subject to limitations that are provided by law. According to the 1951 U.N. Convention, refugees are entitled to "minimum standards of treatment" such as wage-earning employment, education and housing (UN General Assembly, "Refugee", 1951). In principle, states should afford asylum seekers the same rights and privileges as a refugee until their status is determined, but this is not always the case. Heckman extends this argument by stating that in the principle of equality

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[15] Wickramasekara argues that the term 'mobility' is better than 'migration' in an era of globalization and transnationality (2009, p. 166). However for this paper, the illustrative term 'migration' will be used to argue that the disconnect between international and domestic law has not facilitated the 'mobility' of migrants, but has hindered it.
[16] According to Crépeau, Nakache and Atak, "These measures include faster refugee determination, elimination of appeals, restricted access to the labor market, reduced legal aid and social protection, increased detention, criminalization of all help to irregular migration, excessive penalties for migrant smuggling and safe third-country agreements" (2007, p. 319).

"institutional and procedural safeguards afforded to Canadian citizens should arguably be available to similarly-situated non-citizens" (2003, p. 219). Thus, in different contexts, there rests unsupported mediums available to explain what entitlements asylum seekers have access to.

A narrower examination of the human rights of migrants presents the importance of human mobility rights. Article 13 of the UN Declaration Of Human Rights states that "(1) Everyone has the right to freedom of movement and residence within the borders of each state [and] (2) Everyone has the right to leave any country, including his own, and to return to his country" (UN General Assembly, "Human Rights", 1948). In addition, article 14 states (1) "everyone has a right to seek and enjoy in other countries asylum from persecution" (UN General Assembly, "Human Rights", 1948). The right to leave one's country has been organized and defined by international instruments; however, the right to enter remains at the discretion of sovereign states. Perhaps in reference on the formation of the declaration by states for states[17], this gap has organized migrant mobility around sovereign states. As critiqued by Wickramasekara, "there is no corresponding right of entry or admission to or stay or work in a third country since no state has surrendered that right under any international treaty" (2009, p. 170). Mobility as a human right is thus often examined through the lens of the state. Since states are responsible for granting legal status to migrants and controlling their movement across state borders, international law has positioned states to be active stakeholders in the formation and adjustment of policies to meet their needs. This results in the construction of asylum as a privilege and not a right under the UN convention. States construct asylum claimant's rights in a certain ways to validate

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[17] As interpreted in the preamble of the Universal Declaration of Human Rights through the statement "Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms" (UN General Assembly, "Human Rights", 1948).

policies or political objectives, which devaluates the migrant's right to mobility and due process. Marchetti argues that "this disconnect reveals a fundamental normative contradiction between claims that are universal to all humans and the communitarian entitlements upheld by mainstream political philosophy as well as national and international laws" (2008, p. 476).

Gaining access to asylum through Canada's legal system incurs challenges to migrants at the border who are able to gain temporary status. The procedural safeguards of the Charter which prohibit discrimination on the basis on the analogous ground of citizenship have recently failed to extend to non-citizens (Crépeau, Nakache, and Atak, 2007, p. 314). In Chiarelli v. Canada, (1992) the Supreme Court authorized the deportation of non-citizens, only clarifying in the case of Law v. Canada (1999) that this discrimination may be rejected if it constitutes a violation of human dignity (Crépeau, Nakache, and Atak, 2007, p. 314). Scholars argue that these procedural safeguards in domestic law should be available to similarly situated non-citizens (Crépeau, Nakache, and Atak, 2007; Heckman, 2003). Similar cases in the supreme court have led to "an emphasis on security and a narrower reading of the rights and interests of non-citizens, [which] has a negative impact on the implementation of standards that Canadian law contains for foreigners in general and asylum seekers in particular" (Crépeau, Nakache, and Atak, 2007, p. 315). The restriction of the mobility of asylum seekers who are put in detention also represents the devaluation of their individual rights in domestic law. Since the introduction of the Charter of Rights and Freedoms in 1982, fundamental human rights have legally been extended to all persons residing in Canadian territory; however, the protection of asylum seekers remains a political and policy-driven division of legal status. There rests a grey area for migrants with precarious status in the interpretation of human rights law, which suggests the sacrifice of individual security is necessary to preserve national security. In the case of Chiarelli and Law,

their acceptance within international law, yet simultaneous dismissal in federal law results in unequal outcomes for all minority groups. Crépeau states "almost every de jure appeal of the Immigration and Refugee Protection Act has been replaced by judicial controls, subject to a leave requirement. In other words, for example, one cannot appeal a negative decision on a refugee status application, a decision very often based on facts or credibility (generally not reviewable by judicial control), even though the consequences might be more serious than those of a criminal trial" (2011, p.34). The legal obligations of the state concerning non-citizens should grant equal rights, less undue burdens are placed on the asylum seeker to prove that they should have access to basic human rights.

The human rights of migrants have been disputed as divisible (Taran, 2000). Further, the separation of mobility rights in particular has been considered differently for displaced people based on their legal status. Despite this, Pécoud and de Guchteneire argue that a right to mobility should not be divorced from other rights, and rights should be treated as a whole to foster respect for existing human rights (as cited in Wickramasekara 2009, p.170). Taran argues that the human rights of refugees are highly visible in international law in comparison to other individuals who are in need of protection (2000, p. 28). Other scholars have suggested that asylum seekers who are more visible[18] than others gain increased state attention, leading towards the discrimination of their mobility rights (Hyndman and Giles, 2011; Mountz, 2011). The literature highlights that rights are constructed as universal and applicable to all human beings regardless of nationality or

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[18] This concept emerges from Mountz's (2015) work, which situates the asylum seeker within state organized regimes of security. The idea of being visible is more than a literal explanation. It denotes that while asylum seekers (especially those fleeing *en masse)* are visible, the state makes every effort to control their visibility to the public and to the media.

migration status[19] by virtue of being human (Taran, 2000, p. 7). Yet, there remains a disconnect between legal rights in theory versus their applicability in practice. Wickramasekara (2009) suggests that there the link between development, mobility, and human rights is an under-researched, yet necessary as a framework since the relationship between the three has contributed to increased international migration. Nevertheless, the application of universal principles in national rights strategies affect migrants during the migration process. In the descriptive narratives within forced migration that have criticized state efforts to hamper migrant mobility, scholars used asylum seeker's perspectives to illustrate the complications universal principles have led to (Mountz 2011; Mountz 2015; Kissoon 2010; Hyndman 2011). Mountz's work (2011) demonstrates that migrants have critiqued the illustration of the state itself as a mobile entity, capable of moving the port of entry to remote locations, islands and policing its borders. In the case of Australia, ports of entry have been rendered mobile and transported to offshore processing and detention centres, delaying and in many cases removing migrants' right to asylum. Therefore, while scholarship on asylum seekers has incorporated much discussion about security and the state, it has also prioritized the incorporation of international human rights principles into the discussion as a fundamental element to the treatment of asylum seekers entering a state.

Spatial barriers and an expanding frontier

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[19] In the Supreme Court Case of Canada (Attorney General) v. Ward (1993) the court has dealt with the possibility that a citizen of Ireland could be considered as in need of protection from persecution. However, this court decision came before the state-sponsored "Balanced Refugee Reform Act" and "Protecting Canada's immigration System Act" which came into force in 2010 and 2012 respectively. These acts have formed a Designated Country of Origin List (which Ireland is on) restricting nationals of these countries and speeding up their asylum claims. While it may be argued that the Supreme Court of Canada had created a legal precedent, this subsequent law has effectively rendered it ineffective.

With the increase of state security at ports of entry, migration has introduced additional challenges for asylum seekers. International migration has become perilous for many asylum seekers crossing state boundaries through irregular channels and informal networks. With the increase of state monitored mechanisms, which have mobilized the border, travel to seek asylum has created dangerous routes to access asylum. In Canada, the failure of the state to transform international legal principles into domestic legal structures has provided increased challenges, which has repressed the mobility rights of asylum seekers. As such, it is argued that the dichotomy between the state and its international obligations has become more apparent since 9/11 (Crépeau, Nakache, and Atak, 2007). The state has established the need to 'protect itself' against terrorist threats in a way which has increased scrutiny towards migrants and placed an outward focus on international threats. According to Amin-Khan, "The "war on terror" has linked migration to terrorism by raising red flags of suspicion about migrants' origins, especially if they are from Muslim-majority states" (2015, p.118). The securitization of migration has targeted migrants and has imposed identity-based checks and profiles to monitor their movements. Securitization discourse has encouraged the actions of security 'agents', such as border enforcement officers and immigration officials, and normalized repressive and intrusive policies. The securitization of the state has been linked to the securitization of migration for the failure to control the movement of people across borders has been signalled as a weak-point in state sovereignty. As Amin-Khan states, "The influx of migrants and refugees into Western states has produced anxiety and insecurity in these societies, and this in turn has unleashed the process of securitization and the formation of the security state-with the events of September 11 further intensifying the process" (2015, p.121). The securitization of migration has in its demand for migratory controls, added additional challenges for migrants accessing asylum.

An emerging theme in the literature is the evolution of the border. Measures of prevention and deterrence have influenced how a border is constructed. While the traditional image of 'the border' has been a fortified, borders have now been dislocated from their former physical locations, which has been accompanied by the intensified mobility of the port of entry (Mountz, 2011, p.319). The fortification of the border has resulted in both the effort to protect citizens from external threats which they may have otherwise have been vulnerable to (due to relaxed border policies); and second, the prioritization of keeping undesirables, which in many circumstances have been migrants and asylum seekers, out, under the impression that they pose threats to the state's security framework. This fortification has occurred due to the development of transnational travel between states. The border has transformed to an expanding and fluid barrier between migrants and their country of destination by incorporating multiple checkpoints, security screens and protocols. This has resulted in the mobility of the border from its fixed territorial location to places and agents outside of the country. Asylum seekers travelling by plane to Canada must procure visas and passports prior to embarkation. For those travelling long distances, additional visas and checkpoints are added to the journey, metaphorically extending the border and moving it though other counties. The transformation of airline agents, truck and train drivers and sea captains has resulted in the transportation of the border into alternate spaces. Border security in Canada relies on a multitude of obstacles that includes external CBSA[20] officers who 'protect' the country via airlines and visa checks[21], and input from a passport/fingerprint, databases. Canadian border officers focus on 'securing the border' to facilitate the "free flow of legitimate people and goods" (CBSA, "Securing the border", 2016).

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[20] Canada Border Services Agency
[21] Which according to Crépeau, Nakache, and Atak, Canada "require[s] visas only for the nationals of countries deemed to produce large numbers of asylum seekers…or overstayers" (2007, p. 323)

This rhetoric borrows heavily from Minister of Citizenship and Immigration, Chris Alexander's statement to grant protection to 'those who need it' and facilitate the "legitimate trade and travel to Canada" (Citizenship and Immigration Canada 2014, p. 3). Border officers are influenced by state policy and government rhetoric in their actions and interactions with asylum seekers. These migrants are perceived as participating in illegitimate travel, which constructs them as inherently criminal. In cases where they have travelled to the border in search of refuge through informal networks, the way the state has framed them prompts detention or incarceration. Therefore, this 'free-flow' of people is not a reflection of progressive policies at work, but the efforts of the state to enforce the border and conscript non-state actors such as airline officials, regional truck drivers and sea captains as border control agents by enforcing the state's security agenda to profile, target and monitor migrants at points of embarkation. The borders' mobilization has undertaken a process in which the state has prevented asylum seekers from claiming their rights up until they reach the territorial soil of the state.

The attention to spatial movement of borders and their controls poses increased problems for asylum seekers attempting to seek refuge. The role of the state in defining and engaging in mobility has contributed to a new 'mobilities paradigm' – displacement and enforcement (Mountz, 2011, p.319). In Canada, the decline in the number of asylum seekers claiming asylum over the last ten years "can be attributed to a large extent to the introduction of more restrictive asylum policies" (Crépeau, Nakache, and Atak, 2007, p. 312). Taran argues that Canadian migration policy in itself has succeeded in polarizing migrants with and without legal documentation (2009, p. 29). At the border, "Migration is commonly understood, in security terms, as a "problem" and many countries feel the need to protect against this "threat"" (Pécoud and de Guchteneire, 2006, p. 70). As such, growing security concerns have "re-emphasized the

role of the border as the traditional symbol of national sovereignty" (Crépeau, Nakache, and Atak, 2007, p. 312). This results in increased insecurity, and the eroding of the institution of asylum as desperation encourages the movement of people through informal networks. By simply playing on the politics of fear, securitization discourses surrounding migration have succeeded in discouraging the movement of people through regular channels which may be heavily monitored. Refugee and asylum policy has been constructed around the fear of the other. Non-citizens or asylum seekers who arrive at the border face increased scrutiny and often discrimination based on their lack of status or citizenship. In this circumstance, mobility rights rhetoric reflects a lack of consideration for the way in which socially constructed identities have erected subjective barriers for asylum seekers at the border.

In addition to the narrative surrounding state security, the role of globalization[22] has been noted in the literature as one of the main causes for the increase in the magnitude of international migration (Crépeau, Nakache, and Atak, 2007; Taran, 2000). The significance of globalization draws on the proportion of migrants and asylum seekers engaging in cross-border movements. There is a large body of literature on the movement of people engaged in labour migration. As such, many scholars have focused on how globalization has increased the mobility of capital, information, goods and services and have claimed that it makes the "non-liberalization of human mobility the exception rather than the rule" (Pécoud and de Guchteneire, 2006, p.79). However it is apparent that asylum seekers are rarely able to be considered as exceptions. The mobility rights of asylum seekers are increasingly marginalized in domestic law in comparison to other

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[22] Globalization is a process which scholars have viewed its effects as both an ideological outlook as a descriptor for technological development and the advancement of communications and information technology (Amin-Khan, 2015, p. 120). David Harvey has described globalization as the "compression of time and space (1989 as cited in Amin-Khan, 2015, p. 120). Amin-Khan has argued that "globalization as a descriptive term signifies the rapid movement of industrial production from Western states to the Global South to take advantage of the abysmally low wages paid to workers" (Amin-Khan, 2015, p. 120).

migrants engaged in migration associated with generating economic capital. International human rights law is meant to apply to everyone by virtue of being human, however the application of these rights in local spaces develops human rights frameworks that are relative to the state and context of the individual. Thus, the gap between international human rights law and domestic human rights law is often explained as a relative human rights issue. Considering mobility rights at the border, Pécoud and de Guchteneire (2006) claim that emigration is recognized as a human right but immigration is not, which suggests that states have developed systems that let their residents leave but do not let others in (p. 75). This challenges the universality human rights, which argues that international instruments like the 1967 protocol have "universal coverage" for rights despite the legal, social or economic status or class of individuals (UN General Assembly "refugee", 1951, p. 2). This suggests that rights, in particular the mobility rights of asylum seekers, are relative to their situation and context and therefore must be negotiated for each individual at the border and beyond.

In addition to the themes of globalization, security and mobility, some scholars have observed the position of marginalized groups who claim asylum. Feminist scholarship has observed the impact of racialization in creating social categories of women (Dyck and McLaren 2004, p.517). Racialization occurs within society and links a particular racial minority group to a socio-political construction of 'other'. The processes of racialization has affected the rights of asylum seekers, however the racialization of the refugee or asylum seeker is used further in popular discourse to construct negative characteristics in society. Social constructivism helps to unpack how social interactions inform and influence gender relations, race and class biases. This lens further explains how individuals use social interactions to construct opinions and perspectives on particular groups of people. Social constructivism helps to understand how the

mobility of the asylum seeker can change based on how that individual has been represented. In feminist scholarship, consideration for the culture and gender of asylum seekers addresses barriers such as the devaluation of reproductive work (Dyck and McLaren, 2004, p. 517-8). However, social constructivism incorporates these perspectives and uses socially an eclectic approach to theory and values shared understandings to critique the influence of economic globalization and gender on rights. Lamba and Krahn state that, "Socially constructed expectations of refugee passivity and dependence create institutions and procedures that can discourage refugees from retaking control of their lives" (2003, p. 336). Yet it has become clear that both individuals and families face layered barriers, which can complicate travelling together. The additional challenges to migration such as seeking reunification beyond the border are hindered further by socially 'accepted' understandings of 'the refugee'. Dyck and McLaren state that "In the current neo-liberal political climate, with immigration policy increasingly underpinned with human capital discourse… distinctions between positively valued self-sufficient independent immigrants and negatively valued 'family class' immigrants and refugees are underscored" (Abu-Laban, 1998; Arat-Koc, 1999; Thobani, 2000 as cited in 2004, p. 517-8). This contributes to a stereotypical image of the asylum seeker as destitute and lacking resources and addresses the selective focus in the literature on asylum seekers and their production and possession of economic capital. Some scholars claim that because of this perception of their lack of self-sufficiency, "both settlement services and research come to view refugees in a dependent role, characterized primarily by need and helplessness (Mazur, 1988 as cited in Lamba and Krahn, 2003, p.336). However, Lamba and Krahn suggest that this is no longer the case, and the literature has come to demonstrate that asylum seekers and refugees are resourceful and proactive in the process of resettlement (Kuo & Tsai, 1986; Mazur, 1988; Gold, 1993; Ivry, 1992

as cited in 2003, p.336). The construction of the refugee has lent to the conception that they are all to be represented in a homogenous category. Yet, much of the experiences of asylum seekers are become compounded by the barriers they face. As Kissoon argues "arriving to safety often entails a dramatic devaluation of refugees' human capital and social status: a flight from persecution to destitution" (2010, p.5). In the literature, asylum seekers have only accounted for a small proportion of all refugees, which over the past decade fluctuated between 8,000-20,000 a year (Schwartz 2015; Crépeau, Nakache, and Atak, 2007). Scholars portray refugees as active agents in their own resettlement and critique assumptions that they lack social and economic capital and remain dependent after moving beyond the border (Lamba and Krahn 2003). This approach supports the observed experiences of asylum seekers and refugees in Canada after they have utilized their familial and community networks in order to arrive at the border (Lamba and Krahn 2003; Kissoon 2010; Carter And Osborne 2009).

Claiming rights at the border in the face of a changing polity

There has been a noticeable effort from politicians since the events of 9/11 to unify the 49th parallel and 'secure' these ports of entry along the Canada-US border. State policies such as the "Balanced Refugee Reform Act" and "Protecting Canada's Immigration System Act" which came into force in 2010 and 2012 respectively have joined ranks of the Canada- United States (U.S.) Safe- Third Country Agreement. This is in addition to the increase in border security budgets for both countries in the last two decades[23]. Such efforts or 'anti-terrorism measures' have erected multiple boundaries for migrants travelling between North and South America. As

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[23] CBC News has reported that "An additional $92 billion has been spent on national security in Canada in the wake of the Sept. 11 attacks, according to a report… since 2000-01, Canada has dedicated $92 billion more to national security spending than it would have if budgets had remained in line with spending levels before the attacks in 2001, $69 billion when adjusted for inflation" (Fitzpatrick, 2011).

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Amin- Khan claims, Western governments have decided to follow the lead of security agencies which have imputed a causal link between migration, security and terrorism (2015, p. 118). This link has been recognized by scholars in political and policy agendas surrounding discussions of the border and border security (Crépeau, Nakache, and Atak, 2007; Mountz, 2015). The 'securitization of migration' has further negatively affected migrants' freedom to travel across international borders. Mountz claims "Part of this securitization involves the creation and maintenance of publics[24] of border enforcement through the distancing of detainable populations from mainland territory" (2015, p. 184). These borders of enforcement maintain their legitimacy by relying on public discontent about 'uncontrollable migration', a discourse which is guided by the state. Beyond the desire to separate citizens from non-citizens (notably asylum claimants), the element of race, culture and religion has developed markers for immigration officials and border agents to divide and discriminate. Racialized groups or the 'other'[25], have been constructed by the Minister of Citizenship and Immigration, Jason Kenney as desperate queue jumpers who have illegitimate reasons for exercising their right to claim asylum. Government policy, which affects border fortification, has also been motivated by fear. Fear of the other has historically impacted migration policy in Canada. Mountz points out that "securitization processes create and sustain fearful populations—both the subjects and the publics of enforcement— through the (geo) politics of fear (Pain and Smith 2008 as cited in 2015, p.186). Due to Canada's geographical separation from the world's largest refugee groups, the fear of invasion by refugees seeking asylum can be perceived as illogical. However, the construction of

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[24] According to Mountz "By publics, I refer to the constitutive outside, those who are not themselves in detention but rather "witness" it from near or afar" (2015, p. 184).
[25] A term that signified the historical separation of an individuals based on cultural, physical and or phenotypical different from the dominant group.

the refugee and asylum claimants has been used to legitimize national discourses for the suspension and removal of their rights on Canadian shores.

State discourse or the rhetoric that has been substantiated by state politicians has contributed to this view. The popular vernacular used when referring to refugees influences how the state interacts and guides them through its own policies. State strategies encourage the linkage between threat and criminality, conditioning citizens to accept the struggles of asylum claimants who attempt to move towards the network of state mechanisms that now make up the border. As Mountz argues this is the ontology of exclusion in which "the creation of those who understand themselves to be located outside the enforcement archipelago and who fear migrants and asylum seekers as threats to their own security—proves central to the disappearance of protection and safe haven" and thus the concept of universal mobility rights. The endorsed reformation of the border and the individuals who may cross it demonstrates the prioritization tiers of migrants. The state's motivations for the integration of local economies has come with the rejection of asylum claimants. In July 2009, the federal government implemented a visa requirement for Mexican citizens who, as Martin and Lapalme point out, had had steadily increasing asylum claims since the implementation of NAFTA. This policy was exclusively set to reduce the amount of asylum cases Canada had to process from Mexicans, but was justified as a measure to ensure the "legitimacy" of claims received and protect Canadians from the contemporary violence in Mexico (2013, p.75). The liberal government, which established Justin Trudeau as Prime Minister in late 2015 has recently announced that it will remove the visa requirement for Mexican travellers as of December 2016, although this decision was a negotiated trade to ease bilateral relations (The Canadian Press, 2016). The lasting effects from years of visa

restrictions and other policies that remain inhibit Central and South American travellers, and are immense.

The geo- political and sociological motives for the implementation of border security policies between Canada and the United States have encouraged the fallacy of their illegality. As Macklin argues, "The events of September 11th have both cemented and intensified the nexus between the asylum seeker and criminality" (2005, p.367). This has encouraged the construction of the 'bogus' versus 'real' refugee dichotomy and encouraged the development of policies to exclude asylum seekers. One such policy, the Canada- U.S. Safe Third Country Agreement (S.T.C.A) was another step to enforce the disappearance in the refugee at ports of entry. The S.T.C.A went into force on December 29, 2004. Modeled after the European version of the policy (The Dublin Convention), the S.T.C.A requires asylum seekers to claim refuge in the first country of arrival –either Canada or the U.S. This explicit exclusion of a particular group of migrants demonstrates the power of the security focused narrative and the legitimacy of refugees. Macklin states that while the argument for tighter border policies has been justified as a necessary step in order to protect citizens from the acts of terrorism in our "uniquely inviting" country that has a refugee determination system that is "susceptible to abuse" this is contrasted to reality in which applications made by alleged terrorists have been refused or abandoned (2005, p.411-12). Nevertheless, political rhetoric of asylum seekers and policy has assured that the framing of the asylum seeker has taken place before they even attempt to claim asylum.

The Economic capital of asylum seekers

Beyond the border, asylum claimants face additional barriers to mobility such as unemployment, poverty and marginalization in urban areas. In international law, the mobility

rights of migrants who have been granted asylum are outlined in the International Covenant on

Economic, Social and Cultural Rights (ICESCR). This covenant, which Canada has signed and

ratified, commits the state to work towards granting these rights without discrimination of any

kind. In accordance with Article 2 of the ICESCR, Section 15 of the Charter prohibits

discrimination on the basis on the analogous ground of citizenship (UN General Assembly

"economic", 1976). Taran argues that despite the broad nature of The ICESCR and the Universal

Declaration of Human Rights, principles which were elaborated on have clearly not been applied

to a number of important groups (2000, p. 16). Within the literature, the social, economic and

mobility rights of asylum seekers are observed beyond the border through their settlement

experiences in their new communities (Lamba and Krahn 2003; Kissoon 2010; Carter And

Osborne 2009). Asylum seekers who are framed at the border as threats to security or possible

examples of lax border policies, maintain their refugeeness[26] beyond the border (Kissoon 2010).

This concept is operationalized by the layers of conditionality attached to asylum claimants by

the state. Some scholars have focused on the experiences of refugee claimants who are waiting

for their hearing and status determination. For Carter and Osborne, housing is argued to be one

of the first steps in the resettlement process (Carter and Osborne, 2009). As one of the primary

steps to settling beyond the border, finding housing has been highlighted by scholars to be an

additional barrier to mobility (Lamba and Krahn 2003; Kissoon 2010; Carter and Osborne 2009).

Access to housing for asylum seekers is argued to be a useful measure of social and economic

capital (Carter and Osborne, 2009). However, for asylum seekers who have arrived with very

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[26] According to Kissoon, refugeeness "refugeeness is used to encapsulate the following characteristics of the refugee situation: (a) Not necessarily choosing or understanding their destination; (b) migration marked by trauma and persecution; (c) vulnerable mental and physical health; (d) separation from family members whose safety may be at risk; (e) arrival without identity documents or with false documents; (f) arrival without evidence of qualifications; (g) arrival under the stress of deportation or detention; and (h) temporary admittance under the fear of return" (2010, p.10).

little, the lack of social and economic supports in their new society can negatively impact their integration. Kissoon supports this argument by looking at the issue of homelessness for asylum seekers and refugees in Canada. He states that despite appointing a Minister Responsible for Homelessness, Claudette Bradshaw, in 1999, there has been "No policy distinction is made between the homelessness of citizens or asylum seekers" (Kissoon, 2010, p.11-12).

In the Toronto area, refugee claimants are particularly vulnerable to homelessness and have tended to live in poverty, forced into overcrowded and unsafe housing (City of Toronto, 1998, p. 10 as cited in Kissoon, 2010, p. 12). An Ontario Metropolis Centre (CERIS) report on the precarious housing and hidden homelessness of refugees in 2011 found that finding housing in Toronto is difficult and the "incidence of low incomes is increasing among immigrant households at the same time as it has been declining among Canadian-born households" further, "housing is becoming more expensive in Canada's major cities, including Toronto. Housing eats up more than 75 percent of household income for one in three asylum seekers and almost half have had to stay in a hostel" (Preston et al. 2011, vii). Conditions for asylum seekers who may have had to rely on government support were observed to be even direr. Participants in this study stated that getting a job without regular status was difficult, and their "limited credit history in Canada, and few friends in a position to help them [left] refugees and asylum seekers in unsatisfactory housing" (Preston et al. 2011, p. 61). The above conditions are only second to the discrimination which has been highlighted by asylum seekers on social assistance. In this study, several claimed that landlords would only allow them to move into the cheapest (and smallest) of rental apartments, further limiting their mobility (Preston et al. 2011, p. 62). While the city of Toronto receives an estimated 5,000 refugee claimants per year, 20% of new claimants may be entering the shelter system each year (City of Toronto, 1998 as cited in Kissoon, 2010, p. 12).

The City of Toronto claims that between "2001 and 2006, Toronto received 251,400 immigrants and refugees" (2016, p. 18). As the primary or secondary destination of many asylum seekers, these cities offer diversity and social supports from family and ethnic groups which may reside close-by. With the growing rental and house prices in the cities of Toronto and Vancouver, the number of asylum seekers able to remain in the city is shirking. According to the City of Toronto, "The largest net outflow from Toronto was people between 30-44 years of age, accounting for 41% of the net migration between Toronto and rest of the GTA ... This suggests that some family households with young children are among those leaving Toronto" (2016, p. 18). This issue which has been deemed a municipal-provincial issue, can be complicated by the city or community in which refugees arrive. As major gateway cities, Toronto, Vancouver and Montreal receive the majority of immigrants arriving every year. Carter and Osbourne argue that "Most research on refugee housing in Canada has focused on Toronto, Montreal, and Vancouver, and very little has been longitudinal" (2009, p. 309). This highlights a gap in longitudinal studies on the socio-economic factors that influence refugees post-settlement. Carter and Osborne suggest that many "refugees fall into the category of "visible minority" … often experience discrimination when attempting to access housing (Canada Mortgage and Housing Corporation [CMHC], 2002; Murdie, Preston, Ghosh, & Chevalier, 2006; Ghosh, 2006 as cited in Carter and Osborne, 2009, p. 311) therefore it is necessary to add the component of ethnic or racial group to this as well.

It is apparent that when the state enacts a set of barriers which act to deter, prevent, and exclude refugees these are compounded by a second set of barriers which claimants incur upon settlement. The resistance politicians have had to accepting refugees stems from the political rhetoric and government bureaucracy that constructs them as destitute, and 'illegitimate'. This

has affected asylum seekers beginning to establish their lives in Canada. Resilience after facing such adversity can draw on existing resources or their social networks. The family unit that migrates in order to seek refuge has been identified by Dyck and McLaren both as a source of support and as a source of stress in terms of shared health concerns and financial resources (which are little to none) (2004). Boyd's work (1989) establishes a link between family networks and social capital, explaining that "migrants are motivated to move together as a family unit in order to establish economic security in their new home and to improve their capital base" (as cited in Lamba and Krahn, 2003, p. 338).

Boyd's argument suggests that the social networks of asylum seekers can support the development of their economic capital. This is based on an element of trust and social support that family ties can provide. Ethnic groups can also help foster immigrants' economic integration. Lamba and Krahn argue that "Ethnic group networks function in much the same way as kin networks, providing newly arrived refugees and immigrants with access to accommodation, employment information, and a range of community benefits including friendship and marital prospects" (2003, p. 339). Post- settlement, these networks can help or hinder the delivery of the mobility of asylum seekers. Asylum seekers and refugees who use family or ethnic group networks may group together, which may compromise their upward mobility. Carter and Osborne argue, "marginalized groups of people are attracted to the same areas" such as inner city neighbourhoods characterized by urban decline (2009, p. 309). In this context, affordable housing placed in declining urban areas can also serve as barriers to mobility. Crime, poverty and educational opportunities are limited in certain communities. Context and political climate have played a large role in the accessibility of resources. As such, physical location "emphasises that different social groups' mobility and relationship[s] to place are forged

within gendered power relations and political economies" (Dyck & McLaren 2004, p.518). The gap between federal and provincial law which fails to address the economic mobility of asylum seekers reflects the downfall of the universal rights rhetoric. The Canadian state's main duty as a signatory to the ICESCR has been to create a bridge between international and domestic law. The limitations of these rights in local municipal spaces suggests a breach of the commitments that the Canadian state has promised to uphold.

In this literature review the mobility rights of asylum seekers have been disused. The interpretation of the rights of asylum seekers faces challenges, and there rests some debate among scholars of the usefulness and effect that universal rights principles have in a domestic context. As argued by Knop the use of international principles may provide a substitute for the lack of incorporation of international law in domestic Canadian law (2000 as cited in Heckman, 2010, p. 235). While international legal norms and precedents are important for the development and delivery of the economic and legal rights of asylum seekers in Canada, the dichotomy of these principles in reality and in practice are still a point of contention. The literature review conducted revealed several key aspects about the human rights of asylum seekers. Firstly, the applicability of the human rights of migrants in theory has a drastically different reality in practice in domestic law structures. This aspect has been exaggerated by the increased flow of international migration, and the number of migrants travelling around the world. Second, the role of class, race and gender have also influenced the ability of migrants to access settlement in Canada, especially in a globalized context. This has erected secondary barriers to mobility, which has unequally affected asylum seekers at the border. Finally, the availability of capital has predicated asylum seekers' ability to access countries of asylum to even exercise their rights.

While the mobility rights of migrant's remains the primary focus of the research, it is necessary to identify related factors that may prevent or inhibit this.

Methodology

The research methods in the study rely on a qualitative methods approach to address the subject of the mobility rights of asylum seekers in Canada and the influence of policy on these rights. The central research question will seek to evaluate the phenomenon of forced migration and asylum seekers arriving in Canada. The purpose of this question is to explore the set of factors which lead towards the low numbers of asylum seekers in Canada compared to other European and African nations. The focus of this question will be on government policy, and legislation.

Data

The qualitative approach to collecting data relies on using document data to investigate the research question, by using public documents. The analytical framework, which underpins this MRP, is critical to the analysis of the data. The strengths of using qualitative data is that the text and words used will reflect the focus and scope of government projects which will establish the direction of the policy in this subject area (such as what words they have prioritized and why). The documents examined include the Immigration and Refugee Protection Act (with particular focus on the changes created from Bill C-11 and the Safe Third Country Agreement), The Marine Transportation Security Act, The Annual Report to Parliament on Immigration from the years 2010-11 to 2016-17, and The Beyond the Border Action Plan for Perimeter Security and Economic Competitiveness. These documents have been selected because of their potential to

frame how political leaders and the state perceive the rights of migrants. Social constructivism will be utilised to conduct an effective analysis of the data. This framework allows for a useful analysis of the way in which political leaders and policy documents have framed immigration policy and refugee law in Canada. The scope of these documents are within the period of 2010 and 2017, and are federal government documents. In addition, they describe Canada's position and objectives in immigration and refugee policy. Further, the analysis of these documents will attempt to answer the qualitative research question. The selection of these documents has been made with a short time frame in mind.

The decision to not include other qualitative data techniques such as observations or interview data has been chosen in part because of the potential for the research subjects (asylum claimants) to be exposed to potential harms during the interview process. By probing for personal information of asylum claimants who have a precarious legal status, it may cause additional stress during their settlement experience, and could negatively impact the participants (either legally or ethically). This process could also involve potential power imbalances between the researcher and the participant (asylum claimant or refugee).

Sample

The research will not rely on collecting data by using interviews, focus groups or other forms of participant observation. Thus, the sample frame is limited to using document data and quantitative data collected by government sources. The sample population that will be included in the research is be limited to documents which reference asylum seekers and refugees. The selection of government documents and reports has focused on major policy documents that influence the travel of asylum seekers into Canada. In addition, these documents provide support

for the theoretical framework of the paper and highlight how social relationships impact the mobility rights of refugees.

The data collected regarding asylum claimants have been selected from the period 2010-2016 (and in some cases reflect projections for 2017). The document data included in the sample reflect policy changes within this period at the federal level. The number of documents to be included will be nine documents (listed above) which have guided travel procedures for asylum claimants in Canada during this period. Further, these documents are in most cases legal documents, which immigration authorities, politicians and academics refer to. Asylum seekers and asylum claimants referenced in these documents are be considered as those who have arrived in Canada and claimed asylum at a port of entry. This will include land, air and sea ports. Refugees are included in the scope of the documents selected in order to provide a comparable analysis of data collected from government databases. This group has also been selected in part because of the limited data available on asylum claimants in Canada.

Generalizability & Assumptions

The data analysis and interpretation will not explore the stories or circumstances of all asylum seekers who enter Canada and therefore will not be able to provide a narrative to supplement the data collected by the CBSA and Statistics Canada. Further, the data collected cannot be applied to other groups or settings such as other classes of immigrants or periods of time. The nature of migration is fluid and therefore while the sample frame will attempt to capture the experiences of some asylum seekers, it cannot predict the experiences of all asylum seekers entering Canada. Therefore the conclusions drawn from the quantitative data collected can only claim statistical validity.

Qualitative data collected will be generalizable to other groups and settlings outlined in each respective government policy document. Further, the focus of these documents include other groups such as immigrants, permanent residents, etc. Finally, the reliability of the results from this analysis (in regards to the qualitative analysis) can be applied to specific time frames, in which government policy has not been changed or suspended.

Data Collection Procedures

The data procedure used for the qualitative data will rely on the collection of documents. The collection procedure intends to involve a first and second phase. The first phase involved conducting a general search by looking for available relevant data by searching for government reports using the key words "asylum claimant and networks" and "financial". The second phase involved a search through the data (text and statistics) in the aforementioned government databases and government reports. The data collection procedures for the qualitative data followed an inductive method of reasoning. The use of inductive reasoning began with the collection of documents in reference to the research question. These documents have supported and refuted the conclusion; however, these documents will be relevant to the research topic at the specified level of focus.

The collection of document data will benefit the study by providing appropriate context for the research topic. Further, the information gathered from this sample will indicate the political climate of refugee and asylum policy in Canada over the past 5+ years. In addition, the collection of data will attempt to determine patterns in the data that support social constructivism theories. It will test support for the question: what are the barriers to mobility for asylum seekers at the Canadian border and beyond. The procedures used to collect the data will involve saving the

documents to a local drive and backing them up. For analysis, a copy of the documents was

printed out and notes were taken of the information gathered. This supported the coding process

which was completed by grouping theories, concepts and themes together for analysis.

Data Analysis

Data analysis was an ongoing process during research. For the qualitative data collected, a

qualitative content analysis was conducted of the documents selected. The analysis began with

reading a printed copy of the documents. The focus within the documents selected were the

sections which provided direct or indirect discussion of policy in relation to asylum seekers or

refugees. The analysis focused on the content and discourse of these documents in the relevant

sections. Notes were made of the type of words used, the use of these words (context) and their

repetition in each document as well as across all documents. By paying close attention to the use

of words such as meanings (definitions provided), it was possible to discern themes and popular

vernacular.

An open coding technique was used to determine initial themes and descriptions. Next, the

data was organized and coded (following a second read). In order to organize the data, a

checklist matrix was used to code and to form topic sections. After this process, the codes

created of the most popular themes and notes taken were be used to evaluate alternative

explanations to provide authentication. Throughout the analytic process ethical issues and

considerations were taken into consideration. The process considered how the findings from the

analysis may be used and how the disseminated information may be interpreted.

During the data collection procedure, information about asylum seekers have been collected. This data, although not directly collected from asylum seekers entering Canada may involve 'risk'. As Sippola explains, standards applied by government and institutional bodies focus heavily on legalistic decisions regarding 'risk' however ethical problems can often be more complex than the law allows (2006, p.112). Within the scope of the research project, data collected observe the methods used to find suitable accommodation in Canada, and the tools used to form economic, social and cultural ties to Canadian society. This collection procedure did not directly involve or include research participants; however, cognizance of certain ethical considerations have been made. The use of this data in this research project has made efforts to respect the privacy, rights, needs, and values of the subjects included. By focusing on how the discourse of politicians have constructed migrants, in particular asylum seekers, the research has sought to only use published material from state-sponsored actors, thus minimizing the risk to the parties discussed. The techniques used to code and analyse the policy documents used are already subject to the Canadian Department of Justice Values and Ethics Code.

Policy Analysis

Migrants attempting to cross the border are framed by the state as either unwanted or desirable. Social constructivism and discourse analysis help to illustrate that shared perspectives of the refugee problematize migration and influence strategies to control human migration. Former neoliberal liberal policy makers who have facilitated trade and economic growth have endorsed this type of migration as the national agenda, while negatively framing asylum seekers in the media and at the border. This has greatly motivated the public's perceptions of security,

economic prosperity and terrorism and has shaped the public perception of the refugee and how they fit into the national agenda. The following analyses outline how the state has positioned the asylum seeker or refugee in the national context at the border.

The Beyond the Border Action Plan for Perimeter Security and Economic Competitiveness

Canada has maintained a close relationship with the United States in the areas of trade, commerce, migration and security. The Canadian government argues that the two countries share the largest bilateral trading relationship in the world (Government of Canada "Beyond the Border", Implementation Report, 2012, p. 3). The Canada-U.S. border's importance is largely influenced by the economy and cross-border travel that facilitates approximately 73% of Canada's international trade[27] (Crépeau, 2011, p.32). In 2013, profit from this trade relationship surpassed $730 Billion (U.S.) with nearly $2 billion (U.S.) in goods and services crossing the border each day (Government of Canada "Beyond the Border", 2015, p. 3). Border politics have become important for both countries in the areas of security, health, business and of course trade. In December 2011, Prime Minister Stephen Harper and President Barack Obama signed the Beyond the Border declaration, a regional agreement designed to "deepen our partnership and enhance our security, prosperity and economic competitiveness while respecting each other's sovereignty" (Government of Canada "Beyond the Border", 2012, p. 3). The Canada - United States Beyond the Border Action Plan for Perimeter Security and Economic Competitiveness maximizes both countries efforts to curtail irregular migration, encourage business travel, reduce barriers to international trade, and develop a joint infrastructure to coordinate the entry/ exit of

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[27] According to Foreign Affairs and International Trade, 2010.

people and goods. The first report produced after the implementation of the declaration includes

the activities conducted in both countries during 2012, while focusing on four areas:

  i. Addressing Threats Early
  ii. Trade Facilitation, Economic Growth, and Jobs
  iii. Integrated Cross-Border Law Enforcement
  iv. Critical Infrastructure and Cybersecurity

The implementation reports that were released annually for a three-year period discuss each

point in depth. The first report produced in 2012, summarized the progress made after the initial

signing of the declaration and initiatives that remain to be completed in the four targeted areas.

  After analysing the reports, it has become clear that language use, context and tone direct

the national discourse about the border and economic prosperity. By linking these two terms, the

border is constructed as a porous gate, which is weakened from its uncoordinated border

management policies. Key words used in all reports illustrate how the state has guided border

policy for the past three years. In the 2012, the sixteen-page report uses the word 'threat' 10

times, plus an additional 3 times in section titles and the table of contents. This word is used in

the context of "addressing threats early" before they reach any physical Canada-U.S. point of

entry. The issue addressed is the need for commonality in the definition of a "threat" due to the

fact that "that a threat to either country represents a threat to both" (Government of Canada

"Beyond the Border", 2012, p. 3). This approach to addressing threats is designed to create a

harmonized systematic approach to the screening of cargo, and checked baggage and passengers

travelling between the two countries by land, rail, sea and air. The use of this word draws

importance to the issue of security and the need to respond to these 'threats' before they arrive.

The exercise involves harmonizing security programs, visa and document requirements for

passengers travelling between the two countries (Government of Canada "Beyond the Border",

2012, p. 7). The context of the word used is in preservation of national security, and perhaps a joint sense of security between Canada and the U.S. from the militarising shared gate points. The word security is used often in conjunction with threat or risk and is mentioned 29 times plus an additional 2 times in headings or table on contents. In such a short report, the term is not defined, but its implied meaning directs the reader to other types of security such as cyber security and transportation security. Other terms repeated in the report include "legitimate" used in conjunction with the travel, goods and people. The subtle inclusion of people in this context points to an overarching theme in all reports of legality, and ultimately the desire for a certain type of trade and travel. This is confirmed in all reports with mention of the facilitation of "known and frequent travellers…and traders" between the two points (Government of Canada "Beyond the Border", 2012, p. 8).

The report even references a program created to encourage business travel and make travel for these 'trusted' travellers even easier. Members of the traveller program NEXUS, experience expedited clearance through security screening lines at major airports and in reserved vehicle lanes at land border crossings and at marine ports in Canada and the United States. The reports boasts that three new NEXUS lanes have been added to the existing lanes amongst those in the 120 airports in the United States and 16 airports in Canada (Government of Canada "Beyond the Border", 2015, p. 13). The commercialization of the NEXUS program promotes the travel for frequent travellers between the two countries who are able to pay the application fee. Further, the exclusivity of the program for Canadian or American citizens, directs the NEXUS program towards users who can easily and frequently travel between Canada and the U.S. The erected barriers at the border do not penalize these 'legitimate' travellers who are able to pass security checkpoints and visa requirements, but refugee claimants who arrive at the border fleeing from

persecution. The legal and social policies for asylum seekers attempting to access Canada by land, sea or air through the U.S. creates a controlled and tense atmosphere, which ensures that this type of travel is met with strict and interconnected mechanisms of migration control.

Both the 2014 and 2015 implementation reports for the Border Action plan relay similar results. The 2013 report emphasizes the relationship that the Department of Homeland Security (DHS), Citizenship, and Immigration Canada have had with "stakeholders" helped to influence and develop the ideal model of cross-border business travel (Government of Canada "Beyond the Border", 2013, p. 7). With a continued emphasis on the NEXUS program, the development of initiatives to ease travel for migrants in Canada and U.S. has become technological. The use of databases to store biometric information for travel clearances is recognized in the repeated use of the word "cybersecurity" 3 in titles and 3 in text and the use of the term cross-border technology frames the direction and intention of the report (Government of Canada "Beyond the Border", 2013). In the 2015 report, the words used to describe the progression of action for a three tiered "Cross-border Law Enforcement", positions the justification for such policies (Government of Canada "Beyond the Border"). According to the report, "Cross-border cooperation on law enforcement strengthens the ability to prevent criminals from exploiting the border for illicit purposes and escaping justice… Canada and the United States developed the Cross Border Law Enforcement Advisory Committee, which seeks to enhance the integrity of the shared border by supporting cross-border law enforcement initiatives" (Government of Canada "Beyond the Border", 2015, p. 14). By enhancing the 'integrity' of the border by arresting the movement of 'criminals' and other persons 'escaping justice' a binary of migrants is created. With the available options for travel constructed as legal and prosperous or illegal and criminal, it

becomes apparent how discourse frames asylum seekers before they even reach the physical border.

In the area of border politics and economic preparedness, the state has socially constructed 'business' or migrants that travel for the purposes of trade, capital ventures or other regional business opportunities as lawful and justified in their travel. These migrants are granted access to migration channels with less scrutiny and in some cases given 'express passes' to travel between Canada and the U.S. While this luxury points to a different type of migrant, is positions asylum seekers to be of a different class and attitude. The inherent nature of the Beyond the Border reports speaks to the illegality and criminality of other migrants who threaten the state. Securitization discourse has invested in promoting inter-regional and cross-border cooperation to purposefully combat this threat and erect barriers and other mechanisms to stop this 'unwanted' type of migration. The emphasis of the Beyond the Border act also insists on coopting the public into believing that these initiatives are in their best interest. By emphasizing profits and disparaging criminality which hinders the efficiency of border patrol officers, these documents have also taken on a neoliberal attitude towards the promotion of free trade and movement of goods, but competition and individualism in the area of labour. The vast success or downfall in the area of human rights promotion, of the Border Action Plan is that it has created an atmosphere of security as a veil for the introduction of systemic elitism. Migrants attempting to gain entry to the state to seek asylum are socially constructed before they even arrive. Tools and procedures have been formulated by the state based on government rhetoric of migrant criminality. This has negatively affected asylum seekers at the border who attempt to cross these channels in search of refuge.

The Immigration and Refugee Protection Act (IRPA)

Over the past decade of conservative leadership, the federal government has insisted on the benefits of opening borders to economic migrants while closing borders to humanitarian cases of migrants. The way in which former Ministers of Citizenship and Immigration have framed refugees and asylum seekers have influenced the direction of state policy towards them. The Immigration and Refugee Protection Act (IRPA), which received royal assent in November 2001, is the primary document that outlines domestic law in Canada regarding immigration. The Act has undergone many revisions and the amendments to immigration and refugee law in Canada have reflected the priorities of the federal Minister of Immigration, and the federal government department that regulates immigration to Canada. IRPA's purpose is to respect immigration to Canada and grant "refugee protection to persons who are displaced, persecuted or in danger" (Minister of Justice "IRPA", 2001, p.1). The objectives of IRPA focus on refugees, and to a lesser extent asylum seekers. In the Act, article 2-a to h sets out objectives for refugees that promote their inclusion in the state's protection regime and acknowledge international legal instruments, which have prescribed the relationship state signatories, should maintain with asylum seekers who arrive at their borders. The rights of asylum seekers are stated to be enshrined in this document and as described in the UN convention relating to the status of refugees[28]. However, the interpretation and application of the rights outlined in this act are carefully guarded by clauses and specifications that position the security of the state above the rights of the individual asylum claimant. What is constructed by state actors is the opposition of these two conditions, while realistically; the asylum seeker has been continuously framed and

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[28] 2-d states that one objective towards refugees is "(d) to offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual treatment or punishment" (IRPA, 2001, p.18).

constructed as a threat to the security and safety of the state. The relentless rhetoric of state politicians, which categorises asylum seekers who arrive at the border or Canadian port of entry as inherently criminal, has manifested within Canadian immigration and refugee policy at the highest level. While sections of IRPA point to the freedom and right of asylum seekers to claim asylum, other policies and clauses repress and deter their movement.

In the mid to late 1990s, the Canadian government tried and failed to convince U.S. officials to enter into a comprehensive cross-border agreement that dealt with irregular migration, however in the aftermath of the terrorist attacks in New York on September 11th, 2001, both states implemented new border policies and regulations. Known today as the Canada-U.S. Safe Third Country Agreement, the immigration legislation halts the movement of asylum claims in either Canada or the United States, forcing them to claim refugee protection in the first country they arrive in. Enforced at Canada –U.S. border crossings, this agreement has only recognized the United States as a 'safe-third country' for refugee claimants planning to travel through either country. This decision has come as a purposeful target for South and Central American refugee claimants who wish to seek refuge from various forms of persecution. The immigration and refugee protection act has been developed and reformed to see additions to security forces, infusing biometrics into security measures, and entrusting the Minister with the ability to remove citizenship rights of dual citizens suspected of terrorism or other prescribed serious offences. Canada's official policy document directs and guides politicians on important decisions regarding the treatment and movement of asylum claimants and migrants who have precarious status Reforms have guided public discussion on the validity of asylum claimants claims from certain countries, namely Mexico. The motivation to enforce this type of rhetoric

has changed refugee-hood to no longer be considered a right, but a privilege. Binding refugees to the same standards as citizens, asylum claimants have gained responsibilities over the last five years, and seen similarly economically focused integration schemes.

An additional alteration to IRPA has focused on pre-determining the 'well-founded' fear of persecution from claimants from an arbitrary list of countries. Asylum seekers from these countries, face an increased case processing time that tries to (unfairly) determine why their case should be treated as an exception to this policy and why their claim is well-founded. Framing refugees as 'bogus' immigration former Minister Jason Kenney succeeded in justifying state sovereignty over protecting refugees by questioning the validity of their claims. Within IRPA, the federal minister of immigration determines designated countries, or the Designated of Countries of Origin (DCO) list. These countries "do not normally produce refugees" and have positive human rights records and offer state protection (CIC, 2016). The problem with the DCO list is that it is unable to account for the various reasons why people seek asylum. While in some countries persecution has happened in a large scale, and may be state-based, other states may not offer protection to some ethnic or religious minorities, and members of a particular social group (for example a particular sexual orientation) can be exempt from state protection. This point has placed the DCO list under scrutiny by human rights activists who argue that countries such as Hungary, which has produced a number of Roma refugees, as well as Mexico, which has had serious human rights violations, and instances of contemporary violence are not 'safe'. According to Martin and Lapalme, the Canadian government has frequently contradicted itself when discussing the 'validity' of asylum claims from Mexico. In 2013, "the government of Canada … issued a travel warning…when traveling to Mexico, discouraging in particular all "non-essential travel" in northern states. [Furthermore] The Immigration and Refugee Board of

Canada (IBRC) has recognized … that certain rejected asylum claimants were under threat of persecution and suffered from "generalized" forms of violence" (Martin and Lapalme 2013, p.75). This action is supposedly excused due to the narrow interpretation of the persecution outlined in the 1951 Geneva Convention. Nevertheless, the state has chosen to ignore these claims and degrade its refugee regime. According to the Government of Canada,

> Most Canadians recognize that there are places in the world where it is less likely for a person to be persecuted compared to other areas. Yet many people from these places try to claim asylum in Canada, but are later found not to need protection…The aim of the DCO policy is to deter abuse of the refugee system by people who come from countries generally considered safe. Refugee claimants from DCOs will have their claims processed faster. This will ensure that people in need get protection fast, while those with unfounded claims are sent home quickly through expedited processing (Government of Canada "Designated Countries of Origin", 2016).

This statement was made to defend a practice of systematic rejection of asylum claimant's rights. Following steps made to deter their travel to Canada, the DCO list represses the movement of asylum claimants from all over the world. Canadian federal law have given Minsters such as Kenney and Alexander the platform to guide and frame the national discourse on immigration. With the change in federal party, new Immigration Minister, John McCallum has begun to address several of the state's previous attempts to frame asylum seekers negatively[29].

The change in direction the Minister of Citizenship and Immigration has made to a particular group of migrants has arguably, shifted the way in which the public has come to understand the refugee. Minister John McCallum has begun to reverse many decisions made by the conservative government in regards to the identity of people seeking refuge. The distinction that the Minister made for Syrian refugees in 2015, pointed towards the core humanity of individuals in need of protection. In contrast, the conservative government used inflammatory

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[29] These attempts will be discussed further below in The Annual Report to Parliament on Immigration section.

rhetoric to construct refugees and criminal and their claims often-times illegitimate or unfounded. The way in which the Minster has framed migrants at the border has influenced policy and helps to understand the state's attitude towards these groups beyond the border.

The current framework of Canadian immigration law has grouped all types of migrants together. This legal framework provides guidance for domestic law for immigrants, asylum seekers and refugees. However, asylum seekers often times arrive in Canada through no official program or channel. The precarity of their situation is unique from that of other refugees and immigrants. Legislation that has enshrined the rights of all of these groups at present fails to negotiate this distinction. Refugee law outlined within IRPA continues to perpetuate the mobility rights of asylum seekers as in opposition to the values and responsibilities of the state. What has become clear is that state law lacks the incorporation of international human rights principles and customs within a corresponding domestic framework. This has led to the degradation of the state's refugee regime, and the creation of a gap for asylum seekers who attempt to claim their human rights. Asylum seekers are 'protected' under international human rights law, yet the state has skirted its responsibility towards them in domestic frameworks such as IRPA.

Marine Transportation Security Act

The Marine transportation Security (MTSA) act has provided guidance of maritime law for the security of marine transportation. This act has arguably received less attention in the area of immigration policy, however Canadian maritime law has become a weak-point that has provoked policy changes for stricter penalties and increased scrutiny for irregular arrivals. Sea arrivals have prompted the state to discourage arrivals by sea by framing these asylum seekers as criminal and directing the national discourse to focus on human smuggling and trafficking.

Recent sea arrivals of asylum seekers from Sri Lanka in 2009 and 2010 have inspired the conservative government to enact Bill C-31 – "Protecting Canada's Immigration System Act", in 2012. This act in sum sought to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act to amend Canada's inland refugee determination system to stop the movement of irregular arrivals at sea. Targeting migrant smuggling the amendments may affect asylum seekers who arrive in groups. Federal immigration law grants power to the Minister of Public Safety to designate that members of a group as "irregular arrival" when arriving in Canada through a port of entry (Minister of Justice "IRPA", 2000, 20.1(1)). Irregular arrivals in many cases immediately become "designated foreign national(s)" who are subject to incarceration without review for up to a year and are banned from applying for both permanent residency and family sponsorship for five years (Béchard and Elgersma, 2012, p.10). According to Béchard and Elgersma[30],

> The United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air …
> provide[s] a broad legal framework for countering these activities. Canada's efforts to
> prevent and combat migrant smuggling are guided by this convention and its protocol,
> which Canada helped to draft… Migrant smuggling became an internationally recognized
> crime in 2004, when these instruments came into force (2012).

Under Bill C-31, the Marine Transportation Security Act has introduced amendments (clauses 70–77) to change regulations respecting security. When unpacked, state rhetoric, which emphasises the need for changes to the MTSA, has made it clear that the securitization of migration must extend to the sea. Decisions made by Canadian policy makers and state actors have repositioned the national dialogue on asylum seekers who have arrived by sea. This has quickly led other actors and state leaders to draw conclusions of international crime and

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[30] Civil servants who have produced the government report summarizing the changes.

trafficking. Policy changes as such have sought to make it easier to prosecute human smugglers by holding ship owners and operators accountable for use of their ships in human smuggling operations (Minister of Justice, 1994). While this clause aims to deter human smuggling operations, it may also discriminate against already marginalized groups who travel by boat to seek asylum in Canada. By examining the treatment of groups who arrive as asylum seekers at sea, it has become clear how state actors form policy based on social knowledge. Socially constructed understandings of international crime have worked to marginalize migrants at sea. State leaders and politicians all over the world are influencing the direction of policy creation in regards to the 'security of their seas'. While Canada credits the UN protocol, global events have influenced state actors understandings of border security. Security measures which have tightened and expanded Canada's various land borders, have begun to include Canada's territorial sea which compared to nations such as Australia, remain widely unpoliced. The United Nations Convention on the Law of the Sea (UNCLOS), which Canada has ratified in November 2003, has guided states of the treatment of seamen and women. In cases of distress, which are often relevant to asylum seekers who are fleeing persecution en masse and in dangerous conditions Art. 98 (1) requires states to render assistance, facilitate the rescue, and or search over the sea for those in peril (UN General Assembly, 1994). This provision in conjunction with other human rights principles such as UN Declaration of Human Rights, and the UN Convention Relating to the Status of Refugees offer at minimum the right to entry into Canada's waters for asylum seekers. This right however is often removed on the basis of state's sovereignty.

In many documented cases of migrants arriving by sea in search of refuge, the Canadian government has erected barriers to prevent them from claiming this right. In historical examples of the Komagata Maru arriving in 1914, the Ocean Lady's arrival in 2009 and the MV Sun Sea's

arrival in 2010, Canadian border agents met each case with extraordinary scrutiny. The public's perception of these migrants was largely motivated by the media, and government actors' statements of the event prompted calls for their immediate refoulement. Migrants arriving on the MV Sun Sea were quickly labelled as illegal and prompted investigations of criminality and human smuggling. This incident has influenced the government's reaction to boat arrivals and the 'weakness' of its maritime law, prompting discussions and policy revisions of IRPA and the MTSA to criminalize human smugglers and irregular arrivals. This action has framed any arrival of migrants by sea in a negative light. Asylum seekers who travel to Canada by sea have (as in the three cases cited above) travelled to and been turned away from other countries closer to their country of origin. The multitude of asylum regimes of states have extended the border which has given these migrants another challenge towards accessing asylum. The government has framed these migrants as criminal and illegal, not providing a distinction for those who were able to access the border and be granted refugee status, thus adding an additional barrier to their settlement and mobility.

The Annual Report to Parliament on Immigration: 2010-11 to 2016-17

The Immigration and Refugee Protection Act, the domestic legal instrument used to outline and recognize the rights of immigrants and refugees requires[31] the Minister for Citizenship and Immigration to deliver an annual report to Parliament of the year which includes a strategic plan for the year to come. This report provides great insight into the actions of the federal department tasked with shaping and implementing current immigration and refugee law. The Minister's report directs the national discourse on immigration and frames how asylum seekers are treated

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[31] Section 94(1)-(2) of the Immigration and Refugee Protection Act requires the Citizenship and Immigration Canada (now Immigration, Refugees and Citizenship Canada) to prepare an annual report to parliament.

at the border and beyond. Within the last six years, three Ministers have held the position at the department of Citizenship and Immigration. Jason Kenney, Minister for Citizenship and Immigration from October, 2008 to July 2013 has most notably critiqued immigration policies and created reforms to "increase economic immigration" while at the same time limiting the flow of asylum in-land and outside of Canada (Citizenship and Immigration Canada, 2010, p.3). The Balanced Refugee Reform Act, introduced in June 2010 has been advertised by Kenny as a means to ensure the "faster protection for those who need it and faster removals of those who do not" (Citizenship and Immigration Canada, 2010, p.3). This statement contextualised the climate for asylum seekers attempting to claim refugee status in Canada at this time. Those acknowledged in the report as deserving of resettlement are the Bhutanese and Iraqi refugees who have been in protracted refugee camps and who have been displaced by war, respectively. The climate for immigration forced asylum seekers to assimilate into the evolving model of economic focused policies and practices. The prioritization of economic immigration in 2010 and 2011 has been captured as an exercise to "make immigration work for Canada" instead of developing policy changes to create an environment that challenges the emerging neo-liberal model of trade and employment focused immigration (Citizenship and Immigration Canada, 2010, p. 6).   Despite the historical and generous tradition of Canada, which CIC makes repeated note of upholding, the report firmly situates the focus on Canada's immigration policies and scheduled targets for the year ahead as centred on "economic growth and prosperity" (Citizenship and Immigration Canada, 2010, p. 8) . The report includes a brief new policy, The Balanced Refugee Reform Act, which plans to "increase the number of refugees settled in Canada" over three years but does include claims made within Canada, only those previously

vetted and screened government and privately sponsored refugees (Citizenship and Immigration Canada, 2010, p. 8).

In 2011, Kenny continued his focus on "skilled economic migrants and their families" (Citizenship and Immigration Canada, 2011, p.3). Reforms introduced to Canada's immigration system during this period promise that cases of fraud (marriage – commonly referred to as 'marriages of convenience') will end, the 'value' of Canadian citizenship will change and the backlog of in-land asylum applications will be cleared. However, there remains the element of immigrant profiling, in which the state both directly and indirectly selects migrants by enacting laws that –for asylum seekers selectively exclude and deter their claims. In 2012, Minister Kenny again focused on "Canada's rich economic and cultural wealth" within the annual report, while centering on Canada's commitment to maintain its generous humanitarian traditions that have helped to facilitate "the highest sustained level of immigration in Canadian history" (Citizenship and Immigration Canada, 2012, p.1). This report very bluntly states that "that our immigration system functions so as to best support our national interests" (Citizenship and Immigration Canada 2012, p.1). New legislation such as The Protecting Canada's Immigration System Act, which received Royal Assent in June 2012, is praised to "deliver faster decisions on refugee claims, combat human smuggling, and allow for the collection of biometric data from visa applicants" (Citizenship and Immigration Canada, 2012, p.1). The connection of border security measures to the refugee claims process beyond the border has become a tool to 'crack down' on fraud for immigration officials, but provides an excellent example of the de-territorialisation of the border. The border has expanded and has become an interconnected and technologically advanced gateway that polices the movement of asylum seekers and refugees. Social constructivist theory frames the fortification of the border as a process that has occurred based on

the social interactions. The way in which the state (both Canada and the U.S.) has framed the Canada-U.S. border has contributed to the way in which border security is addressed. State actors have acted to 'combat' human smuggling at the border by using language which reflects a shared perception of Canadian points of entry as 'weak-points' in the country's border security agenda. Recent revisions to immigration policy which can be found in Bill C-31, have coincided with the development of indicators designed to support the refugee claims system, named the Metrics of Success (MoS). This development reflects the need to focus on the impacts of policies on gender on asylum claims. The MoS promises to study the impact that policy changes have on claimant behaviour (Citizenship and Immigration Canada, 2012, p.34). Future reform to make the border more accessible to both genders, and not discriminate based on socio-economic class, race or religion remain to be seen.

In 2013, new Minster of Citizenship and Immigration, Chris Alexander submitted the annual report to parliament. Maintaining the same tone and focus on economic immigration as Minister Jason Kenny, Chris Alexander has continued to prioritize economic advantage and skilled worker migrants. The Conservative political party has influenced the focus of the formation and policy for immigrants and refugees. With the introduction of policies like the Start-Up Visa Program pilot that was established for "Canada's business community [to] attract the world's best and brightest" Minister Alexander promised a balanced approach to other forms of immigration, namely "family and humanitarian objectives" (Citizenship and Immigration Canada, 2013, p.1). However, in his opening statement it is clear how refugees are framed. In opposition to business class, skilled worker and special super visa classes, the minister claims that only "bona fide refugees" will be welcomed into Canada's 'generous' protection regime (Citizenship and Immigration Canada, 2013, p.1). The way in which Minister Alexander has

framed asylum seekers and refugees in this instance reflects how other state actors (notably, previous Minister Jason Kenny) have shaped his perception of these groups. By using the framework of social constructivism, it helps to understand how popular discourse shapes state leader's actions, which then influence the public's perception of asylum seekers and refugees. In pursuing a vision for a "faster, more responsive immigration system", the conservatives have recommended the development of immigration programs with a budget that more broadly forms a part of Canada's economic action plan (Citizenship and Immigration Canada, 2013, p.5). This strategy clearly focuses on a strategic growth of business professionals and skilled workers, and asylum seekers claiming asylum in Canada through a separate stream, do so in a system that is designed to process and rank applicants based on their skill. While the refugee claims process is entirely different from the various business immigration programs applications, the government strategy for all immigration programs necessitates processing that is "fast and flexible", solidifying the perception that obtaining protection has become akin to business transaction. In reality, the combined deterrence strategy of immigration policies such as the Safe Third Country Agreement, NEXUS program and the increased speed in the refugee determination system from the introduction of the Balanced Refugee Reform Act - it is anything but.

In 2014, Minister Alexander continues with this theme and announces the Express Entry program[32]. The language used in regards to asylum seekers focuses on maintaining the rhetoric of 'faster protection, faster removal'. The reforms to the asylum system which have been in effect for two years at the time of publication, have been successful in implementing fairer protection to those in genuine need (Citizenship and Immigration Canada 2014, p. 2). Asylum

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[32] According to the report, "The Express Entry system will transform our immigration system to make it more responsive to the needs of our economy. When it is launched in January 2015, we will select applicants who are best positioned to succeed instead of those who are first in line" (Citizenship and Immigration Canada 2014, p.5).

claimants who passed the physical border and who have had a failed claim, are now at risk of being forcibly removed at the same increased speed. Minister Alexander states that "Under the new system… failed asylum claimants are being removed more quickly" (Citizenship and Immigration Canada 2014, p. 2). With the government strategy focusing on improving existing immigration channels and creating new ones which facilitate "legitimate trade and travel to Canada", the makeup of migrants welcome at the border has shifted to solely welcome a particular type of immigrant (Citizenship and Immigration Canada, 2014, p. 2). That is, those who are: educated, business oriented, interested in investing in Canada's economy, and somewhat concerned with trade. Many long-standing policies have controlled the flow of asylum seekers able to travel to Canada in their attempt to claim asylum. Visa restrictions, such as the one placed on nationals of the Czech Republic, has been critiqued for its effect on Roma asylum claims in Canada. The visa for Czechs which has been place since 2009, was removed in November 2013, after direct government action[33] resulted in the deterring of Roma asylum claims. Deterrence strategies which have been in place for years have lasting effects, and efficiently work to push the border farther away from Canadian soil.

In 2015, a major federal election resulted in a change of Minister once more, this time to the Liberal political party. Minister of Immigration Refugees and Citizenship, John McCallum, launched a number of new initiatives in late 2015 including initiating a commitment to expand the refugee resettlement program to more Syrian refugees (Citizenship and Immigration Canada, 2015, p. 2). Stepping away slightly from the policies of Canada's conservative past, Minister

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[33] Such as 2012's Assisted Voluntary Return and Reintegration Program that has guided Roma asylum claimants from Hungary and Czech republic, as well as the 2013 Canadian-sponsored billboard campaign in Hungary which posted warnings of deportation for "Those people who make a claim without sound reasons" (Keung, 2013). The government vision used in all immigration cases was also advertised, promising that those claims would be "processed faster and removed faster" in a business-like approach (Keung, 2013).

McCullum, promises that policy will "adapt to Canada's and the world's changing needs, as they have throughout our history" (Citizenship and Immigration Canada, 2015, p. 2). This statement along with the reference to Canada's humanitarian tradition has a different impact than that of former ministers. Rather than framing Canada's immigration strategy as generous despite policies aimed at reducing asylum claims and promoting security, this statement suggests there will be an acknowledgement of the asylum seekers within Canada's immigration policy of the future. Minister McCullum confirms this by stating that "It is by finding a balance between compassion, efficiency and economic opportunity for all, and through diversity and humanitarianism, that immigration will continue to bring both economic and social rewards" (Citizenship and Immigration Canada, 2015, p. 2). This suggests that the barriers are in place for asylum seekers attempting to access the border, and those barriers which have been erected in the last decade may be reduced or removed. The also acknowledges the mobility rights of asylum seekers attempting to access Canada as a country of settlement. Policy reforms for the future are promised for the controversial Designated Countries of Origin list, a policy decision that has complicated asylum claims for nationals of particular countries. The list has routinely discriminated against individuals based on their country of origin and prejudices their right to enter Canada and claim asylum when fleeing persecution. Minister McCullum, has commenced a more substantial investment in accepting refugees and asylum seekers into Canada, namely with Syrian refugees. These few initiatives promise a closer interpretation of Canada's 'humanitarian traditions' and may open the door to migrants previously shut out. This notable shift in government rhetoric has marked change for the Canadian refugee regime. However, a number of significant barriers to mobility are still in place for asylum seekers attempting to access the Canadian border.

Canadian domestic law has attempted to incorporate or "transform" international legal

principals with which it is party to. international frameworks that discuss the mobility rights of

asylum seekers have also had a hand in framing how state-sponsored actors perceive these

migrants at the border. The construction of the refugee, which takes place prior to the asylum

seeker arriving at the border has set out guidelines for the way in which the rights outlined in the

UN Convention Relating To The Status Of Refugees, The Universal Declaration Of Human

Rights, The International Covenant On Civil, Political And Social Rights and the United Nations

Convention on the Law of the Sea are interpreted. Asylum seekers who arrive at the border must

navigate the dichotomy of policies and regulations, often without the prior knowledge when they

flee. The barriers they face at the border may be obvious or unknown to them and the

accessibility of the law further alienates them from understanding their rights. The framework of

domestic law has also separated rights for immigrants with legal status (civil rights) and asylum

seekers (non-status). The following table illustrates the differences between the rights of asylum

seekers outlined in international conventions, protocols, treaties, and those which have been

transformed into Canadian domestic law. This table is useful to outline the differences between

the international norms that Canada has accepted in principle, and how they have been (or not

been) adopted into federal law.

The Rights Of Asylum Seekers At The Border & Beyond		
Right or freedom	UN Convention, Protocol or Declaration	Canadian Policy –IRPA, MTSA, CCR&F
Definition of a refugee	**UN 1951 Convention And 1967 Protocol Relating To The Status Of Refugees** –A "refugee" shall apply to any person who:	**IRPA** 2(d) Objectives –refugees - "to offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political

	(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization; (2) As a result of events occurring before 1 January 1951 and owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.	opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual treatment or punishment".
Mobility	**UN Declaration of Human Rights** – Art. 13(1) "Everyone has the right to freedom of movement and residence within the borders of each state"; (2) "Everyone has the right to leave any country, including his own, and to return to his country". **UN 1951 Convention And 1967 Protocol Relating To The Status Of Refugees** – Article 26 "Freedom of movement" "Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely	**Canadian Charter of Rights and Freedoms**-Section 6. (1) "Every citizen of Canada has the right to enter, remain in and leave Canada". (2) "Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right"; 2(a) "to move to and take up residence in any province"; and (b) "to pursue the gaining of a livelihood in any province".

	within its territory, subject to any regulations applicable to aliens generally in the same circumstances". **International Covenant On Civil, Political And Social Rights** -Article 11 (1) "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence". (2) "Everyone shall be free to leave any country, including his own". (3) "The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant". (4) "No one shall be arbitrarily deprived of the right to enter his own country".	
Right to asylum	**UN Declaration of Human Rights** – Art. 14(1) "Everyone has the right to seek and enjoy in other countries asylum form persecution"; (2) This right may not be invoked in the case of prosecutions genuinely arising from **non-political crime**s or from acts contrary to the purposes and principles of the United Nations".	**IRPA** – 2(b)- "to fulfil Canada's international legal obligations with respect to refugees and affirm Canada's commitment to international efforts to provide assistance to those in need of resettlement"; (e) "to establish fair and efficient procedures that will maintain the integrity of the Canadian refugee protection system, while upholding Canada's respect for the human rights"; (g) "to protect the health and safety of Canadians and to **maintain the security of Canadian society**; and" (h) "to promote international justice and security **by denying access to Canadian territory to persons,**

		including refugee claimants, who are security risks or serious criminals".
Right to liberty and security	**UN Declaration of Human Rights** -Article 3 "Everyone has the right to life, liberty and security of person".	**Canadian Charter of Rights and Freedoms**-Section 7 "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice"

Much of the gap between international and domestic law must be interpreted by the highest federal court in Canada, the Supreme Court, in order to effect change. However, migrants with precarious status often are not in the position to pursue legal action. The barriers they face at and beyond the border occur in part because domestic law has placed asylum seekers in a precarious state. The lack of a connection between international law and domestic law for asylum seekers is one of the fundamental barriers they face. Asylum seekers attempting to access state borders and utilize their right to mobility are hindered by the differentiation between rights they should have versus rights they do have. The way in which asylum seekers have been and continue to be constructed by state leaders affects the development of domestic law and migration controls which aim to deter their movement. While international human rights instruments have developed with states in mind, they continue to frame the way in which these rights should be interpreted and dictate which rights no longer hold credence in sovereign states.

The barriers discussed in this paper are outlined in the following table to illustrate how a combination of legal, administrative and subjective factors erect barriers for asylum seekers and refugees at the Canadian border and beyond.

Mobility barriers to asylum seekers at the border	**Mobility barriers to asylum seekers beyond the border**
Nationals who require a visitor's visa to travel to Canada. **Barrier to Nationals from: Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Belize, Benin, Bhutan, Bolivia, Bosnia-Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burma (Myanmar), Burundi, Cambodia, Cameroon, Republic of Cape Verde, Central African Republic, Chad, China, People's Republic of Colombia, Comoros, Congo, Democratic Republic of Congo, Republic of Costa Rica, Republic of Cuba, Djibouti, Dominica, Dominican Republic, East Timor, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Korea, North Kosovo, Kuwait, Kyrgyzstan, Laos, Lebanon, Lesotho, Liberia, Libya, Macao Special Administrative Region, Macedonia, Madagascar, Malawi, Malaysia, Maldives Islands, Mali, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia, Fed. States Moldova, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Palau, Palestinian Authority, Panama, Paraguay, Peru, Philippines, Qatar, Romania, Russia, Rwanda, Sao Tomé e Principe, Saudi Arabia, Kingdom of Senegal, Serbia, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sri Lanka, St. Kitts and Nevis, St.**	Canada's social systems and integration programs for refugees and other immigrants Barrier to: All asylum claimants Issue: Refugees awaiting a hearing or convention refugees with PR status live in precarious livelihoods until them find suitable housing, social assistance and are able to find a job to support themselves and their families. Still major concerns are poverty, housing problems, health care (OHIP for privately sponsored and Interim Federal Health Program for in-land and others), access to culturally appropriate care, mental health supports, gaining social assistance, finding support after social assistance ends .

Lucia, St. Vincent and the Grenadines (St. Vincent), Sudan, Surinam, Swaziland, Syria, Taiwan, Tajikistan, Tanzania, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, Uruguay, Uzbekistan, Vanuatu, Venezuela, Vietnam, Yemen, Zambia, and Zimbabwe. **Issue: Nationals from these countries must flee persecution and travel to a safe country before coming to Canada. Flights to Canada incur a financial cost, and without proper documentation, will be curtailed by immigration authorities.** **Further, asylum seekers must travel by foot, by car, or by boat in order to reach a safe place before being able to access an airport. Families may pool their financial resources to purchase one plane ticket, otherwise, travel incurs a financial barrier.**	
The Canada-U.S. Safe Third Country Agreement **Barrier to: Nationals from Central & South America, the Caribbean and those travelling to Canada from the U.S. to claim asylum.** **Issue: Individuals must claim asylum in first country they arrive. Often a mobility barrier to Canada as they would have to fly to get here.**	The Immigration and Refugee Protection Act Barrier to: All asylum claimants Issue: The securitization of migration has resulted in the inclusion and revision of law to include more migration controls and reduced timelines on decision-making. For the specific processing times of asylum claimants, see Appendix A, Figure 4.
The Designated Country of Origin List **Barrier to: Nationals from: Andorra, Australia, Austria, Belgium, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel (excludes Gaza and the West Bank), Italy, Japan, Latvia,**	The Designated Country of Origin List Barrier to: failed asylum claimants who are third country nationals Issue: Claimants from any country on the DCO list who have been found to have an

Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, San Marino, Slovak Republic, Slovenia, South Korea, Spain, Sweden, Switzerland, United Kingdom and the United States of America. **Issue: Refugee claimants from DCOs will have their claims processed faster.** **According to the IRB "For claimants from designated countries of origin, hearings will be held no later than 45 days after referral to the IRB for those who make a refugee claim at a port of entry, and no later than 30 days after referral for those who make a claim at an inland Immigration, Refugees and Citizenship Canada (IRCC) or Canada Border Services Agency (CBSA) office" (Government of Canada, "Changes IRB").** **This means that claimants have to cross the border, find a place to stay, fill out forms, gather evidence (in some cases) and relive their experiences at a hearing in 30-45 days or less.**	'unfounded' fear of persecution do not have a right to appeal this decision. Removal orders follow this process and deportation, if the individual does not leave voluntarily.
Refugee Determination System (Altered by Bill C-31 –" Protecting Canada's Immigration System Act") **Barrier to: anyone attempting to claim asylum in Canada.** **Issue: The reforms to the Refugee Status Determination system (RSD) process have added measures to address human smuggling, added a retroactive cessation provision to refugee status (which can strip a refugee of their permanent resident status), and added a requirement to include biometric data as part of a temporary resident visa, work permit, and study permit application.**	Refugee Determination System (Altered by Bill C-31 –" Protecting Canada's Immigration System Act") Issue: Barriers at the border follow asylum claimants through their lives in Canada. According to Yiu, "A government internal bulletin has shown that the Conservative government has set an annual target of a minimum of 875 cessations for the Canada Border Services Agency to execute." (Huffington Post, 2016)

In addition, the review process has been sped up to a maximum of 60 days.	
Immigration and Refugee Board of Canada (IRB) **Barrier to: Anyone making a claim within Canada, or appealing a decision of a claim inside Canada.** **Issue: The Basis of Claim (BOC) form has replaced the Personal Information Form (PIF). People who make a refugee claim at an office in Canada must submit their completed BOC during their eligibility interview. Those who make a refugee claim at a port of entry must submit their BOC to the IRB no later than 15 days after referral of their claim to the IRB.** **Hearings for most claimants will be held no later than 60 days after the refugee claim is referred to the IRB.**	Canada's Refugee Status Determination System Barrier to: All in-land asylum claimants Issue: Once a claim for refugee status has been made a port of entry of entry or a designated Immigration, Refugees and Citizenship Canada (IRCC) office, asylum claimants must complete all forms required within 15 days. All of this includes: The Generic Application Form for Canada (IMM 0008), Schedule A (IMM 5669), Schedule 12 (IMM 0008), Basis of Claim Form, Originals of all identity and relationship documents, and the translation of these documents to English or French if in another language, two passport-sized photos of oneself (must be taken in last 6 months), any supporting documents and the translation of these documents to English or French if in another language. And optional forms: Additional Dependants Declaration (IMM 0008DEP).
The Beyond the Border Action Plan for Perimeter Security and Economic Competitiveness **Barrier to: All migrants with precarious status** **the following 'benefits' have been outfitted to border points:** • **Expanded and enhanced the trusted traveller program NEXUS by providing additional benefits to members such as access to expedited passenger screening lanes at airports in Canada and**	The accessibility of the law and of lawyers. Barrier to : All migrants with precarious status Issue: Migrants with low literacy, limited English or French or education may face barriers beyond the border when attempting to understand their rights and the legal system that provides them. The process of seeking asylum comes with significant barriers (see above), however, beyond the borders, asylum claimants must navigate a new system of rules, customs and values. This may ultimately lead to asylum

Transportation Security Administration (TSA) PreP™ lanes in the United States; • **Developed an Integrated Cargo Security Strategy to address risks as early as possible associated with shipments arriving from offshore based on informed risk management and initiated pilots to validate and shape the implementation of the strategy;** • **Initiated a joint entry/exit pilot project at the land border, starting with third-country nationals and permanent residents, whereby the record of entry into one country is shared and becomes the record of exit from the other country;** • **Advanced a harmonized approach to screening travellers at the earliest point possible.** • **Harmonized Canada and the United States visa and document requirements, advance passenger information requirements, and national targeting centres that support the decision-making of border officials.** • **Implementation of systematic biographic and biometric information sharing on third-country nationals; sharing information on those who have been removed from either country for criminal reasons** **(Government of Canada "Beyond the Border", Implementation Report 2012, p. 3).** **Issue: Measures introduced from this act have created an extension of the border beyond Canada and U.S. ports of entry and has facilitated the development of an interconnected cyber web of security.**	seekers self-segregating and settling in common ethnic or urban areas. Accessing the law in these neighbourhoods or areas can be an added barrier to their upward mobility.

Recommendations

The following recommendations are directed towards the federal government and other stakeholders who can effect changes to the current state of Canada's refugee regime.

Issue #1: Barriers at the border are erected and affect migrants disproportionately based on their status.

Recommendation #1: A call for open borders in Canada or even in North America is premature. The securitization of migration has cast the movement of people as a threat and as such the way in which migrants, especially asylum seekers are framed by the state needs to be addressed and corrected by senior level policy makers. However, a first step for Canada would be de-linking itself from 'border security agendas' of the United States.

This is not to say that Canada should abandon or not monitor its ports of entry, however it has become clear that by attempting to harmonize border policy with the U.S. asylum seekers have faced increased scrutiny when attempting to seek asylum. Border policy should be reviewed and addressed within a human rights framework. This could be done with a series of working groups between policy makers and human rights advocates (namely the Canadian Special Rapporteur on the Human Rights of Migrants).

Issue #2: Refugee law has developed under the model of "fast and flexible" immigration.

Recommendation #2: Instead of the inclusion of refugees and protected persons under the model of economic and intellectual capital, a more holistic and humanitarian approach should be used

to guide policy formation. Refugee law would benefit from the separation of the current immigration law framework. The influence of neoliberalism on immigration has developed a platform for interest in skills, educational formation and capital. A new model would prioritize social capital (family present in Canada) and humanitarian need(s). This would enable that the rights of asylum seekers and persons with precarious status are incorporated within a framework of law.

Issue #3: Current stakeholders who control border policies have focused on business migration, and do not perceive the needs of refugees.

Recommendation #3: With the current structure of immigration in Canada, non-governmental, charitable organizations who provide services to immigrants and refugees (otherwise known as settlement organizations) should hold a permanent seat at government and stakeholder negotiations.

Issues raised that emerge from finding adequate and sustainable housing options, addressing the absolute and relative poverty of refugees, and eliminating systemic and structural barriers that exacerbate these issues should be addressed using feedback from settlement workers on the ground. This relationship should be encouraged further and valued.

Issue # 4: Refugee and asylum law need to be incorporated in domestic law.

Recommendation #4: International law should be transformed to incorporate human rights and asylum legal principles outlined in the various treaties and conventions that Canada has signed. These laws should also incorporate an anti-oppressive framework by employing a federal level working group to ensure the accurate interpretation and preservation of international legal norms.

Discussion & Conclusion

Canadian policy making in regards to asylum seekers and refugees has been heavily influenced by state-sponsored discourses of security, fear of the other and self-interest. Barriers that have been erected at the border for asylum seekers have attempted to deter their arrival by introducing visas and passport restrictions, posting billboards warning asylum seekers not to attempt the journey and constructing asylum seekers as criminal before they have even arrived. These measures have created insecurity for asylum seekers who have little or no preparatory time to choose a country of asylum. Interdiction measures which are commonly understood to be draconian have been developed as a response to the securitization of migration. The conscription of airline personnel, truck drivers and visa officers as state-level 'immigration officers' has encouraged these actors to attempt to restrict the movement of asylum seekers and refugees. These actors have introduced fines or sanctions on planes, criminalize human and migrant smuggling or attempt to turn away migrants at sea, and strengthening border security regimes. In Canada interdiction measures have occurred in the majority on planes outside the physical border. According to Brouwer,

> Canada and other states impose large fines and fees ("carrier sanctions") on transport companies such as airlines that bring "improperly documented persons" (some of them bound to be asylum-seekers) into their countries. To avoid these costs, transport companies screen passengers' documents and refuse boarding to those who don't have satisfactory documents. Canada's "migration integrity specialists" (usually called Immigration Control Officers) are posted in international airports to interdict improperly documented persons seeking to board a flight to Canada, and assist airlines to do the same (2003, p.1)

These strategies have halted asylum seekers from reaching a country of asylum and in many cases forced them to return to their country of origin or last destination. Interdiction measures which attempt to control the movement of asylum seekers based on administrative or procedural

directives weaken the refugee regime and remove opportunities for Canada to uphold its international agreements and obligations.

Attempts to exclude asylum seekers and refugees have been both overt and covert in the last decade. Government policy and rhetoric have outwardly advertised the benefits of excluding certain types of asylum claims. Ministers of Immigration have critiqued asylum groups for their unfounded fears, while holding a green light for all business and trade related border movement. Political rhetoric which has inspired policies such as the Safe Third Country Agreement, and the Beyond the Border Declaration have attempted to craft a refugee regime by excluding asylum seekers by 'undesirable' countries, and speed up the refugee status determination process of others. By unpacking and deconstructing state rhetoric regarding asylum seekers, it has become clear how they have become a threat to the state.

In this research paper, I have outlined what the mobility rights of asylum seekers are[34], and how these rights, which are embedded in international conventions, are interpreted in Canadian policy. My research question which was: what are the barriers to mobility for asylum seekers at the Canadian border and beyond sought to address the policy level, state level and societal level barriers and challenges which asylum seekers face when attempting to access the border and asylum in Canada. To answer this question, I discussed the research problem in depth, and outlined the issues of asylum seekers in protracted refugee situations, how they are impacted by changing immigration policies and some of the economic barriers to migration, which prevents them from seeking asylum in Canada. In my literature review, I examined relevant scholarly literature on the topics of international law and human rights, border politics, the securitization of

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[34] See table.

migration and geopolitics and the economic precarity of refugee claimants. Finally I conducted a content and discourse analysis of current policy documents which organize Canadian immigration policy to outline how exactly Canadian immigration and refugee policy has changed in the last five years and how they state has contributed to framing these migrants.

Appendix

Appendix A

Figure 1 – IOM-produced infographic is based on UNHCR Mid-Year Trends, 2015
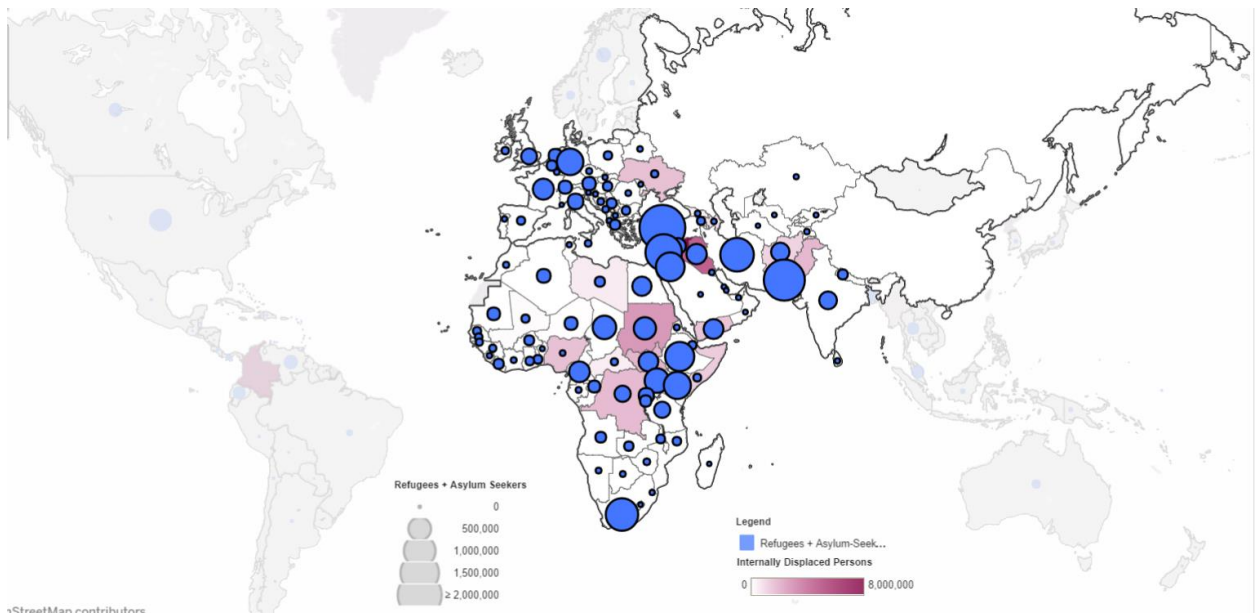
The blue dots represent refugees and asylum claims per country. The majority of asylum seekers and refugees are located in developing countries.

Figure 2- Transit Routes January – April 2016

International Organization for Migration, 2016

Figure 3- IOM Mediterranean update, June 2016

Missing Migrants Project
Global overview: 3,570 migrant deaths in 2016

Europe **25**

2,859 Mediterranean

Middle East **34**

72 U.S./Mexico Border

12 Caribbean

Central America incl. Mexico

27

342 Sahara and North Africa

Horn of Africa **80**

South-East Asia **60**

10 South America

Sub-Saharan Africa **49**

● Deaths

5,429 fatalities in 2015

Missing Migrants Project

Tracking deaths along migratory routes worldwide

Known causes of death 2016

Mediterranean
9 Asphyxiation
4 Boat fire
3 Exposure/Hypothermia
1 Lung infection
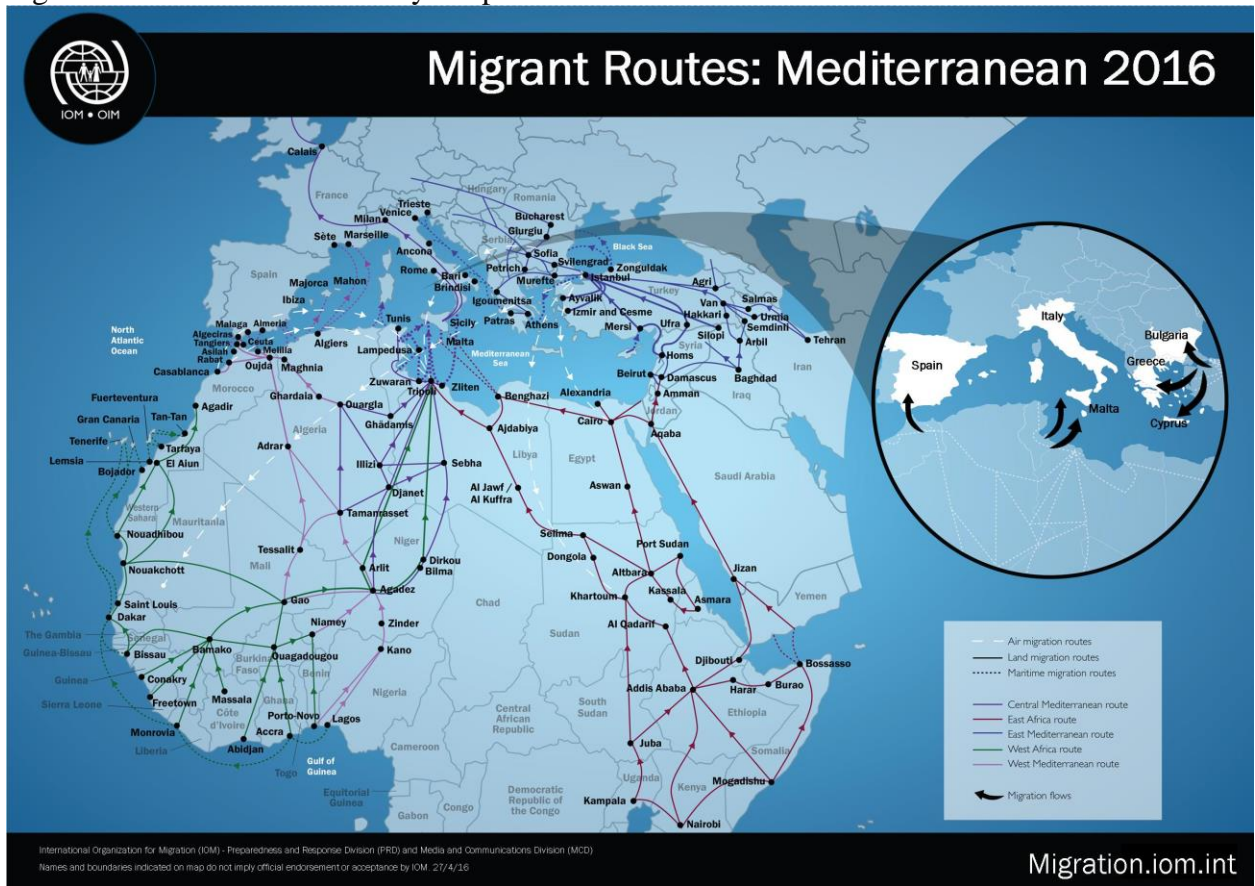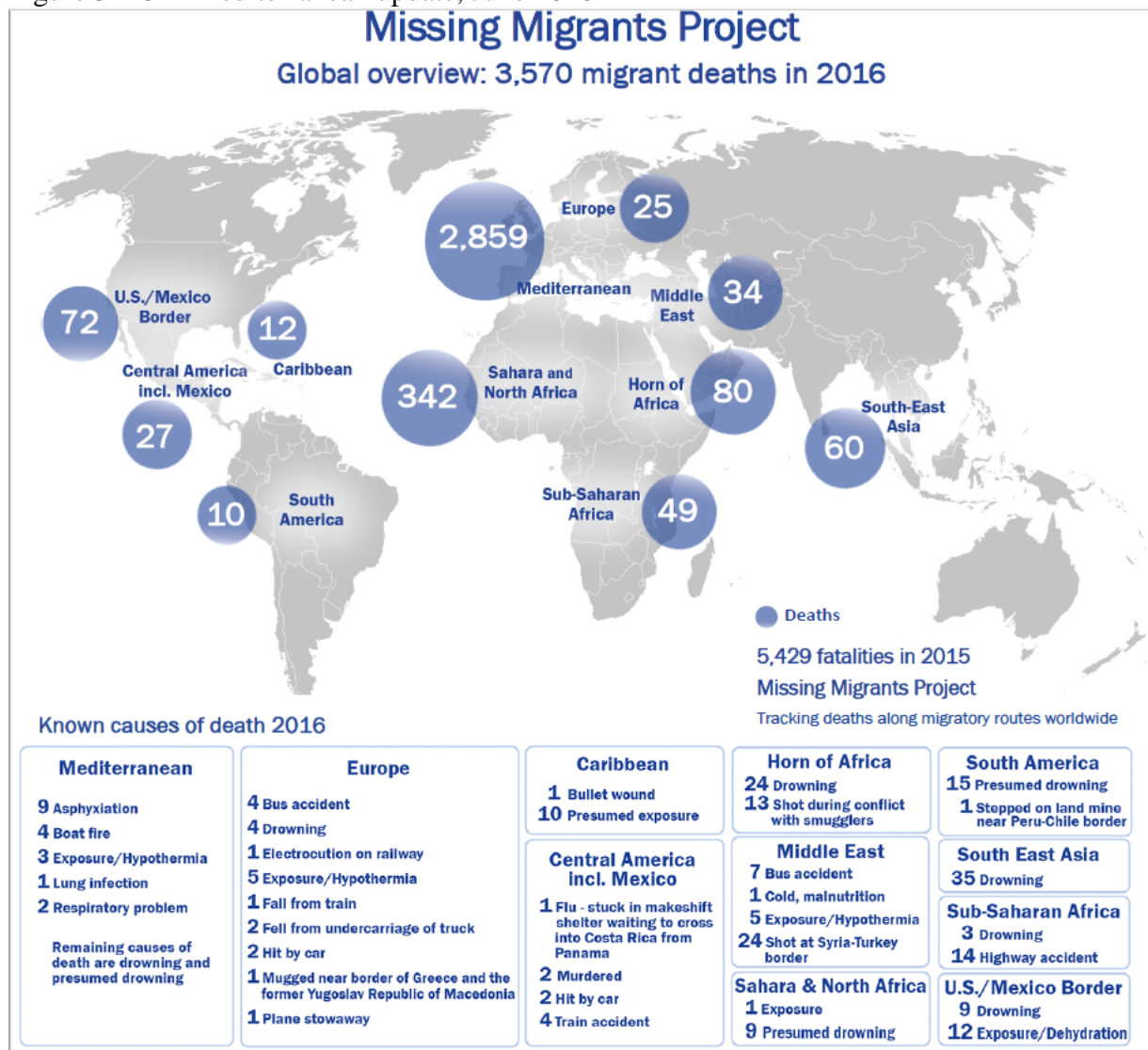2 Respiratory problem

Remaining causes of death are drowning and presumed drowning

Europe
4 Bus accident
4 Drowning
1 Electrocution on railway
5 Exposure/Hypothermia
1 Fall from train
2 Fell from undercarriage of truck
2 Hit by car
1 Mugged near border of Greece and the former Yugoslav Republic of Macedonia
1 Plane stowaway

Caribbean
1 Bullet wound
10 Presumed exposure

Central America incl. Mexico
1 Flu - stuck in makeshift shelter waiting to cross into Costa Rica from Panama
2 Murdered
2 Hit by car
4 Train accident

Horn of Africa
24 Drowning
13 Shot during conflict with smugglers

Middle East
7 Bus accident
1 Cold, malnutrition
5 Exposure/Hypothermia
24 Shot at Syria-Turkey border

Sahara & North Africa
1 Exposure
9 Presumed drowning

South America
15 Presumed drowning
1 Stepped on land mine near Peru-Chile border

South East Asia
35 Drowning

Sub-Saharan Africa
3 Drowning
14 Highway accident

U.S./Mexico Border
9 Drowning
12 Exposure/Dehydration

Figure 4- Government of Canada, Refugee Status Determination Timelines

Table 1 – Differences in the Refugee Determination Process by Claimant Group					
Claimant Group	Refugee Protection Hearing Timelinea	Refugee Appeal Division	Detention Review Regime	Stay on Removal for Judicial Reviewb	Other Restrictions

Most claimants (standard)	60 days	Yes	Within 48 hours of initial detention; within the following 7 days; at least once every 30-day period thereafter	Yes	
Designated countries of origin	30 days for inland claims; 45 days for port-of-entry claims	No	Standard	No	Ineligible for work permit for 180 daysb
Manifestly unfounded	60 days	No	Standard	No	
No credible basis	60 days	No	Standard	No	
Designated foreign nationals		No	**Within 14 days** after initial detention; 6 months after **the conclusion of** the first review; 6 months after any subsequent review	No	5-year wait for applications for permanent residence on humanitarian and compassionate grounds 5-year wait for eligibility for permanent resident

					status No access to travel documents until permanent resident status
Exception to Safe Third Country Agreements	60 days	No	Standard	No	

a. The timelines in this table are those the government has stated it intends to implement. They are not included in the bill, which provides only that timelines for the refugee protection hearing and refugee appeal decision may be established in regulations.

b. This change is not included in the bill, as it can be accomplished through regulations.

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