Dual Migrations: Insecure Migrants, Temporary Workers
The Political Uses of Border Control Policies

Simona Chiose, PhD Candidate, University of Toronto

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Securitization theory has analyzed government policies that attempt to draw firm boundaries around national borders and criminalize asylum-seeking behaviours which were previously addressed through refugee determination mechanisms. The web of policies – entry regulations, safe third country provisions, appeal, detention and removal procedures - that have turned the social question of migration into a security question (Huysmans 2000) – builds on the bifurcation of migrants into the highly-skilled privileged workers and the non-privileged (Joppke 2001). This distinction would not be possible without the operation of securitization as a process through which liberal human rights norms embedded in national institutions have been rendered weak by extraordinary events. Such events – beginning with 9/11 and encompassing the July 2005 London subway bombings – have increased public acceptance of fragile protections for civil liberties and decreased the ability and willingness of the judiciary to protect liberal norms (Hampshire 2009).

Extraordinary events, however, do not preclude state choices as variation among securitization regimes has. Explanations for why states pursue securitization strategies have followed several strands. For some scholars, securitization is the result of temporarily favoured security bureaucracies extending their authority to new purviews (Boswell 2007, Saggar 2003). For state-centred analysts, securitization is a legitimation strategy, a public assertion of the state's ability to secure its borders, define the conditions of belonging and the benefits that accrue to those who are members of the community (Simon 2008, Antonious, Labelle and Rocher 2007). Particularly as reductions in government finances lead to a decline in state legitimacy derived from the provision of public goods, the creation of a group of "denizens" (Hammar 1990) allows for the re-interpretation of minimal benefits for citizens as signs of the continuation of state largesse and responsibility for the individual (Helly 2008).

These types of analyses, however, suffer from a functionalism that derives goals from the policies governing refugee and irregular migrants. Moreover, they render national political actors secondary (if not powerless), to bureaucratic agencies. If the actions of political actors – parties, voters and elites – were not important explanatory variables (Boix 1998; Garrett 1998; Hamann and Kelly 2003), we would expect similar institutional structures to lead to similar securitization policies.

And yet, Canada and the U.K. show different patterns of securitization though they are broadly similar in the determinants of refugee policy. They have consistently ranked in the top five receiving countries for refugees, but not in the top ten of refugee receiving countries by population (UNCHR 2011) and they both display strong executive control of immigration (Hansen 2002; Triadafiloulos 2010.) However, since the late 1990s, the U.K.'s refugee policy has been defined by an increasingly restrictionist set of measures on refugee policy instituted by the Labour party, measures which even as they pursued a path set by the prior Conservative government, were frequently criticized by the Conservatives and the country's tabloid press as not sufficiently severe (Sales 2007; Tempest 2005; Mynott 2002; Shirley 2002).

 Until very recently, Canada presented a sharp contrast. With the proposed Bill C-49, however, the government has signaled its willingness to engage in electoral competition over refugee policy. Following the restrictionist path of the U.K., however, is likely to yield similar results: A polarization of views around refugee policy, a decline in the socio-economic conditions of refugee claimants and perhaps most importantly for the government's overall goals, an unpredictable response from the electorate and a potential 'knock-on' effect in the labour migration stream.

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Indeed, in spite of the differences in refugee policy, the two states have pursued remarkably similar labour migration policies over the last 10 years. Here, a pattern of progressive liberalization in both countries was established, a pattern only broken by the 2010 election of the Conservative party in Britain and highly public restrictions on the entry of workers imposed by the coalition government. One can indeed understand restrictions on refugee entry as proceeding in lockstep with the liberalization of entry for labour migrants. Positioning the two countries' policies in the context of competitive global markets for labour, particularly for high-skilled workers, policy changes threw open the doors to national labour markets for workers without whom Tony Blair argued, the U.K.'s "public services would be close to collapse." Furthermore, in Canada, and to some extent, in Britain prior to the accession of the A8 to the EU, policy on worker migration also benefitted from the cross-party consensus that had been said to define the immigration agenda (Joppke 1998, Freeman 2006; Boswell 2003) This dual policy movement has been noted (Antonious, Labelle and Rocher 2007; Geddes 2005), but the pathways to this result have not been examined in a comparative context.

The difference between the dual modes can be conceptualized as a reconciliation of the immigration policy gap (Freeman 1995, Cornelius 2004). Whereas the original 'gap' was presented as that between an expansionist immigration policy at odds with restrictionist public sentiment, in the formulation suggested here the gap is bridged through the restriction (and the publicization) of border controls for refugees even as worker migration controls are relaxed. What emerges from this discussion are dual tracks of migration policies, governed by separate logics. If an economic logic dominated, we would expect to see liberal entry policies with limited integration measures, at least in LME countries, thus providing a cheap labour force. States are closing their borders to irregular migrants because it pays political dividends to be seen to do so. This formulation places political agents in an active role that accounts for studies which have found politicians to exercise a high degree of agency in the conduct of immigration policy and to have the ability to shape such policy without paying much heed to public opinion (Statham and Geddes 2006).

Political entrepreneurs have been seen to 'perform' securitization, in some cases confirming voters erroneous understanding of refugee impacts (McLaren and Johnson 2007) and in other cases, mobilizing voters around restrictions (Mulvey 2010). In addition, politicians have engaged in the "politics of unease" (Huysmans and Buonfino 2008), highlighting and problematizing areas associated with immigration, questioning local impacts and cultural integration and citizenship policies for their ability to shape and reflect the allegiances of immigrants, particularly those entering the country outside labour streams. This has particularly been the case in the U.K. where the constituency associated with asylum seekers (refugees, rights organizations, U.K. voters of refugee origin) do not benefit from a pattern of clientelist policies (Freeman 2006). Strong links between refugee interest groups and politicians, as has been the case in Canada, can lead to a lengthening of politicians' horizons, transforming short-term calculations of electoral possibilities into long-term strategies of constituency building that argue, at a minimum, for gradualism in introducing restrictions (Pierson 2004).

To highlight this problematization and the differential approach taken between labour and refugee migration and between Canada and the U.K. in refugee policy, it is useful to start the comparison by looking at the similar paths the two countries followed to meet business demand and deliver workers on a just in time basis.

<u>U.K. worker migration programs</u>

The labour stream of the U.K.'s "managed migration" system has been developed over the last decade by the Labour party which won election in 1997 and held power until 2010. In that time, the government passed four immigration bills (and proposed a fifth in its final year in power), and published several landmark position papers. The direction of policy throughout has followed three axes: the encouragement of the migration of economic workers, the discouragement of asylum seeking through restrictionist entry criteria and the limitation of benefits for refugee claimants, and the criminalization of denied claimants through enforcement measures. The 2002 White Paper, *Secure borders, safe havens: Integration with Diversity in modern Britain*, clearly outlined these three priorities, grouping failed refugee claimants with "foreign national prisoners …and other immigration offenders." (Home Office: 2002)

The government linked labour migration and asylum, presenting the former as dependent on the public's confidence in the latter. Such confidence, Labour argued, could be maintained through the efficient adjudication of asylum claims and the prompt removal of failed claimants. It was in this context that, in 2004, Tony Blair announced the 'tipping point' target, that would see more asylum claimants removed than accepted (Sommerville 2007). Although the target was heavily criticized by human rights groups as an arbitrary measure, it was frequently invoked in subsequent government reports (Home Office 2005 - making migration work; Home Office 2007 - Enforcing the rules). Asylum claims would be supported as long as they were deemed legitimate, but when refugees were found ineligible for protection the enforcement of their deportation would be swift.

There is no particular reason why support for increasing numbers of foreign workers should depend on the effectiveness of the asylum system. In choosing to link the two, the Labour government followed, rather than educated, public opinion (Khosravinik 2007; Statham and Geddes 2006). Studies have shown that the British public does not distinguish between refugees and economic immigrants (McLaren and Johnson 2007; Joppke 1997). Failing to challenge this equivalence performs two functions: It places accountability for measurable restrictions in the area of refugee policy, where interest groups are less influential than in the worker remit; and it creates not only a group of 'negative' immigrants, but one made up of "good" immigrants, whose arrival is presented as serving the national interest. In a context where the point system and the accession of the A8/A2 would lead to increases in the number of immigrants, the creation of a "valuable" group of immigrants attempts to contain debate around worker migration.

While the 2002 document set the parameters of immigration policy, 2005's *Controlling our Borders: Making Migration work for Britain*, outlined the measures that would lead to a flexible, demand-driven system. The document accorded business needs primary importance in determining the entry of workers. It proposed a points-based system, modeled, according to interviews, on Australia's highly flexible, demand-driven regime, in which foreign highly-skilled labour, shortage occupations, students and national skills council would form a matrix of economic levers. An independent, arm's length body was to be established that would assess the needs of the British labour market based on frequently updated information, the Migration Advisory Committee. In the midst of an economic explosion – British GDP growth was 3 per cent in 2004 - the government asserted that it was motivated to create the points-based system to enable "skilled staff to come here to fill the vacancies our growing economy has created." The government's tilt toward a liberal entry system is further underlined by the absence of quotas for

what would become Tier 1 – the most highly-skilled independent workers. This group would be allowed entry on an "employer-led" basis.

The government's liberal policies reached their apex with the accession to the EU of the A8 countries. In conjunction with Sweden and Ireland, the U.K. chose to allow workers from the former Eastern European countries immediate access to the labour market, requiring only that they register. Home Office minister John Reid predicted that flows would reach only 10,000 but the number of A8 workers reached 160,000 entrants registered under the Worker Registration Scheme one year after accession (IPPR 2007) and almost a million by December 2008 (MAC 2008). The high numbers stoked the cold war between Labour and the right-wing tabloid and conservative papers into a full-out conflagration. The mistaken estimate would fuel anti-immigration sentiment for several years.

As a result, in 2007, Romania and Bulgaria, the A2, found their workers' access to the British labour market governed by much more stringent rules. Rather than simply requiring registration under the Worker Registration System as was the case for the A8, A2 migrants could only work in Britain without a job offer if highly-skilled or enrolled in sector schemes for low-skilled workers. By the time the point system was introduced in November 2008, the high numbers of Eastern European workers in the country led to the suspension of its third tier governing the entry of low-skilled migrants from outside the EU (as had been the government's intention in introducing the point system).

The point system was welcomed by the business community. The less onerous administrative burden – it rationalized 80 categories into five main categories – and the lack of numerical quotas – met the corporate sector's needs for foreign workers in the high and middle-end sectors, particularly for ease in inter-company transfers in software industries. The Worker Registration Scheme that governed the employment of Eastern European workers was felt to be a burden but it was not as feared as the imposition of a quota.

The point system also represented one of the most liberal entry policies of any Western government to the movement of highly skilled workers, a de facto extension of the European right of free movement to the highly-skilled outside of the EU. However, the point system's inauguration at the beginning of the recession meant that the government began to raise the points required to gain entry almost immediately. It would not be until two years later, however, that a cap of 10,000 would be imposed on Tier 1 by the Conservative-Liberal Democrat coalition.

Canadian worker migration policies:
During the last decade, Canadian immigration policy has changed from a human-capital to a demand-based model. It is very important to note that these changes were not a turnaround engineered by a government motivated by an economic liberalism that is perhaps more deeply rooted than in the other G8 countries (note, for example, the Finance department's moderate and reluctant spending during the 2008 crisis, Reynolds 2010). Instead, the changes were prefaced by policies laid down by the Liberal party prior to the 2006 election. Alterations to Canada's federal worker selection program build on ideas and priorities introduced by the Liberals. The 2002 Immigration and Refugee Act (IRPA) signaled a move away from the importance accorded to family reunification and the human capital of independent workers. Prior to this date, foreign workers could be hired for a position if there were "no Canadians to do the job." In 2002, the criteria shifted to the issuing of Labour Market Opinions by Service Canada if such "employment is likely to result in a neutral or positive effect on the labour market in Canada."

Pilot programs for Software Engineers in 1997 and temporary low-skilled workers in 2002 (Pascoe and Davis 1999; Stewart 2000; Nakache and Kinoshita 2010) introduced under the Liberal government, resulted in the eventual entry of more temporary than permanent workers, with a substantial number coming for low-skilled positions (Hennebry 2009).

The opening of doors to workers in demand from business was part of the government's wider economic vision. In 2006's Advantage Canada: Building a Strong Economy for Canadians, the government committed to the "world's most flexible workforce" and in his 2008 Budget, Finance Minister Jim Flaherty promised the establishment of a "just in time competitive immigration system" that delivered immigrants to jobs where they were needed (Department of Finance Canada 2006; Department of Finance Canada 2008, cf. in Siematicki 2010).

While temporary workers have received a fair amount of attention from scholars and interest groups (Vineberg 2010; Green 2007; AFL 2007, AFL 2010), the government's far-reaching changes to the federal worker system have not been analyzed to the same extent. The most significant change has been the introduction of Minister's instructions regarding the processing of federal worker applications introduced in Bill C-50. Presented as a response to evidence that economic outcomes for recent immigrants were declining (see Hiebert 2006 for a discussion) and with the aim of making the "immigration system more flexible and responsive to labour market needs," Bill C-50 introduced a list of occupations in demand for which applications would be prioritized and capped (CIC 2008). Changes to the list of occupations would also be swift, the government promised, with expected updates at least every six months or as the market indicated. The net effect was that 38 occupations were deemed in demand on the bill's passage, which was further reduced to 29 in June 2010 while the 600,000 applicants languishing in the backlog who did not possess appropriate skills would continue to remain on the wait list (OAG 2009). Overall, the number of general stream federal workers were projected to be reduced by 73 per cent by 2012. (CIC: Annual Report 2008).

Along with the shortage workers, entries that relied on a two-step process would be increased (Lowe 2010). The first such stream, the Canadian Experience Class, prioritizes applications from students or highly-skilled workers with Canadian experience. It competes with Provincial Nominee Programs, which had been announced in the 1990s but had not resulted in more than the entry of 1,000 workers until the mid-20000s. PNPs encourage provinces to expedite permanent resident status for provincially-preferred types of immigrants and operate through provincial-federal agreements that foreground the understanding that labour migration is to respond to signals from employers for workers, signals that will show regional variation, rather than long-term federal projections or priorities for industrial and labour strategy.

PNPs also represent a devolution of the responsibility for immigration to the provincial level which has been embraced to varying degrees depending on a given province's prior experience with immigration (Leo and August 2009; Leo and Enns 2009; interviews with PNP departments). For Ontario, which was the recipient of 53 per cent of federal workers a decade ago (declining to 42.4 in 2009; Metropolis 2010), the PNP demands resources that had been assumed by the federal government; for Manitoba, on the other hand, it enables a desirable increase in population through the expediting of migration channels (Carter, Morrish and Amoyaw 2008).

The shift to a demand-based model has not lead to a polarization of party. In 2009, a report from the Office of the Auditor-General of Canada was highly critical of the speed and apparent lack of strategy of the changes to the immigration system. As well, the 2009 Report of the Standing Committee on Citizenship and Immigration on Temporary Foreign Workers and

non-status workers had a number of dissensions by the committee's Conservative members. On the issue of temporary workers in particular, political parties have disagreed on the speed of the increase in temporary workers and the (relative absence of) regulations governing their employment, particularly following the release of the OAG report, but the pitch of the debate has not yet become heated.

<u>Refugee policy</u>

The similarities in worker migration policies between Canada and the U.K. do not extend to refugee policies. The U.K. has passed four bills governing immigration and refugee policy, with each implementing increasingly restrictive measures. Canadian policy, on the other hand, has continued until very recently to treat "unauthorized humanitarian migration as a normal, manageable and necessary element of international politics." (Watson 2007: 96).

The trend in the U.K. has been to "separate asylum seekers from society on arrival, with the presumption that most applications will fail…. Legislation [has made] status more temporary, thus extending the insecurity even for those granted some form of status." (Sales 2007: 147) In 2009, the Labour government introduced a draft immigration bill which would have further restricted benefits to refugees and strengthened deportation powers.

The high level of activity in Britain is particularly remarkable given that the country does not fit the predictions made by scholars of European party politics and right-wing parties in particular (Lubbers 2002, Betz 2004, Kriesi 2006). A primary focus of scholars' attention in explaining the emergence of immigration as a contentious item on the electoral agenda has been the existence of an extreme right-wing party as a highly predictive indicator. (Schain 2006). The attempt to neutralize the appeal of Switzerland's SVP, Italy's Forza Italia and France's Front National led to the adoption of restrictive immigration proposals in those countries (Giugni and Passy 2006). But while the British National Party scored two seats in the European Parliament, it did not win any seats during the last British election. Its weak electoral showing did not lead British politicians to ignore its (limited) appeal (Smith 2008).[1] Two puzzles regarding refugee policy in the two states emerge from the existing scholarship. What led to the emergence on the agenda of refugee policy as a securitized, highly visible area? For decades, electoral competition on immigration issues in both countries had been considered to be a settled matter and dominated by the politics of consensus (Joppke 1998, Hansen 2003; Freeman 1995) With few exceptions (for a discussion of policies during Margaret Thatcher's Tory government see Thranhardt 1995), immigration in the U.K. post Enoch Powell was dealt with through administrative rules - less liberal types of discussion was excluded from the agenda. The second puzzle is why, given the similarities between Canada and the U.K. on worker migration, did British political actors engage in political battle over refugee policy for over a decade before Canada was convulsed by a similar discussion?

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[1] The government, and Immigration Minister Phil Woolas in particular, also justified its approach strategically by arguing that if it was not seen to be tough on immigration, voters would turn to the extreme right. See Nicholas Milton, Oct. 20, 2008. "The Cap Fits, Guardian.

<u>U.K. Refugee policy</u>

The early post-war history of immigration to the U.K. can be divided into three stages. The open migration of Commonwealth citizens and the restriction of such migration through the 1962 Commonwealth Act that differentiated between British and Commonwealth citizens; the adjustments to the Act that had the effect of reducing immigration from former countries of the empire; and the relative tranquility in the area until the Thatcher Conservatives' restrictive policies (Geddes 2003). Since the 1999 Amsterdam Treaty, the U.K has had the option of signing on to European immigration directives and has chosen to do so when those policies involve restrictions on asylum seekers (Geddes 2005). As Nienhuis writes, "The United Kingdom has tended to opt out of non-binding decisions concerning economic migration, while opting into restrictive legislation on asylum." (Nienhuis 2006)

The Labour government passed legislation covering three related, but distinct areas: entry and qualifications for successful claims; the enforcement of regulations governing the treatment of refugees when they engage in illegal activities, including resistance to deportation as a result of a failed claim; and impacts on local communities and other measures that rely on claimants' level of belonging to the national community such as the policies of forced settlement outside major cities (dispersal) and the provision of social benefits through vouchers (Mynott 2002). While the first and second areas are related and fall into the government's border control powers, the second – which also encompasses proposals relating to ideas such as probationary citizenship – refer to the state's legitimating function in defining categories of national belonging.

Refugee policy is conducted through the UK Border Agency (it was in the purview of the Immigration and Nationality Directorate until 2007), which stresses its role in the enforcement of migration policy with the goal of maintaining "public confidence in the integrity of [the U.K.'s] immigration and asylum systems." In 2002, the Labour government was confronted with a rapid increase in the number of refugee claimants of approximately 9,000 a month (80,000 for the year), the vast majority of the increase being accounted for due to conflicts in Iraq and Zimbabwe. The increase, however, was not treated as a temporary event, but rather was greeted with new rules on eligibility for benefits and government promises that the number would be halved within a year. Two years later, Tony Blair announced that the government would commit to a Tipping the Point target which would aim to have more monthly removals than applications.

A year after Blair's promise, the Home Office's Controlling our Borders: Making Migration work for Britain (Home Office 2005) boasted that it had met the "tipping point" target, and had received 30,000 asylum claims, a number made possible by changes to border controls that had the effect of "expanding the border" and preventing asylum claimants from reaching British territory (Kisby 2006). Furthermore, Controlling our Borders states that failed refugee claimants would have no right to income or benefits support. The government would not withdraw from the 1951 Geneva Convention, but it would also not allow the justice system to "delay or circumvent our control," by streamlining appeals and giving refugee claimants temporary, rather than permanent status, while authorities would assess any improvement in the situation in their country. The government would also take measures to prevent refugees from destroying documents – which make it impossible to return them to their countries of origin– by making it a crime to arrive in the U.K without valid travel documents; designate certain safe countries;and find ways to return asylum-seeking children whose claims were not accepted.

Following the July 2005 subway bombings, some of the measures that the government introduced under the Immigration, Nationality and Asylum Act of 2006 included those affecting refugees, even though one of the bombers had sought refuge as a child and had grown up in the U.K. (Sales 2007). The policies included increased search powers for immigration officials, the rejection of asylum claims from an individual found to have associations with terrorism, increasing the type of naturalized citizens who would have to prove "good character;" and finally the signing of Memorandums of Understanding that foreigners deported from the U.K. and seeking to appeal their deportation orders would not be subject to torture in the receiving countries thus enabling the U.K. to deport such individuals without contravening the Human Rights Act of 1998, which enshrined in British courts the protections found under the European Convention on Human Rights (Hampshire and Saggar 2006).

Enforcement of such measures was not only an administrative exercise, but one in the management of public relations. As well as announcing thousands of deportations, the Border Agency was not averse to trumpeting smaller targets such as the arrest of eight illegal workers in Heanor in the east Midlands. [2] Indeed, irregular migration is identified in policy documents as a threat to the body social, politic and economic. The 2007 paper from the Home Office, *Enforcing the Rules: a strategy to ensure and enforce compliance with our immigration laws*, begins by citing the Council of Europe convention against trafficking in human beings which aims to prevent organized crime from benefitting from poor and desperate people. "But, equally importantly, is that migrants in shadowy jobs undermining conditions of British workers, breeds discontent and racism, especially among those who don't believe they're getting economic or social opportunities they should because others who have flouted the law are getting on ahead of them. So tackle illegal trafficking and the illegal jobs at the end of them, access to benefits of UK residence and citizenship should be earned," writes then Home Secretary John Reid in the introduction. A similar emphasis on the impact of irregular migrants on communities persists in 2008's *Enforcing the Deal*, which cites the removal of failed asylum seekers from housing waiting lists in a London borough and fines levied against landlords renting to illegal immigrants, before setting the goals of expelling a higher number of failed asylum claimants and increasing spots in detention centres as a way to prevent deportees from going underground. The aim of border controls, the document continues, is the preservation of an open society, "while addressing the real concerns some sections of the public feel about immigration and coming down hard on the criminals that make their living from this trade." *Enforcing the Rules* cites fraudulent claims for public benefits (benefits which have not been determined by scholars to be a reason for asylum seeking) and 'health tourism' as undermining confidence in the system and

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[2] "Officers from the East Midlands local immigration team swooped on Noble House, Chinese restaurant in Ray Street, Heanor at 1800 on 6 November. The specialist team sealed all exits before checking the immigration status of the workers. Eight foreign nationals - four men and four women - were arrested after officers confirmed that they had no legal right to work in the United Kingdom. Seven of the illegal workers were Chinese nationals, aged between 18 and 48, whilst the eighth illegal worker was a 28-year-old Malaysian man. The UK Border Agency is now taking steps to remove all the immigration offenders from the country as soon as possible. The business was issued with an on-the-spot penalty notice for employing illegal workers and may now face a fine of up to £80,000. To avoid a heavy fine, the business must prove to the UK Border Agency that they carried out the correct pre-employment checks." (Home Office website)

points to high rates of asylum refusal to suggest that social benefits function as pull factors rather than legitimate claims. High failure rates were also frequently cited by the government as evidence of "bogus" asylum claims, evidence which has been attributed to a host of other factors including the inappropriate categorization of safe countries (Sommerville 2007).

The Labour government presented most of these measures as motivated by the desire to maintain support for a multiculturalism that respects the British way of life. British nationality has never been associated with membership of a particular ethnic group, it stated in *Controlling our Borders*. "For centuries we have been a multi-ethnic nation. This diversity is a source of pride. We want to develop among migrants and the settled population a stronger sense of social participation and shared values. Those here should accept that individual freedom and tolerance of diversity are fundamental to our democracy and society." (Home Office 2006: 22)

The restriction of public benefits and the detention measures which were presented as necessary to ensure public support, however, did not decrease the Conservative party's demands for even tighter restrictions, with Conservative leader Michael Howard vowing during the 2005 election, for example, that the Conservatives would withdraw Britain from international and European refugee rights conventions. The tough measures also did not satisfy newspapers like The Daily Mail which continually depicted Labour as soft on immigration.

It would be an exaggeration to say that Labour's immigration policy is dictated by the Daily Mail, said one interviewee. But scholars and observers have been unanimous in attributing influence for Labour policies on refugees to media attention and "governing by polls." If in the area of labour migration, Labour's policies were connected to its overall economic project of increasing the flexibility of the labour market, in the area of asylum, its polls and electorate analysis tools exerted the most influence. The persistence of a group of "unworthy" immigrants in Labour documents is not due to the party's much-vaunted reliance on "evidence-based" policymaking. Instead, as one analyst argued, Labour was dependent on "sampling, polling and focus group techniques … to become perhaps the most responsive government ever to tabloid scares and moral panics." (Lewis 2005). What Lewis terms Labour's "strategic illiberalism" had exacting consequences for refugee seekers and eventually, for the government's ambitious labour migration program.

Canadian refugee policy

Unlike in Britain, where policy restrictions were implemented on a continuous basis and most often not in response to a perceived direct assault on state borders, Canadian changes have been episode-driven. Deviations from this pattern have occurred primarily when asylum-seekers have arrived in a highly-visible, "media-friendly" manner that is seen to publicly threaten state control of borders. In three of the four such episodes between 1986 and 2002, refugees arrived by sea, confirming one scholar's (Watson 2007) observation that Canadian refugee policy would likely look quite different if the country had the geographical attributes of Britain, Australia or the U.S. rather than sharing a border with a population unlikely to engage in high levels of irregular movement.

Instead, irregular migration in Canada has been termed an "occasional aberration," (Goldring, Berinstein and Bernhard 2008) not a structural feature of the immigration system. As such, what is interesting about recent high levels of activity in Canadian immigration policy is that it has increased the lifespan of the issue beyond its boundaries by introducing long-range and highly publicized policy changes that do not simply respond to temporary events (Soroka 2002 cf. Downs 1972).

Several securitization theories seek to explain how the concept is operationalized in Canada. Some authors background immigration policy, arguing that migration measures have become tools of anti-terrorism policy, allowing a degree of secrecy that would not be permitted if such cases were prosecuted through criminal law (Antonious, Labelle and Rocher 2007); while others assert that Canadian securitization is based on the re-introduction of ethnic and racial differences (Ibrahim 2005). These arguments, however, present the securitization of immigration as externally determined by events or the prominence of security bureaucracies, rather than investigating the internal dynamics of policy changes.

A comparison with earlier restrictive episodes reveals that recent legislative proposals are exceptions in Canadian refugee policy. Moreover, prior episodes have been characterized by inter-party agreement on the extent and appropriateness of levying restrictive measures. It is only recently that this consensus has witnessed a substantial breakdown. Indeed, it was the Liberal party that in the 2002 IRPA presented the maintenance of the security of the refugee system as necessary if Canadians were to retain confidence in the system and not object to the goal of 1 per cent of population growth through immigration.

Cases since the 1980s were characterized by their high visibility and the rapid mobilization of political capital they endangered. Twenty-five years prior to the arrival of the HMV Sun Sea off the coast of B.C. in 2010, another boat of Tamil asylum seekers landed. This event and the subsequent disembarkation a year later of Sikh refugees led to the Liberal and Conservative parties questioning the quick processing of claims, the emergency recall of Parliament, and the introduction of Bill C-55 and Bill C-84, which altered the admissible categories for entry in the first instance and proposed the turning back of ships in international waters in the second (Basok 1996; Watson 2007). Ten years later, Bill C-44 was a response to a shooting by a Jamaican assailant in downtown Toronto and allowed for the deportation of permanent residents deemed a danger to Canada without the right of appeal. The bill was then incorporated into Section 70, subsection 5 of the 2002 IRPA which provided for the detention and deportation of non-citizen legal migrants (Burman 2010.) The result was that 40 per cent of those deported from 1995 to 1997 were Jamaican immigrants (Barnes 2009). And in 2002, the arrival of boats from Fujian province was greeted with media reports of possible health risks and demands on the welfare state. (Ibrahim 2005).

These bills, however, were not as far-reaching in the long-term implications they have for how refugee policy is conducted as the two bills introduced by the Conservative government in the last two years. The first, Bill C-11, the Balanced Refugee Reform Act, in June 2010, which amended the 2002 IRPA, is expected to be operational by the end of 2011. Records of Parliamentary debate show that MPs view the bill as the result of cross-party consensus and compromises between parties which was reflected in the number and content of the amendments passed by the Standing Committee on Immigration and Citizenship (CIMM). The bill was required, the government argued, because high rates of refusal from certain countries were evidence of unfounded claims. Reducing the burden of adjudicating such claims by streamlining the determination process would reduce the long wait times for legitimate claimants. Bill C-11 was also initially provoked by the introduction of visas for visitors from Mexico and the Czech Republic, a response, the government maintained, to a spike in refugee claims from those two countries but a very low rate of asylum acceptance. It was further justified by pointing to a backlog of 60,000 cases awaiting decisions at the IRB. While briefs from refugee organizations presented to the CIMM repeatedly referred to the 2009 Auditor-General Report which found

insufficient resources at the Immigration and Refugee Board to have caused the backlog[3], government documents referring to the Bill cited unfounded claims as the explanation.

The Bill's primary tool to increase efficiency is the creation of the Designated Countries of Origin category[4] for countries that do not "normally" produce refugees and the identification of claims as "manifestly unfounded." Refugees falling into one of these categories would see their cases heard within 60 days by ONE member of the Immigration Review Board. Appeals would be decided within 30 days and removal orders would be enforced even if the claimant advanced a legal challenge in Federal Court. Cost savings would be achieved through the deterrent effect of these measures which would lead to decreased access to social welfare benefits, fewer claims advanced for processing and a shorter period of time for unfounded claimants to access benefits as the government committed to a 12-month removal deadline.[5]

In its initial form, Bill C-11 did not include access to appeals for claimants from DCO countries and allowed much more latitude to the minister for immigration in designating such countries, which led to criticism from other political parties, refugee organizations and the UNCHR[6]. After amendments from the Standing Committee on Citizenship and Immigration which addressed those concerns, the Bill was adopted.

The evidence marshaled by the government to support the bill shows precisely the same type of argumentation as that found in U.K. policy documents. Social benefits are seen as pull factors attracting refugees who are not in legitimate need of protection, increased regulation and streamlining of the refugee determination system is presented as increasing "confidence in the integrity" of the system among Canadians, and the granting of faster decisions would lead to legitimate refugees engaging in a more desirably rapid integration process. The total cost savings were projected at $1.2-billion over 10 years. Minister of Immigration Jason Kenney also cited polls showing that 84 per cent of Canadians wanted action taken on asylum system.

Policy documents supporting the bill reveal that the Canadian government used U.K. legislation as a model for the DCO framework and made its predictions as to the expected drop in refugee claim rates based on the U.K. experience with Non-Suspensive Appeal (in which appeals of denied claims do not entitle the claimant to remain in the U.K. depending on her country of origin). Furthermore, it also introduced a program of Assisted Voluntary Returns modeled on the U.K.'s.

In spite of the high degree of involvement of political actors and stakeholders in Bill C-11, only three months after Bill C-11 received Royal Assent, the government introduced Bill C-49. C-49 was a very public response to the arrival of the MV Sun Sea, a ship bearing refugees from Sri Lanka in August of 2010. Announced by Public Safety Minister Vic Toews – while standing in front of the Ocean Lady which had transported refugees to the B.C. coast in 2009 – the Bill proposed denying refugee claimants arriving through "irregular" channels permanent resident status and the ability to sponsor family members for five years, as well as several other measures that would further refine the earlier bill. The differentiation between refugees based on their entrance paths violated the 1951 Refugee Convention and the opposition parties and tens of Canadian refugee and immigrant interest groups vowed to defeat the bill. The refugee claimants

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[3] 2009 March Status Report of the Auditor-General of Canada, Chapter 2.

[4] Countries that make up at least 1 per cent of total claims in the preceding three-year period and which have acceptance rates of 15 per cent or less.

[5] Canada Gazette, vol. 145, no. 12, March 19, 2011: Regulations Amending the Immigration and Refugee Protection Regulations.

[6] See briefs to CIMM hearings on Bill C-11. www.parl.gc.ca

arriving on the Sun Sea were depicted as queue jumpers, not only in ministers' statements to the media, but also in government documents in which the paying of human smugglers was compared to a cited 42,000 applications for refugee resettlement through Canada's Refugee and Humanitarian Resettlement Program, a number that far exceeds the estimates of sponsorship organizations and an inaccurate depiction of the Resettlement program as the only path to refugee status in Canada. Parliamentary debate on the bill shows that the government employed similar strategies to the U.K., invoking once again, the rate of denied asylum claims[7].

The Bill received a heated debate in Parliament in the fall of 2010 but was not re-introduced in 2011 despite calls for its reappearance by opposition members. Suggestions have been made[8] that the Bill was the result of a jurisdictional battle between the Minister of Public Safety and the Minister of Citizenship, Immigration and Multiculturalism. This hypothesis would explain a central puzzle in the introduction of Bill C-49: how the Conservative party reconciled the introduction of the bill with its "fourth sister" strategy. The attempt to attract suburban immigrant voters in what has been termed a "fourth sister" strategy (Cody 2008; Flanagan 2008) was calibrated to compensate for the party's failure to establish convincing support in Quebec which could take it to majority government territory. But while immigrants may have been drawn to the bill's law-and-order elements, C-49 carried the risk of being seen as an anti-immigrant bill by precisely this audience.

Conclusions
The above discussion of recent shifts in Canadian refugee policy has demonstrated that the Conservative party used similar rhetorical strategies to U.K.'s Labour to advance an ambitious agenda of reform in refugee policy. In the case of Bill C-11, such reform was stimulated by real-life events – the OAG report of long delays in refugee claims processing, the spike in claims from Mexico and the Czech Republic – but was shaped to emphasize a narrative that privileges securitization and border control and invokes the spectre of an undeserving group benefitting from illegitimately obtained public services. Amendments to the bill responded to sections that would have violated international refugee agreements, but did not directly challenge the assertion that streamlining the application process would have a deterrent effect.

Paradoxically, the bill's association with the imposition of visas for visitors from two countries not normally regarded as refugee producing shielded it from the more vociferous opposition accorded its successor. Introduced so shortly after the negotiations on Bill C-11, Bill C-49 encountered parliamentary resistance at the advancement of a politically-motivated security agenda that was attempting to "make hay" of an unusual event in Canadian immigration. As such, the temporary consensus for a need for immigration reform broke down, particularly in the context of institutional constraints (minority government).

A second very significant difference between Canada and the U.K. can be noted. The British Labour party was engaged in a conscious, long-term, consistent shaping of migration into two streams for a decade. Such consistency of purpose is absent from the Canadian sphere where an increasing number of regulations are addressed through Ministerial directives and post-

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[7] Jason Kenney remarks. October 28, 2010, openparliament.ca
[8] See remarks by Rob Oliphant on October 28, 2010, openparliament. Ca: My fear is that we already have the **Minister of Public Safety** expressing a lack of confidence in the **Minister of Citizenship, Immigration and Multiculturalism** and his fine work on Bill **C-11**.

legislative regulations published in the Canada Gazette, the provision for which has been inserted into long-standing legislation. This is quite likely a response to political imperatives to be active in the immigration arena tempered by the reality of a minority government. Arguably, one can speak of the British state constructing an argument with an arsenal of tools at its disposal – including the establishment of the arm's length Migration Advisory Committee, an agency that produces a volume of evidence generally in favour of the government's approach and surpasses the role of the CIMM.

The ability to marshal evidence supporting a government's position is no guarantee, however, that the position is correct, or will persuade voters. Political parties wishing to benefit from, or foment, immigration skeptics, have to be certain that voters will recognize the correct party as sharing those preferences and particularly in the Canadian case, have to balance those appeals against losing parts of the "immigrant" vote (Saggar 2003). While both remits of worker and refugee policy are highly susceptible to public perception and political risk, the U.K. Labour government adopted a strategy of directing "the heat" of immigration primarily on the security stream, while also attempting to be seen to address concerns about labour migration.

Voters, however, most often do not differentiate between different types of immigrants. The Conservative imposition of a quota on highly-skilled Tier 1 migrants is a reflection of this lack of differentiation and a reminder for economic interests that labour programs, sooner or later, are vulnerable to the same pressures for closure affecting refugee policy.

The comparison has also attempted to suggest that ideational factors play a role in labour migration policies, while refugee policy is an area governed by electoral interests. Labour's era of immigration tells a complicated story about political actors' strategic calculations to define issues in policy debates in order to mobilize different parts of the (Schain 2006 cf. Schattschneider: 273) electorate. Certainly, part of the rationale the government used in policy documents was the finding by several studies that importing labour would not lead to a decline in the wages of the domestic labour force (see discussions of such studies in Migration Advisory Committee reports.) But the decision to apply only the most minimal guidelines to the movement of the A8 is revealing of another factor as well: the interplay between Labour's ideational outlook and its electoral considerations. For observers, the mistaken prognostication of few arrivals was not only the result of a lack of knowledge about other countries' intentions. Rather, the 'mistake' was made possible by decision-makers' vision of London, a multicultural, cosmopolitan universe, at least for those with the correct human capital characteristics, as a model for Britain, a vision the City could export to the rest of the country (Whitehead 2009).

That ideational outlook was congruent with the Labour party's refashioning of itself as a Third Way between conservative certainties and labour rigidities and furthered the cause of liberal worker migration policy. Labour came to power in 1997 offering a vision of Cool Britannia that was seen to attract a younger, middle-class voter (Hall 2003; Lewis 2005; Page 2007; White 2001) for whom an open door was part and parcel of Britain's cosmopolitanism. In other words, managed migration did not just meet business interests or the immediate need for labour, nor did it pertain solely to the immigration field but instead it was a plank in Labour's Third Way project and a reflection of the identity held by the party's political actors (Bevir and Rhodes 2003; March and Olsen 1984; Finnemore 1996). But in order for this vision to resist the

headlines of the tabloid press and the pressures of electoral competition, another group of migrants would absorb the pressure.[9]

As in the U.K., the change in Canada's federal worker migration program can be partially attributed to elites' ideational orientation, in the Canadian case the congruence between the governing Conservative party's economic liberalism and the interests of business in a supply of foreign labour. While some political actors within the Conservative government have attempted to employ refugee policy for electoral gains, the possibilities to successfully execute such a strategy in Canada are limited (so far) by the country's history of immigration. As importantly, that history has resulted in electoral incentives to retaining policies that account for human rights considerations in refugee and immigration policy-making. At the same time, actors within the Conservative party have advanced a law-and-order agenda that is compatible with the securitization of refugee policy in spite of the risks.

This paper would suggest that the future of Canadian immigration policy is likely, from this temporal vantage point, to converge with U.K. policy. Government capability in directing temporary and/or flexible flows of worker immigration is likely to improve, which in turn will lead to increased media and stakeholder focus on the area. The question to be assessed is the extent to which a securitization paradigm will prove to be easily grafted on refugee policy in spite of the country's history.

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[9] In the lead up to the 2010 election, the Labour party was still attempting to balance these appeals. In a Labour party speech in November 2009, Brown began his discussion with a defence of the benefits of migration before devoting most of his remarks to the measures the government was taking to protect British workers and society, including a proposal for probationary citizenship, the increase in deportations of failed asylum seekers and foreign-born criminals, and the managing of the impact of foreign workers in communities through a fund created from a £70 fee from non-European migrants. Brown specifically referenced the British National Party in his remarks: "Immigration is not an issue for fringe parties nor a taboo subject - it is a question at the heart of our politics, a question about what it means to be British; about the values we hold dear and the responsibilities we expect of those coming into our country; about how we secure the skills we need to compete in the global economy; about how we preserve and strengthen our communities."

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