

The Incipient Denationalization of Political Membership and the Disaggregation of the  
Canadian State's Monopoly on Mobility

by

Corey Ranford-Robinson  
B.A., University of Guelph, 2010

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## **Supervisory Committee**

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**Co-Supervisor**

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## **Abstract**

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This thesis conceptualizes and documents transformations underlying the contemporary condition of Canadian political membership. Through an examination of recent changes in Canadian immigration policy underwritten by the neoliberal reconfiguration of the state, the imperatives of ‘skills discourse’ and the exigencies of economic globalization, this thesis interprets the effect of globalization on the state and state-based membership as a process referred to by Saskia Sassen as ‘incipient denationalization’.

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## Acknowledgments

*I am not erudite enough to be interdisciplinary, but I can break rules.* – Gayatri Spivak

While it was not the original intention of this thesis, it eventually came to represent an interdisciplinary and eclectic approach which transgressed the disciplinary boundaries of various subjects and sub-fields including but not limited to: political sociology, policy analysis, historical-sociology of globalization, citizenship studies, international relations theory, cultural studies, socio-legal studies, migration studies, political theory and the political economy of labour. For this, I extend my appreciation to the fantastic faculty, students and staff at the University of Victoria and the Department of Political Science for their expertise, influence and support. Thanks in particular to Scott Watson, Rob Walker, James Tully, Arthur Kroker, along with my other friends and students who provided years of intellectually rewarding and thought-provoking discussions. While there are too many to name in such a small space, Tom, Cody, Tim, Mike, Laticia, Guillaume, Benjamin, Julia, Carly, Georgina, Marta and many others were wonderful colleagues and friends to have from the initial stages of coursework and ‘imposter syndrome’ to the final months spent in relative isolation crafting this text.

Growing up in a small agricultural community in Southwestern Ontario dependent on migrant labour, I am sensitive to the ways in which migrant workers in Canada take on the status of ‘second-class citizen’. In the fields surrounding Simcoe, Ontario and other communities across Canada, the paradoxes of global capital and the violence of imperial histories endures to this day in much the same way it does in the space surrounding the University of Victoria; situated on the territory of the Coast and Straits Salish people, the violence of border crossings and contact zones continues, as does the legacy of Canadian ‘nation-building’, both domestically and abroad.

## **Dedication**

To Caroline, for taking the chance on me and a West Coast adventure.

## Introduction

This thesis conceptualizes and documents<sup>1</sup> transformations underlying the contemporary condition of Canadian political membership. Through an examination of recent changes in Canadian immigration policy underwritten by the neoliberal reconfiguration of the state, the imperatives of ‘skills discourse’ and the exigencies of economic globalization, this thesis interprets the effect of globalization on the state and state-based membership as a process referred to by Saskia Sassen as ‘incipient denationalization’.

Saskia Sassen argues that ‘the global’ is partially constituted within the national, including the locus of power formally identified with the state. According to Sassen, the concept of denationalization describes “a changed attachment to the national rather than a full exit from it”<sup>2</sup> as well as the state’s capacity to “privatize what was heretofore public and to denationalize what were once national authorities and policy agendas.”<sup>3</sup> Using

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<sup>1</sup> In addition to the variety of scholarly commentaries, articles and books on the subject of international migration and immigration to Canada more specifically, I support the claims of this thesis through reference to a number of primary sources, namely, the most recent federal immigration legislation (the Immigration and Refugee Protection Act), federal amendments to this act (primarily in the Immigration and Refugee Protection Regulations), and recent documents from federal and provincial governments. These documents include government audits, evaluations, committee reports and statistics: The Evaluation of the Federal Skilled Worker program; Facts and Figures 2010: Immigration overview - Permanent and temporary residents; the 2009 Report of the Standing Committee on Citizenship and Immigration dedicated to Temporary Foreign Workers and Non-Status Workers; Chapter 2 of the 2009 Fall Report from the Auditor General of Canada; the 2011 Annual Report to Parliament on Immigration; the Evaluation of the Provincial Nominee Program; numerous Operational Bulletins from Citizenship and Immigration Canada, as well as federal and provincial government websites and documents which outline the specific details of economic immigration streams to Canada and the eligibility requirements for the Federal Skilled Worker Program, the Temporary Foreign Worker Program, the Canada Experience Class, the Provincial Nominee Programs, the Business Class, and the Family Class. These documents can be found in the bibliography.

<sup>2</sup> Sassen, Saskia. 2006. pg. 300.

<sup>3</sup> Sassen, Saskia. 2006a. pg. 7. Sassen’s notion of denationalization describes the reorientation of national policies and institutions toward global agendas and the presence of private agendas inside the public domain – or as she poignantly remarks, “private agendas dressed as public policy inside national states.” What separates Sassen’s work from much of the literature on privatization is her nuanced approach to the analysis of privatization and the enactment of private norms in national institutions and public agendas. In contrast to much the older literature on privatization and globalization focused solely on forms of cooptation, Sassen aims to detect the presence of private norms in the public realm rather than limiting her focus to the more conventional idea of privatization related to the devolution of state authority to the private sector. By emphasizing the normalization of privatization, the “privatization of norm-making capacities and the enactment of private norms in the public domain,” Sassen also distinguishes her account from literature emphasizing the decline of the state; state participation in this process, she observes, is essential. The hybrid quality of the global/national, public/private in Sassen’s account is what I find most



elements of Sassen's multi-scalar sociology of globalization, this thesis argues that the Canadian state apparatus is partially denationalized because it represents a mix – a relation, interconnection and tension - between what we might broadly refer to as subnational and global agendas. Sassen describes denationalization as a 'multivalent' process whereby the state apparatus "endogenizes the global agenda of many different types of actors," from financial markets, human rights norms, to national (and multinational) corporations responding to the pressures of global competition.<sup>4</sup> Contemporary shifts underlying condition of political membership in Canada will be examined with respect to this process of incipient denationalization.

Scholars such as John Torpey argue the defining feature of the modern state lies in its capacity to 'expropriate' the 'legitimate means of movement' from private actors.<sup>5</sup> Indeed, the state's monopoly on mobility and its sovereign power over entry and exit find clear expression in immigration policy and law, its norms and conventions. While state control over the regulation of movement and political membership remains significant, the regulation of human mobility vis-à-vis immigration policy is shifting; this is because, as Audrey Macklin notes, immigration is *not* immune to the processes associated with privatization.<sup>6</sup> This may not come as a surprise to some because, after all, the primary goal of Canadian immigration policy is to enrich the Canadian economy. According to Macklin, immigration policy is "a quintessentially public form of regulation serving ends defined by the private realm of the market."<sup>7</sup> I argue that aspects of immigration policy -

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attractive and relevant to this case study. In relation to the current Canadian immigration regime, we can detect elements of both the devolution of authority to the private sector (e.g. consultation over labour market needs, immigrant selection and nomination by employers) and the enactment of these private norms in the public realm (e.g. the move to a human capital model, increased attention to the flexibility of prospective immigrants, their capacity for self-finance, and the sheer transparency of immigration policy's economic rationale.)

<sup>4</sup> Sassen, Saskia. 2006. Elements of Saskia's conceptual vocabulary such as 'denationalization' will be clarified in chapter one and chapter four.

<sup>5</sup> See Torpey, John. 2000. Torpey situates himself in relation to two conventional (though by no means mutually exclusive) definitions of the state bequeathed to the canon of Western political thought by the Weberian and Marxist traditions: the state is traditionally defined for Marx in terms of its monopoly on the relations of production, whereas Weber put forth a notion of the state in terms of its monopoly on legitimate violence. Torpey, however, suggests that in addition to these attributes, the state can be defined in terms of its monopoly on 'the legitimate means of movement'. The implications of the privatization strategies mentioned above for theories of state sovereignty over entry and exit are discussed in chapter five and six.

<sup>6</sup> Macklin, Audrey. 2002. pg. 219.

<sup>7</sup> *ibid.*

and therefore, the state's regulation of mobility – have been privatized, and willingly surrendered to global agendas. Institutions and policies historically constructed as national, such as citizenship-migration policies, are thereby 'denationalized' to some extent.

This paper highlights the privatization and disaggregation of sovereign control over political membership not just in terms of the devolution of authority over immigrant selection to the private sector, but also with regard to the enactment and incorporation of private norms within the public domain of immigration policy. This is particularly true in the case of temporary migration schemes. These programs illuminate the ways private actors instrumentalize the sovereign state's gate-keeping function; taken as a whole, they expose the ways in which state borders function not as insurmountable walls but as sieves for the devaluation of labour in the service of capital. As Macklin notes, temporary labour schemes demonstrate the partial disaggregation of the state's authority over entry and exit, a process whereby the state "selectively designates decision-making authority to private actors, while simultaneously manipulating terms of entry in order to secure a labour supply that accommodates the demands of private employers."<sup>8</sup> Before entering into a more in-depth analysis of this process, this section provides an overview of the thesis structure.

The initial 'Prelude' is made up of two parts, each serving primarily as a point of departure. Part I, **"The Paradoxes of Globalization and the Resilience of Legal Membership: Interrupting the Narrative of Global Citizenship"** sets the tone for the remainder of the thesis. The aim of this chapter is to unsettle, complicate and intervene in the commentary on so-called 'global citizenship'. By contrasting dominant narratives of citizenship with the empirical realities of neoliberal skills discourse occurring in Canada, this section argues that legal membership is resilient. The first part of this chapter is largely critical; it argues that despite vogue proclamations of non-national citizenship, which suggest the political belonging is becoming cosmopolitan, transnational and/or post-national, there is nothing that indicates political membership is necessarily becoming simply more inclusionary or, on the other hand, more exclusionary. Instead of theorizing about the intensification of globalization's hierarchy of privilege and mobility

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<sup>8</sup> *ibid.*

in terms of contradiction, this section suggests that growing inclusion alongside growing exclusion is part of an interlinked dynamic ushered in by neoliberal skills discourse, whereby the rights and entitlements associated with political membership are selectively allocated on the basis of human capital endowments, labour-market value and one's capacity for self-finance (Macklin 2011, Walsh 2011, Ong 2006, Gabriel 2004).

While much of the contemporary literature on citizenship and political belonging paints a different picture of political membership, the empirical realities of the current Canadian immigration regime suggest that the normative project of citizenship is potentially misleading. The purpose of second part of the prelude, **“A Note on Terminology: Citizenship and Political Membership - Status and Practice or Status and Access?”** establishes the meta-theoretical criterion for the remainder of the thesis. It builds off the first part to dispute the contemporary usage of ‘citizenship’ as an all-encompassing term to theorize about political *status* and *practice*, even for those who do not enjoy the rights and privileges associated with citizenship. Using the work of a number of scholars in political sociology and law, such as Judy Fudge, Audrey Macklin, Enrica Rigo, and Nandita Sharma, this section argues that political membership is better thought of as *status* and *access*. Theorized in terms of a continuum of deservedness shot through with neoliberal ideals, the notion of political membership is more apt for theorizing about globalization's hierarchy of mobility based on skill, as well as the highly segmented and differentiated nature of political status and access characterizing the contemporary Canadian immigration regime.

*Chapter one, “Incipient Denationalization or Post-national Citizenship? Interpreting the effects of Globalization on Political Membership”* sustains the tone of the “Prelude;” it examines the differences between the conceptual framework of incipient denationalization - and the accompanying effects on political membership – and theories of global citizenship. Part I draws on the work of Saskia Sassen (2006, 1999, 2003) to identify shortcomings in theories of global citizenship, with specific attention paid to the post-national thesis of citizenship. According to Sassen, theories of post-national citizenship spatially reify the global in relation to the national, thus interpreting these conceptual dynamics as mutually exclusive. Sassen extends her understanding of globalization as internal denationalization in order to develop an alternative conception of

political membership transformed and implicated within overlapping vectors of power, the magnitude and effects through which these dynamics cascade across various sub-, trans, and ‘self-evidently’ global frames of territory and authority. This conceptual move is important because it allows us to interpret the effects of globalization on political membership in a more creative direction, and in doing so, it reveals the limits of post-national theses of citizenship. Following Sassen, Part II demonstrates how Yasemin Soysal’s (1995) thesis on post-national citizenship, among many others whom subscribe to a similar perspective (Jacobson, 1996), is limited. Insofar as contemporary transformations of the state and state-based membership unsettle and exceed any single scalar level or spatial framing, the notion of post-national citizenship provides a narrow definition of political membership in relation to these emergent global processes, and in doing so, gives a false impression of what we might call global forms of political belonging and subjectification, which, in Soysal’s analysis, are thought to exist or occur somehow ‘above’ and/or ‘beyond’ state-based membership. Sassen’s notion of incipient denationalization is more attuned to how the influences of the national (broadly defined in terms of an assemblage of territory, authority, rights, nationally based state and non-state actors, imaginaries, processes and institutions) exist in a reciprocal relation, a feedback loop of co-constitution with emergent global processes of ‘denationalization’.

The second and third chapters are largely historical and expository. Each chapter is designed to detail the empirical aspects from which the subsequent theoretical chapters draw. *Chapter two, “Canada’s Need for Immigration: A Brief Overview”* is made up of two parts. First, it highlights the important role of immigration, both permanent and temporary, in managing the twin pressures encountered by many post-industrialized settler states: the ‘skills deficit’ and the ‘demographic deficit’. The second part provides an overview of “Canada’s Experience with Temporary Labour Migration.” Using scholarship from the sociology of work (Valiani 2010, Sharma 2006) and the political economy of labour (Abu-Laban, Gabriel, 2002, Sassen 1988), this section traces the current Temporary Foreign Worker Program (TFWP) and the trend toward temporary labour migration over permanent settlement more generally back to Canada’s initial experience with temporary worker schemes: the 1973 Non-Immigrant Employment Authorization Program (NIEAP).

While the TFWP may be a relatively new development in Canadian citizenship politics, the economic rationale behind immigration policies is a recurring aspect of Canadian ‘nation-building’. What’s more, economic growth is historically linked to the marginalization of supposedly ‘temporary’ ‘others’. *Chapter three, “Immigration and Canadian ‘nation-building’”* provides a brief history of immigration to Canada. It aims to highlight the events leading up to contemporary shifts to establish the similarities and differences between the contemporary trajectory and previous immigration regimes of earlier phases of ‘nation building’. It is argued that while the explicit economic focus of the IRPA is relatively novel insofar as it is couched in the language of skills discourse and the global competition for the ‘best and the brightest’, economic criteria and the perceived needs of the labour market have always informed Canadian immigration policy. The resilience of immigration’s economic rationale can be explained by the ability of immigration policy to cohere with changing governing rationalities and accommodate the notion of an idealized citizen-subject to which they correspond (Dobrowlsky 2011, Gabriel and Abu-Laban 2001, Walsh 2009).

With the historical overview complete, chapter four provides a summary of economic immigration to Canada. Divided into five parts, it first compares the differences between what some commentators call ‘front door’ and ‘side door’ immigration. This section is followed by a general overview of the expansion of the TFWP and the expansion of lower-skill immigration schemes in Canada.

The remaining chapters illustrate my theoretical claims with empirical support. After a lengthy but necessary elliptical digression, the next chapter cuts to the heart of this thesis. *Chapter five, “The Incipient Denationalization of Political Membership in Canada,”* is divided into six parts. The initial section lays out the primary claims of the thesis. In addition to the rhetoric emphasizing the global competition for the best and brightest and the framing of Canadian immigration policy through an explicit recognition of the imperatives of the global economy, the process of incipient denationalization is illuminated through an examination of four distinct, yet interlinked developments: the move to ‘human capital’ selection model ushered in through the revised Federal Skilled Worker Program; the increased emphasis on temporary migration; the devolution of federal authority to provinces and territories through the proliferation of ‘probationary

immigration' programs; and, with the emphasis on temporary migration, the implementation of a 'two-step' immigration process through which the responsibility and cost for selecting future citizens is devolved to provinces, employers, and post-secondary institutions, thus granting private actors and interests a significant degree of control over political membership via increased provincial jurisdiction over immigration. Sections four to six, which include sub-sections "Quantifying Newcomers: The Human Capital Selection Model," "Provincial Nominee Programs and the Canadian Experience Class: Side Doors to Permanent Residency," and "Setting the Bar High – New Restrictions on the Federal Skilled Worker Program" illustrate the theoretical claims of the first half in more specific detail by examining contemporary changes in Canadian immigration policy brought about through the introduction of the *Immigration Refugee and Protection Act* (IRPA) in 2002.

*The sixth chapter, "Globalization, Privatization, and State Sovereignty: the Disaggregation of Sovereign Control over Political Membership"* addresses the consequences of a form of political membership written in the language of what Greg Albo calls 'competitive austerity' (1994). The implications of de-regulation, the partial withdrawal of the state from the management of labour markets, and the turn to an employer-driven immigrant selection and recruitment model are discussed to highlight how control over the legitimate means of movement, what John Torpey considers the defining feature of modern state sovereignty, is no longer an 'all-or-nothing' affair. The second section, "The Monopoly on the Legitimate Means of Movement: Back to the Future," speculates about whether Torpey's contention that the shift from the private to the public regulation of people's movement - what he considers the defining characteristic of the transition from feudalism to capitalism - is as clear-cut as he insists. While Torpey hints at the possibility of a form of political membership calculated around economic criteria, Torpey contends that at most, private actors operate merely in the capacity of "sheriff's deputies" at the "behest of states." While state control over entry and exit is inimitable, his clear-cut temporal periodization seems less tenable with respect to the contemporary Canadian immigration regime and the role of private actors and interests within it.

*Chapter seven, “Micro-processes of Denationalization: Managing Labour Migration – Toward a Global Convergence of Economic Immigration”* examines the global convergence of economic immigration policies of settler states around skills discourse, and the renewed significance of temporary labour migration in countries historically predicated on nation-building exercises of permanent settlement. According to Catherine Dauvergne (2003), prosperous states around the globe are shifting economic immigration laws in the same directions, whereby human mobility and access to the rights and entitlements associated with citizenship are determined on the basis of human capital endowments, labour market value, and one’s capacity for self-finance. This section discusses the particularly novel elements of managing labour migration in the twenty-first century through temporary migration.

To conclude, the final section **“The Mobility of Capital versus the (Im)mobility of Labour: Spatial Fixes - From exporting capital to importing labour”** meditates on whether the import of labour from the peripheral regions of the global economy represents the new ‘spatial fix’ designed to offset or counter the crisis tendencies inherent in global capitalism. The traditional spatial fix as discussed by David Harvey (2001), i.e. exporting capital to where labour is cheap, is being replaced or supplemented by what Anderson and Shuttlesworth call ‘Fix 2’, the import of labour. While providing some nuance to their account, this section closes by arguing that the shortsighted, band-aid quality of this solution evinced by the immigration policies in much of the ‘global North’<sup>9</sup> is designed to (temporarily) offset the crisis tendencies of global capitalism.

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<sup>9</sup> This thesis uses the terms ‘global North’, ‘global South’, ‘core countries’, ‘peripheral economies’ as a concession to practicality and for the purpose of theoretical parsimony. It is not my intention to reaffirm hierarchies of power through the use of these terms.

## Prelude

*The next section is broken into two parts. The first attempts to situate the significance of neoliberal skills discourse and the apparent resilience of legal membership in relation to the broader literature on citizenship of the past decade. Through recourse to the work of political sociologists and socio-legal scholars of migration such as Anne McNevin, Audrey Macklin and Catherine Dauvergne, this section will identify how the seemingly contradictory effects of globalization on political membership can be reinterpreted in terms of interlinked dynamics of inclusion/exclusion based on neoliberal skills discourse. The implications of these interlinked dynamics will be discussed to assess the merit of popular narratives of global citizenship, particularly when considered in relation to the case study discussed in chapter four. Against the idea that political membership is becoming either entirely inclusive or exclusive, the paradoxical simultaneity of increasing inclusion and exclusion is better understood through the logic of neoliberal skills discourse whereby access to political membership and the status associated with citizenship are selectively allocated on the basis of human capital endowments, labour market value and one's capacity for self-finance.*

*The second section provides a clarification of terminology used for the remainder of the thesis by highlighting the difference between citizenship and political membership. Many scholars, including Saskia Sassen, use citizenship as a shorthand or heuristic device to analyze political status and practice more generally; this essay, however, takes an alternative route by using the notion of political membership to describe political status and access.*

## Part I: The Paradoxes of Globalization and the Resilience of Legal Membership

### Interrupting the Narrative of Global Citizenship

*Paradox, contradiction, aporia:* whether implicitly or explicitly, these terms feature prominently both within popular narratives and academic analyses of globalization and its seemingly contradictory dynamics – growing opportunity for some, increased marginalization for others; the decline of the state, the state's resilience; the (im)mobility of capital, the (im)mobility of labour. Perhaps more than any other issue capturing the attention of scholarly argument, policy research, and quotidian debate, the nexus between citizenship-migration policies and law highlights the paradoxical effects of economic globalization on international migration and the (im)mobility of labour; an examination of citizenship-migration policies reveals the paradoxical simultaneity of



increasing inclusion alongside increasing exclusion.<sup>10</sup> Gabriel and Pellerin note that migration policies in the twenty-first century are “increasingly implicated in a number of contradictory developments.”<sup>11</sup> The passage below from the United Nations summarizes the paradoxical effects of economic globalization on international migration, particularly for those in search of a better opportunities abroad:

Global employment opportunities may be opening for some, but they are closing for most others. The global market for high-skilled labour is now more integrated, with high mobility and standardized wages. But the market for unskilled labor is highly restricted by national barriers, even though it accounts for a larger share of the international migration.<sup>12</sup>

Is it possible that the effects of globalization on international migration are interpreted as contradictory because within these conventional narratives, there remains an implicit understanding of globalization as a unilateral, linear - if not ‘progressive’ – process? Though the paradoxical tendencies of international migration are expressed and experienced differently in the modes of regulation through which migration is selectively encouraged, discouraged, controlled and managed, it might be more fitting to theorize about increasing inclusion and exclusion less in terms of outright contradiction and more along the lines of interlinked (albeit paradoxical) dynamics. I return to this point below.

For the authors of globalization, its privileged subjects, citizenship is becoming more flexible and less of an obstacle than in past. For those already disadvantaged by the ‘birthright lottery’, global inequality, the failed promise of capitalism’s upward mobility and vogue proclamations of a universal cosmopolitanism to come, the story of globalization is one of “citizenship with a vengeance.”<sup>13</sup> Observing these ‘contradictory’ dynamics, Anne McNevin suggests that growing opportunity to some is directly related to the increased marginalization of others; efforts to expedite flows of highly-skilled workers, investors and business-class professionals “are entirely connected with the restricted movements of what some scholars identify as growing ‘kinetic underclasses’ or

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<sup>10</sup> Dauvergne, Catherine. 2007. pg. 495. In addition to highlighting these paradoxical quality of globalization, international migration trends illuminate, intensify, and complicate the tensions between, on the one hand, the supposed universalism embodied in the inclusionary claims of modern nation-state citizenship, and on the other, its exclusionary function in the reproduction of what some scholars refer to as a ‘global citizenship divide’.

<sup>11</sup> Gabriel, Christina and Hélène Pellerin. 2008. pg.4.

<sup>12</sup> United Nations. 1999. pg. 32.

<sup>13</sup> Dauvergne, Catherine. 2007. pg. 496.

‘abject cosmopolitans.’”<sup>14</sup> These interlinked dynamics of closure and access, exclusion and inclusion, reveal how political membership is thoroughly entrenched in the logic of neoliberal skills discourse - the rights and entitlements associated with citizenship are increasingly allocated on the basis of one’s human capital endowments, labour market-value and capacity for self-finance.

With respect to the disjuncture between fashionable narratives of citizenship and political belonging and contemporary practices of citizenship, it is imperative that we revise the teleological script of ‘global citizenship’ for those stricken from the narrative of global citizenship and relegated to the role of the supporting cast(e).<sup>15</sup> For the purpose of this essay, this involves maintaining a critical stance toward these narratives and questioning the claim that citizenship is necessarily moving toward a form of membership based on universal personhood, thus providing an indication of a more inclusive and expansionary form of political belonging to come. Such views not only exaggerate the irrelevance of legal citizenship, and thus lack theoretical and empirical rigor, but they also tend to gloss over the fact that for many, particularly the disadvantaged, legal membership and equal status in a political community remains an essential (albeit partial) first step toward formal equality and political recognition.

Citizenship is often discussed in ways that are suggestive of its inclusionary potential, in spite of the fact that citizenship is an exclusionary category by definition, for what categorically includes must also, of course, exclude. As alluded to above, citizenship is one of the primary political means of legitimating various forms of discrimination by drawing lines, fixing borders, securing territorial boundaries and regulating the legitimate means of movement. For many people, being a member of a political community normally occurs after the transversal (or transgression) of the line that delimits foreign from familiar, or as Schmitt would have it, friend from enemy. This idea of *becoming* a member is rarely engaged with despite the wealth of literature and different perspectives on what it means to *be* a member in the contemporary era, a time at which the state-citizen relation is being contested, untethered from the fetters of the nation, and made increasingly tenuous as a result.

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<sup>14</sup> McNevin, Anne. 2011. pg. 41.

<sup>15</sup> Hannah, Chris. 2008.

For Catherine Dauvergne, citizenship and immigration policies act in a symbiotic relationship. Immigration policy, she observes, is essentially citizenship policy, since being a member community often (though not always) necessitates, first of all, becoming a member of that club, with its attendant rituals of access and belonging, or, alternatively, practices of hazing and coercion. Taken together, citizenship-migration policies work to produce the highly stratified outcomes and selective allocation of rights and entitlements associated with the contemporary transformation of the foundational logic of political membership, a nation-based foundation, which, according to many, is beginning to crumble. The two legal texts of citizenship and migration, what she calls the “migration law-citizenship law dichotomy,” work in concert to draw the borders of the sovereign nation-state; as such, she argues, they are both implicated in the act of exclusion, and “in drawing a line between inclusion and exclusion.”<sup>16</sup> In the citizenship law-migration law coupling, the exclusionary aspects of citizenship are obscured, because migration law tends to do “the dirty work” of citizenship.<sup>17</sup> This may not come as a surprise to some.<sup>18</sup> Migration policies and laws are designed to discriminate – they lay out the rules for inclusion and exclusion, and to provide an overarching framework to determine “who will be admitted and who will be excluded.”<sup>19</sup>

In marked contrast to optimistic claims about the porosity of borders in a globalizing world, the legal distinction between who and who does not belong has gained a *renewed* significance, *especially* in the current era of globalization,<sup>20</sup> in which transnational flows of people in particular have come to manifest some of the interlinked dynamics of globalizing capitalism, where doors open for some but close for many more. Without a doubt, the movement of people across borders has created a wealth of complex and potentially overlapping sources of identity, authority and affiliation, which, in turn,

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<sup>16</sup> Dauvergne, Catherine. 2007. pg. 495.

<sup>17</sup> *ibid.*

<sup>18</sup> Aiken, Sharryn, 2005. pg. 65. In this sense, immigration law is compatible with both liberal and communitarian approaches to political membership (referring to Walzer 1982 and Rawls 1993) that “defend the legitimacy of the state’s gate-keeping function as critical for the preservation of the rights and interests of its members.”

<sup>19</sup> *ibid.*

<sup>20</sup> Scachar, Ayelet. 2009. pg. 3.

have created new and meaningful sources of rights and entitlements. Nonetheless, as Ayelet Shachar notes, it is equally crucial to note that these claims do not transcend, nor do they erase, the importance of citizenship as full and equal membership in a political community.<sup>21</sup>

Critical citizenship scholars Engin Isin et al. contend that the last twenty years has witnessed resurgence in the study of citizenship.<sup>22</sup> The central concerns of this scholarship, however, have not been legal structures and provisions.<sup>23</sup> Debate and discussion over citizenship stems from the fact that, as an ‘essentially contested concept’ and analytical category, citizenship is “remarkably capacious,” as if it is “self-consciously resisting the exclusionary impulses that historical practices of citizenship cannot.”<sup>24</sup> Audrey Macklin remarks that academic forays into this field across a range of disciplines are hospitable to “an array of descriptive, critical and normative projects.” She provides a helpful, albeit partial list of this prolific literature and the sweeping, all-embracing scope of contemporary notions of citizenship, what it means, who (and what) it includes and excludes:

Citizenship describes status, rights, practices and performances. It applies at the level of the state (national citizenship), below the state (urban citizenship), across states (supranational citizenship), between states (transnational citizenship), beyond states (cosmopolitan and global citizenship), and in deterritorialized socio-political spaces (the market, terrorist networks, the internet). It specifies relationships between the state and individual or group identities (multicultural citizen, queer citizen, gendered citizen), denotes various degrees of membership (virtual citizen, full citizen, partial citizen, flexible citizen) and describes idealized subjects of governance (market citizen, neo-liberal citizen).<sup>25</sup>

Given her legal background, it is perhaps unremarkable that Macklin remains sceptical about the way citizenship is deployed as a metaphor designed to encompass so much; for Macklin, citizenship has become the George Foreman grill of social and political theory (“If citizenship were a home appliance, it would be the only one you would ever need.”)<sup>26</sup> She finds the contemporary tendency to dismiss the legal notion of

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<sup>21</sup> *ibid.* pg. 2

<sup>22</sup> Isin, Engin and Bryan S. Turner. 2002. pg. 3.

<sup>23</sup> Dauvergne, Catherine. 2007. pg. 490.

<sup>24</sup> Macklin, Audrey. 2007. pg. 334.

<sup>25</sup> *ibid.* pg. 333.

<sup>26</sup> *ibid.* pg. 334.

citizenship as (merely) formal status just as curious and problematic as its wide-ranging metaphorical usage as a shorthand for legitimacy.<sup>27</sup> I too share Macklin's reluctance to dismiss legal citizenship given its continued importance in the lived experiences of people struggling for better livelihoods and the 'right to have rights' everywhere. It is perhaps one of the great ironies of citizenship studies in the last decade that the some of the same theorists who politicize the 'non-status' of migrants in order to bring those disenfranchised subjects back into the political also tend to downplay the significance of legal membership. None of these comments are intended to discount the expansive and inclusionary potential of many of these theoretical incursions into citizenship, especially those through which identity claims and group rights have come to play a more in central part in political discourse. However, as Macklin notes, with respect to the resilience of national membership, the emancipatory promise of this normative project is potentially misleading.<sup>28</sup>

The fragmentation and pluralization of citizenship discourse accelerated by globalization and the associated distancing of the state/citizen relation through increased social, political, ecological, technological, and cultural interconnectedness is often interpreted to mean that nation-state citizenship is increasingly irrelevant. Granted, there is little doubt that emergent global processes such as economic globalization and the rise of an international human rights regime significantly alter the institutional dynamics of nation-state as well as the content and form of membership within it. Even so, the scepticism of these sociologically inclined legal scholars, while initially hard to swallow, provides an instructive and in my mind, welcomed contrast to the vogue predictions of citizenship's imminent demise that play such a central part in contemporary citizenship scholarship of the last decade. In contrast to influential cosmopolitan, post- or

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<sup>27</sup> *ibid.* pg. 335. For Macklin, citizenship involves legal membership and access to social citizenship. By legal citizenship, Macklin refers to "the formal status of membership in a state, or nationality as it is understood in international law. The rights common to legal citizenship in virtually all countries include the unconditional right to enter and remain in the territory, access to consular assistance and diplomatic protection, and the franchise. For present purposes, social citizenship encompasses the more voluminous package of rights, responsibilities, entitlements, duties, practices and attachments that define membership in a polity, and situate individuals within that community."

<sup>28</sup> *ibid.* pg. 334.

transnational intimations of universal personhood,<sup>29</sup> the unsettling reminders of citizenship's resilience provide a long overdue reality check and refreshing dose of empirical rigor to a largely theoretical enterprise. Scholars such as Dauvergne and Macklin, among others,<sup>30</sup> argue that narrow, formal, legal citizenship continues to be relevant and it remains "a thin but unbreakable guard rail." Legal citizenship, they insist, "merits its own conservations," and is "shifting rather than losing ground, and in some cases even gaining it."<sup>31</sup> Dauvergne and Macklin unite the legal and social dimensions of the citizenship-migration nexus as they materialize against the backdrop of international migration, and in doing so, they offer an important contribution to the study of political membership and the regulation of human mobility.

As changing sources of rights from supranational institutions establish themselves as normative ambitions for global citizens, becoming incrementally hardwired into national courts and legislatures, the resilience of national membership is often overlooked. Other loci for identity formations, and other instances of non-legal membership, whether it is the multiple linkages of transnational diaspora, or cross-national forms of activism, draw our attention to various forms of belonging, affiliation and authority beyond the parochial scope of national citizenship. Again, there is no doubt that the sustained conversations engaging with the idea of citizenship beyond a restricted form of legal purism offer a compelling way of thinking about 'the political' outside its institutionalized settings. Macklin reminds us, however, that even as one concedes "the detachment of most rights from citizenship status, disavows the state's monopoly over citizenship, and deploys citizenship in ways that transcend the bounds of territoriality . . . one ought not to equate the declining importance of citizenship in a particular state with a diminution in the value of membership in *a* state."<sup>32</sup> Admittedly, Dauvergne adds, citizenship and immigration law itself can be quite dull; nonetheless, the legal framing of citizenship is an important starting point for any examination that "considers citizenship

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<sup>29</sup> See generally Soysal, Yasemin. *The Limits of Citizenship*. Benhabib, Senya. *Another Cosmopolitanism*. Linklater, Andrew. *The Transformation of Political Community*. Bauböck, Rainer. *Transnational Citizenship*.

<sup>30</sup> Rygiel, Kim. *Globalizing Citizenship*. 2010. Rygiel is one of the few social and political thinkers who focuses on citizenship's more exclusionary aspects with specific attention paid to the biopolitics of biometric data, data mining, and e-passports.

<sup>31</sup> Dauvergne, Catherine. 2007. pg. 491.

<sup>32</sup> Macklin, Audrey. 2007. pg. 336.

beyond this context.” Whatever else “citizenship is or is to become,” she reminds us, “it remains tied to national legal texts.”<sup>33</sup>

Given the normative and analytical tensions between citizenship as legal membership and the more sociological approaches to citizenship, a reasonable suspicion might arise as to whether it even makes sense to speak so generally about citizenship, and whether citizenship still has the potential to function as a useful analytical category and normative concept. The conceptual value of citizenship becomes even more complicated in consideration of the citizen’s other, and those excluded from the scope of secure and equal status in a political community. While some have proposed the concept of the citizenship of noncitizens, or ‘partial’ citizenship, to theorize and explain dissident political subjectivities and contestation of non-status identity, the analytical utility of these self-professed oxymoronic concepts is not immediately clear.<sup>34</sup> What is more, the legal gradations of alienage and the spectrum of subject positions that people may embody with respect to political membership suggests that conceiving of either citizenship (or the citizenship of noncitizens) along these lines still tends to work within a binary framework of either/or when in fact, membership ought to be thought of as a spectrum of belonging and inclusion based on access and entitlement to the elements of legal and social citizenship.

A potential rebuttal to this sceptical attitude toward discussing the citizenship of non-status people may be the following: an unarticulated though “empirically reasonable assumption” is that often, though not always, the noncitizen residing in one state is a citizen somewhere else. “One may be an alien, a stranger, a denizen or a foreigner in many places, but one is presumptively a citizen somewhere.”<sup>35</sup> Furthermore, using the concept of noncitizen and reiterating the power relations of state logic evinces a form of methodological nationalism; as Guild writes, it is to “think like a state.”<sup>36</sup> However, the most significant difficulty with the citizen/alien binary is not just that it is entirely mistaken, but that it is seriously incomplete; it tends to “totalize the relationship of the individual to a single and particularized territorial state, thereby misapprehending a

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<sup>33</sup> Dauvergne, Catherine. 2007. pg. 493.

<sup>34</sup> On the citizenship of noncitizens, see Bosniak, Linda. 2006. On ‘partial citizenship’ see Vosko, Leah. 2010.

<sup>35</sup> Macklin, Audrey. 2007. pg. 338-339.

<sup>36</sup> Guild, Elspeth. 2010. pg. 3.

fragment for the whole.”<sup>37</sup> Individuals must be situated within the matrix of states to which he or she belongs. The importance of doing so lies in highlighting the variety of relationships to political power and authority in which people may find themselves, thus “bringing to the surface the taken-for-granted but crucial point that one may be an alien in relation to most states, but almost everyone is simultaneously a citizen of at least one state.”<sup>38</sup>

In addition to these conceptual difficulties, it is important to take into account what we might call the affect of alienage: the experience of citizenship and alienage can be heterogeneous and multilayered, conflicting and potentially shifting if one acknowledges that citizenship can be made and ‘unmade’, coercively designated or withdrawn.<sup>39</sup> That the affect of alienage is differently experienced arguably stems from the fact that alienage is “profoundly shaped by the alternatives open to the alien.”<sup>40</sup> This is especially true in light of what Macklin calls the “heft” of citizenship for the privileged and wealthy in any given society, whose mobility means that membership is more flexible in an era of globalization. The “heft” of citizenship frequently insulates privileged subjects from the economic, cultural and political conditions that force others to move. However, if and when they decide that citizenship somewhere else offers a better livelihood, “a more attractive or secure package of benefits,” they can *capitalize* (quite literally) on the opportunity by “accessing the various skilled-worker and entrepreneur immigration programs run by settler societies.”<sup>41</sup>

Optimistic theories of global citizenship are very suggestive in the way they point to non-national locations for political belonging, affiliation and legitimate sources for claim-making. From where this paper enters the discussion of political membership, however, theorists of global citizenship exaggerate the extent to which citizenship has lost its connection with the national setting. Saskia Sassen suggests that within theories of citizenship, we are presented with two options – “citizenship is either a status or a

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<sup>37</sup> Macklin, Audrey. 2007. pg. 355.

<sup>38</sup> *ibid.*

<sup>39</sup> Nyers, Peter. 2004. Nyers provides an important contribution to the study of citizenship as alterity by demonstrating the ways through which citizenship can be ‘unmade’ because of ties with terrorist organizations.

<sup>40</sup> Macklin, Audrey. 2007. pg. 355.

<sup>41</sup> *ibid.* pg. 358.



practice.”<sup>42</sup> There is however, an alternative beyond these two options. According to Sassen, this third option is a version of political membership, which, although it remains firmly situated in an institutional setting codified as ‘national’, is a “possibly changed institution if the meaning of the national itself has changed.”<sup>43</sup> This third option of ‘denationalization’ is pursued later on in chapter one. The next section attempts to clarify the difference between citizenship and political membership. Drawing together the diverse set of scholars from a such as Rigo (2011), Brubaker (1992), Fudge (2011) and McNevin (2011) from a range of backgrounds is a challenging undertaking that cannot be fully accomplished in the next section. However, the next section seeks to roughly outline the primary areas of overlap and congruence between each thinker and how they conceive of political belonging with a territorial space. Each thinker, in different ways, attempts to show how borders function as a sieve to (re)produce social relations on a global scale within territorial boundaries. These bordering dynamics are constituted through the logic of neoliberal skills discourse, whereby the extent of one’s political belonging is mapped onto a spectrum or continuum of deservedness.

## **Part II: A Note on Terminology: Citizenship and Political Membership**

### **Status and Practice or Status and Access?**

In an attempt to unite the social and legal elements of citizenship, some scholars define it as a relation oscillating between a legal and sociological dimension. Understanding citizenship as both status and practice, as a set of practices and a collection of rights and duties, means that citizenship is therefore “neither a purely sociological concept nor purely a legal concept but a relationship between the two.”<sup>44</sup> The notion of citizenship as status and practice is common within critical citizenship studies (Isin and Turner, 2001, Nyers, 2004). While this alternative to, on the one hand, legal purism, and on the other, sociological pluralism, is quite instructive and attractive,

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<sup>42</sup> Sassen, Saskia. 2000. pg. 579.

<sup>43</sup> *ibid.* 580.

<sup>44</sup> *ibid.*

this essay takes a different route by using the notion of migrant status subsumed within political membership. For the purpose of this essay, political membership is more useful because it can be disaggregated into various forms of belonging and thus conceptualized in terms of a spectrum along which different forms of migrant status can be identified. Unconvinced by the analytical value and explanatory power of notions of partial citizenship, socio-legal scholars studying the ‘semi-inclusion’ of migrant workers into political membership have proposed the alternative idea of ‘migrant status’ to describe political subjects without the rights and entitlements associated with full membership.<sup>45</sup> Because of the relationship between migrant status and precarious employment, scholars have revised the notion of migrant status to become ‘precarious status’ to capture the “dimensions of employment relations and institutional insecurity”.<sup>46</sup>

Oddly enough, a lacuna exists within the literature on citizenship with regard to the relationship between citizenship and immigration. Rarely is there a coordinated effort to synthesize the ‘internal’ and ‘external’ dimensions of political membership. One exception that comes to mind is the pioneering work of Rogers Brubaker, who famously defined liberal-democratic citizenship as ‘internally inclusive’ and ‘externally exclusive’.<sup>47</sup> However, the theoretical dualism implied by Brubaker’s influential yet entirely inadequate formulation means citizenship is all too easily thought of in terms of clearly bounded political communities in which the inside and outside, and the border marking here from there, can be easily distinguished. Rigo argues that territorial borders, instead of being treated as strict lines of separation and spatial exclusion, produce a set of relations that determine social relations and labour mobility within a given territorial boundary. Rigo proposes that out of all the asymmetrical power relations that occur within territories and their boundaries, it is those affecting labour mobility that are the most important for understanding the contemporary changes in the condition of political membership. Using the work of German sociologist Niklas Luhmann, she considers borders as a ‘means of production of relations’ that allow for an increasing differentiation between and amongst people living and working within modern states. Here, the main

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<sup>45</sup> See Fudge, Judy. 2011. pg. 8.

<sup>46</sup> *ibid.* pg. 7.

<sup>47</sup> Brubaker, Rogers. 1992. pg. 71.

function of borders is less about separating aliens from the space allocated to citizens and instead, more concerned with differentiating between citizens and noncitizens “*within the same legal and political space*” according to occupational and skill status, human capital endowments and their capacity for self-finance.<sup>48</sup> Access to rights, entitlements and responsibilities is conferred on the basis of this *status*; thus the notion political membership works to highlight these acts of incorporation, forms of administration and bureaucratic rationalization which guide an individual within a matrix of power and authority that intertwines and converges around the ideals of neoliberal skills discourse. For example, political membership – conceived of as status and access - allows us to theorize about both the expedited entry of jet-setting business professionals and the agreements whereby these modes of regulation and management become institutionalized, as well as the probationary and highly disempowering mechanisms through which the entry of low-wage, ‘lower-skill’ workers is governed and limited to probationary, contingent or even temporary settlement.

By conceptualizing membership in terms of gradations and hierarchies structured in terms of various degrees of precariousness and vulnerability, the idea of precarious migrant status is more precise because it captures the “state’s power to control entry into its territory, [as well as] the conditions it imposes.”<sup>49</sup> The idea of migrant status is better suited to my analysis because it fits with the idea that political belonging ought to be conceptualized along a spectrum instead of either/or, present/absent. Migrant status speaks to the *internal* stratification of legal, political, and social rights in a political territory, as well as the notion that one’s standing in society cannot be described in terms of binary conceptions of either/or, citizen/alien, insider/outsider.<sup>50</sup> This is because membership is calculated along a spectrum, a continuum of deservedness.<sup>51</sup> Borders function to filter bodies through a process of what Nandita Sharma (2006) calls *differential inclusion*, whereby the conditions of one’s entry into political membership and the access of rights and entitlements thereof is determined according to skill,

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<sup>48</sup> Rigo, Enrica. 2011. pg. 207. My emphasis.

<sup>49</sup> Fudge, Judy. 2011. pg. 5.

<sup>50</sup> Rigo, Enrica. 2011. pg. 207.

<sup>51</sup> Smith-Carrier, Tracy and Rupaleem Bhuyan. 2010. pg. 23. Smith-Carrier and Bhuyan argue that neoliberalism has created “a continuum of deservedness, one which favours some groups in their claims to social rights, while inhibiting access for others.”

privilege and human capital endowments. The notion of migrant status more accurately captures “the fluidity of immigration status.”<sup>52</sup> Smith-Carrier and Bhuyan note that “individuals may weave in and out of legally recognized standing, at one moment documented an authorized resident, at another moment deemed illegal, prompting one’s deportability from Canada.”<sup>53</sup> The shifting nature of immigration status corresponds to the fluid relationship one has to territory, authority and social rights and entitlements.<sup>54</sup> The fluidity of immigration status is illustrated in the case of temporary foreign workers, whose status can shift from temporary to illegal, to permanent and to citizen. In a similar vein, McNevin uses the notion of ‘irregular status’. ‘Irregular status’ is not meant to be an inflexible category because “individuals may slip from one kind of immigration to another depending on their movements and on legislative and policy changes.”<sup>55</sup> McNevin prefers irregular status over ‘non-status’ because the latter implies “an evacuation of any kind of status.”<sup>56</sup>

Despite its widespread usage to describe a general sense of membership in a political community as well as the normative dimensions of political practice, (legal) citizenship is a very specific and narrowly defined legal category, one which, as Judy Fudge (2011) puts it, “sits atop the hierarchy of migrant statuses.”<sup>57</sup> While acknowledging the merit of more sociological interpretations of citizenship, scholars have noted that many debates on the topic of citizenship take for granted the idea of citizenship in the formalized sense of “what passport a person holds and in an individual’s right to be present and work in a particular nation-state.”<sup>58</sup> Moreover, despite the considerable influence of theses on the citizenship of noncitizens, it is important not to gloss over the detail that the differential inclusion into political membership can sometimes involve considerable ‘de-citizenization’, de-skilling or ‘socio-professional downgrading’ upon entry in the host state. Political membership, theorized as a continuum deservedness along which migrant status is allocated according

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<sup>52</sup> *ibid.*

<sup>53</sup> *ibid.*

<sup>54</sup> *ibid.*

<sup>55</sup> McNevin, Anne. 2011. pg. 19.

<sup>56</sup> *ibid.*

<sup>57</sup> Fudge, Judy. 2011. pg.

<sup>58</sup> Anderson, Bridget. 2000. pg. 175.

to skill and occupational status better captures the different ways people's labour mobility and access to social citizenship is managed and how such regulation affects the political and labour power of those categorized as citizens, permanent residents, and migrant workers. This process is an essential part of capital accumulation and the maintenance of a form of what sociologists call 'unfree labour'. Nandita Sharma writes:

The Canadian state's regulation of people's mobility across its borders through the formulation of immigration policies is what allows it to decompose global labour markets into national units. Immigration policies, because they help to shape the characteristics of the sale and regulation peoples' labour power, also assist national states in organizing the circumstances through which capital can be accumulated within the territories they control. . .<sup>59</sup>

In addition to recognizing the fluidity of migrant status, precarious migrant status also recognizes "the productive or constitutive role of the law in the creation of precarious status." Political membership, while fundamentally related to citizenship insofar as immigrants and newcomers are often (though not always) prospective citizens, remains distinct and in my view, should be carefully distinguished from citizenship. Political membership describes *status* and *access*:

- the migrant status of an individual in a political community, and;
- the conditions of entry and access to permanent residency as well as the rights and entitlements associated with legal and social citizenship.

Political membership is reflected and expressed in immigration policy because it dictates the principles and practices relating to the conditions of entry into a national community and/or conditions of access to permanent residency and national citizenship, as well as the administrative practices and governing techniques of incorporation through which status is coercively designated and administered. In other words, political membership relates to both the notion of *being* and *becoming* a member of that community; the allocation (or refusal) of membership occurs in the buffer zone, in the messy space of border politics.<sup>60</sup> Political membership signifies the conditions of entry

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<sup>59</sup> Sharma, Nandita. 2006. pg. 44.

<sup>60</sup> Much of the literature spanning disciplines such as international relations, political theory, citizenship studies, migration studies and sociology has broken with the orthodox understanding of borders as distinct lines of demarcation which divide one place from another. Kim Ryegeel puts forth an understanding of borders as 'thick' transitional places, or a liminal spaces, rather than a strict dividing line demarcating inside from outside. Borders and border controls should not be understood just as the frontier of the

and access, the variety of spatiotemporal dynamics characterizing contemporary forms of political belonging, and the process of incorporation into a political community. Legal citizenship, on the other hand, describes the most privileged, secure and sought after status within a hierarchy of political membership.

Political membership speaks to Dauvergne's 'migration-citizenship' coupling insofar as it is linked to acts of immigration, modes of incorporation, classification, entry and belonging through which rights and entitlements, status and access, are conferred or withheld.<sup>61</sup> As Gabriel and Abu-Laben note, immigration policy has been "one major means by which the state has historically controlled membership . . . by selecting who would be (and would not be) eligible for entry, residence and citizenship. . ."<sup>62</sup> Political membership is thus closely linked to immigration and the practices and principles through which newcomers and immigrants are granted access to the territory, and ultimately, who is granted to citizenship and the right to reside permanently in Canada.

As alluded to in the first section, the private norms and agendas of neoliberalism, and its emphasis on skill discourse, have penetrated the terms of political membership, and the selective ways through which the rights and entitlements associated with citizenship are allocated. This move to an economic valuation of membership should not be interpreted as a shift to a 'non-national' form of membership; an economic determination of membership does not overcome the category of nationality, but simply infuses its citizenship-migration policies with an explicitly economic rationale. In a similar way, theories of global citizenship linked to the expansion of universal personhood, such as post-national citizenship (Soysal 1995), overlook the ways in which political membership remains deeply connected to the nation state though on "historically new terms of engagement."<sup>63</sup>

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international; while they occur at the frontier between states, they are also dispersed and diffused throughout the domestic space of the state and mapped onto individual bodies in different and sometimes divergent ways. On this reading of borders, see for example, Kim Rygiel. 2010. pg. 16.

<sup>61</sup> Benhabib, Seyla. 2006. pg. 2.

<sup>62</sup> Abu-Laben, Yasmeeen and Christina Gabriel. 2002. pg. 11

<sup>63</sup> *ibid.*

The next section summarizes Saskia Sassen's attempt to decipher 'the global' through her treatment of globalization as 'denationalization', which she contrasts with a more conventional understanding of globalization. From there, the following section fleshes out the differences between post-national citizenship and a version of political membership undergoing a process of incipient denationalization.

## Chapter One

### Part I: Incipient Denationalization or Post-national Citizenship?

#### Interpreting the effects of Globalization on Political Membership

Political and social commentary on globalization often describes the trend toward complex economic interdependence and the formation of global institutions as significant contemporary manifestations of globalization. Saskia Sassen argues that political and social theory needs to expand the analytical terrain for studying globalization to avoid falling into a series of theoretical dualisms centered around the loss of state power to global forces. For Sassen, an exclusive focus on ‘self-evidently global’ processes, such as the formation of global institutions, supranational human rights regime, world financial markets, etc., provides an incomplete picture of globalization and the changing role of the state to facilitate and respond to these processes.<sup>64</sup>

While recent popular and scholarly debate has witnessed a resurgence in macrohistories of Empire, cosmopolitanism, and globalized forms of exceptionalism, the important contributions made by grand macro-level theorizing need to be supplemented by a greater sensitivity to the micro-processes and transformations associated with globalization. Sassen suggests that expanding the analytical terrain of the global opens up the possibility that state and non-state actors we might reluctantly refer to as ‘inside’ the national perform the work of globalization. One way to expand and reorient the study of the global is to think about globalization not just in terms of complex interrelations and global institutions, but also in relation to global dynamics and processes that partly inhabit, operate within, reshape and emerge out of the national arena. The goal of finding the global in the national is the primary move defining Sassen’s intellectual and meta-theoretical repertoire.

By privileging ‘self-evidently’ global outcomes, Sassen argues that much of the literature on globalization overlooks the notion that the global – whether understood as an “institution, a process, a discursive practice, an imaginary” – “both transcends the exclusive framing of national states and also partly emerges and operates within that

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<sup>64</sup> Sassen, Saskia. 2006. See generally chapter 1.



framing.”<sup>65</sup> The idea that the global is at least in part, localized or endogenous to the national has implications for how we conceive of transformations associated with globalization, and the shifting nature of borders – as well as our sense of inside and outside - in relation to these emergent global processes.

In a nutshell, three aspects of Sassen’s work are relevant to this project. To begin with, Sassen’s proposition about the location of the global inside the national means that processes associated with globalization includes subnational actors, spaces and processes.<sup>66</sup> Second, while providing a powerful antidote to the conceptual inadequacies of ‘methodological nationalism’, Sassen’s contribution shows how the transformation of the state is not exclusively predicated on transnational sets of dynamics across, between or beyond states, but on the possibility of ‘internal denationalization’.<sup>67</sup> Third, and extending from this, Sassen’s instructive destabilization of the mutual exclusivity of global and national domain provides a helpful critique on the reification of the nation-sovereignty-territory constellation and the “implied correspondence of national territory and national institutions with the national.” Sassen deconstructs the spatial framing of modern political inquiry, along with the assumption that “if a process or condition is located in a national institution or in national territory, it must be national.”<sup>68</sup>

By engaging with not only global but also subnational components and actors implicated in global processes, social and political theory can expand the discussion of globalization to include the incipient denationalization of what “had historically been constructed as national and may continue to be experienced, represented and codified as such.”<sup>69</sup> From Sassen’s understanding of globalization, comes her distinction between post-national citizenship and a version of political membership implicated in a process of incipient denationalization. The next section highlights the limitations of the post-national thesis of citizenship. It provides a brief overview of what the process of denationalization entails for political membership. In effect, Sassen’s theorization of the

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<sup>65</sup> *ibid.*

<sup>66</sup> Sassen, Saskia. 2006a. pg. 7. One example Sassen employs throughout her work to demonstrate that the subnational is a site for globalization is the example of global capital markets. She notes that global financial marks are “constituted both through electronic markets with global span, and through locally embedded conditions, i.e., financial centers.”

<sup>67</sup> Sassen, Saskia. 2003. pg. 2.

<sup>68</sup> *ibid.*

<sup>69</sup> *ibid.* pg. 3.

denationalization of the state apparatus means historically national projects, agendas and institutions through which political membership is governed are reoriented toward global systems and private agendas.

## **Part II: The Limits of (Post-national) Citizenship**

Perhaps the most cited and well-known diagnosis of the limits of state-based notions of citizenship, and thus the proclamation of its post-national future, comes from the work of Yasemin Soysal. In *The Limits of Citizenship* (1995), Soysal focuses on postwar international migration with a particular emphasis on the plight of migrant workers in Western Europe. She argues that in much of Western Europe, specifically the UK, Sweden, Switzerland, Germany, France and the Netherlands, rights normally allocated to citizens are now extended to incorporate immigrants who live and work in these countries. Soysal reads this trend in Western Europe as a wholesale shift in sovereignty and citizenship. For Soysal, the globalization of human rights norms and instruments pressures nation-states to grant membership rights to immigrants brought in as guestworkers to Western Europe during the postwar era. Soysal's claims are bold, and she goes as far as to say that in terms of "translation in rights and privileges," national citizenship is "no longer a significant construction."<sup>70</sup> With the rise of international human rights norms and the diminution of the international category of national citizenship, the line separating citizens from noncitizens is destabilized and increasingly irrelevant. She suggests that this tendency reflects a larger trend occurring through much of the world – that is, the move toward a 'post-national' form of membership and belonging that derives its legitimacy from "universal personhood, rather than national belonging."<sup>71</sup>

Written over fifteen years ago, with the benefit of hindsight it is easy to dismiss the optimism with which Soysal's documents and conceptualizes a shift in political membership that moves beyond state centrism.<sup>72</sup> Soysal exaggerates the degree to which

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<sup>70</sup> Soysal, Yasemin. 1995. pg. 159.

<sup>71</sup> *ibid.* pg. 4.

<sup>72</sup> McNevin, Anne. 2011. pg. 44.

“deterritorialized notions of persons’ rights” undermine state’s authority in the regulation of membership, yet she is not entirely off the mark when she remarks that new types of membership are available to certain types of migrants. Despite her anticipation of a post-national future, however, the changing sources of rights and entitlements are not derived from international framework for human rights, its norms, laws or conventions, nor are they based on encouraging intimations of a global polity to come. While it may be true that states now allocate membership rights on the basis of criteria other than nationality, the contemporary dynamics of citizenship seem markedly different, if not antithetical to Soysal’s optimistic outlook and ambitious declarations.

Contra Soysal, the contemporary dynamics of citizenship reflect an economic valuation of membership, whereby rights and privileges are conferred on the basis of occupational and skill status, human capital endowments, labour-market value, and the capacity for self-finance. Observing these developments, Anne McNevin suggests that neoliberalism has penetrated “the terms in which citizenship is construed and allocated.”<sup>73</sup> Weary of post-national theses and cosmopolitan proclamations, McNevin suggests that Soysal and cosmopolitan thinkers such as Seyla Benhabib are unable to account for the ‘paradoxical’ outcomes associated with globalization – the simultaneous “loosening and tightening of national and territorial boundaries” and the ways in which migrants are differently encouraged, discouraged, controlled and managed, processes that reshape the fortunes of different people across the globe “in dramatically different ways.”<sup>74</sup>

The aim of this section is not to provide a formal exegesis of Soysal’s text. Rather, Soysal’s claims - along with the criticisms levelled against it - serve as a point of departure for a more general question about the assessment of historical transformations associated with globalization in relation to the contemporary condition of political membership in prosperous nations and immigrant-receiving states of the so-called ‘global North’. Since these changes are directly and indirectly related to the fate of the state and state sovereignty in response to a global economy, we must posit the rearticulation of political membership within the context of neoliberal globalization.

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<sup>73</sup> McNevin, Anne. 2011. pg. 45.

<sup>74</sup> *ibid.* pg. 30.

As some of the more critical interpretations of globalization remind us, it is important not to overstate “the novelty of novelty.”<sup>75</sup> The more general difficulty, positioned between the ‘globalization sceptics’, on the one hand, and the ‘hyper-globalists’, on the other, circles around the question of how we might understand the spatial framing of states in the current era. Coming to terms with changing forms of sovereignty and political membership means we must engage analytically with these transformations in ways other than “Hello Globalization. Goodbye Sovereignty.”<sup>76</sup> At a point in time that defies an ‘either/or’ logic, and a strict separation from now to then (a feature often implicit within theories of globalization premised on notions of continuity or rupture), this simplistic framing - as well as its treatment of state sovereignty and state-based membership in light of contemporary transformations - must be problematized, for what many consider as epochal shifts cannot be framed in terms of black and white.<sup>77</sup> Maintaining a less determinate and, for the lack of better words, a ‘middle position’, one which David Held et. al might refer to as a ‘transformationalist perspective’ of globalization,<sup>78</sup> it is my belief that grandiose statements and descriptions about the state, sovereignty and political membership couched in the language of presence/absence, succinctly described by Walker as a ritual of “affirmation or denial,” “eternally present or imminently absent,”<sup>79</sup> growing/waning, are entirely inadequate for coming to terms with the complex rescaling of political space and articulation of the criteria for political membership through the logic of neoliberal globalization. By approaching the transformations associated with globalization more carefully, with an eye for its uneven and potentially paradoxical application and outcomes, the simultaneous loosening and tightening of borders and increasing inclusion alongside growing exclusion might be understood less in terms of contradiction than in ways that, according to McNevin, reflect “a complex rescaling of state space” and a logic of neoliberal globalization whereby the

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<sup>75</sup> Walker, R.B.J. 2004. pg. 9.

<sup>76</sup> *ibid.* pg. 14.

<sup>77</sup> McNevin, Anne. 2011. pg. 42.

<sup>78</sup> Held, David, Anthony McGrew, David Goldblatt, and Jonathan Perraton. 1999. pg. 32.

<sup>79</sup> For an analysis of the motif of presence/absence in international relations theory and theories of state sovereignty, see generally R.B.J. Walker. 1993. *Inside/Outside: International Relations as Political Theory*.

“fast-tracked border crossing for certain commodities and persons is connected to the heightened surveillance of others.”<sup>80</sup>

Before moving on, it is important to highlight the limits of post-national citizenship especially with regard to its spatial framing of historical change. Post-national accounts of citizenship are attractive in that they demonstrate the shifting scales of citizenship politics and the changing sources of authority in an age of globalization. However, the explanatory power of the post-national models may be limited insofar as they can examine the ways in which transformations in political membership exceed and unsettle any strict line of division between a single scalar level or spatial frame.<sup>81</sup>

Soysal’s main claim is that the incorporation of guestworkers in the host society as “social, political and economic actors” with a number of rights and privileges associated with citizenship “contests the foundational logic” of territorial, state-based national membership.<sup>82</sup> Transnational discourses and structures “celebrating human rights as a world-level organizing principle” are the normative framework from which the ideal of the post-national model is derived.<sup>83</sup> Soysal’s focus on the European Union is instructive, but as Sassen notes, her analysis captures an innovation that is occurring not outside the national *per se*, but rather, “in and beyond the national.”<sup>84</sup> Throughout her analysis, when Soysal contrasts the ‘global element’ of citizenship with that of the bounded nation-state, she inadvertently reifies the global in relation to the national.<sup>85</sup>

Admittedly, Sassen’s view of the international and the national as mutually constitutive, intersecting, intertwined, mutually constraining, is not particularly novel.

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<sup>80</sup> McNevin, Anne. 2011. pg. 3.

<sup>81</sup> My aim here is develop a critical theoretical stance toward the implicit topographical logic of inside/outside that guides much of the discussion regarding emergent global processes and their effects on sovereignty and citizenship. This essay seeks to intervene in the discussion of the present and (post-national?) future condition of citizenship and sovereignty in relation to globalization. Through an interrogation of what we have come to identify as ‘the national’ in relation to ‘the international’ and/or ‘global’, the post-national thesis understands the international and the national as mutually exclusive, whereas my concern is to explain a relational dynamic that confounds traditional ideas of inside/outside with respect to the impact of globalization and the faultlines of the national. This spatial framing ultimately configures our sense of borders, and the way in which post-national theorist are led to understand globalization as a process occurring outside the state, one that acts on the national ‘from above’ rather than from ‘within’ and ‘without’.

<sup>82</sup> Soysal, Yasemin. 1995. pg. 2.

<sup>83</sup> *ibid.* pg. 3.

<sup>84</sup> Sassen, Saskia. 2006. pg. 305.

<sup>85</sup> Soysal, Yasemin. 1995. pg. 6.

Indeed, for scholars of international political economy, Neo-Marxist analysis of globalization, and those familiar with the conceptual perils of methodological nationalism, the idea that transformations of the state (and the condition of political membership within it) are linked to the structural transformations in the global economy is likely so obvious that it *borders* on the banal. However, because her understanding of political membership flows directly from her destabilization *of* borders (public/private, national/global, inside/outside), I believe it is helpful to provide a brief summary of her position. Sassen complicates the spatial imagery of above and below, interior and exterior; she explores conceptual possibilities which allow her to theorize and analyze the global in the local, the past in the present, all the while providing a powerful explanation of the problems associated with the agency of individuals, people whose movement between and across state boundaries can complicate, undermine and reaffirm the structures of power and authority through which their subjectification as citizens, aliens - or somewhere in-between - takes place. This, in turn, allows us to reinterpret the dynamics of the global and the national in a more creative direction. Through her framing of the reconfiguration of the state under globalization, she is able to interpret the effect of these spatial transformations on the condition of political membership in ways which closer approximate contemporary transformations occurring as a result of another “world-level organizing principle,” i.e. neoliberal globalization in its hegemonic form.

Sassen takes issue with the ways that terms such as post-national, transnational, and denationalization are often used interchangeably with little regard for the subtle distinctions among them.<sup>86</sup> Sassen’s contribution to the study of the transformation of the state and its impact on political membership comes from her distinction between what she calls denationalized citizenship and that of post-national citizenship. Again, spatial terminology is significant here. The difference between the two is a matter of scalar analytics and “institutional embeddedness.”<sup>87</sup> The notion of denationalization is often used incorrectly to signify any type of novel affiliation or identification thought to ‘transcend’ the boundaries of the nation-state and the international category of national citizenship. However, Sassen suggests that post-national and denationalization, while

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<sup>86</sup> Sassen argues that scholars such as Linda Bosniak (2006) misuse post-national and denationalization and use them interchangeably.

<sup>87</sup> Sassen, Saskia. 2006. pg. 305.

sharing some characteristics and thus not necessarily representing mutually exclusive trajectories, ought to be distinguished from another.

In short, denationalization denotes a process occurring primarily within national borders; with respect to political membership, these transformations, what Sassen calls ‘micro-transformations’, are not, as the adjective suggests, indications of a form of membership beyond nation-state citizenship. Post-national citizenship, on the other hand, is used to refer to novel forms of membership, authority and affiliation that are thought of as located ‘outside’ or ‘beyond’ national borders, e.g. European Union citizenship. Although denationalized citizenship can be associated with transnational dynamics or caused by global transformations, it occurs primarily within the state, not across states, between states, or beyond states.

Sassen conceptually unpacks denationalization to show how the theoretical focus is on the transformation of the national, including the national in its “condition as foundational for citizenship.”<sup>88</sup> Denationalization pertains to the transformation of the national, whereby the global is filtered through and/or partially embedded in the national domain. This way of thinking about the effect of globalization on citizenship offers an instructive destabilization of the typologies of inside/outside, above/below, etc. Instead of viewing the state as victim to the external force of globalization, i.e. in terms of ‘state capture’, denationalization describes a process where the national is transformed through globalizing dynamics “that tend to instantiate inside the national.”<sup>89</sup>

Post-national citizenship has to do with novel forms of citizenship that might emerge out of the transformative conditions of globalization, changes which Soysal suggests originate outside or beyond the national, in those institutions Sassen describes as self-evidently global, rather than out of the institutional framework of the national itself.<sup>90</sup>

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<sup>88</sup> Sassen, like other scholars, uses the notion of citizenship as a heuristic device through which to analyze changing source of rights and entitlements more generally. However, since Sassen, like others, uses the idea of citizenship as a blanket term to make sense of what she calls ‘unauthorized yet recognized’ (e.g. illegal immigrants) and ‘recognized yet unauthorized’ (e.g. mothers) subjects, I apply her notion of denationalization to my understanding of political membership discussed above.

<sup>89</sup> Sassen, Saskia. 2006. pg. 305.

<sup>90</sup> *ibid.* pg. 340. Sassen distinguishes between two distinct dynamics gathered under the all-encompassing term of globalization. The first involves the “formation of explicitly global institutions and processes.” These processes and institutions are constitutive of organizational structures that are typically considered global in scale, for example, the World Trade Organization, the International Criminal Court, global financial markets, the United Nations, the International Monetary Fund, etc. Most of the discussion on

Thus, the decisive moment in “positing a novel condition for citizenship,” according to Sassen, “cannot be confined to its taking place necessarily beyond the confines of the national state, as in post-national conceptions.”<sup>91</sup> Thus, where Sassen’s thesis differs from that of Soysal and the post-national camp concerns the specification of the particular ways in which global processes and institutions, e.g. the development of a global economy and an international human rights regime, require a variety of policies that must be implemented through national institutions. Some of these policies and objectives can, in turn, have an effect on citizenship and state sovereignty. By using qualifiers such as ‘incipient’ and ‘partial’ to her use of denationalization, Sassen offers a more nuanced analysis of the impact of globalization on citizenship and state sovereignty, one that avoids an either/or conclusion, whether it be the reluctant acceptance of the immutability of nation-state citizenship or, on the other hand, a messianic proclamation of its non-national future. Most importantly, it captures the ways in which citizenship remains deeply connected to national and still entangled with it but on “historically new terms of engagement.”<sup>92</sup> Thus, political membership is denationalizing insofar as globalizing dynamics materialize through state objectives, policies and through what she calls “denationalized state work.”<sup>93</sup>

By steering clear of the common conflation of what happens inside the national state with ‘the national’ as such, Sassen attempts to navigate the complex globalizing dynamics and their effect on the state without falling into a form of dualistic thinking that reifies the national and the global as mutually exclusive, and/or conceives of the global as

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globalization, she observes, focuses on these developments, and consequently, has privileged outcomes that are “self-evidently global.” The second instance relates to a set of processes that may not occur at the scale of the global as such, but are still an integral part of globalization. Sassen provides a list of processes that are not meant to be comprehensive but rather representative of the ways in which these ‘global’ processes take place inside territories and institutional domains that have been historically constructed as national. Even though these processes are localized in national and sub-national settings, what makes them part of globalization is that they involve “transboundary networks and formations connecting multiple local or ‘national’ processes and actors, or involve the recurrence of particular issues or dynamics in a growing number of countries.” Sassen uses examples such as transnational networks of activists “engaged in specific localized struggles with an explicit or implicit global agenda, as is the case with many human rights and environmental organizations; the use of international human rights instruments in *national* courts; non-cosmopolitan forms of global politics and imaginaries that remain deeply attached or focused on localized issues and struggles yet are part of global networks containing multiple other such localized efforts.”

<sup>91</sup> *ibid.* pg. 306.

<sup>92</sup> *ibid.*

<sup>93</sup> *ibid.* pg. 228.



exterior and the national as interior.<sup>94</sup> Thus, to come to terms with the co-constitution of national and international scales of power and authority, Sassen uses the notion of an ‘assemblage’ to describe the mixing of subnational and global domains within the locus of power formally identified with the state. Modern states, she argues, confront “new geographies of power” taking place both inside the state and “in the field of external forces within which it functions.”<sup>95</sup> Some of the distinguishing features of the institutional dynamics currently in formation include the state’s capacity to “privatize what was heretofore public and to denationalize what were once national authorities and policy agendas.”<sup>96</sup> The creeping marketization of state functions through the mounting influence of private authority is not, however, “simply an external force that constrains the state.” Rather, the pressures from private forces representing global interests are “partly endogenous to the state.”<sup>97</sup> In this sense, state sovereignty over political membership is being disaggregated not by external forces, but internally, and to some degree, willingly. Sassen’s notion of ‘partial’ or ‘incipient’ denationalization captures this gradual, at times contradictory, at times complementary, endogenous construction of global power and private interests within the national assemblage itself.

Later on, in chapter five, when I use ‘denationalization’ to describe changes in Canadian immigration and political membership, I am not simply suggesting, to put it crudely, that these elements are becoming ‘less national’. Rather, denationalization is used to describe recent shifts in authority and policy agendas that reflect the broader reorientation of the state as a result of its position within a globalizing economy. Denationalization is designed to fit with the notion of an ‘assemblage’ and thus describe the endogenous in addition to self-evidently ‘global’ or exogenous changes we normally associate with globalization. The analytical value of denationalization lies in its capacity to describe the transformations of political membership and state itself in which the sources of these changes do not necessarily correspond to a clear inside or outside e.g. national/international, public/private. In her own words:

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<sup>94</sup> *ibid.*

<sup>95</sup> *ibid.* pg. 6, 222-223.

<sup>96</sup> *ibid.*

<sup>97</sup> *ibid.* pg. 228.

With the notion of denationalization I try to capture and make visible a mix of dynamics that is also altering sovereignty but is doing so from the inside out, and on the ground, so to speak – the multiple micro-processes that are reorienting the historic national project towards the new global project. National state policies may still be couched in the language of the national, but at least some of them no longer are: they are now oriented towards building global systems inside the national state. From there, then, the term denationalization.<sup>98</sup>

Before applying some of Sassen's insights to the Canadian context, the next three chapters attempt to contextualize the needs of the current immigration regime within a historical trajectory. After explaining the importance of immigration for Canada in the current era, chapter three attempts to situate the current Canadian regime within a historical legacy of economic growth and 'nation-building' projects tied to a vision of the model Canadian citizen-subject. Chapter four then proceeds to provide a summary of the multiple forms of regulation which characterize the current economic immigration stream and the institutionalization and management of labour mobility implicated within the logic of neoliberal skills discourse.

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<sup>98</sup> Sassen, Saskia and Wennerhag, M. 2006.

## Chapter Two

### Part I: Canada's Need for Immigration: A Brief History

#### Managing the 'Skills Deficit' and the 'Demographic Deficit'

Many of the major changes to patterns of international migration are related to the structural transformations of the global economy and the impact this has on traditional immigrant-receiving states and immigrant-sending states. However, there are other, what we might call 'internal' changes occurring in many of the prosperous nations of the West, notably labour shortages caused by demographic transitions related to declining fertility rates and an aging population. These twin dynamics pressure states such as Canada to look beyond their borders to replenish their population and become net-labour importing countries. In response to this skills deficit and the demographic deficit, what Christina Gabriel (2004) calls neoliberal skills discourse, has come to the fore.

The 2009 Auditor General's Report summarized the importance of immigration for offsetting the skills and demographic deficit, and the competition for global talent in which advanced, post-industrial nations find themselves:

Immigration plays an important role in the economic, social, and cultural development of Canada . . . immigration accounted for two thirds of Canada's population growth in 2006. At the same time, the existing population is aging and the working population, a diminishing proportion of the total, could become too small to respond to the economic and labour market needs of the country. The federal government has determined that immigration is part of the solution, both now and in the future. However, in attracting economic immigrants, Canada must compete with many industrialized countries facing similar circumstances.<sup>99</sup>

According to the Canadian federal government, high birth rates and high levels of immigration have historically been the "twin engines" of growth in Canada.<sup>100</sup> A falling birth rate, coupled with an aging population means that Canada, like other high-income, industrialized countries, encounters many demographic shifts that are difficult to manage politically, especially within the context of neoliberalism where the role of the state has

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<sup>99</sup> AGO. 2009. pg. 10.

<sup>100</sup> Statistics Canada. 2012. *Declining birth rate and the increasing impact of immigration*. See also 2012a. *Immigration is an increasingly important component of population growth in Canada*.

changed significantly. A political and economic climate of competitive austerity has resulted in the increased devolution, decentralization, privatization, and outsourcing of previously government functions, including those related to immigration.<sup>101</sup> Canada is experiencing a political and economic demographic dilemma: as Canadian society ages and declining birth rates make social reproduction more difficult, Canada experiences labour market shortages in both highly-skilled and lower-skilled occupations, a trend that is projected to increase for the foreseeable future.<sup>102</sup>

In addition to the changing demographic makeup of Canadian society, a number of other factors contribute to this process, primarily the need to remain competitive in the global market and the transformation of Canadian labour markets brought about by the move toward a knowledge-based economy. The marked shift toward a knowledge-based economy that focuses on ‘knowledge-intensive’ services such as information and communications technology while moving away from the traditional backbone of many industrialized economies, namely, manufacturing, represents a significant change in the restructuring of Canadian labour markets.

Managing this shift means that Canadian immigration has become increasingly important in addressing the needs of the labour market; so much so, that some migration scholars refer to international migration as a “regulatory labour market tool.”<sup>103</sup> The linkage between labour market needs and immigration policy is evident in Canada’s attempt to recruit highly-skilled professional and technical workers. In recent years, skilled workers account for over half the total immigrant and refugee intake coming to Canada on an annual basis.<sup>104</sup> In a global economy where skilled workers are highly sought after by high-income states, these workers have more agency over where they decide to emigrate. Indeed, as Ley notes, “considerable competition to lure these sought-after workers exists among the immigrant-receiving nations.”<sup>105</sup> This scenario is particularly evident in the case of IT workers and software engineers in high demand within knowledge-economies of immigrant-receiving states. Another explicit strategy to

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<sup>101</sup> Although this essay does not focus on settlement services, the devolution of settlement services to private actors has been documented by many academics. See for example, Arat-Koc, Sedef. 1999.

<sup>102</sup> IRPP. 2010. pg. 3.

<sup>103</sup> Bauder, Harald. 2006. pg. 6.

<sup>104</sup> Ley, David. 2003. pg. 426.

<sup>105</sup> *ibid.*

utilize immigration in the service of economic development can be found in the rapid expansion of business immigration programs around the world. These programs have been introduced in over twenty-nine countries.<sup>106</sup> However, we should not simply assume that, with the hyperbole of the new ‘knowledge economy’, that there is only a demand for ‘knowledge-intensive’ jobs. Rather, for those involved in migration management, a *mix* of skills is essential for countries facing a ‘skills deficit’ and a ‘demographic deficit’. As Samers notes, migration management is not just centered on “the relentless pursuit of computer engineers,” because without this variety of skills, national economies, especially those undergoing a ‘greying’ of their population “would need to be significantly restructured economically.”<sup>107</sup>

The Canadian labour market is facing similar domestic dilemmas faced by much of the post-industrialized world attempting to remain competitive in a global knowledge economy. Canadian immigration policy continually adjusts and adapts both to facilitate and respond to this political and economic environment. On the one hand, a number of immigration streams have been created to coordinate the selection of high-skilled immigrants who enter as permanent residents and can eventually attain citizenship. On the other hand, a number of other immigration streams exist to facilitate the entry of lower-skilled workers who would otherwise be ineligible under Canada’s increasingly restricted Federal Skilled Worker point system. The expansion of Canada’s TFWP is an important part of this process. The TFWP is based on the idea that Canada will be better able to recruit economic immigrants if they can come to Canada quickly and efficiently. Yet, the large backlog of applicants and cumbersome bureaucratic delays for the Skilled Worker Program make this an elusive goal.<sup>108</sup> Hence, the TFWP brings people to Canada faster and avoids the bureaucratic backlog of the Federal Skilled Worker program.

The current immigration regime is discussed in more detail in chapter four. The next section highlights the historical events leading up to contemporary shifts to ascertain the similarities and differences between the contemporary trajectory and previous

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<sup>106</sup> *ibid.* Traditional ‘immigrant-nations’ such as Canada, Australia and New Zealand, along with other ‘developing economies’ in Latin America and Singapore have developed programs to facilitate the entry of business people.

<sup>107</sup> Samers, Michael. 2008. pg. 134.

<sup>108</sup> Alboim, Naomi. 2009. pg. 3.

immigration regimes in place during earlier phases of ‘nation building’. It is argued that while the explicit economic focus of the IRPA is relatively novel insofar as it is couched in the language of skills discourse and the ideals of neoliberalism, economic criteria and the perceived needs of the labour market have always informed Canadian immigration policy. The resilience of immigration’s economic rationale, I argue, can be explained by the ability of immigration policy to cohere with changing governing rationalities and accommodate the notion of an idealized citizen-subject on which it corresponds.

## **Part II: Canada’s Experience with Temporary Labour Migration**

It is worthwhile to provide an overview of historical transformation of temporary labour migration to Canada because recent reforms inspired by neoliberal principles are imposed upon previous policy structures and existing institutional arrangements.<sup>109</sup> Existing policy commitments and objectives, Abu-Laban and Gabriel remark, “are not necessarily completely abandoned in favour of market-orientated ones, but may well be transformed. As a result, the exact consequences of policy changes may be uncertain and even contradictory.”<sup>110</sup> Therefore, it is important to highlight how the first temporary migration schemes evolved and the way the current legislation has revamped older rotational migration schemes to fit the global logic of the twenty-first century.

Canada’s initial experience with this kind of managed migration began with the implementation of the Orwellian sounding Non-immigrant Employment Authorization (NIEAP) in 1973. A number of scholars have traced Canada’s current reliance on temporary foreign worker programs, and the rising numbers of temporary workers entering Canada versus the countervailing numbers of those acquiring permanent residence, to this development.<sup>111</sup> For many, this juncture represents a historical shift because permanent settlement has long constituted the cornerstone of Canadian immigration policy.<sup>112</sup> Unlike the European model based on ‘guest worker’ programs, Canada has a long history of “actively recruiting people who arrive as permanent

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<sup>109</sup> Abu-Laban, Yasmeen and Christina Gabriel. pg. 22.

<sup>110</sup> *ibid.*

<sup>111</sup> See for example, Sharma, Nandita 2006. Valiani, Salimah, 2010.

<sup>112</sup> *ibid.*

residents and go on to become citizens.”<sup>113</sup>

Scholars argue that with the introduction of the NIEAP, however, Canadian citizenship and immigration policy began to shift away from a model of political membership based on the principles and practices of permanent settlement, family reunification and humanitarianism, in favour of managed migration and the strategic use of TFWs to fill gaps in the national labour supply.<sup>114</sup> None of this is to say that temporary migration has replaced permanent settlement entirely. Rather, each mode of governance works in concert with the other to foster economic growth and balance the competing agendas of short-term and long-term goals.<sup>115</sup>

In official discourse, the NIEAP was designed to meet demonstrated labour shortages. According to federal government documents, TFWs are not intended to provide a long-term solution for present challenges facing the immigration system and Canadian demographic transformations nor should they be used to fill ‘permanent’ labour market shortages.<sup>116</sup> Of course, what constitutes a labour shortage is important. As Sassen observes, any situation in which “the characteristics of the labour supply threaten existing or foreseeable levels of accumulation” can be understood as a labour scarcity.<sup>117</sup> In this regard, there is a difference between what she calls *absolute* shortages and *relative* labour scarcities. Canada is, by all accounts, experiencing the latter; here, it is specific characteristics such as demographic transformations, e.g. the ‘greying’ of society, the social acceptability of certain types of employment considered to be “lower-skill,” as well as changing modes of specialization, which generate specific types of labour scarcities. For example, the move to a largely service oriented knowledge economy means, to put it crudely, there are less people willing to endure the toils of manual labour or establish themselves in long-term positions in the service industry. Declining profits also create a demand for cheap labour in high-income, post-industrialized countries to

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<sup>113</sup> Alboim, Naomi. 2009. pg. 4.

<sup>114</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 9.

<sup>115</sup> The co-existence of standard immigration, that is, permanent settlement, alongside the expanding TFWP is noteworthy, but it also a trend that has become popular in other high-income countries, including countries such as Australia, where immigration has functioned historically as tool to foster economic growth. On the global expansion of temporary migration schemes, see Gross, Dominique M., and Nicolas Schmitt. 2009. Walsh, James. 2011.

<sup>116</sup> *ibid.*

<sup>117</sup> Sassen, Saskia. 1988. pg. 27.

“offset the victories of organized labour.”<sup>118</sup> Thus, labour shortages do not necessarily mean there is an insufficient labour supply, but only that there is a lack of a particular kind of flexible and unfree worker.<sup>119</sup> For employers and governments, labour migration presents itself as common sense: labour imports offer a way of securing profitability due to the reduction in the cost of production.

As I mentioned previously, the NIEAP allowed TFWs to live and work in Canada for a limited period of time, during which they were contractually bound to a specific place and employer. Because of these restrictions and similar restrictions in place today, the labour mobility of TFWs is severely limited: in order to change employers they must receive expressed approval from immigration authorities.<sup>120</sup> Once the work permit or employment authorization expires, which is ultimately contingent upon an already unequal relationship between worker and employer, foreign workers were required to leave the country. What is more, TFWs are only eligible to apply for another employment authorization from outside the country.<sup>121</sup>

Unlike the initial temporary programs and pilot projects being tested at the time, which were specific to certain sectors and occupations, the NIEAP was designed as a general program to efficiently recruit and effectively monitor growing numbers of foreign workers.<sup>122</sup> That being said, while it was originally intended for a wide variety of professional, agricultural and service related positions, since the introduction of the NIEAP, most TFWs entering Canada find themselves working in areas of employment considered less desirable by most Canadians - in sectors such as hospitality, services and manual labour industries.

Concurrent with the introduction of an explicitly economic immigration policy was the distinction between foreign workers who were entitled to enter Canada and become permanent residents, and those whose stay in Canada was restricted to a temporary basis.

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<sup>118</sup> *ibid.*

<sup>119</sup> Sharma, Nandita. 2006.

<sup>120</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 8.

<sup>121</sup> *ibid.*

<sup>122</sup> *ibid.* As Fudge and MacPhail note, “From its beginning... the first general temporary foreign worker program had low-skill streams.” The NIEAP incorporated the Commonwealth Caribbean Agreement, established in 1966, what later became known as the Seasonal Agricultural Worker Program. It also incorporated what latter became known as the Live-In Caregiver program, a rotational migration program designed to provide live-in domestic workers for Canadian families.



This division largely parallels another set of distinctions and discriminations of foreign workers into one of two streams or ‘classes’: highly- or lower-skilled occupational categories.<sup>123</sup> From this point on, with the exception of ‘self-selected’ immigrants, i.e. family sponsorship and humanitarian admissions, the possibility of attaining permanent status and the legal, political and social rights and entitlements associated with citizenship was determined largely on the basis of occupational and immigration status. As one might anticipate, the differentiation between lower-skilled and higher-skilled labour also intensifies and exacerbates a whole set of additional exclusionary power relations, with those falling into the lower-skilled category generally coming from lower-income countries, as well as highly gendered and racialized positions.<sup>124</sup> The outcome of this scenario is that global configurations of power reproduce themselves within and beyond the host states, which, in effect, is evinced by the fact that people coming from the low-wage regions of the so-called ‘global South’ tend to fill most of the lower-skilled positions.

Temporary labour migration to Canada is a highly gendered process. Out of all the TFWs coming to Canada in 2010, 25.2% of women entered Canada to be employed in a lower-skilled occupation, compared to only 10.7% of men.<sup>125</sup> Depatie-Pelletier has shown how types of skill, and thus skill level, qualities that are socially and historically constructed to begin with, “are correlated with gender and nationality.” Thus, the categorical exclusion of these workers from any pathway that will lead to permanent residence and family reunification, in addition to the denial of a variety of rights and entitlements based on skill level, “especially discriminates against women and workers originating from specific developing countries.”<sup>126</sup> Looking at the number of foreign workers present in Canada in 2010 gives an indication of the source countries of TFWs, and the way skill is correlated with country of origin. As Nakache and Kinoshita note, overall, the proportion of TFWs from Asia and the Pacific has increased while those from Europe and the US has significantly diminished. Historically forged configurations of

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<sup>123</sup> Marsden, Sarah. 2011. pg. 45.

<sup>124</sup> *ibid.*

<sup>125</sup> CIC. 2011. *Annual Parliamentary Report on Immigration*.

<sup>126</sup> Depatie-Pelletier, Eugénie. 2008. pg. 27. For example, the overwhelming majority of immigrants coming to Canada under the Live-in-caregiver program are Filipino women. The majority of TFWs working in agriculture, however, are men, with the majority coming from Mexico and the Caribbean.

power and colonial ties are reflected in the skilled categories, with nearly 70% originating from Europe, primarily the UK, and the US and Australia. Almost 60% of those coming from Asia and the Pacific, and 85% of migrants originating from the Americas (outside the US) fall into the lower-skilled categories. Not unexpectedly, then, they suggest that this increase in workers from lower-income countries raises some concerns about integrating newcomers who may face more significant language and racial barriers compared to a worker from the United States or the United Kingdom.<sup>127</sup>

Although the policy prescription for temporary managed migration was introduced in the early 1970s, Valiani argues that a real concrete shift did not occur until the mid-1980s, when the number of people entering Canada on temporary work permits began to outnumber those workers coming to Canada as permanent residents. At the beginning of the twenty-first century, there was another shift: the move from public to private decision-making around who is granted the right to settle in Canada permanently.<sup>128</sup> These shifts began with the strategic restructuring of Canadian immigration policy. In 2002, the basic form of the NIEAP was transposed onto a new politico-economic terrain and reformulated to provide the structure of the newly modified TFWP, introduced through the IRPA.<sup>129</sup> Reforms introduced through the IRPA are designed to make Canada more competitive in the global market place. Tailored to fit the economic agenda of the twenty-first century, one of the primary objectives laid out in the IRPA is to “permit Canada to pursue the maximum. . .economic benefits of immigration.”<sup>130</sup> Another important objective is to “promote international justice and security by fostering respect for human rights.” Thus, political membership is paradoxically situated between two different governing techniques, the neoliberal regime on the one hand and liberal democratic values on the other.<sup>131</sup> The complexity and seemingly contradictory agenda of the IRPA reveals that contradictions of the Canadian state and demonstrates the competing “political, economic and humanitarian values

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<sup>127</sup> IRPP. 2010. pg. 6.

<sup>128</sup> Valiani, Salimah 2010. pg. 7-8.

<sup>129</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 8.

<sup>130</sup> IRPA. 2. p.3. S.C. 2001, c. 27.

<sup>131</sup> Ong, Aihwa. 2005. pg. 263.

associated with the management of international migration.”<sup>132</sup> This is why, in a similar vein, Macklin suggests immigration policy is notorious for “conveying multiple, conflicting and contradictory messages”<sup>133</sup> in its attempt to accommodate changing political and economic norms and conditions while simultaneously negotiating the terms of national self-image.

While the TFWP may be a relatively new development in Canadian citizenship politics, the economic rationale behind immigration policies is a consistent theme throughout both the history of colonial settlement and contemporary modes of regulating entry and exit. The purpose of this essay is not to provide a comprehensive historical overview of immigration to Canada; nevertheless, it is important to briefly highlight how, despite changes in the approach, the exclusionary dimension of labour migration to Canada is a continuing legacy of Canadian ‘nation-building.’ While the explicit economic focus of the IRPA is relatively novel insofar as it is written in the language of skills discourse and the global competition for the best and the brightest, economic criteria and the perceived needs of the labour market have always informed Canadian immigration policy.<sup>134</sup> To be clear, from their very inception, immigration policies were crafted with economic considerations in mind. Dobrowolsky writes:

Whether [immigration policies] came as a response to historic labour market requirements for infrastructure construction (e.g., building canals and railways), or for resource extraction and its ‘branch plant economy’ orientation, or they factored into this country’s demographic demands and social reproduction needs, Canadian immigration policies have always been informed by an economic rationale.<sup>135</sup>

Over time, the economic rationale behind immigration policy has been linked to the ‘ethnic suitability’ of prospective immigrants, with inequitable gender, race and class dynamics also playing a crucial role in the formulation of Canadian immigration policy. While these exclusionary aspects of Canadian immigration regimes continue to persist to the contemporary period, “their specifics and their explicitness have shifted over space and time.”<sup>136</sup> The purpose of this next section is to briefly map the resilience of immigration’s economic rationale and its corresponding notion of the ideal citizen-

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<sup>132</sup> Watson, Scott. 2006. pg. 1.

<sup>133</sup> Macklin, Audrey. 2002. pg. 220.

<sup>134</sup> Abu-Laban, Yasmeen and Christina Gabriel. 2002. pg. 37.

<sup>135</sup> Dobrowolsky, Alexandra. 2011. pg. 111.

<sup>136</sup> *ibid.*

subject. The historical linkage between the two is best understood as forms of continuity through changing historical and institutional conditions.

## Chapter Three

### Part I: Immigration and Canadian 'nation-building'

#### The resilience of immigration's economic rationale

Founded on colonial settlement and the violent displacement and dispossession of land from indigenous peoples, immigration has been a key ingredient to the historical evolution of the Canadian nation-state. Immigration played a key role in populating the territory, securing the presence of white-settler communities, enabling colonial expansion and the expropriation of land from indigenous peoples, and helping to ensure the necessary labour supply for the development of the industrial and agricultural capacities of imperial powers.

The flexibility and adaptability of Canadian immigration policy is reflected in the historically variable vision of the 'ideal' Canadian citizen.<sup>137</sup> The notion of a 'model' Canadian citizen has changed over time, with considerations of religion, race and ethnicity occupying a more explicit place within the initial phases of Canadian immigration: most of the history of Canadian immigration policy demonstrates, as Gabriel and Abu-Laban note, an explicit preference for "White, particularly British-origin, Protestant, who were viewed as 'model citizens.'"<sup>138</sup> Since immigration is historically linked to the competing demands of long-term economic prosperity and the short-term needs of the labour market, admission of less than ideal immigrants (which originally meant non-British, non-Protestant) was sometimes required in order to fill relative labour shortages.<sup>139</sup> Thus, economic interests are carefully balanced with political considerations with regard to idealized citizen-subject.

The first legislation on immigration was passed in 1869, but the act did not specify criteria about admissible classes.<sup>140</sup> At the beginning of colonial settlement, many immigrants came from the base of the imperial powers, namely England, France and other Western European countries. Over time, significant numbers of people emigrated

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<sup>137</sup> *ibid.*

<sup>138</sup> Abu-Laban, Yasmeen and Christina Gabriel. 2002. pg. 37.

<sup>139</sup> *ibid.* pg. 37-38.

<sup>140</sup> Li, Peter S. 2003. pg. 18.

from southern and eastern Europe, China, South Asia, and the United States. Despite being a generally open-door immigration policy, “severe restrictions were placed on non-white immigrants,” particularly those from Asia.<sup>141</sup> As early as 1885, Canadian policies and laws made explicit or “thinly veiled racial distinctions between groups of migrants” according to a jingoist criterion of “ethnic desirability.”<sup>142</sup> Marsden provides a representative list of such measures including:

[T]he 1885 Chinese Immigration Act, which imposed a head tax on immigrants of Chinese origin, and the 1908 Act to Amend the Immigration Act, which entrenched the “continuous journey” rule restricting South Asian migration to Canada. The 1910 Immigration Act specifically gave the Canadian government the power to categorically reject “immigrants belonging to any race deemed unsuited to the climate or requirements of Canada, or immigrants of any specified class, occupation or character.” In 1923, an Order in Council was passed to prohibit immigration by any persons of “asiatic” race, and by 1952 the Immigration Act included discretion to restrict migration on the basis of nationality, ethnicity, culture, and place of origin. Although the latter statute did not provide any specific category of governance for foreign workers per se, the correlation between place of origin and labour utility became explicit in an immigration policy that listed preferred source countries (western Europe), from which immigration was openly permitted, and non-preferred source countries (eastern Europe), from which immigrants were admitted only if they worked within agricultural or domestic labour.<sup>143</sup>

Canada has one of the highest per capita immigration rates in the world.<sup>144</sup> As such, in everyday discussions of Canadian politics, it is commonplace to hear the cliché that Canada is a ‘country of immigrants’. The passage above indicates that this does not necessarily mean that Canada is open to all.<sup>145</sup> Stasiulis suggests that these narratives provide an ideological justification to suit Canada’s self-congratulatory self-image. The idea that settler societies such as Canada “import only permanent workers or settlers populations has formed an important ideological justification for ignoring a patchwork of temporary migration schemes.”<sup>146</sup> Recourse to such broad historical generalizations tends to gloss over the violent foundation on which the Canadian state is based as well as the

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<sup>141</sup> *ibid.*

<sup>142</sup> Marsden, Sarah. 2011. pg. 41.

<sup>143</sup> *ibid.*

<sup>144</sup> CIC. 2011. *Annual Parliamentary Report on Immigration*.

<sup>145</sup> Kelley, Ninette, and Michael J. Trebilcock. 1998. pg. 108.

<sup>146</sup> Stasiulis, Daiva. 2008. pg. 104.

ongoing exclusions that characterize contemporary Canadian immigration policies.

For example, throughout the construction of the Canadian Pacific Railway in the latter part the nineteenth-century, Canada brought in over 15000 Chinese migrant workers to work on the western section of the railway, most of who settled in British Columbia. Chinese immigrants, largely from the impoverished Guandong Province of China, were recruited through labour agencies that secured their employment and transportation to Canada, the cost of which would later be deducted from their wages.<sup>147</sup> As Ninette and Trebilcock suggest, “so onerous were the transportation and lodging debts that, after several years of employment, many workers found they did not have enough savings to return to China, as they initially intended.”<sup>148</sup>

Limited by a system of indentured servitude and debt bondage, many Chinese immigrants had no other option but to stay in Canada without their families amongst destitute living and working conditions. Given their continued presence in Canada in the face of widespread antagonism from the larger white-settler community, many measures and restrictions were put in place under the aegis of Prime Minister Sir John A. MacDonald. In response to the hostility of anti-Chinese sentiment throughout the white-settler community, the Prime Minister emphasized that, although he objected to “Mongolians becoming permanent settlers,” Chinese labourers were required in order to complete the western section of the Canadian Pacific Railway. Upon the completion of the railway, he would then join in “preventing a permanent settlement in this country of Mongolian or Chinese immigrants.”<sup>149</sup> Much like these Chinese workers, many lower-skilled workers currently living in Canada can spend years apart from their families with no possibility of family reunification.

The next section details the move away from cultural and economic nationalism and the rise of a purportedly objective, numerically based points system. Liberal theorists often interpret the shift to a more explicitly economic immigration system in terms of cultural change. This next section seeks to unsettle these liberal assumptions.

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<sup>147</sup> Kelley, Ninette, and Michael J. Trebilcock. 1998. pg. 105.

<sup>148</sup> *ibid.* pg. 106.

<sup>149</sup> *ibid.* pg. 105.

## Part II: Immigration, Nation-Building, and ‘the Points System’

With the onset of institutionalized multiculturalism in the 1970s, it became necessary to maintain the economic benefits of migration while at the same time, it was important to appease internal and external demands to eliminate explicit discriminatory immigration policies which required reformulation in light of multicultural and non-racist political frameworks. The 1976 Immigration Act eliminated discriminatory criteria with regard to the deemed desirability of applicants based on “origin, ethnicity, suitability, or similar descriptions” that were found in previous versions of the Act.<sup>150</sup> According to Marsden, “It was from these cumulative circumstances that the first detailed governance structure for migrant workers entering Canada emerged.”<sup>151</sup> With the shift away from economic and cultural nationalism, explicitly racist criteria in immigration policies were eliminated and new admission policies based on heightened economic selectivity were adopted. This series of developments is reflected in the introduction of a universal ‘points system’ and the move toward a focus on individual labour market compatibility and the ability to establish oneself economically as the primary gauge of eligibility for permanent residency. According to Marsden, “[t]he combination of removing explicit racial and ethnic preferences and introducing skills-based requirements represented a shift towards a migration policy that was more economically based.”<sup>152</sup> Moreover, while the possibility of integration was still a large focus of legislative agendas, integration became increasingly defined in terms of “individualized assessments of potential labour market contribution without explicit references to race or place of origin.”<sup>153</sup> Despite this move toward economic rationality, points-based selection criteria were implemented prior to the ascendance of neoliberalism as a logic of governance.<sup>154</sup> Over time, however, the points system was modified to increase the economic benefits of immigration and

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<sup>150</sup> *ibid.* pg. 42.

<sup>151</sup> Marsden, Sarah. 2011. pg. 40.

<sup>152</sup> *ibid.* pg. 54.

<sup>153</sup> *ibid.* Despite being touted as a race and gender neutral immigration regime, critics of the point system, such as the Canadian Civil Liberties Association, suggest that new immigration policies are in no way apolitical or free of the historical baggage of racist state-building. Under the TFWP, for example, they suggest that immigration status may continue to function as a “proxy” for race and ethnicity. Canadian immigration policy formally removed explicitly racist selection criteria long ago, and while ‘race’ and ‘ethnic suitability’ now play a less significant role in the determination of immigration policy than in the past, “they remain powerful markers of socio-economic marginalization.”

<sup>154</sup> Walsh, James. 2011. pg. 877.



become more in line with neoliberal restructuring, the increased demand for a flexible labour force, and the marketization of government functions.<sup>155</sup> With neoliberalism's ascendance in the 1980s, many prosperous nations underwent significant socioeconomic and political transformations, and the points system was elevated as a "tool of neoliberal government and . . . the primary mechanism for regulating mobility."<sup>156</sup> "Mirroring these dynamics in their subsequent iterations," Walsh observes that these tools of neoliberal government were expanded to attract "entrepreneurs, capitalists, and investors; tightened to increase their selectivity; and elevated in their importance vis-à-vis familial and refugee migration."<sup>157</sup>

For liberal theorists of immigration, liberal-democratic states in the post-war era eased their restrictive immigration objectives because sweeping cultural shifts meant states were faced with ideological and moral constraints in the management and control of immigration. Christian Joppke voices this argument when he argues that liberal states jettisoned overarching principles of ethnic and racial suitability and began to accept 'unwanted immigration' because of their inherent 'liberalness' and 'activist' courts.<sup>158</sup> There is no doubt that the cultural shifts and the political ethos of the 1960s, the 'rights revolution' and the institutionalization of multiculturalism placed considerable limitations on the ability of states to pursue explicit or thinly veiled discriminatory immigration policies. However, in addition to neglecting the administrative mechanisms and organizational techniques through which migration is governed, such theories ignore the "increasingly rational, managerial and economic focus of migration controls."<sup>159</sup> As Walsh contends, such perspectives based on the pressures of liberal stateness are not only limited in their explanatory power, but in overemphasizing cultural shifts and purported elements of a de-racialized state logic, these theories overlook the sophisticated construction of 'point-systems' that links immigration with labour market needs by ranking and selecting immigrants on the basis of "human-capital endowments."<sup>160</sup>

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<sup>155</sup> *ibid.*

<sup>156</sup> *ibid.* pg. 865.

<sup>157</sup> *ibid.*

<sup>158</sup> Joppke, Christian. 1998. pg. 292.

<sup>159</sup> Walsh, James. 2011. pg. 865.

<sup>160</sup> *ibid.* pg. 864.

Without entirely discounting the normative role played by cultural shifts, Walsh identifies how the experience of Canadian immigration, contra Joppke, demonstrates that immigration policies are equally commanded by the “exigencies of *neo-liberal stateness*” and the need to implement market-based immigration controls and selection criteria that maximize economic gains while limiting the societal risk and financial burden of prospective immigrants.<sup>161</sup> In a comparative analysis of Australia and Canada, Walsh identifies how with socioeconomic and state restructuring, “both nations reordered their policies, implementing sophisticated statistical formulas for ranking, ordering and selecting migrants and promoting skills, competitiveness and economic benefits as institutional goals.”<sup>162</sup> A more detailed examination of the neoliberal elements of the current immigration regime will appear in chapter five. Before doing so, it is essential to provide an overview of the current modes of incorporation into Canadian political membership via the economic stream.

Although Canadian immigration has been formally colour-blind since the exclusionary category of “ethnic suitability” was eliminated in the 1960s, immigration authorities are still given the discretion to overrule the points system altogether and to “either accept or refuse an applicant on the basis that the rating does not reflect the ‘immigrant’s chances of becoming successfully established.’”<sup>163</sup> The continued role of discretion in immigration decision-making “permits individual, biased immigration officers to make discriminatory decisions, and it allows the law, more broadly, to act as a tool for perpetuating racism.”<sup>164</sup>

As an immigrant-receiving country, Canada incorporates hundreds of thousands of foreign workers every year; some live and work in Canada with the full rights and entitlements of a permanent resident, including unrestricted labour mobility and access to the benefits of social citizenship, while other migrants under the ‘lower-skill’ streams of the TFWP are issued a temporary work permit which is time, location, and employer

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<sup>161</sup> Li, Peter S. 2003. pg. 78-79. Li suggests this utilitarian view of immigration is the centerpiece in immigration discourse, i.e. Canada should “admit immigrants who can enrich the existing population and not those who would be a tax burden.” The advantage for the existing population is, of course, gauged in economic terms.

<sup>162</sup> Walsh, James. 2011. pg. 862.

<sup>163</sup> Aiken, Sharryn J. 2005. pg. 81.

<sup>164</sup> *ibid.*

specific. The temporary status of this latter group of migrant workers severely limits their labour mobility as well as their access to basic rights and entitlements such as the right to health care, the right to join a union and to collective bargaining, bring their families to Canada, and the possibility of attaining permanent residence. The next section provides a summary of the highly differentiated nature of economic migration to Canada.

## Chapter Four

### Part I: Economic Immigration to Canada

#### The Economic Class(es) – Front Door and Side Door Immigration

Like the Immigration Act (1976) that came before it, the IRPA legislated different categories for entry into Canada. These immigration categories include the economic class, the family class,<sup>165</sup> and the refugee category.<sup>166</sup> These categories that are said to correspond to the three primary program objectives of the IRPA: “reuniting families, contributing to economic development [in Canada] and protecting refugees.”<sup>167</sup> Because this paper is primarily concerned with the role of economic immigration in the partial denationalization of political membership, the next section provides a typology of economic immigration to Canada with regard to those entering Canada through the economic class and the various immigration streams gathered within it. Through an overview of the economic modes of immigrating to Canada, it is my intention to show how the current Canadian immigration regime is constitutive of a hierarchy of mobility in which labour mobility and access to permanent residency is allocated on the basis of occupational and skill status.

People immigrating to Canada are categorized in one of three streams: economic, family reunification and humanitarian. In the last decade, the majority of immigrants came to Canada through the economic stream (66.6% in 2010).<sup>168</sup> This stream includes those selected as federal skilled workers (FWS),<sup>169</sup> members of the business class (investors,<sup>170</sup> entrepreneurs,<sup>171</sup> and self-employed<sup>172</sup>), live-in-caregivers,<sup>173</sup> or those who

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<sup>165</sup> CIC. The family class is officially defined as “foreign nationals sponsored by close relatives or family members in Canada” and this includes “spouses and partners, dependent children, parents and grandparents.”

<sup>166</sup> CIC. Refugees include “government-assisted refugees, privately sponsored refugees, refugees landed in Canada, and dependents of refugees landed in Canada who live abroad.”

<sup>167</sup> CIC. 2002. *Canada’s Immigration Law*. pg. 6.

<sup>168</sup> CIC. 2010. *Facts and Figures*. pg. 7. This includes principal applicants, spouses, dependents.

<sup>169</sup> CIC. 2012a. *Federal Skilled Worker Program – Who can apply*. See also IRPR, S.O.R. 2002-227 § 75.

<sup>170</sup> CIC. 2011b. *Investors*. See also IRPR § 109.1 (2). The investor stream recruits business people to invest at least \$800,000 into Canada’s economy in order to become permanent residents. Investors must demonstrate prior business experience of at least two years and a legally obtained minimum net worth of \$1,600,000. Potential immigrant investors must make an investment before their permanent resident visa will be issued; the investment can be channeled through a “facilitator,” a financial institution approved by

gain permanent residency through PNPs or the CEC. FSWs and those entering Canada under the business class come to Canada as permanent residents. A ‘side door’ for temporary residents such as tourists, students and TFWs expected to leave after a specified duration is designed to complement this ‘front door’ for legal immigrants expected to settle permanently.<sup>174</sup> In Canada, this ‘side door’ includes the provincial nominee category, live-in-caregiver stream, and the CEC; these ‘probationary immigration’ channels offer eligible temporary residents such as international post-secondary students and highly-skilled TFWs the opportunity to transition from temporary status to permanent residents after a specified duration and level of work experience in Canada.

According to the Canadian federal government, immigrants coming to Canada through the economic class are selected for their skills and ability to contribute to the Canadian economy. Those entering Canada as skilled workers must demonstrate their ability to successfully integrate into the labour market and establish themselves economically in Canada as evidenced by their ability to meet prerequisite selection criteria. In the economic class, selection criteria assess potential immigrants on the basis

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the CIC that is a member of the Canada Deposit Insurance Corporation. CIC returns the \$800,000 investment after an estimated five years and two months.

<sup>171</sup> CIC. 2011c. *Entrepreneurs*. See also IRPR S.O.R. 2002-227 § 97 (2). online: <http://laws-lois.justice.gc.ca/PDF/SOR-2002-227.pdf>. An entrepreneur is a foreign national who has at least two years business experience and a legally obtained minimum net worth of \$300,000. In order to become permanent residents, entrepreneurs must meet additional conditions related to the operation of their business in Canada: they must control at least one-third of the equity, they must play an active role in the management of the business, and their business must create at least one full-time job for a permanent resident (which, according to CIC, translates into 1,950 hours of paid employment).

<sup>172</sup> CIC. 2011d. *Self-employed Persons*. See also IRPR S.O.R. 2002-227 § 88. online: <http://laws-lois.justice.gc.ca/PDF/SOR-2002-227.pdf>. Self-employed persons are defined as a “foreign national who has relevant experience and has the intention and ability to be self-employed in Canada and to make a significant contribution to specified economic activities in Canada.” Relevant experience is defined as a minimum of two years experience in specified activities such as “cultural activities,” “athletics,” or the “purchase or management of a farm.”

<sup>173</sup> A wide variety of critical feminist scholarship in the areas of sociology, anthropology and law has analyzed the Live-in-caregiver program. See generally Stasiulis, Daiva, and Abigail Bakan. 2006. Fudge, Judy, and Brenda Crossman, 2002. Arat-Koc, Sedef. 2010. This essay does not provide an overview of the Live-in-caregiver program. However, it is worth noting that live-in-caregivers must work for their employers (and live in their employer’s home) for a period of three years before they are eligible to transition to permanent residency.

<sup>174</sup> Martin, Philip. 2010. Looking at immigration to the US, Martin classifies immigrants into ‘front door’, ‘side door’ and ‘back door’, the latter being, of course, illegal immigrants.

of education level, language abilities in one Canada's official languages, and employment experience.<sup>175</sup>

## **Part II: Lower-Skilled Immigration Schemes**

### **(National Occupational Classification C and D)**

Prior to the introduction of the IRPA, lower-skilled foreign workers could only come to Canada temporarily to work under sector specific programs: the Live-in-caregiver program and the Seasonal Agricultural Workers Program. The IRPA established criteria for the admission of lower-skilled TFWs into Canada to meet perceived labour shortages in a number of other sectors outside of the traditional areas of the TFWP, i.e. agriculture and domestic care. Despite the economic rationale underpinning the TFWP, these workers are not eligible to participate in the economic class due to the nature of their occupational and immigration status – they are not eligible under the selection criteria of economic immigration stream.<sup>176</sup> Most of these workers have no right to permanent residence and their mobility rights are severely limited because their work permits are employer and place specific.

Scholars, politicians and policy-makers have thoroughly documented the sub-standard treatment of TFWs in Canada. Depatie-Pelletier, for example, has argued that since most TFWs are unable to change their employment in Canada, and in many lower-skilled jobs, are contractually obligated to live and/or work on their employer's property, TFWs qualify as “persons under servile status” under the terms of the U.N. Convention on practices analogous to slavery.<sup>177</sup> Moreover, while the Canadian Charter of Rights and Freedoms (section 6) includes mobility rights, it also makes an explicit distinction

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<sup>175</sup> CIC. 2012a. *Federal Skilled Worker Program – Who can apply*. The economic criteria underlying immigration criteria is noteworthy if only for the sheer transparency of its economic rationale; skilled workers are assessed according to a point system which evaluates their ability to “adapt to the Canadian economy.” The categories include: education (maximum 25 points), official languages (maximum 24 points) employment experience (maximum 21 points), age (maximum 10 points), arranged employment in Canada (maximum 10 points), and adaptability (maximum 10 points). To qualify for permanent residency under the Federal Skilled Worker category, prospective immigrants must score a minimum of 75 points out of a possible 100 points. This criterion can be amended by the Minister of Immigration, Citizenship and Multiculturalism to accommodate changes in the Canadian labour market (see CIC, 2002, pg. 9).

<sup>176</sup> Ninette, Kelley and Michael J. Trebilcock. 2008. pg. 437.

<sup>177</sup> Depatie-Pelletier, Eugenie. 2008. pg. 1.

between citizens and aliens, stating that “every citizen of Canada has the right to enter, remain in and leave Canada. . . move to and take up residence in any province, and to pursue the gaining of a livelihood in any province.”<sup>178</sup> The problems with the expansion of the TFWP, and the shift in the skill composition of TFWs from highly skilled to lower-skilled, is discussed in more detail below.

### **Part III: The Expansion of the TFWP**

The TFWP has expanded significantly in recent years. According to the Canadian federal government, the number of TFWs is gradually on the rise; the number of TFWs entering Canada increased from 112, 508 in 2004, to 122, 662 in 2005, to 139,000 in 2006, 164,720 in 2007, and 192,180 in 2008 and then diminished somewhat to 178, 268 in 2009, and then went back up to 182, 276 in 2010.<sup>179</sup> To really emphasize the rise in TFWs, it is important to examine the numbers in the pre-IRPA years. In 1986, for example, there were 79,945 TFWs in Canada. By 1996, this number had grown to 89,730. By 2001, the number of TFWs had increased to 119, 657.<sup>180</sup> The statistics on the number of TFWs entering Canada is specific to the number of initial and re-entries, and does not include the large numbers of migrant workers already on Canadian soil. Given that 250,406 migrant workers were already present, this brings the total number of TFWs in Canada during 2010 to 432,682.<sup>181</sup> While the number of permanent residents entering Canada has remained relatively steady over the same period of time, the number of people coming to Canada as permanent residents is significantly less than those residing temporarily in Canada in a given year.<sup>182</sup>

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<sup>178</sup> Canada. Federal Government. Charter of Rights and Freedoms. Section 6.

<sup>179</sup> CIC. 2010. *Facts and Figures*. pg.12

<sup>180</sup> *ibid.* pg. 55.

<sup>181</sup> *ibid.*

<sup>182</sup> *ibid.* pg. 6. Permanent resident entries in the family and economic class remained relatively consistent over the same time frame, hovering around 200,000 since the early 1990s. The number of permanent entries went from 196, 022 in 2004, 219,686 in 2005, to 208,767 in 2006, 197,487 in 2007, 214,653 in 2008, 218,695 in 2009, and to 247, 133 in 2010. The number of refugees entering Canada as permanent residents has experienced a relative decline over the same time period: from 32, 687 in 2004, 35,776 in 2005, 32,500 in 2006, 27,954 in 2007, 21, 858 in 2008, and 22, 850 in 2009, and 24, 696 in 2010. Other developments that support the move toward temporary labour migration include amendments to the IRPA in 2008 through Bill C-50, which places limits on the number of immigrants processed under the

## Part IV: How it Works

This immigration scheme is administered by a complex system of bureaucracies at the federal level. While the federal government retains the primary jurisdictional authority over the admission and eventual repatriation of TFWs, the conditions pertaining to the entry and exit of these workers have been partially devolved to provincial governments as of late. At the federal level, Citizenship and Immigration (CIC) and Human Resources and Skills Development Canada (HRSDC) share administrative roles and joint-manage the TFWP.<sup>183</sup> The TFWP is driven by employer demand and not subject to quotas.<sup>184</sup> Employers who wish to employ a TFW must apply to HRSDC for an employment validation or Labour Market Opinion (LMO).

Abu-Laban and Gabriel argue that this selection model speaks to “a shift in the role of the state in managing the interface between immigration selection and labour market needs.” Following World War II and throughout the final years of Keynesian economics in 1960s and 1970s, it was assumed that “the state had an important role in the management of the labour market.”<sup>185</sup> With the onset of neoliberal restructuring, however, this assumption was questioned. Walsh illustrates this reconfiguration of the state’s role in the management of the labour market through a comparative examination of the shift to the points system in both Canada and Australia:

For Canada and Australia socioeconomic and state restructuring began in the mid- 1980s under the Mulroney and Hawke governments and intensified in subsequent administrations. Starting with the privatization of large portions of the domestic economy, new doctrines of fiscal responsibility and the removal of protectionist barriers and aggressive liberalization of trade and finance, by the 1990s neoliberal reforms would grow to include the retrenchment of social services and pursuit of ‘workfare’ policies as well as the recommodification of the labor market

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humanitarian and compassionate category. See Basok, Tanya, and Emily Carasco. 2010. “Advancing the Rights of Non-Citizens in Canada: A Human Rights Approach to Migrant Rights.”

<sup>183</sup> Canada Border Services Agency also plays an important role. Border Services officers screen foreign workers at Canadian border crossings and airports to ensure that they meet admissibility requirements before issuing work permits and allowing their entry into Canada. A Border Services officer has the final say on who may enter Canada. Officers can deny entry to a foreign worker if they believe the foreign worker does not meet the requirements of IRPA.

<sup>184</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 9.

<sup>185</sup> Abu-Laban, Yasmeen, and Christina Gabriel. 2002. pg. 80.



as both governments *rescinded prior commitments to arbitrating capital-labor relations*. As these measures indicate both governments have *moved from humanizing and domesticating the market to adopting and vigorously promoting its ideals of flexibility, efficiency and enterprise*. The points systems have played an important role in this transition by providing mechanisms for accumulating human, financial and cultural capital. In place of Keynesian redistributive interventions, both states increasingly approach the capital, talent and entrepreneurial skills of the foreign-born as significant resources in priming and organically stimulating accumulation. As these dynamics reveal, with their allocative and regulatory capacities restructured by neoliberal doctrines of state restraint, controls over mobility and membership represent institutional ensembles for enabling economic growth, competitiveness and global integration.<sup>186</sup>

In previous industrial periods of capital accumulation and growth, growth was restricted by access to capital and industrial raw materials, thus necessitating the extraction of these materials from the peripheral regions of the global economy through colonial and imperial endeavours. However, the most common barrier to productivity in the contemporary period, hence the global hunt for skills and the development of “institutional ensembles for enabling economic growth,” is access to highly skilled labour and human capital. Additionally, as Walsh observes, in contrast to maintaining the integrated flow of goods and industrial capital, the delivery of advanced, specialized services “hinges upon close proximity between the buyer and seller, displaying an affinity toward ‘agglomeration economies’ and labor importation.”<sup>187</sup>

With the introduction of the IRPA, immigrant selection became aligned with the broader reorientation of state functions in an age of competitive austerity and the selective and partial withdrawal of the state from labour market regulation and political membership.<sup>188</sup> The expansion of the TFWP in particular provides a clear indication of the changing role of the state in the management of the labour market. The introduction of the IRPA helped to entrench a form of neoliberal, employer-driven immigration system whereby the primary decision-making powers around access to permanent residency “was transferred by the Canadian state to Canadian employers.”<sup>189</sup> Under the

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<sup>186</sup> Walsh, James. 2011. pg. 869. My emphasis.

<sup>187</sup> *ibid.*

<sup>188</sup> Abu-Laban, Yasemeen, and Christina Gabriel. 2002. pg. 80.

<sup>189</sup> Valiani, Salimah. 2010. pg. 6.

previous immigration regime, the state played “the dominant role in the authorization of work permits,” whereas today, the state is partnered with businesses, individual employers, firms and even entire sectors, to address relative labour scarcities.<sup>190</sup> “This type of proposal is presented as less bureaucratic because it allows for a quick response at a time when the economy is rapidly changing . . . [t]hese proposals embody a shift from a form of statist regulation. . . to a more decentralized model – the partnership.”<sup>191</sup> While these developments do not signal the absolute withdrawal of the state from the management of migration, they provide an indication of changes in governance that are characteristic of the neoliberal move.<sup>192</sup> “The impetus behind such measures,” according to Abu-Laban and Gabriel, is “economic globalization.”<sup>193</sup>

## **Part V: the Low-Skill Pilot**

Introduced in 2002 with the IRPA, the Low-Skill Pilot (LSP) was originally intended to fill shortages outside the areas historically reserved for migrant workers, i.e. agriculture and domestic care. With the construction industry in Toronto facing severe labour shortages in the early 2000s, the federal Liberal government helped devise a more general temporary labour scheme to bring in lower-skilled workers in a variety of sectors. The sheer transparency of the economic rationale underlying the current immigration regime is reflected in the federal government’s definition of the program, itself dressed in the language of calculation, risk and economic strategy: it defines the LSP as a “labour-market-driven risk-management strategy aimed at filling [a labor market] void by permitting the hiring of low-skilled workers from overseas.”<sup>194</sup> The LSP grants TFWs the ability to live and work in Canada for up to four years (the initial employment authorizations were limited to one year, which were subsequently expanded in response to employer demands to two years, and as of 2011, the current duration of the work

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<sup>190</sup> Abu-Laban, Yasmeen, and Christina Gabriel. 2002. pg. 81.

<sup>191</sup> CIC. 2011. pg. 1. In the 2011 Annual Report to Parliament on Immigration, Minister of Citizenship, Immigration, and Multiculturalism, Jason Kenney, expressed these sentiments exactly: “For immigration to continue to support our economy’s development, it is crucial that we maintain an immigration system that responds to Canada’s economic needs in a timely manner.” pg. 1.

<sup>192</sup> Abu-Laban, Yasmeen, and Christina Gabriel. 2002. pg. 81.

<sup>193</sup> *ibid.*

<sup>194</sup> Quoted in Fudge, Judy and Fiona MacPhail. 2009. pg. 22.

permit is four years). During this time, there are significant restrictions placed on their rights and entitlements.<sup>195</sup> In addition, there are very few, if any avenues to permanent residence, and when they do exist, they are highly contingent and precarious.

With a booming Western economy and the 2006 rise to power of the pro-business and Western-led Conservative Party, there was an increased lobbying effort made on behalf of business groups wishing to see the TFWP become more employer friendly and further expanded to include a wider array of occupations.<sup>196</sup> As Fudge and MacPhail note, “Western-based construction and hospitality businesses were particularly vocal in their demand for quick and easy access to low-skilled TFWs, claiming that it was important to capitalize on the economic boom while it was underway and that training Canadians to do the jobs would simply take too long.”<sup>197</sup> To expedite the selection and recruitment process for TFWs, the government made the TFWP easier for employers to access and navigate. Two developments mark this process: first, in 2006, the federal government established Temporary Foreign Worker Units in Toronto, Montreal, Vancouver, Calgary, and Moncton. These centers assist employers and/or their authorized representatives seeking to employ TFWs to obtain Labour Market Opinions<sup>198</sup> and work permits. It is important to note that TFW units do not respond to enquiries coming from other sources or from TFWs themselves.<sup>199</sup> Second, the federal government also established federal-provincial working groups on TFWs in the Western provinces in order to satisfy employers’ pressing and constant labour market requirements.<sup>200</sup> These regional working groups drafted lists of ‘occupations under pressure’ that help to expedite the selection and recruitment process. The advertising requirements for employers wishing to hire TFWs for occupations that appear on a regional occupations list are minimal compared to the

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<sup>195</sup> National Citizenship and Immigration Law Section. Canadian Bar Association. For example, Employers hiring lower-skill workers are required to provide the option of health insurance for the employee. However, there is a three-month waiting period for access to provincial health care. While the Canadian Bar Association states that there is merit to ensuring that TFWs have “adequate health insurance in Canada prior to being able to opt into a provincial health care scheme,” payment for this insurance is “a matter between the employer and prospective employee.” Additionally, workers under the LSP are unable to join a union and are thus denied collective bargaining rights.

<sup>196</sup> *ibid.* 2009. pg. 25.

<sup>197</sup> *ibid.*

<sup>198</sup> Details regarding the LMO process will be clarified later on in chapter five.

<sup>199</sup> CIC. 2006. *Temporary Foreign Worker Units*.

<sup>200</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 26.

more comprehensive recruitment efforts normally required under the TFWP.<sup>201</sup> These regional lists have grown to several hundred occupations and vary from province to province, thus reflecting significant differences in labour market demands from region to region. In Ontario, for example, the list is largely limited to highly skilled positions such as Financial Managers, Investment Analysts, Human Resource Specialists, Civil Engineers, Biologists, etc. In British Columbia and Alberta, on the other hand, the list reflects the growing need of lower-skill workers in the energy sector, as well as trade and service related industries.

In 2007, the federal government initiated a series of additional modifications to the LSP and the TFWP to make each program more accessible and attractive to employers.<sup>202</sup> One of the more substantive changes to the LSP was the extension of the cumulative duration of the employment authorization from one to two years. In Spring 2011, the two-year limit was further extended to four years. The amendments to the IRPR also stipulated that all TFWs currently in Canada will start with a “clean slate,” i.e. all work performed by a TFW prior to April 1, 2011 will not be counted towards the four year cumulative period.<sup>203</sup>

In addition to these changes to the TFWP, other amendments made the program more employer-friendly, including the introduction of an expedited LMO pilot in British Columbia and Alberta. This process dramatically accelerated the selection and recruitment process for TFWs through expedited LMO processing, and allowed employers to hire TFWs in three to five days.<sup>204</sup> By 2008, the list of potential jobs under the expedited LMO had grown to include over thirty occupations; in Alberta and British Columbia, where demand was the highest, over 50% of the combined total requests for expedited LMOs were for lower-skilled positions in construction, hospitality, tourism, and service industries such as food and beverage servers, and residential cleaning and support staff.<sup>205</sup> The employer-oriented modifications to the TFWP and the LSP summarized by Fudge and MacPhail demonstrate that:

The combination of the list of regional occupations under pressure, which

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<sup>201</sup> Government of British Columbia. *Regional Occupations under Pressure List*.

<sup>202</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 28.

<sup>203</sup> CIC. 2011e. *Operational Bulletin 275-C*.

<sup>204</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 27.

<sup>205</sup> *ibid*.

substantially reduces the domestic recruitment obligations placed on employers, and the expedited LMO process suggests that the requirement that foreign workers are only recruited when there is a labor shortage is formal rather than substantive.<sup>206</sup>

Critics of the program argue that the TFWP no longer functions to meet its original objective of facilitating the expedited entry of highly skilled workers. The expansion of the TFWP to include lower-skilled workers via the LSP sparked both the massive growth in the levels of lower-skilled TFWs and the incidents of exploitation and abuse.<sup>207</sup>

Numerous labour advocacy groups such as the Alberta Federation of Labour have documented the difficult and abusive working conditions in which many lower-skill TFWs find themselves. These include:

- Payment of exorbitant and illegal fees to brokers for finding employment;
- Job description, wages and other working conditions not matching original promises;
- Not receiving overtime pay and other contraventions of employment standards; Expectations of unpaid “extra” work for the employer;
- Sub-standard housing arrangements, often at excessive rents owed to employer; Experience of racism from employer, co-workers and community;
- Threats of deportation from employer;
- Misleading promises from employers, brokers and government of the possibility of permanent residency and citizenship.<sup>208</sup>

Overall, the expansion of the TFWP and the increase in ‘lower-skill’ TFWs coming to Canada is a cause for concern because of the highly differentiated access to rights and entitlements between different types of (im)migrants. For example, access to permanent residence is largely determined by the distinction between skill levels. The distinction between highly-skilled and lower-skilled labour also determines the possibility of family accompaniment. Highly-skilled workers are eligible to bring spouses and children for the duration of their time in Canada through open work permits for spouses and study permits for children. Lower-skilled workers, as Marsden notes, are

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<sup>206</sup> *ibid.*

<sup>207</sup> Alberta Federation of Labour. 2009. pg. 10.

<sup>208</sup> *ibid.*

“categorically excluded from this possibility.”<sup>209</sup> Additionally, in the few jurisdictions where permanent residence for lower-skilled TFWs is a possibility, “it is contingent on the relationship to a specific employer and an level of financial independence that is often unrealistic for low-income workers”<sup>210</sup> (normally \$10,000 plus \$2000 for each accompanying family member).

While these workers are usually covered by provincial employment standards<sup>211</sup> these measures are often inaccessible and ineffective.<sup>212</sup> This is because the enforcement of these remedies depends on a worker complaint mechanism. Most workers, as Marsden and many others have pointed out, are unwilling to submit a complaint due to the fear of losing employment and thus the financial remittances on which their families at home depend.<sup>213</sup> Moreover, recent regulatory mechanisms put in place do not address the inequalities between different levels of workers and between TFWs and permanent residents.<sup>214</sup> TFWs are seen as a “transitory solution” to maintain capital accumulation by “filling excess labour demand in the presence of rather long delays for permanent immigration.”<sup>215</sup> Some of the latest figures from CIC estimate the backlog for permanent residency at 925,000, 585,000 of which are potential immigrants under the skilled workers category. An estimated 80% of federal skilled workers had to wait 62 months for their applications to be processed. Government officials argue that this waiting period is not feasible given the demands of business and employers; as a result, more and more employers, communities and sectors are turning to the TFWP to streamline the import of cheap and reliable foreign labour.<sup>216</sup> The 2009 Report of the Standing Committee on Citizenship and Immigration expressed these sentiments exactly: employers turn the TFWP because “it allows them to bring in a different kind of worker than that provided

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<sup>209</sup> Marsden, Sarah. 2011. pg. 47.

<sup>210</sup> *ibid.* pg. 49.

<sup>211</sup> With the exception of TFWs in the Seasonal Agricultural Program. This is because no agriculture workers, whether they are foreigners or residents, are covered by provincial legislation. This applies to all provinces except Manitoba.

<sup>212</sup> *ibid.* pg. 52.

<sup>213</sup> *ibid.*

<sup>214</sup> On the failure of the regulatory mechanisms in place, see Marsden, Sarah, 2011.

<sup>215</sup> CIC. Standing Committee. pg. 3.

<sup>216</sup> *ibid.* pg. 4.

for in the economic stream.” What is ostensibly ‘different’ about this kind of worker is that they are understood to be unfree and disposable due to their political and social exclusion. The end result is that “. . . communities, employers and even sectors of the economy have come to rely on temporary foreign workers.” As such, the Standing Committee reported that the expansion of TFWP represents a “failure of the economic stream of immigration to bring in the type of workers needed and in a timely fashion” due to the confluence of a large inventory processing backlog and increasingly restrictive admission criteria.<sup>217</sup>

As I have stressed throughout this paper, the differences in rights and entitlements extended to different skill levels reflects the neoliberal emphasis on skills discourse. The next section investigates how this skills discourse has penetrated the terms of political membership through a process of incipient denationalization. To do so, chapter five examines four ‘moments’ of partial denationalization.

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<sup>217</sup> *ibid.*

## Chapter Five

### Part I: The Incipient Denationalization of Political Membership in Canada

This section illustrates the incipient denationalization of Canadian political membership vis-à-vis changes in federal immigration policy.<sup>218</sup> To illuminate this process of incipient denationalization, this section identifies changes in Canadian economic immigration policy occurring within the context of ‘competitive austerity’ and neoliberal economic globalization,<sup>219</sup> a trend that began in the early 1980s and accelerated at the beginning of the twenty-first century with the introduction of Canada’s most recent immigration legislation, the *Immigration and Refugee Protection Act* (2002).<sup>220</sup> The federal government’s immigration policy shift toward temporary migration over permanent settlement during this period effectively increased the numbers of TFWs coming to Canada.<sup>221</sup> This trend is associated with the federal government’s devolution of authority over political membership to the subnational level, a process through which

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<sup>218</sup> The theoretical and empirical scope of this paper is relatively modest. As such, I emphasize that the partial denationalization of political membership vis-à-vis Canadian immigration is merely *one* example of incipient denationalization. Other examples of denationalization might include the partial denationalization of citizenship, where citizenship is conceived of in terms of rights and/or in a more normative sense in terms of citizenship as a practice. For example, in terms of rights, the rise of international human rights norms and instruments, particularly those related to migrant workers’ rights, signify another partial but incomplete transformation in the institution of citizenship, even if these instruments are weak and defer to state sovereignty. In terms of practice, scholars such as Peter Nyers, Daiva Stasiulis, Engin Isin, and others have theorized about the extent to which noncitizen subjects such as refugees, undocumented workers and temporary foreign workers are able to become active agents within the relations of governance in the host state. This paper, however, is primarily concerned with the extent to which recent (im)migrants are governed, by whom, and how, with a focus on the disaggregation of political authority over political membership to private interests. None of this is to say that the incipient denationalization of political membership cannot occur simultaneously alongside renationalizing processes, processes most clearly illustrated within the province of Quebec. The Canada-Quebec Accord, signed in 1991, devolved responsibility for immigration to province of Quebec. As both a concession to practicality and for the sake of theoretical parsimony, and because of the particularity and singularity of the experience of immigration in Quebec, it is beyond the scope of this essay. However, it is worth noting that the devolution of authority to Quebec over issues related to immigration may have set a precedent for the subsequent delegation of authority to provinces and territories.

<sup>219</sup> When discussing globalization, the focus of this essay is primarily with the relation between economic globalization and international migration, where some of the forces of economic globalization are most evident.

<sup>220</sup> On privatization in Canada, see for example: Fudge, Judy and Brenda Cossman. 2002. pg. 418. Fudge and Cossman detail how, beginning in the early 1980s and becoming further entrenched and established throughout the 1990s, “the project of privatization was institutionalized in Canada.”

<sup>221</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 15



employers are granted a significant degree of power over immigrant selection, recruitment and repatriation, powers previously reserved for the federal government.<sup>222</sup>

In addition to the rhetoric emphasizing the global competition for ‘the best and brightest’ and the framing of Canadian immigration policy through an explicit recognition of the exigencies of economic globalization and neoliberal stateness, the process of incipient denationalization will be illustrated through an examination of four distinct, yet interlinked ‘micro-processes’ of denationalization.<sup>223</sup> These intersecting, potentially overlapping, at times mutually constraining, and otherwise mutually constitutive developments are the following:

- as part of the global convergence of economic immigration policies amongst immigrant-receiving ‘settler states’, **the move to ‘human capital’ selection model ushered in through the revised Federal Skilled Worker Program**
- **increased emphasis on temporary migration** through the expansion of the Temporary Foreign Worker Program (TFWP) and the introduction of the Low-Skill Pilot (LSP)
- **the devolution of federal authority to provinces and territories through the proliferation of Provincial Nominee Programs (PNP) and the Canadian Experience Class (CEC)**, two pathways to permanent residency which grant the private sector, via increased provincial jurisdictional authority, a significant degree of power to select, nominate (and repatriate) migrant workers. These pathways serve to bypass the cumbersome bureaucratic process and the heavily restricted criteria associated with Federal Skilled Worker Program
- and, with the emphasis on **temporary migration, the implementation of a ‘probationary immigration’ system, a ‘two-step’ immigration process** through which provinces, employers, and post-secondary institutions nominate individuals in Canada for permanent residence after participating in the labour market for a specified duration. Through the proliferation of PNPs and the introduction of the

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<sup>222</sup> For a helpful summary of these developments, see Alboim, Naomi. 2009.

<sup>223</sup> Sassen, Saskia. 2006. pg. 8. An emphasis on the partial quality or incompleteness of this process enables a more careful and modest assessment of the ‘micro-transformations’ and ‘micro-processes’ underlying the transformation of political membership. In contrast to post-national theories of citizenship premised on a wholesale shift toward universal personhood and thus the end of the nation-state based membership, discussing these micro-transformations helps to resist the tendency to conduct a premature postmortem on national membership. The notion of a partially denationalized membership is more apt for theorizing about how globalization can bring about particular transformations inside the nation-state that have the potential to directly and indirectly alter specific elements of membership. These transformations are usefully distinguished from the idea of post-national citizenship because, as Sassen notes, these changes in the condition of political membership are endogenous to the national and “are not predicated necessarily on deterritorialization or locations for the institution outside the national state as is key to conceptions of post-national citizenship.

CEC, authority over immigrant selection and nomination is delegated to the private sector through a ‘two-step’ process.

Each of these developments intensifies the economistic tendencies of the current immigration regime. The contemporary focus on ‘just in time’ immigration<sup>224</sup> and the assessment of immigration policy in terms of labour market responsiveness is reflected in the emphasis on the expedited entry of foreign labour through temporary migration and the introduction of ‘probationary immigration’ programs. The shift toward temporary migration over permanent settlement signifies how neoliberalism has penetrated the practices and principles associated with political membership. Taken as a whole, these developments signal the subjugation of public interests to a private agenda, a typical feature of neoliberal rationalities of governance.

The intensification of these economistic tendencies of the current immigration regime contributes to the partial denationalization of political membership in a number of ways. For instance, the human capital model speaks to the exigencies of the neoliberal state and “the subjugation of the public to the private.”<sup>225</sup> With its focus on competitive austerity, the flexibility of prospective immigrants, and their capacity for self-finance, the human capital model mirrors the economic immigration policies adopted elsewhere.<sup>226</sup> The global convergence of economic immigration policy helps to verify and establish the notion of political membership based on skill and human capital endowments, a trend which has become a central feature of the economic immigration policies of prosperous ‘settler societies’ such as the US, Canada, Australia and New Zealand. What is more, the administrative techniques and rationalities of government between settler states reciprocally influence one another; this tendency is evident above all in the emulation of migration policies between countries, particularly the introduction of the ‘points systems’

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<sup>224</sup> Friesen, Joe. 2012. *Globe and Mail*. “Kenney urges employers to help build just-in-time immigration system.”

<sup>225</sup> Clarke, John. 2005. pg. 452.

<sup>226</sup> Walsh, James. 2011. pg. 863. While Walsh’s study is specific to Canada’s point system and the emulation of the model in Australia, he also documents the extent to which these systems are now globalized. According to Walsh, similar selection criteria and numerical assessment techniques have been “extensively analyzed and emulated.” He notes that New Zealand, the UK and Czech Republic have implemented policies “explicitly designed after Canada and Australia’s,” and many other states such as Germany, the US, Italy, Japan, Singapore or the European Commission, have pursued similar measures.

in countries such as Canada and Australia.<sup>227</sup> Both countries developed migration policies that reflect and replicate one another. With the heightened relevance of the ‘internationalization of public policy’ in era of globalization, a variety of countries have hitherto adopted the same points system and selection model. Catherine Dauvergne observes that prosperous states are shifting immigration laws in the same directions in the case of both humanitarian and economic admission policies and selection criterion. She argues that through the “global convergence of [economic immigration] policy,” the era of globalization has legitimated “a new variety of mobility based on skill.”<sup>228</sup> In the end it matters little “what direction the laws of non-prosperous nations take.” While wealthy nations can hardly be said to make up the entire globe, they are the authors of globalization’s script, a ‘stock story’ which casts some in the lead role while relegating others to role of supporting cast(e).<sup>229</sup>

Another aspect of the process of incipient denationalization is the **federal devolution of authority** to provinces and territories over immigration the effect this has on political membership. A central feature of denationalization, according to Sassen, is that as the national scale (e.g. federal jurisdiction over immigration) loses “specific components of the state’s formal authority,” other scales, such as subnational scales, become increasingly important. While Sassen focuses primarily on the global city, her proposition fits well with the growing importance of other subnational scales such as provinces and territories as a result of the federal devolution of authority over immigration.

The final instance of incipient denationalization, the increased numbers of temporary entrants and the implementation of the two-step immigration process, is related both to the move to the human capital model and the devolution of federal

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<sup>227</sup> *ibid.* 864-865. Walsh notes how until the 1960s, Canada and Australia approached migration policy “through the lenses of economic and cultural nationalism.” Canada (1967) and Australia (1979) adopted a ‘universal’ points system based on corporate employment evaluations that gauged the suitability of prospective immigrants in terms of economic potential. The purportedly objective, numerical form of such evaluation systems, formerly entitled the ‘Norms of Assessment’ (Canada) and the Numerical Multifactor Assessment System (Australia) provide “technical approaches for administering migration and constitute numerical indexes of desirability in which applicants undergo insurantal evaluations to gauge their probable socioeconomic costs and contributions to the receiving society.”

<sup>228</sup> Dauvergne, Catherine. 2003. My emphasis. pg. 740. The global convergence of economic immigration policies in settler states is further elaborated in chapter six.

<sup>229</sup> *ibid.* My emphasis.

authority. In relation to the first point, this is because the human capital model and highly restricted nature of the FSWP disqualifies a number of people perceived to have less ‘human capital’ from entering Canada as permanent residents, thus increasing provinces’ reliance on temporary migration to meet immediate labour market needs. Second, the devolution of federal authority to the subnational level through PNPs and the CEC gives provinces and territories increased leverage over the federal government to meet their regional, social and economic objectives without necessarily requiring their approval. In a research paper for the Law Commission of Ontario, Jamie Baxter illustrated how these frameworks enable provinces and territories to establish their own nomination and criteria and set target admission levels for nominees from year to year without the approval of the federal government. Subsequently, most provinces restrict provincial nominees to specific occupations or industries.<sup>230</sup> In sum, the heavily restricted nature of the FSWP; the expansion of the TFWP; and the growth in PNPs and the CEC signal the ‘partial denationalization’ of political membership in Canada. A more thorough examination of these programs appears later on.

Overall, Canadian immigration policy represents as a form of ambivalent negotiation between short-term and long-term goals. The attempt to meet immediate labour market needs and regional demographic demands both supplements and contradicts the long-term goal of securing a flexible, highly-skilled workforce which will contribute to Canada’s prosperity and help maintain Canada’s global competitiveness for years to come. The contradictions between the short-term goals of immediate labour market needs – which entails the admission of less than ‘ideal’ immigrants - and, on the other hand, the long-term goal of maintaining a prosperous, relatively egalitarian society

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<sup>230</sup> Baxter, Jamie. 2010. pg. 20-21. “Provinces do not require approval from CIC when they create or implement new streams or when they make changes to existing ones. The PNP agreements also call for the federal and provincial governments to negotiate evaluation plans for each provincial program, but so far negotiations in this area have not been forthcoming, leaving the provinces effectively unrestrained in developing and modifying their programs. At the level of evaluating individual nomination applications, provincial governments, sometimes in partnership with employers and other non-governmental actors, are given the broad authority to make most, if not all, substantive determinations about eligibility. These parties process nominee applications and present a final nomination certificate to the CIC, which assesses basic individual admissibility requirements with respect to the health, criminality and security risk of the nominee. Once the basic federal requirements are met, provincial nominees are normally approved and the necessary documents are issued by CIC to individual workers.”

based on the principles of permanent settlement and family reunification, is a recurring trend throughout Canadian history. Historically, Canadian immigration policy is defined by “an ongoing battle between proponents of using immigration for long term (economic and demographic growth) goals and proponents of using it for short term (current labour market) goals.”<sup>231</sup> While the intensity, complexity and specifics of these competing economic rationales have changed considerably over time, along with the ‘ideal’ subject of governance to which these long-term goals of ‘nation building’ correspond, the continuing legacy remains largely the same: juggling these competing economic, social and political rationales means that Canada is, and always has been, in the words of Donald Avery, a ‘reluctant host’ to immigrant labour.<sup>232</sup>

With private agendas and market norms parading as public policy and common sense, national agendas are recalibrated toward global systems. This begs the question, who exactly is at the helm of Canadian political membership? The answer is not entirely clear. What is clear, however, is that political inquiry must become more attuned to the ways that the boundaries between public/private, global/national are never absolute, but rather, tend to blend and blur together to the point where distinctions such as ‘national’ and ‘international’ or ‘public’ and ‘private’ begin to lose the qualities of unicity traditionally ascribed to them.

## **Part II: Reconfiguring the State and State Sovereignty**

Neoliberal exigencies reshape the realm of decision-making over political membership, with employers exercising a significant degree of control in the realm of policy-making, program development and in the workplace itself. This development has implications for a standard assumption of political inquiry: specifically the orthodox assumption of the state’s monopoly on the regulation of movement and its exclusive authority over the admission of foreigners. According to a number of scholars, the capacity of sovereign states to “set the terms of entry and exit, establish immigration targets” through the use international migration as a ‘regulatory labour market tool’ is

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<sup>231</sup> Green, David and Alan G. Green. 2004. pg. 102.

<sup>232</sup> Avery, Donald. 1995.

shifting.<sup>233</sup> Is this the case in Canada? In pursuit of an answer, this thesis uses the contemporary Canadian immigration regime as a strategic research site from which to examine the disjunctures of globalization in relation to political membership.<sup>234</sup> To illuminate these disjunctures, the following sections examine *the relation* – theorized as “the distance, the tension”<sup>235</sup> – between, on the one hand, the idea of sovereignty as an exclusive control over entry and exit, and on the other, the pressures states encounter from global and private actors, norms and agendas in the control and regulation of political membership. This relation is clearly illustrated in two ways: first of all, in the general influence of neoliberal ideals and private norms in the public realm of immigration policy; and second, in the control private employers exercise in the workplace to nominate, or repatriate foreign nationals at their discretion, as well as their role as ‘stakeholders’ in the creation, revision and administration of immigration policy and program development. Directly and indirectly, these trends signal the growing degree of private influence over political membership, the incipient denationalization of membership, and as a result of these trends, the partial disaggregation of sovereign state authority over ‘who gets in’ and ‘who stays out’.

In the examination of the Canadian context, if we consider one of the defining characteristics of state sovereignty to be exclusive control over who enters, Sassen’s comment that immigration is “a sort of wrench one can throw into theories of sovereignty” seems accurate with respect to the substantive devolution and privatization of authority over immigration and political membership.<sup>236</sup> An overview of the consequences of the market-driven aspects of immigration policies and law provides a strategic research site through which neoliberalism’s micro-transformations of the state, state sovereignty and its monopoly over entry and political membership, become

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<sup>233</sup> Gabriel, Christina and Hélène Pellerin. 2008. pg. 199.

<sup>234</sup> Held, David et. al. 1993. pg. 265. Held et al. describe globalization in terms of disjunctures between different sources of power, authority and their respective (and potentially conflicting) commitments and goals. Disjunctures of globalization are said to occur between, on the one hand, “the formal domain of political authority liberal democratic states claim for themselves, and on the other hand, the ways in which international, regional and global power structures that condition the actual practices of states.”<sup>234</sup>

<sup>235</sup> Sassen, Saskia. 1996. Sassen argues that immigration is a “strategic research site” for the examination of changing nature of state sovereignty as exclusive control over who enters.

<sup>236</sup> *ibid.*

legible.<sup>237</sup> In mapping out the nexus between state sovereignty, immigration, and political membership, my concern is not so much with the degree of effective control a state has over its borders, something we all know is never absolute. Rather, my concern lies with the substantive nature of federal state control over immigration given the neoliberalisation<sup>238</sup> of the public sphere and with it, the devolution and privatization of authority over immigration and the selection of new immigrants. This disaggregation of authority is part and parcel of what constitutes neoliberal ‘good governance’<sup>239</sup> in an age of competitive austerity; the contemporary immigration regime serves to reduce federal government spending on an expensive and sluggish bureaucratic selection process while at the same time, maintain the competitiveness of Canadian industries within the global economy through the expedited entry of highly-skilled and lower-skilled TFWs. It is also designed to bypass the cumbersome and increasingly restricted Federal Skilled Worker

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<sup>237</sup> Walsh, James. 2008. pg. 876.

<sup>238</sup> Harvey, David. 2005. pg. 64-65. With neoliberalism and the move from Fordism to a Post-Fordist economy, state sovereignty is “willingly surrendered to the market.” The defining features of neoliberalism are deregulation, privatization, competition and flexible accumulation. Harvey suggests that the neoliberal state aims to internally reorganize the role of the state through new institutional arrangements that “improve its competitive position as an entity vis-à-vis other states in the global market.” It is claimed that privatization and deregulation enable increased competition, “eliminate bureaucratic red tape, increase efficiency and productivity and reduce costs, both directly to the consumer through cheaper commodities and services and indirectly through reduction of the tax burden.” According Sedef Arat-Koc, neo-liberalism emphasizes self-reliance and independence, thus representing a movement away from “the post-war conception of an inclusive social citizenship to an exclusive market-based one. In this discourse, the only ‘good citizen’ is the atomized market player” (1999, 36).

<sup>239</sup> On a critical interpretation of neoliberal ‘good governance’, see the work of Nikolas Rose. 1999. pg. 27, 16-18. Rose uses the work of Michel Foucault and considers neoliberalism as a postwelfare era rationality of governance that seeks to reduce the role of the state through “various deployments of the notion of entrepreneurship.” Neoliberal rationality emphasizes entrepreneurial spirit and enterprise in all areas of governance. Rose writes that good governance can be understood in two ways: normative or descriptive. Understood normatively, governance tends to be judged positively when political strategies “seek to minimize the role of the state, to encourage non-state mechanism of regulation, to reduce the size of the political apparatus . . . [and] to change the role of politics in the management of social and economic affairs.” In short, good governance is understood as “. . . less government, [with] politicians exercising power by steering (setting policy) rather than rowing (delivering services.)” The second sense of good governance refers to a descriptive or sociological meaning. Here governance refers to the pattern that emerges “as the resultant of the interactions of a range of political actors – of which the state is only one.” Politics is seen as “increasingly involving exchanges and relations amongst a range of public, private and voluntary organizations, *without a clear sovereign authority*.” While each approach speaks to the overall disaggregation of political power beyond the state, a comparison of ‘governmentality’ and the ‘sociology of governance’ is far beyond the parameters of this thesis. In terms of the disaggregation of power and authority to a range of political actors ushered in by the minimal, ‘thin’ or ‘competitive’ neoliberal state, and the move from government to governance, the descriptive aspects of these approaches are not altogether dissimilar to those taken up in Public Administration literature, such as ‘New Good Governance’. On ‘New Good Governance,’ see for example. Lester M. Salamon, *The Tools of Government: A Guide to the New Governance*.

Program. To meet the changing needs of the Canadian labour market according to rapid fluctuations in labour supply and demand, the TFWP expedites the entry of people otherwise ineligible under the federal 'point system'. More and more, the federal government delegates its managerial functions and selection authority to the private sector both highly-skilled and lower-skilled occupations.<sup>240</sup> However, as Macklin notes, where the Canadian state "supplements the private sector's efforts to recruit 'high-skill' workers by encouraging workers to acquire permanent residence, it does not offer incentives to attract 'low-skill' workers in the competitive global market, but instead erects barriers to discourage permanent settlement."<sup>241</sup>

Elements of Sassen's theoretical vocabulary, particularly the notion of a 'partial' or 'incipient' denationalization offer an interesting way to make sense of the impact of globalization on political membership in Canada. While this paper utilizes her notion of partial or incipient denationalization, it also departs from her usage of the term in significant ways.<sup>242</sup> Here, the incipient denationalization of membership can be understood as a process whereby globalizing dynamics are filtered and constituted through the principles, practices, administrative techniques and governing logic underlying political membership in Canada.<sup>243</sup>

Through immigration policies and law, the Canadian state regulates political membership and capitalizes on migration through the production of a number of different precarious or 'less than full' migration statuses that correspond to immigration and

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<sup>240</sup> Macklin, Audrey. 2002. pg. 221.

<sup>241</sup> *ibid.*

<sup>242</sup> Sassen, Saskia. 2006. pg. 320. It is important to note that Sassen speaks of the denationalization of citizenship. At times, she uses citizenship and political membership interchangeably. I prefer to speak of the denationalization of 'political membership' over 'citizenship' for reasons that were discussed in the second section of the "Prelude." In addition to my preference for the notion of political membership over an all-encompassing notion of 'citizenship', Sassen is interested in 'denationalization' of political membership in a different sense. Sassen is more concerned with the changes in the state/citizen relationship, and the "growing distance between the state and the citizen." For example, undocumented immigrants, the "unauthorized yet recognized" subjects of political membership, are able to claim entitlements and rights associated with permanent residency and social citizenship in spite of their illegality. Other examples Sassen uses include the ability of citizens to sue their own governments and/or bring international human rights norms to bear on national courts, legislatures, processes and actors. See generally Sassen, Saskia. 2006. Chapter 4.

<sup>243</sup> Benhabib, Seyla. 2004. This definition of political membership borrows from and expands upon the tentative definitions used by Seyla Benhabib. While Benhabib also uses citizenship and political membership interchangeably, at times she seems to define political membership more in terms of the sense I employ.



occupational criteria – a process referred to as the *differential inclusion* into political membership.<sup>244</sup> The differential inclusion of people into is directly related to the partial denationalization of political membership and the devolution of federal authority over immigration. For instance, two migrants with a relatively similar profile could have vastly different opportunities to settle permanently based on the province or territory of their original work permit and the extent to which their occupation is in demand. Selection criteria such as level of education, official language capability and occupational classification are weighted differently and depend on the type of work permit issued and the route to permanent residency for which a worker is eligible.<sup>245</sup>

Differential inclusion is calculated through reference to an index of eligibility, itself structured around qualities of independence, enterprise and flexibility, attributes largely determined by the logic of a strict matrix or continuum of deservedness concocted in the political laboratory of business-government partnerships, such as those taking place periodically since the introduction of IRPA around the creation and revision of the National Occupational Classification (NOC). The NOC was created and now revised every five years to keep up with current labour market conditions; businesses, employers, labour-market specialists, politicians and other knowledgeable ‘stakeholders’ formulate the criteria for eligibility and create a database of occupational titles which are categorized in terms of skill level, i.e. from highly-skilled to skilled, semi-skilled and lower-skilled. Through the process of differential inclusion, the mobility rights associated with permanent residency and citizenship are differently allocated to individuals based on human capital and their perceived ability to establish themselves financially and contribute to the Canadian economy.<sup>246</sup> Current migration policies do the “dirty work” of citizenship by structuring the vulnerability of immigrants through the coercive designation of “various categories of precariousness,” whether it be the crackdown efforts experienced by newcomers, refugee claimants, asylum seekers, and transients deemed ‘illegal’ through to those deemed ineligible for permanent residence, a manufactured state of social and political insecurity referred to by some as “permanent

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<sup>244</sup> Sharma, Nandita. 2006.

<sup>245</sup> House of Commons. 2009. *Report of the Standing Committee on Citizenship and Immigration. Temporary Foreign Workers and Non-Status Workers*. pg. 10.

<sup>246</sup> Sharma, Nandita. 2006.

temporariness.” Additionally, there are probationary streams associated with the two-step process and the notion of “transitional temporariness,” and finally, for some, the coveted prize of permanent residence and perhaps eventually, citizenship.<sup>247</sup>

The vulnerability of (im)migrants is institutionalized through various entry categories that correspond to restrictions on freedoms, privileges and entitlements. Because of the complexity and differences with regard to the enjoyment of employment rights, entitlements and access to federal services across the range of migrant statuses, this thesis focuses on two deprivations common to each and every TFW in Canada: the denial of (labour) mobility rights and the highly contingent (if at all existent) nature of their access to permanent residency. For example, on one end of the continuum of deservedness, undocumented migrants live and work in a state of illegality. TFWs in the Seasonal Agricultural Worker Program (SAWP) live and work in a state of what Macklin calls ‘permanent temporariness’ with no eventual prospects of attaining permanent residency or citizenship. TFWs in the Live-in-Caregiver (LIC) program live and work in a state of ‘transitional temporariness’, because their ability to attain permanent residency is conditional upon their employment in Canada for a series of three years and the approval of their employer, an authority who, moreover, normally dictates living arrangements for the LIC; both of these admissions standards exacerbate an already unequal power relationship between employer and employee, a story which is often retold by those who hope to gain the chance for permanent residency, which, as I have noted, is dependent on the employer’s approval. Depending on their location and occupation, TFWs in the LSP can fall into both of the latter, with some TFWs eventually becoming eligible for permanent residency while most others exist in a state of ‘permanent temporariness’ without any possibility of attaining permanent residency and the rights and entitlements of citizenship. For good reason, each avenue toward permanent residency has been described as a ‘precarious pathway’ to citizenship.

Unlike TFWs, those coming to Canada under the Skilled Worker Program or the Business Class come to Canada as permanent residents with the eventual prospect of citizenship. As a whole, these different categories of precariousness demonstrate the hierarchy of political membership that characterizes the current Canadian immigration

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<sup>247</sup> Macklin, Audrey. 2010. pg. 332. Quoted in Fudge, Judy, 2011. pg. 5.

regime. Access to legal and social citizenship is highly stratified according to labour market status, and for TFWs, if and when it exists at all, it is contingent, compromised, or denied altogether.<sup>248</sup>

### **Part III: The Commodification of Newcomers**

To clarify, the position being advanced here is not that the federal devolution and privatization of authority over immigration to the provinces is a bad thing *per se*. Rather, the problem that many have identified with this approach to immigration is the parochial scope and economistic outlook it codifies and institutionalizes. Dobrowolsky expresses these exact sentiments; she argues that this approach “commodifies migrants as it revolves around market calculations that typically involve accruing maximal economic gains with minimal financial outlay, and where cost-cutting (for governments) as well as money-making (for business) become leading considerations.”<sup>249</sup> Observing these trends in Nova Scotia, Dobrowolsky writes:

... these [economistic] tendencies can intensify with the decentralization of immigration policy, especially when various ‘nonstate’ immigration intermediaries in the private sector become a large part of the mix. Because the latter’s main interest lies with the economic bottom line, social and cultural issues, including negative class, gender, and race dynamics, are rarely recognized, nor is there a vested interest in remedying them.<sup>250</sup>

The economic, employer-driven aspects of current immigration regime reflect globalizing trends and as such, are characteristic of neoliberal governance more generally. However, if neoliberal globalization is to be interpreted as a largely endogenous process and in ways other than an intractable, inevitable process of ‘state capture’ to global forces, a more careful assessment of the specific details of the current immigration regime, as well as the actors involved, is required. Furthermore, a country-specific case study helps to elucidate the impact of globalization on the state and nation-state membership in ways that more general claims about globalization cannot. As Abu-Laban and Gabriel note, a fuller comprehension of globalization requires “attending to empirical evidence gleaned from specific countries, specific actions and specific policy

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<sup>248</sup> Macklin, Audrey. 2002. pg. 260.

<sup>249</sup> Dobrowolsky, Alexandra. 2011. pg. 109.

<sup>250</sup> *ibid.* pg. 109-110.

discussions engaged in by state actors.”<sup>251</sup> For this reason, a country specific case study focused on policy transformations is useful for coming to terms with broader trends associated with globalization and its impact on prosperous nations and immigrant-receiving states in the ‘global North’.<sup>252</sup>

This section highlights four ‘moments’ or ‘instances’ of partial or incipient denationalization, all of which occurred in years leading up to the fin-de-siècle or shortly thereafter. By identifying these moments of partial denationalization, this section will underscore how the treatment, or the economic valuation - or as Dobrowolsky and many others would have it - the commodification<sup>253</sup> of newcomers and prospective immigrants, is associated with the federal government’s attempt to frame immigration explicitly around a recognition of economic globalization and the need to make the current immigration regime (and the newcomers ‘welcomed’ under the auspices of its authority) more flexible and responsive to the exigencies of the global economy.<sup>254</sup> In keeping with neoliberal notions of economic flexibility, and because previous versions of the Immigration Act were amended countless times over the years, the ‘framework legislation’ approach to the IRPA allows it to be more flexible and adaptable to changing economic considerations. As ‘framework legislation’, the IRPA leaves the actual details of implementation and procedures to extensive regulations that can be changed without Parliamentary review or involvement.<sup>255</sup>

As scholars such as Dauvergne remark, the most important changes to Canada’s most recent immigration legislation are those reflecting the reality of Canada’s economic and political location within the context of neoliberal globalization.<sup>256</sup> Many of those changes illuminate, intensify and complicate what some have referred to as

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<sup>251</sup> Abu-Laban, Gabriel. 2002. pg. 19.

<sup>252</sup> *ibid.*

<sup>253</sup> Arat-Koc, Sedef. 1999. pg. 36. Arat-Koc argues that Canada’s immigration ‘point-system’ emphasizes neo-liberal ideas such as individual responsibility and economic performance. The treatment of immigrants as commodities leads to “an evaluation of people’s potential contribution to and value to the country solely on the basis of their expected place in the labour market.”

<sup>254</sup> CIC. 1998. *Building on a strong foundation for the 21st century*. Globalization is referred to as “the most significant trend affecting immigration today.”

<sup>255</sup> Pratt, Anna. 2005. pg. 4.

<sup>256</sup> Dauvergne, Catherine. 2003. pg. 741.

globalization's 'hierarchy of mobility',<sup>257</sup> and its affiliated form of political membership whereby rights and entitlements are allocated according to skill and human capital endowments, thus privileging entrepreneurial, market citizen-subjects over others. The global hierarchy of mobility based on skill and occupational status is part of the "worldwide and local redistribution of privileges and deprivations" whereby different types of immigrants are "differently encouraged, managed and controlled."<sup>258</sup>

While clear-cut temporal periodization is difficult, this process of incipient denationalization arguably began in the 1980s. Intensifying throughout public debate and policy development in the 1990s around the need to revamp Canadian immigration policy,<sup>259</sup> this process accelerated and gained considerable ground with the introduction of the IRPA. The global reorientation of the national in response to economic globalization is reflected in the current immigration regime by the "*numbers and nature of the newcomers in question, the kinds of immigration programs being championed and developed, as well as the categories of immigrants and programs being downplayed and even denigrated.*"<sup>260</sup> Looking at the shifting composition of immigrant admissions beginning in the late 1980s and continuing to the present day, Peter Li highlights how the emphasis on rebalancing immigration objectives away from 'self-selected' immigrants and the move toward selecting immigrants on human capital and labour market needs is reflected in the increasing proportion of economic immigrants and the declining numbers of those admitted on the grounds of family reunification or humanitarian considerations.<sup>261</sup>

Throughout the 1980s, immigrants admitted under the economic class made up about one-third to one-half of the total volume of immigration to Canada. The shifting emphasis to rebalance the program in the early 1990s resulted in a larger

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<sup>257</sup> Bauman, Zygmunt. 1998.

<sup>258</sup> Ong, Aihwa. pg. 260. Ong argues that "... neoliberal calculations invest in particular kinds of subjects and mobilize them in relation to capital accumulation." Subsequently, social rights are aligned with market calculations, and populations are regulated through a form of "graduated sovereignty" which affects bodies in different ways. Ong uses the idea of "flexible citizenship" to describe practices of self-governing, and the types of "managerial migrants who seek to circumvent as well as capitalize on different contexts of sovereignty."

<sup>259</sup> For a helpful summary of the political debate of the 1990s leading up to the creation of the IRPA, see Abu-Laban, Yasmeen and Christina Gabriel. 2002.

<sup>260</sup> *ibid.* pg. 112-113. My emphasis.

<sup>261</sup> Li, Peter S. 2003. pg. 80-81.

share of immigration being allotted the economic class. By the mid-1990s, over half of all immigrants admitted every year belonged to the economic class. . . In 2000, the economic class reached as high as 58 per cent of the total number of immigrants admitted that year.<sup>262</sup>

While the family class made up close to 55% in 1982, by 2000, that number had declined to 27%.<sup>263</sup> The increase in the relative size of the economic class, he observes, naturally implies “decreasing proportionally the intake of other classes, and vice versa.”<sup>264</sup> These trends remain roughly the same in recent years. In 2010, the percentage of permanent residents (principal applicants) entering under the family class totalled 33.5%. Meanwhile, the number of immigrants entering under the economic class totalled 52.8%.<sup>265</sup> The numbers are even more striking when comparing spouses and dependants and those who are entitled to bring their family to Canada. For example, the family class totalled a mere 8.6% of total admission levels, while economic immigrants represented 81.3% of total spouses and dependants welcomed to Canada in 2010.<sup>266</sup>

The main thrust of the contemporary immigration regime is permeated with a neoliberal logic of what scholars call ‘competitive austerity’.<sup>267</sup> This is evident in the type and number of immigrants that should be accepted, the commodification of newcomers and “the pursuit of cost-saving measures that include decentralizing programs and, increasingly, devolving responsibility to the private sector, *where capital appropriation and accumulation are primary objectives*.”<sup>268</sup> The commodification of immigrants based on their economic potential and capital contributions is apparent when ‘ideal’ immigrants, and thus prospective citizens, are recognized as those who will enhance Canada’s human capital base and by extension the states’ competitiveness in the global economy.<sup>269</sup> The ‘best’ immigrants are determined on the basis of their capital

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<sup>262</sup> *ibid.* pg. 81.

<sup>263</sup> Li, Peter S. 2003. pg. 81.

<sup>264</sup> *ibid.*

<sup>265</sup> CIC. 2010. *Facts and Figures*. pg. 12.

<sup>266</sup> *ibid.* pg. 13.

<sup>267</sup> Albo, Gregory. 1994. pg. 144-170.

<sup>268</sup> *ibid.* pg. 113. My emphasis.

<sup>269</sup> Abu-Laban, Yasmeen and Christina Gabriel. 2002. pg. 65. The idea of human capital is derived from economic theory. It holds that people’s knowledge and skills are “a factor of production in the same way as physical capital (buildings, raw materials, machinery etc.) Skills and knowledge are acquired throughout an

contributions and ability to establish themselves economically in Canada. Capital contributions are assessed on the basis of short and long term criterion;<sup>270</sup> and depending on the mode of entry, they can take the form of significant personal net worth and the capacity for self-finance, and/or the education and skills associated with ‘human capital’.

<sup>271</sup> As many scholars have pointed out, the ‘ideal’ immigrants are those who contribute to economic growth while costing less, thus avoiding any risk to Canadian society in the sense of becoming a tax burden on Canadian citizens or draining the coffers of the federal government. For Canada’s federal government, these include the following economic immigrants, the numbers and variants of which have grown significantly under the current immigration regime:

. . . *business immigrants* who bring in capital. . . *temporary workers* who are sent home after the job is done in order to keep unemployment and welfare costs down. . . the new [*Canadian*] *Experience Class* immigrants who are selected by postsecondary institutions and businesses; and the rapidly expanding numbers of *provincial nominees* who, as we shall see. . . have skill sets that are in demand. Dramatic growth in the latter is already apparent. . . and is anticipated to continue, with the number of immigrants arriving through nominee programs forecasted to double from 20,000 to 40,000 between 2009 and 2012. As states privilege the entry of wealthy, ‘well-educated, highly qualified, and relatively young migrants,’ they also ‘discourage others whose economic contribution is harnessed by the low-skill job market or whose labour is largely confined to the domestic sphere,’ and such immigrant preferences have not only class, but gender and race repercussions.<sup>272</sup>

To begin to flesh out some of the consequences of the neoliberalisation of Canadian immigration policy, the next section provides a more detailed overview of the new model of economic immigration ushered in through the IRPA.

## **Part IV: Quantifying Newcomers - The Human Capital Selection Model**

### **The Consequences of the revised Federal Skilled Worker Program**

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individual’s life-time through ‘investments’ in formal education, on-the-job training (apprenticeship) and work experience. Such investments are linked to productive capability.”

<sup>270</sup> *ibid.*

<sup>271</sup> Dobrowolsky, Alexandra. 2011. pg. 357.

<sup>272</sup> *ibid.* pg. my emphasis.

With the introduction of the IRPA, a new model of economic immigration was implemented to “respond to the dynamic labour market associated with today’s knowledge-based, global economy.”<sup>273</sup> Cast in a positive light, the revised design of the Federal Skilled Worker Program (FSWP) under the IRPA is based on a points-system metric of human capital selection criteria and transferable skills rather than on specific skills or occupations in demand. According to the federal government, the new selection approach to the FSWP is intended to “maximize the long-term potential of economic immigrants in an increasingly complex labour market and knowledge-based economy, by focusing on key human capital attributes” such as education, language, work experience, age, offer of arranged employment and adaptability.<sup>274</sup>

In recognition of the impossibility of micro-managing the constantly evolving labour market (and the undesirability of such strong state intervention in a neoliberal policy environment), and the inability to predict with certainty “the exact skill sets required at any point in time” in a rapidly-changing global economy, more emphasis is placed on general education than specific skills, which consultants and policymakers argued provides a better indication of the “long-term flexibility” of prospective immigrants.<sup>275</sup> In keeping with the contemporary neoliberal vision of a successful, flexible worker, rather than attempting to recruit immigrants into sector specific jobs or occupations in demand, “Canada’s system has been retooled to attract those who will be able to move through different types of jobs over the course of their lifetime.”<sup>276</sup> While points are still awarded to those with Arranged Employment Offers, level of education is considered a better indicator of “long-term flexibility than specific skills.”<sup>277</sup> Abu-Laban and Gabriel note that with the new FSWP, “the government has moved away from a

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<sup>273</sup> CIC. 2010a. *Evaluation of the Federal Skilled Worker Program*. pg. 35. According to CIC, the new selection approach for Federal Skilled Workers was based on two major research papers crafted in the 1990s titled Not Just Numbers: A Canadian Framework for Future Immigration (1997) and ‘Towards a New Model of Selection. Current Selection Criteria: Indicators of Successful Establishment’ (1998). The new model for economic immigration emphasized the “growth of knowledge industries and the need for self-supporting immigrants.” Because of the formulation of this selection model occurred over the 1990s, clear-cut periodization relating to changes in the current immigration regime is difficult.

<sup>274</sup> *ibid.* pg. 26. Adaptability criterion is awarded on five dimensions: “a positive arranged employment opinion, spousal (partner’s) education, family relations in Canada, post-secondary study and work experience in Canada.”

<sup>275</sup> *ibid.* pg. 35.

<sup>276</sup> Dauvergne, Catherine. 2003. pg. 741.

<sup>277</sup> CIC. 2010a. *Evaluation of the Federal Skilled Worker Program*. pg. 35.



model predicated on a list of occupations in demand to the emphasis on transferable skills and human capital as embodied in individual immigrants.”<sup>278</sup> One of the unforeseen consequences of this move is that now most recruiting to meet specific labour market needs and occupational demands is addressed through temporary labour migration in accordance with employer-driven demand.<sup>279</sup>

While stakeholders such as employers and provincial governments recognize the continuing need for the FSWP and the long-term desirability of highly skilled professionals, the high threshold for admission into the FSWP coupled with lengthy bureaucratic delays in the processing of applicants means the FSWP is unable to respond to short-term needs such as immediate regional and labour market demands.<sup>280</sup> This is in large part because FSWP is designed to address the demand for highly skilled immigrants over the need for lower-skilled immigrants.<sup>281</sup> While the prioritized assessment and processing of highly skilled workers with an Arranged Employment Offer helps to respond to immediate labour market needs, these admissions account for a relatively small percentage of immigrants admitted through the FSWP.<sup>282</sup> More significantly, shortages in lower-skilled occupations cannot be addressed through Arranged Employment Offers because they do not meet the human capital selection criteria or the requirements for receiving an Arranged Employment Offer; only employment offers in the 0, A or B categories of the NOC are eligible for an Arranged Employment Offer.<sup>283</sup> Furthermore, the FSWP is ineffective in attracting highly skilled immigrants to more rural provinces and communities because these workers tend to migrate to urban centres.<sup>284</sup> The cumulative impact of lengthy processing times, ineligibility of prospective immigrants and other difficulties means that the FSWP is considered less responsive to meeting the immediate needs of provinces and employers. As a result of the constant flux of economic cycles, growth in particular sectors, and demographic trends associated with particular occupations, provinces and employers are turning to the temporary sector to

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<sup>278</sup> Abu-Laban, Gabriel. 2002. pg. 80.

<sup>279</sup> *ibid.*

<sup>280</sup> CIC. 2010a. pg. 11. *Evaluation of the Federal Skilled Worker Program.*

<sup>281</sup> *ibid.* pg. 12.

<sup>282</sup> *ibid.*

<sup>283</sup> Under the NOC, category 0 is for management positions, category A is for occupations usually requiring a university education, and category B is for require college education or apprenticeship training.

<sup>284</sup> CIC. 2010a. pg. 17. *Evaluation of the Federal Skilled Worker Program.*

address ‘skills shortages’ and fulfill their immediate occupational demands and regional needs.

Ostensibly designed to ‘complement’ the FSWP,<sup>285</sup> a number of temporary schemes have been instituted, updated or expanded since the introduction of the IRPA to address the ‘skills shortages’ directly related to the high threshold for admissions through the revised FSWP.<sup>286</sup> These include a number of bilateral federal-provincial agreements called PNPs and in 2008, the introduction of the Canadian Experience Class (CEC).<sup>287</sup>

## **Part V: Provincial Nominee Programs and the Canadian Experience Class**

### **Side Doors to Permanent Residency**

Canadian immigration is a complex political and legal matter, deemed a ‘concurrent power’ within the federal distribution of powers. Immigration is a shared responsibility between the provinces and the federal government. Historically, in most instances immigration is administered federally; federal legislation is given ‘paramountcy’. However, so long as provincial policies are not “repugnant” to federal law, they operate as official legislation.<sup>288</sup> More recently, however, immigration is becoming more of a decentralized system through which authority over political membership is devolved to the private sector (employers and post-secondary institutions) via increased provincial and territorial jurisdiction. For these reasons, within the scholarly literature on ‘fiscal federalism’, Canada’s model of decentralization is considered an ‘ideal type’.<sup>289</sup>

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<sup>285</sup> *ibid.* pg. 9. CIC states that rather than duplicate the FSWP, the temporary schemes are designed to ‘complement’ the program.

<sup>286</sup> One could argue that indirectly, the social unacceptability of lower-skilled occupations in the ‘new knowledge economy’ has also contributed to these labour shortages.

<sup>287</sup> Provincial nominee programs grant provinces (read ‘employers’) the power to nominate highly skilled or semi-skilled TFWs with an arranged offer of employment for permanent residency. Highly skilled TFWs can also transition to permanent residency through the Canadian Experience Class. Since its introduction in 2008, post-secondary institutions can also nominate successful international students with at least one year of full-time work experience (through the Post-graduate work permit) in managerial, professional or technical positions for permanent residency (National Occupational Classification 0, A and B).

<sup>288</sup> Boushey, Graeme and Adam Luedtke. 2006. pg. 213.

<sup>289</sup> *ibid.*

The devolution of authority over immigration to provinces occurs through the growing number of federal-provincial agreements on immigration, specified in section 8(1) of the IRPA. Section 10(2) of the IRPA provides the legal provisions to ensure that the federal government takes into account regional economic and demographic requirements when instituting or changing immigration and integration policies.<sup>290</sup> These provisions grant provinces greater authority to tailor economic immigration to their particular labour needs and economic development agenda. One of the primary ways through which these immigration policies address regional variations is through the federal-provincial agreements outlining PNPs. Section 87 of the IRPA established the Provincial Nominee Class of economic immigrants.<sup>291</sup>

Like other economic entrants, provincial and territorial nominees are people who are evaluated on the basis of their ability to become economically established in Canada and contribute to local economic development. They may become eligible for permanent residency in a province or territory that has entered into provincial nomination agreement with the federal government.<sup>292</sup> Over time, all ten provinces and one territory have entered into bilateral federal-provincial nomination agreements. Provincial and territorial governments may nominate a person for a permanent resident visa if their skill set or occupation is in particular demand. These programs grant greater power to provincial governments, in partnership with private sector employers, to nominate TFWs and their dependents for permanent residency.<sup>293</sup>

The federal government maintains considerable control over immigration policy by “defining classes of admissibility and inadmissibility” related to health and security criteria and by “ensuring that Canada meets its international obligations with respect to refugees.”<sup>294</sup> Nonetheless, federal-provincial agreements envisage greater scope for the provinces to structure decision-making processes surrounding political membership and to specify the criteria for eligibility and permanent residency through the provincial nominee class, thus granting greater flexibility to provinces to pursue their own social,

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<sup>290</sup> CIC. 2002. *Canada's Immigration Law*. p. 30.

<sup>291</sup> Canada. Canadian Federal Government. Department of Justice. 2001. *Immigration and Refugee Protection Act*.

<sup>292</sup> CIC. 2012. *Provincial Nominee Program*. See also IRPR, S.O.R. 2002-227 § 87 (1).

<sup>293</sup> Baxter, Jamie. 2010. pg. 20.

<sup>294</sup> *ibid.* pg. 17.

economic and demographic objectives.<sup>295</sup> The number of people nominated through the provincial nominee programs has the potential to become very large given that these paths to permanent residency are based on employer-demand and are no longer subject to a quota by the federal government.<sup>296</sup>

PNPs emerged toward the end of the twentieth century, with their popularity increasing to the present day. With the exception of the Canada-Quebec accord, all of the federal-provincial agreements on immigration were initiated or updated with the introduction of the IRPA in 2002. Provincial nominations for permanent residency initially amounted to a small percentage of the overall immigrant admissions to Canada, constituting a mere .5% of economic immigrants in 2002. In more recent years, however, provincial nominees and their dependents have risen, constituting nearly 13% of all economic entries in 2010.<sup>297</sup> These programs provide a series of decentralized mechanisms through which private employers, via provincial governments, have greater access to cheap, reliable foreign workers.<sup>298</sup> Provincial nominees are assessed on the basis of special admission criteria developed by each respective provincial government. As Fudge and MacPhail note, “[e]ach provincial program is unique, with varying eligibility requirements, which means that factors such as years of schooling, official language capability, and occupational classification are assigned different values in different provincial programs.”<sup>299</sup>

The majority of provincial nominees are people who initially entered Canada with a temporary work authorization through a stream of the federal TFWP.<sup>300</sup> Expedited through the immigration process, successful provincial nominees gain permanent residency status “. . . in a fraction of the time that it would take them . . . via other federal immigration streams.”<sup>301</sup> This is because provincial nominees are not subject to a federal Labour Market Opinion (LMO), a process requiring considerable time and resources. This expedited process is attractive to employers because it closes the gap in time

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<sup>295</sup> *ibid.*

<sup>296</sup> *ibid.* Previously, these programs were subject to a cap, but this quota has been lifted in recent years.

<sup>297</sup> CIC. 2010a. *Evaluation of the Federal Skilled Worker Program*. pg. 7.

<sup>298</sup> Baxter, Jamie. 2010. pg. 22.

<sup>299</sup> Fudge, Judy and Fiona MacPhail. 2009. pg. 23.

<sup>300</sup> Baxter, Jamie. 2010. pg. 24. It should be noted that a limited number of highly skilled workers can come directly to Canada through PNPs.

<sup>301</sup> *ibid.*

between “the point at which employers identify labour needs and the point when workers are actually available to fill these positions.”<sup>302</sup>

The LMO evaluates the projected impact of hiring a foreign national on the Canadian labour market within a particular sector or occupational category. When applying for an LMO, employers must demonstrate:

- the efforts made to recruit and/or train willing and available Canadians/permanent residents;
- that the wages you are offering are consistent with the prevailing wage rate paid to Canadians in the same occupation in the region;
- that the working conditions for the occupation meet the current provincial labour market standards; and
- any potential benefits that the hiring of the foreign worker may have on the Canadian labour market (e.g., creation of new jobs, transfer of skills and knowledge, etc.).<sup>303</sup>

An LMO is then provided to CIC, the Ministry ultimately responsible for issuing employment authorizations to foreign nationals. There are several additional exceptions to the LMO requirement available for employers recruiting workers in certain occupations deemed “under pressure,” a list which is designed through private sector consultation to quickly address regional variation and province specific labour shortages by avoiding the bureaucratic backlog of the normal LMO process. The expansion of this fast-tracked process for attaining a temporary work authorization means a significant amount of foreign workers enter Canada as temporary workers solely on the basis of employer demand and without being subject to an assessment of the economic impact of their presence within the Canadian labour market.<sup>304</sup>

From the perspective of provincial government officials and segments of business community, the reallocation of federal jurisdiction over immigration vis-à-vis- PNPs and the CEC is celebrated as a “good news story,” and a strategic form of collaboration between “business, government, and community sectors.”<sup>305</sup> However, critics of the

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<sup>302</sup> *ibid.*

<sup>303</sup> CIC. 2009a. *How to Hire a Temporary Foreign Worker: A Guidebook for Employers.*

<sup>304</sup> Baxter, Jamie. 2010. pg. 25.

<sup>305</sup> House of Commons. *Report of the Standing Committee on Citizenship and Immigration.* pg. 10.

program have raised concerns about the power employers exercise in various aspects of immigration process. Baxter has pointed out that the practical control employers exert over the recruitment, nomination and settlement of provincial nominees is the “most striking feature” of the PNPs.<sup>306</sup> Private employers, he observes, act as “de facto principals for provincial nominees, selecting workers for nomination directly – sometimes through foreign recruiters as part of the TFWPs – and providing support and settlement services for them in Canada.”<sup>307</sup>

Across the diverse policy landscape of provincial nominee programs, to become provincial nominees, it is normally required that TFWs must be employed by their nominating employer for a minimum period<sup>308</sup> (usually six to nine months, but this period is dependent upon the occupation and jurisdictional criteria) and, in addition, prospective nominees are required to have received a long-term offer of employment prior to lodging an application for provincial nomination.<sup>309</sup> In provinces where these nomination programs exist at all for lower-skilled streams of workers, these programs represent the only route to permanent residency for these workers.<sup>310</sup> The cumulative effect of requirements such as the minimum period of employment, the TFWs’ dependence on employer’s support for nomination, along with the minimum income condition can be challenging for lower-skilled workers to meet.<sup>311</sup>

Because the devolution of federal jurisdiction over immigration to private actors and provinces has resulted in the growing variance in the structure of nominee programs

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<sup>306</sup> Baxter, Jamie. 2010. pg. 25.

<sup>307</sup> *ibid.*

<sup>308</sup> Baxter, Jamie. 2010. pg. 22. “All existing PNP streams for lower-skilled workers require nominees to first become temporary workers admitted into the province through one of the federal TFWP streams and to work under a temporary permit for a minimum time period before they are eligible to apply as a nominee.” Some variations of the PNPs allow highly skilled workers to be recruited from outside Canada without first applying through a stream of the TFWP.

<sup>309</sup> CIC. 2011a. *Evaluation of Provincial Nominee Program*. pg. 32. In some provinces and territories, this requirement is waived if the provincial nominee has a permanent job offer.

<sup>310</sup> Currently, only Alberta (2006) and British Columbia (2008) allow lower-skilled workers (National Occupational Classification groups C and D) the chance to attain permanent residency. Within these provinces, there are heavy restrictions on the occupations under the C and D categories eligible for PNPs or the CEC. In the remaining provinces and territories, there is no chance for lower-skilled workers to attain permanent residency. Moreover, because their work permits are employer specific, they are not able to move to a province or territory where they may be eligible.

<sup>311</sup> Fudge, Judy. 2011. pg. 21.

from province to province, it is increasingly difficult for academics and policymakers alike to navigate the complex policy terrain of these programs and coordinate effective program design and regulatory mechanisms between provinces and the federal government.<sup>312</sup> The overall fragmentation in objectives and implementation of PNPs not only undermines the federal objective of articulating a coherent national immigration agenda, but perhaps more importantly, as a research paper prepared for the Law Commission of Ontario states, “it also threatens to severely erode the abilities of provincial and federal governments to coordinate a system of labour protections and services for vulnerable lower-skilled workers.”<sup>313</sup>

This last point is important because in addition to matching migrants with the immediate labour market needs of different regions, in principle these pathways to permanent residency are designed in part to address the vulnerability TFWs face due to their temporary status. The frameworks currently in place, however, tend to perpetuate the disproportionate bargaining power of employers and the power differentials between employers and workers built into the federal TFWP.<sup>314</sup> Understood from this perspective, Baxter suggests that PNPs act less as a “response” to the insecurities faced by TFWs and more as “an extension of existing trends” which institutionalize and structure their precariousness.<sup>315</sup> While pathways to permanent residency opened up by PNPs remove the employers’ ability to “repatriate” TFWs at their discretion, thereby alleviating aspects of the power imbalance between employers and TFWs, Baxter argues that unequal configurations of power are deflected back into the employment relations by the inadequate design and implementation of the PNPs:

. . . employers’ exclusive controls over nominee recruitment and sponsorship ratchets up the pressures on temporary workers before they receive nominee status. The possibility of permanent residency, without further restraints on employer discretion or a wholesale shift away from using the TFWPs as a gateway to the nominee programs, may ultimately exacerbate rather than diminish the level of coercion and resulting abuses already experienced by temporary foreign workers. [Moreover,] the institutional complexity resulting from the division of PNPs into sector-specific streams and provinces’ ability to change

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<sup>312</sup> Baxter, Jamie. 2010. pg. 22.

<sup>313</sup> *ibid.*

<sup>314</sup> Baxter, Jamie. 2010. pg. 24.

<sup>315</sup> *ibid.*

these programs at will favours employers and disadvantages foreign workers, who are already hindered by language barriers and access to information challenges.<sup>316</sup>

Without going into the minute details of each program, there are two features common to each of the PNPs.<sup>317</sup> The first is the nearly unlimited autonomy of provinces to develop and administer programs under the federal-provincial agreements. Provincial governments hold exclusive authority over the establishment of program criteria, nomination quotas, and administrative roles.<sup>318</sup> As a result, the role of the federal government is limited to monitoring admissibility requirements to ensure their compatibility with the IRPA and to “negotiate evaluation processes for each provincial program.”<sup>319</sup>

The second feature common to all PNPs is that like the TFWP, they are employer-driven and thus reflect the interests of powerful private actors.<sup>320</sup> Baxter observes that employers directly generate “the demand for foreign workers, sometimes participate actively in developing specific PNPs, and invariably exert a high degree of practical control over the nominee and recruitment processes.”<sup>321</sup> Most of the demand for provincial nominees is specific to larger businesses and employers. Because the costs associated with hiring a TFW are quite substantial and designed to limit employer dependency, the PNP and TFWP are popular with larger employers but are usually too expensive for small and medium businesses to adopt.<sup>322</sup> Large businesses can more easily afford “the significant administrative costs that can attach to recruiting, transporting, re-settling, and training nominees, such that the demands of these enterprises are most likely to dominate nominee programs.”<sup>323</sup> For example, Maple Leaf Foods, a Canadian-owned food processing company and one of Canada’s largest agribusinesses, spent approximately \$7,000 per worker to employ TFWs at their Brandon, Manitoba plant, first

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<sup>316</sup> *ibid.* pg. 27-28.

<sup>317</sup> *ibid.*

<sup>318</sup> *ibid.*

<sup>319</sup> *ibid.*

<sup>320</sup> *ibid.* pg. 22.

<sup>321</sup> *ibid.*

<sup>322</sup> *ibid.* pg. 23.

<sup>323</sup> *ibid.* pg. 23-24.



selecting them through the TFWP and eventually nominating them for permanent residency through the Manitoba PNP.<sup>324</sup>

The CEC,<sup>325</sup> introduced in 2008, offers another avenue for permanent residence. With a few exceptions, the CEC offers TFWs who fall under the National Occupational Classification's skill type O (managerial occupations), A (professional occupations) or B (technical occupations or skilled trades) a chance to attain permanent residency after completing at least two years of full-time skilled work experience in Canada. Applicants are assessed on the basis of their work experience and their language abilities - they must complete an independent language test to assess their comprehension in one of Canada's official languages. This immigration stream also offers international students at the post-secondary level graduates the opportunity to become permanent residents. The CEC is a welcomed development to many critics of the TFWP insofar as it provides an indication of the federal government's willingness to provide a pathway toward permanent residence for TFWs. However, it also excludes most lower-skill TFWs coming to Canada under the NOC categories C and D, with level C referring to occupations that usually require secondary school or occupation-specific training, and level D referring to short work demonstration or on-the-job training. Their ineligibility for the Canadian Experience Class is significant because workers under the NOC's categories C and D accounted for nearly half (42.4%) of all TFWs in Canada in 2010.<sup>326</sup>

Though these programs were initially intended to 'complement' the FSWP, bypass some of its bureaucratic inefficiencies, and reduce the inventory of immigration applicants, these programs are no longer subject to a federal government quota and are growing rapidly as a consequence. Critics argue that "the number of provincial nominees is growing at the expense of the FSWP," even potentially replacing it altogether.<sup>327</sup> As Alboim notes, what began as niche programs to "respond to specific regional needs could become the primary sources of economic immigrants to Canada."<sup>328</sup> Perhaps more significantly, however, in keeping with neoliberalism's mantra of competitive austerity,

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<sup>324</sup> *ibid.*

<sup>325</sup> CIC. 2008. *Canada Experience Class: Who Can Apply*. See also *Immigration and Refugee Protection Regulations*, S.O.R. 2002-227 § 87.1 (2)(a)(i).

<sup>326</sup> CIC. 2010. *Facts and Figures*. pg. 79.

<sup>327</sup> Alboim, Naomi. 2009. pg. 19.

<sup>328</sup> *ibid.*

through the proliferation of PNPs and the introduction of the CEC, the federal government has devolved its authority over political membership to provinces, employers and postsecondary institutions along with “much of its role and the cost associated with selecting the future citizens.”<sup>329</sup> The result, according to Alboim, is a fragmented national immigration policy, and a “patchwork of criteria, admission requirements, costs, processes, services and supports which are difficult to understand or predict.”<sup>330</sup>

Additional restrictions on the FSWP continue unabated in recent years, intensifying the need for other sources of economic immigrants.<sup>331</sup> Subsequently, PNPs and the CEC have come to play an important role in the immigration process as of late. With the devolution of authority over political membership to provinces, employers and postsecondary institutions through PNPs and the CEC, significant aspects of the responsibility for political membership and the selection of prospective immigrants has been partially reoriented to the private sector. While the PNP has been successful in its attempt to ‘regionalize’ immigration and distribute the benefits of immigration more widely across Canada,<sup>332</sup> it clearly is a band-aid solution to the larger problems with Canadian immigration policy.

## **Part VI: Setting the Bar High**

### **New Restrictions on Federal Skilled Workers**

In June 2008, IRPA was amended as part of the Budget Implementation Bill. Legislative changes included the removal of ministerial instructions requiring that all completed applications received be processed.<sup>333</sup> Changes to the IRPA granted the Minister of Citizenship, Immigration and Multiculturalism authority to limit the number

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<sup>329</sup> *ibid.*

<sup>330</sup> *ibid.*

<sup>331</sup> Amendments to the IRPA in 2008 placed even more substantial restrictions on the FSWP and granted greater power to the Minister of Citizenship, Immigration and Multiculturalism to limit the processing of Federal Skilled Worker applications. These developments will follow. In addition to limiting the number of applications processed, as of 2011, applications must fall into one of 29 eligible occupations. This seems to represent the failure of the ‘human capital’ model to meet the short-term needs of the labour market.

<sup>332</sup> CIC. 2011a. *Evaluation of the Provincial Nominee Program*. The evaluation of the PNP revealed that although many 82% of provincial nominees (from 2002-2008) continue to reside in their province of nomination, immigrants entering Canada through the FSW and Family Class are more likely to stay in the province or territory.

<sup>333</sup> OAG. 2009. pg. 14. *Chapter 2: Selecting Foreign Workers under the Immigration Program. 2009 Fall Report of the Auditor General of Canada.*

of immigration applications, the order in which they are to be processed (thus expediting the process for some groups of applicants), and the number to be processed in a given year.<sup>334</sup> The Canadian Council for Refugees has criticized these amendments because it gives the Minister an inordinate degree of arbitrary power to make up the rules and impose ad-hoc solutions as they go along.<sup>335</sup>

Later that year, as a result of consultation with provinces and stakeholders, the federal government utilized this new authority to limit FSW applications to 38 occupations determined to be under pressure and to applications with offers of a positive Arranged Employment Opinion from HRSDC.<sup>336</sup> As of July 1, 2011, the number of eligible occupations was limited to 29, with a maximum 10,000 federal skilled worker applications eligible for consideration within the following twelve months. Immigration applications will only be considered for processing if they apply under one of 29 eligible occupations deemed in demand. With the 10,000 quota, “a maximum of 500 federal skilled worker applications per eligible occupation will be considered for processing each year.”<sup>337</sup> Thus, federal skilled worker applications are assessed under the point system only if the principal applicant has received a positive Arranged Employment Opinion and/or their occupation is one of the 29 eligible occupations.<sup>338</sup> Those who do not meet the strict criteria are advised that they have the option of applying under a PNP or one of the streams of the TFWP if eligible.<sup>339</sup>

The restrictions on federal skilled workers were ostensibly put into force to deal with the backlog of over 900,000 immigrant applications. While these restrictions reduce the inventory of immigrant applications, they create additional problems.<sup>340</sup> Provinces are now increasingly reliant on provincial nominee programs to meet private sector demands and maintain population growth.

Provinces have complained that the list [of eligible occupations for the Skilled

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<sup>334</sup> Alboim, Naomi. 2011. pg. 32.

<sup>335</sup> CCR. 2008. Other problems with the amendments include the elimination of the requirement that all overseas applications for humanitarian and compassionate consideration be examined. Instead, “the law will permit such applications to be returned unexamined or simply shredded.”

<sup>336</sup> Alboim, Naomi. 2011. pg. 32.

<sup>337</sup> CIC. 2012. *Skilled workers and professionals - Who can apply*.

<sup>338</sup> Alboim, Naomi. 2009. pg. 32.

<sup>339</sup> *ibid*

<sup>340</sup> *ibid*.

Worker program] is too narrow and limits the range of occupations necessary for a thriving economy. Some provinces have expressed the concern that the policy will require them to enhance their provincial nominee programs and the resources to run them, purely to get the range of occupations they need.<sup>341</sup>

The expansion of the provincial nominee programs is a direct result of the reduction in the number of people eligible for the FSWP and significant restrictions in place on the number of FSW applications considered for processing. This trend is particularly evident in western Canada, where Alberta and British Columbia instituted their own PNPs in 2002 and 2004 respectively because with substantial economic growth and increased employer demand, the FSWP “was not meeting regional needs in terms of numbers, processing times, occupations and skills.”<sup>342</sup>

The PNPs were initially crafted to ‘regionalize’ immigration and disperse the benefits of immigration to rural areas outside of Canadian’s traditional immigration hubs, namely Toronto, Vancouver, and Montreal. However, even Ontario, which has traditionally received the majority of immigrants, started a pilot provincial nominee program in 2007 that has become permanent, in large part due to the decline in the intake of FSWs.<sup>343</sup> While PNPs were initially created to complement the SFWP, bypass some of its bureaucratic inefficiencies, and reduce the inventory of immigration applicants, these programs are no longer subject to a quota.

The number of immigrants coming to Canada under the Economic Class has remained steady during the first decade of the twenty-first century. However, a significant shift has occurred in recent years related to the minimum target levels set for the number of immigrants Canada accepted under each category of the Economic Class.<sup>344</sup> This shift is primarily due to two factors: the heavy restrictions on the number of FSW applications processed along with the shift in skill composition of the majority of immigrants as a result of increased demand for lower-skill labour. The federal government observed that the number of people Canada planned to accept into the economic class is increasingly influenced by the movement of some TFWs and

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<sup>341</sup> *ibid.* pg. 33.

<sup>342</sup> *ibid.*

<sup>343</sup> *ibid.* pg. 34.

<sup>344</sup> OAG. 2009. pg. 11.

international students who, after a period of two years in Canada, are eligible for permanent residency through the Live-in Caregiver category, the PNP and CEC.<sup>345</sup>

With restrictions placed on the FSWP, the PNP expanded dramatically. For example, between 2004 and 2009, the number of FSWs annually entering Canada dropped from 112,700 to 72,000, while the number of PNPs went from 3500 in 2004 to 26,000 in 2009. Other notable trends during this period include the increase in immigrants coming to Canada through the Federal Business Class (6000 in 2004, to 12,000 in 2009).<sup>346</sup> Increased economic activity, primarily in Western provinces, coupled with lengthy delays in processing FSW applications resulted in an increase of nearly 471% in the minimum target levels for admissions into the PNP category from 2004 to 2009.<sup>347</sup> At the same time, the minimum admission levels for the FSW program dropped 31%.

The projections offered by CIC indicate a significant shift in the immigration target levels of each category within the Economic Class for the years to come.<sup>348</sup> For example, the FSW category is projected to drop 73.6% from a target level of 68,200 in 2009 to a mere 18,000 in 2012. The PNP is expected to double during the same period, growing from 20,000 to 40,000. Similar trends can be observed within the CEC, with target levels anticipated to grow dramatically by 426%, from 5000 in 2009 to 26,300 in 2012. Because the number of TFWs admitted each year are not subject to a quota, target levels for the CEC must be adjusted accordingly to compensate for the anticipated volume of permanent residency applications to be received from these TFWs.

The expansion of the TFWP and the introduction of the LSP, a stream of the TFWP put into force with the introduction of IRPA represents a significant moment of partial denationalization. The subsequent modification and adjustment of the program under the federal Conservative government from 2005 onward occurred in response to demands from employers and provinces, primarily in response to economic exigencies of the Western provinces. Despite the government's own criticisms of the program and calls for increased regulatory controls from organized labour and immigrant advocates,

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<sup>345</sup> *ibid.*

<sup>346</sup> *ibid.* pg. 12.

<sup>347</sup> *ibid.* pg. 13.

<sup>348</sup> *ibid.*

amendments and adjustments to the TFWP expanded the program and made the hiring process for lower-skilled TFWs more accessible and desirable for employers with little consideration of the impact of these changes on workers themselves. These changes designed to make the TFWP more ‘employer friendly’ are also associated with the changing skill composition of TFWs, i.e. the increased demand for lower-skill TFWs.<sup>349</sup> The changing skill set of TFWs is noteworthy because unlike highly-skilled TFWs, the majority of ‘lower-skilled’ TFWs are ineligible for permanent residence. The desire to accommodate employer demands for quick and easy access to TFWs through the development of an ‘employer friendly’ TFWP signifies the penetration of private interests within the public sphere, and thus, a process of partial denationalization. The next section begins to theorize about relation between privatization and globalization, and what the privatization of immigrant selection means for standard accounts of sovereignty.

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<sup>349</sup> Fudge, MacPhail. 2009. pg. 18.

## Chapter Six

### Part I: Globalization, Privatization, and State Sovereignty

#### The disaggregation of sovereign control over political membership

Discussions of globalization usually focus on its impact on the state. Within these theoretical debates, the regulation of political membership through the control of visas, passports, and work permits are often held up as “examples of the nation state’s continuing prowess.”<sup>350</sup> Indeed, in the context of globalization, control over immigration is considered the “last bastion” of state sovereignty.<sup>351</sup> As such, immigration policy may seem like less of a promising site to examine privatization, if privatization means the complete withdrawal of the state.<sup>352</sup>

Abu-Laban and Gabriel suggest that “changes in immigration selection speak to a broader trend of implicit and explicit withdrawal of the state from labour market regulation” in recent years.<sup>353</sup> However, this does not amount to an “absolute withdrawal” of the state, but it does represent a significant reorientation of the state and a recalibration of its role in the engineering of its population, the management of immigration selection and the regulation of the labour market, largely for the sake of competitive austerity - increased global competitiveness and the reduction of government spending.<sup>354</sup> With regard to the impact of privatization on the state in the course of immigrant selection, discussing the presence or absence of the state in terms of its substantive control over these processes has less explanatory value than examining the nature of its changing role in light of privatization measures; this is due to the fact that privatization is a “selective, uneven process both in application and impact.”<sup>355</sup> Macklin discusses the effect this selective, asymmetrical privatization of the state in the selection of TFWs:

Increasingly, the state is also delegating selection of temporary workers to the private sector; to the extent that the state encourages ‘high-skill’ workers to

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<sup>350</sup> Dauvergne, Catherine. 2003. pg. 737.

<sup>351</sup> Dauvergne, Catherine. 2004.

<sup>352</sup> Macklin, Audrey, 2002. pg. 218.

<sup>353</sup> Abu-Laban, Yasmeen and Christina Gabriel. 2002. pg. 184.

<sup>354</sup> Macklin, Audrey. 2002. pg. 259.

<sup>355</sup> *ibid.* pg. 260.

immigrate, the private sector plays a critical role in choosing new Canadians. At the same time, the state reserves its most intensive regulation and intervention in the market for those migrants deemed 'low-skill,' in order either to keep out or to ensure that their labour remains cheap and available to private employers on favourable terms.<sup>356</sup>

With the benefit of hindsight it is see how Macklin downplays the significance of the private sector in the selection of a mix of migrants and skill types, including lower-skilled workers. Writing in 2002 before the expansion of the TFWP, when the impact of PNPs was miniscule, and long before the introduction of the CEC, it is understandable that Macklin attributes privatization measures largely to recruitment in the highly skilled sector. Since then, the private sector, via increased subnational jurisdictional authority and the development of additional pathways to permanent residency, plays an important role in the recruitment of immigrants and prospective citizens.

Globalization and privatization occupy a central place in the analytical vocabulary for describing social, economic and political transformations. For Macklin and many others, globalization and privatization go hand in hand; economic globalization should be understood as 'privatization writ global' because globalization is largely driven by the private sector.<sup>357</sup> Globalization signifies, therefore, "a shift in the locus of decision-making not only from the nation-state to transnational actors, but also from national governments to the private sector,"<sup>358</sup> some of whom may operate along transnational dimensions. In this respect, the current IRPA represents a compromise between global and national, public and private forces; in fact, when navigating the current immigration regime, finding the global in the national, or distinguishing the private from the public, is enormously complex given the reciprocal influences between domestic and international, and public and private.

By and large, immigration objectives, and the regulation of political membership, are written in the language of competitive austerity; competitive in the sense that the Canadian government increasingly links immigration policies and objectives with global competitiveness, labour market restructuring, and economic prosperity, while placing an emphasis on the economic potential of prospective immigrants. The economic potential

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<sup>356</sup> *ibid.* pg. 220.

<sup>357</sup> *ibid.* pg. 230.

<sup>358</sup> *ibid.* pg. 237.



of prospective immigrants is measured by assessment criteria and selection processes characteristic of neoliberal administrative mechanisms and organizational techniques.<sup>359</sup>

The language of competitive austerity signifies the twin pressures of neoliberal globalization, what one might call its mantra: competitiveness in the conditions of financial austerity; thus, like other government functions, the administration and management of immigration policy aims not only to enhance the global competitiveness of the state, but just as importantly, to do so within the context of fiscal austerity, reduced federal government expenditures and the devolution of immigration responsibilities to subnational levels and non-state actors for the sake of bureaucratic efficiency and economic austerity.<sup>360</sup> Given this environment of competitive austerity, and the rapid technological changes and fluctuations in labour supply and demand that are iconic of globalization, many people argue that the role of government can no longer be that of a micro-manager of the labour market. As one government document indicates, “for such an approach to be effective, very substantial resources would be required to continuously monitor labour market, at a prohibitive cost to taxpayers.”<sup>361</sup>

An analysis of the contemporary Canadian immigration regime requires a brief examination of general trends associated with global political-economic restructuring. Considerable ink has been spilt over this topic so this paper limits itself to a few moments of customary throat clearing. As is well known, the precise meaning of globalization is heavily contested, and a variety of scholars have quarrelled over whether or not the ‘complex connectivity’ or ‘interdependence’ associated with this stage of history we call globalization is ‘qualitatively’ different from other eras in the past.<sup>362</sup> At the risk of oversimplifying this massively complex literature and the debates within it, as alluded to earlier on, the positions tend to range from those who see globalization as an epochal transformation in which the nation-state is of declining significance (what Held deems the ‘hyper-globalist’ position) and on the other end of the spectrum, are those who suggest that globalization is just a retelling of the same old story (the globalization ‘sceptics’). Contrary to our deeply embedded presuppositions about the historical

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<sup>359</sup> Walsh, James. 2011.

<sup>360</sup> Dobrowolsky, Alexandra. 2011. pg. 112.

<sup>361</sup> Quoted in Abu-Laban, Yasmeen and Christina Gabriel. 2002. pg. 80.

<sup>362</sup> Robinson, William I. 2004. pg. 7-8.

emergence of more expansive modes of political and economic organization, the sovereign-territory relation may in fact be exceptional in the history of systems of rule, with more diffuse and reticulated forms of power and authority being the norm that provides the exception. The notion that prior to globalization national states were actually sovereign plays into the idea that state sovereignty can be understood as an ‘achieved condition’ rather than a problem that involves the authorization and delimitation of authority over rights and territory.<sup>363</sup> Nandita Sharma observes that in such assumptions of novelty there is “little or no recognition of how practices of either the national state or capitalists have historically been part of the process of capitalist globalization. Instead, it is argued that the ascendancy of global processes and with it the destruction of national sovereignty is a relatively recent phenomenon.” In this instance, the concept of globalization is not used historically “but is meant to signify that only recently have people’s lives been organized through coordinated global activities.”<sup>364</sup> Indeed, variations of the ‘hyper-globalist’ theme can have the affect of covering over the ways in which states continue to exert considerable power and sovereignty within their internal and external affairs.<sup>365</sup>

The key variable within these debates is the degree of sovereign control or influence that states have over particular issues and policies areas;<sup>366</sup> whether the state is ‘obstinate or obsolete’ as Stanley Hoffman famously put it. While some academics herald the decline of the nation-state as transnational flows of capital, ideas, services, and people undermine traditional notions of territorial sovereignty and national identity, it is perhaps more appropriate to explain and analyze how globalization has transformed and reoriented the functional imperatives of statecraft instead of speaking of the transcendence of the state altogether.<sup>367</sup> Walsh suggests that rather than being understood as “economic and sociocultural regulators and containers,” sovereign states increasingly act as “midwives of globalization,” that is to say, “catalysts, facilitators and engineers of

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<sup>363</sup> See generally, Walker, R.B.J. 2004, 1993.

<sup>364</sup> Sharma, Nandita. 2006. pg. 44.

<sup>365</sup> Abu-Laban, Yasmeen and Christina Gabriel. 2002. pg. 17-18.

<sup>366</sup> Dauvergne, Catherine. 2003. pg.

<sup>367</sup> Walsh, James. 2011. pg. 868.

external economic relations, integration, trading partnerships and the global competitiveness of their populations.”<sup>368</sup>

Responding to capitalist transformation, particularly the spatial restructuring of production systems, deterritorialization of finance and flexibility of accumulation, states have jettisoned monopolistic regulations in favour of new policy paradigms designed to coordinate and oversee the establishment of globally integrated and competitive, rather than nationally aggregated and protected, economies. . . more than withering away, states have reordered their role, agenda and operations to conform to the emergent template of the neoliberal ‘competition state’.<sup>369</sup>

While it might be argued that we risk incoherence if we discuss sovereignty in terms of gradations, in the language of more or less, outside of classical definitions and Hobbesian notions of sovereignty as an “all-or-nothing affair,” in the case of Canadian political membership, it seems as though sovereignty *can* in fact be discussed in terms of a partial disaggregation of authority; the parceling out of sovereignty on the issue of political membership becomes clear upon an examination recent shifts in Canadian immigration policy. While speaking of sovereignty in terms of the embodiment of its claim in specific institutional sites might seem odd or even incoherent, as Walker poignantly observed, “we risk even greater incoherence, and indeed have succumbed to incoherence for quite some time, when we continue to fuse all such meanings [of sovereignty] into a simple definition.”<sup>370</sup>

Building off these comments, this next section attempts to highlight how control over the legitimate means of movement, what John Torpey considers the defining feature of modern state sovereignty, is no longer an ‘all-or-nothing’ affair. As Sassen suggests, “a national state may have the power to write the text of an immigration policy, but it is likely dealing with complex, transnational processes that it can only partly address or regulate through immigration policy as conventionally understood.”<sup>371</sup> Thus, although the state may indeed continue to be the most important actor in the creation and implementation of immigration policy, it is necessary to examine the transformations of

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<sup>368</sup> *ibid.*

<sup>369</sup> *ibid.*

<sup>370</sup> Walker, R.B.J. 2004. pg. 14.

<sup>371</sup> Sassen, Saskia. 1996. pg. 81.

“both the state itself and the inter state system and what these changes can entail for migration policy and the regulation of migration flows and settlement.”<sup>372</sup>

## **Part II: The Monopoly over the Legitimate Means of Movement**

### **Back to the Future - From Private to Public and Public to Private**

Standard accounts of waning state sovereignty and the decline of nation-state citizenship identify the increase of transnational ‘flows’ (of capital, goods, information and services) as part of the process through which the relation between the state and its subjects is potentially transformed. Less often are the transnational migrations of people, and the state objectives developed to entrain, facilitate and respond to these flows, subject to theoretical analysis and empirical scrutiny. John Torpey writes that analyses of international migration and the policies designed to regulate and control the movement of people “have tended to take the existence of states largely for granted, typically attributing migration to a variety of socioeconomic processes” such as push and pull factors, or communities of transnational diaspora. These analyses, he argues, do not pay significant attention to “territorial states’ need to distinguish ‘on the ground’ among different populations.”<sup>373</sup> In order to supersede these standard accounts of migration, analyses that he believes promulgate an inadequate understanding of states in the regulation of migration, processes of state-building and the constitution of territorial borders must be studied alongside the more usual examination of immigration policies. Only then, he argues, can we begin go beyond these partial perspectives to understand states’ monopolization of the capacity to authorize and regulate movement and “unambiguously to establish [individuals’] identities in order to enforce this authority.”<sup>374</sup>

Max Weber is best known for his definition of the state in terms of its “expropriation” and subsequent monopolization of the legitimate use of violence. Torpey argues that in addition to this role of the state, there is another type of expropriation that characterizes the modern world of politics: the defining characteristic of the modern state,

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<sup>372</sup> *ibid.* pg. 90.

<sup>373</sup> Torpey, John. 2000. pg 7.

<sup>374</sup> *ibid.* pg. 6.

he argues, is its monopoly over the legitimate 'means of movement'. The regulation of movement "contributes to constituting the very 'state-ness' of states."<sup>375</sup> In other words, states' monopoly over the legitimate means of movement constitutes the very essence of modern state sovereignty. Modern sovereign states, and the system of sovereign states of which they are a part, "have expropriated from individuals and private entities the legitimate 'means of movement,' particularly through [but] by no means exclusively across international boundaries."<sup>376</sup> "The result of this process," he argues, "has been to deprive people of the freedom to move across certain spaces and to render them dependent on states and the state system for the authorization to do so - an authority widely held in private hands theretofore."<sup>377</sup> Torpey, moreover, provides a powerful explanation of the transition from private to state control over the regulation of movement, a historical shift he understands as an "essential aspect of the transition from feudalism to capitalism."<sup>378</sup> This is not to say, he is quick to qualify, that private actors currently have no say in the regulation of movement, simply that these private entities "have been reduced to the capacity of 'sheriff's deputies' who participate in the regulation of movement at the behest of states."<sup>379</sup>

Torpey's original study offers rich historical details regarding the capacity of the state to regulate and authorize movement and the way this feature of state has come to define state sovereignty. When extrapolating Torpey's analysis to my examination of the contemporary Canadian setting, it becomes clear that Torpey's primary claim, that states have successfully usurped from rival actors such as private enterprises the "monopoly of the legitimate means of movement" is arguably more complex and less of an achieved condition in practice. None of this is to say that Torpey's analysis should be disregarded. However, the type of clear-cut periodization established by Torpey designed to separate

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<sup>375</sup> *ibid.* pg. 6. Establishing precisely how states monopolize the "legitimate means of movement" is critical to developing an adequate understanding of how states work. Torpey notes that, in this sense, Foucault's concept of "governmentality" and his analysis of the techniques of modern governance represent an important contribution to our understanding of the policing and management of populations. Nevertheless, he observes, Foucault's considerations of sovereign power lack any precise discussion "of the techniques of identification that have played a crucial role in the development of modern territorial states resting on distinctions between citizens/nationals and aliens."<sup>375</sup>

<sup>376</sup> Torpey, John. 2000. pg 4.

<sup>377</sup> *ibid.*

<sup>378</sup> *ibid.*

<sup>379</sup> *ibid.* pg. 9.

now from then may be more problematic than he suggests. In fact, toward the end of *The Invention of the Passport*, he hints at the possibility that the state's monopolization of the legitimate means of movement "may be giving way to the return of the private regulation of movement."<sup>380</sup> Using the example of American gated communities, Torpey suggests that we may now be witnessing the advent of a new economic determination of community membership, one which may give way to money and financial resources as the "relevant form of 'identification' that permits access to specified territories." According to Torpey, should this state of affairs materialize, "we would indeed be witnessing the advent of 'post-national' membership."<sup>381</sup>

Despite Torpey's proposition about the state's expropriation of the monopoly over the regulation of movement from private to public hands, "immigration policy is not immune from the transformation signified by privatization."<sup>382</sup> The notion that private actors operate merely in the capacity of "sheriff's deputies" at the "behest of states" seems less certain in the case of Canadian immigration and the regulation of political membership; indeed, if anything, institutional developments and shifts in responsibility for political membership seem to indicate countervailing trends, with employers and the private sector exercising a considerable influence over the regulation of movement and political membership vis-à-vis immigration policy.<sup>383</sup>

The economic determination of membership does not necessarily mean that we are moving to a form of 'post-national' membership. Torpey's provocative forecast of the future of membership beyond the nation state exaggerates the extent to which an economic determination of membership overrides the category of nationality. Reaching

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<sup>380</sup> *ibid.* pg.

<sup>381</sup> *ibid.* pg.

<sup>382</sup> Macklin, Audrey. 2002. pg. 219.

<sup>383</sup> The experience of the Canadian immigration regime does not bear witness to another one of Torpey's generalizing claims. Torpey suggests that the regulation of movement occurs almost exclusively across and between state borders. Where we do see explicit state controls on movement operating within state, he argues, especially when these controls are "to the detriment of particular 'negatively privileged' status groups, we can reliably expect to find an authoritarian state (or worse)."<sup>383</sup> Despite the fact that the history of Canadian state is ridden with stories of marginalization, dispossession and violence, it does not usually fit under the category of authoritarian state, especially when compared to the historical examples Torpey provides to lend credence to his generalization (Soviet Union, Nazi Germany, apartheid-era South Africa, and Communist China prior to the 1980s). Yet, in the case of TFWs, there are indeed considerable controls on the movement of people *within* the Canadian state involving both 'public' and 'private' authorities.

similar conclusions to that of Soysal, albeit through a different manner, both thinkers overlook the ways in which political membership remains deeply connected to the national though on “historically new terms of engagement.”<sup>384</sup> The orthodox assumption of the state’s monopoly on the regulation of movement and its exclusive authority over the admission of foreigners is less tenable in light of the ‘micro-processes’ of denationalization effecting political membership in Canada, i.e. the state’s capacity “privatize what was heretofore public and to denationalize what were once national authorities and policy agendas.”<sup>385</sup> While the effect of these micro-transformations on immigration policy is clearly evident in the Canadian setting, they are also occurring elsewhere as a result of the ‘global convergence’ or ‘internationalization’ of immigration policy. To close, chapter six will discuss the global convergence of economic immigration policies of ‘settler states’ and the renewed significance of temporary labour migration in countries historically predicated on nation-building exercises of permanent settlement.

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<sup>384</sup> Sassen, Saskia. 2006a. pg.7.

<sup>385</sup> *ibid.*

## Chapter Seven

### Micro-processes of Denationalization: Managing Labour Migration

#### Toward a Global Convergence of Economic Immigration

The federal government considers Canada to be a ‘global leader’ in managed migration. Indeed, as many scholars have noted, despite its flaws, the TFWP is often cited by international organizations as an exemplary model of ‘best practices’ for managing migration.<sup>386</sup> The Canadian federal government’s TFWP is a form of managed migration that establishes bilateral linkages and agreements with immigrant-sending countries in order to regulate transnational migration. These strategic immigration and emigration policies coordinate migration with these states and regulate the entry and exit of foreign labour for the economic benefit of state and non-state actors both in immigrant-sending countries and host states such as Canada.<sup>387</sup>

One of the significant characteristics of this type of rotational or circular international migration is that it occurs largely for economic and employment purposes, and is itself structured by the dynamics of global labour market conditions.<sup>388</sup> Another notable feature of this type of interstate labour migration is that it produces highly stratified outcomes according conditions of race, gender and occupation. While it is true that groups of both high- and lower-skilled workers participate in forms of managed migration, there is a sharp divergence in the rights and entitlements allocated to each group; indeed, as Reed observes, “citizenship and labour rights are experienced unequally by different groups of workers.”<sup>389</sup> Some scholars have described this disparity in privileges and entitlements for citizens and permanent residents vis-à-vis non-status immigrants as a “citizenship gap.” This is a gap between migrants and citizens in terms of the “political, civil, and social rights they can claim, as well as a gap in ‘standing’ . . . public presence, or status.”<sup>390</sup> While migrant workers can be found in a range of positions across the continuum of deservedness, immigration policies tend to favour highly skilled

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<sup>386</sup> Hennebry, Jenna L. and Kerry Preibisch. 2010.

<sup>387</sup> Reed, Austina, J. 2008. pg. 470.

<sup>388</sup> *ibid.* pg. 472.

<sup>389</sup> *ibid.* pg. 475.

<sup>390</sup> Brysk, Alison and Gershon Shafir. 2004. pg. 132.



migrants while migrants deemed lower-skill are limited to temporary entry through seasonal or rotational ‘guest worker’ programs.<sup>391</sup>

Managed forms of temporary labour migration are distinct from other forms of transnational migration because they require input from sending and receiving states of workers, both of whom have an economic incentive to create and maintain the circuit of transnational labour between them.<sup>392</sup> Managed migration policy is interesting because it provides an explicit and instructive contrast to the idea, common to discussions of migration, that immigration is an exogenous process, with flows of migrant labour regarded solely on the basis of individual in search of better livelihoods abroad. Sassen argues that such a view places the onus of responsibility for immigration on immigrants. Bailey has made a similar argument, suggesting that much of the contemporary scholarship on international migration is ‘agency-heavy’ and ‘structure-light’.<sup>393</sup> This conventional understanding of migrant labour flows treats the receiving country in a passive manner, as notions of immigrant “invasion” or “influx” within popular discourse seem to indicate.<sup>394</sup> This mechanistic view of immigration is largely ahistorical and promulgates the notion that immigration is “unconnected to the past or current actions of receiving countries, and immigration policy is portrayed as more or less benevolent toward immigrants.” Absent in these discussions is any awareness that the “international activities of the governments or firms of countries receiving immigrants may have contributed to the formation of economic links with emigration countries, links that may invite the movement of people as well as capital.”<sup>395</sup> Immigration is conditioned by the global economic system and labour market conditions in receiving and sending countries, and usually involves direct recruitment of prospective immigrants. As a result, the receiving country cannot be considered “a mere, passive bystander to the whole matter.”<sup>396</sup> The creation and maintenance of a permanent labour circuit between Canada and immigrant-sending nations allows Canada to tap into what Marx called the global

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<sup>391</sup> Gabriel, Christina and Hélène Pellerin. 2008. pg. 2.

<sup>392</sup> Reed, Austina, J. 2008. pg. 472.

<sup>393</sup> Bailey, Adrian. 2001. pg. 421. Quoted in Raghuram, Parvati, 2008. pg. 84.

<sup>394</sup> Sassen, Saskia. 1996. pg. 90.

<sup>395</sup> *ibid.* pg. 91

<sup>396</sup> *ibid.*

‘reserve army of labour,’ according to fluctuations in labour market conditions.

Temporary labour migration is also in the interest of immigrant-sending states, and migrant remittances play a significant role in the economies of much of the ‘developing world’. Immigrant-exporting countries perpetuate this model of managed migration because it is in their interest to do so; in fact the financial stability of these economies often depends on it. By the end of 2003, remittance flows were twice the size of official development assistance.<sup>397</sup> By 2005, annual global remittance flows exceeded that of annual foreign direct investment in the ‘global South’.<sup>398</sup>

Coordinated managed migration between state governments can be achieved through formal agreements.<sup>399</sup> For example, multilateral agreements such as the North American Free Trade Agreement (NAFTA),<sup>400</sup> the General Agreement on Trade in Services (GATS)<sup>401</sup> and bilateral agreements such as the Canada-Chile Free Trade Agreement (CCFTA)<sup>402</sup> expedite the movement of high-skilled professionals between countries. Similar agreements exist for the managed migration of lower-skilled workers, for example, through the memoranda of understanding (MOU) that underpins the

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<sup>397</sup> Simmons, Alan. 2008. pg. 67.

<sup>398</sup> *ibid.*

<sup>399</sup> Rigo, Enrica. 2011. pg. 205-206. Theorists of international migration underscore the fact that the movement of people, especially those in search of work, does not necessarily involve permanent settlement, as was most often the case with mass migrations of the past. Enrica Rigo underscores the idea of ‘transitionality’ as a heuristic device to describe temporary labour migration. The idea of transitionality involves a series of temporal barriers, such as length of stay, time limits for the renewal of documents, etc., used by the political and legal apparatus of immigration authorities to constantly multiply and renew the spatial borders that limit both migrants’ labour mobility and their access to the benefits of legal and social citizenship otherwise nationalized within a territorial space. In this respect, for many migrant workers, then, the border is ever-present and ubiquitous – the border becomes manifest in the ticking of an unwinding clock. Thus, the notion of ‘transitionality’ should not be confused with the transitory path that “virtuously leads to citizenship.” Rather, the concept of transitionality is meant to describe a rotational system of immigration, where work permits are issued for a limited time period and cannot be extended without leaving the host state. Contract labour migration and ‘guest worker’ programs in North America and Europe represent a historical mode of transitionality occurring in primarily in high-income countries during the post-World War II era.

<sup>400</sup> CIC. 2002. *Canada’s Immigration Law*. pg. 23. Chapter 16 of NAFTA specifies that citizens of Canada, the US, and Mexico have “quicker, easier temporary entry into the three countries to conduct business-related activities or investments.” NAFTA regulations apply to four specific categories of business people: business visitors, professionals, intra-company transferees and persons engaged in trade or investment activities.” All of these groups can enter Canada without a labour market test or LMO being applied.

<sup>401</sup> *ibid.* Similar to NAFTA, GATS provides the basis for commitments to allow “market access for foreign service providers in specified sectors” without the need for a labour market opinion. GATS regulations apply to over 130 countries.

<sup>402</sup> *ibid.* pg. 24. Modeled after NAFTA, the rules governing temporary entry are reciprocated between Canada and the Chile, thus eliminating the requirement for an economic effect or labour market test.

Seasonal Agricultural Worker Program (SAWP) between the Canadian and Caribbean governments,<sup>403</sup> or through less formalized measures such as the development of a migration system between Canada and the Philippines.<sup>404</sup> Despite their differences, the most striking commonality running through each of these agreements is that private enterprises are the most optimal determiners of labour migration; the selection and recruitment of migrant workers is based on the demand of the markets and employers themselves.

These frameworks for managed migration signal a transformation in the relationship between the state, private actors, and workers with regard to labour migration. For example, under the GATS framework, Guild observes that the state, through a multilateral arrangement, has “licensed” its monopoly on the movement of labour to private enterprise.<sup>405</sup> Sassen makes a similar point when she writes that although frameworks such as GATS and NAFTA are supranational regimes, “there is a growing influence of private sector interests” within these arrangements.<sup>406</sup> A similar devolution and de-facto privatization of authority has taken place in the case of labour migration to Canada; the monopoly on the movement of migrant workers is disaggregating from the Canadian federal government to the private sector and subnational actors. It is in this sense that political membership, and the conditions of entry and access to rights and entitlements, is no longer the exclusive purview of the federal government.

Many scholars suggest that the last decade has witnessed significant changes in how international migration is managed along with a paradigmatic shift with regard to its normative purpose. According to Samers, toward the turn of the century, managed migration became the watchword of advanced economies of the ‘global North’.<sup>407</sup> Facing the twin-pressures of a skills deficit and a demographic deficit, many of these states became concerned with attracting highly skilled migrants. At the same time, Samers

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<sup>403</sup> Basok, Tanya. 1999. pg. 194. Basok provides a helpful list of the countries involved in the SAWP and the years they began to participate in the program. Jamaica (1966), Mexico (1974), Trinidad and Tobago (1967), Barbados (1967), and the Organization of the Eastern Caribbean States (Antigua and Barbuda, Commonwealth of Dominica, Grenada, Montserrat, St. Kitts-Nevis, Saint Lucia, St. Vincent and the Grenadines) (1976), and Guatemala (2003).

<sup>404</sup> Reed, Austina, J. pg. 475.

<sup>405</sup> Guild, Elspeth. 2005. pg. 126.

<sup>406</sup> Sassen, Saskia. 1999. pg. 178.

<sup>407</sup> Samers, Michael. 2008. pg. 128.

notes, governments actively sought to discourage and ‘crack down’ on the entry of less desirable migrants, such as asylum seekers and those with ‘lower’ skills deemed unworthy of the coveted prize of permanent residency.<sup>408</sup> Within this context, temporary labour schemes re-emerged amongst policy makers because of the realization that numerous forms of capital and production processes were immobile, and thus could not be exported to low-wage countries.<sup>409</sup> As such, some scholars consider the post Cold-War era of international migration as the “second generation” of temporary labour migration programs in much of the ‘global North’.<sup>410</sup> Indeed, the numbers provide an indication of this trend: conservative estimates suggest that since the beginning of the twenty-first century, the temporary migration of foreign workers into high-income states has increased annually at approximately four to five percent.<sup>411</sup> Echoing these sentiments, the UN’s Global Commission on International Migration published a report acknowledging the paradigm shift from permanent settlement to temporary and circular migration amongst many immigrant-receiving wealthier nations.<sup>412</sup>

While a number of manufacturing and textile industries could be outsourced to lower-wage countries, temporary migration works to ‘insource’ other low-wage, secondary sector occupations in areas such as construction, certain service industries, and other jobs fitting the 3-D (dirty, dangerous and difficult) definitional criteria, jobs generally considered undesirable to permanent residents in the ‘global North’. Stasiulis suggests that the renewed significance of temporary labour migration has received a wide range of support from various state and non-state actors, becoming increasingly advocated by labour importing, labour exporting countries, supranational and international organizations:

Individual receiving and sending countries, and supranational and international organizations, such as the European Union, the International organization of Migration and the International Labour Organization have all shown renewed interest in the promotion of temporary migration of workers. The enthusiasm for temporary migration can be seen as part of the trend in economic globalization

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<sup>408</sup> *ibid.*

<sup>409</sup> Stasiulis, Daiva. 2008. pg. 101.

<sup>410</sup> Castles, Miller. 2003. pg. 102. Quoted in Hennebry, Jenna. 2008. pg. 344.

<sup>411</sup> Basok, Tanya, and Emily Carasco. 2010.

<sup>412</sup> Quoted in Vertovec, Steven.

towards 'labour market flexibility' designed to integrate labour markets regionally or around the world and to make them yet more flexible.<sup>413</sup>

From the late 1990s onward a renewed discussion around the potential role of international migration in combating the aforementioned historical shifts had emerged. Signalling an emergent consensus among some post-industrialized countries, a 2000 UN Report entitled *Replacement Migration: Is it a Solution to Declining and Aging Population?* suggested the potential role of labour migration in absolving the twin pressures of demographic decline and skills shortages facing much of the 'global North'.<sup>414</sup> With the fierce demand and global competition for the best and brightest, many countries operate two distinct temporary labour schemes – “a relatively liberal programme for the recruitment of high-skilled workers, and a more restrictive programme for less skilled migrant workers.”<sup>415</sup> Managed migration is re-emerging as a global phenomenon used to increase the global competitiveness through increased labour market responsiveness and secure the economic well being of immigrant-sending and receiving states, both of whom are equally committed to ensuring the maintenance of labour flows between them.<sup>416</sup> In fact, much of the less 'developed' world, especially those heavily indebted governments whose economic development paths are seriously constrained by neoliberal and structural adjustment policies imposed by international financial institutions, aggressively promote and organize labour export. Stasiulis provides evidence from a number of countries in which an image of migrant nationals as “iconic heroes and heroines in their export-oriented economies” has been strategically crafted while, at the same time, these countries remain steadfast and unwilling to address “the immense social costs of policies of labour export for these migrants and members of their families.”<sup>417</sup>

Canada's economic immigration policies, and the accelerating significance of temporary labour migration within them, have a 'global quality'. Dauvergne observes

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<sup>413</sup> Stasiulis, Daiva. 2008. pg. 99.

<sup>414</sup> Gabriel, Christina and Hélène Pellerin. 2008.

<sup>415</sup> Stasiulis, Daiva. 2008. pg. 109.

<sup>416</sup> Ruhs, Martin. 2005. pg. 2. Ruhs writes that “a number of high-income countries have recently considered the (re-) introduction, or expansion, of temporary migration programmes . . . as one of the possible policy tools to manage labour immigration.” Ruhs provides examples from the US, UK, Italy, Spain and Australia.

<sup>417</sup> Stasiulis, Daiva. 2008. pg. 99.

Canada's IRPA reflects a globalized trend and a "global convergence of policy."<sup>418</sup>

Around the world, prosperous states are shifting economic immigration laws in the same directions:

Whether it is free movement within the European Union, the non-immigration of service workers under NAFTA, the easing of Australian recruitment rules, or the mass exodus of professionals from Albania, *an era of globalization has ushered in a new variety of mobility based on skill*. Typically for globalization's stock story, it matters little what direction the laws of non-prosperous nations take. It is either the case that few want to go there or that those nations lack capacity to enforce any provisions that they might legislate. Wealthy nations are the authors of globalization's story.<sup>419</sup>

As Dauvergne points out, wealthy, immigrant-receiving states have revised the script of globalization through the regulation of transnational labour flows. Once based on permanent settlement, migrants are increasingly admitted into high-income countries on temporary work visas. In a competitive global market place, many OECD countries have designed temporary migration programs to attract high-skilled workers such as university trained professionals, managers, or skilled occupations, such as IT experts or caregivers. Running parallel to these developments, the past decade has witnessed an expansion of programs designed to bring in lower-skilled workers for seasonal and sector specific occupations, and Canada is "no exception" to this trend.<sup>420</sup> Thus, although temporary migration has not closed the gate on permanent settlement, TFWs have become the fastest growing immigration category, with scholars such as Gross and Schmitt suggesting that TFWs are "playing a role in Canadian society like never before."<sup>421</sup>

Managed migration provides an indication of how the transformations we refer to as globalization do not necessarily involve the construction of global domains or institutions in the spaces thought to exist somewhere between or beyond states; nor does the construction of the institutional dynamics necessary for the global economy happen "somewhere in the interstices between states."<sup>422</sup> Rather, these processes tend to materialize within the national territories and the state's proper sphere of influence.

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<sup>418</sup> Dauvergne, Catherine. 2003.

<sup>419</sup> Dauvergne, Catherine. 2003. My emphasis.

<sup>420</sup> Gross, Dominique M., and Nicolas Schmitt. 2009. pg. 6.

<sup>421</sup> CIC. 2009. *Report of the Standing Committee on Citizenship and Immigration*. pg. 2.

<sup>422</sup> Sassen, Saskia. 1999. pg. 177.

Because states are key enablers and enactors of globalizing processes, managed migration provides one example of the many micro-processes through which particular aspects of state work historically constructed as national, e.g. immigration policies, are partially denationalized and reoriented toward global systems and policy agendas. Here, the ‘global’ aspect of these trends refers not primarily to space, even though the resultant patterns of interaction tend to take on transnational dimensions, “but to the intersections and interactions that have a ‘global quality.’”<sup>423</sup> Economic immigration policies exemplify emerging patterns of globality in two ways. First of all, national actors institute these globally-oriented policies within national domains. Second, citizenship-migration policies provide an indication of a more global convergence of economic immigration policy toward managing and controlling individuals’ mobility and access to territorial space and the rights and entitlements associated with citizenship according to skill and occupational status.

Thus, many scholars argue that the regulation of labour migration is increasingly characterized by “stratification along the lines of skill.”<sup>424</sup> Managed migration is a globalizing dynamic that does not occur at a global scale, but rather, takes place “deep inside territories and institutional domains that have been largely been constructed in national terms in much of the world.”<sup>425</sup> Temporary migration, also sometimes referred to as ‘circular’ or ‘rotational’ migration systems, is attractive to policymakers because of they ensure ‘win-win-win’ results, i.e. benefits for receiving countries through addressing labour shortages and mitigating illegal immigration; for sending countries through remittances; and, for migrants themselves through secured employment and higher wages. Another ‘winning’ party can be added to this list: employers, whose interests benefit from preservation of low wages, the recruitment of a reliable pool of workers, and quick and easy access to trained and experienced people who can be retained on a more permanent basis if desired.<sup>426</sup>

In traditional immigrant-receiving countries such as Canada, the United States,

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<sup>423</sup> Ong, Aihwa. 2—5. 259. Like Sassen, Ong uses the notion of “global assemblage” to identify the space defined by interactions and overlapping spatialities. An assemblage is constituted by “an assemblage of heterogeneous elements in contingent and provisional interrelationships.”

<sup>424</sup> Gabriel, Christina and Hélène Pellerin. 2008. pg. 2.

<sup>425</sup> Sassen, Saskia. 2006. pg. 3.

<sup>426</sup> Vertovec, Steven. 2007.

New Zealand, Australia, immigration policy has always been closely linked to managing the population.<sup>427</sup> However, with fertility levels falling below critical thresholds in these countries in recent years, immigration has become essential not only for maintaining demographic growth, but also for population replacement, a reality which, as David Ley suggests, is now being “seriously confronted in low-fertility states” across North America and Europe.<sup>428</sup> Human capital, gauged in terms of skill, labour market value and the capacity for self-finance has become one of the most significant aspects of immigration policies formulated since the ascendance of neoliberalism as rationality of governance. In the attempt by settler states to combat the twin pressures of the skills deficit and the demographic deficit while responding the global competition for highly skilled labour, a variety of countries have opened their doors to the highly skilled while closing them off to the ‘lesser skilled’. Skills discourse is one of the most common and uniform aspects contemporary migration regimes; the language of skills discourse is thoroughly entrenched within the economic rationale of many immigrant-receiving countries including but not limited to settler states.<sup>429</sup>

Thus, the effort to respond to the conditions of economic globalization and the increased competition for the ‘best and brightest’ is not limited to Canada. Within settler societies, some broad and interrelated developments regarding the regulation of labour mobility can be observed. There is evidence to suggest that there are strong linkages between these countries and the policy debates around attracting the right kinds of immigrants. To conclude, the final section ruminates over some fundamental questions: what is the purpose of these shifts, and why have they become so significant on a global scale? What explains the incorporation of ‘unwanted immigration’ and the need for the expedited entry of so-called, ‘lesser-skilled’ workers alongside their counterparts, the globetrotting transnational elite? In an attempt to begin to gesture toward these larger questions, the final section closes by speculating on the role of labour importation as a solution to the crisis tendencies and inherent paradoxes of globalizing capitalism.

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<sup>427</sup> Ley, David. 2003. pg. 426.

<sup>428</sup> *ibid.*

<sup>429</sup> Raghuram. Parvati. 2008. 82.



## Conclusion

### The Mobility of Capital versus the (Im)mobility of Labour

#### Spatial Fixes: From exporting capital to importing labour

To return to where we began, scholars often interpret the effects of globalization in terms of paradox and contradiction. In an age of increased transnational flows, the ‘rights’ of capital to travel with ease and speed across borders has increased while labour flows, particularly those from the peripheral regions of the global economy, are subject to renewed forms of state control and regulation. What David Harvey calls ‘accumulation by dispossession’, the ‘decitizenization’ and ‘de-skilling’ of migrant workers from the ‘global South’, strips migrants of political, economic and social status upon their entry into the host state. This ‘accumulation by dispossession’ is part and parcel of globalization’s hierarchy of mobility. The divergent experience of borders as both ‘bridges’ and ‘barriers’ finds expression in the multiple ‘forms of regulation’ different types of migrants encounter:

The territoriality of borders, and their contradictory nature as ‘bridges’, ‘barriers’ ‘resources’ and ‘symbols’ . . . are a means of allowing migrants in while denying them legal and democratic rights, national and cultural ‘belonging’, and hence economic bargaining power.<sup>430</sup>

In contrast to the plight of many low-income, transnational migrants, a type of “economic citizenship” granted to global economic actors, firms, markets, and “corporate citizens” gives transnational elites and global economic actors unprecedented mobility and flexibility of access to various sovereign states.<sup>431</sup> For many scholars, this is indeed *the* major contradiction of the contemporary period of advanced capitalism: multiple forms of regulation characterize the “institutionalization and management of labour mobility.”<sup>432</sup>

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<sup>430</sup> Anderson, James and Ian Shuttleworth. 2004. pg. 152.

<sup>431</sup> On “economic citizenship,” see Sassen, Saskia. 1996, pg. 38. On “Corporate citizens” see Ong, Aiwah, 2005. pg. 261.

<sup>432</sup> Gabriel, Christina. 2004. pg. 163. See also Anderson, James and Ian Shuttleworth. 2004. pg. 145.

The peculiarity and perverse nature of this contradiction is not lost on neoliberalism's critics; the pundits of neoliberalism champion the de-regulation of labour markets and the free flow of global capital, goods and people, yet, the increasing tendency with which states control and restrict labour - particularly low-wage, 'lower-skilled' immigrant labour - suggests that despite claims to the three dimensional integration of capital, goods and labour, the concrete reality is a "truncated integrated market reduced to the first two of those dimensions."<sup>433</sup> Of course, things are never as simple as they seem: it is not simply the juxtaposition of the privileged, liberalized mobility of capital and transnational elites in contrast to the immobility of the less privileged. The contradiction between the 'rights' of capital and the 'rights' of labour, has to be qualified and detailed more specifically to understand the complexity and historically specific nature of these contemporary advantages and disadvantages. Anderson and Shuttleworth are correct to suggest that portraying the contradiction between the mobility of capital and the mobility of labour as black and white underestimates the extent to which labour, including low-wage, lower-skilled labour, moves *despite* these regulations and impediments.<sup>434</sup> While the free movement of labour is more restricted than capital due to trade liberalization and economic de-regulation, in spite of increased 'crack down' efforts, anti-immigrant xenophobia and other cultural factors, significant numbers of workers, both highly-skilled and lower-skilled, transverse national borders in search of better opportunities abroad.

To qualify, none of this is to say that we have entered a borderless world. Rather, borders are expressed and experienced differently in the multiple ways that migration is controlled, discouraged, managed and encouraged. As I have insisted throughout this essay, borders ought to be thought of as 'thick' transitional spaces, conceptualized as 'flexible filters' designed to regulate labour flows rather than stop the supply as if they were the insurmountable walls and absolute barriers of "nationalistic nostalgia."<sup>435</sup> In this

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<sup>433</sup> Anderson, James and Ian Shuttleworth. 2004. pg. 152. Citing Amir, Samin. 1996. pg. 220-221.

<sup>434</sup> *ibid.*

<sup>435</sup> *ibid.* pg. 153.

context, borders are a “source of power for capital over labour,” whereby state borders as regulators “serve to cheapen and weaken labour.”<sup>436</sup>

Anyone familiar with the basics of classic Marxist political economy knows that capitalism is inherently prone to crises caused by ‘over-production/underconsumption’. Consequently, capitalists must devise solutions to offset over-accumulation and the tendency of the rate of profit to fall.<sup>437</sup> Historically, the most common solution has been to export capital to where labour is cheap. Not all forms of capital are equally capable of becoming transnationally mobile or ‘externalized’ to the cheap labour peripheries of the ‘global South’. According to David Harvey, this ‘external solution’ or traditional ‘spatial fix’ was common throughout the nineteenth-century during the expansion of global capitalism. In this period, the export of capital to “non-capitalist, under-developed or cheap labour peripheries and colonies” helped to offset capitalist crises in the core of the world economy.<sup>438</sup> In the contemporary period, capital runs up against new kinds of limits. Faced with the constraints of certain forms of immobile capital and production processes – and the fact that there exists no ‘outside’ to the global economy onto which a state can ‘off-load’ the crisis tendencies of capitalism – what is capital to do?

One potential solution, as alluded to above, is for national economies to cheapen labour power through the import of labour from the peripheral regions of the global economy. Building off the work of David Harvey, Anderson and Shuttlesworth suggest the shift from exporting capital to importing labour signifies a new form of ‘spatial fix,’ what they call ‘Fix 2’, which has taken on renewed significance in the context of neoliberalism’s de-regulation of core labour markets in the 1980s and 1990s. Faced with the immobility of certain forms of capital and production processes, such as agriculture and agro-industries, construction, and particular service sectors, which cannot easily be relocated to the peripheral regions of the global economy of labour, in these circumstances, “the only way core capital can exploit peripheral labor is through the latter migrating to the core.”<sup>439</sup> They summarize each spatial fix as follows:

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<sup>436</sup> *ibid.* pg. 152.

<sup>437</sup> *ibid.* pg. 147.

<sup>438</sup> Citing Harvey, David. 2006. pg. 146.

<sup>439</sup> *ibid.* pg. 156.

Thus, at their most basic, spatial Fix 1 is the export of core capital which moves to labour in the periphery; and Fix 2 is the import of peripheral labor which moves in order to work for capital in the core. Fix 1 ‘gets rid’ of the core’s surplus capital by exporting it; Fix 2 ‘absorbs’ surplus core capital *in situ* by importing cheaper labour and making further investment within the core more profitable than would otherwise be the case.<sup>440</sup>

Evidence suggests that in much of the post-industrialized, ‘knowledge’ economies, ‘Fix 2’ has replaced or supplemented ‘Fix 1’, thus indicating a shift (or return?) to importing labour from the peripheral labour regions to the economies of the core, especially in low-income and lower-skill occupations. While the history of slavery, the exploitation and importation of newcomers’ ‘foreign’ labour, and the formation of so-called immigrant dominated industries and spaces such as ‘immigrant-ghettos’ in these countries suggests that Anderson and Shuttleworth overlook the fact that there is nothing entirely new about the import of labour to the ‘core’ countries, there are some particularly novel elements of this form of movement to and fro the wealthy regions of the global. The first point speaks to the toing and froing encapsulated by the term ‘transitionality’ mentioned above, whereby migrants are managed in a interminable cycle of entry and exit, processes through which temporal restrictions constantly renew and multiply the spatial borders that limit migrants’ labour mobility and their access to the rights and benefits otherwise spread across a national domain. This form of circular migration is part of what separates the current mode of spatial fix from previous eras, where various immigrant communities were encouraged to stay for the sake of population growth, territorial expansion, and their labour power and vulnerability, in spite of their perceived unsuitability and undesirability as ideal citizen-subjects. Additionally, what separates this form of migration from earlier phases of labour importation is that it is “positively encouraged” through the de-regulation of labour markets in what, in typical systems-theory language, Anderson and Shuttleworth refer to as the ‘core’ countries.<sup>441</sup> While state borders have always

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<sup>440</sup> *ibid.* pg. 148. This does not rule out the possibility of ‘hybrid’ labour fixes – “employing cheap peripheral labour *in situ* (like Fix 1) but with most of the capital investment remaining in the core (as in Fix 2) – are possible in information processing jobs using internet or satellite communications, and especially in labour-intensive operations” (pg. 191).

<sup>441</sup> *ibid.* pg. 152.

functioned in some sense as ‘flexible filters’ in the regulation of labour, this form of migration is distinct from the earlier, colonial period, as well as the post-war era of the 1960s and 1970s, in that the recruitment of peripheral labour is now in large part “‘privatized’ and ‘de-regulated’” through the disaggregation and de-regulation of state authority over immigration and management of labour markets.

In an examination of the Canadian context and the role of the state in regulating immigrant labour flows, many scholars point to the ‘reconfiguration of the state’ occurring since the beginning of the 1980s. State forms and functions, they argue, are “are being transformed by and implicated within processes of economic globalization.”<sup>442</sup> Thus, while states still play an important role in the management and regulation of immigration, the nature of the state has changed since the postwar era. For example, in the Canadian context, changes in the ‘point system’ signify the shifting nature of state intervention in the labour market. From a form of statist regulation to a mode of neoliberal ‘good governance’, state policies aim to steer (set policy) rather than row (deliver services).<sup>443</sup> This shift is observable in the move away from matching the skills of prospective immigrants to specific occupational shortages and awarding points to applicants with certain skills in demand, to the current ‘points system’, which, as this paper demonstrated, selects prospective immigrants based on their adaptability, that is to say, their ability to persevere economically in the rapidly changing conditions of post-industrialized, knowledge intensive labour markets. The extent of their adaptability is measured through their transferable skills and human capital.<sup>444</sup>

In her assessment of the Canadian state’s role in the management of labour mobility and the impact of skills discourse on immigration policies, Gabriel notes that this change in the point system “underscores a shift from the assumption that the state could and should regulate a national labour market” to a more privatized, de-regulated and decentralized role of the state in its acclimatization to neoliberal conditions. This shift coheres with neoliberal assumptions about the role of the Canadian state in a global

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<sup>442</sup> Gabriel, Christina. 2004. pg. 163. Gabriel refers to the work of Henk Overbeek (2002, 80) to develop this argument.

<sup>444</sup> Rose, Nikolas. 1999. pg. 27, 16-18.

economy thus signalling “a shift in the way in which the Canadian state chooses to manage a national economy.”<sup>445</sup> The previous selection model, according to Gabriel, was “intimately connected to the national labour market” insofar as the state identified those occupations in demand and then selected people “to fill particular niches.”<sup>446</sup> Processes of privatization, de-regulation work in concert, and are implicated within the forces of disaggregation and denationalization. Concepts such as de-regulation and privatization, however, tend to mean so much that they have come to mean almost nothing at all. Thus, in order to specify their meaning, we return once again to the work of Saskia Sassen.

Sassen argues that concepts such as de-regulation and privatization are inadequate for coming to terms with the effects of globalization on the state “insofar as they only emphasize the ways in which states withdraw from regulating the economy.” Moreover, these terms do not register the process of what Sassen calls ‘internal denationalization,’ i.e. “all the ways in which the state participates in setting up the new frameworks through which globalization is furthered; nor do they capture the associated transformations *inside* the state.”<sup>447</sup> To come to terms with the effects of this incipient denationalization in Canada, and the changing role of state in regulating political membership, this paper has emphasized the role of state participation in furthering the agenda of global capitalism and private agendas vis-à-vis contemporary immigration policies and programs.

According to Anderson and Shuttleworth, the key question is whether ‘Fix 2’ is able to offset (even temporarily) the crisis tendencies of over-accumulation or surplus capital in the wealthy nations of the core economies, thus prolonging capitalism’s longevity, or does it merely help certain industries and states ‘off-load’ the crisis onto others? As they note, this is largely conjecture and difficult to establish empirically. However, circumstantial evidence suggests that labour imported from the peripheral regions of the global economy is effective “if not decisive” in countering “a fall in profits for particular firms, sectors or countries,” especially for post-industrialized, knowledge intensive countries such as Canada, where immobile capital and production processes such as construction, service industries, agriculture, and domestic care cannot be

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<sup>445</sup> Gabriel, Christina. 2004. pg. 163. pg. 172.

<sup>446</sup> *ibid.* pg. 171.

<sup>447</sup> Gabriel, Christina. 2004. pg. 163. Sassen, Saskia. 1998. pg. 158. My emphasis.

completely ‘outsourced’ to places where labour is cheap.<sup>448</sup> Hence, labour for these industries is ‘insourced’ through temporary migration schemes.

Whatever temporary benefits wealthy nations can derive from ‘Fix 2’, Anderson and Shuttleworth note that these benefits are “time-limited and sow the seeds of longer-term problems.” This is because “in typical capitalist fashion” ‘Fix 2’ is shortsighted; it indefinitely exacerbates the problem.<sup>449</sup> While the devaluation of labour for the purpose of increased capital accumulation in the core economies is shortsighted, it does not mean that Fix 2 will be rejected. As Anderson and Shuttleworth suggest, “for individual capitalist enterprises and individual states – where the key decisions are made in their own particular interests, not according to some ‘rational plan’ for ‘capital in general’ – the imperatives are to ensure economic growth and avoid economic failure.”<sup>450</sup> Both Fix 1 and Fix 2 are “a case of the cure being part of the disease.”<sup>451</sup> To avoid this form of autoimmunization, the Canadian federal government must, as Alboim has put it, ‘adjust the balance’ between the short-term goals of immediate labour market needs and the longer-term problems of a skills deficit and demographic deficit.<sup>452</sup> This involves, among many other things,<sup>453</sup> putting an end the differential treatment of migrant workers according to human capital endowments, occupational and skill status, categories, which, as this paper demonstrated, are strongly correlated with gender, race and country of origin.

In conclusion, the role of borders in the process of accumulation by dispossession is undeniable. Nevertheless, borders are likely here to stay, at least for the foreseeable future. Borders may be re-located or transformed, they may shift or be subject to negotiation amongst rival parties; however, intimations of a global polity and hasty generalizations of a ‘borderless world’ voiced from the ivory tower of academia are

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<sup>448</sup> Anderson, James and Ian Shuttleworth. 2004. pg. 154.

<sup>449</sup> *ibid.* pg. 155.

<sup>450</sup> *ibid.*

<sup>451</sup> *ibid.* 159.

<sup>452</sup> Alboim Naomi. 2009.

<sup>453</sup> *ibid.* Alboim provides a helpful list of reformist measures based around a long-term vision. These include the elimination of the Low-Skill pilot, the revitalization of the Federal Skilled worker program, the establishment of a clear national immigration policy rather than a fragmented, provincially based one, and the elimination of ‘two-step’ immigration processes.

misleading: such fantasies will remain the hollow source of phantasmatic investment with little to offer in return so long as borders continue to act as a source of power and political-economic leverage for capital over labour.<sup>454</sup> In many ways, we have indeed entered a brave new world, but the political topography of this world is by no means flat or homogenous. Like medieval cartographers venturing across the sea, we can map and triangulate the space ahead to orient this juncture in the midst of an otherwise chaotic and unintelligible space of paradox and aporia, a world characterized by novel forms of encounters, contact zones, and a worldwide stratification and redistribution of rights and entitlements. The sites through which these dynamics materialize and instantiate themselves, both at the frontier of the international and beyond, demonstrate how national citizenship - in the concrete sense of being a member of a polity, holding a passport, with the right work and live in a given territory - is far from inconsequential in the lives of many on the move; and yet, in spite of this movement, it remains a parochial though entirely resilient form of political belonging which, to paraphrase Gayatri Spivak, 'we cannot not want'. The movement of people across borders and the regulation of mobility along the lines of skills discourse provides a site through which to examine new forms of privilege and deprivation characterizing the contemporary era of globalizing capitalism and transnational flows, flows not just of capital, goods, services and ideas, but also people in search of dignity and opportunity.

As the narrow, economistic estimation of individuals' self-worth becomes official state policy, the state's welcoming committee permits and qualifies who and who does not belong, who is welcomed to stay and who is forced to leave. We can tacitly accept the terms and conditions of this new social contract and try to approximate the ideals of the entrepreneurial, rational citizen-subject of neoliberal governance as closely as possible. Or, we can search for alternatives; we can *capitalize* on this critical juncture in different ways by tracing the paths these transborder patterns cut into the earth, if only to illuminate the cracks into which people may fall, and to highlight the heterogeneous experience of globalization expressed in the movement of people across borders. Such a critical activity represents the first step, albeit a partial one, toward establishing awareness and finally beginning to remedy historical injustices by erecting bridges

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<sup>454</sup> Anderson, James and Ian Shuttleworth. 2004. pg. 153.



instead of barriers. This is one more step, a defeasible sketch or initial attempt to map the world in new ways and forge our own thematic topography of equality and hospitality.

## Bibliography

- Aiken, Sharryn, (2005). From Slavery to Expulsion: Racism, Canadian Immigration Law and the Unfulfilled Promise of Modern Constitutionalism. In Vijay Agnew (Ed.), *Interrogating Race and Racism*. (pp. 55-111). Toronto: University of Toronto Press.
- Alberta Federation of Labour. (2009). *Entrenching Exploitation: The Second Report of the Alberta Federation of Labour Temporary Foreign Worker Advocate*. Edmonton, Alberta: Alberta Federation of Labour. Retrieved from: <http://www.afl.org/index.php/View-document/123-Entrenching-ExploitationSecond-Reptof-AFL-Temporary-Foreign-Worker-Advocate.html>
- Albo, Gregory. 1994. Competitive Austerity. In Leo Panitch (Ed.) *Socialist Register 1994*. (pg.471-504). London: Merlin Press.
- Anderson, Bridget. (2000). *Doing the Dirty Work? The Global Politics of Domestic Labour*. London: Zed Books.
- Anderson, James and Ian Shuttleworth. (2004). A New Spatial Fix for Capitalist Crisis? Immigrant Labour, State Borders and the New Ostracizing Imperialism. In Libby Assassi, Duncan Wigan and Kees van der Pijl (Eds.), *Global Regulation: managing crises after the imperial turn*. (pg. 145-161). Palgrave MacMillan: New York.
- Arat-Koc, Sedef. 1999. Neoliberalism, State Restructuring and Immigration: Changes in Canadian Policies in the 1990s. *Journal of Canadian Studies*, 34 (2), pg. 31-56.

Avery, Donald. *Reluctant Host: Canada's Response to Immigrant Workers, 1896-1994*.

(1995). Oxford: McClelland and Stewart.

Basok, Tanya. (2007). Free to Be Unfree: Mexican Guest Workers in Canada. *Labour*,

*Capital and Society*, 32 (2), pg. 192-221.

Bauböck, Rainer. (1994). *Transnational Citizenship: Membership and Rights in*

*International Migration*. UK: Edward Elgar Publishing Limited.

Bauder, Harald. (2006). *Labour Movement: How Migration Regulates Labour*

*Markets*. Toronto: Oxford University Press.

Baxter, Jamie. (2010). Precarious Pathways: Evaluating the Provincial Nominee

Programs in Canada. *A Research Paper for the Law Commission of Ontario*.

Toronto: Ontario. pg. 1-47.

Benhabib, Seyla. (2006). *Another Cosmopolitanism*. New York: Oxford University

Press.

----. (2004). *The Rights of Others: Aliens, Residents, and Citizens*. Cambridge:

University of Cambridge Press.

Bosniak, Linda. (2006). *The Citizen and the Alien: Dilemmas of Contemporary*

*Membership*. New Jersey: Princeton University Press.

----. (2000). Citizenship Denationalized. *Indiana Journal of Global Law*

*Studies*. 7. pg. 447-460.

Boushey Graeme, Adam Luedtke. (2006). Fiscal Federalism and the Politics of

Immigration: Centralized and Decentralized Immigration Policies in Canada and

the United States. *Journal of Comparative Policy Analysis*, 8, pg. 207-224.

Brubaker, Rogers. (1992). *Citizenship and Nationhood in France and Germany*.

Cambridge: Harvard University Press.

Brysk, Alison and Gershon Shafir. Introduction: Globalization and the Citizenship Gap.

In Alison Brysk and Gershon Shafir (Eds.), *People out of Place: Globalization, Human Rights and the Citizenship Gap* (pg. 3-11). New York: Routledge.

Canadian Council for Refugees. (CCR). 2008. *Bill C-50 – 10: Reasons to be concerned*.

Retrieved from <http://ccrweb.ca/documents/c50tenreasons.htm>

Canada. Canadian Federal Government. Department of Justice. (2001) *Immigration*

*and Refugee Protection Act* (IRPA). S.C. 2001, c. 27. Retrieved from <http://laws-lois.justice.gc.ca/PDF/I-2.5.pdf>

----. (2001). *Immigration and Refugee Protection Regulations* (IRPR). SOR/2002 227. Retrieved from <http://laws-lois.justice.gc.ca/PDF/SOR-2002-227.pdf>

Citizenship and Immigration Canada (CIC). (2002). *Canada's Immigration Law*. Ottawa:

Citizenship and Immigration Canada.

----. (2008). *The Canadian Experience Class: Who can Apply*. Retrieved from <http://www.cic.gc.ca/english/immigrate/cec/index.asp>

----. (2009). *How to Hire a Temporary Foreign Worker: A Guidebook for Employers*. Retrieved from <http://www.cic.gc.ca/EnGLish/resources/publications/tfw-guide.asp>.

----. (2010). *Facts and Figures 2010: Immigration overview - Permanent and temporary residents*. Retrieved from

<http://www.cic.gc.ca/english/resources/statistics/facts2010/index.asp>

----. (2010a). *Evaluation of the Federal Skilled Worker program*.

Retrieved from <http://www.cic.gc.ca/english/pdf/research-stats/FSW2010.pdf>

----. (2011). *Annual Report to Parliament on Immigration, 2011*. Retrieved from

<http://www.cic.gc.ca/english/pdf/pub/annual-report-2011.pdf>

----. (2011a). *Evaluation of the Provincial Nominee Program*. Retrieved from

<http://www.cic.gc.ca/english/pdf/research-stats/evaluation-pnp2011.pdf>

----. (2011b). *Investors*. Retrieved from

<http://www.cic.gc.ca/english/immigrate/business/investors/index.asp>

----. (2011c). *Entrepreneurs*. Retrieved from

<http://www.cic.gc.ca/english/immigrate/business/entrepreneurs/index.asp>

----. (2011d). *Self Employed Persons*. Retrieved from

<http://www.cic.gc.ca/english/immigrate/business/self-employed/index.asp>.

----. (2011e). *Operational Bulletin 275-C*. Temporary Foreign Worker

Program—Operational Instructions for the Implementation of the Immigration and Refugee Protection Regulatory Amendments.

----. (2012). *Provincial Nominees*. Retrieved from

<http://www.cic.gc.ca/english/immigrate/provincial/index.asp>

----. (2012a). Skilled workers and professionals - Who can apply. Retrieved from

<http://www.cic.gc.ca/english/immigrate/skilled/apply-who.asp>

Clarke, John. (2005). New Labour's citizens: activated, empowered, and responsabilized, abandoned? *Critical Social Policy*, 25 (4), pg. 447-463.

Cossman, Brenda, and Judy Fudge. (2002). Privatization, Polarization, and Policy:

Feminism and the Future. In Brenda Cossman and Judy Fudge (Eds.),

*Privatization, Law, and the Challenge to Feminism* (pg. 409-420). Toronto: University of Toronto Press.

Dauvergne, Catherine. (2007). Citizenship with a Vengeance. *Theoretical Inquiries into Law*, 8 (2), pg. 489-508.

----. (2003). Evaluating Canada's new Immigration and Refugee Protection Act in its global context. *Alberta Law Review*, 41, pg. 725-744.

Dobrowolsky, Alexandra. (2011). The Intended and Unintended Effects of a New Immigration Strategy: Insights from Nova Scotia's Provincial Nominee Program. *Studies in Political Economy*, 81, pg. 109-141.

Friesen, Joe. "Kenney urges employers to help build just-in-time immigration system." *Globe and Mail*, 1 March 2012: Print.

Fudge, Judy and Fiona MacPhail. (2009). The TFWP in Canada: Low-Skilled Workers as an Extreme Form of Flexible Labour. *Comparative Labor Law and Policy Journal*, 31 (5), pg. 5-46.

Fudge, Judy. (2011). The Precarious Migrant Status and Precarious Employment: The Paradox of International Rights for Migrant Workers. *Metropolis British Columbia: Centre of Excellence for Research on Immigration and Diversity Working Paper* No. 11-15

Gabriel, Christina and Yasmeen Abu-Laban. (2002). *Selling Diversity: Immigration, Multiculturalism, Employment Equity, and Globalization*. Toronto: University of Toronto Press.

Gabriel, Christina. (2004). A Question of Skills: Gender, Migration Policy and the Global Political Economy. In Libby Assassi, Duncan Wigan and Kees van der Pijl(Eds.),

*Global Regulation: managing crises after the imperial turn.* (pg. 162-176).

Palgrave MacMillan: New York.

Gabriel, Christina and Hélène Pellerin. (2008). Introduction. In Christina Gabriel and Hélène Pellerin (Eds.), *Governing International Labour Migration: current issues, challenges and dilemmas* (pg. 1-10). New York: Routledge.

Green, David and Alan G. Green. (2004). The Goal's of Canada's Immigration Policy: A Historical Perspective. *Canadian Journal of Urban Research*, 13 (1), pg. 102-139.

Guild, Elspeth. (2005). Who is Entitled to Work and Who is in Charge? Understanding the Legal Framework of European Labour Migration. In Elspeth Guild and Didier Bigo (Eds.), *Controlling Frontiers: Free Movement Into and Within Europe* (pg. 100-139). England: Ashgate Publishing Limited.

----. (2010). *Security and Migration in the 21st century*. Cambridge: Polity Press.

Gross, Dominique M., and Nicolas Schmitt. (2009). Temporary Foreign Workers and Regional Labour Market Disparities in Canada. Metropolis British Columbia: *Centre of Excellence for Research on Immigration and Diversity Working Paper* No. 09 – 05.

Hansen, Thomas Blom and Finn Stepputat. (2005). Introduction. In Thomas Blom Hansen and Finn Stepputat (Eds.), *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World*. (pg. 1-38). New Jersey: Princeton University Press.

Harvey, David. (2005). *A Brief History of Neoliberalism*. Oxford: Oxford University Press.

----. (2006). The Spatial Fix – Hegel, Von Thunen, and Marx. *Antipode* 13 (3). pg. 1-12.

- Held, David and McGrew, Anthony. (1993). Globalization and the Liberal Democratic State. *Government and Opposition*. 28 (2), pg. 261-288.
- Hennebry, Jenna L. and Kerry Preibisch. A Model for Managed Migration? Re-Examining Best Practices in Canada's Seasonal Agricultural Worker Program. *International Migration*, 50 (1), pg. 19-40.
- House of Commons. (2009). *Temporary Foreign Workers and Non-Status Workers: 2009 Report of the Standing Committee on Citizenship and Immigration*. Retrieved from <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=3866154&Language=E&Mode=1&Parl=40&Ses=2&File=9>
- Institute for Research on Public Policy (IRPP). (2009). *The Canadian Temporary Foreign Worker Program: Do Short-Term Economic Needs Prevail over Human Rights Concerns?* Montreal, QC: Nakache, Delphine and Paul J. Kinoshita.
- Isin, Engin F. and Bryan Turner. (2001). Citizenship Studies: An Introduction. In Engin F. Isin and Bryan S. Turner (Eds.), *Handbook of Citizenship Studies*. (pg.1-11). London: Sage Publications Ltd.
- Isin, Engin F. (2002). *Being Political: Genealogies of Citizenship*. Minnesota: University of Minnesota Press.
- Joppke, Christian. (1998). Why Liberal States Accept Unwanted Immigration. *World Politics*, 50 (2), pg. 266-293.
- Ley, David. (2003). Seeking Homo Economicus: The Canadian State and the Strange Story of the Business Immigration Program. *Annals of the Association of American Geographer*, 93 (2), pg. 426-441.



- Li, Peter. (2003). *Destination Canada: Immigration Debates and Issues*. Oxford: Oxford University Press.
- Linklater, Andrew. (1998). *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*. Columbia: University of South Carolina Press.
- Macklin, Audrey. (2002). Public Entrance / Private Member. In Brenda Cossman and Judy Fudge (Eds.), *Privatization, Law, and the Challenge to Feminism*. (pg. 219-264). Toronto: University of Toronto Press.
- . (2007). Who is the Citizen's Other? Considering the Heft of Citizenship. *Theoretical Inquiries into Law*, 8, pg. 333-366.
- Marsden, Sarah. (2011). Assessing the Regulation of Temporary Foreign Workers in Canada. *Osgoode Hall Law Journal*, 49, pg. 39-70.
- Martin, Philip. 2010. The Research-Policy Nexus: The Case of Unauthorised Mexico-US Migration and US Policy Responses.
- Maytree Foundation. (2009). *Adjusting the Balance: Fixing Canada's Economic Immigration Policies*. Toronto: ON: Naomi Alboim.
- McNevin, Anne. (2011). *Contesting Citizenship: Irregular Migrants and New Frontiers of the Political*. New York: Columbia University Press.
- Ninette, Kelley and M.J. Trebilcock. (2010). *The making of the mosaic: a history of Canadian immigration policy*. Toronto: University of Toronto Press.
- Nyers, Peter. (2004). Abject Cosmopolitanism: The Politics of Protection in the Anti Deportation Movement. *Third World Quarterly*. 24 (6). 1069-1093.

- Office of the Auditor General. (OAG). (2009). Chapter 2: Selecting Foreign Workers under the Immigration Program. *2009 Fall Report of the Auditor General of Canada*. Retrieved from [http://www.oagbvg.gc.ca/internet/docs/parl\\_oag\\_200911\\_02\\_e.pdf](http://www.oagbvg.gc.ca/internet/docs/parl_oag_200911_02_e.pdf)
- Ong, Aihwa. (2005). Splintering Cosmopolitanism: Asian Immigrants and Zones of Autonomy in the American West. In Thomas Blom Hansen and Finn Stepputat (Eds.), *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World*. (257-275). New Jersey: Princeton University Press.
- Pratt, Anna. (2005). *Securing Borders: Detention and Deportation in Canada*. Vancouver: UBC Press.
- Raghuram, Parvati. (2008). Governing the Mobility of Skills. In Christina Gabriel and Hélène Pellerin (Eds.), *Governing International Labour Migration: current issues, challenges and dilemmas* (pg. 81-94). New York: Routledge.
- Reed, Austina J. (2008). Canada's experience with managed migration: the strategic use of temporary foreign worker Programs. *International Journal*, 63 (2), pg. 469-490.
- Rigo, Enrica. (2011). Citizens despite borders: challenges to the territorial order of Europe. In Vicki Squire (Ed.), *The Contested Politics of Mobility: Borderzones and Irregularity* (pg. 199-215). New York: Routledge.
- Robinson, William I. (2004). *A Theory of Global Capitalism: Production, Class, and the State in a Transnational World*. Baltimore: John Hopkins University Press.
- Rose, Nikolas. (1999). *Powers of Freedom: Reframing Political Thought*. Cambridge: Cambridge University Press.

- Ruhs, Martin. (2005). The potential of temporary migration programmes in future international migration policy. *A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration.*
- Rygiel, Kim. (2010). *Globalizing Citizenship*. Vancouver: UBC Press.
- Samers, Michael. (2008.) At the heart of ‘migration management’: immigration and labour markets in the European Union. In Christina Gabriel and Hélène Pellerin (Eds.), *Governing International Labour Migration: current issues, challenges and dilemmas* (pg. 128-144). New York: Routledge.
- Sassen, Saskia. (1988). *The Mobility of Labour and Capital: a study in international investment and labour flow*. New York: Cambridge University Press.
- . (1996). *Losing Control? Sovereignty in an Age of Globalization*. New York: Columbia University Press.
- . (2000). The Need to Distinguish Denationalized and Postnational. *Indiana Journal of Global Legal Studies*, 7 (2). pg. 575-582.
- . (2003). Globalization or Denationalization. *Review of International Political Economy*. 10 (1). 1-22.
- . (2006). *Territory, Authority, Rights: From Medieval to Global Assemblages*. New Jersey: Princeton University Press.
- . (2006a). The State and Globalization: Denationalized Work and Internal Power Shifts. *Proceedings from Global Jean Monnet Conference: Europe’s challenges in a globalised world*. Brussels: Belgium.

- Sassen, Saskia, and Wennerhag, M. (2006). Denationalized states and global assemblages: an interview with Saskia Sassen. *Eurozine*, November 20. Retrieved from: <http://www.eurozine.com/articles/2006-11-20-sassen-en.html>.
- Salamon, Lester M. (2001). *The Tools of Government: A Guide to the New Governance*. UK: Oxford University Press.
- Shachar, Ayelet. (2009). *The Birthright Lottery: Citizenship and Global Inequality*. Cambridge: Harvard University Press.
- Sharma, Nandita. (2006). *Home Economics: Nationalism and the Making of 'Migrant Workers' in Canada*. Toronto: University of Toronto Press.
- Simmons, Alan. (2008). Why international banks became interested in migrant remittances: a critical reflection on globalization, ideology and international migration. In Christina Gabriel and Hélène Pellerin (Eds.), *Governing International Labour Migration: current issues, challenges and dilemmas* (pg. 60-68). New York: Routledge.
- Smith-Carrier, Tracy and Rupaleem Bhuyan. (2010). Assessing the impact of neoliberalism on citizenship: The stratification of social rights by immigration status in Toronto, Ontario. Unpublished document.
- Soysal, Yasemin. *The Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago: University of Chicago Press.
- Stasiuis, Daiva. (2008). Revisiting the permanent-temporary labour migration dichotomy. In Christina Gabriel and Hélène Pellerin (Eds.), *Governing International Labour Migration: current issues, challenges and dilemmas* (pg. 95-111). New York: Routledge.

- Stasiulis, Daiva K. and Abigail B. Bakan. (2003). *Negotiating Citizenship: Migrant Women in Canada and the Global System*. New York: Palgrave MacMillan.
- Statistics Canada. (2012). Declining birth rate and the increasing impact of immigration. Retrieved from [http://www.statcan.gc.ca/kits-trousses/issuesenjeux/edu01c\\_0002eng.htm](http://www.statcan.gc.ca/kits-trousses/issuesenjeux/edu01c_0002eng.htm).
- . (2012a). Immigration is an increasingly important component of population growth in Canada. Retrieved from [http://www.statcan.gc.ca/kits-trousses/issues-enjeux/c-g/edu01c\\_0002c-eng.htm](http://www.statcan.gc.ca/kits-trousses/issues-enjeux/c-g/edu01c_0002c-eng.htm)
- Torpey, John. (2000). *The Invention of the Passport: Surveillance, Citizenship and the State*. UK: Cambridge University Press.
- United Nations. (1999). United Nations Development Programme. *Human Development Report 1999*. New York: Oxford University Press. Retrieved from [http://hdr.undp.org/en/media/HDR\\_1999\\_EN.pdf](http://hdr.undp.org/en/media/HDR_1999_EN.pdf)
- Valiani, Salimah. (2009). The Shift in Canadian Immigration Policy and Unheeded Lessons of the Live-in Caregiver Program. Unpublished Document.
- Vertovec, Steven. (2007). Circular migration: The way forward in global policy? *Canadian Diversity*, 6 (3), pg. 36-40.
- Vosko, Leah. (2010). *Managing the Margins: Gender, Citizenship, and the International Regulation of Precarious Employment*. Oxford: Oxford University Press.
- Walker, R.B.J. (1993). *Inside/Outside: International Relations as Political Theory*. New York: Cambridge University Press.

- . (2004). After the Future: Enclosures, Connections, Politics. In R.Falk, L. Ruiz and R.B.J. Walker, (Eds.), *Reframing the International: Law, Culture, Politics*. (3-26). New York: Routledge.
- Walsh, James. (2011). Quantifying citizens: neoliberal restructuring and immigrant selection in Canada and Australia. *Citizenship Studies*, 15 (6-7), pg. 861-879.
- Watson, Scott. (2009). *The Securitization of Humanitarian Migration: Digging Moats and Sinking Boats*. Abigdon: Routledge.