Inner Border Making in Canada: Tracing gendered and raced processes of immigration policy changes between 2006 and 2015

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Abstract

The Canadian immigration system went through significant changes under the previous Conservative government (2006–2015). This paper examines official narratives in the Citizenship and Immigration Canada (CIC) documents related to two policy changes: 1) Conditional permanent residency for the spousal sponsorship program, and 2) Bill C-43: Faster Removal of Foreign Criminals Act. Drawing on critical race readings of Canadian nation building and critical border literature that re-conceptualizes borders as processes and multidimensional, this paper examines the discursive narratives that enabled bordering practices to shift inward during the previous Conservative government era. My focus on the discursive processes sheds light on linkages between bordering practices and the historical construction of Canada as a white settler nation. I demonstrate the ways in which exclusionary policy developments constructed 'inner borders'. I argue that the bordering practice at play in these policy changes were only possible through two discursive conditions and functions: 1) the naturalization of the gendered and racialized exclusions built into Canadian national membership, and 2) the erasure of historical and systemic injustice embedded in the Canadian immigration system and Canadian nation-building project as a whole. Through the naturalization and erasure of historical and systemic injustice, "inner borders" became "invisible borders, situated everywhere and nowhere" (Balibar, 2002, p. 78), pushing immigrant women and the racialized community into further precariousness.

***Keywords**: Inner border; Canadian immigration policy; discourse analysis; race and gender*

Résumé

Le système d'immigration du Canada a connu des modifications importantes sous l'ancien gouvernement conservateur (2006-2015). Cet article analyse les rapports officiels de Citoyenneté et Immigration Canada (CIC) en lien avec deux changements politiques, soit le permis de résidence temporaire pour le programme de parrainage, et le projet de loi C-43 : le renvoi accéléré des criminels étrangers. Cet article examine les rapports discursifs qui ont permis aux pratiques frontalières de se déplacer vers l'intérieur du pays pendant l'ère conservatrice en s'inspirant de la littérature qui redéfinit les frontières comme procédés et comme étant multidimensionnelle en abordant les majeures interprétations raciales de la création d'une nation canadienne ainsi que les frontières cruciales. Mon intérêt pour ces procédés discursifs permet de mieux comprendre les liens entre les pratiques frontalières et la construction historique du Canada en tant que nation de colonialistes blancs. J'explique les moyens par lesquels le développement d'une politique d'exclusion a poussé à la création de « frontières intérieures ». Je défends que les pratiques frontalières ayant contribués à ces changements politiques n'aient été possibles qu'à travers deux conditions et fonctions discursives : 1. la naturalisation des exclus genrés et racialisés encastrée dans l'appartenance nationale canadienne, et 2. la fin des injustices historiques et systémiques ancrées dans le système d'immigration du Canada et le projet de création d'une nation canadienne dans son ensemble. À travers la naturalisation et l'effacement historique et systémique, les « frontières

intérieures » sont devenues des « frontières invisibles, établies çà et là » (Balibar, 2002, p. 78), poussant vers la précarité les femmes immigrantes et la communauté racialisée.

Mots clés: Frontières intérieures ; politique canadienne d'immigration ; analyse du discours ; race et genre

Introduction

As Giorgio Agamben (1995) noted twenty years ago, "The novelty of our era, which threatens the very foundations of nation-state, is that growing portions of humanity can no longer be represented within it" (p. 115). This situation is even more prevalent today. Indeed, the past few decades have been characterized by significant increases in international migration. In 2015, the United Nations estimated that approximately 244 million people live outside their country of birth, a 41 percent increase compared to 2000 (United Nations, 2016). The Canadian government has followed global trends in reacting to the increase of international migration in accordance with neoliberal logic and global security discourse. The migrants who are deemed to be self-sufficient and highly skilled (i.e. Federal Skilled Workers, Provincial Nominees, Canadian Experience Class, Immigrant Investors and Immigrant Entrepreneurs) have been actively sought after, giving them easier access to permanent residency, while those who are deemed to be lower-skilled have been accepted only with temporary immigration status, with no or limited access to civil, economic and social rights (Alboim & Cohl, 2012; Valiani, 2013). Other migrants who enter Canada under the Family Class and Refugee Protection Program have not only been given less priority but have also often been targeted as security concerns, with stricter conditions to acquire secure immigration status. Sharma (2006) and Walia (2013) have argued that these border control practices grant legitimacy to the global system of nation-states and reinforce physical and psychological borders against radicalized bodies, which maintain the sanctity and myth of the superiority of Western civilization and global capitalism. Balibar's (2002) assertion that "borders never exist in the same way for individuals belonging to different social groups" (p.79) is profoundly relevant here.

Drawing on critical race readings of Canadian nation-building and the critical border literature that re-conceptualizes borders as processes and multidimensional, this paper examines the ways in which bordering practices shifted inward under the previous Conservative government (2006–2015). More specifically, I examine official narratives in the Citizenship and Immigration Canada (CIC) documents related to two policy changes: 1) Conditional permanent residency for the spousal sponsorship program, and 2) Bill C-43: *Faster Removal of Foreign Criminals Act*. These two policies were instrumental in depriving historically marginalized groups—namely immigrant women and racialized communities—of more secure immigration status (i.e. permanent residence). The documents relating to these two policies are interpreted through a Foucauldian understanding of discourse in order to trace the discursive mechanism of inner border making at play in these policy changes. I pay particular attention to the discursive construction of "problem" and "solution", which each policy change aims to address

I begin by providing the political context in which these policy changes took place. This will be followed by the theoretical discussion on border and nation building. The rest of paper provides the analysis of two policy changes, focusing on the discursive processes in which gendered and racialized constructions of inner borders took place. One remark should be made upfront. Given that immigration is a rapidly changing policy site in Canada, some of the information provided here may be outdated by the time of publication of this article. For example, the provision of conditional permanent residency for the spousal sponsorship program I

examine here, has been repealed by the new Liberal government as of April 28, 2017. Thus, the merit and intention of this paper is not on providing an evaluation or measuring the implication of existing policies but rather on elucidating the power relations embedded in these policy changes.

"Modernizing Canada's immigration system"

Soon after forming a minority government in 2006, the Conservative government introduced an economic plan called *Advantage Canada: Building A Strong Economy for Canadians* in 2006. *Advantage Canada* was designed to respond to the needs of Canadians in a competitive global marketplace and to "show the world who and what we are: a modern, dynamic and tolerant country" (Department of Finance Canada, 2006, p. 6). Such a national vision became a reference point in legitimizing immigration policy changes within CIC texts (Citizenship and Immigration Canada, 2008, 2009). In the name of "modernizing Canada's immigration system," a series of changes in immigration and citizenship policies were implemented, beginning with the *Budget Implementation Act* of 2008 (Bill C-50), which committed $109 million to Citizenship and Immigration over five years (Citizenship and Immigration Canada, 2008). Most notably, Bill C-50 included the amendments to the *Immigration and Refugees Protection Act* (IRPA) and granted legislative authority to the Minister of Citizenship and Immigration Canada (Citizenship and Immigration Canada, 2008). The Budget Implementation Act of 2012 (Bill C-38) gave further authority to the Minister. The increase in the Minister's authority expedited the process of implementing policy changes in the immigration and citizenship system. Consequently, the Conservative government introduced changes that affected all three streams of immigration (economic, family class and humanitarian), and the rules for obtaining citizenship and temporary entry as a foreign worker, international student, or visitor (Alboim & Cohl, 2012).

Scholars and advocacy groups have criticized many elements of these policy changes, including the emphasis on short-term labour market needs, the lack of evidence-based policies, the retreat from traditional democratic processes, and the creation of a less welcoming environment for immigrants and refugees (Alboim & Cohl, 2012; Canadian Association for Refugee Lawyers, n.d.; Canadian Council for Refugees, 2008; Ontario Council of Agencies Serving Immigrants, 2011). One of the key characteristics of the policy changes identified related to the exclusions that the Canadian nation-state enforces within its territory. New policies have created an increasingly complex system of stratifications, with differential access to civil, economic and social rights dependent on the mode of entry, economic status and country of origin (Alboim & Cohl, 2012; Bhuyan, Osborne, Zahraei, & Tarshis, 2014; Goldring & Landolt, 2013). Consequently, an increasing number of individuals are living with precarious legal status (Goldring, Berinstein, & Bernhard, 2007; Goldring & Landolt, 2013). People with precarious status face numerous challenges and barriers in accessing critical services such as health care, public education, social services, housing and employment insurance (Berinstein, Nyers, & Wright, 2008; Goldring et al., 2007; Goldring, Berinstein, & Bernhard, 2009; Nyers, 2008, 2010; Oxman-Martinez et al., 2005; Sidhu, 2013; Solidarity City Network, 2013).

Particular attention has been paid to Bill C-31: *Protecting Canada's Immigration System Act,* which primarily affects those who are seeking asylum in Canada. Scholars as well as refugee advocacy groups have argued that Bill C-31 constructed a category of "deserving" and "undeserving" refugees through the creation of a list of Designated Countries of Origin (DCOs) and Designated Irregular Arrival criteria (Huot, Bobadilla, Bailliard, & Rudman, 2016; Silverman, 2014). The Minister created a list of designated countries of origin (DCO) that are deemed to be safe, thus unlikely to produce "true" refugees. Whether they are considered as irregular or regular migrants is at the discretion of the Minister. For example, people who arrive by boat are deemed to be irregular migrants. Those labelled as "bogus" or "undeserving" refugees (i.e. those who are from a "safe" country who arrived in Canada "irregularly") were affected by differentiated detention processes, timelines for submitting claims and preparing for hearings, access to appeals and other post-hearing recourse, speed of deportation, health coverage, access to work permits, travel documents and permanent residence (Alboim & Cohl, 2012; Bechard & Elgersma, 2012). Bill C-31 fundamentally changed the ways that the refugee determination and detention system functions in Canada, with a significant impact on refugee claimants' physical and mental health (Cleveland & Rousseau, 2012; Silverman, 2014)

Less but still important scholarly attention was paid to changes in the Temporary Foreign Workers Program (TFWP). Studies have shown that the Canadian immigration framework shifted from a policy of permanent resident settlement to an increasing reliance on temporary migrant workers (Sharma, 2006; Valiani, 2013). The number of individuals who entered Canada under the Temporary Foreign Workers Program (TFWP) continued to grow significantly at the turn of the twenty-first century to the point where its admissions outnumbered its permanent entries in 2008 (Alboim & Cohl, 2012; Goldring & Landolt, 2013). Migrant advocacy groups and scholars have documented the vulnerability of temporary foreign workers resulting from their legal status being tied to their employers (Mclaughlin & Hennebry, 2013; Nakache, 2013; Valiani, 2013). The dependency of legal status on their employer has reproduced already unequal power relations, making them vulnerable to wage exploitation and poor working conditions.

While the studies mentioned above shed light on the exclusionary nature of immigration changes, most studies have thus far focused on the policies and processes that affected those who did not have permanent residency or citizenship, such as refugee claimants and temporary foreign workers. Little attention has been paid to the ways in which the new policies have functioned to shift the bordering processes further inward by extending precarious status to those who had more secure immigration status, namely permanent residents.

This paper hopes to bridge the gap by setting its analytical sights on the following: 1) Conditional permanent residency for spousal sponsorship, and 2) Bill C-43: *Faster Removal of Foreign Criminals Act*. These two policy changes offer rich analytical sites because justifying the stripping of immigration status from those who were already legally accepted as national members requires specific discursive manoeuvres. My analysis examines the discursive processes in which this particular bordering practice was made possible through these policy changes. In the following section, I discuss the conceptual and theoretical framework that grounds my analysis.

Inner border making and Canadian nation-building

My analysis draws on the critical border scholarship that reconceptualizes borders as processes and multidimensional rather than as static and neutral lines that divide international territories on a map (Balibar, 2002; Bauder, 2012; Johnson et al., 2011; Parker et al., 2009). The primacy of reconceptualizing borders as processes and multidimensional lies in the ability to examine the historical and ongoing construction and function of borders—that is, how "borders are rooted in historically contingent practices and discourses that are related to national ideologies and identities" (Johnson et al., 2011, p. 63). Because of this, "the site of the border is therefore not only the borderland but also the complex nation-building process and nationalist practices that can have material manifestations" (Johnson et al., 2011, p. 63). The key text in this line of thinking is Balibar's (2002) *Politics and the Other Scene* and his discussion of "What is a border?" In it, Balibar articulates three aspects of borders (pp.78-79): 1) overdetermination, which is to say that borders are always sanctioned, reduplicated and relativized by other geopolitical divisions; 2) polysemia, which is to say that borders do not have the same meaning for everyone; and 3) heterogeneity, which is to say that they function wherever selective controls are to be found. Balibar's articulation of borders attends to power relations embedded in border making and elucidates how "borders cease to be purely external realities" but become "inner borders", "which are invisible borders, situated everywhere and nowhere" (p. 78). Building on Balibar's notion of borders, scholars have examined the ways in which they are enacted, materialized and performed in a variety of ways and spaces: technologization (Amoore, 2009), offshore detention facilities (Mountz, 2010), performativity at airports (Salter, 2007), and border crossings of asylum seekers (Khosravi, 2007). While focusing on different contexts, such research collectively demonstrates how borders are constructed through socially and historically constitutive power relations and how they operate to create inside/outside divisions in local, national and global politics.

This reconceptualization of borders is particularly useful in acknowledging the more covert and subtle yet powerful ways in which social exclusions occur in Canadian immigration and citizenship. While overtly racist systems are no longer acceptable in modern liberal democracies, practices that exclude particular bodies are still key to the Canadian nation-building project (Anderson, Sharma, & Wright, 2009; Razack, 2000; Sharma, 2002, 2006). Sharma (2006) examines the tendencies of exclusion *within* the context of the nation-state system of global apartheid. She argues that unlike past forms of apartheid that were premised on legally race-based distinctions, global apartheid functions by organizing multiple but separate legal regimes and practices for differentiated groups of people within the same place. One of the effects of global apartheid is the establishment of a hierarchical system in which access to rights and entitlements becomes based on categorizations of more- and less-deserving migrants through naturalizing classed, gendered and racialized exclusions to national membership (McDonald, 2009, p. 72). Similarly, Goldring and her colleagues (2007, 2008, 2013) have attended to the multiple pathways, forms and trajectories of non-citizenship and illegality in Canada and demonstrated that there is an increasing number of precarious migrants who live with different degrees and gradations of immigration and citizenship status.

In addition to the concept of borders as processes and multidimensional, critical race readings of Canadian nation-building ground my analysis in the historical context of Canada as a white settler nation. Indigenous and critical race scholars have long argued that the fundamental principle underpinning the Canada's nation-building project is the ongoing colonization of Indigenous land, people and history (Alfred & Tomkins, 2010; Lowman & Barker, 2015; Mackey, 2002; Sharma, 2006; Simpson, 2013; Thobani, 2000, 2007; Walia, 2010). Banerjee (2000), Mackey (2002), Razack (2002) and Thobani (2000, 2007) have examined the ways in which the Canadian state has created a mechanism to incorporate and manage differences by constructing Indigenous peoples and immigrants as Others in relation to the white Canadian. They argue that this racial hierarchy was extended to immigration policies and continued to produce racialized structures of immigration, citizenship and multicultural discourse. Walia (2010) and Sharma (2006) have argued that the denial of Indigenous self-determination is closely linked to the exclusion of racialized immigrants, migrant workers and refugees, and that the "granting or withholding of citizenship rights – both immigrant status and registered Indian status – is part of the way in which the state determines and regulates who is part of the national community" (Walia, 2010, p. 80). Altogether, these scholars have examined the institutional processes and mechanisms of border making in Canadian immigration and citizenship and elucidated how such border making is built on historical and continuous violence toward and dispossession of the people of Turtle Island as well as on the marginalization of foreign Others.

Drawing on this scholarship, I am particularly interested in tracing how border practices permeated the Canadian nation state and functioned to push particular migrant bodies into precariousness during the previous Conservative government's rule. Rather than setting my analytical sights where border enforcement operates physically (e.g. airports, detention centres, immigration offices), I focus on discursive processes that enable bordering processes to operate within the Canadian nation state. In the following section, I outline how I trace these processes of border making in immigration policy changes.

Methods

The discussion presented here is based on an analysis of policy documents produced between 2006 and 2015. This includes the Immigration and Refugee Protection Act (IRPA) and the CIC texts that include backgrounders, press releases, minister's speaking notes, Annual Reports, and Reports on Plans and Priorities. All materials are publicly available online. I focus on changes within two particular policies: 1) Conditional Permanent Residency for spousal sponsorship, and 2) Bill C-43: *Faster Removal of Foreign Criminals Act*. The texts are read with a Foucauldian understanding of discourse.

For Foucault, discourse is not merely a medium of communication or a group of statements one might utter, but practices "that systemically form the objects of which they speak" (1972, p. 49). Foucault's understanding of discourse attempts to overcome the traditional distinction between language (what one says) and practice (what one does) (Hall, 2001). Foucault (1972, 1980) argues that discourse constructs knowledge, and governs through the production of categories of knowledge and assemblages of texts. The ways we talk, write, and think about particular objects and people are not a "true" representation of reality but a *historical*

construction, one that becomes available in particular moments and localities. Thus, writing is not merely writing, but rather "one way of disguising the awesome materiality of so tightly controlled and managed a production—a systematic conversion of the power relationship between the controller and the controlled into mere written words" (Said, 1975, p. 16). Discourse also defines subject framing and positioning—who it is possible to be and what it is possible to do. Because discourse regulates and constrains what one can say, a speaking subject is obliged to think and express within narrowly confined discursive limits in order to claim authority and legitimacy. Macias (2012, 2015) further elaborates that it is not only the speaker who is implicated in the production of truth and subject but also the listener "who hears the statement and *makes perfect sense of it*" (2015, p. 230, emphasis original). The listener, like the speaker, enacts and adopts the discourse for their own self-making as well as for the regulation and discipline of others (Macias, 2012, 2015). It is through this discursive practice that one becomes subjected to regimes of truth and tied to an identity position.

Drawing on this understanding of discourse, particular attention was paid to how each policy constructs the "problem" and "solution". In reading the texts, I asked questions of the following kind: How are "the problem" and "the solution" presented? What historical ideas about particular subjects (e.g. immigrant women, "foreign criminals," as well as Canadians) are linked to the construction of problem? What subjects or issues are excluded, dismissed or erased in thinking about Canada's integrity, safety and security? What are the historical and contemporary global forces at play in the construction of "the problem" and "the solution." My purpose is to examine the power relations and historicity embedded in what has been discursively constructed as "the problem" and "the solution." While my primary concern in this paper is the discursive processes of border making at play in immigration policy changes, I also discuss the material effects of these policy changes, drawing from studies that examined the policy changes in immigration and citizenship policies between 2006 and 2015. The following section will present an analysis of each policy change.

Gendered construction of threat to Canadian integrity: Conditional permanent residency for sponsored spouses

Spousal sponsorship is part of the family reunification program that allows people to immigrate to Canada in order to join a spouse and partner, who is a Canadian permanent resident or citizen, without having to satisfy the usual selection criteria under Economic Class or Refugee Class. Given that the majority of sponsored spouses and partners have traditionally been female[1], critical feminist scholars have long demonstrated how spousal sponsorship can assign women to precarious legal status by reproducing already unequal gender relations (Côté, Kérisit, & Côté, 2001; Ng, 1992; Oxman-Martinez et al., 2005; Thobani, 2000). In particular, they attend to the systematic designation of sponsored spouse or partner as "dependent" of sponsoring Canadian citizens or permanent residents. As part of the sponsorship agreement, the sponsors are to make a commitment to the Canadian government to "assume responsibility" for the essential needs of

[1] As of 2011, 57.9% of all family class entrants were female (CIC, 2012).

the sponsored individual and to ensure that she or he does not require social assistance for a period of three years. This way, the sponsorship system places sponsored spouses and partners in a totally dependent and subordinate position in relation to the sponsor (Ng, 1992). Such unequal relationships manifest in family relations, employment, general social integration, vulnerability to physical and emotional violence, housing and health (Oxman-Martinez et al., 2005)

Under the Conservative government, the status of sponsored spouses and partners was made more precarious. In 2012, a two-year period of conditional permanent residency for sponsored spouses and partners was introduced. Under this change, the sponsored spouses or partners must cohabit in a legitimate relationship with their sponsor for two years from the day they become a permanent resident before they are granted full permanent residency. This policy affects spouses and partners who have been married or living together for two years or less and who have no children in common at the time of application (Government of Canada, 2012b). Migrant advocacy groups as well as researchers studying violence against women have argued that such conditionality of permanent residency would further reproduce the power inequality between the sponsor and the sponsored (Bhuyan, Osborne, Zahraei &Tarshis, 2014). Alboim and Cohl (2012) have deemed conditionality as excessive given that the authenticity of such relationships was already scrutinized as part of the typical sponsorship arrangement. Here, it is critical to examine the discursive mechanisms in which the border was re-drawn within Canada for sponsored spouses and partners.

The key to this policy change was the construction of marriage fraud as a serious threat to the integrity of the Canadian immigration system. In announcing the conditional permanent residency, then CIC Minister Jason Kenney justified the policy change as follows: “The problem of marriage fraud is serious and will only get worse if we don’t put measures in place that protect the integrity of our immigration system while deterring people from trying to use a marriage of convenience to cheat their way into Canada” (Government of Canada, March 9, 2012a). What demands attention is the ways in which the government constructed marriage fraud as a serious threat to the Canadian immigration system without presenting any concrete evidence such as statistics of reported marriage fraud. Instead, it primarily operated through what the government called “national public consultation”. In the fall of 2010, the CIC conducted two types of public consultations on the issue of marriage fraud: an online questionnaire and in-person town hall meetings in Brampton, Montreal and Vancouver (Government of Canada, 2011). The online questionnaire targeted both the stakeholder organizations and the general public and generated 2,431 responses. The stakeholders invited via email to participate were said to include representatives of industry and professional associations, private sector employers, chambers of commerce, immigration lawyers/consultants, immigration service organizations, civil rights organizations, ethno-cultural organizations and other non-government organizations. While the number of respondents and the description of invited stakeholders may make it appear that input was sought from a wide range of perspectives, it is not clear whether effort was made to solicit input from organizations such as rape crisis centres and shelters that would be knowledgeable of the issues concerning sponsored spouses and partners and would most likely take an oppositional stance on conditional permanent residency.

Further, upon attending to the information provided along with the online questionnaire, it becomes clear how marriage fraud was already constructed as a pressing problem for Canada. For example, prior to answering the online questionnaire, participants were asked to read a document entitled "Backgrounders – Marriage Fraud – Have your say". The backgrounder begins by saying that "*Canadians* are invited to participate in an online consultation on the issue of marriage fraud known as 'marriages of convenience'. This *national* online questionnaire will gather input on the *magnitude of the problem* as well as opinions and ideas on how best to address it" (Government of Canada, 2010, Background section, para. 1, emphasis added). From the beginning, the issue was presented as a concern of Canadians that required national attention. The first and only question about whether marriage fraud is indeed a threat or problem to Canada's immigration system is pre-phrased by "consider the information you read about marriages of convenience" (Government of Canada, 2011, Appendix C: Questionnaire section, para.3). Given that the information attached to the questionnaire already constructs marriage fraud as a serious threat, it is not surprising that 77 percent of respondents considered marriage fraud to be a very serious or serious threat (Government of Canada, 2011). It is important to note that the questionnaire does not ask more related questions such as "Are you aware of any cases of marriage fraud?" Instead, the questions asked on the online questionnaire largely focus on how to address marriage fraud. The backgrounder also prematurely proposes conditional permanent residence as a solution to marriage fraud by providing information on how other countries such as Australia, New Zealand and United States are already using this measure to address "the problem". As Jafri (2012) would argue, such automatic linkage to other white settler nation-states suggests the ways in which immigration policy not only tightens the national borders and boundaries, but also facilitates the consolidation of a transnational white identity.

As for the consultation through the town hall meetings, there is no detailed report available online. However, the description in the news release of conditional permanent residency suggests that the town hall meetings were not a neutral space for public consultation, but rather a space where marriage fraud was constructed as a serious threat by firmly framing sponsoring Canadians as victims and sponsored immigrants as callous scammers. Then Minister Jason Kenny described the town hall meetings this way: "I held town hall meetings across the country to hear from *victims of marriage fraud*…. In addition to the heartbreak and pain that came from being lied to and deceived, these people were angry. They felt they had been used as a way to get to Canada. We're taking action because immigration to Canada should not be built upon deceit" (Government of Canada, 2012c, para.4, emphasis added). "Implementing a two-year conditional permanent residence period will help deter marriage fraud, prevent the callous victimization of *innocent Canadians* and help us put an end to these scams" (Government of Canada, 2012d, para.3, emphasis added).

If the primary purpose of the town hall meetings was to listen to "victims of marriage fraud" who were hurt and "angry", then the response gathered from the so-called "public consultation" should obviously have supported the idea that marriage fraud is indeed a serious threat to Canadian immigration. Further, Kenny's description suggests that the town hall meetings were held to listen exclusively to *Canadian* victims of marriage fraud, completely

dismissing the voices of victims of domestic abuse and trafficking arising from the sponsorship relationship. Bhuyan, Osborne, and Zahraei and Tarshis (2014) argue this policy change completely ignores the fact that domestic violence remains a serious social and health issue in Canada, accounting 12% of the annual violent crimes (p.32).

The CIC later announced an exemption to the measure of conditional permanent residency "in instances where there's evidence of abuse of a physical, sexual, psychological or financial nature and the exemption also applies in situations where there's evidence of neglect, such as a failure to provide the necessities of life" (Government of Canada, 2014, para.61). However, this exemption is another illustration of how the subjects of Canadian sponsors and sponsored immigrants are constructed in the provision of conditional permanent residency: the Canadian sponsor could, *in exceptional cases*, pose a threat to the sponsored immigrant, while the sponsored immigrant is *always* a potential threat to the integrity of the Canadian immigration system. However, such construction does not reflect the gendered power relations embedded in the sponsorship program both at the personal and systemic levels. In reality, the cases of domestic abuse or neglect are extremely difficult to prove and such exemption does not truly address the concerns of the sponsored spouses and partners but keeps them in a precarious state/status. By discursively framing sponsored spouses and partners as fraudsters, this policy change not only naturalizes the gendered processes of border making and the exclusions built into notions of Canadian citizenship but also potentially facilitates gender inequality and violence.

Criminality and racialized construction of foreignness: Bill C-43: *Faster Removal of Foreign Criminals Act* of 2013

The Immigration and Refugee Protection Act (IRPA) includes the provision of inadmissibility which defines who is admissible to Canada. Under the IRPA's inadmissibility provisions, individuals may be inadmissible under nine different categories: 1) security, 2) international rights violations, 3) organized criminality, 4) serious criminality, 5) health, 6) financial reasons, 7) misrepresentations, 8) non-compliance, and 9) an inadmissibility of family member. Most of these inadmissibility clauses apply not only to those outside of Canada but also to those who are already in Canada, such as, temporary as well as permanent residents. The IRPA also specifies appeal rights as well as the exemption of inadmissibility due to reasons such as humanitarian and compassionate grounds, deemed criminal rehabilitation and record suspension.

In 2010, the CIC, in consultation with the Canada Border Services Agency and other federal partners, conducted a review of the IRPA's inadmissibility section and related provisions (Government of Canada, 2013a). The purpose of the review was said to "ensure that officials continue to have the *tools necessary to maintain the integrity of Canada's immigration system* as well as to examine a number of recurrent issues that have surfaced since the implementation of IRPA in 2002" (Government of Canada, 2013a, para.5). However, the review of IRPA's inadmissibility provision primarily focused on the clause of criminality, and deportation was predetermined as the main "tool" necessary to maintain the integrity of Canada's immigration

system. Under the new inadmissibility regime, Bill C-43 was said to "close loopholes that enable convicted foreign criminals to delay their deportation from Canada" (CIC, 2012, p. 2).

In an effort to deport "foreign criminals" from Canada, two particular ideas—foreignness and criminality—were central to this policy change. The term "foreign" points to difference, alienage and externality, while the term "criminal" points to illegality and serious wrongdoing. With these ideas yoked together, the border was discursively drawn between "us" and "them" and "morality" and "immorality". These ideas became the reason for Bill C-43 and were primarily disseminated by describing individuals who had been involved with the criminal justice system. For example, the background document entitled *Top 5 Reasons for Faster Removal of Foreign Criminals Act* (Government of Canada, 2013b) simply states the names of five individuals, the crimes they committed, the sentences they received, if they used the Immigration Appeal Division, and the time spent on their deportation order. Without providing any context of each case, they were portrayed as "foreign criminals". Similarly, then Minister Kenney's description of foreign criminals in his speech embellished the criminality of foreign "Other" by referring to them as "murderers, drug traffickers, fraudsters, child abusers, and thieves, some of whom were on most wanted lists" who "terrorize innocent Canadians" (Government of Canada, 2012e) without giving specific examples of such cases. The discourse of terror has gained affective currency in the global context of post 9-11 where the intensification of the threat of terrorism "works to create a distinction between those who are 'under threat' and those who threaten" (Ahmed, 2004, p.72). Drawing on Arat-Koc, Jaferi (2012) argues that the discourse of terror in the post 9-11 context "rewhitened" the national identity of Western states including Canada. Accordingly, "the national belonging and political citizenship of many Canadians of colour has become more precarious due to exclusionary rhetoric around national loyalty and belonging" (p. 5). By constructing immigrants as dangerous threats to Canadian national security—that is, as foreign criminals—the government deemed Bill C-43 a necessary mechanism.

What is largely unspoken is the fact that all individuals who were referred to in the CIC documents were in fact permanent residents. Under Bill C-43, permanent residents are systematically designated as foreigners even if they have lived in Canada most of their lives.[2] Under this change, individuals, including permanent residents and foreign nationals, lose the right to appeal to the Immigration Appeal Division (IAD) of the Immigration and Refugee Board in the following circumstances: 1) they were sentenced to imprisonment in Canada for six months or more; 2) they were convicted of reportable offences outside of Canada or are believed to have committed foreign offences, even without conviction (The Canadian Bar Association, 2012). Despite the dramatic description of the former Minister, a criminal sentence of imprisonment in Canada of six months or longer can be the result of charges such as shoplifting

[2] For example, Jackie Tran, who was cited in *Top 5 Reasons for Faster Removal of Foreign Criminal Act* was ordered removed from Canada in April 2004 because of "serious criminality" after convictions for drug trafficking and assault, and was deported in 2010. There was no consideration of the fact that he came to Canada as a child with his mother in 1993 (R. Sharma, 2009).

or drug-related activities. The term of imprisonment may also include a conditional sentence that is served in the community instead of in jail. Conditional sentence orders are normally set for much longer times than equivalent sentences served in jail (The Canadian Bar Association, 2012). As for the criminal sentence given abroad, it could be anything from a fine, probation or a jail sentence, as long as it would be punishable by potential imprisonment of ten years or more in Canada (The Canadian Bar Association, 2012). This would include many Criminal Code offences, including serious offences (murder or armed robbery) but also other minor offences such as the use of false documentation, as well as, assault causing bodily harm. Further, Bill C-43 denies the rights of foreign nationals to access humanitarian and compassionate relief if deemed inadmissible based on security grounds, such as, organized criminality. Organized criminality can include relatively low levels of participation in patterns of less serious criminal activity such as shoplifting (The Canadian Bar Association, 2012). Thus, under Bill C-43, a permanent resident can be deported if convicted of dangerous driving in Canada, if caught using fake ID to get into a bar in the United States, or if involved in neighbourhood gang-related activity for shoplifting or drug-trading (The Canadian Bar Association, 2012).

Although attaining citizenship after permanent residency may seem like a logical "next step," the reality is not so straightforward. For those whose countries of origin do not allow dual citizenship, attaining Canadian citizenship means losing important rights, benefits and connections to their country of origin. Some permanent residents might not have been informed of the importance of processing their citizenship applications. The changes in citizenship policy also affect the ability of permanent residents to become Canadian citizens. Under the change to Bill C-24: *Strengthening Canadian Citizenship Act*[3], it has become harder to become a Canadian citizen; one has to physically stay in Canada longer[4], one has to speak English or French better; and one has to pay more to process the citizenship application.[5] For some permanent residents who may be struggling with various issues—such as unemployment, underemployment, childcare, family separation, or trauma from persecution—applying for Canadian citizenship may not be feasible. Acquiring Canadian citizenship is not a simple administrative process then, but rather another bordering process that internally expels those who cannot or do not wish to legally assimilate into the Canadian nation, while simultaneously puts them at risk of being targeted as a foreign criminal.

By blaming and punishing permanent residents who are involved in the criminal justice system, this policy completely ignores the failure of Canadian integration policies that create the conditions that push people into criminality in the first place. It is equally important to note how

[3] Since writing this paper, the Liberal government has introduced Bill C-6, an act amending Canada's Citizenship Act as of June, 2017. Consequently, some of the provisions introduced under the Bill C-24 were repealed.

[4] Previously, the applicant for citizenship had to be physically present for three years (1095 days) in a four-year period at the time of application. Bill C-24 changed the requirement for residency to four years (1460 days) in a six-year period, and required applicants to be physically present in Canada for at least 183 days per year in four of the six years.

[5] The cost for an adult application for citizenship is currently $630.

policing and the criminal justice system are not neutral sites but are built on and reproduce anti-immigrant, racist, sexist, classist and ableist ideas and practices. Chan and Chunn (2014) argue that various criminal justice practices reinforce hierarchies of humanity, perpetuate race-based narratives about crime and legitimize punitive legislation that disproportionately impacts and targets racialized groups. Similarly, Wortley (2003) has argued, that the access to justice in Canada depends on how one is socially located in terms of race, gender, class, language, ethnicity, and immigration status. The legal system itself is extremely skewed in favour of those who have financial resources while legal aid services are significantly underfunded and utilized by low income and racialized populations (Wortley, 2003). Those who do not speak English or French face the difficulty of accessing quality interpretation services when dealing with the policy and the criminal courts (Wortley, 2003). Racialized communities, particularly black male populations, are most frequently criminalized by being made targets of police surveillance through practices such as racial profiling (Chan & Chunn, 2014; Wortley & Owusu-Bempah, 2011; Wortley & Tanner, 2004). The marginalization of black bodies is built on the ongoing construction of black people as perennially marginal newcomers, coupled with the linking of contemporary Blackness to Toronto, to Somali youth, and to illegal immigration, or to "Jamaicanness" and crime (Walcott, 1977 as cited in Amadahy & Lawrence, 2009; p. 132). With the rise of Islamphobia and the discourse of terrorism, Muslim communities are also often the potential targets of systemic marginalization. These racialized communities are always constructed as comprising what Dhamoon and Abu-Laban (2009) describe as "internal dangerous foreigners" whose foreignness has been intricately linked to threat. This way, for racialized communities, the border never ceases to exist even after immigrants have acquired securer immigration status. Instead, the border becomes a 'colour bar' situated everywhere and nowhere (Balibar, 2002).

Who belongs? Invisibilization of gendered and racialized borders and re-securitization of White settler Canada

While each policy was alleged to address different problems and offer solutions accordingly, three key discursive mechanisms should be noted in the two policy changes. Firstly, what was identified as problems to be solved in each policy—marriage fraud and foreign criminals—were constructed as threats to Canadian integrity, safety and security, and were pre-determined as *national problems* that affect *all Canadians* through emotionally-charged narratives. Naming emotions such as fear and anger in the official narratives made it possible to make feelings "real" as effects, shaping actions and orientations (Ahmed, 2004). Simultaneously, such discursive mechanisms enabled individual "Canadians" to embody national identity. Yet, since Canada's national identity has been historically racialized (Bannerji, 2000; Mackey, 2002; Razack, 2002; Thobani, 2007), only particular bodies were included in such an assignment and, as such, the ideas of integrity, safety and security were assumed only on behalf of those who have been historically included as members of Canada's nationhood.

Secondly, and related to the previous point, the construction of the national problem was only possible through the formation of the foreign Other. For the policy changes in conditional permanent residency, the foreign Other was a fraudster, while Bill C-43 defined the foreign

Other as a criminal. Such subject formation is built on existing ideas of who constitutes the foreign Other, and is assigned to a group of people who are historically placed outside of Canada's imagined community. Immigrant women and racialized communities have been and continue to be constructed as threats to the Canadian nation-building project. Thus, these policies function not merely to punish "marriage fraudsters" and "foreign criminals" but also to subject immigrant women and racialized communities to further scrutiny by using gendered and racialized discourses of integrity, safety and security.

Finally, the discursive constructions of the "problem" as well as the suggested "solutions" operate to blame and punish individuals. The fraudsters who take advantage of Canadian generosity are punished through suspension of their full legal status while foreign criminals receive the ultimate form of punishment—deportation. The blame is also placed on individual Canadian spouses who abuse their sponsored spouses. Such individualization in the construction of problem and solution reflect the neoliberal rationalities in which individual responsibilities supercedes the state's obligation. What is erased in neoliberal rationalizations is the historical and systemic injustice embedded in the Canadian immigration system and the Canadian nation-building project as a whole, as well as the broader current and historical inequality at the global level. Consequently, the Canadian state is able to continue to ignore its responsibility for its colonialist, racist, classist and sexist past and present while implementing a complex set of policies that marginalize particular bodies.

Altogether the analysis demonstrates the power relations embedded in the discursive processes of border making at play in two policies. Balibar's (2002) assertion that borders do not perform "merely to give individuals from different social classes different experiences of the law, the civil administration, the police and elementary rights, but actively to differentiate between individuals in terms of social class" (p. 82) is highly relevant here. The analysis also illuminates that what has been discursively dismissed is in fact the very manifestation of power dynamics. The discursive silence about gender relations and violence in conditional permanent residency and the negation of racialized criminalization in Bill C-43 functions to erase the historical and systemic injustice embedded in the Canadian immigration system and Canadian nation-building project as a whole.

Conclusion

In this paper, I shed light on the linkages between the contemporary bordering practices and the historical construction of Canada as a white settler nation. I demonstrated the gendered and racialized construction of "inner borders" through exclusionary policy developments. I argued that the bordering practices at play in these policy changes are only possible through two discursive conditions and functions: 1) the naturalization of gendered and racialized exclusions endemic to Canadian national membership, and 2) the erasure of historical and systemic injustices embedded in the Canadian immigration system and Canadian nation-building project as a whole. Through the naturalization and erasure of historical and systemic injustice, the punitive legislation that disproportionately impacted and targeted the immigrant women and racialized communities was legitimized.

While my study focused on inner border making in two specific Canadian immigration policies introduced under the previous Conservative government, such bordering practices operate at various levels of society, particularly in the context of post 9-11. More studies have to be conducted to understand how and when such bordering practices push particular bodies into precariousness. It is equally important to understand how such bordering practices are dependent on historical ideas and practices. This means that it is not sufficient to simply critique the Conservative government that introduced the immigration policy changes or to optimistically welcome the seemingly inclusive political climate ushered in under the new Liberal government. Rather it is crucial to examine how particular historical ideas continue to prevail and remain an essential part of Canadian national identity. Only through the understanding of how these ideas endure and shape our identity, desire, and consciousness, can we begin imagining the work of dismantling them.

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