YOU'RE NOT WELCOME HERE: EXAMINING THE INTERSECTIONS OF MIGRATION
AND NEOLIBERAL IMMIGRATION POLICY IN CANADA

BY

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Immigration Policy in Canada
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ABSTRACT

This analysis examines the intersections of migration and neoliberal immigration policy in

Canada through a political economy lens. It looks particularly at the increasing phenomenon of

human smuggling and it asks how the emergence of neoliberalism has shaped Canadian

immigration policy and how has this impacted working peoples' lives and forced them to

become migrants. Canada increasingly treats migrants with suspicion and seeks to prevent the

less "profitable" ones from entering. Today's policies are the result of a historical process of

entrenching a North-South divide as some sort of unavoidable truth, and the fruits of the global

North as requiring protection from "needy" and "lazy" poor in the global South. It is this

paradigm which the following analysis seeks to problematize and deconstruct by examining the

historical roots of the North-South divide.

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ACKNOWLEDGMENTS

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DEDICATION

For my parents, Colleen and Fraser.

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"Human rights are not reserved for citizens: they benefit everyone who is on their territory or within their jurisdiction, without discrimination, whatever their administrative status and circumstances"

-Francois Crepeau, UN Special Rapporteur on the human rights of migrants, 2013

"I and other Africans like myself feel we have no choice. I have to try and make a better life. I pray God will see me through."

-Morgan, caught being smuggled from West Africa to West Europe, interviewed by UNODC, 2000

Introduction

They came from Sri Lanka, each having paid between $20,000 to $35,000 to smugglers in Asia.

It was August 13, 2010 when the ship arrived on the shores of Canada, carrying 492 Tamil Sri

Lankan migrants. The passengers were exhausted; the journey was not easy. At a time of civil

unrest in their home country, when tensions between the government and the separatist Tamil

Tigers was at its peak, many Tamil Sri Lankans sold everything they had, even took loans from

friends and family, all to afford a ticket out of hell. Flights left Colombo for Singapore,

Malaysia, and Thailand. Eventually the migrants were to meet in Thailand from where they were

to set sail on the small cargo ship, the MV Sun Sea. Those migrants in Singapore and Malaysia

were taken by agents who bribed officials to facilitate their movement to Thailand. The migrants

then had to wait and live in hotels for between one to five months, always on guard lest they be

caught even before embarking on the main part of their journey. Once the time came to board the

MV Sun Sea for the long sea journey, the migrants quickly learned that those hefty fees did not

buy much. Five or more passengers were crammed into each room; some had to sleep on the

decks outside, exposed to all weather and denied any privacy. A report from Canada Border

Services Agency (CBSA) says that the ship's officers were said by passengers to abuse power

regularly, withholding food and water rations as "punishment," even to those so dehydrated they were unable to pass urine (Bell 2013). One man died on this journey, and several passengers were hospitalized upon arrival in B.C.

The story of the MV Sun Sea is not novel, not to Canada, nor many other states in the global North. Nor was the MV Sun Sea incident even the first major human smuggling incident in Canada. Years prior to it, for instance, in 1999, British Columbian shores saw the arrival of four boats filled with a total of 599 smuggled migrants (Mountz 2010). These incidents are part of a growing global trend of migrants finding "alternative" (i.e., desperate) means of penetrating borders which are tightly closed off from those without wealth and education. Governments controlling these borders are finding new and creative ways of managing migration flows and redefining laws and geographies, rights, and even what constitutes a refugee, for the purpose of denying entry to all but the elite. This phenomenon is particularly evident in Canada, the case used for this analysis. While I have narrated the MV Sun Sea's story, there are large numbers of people left wanting to leave their dehumanized conditions of existence in the global south, which has to do more with the larger problem of neoliberal globalization and changes in Western immigration policy that are discussed below.

Research Problem

Today more than 215 million people live outside their countries of birth and this number is projected to rise in the coming decades as demographic forces, globalization, and climate

change increase migration pressures across borders (World Bank 2013). Most of the migration flows are from the global South to the global North. Migration to Canada, for instance, is characterized most predominantly by migrants coming from Asian countries. According to Canadian Census data, between the years of 2001 and 2006, immigrants from Asia made up the largest influx of immigrants, and this number is expected to double by the year 2030 (Statistics Canada 2006). The number of migrants coming to Canada from Latin America has also seen a dramatic increase, especially since the early 1990s (Mueller 2005). However, it is becoming increasingly difficult for immigrants to be accepted into Canada, especially as permanent residents. Canada has been tightening its borders against most migrants from the global South, favouring more and more a temporary visa system for those lucky enough to be eligible, whereby migrants can come and give their labour for lower-than-citizens' wages, but cannot settle, bring their families with them, or access most public services or rights. At the same time, Canada continues to build up an immigration system based on accepting only economic immigrants into Canada, even limiting the kinds of rewards they can reap from their acceptance into the country. A section of this paper will discuss these changes in Canadian policy and illustrate how they exemplify a broader shift taking place toward neoliberalization on a global scale.

Defining Neoliberalism

Generally speaking, neoliberalism is a return to neoclassical ideals of a self-regulating market with core tenets of deregulation and privatization. It constitutes a theory of political economic practice which proposes that "human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade" (Harvey 2007, p. 2). The state's role

is to preserve an institutional framework which fosters such practices. This era of neoliberalism is, perhaps paradoxically, characterized by limitations on what is allowed to move freely. While barriers to capital flow continually fall, walls are simultaneously being raised against the free flow of migrant labour. This process is made even more problematic when one considers the effects of globalization on those peoples who inhabit the global South. Globalization has led to increasing precarity in working peoples' lives, throughout the world – even in the global North, but the negative effects are felt more severely in the global South. Their precarity is signified by temporary, impermanent, and sweatshop work as well as mechanization of production resulting in the loss of work or extremely low wages. This has meant that a large number of workers in the global South either migrate internally or seek the glitter of Western shores for survival. But they cannot surmount the restrictions and regulations protecting these shores; the global North has implemented the most extreme measures to ensure that they cannot, not even on the grounds of humanitarian need. This is ostensibly done in the name of the economy which has long informed Canadian immigration policy (e.g., see Kelley and Trebilcock 2010; Bauder 2006). With the implementation of the points system in 1967, applicants were no longer selected based on ethnocultural background, but based on occupation, and increasingly based on their labour market flexibility, as well as by their levels of education and facility in one or both official languages. Notwithstanding obvious economic motivations in immigration policies further back in Canada's history, the starkest shift in immigration policy toward a neoliberal agenda took shape in the 1990s (Arat-Koc 1999; Bauder 2008) and continues today, with such policies as the right of landing fee, or the moratorium on family class entries. It is this time span which is the focus of this analysis and discussed in detail below.

Defining Globalization

  Globalization is an important starting point for how we understand the neoliberalization of Canada's immigration policy. Broadly speaking, globalization is defined as the ongoing process and goal of integrating the global markets (although large parts of Africa – Southern and Sub-Saharan – have been bypassed). It refers to the integration of commodity markets (i.e., trade of goods) labour markets (i.e., migration), and capital markets (capital flows between countries) (Bordo et al 2002). The term is fairly new in the English vernacular; however, the process of capitalist expansion—globalization by another name—has existed for centuries (Richmond 2002). Watching the industrial revolution unfold and the increasing interdependence between global states, neoclassical economists saw integration through trade as a process which would lead to a shared global prosperity (e.g., see Smith 1786). If one economy was able to specialize in a few particular areas, it could trade these goods for those from another economy which specialized in different goods. The economies would mutually sustain each other and elevate their own economic statuses. While in its simplest form, the economic model seems sound, we see in practice today that globalization (perhaps in its now "advanced" form) does not lead to the mutual prosperity among members of the global market. It is clear that Smith's optimistic projections have not held true and that, in fact, globalization has affected nations quite disproportionately. In contrast to the zeal in pursuing the free movement of goods *vis-a-vis* the World Trade Organization (WTO), or the free movement of capital *vis-a-vis* the International Monetary Fund (IMF), is a hostility among governments and international organizations toward unrestricted movement of labour (Overbeek 2002; Lippert 1998), only further exacerbating the global divide of peoples.

Research Question

In outlining the problem for this research, this MRP examines the following question: How has the emergence of neoliberalism shaped Canadian immigration policy and how has this impacted working peoples' lives and forced them to become migrants? The analysis examines the current state of immigration policy in Canada which seems to be increasingly closing the doors to asylum seekers and family members of workers living in Canada. Such policies are also making it more and more difficult for migrant workers in Canada to obtain citizenship and accompanying rights and privileges such as social insurance and voting rights, and even the right to bring wives, husbands, parents, and children to live with them. These policies did not appear from the ether, without context or public support. They are the result of a historical process of entrenching a North-South divide as some sort of unavoidable truth, and the fruits of the global North as requiring protection from the "needy" and "lazy" poor in the global South. It is this paradigm which the following analysis seeks to problematize and deconstruct.

The analysis will be broken up into a number of sections. Following this introduction will be a literature review examining a cross section of current literature on the intersections of neoliberalism and migration, and a subsection on methodology. The second section will look particularly at Canada's immigration system and the obvious shift it has taken toward a neoliberal logic. The third section will then examine human smuggling as a product of the neoliberalization of immigration policy. This section will look at the definition and background of human smuggling and will look particularly at the role of the state in indirectly facilitating the rise of human smuggling. The final two sections seek to contextualize why the world is characterized by the dichotomous North-South divide. The fourth section will examine the

origins of globalization and how this has affected parts of the world unequally. The fifth section looks at the rise and fall of developmentalism. It addresses the question of why states in the global South cannot develop and it provides context for why instead so many persons risk their lives to do whatever it takes to get into countries in the global North.

Literature Review

Neoliberalism and Migration

There is some extant literature charting the rise of neoliberalism and its effects on migration. Many scholars, as will be discussed in this section, see neoliberalism as being an underlying logic behind migrations controls. The desire to keep the "unprofitable" migrants out of a country leads countries such as Canada and the US (the country most literature tends to focus on) to legitimize tightening borders through securitizing the issue of migration and this then shapes the discourse surrounding migration and migrants, thereby being internalized by natives in the global North. This in turn affects how natives view and treat migrants. For instance, Varsanyi (2011) charts the concomitant rise of both nativism and neoliberal logic in the United States, pointing to the "Illegal Immigration Relief Act" ordinances passed or considered in more than 130 cities across the United States. For Varsanyi, they in fact exemplify a contestation to neoliberalizing policies being formed at all levels of government as well as supranationally which have "had the (un)intended consequence of fostering 'illegal' immigration" (Varsanyi 2011, p. 295). The policies, she contends, are so-called nativist attempts

by local governments and residents to exert power of immigration enforcement in order to control and manage undocumented migration.

Miller (2010) also examines the rise of parastatel enforcement bodies, but adds the rise of private prisons to the nexus. As migration boomed, Miller points out, "armed vigilante groups like Ranch Rescue, the American Border Patrol, and the Minutemen, some associated with national white supremacist groups, began forming in southern Arizona and patrolling the desert for supposedly dangerous immigrants" (Miller 2010, p. 4). And at the same time, the private prison industry experienced a boon, housing some of the approximately 7,000 migrants per year who are imprisoned in Tucson alone (Miller 2010).

This localization and internalization of immigration control discussed by Varsanyi and Miller is a common theme in the literature (see also Steve Cohen 2006; Moller 2012). Steven Cohen (2006) describes the various circles of migration control, starting broadly at the global scale, with embassies, high commissions, and consulates whose role it is to deny visas to the unwanted, or making them impossibly expensive so that poorer persons cannot afford to even apply for them. Moving inwards, the next circle comprises carrying companies, such as airlines, shipping firms, rail companies, and road hauliers. Increasingly, nations (Canada is no exception), have legislation which deals harsh blows to carrier companies who are not vigilant against unwanted migrants. The next circle is inhabited by those on the borders, immigration officers, "greeting new arrivals with detention and departure" (p. 121). Other inner circles are composed of employers who are controlled by federal policy prohibiting knowingly hiring "illegal" workers, and at the innermost circle is the portion of national administration which deals with migration. It spouts off political rhetoric and policies which then informs everyone else in the concentric model how to "deal" with or view migrants. Cohen does not explicitly mention the

control which manifests from within individual citizens who internalize the government's messages regarding migrants and then actively participate in excluding or even whistle-blowing on the unwanted peoples, but this topic is also important to consider and is taken up to some extent in other literature, such as in Moller (2012).

Moller also examines the localization of immigration control, but on a more individual level, examining the way in which residents take up the role of gatekeepers, especially following the events of 9/11. The author contends that this sharing of responsibility of immigration control is a manifestation of the neoliberalization of social relations that "weaves racialized exclusion (from rights, privileges, and protections) into the social fabric, in effect normalizing and legitimizing such exclusion from democratic society" (Moller 2012, p. viii).

The increasing gatekeeper mentality being internalized by citizens in North America is akin to the noted xenophobia rising in countries throughout the world. For instance, Crush and Ramachandran (2010) discuss the rise of xenophobic sentiments in India and South Africa, observing that the states' abilities to implement remedial policies are "compromised by (their) own complicity or denialism in regard to xenophobia." The authors warn that, going unmitigated, xenophobia will increasingly undermine the rights of migrants and inhibit any efforts to capitalize on the developmental potential of migration.

Some literature fails to problematize the phrases "illegal immigrants" and "illegal migration" (e.g., see Anderson 2010) or it treats the movement of people as something which needs to be more efficiently "controlled" and "managed" (e.g., see Ghosh 2000). Such treatment of migration perpetuates a dangerous rhetorical situation which fosters and legitimizes dehumanizing policies and practices as are discussed in latter portions of this paper. Such

literature instead treats so-called "illegal migration" as first and foremost a "violation" of

immigration laws of destination countries. While perhaps legally this description is apt, it

dangerously ignores the historical, social, political, and economic forces which lead to this

unwanted movement of peoples. This space serves as the entry for my own analysis, which seeks

to examine events preceding the current state of affairs, that is, the rising incidents of human

smuggling coinciding with the rise of neoliberalism around the world.

Securitizing Migration

The current policy environment is one which securitizes the issue of migration and

completely ignores the processes and issues behind these flows of peoples. For instance, Ghosh

fears that if migration policy is not completely overhauled and made more efficient, the system

which, she claims, is already strained, could eventually collapse and lead to "political and

economic disaster, creating in its wake a major setback in human progress" (Ghosh 2000, p. 6).

In Ghosh's view, and it is one most certainly shared among governments in the destination

countries, we cannot let these masses infiltrate our borders lest they divert all of our resources

and lead to the destruction of the whole global capitalist system. It seems extreme, and yet this

fear feels legitimate among the general public as analyses of media coverage and public opinion

such as Pozniak (2009) and Bradimore and Bauder (2011) have indicated. Fear is manufactured

by governments who use deliberate fear-mongering language in their treatment of issues and in

the rhetoric of their policies. Indeed, as Mountz (2010) points out, governments actually

capitalize on crises such as very visible events of human smuggling by boat (as opposed to the

less visible instances of smuggling smaller numbers/individuals by air or land) in order to

legitimize implementing more restrictive immigration controls. Only in the current environment

can the suggestion that we take up the "challenge" of finding a way of creating a more "robust and comprehensive framework to help revamp the present fragmentary and predominantly reactive arrangements" (Ghosh 2000, p. 6) not give one pause. To suggest that policies be formulated in order to presuppose the reasons why migrants want (or need) into a given country, to presuppose that whatever the danger and destitution faced by the migrants, the human rights of these migrants are less inalienable than those of the peoples in destination countries, is extremely problematic and yet seems to go unquestioned in broader society.

Also problematic (and archaic) is the idea that harsher border controls and punishments for those who do cross borders without official permission is likely to diminish its occurrence, as suggested by Anderson (2010, p. viii). All these measures do is increase the danger and the costs involved in crossing the borders. There is no evidence to suggest that harsher measures, particularly the use of detention, actually reduce entrances of 'unauthorized' migrants (Edwards 2011). As Edwards points out, such punitive measures are ostensibly entirely ineffective since, "[g]lobal migration statistics have been rising regardless of increasingly harsh governmental policies on detention" (2001, p. iii). The fact is, even if employment opportunities are made less available, or immigration policies are harsher, the conditions in the destination country are still likely attractive enough relative to the destitution, lack of employment, and political unrest in source countries in the so-called global South. Additionally, the simple fact that a person can be barred entry to a place into which s/he desires entry is in itself problematic, regardless of what factors compel him or her, because policies tend to be so clearly discriminatory of those deemed to inhabit "lower classes." Simply put, it is an oppressive framework which reproduces global inequalities.

More aligned with my own normative perspective, Steven Cohen (2006), calls for the abolition of migration controls altogether. Cohen examines the ethical and political issues around immigration, highlighting the important role of political rhetoric to expose racist, unjust, and irrational undertones inherent to the global migration system. His work is, he says, motivated by the slogan "no one is illegal," a slogan which not only "challenges the designation 'illegals' as used in immigration control discourse," but that "also confronts increasing state authoritarianism—such as the proposed introduction of identity cards—in which the government appears to have its own neo-Orwellian slogan of "Everyone is Illegal" (Steven Cohen 2006, p. 10). Ultimately, Cohen argues that, "the only equitable (immigration) controls are no controls" (2006, p. 11). While no controls at all could and probably would lead to some chaos, at least initially, and would certainly challenge the whole capitalist system, I posit that it is a matter of valuing human life over a capitalistic greed which necessitates hierarchizing the values of lives according to nation and skin tone. This analysis here is written informed by similar views as those expressed by Cohen (2006).

The one connection that the literature does not seem to make is between neoliberalization and human smuggling. Literature discusses human smuggling in general (Kyle and Dale 2001; Aronowitz 2001; Koslowski 2011; Koser 2011) and from a human rights perspective (Obokata 2005; Gallagher 2002; UNHCR 2009; Bhabha 2005). Literature, as this review examined, does look at neoliberalization and migration, but it does not delve into the idea that not only is neoliberalization affecting immigration policies in the developing world, but it has particular effects on flows of bona fide asylum seekers who, I would argue, largely comprise the population of peoples electing to be smuggled into countries. The following analysis seeks to begin filling this gap.

Methodology

   I approach this issue through a political economy lens. Political economy is essentially, as Stilwell defines it, "the study of the economy from a social science perspective" (2006, p. 8). It examines the processes at play in the economy, and how policies are carried out, as well as how they actually work in practice. Economics as a discipline, by contrast, has been criticized for not examining the effects of the oft-favoured neoclassical approaches to governing economies. There is a detachment with real life experience of such neoclassical policies as deregulation, liberalization, and privatization. Their failures are also seen as the fault of the actors and not the policies themselves. Political economy instead sees the failure of neoclassical economics and strives to uncover the causes and solutions by examining the interplay of politics, economics, and the exercise of power within the local and broader global contexts.

   This examination stems from my own explorations in literatures dealing with migration and qualitative analyses of migration experiences, including subjective experiences with law and policy (for example, Ali et al 2003; Bindu 2003; Bradimore and Bauder 2011; Goodwin-Gill 2004; Lee and Brotman 2011; Lippert 1998; Malkki 1995; Pozniak 2009, etc). Specifically, my topic of inquiry stems from my encounters with current research regarding Canadian immigration policy relating to refugees and smuggled persons. The more I read of Canadian immigration policy, the more I see a neoliberal bias informing every facet of it, down to its treatment of humanitarian issues and its international obligation to provide a safe haven for at least a portion of individuals seeking refuge. Arriving at my topic in this way is also where my ethical considerations begin, since as Klein (1983) points out, the decision about what to

investigate naturally precedes the methodological questions of how the research shall proceed (cited in Archer and Berdahl 2011).

Social location

My social location is also important when considering my methodology for this paper, since, as Kirby and McKenna (1989) point out, choosing a method is inherently a political process. Choices about methodology "incorporate assumptions which the research takes for granted, such as who is important to study, what context of research is identified, what data gathering method is best" (Kirby and McKenna 1989, p. 42). I use the Kirby and McKenna (1989) method of research from the margins as my departure point. Research from the margins is based on doing research in a way that "creates opportunities to reclaim and re-name [experiences of living on the margins]" (Kirby and McKenna 1989 p.64). "The margins" refers to the space inhabited by those persons who are excluded in many ways such as socially and economically, and who suffer injustice, inequality, and exploitation because of their social location (Kirby and McKenna 1989 p64). Importantly, research from the margins should focus on describing the lived reality of marginalized persons. I cannot do that in this paper, but I can do my best to deconstruct the narratives which have constructed these oppressive margins inhabited by so many of the world's peoples. Kirby and McKenna remind us that we must acknowledge that truth is manufactured and often by the small minority in power and that, in reality, "the majority of people are excluded from participating as either producers or participants in the creation of knowledge" (Kirby and McKenna 1989, p. 64). Being aware of this helps me to remember to always question my assumptions and perceptions. It is, I believe, an imperative first step in dismantling the continuing imperial power controlling global affairs.

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I conduct my research and examine my findings through a particular lens. This lens is comprised of a remembrance of Canada's colonial past and present, as well as its past and present issues of racism, both latent and manifested in policies which explicitly sought/seek to exclude individuals on the basis of their prescribed "race." I am speaking of policies such as the head tax on Chinese migrants in the early 20th century (Kelley and Trebilcock 2010), or, also in the early twentieth century, the disallowance of South Asian women to come join the South Asian male labourers (Das Gupta 1994). I also speak of policies today which inherently disadvantage racialized people coming from nations which still suffer from colonial histories and which experience lower levels of skill and education among populations. I believe it is important to be mindful of these factors since no issue or topic of social inquiry can be removed from its historical roots or contemporary context. Indeed, these factors are crucial to answering the whys and hows of any issues, particularly those relating to race, migration, and economics, including the interplay between them.

As, by the luck of birth, an inherently privileged woman of mainstream Canadian culture, I cannot claim to have any personal insight into the experience of being smuggled, or to have any real understanding of what it is like to decide to break away from one's home, a place one knows and where one is known, and to effectively "go underground," becoming a deterritorialized person with no tangible claim to rights (since rights seem so inextricable from citizenship), and no protection of person by the law. However, I approach this topic with a sincere interest in the promotion and protection of universal human rights and with a decided incredulity to the metanarratives (to borrow from Lyotard) which have socially constructed the division of the globe into the global North/South dichotomy and made common sense the notion that the

"underdeveloped" world is responsible for its failings to raise standards of living and its peoples should therefore be condemned to remaining disadvantaged and making the best of it.

Canadian Immigration Policy and the Rise of Neoliberalism in Canada

Steven Cohen argues that immigration controls came into being with the rise of imperialism (2006). The controls were "an effort to literally control the global movement of labour by the newly industrialized countries just at the point where labour acquired the technical mobility to move around the world in search of work or safety or both" (Cohen 2006, p. 11). This is evident in Canadian policy. In Canada there has been a clear emphasis on global competitiveness which has led to specific standards for the type of immigrants Canada recruits and allows into its borders (Arat-Koc 1999). The years from 1989 to 1994 in particular mark Canada's policy shift toward the neoliberal agenda, with a priority on small government in the form of transferring responsibility to immigrants for their settlement (Bauder 2008). This period focused on "raising the short-term economic contribution of immigration by selecting immigrants who possessed large amounts of human and/or monetary capital" while simultaneously recouping expenses associated with settlement through application processing fees and reducing government transfer payments to immigrants (Bauder 2008, p. 133). The transfer of financial responsibility to immigrants was also part of an ethic of fiscal restraint informing the 90s (and continues with fervour today) which legitimated an "emphasis on self-sufficiency and individual responsibility on the part of immigrants" (Arat-Koc 1999, p. 31).

The financial cost of immigrating to Canada continued to rise significantly through the 90s. In 1995, for instance, came an announcement of a 975-dollar Right of Landing fee required of all refugees and immigrants, in addition to fees for processing applications for landed immigrant status (Lippert 2005). This latter fee had been doubled from 125 to 250 in the early 1990s, then doubled again in 1994 to 500 dollars (Lippert 2005). The revenue expected from the Right of Landing fee was expected to cover more than half of the total annual federal cost of resettlement programs. One can attempt to argue that it is logical that immigrants should foot the bill for the services they receive in their settlement process since they have not hitherto been tax payers to the Canadian system (whether such fees should be applied to refugees is another issue entirely). Such an approach only starts immigrants on the wrong footing. They should instead, if we must think along economic lines, be viewed as investments. Invest in immigrants; help them to settle comfortably so they can become gainfully employed and begin contributing to the tax system more fully than if they are left to their own devices upon arrival, so they are not forced to take the first available job which often tends to be far below their qualifications and, furthermore, difficult to move up from (Goldring and Landolt 2012). Regardless of the nuances among immigrant groups coming to Canada, the fees associated with coming, and the expectation that these fees cover the cost of receiving them, is, as Lippert puts it, "advanced liberal rule par excellence" (Lippert 2005, p. 64).

Looking at the inner workings of the Canadian immigration bureaucracy and how it controls and manages the movement of the world's unwanted peoples, Mountz (2010) finds the "long tunnel thesis" to be a common phrase used among officials in the Department of Citizenship and Immigration. They use the phrase to characterize the process through which boat-arrivals to Canada have been hitherto treated. This "thesis" describes how migrants feel as

though they are endlessly walking through the long tunnels of an airport, never quite reaching Canadian soil and therefore never gaining full access to asylum claiming processes or rights' protections (Mountz 2010). The migrants, while technically on Canadian soil, are not yet "legally" in Canada and "they [find] themselves in an interstitial processing zone, somewhere between Canada and non-Canada…neither in nor out" (Mountz 2000, p. xiv).

The current policy framework, called the Immigration and Refugee Protection Act (IRPA) has been in place since 2002 when it replaced the 1976 Immigration Act (CIC 2004). A number of immigration policies such as those contained in the Immigration and Refugee Act (IRPA 2002) treat asylum seekers as potential security threats, thereby signaling to the public that asylum seekers are problems and their rights can be overridden in the name of security. This knowledge then legitimizes such practices as detaining asylum seekers as can legally happen under IRPA.

The legislation contained in Bill C-31, the Bill to "protect Canada's immigration system," was introduced to IRPA in 2012 following the two putative "crises" of *MV Sun Sea* and the *MV Ocean Lady* (CIC 2012a). In Fall 2009, 76 Sri Lankan men arrived on the *Ocean Lady* seeking asylum. Of the 76, 15 were accepted as refugees, 15 had their claims rejected, and three men were issued deportation orders (*The Globe and Mail 2013).* Similarly, as discussed in the introduction, with the summer 2010 arrival of the *MV Sun Sea*, 492 Tamil Sri Lankans arrived on Canadian shores in 2009. Of them, 50 were accepted as refugees, 63 were rejected, and 23 claims were withdrawn (*The Globe and Mail* 2013). However, recently there have been efforts by the federal government to appeal the positive decisions (Keung 2013).

Bill C-31 also created the "designated foreign national" category. It applies to individuals

who arrive in Canada as members of a group that the Minister of Public Safety designates as an

"irregular arrival" at his discretion (which can be applied to any group of two or more person(s)).

Any person arriving who is deemed irregular by the Minister will automatically be considered by

the Minister to be a designated foreign national unless the individual holds the requisite

documents for entry and, upon examination, the officer is satisfied that the person is not

inadmissible to Canada. However, if,

> "[n]either the examinations of the persons in the group, particularly for the purpose of
> establishing the identity or determining the inadmissibility of those persons nor any other
> investigations concerning persons in the group can be conducted in a 'timely manner'"
> (Bill C-31 2012)

or, the Minister "has reasonable grounds" to suspect that there has or will be "human smuggling

for the benefit/profit of, at the direction of, or in association with, a criminal organization or

terrorist group," (Bill C-31 2012), an individual can be deemed by the Minister to be a foreign

national. Once deemed as such the individual is denied admission into Canada, arrested and

detained until a final determination is made to allow a claim for refugee protection. Thus, asylum

seekers who arrive in groups could be subjected to detention (which is unequivocally jailing,

thus imbuing their arrival with a sense of criminality) for up to a year, regardless of whether they

are victims of human rights violations, simply by virtue of their method of arrival in Canada. The

Act has been criticized for perpetuating the grossly negative stereotype of refugees and

immigrants (Lacroix 2004).

The legislation contained in Bill C-31, particularly regarding the Safe Third Country

Agreement, has had what Goldring et al deem a "chilling effect" on the number of refugee

applications to Canada. Those asylum seekers who cannot take a direct route to Canada are

"forced to make their claim in the United States where acceptance rates are lower" (Goldring et al 2007, p. 19). For example, Goldring quotes Mary Jo Leddy, director of Toronto refugee shelter Romero House, who said, "[w]e know that the Colombians who are desperate, who would be accepted here, are not going to be accepted in the US" (CBC 2005 qtd in Goldring et al 2007). The effects of the policy were noticed immediately, with a 40 per cent reduction in the number of claims in 2005 (Goldring et al 2007), the year following the implementation of the Safe Third Country Agreement. One expected outcome of these changes is an increase in individuals who are desperate enough to seek alternative or "extralegal" means into Canada, which then raises the issue of people living with precarious legal status (Goldring et al 2007).

The Safe Third Country Agreement with the US further lengthens Mountz's "long tunnel" by forcing asylum seekers who first arrived in the US to return there to make their claims, or they are downright rejected and returned home after anywhere from a few days to a few months of detention. The Safe Third Country Agreement is extremely open to interpretation by the Minister of Public Safety.

What is more, however, is that, according to IRPA, the burden of proof lies on the claimants to prove they are not criminals and are indeed "legitimate" refugees, which seems to directly go against Section 10 of the Charter. Section 10 states that the validity of the detention must be determined by way of *habeas corpus*. This begs the question of whether IRPA is even constitutional, especially since, the Charter being entrenched means it takes precedence over such legislation as IRPA. Furthermore, when set beside both the fact that the Immigration and Refugee Board (IRB) has unfilled seats and is dealing with a massive backlog of applications which could ostensibly be alleviated by filling those vacant positions (CCR 2008), the function

of this legislation seems clear. The fault for the delays is laid on the claimants who are then punished, thereby reinforcing the image of refugees as burdens and criminals, making it possible to ignore their human rights and reject their claims.

Canada is afforded such flexibility in interpreting human rights pertaining to refugee claimants and smuggled migrants because there is no human rights document which deals explicitly with non-nationals (Bhabha 2005). This, according to Bhabha, is no oversight, but "rather a conscious decision by the international community" (2005, p. 10). The UN General Assembly had attempted a draft entitled the "Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live," but it was quickly obsolesced by states' fears of sovereignty being eroded (Bhabha 2005, p.10). Also worth noting is that an earlier draft of Article 14 of the UN Declaration of Human Rights stated that "everyone" had the right "to be granted asylum," but governments objected to the phrasing on the grounds that it infringed on their sovereignty (Steiner 2009). Refugees have no legal right to receive asylum – only to *seek* it - and states are truly under no legal obligation to grant it. So, the UN Millennium Declaration which states that "men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice" (quoted in Kofi Annan's forward to UNODC 2004) really has no teeth.

Furthermore, Canada heightens its authority to act without regard for human rights in two ways. First, it removes the human aspect of the causes and hardships involved in migrating extralegally by deeming the activity "smuggling," or deeming certain arrivals as "irregular." Second, by labeling the activities thusly, Canada makes them into issues of security. In other words, by securitizing these issues, Canada effectively evades the UN intervening on the grounds of infringing on human rights and in some cases even outright commits refoulement.

Despite Canada's efforts to restrict entry to only the most useful immigrants, the fact

remains that some individuals, for a number of reasons—be it humanitarian needs, economic

needs, or other—desire so much to get into Canada that they will do almost anything to get

access. What this has led to is massive numbers of people living with precarious status in

Canada. Estimates of how many people are living with precarious status range from 40,000 to

60,000 (Bernhard n.d.) and this is clearly a problem. Not only are individuals with limited legal

status prevented from obtaining social insurance numbers which are required to work legally, but

they also face difficulty finding healthcare or receiving other social benefits (Bernhard n.d.). The

benefit for Canada is that the welfare state need not be extended to these individuals as it would

have had to be if they were granted legal access, and yet, we must remember that they are still

nevertheless contributing to the tax system through various taxes.

More than just sovereignty and security are at play in the issue of "illegal" migration.

There is utility in "cracking down" on it through harsher controls which coincide with a

neoliberal immigration and economic policy that relies on migrant labour (Aronowitz 2001).

Restrictive immigration policies virtually force potential migrants in the global south to enter the

country through illegal means, which then means that these individuals do not need to be

extended full rights and privileges which accompany legal residence within the country. They

can therefore easily be exploited thereby providing cheap labour which fosters a strong and

competitive economy. In the case of the US, there is evidence that policies intentionally place

many migrants into precarious/undocumented work for the purpose of exploiting their cheap

labour. According to Kyle and Koslowski, "US government representatives, especially from the

Immigration and Naturalization Service (lNS), not only agree with this assessment but hint that

this was the plan all along" (2011, p. 58). The US being a bit of a trendsetter in policy for the rest

of the global north (Richmond 2002), the same may hold true for Canadian policymakers,

whether or not they are bold enough to admit it.

Similarly, agreements between governments in Singapore, Thailand, and other Southeast

Asian countries entail a requirement for employers of low-skilled workers to pay levies which

they then invariably deduct from workers' salaries (UNDP 2009). These levies are equivalent to

four to five months' pay and processing times for foreign workers can be as long as four months.

Smuggled workers, by contrast, cost much less. Smugglers charge, reportedly, the equivalent of

one month's salary to bring the worker to another Southeast Asian state (UNDP 2009). The clear

incentive led to only 26 per cent of migrant workers in Thailand being registered in 2006 (UNDP

2009).

Despite restrictive immigration policies, many migrants— an unknown number of which

are bona fide refugees (Ghosh estimates approximately 30 million (2000, p. 18)—)seeking

admission into a given country are willing to undertake any degree of risk or financial cost in

order to facilitate it. Migration restrictions virtually force refugees trying to move long distances

to enter industrialized countries to seek other means of entry by employing smugglers (Koser

2011). Indeed, as countries have tightened their borders to these ostensibly less desired migrants,

numbers of persons seeking alternative means to enter have risen (Kyle and Dale 2001). The

United Nations Development Program estimates that, in 2009, there were 50 million migrants in

an irregular status worldwide, a large number of whom were likely smuggled (UNDP 2009).

Such a significant number warrants concern, especially over what initiatives are already in place

to help ameliorate this problem, but the efficacy of these extant initiatives should be called into

question. The UN *Protocol against the Smuggling of Migrants by Land, Sea and Air,* for

instance, has been in force for 13 years and smuggling only continues to rise. I posit that this

clear case of inefficacy of international intervention on a global issue is the result of a neoliberal logic informing humanitarian policy-making, rather than humanitarian regard for human rights as the key informing logic. That is, humanitarian law is intentionally made riddled with loopholes, since it is made by states that invariably put their own interests first.

Favouring Economic Migrants

Under IRPA, there are three streams for migrants to apply for residence in Canada: the economic class (which includes skilled workers, business immigrants, provincial nominees, and live-in caregivers, as well as immediate family members), family class (which includes spouses, unmarried children under 18, and parents of qualified Canadian citizens or permanent residents), and the protected persons category (which includes government-assisted and privately sponsored refugees as well as those persons recognized as Convention refugees or persons in need of protection) (CIC 2004). Numbers of economic migrants accepted into Canada have been on the rise since the 1980s while family class entrants peaked in the '80s at 50 per cent of permanent entrants but then declined sharply in the mid 2000s to 28 per cent (Goldring et al 2007). The morally obligatory acceptance of refugees has been met minimally but at relatively constant levels (Goldring et al 2007).

The sharp and steady decline in family class migration warrants special attention. This decline in family class is perhaps a result of the backlog of immigration applications for family-reunification which, prior to the two-year moratorium placed on them, was expected to produce ten-year wait times for applicants (Ibbitson 2011). To "remedy" this problem, the federal government introduced the Super Visa in December 2013. According to CIC it has proven to be "super popular" with over 15,000 parents and grandparents obtaining it in 2011 (2013a). The

super visa is valid for up to 10 years, but allows applicant to remain in Canada for only 24 months at a time (CIC 2013b). It fits right into the neoliberal paradigm; it is an example of finding market solutions for social issues. For instance, parents or siblings entering Canada on the Super Visa are left to their own devices to find market solutions for their healthcare needs. Former Minister of Citizenship, Immigration and Multiculturalism Jason Kenney asserts that "our government is committed to family reunification" (CIC 2013c). However, given the utility in there being a need for streamlining processes and granting entry on stricter criteria, one wonders whether the backlog was not only preventable, but also intentional. Perhaps the "problem" was created in order to facilitate "solutions" which seek to make the immigration system faster and more efficient, prioritizing only the most desirable applicants. In fact, the IRB has indicated that the number of refugee claims waiting to be heard has more than tripled since the Conservative government came to power (CCR 2008). A good first remedy to the backlog in the IRB would ostensibly have been filling the putatively open positions. Why this solution was not selected and Canada opted for streamlining processes (CIC 2013a) can only be inferred. However, given the clear focus of the Canadian government on the economy and its expressed interest in using immigration to foster economic growth (as stated above), it appears one can safely surmise that liberal logic informed the policy decisions in the case of the immigration backlog.

Furthermore, the category of family class exemplifies the neoliberal demand for self-reliance. For those individuals who do make it into Canada under the family class, their wellbeing is entirely the responsibility of the person sponsoring their entry. This is per a 10-year sponsorship agreement between the Canadian government and the sponsor in which the "sponsor agrees to undertake the provision of accommodation, care and maintenance for this family

member" (Arat-Koc 1999, p. 36). The status of the family class migrant is contingent on his or her continued relationship to his or her sponsor, and he or she is ineligible to make claims for specific settlement services, such as the federally sponsored language training programs, subsidized housing, and social assistance (Arat-Koc 1999). The legitimization for the restrictions placed on immigrants in the family class may stem from an assumption that, while independent immigrants will contribute to the economy, family class immigrants would not (Arat-Koc 1999). There is also ostensibly the assumption that, many family class migrants being women, their labour will be constrained largely to the home, i.e, a non-income, non-taxable (but no less important) form of employment. This is problematic in that it punishes women who do work in the home, providing invaluable services to families and communities, but also in that it assumes that women, by virtue of being women, will not work, and men will be the sole or primary breadwinners.

Along with the rise in economic migrants have come policies directly targeted at ensuring only the most profitable migrants make it into Canada. Citizenship and Immigration has explicitly stated its interest in "a larger role for employers in the immigration program" with the implementation of the Expression of Interest (EOI) system (2012b). Under this system, employers can vet pools of candidates and select the immigrants who will be useful for the Canadian economy, thereby sending them off for priority processing. It appears this policy may be one attempt at remedying the woeful experiences of immigrants unable to penetrate the labour market which has produced a massive population of individuals who are either under- or unemployed (e.g., see Galabuzi 2001). If indeed this policy is directed at the issue of underrepresentation of immigrants in the labour market, then this problematically lays the blame on the immigrants for not being able to obtain employment, rather than addressing the

fundamental issue of systemic racism and discrimination which can explain immigrants'

negative experiences in the labour market (e.g., see Henry et al 2006; Henry and Tator 1994).

Henry *et al* call this latent racism "democratic racism" (2006). They define the term as an

ideology that both permits and justifies two apparently conflicting sets of values: the first set

consists of a commitment to a democratic society motivated by egalitarian values of fairness,

justice and equality (Henry and Tator 1994). In contrast, the second set consists of attitudes and

behaviours that carry the potential for differential treatment or discrimination and negative

feelings about people of colour (Henry and Tator 1994). Henry and Tator point out that,

Canadians tend to dismiss the idea of Canada being racist, despite evidence of racial prejudice

and differential treatment (1994). They also single out a sense of complacency or sheer

negligence, noting how the public sector agencies will conduct extensive consultations, but then

fail to translate findings into practice; how government taskforces and commissions of inquiry on

racism are used to "demonstrate their grave concern," but then the findings and

recommendations are virtually ignored; and how academics continually produce work

uncovering the existence and persistence of racism, but then remain only in the realm of

academia (1994). These examples clearly depict the dual ideology of democratic racism: they

show a society reaching for noble aims, but also compliant with a *status quo,* the maintenance of

which seems to benefit them. Thus, acting to completely ameliorate the problem of inequality is

both inconvenient and inefficient. Further, claiming one is being neutral by sticking to the *status

quo* is in itself political; it is not indifference, but acquiescence. This acquiescence needs to be

deconstructed in Canadian society in order for institutional measures aiming for equity, such as

Multiculturalism policy and Employment Equity, to actually be effective.

The most recent changes to immigration policy signal an even more intense focus on the economic class migrants. The five year pilot for Canada's start-up visa was announced early in 2013 and rolled out April 1, 2013. It seeks to attract immigrant entrepreneurs who will then be linked to domestic "organizations that have expertise in working with start-ups;" in other words, with venture capitalists, angel investors, and incubator firms (CIC 2013d). CIC outlines the benefits of the program: it will enable immigrant entrepreneurs to launch companies which will create jobs in Canada, will provide the entrepreneurs with "valuable assistance in navigating the Canadian business environment," and provide private domestic firms with the "best and the brightest" from around the globe (CIC 2013d). Applicants will be deemed eligible based on being vouched for by a Canadian firm, having facility in an official language of Canada, and meeting certain educational requirements. The program is a manifestation of the government's commitments, as outlined in the Economic Action Plan 2012, to building "a fast and flexible economic immigration system with a primary focus on meeting the new and emerging needs of the Canadian economy" (CIC 2013d; Government of Canada 2012).

The neoliberal agenda driving the global economy today has led to increased commodification of workers throughout the world, but it is keenly evident among the class known as temporary foreign workers. The effects of globalization have arguably provided the impetus for masses of workers in the global south to seek a better life by gaining employment in the global north. The vast majority of these migrants can only secure temporary terms of employment through such programs as the Temporary Foreign Worker Program in Canada (TFWP), or the Seasonal Agricultural Workers' Program (SAWP). Originally designed as a quick fix for labour shortages, primarily in Alberta's oil sands, the government expanded the

program in 2002 to include jobs in hospitality, food, construction, and manufacturing (Challinor 2011). This has led to an increase in temporary foreign workers entering Canada from 160,908 in 2006, to 283,096 in 2010 (Challinor 2011). The presence of a workforce willing and needing to relocate for work provides economies in the global north with a workforce not tethered to national rights and privileges which accompany citizenship, which therefore makes them highly exploitable (Lenard and Straehle 2010). Canada's whole immigration system, especially since the 1990s, provides a case in point of this neoliberal shift being discussed. Canada has shown a commitment to increasing national competitiveness in the context of economic globalization and has explicitly used immigration policy to foster this competitiveness.

According to the Alberta Federation of Labour, "three out of four jobs created in the province over the last few years have been filled by temporary foreign workers instead of Canadians." Further, while 8,600 jobs were lost in 2010, the province still managed to admit approximately 23,000 foreign workers (Cohen 2013). One of the most humiliating cases involving temporary foreign workers was when Royal Bank of Canada employees found themselves training temporary foreign workers who were actually going to be taking over their jobs. The massive controversy this created spurred the government to add new questions to employer applications to ensure native jobs are not being blatantly outsourced to foreigners.

A growing phenomenon which has resulted from expanding temporary foreign workers programs is the flow of remittances – money from the temporary workers in the developed countries back to their families in their countries of origin. Remittances have become major sources of revenue for countries like India ($69 billion in 2012), China ($60 billion), the Philippines ($24 billion), and Mexico ($23 billion) (World Bank 2013). In fact, the total flow of remittances to developing countries is estimated to have been $401 billion in 2012, which is

equivalent to more than three times the size of official development assistance (World Bank 2013). I posit that with this type of migrant labour being viewed as a—or perhaps soon to be viewed as *the*—means of development for the global south, it further entrenches the economic divide between nations and simply moves the exploitable workforce from the factories and plantations in the global South to the homes and farms in the global North. It also creates a reality of split up families, satellite mothers, and any accompanying psychological externalities therein. Further, as Delgado Wise, Marquez Covarrubias, and Puentes (2013) point out in their investigation of assumptions of the migration and development nexus, the current agenda on migration and development valorizes the role played by remittances while placing little to no emphasis on human labour rights.

Today Canada is undeniably dependent on migrant work, some sectors almost completely comprising temporary foreign labour (Cohen 1987; Basok 2004). The number of foreign workers has been on the rise, growing by four times between 1980 and 2006 (Goldring et al 2007). Bauder (2008) explores the utility and intentionality in vilifying and culturally excluding immigrants, finding that such practices then legitimize denying the welfare state as well as social and political rights associated with full membership (i.e., citizenship) while simultaneously exploiting the willingness of migrant workers to enter into such lopsided deals in favour of employers and Canada's economy. Temporary foreign workers are denied the right to permanent residence, lack freedom of movement between jobs and employers as well as access to rights and entitlements of social citizenship (Arat-Koc 1999). Removing the rights of workers leads to the "flexiblization" of their labour. As Robert Cohen points out, while the workers are not technically slaves, and the employers involved do not claim absolute proprietorial rights of them and they cannot be bought or sold, they nevertheless "characteristically do not enjoy full social

and civic rights compared with citizen workers" (Cohen 2006, p. 59). Further, as one "cohort" is exhausted or achieves higher status, another one is found to take its place. The perpetual supply of ever cheaper labour then also acts to discipline workers who know if they do not perform the work under whatever the circumstances, they will merely be replaced by someone more willing (Cohen 2006). This discipline then inhibits the possibility for collective action for better wages and conditions, allowing employers to have the best possible profit margins while being competitive in the global market. Precarious workers are a valuable source of income in Canada, though, as Galabuzi (2001) points out. They "provide a subsidy for the booming economy that rich Canadians have been celebrating lately" (Galabuzi 2001, p. 3).

The protected persons category is also important to consider. Canadian discourse has arguably centred on a dichotomy of good/bad immigrant (Pozniak 2009; Jackson 2012; Geiger and Pécoud 2013). The good immigrant is financially stable and will contribute to the Canadian economy, while the bad immigrant often enters Canada under the guise of being a refugee claimant but his/her claim is usually "bogus" or "fake," or is "just an economic refugee" claim (a class of refugee yet-unrecognized by the UN Convention or any state government) and if s/he is admitted, s/he will only be a drain on the welfare state. The fear over the risk that bad immigrants pose to the welfare state was a common theme in the media throughout the 90s, according to Bauder's (2008) media analysis. The concern for the welfare state is especially significant now given Canada's low birth rate and rapidly aging population which already pose serious threats to the welfare state. Abu-Laban illustrates how the "bad" immigrant is a product of neoliberal prescriptions' tendency to "create discourses of enemies and scapegoats, transforming what were once seen as victims into victimizers (e.g., single mothers, the poor, immigrants and so on are blamed for stealing 'our' welfare, 'our' social and educational services,

or 'our' jobs)" (1998, p. 194). This dichotomy has been presented in the media and propagated by public debate including media releases from the government (for example, March is "Fraud Prevention Month" according to a CIC media release (2013d)), as well as the general language used in media sources to describe claimants (e.g., see Bauder 2008). This rhetoric has been instrumental in the tightening of criteria for both citizenship and immigration controls against individuals coming from the developing world (Abu-Laban 1998).

The negative construction of the bad immigrant is especially apparent in the public's treatment of asylum seekers who arrive by boat, which could perhaps be because it is so visible relative to smaller groups and individuals arriving by air or land. The visibility and palpability increases the potential to generate public opinion surrounding the issue. The arrival of the *MV Ocean Lady* and the *MV Sun Sea* marked a drastic shift of the public's sentiments towards asylum seekers to a more definitively negative stance. As mentioned, the media constructed the events as serious security threats (Bradimore and Bauder 2011), and the government also released its fair share of proclamations over the security threats posed by the asylum seekers and the need to crack down on this form of entries in the name of national security (2012c; 2012d; CIC 2013c; CIC 2013e; CIC 2013f; *National Post 2013*).

The first line of the article "Human Smuggling, Migration and Human Rights," by Jacqueline Bhabha for the International Council on Human Rights Policy, reads, "[b]order crossing is not a legal right; it is not even a human right. But its regulation is a state right, a quintessentially domestic preoccupation" (2005). Migration is first and foremost controlled in the interests of the state. If any migrant(s) is not perceived as a potential benefit to the state, s/he is not likely to be admitted. If this individual enters the state anyway, "it is irregular or illegal" (Bhabha 2005). It is important to be mindful of this underlying logic, as it informs any policy or

protocol written with regard to migrants, as well as the discourse which shapes them. Koslowski points out that, "migrants are all too often implicitly or explicitly identified with criminality in political rhetoric when in fact migrants are more likely to be victims than perpetrators of crime" (2001, p. 63). Indeed, scholars have examined discourse through media and public opinion, finding a general tone of mistrust and criminality surrounding irregular migrants and asylum seekers (e.g., see Pozniak 2009; Bradimore and Bauder 2011). The misplaced mistrust is made ever clear in the activity of detaining migrants. The detention is legitimized by a fear that, if not held, migrants will not appear at their court hearings and will become "illegal" immigrants sneaking into the country. Edwards points out, though, that in fact "less than 10 per cent of asylum applicants abscond release conditions (even those persons pending deportation) when released to proper supervision and facilities" (2011 p. iii). He also points out that alternative options to detention are significantly cheaper to sustain both in the short and the longer term.

Bill C-31 is one key manifestation of the securitization of asylum issues. The bill came into force in June of 2012 and was introduced as the Bill to "protect Canada's immigration system" (CIC 2012a). The law was created as a direct result of the arrival of the *MV Sun Sea* and the *MV Ocean Lady* (Showler 2012). Dench (2001) sees the bill as part and parcel of the Government of Canada's continuing commitment to reinforce interdiction which is a way of keeping out the "bad immigrants."

What is worse is that the federal government will not cease to make an example of those two boat arrivals of asylum seekers. According to *The Toronto Star,* Ottawa has stirred controversy, accused by refugee lawyers of abusing the court system by "launching 'frivolous' appeals to refugee board decisions to grant protection to Tamil asylum seekers who arrived en

masse by boat three years ago" (Keung 2013). Former Immigration Minister Jason Kenney

allegedly asked the federal court to reverse positive decisions on some cases of *MV Ocean Lady*

and *Sun Sea* passengers. One lawyer accused the actions as being an attempt to intimidate

people, "to send the message out that they are going to do all they can to block the (refugee)

claims of even legitimate refugees." (Keung 2013). This accusation is reinforced by the fact that

the federal government rarely files judicial reviews against positive decisions made by the

refugee board (lawyer Laura Best, quoted in Keung 2013). The whole debacle is made worse

when one considers that some of these positive decisions were made for claimants who had

already waited years to win an approval of their claim, only to have the Minister have it reversed

by the court. Furthermore, while Kenney is infamous for constantly berating asylum seekers for

clogging up our system and our resources through the claiming process, he himself clogged the

system with lawyer and court fees, and delays to the system by second-guessing his bureaucrats

in the IRB and appealing the already-approved cases.

Human Smuggling
        Concomitant with ongoing processes of deliberately redefining asylum seekers and

refugees, consequences faced by these persons are also increasing in occurrence and severity.

Human smuggling has become an increasingly visible consequence of the securitization (based

on neoliberal aims) of immigration policies. As persons desperate for a way out of their

circumstances are presented with stricter and stricter border regulations, the risks they must face

also worsen. It is such a conundrum: persons residing in the global South find themselves

constantly on the losing side of the globalization game, and as their circumstances force them to risk their lives for better life chances, they find themselves, not received by the privileged global North, nor even pitied. Rather, they find themselves increasingly compartmentalized unequivocally as criminals. The following section will explore the concept of human smuggling, and it will make the important distinction between human smuggling and human trafficking before delving into a deeper discussion of human smuggling, especially in the Canadian context.

"Human smuggling" refers to "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Article 3(a) of the UN *Protocol against the Smuggling of Migrants by Land, Sea and Air* (2000)). The UN acknowledged human smuggling as an issue significant enough to warrant global action in its UN Convention Against Transnational Organized Crime, which was adopted by the General Assembly at the Millennium meeting in November 2000. According to Aronowitz (2001), it is the "first legally binding UN instrument in the field of crime." The details of this convention will be discussed in more detail later in this paper.

Types of smuggling vary, including on a small scale where individuals provide transport across borders for nominal fees, or informal groups or agents supply services such as shelter, food, navigation, and transport, for a lump sum. There are also more formalized, widely spread networks which provide more comprehensive smuggling packages (with items such as false documents, or even coaching for immigration interviews or links to employers) in return for large sums of money or down payments and sometimes for long term installments extracted from slave labour-like treatment after entry (Bahbha 2005).

Human smuggling is sometimes conflated with "human trafficking," either simply out of ignorance, or for political reasons – as will be discussed below – but the two activities are quite distinct. According to the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (2000), Article 3(a), the definition of human trafficking is the following:

> "… the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

Both protocols are part of the same package under the UN Convention Against Transnational Organized Crime, all with the central goal of dealing with the growing problem of all forms of transnational crime (Gallagher 2002). The one most basic similarity of the two activities is that they are both forms of "illegal" migration (Aronowitz 2001). Furthermore, since both types of migration give the migrants the status of "illegal aliens," both types of migrants are at risk of being exploited (Aronowitz 2001), since they cannot seek help from the state for the protection of their rights. Finally, it is often the most disadvantaged people from countries in the global South who tend to resort to smuggling or be lured by traffickers (Aronowitz 2001). However, there are key nuances between the two activities.

Human smuggling is a transnational activity (whereas trafficking can happen within one country) which is usually undertaken by choice of the migrant, and does not involve the means of overt force or coercion as trafficking does (UNHCR 2009). It also does not necessarily involve exploitation as trafficking does. It only requires that a party received "financial or

material benefit from the activity" and further, it usually involves men, not women and children (UNHCR 2009). Another key difference between trafficking and smuggling is that smuggled persons pay fees in full prior to departure from their country of origin. Once the smuggled person enters the destination country, the contract is terminated (Aronowitz 2001). However, smuggling can be quite dangerous. A smuggled person can become a trafficked person if, upon arriving at the destination country, s/he is then placed into a debt bondage situation and exploited for any purpose.

Financial costs and lives lost associated with facilitating alternative movements among countries have correspondingly risen as the difficulty in permeating borders has increased. Kyle and Dale (2001) assert that one reason for the rise in smuggling is that, with tighter controls on "illegal" migration, the cost of smuggling has correspondingly risen, thereby enticing criminals who are already involved with other illegal transnational activity, such as the drug trade, to the lucrative venture (Kyle and Dale 2001). Another argument alludes to the current neoliberal paradigm: Aronowitz posits that "smuggling and trafficking in migrants could not have grown to such proportions if it were not supported by powerful market forces" (2001, p. 71). The increasing demand for migrant labour paired with heightened entry controls—including those controls inherent to the Points immigration system in Canada which almost exclusively allows entry of highly educated and wealthy professionals—has provided the breeding ground for criminals and employers alike to profit off of the circumstances of disadvantaged (low-skilled and often less educated) people. Fees run as high as 20,000USD to move away from Asia to Europe, and can be even higher to reach North America (Koser 2011). The exorbitant fees may mean individuals are leaving their country with little to no money, or borrow sums from family and friends, or worse, upon arrival are forced by circumstances to find any available work

immediately in order to pay debts (Koser 2011). Some migrants work illegally in transit and destination countries (UNODC 2010; Koser 2011), which leads to further vulnerability to deportation.

In terms of the human toll, thousands of these migrants "have suffocated in containers, perished in deserts or drowned at sea" (UNODC 2010). As many as 2000 migrants die en route to Mediterranean countries each year (Koser 2011). The conditions under which persons are transported extra-legally into countries can be unimaginable. In some cases, people have been "crammed into windowless storage spaces, forced to sit still in urine, seawater, faeces or vomit, deprived of food and water, while others around them die and their bodies are discarded at sea or on the roadside" (UNODC 2010).

The negative sentiments around migrants observed in Canadian media and politics extend to the international scale. The word "smuggling" itself seems to, in one way, seems to invite policy makers and opinion-makers to ignore the actual people being smuggled. Indeed, Obokata (2005) points out that, while trafficking has been regarded universally as a human rights issue, human smuggling has only ever been considered as a border threat. Aronowitz claims this semiotic situation is an intended outcome, since "apportioning all the blame to the smuggler conveniently avoids the moral and political complexity that is a near universal trait of actual smuggling activities" (2001). That is, by merely blaming the person who facilitated the migration, states can avoid the human stories of the numerous push and pull factors involved in resorting to "illegal" migration in the first place. It allows states to wash their hands of any moral obligations to offer asylum to people fleeing economic destitution, political strife, or any number of other situations. The very fact that smuggling is included as a form of organized crime internationally with the *UN Convention Against Transnational Organized Crime,* and nationally,

in company with other activities such as "trafficking in persons or money laundering" (Section 37.1(b) Immigration and Refugee Protection Act (IRPA)) unequivocally criminalizes the term. While human smuggling and human trafficking are similar activities, grouping the two of them within the same legal documents is not logical. Further grouping of these two activities with other international criminal activities is even more problematic. It makes it so easy to lose the definition of human smuggling, and to negate the human aspect of it. George Orwell astutely observed that, "when a word is well established as a swear word, it seems to lose its original meaning; that is, it loses the thing that made it into a swear word. A word becomes an oath, because it means a certain thing, and, because it has become an oath, it ceases to mean that thing" (Orwell 1959 (1933)). The same holds true for concepts in public discourse such as "human smuggling." Furthermore, in the realm of public discourse, grouping all of the activities together signals sameness among them. They are the all seen as equally detrimental to society and the perpetrators of any of those crimes are unquestionably greedy and self-serving. This analysis is simplistic, but political rhetoric so often relies on simplicity.

While the term "smuggling," on one hand, virtually semiotically erases the presence of the migrants actually being smuggled, it also can place agency – and therefore blame – into their hands. Obokata (2005) posits that the definition of "smuggling," by virtue of illustrating agency on part of the migrants, in fact allows for governments to treat them as criminals. Obokata examines the rhetorical differences between the definitions of smuggling and trafficking, noting that smuggling suggests that those individuals being smuggled "are willing participants who violate national immigration laws and regulations," while trafficked individuals, due to the "presence of coercion or deception by traffickers and subsequent exploitation" is treated as a human rights issue (Obokata 2005, p. 397). The realities involved in the choice to be smuggled

into a country are entirely negated by the definition of smuggling. Smuggled persons can endure

conditions similar to those trafficked: they can endure long, uncomfortable and dangerous

journeys, can die en route, and can also find themselves in situations of exploitation, albeit to a

perhaps lesser extent than those individuals who have been trafficked. The precariousness which

accompanies going underground and being smuggled into a country brings with it the risk of

being employed in dangerous and inhumane conditions, and can also bring experiences of other

human rights abuses such as racism or xenophobia, and restriction on mobility between

employers (Obokata 2005). It therefore makes it easier to remove/retain these migrants as the

state sees fit: cheap exploitable migrant workers unfettered by rights can probably stay, but

disadvantaged migrants seeking refuge cannot.

Treatment of Smuggled Migrants in Canada

There are provisions in UN protocols relating to human smuggling which seek to protect

smuggled migrants. For instance, Article 5 of the UN Migrant Smuggling Protocol (2000)

provides that migrants not become "liable to criminal prosecution under this Protocol," that is, by

virtue of being smuggled into the country. Additionally, Article 19 (1) of the Protocol provides

that,

> "Nothing in this Protocol shall affect the other rights, obligations and responsibilities of
> States and individuals under international law, including international humanitarian law
> and international human rights law and, in particular, where applicable, the 1951
> Convention and the 1967 Protocol relating to the Status of Refugees and the principle of
> non-refoulement as contained therein."

The right to seek asylum as per Article 14 of the 1951 Convention is to be upheld, regardless of the means by which an individual gained entry into a country (UNODC 2010). Article 33 of the 1951 Convention relates to the act of refoulement, stating that,

> No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever in frontiers or territories where his [or her] life or freedom would be threatened on account of his [or her] race [*sic*], religion, nationality, membership of a particular social group, or political opinion.

Furthermore, pursuant to Article 19 (3) of the *Migrant Smuggling Protocol*, the state to which the smuggled migrant is seeking entry must deem, "without undue or unreasonable delay" whether the migrant will be granted permanent residence in its territory. Yet, in 2009, for instance, of 29,913 asylum claims (whether any or how many were smuggled individuals is unknown) in Canada, 4,125 individuals were detained, 7.5 per cent of whom for longer than 90 days. 90 days by any standards is an "unreasonable delay" and the psychological and emotional damage caused is also important to consider in addition to this clear abrogation of rights and downright criminalization of asylum seekers as discussed previously in this paper. Even asylum seekers in general, some of whom who have also been detained, can experience long waits for their claims to be considered and decided upon. Claimants have to wait an average of seven months for a hearing with the Immigration and Refugee Board (IRB) and an additional 22 months for a permanent residency application to be processed, if their application is successful (Lacroix 2004). This again harkens to Mountz's "long tunnel thesis" (2010).

Canada consistently subverts its UN commitments in order to prevent access to their country for asylum seekers. Canada's border protection policies including carrier sanctions and the infamous designated countries of origin (or safe countries list), (CIC 2013f) in place to ensure vigilance of carriers so that smuggled migrants do not make it to Canada where they can

invoke their right to claim asylum, are seriously problematic. As Gallagher states, "such measures risk denying *bona fide* refugees the chance of escaping persecution" (2002, p. 28) (emphasis in original). Indeed, the very Migrant Smuggling and Trafficking UN protocols "contribute to confusion by endorsing strengthened border controls while at the same time nominally holding up the right to asylum" (Gallagher 2002, p. 28). Through its immigration and refugee policies, the government profiles refugees and determines how they should be handled.

How Did We Arrive Here? Choosing Globalization

Global economic inequality can largely explain why so many migrants from the global South are seeking admission into countries in the global North. This section, then, explores the forces and events which led to some nations being severely underdeveloped today while others prosper.

Explaining global inequality begins with globalization. Globalization is often seen as an emancipatory process which sets nations on the track to economic and social development. There seems to be a simplistic assumption that nations who lag behind in terms of development are lagging because they have not yet figured out how to participate in the global economy. What such assumptions miss is the fact that the world's richest countries could not have become so rich without exploiting the labour and resources of other nations. The industrial revolution simply could not have happened without Britain exploiting peripheral nations such as Ireland on whom Britain relied on for livestock while they themselves industrialized and their farming

sector diminished. By the same token, the potato famine would also not have happened if the Irish economy was not turned into a cash-crop exporter controlled by the British (Schwarze 2000).

Jeffrey A. Frieden makes a powerful, paradigm-challenging statement when he states in *Global Capitalism: Its fall and rise in the twentieth century* (2006), "[g]lobalization is still a choice, not a fact" (p xvi) While not all scholars take this stance (for e.g., see Bauman 2000), it is a compelling and encouraging one. Frieden's statement calls into question commonly held assumptions that the world in its current state is immutable. It places agency into the hands of global citizens and reminds us that complacency is what perpetuates the capitalist system, not inevitable persistence of the system. In fact, there are signs of this agency being seized when one considers such movements as No One Is Illegal, global Sanctuary City movements in the UK, US, and Canada, and the Canadian-specific Idle No More Movement. These conglomerates of people dissatisfied with the status quo are challenging the powers that be.

The global system today is characterized by advanced globalization, with increasing integration of capital markets, commodity markets, and labour markets. Countries increasingly build economic ties in hopes of freeing up barriers to trade and movements of goods and capital. However, while globalization gains momentum from a neoliberal logic of minimum government intervention or barriers to movements of goods *vis-a-vis* the World Trade Organization (WTO), or the free movement of capital *vis-a-vis* the proliferation of transnational corporations and the International Monetary Fund, (IMF), it has simultaneously brought with it hostility among governments and international organizations toward unrestricted movement of people (Overbeek 2002; Pellerin 1999; Bauman 2000; Lippert 2005). Today, borders are more entrenched than

ever, legitimated in a discourse of state security and distrust of foreign nationals. The process of neoliberalism is linked with issues of political corruption, oppression, and the devastating effects of environmental degradation. However, most states delink these issues from neoliberalism, which has also ravages workers' lives, dislocating and forcing them to become migrants – a status that Western states have very little will to accept. And, while individuals have the rights to leave their countries of origin as per the International Covenant on Civil and Political Rights (ICCPR 1976), and they also have the right to *seek* asylum as per the UN Declaration of Human Rights (1948), there is no recognition of any right for an individual to be admitted to any country (Henkin 1995).

Important to understanding the current context of globalization and migration is the history of globalization. As McMichael (1996) points out, the vast gap in living standards between the global North and the global South derives from colonialism. Globalization was realized first through colonialism. It was not an organic process which sprouted and spread naturally throughout the world. It was perpetrated by imperialistic governments such as Britain, a key player in the history of colonialism, (but France, Portugal, Belgium, and Spain certainly played their own significant roles) seeking to exploit foreign lands and labour for the purpose of generating wealth and industrializing. These governments colonized countries which were land and resource rich and overhauled their societies to conform to the needs of their empires. Britain was able to industrialize through importing resources and goods. Indeed, free trade has its roots in the realization by British industrialists that they could increase their profits by forcing colonized nations to buy the low-cost manufactures they needed from British producers (Frieden 2006), effectively eliminating the possibility of their own industrialization. Indeed, there was a concerted effort, not only to ensure British goods were sold to colonial lands, but that they

reigned supreme in the global market. As Hamza Alavi points out, "it is little realized that the prior destruction of the Indian cotton textile industry was a necessary precondition for progress of the British industry" (Qtd in Khan 2012, p. 30). It was not, as some may believe, the mechanization of the British industry that killed the Indian industry. Rather, "[a]ctive steps had to be taken by the British government to suppress the flourishing Indian textile industry" (Khan 2012, p. 30). Part and parcel of the reorganizing of colonial societies to suit the British economy was the goal of ensuring colonial countries could not consolidate their own sovereign power and fight the colonizers. This was done through exploiting differences between various colonized groups, thereby allowing the divided society to be controlled (Khan 2012, p.26).

The divisions run further, as Khan points out: "capitalist exploitation and race construction/racialization need to be understood as complementary social processes" (Khan 2012, p. 10). The division of the world's "races" and the dehumanization of the nonwhite populations made the exploitation and pillaging of colonial countries entirely acceptable. Furthermore, it allowed for colonialism to be viewed as a benevolent act of "civilizing" the "uncivilized" by sharing technologies and ways of life with the colonized peoples.

Decolonization happened very quickly (with the exception of Portugal and its colonies). In its wake were gaping power vacuums in societies, and cash crops - the mainstays of so many economies - which were waning in global importance as countries in the global north began to trade more with each other (Frieden 2006). There were two major factors in the suddenness and quickness of decolonization. One was the US condemnation of it, which arguably stemmed more from its being late to the game and unable to catch up in the colonial race for lands and peoples (Frieden 2006). The second factor is that, in the Cold War era, the Soviet Union was already

beginning to decolonize, thereby obliging capitalist countries to follow suit, lest communism was

made to look the more benevolent ruling power (Frieden 2006). Coinciding with these factors

was that colonization was no longer needed by the US since it had honed the art of imperialist

economic domination through the export of capital by transnational corporations in league with

the powerful finance capital of the Western banking sector.

Even with decolonization, however, the globalization train kept on moving, waiting for

no nation, especially not the post-colonial ones, to catch up and hop on. Instead, as experience

shows, post-colonial nations have been made to feel like they are holding on to the back of the

train, being dragged behind, never able to get upright and hop on. Globalization – and

particularly development via globalization – has become such a fact of life, an inescapable

reality, that the public tends to forget these various forces behind the historical processes of

globalization. We do not think, for instance, about the global dimensions of products we

purchase in stores. McMichael warns that, "we disregard these connections at our peril" (1996, p.

5). In order to understand the changes in our society, we must situate them within the global

context. Otherwise, "we are likely to misinterpret social upheavals across the world if we ignore

contributions of global integration to political and economic instability" (McMichael 1996, p. 5).

In fact, according to Khan (2012), the problems inherent to the globalization project run even

deeper. Khan discusses how the West purposefully pried open "the markets and territories of

post-colonial Latin American states by reinvoking dependency, establishing the [International

Division of Labour (IDL)], and transferring labour-intensive production to re-subordinate the

Third World states" (Khan 2012, p. 53). According to Khan,

> The new IDL, alongside the US's unilateral abrogation of the Dollar-Gold Convertibility
> Accord and the establishment of Free Trade Zones or *maquiladoras* in the Third World,
> set in motion the deindustrialization of the global North. The consequences of these

changes, coupled with the continued displacement of the peasantry, opened the floodgates for the exploitation of the informal sector (IS) (2012, p. 53).

The new IDL has resulted in American hegemony and the resubordination of the global South through the movement of industrial work to the South from the North. The North is now undeniably reliant on the industrial labour of the global South. The new IDL has also "laid the groundwork for the movement of [Foreign Direct Investments (FDI)] and later for the unfettered global mobility of financial capital" (Khan 2012, p. 79). It is a very similar process to the satellite/metropoles divisions exhibited during colonialism, except that now imperial power is exercised via FDI and not overt physical and political subordination of nations.

Why Can't the Global South Just Develop? The Development Project Failure
There have been ostensible attempts at raising living standards in the global South, especially since the Second World War era. However, these efforts have always been mired in the reality that states in the global North actually benefits from the global South remaining impoverished, as discussed above. In this section I briefly explore the rise and fall of developmentalism. By doing this, I hope to add context to issue of "extralegal" global migrations, as well as to further problematize the tightening borders of the global North.

The North-South divide is such an entrenched part of the modern sensibility. It seems an inescapable truth and a problem, the solution to which is so beyond comprehension. Bauman (2000), looking at the role of media in constructing knowledge in the global North, notes how "the spectacle of disasters" support an emotional and ethical disconnect for viewers. The

developed world, he says, "surrounds itself with a sanitary belt of uncommittment, erects a Berlin wall; all information coming from 'out there' are pictures of war, murders, drugs, looting, contagious diseases, refugees and hunger; that is, of something threatening to us" (Bauman 2000, p. 75). These depictions rarely include such information as the fact that those weapons used to turn far-away places into downright killing fields have been supplied by our own arms factories (Bauman 2000). Furthermore, this separating of us and them, of making "them" this dangerous, dirty, and violent mass of people, forms the basis for legitimating securitizing the issue of migration.

The concept of "developing" the "underdeveloped" world did not arise until following the Second World War. At that time, a paradigm arose which viewed the world as the dichotomous developed/undeveloped. Despite any diversity in standards and ways of living, the "underdeveloped" world became home to as Fanon dubbed its peoples, "the wretched" (qtd in McMichael 1996, p. 30). The "development project" became the world's shared project, leading to poor countries becoming targets for endless numbers of programs and interventions "that seemed to be inescapable and ensured their control" (Escobar 1988, p. 430).

The development project instigated by the United States and its allies, via institutions such as the World Bank and the International Monetary Fund, came to be seen as the means by which the imbalance between the developed and undeveloped world would be corrected. In the early days, development was considered virtually synonymous with industrialization, its end goal being to raise incomes while giving the poor access to a range of goods and services that were widespread in developed countries (Rapley 2007). It was, as Rapley puts it, "about getting richer or more prosperous; and prosperity was measured in dollar figures" (2007, p. 1). Industrialization was seen as the *sin qua non* of development.

The model for development was the Western experience, seen as a simple series of steps a nation need take in order to be just like the wealthy countries. Such a view (as outlined in detail by theorists such as Rostow (1959)) was more than myopic; it was blatantly decontextualized. The experience of how the West came to power, through colonizing other geographic spaces and exploiting the resources and peoples within, was completely removed from the model. Instead, as McMichael puts it, "development was modeled as a national process" (1996, p. 46) It followed a neoliberal logic. While colonial powers saw progress through state-led development vis-a-vis what would later be dubbed import substitution industrialization (ISI), they would not allow this process to be adopted by the lesser developed states in the post World War II era.

ISI, as Khan points out, is "a concomitant part of capitalism" (p. 63). It insulates a fledgling capitalist economy such as Britain was merely a couple of centuries ago when it needed to protect its machine-made textile sector from imports of high-quality handloom textiles from pre-colonial India (Khan 2012). Warner Baer points out that in fact all industrialized nations went through a form of ISI after Britain, whereby there was a significant investment in local industries to replace imports (qtd in Khan 2012, p. 63). It is a distinctly nationalistic form of development and industrialization, nothing like the liberalization required of developing states today via modern development policies. Today Western states actively resist ISI strategies of development since "it would work against the coordinated push of Western capital and imperialist states to subordinate post-colonial and Latin American states" (Khan 2012, p. 64).

Instead, the West argued that development required only some fiscal prudence and hard work on part of the citizens. Such a perspective epitomizes neoclassicist economic theories. These theories which emerged in the late nineteenth century and remain the orthodoxy today are completely detached from real lived experiences of their own policies (Stilwell 2006). Policies

which were part of the miserably failed Structural Adjustment Programs (SAPs) such as deregulation, liberalization, and privatization prove time and time again to fail, but these failures, points out Stilwell (2006, p. 21), are seen invariably as the fault of the actors, not the policies. The theories see the government, at most, as the adjunct to the free-market economy (Stilwell 2006). The market economy is inherently stable and self-regulating and only sent off-kilter when influenced too much by governments. Or more precisely, "[t]he economic activities of the government are not reduced, only reoriented towards more directly serving the interests of businesses" (Stilwell 2006, p. 22). It is more about promoting the "the vitality of the capitalist economy, which neoliberals claim has been curtailed by excessive government intervention" (Stilwell 2006, p. 22).

The documentary film *Life and Debt* by Stephanie Black examines the post-colonial hell Jamaica found itself in following independence in 1966. It traces the steps of former Prime Minister Michael Manley, who was elected on a decidedly non-IMF platform, denying any pseudo-colonial intervention by outside states. The year following his election, however, forced by dire circumstances and a country whose economic health was poor and only worsening, the Prime Minister signed for Jamaica's first loan with the IMF, the first of many which would contribute to its eventual billions of dollars of debt owed mainly to the IMF, the World Bank, and the Inter-American Development Bank (IADB). Despite large loans, meaningful development has still never really happened. This is because the exorbitant interest rates and the debilitating policies of the structural adjustment programs have prohibited it. According to the documentarians, "[t]o improve balance of payments, devaluation (which raises the cost of foreign exchange), high interest rates (which raise the cost of credit), and wage guidelines (which effectively reduce the price of local labor) are prescribed [by the IMF]" ("*Life and Debt" 2000*).

The neoclassical assumptions within such prescriptions are that cutting government spending naturally leads to private investment and that keeping labour cheap incentivizes employment and production. However, Jamaica proves, as do so many other post-colonial nations who have found themselves under the thumb of structural adjustment programs and other variations of the same neoclassically driven policies, that conventional developmentalist practice does not achieve the goals it says it aims for. Liberal principles of minimal government intervention do not work in severely underdeveloped countries. When applied to underdeveloped and severely underdeveloped nations, they only serve to benefit the global hegemons at whose behest the global market functions. In the context of globalization, the capitalist system is characterized by distinct power dynamics between developed and lesser developed states, and has been largely driven by the interests of the global North, as described in the previous section. Indeed, as Bordo et al (2003) put it, globalization has brought with it a "great divergence" in incomes across nations. This divergence began with colonialism, worsened with the uneven spread of industrialization in the nineteenth century, and has only intensified on a global scale in the last 100 years, creating "the most unequal world ever seen" (Bordo et al 2003).

While officially for the purpose of facilitating fair and equitable trade among members, the WTO, as Wilkinson (2006) demonstrates, only perpetuates global power asymmetries. The rules and regulations as drawn up within the WTO show the severe imbalance of interests being represented in the global market. Vocal members of the global South see that the rules are continually being "unilaterally rewritten by the rich, industrialized countries in order to enrich themselves at the expense of the South, and that the structure of the world system is largely to blame for their grinding poverty and chronic vulnerability" (Roberts and Parks qtd in McMichael 2009, p. 249).

Taking into consideration the roots of the global North-South dichotomy and seeing how, time and time again, states in the global South have been downright prevented from developing, it brings to light how unjust migration controls are. It also shows, though, that migration controls are just one part of the whole neoliberal globalization project. If the North is to benefit from the continued impoverishment of people in the global South, then those people need to stay there – excluding, of course, those people who do successfully permeate borders in the global North and become cheap exploitable labour.

Conclusion

In this paper I tried to show the connections between simultaneous occurrences of a rising neoliberal agenda and rising "unauthorized" migration. I also tried to give context to this relationship by exploring the factors which explain how the globe came to be divided into the North and South. Capital seems to only be increasingly concentrated in the global North. Workers in the global South wishing to eat will naturally try to follow it. However they are prevented by a virtually impenetrable force field erected by the global North. This "force field" comprises the various levels of institutional migration controls, as well as public opinion, which is shaped by discourses of security and threats to the welfare states, and also of a denial of the North's role in creating the oppressive poverty so pervasive in the global South. Canada, seen as one of the safest havens for asylum seekers and other migrants from the global South, provides a case in point. The Canadian immigration system is getting overhauled piece by piece, increasingly barring entry to all migrants except the most profitable, and legitimizing it by

redefining what "real" refugees are and exaggerating the threat to security posed by unwanted migrants. It comes down to labour. Maintaining destitute living conditions in the global South ensures cheap labour and the maintenance of the concentration of wealth among the few rich countries.

What is required is recognition of fundamental rights of all global citizens, regardless of geographical location or citizenship. Furthermore, there needs to be recognition of the root causes of smuggling of migrants, that being the desire to migrate away from abject conditions and build a better life. Article 15 (3) of the Smuggling of Migrants Protocol does require the promotion of development programs to address the socioeconomic causes of smuggling; however, there is no real obligation for states to adhere, and there is clearly no sign of a will to, either.

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