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'Stranger Danger': A Critical Discourse Analysis of the Immigration and Refugee Protection Act

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by

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Abstract

This paper examines a major federal migrant policy within Canada, the *Immigration and Refugee Protection Act* (IRPA), as a discursive mechanism that I argue perpetuates racializing identities of immigrants and refugees. By performing a Critical Discourse Analysis (CDA) of the IRPA, a number of themes are identified that construct immigrants and refugees in both racializing and securitizing terms. General themes from the *Charter of Rights and Freedoms* are then used to interrogate these identified themes within the IRPA. I conclude by suggesting that implementing and emphasizing humanitarian discourse within the IRPA can dislodge controversial security measures from operating within a space of legal exception to the Charter.

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Introduction

This paper examines a major federal migrant policy within Canada, the *Immigration and Refugee Protection Act* (IRPA), as a discursive mechanism that I argue perpetuates racializing identities of immigrants and refugees. The IRPA was enacted by the Liberal government in 2002, taking legislative authority in place of the former 1976 Immigration Act (Russo, 2008). Although the IRPA, and immigration reform in general, was put before parliament prior to 9/11 (Russo, 2008), there is a consensus in the literature to consider the Act in relation to greater trends and policies regarding national security (Adelman, 2002; Bell, 2006; Flatt, 2012; Russo, 2000; Sloan, 2012; Stasiulis, Bakan, 2013). This points to the process of securitization being prevalent in Canadian politics before 9/11, although it could certainly be agreed upon that the 2001 terrorist attacks inspired a number of new security measures, such as *The Anti-Terrorist Act* and *Public Safety Act* (Sloan, 2012). It should be noted that the IRPA has undergone numerous amendments since it came into force in 2002, of which includes the March 2008 amendments that prioritized reducing the backlog of immigration applicants through expanding the executive decision-making power of the Immigration Minister (Russo, 2008:306). For this study I critically read the IRPA as of May 2014, and although there are surely to be many more amendments after this paper, it is nevertheless important to analyze discursive themes that have arisen in the IRPA and have settled in this Act during the last decade. In greater detail, the study of this Act at all is important for understanding the discursive representation of migrant identities as we surpass the post-9/11 era and enter into the remainder of this globalizing 21st century.

Since the 1960s, the primary demographic of immigrants and refugees arriving in Canada continues to be from the global south (Isin, Siemiatycki, 2002).[1] Despite this diversity, the Canadian State has actively pursued a nation building project to maintain a white, European national identity. This has culminated into a distrust and fear of immigrants and refugees that has justified the implementation of numerous national security measures, many of which can be found in the IRPA. Furthered by the aftermath of 9/11, immigrants and refugees continue to become subjects of unlawful arrest, detention, and deportation among other procedures based on racial profiling.

Racialization is an important concept here. It refers to the historical, cultural, and political contexts in which racial conditions find meaning (Hall, 1992)[2]. This finds some difference to the application of 'racism' as a concept, which refers to raciality in terms of 'instances', but not necessarily in connection with greater trends or patterns (Goldberg, 2012:123-24). It would seem that racialization requires continuously (re)cementing identities into permanent hierarchical positions, as Renisa Mawani (2002) notes that maintaining a racial hierarchy in a white-settler nation involved policing the "permeability of racial boundaries"(p.49), while also noting the historical necessity of governing 'mixed-races' so as to maintain racial hierarchies (p.59). In some regards, this policing has now been replaced with the lauding of multiculturalism as a federal policy and symbolic national identity, which now attempts to cement identities through establishing definite differences on a more 'cultural' and

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[1] The global south refers to the depiction of both legal and sociological spheres of citizenship. I am using it in this sense to give presence to the geopolitical conditions, and therefore power relations, involved with contemporary migration.
[2] Stuart Hall employs this complex thinking of 'race' in his work, "New Ethnicities".

'ethnic' level, while simultaneously depoliticizing the anti-racist movements in Canada (Bannerji, 2000). It might also be suggested that security measures within Canada also evidently depend on cementing particular migrant identities as permanent security concerns (Stasiulis, Bakan, 2013). Through 'inaugurating' the term 'foreign nationals' and grouping permanent residents under such a rubric, "the IRPA introduces new measures that strip permanent residents of several of the rights they previously enjoyed and thus erects a further boundary between permanent residents and formal citizens" (Stasiulis, Bakan, 2013:33). Thus racialization and securitization conjoin in constructing and maintaining these constructions of the 'foreign' characteristics of immigrants and refugees from the global south.

Daiva Stasiluis and Abigail Bakan (2013) also consider the topic of migration in the neoliberal political-economic context. Neoliberalism represents "an incendiary mix of economic hyper-liberalism, dedicated to the enthronement of free market solutions, reduced social spending, and social neo-conservativism, with its emphasis on moral regulative and punitive, disciplinary policies" (Stasiulis, Bakan, 2013:20). Neoliberalism is important for understanding contemporary migration, as it is arguably the case that the global movement towards foreign-direct investment, privatization, and increased economic austerity measures has contributed towards the contemporary global migration demographic. Furthermore, neoliberalism is relevant for considering the construction of citizenship, including the subjectivities of individuals (Stasiulis, Bakan, 2013:22). It becomes the case that everyone is assessed according to their 'value' to the global economy and in this sense everyone becomes an entrepreneur of themselves (Foucault, 2008:226). However, this individualizing characteristic of neoliberal thought dismisses the correlation between racialization—along with other social forces—and

human capital. Therefore, neoliberalism contributes to the re-formatting of discrimination and is doubly relevant for analyzing immigration policy.

Another important theoretical framework for this study was Giorgio Agamben's (2005) 'state of exception', which speaks to the conditions that allow for the Canadian security system to operate outside of the normal rule of law, as well as for those 'exceptional' operations to become normalized. Despite a past conflict between the IRPA and the *Canadian Charter of Rights and Freedoms*, and many more challenges that could be pursued, the IRPA's controversial security measures remain intact because of a perceived emergency threatening the State both physically and symbolically. In this regard, the IRPA is a product of the state of exception, which not only exempts the IRPA as acting in a space void of legal accountability, but also 'normalizes' these emergency measures. Much like how forces of racialization work to normalize social hierarchies of people, the state of exception normalizes security procedures operating in defiance of established constitutional liberties. The state of exception also works well with a post-structural framework, as the legitimization of oppressive security regimes— indeed their normalization—requires persuasive discourse at work within civil society.

This study employs a critical discourse analysis on the IRPA, analyzing the language involved in creating the perception of immigrants and refugees as security threats. An inductive approach provided the chance for numerous themes to arise regarding identities, including constructions of foreign non-citizenship and, to borrow a term from Sunera Thobani (2007), the 'exalted' Canadian. From a post-structural position, whereby discursive texts and processes of governmentality operate together to maintain power relations (see Brantlinger, 2013:8), deconstructing identities within the IRPA are relevant for addressing larger systems of

domination against immigrants and refugees. By deconstructing the 'foreign' Other, we can then challenge the racial systems that maintain people of colour in inferior social statuses.

The second part of this paper uses themes from the Charter to interrogate the way immigrants and refugees are constructed within the IRPA. The Charter outlines fundamental liberties and personal securities that can easily be brought into conflict with current security measures, especially if those measures were to be enacted against citizens. The fact that the Charter has not been brought to bear to challenge the IRPA on numerous security initiatives further suggests the state of exception is a relevant framework, but also implies that the subjects being constructed within the IRPA are different from the subjects being protected by the Charter. This study then suggests strategies for reconstructing migrant identities within policy in an attempt to bring immigrants and refugees out of a space of legal exceptions and into a position of protection under the Charter.

Background: The Racial History of Canadian Migration Policy

Canada has a long history of racialized migrant policy. Frances Henry and Carol Tator (2010) draw importance to this vibrant history of racism, noting the implications of the *Chinese Immigration Act* of 1885 and the *Continuous Passage Act* of 1908 (pg.64-65), both of which were implemented to discourage Asian and South Asian migration into Canada (also see http://www.cic.gc.ca/english/multiculturalism/asian/100years.asp). Each of these acts were explicit in their preference of British-European migrants and their lack of preference for persons that would have difficulty assimilating (Henry, Tator, 2010:65-66). The Continuous Passage Act dictated that no immigrant could arrive in Canada if, during their travels, they had made any

stop in a port other than Canada's. For obvious reasons, this added difficulty for immigrants

from South Asian countries, such as India. As an example, a ship called the Komagatu Maru,

carrying 376 hopeful Sikh passengers, was turned around in 1914 for not complying with this

legislation (Neve, Russell, 2011). The Continuous Passage Act finds relation to the modern

Canada-US Safe Third Country Agreement, which dictates that refugee protection is dependent

on whether or not the person seeking asylum could do so en-route to Canada. It also finds

relation to contemporary forms of moral panic around migration via boat (I will address this

later under the topic of moral panic).

The internment of Japanese-Canadians during WWII also demonstrates the

implementation of racial policy in Canada. Mona Oikawa (2002) goes into great detail about the

twenty-two thousand Japanese Canadians that were displaced during the 1940s, all of which

were detained in accordance to the *War Measures Act* (p.73). Oikawa's (2002) analysis also

includes an interrogation of discourse that was used to justify the detainment of citizens, in

which prisoners were, and are still referred to, as 'internees', their concentration camps

deemed simply as a 'camp', and their displacement from their homes and families as

'evacuations' (p.79-81). The use of language in justifying the Canadian-Japanese internment

camps is eerily similar to the contemporary emphases on Muslims and Arab-Canadians as

'security' threats, particularly as the indefinite detention of latter group are justified through

the 'security certificate' program; an effective linguistic paradox, the concept of a 'certificate' is

often used to depict an award, or some form of recognition, but not a prison sentence.

However, I will discuss the security certificate program in more depth later.

The post-WWII era, including the 60s and 70s, also saw significant changes to immigration policy and practice. In particular, there were strides away from overt racial guidelines and further strides for human rights in accordance with international law (see *Universal Declaration of Human Rights*). Building off this, *The Immigration Act* in 1976 organized migration into Canada under three categories: 1) humanitarian, including refugees and asylum seekers; 2) independent classes, which are subject to human capital assessment via the point system; and 3) family class, whereby relatives could join their families in Canada (Thobani, 2000; also see http://www.cic.gc.ca/english/resources/publications/legacy/chap-6.asp#chap6-8). It is relevant to note that this push for humanitarianism did lead to the acceptance of 100 000 refugees from Southeast Asia in the late 1970s and early 80s, as well as led to Canada being awarded the UN High Commissioner for Refugee's Nansen Medal in 1986 (Neve, Russell, 2011). Despite these accomplishments, Canadian policy did not discard racializing themes. Indeed, while the 1976 *Immigration Act* allowed for more women from over-exploited countries to arrive in Canada, they were also subject to "gendered and racialized conditions which bordered them as outsiders to the nation and gave them restricted access to the social entitlements of citizenship" (Thobani, 2000:37). The tarnishing increases when we consider the implementation of security policies against refugees.

Even shortly prior to 9/11, prejudiced policies were implemented, such as Bill C-44, which resulted in higher deportation rates for minority migrants; a response to sensational media coverage on a few criminal cases involving then recent Jamaican immigrants (Barnes, 2009). The beginning of the 21st century, unfortunately, continued this racialized trend in policy, as Arabs and Muslims were subjected to prejudiced security measures in the wake of 9/11

(Amery, 2013). It is evident that new forms of racialization are being infused with Canadian migrant policy by inscribing themes of cultural Otherness and securitization on the identities of immigrants and refugees (see Ibrahim, 2005). Indeed, Daiva Stasiluis and Abigail Bakan (2005) note on contemporary immigration policy: "migration and immigration policies of liberal democratic states are implicitly and often explicitly discriminatory in class, racial, regional and national origins, linguistic, gender and other terms" (p.11). In considering the history and trajectory of Canadian migration policy, it is appropriate to state that racism has been innovatively applied throughout Canadian migrant policy.

This racial history is important for understanding the contemporary Canadian nation building project. Nandita Sharma (2000) appropriately speaks of the nation as a historically enduring style of community building, by which the concepts of nation and citizenship have been configured through interlocking systems of power, including class relations, racialization, patriarchy, and general capitalist functions (Sharma, 2000:9). The convergence of these power dynamics continue to be relevant for the Canadian nation building project, and historical racial policy, whether in force now or not, has been a presence in the development of contemporary immigration laws. To further explain, it is important to examine the relationship between 'space' and racialization, which has historical relevance in colonial policy and continues to be a relevant connection with present policy. Sherene Razack (2002) outlines the importance of 'space' in this regard, noting that the spatiality of the racial order is experienced when police stop black men on the streets or in malls, when Aboriginals are forcibly moved to the outskirts of a city, and when poor and rich neighbourhoods become distinguished by the race of their

inhabitants (p.6). Law, including the IRPA, becomes implicated with these spatial constructions as it regulates and secures the Canadian nation as a white settler state.

Literature Review

Security Measures on Immigrants and Refugees in the Post 9/11 Context

Being in effect since 2001, and undergoing numerous amendments since then, the IRPA is the Canadian federal policy for regulating immigration and refugee claims. The IRPA has undergone serious critique about its implications on the lived experiences for countless immigrants and refugees. Among these critiques includes the securitized treatment of newcomers arriving or hoping to arrive in Canada (Ibrahim, 2005; Jenkins, 2011; Russo, 2008). One of the most concerning implications is the practice of indefinite detention with newcomers in Canada. Colleen Bell (2006) addresses section 77 of the IRPA and provides details about the original security certificate program, noting:

[…] the security certificate provisions of the IRPA allow for refugee claimants and landed immigrants to be declared a national security threat, arrested and indefinitely detained without bail. They and their lawyers are denied the right to see the evidence used for the issuance of the certificate, or the right to be tried under normal procedures of Canadian criminal law (p. 64)

This was not only in violation of article 9 of the Charter, but was in direct violation of article 11, which states that any person charged with an offense is to "be informed without unreasonable delay of the specific offence" (subsection a); and "to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal" (subsection d). The unfair tribunal was actually deemed a violation in *Charkaoui v. Canada*

(Minister of Citizenship and Immigration),[3] and prompted the implementation of a 'special

advocacy' system to skim past Charter requirements, whereby the defendant could still be

excluded from their own hearing, but be represented by top secret-cleared private lawyers

(Jenkins, 2011; also see http://www.justice.gc.ca/eng/fund-fina/jsp-sjp/sa-es.html). Yet, in

critique of the special advocacy program, David Jenkins (2011) illustrates that this model was

based on similar British adjustments to the European Convention on Human Rights (ECHR),

which even after alterations had remained in contestation among the ECHR, thus leaving him to

conclude, "parliament therefore chose to use a controversial foreign model, being legally

challenged at the time before the British courts and ECHR, rather than develop a better

procedural alternative on its own" (Jenkins, 2011:51). Canada's security certificate program

under the IRPA finds relation to the U.K.'s *Anti-terrorism, Crime and Security Act*, as both allows

for the indefinite detention of 'alien' terrorist suspects and utilizes the 'special advocacy'

program to represent accused detainees (Jenkins, 2011:50). However, Jenkins (2011) points

out that the sharing of this special advocacy program has shown a dismissal by both Canadian

and British governments of a rights-based best practice for dealing with national security

concerns (p.53).

The implications of detaining foreign non-citizens are rather sobering when the lived

experiences of these individuals are made known. Janet Cleveland and Cecile Rousseau (2013)

illustrate the serious psychiatric harm being inflicted onto newcomers through detention

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[3] For more on Charkaoui, see Thwaites (2011), "Process and Substance: Charkaoui I in the light of subsequent
development."

facilities, many of whom are already fleeing conditions of high psychological trauma (p.410). In

their study, the apparent impact of short-term detention became apparent, as they stated:

Our results suggest that for asylum seekers, incarceration is a serious stressor involving severe
disempowerment, loss of agency, and uncertainty, all of which are predicators of depression
and PTSD, even in people with a lower trauma burden than this population (Cleveland,
Rousseau, 2013:414).

With the detention of foreign nationals under the security certificate program, if a judge does

not strike down a security certificate, then the defendant is "conclusively deemed inadmissible

to Canada," and in continuation, "doubles as a deportation order" (Bell, 2006:64). In

consideration with Cleveland and Rousseau's (2013) findings, it is only reasonable to suggest

individuals—especially asylum seekers—undergoing deportation also undergo equivalent, if not

higher, psychological trauma as experienced while being detained (see Saad, 2013). This

ultimately raises numerous ethical questions about the deportation process within Canada.

Within Canada, the heightened security environment, based on a fear of primarily

Muslim, Arab, or 'brown' persons, is not exclusive to the immediate years following 9/11. At the

time of this writing, the IRPA has undergone and continues to undergo numerous amendments

as a result of ever-escalating fears and concerns about immigrants and refugees of colour

arriving in Canada. The fear of 'foreigners' was certainly constructed in Canadian media shortly

after 9/11 (see Jiwani, 2012), but also remained a reoccurring theme in media coverage of the

death of Aqsa Parvez in 2007—deemed an 'honour killing' by mainstream media (Zine, 2012),

as well as a common construction in more general media conversations about the

commensurability of Muslims in Canada's secular society (Antonius, 2013). This fear remains

reflected in present policy development, including the Conservative sponsored Bill C-24 that

will further empower the Minister of Immigration and Citizenship to strip citizenship due to security concerns (see http://www.cba.org/cba/submissions/pdf/14-22-eng.pdf). Ironically, the Bill also originally proposed that a foreign non-citizen may become a citizen faster if the individual joins the Canadian Armed Forces. This paradox of fearing foreign non-citizens and then offering the same non-citizens military training is perhaps easier to understand in the context of the state's continuous campaign to develop loyal, self-regulating subjects.

The post 9/11 context instigated a system of laws, policies, and practices that acted within a type of 'state of emergency' framework, in which the government was granted greater executive powers to deal with what was considered an immediate and dangerous threat. Giorgio Agamben (2005) points this out to be a 'state of exception', whereby there is a suspension of the juridical order in times of perceived crisis. However, Agamben (2005) is careful to point out that the state of exception is not a dictatorship (although it could certainly be the means of authority by a totalitarian government), but it is more accurately a description of the transcendent State acting in "a space devoid of law, a zone of anomie in which all legal determinations—and above all the very distinctions between public and private—are deactivated" (p.50). This is an important framework to consider in the case of Canadian security policies that are 'liquidating' democracy because of the perceived threat of foreign Others (Agamben, 2005:7). More importantly, for my purposes, the 'state of exception' represents the normalization of security measures against foreign non-citizens and non-preferred citizens (identity concepts I will elaborate later) and thereby normalizes racialization.

I should note here that the normalization of security measures within Canada does not solely refer to the unchallenged operation of some measures, such as the security certificate

program that has arguably been in effect since the late 1970s (Flatt, 2012). I would argue that

normalization within the state of exception also includes the continuous demand and

implementation of new security measures. To speak of the demand for new security measures,

it is worthwhile to note the imaginative security threats that are put forward about immigrants

and refugees, discursively reproducing a sense that 'they' have endless possibilities to hurt the

nation. For example, Sunera Thobani (2007) writes, "experts continue to proffer absurd

scenarios in which Muslims are said to have come to Canada, not to seek more prosperous lives

for themselves and their families but to prepare for mass murder twenty and thirty years

hence!" (p. 243). The demand for innovative national security measures has thrived long-after

9/11 and is present in academic literature (see Bland, Macdonald, 2012; Segal, 2012; Stone,

2012). The policy terrain of the IRPA has shifted according to the continuous reinvention of

security threats and continues to spark renewed interest into heightening security measures. As

an example, biometric screening continues to become a requirement for more and more

individuals from particular countries deemed a security threat (see http://www.cic.gc.ca/

english/visit/biometrics.asp). Therefore, the normalization of security measures within the

state of exception arguably involves discourse that simultaneously maintains the security

regime and demands new heightened security measures.

IRPA, Multiculturalism, and the Charter

Canadian multiculturalism, as a policy, came into effect during the 1980s when it was first

adopted as a federal policy. Multiculturalism has since been subject to great debate; right-

leaning critics want it removed to perpetuate a more traditional (white) Canadian culture

(Russo, 2008), whereas leftist critiques suggest that multiculturalism is perpetuating racism through organizing diversity and emphasizing tolerance (Hage, 2000; Bannerji, 2000). Since 9/11, the conception of international immigration has largely been one emphasizing a symbolic loss of Canadian-ness (Antonius, Labelle, Rocher, 2013) and this is exemplified in the anti-immigrant posters that were mass distributed in Brampton, Ontario in April 2014 (Keung, 2014, *Toronto Star)*. Examples of this are not random, but functions of racializing organizations such as *Immigration Watch*, which are stark contrasts to organizations such as *No One Is Illegal,* the latter whom are fighting for the rights and equal treatment of immigrants and refugees in Canada.[4]

In *Imagined Communities*, Benedict Anderson (1983) speaks to the rise of the national identity, which he asserts to be an imaginative, culturally developed sense of identity on the basis that "members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion" (p.6). Canadian-ness is evidently a non-tangible asset, yet discourses about national identity, especially when it comes to understanding diversity within Canada, still propose an 'us' versus 'them' mentality, whereby the national identity is a tangible asset that can be stolen, lost, or destroyed. Will Kymlicka (2011) points to the fragmentation of Canadian identity and its greatest contestations arising out of French and Aboriginal animosity with the English state. He continues to suggest, "for all of the anxiety about the impact of immigration on social cohesion, it is important to remember that the deepest challenge to social cohesion in many countries

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[4] For detailed platforms of these organizations, see *Immigration Watch* at
http://www.immigrationwatchcanada.org/ ; and *No One is Illegal* at http://www.nooneisillegal.org/

comes from their historic national minorities, not their immigrants" (Kymlicka, 2011:283). While

Kymlicka (2011) shows an appreciation for multiculturalism as a policy, Thobani (2000) is much

more critical of multiculturalism as a framework for policy making in Canada. In her

examination of the Immigration Policy Review (IPR) in 1994, she suggests that the framing of

immigration 'problems' are racialized in nature as they enforce a cultural and social

homogenous 'Canadian' nation (Thobani, 2000:39). This brings her to suggest that "cultural

diversity has come to stand in for 'racial' diversity in the 'new' racism of post-second world war

Europe" (Thobani, 2000:39). Himani Bannerji (2000) presents one of the most persuasive

critiques of multiculturalism, noting that the federal policy depoliticizes anti-racial movements,

as well as discourages the reading of cultural diversity in terms of power relations (p.34-37). In

this respect, multiculturalism re-racialized people by essentializing their cultural identity; in

other words, immigrants and refugees from the third world were 'frozen' in their constructed

cultural traditions (Bannerji, 2000:45).

In discussing the concept of multiculturalism, and this 'freezing' of culture, it is

appropriate to outline Orientalism, whereby differences between the privileged and non-

privileged in Canada are culturally reproduced on spatial and temporal grounds (Oikawa,

2002:82). I will speak more of the definition of Orientalism later in accordance to moral panic,

however, to specify further, the emphasis of multiculturalism includes the dance, dress, and

celebrations of 'Other' cultures rather than, for example, their political contribution to the

founding or current governance of the country (Bannerji, 2000). Spatially, this organizes

diversity into a position that is non-threatening to the white-settler state; temporally, diversity

is also permanently constructed as 'backwards' and unable to assimilate within the 'civilized'

state (Oikawa, 2002:82). This conceptualization of Orientalism provides a useful backdrop in later discussions about moral panic, including the constructed 'usefulness' and potential 'burdens' of immigrants and refugees.

The IRPA, as an immigration policy, has greatly influenced multiculturalism within Canada. Antonius, Labelle, and Rocher (2013) suggest that the conceptualization of the economy and national security have been the biggest factors to influence multicultural policy, further suggesting that the IRPA "emphasizes protection of the 'secure character of our society and respect for our values and standards in terms of social responsibility' as well as a number of other initiatives taken to harmonize security policies with those of the United States" (p.92). The notion of maintaining 'our values' and 'our standards' within the IRPA showcases a parallel concern with multiculturalism, which is to determine "how much tradition can be accommodated by Canadian modernity without affecting in any real way the overall political and cultural hegemony of Europeans" (Bannerji, 2000:49). The IRPA and multiculturalism then both involve the managing the 'foreign' Others living and arriving within Canada.

There should be no surprise that the implementation of the IRPA has contributed towards a political environment whereby human rights are also in need of managing. There have been past confrontations about human rights between the IRPA and the Charter (see Bell, 2006; Jenkins, 2011). However, Andrew Thompson (2013) outlines the balancing act between human rights and national security within Canada, suggesting:

The threat of terrorism is real, and both Canadian domestic law and international human rights law are quite clear that individual human rights are not absolute, that they are subject to reasonable limitations provided any infringements are minimal and justified by the law (p. 54)

While the 'reality' of terrorism is contestable, the Charter has come into conflict with not only

the IRPA, but also Bill C-36, an act that would amend the Criminal Code, the Official Secrets Act,

the Canadian Evidence Act, among other Acts to facilitate strengthened resolve in the War on

Terror (Thompson, 2013:56). In particular, the Supreme Court deemed Bill C-36 to be in

violation of the Charter through its vague definition of terrorism, which they feared would

allow the law to pursue individuals that were not originally intended for crimes of terrorism

(Thompson, 2013:57). The security apparatus within Canada, of which the IRPA represents, is

one that is based on exceptions to rule of law— as demonstrated wholly in the security

certificate process (Bell, 2006; Kruger, Mulder, Kurenic, 2004). This trend towards Agamben's

(2005) concept of 'exception', or Thompson's (2013) concept of 'balance', poses unique

challenges for the *Charter*, which as a constitution is meant to protect individuals from abusive

legal practice.

Non-Citizenship & Citizenship in Canada

There is a growing consensus that citizenship is a negotiated identity (Bhuyan, 2012; Goldring,

Berinstein, Bernhard, 2009; also see Goldring, Landolt, 2013). By this, citizenship is a concept

that cannot be restricted in binary terms, traditionally in terms of documented or

undocumented, or legal and illegal persons (Goldring, Berinstein, Bernhard, 2009:239). Instead,

there are varying levels of non-citizenship and can be "comprised of several legal status

categories, depending on the jurisdiction, including the relatively secure status of permanent

residents" (Goldring, Landolt, 2013:5). In this regard, Aboriginals within Canada, while having

ius sanguini, or citizenship rights via the affinity between their cultural heritage and the state,

can be considered non-citizens and recognized as a distinct social group from Canadian citizens (Goldring, Landolt, 2013:5). The concept of non-citizenship is "associated with limits in term of voice, membership, and rights in a political community, and with social exclusion and vulnerability" (Goldring, Landolt, 2013:3). This concept certainly includes Aboriginals; however, the struggles among Aboriginals are distinct from those facing foreign non-citizens, the latter who consist of immigrants, refugees, temporary workers, students, visitors, stateless people, as well as unauthorized entrants (Goldring, Landolt, 2013:5). That being said, both groups can find solidarity in anti-racist movements, but they are subject to distinct identity politics from the State and perpetuate distinct identities for accomplishing political goals. While the State perpetuates non-citizenship generally among both social groups, immigrants and refugees find themselves subject to their own particular 'foreign' non-citizenship. Indeed, the IRPA is an example of policy explicitly constructing the foreign non-citizen.

Even those with a Canadian citizenship can experience processes and treatment reserved for non-citizens, as illustrated in the Maher Arar case. Citizenship is evidently not reduced to a matter of legal status, but involves "a pool of rights that are variously offered, denied, or challenged, as well as a set of obligations that are unequally demanded" (Stasiulis, Bakan, 2005:3). The fragility of citizenship becomes a reality in the case of Arab Canadians, who have undergone severe security processes and Charter violations justified by the IRPA (see Hennebry, Momani, 2013; Amery, 2013; Thompson, 2013; Abu-Laban, 2013). Thus, even people who are considered 'legal' or citizens can encounter obstacles in accessing social services and resources typically accessible to other citizens, usually because of racial discrimination. In short, they find themselves to be non-preferred citizens; in the State's perspective, they have

somehow infiltrated the nation, but are not representing the ideal image of the nation. Thobani (2007) speaks to the concept of non-preferred citizenship, noting, "the 'non-preferred race' immigrant, marked as stranger and sojourner, an unwelcome intruder whose lack of Christian faith, inherent deviant tendencies, and unchecked fecundity all threatened the nation's survival" (p. 75). Whereas foreign non-citizenship provides a conceptual framework for understanding the legal and systematic discrimination that moves all types of migrants in and out of precarious statuses, non-preferred citizens are persons who have their established constitutional liberties neglected because they have failed to assimilate into maintaining the hegemonic national identity. A non-preferred citizen is a foreign non-citizen in many ways, but only loses status because of their racial identity. Non-preferred citizenship is a helpful framework for explaining cases such as Maher Arar, as well as Omar Khader—a Canadian citizen and former prisoner at Guantanamo Bay who was more or less forgotten by the Canadian government (Purdy, July 8, 2014, *The Toronto Star*). Indeed, these men were moved into precarious statuses despite being Canadian citizens. The concept of non-preferred citizens become useful for depicting contemporary forms of racialization and outlining the white, cultural hegemony within Canada, which simultaneously claims to be upholding principles of equality and freedom while also perpetuating racialization through its social structures and institutions.

Orientalism and Moral Panic

Orientalism is an active force in the construction of 'foreign' identities and the moral panic within the contrasted Western national identity. To support, Edward Said (2000) situated his

definition of Orientalism in the context of power relations, drawing upon Foucault's notion of discourse and Gramsci's concept of hegemony to illustrate how Western culture produced dominant ideas about the 'Orient' (see Bayoumi, Rubin, 2000:64). Said (2000) had written that Orientalism was a discourse, or a politically, historically, and culturally produced form of knowledge about those who were not Western, and in turn reproduced the Western identity (p.78). In summary, Said (2000) noted, "Orientalism is—and does not simply represent—a considerable dimension of modern political-intellectual culture, and as such as less to do with the Orient that it does with 'our' world" (p.79). Therefore, Orientalism contributes towards the nation-building project and is important to acknowledge in discussing the construction of dominating themes of foreign non-citizens and non-preferred citizens.

As a dominant form of knowledge about these identities, Orientalism actively contributes towards the moral panic that ensues over migration. The arrival of boat-based refugees into Canada exemplifies the construction of foreign identities as a threat to the well-being of Canadians both physically and symbolically (Bradimore, Bauder, 2011). This is exemplified in a few notable instances in Canadian history, including the Komagata Maru in 1914, which sent close to four-hundred hopeful immigrants back to India (Neve, Russell, 2011); the horrific return of Jewish refugees aboard the St. Louis during WWII (Henry, Tator, 2010:65-66); as well as the media constructed 'threat' of the Fujian boat people in 1999 and followed by the more recent 'concerns' over the Tamil refugees in 2009 (Bradimore, Bauder, 2011). The concern for national security and Canadian values creates harsh realities for asylum seekers and those deemed non-integrative within Canadian communities.

There is reason to believe that constructions of foreign non-citizens and non-preferred citizens also has implications on the workforce and enforces binaries of 'skilled' and 'unskilled' labourers. Maggie Ibrahim (2005) brings forth the concept of 'new racism' in the context of constructing foreign non-citizens as 'economic' security concerns (p.165). This is important to consider in the white racially hegemonic framework of Canada, whereby biology has more or less been removed from the concept of race, and the concept of cultural, or ethnic, difference has become emphasized by national discourse (see Hall, 1997). With regards to the IRPA, Ibrahim (2005) takes a close look at the meanings proposed within the opening statement of the IRPA, which outlines the dichotomy of desirable and undesirable immigrants; the former being skilled and educated, and the latter being a security threat and unskilled (p.179). Associating unskilled non-citizens with security concerns is problematic, especially for the refugee and asylum seekers hoping to escape persecution in Canada. Arguably, the perception of the unskilled non-citizen is racialized through an Oriental framework, as Ibrahim writes, "by rejecting the unskilled migrant, Canada is attempting to separate itself from the 'rising' disorder of the South" (179). This oriental framework forwards a dialogue about migration in the perspective of 'Us' against 'Them', as many immigrants and refugees are depicted as a threat to the security of the Canadian state, particularly in this case as a threat to the labour market and greater economy (Ibrahim, 2005:171). The construction of foreign non-citizens evidently impacts the labour market, (re)creating conditions for inequality against migrants in the workforce. Indeed, even the skilled-migrant workers that arrive in Canada often are challenged over their credentials' applicability to 'Canadian' standards.

Especially in the case of asylum seekers, the constructed low value of foreign non-citizens and non-preferred citizens is reflected in the decline of refugee numbers and the treatment of refugee cases in Canada (Bauder, 2011; Thompson, 2013). Considering migration statistics in Canada, refugee numbers make up the smallest portion of incoming newcomers (Bauder, 2011:98), and the overall rejection rate for refugees in 2009 was 45% (Saad, 2013:141). In continuation, legal provisions have been put in place to deter refugees from making claims in Canada, including the Canada-US Safe Third Country Agreement, indicating that refugees must apply for asylum in the first of the two countries in which they originally land (see http://www.cbsa-asfc.gc.ca/agency-agence/stca-etps-eng.html). Restrictive immigration policy was also implemented to stop Mexican refugees in 2009, in which Canada's then Minister of Citizenship and Immigration, Jason Kenny, proposed that the new visa regulations would slow down the growing number of Mexican claimants, assess legitimacy of guests, and most importantly reduce the burden on the refugee system (Liette, 2013:827-28). The new visa implementation was associated with the Conservative Party's concerns about 'too many' refugee claimants from Mexico, largely in relation to a surplus of 300 such claimants made during 2007 in Windsor, Ontario (Liette, 2013). The humanitarian consequences to these policies and conceptions of 'foreign' identities are gravely significant, as countless asylum seekers may face deportation to countries where they will face death or persecution. The importance of studying the IRPA as a discourse constructing such identities is essential for progressing dialogue and policy changes to stop this humanitarian abuse.

Theoretical and Discursive Framework

The Foreign Non-Citizen and Non-Preferred Citizen

This paper will use two frameworks for referencing immigrant and refugee identities in the

IRPA: the foreign non-citizen and the non-preferred citizen. As discussed briefly in the literature

review, foreign non-citizens include temporary workers, students, visitors, refugees, as well as

permanent residents, and are susceptible to loss of status and privileges normally attributed

towards citizens. The concept of non-preferred citizen advances the framework of the foreign

non-citizen to include those who are established citizens, but become susceptible to neglect

from the state because they do not support the racial identity of the nation. To exemplify,

refugees are apparently the least wanted migrant group by the Canadian state, yet dismal

numbers of them are 'welcomed' to Canada to reaffirm a national identity in sync with liberal

democracy and in sync with the image of Canada defending human rights, democracy, and

freedom. Being non-preferred citizens in this case, refugees could become susceptible to unfair

legal processes because of the IRPA, but provoke little support from the nation because they

were not wanted in the first place. Both the foreign non-citizen and non-preferred citizen are

conceptual frameworks that complement one another, helping establish depth to the varying

conditions of discrimination, exclusion, and violence being enacted on countless migrant groups

by the nation building project.

The State, Power, and Post-Structuralism

The nation-building project involves considering the relationship between the State and the

subject. Thobani (2007) provides some theoretical distinctions in the conceptualization of the

state as according to Gramsci and Althusser, and to that of Foucault. The former couple depict a

clear distinction between state and subjects, whereas Foucault demonstrates that "no neat

division can be drawn between state and civil society, between state power and the individual,

between state and the nation: all are inextricably and deeply interpenetrating and constitutive

of each other" (Thobani, 2007:23). Foucault's conceptualization of the state leads to a complex

understanding of governmentality, whereby subjects are actively self-governing, or self-

disciplining in accordance with societal norms and morals. To be more specific, the nation-

building project encourages citizens to be vigilant, active defenders to the 'dangers' of foreign

nationals. As an example, Ontario established a hotline to encourage anonymous citizens to

report anyone who may be cheating the welfare system (Bannerji, 2000:72).

The Foucauldian concept of power is complicated beyond the binaries of oppressed and

oppressor, as is often the case with Marxist and post-Marxist epistemologies. Foucault's

concept of power refers to "the relations of force" (Chen, 1996:313), or in his own words, "the

term itself, power, does no more than designate a domain of relations which are entirely still to

be analyzed" (Foucault, 2008:186). The importance of discourse is essential for Foucauldian

analyses, particularly with analyzing power relations. This has not gone without critique, Stuart

Hall suggested that Foucault's emphasis on discourse in relation to power had 'let him off the

hook' from addressing the ideological theories as articulated by Gramsci and Althusser (Chen,

1996:313). However, during a discussion on Foucault's ideas, Hall (1996) suggests that perhaps

an emphasis on discourse is commensurable with post-Marxist theory, noting:

"What Foucault would talk about is the setting in place, through the institutionalization of a
discursive regime, of a number of competing regimes of truth and, within these regimes, the
operation of power through the practices he calls normalization, regulation and surveillance.
Now perhaps it's just a sleight of hand, but the combination of regime of truth plus

normalization/regulation/surveillance is not all that far from the notions of dominance in ideology that I'm trying to work with" (p.135).

The Foucauldian theory should not necessarily be seen as vexatious towards post-Marxist theory, but rather a positive move from the 'old superstructure paradigm' into the 'domain of the discursive' (Hall, 1996:135).

Most dialogue and critique thus mentioned is more so between post-Marxist theory and post-modern theory in general, the latter to which many associate with Foucault (Agger, 1991; Grossberg 1996; Hall, 1996). However, if we begin to analyze structural systems of domination from the Canadian State, such as those exercised against immigrants and refugees of colour, within a conceptual framework that emphasizes the role of discourse and governmentality as introduced by Foucault, then we break past the conflict between post-Marxism and post-modernity and enter into a post structural framework. While there is much overlap between the postmodern philosophy and a post structural framework, I am emphasizing the latter because its theoretical boundaries allow for an analysis of the discursive, and therefore offers a conceptual tool box that is particularly effective in studying identity politics.

My research will adopt a post-structural epistemology as a discursive framework for analyzing themes of identity within the IRPA and will interrogate those themes with the Charter. There are a few reasons for adopting this position. Simon Springer (2012) suggests that post-structuralism can work alongside studies in political economy, the latter which can be understood here as an area of study encompassing the social inequalities intrinsically linked within a global capitalist system. Other scholars have agreed that neoliberalism, understood as the school of economic and philosophical thought behind contemporary capitalism, is a salient concept for understanding issues of citizenship and migration of people (see Abu-Laban, 2013;

Bauder, 2011; Stasiulis, Bakan, 2005). Indeed, there is importance in understanding present

migration policy in the backdrop of globalization more generally, as Stasiulis and Bakan (2005)

note, "there is widespread support for the view that the specific conditions brought about by

economic globalization and informed by neoliberalism have amounted to a major

transformation in the 'regime' of citizenship in countries with developed social welfare states"

(p.19). Contemporary understandings of migration, citizenship, and the policies involved

require consideration into the globalized and neoliberal context. Furthermore, in analyzing the

IRPA, as well as examining themes of citizenship and identity therein, I am suggesting that there

is an association between language and identity, which further emphasizes the importance of a

post-structural approach. Post-structuralism emphasizes the importance of language, especially

in its application in perpetuating knowledge and power (Agger, 1991; Springer, 2012). The

paradigm of knowledge and power is crystalized in Foucauldian thought, whereby discourses

culminate to legitimize a particular truth. Neoliberalism can be applied into this paradigm and,

in the words of Springer (2012), "offers no exception to the notion that power operates as a

field of knowledge serving some purpose" (p. 134). The IRPA, as a product within a neoliberal

context, is important not just as a piece of legislature, but as a discourse, a conduit of

knowledge.

Neoliberalism and Human Capital

Neoliberalism is understood as the current political arena in which individuals and the State

interact, as well as make meaning of one another. Acting as the discursive domain through

which we create our identities, neoliberalism is then essential in contextualizing the processes

of governance and the regimes of 'truth' involved with migrant policy. For example, Foucault (2008) thoroughly details the role of social policy in neoliberal discourse as gravitating around economic growth (p.144); the IRPA, as social policy itself, also establishes economic goals as some of its main objectives. Maggie Ibrahim (2005) critically engages the economic focus within the IRPA, noting that immigrants and refugees are constructed in not only a security nexus, but also ascribed identities based on their perceived level of 'usefulness' (p.179). This becomes particularly troublesome for the political status of refugees, who are now "encapsulated within this dichotomy of 'useful' and 'harmful' […] refugees will be incorporated not because they have right to asylum, but because they may be useful for Canada's development" (Ibrahim, 2005:180). Most refugees now come from over-exploited nations, or the global south, and are exemplars of the ideal non-preferred citizen on their underestimated economic potential. Not only are refugees constructed as non-contributors to the economy, but they are often portrayed as fraudulent abusers of Canada's social services and therefore an active deterrent for economic growth (Bauder, 2011; Ceyhan, Tsoukala, 2002). This non-preferred status of refugees is explicit in statistical data showing their relatively low acceptance rate compared to other immigrant groups (Bauder, 2011:99). Furthermore, it constructs the foreign non-citizen and non-preferred citizen as 'threats' to the nation's economy, further implicating neoliberal assessments of individual economic worth with notions of national security.

Talking about the 'usefulness' of migration inevitably brings forth the concept of human and cultural capital. The conceptualization of a cultural capital comes from Bourdieu, who suggested that social status can be determined by an individual's access to social resources, including education, informal networks, as well as languages (Brock, Raby, Thomas, 2012:351).

Building off this, Foucault (2008) brings forth an interesting articulation of human capital, which he describes as a person's cultural capital in terms of its potential to bring future income or productivity (p.224). Foucault (2008) introduces the *homo oeconomicus*, or the 'economic person,' who is an entrepreneur of their cultural capital (p.224). In his own words, "from the workers point of view labor comprises a capital, that is to say, it as an ability, a skill" (Foucault, 2008:224). This conceptualization of human capital becomes helpful for understanding the financial and economic bases for discrimination against immigrants and refugees. The conceptualization of people as 'machines' in the perspective of a neoliberal state also shows how the perpetuation of racialization continues, particularly through assigning people from the global south lower economic values.

Governance and the State of Exception

The multiple statuses assigned to foreign non-citizens, including titles of permanent resident, temporary worker, temporary student, irregular arrival, refugee, etc., are representative of complex systems of governance through language. Under such statuses, newcomers in Canada are compartmentalized to emphasize the multiple differences between 'them' and the 'average' white Canadian, which reasserts the need for the white-settler state to organize and manage migration. Bannerji (2000) builds this further, noting the multiple 'others' constructed in Canada are "in their inception and coding official categories. They are identifying devices, like a badge, and they identify those who hold no legitimate or possessive relationship to Canada" (p. 111). The IRPA is an attempt to organize migration in the best interests of the State, which

happens to be a white-settler nation. This theoretical base is an anchor point for a critical discourse analysis into the IRPA.

Another important theoretical framework that this study incorporates is Agamben's (2005) 'state of exception,' which outlines the phenomenon of a state legitimizing a position void of typical legal restrictions. The current securitization policies put in place against immigrants and refugees, for example, are controversially against the image of a liberal democracy, the idealization of multiculturalism, as well as human rights in general, but gain legitimacy because the foreign non-citizen and non-preferred citizen are believed to be a threat to the whole system maintaining the nation. The IRPA fits appropriately within the state of exception, as the Act implements a number of security measures that should be in conflict with the constitutional liberties entitled to everyone living and hoping to live within Canada. In considering these controversial security measures, it is fair to ask whether the name of the *Immigration and Refugee Protection Act* implies protecting immigrants and refugees, or protecting the nation from immigrants and refugees.

Methodology

In line with post structural thought, this study uses a critical discourse analysis (CDA) as a qualitative method for analyzing the language within the IRPA and Charter. Critically analyzing discourse, for my purposes, involves "the analysis of texts, in a broad sense, in their relation to other elements of social processes" (Wodak, Fairclough, 2010:21). In continuation, CDA becomes distinguished from discourse analysis and appropriate within a post-structural framework because of its focus on power and inequality. Indeed, Bernhard Forchtner (2010)

suggests that CDA comes in multiple forms, but is united by a common critique: "hidden power structures should be revealed, inequality and discrimination have to be fought, the analyst has to reflect on his own position and make her standpoint transparent" (p. 18-19). Ainsworth and Hardy (2004) continue this point, arguing that "CDA reveals the reproduction of power relationships and structures of inequality" (p. 238). It is then apparent that the critical nature of CDA is fitting for an investigation into the IRPA.

CDA provides for a complex analysis on the language within the IRPA and Charter. It is useful for not only examining texts as collections of words, but also placing the meaning of those texts in broader political and social contexts (Ainsworth, Hardy, 2004:239). It is through this complex analysis of language that the concept of discourse becomes well-defined, specifically, as the circulation of meanings and texts in thought, talk, and social structure (Hodge, 2012:3). From this, there is strong rational to suggest discourse impacts identity, as meanings behind concepts involved with foreign non-citizens and non-preferred citizens inscribe particular meanings on social groups. This explains why identity is a crucial component for CDA (see Aguinaldo, 2012; Ainsworth, Hardy, 2004; Hodge, 2012). Acting on this premise of discourse, there is a vital connection established between the IRPA as a discourse contributing towards inequality for migrant and refugee identities in Canada and the methods of CDA. Within CDA, discourse becomes relevant in examining systems of knowledge, which in turn reproduce systems of power (Knight, et al., 2012). This research was interested in how the IRPA and Charter act as discourses to create identity and how processes of racial profiling or discriminatory practices become justified due to these constructed identities.

This study uses an inductive approach for the purpose of allowing data to 'uncover' itself, essentially through open-ended reading (see Charmaz & Bryant, 2011). A deductive approach *could* provide successful data collection, especially being that I have contended the IRPA to already be a product of racialization and securitization; why would I not simply use securitization and nationalism as concrete definitions and peel through the IRPA and Charter to find proof? Arguably, this deductive approach could deliver concrete findings. However, the use of an inductive approach offers more of an opportunity to learn about phenomena such as racialization, rather than simply prove it exists. It would seem more progressive in the research program to address the dynamics of inequality being justified within the IRPA, rather than reaffirm past research that largely concurs with the racial position of social policy within Western society. Using an inductive approach is easier said than done. It is no less of any scientific approach, requiring rigor and attentiveness, perhaps requiring even more effort than a deductive approach, at least with regards to coding. Simply having data 'present' itself poses challenges that have been addressed by contemporary grounded theorists (see Allen, 2011; Charmaz, 2005). That is, as beings belonging in the social world we study, there is no objective way to determine the definition of 'data' in social studies; the importance of reflexivity arises here in the collection of data and its analysis subsequently.

For this study, the IRPA was read thoroughly with regards to how the foreign non-citizen and non-preferred citizen were constructed. Codes were organized into themes representing the construction of identities, and then each code was re-read and traced back to the context from which it was derived, either being confirmed by the data or being dismissed as representative of the theme. I am borrowing, here, from Braun and Clarke's (2006) thematic

step-by-step guide, particularly with an emphasis on 'repeated-reading' of the subsections

within the IRPA (Braun & Clarke, 2006:87). Re-reading the document and spending time and

detail on these primary codes built confidence in the drawn codes and themes. This allowed me

to generate strongly reflective themes off each code, as well as develop a sense of theoretical

saturation. The importance of sensitizing concepts emerge in addressing the inevitable

subjectivity of this qualitative research, as I cannot simply pretend to 'not know' about the

concepts of securitization, racialization, and (foreign) non-citizenship while coding the IRPA.

Sensitizing concepts are those very concepts that cannot be simply wished away during

research, but instead are pursued as guiding concepts rather than definitive ones (Allen, 2011).

The concepts of non-citizenship, racialization, and securitization proved to be guiding concepts

towards engaging with the IRPA, acting as macro concepts that provided theoretical connection

with other themes and concepts that arose from analyzing the subject matter.

        To borrow a philosophy from grounded theory methods (GTM), it is not possible to draw

themes from the IRPA in such a systematic way while also not analyzing the data

simultaneously (see Charmaz, Bryant, 2011). Braun and Clarke (2006) are not clear about

whether or not they agree with combining this methodology with the conceptual tools of

thematic analysis, at least in their article "Using Thematic Analysis in Psychology," where they

suggest developing sub-themes and analyzing meanings after themes have been drawn from

the data. While I am borrowing from their methodological framework, I am also adopting a

GTM approach where themes will be generated continuously as I code. This critical discourse

analysis combines analysis and data gathering, rather than separating them into two distinct

processes. To detail this further, any themes that began to emerge during my coding were

recorded in NVivo as nodes. The GTM approach for attaining theoretical saturation, which involves constantly re-checking data with obtained theories, was applied through revisiting themes and the codes that built them.

The latter part of this paper examines the themes drawn from the IRPA in accordance with general themes from the Charter. In this, relevant sections of the Charter were used to counter, or complicate particular conditions within the IRPA. Both the IRPA and Charter are very different documents: the former is much longer and focuses solely on the identities of refugees and immigrants, whereas the Charter is shorter, more concise, and details citizen rights. That being said, there are portions of the IRPA that are not immediately relevant to identities, as much as they may pertain to detailing, for example, legal court processes. Nevertheless, I have carefully read through the entire IRPA as amended up to May 14, 2014. It should be noted that the Charter and IRPA differ also in their objectives: the former seeks to protect individual rights; the latter seeks to protect the state's interests. It is for this reason that the Charter was selected to interrogate themes drawn from the IRPA, as the material consequences of the IRPA has led to aggressive security measures against individuals considered foreign non-citizens, or non-preferred citizens. However, I am careful not to place the Charter on an morally-superior pedestal; the language within the Charter is certainly not operating outside of power relations and its main objective to 'defend' liberties is perhaps good indication of the state's natural tendency to act as the oppressor—a situation that may not be the case under a better facilitated democracy (see Chomsky, 2005). The Charter does, however, outline a number of fundamental securities that, if followed through, allow for individuals to challenge the state, mobilize, and live their lives without fear of abuse from the state. It is

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evidently the case that this has not been the full extent of its application, especially as the IRPA

has found loopholes around the Charter with regards to the security certificate program. If the

emphasis on language within power relations holds true, as per post structuralism, then

critically analyzing the constructions of meaning within the IRPA will allow for at the very least a

delegitimization of the systematic oppression happening against immigrants and refugees from

the global south.

Findings and Discussion

The 'Dangerous' Foreign Non-Citizen

The word 'inadmissible' is used 52 times throughout the IRPA and in most cases this refers to

some kind of security concern, such as an immanent physical threat, or a more transcendent

threat to the economy or public health.[5] It is interesting to note that even in cases where

immigrants and refugees do meet qualifications for entering Canadian society, they are termed

"not inadmissible" rather than simply admissible. This particular use of language suggests that

all foreign non-citizens are inadmissible from the onset showing, with respect to migration, that

Canada's primary goals are not to attract immigrants and refugees, but to close off our borders

and services to anyone that does not fit the national interest or image. Within the IRPA, it is

clearly stated that one of the main immigration objectives for Canada is to prioritize national

security, specifically:

The objectives of this Act with respect to immigration are […] (h) to protect public health and safety and to maintain the security of Canadian society; (i) to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks (p. 2-3).

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[5] For a word count of some relevant terms, see appendix.

The same objectives are then reiterated with objectives respecting refugees as well (IRPA, p.3-4). Immediately at the beginning of this Act then, immigrants and refugees are constructed as being potential security concerns. This construction is only progressed when the Act outlines that the Minister of Public Safety and Emergency Preparedness is responsible for administering parts of the Act, specifically in respect to:

(a) examinations at ports of entry; (b) the enforcement of this Act, including arrest, detention and removal; (c) the establishment of policies respecting the enforcement of this Act and inadmissibility on grounds of security, organized criminality or violating human or international rights" (IRPA, p.4-5).

As the Minister's title implies, the foreign non-citizen is not only depicted as a possible safety concern, but also an immanent emergency. This only further justifies the rigorous procedures at Canada's 'ports of entry' within the state of exception. Furthermore, when depicting the enforcement of the Act, the priorities are evidently on deterring potential criminality rather than helping arriving immigrants and refugees. The Minister is also responsible for administering policies for handling inadmissibility on the basis of organized criminality or violations of international human rights. Without much critical thought it seems rational to reject entry of international war criminals, but it is important to consider that foreign non-citizens are being presumed here as the primary suspects for international human rights violations, although contrary evidence may suggest that Canadian involvement in the invasion and occupation of Iraq is illegal and in violation of international human rights (Engler, 2009). However, in constructing the foreign non-citizen as ignorant of international human rights, the Canadian national identity is implied as the civilized society (something I will address later).

Another theme that becomes representative of the foreign non-citizen is the potential

health and medical concerns. This becomes explicitly noted in the following:

In the case of the foreign national, […] (b) subject to regulations, the foreign national must submit to a medical examination (IRPA, p.14-15)

A foreign national is inadmissible on health grounds if their health condition, (a) is likely to be a danger to public health; (b) is likely to be a danger to public safety; or (c) might reasonably be expected to cause excessive demand on health or social services (IRPA, p. 31-32)

A person who owns or operates a vehicle or a transportation facility, and an agent for such a person, must, in accordance with the regulations, […] (c) arrange for a medical examination and medical treatment and observation of a person it carries to Canada (IRPA, p.93-94)

It is not a stretch to see why Canada prefers healthy immigrants and refugees in a neoliberal

framework, as healthy citizens are at the same time less costly on state sponsored services and

more productive in the market (ex. capacity to work longer and harder). Under a neoliberal

system of governance, the economic models surrounding supply and demand, investments, and

cost vs. profits are used to create models of social relations and existence altogether (Foucault,

2008:242). This application of thought is clearly present in the IRPA and also falls in accordance

with the uncivilized depiction of the foreign non-citizen, who is seen here as being a carrier of

disease into a presumably disease-free Canada. This emphasis on health also raises important

questions about non-preferred citizenry: if Canada prefers citizens that fit into dominant

categories of healthy and able, then what does this say about the state's view towards its own

citizens that do not fit this category? Arguably, I would suggest these citizens become another

form of non-preferred citizens; in other words, people living in Canada who do not support the

popular national image, nor the national interests of the white-settler state, but cannot be

easily and legally deported or refused entry into Canada like the foreign non-citizen. On the

other hand, the health of the foreign non-citizen becomes tied into security terms and thereby

justifies the outright denial of immigrants and refugees into Canada.

In similar fashion to being presumed as a security concern, foreign non-citizens also find

themselves to be presumed as 'criminal,' as noted in the following subsections of the IRPA

labelled 'Serious Criminality' and 'Criminality':

A permanent resident or a foreign national is inadmissible on grounds of serious criminality for
[...] (a) having been convicted in Canada of an offence under an Act of Parliament punishable by
a maximum term of imprisonment of at least 10 years, or of an offence under an Act of
Parliament for which a term of imprisonment of more than six months has been imposed; (b)
having been convicted of an offence outside Canada that, if committed in Canada, would
constitute an offence under an Act of Parliament punishable by a maximum term of
imprisonment of at least 10 years; (c) committing an act outside Canada that is an offence in
the place where it was committed and that, if committed in Canada, would constitute an
offence under an Act of Parliament punishable by a maximum term of imprisonment of at least
10 years (IRPA, p. 29)

The Act goes onto detailing in similar fashion the consequences for regular 'criminality':

a foreign national is inadmissible on grounds of criminality for (a) having been convicted in
Canada of an offence under an Act of Parliament punishable by way of indictment, or of two
offences under any Act of Parliament not arising out of a single occurrence; (b) having been
convicted outside Canada of an offence that, if committed in Canada, would constitute an
indictable offence under an Act of Parliament, or of two offences not arising out of a single
occurrence that, if committed in Canada, would constitute offences under an Act of Parliament;
(c) committing an act outside Canada that is an offence in the place where it was committed
and that, if committed in Canada, would constitute and indictable offence under an Act of
Parliament; or (d) committing, on entering Canada, an offence under an Act of Parliament
prescribed by regulations (IRPA, p.30).

These lengthy clauses illustrate an emphasis on foreign non-citizens as dangerous by adding

depth to their potential criminal nature. These definitions of 'serious' and regular criminality

compliment the continuous reference to criminality of immigrants and refugees, as it is worth

noting that the word criminal(s) and criminality appear 63 times throughout the IRPA. The

added complexity of a foreign non-citizen's criminality is applied in the following regulation that

governs the terms of regular and 'serious' criminality: "an offence that may be prosecuted

either summarily or by way of indictment is deemed to be an indictable offence, even if it has

been prosecuted summarily" (IRPA, p.30). This means that the 'foreign' status and the apparent

dangers associated with this status are to escalate any summary conviction to be considered as

an indictable offence. This only further constructs immigrants and refugees as being dangerous

to a capacity greater than any known 'Canadian' criminal.

The 'Exalted' Citizen

There are a number of instances in the IRPA where, to borrow from Thobani (2012), Canadian

citizens and the legal and political systems that represent them are reflected as 'exalted'

beings. Thobani (2012) provides a concise understanding of 'exalted' citizens, noting:

Exaltation delineates the specific human characteristics said to distinguish the nation from others, marking out its unique nationality. As such, it provokes a particular subject position that can be inhabited only by the nation's insiders [...] The association of precious rights and entitlements with such an identity creates a material stake in protecting these from the encroachments of irresponsible and undeserving Others (p. 21).

Exaltation lifts some to a preferred status, and simultaneously contributes to lowering political

abilities of lesser, if not outright excluding, non-preferred citizens and foreign non-citizens. This

arrangement of identities becomes repeated continuously throughout the IRPA. For example, a

foreign non-citizen can find themselves arrested without a warrant, as stated in the following

clause:

An officer may, without a warrant, arrest and detain a foreign national, other than a protected person, (a) who the officer has reasonable grounds to believe is inadmissible and is a danger to the public or is unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister

under subsection 44(2); or (b) if the officer is not satisfied of the identity of the foreign national in the course of any procedure under this Act (IRPA, p.38).

This level of security is warranted by a belief that foreign non-citizens pose such a danger that exceptions must be made to the normal application of law. However, this also indicates a level of exaltation among the officers and legal authorities (presumably Canadian), who are allowed to exercise their right to go beyond the normal application of law, or to put the state of exception into force.

The meshing of the state of exception and the exaltation of judiciary authorities is explicit in the following:

(h) the judge may receive into evidence anything that, in the judge's opinion, is reliable and appropriate, even if it is inadmissible in a court of law, and may base a decision on that evidence (IRPA, p. 52)

This example shows that the opinion of a judge is an extremely exalted right, as their opinions can invoke 'exceptional circumstances' in regards to changing detention orders and creating exceptions to the rule of law. While it is largely consented upon that judges may have more authority in general than the established citizen, these 'exceptional' authoritative powers present a stark contrast to the privileges granted to immigrants and refugees. For example, in the case of the security certificate program, detainees are not even able to be present for secret trials that determine their eligibility to stay in Canada and thus can only hope that whoever is selected to represent them is effective in relaying their thoughts and arguments.

The IRPA includes other forms of discourse to convey legitimacy to Canadian legal systems and their representatives, as demonstrated in the following:

the competent authority of the province is of the opinion that the foreign national complies with the province's selection criteria (emphases added, IRPA, p. 14)

[board members] are appointed to the Board by the Governor in Council, to hold office during *good behaviour* for a term not exceeding seven years, subject to removal by the Governor in Council at any time for cause, to serve in a regional or district office of the Board (emphases added, IRPA, p. 96)

the Division may take notice of any facts that may be judicially noticed and of any other generally recognized facts and any information or opinion that is *within its specialized knowledge* (emphases added, IRPA, p.105)

In each of these cases, particular adjectives such as 'good', 'specialized', and 'competent', exalt

the descriptions and statuses of the institutions within Canada's citizenship regime. While it is

agreeable that having 'competent' judiciary representatives is desirable, the standards that

frame what is deemed appropriate behaviour is important to critique, especially in a state of

exception. The exceptions to constitutional liberties become normalized under a state of

exception (Agamben, 2005), and under this assumption it is reasonable to suggest, for example,

that the mass detention of immigrants and refugees, and maintenance of such security

measures, are considered 'competent' and reasonable actions.[6]

The exalted status of the regular citizen, or the citizen who is not a judge, Minister, or

affiliate of Canadian migration institutions is also made evident in the IRPA. In particular, it is

stated in the IRPA:

An officer may, in cases of emergency, employ a person to assist the officer in carrying out duties under this Act. That person has the authority and powers of the officer for a period of no more than 48 hours, unless approved by the Minister (IRPA, p. 89)

Due to the constructed 'emergency' that foreign non-citizens present, immigration officers

have the ability to grant law-abiding citizens the ability to enforce the IRPA for a short period of

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[6] For more about the detention of immigrants and refugees, please see the report released by End Immigration Detention Network, an affiliate of No One is Illegal, available at www.truthaboutdetention.com

time. In some ways, this represents a 'wild west' method of deputizing regular citizens into

enforcing the law. However, this clause is also ambiguous, and therefore problematic in as

much that the necessary conditions for an emergency to be declared are not outlined, nor are

the conditions outlined for whom can be 'deputized'. What are reflected above all are the

trustworthy characteristics of the average citizen, although this simultaneously constructs the

foreign non-citizen and the non-preferred citizen as being the complete opposite.

The Deceptive and Backwards 'Foreigner'

It is written in the IRPA:

In examining the request of a foreign national in Canada, the Minister may not consider the
factors that are taken into account in the determination of whether a person is a Convention
refugee under section 96 Or a person in need of protection under subsection 97(1) but must
consider elements related to the hardships that affect the foreign national (IRPA, p.22).

The fact that the Minister is encouraged to consider the 'hardships' facing an immigrant or

refugee is an example of how power can be productive and oppressive. Considering the

challenges facing most refugees, for example, allows for an opportunity for humanitarian

principles to become prioritized in migration policy. However, this is not without some concern.

It reaffirms that immigrants and refugees are fundamentally different from Canadians through

the discursive construction of the Other's geographical heritage as dangerous and uncivilized.

For example, refugees from Iraq are no doubt fleeing from circumstances that are dangerous,

but the discourse within the IRPA does not draw the connections between Canada, the

developed world and west in general, and the detrimental humanitarian situation within the

global south. Thus, Canada is not seen as accountable for the influx of refugees leaving these

countries, and therefore claims any admissions are done so out of generosity, furthering a

condescending position of national superiority.

Section 25 (1.2) states that the Minister may not reconsider requests for permanent

residency or protection if:

(*c*) subject to subsection (1.21), less than 12 months have passed since the foreign national's claim for refugee protection was last rejected, determined to be withdrawn after substantive evidence was heard or determined to be abandoned by the Refugee Protection Division or the Refugee Appeal Division (IRPA, p.21)

However, following this clause, the geographical heritage of the foreign non-citizen becomes

relevant within the IRPA:

Paragraph (1.2)(c) does not apply in respect of a foreign national (a) who, in the case of removal, would be subjected to a risk to their life, *caused by the inability of each of their countries of nationality* or, if they do not have a country of nationality, their country of former habitual residence, to provide adequate health or medical care (Emphasis added, IRPA, p.22)

Here, it is explicit that global capitalism, the neoliberal economic conditions that have

plundered some countries into poverty and conflict, and Canada's role in facilitating and

abetting these conditions are not the causes for infrastructural decay in some nations. Instead,

it is explicitly made known that it is due to the 'inability' of their country to provide health or

medical care. The discourse within the IRPA continues to construct foreign countries,

particularly in the following exert that outlines the conditions by which the Minister can

designate a country of origin:

The Minister may only make a designation (b) in the case where the number of claims for refugee protection made in Canada by nationals of the country in question in respect of which the Refugee Protection Division has made a final determination is less than the number provided for by order of the Minister, if the Minister is of the opinion that in the country in question (i) there is an independent judicial system, (ii) basic democratic rights and freedoms are recognized and mechanisms for redress are available if those rights or freedoms are infringed, and (iii) civil society organizations exist (IRPA, p. 73)

The definitions of democracy, freedom, and 'civil society' are not provided within the IRPA, but

the Minister is depicted as having the authority to determine whether or not another country

possesses these liberal democratic characteristics. This language shifts critiques on human

rights within Canadian society and focuses the critique on the Others, whose civil society

requires assessment from the legitimate Canadian institutions, further suggesting that 'foreign'

countries, if determined as having a civil society, are at the least susceptible to losing such a

status.

A prominent construction of foreign non-citizens and non-preferred citizens within the

IRPA includes a depiction of the dishonest, distrustful character of immigrants and refugees, as

suggested in the following:

A person who makes an application must answer truthfully all questions put to them for the
purpose of the examination and must produce a visa and all relevant evidence and documents
that the officer reasonably requires (IRPA, p.14)

Dual intent (2) An intention by a foreign national to become a permanent resident does not
preclude them from becoming a temporary resident if the officer is satisfied that they will leave
Canada by the end of the period authorized for their stay (IRPA, p.18)

A permanent resident or a foreign national is inadmissible for misrepresentation
(a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant
matter that induces or could induce an error in the administration of this Act (IRPA, p.32)

An officer may issue a warrant for the arrest and detention of a permanent resident or a foreign
national who the officer has reasonable grounds to believe is inadmissible and is a danger to
the public or is unlikely to appear for examination (IRPA, p.38)

The burden of proving that a claim is eligible to be referred to the Refugee Protection Division
rests on the claimant, who must answer truthfully all questions put to them (IRPA, p.66)

The foreign non-citizen is continuously constructed as potentially deceptive and susceptible to

dishonest behaviour. The mind of the foreign non-citizen is depicted as naturally being split, or

having 'dual intentions' with regards to staying in Canada, suggesting that they are con-artists

looking to take advantage of the regular Canadians. They are constructed as a type of master of

disguise, masking not only their intentions but their identities as well. Misrepresentation is

made known as grounds for exclusion, although many refugees may depend on some levels of

misrepresentation to flee a dangerous situation in the first place. Furthermore, they are

perceived as potential flight risks, as an officer can arrest and detain a foreign non-citizen under

any suspicion that they may not show up for an examination hearing. The dishonest depiction

of immigrants and refugees is a vital component for justifying the continuance of ultra-security

programs in migration as well as the general racialization against people of colour in the white-

settler nation.

An interesting trend emerges in the IRPA regarding children of foreign non-citizens,

which I would argue are being depicted as innocent and in need of charity because of their

'foreign' heritages and genealogies, further drawing the foreign (adult) non-citizen as a less-

than-human subject. With specific regards to children, the IRPA notes:

To allow an appeal, the Immigration Appeal Division must be satisfied that, at the time that the
appeal is disposed of, […] (c) other than in the case of an appeal by the Minister, taking into
account the best interests of a child directly affected by the decision, sufficient humanitarian
and compassionate considerations warrant special relief in light of all the circumstances of the
case (IRPA, p.44)

The regulations may provide for the application of this Division, and may include provisions
respecting, […] (c) special considerations that may apply in relation to the detention of minor
children (IRPA, p.43)

For the purposes of this Division, it is affirmed as a principle that a minor child shall be detained
only as a measure of last resort, taking into account the other applicable grounds and criteria
including the best interests of the child (IRPA, p.42)

The 'best interests' of children are often invoked in humanitarian clauses, leading to children to

be constructed as innocent while their parents are evidently constructed as a threat. In many

respects, the choice to emphasize a child's innocence further depicts their 'foreign' parents as being guilty of speculative offences. In some regards, it also depicts these children as untainted by the uncivilized characteristics of their heritages. The 'generosity' towards children depicted within the IRPA could be warranted by the political sensitivity of splitting up families through deportation, or subjecting those families to physical threats through deportation. Russo (2008) indicates that the Harper government has "accelerated deportation proceedings against illegal workers in Canada" (p.304). Despite the IRPA's construction of the innocence of children, they have still nevertheless been subject to the securitizing and humiliating processes within Canadian immigration policy.

The relative appreciation for children, compared to their 'foreign' parents, within the IRPA is a stark contrast to the material realities that the Act has on the lives of people living within Canada. In 2006, CTV news reported a brother and sister were forcibly removed from their Toronto school by immigration officers, and that the next day two girls aged 7 and 14 were removed from their school also in Toronto and used as blackmail to force their 'illegal' immigrant mother to turn herself into immigration officials (Russo, 2008:305). In discussing the mass detention of immigrants and refugees, Hussen (2014) notes that the number of detained children since 2007 has fluctuated between 805 in 2008 to 205 in 2013, yet this number is probably higher in reality because "many children are not tracked as detainees but as accompanying their parents" (p.1). Thus the actual appreciation for 'foreign' children is bleak at best.

Immigrants and Refugees as Commodities

An important theme within the IRPA is the portrayal of migration in terms of economic analysis.

This is made explicit in the objectives of the IRPA:

The objectives of this Act with respect to immigration are […] (c) to support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada (IRPA, p.2)

The following must be consistent with the federal-provincial agreements: […](b) regulations governing those matters, including regulations respecting the examination in Canada of applications to become a permanent resident, or respecting the foreign nationals who may be selected on the basis of an investment in Canada (IRPA, p.7)

These objectives later become guidelines for both rejecting migration claims and rejecting

appeals for already-rejected claimants:

If a federal-provincial agreement gives a province sole responsibility to establish and apply financial criteria with respect of a foreign national who applies to become a permanent resident, then, unless the agreement provides otherwise, the existence of a right of appeal under the law of that province respecting rejections by provincial officials of applications for sponsorship, for reasons of failing to meet financial criteria or failing to comply with a prior undertaking, prevents the sponsor, except on humanitarian and compassionate grounds, from appealing under this Act against a refusal, based on those reasons, of a visa or permanent resident status (IRPA, p.8)

The regulations may prescribe, and govern any matter relating to, classes of permanent residents or foreign nationals, including the classes referred to in section 12, and may include provisions regarding (a) selection criteria, the weight, if any, to be given to all or some of those criteria, the procedures to be followed in evaluating all or some of those criteria and the circumstances in which an officer may substitute for those criteria their evaluation of the likelihood of a foreign national's ability to become economically established in Canada (IRPA, p.11)

The above clauses reduce all immigrants and refugees to economic objects. It is certainly the

case that all subjects of the state are reducible in economic terms, or into *homo oeconomicus*

to borrow from Foucault's lectures (2008:226), but this neoliberal philosophy of identity is not

separate from the forces of racialization and securitization, of which are also intertwined with

the functioning of global capitalism. Bannerji (2000) provides a succinct example: "Blue ribbon

Hong Kong immigrants, for example, bring investments which may be needed for the growth of

British Columbia, but they themselves are not wanted" (p.43). Therefore, all subjects of the state may be commodities of some sort, but this supposed economic value of a subject cannot be detached from symbolic forces that also define their identities.

The economic value of immigrants and refugees is depicted as being low. Perhaps so low that it presents a possible vulnerability to the greater Canadian economy. This is suggested within the IRPA in the following clause:

A foreign national is inadmissible for financial reasons if they are or will be unable or unwilling to support themself or any other person who is dependent on them, and have not satisfied an officer that adequate arrangements for care and support, other than those that involve social assistance, have been made (IRPA, p.32)

In line with racializing philosophies that suggest foreign non-citizens are incompetent, the above clause makes it apparent that immigrants and refugees may become dependent on social assistance. There is a clear connection made here with racializing myths that suggest immigrants and refugees are a drain on the social welfare system, although credible research suggests that this is not the case (Ceyhan, Tsoukala, 2002; Kissoon, 2013; Lacroix, 2004; Thobani, 2012). In fact, the large portion of temporary workers working in precarious jobs would suggest that migration is keeping the Canadian economy intact (Fudge, Macphail, 2009; Hennebry, Preibisch, 2009). However, the erroneous connection made between economic recessions and foreign non-citizens reiterate a constructed superiority of the traditional white Canadian. Thus, the IRPA constructs the foreign non-citizen as a financial security threat as much as a physical threat and encourages the system of racialization to continue in Canada.

Another indicator of racialization through economic means includes the assignment of special numbers on the Social Insurance Numbers (SIN) for employers to recognize that those individual's require authorization to work in Canada (IRPA, p.59-60). This systematically

differentiates citizen workers from 'foreign' workers, while also creating a means of economic

surveillance of the foreign non-citizen and governing their capacity in the Canadian labour

market. Landolt and Goldring (2013) indicate that temporary authorized residents are assigned

the number 9, which acts as a highly visible indicator of their temporariness and leads to

difficulties in opening bank accounts, getting landline telephones, or accessing credit resources

(p.161). This numbering of temporary foreign workers is enabled through the IRPA and has

apparent consequences that are detrimental to countless people hoping to work in Canada.

One of the goals of the IRPA was to deal with a backlog of applications, and a series of

amendments made to the IRPA in 2008 granted more executive powers to the Minister of

Immigration and Citizenship to lower this backlog (see Russo, 2008). An example of a concern

over backlogs arose during an influx of Mexican refugees into Windsor during 2009, although it

has been pointed out that the cause of that backlog was largely due to insufficient numbers of

people being present on the Immigration and Refugee Board (Gilbert, 2014:832). It is noted

several times within the IRPA of the need to process immigrants and refugees as timely and

effectively as possible, particularly by establishing time frames for individuals to make claims

for permanent residency (p.17), temporary residency (p.20), and refugee protection (p.21). This

focus on reducing the backlog operates in accordance with a discourse suggesting migration

into Canada is a crisis and must be dealt within the state of exception framework. This attention

to the backlog is not without humanitarian concern either, as Russo (2008) notes, "the

immigration queue could be reduced by simply and speedily rejecting more applications to

prevent any future backlog" (p.306). These consequences are intertwined with the fear of

immigrants and refugees owning some stake in the Canadian economy.

<u>Racializing the foreign identity</u>

At this point, the foreign non-citizen and non-preferred citizen have been identified as being

fundamentally different based on varying security risks, whether as a threat to public safety,

the nation's economy, or the symbolic Canadian values. Thus, securitization and racialization

closely intertwine in the construction of the 'foreign' identity. Quite a bit of time can be

consumed by trying to find a politically sensitive label for immigrants and refugees, but the rise

of Canadian nationalism dictates that 'they' will always need to be called something to create a

distinction from the normal Canadian. Therefore, the legal operation for managing the mobility

of people in and out of the country is completely rooted in racialization: a binary of citizen and

non-citizen, preferred and non-preferred, civilized and savage. The language within the IRPA

outright enforces these divisive hierarchies of people:

"foreign national" means a person who is not a Canadian citizen or a permanent resident, and
includes a stateless person (IRPA, p.1)

By immediately defining that a 'foreign national' is not equal to a Canadian citizen, the person

who is defined as the former becomes subject to an identity of inferiority to a Canadian. It

cannot be ignored that Canada is a white-settler nation that maintains allegiances to the Queen

of England, often emphasizing a particular White-European identity, and it also cannot be

ignored that most immigrants, especially refugees, since the 1960s are arriving from the global

south, and are commonly associated as people of colour. The term 'foreign' is rather

derogatory, but is used fervently throughout the IRPA. In fact, the French word for the term

'foreign national' translates as 'etranger', meaning stranger (IRPA, p.1). Canada's welcoming

demeanor quickly diminishes as the national portrayal of immigrants and refugees falls nothing

short of the paraphrase 'stranger danger'.

Immigration controls such as the IRPA are not simply about managing population

numbers, but also micro-managing the type of population. The concern about too many

immigrants and refugees is expressed in the IRPA through the following clause:

The Minister must consult with the governments of the provinces respecting the number of
foreign nationals in each class who will become permanent residents each year, their
distribution in Canada taking into account regional economic and demographic requirements,
and the measures to be undertaken to facilitate their integration into Canadian society (IRPA,
p.8)

This clause is repeated a few times in the IRPA, indicating that immigrants and refugees

(presumably of colour) are diverse in their legal and preferred statuses, as well as

fundamentally different from Canadian society thus requiring governing of what 'kind' of

people can be accepted and in what volume. Controlling the number of 'foreigners' allowed

into Canada is a major priority for the IRPA, which firmly states: "Despite any instruction given

by the Minister under paragraph 87.3(3)(c), no more than 2,750 applications in a class

established under subsection (1) may be processed in any year" (IRPA, p.14).

The concept of a Canadian 'culture' is also made evident in the IRPA, particularly through

emphasizing the French and English language:

(a) to permit Canada to pursue the maximum social, cultural and economic benefits of
immigration; (b) to enrich and strengthen the social and cultural fabric of Canadian society,
while respecting the federal, bilingual and multicultural character of Canada (IRPA, p.2)

(b.1) to support and assist the development of minority official languages communities in
Canada (IRPA, p.2)

(e) supports the commitment of the Government of Canada to enhance the vitality of the English and French linguistic minority communities in Canada (IRPA, p.2)

Although the first objective does not outline the details around pursuing the 'maximum social and cultural benefits,' the second two objectives make it apparent that the state's interest is in maintaining an English/French majority within Canada. Specifically, these objectives imply a preference for immigrants that will maintain a French or English identity within communities where either official language is a minority. This raises an interesting question about what makes any given community an English minority in Canada, especially outside of Quebec. All products within Canada are in either English or French, schools and other public services are also in either English or French, so what is the intention of the IRPA in enhancing the 'vitality' of English and French? Although an answer is not reflected clearly enough in the data, it is reasonable to speculate that this clause represents a symbolic concern over the hegemonic white-European identity within Canada.

Analysis

While coding the IRPA, a number of themes arose that support past literature claims about the securitization and racialization intrinsic within the Canadian state. With a hyper-emphasis on security since 9/11, it is no surprise that immigrants and refugees are constructed as fundamentally different based on themes of security alone. These themes include perceived threats to the economy, to the health and physical well-being of Canadians, as well as to the 'cultural fabric' of Canada in general. In many ways then, securitization and racialization are infused with each other in the construction of immigrants and refugees of colour.

As previously outlined by Agamben (2005), the state of exception allows for theoretical appreciation for why not only harsh security measures are being enacted against immigrants and refugees of colour, but also how the process of racialization is being dismissed as an accomplice in times of such security measures. This becomes appropriately noted in a comedy stint by Mike Yard, who while talking about profiling Arab airplane passengers jokingly told his audience: "I'm not being racist, I just want to land."[7] Beyond the political satire, this expression is continuously implied in one way or another to justify racial profiling and security measures against visible minorities. The state of exception does not simply normalize totalitarian and aggressive state action, but also normalizes racializing processes. Security discourses operate fluidly to cement particular 'truths' about differing ethnicities; the Muslim and Arab Canadian become permanent security threats due to perceived terrorist inclinations (see Hennebry, Momani, 2013), while the Jamaican and Black youth within Toronto are 'known' to be criminal in nature (Bannerji, 2000:116; also see Barnes, 2009). The racism within these measures go unchecked because the security threat is constructed as a fact outside of racialization. The security threat comes to encompass holistic representations of many Arab and Muslim identities, simplifying the foreign identity to a one-dimensional character, often as a barbarian or savage. To exemplify this, Jasmine Zine (2012) details how the murder of Asqa Parvez in December 2007 was consumed by representations as an "honour killing," rather than with broader domestic tensions of teenagers seeking autonomy from their parents (p. 49). In many ways, the Parvez case was represented in such a way as to contribute towards a common construction of the foreign 'barbarian' and shows that securitization—while being a vast area of

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[7] For this particular Mike Yard comedy piece, see https://www.youtube.com/watch?v=cV1Oa69LdCw

inquiry on its own—is infused with more broader issues of gender constructions, as well as racialization. Therefore securitization should be considered a process that is not separate from the major concerns facing the rest of the social sciences. Within the IRPA, most constructions of foreign non-citizens and non-preferred citizens mixed with themes of securitization and racialization.

It is worthwhile to note that during the coding process there was little indication of family reunification and humanitarian themes that were separate from securitizing and racializing themes. It is for this reason that my findings emphasize securitization within the IRPA. As mentioned earlier in the findings, there was an emphasis on the best interests of an immigrant or refugee's child, but this was rarely, if ever, separate from the security functions within the IRPA. Furthermore, there was little indication of humanitarianism or human rights being invoked to protect immigrants or refugees. This is not only a contrast from the international standards set before Canada during the post-WWII era, but also a contrast to the objectives at the forefront of the IRPA, specifically stating:

The objectives of this Act with respect to immigration are (d) to see that families are reunited in Canada (IRPA, p.2)

The objectives of this Act with respect to refugees are (a) to recognize that the refugee program is in the first instance about saving lives and offering protection to the displaced and persecuted; (b) to fulfil Canada's international legal obligations with respect to refugees and affirm Canada's commitment to international efforts to provide assistance to those in need of resettlement (IRPA, p.3).

These objectives quickly become dismissed in the subsequent divisions of the IRPA, which then discursively associates the foreign non-citizen and non-preferred citizen as potentially dangerous and deceptive. This indicates a temporal and political shift from the emphasis of humanitarianism, largely from the post-WWII era, to an emphasis of national security. This

contrast is important to note because it suggests that the IRPA has the capacity to implement

humanitarian discourse, while also pointing to the relevance of power relations that re-

establish a more dominant securitizing discourse.

Interrogating Themes with the Charter

The Canadian Charter of Rights and Freedoms has been used before to protect the liberties of

persons who were not citizens (Dauvergne, 2013; Russo, 2008), and the IRPA has come into

conflict with the Charter, particularly over concerns about the security certificate program that

led to some amendments granting detainees legal representation through a special advocacy

program (see Flatt, 2012). However, the actual security program remains intact, as well as a

number of other controversial clauses within the IRPA. This section will interrogate themes

drawn from the IRPA with the Charter and will attempt to provide strategies for pulling the

IRPA out of the 'state of exception' framework and into a legal arena where it is held more

accountable to the fundamental rights granted to every person within Canada, indeed even

accountable to international human law.

Catherine Dauvergne (2013) points out that the Supreme Court of Canada has relied

exclusively on the Charter during times when international law would have been more

applicable in protecting non-citizens (p.3). However, there have been cases in the Supreme

Court when international human rights were invoked and even connected with the Charter,

particularly with *Sing v. Canada (Minister of Employment and Immigration)*, a case in which the

existing refugee status determination procedure was challenged for not providing claimants an

oral hearing during any part of the process (Dauvergne, 2013:4). While this case was challenged

on the grounds of violating the Charter, the hearing was determined with references to international law, particularly by Justice Wilson who cited the preamble in the Refugee Convention as well as article 25 of the International Declaration of Human Rights (Dauvergne, 2013:6). Analyzing case studies like this further leads Dauvergne (2013) to determine that international human rights are only valid through the Charter, specifically, "non-citizens asserting rights claims are therefore required to make those arguments first and foremost in Charter terms, and only secondarily in international human rights terms" (p. 10). Therefore, it seems more practical, albeit unfortunate, that I should compare themes between the Charter and IRPA, rather than emphasize international human rights law. As it stands now, the only access non-citizens and non-preferred citizens have to fundamental international human rights is through the more domesticated Canadian Charter.

<u>Innocent until proven Guilty</u>

A major theme indicated within the IRPA was that the foreign non-citizen and non-preferred citizen was a potential physical danger to the public, which therefore allowed for the arrest, and detention and deportation of varying permanent residents (see IRPA, p.38, sec. 55; and p.49, sec. 81). However, the material consequences involved with these security measures have been racializing individuals and social groups, particularly those who assign as Muslim/Arab Canadians. Case studies from the current security certificate regime present a striking contrast to constitutional rights that should be entitled to detainees through the Charter.

One prominent case study is that of Mohamed Harkat, who came to Canada in 1997 as a refugee, worked as a pizza man, and is married to a Canadian citizen and has children. He was

arrested in 2002 on claims that he was a sleeper cell for Al-Qaeda, and has been en-route for deportation ever since the Supreme Court upheld his security certificate earlier this year (CBC News, MacKinnon, 2014). He is now facing a deportation order, despite serious fears of torture in Algeria and the fact that he has lived in Canada for 19 years without causing any harm. We should be mindful that the IRPA does hold a particular clause that is not mentioned in these reports, particularly with regards to admitting evidence in a secret trials that would not be else wise admitted in a court hearing for a citizen (IRPA, p.52). Thus, Mohamed Harkat is desperately trying to prove his innocence after being presumed guilty, a consequence to a twisted state of exception that emphasizes pre-emptive strikes against a mostly imaginary terrorist threat.

From this, it is evident that the Canadian state is taking pre-emptive action against an unsubstantiated threat. The threat is largely imaginative because it only declares substantiation through narrow, irreducible stereotypes towards Muslims, Arabs, and people of colour. For example, a few instances of terrorism conducted by Muslims, or criminal activities by Black men have somehow legitimized massive security and exclusionary programs against entire social groups of people. As demonstrated within the IRPA, the depiction of foreign non-citizens and non-preferred citizens as 'dangerous' contributes towards a discursive domain that legitimizes a security regime that have turned the rule of law upside down, declaring people guilty until proven innocent. This pre-emptive action is a theme that directly violates the legal rights cemented in the Charter, which explicitly forbid such pre-emptive action by authorities and the state. Specifically, the Charter states in section 9, "Everyone has the right not to be arbitrarily detained or imprisoned," and in section 11 (d), "any person charged with an offence has the

right [...] (d) to be presumed innocent until proven guilty according to law in a fair and public

hearing by an independent and impartial tribunal."

Equality for All

There is a prevalent theme among the Charter that emphasizes equality among all living within

Canada. In section 2, *Fundamental Freedoms*, it is strictly stated:

Everyone has the following fundamental freedoms:
  (a) Freedom of conscience and religion;
  (b) Freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
  (c) Freedom of peaceful assembly; and
  (d) Freedom of association

In continuation, section 15 is explicitly categorized under the subheading *Equality Rights*, and

states the following:

Every individual is equal before and under the law and has the right to the equal protection and
equal benefit of the law without discrimination and, in particular, without discrimination based
on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability

This fundamental right for equal treatment from the law is a direct antithesis to the IRPA.

One of the major themes constructed within the IRPA is that the foreign non-citizen and non-

preferred citizen comes from an incompetent national heritage and is potentially deceptive and

devious themselves. In continuation, there is ample evidence to suggest that Canadian citizens,

and institutions they occupy, are ontologically exalted. On these grounds alone the IRPA

discriminates against immigrants and refugees of colour based on national or ethnic origin,

leading to the IRPA discursively constructing the identities of foreign non-citizens and non-

preferred citizens as lesser human beings.

The Charter identifies that individuals cannot be discriminated by race, nationality, colour, religion, sex, ability, or age, however these characteristics of social inequality are often intertwined with one another. For example, all men that have been processed through the security certificate program were arrested as suspected terrorists based on condensed information about their national identities, their 'ethnic' origin, their Muslim-ness, along with other stereotypical understandings of gender and race that are often subtle and unnoticed. It is no coincidence that every individual detained under the security certificate program is associated with Arab names, or Muslim identities, as well as all men. The security threats accused against these men can be discursively produced on many fronts; 'they are a threat because of Muslim extremism', or 'they are a threat because they are from the Middle East', or 'they are a threat because they *look* like they are from the Middle East, or they *look* like they are Muslim'. These discourse vary, but all serve to maintain a system of oppression against a constructed Other, despite that each discourse seems to explicitly oppose the concept of equality in the Charter.

Outside of the security certificate regime, it cannot be dismissed that citizens do not equally share the detention procedures for the 'average' immigrant and refugee. That is, immigrants and refugees can find themselves being indefinitely detained while their identities are confirmed, whereas preferred citizens could not imagine anywhere near a similar process being applied for them. Furthermore, preferred citizens who are actually charged with some sort of offence will have the right to a public and fair trial, whereas immigrants and refugees are subject to hearings that can be held behind closed doors, as well as rulings based off evidence that would not be acceptable in a citizen court hearing. Therefore in direct contradiction to the

Charter, immigrants and refugees are not equal to citizens under the laws of Canada. The ability

to easily detain innocent foreign non-citizens within the IRPA has been exercised in a large

capacity, as the *End Immigration Detention Network,* an affiliate of *No One is Illegal*, reports

startling numbers:

By mid-2013, approximately 80,000 immigrants had been detained under the current
government. In 2013 alone, between 7,373 and 9,932 immigrants spent a total of 183,928 days
in immigration hold. This is a combined total of 504 years in prison. Over the past seven years,
the number of detained children has fluctuated between 807 children per year in 2008 to 205
in 2013. The actual number is higher as many children are not tracked as detainees but as
"accompanying their parents," or are themselves Canadian citizens and thus "not subject to"
immigration detention (Hussan, 2014:1)

These material consequences are a stark contrast to the IRPA's clause that suggests children

should only be detained "as a last resort" (IRPA, p.42). The investment into detention facilities

has also sky-rocketed, with the immigration enforcement agency's budget increasing from $91

million in 2011, to over $198 million for 2012-2013 (Hussan, 2014:1). The detention camps and

citizenship regime within Canada are certainly not underfunded, and the tens of thousands of

innocent detainees depict a bleak reality of Canada's commitment to a multicultural liberal

democracy and a self-proclaimed 'racism-free' nation.

The Official Languages of Canada

If there is any theme that is similar between the IRPA and Charter, it is the value of the English

and French languages within Canada. As indicated earlier, the IRPA brought forth a concern for

English and French identities to be maintained, especially among communities where one is a

minority to the other. However, the Charter explicitly protects either French or English from

'disappearing' from Canadian communities, specifically by dictating that both languages must

be accessible for the purposes of public schooling, Parliamentary proceedings and debates, as well as in any court issued by Parliament (sections 17 [1][2], 19 [1][2], 20 [1][2], 23 [1]). In considering the Charter's protection of the 'vitality' of English and French, the concerns implied within the IRPA become more translucent as concerns about the cultural hegemony within Canada, which remains a White, British-Christian heritage.

Considering the fear that the white, British-Christian heritage might be replaced with the 'backward' cultures of the foreign non-citizen, the IRPA's goals to 'maximize' social and cultural benefits through migration can be analyzed more thoroughly (see IRPA, p.2). I cannot deduce what exactly social and cultural 'benefits' entail, and this ambiguity may serve purposes for maintaining power relations, but the word *maximum* (as used in p.2 of the IRPA) purports a particular way for understanding cultural characteristics and social identities. Such characteristics and identities become conceived as investments, held in varying degrees of volume, and with outputs that are measurable. The role of social policy in a neoliberal state is that of economic growth, acting on the premise that even everyday unintelligible behaviour could be held accountable to economic analysis (Foucault, 2008). In considering the IRPA as social policy, the concept of 'maximizing' then follows the neoliberal state's objective of continuous economic growth through governing cultural and social characteristics, as Foucault points out:

There is the idea that the state possesses in itself and through its own dynamism a sort of power of expansion, an intrinsic tendency to expand, an endogenous imperialism constantly pushing it to spread its surface and increase in extent, depth, and subtlety to the point that it will come to take over entirely that which is at the same time its other, its outside, its target, and its object, namely: civil society (p.187).

The IRPA conceptualizes cultural and social benefits in terms of what is most beneficial for the

Canadian state, and if the neoliberal State is about continuous growth and expansion, then the

IRPA can be seen as a discursive mechanism for not only maintaining a white Canadian identity,

but continuously pushing forward a white Canadian identity. The Charter can be critiqued in

this perspective as well, as it attempts to concretely establish French and English as a part of

the Canadian identity.

Changing a Discourse

Although the Charter has been used to challenge the security certificate program in the IRPA,

leading to the special advocacy system, there is yet to be successful challenges made about the

detention system and the fundamentally flawed judicial processes within the IRPA. Numerous

material consequences can be connected with the IRPA, including the large demonstration of

security measures, many of which can be connected with racial profiling. The IRPA, however, is

a product of the 'state of exception,' which acts as a discursive domain legitimizing the blunt

human rights violations in the presence of established constitutional liberties. Discourse is

relevant to consider here, especially with regards to the IRPA's contribution to oppression

through the language it employs. It is evident that the IRPA puts forward a number of truths

about immigrants and refugees hoping to arrive, or living within Canada. This culminates into a

knowledge regime that concretizes the identities of these people as dangerous and uncivilized.

For example, the continuous use of the word 'foreign' within the IRPA is not a value-free

description of a group of people; it demotes a person's status as an equal human being.

Therefore, I would argue that the state of exception is dependent on discourse. That is, it is

dependent on using language to justify its formation and maintenance. Based on this, I would

further suggest that the IRPA's use of discourse persuades the nation, its peoples and courts, away from holding the Act accountable to the major themes of the Charter.

Changing the discourse within the IRPA is possible and at the very least can provide groundwork for the subjects depicted within the Act to become affiliated with the subjects in the Charter. It is important to note, here, that in any case people remain subjects under language and power, but I hope to outline that practical methods exist for creating friction between the IRPA and Charter. To begin, the IRPA constructs immigrants and refugees as impending security emergencies, but this does not accurately reflect the motives and intentions of these entire social groups of people. A number of humanitarian crises around the globe have pushed incredible numbers of people to leave their homes and flee for their lives, yet this humanitarian perspective is not outlined in the IRPA. Emphasizing this latter perspective deconstructs the 'dangerous' identity that is currently propagated about refugees and constructs meaning from stories of refugeeism, rather than construct meaning based on a fear towards these people found within established Canadians. In other words, I believe that emphasizing the humanitarian perspective towards refugeeism will make it difficult to legitimize the detention and deportation of people facing serious persecution. In similar fashion, the multitude of reasons for people immigrating to Canada is reduced within the IRPA to strictly being for subverting the Canadian government and liberal democracy. This too can be replaced with a more open minded discourse that contemplates the more likely reasons for people moving to Canada, such as economic opportunities, life chances, and even curiosity—all of which construct a much more complex, innocent human being.

The IRPA emphasizes that immigrants and refugees should be considered within economic terms, perpetuating ideas that immigrants and refugees are a drain on the Canadian economy. Arguably, however, the Canadian investment into its security regime has been more of an economic wound rather than any immigrant or refugee hoping to exploit, arguably, underfunded government services. The fear of the foreign non-citizen has been more costly than the actual foreign non-citizen. While advertising the security regime's budget may delegitimize the economic fear towards immigrants and refugees, the common conceptualization of the economy itself needs to be rethought in order for an unemployed immigrant, for example, to be thought of the same as the unemployed, recently graduated, white-Canadian youth. It involves rethinking the concept of human capital and migration and whether the two should be considered commensurable with one another, at least in terms of human rights. However, this would no doubt involve a critical analysis into the point system, which automatically reduces anyone hoping to immigrate in terms of what they can offer to the state. Moving future immigrants and refugees away from this economic analysis may allow for their discrimination on financial grounds to become unfounded, and perhaps allow for immigrants and refugees to become worthy of Charter protection.

Changing the discourse within the IRPA, from one that is fearful of immigrants and refugees to one that is more sensitive to the lived-realities of these individuals and families, may delegitimize the security regime and state of exception within Canada. In short, the conceptualization of foreign non-citizens and non-preferred citizens as more human, more like the Canadian citizen, should allow for the Charter to intervene more rigorously and to challenge the securitizing and racializing impact of the IRPA. The IRPA has capacity to add humanitarian

language, as I indicated earlier about the IRPA's objectives at the beginning of the Act, which

emphasized reuniting families and protecting refugees. Another section where humanitarian

discourse can be expanded is when the IRPA states:

In examining the request of a foreign national in Canada, the Minister may not consider the
factors that are taken into account in the determination of whether a person is a Convention
refugee under section 96 or a person in need of protection under subsection 97(1) *but must
consider elements related to the hardships that affect the foreign national* (Emphasis added,
IRPA, p.22).

The hardships mentioned, here, are not extrapolated. If the complex motivations surrounding

migration were discussed in this clause, then it would certainly contradict the security concerns

that are more present in the IRPA. Creating this contradiction may allow for the imaginative

security risks associated with the identities of immigrants and refugees to become less

substantiated.

Conclusion

A critical discourse analysis of the IRPA shows a number of identity-based constructions about

the foreign non-citizen and non-preferred citizen. In particular, themes around securitization

and racialization intertwine with one another to depict the 'foreigner' as fundamentally

different and a threat in both symbolic and physical terms. Simultaneously, the Canadian citizen

and their institutions also become 'exalted' within the language and application of the IRPA, by

which the readers are encouraged to perceive Canadians as superior, civil beings. Therefore,

the IRPA as a discourse constructs identities in binary terms, either as a Canadian, or not a

Canadian.

What and who is a Canadian? Both the Charter and IRPA suggest that a Canadian identity involves some connection with French or English as spoken languages, emphasizing a preference for the European 'traditions' and the white-saxophone culture—if there is such a thing as a white culture that connotes the same feelings as a coloured culture. However, the IRPA does not simply affirm this English/French colonial heritage, but exalts the 'Canadian' institutions, courts, Ministers and officers, as well as the 'regular' citizens. In these latter contexts, the identity of a Canadian is vague. Although the IRPA evidently spends greater detail constructing the foreign non-citizen and non-preferred citizen, these depicted identities are reducible within the IRPA to security concerns that are largely imagined and therefore ambiguous too. That is, the IRPA implies that the Canadian state and public cannot possibly know what the foreign non-citizen and non-preferred citizen are up to, only that 'they' pose a serious threat to the public and nation. This ambiguity allows for the state of exception to flourish and subsequently justifies material consequences such as racial profiling, unfair trials, and controversial detentions and deportations.

The latter part of this study attempted to interrogate the themes of identity drawn from the IRPA with the themes of human rights within the Canadian constitution, the Charter. Contrasting these themes reveals that the rule of law is twisted within the IRPA, subjecting countless people to inhumane and unfair legal conditions that would not be expected for Canadian citizens that 'match' the white, European national image. Furthermore, contrasting themes between the IRPA and Charter reveal that subjects within the Charter and IRPA are not equal subjects, especially in considering that many applications of the IRPA require discrimination that is strictly prohibited within the constitution. This study then recommends

that a humanitarian discourse be implemented within the IRPA, focusing on the sacrifice, real-life goals, and other complexities that motivate migration. This involves extrapolating the definitions of immigrants and refugees, utilizing language that does not denote them as fundamentally different, or a threat. It should be understood that the IRPA itself suggests that immigrants and refugees are different from Canadians, and that changing the language within the IRPA will not eliminate this, but doing so may bring the IRPA into more rigorous scrutiny from the Charter if subjects within the Act are perceived in a humanitarian context rather than a securitizing one. Thus, the Charter can become a useful tool for ending some of the most controversial components of the IRPA, such as the secret trials and indefinite detention within the security certificate program.

The Charter itself should not be exempt from critical analysis, as it reaffirms the 'official' languages of Canada as English and French and therefore contributes towards a similar nation building project as the IRPA. The marking of English and French as 'official' dismisses the multitude of Native American languages that have traditions far longer-lasting than those of colonial Europe in North America. Thus, the Charter is not acting outside of power either, and some caution is warranted in using it as an interrogative tool.

This research attempted to analyze the IRPA and draw out themes relating to the identities of immigrants and refugees arriving and living in Canada. The topic of identity politics is relevant for understanding Canadian migration policy largely because of the material consequences that have emerged and have been maintained against people of colour, especially those who hold precarious citizenship status. For example, the Conservative government's Bill C-24, *The Strengthening Canadian Citizenship Act*, has increased the wait-

time for permanent residents from 3-4 years to 6 years, while also giving the Minister of Immigration the ability to strip citizenship status in cases where the individual is deemed a threat to national security (Wingrove, June 12, 2014, *The Globe and Mail*,). Another example includes that of Deepan Budlakoti, who is a Canadian citizenship but has been issued a deportation order after being criminally convicted (see Neigh, 2013, *Rabble.ca*; and *Justice for Deepan*). His deportation is largely based on his parent's heritage in India, although he has never lived there and was born in Canada. The same treatment could not be fathomable for a white Canadian, who could never expect to be deported to Europe for breaking a law.

These material consequences are known due to media sensationalism, but countless other permanent residents, temporary workers, refugees, and hopeful immigrants are subject to racializing security procedures without any attention from the media. From a theoretical position that conjoins knowledge and power into a nexus of domination, the constructions of foreign non-citizens and non-preferred citizens within the IRPA is essential for justifying these controversial, real-life impacts for numerous immigrants and refugees. Exposing this discourse to critical analysis is therefore important for challenging the ideologies that allow for these violations of human rights. Indeed, the depicted 'migration crisis' needs to be rethought, reconceptualised in terms of anti-racism and social justice; it needs to be understood that the true crisis is the nation building project itself.

Appendices

a)

Word Count of Relevant Terms	
Foreign	267
Inadmissible	52
Security	41
Danger	40
Criminal(s)	30
Criminality	33

*Note: this is a count of exact words. Synonyms and stemmed words are excluded.
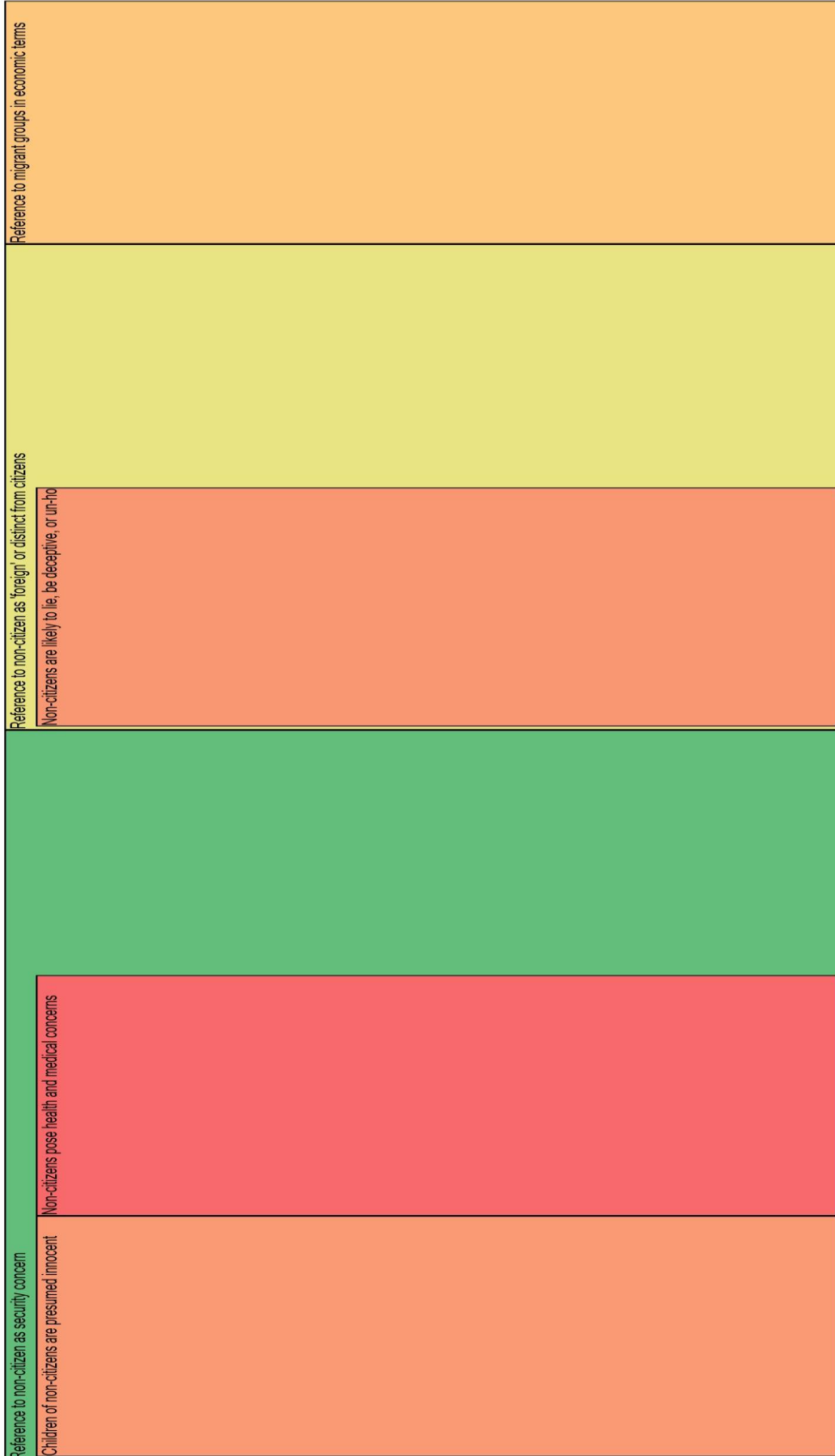
*The IRPA is 128 pages, half of which is French and was not coded.

b) Summary of Coded Data

Nodes	Number of coding references
Nodes\\Reference to migrant groups in economic terms	36
Nodes\\Reference to non-citizen as 'foreign' or distinct from citizens	52
Nodes\\Reference to non-citizen as 'foreign' or distinct from citizens\Non-citizens are likely to lie, be deceptive, or un-honest	21
Nodes\\Reference to non-citizen as security concern	86
Nodes\\Reference to non-citizen as security concern\Children of non-citizens are presumed innocent	22
Nodes\\Reference to non-citizen as security concern\Non-citizens pose health and medical concerns	7

c)   Tree Map of Coded Data

Nodes compared by number of items coded

Reference to migrant groups in economic terms

Reference to non-citizen as 'foreign' or distinct from citizens

Non-citizens are likely to lie, be deceptive, or un-ho

Reference to non-citizen as security concern

Non-citizens pose health and medical concerns

Children of non-citizens are presumed innocent

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