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Terrorism, Securitization of the Nation and Refugee Flows: Implications of Policies and Practices in a Post-9/11 Era

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Abstract:

This Master's thesis examines the impact of the events of 9/11 on the discourses and practices that attempt to regulate the flow of refugee populations in Canada. Discourse analytical techniques are used to analyse a corpus of official documents that have contributed to the reframing of the status of refugees. The thesis provides an overview of the development of refugee policy in Canada and explores the world context for contemporary refugee flows. It draws on the securitization paradigm to track the discursive processes that have served to establish links between terrorism, national security and refugees in Canadian governmental discourses and its related practices. The thesis also draws attention to Canada's national and international commitments to protect human rights, and the challenges Canada has faced in maintaining a balance between its humanitarian tradition and its new pre-emptive security approach. It is argued that the new War on Terror, has, as a consequence, targeted innocent and vulnerable populations such as refugees, in this way eroding their rights.

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Abbreviations

AI: Amnesty International
CCR: Canadian Council for Refugees
CBSA: Canadian Borders Service Agency
CIC: Citizenship and Immigration Canada
CSIS: Canadian Security Intelligence Service
DJC: Department of Justice Canada
IRB: Immigration and Refugee Board
IRPA: Immigration and Refugee Protection Act
PIF: Personal Information Form
PRRA: Pre-Removal Risk Assessment
PSEPC: Public Safety and Emergency Preparedness Canada
RAD: Refugee Appeal Division
RDD: Refugee Determination System
UN: United Nations
UDHR: Universal Declaration of Human Rights
UNCAT: United Nations Convention Against Torture
UNHCR: United Nations High Commissioner on Refugees

Introduction

Thousands of refugees flee their country each year, hoping to escape persecution and possible death. However, in recent years, refugees arriving in Western countries' borders face re-victimization through processing systems that emphasize security and vigilance. Shree Kumar Rai is one of those refugees facing re-victimization through Canadian refugee laws and practices. Rai was a teacher and an activist in Nepal. While in school in the 1980's, he got politically involved in an activist group. At the time, the country was led by a communist dictatorship. More than 11, 000 people lost their lives in the Maoist insurgency. While protesting in 1985 against the death of a political leader in 1993, he was arrested, tortured, and released. He was once again arrested in 1995 and accused of smuggling guns into the country. His house was raided by Nepal's police and his father, who was apprehended, died soon after from injuries caused by beatings received while in custody. Rai fled to Moscow then Canada, leaving his four year old son and his wife in Nepal. Rai arrived in Canada in June 1996. His initial claim was rejected in 2000 by the Immigration and Refugee Board (IRB), which claimed that he was part of Nepal's communist opposition party. The IRB decision was overturned by the Federal Court. He appealed it once again in 2004, his claim was rejected again. It was claimed that there was insufficient evidence to prove that he would be tortured if returned to Nepal. He lost his appeal against deportation, and received his deportation order on February 27th, 2007. He sought sanctuary at Ottawa's First Unitarian Congregation that same day.

Nepal's parliament has since been restored, but violence continues. Rai fears his life would be in danger if he had to return to Nepal. Legally, Canadian Borders Service Agency

(CBSA) has the permission to force entry and to arrest and deport him. CBSA has not resorted to these measures yet (The Ottawa Citizen March 23, 2007)[1].

The story described above is one of many stories encountered by refugees and asylum seekers in Canada. Since the 1990's, the number of conflicts have decreased around the world; several conflicts have ended, and many refugees have returned to their country of origin (UNHCR 2006b, 9). According to the Amnesty International 2006 annual report, peace agreements diminished the amount of armed conflict in regions such as the African continent. Currently, on a global scale, refugees represent 7 percent of all migrants, in comparison to 11 percent in the 1990's (UNFPA 2006, 11). Although refugee migrants are a small fraction of world migrants, they nonetheless remain one of the most vulnerable and marginalized populations (UNFPA 2006, 10). Violation of human rights and brutal conflicts persist, forcing many to flee their country with little or no resources. In 2005, approximately 12.7 million people world-wide were refugees (UNFPA 2006, 10). Afghanistan, for example, has created over three million refugees in neighboring countries.

In addition to these violent conflicts, according to the UNHCR, 9/11 has introduced a different kind of conflict: the War on Terror. Regions affected by terrorism such as Afghanistan, Chechnya, Georgia, Iraq, Pakistan, and Palestine have produced refugees who are not always desirable in countries fighting the War on Terror; "[p]eople forcibly displaced by these conflicts have faced closed borders, extremely hostile and insecure conditions in exile and/or accelerated involuntary returns due to "anti-terror" measures in asylum states" (UNHCR 2006b, 11). The humanitarian obligation for countries to accept

[1] Egan, Kelly. 2007. Refugee Claimant turns to Church. *The Ottawa Citizen, March 23rd.* http://www.canada.com/ottawacitizen/news/business/story.html?id=09244f42-4f75-4aea-bd99-9a5fe02f0016. Accessed March 2007.

and welcome refugees has existed since the Second World War. However, an increasing unwillingness to accept and provide protection to these populations has been evident since the events of September 11, 2001. In March 2005, the UNHCR reported that since 2001, Western countries have experienced a 40 percent drop in incoming asylum seekers (Crepeau & Nakache 2006, 3). Increased security measures have resulted in a decrease in the refugee population in OCED countries; "refugees and asylum seekers [have become perceived as the agents of insecurity rather than its victims" (UNHCR 2006b, x). The need to protect refugees and asylum seekers is no longer a priority nor perceived as a country's responsibility; refugees are viewed as a burden rather than an asset (UNCHR 2006b, 1).

Changes in the perception of refugees are no doubt linked to the re-emergence of terrorism as a figure of fear. Terrorism at the end of the twentieth century introduced a global culture of fear that in turn has justified significant expenditure on counterterrorism and security agendas (Zulaika and Douglass 1996, i). Since September 11, 2001, (henceforth 9/11) terrorism has headed the list of perceived security threats of a large number of countries. In the twenty-first century, the fear concerning the threat of terrorism and the risk it poses to citizens has become a dominant issue. Terrorism has become an increasingly common theme in the political discourse of both governments and the media.

In Canada, terrorism has created a new social atmosphere. On the second anniversary of the 9/11 events, Jean Chrétien, Canadian Prime Minister at the time, stated the following: "September 11 will forever be a day that we stop and remember the moment that terror changed our world. We remember where we were and who we were with that beautiful morning" (Brunschot et al. 2005, 654). Since then, policies and legislation have been amended or added to better tackle the threat of terrorism. The Anti-Terrorism Act was

the first of its kind to provide a working definition of terrorism. Border security increased and, most importantly, a securitization agenda was established. A country that was once recognized for its hospitality towards the vulnerable now questions the validity of their claim.

Throughout the years, Canada has accepted its share of refugees. Since 1982, Canada has had an international reputation for generously welcoming refugees. In 1986, Canada was rewarded for its dedication and efforts towards refugees and asylum seekers by being awarded the Nansen medal (Lacroix 2004, 147). In 2001, a total of 27, 894 refugees were admitted into Canada (CCR 2002). In 2004, Canada was the fifth most popular refugee destination (Crepeau & Nakache 2006, 3). Nonetheless, its reputation for being the world's best host community must be put in perspective: worldwide standards are low (CCR 2002). However, since then, pro-refugee groups have contested certain practices that Canada has adopted, while anti-refugee groups have argued that Canadian immigration laws are too lax.

Many have argued that Canada's open door policies place Canadians at risk. It has been claimed that while Canadians celebrate freedom, "terrorists" take advantage of this freedom to infiltrate the country. Authors, such as the journalist Stewart Bell, have asserted that many terrorist operation bases are located in Canada (2004, 13), and that terrorist groups perceive Canada as a lenient country, where they will be able to engage in their terrorizing activities.

As a result, according to the UNHCR "Canadians [are] clearly in favour of a stronger enforcement focus (screening, detention and deportation) in the development of refugee policies" (UNHCR 2006a). Policy and legislation changes have both stimulated

and exaggerated existing fears, while in essence; these policies and practices have increased xenophobic attitudes (UNHCR 2006b, 2). Many believe that the plight of refugees and asylum seekers in need of protection is being ignored; security concerns seem to be overpowering Canada's traditional humanitarian stance.

The government has taken stern actions against the new perceived threat. The Immigration and Refugee Protection Act (IRPA) was amended prior to its enactment to better reflect contemporary trends, while certain sections of the refugee determination system were equally modified. Since 9/11, the government has also given its agencies greater power to detain and refuse inadmissible refugees (Roman 2004, 234); "Over the past year (Nov. 2001 - Oct. 2002), there has been on average on any day 439 people detained under immigration legislation, of whom 286 are in provincial jails, 153 in immigration detention centres, 12 minors detained, of whom 2 are unaccompanied minors" (CCR 2002).

Understanding the causes of migration is complex; a multitude of factors may push an individual to leave his or her country of origin. Factors such as an increase in violence, ethnic and racial conflicts, aspects of globalization, environmental degradation, development-induced displacement, denial of democracy, and large-scale corruption may cause migration (Taran 2000, 13). For the purpose of this paper, I will only concentrate on those seeking refugee status because of their conflict ridden country. One must also keep in mind that "refugee policy in Canada is one of the most controversial and debated political and social issues" (Lacroix 2004, 147). Thus, this topic is a complex issue that will be difficult to tackle in the few pages that follow. The following work illustrates and explores the tensions between Canada's humanitarian tradition and its new securitization agenda. A

disclaimer comment: this thesis will mostly refer to male refugees. This is not to say that men and women have the same lived experience; on the contrary, they experience different realities. However, in a 9/11 context, male refugees thus far have been the principal targets. Hence this thesis, by default, will mostly be referring to the experience of male refugees.

The following work will attempt to underline the impact of terrorism and the 9/11 events on the refugee population in Canada. This body of work will be broken into three sections. The first section will attempt a theoretical understanding of the nation-state and present-day threats such as terrorism and refugee flow. Following this, the new securitization paradigm will be examined and applied to contemporary world dynamics. Finally, a brief overview of discourse analysis and my methods will provide the opportunity to frame the development of my argument. The second section will examine how refugees are framed through discourse used in national speeches, new or amended legislation, and policies. The final section will examine government practices towards refugees. Issues such as deterrence, determination, detention and deportation measures will be studied. An in-depth summary of this body of work will be established in the methodology section.

Chapter 1: Theoretical Perspective

A) Nation-State and Contemporary World Dynamics

I) The Nation-State

The nation-state has a function, a telos, and a normative purpose: to provide citizens with fundamental services, and maintain order (Bislev 2004, 283). It has four tasks: protecting its citizens from internal and external threats, resource extracting, economic and

social safeguarding, and redistributing material and symbolic resources (Béland 2005, 28). In addition to these tasks, agents of the state are responsible for state-building, war making, and protecting its citizens. In fact, Charles Tilly argues that before the 20th century, "any state that failed to put considerable effort in war-making was likely to disappear''' (Tilly 1985, 184). Centuries ago, in the absence of a national army, stable national order could not be maintained (Tilly 1985, 184).

In the latter part of the twentieth and early twenty-first century, however, neo-liberal globalization has weakened nation-states' sovereign control over their borders. "Globalization means one thing above all else: denationalization that is, erosion of the national state, but also its possible transformation into a transnational state" (Beck 2000, 14). The nation-state has lost some of its ability to manage its political, economic, and financial problems as it has become traversed by new trans-national relations:

> Globality means that the unity of the national state and national society comes unstuck ; new relations of power and competition, conflict and intersection, take shape between, on the one hand, national states and actors, and on the other hand, transnational actors, identities, social spaces, situations and processes (Beck 2000, 21)

Dominique Schnapper, French sociologist, argues that these changed economical, political and social spheres create new challenges: " [t]his tendency towards the globalisation of the exchange of economic goods and services, financial flows, news and, with more difficulty, the migration of populations has weakened the significance and effectiveness of national society" (Schnapper 2002, 7). [2]

[2] It can be argued that the nation-state maintains its power in a globalized era. The new security and control agenda provides the state with new veto powers to act in ways in which it sees fit. This point will be further analyzed in following sections.

Contemporary threats exist above and beyond the scope of the state's capacity (Bauman 2002, 60). Territory was once the locus of one's security: "Le territoire était un refuge, un lieu ou s'échapper, dans lequel il était possible de s'enfermer, de se cacher et de se sentir en sécurité » (Bauman 2002, 60). This is no longer the case as Beck argues that globalization exposes the nation–state to three types of global risks: ecological, financial crisis, and terrorism networks (Beck 2002, 41).

Henceforth, it is the modern state's duty to protect its citizens; citizenship equates to the personal ownership of rights. However, the new risk society and the "global" threat of terrorism, as Beck describes it, makes it more difficult for the state to ensure its citizens' safety (Béland 2005, 33-34). World events have undermined the nation-state's ability to control its borders and territory.

II) Understanding Threats and Risks

"Threats" and "risks" dominate contemporary international and domestic government discourse. Political discourse seems to suggest that citizens are facing new threats and risks. Before pursuing my arguments, it is important to better understand the concepts of risk and threat.

A threat is generally defined as a negative event that may occur at an unknown time (Brunschot et al. 2005, 646). It is a possible result with no predictable outcome "[b]oth the identification of "threat" and the perceived likelihood of its realization vary depending upon position and perspective: definitions of threat are influenced by ideology and politics" (Brunschot et al. 2005, 646). Conversely, the identification and recognition of a "threat" will depend on the perceptions of those with the capability to frame them. Depending on

the position, the perspective, and the spatial and temporary bounds there may be various interpretations of the same "threat". For example, some may perceive immigrants as a threat, while others perceive them as a contributing factor to Canada's prosperity.

While much governmental discourse argues that nation-states are facing new threats, it is important to note that the concept of threat has always existed, but has been processed and materialized differently throughout the ages. According to some authors, "[p]rotecting the population against real or fabricated threats of violence is the best way to justify taxation, that is, the extraction of resources necessary to the reproduction and the expansion of war-making and state institutions" (Béland 2005, 28). Moreover, a threat embedded within political discourse does not focus as much on the threat itself as it does on managing the risk of threat (Huymans 2006, 6).

Risk, on the other hand, can refer to the possibility of harm or benefit. Ulrick Beck argues that in late modernity, highly industrialized society has resulted in "risk society" (Schneiderman 2001, 64). Beck argues that societies have had to focus their efforts on the management of risk. However, Beck underlines that risk has not increased in recent years, rather he stipulates that the consequences of risk have become politicized (Elliott 2002, 295); "[i]t is societal intervention - in the form of decision-making that transforms incalculable hazards into calculable risks" (Elliott 2002, 295). Beck argues that threats can only exist when they are recognized and identified (Brunschot et al. 2005, 648).

The definition of risk is connected to the exercise of authority; for a threat to become a risk, citizens must place trust in those with the authority to define threats as such. Otherwise, threats are not converted to risks (Brunschot et al. et al. 2005, 646). Giddens defines trust as "confidence in the reliability of a person or system, regarding a given set of

outcomes or events" (Brunschot et al. et al. 2005, 648). The amount of information to which we are exposed daily is impossible to properly process. The public must therefore build trust in experts and in turn, rely on these experts for their well-being; in essence, citizens must trust their government and other institutions for their well-being (Brunschot et al. et al. 2005, 648); "In this new phase, professional knowledge elites – the mass media, scientific and legal professionals emerge as key figure in defining risks" (Schneiderman 2001, 64). Nevertheless, blind trust may facilitate manipulation and deceit (Brunschot et al. et al. 2005, 648).

B) Terrorism

"Defining 'terrorism' and identifying a 'terrorist' is perhaps the most complex and highly charged issue of modern times" (Graham 2005, 40). As Zulaika and Douglass argue, one man's terrorist is another man's freedom fighter (1996, 152). Thus, a terrorist or terrorist group is socially constructed by an actor or a group of actors. The more power and resources that actors can mobilize, the greater will be their ability to influence their peers or followers to perceive a group of individuals as being dangerous, hence worthy of the label of terrorist. Thus, discourses on terrorism are always inscribed in relations of power. Terrorism is always related to the perceptions of groups in power. For an action to be labeled a terrorist act, the group in power must define the group involved in the action as a terrorist group and the action as a terrorist attack.

According to Sharryn Aiken, Law Professor at Queens University, there is no universal or generally accepted definition of terrorism (Aiken 2000, 57). However, international fora have come to the general consensus that terrorism has been limited to

non-state actors. The U.S. State Department report on Patterns of Global Terrorism defines terrorism as "premeditated, politically motivated violence against non-combatant targets by sub national or clandestine agents, usually intended to influence an audience'" (Heng 2002, 229), while the Canadian Anti-Terrorism Act defines terrorism as an action that:

> [I]s taken of threatened for political, religious or ideological purposes and threatens the public or national security by killing, seriously harming or endangering a person, causing substantial property damage that is likely to seriously harm people or by interfering with or disrupting an essential service, facility or system (DJC 2001).[3]

Terrorism is not only about what has happened but what could happen: the potential risk or threat (Heng 2002, 229).

Although terrorism seems to be a new phenomenon, it has actually been around for some time. For instance, communism in the 1970's was often linked to the threat of terrorism as with the ANC's struggle against the Apartheid. In the 70's, the red scare was founded on the fear that communism would take over if the world's efforts were not geared towards bringing the Soviet Union to a halt; "[a]s the cold war was coming to an end, terrorism became the easy substitute for communism in Reagan's black-and-white world" (Zulaika 2003, 197). The red scare would eventually shift towards a fear of terrorism. Interestingly, the rise of concern about contemporary terrorism occurred in the early 1990's, prior to major terrorism attacks. Throughout the 1980's and early 1990's, only a small number of terrorism attacks occurred in the United States. Yet President Reagan at the time declared terrorism to be a major international problem (Zulaika 2003, 191). "In

[3] In October 2006, a Supreme Court judge struck down the definition of terrorism, arguing the definition violates sections of the Charter of Rights and Freedoms. He argued that the definition infringes on fundamental freedoms such as the right to freedom of conscience and religion and the freedom of thoughts, beliefs, opinion, and expression (DJD 1982).

April of 1986, a national survey showed that terrorism was 'the number one concern' for Americans" (Zulaika 2003, 191), while in fact, only three people were killed by a terrorism attack compared to the 25, 000 murdered that same year (Zulaika 2003, 191). The 1993 World Trade Centre terrorism attack and the Oklahoma City bombing suddenly led to the actualization of this terrorism threat (Zulaika 2003, 192).

The events of 9/11 reaffirmed and intensified this fear; terrorism became an imminent threat that not only took place within discourse but materialized into reality on 9/11 (Zulaika 2003, 193). "[W]ith George W. Bush the so-called war against terrorism ha[d] become the sole purpose of American politics" (Zulaika 2003, 193). Acts of terror and acts of war were put on the same continuum (Spence 2005, 288). Despite the fact that the 9/11 terrorism attacks were aimed towards the United States, many governmental documents, policies, and legislation translated this event into a global threat (Brunschot et al. 2005, 651). "It may once have made sense to suggest that terrorism in one country did not necessarily implicate other countries. But after the year 2001, that approach [was] no longer valid" (Coutu & Giroux 2006, 328). Terrorism had become a "global struggle" and a "global threat" (Brunschot et al. 2005, 651). The discourse framed by the red scare quickly resurfaced. The dichotomy between good and evil rematerialized; the Americans and those fighting the War on Terrorism became the good doers and the rest became the evil doers (Zulaika 2003, 194). As a result, an ideal of a new world order was created[4]. Accordingly, it has surfaced at the forefront of many Western countries' political speeches, policies, and legislation.

[4] One could argue that the real threat may come from the securitization paradigm; its new practices have gone above and beyond the rule of law, which may in fact place individuals at risk of excessive brutality and the violation of their human rights.

"September 11 essentially created a new world" and came to symbolize "global terror" (Brunschot et al. 2005, 651). Governmental discourse shifted from welfare advocacy to risk society governance (Bislev 2004, 285). Many authors and government officials refer to the 9/11 events as the events that forever changed the world. For some authors, it is a world that has forever changed: one overpowered by fear (Klug 2005, 3). One must however note that change only takes place to the extent that actors engage in these practices.

It was in 2001, following the 9/11 events that Bush declared the new War on Terror. Implicit is the notion of war is the idea that it has a beginning and an end, along with an identifiable enemy. War also generally means a battle between two or more fixed enemies. With the War on Terror, war no longer has an end in sight, the enemy is never defined or identified and it is not delimited (Heng 2002, 228-229). Using Beck's concept of risk, one could argue that this new type of war is, in fact, risk management in the context of the "risk society" rather than a war (Heng 2002, 228). In addition, one can predict that there will be no celebration of the end of this war. The War on Terrorism has had no beginning; therefore cannot have an end (Klug 2005, 3; Heng 2002, 229).

Terrorism tries to challenge the established order and to shock and alarm its targets; "[b]ut the actual reality of such a threat resides in the perception and interpretation of the audience" (Zulaika and Douglass 1996, 142). Terrorism must be perceived to be real, if terrorism is not reported or published, it does not exist (Zulaika and Douglass 1996, 21). This is not to say that the violence, the destruction, or loss of life does not take place. But when it is framed as an act of terrorism it permits a response that might not otherwise be

possible. Thus, in order to understand the kinds of "threats" posed by terrorism, it is important to understand what conditions it is framing and the representation of it.

The perception of terrorism replaces trust with mistrust; "[i]t therefore undermines the trust in fellow citizens, foreigners, and governments all over the world. Since the dissolution of trust multiplies risks, the terrorist threat triggers a self-multiplication of risks by the de-bounding of risk perceptions and fantasies" (Beck 2002, 44). What was once labeled as "kidnapping", "assassination", "threat", or "bombing" are now branded with the terrorism label (Zulaika and Douglass 1996, 23). Consequently, everyone becomes a suspect; we fear our neighbors, companions and colleagues. It becomes difficult to distinguish the victim from the perpetrator:

> Not only have the walls between inside and outside, military and police, secret service and police been torn down, but also the walls between innocent and guilty persons, those under suspicion and those not under suspicion, where previously the law had made a very strict and clear distinction (Beck, Bonss et Lau 2003, 18).

In essence, terrorism has become the "paradigm of inhuman bestiality, the quintessential proscribed or tabooed figure of our times" (Zulaika & Douglas 1996, 6).

C) Securitization of the Nation

Security is not only about physical protection; it is also a social process. National security and securitization processes have existed as long as the nation state has. Securitization is the process by which an issue becomes a security concern through political argument and discursive legitimization (Williams 2003, 512). Prior to the threat of terrorism, communism and the fear of espionage dominated governmental security discourse. Some may argue that although its language has changed, the underlying fear remains the same. Others, however, argue that securitization has never dominated

governmental discourse as much as it does today. What was once recognized as border security is now known as national security; the focus is now the securitization of the nation (Kruger et al. 2004, 82). In Canada, for instance, several governmental departments now collaborate together to ensure national security. A country's point of entry remains its borders, but if the borders fail, there must be alternative measures in place (Kruger et al. 2004, 82).

Amplified security situations can only exist when situations of insecurity immerge (Muller 2004, 282). Insecurity, by definition, is a threat or danger to someone (Huysmans 2006, 2). However, it could also be argued that insecurity is socially and politically constructed (Huysmans 2006, 2). It is constructed through policy reaction and discourse implying danger (Huysmans 2006, 7). The 9/11 events and counterterrorism discourse, for example, have created an atmosphere of insecurity that calls for a security control agenda. Hence, the feeling of insecurity allows the government to create new control legislation and policies. As Charles Tilly argues, security becomes about selling protection, not about finding the means to serve the greater good (Tilly 1985,,181).

i) Securitization Theory

In recent years, we have seen policies and legislation saturated with security concerns and securitization actions; these actions define the overall process of turning a policy issue such as international migration into a security issue. This has resulted in a new scope for action taken on by governments in order to secure its territory (Crepeau & Nakache 2006, 4).

Securitization theory was first developed by the Copenhagen school, known today as the Copenhagen Peace Research Institute (COPRI). The Copenhagen School's main focus has been the study of security in society. Barry Buzan and Ole Waever, key founders of the institute, have focused their work on three thematic axes: security sectors, the meaning of security, and regional security dynamics[5] (Huysmans 1998, 480). Most of their analysis has been based on the European collective security problematic, but their approach can be applied to broader security problematics (Huysmans 1998, 490). Over the years, their focal point has shifted as security threats have changed. Initially, the focus was on studying military issues in relation to security; this is defined by the process by which the state was granted permission to use violence through its armed force, e.g. the way in which the police and military protected citizens from threats (Huysmans 1998, 485). Soon thereafter, the school shifted its focus towards peace research. Their later work concentrates on security approaches but remains ingrained within peace studies (Huysmans 1998, 483-485). In their contemporary work, they mainly use a constructivist approach to security, which takes into account security perception and structural dynamics (Huysmans 1998, 483, 492). Although lately their concepts and theoretical framework have been fiercely debated, the underlying analysis is applicable here.

Security concerns are defined as "threats which challenge the capacity of the political actor to control developments" (Huysmans 1998, 491). Thus, if the threat overwhelms the political realm, politics may lose its capacity to rule (Huysmans 1998, 491). Hence, on the political agenda, security concerns and possible threats take precedence over any other matter (Huysmans 1998, 491). For this reason, politics plays a large yet ambiguous role within the Copenhagen school.

[5] This classification system was produced by Huysman, not the Copenhagen school.

Security and securitization refer to different processes. Security "is the outcome of social processes or the sort of 'interlocking system of knowledge, representation, [and] practices'" (Muller 2004, 282), while securitization is a process by which issues are identified and labeled as threats. According to the Copenhagen school, a threat is defined by the political realm (Huysmans 1998, 488). Thus, securitization theory relies heavily on political discourse to label the threat (Bourbeau 2006, 9). Security must be understood as a "speech-act" (Williams 2003, 512). Through securitizing speech, 'speech-acts', or language games of insecurity, the threat is labeled and represented. The threat then invokes the need for securitization agendas (Huysmans 2006, 7; Williams 2003, 513). Thus, for insecurity to exist, it must be spoken or written about (Huysmans 2006, 7). Waevor claims that "[b]y uttering ''security'' a state representative moves a particular development into a specific area, and thereby claims a special right to use whatever means are necessary to block it'' (Williams 2003, 513). The process of labeling something a security threat, calls for extraordinary measures to counterpoise the threat (Williams 2003, 514). Thus, securitization theory focuses on social-cultural analysis rather than material factors (Bourbeau 2006, 10).

However, not all issues represented as threats in "speech-acts" are accepted. The issue labeled a threat must be accepted by its audience as well as fit both internal and external requirements. Internally, the "speech-act" must follow the rules of the act, thus, "accepted conventional procedures must exist, and the act must be executed according to these procedures" (Williams 2003, 514). Externally, the social and contextual atmosphere has to allow the threat to manifest itself. In addition to external and internal factors,

audiences must also acknowledge and accept the issue as a threat (Williams 2003, 514). The threat is identified within governmental speeches and legislation, however,

> [a] discourse that takes the form of presenting something as an existential threat to a referent object does not by itself create securitization-this is a securitizing move, but the issue is securitized only if and when the audience[6] accepts it as such [...]. Successful securitization is not decided by the securitizer *but by the audience* of the security speech-act (Buzan et al. 1998, 25-31) taken from (Bourbeau 2006, 10).

The audience, in this case citizens of the state, are therefore the deciding factor of the outcome of proposed threats (Bourbeau 2006, 20). The identified threat then gives reason to create a securitization agenda and proceed to an immediate action (Walters 2004, 1).

On the other hand, Philippe Bourbeau, PhD Candidate at the University of British Colombia argues that the audience plays a lesser role than the Copenhagen school believes; "[a]n issue can be securitized without the knowledge or acceptance of the audience" (Bourbeau 2006, 24). The audience is passive and only informed of security threats and securitization agendas; it does not have a say in the matter (Bourbeau 2006, 24). Regardless, it is the combination of the internal and external factors, the audience, media, and political agenda that converts a threat into a risk that is eventually translated into a securitization agenda.

II) Securitization through Counterterrorism

Some authors argue that the 9/11 events "can be read as [the] golden opportunity [that gave] some already existing ideas, policies, and technologies their chance" (Muller 2004, 285). In fact, the 9/11 events accelerated and helped process, impose, and implement

[6] It has been argued that both Waever and Buzan fail to give a proper definition of who constitutes the audience in the reception of its messages (Bourbeau 2006, 11).

the new securitization and control agenda (Crepeau and Nakache 2006, 4). These events provided a justification for creating the new 'War on Terror'. The new threat of terrorism was framed as creating vulnerability and diminishing nations' ability to adequately protect citizens (Brunschot et al. 2005, 649). Hence, authorities internalized this new 'War on Terror'; this provided them with more flexibility vis-à-vis the Rule of Law (Muller 2004, 281). However, new security practices that are aimed at controlling the threat have the capacity to infringe on the rights of individuals. Practices resulting from the securitization paradigm such as detention holding facilities and deportation measures not only breach domestic human rights, but international standards set by the United Nations and other conventions as well. The "new" threats create fear in the general public, which in turn allows governments to partake in practices that some authors find worrisome.

The mediated events of 9/11 act as a means to justify the securitization paradigm (Muller 2004, 282). Securitization becomes "an interlocking system of knowledge, representations, practices, and institutional forms that imagine, direct, and act upon bodies, spaces and flows in certain ways—to see security not as an essential value, but as a *political technology*" (Muller 204, 281). The mediated representation of securitization acts as a form of "cultural governance" that in turn produces a new normalcy (Muller 2004, 282); "[s]ecuritization involves dramatization, exceptionalism, emergency. It is the ability to place a particular issue or concern above the everyday concerns of politics, to label it as worthy of special attention" (Walters 2004, 1).

Governments worldwide are investing effort and funds towards fighting terrorism; "[a] war against terrorism [...] mirrors the state of exception characteristic of insurgent violence, and in so doing it reproduces it at infinitum" (Zulaika 2003, 198). Tom Ridge,

secretary of *Ready America,* an initiative established by the U.S. Department of Homeland Security claims citizens have two choices when dealing with terrorism, "[w]e can be afraid. Or we can be prepared" (Spence 2005, 293). The public is led to respond in alarming ways to these possible threats. Pre-emptive ideologies take precedence from these practices. In turn, "[t]error undermines the ability to accurately assess risk and to trust others to accurately assess the same, in turn decreasing perceived security and increasing perceived vulnerability and anxiety" (Brunschot et al. 2005, 649). As a response, the public willingly participates and supports counterterrorism efforts. Counterterrorism, in this case, is then justifiable.

In an era where citizens live in fear, any issue can be converted into a security threat (Muller 2004, 283). It is made easier for society as a whole to accept and encourage discriminatory practices, legislation, and policies that aim to increase control. The enemy is identified and eliminated on the basis of possible threats or risks rather then demonstrable intentions, actions, and capability (Spence 2005, 289). The pre-emptive approach becomes the norm.

Some authors argue that counterterrorism or the War on Terror is, in fact, risk management. Risk management follows the same lines of Beck's theory on risk. Risk connotes a possible danger in the near future: the "prospect of harm" (Heng 2002, 231). Risk management aims to control these possible risks. Getting rid of the risk is impossible, but reducing or minimizing it becomes a priority. It aims at preventing something bad from occurring (Heng 2002, 231); "[r]isk management is 'minimalist' in nature, an open commitment with no quick, quantifiable results" (Heng 2002, 232). Thus, risk management

is more proactive than war (Heng 2002, 232). "[I]n Rumsfeld's words, 'prepare for the unknown, uncertain, the unseen and the unexpected'" (Heng 2002, 233).

Because of this, tension has developed between human rights and the need to protect the nation's borders and territory. Some argue that the need to protect citizens from the newly conceived threat has altered the nature of democracy and the constraints of the rule of law. The danger, however, is that the War on Terror may actually become a "war" between national security and human rights (Beland 2005, 33). Extraordinary powers and the securitization agenda threaten individuals' rights (Beland 2005, 25). Funds placed in this new security agenda may in fact be taken away from other programs such as social welfare or health care (Beland 2005, 33). "It undermines our vigilance against excessive and unnecessary transgressions against human rights and civil liberties" (Gross 2001, 45). For governments ardent to minimize their obligations to protect refugees, the "War on Terror" provides an excuse to increase border controls.

D) The Question of Refugees

Refugee advocates and scholars believe that refugees have been turned into security concerns and terrorist threats (Muller 2004, 282). The process of securitization has taken a toll on the way these individuals have been treated by Western states in recent years. However, it must be noted that the targeting of the refugee population is not a new phenomenon.

First and foremost, it is important to make the distinction between a refugee and an immigrant. In principle, an immigrant chooses to leave his or her country of origin, while a refugee flees his or her country because of potential danger or persecution. However, a refugee is by definition an immigrant; once he or she gains his or her status he or she

becomes an immigrant. Thus, broader discourses pertaining to immigrants inevitably encompass and affect refugees. Moreover, the category of the refugee is not stable. As I will show below, different events and power dynamics will lead to different definitions of what it means to be a refugee. "Non-desirable" refugees can be denied the label of "refugee" and be redefined as undesirable immigrants or "bogus refugees", in this way relieving countries of their international commitments, as signatories of the relevant conventions, to accept refugees.

The United Nations High Commissioner on Refugees, established in 1950, asserts that the refugee status is applicable to anyone who is forced to flee across international borders in order to avoid violence and persecution. Some may want to return once the political and social atmosphere returns to a normal state, while others permanently resettle elsewhere. But initially, these individuals are seeking a secure environment in which to live. Every citizen has a right to a nation also known as a 'home'. This home should be a "[...] safe, reassuring place, a place of intimacy, togetherness and even unity, trust and familiarity" (Walters 2004, 241). Signatory countries to the UNHCR are required to offer such an environment of relief to those lacking thereof (Walters 2004, 241).

However, refugees in the last few decades have been perceived as "dangerous" foreigners looking to settle in a foreign nation-state (Schutz 2003, 20). Alfred Schutz, sociologist and philosopher, refers to the stranger as "un adulte de notre époque et de notre civilization, qui essaie de se faire accepter pour de bon ou, ça tout le moins, d'être toléré par ce nouveau groupe » (Schutz 2003, 7). The refugee or immigrant must adapt to a new culture, different from what he or she is used to; "[t]ombeaux et souvenirs sont choses que l'on ne peut transférer ni acquérir" (Schutz 2003, 20).

Following the Second World War, efforts were made globally for countries to accept their share of refugees in need of protection. However since then, the social perception of refugees has drastically changed. Many worry that refugees are a burden on the welfare state and are often portrayed and associated with crimes, drug trafficking, and diseases. In certain instances they are viewed as "illegal" citizens to whom the rule of law does not apply (Taran 2000, 11). Several theories can be used to account for this degrading perception of refugees. Some authors such as Mary Kaldor, professor and director of the Centre for the Study of Global Governance in London, argue that world dynamics changed after the fall of the Berlin wall. Kaldor argues that the world witnessed an increase in what she refers to as 'New Wars'. These wars were generally intrastate or civil conflicts that led to the expulsion of those in opposition through displacement, forcible resettlement, or in extreme cases, mass killings (Kaldor 1999, 8). Thus, these conflicts created an influx of refugees. The UNHCR estimated that the number of refugees worldwide was at 11.8 million people and peaked to 17.5 million in 1992 (Pratt 2005, 94). The massive influx of refugees may have impelled the fear of invasion in neighboring states.

Today, however, refugees are represented not only as a threat to one's identity and as burden on the welfare system, they are viewed as safety and security threats (Taran 2000, 11). Since the events of 9/11, immigration and terrorism have became linked to national security. A UNHCR periodical review published months after the 9/11 events, identifies the difficulties for refugees seeking refuge in any Western countries. Immediately following 9/11, the United States, Europe, Australia, and Canada shut their borders or slowed down their intake of refugees (Wilkinson 2001, 7); "[a] poll conducted for the Council for Canadian Unity indicated that the support for reduced immigration rose after

9/11 from 29 percent to 45 percent" (Adelman 2002, 15). According to Leger Marketing, 80 percent disagreed with immigration and wanted firmer immigration policies (Adelman 2002, 15).

Since then, refugees have become the most prominent terrorism scapegoats; "[a]sylum seekers make a perfect target for people who want to invoke old prejudices against foreigners" (Wilkinson 2001, 2). Increased security and control over asylum seekers and refugees population appears to have trumped human or citizenship rights (Walters 2004, 240). The "security continumn" has stretched from terrorism to regulation of asylum rights, including drugs, action against crime, clandestine immigration, and migratory flows (Walters 2004, 240). Stricter penalties have been imposed on those who commit immigration related offences. A strong message has been sent to society: zero tolerance for immigration offences (Walters 2004, 248).

Most of the counterterrorism literature tied to security concerns associates security with the need to control refugee or migrant populations. Western countries have tightened their control on security as a result of the fear of persons perceived as foreigners. In 2004, Greece accepted only 11 asylum seekers out of 3,742 applicants, while in China thousands of North Korean asylum seekers were arrested and expelled (AI 2006a). In Australia, Defense Minister Peter Reith claimed that "you've got to be able to control that [the right to refuse entry to boat people], otherwise it can be a pipeline for terrorists to come in and use your country as a staging post for terrorist activities" (Wilkinson 2001, 7). The 2006 Amnesty International report states that "[i]n many countries, politicians and the media fuelled xenophobia and racism, falsely linking refugees with terrorism and criminality and whipping up hostility towards asylum-seekers" (AI 2006a).

As time progresses, the human rights of refugees are being eroded (AI 2006a). Refugees and asylum seekers have always been a vulnerable population, unfortunately 9/11 and subsequent events have increased their vulnerability. Not only are they fleeing from their war torn country, they are entering realms of further possible victimizations.

E) Discourse and Methods

I) Definition

Discourse is a shared set of concepts, categories, and ideas that materializes judgment, assumptions, capabilities, dispositions, and intentions (Dryzek 2006, 104). Thus, discourse constructs meaning and establishes the meaning of actions (Dryzek 2006, 104). "Discourses can embody power in that they condition the norms and perceptions of actors, suppressing some interests while advancing others" (Dryzek 2006, 104). Discourse can be multidimensional and complex; it can mobilize citizens into accepting an interpretive framework. It can conceal desires, domination, discrimination, power, and control (Foucault 1984, 110; Blommaert & Bulcaen 2000, 448). Accordingly, discourse functions as part of an economic, social, or political context (Gottweis 1998, 35).

Politics is an "empty space" that is eventually filled through struggles involving "boundary drawing" (Gottweis 1998, 27). It is filled by writings, speeches, and discursive acts that attempt to articulate ideologies. Discourse is socially constructed and can have powerful effects on society as a whole (Blommaert & Bulcaen 2000, 448). While some discourses are inscribed and forgotten, others shape ideologies (Foucault 1984, 115). Attempts to maintain discursive fields can be subtle or may even go as far as a 'war of ideas', which uses various channels to convey its message (Dryzek 2006, 109). The 'war of

ideas' makes use of propaganda, planting stories in the press, publications, and television networks, and stages events for television (Dryzek 2006, 109).[7]

Discourse uses what John Dryzek, Professor of Social and Political Theory, refers to as 'soft power': "[t]he ability to induce others to share one's value and goals, to attract them to one's viewpoint, and to persuade them to engage in supportive actions" (2006, 110). Foucault defines power as "the moving substrate of force relations which, by virtue of their inequality, constantly engender states of power, but the latter are always local and unstable" (Hicks 1999, 4). Soft power, however, indirectly influences parties to act in certain ways. Soft power supplements the endorsement of an agenda using cultural dissemination and public policy (Dryzek 2006, 110). For example, the War on Terror uses soft power to draw citizens' attention by inducing them to believe they are in danger, and that this must be met with war.

II) Discourse as language

Discourse analysis, for Foucault, is the analysis of the domain of "statements" (Fairclough 2003, 123). Essentially, a statement is a piece of writing, which "[a]ccording to the theory of poststructuralism, writing [in the broad sense] is the process by which human agents inscribe order into their world; it is a way of fixing the flux and flow of the world in spatial and temporal flow" (Gottweis 1998, 22). Thus, language articulates knowledge, truth, meaning, and social identity, which can have causal effects leading to change (Gottweis 1998, 19; Fairclough 2003, 8). It can shape people's identities, start wars, create reforms in social structures and so forth (Fairclough 2003, 8). "In sum, texts have causal

[7] These tactics were used during the American-Cuban missile crisis and the Cold war/ Communism scare. It could also be argued that the United States used this tactic to sell international terrorism to a worldwide market

effects upon, and contribute to changes in, people (beliefs, attitudes, etc), actions, social relations, and the material world" (Fairclough 2003, 8). Discourse thus shapes and is shaped by social structure (Fairclough 1985, 739).

Here it will argue that, following Foucault, discourse is institutionally constructed; it takes place through social organization. Messages are conveyed through spoken interactions such as conversations, debates, speeches or written texts, such as policies, legislation, and governmental acts. Their purpose is either an "activity exchange", which focuses on people doing things or getting other people to do things, or a "knowledge exchange", which focuses on exchanging information (Fairclough 2003, 105).

There are several ways in which one can analyze textual discourse. The first is referred to as 'discourse-as text'; it consists of analyzing the language that is being used. The 'discourse-as text' system of analysis stresses that "[c]hoices and patterns in vocabulary (e.g. wording, metaphor), grammar (e.g. transitivity, modality), cohesion (e.g. conjunction, schemata), and text structure (e.g. episoding, turn-taking system) should be systematically analyzed" (Blommaert & Bulcaen 2000, 448). This approach, also known as linguistics analysis, involves analyzing the overall organization and cohesion of the texts.

The second approach looks at intertexual discourse. This system of analysis examines discourse as an integration and transformation of social and historical resources (Flairclough 1992, 195). Texts incorporate ideas and concepts from other texts. For example, the creation of the contemporary enemy, that of terrorism, is repeated in several official documents and borrowed from previous Canadian and American texts. It is a "re-accentuation" and an "intersection of history" (Flairclough 1992, 195). Intertexuality is the

product or linking of "elements which have varying and sometimes contradictory stylistic and semantic values" (Flairclough 1992, 195).

The third approach consists of discourse-as-discursive-practice; in other words, discourse that is created, published, and distributed with the intention of fueling specific hegemonic projects. Lastly, the fourth approach examines discourse-as-social-practice: "[t]he way in which discourse is being represented, respoken, or rewritten sheds light on the emergence of new orders of discourse, struggles over normativity, attempts at control, and resistance against regimes of power" (Blommaert & Bulcaen 2000, 449). The following work will use a combination of these methods to understand contemporary discourse vis-à-vis security concerns.

III) Meanings and Interpretations

The Transmitter

Actors as carriers of discourse never act alone; they are a part of a larger social construction of meaning: "[...] individual subjects or actors are constituted through symbolic systems that fix and differentiate them in place while remaining outside of their control" (Gottweis 1998, 23). Hence, an actor may appear to be in control of his or her situation, but in reality he or she acts in a field of other social forces. For example, Canada seems to govern its laws and policies; but in reality, it is influenced by its American neighbors. It becomes a relation of power, where one entity can manipulate or force a second entity into doing something (Gottweis 1998, 30). "[I]n every society the production of discourse is at once controlled, selected, organized and redistributed by a certain number

of procedures whose role is to ward off its power and dangers, to gain mastery over its chance events, to evade its ponderous, formidable materiality" (Foucault 1984, 109).

The Receiver

The interpretation of the meaning also depends on the reception of the text. Yet certain practices facilitate the assimilations of the message by the receiver. If an audience wants to hear a certain message, the discourse will be better received. For example, victims' families after 9/11 were eager to hear counterterrorism tactics, regardless of the necessity or brutality of such practice. In the long run, these oppressive discourses are normalized and accepted as necessary practice. Foucault argues that people who think they are acting freely are, in fact, under the influence of dominant discourses of particular time periods (Dryzek 2006, 102). They speak from subject positions made possible by discourse (e.g homosexual).

IV) Institutions of Discourse

Every discourse that circulates through social space draws on a "story". Government reports, news, and political speeches are all embedded with desires and meaning that are integrated by narrative elements; "[n]arrative events are a function of time, setting (place), and characters of both time and place" (Gottweis 1998, 31, 33). Narratives are produced through written texts interpreted according to shared narratives schemes (Gottweis 1998, 33).

For the purpose of this work, governmental agencies and their agents will be the central concern. According to Herbert Gottweis, professor of Political Science at the

University of Vienna, "government focuses on practices: mechanisms and techniques that, in the name of truth and the public good, aspire to inform and adjust social and economic activities" (Gottweis 1998, 28). The government exercises power on the basis of its authoritative position, knowledge and expertise (Gottweis 1998, 29), however the government does not hold sole power of its state; other agents can also intervene (Gottweis 1998, 29). The "War on Terror", for example, is a fight fuelled by the international community, fear of its citizens, and the media. A politician, for example, can exercise great power in delivering a message only to the extent that other agents contribute to producing a receptive discursive environment. Actors, or in this case governmental officials, can manipulate discourse to reflect their goals, powers, and mandates; but there are always broader conditions of possibility. Different actors represent different discourses, they may complement each other, they may compete, or one can dominate others. Thus, think tanks may compliment governance while NGOs may oppose it. Discourse is not just noticed textually, it is powered by various resources (e.g legitimacy, trust, and expertise). One can speak a truth but be ignored while another can be praised for its truth spoken because the message conveyed fits the needs of that particular era (Foucault 1984, 119). Policy and discourse must be understood as a vital part of a government's role to maintain stability and structure (Gottweis 1998, 37). Discourse is impossible to escape, however through discourse analysis, the meaning and relation of power can be identified and analyzed.

V) Preempting the Future

As mentioned above, discourse can create social change in society. Political discourse can have an important impact on identities and social structure. It can shape the

future through its ideological functions; "dominant political discourses supplant the notion of the future as the site of the possible with a conception of the future as inevitable and, thereby, undermine the future as a site through which political change can be imagined and, ultimately, realized" (Dunmire 2005, 482). It could be argued that in certain societies, politicians have replaced religious institutions; their discourse and influencing behavior may guide people's expectations and orientation (Dunmire 2005, 483). In this context, the large amounts of information with which people are faced compel them to place their trust experts, thus also politicians. Through all manner of statements, some discourses may have a normalization effect. Discursive practice can stabilize knowledge, making it a known fact (Dunmire 2005, 489). In some instances, this may have a negative outcome. In an extreme fashion, Dryzek argues, this could resemble the ideologies we associate with George Orwell's 1984: "a government that highlights enemies in order to secure its hold over its own people" (Dryzek 2006, 109).

VI) Methods

The corpus of documents analysed will be principally government documentation. Governmental discourse published by Parliament, Canadian Immigration and Citizenship, the Privy Council, the Canadian Intelligence Security Service, the Canadian Border Service Agency, and the Department of Justice will be examined. My work will examine the discourse these agencies used and its effects in a Canadian setting following the events of 9/11. This research will be principally based on documentary analysis; it will mainly consist in analyzing the semantic aspects of textual discourse and governmental practices in a post-9/11 era. I will be looking for and analyzing intertexuality, narrative schemes, the

use of soft power, and implicit messages in governmental discourse that deals with security. In particular, it is important to analyze the tension or the balance between a humanitarian perspective and the securitization agenda. It is therefore imperative to analyze the discourse related to this particular tension, as it will hopefully underline if indeed there is an inclination towards security more so than a humanitarian approach. In addition, I will try to uncover the manifest and the latent content of these documents (Babbie and Benaquisto 2002, 290). The following are some of the key aspects I will try to analyze in these documents. How are refugees represented in these documents? How does the Canadian government define terrorism? Is terrorism a verdict rather then a fact? (Zulaika and Douglass 1996, 171) Does the government make a link between refugees and terrorists? Have refugees and asylum seekers been framed as terrorist and how has this been done? How does the Canadian government deal with national human security in its domestic policies? Has there been a discursive shift in the security language used? Has the Anti-Terrorism Act had an impact on refugee policies and practices? The goal here will be to examine the effects of 9/11 on Canadian security and its adherence to the Geneva Convention and other key international and national conventions and policies.

I propose to do the following: I will attempt to illustrate the impacts of terrorism discourse and its contribution to the framing with respect to security concerns on the refugee flow originating in international conflicts zones. My work will primarily be divided in three sections: a theoretical understanding of issues at stake, an analysis of relevant discourses, and an examination of actual practices. As seen above, Chapter 1 has attempted to place the issue at stake within a theoretical framework. Chapter 2 will underline historical events that have played a crucial role in regards to the Canadian refugee

population; this will provide background information to better understand the issues at stake. The first section of the chapter will summarize fundamental international and national principles protecting refugees and asylum seekers. The second section will produce a brief overview of Canada's immigration and refugee system in the last century.

Following this, Chapter 3 will consist of a content analysis of official documents. First I will attempt to reconstruct events leading to the stigmatization of the refugee population as a terrorist threat. Second, I will examine the language and discourse used in new or amended acts and legislation proposed after 9/11. The analysis will focus on documents such as, but not limited to, the National Security Policies, Parliamentary Speeches from the Throne, Canadian Security Intelligence Service's annual reports, and speeches spoken by Ministers of Immigration.

What the government says and does may not coincide. Chapter 4 will analyze the actions resulting from these policy changes. This chapter will concentrate on Canadian government practices towards refugees. Here I will examine, under four subheadings, deterrence; determination; detention; and deportation; and security enhanced practices that may be undermining the rights of refugee and asylum seekers set by the UNHCR. I will conclude by briefly highlighting the global nature of these types of events.

Chapter 2: Canadian Historical Context

Most Canadians would accept that "[a] true democracy has to be founded on a consensus about the duty of all to respect, protect and fulfill all fundamental rights and existential needs. A *consensus which places human rights above politics and class division*" (Klug 2005, 4). Thus, in a post-9/11 era, Canadian officials must maintain a

balance between its humanitarian tradition and its securitization agenda. Although many currently feel the need for heightened security, these security measures should not infringe on human rights. However, an increased fear compels many to believe security is necessary, even if it translates into fewer rights for citizens. However, on a daily basis, the Canadian citizen does not feel as though his or her rights are being eroded as the securitization paradigm has mostly affected the rights of those in a vulnerable situation: in this case, refugees and asylum seekers. These people have lost their home through violence and are in desperate need of protection, security, and safety. Precisely because of this vulnerability, refugees have been targeted and remain targets as well as symbolic carriers of fear.

The Second World War proved to be one of the most horrific events in history. In reference to refugees, very few countries accepted Jewish refugees at this time; "[t]he refusal of many countries – Canada, to its shame, was one of the worst offenders – to offer asylum to Jewish refugees contributed to the death toll in the genocide" (CCR 2002). In the aftermath of the Second World War, policies and legislation were developed on a national and international level to prevent this from re-occurring and to provide protection for those in need, regardless of their ethnicity, race, or religion. This chapter will examine key documents and normative commitments that should guarantee the rights and protection of refugees. I will briefly describe legislation that attempts to protect the rights of all human beings, but more importantly the rights of refugees and asylum seekers. Documents such as the United Nations Declaration on Human Rights, the United Nations High Commissioner on Refugees Convention, the Canadian Charter on Rights and Freedoms, and the concept of Human Security will be briefly discussed in the following section.

This section will be followed by a brief overview of immigration and refugee policies and practices throughout the twentieth century. Although Canada has made efforts towards becoming a multicultural nation in the past few decades, there has been deliberate discrimination against certain ethnic groups and nationalities that has directly violated national or international standards set in the aftermath of the Second World War.

A) National and International Legislation and Policies

As stated in the first chapter, it is the nation-state's responsibility to provide protection and security to its citizens. However, despite the increase in vigilance and security, the Canadian government must uphold both national and international standards. Thus, Canada must endorse not only its own fundamental morals and values, it must remain faithful to conventions it ratified. The violation of these legally binding documents in attempts to guarantee security may cause rippling effects. The following section will highlight those fundamental rights that try to assure the safety and protection of refugees.

I) Universal Declaration of Human rights

It has taken centuries to develop human rights to its current state. The first attempt to define human rights came about during the enlightenment age; rights at that point were based on "the natural rights of man" (Klug 2005, 7). The founding principle was based on freeing men from restraints and providing men with the right to justice and equality before the law (Klug 2005, 7). This eventually fueled the eighteenth century French and American revolution and led to democracy across a number of Western states (Klug 2005, 7). The second attempt to define human rights transpired in response to the atrocities of the Second

World War; "[t]his was the era when the international human rights movement, as we now know it, was born" (Klug 2005, 8). Its founding principles were based on human dignity and a sense of moral purpose for humanity.

The Universal Declaration of Human Rights (UDHR) was introduced by the general assembly of the United Nations in December 1948 and has recently celebrated its 50th anniversary (Taran 2000, 16). The declaration's intentions are to promote life, liberty, security, and dignity of all human beings. The central theme throughout the declaration is "the implicit assertion that certain principles are true and valid for all peoples, in all societies, under all conditions of economic, political, ethnic and cultural life" (Taran 2000, 16).[8] Article 1 and 2 of the Declaration are central to the development of my argument. Article 1 of the Declaration states that "[a]ll human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (sic)" (UDHR 1948). Article 2 states that everyone is entitled to protection under the declaration, regardless of race, religion, nation ethnic background, or social origin (UDHR 1948). Thus, both articles underline 'equality and fair treatment to all', regardless of the race, religion, or ethnicity (Crepeau and Nakache 2006, 6). In this context, it is then a fundamental human right to seek refugee status or asylum when one is being prosecuted in his or her homeland, where the standards of one's life in one's country of origin is not meeting those of Article 1 and 2 of the Declaration. These individuals are entitled to be protected by the international community (Crepeau and

[8] Although the Declaration covers a wide range of rights, it contains large gaps, amongst many, it excludes a gender analysis. Women have unique rights that must be acknowledged in this convention, which are not at the present time.

Nakache 2006, 6)[9]. Article 14(1) states that "[e]veryone has the right to seek and to enjoy in other countries asylum from persecution" (UDHR 1948). It is therefore the international community's responsibility and obligation to provide safety for those in need of protection (Crepeau and Nakache 2006, 6).

Moreover, Articles 5 through 9 stipulate that all are equally protected by the law: having a right to a fair and public hearing and the right to be presumed innocent. Furthermore, these articles also lay out that no one shall be subjected to torture, arbitrary arrest, and discrimination (UDHR 1948).

Canada chose to ratify the UDHR treaty at the time of its enactment in 1948 (Crepeau & Nakache 2006, 29). Moreover, Canada has integrated some aspects within its own Charter of Rights and Freedoms, thus self-imposing these obligations.

II) United Nations High Commissioner for Refugees

Following the Second World War, massive numbers of refugees fled Europe to escape war torn countries. Consequently, on July 28 1951, the Magna Carta of International Refugee law was established at the Geneva Convention (UNHCR 2001, 3). The Convention covered the most fundamental aspects of a refugee's life; these laws attempted to prevent nation-states from ignoring the plight of victims of persecution. The United Nations High Commissioner for Refugees helped over seven million refugees relocate after the Second World War (UNHCR 2001, 7).

[9] However, each state has the discretion in deciding whether an individual is entitled to asylum status. There is no international jurisdiction (Crepeau & Nakache 2006, 6)

Most importantly, the United Nations High Commissioner for Refugees established a working definition of the refugee. Article 1 of the Convention defines a refugee in the following terms:

> As a result of events occurring before I January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (UNHCR 2006c)

Generally refugees flee a country because of potential threats associated with rebel groups, local coercive military forces, or a dysfunctional government (UNCHR 2001, 18). The term refugee means two things; first, it refers to those escaping from danger; second, it refers to those seeking protection from a host country (Showler 2006, 213). In essence, the concept of refugee sought to embody the idea of "Man's humanity to man [sic]" (UNHCR 2001, 9).

Ratifying countries bound by the Geneva Convention must follow its laws and regulations. The following are some of the salient articles by which refugees and nation-states must abide. First and foremost, refugees have an obligation to follow and comply with laws of the host country. In return, the host country cannot discriminate on the grounds of race, religion, or country of origin. Second, the host country must provide refugees the freedom to practice their religion, and allow them to educate their children within their own cultural and religious background. Third, in order to facilitate refugees' integration into the host society, the host country must provide the rights to wage-earning employment, elementary education, social security, and freedom of movement. Fourth, if an illicit refugee enters the country, the host country must resort to a tribunal order before

instigating a penalty. Fifth, under Article 33, a host country is not permitted to return a refugee to his or her country of origin if his or her life could be in danger; this is known as the *principle of non-refoulement*. Decisions leading to expulsion because of security concerns must be arrived at through due process. Any disputes that cannot be solved internally shall be referred to international courts (UNHCR 2006c).

Since its enactment, the treaty has helped over 50 million people re-establish their lives (UNHCR 2001, 3). Nonetheless, despite the lives it has changed, many criticize the 50-year-old Convention, claiming it to be outdated (UNHCR 2001, 3). World dynamics have changed since 1951, yet the Convention remains with few amendments. The legitimacy is therefore questionable (UNHCR 2001, 3). The 1951 Convention does not address the following contemporary issues: gay and lesbian rights, women, domestic abuse in countries where it is condoned, gender and ethnic group persecution by the state, and child prisoners (CCR 2002). Moreover, as a result of the high number of refugees and asylum applicants to Western countries, host countries are being overwhelmed with the task of providing protection for refugees (UNHCR 2001, 6). A revision of this Convention is needed to better address these new issues. Despite all of this, for the purpose of my work, the Convention addresses key issues that will be examined later.

III) United Nations Convention against Torture

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) was enacted and ratified in 1987 by international players (UNCAT 1987; Crepeau & Nakache 2006, 29). It is currently the most

active player in protecting and relocating individuals from areas where they will face torture or persecution. UNCAT places the rights and protection of the individual above needs of the sovereign state (Crepeau & Nakache 2006, 7). Article 2(2) of the convention clearly states that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture" (UNCAT 1987). Thus, the War on Terror does not justify the means to use torture, whether in its own country or outsourcing to other countries.

The application of the Convention has been somewhat problematic in the last decade. It will be demonstrated in greater details in Chapter 4 that Canada, in extraordinary circumstances, believes it can send individuals back to countries where they could possibly face torture despite the fact that Article 3(1) states "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture" (UNCAT 1987). In addition to these practices, UNCAT's report in 2005 determined that Canada's anti-terrorism and immigration policies and other legislation undermined this Convention. It was argued that Canada infringed upon the right to *non-refoulement* and the right to challenge expulsion.

International conventions play an important role in Canadian policies and legislation;"[o]ver the years, [...] the Supreme Court of Canada [has] recognized the important role of international law in interpreting the Constitution" (Crepeau & Nakache 2006, 9). Many sections from international policies have been incorporated into national legislation, for example, the IRPA defines the term refugee using the UNHCR definition (Crepeau & Nakache 2006, 10). The *non-refoulement* clause in the Canadian Charter was

adapted from UNCAT. On the other hand, Canada has ratified many international treaties without necessarily integrating or modifying its national laws (Heckman 2003, 231). Thus, these treaties may provide guidance but are not subjected to Canadian law. Several Supreme Court rulings have taken into consideration international conventions in determining the outcome of difficult cases such as *the queen vs. Baker and Suresh*[10]. However, the interpretation of international law is left to the discretion of judges. Furthermore, national law prevails over international law, unless these international standards are incorporated into domestic legislation and policies. The following are pieces of Canadian legislation that have incorporated key international standards.

IV) Canadian Charter of Human Rights

Contrary to international standards, "[...] government actions impacting asylum seekers and other non-citizens, include legislation and the exercise of legislative authority [that] must comply with *Charter* standards" (Heckman 2003, 217). On a national level, the Canadian Charter of Rights and Freedoms and the Immigration and Refugees Protection Act (IRPA) play the most important role in protecting the rights of refugees. Recently, the concept of Human Security, integrated in some Canadian laws and legislation, has also assisted in promoting refugees' rights. This section will analyze both the concept of Human Security and the Charter; the IRPA will be examined in later chapters.

According to Francois Crepeau, International Law Professor at the University of Montreal, and Delphine Nakache, PhD student, "Canada has [...] been at the forefront of the movement to increase the protection of human rights for all" (Crepeau and Nakache 2006, 6). In 1944, Canada introduced its first Canadian Human Rights statute (Ungerleider

[10] This case is explained in Chapter 5.

1992, 5). The Act attempted to thrust aside discriminatory practices based on race or belief (Ungerleider 1992, 5). In 1982, the Canadian Charter of Rights and Freedoms was added to the Canadian constitution (Ungerleider 1992, 10). The Charter attempts to define key human rights issues by identifying Canada as a free and democratic state that protects rights and freedom while guaranteeing security for all (Crepeau & Nakache 2006, 6).

Article 7 of the Charter states the following: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" (DJC 1982). The *Singh* case declared the judicial system to be at odds with the Charter due to an absence of a meaningful oral hearing based on merits (Rousseau et al. 2002, 44). In *Singh's* Supreme Court case ruling, it was determined that although refugees are not citizens, refugees on Canadian territory are entitled to the protection of rights and freedom guaranteed by this section (Heckman 2003, 218). The Singh case consisted of six Sikhs and a Guyanese man claiming conventional refugee status. They were denied the status by the Immigration Appeal Board and the Federal Court. However, the Supreme Court determined, with reference to the Charter of Rights and Freedoms, that every person should have the right to an oral hearing, regardless of their status (Campbell 2000, 74).

> Specifically, *Singh* established that the assessment of a risk to the security of the person means an assessment of the threat to any of the three rights guaranteed to a refugee — that is, the right to status determination, the right to appeal a removal or deportation order and the right to protection against refoulement. (Crepeau & Nakache 2006, 10).

More importantly, the *Singh* case brought about changes in the 1978 Immigration Act. It entitled refugee claimants to an oral hearing, as it was deemed unconstitutional for a claimant to submit a written report of their background and history (Heckman 2003, 217).

Thus it was determined that if refugees and asylum seekers could be judged by Canadian law, they should also be entitled to the protection of the Canadian Charter (Crepeau & Nakache 2006, 10). The Immigration and Refugee Board (IRB) was created in 1989 to allow claimants the rights to a full non-adversarial hearing by the Refugee Determination Division (RDD) (Rousseau et al. 2002, 44).

Furthermore, the Charter of Rights and Freedoms addresses key aspects of the legal system such as the right to a fair hearing, the right to be presumed innocent before found guilty, and the right to a fair punishment. This section of the Charter will be further examined in chapter 4. Despite these attempts to protect all citizens, immigrants and refugees are often not perceived as citizens. Many believe that they should not be granted the same rights. Hence, as will be demonstrated later, this population is not guaranteed the same rights and freedoms as Canadian citizens.

V) The Concept of Human Security

The concept of Human Security was first introduced by the *United Nations Development Report* in 1994. The UN felt the need to place the individual at the forefront of their concerns. Although conflict and political instability do threaten national sovereignty, the UN felt that individual populations were at greater risk (Ibrahim 2005, 168).

Traditionally, security was based on a state-centric approach, focusing on protecting state sovereignty and its territory (Lowry 2002, 29). Until the end of the cold war, the threat was external, thus security was safeguarded by the military and state intelligence. Near the end of the cold war, intra-state wars began to increase, placing the individual at greater risk

(Lowry 2002, 29). With the increase of intra-state conflicts, security concerns shifted from the sovereign state to the vulnerable individual. Thus, for many human rights advocates, placing the individual at the centre of a security focused approach was vital. Human security takes into account the structure in which the individual becomes vulnerable. It places individuals at the heart of their political, economic, and social environments (McRae 2001, 15). Moreover, the concept of human security is closely related to human rights law and basic human needs (Huysmans 2006, 5).

Analyzing the concept of human security in relation to the refugee population is particularly pertinent in this case. Refugees and asylum seekers belong to no state, thus do not fall under the protection of state security. Furthermore, their status or lack thereof converts them into a vulnerable population: "[i]n terms of migration, the populations that *are* at risk are the migrants who move across borders to escape war, persecution, and hunger" (Ibrahim 2005, 169). It is therefore important that Human Security be applied to these populations. This approach recognizes that "[...] protection now means safeguarding not just the physical integrity but also the human dignity of every refugee" (UNHCR 2006b, 65)

Human security was introduced in Canada in 1999 by Foreign Minister Lloyd Axworthy. Axworthy believed that the cold war security could no longer offer security and peace around the world (Lowry 2002, 2). For Axworthy, security policies could be better understood and implemented if an individual-based approach was used (Axworthy 2004, 348). Thus, he actively lobbied for the concept of Human Security to be taken up in international and domestic policies concerning security. He argued that our current world was inter-connected, thus, all human beings were in need of basic human rights to achieve

world stability. For Axworthy, this paradigm was a combination of a "top down" and "bottom up" approach. It would attempt to find a middle ground between the interest of the global population and national interests (Axworthy 2004, 349). However, for this concept to be successful, he suggested, a partnership was required between international players and international modes of governance that would eventually result in innovative policies (Axworthy 2004, 349).

The concept of human security continues to prevail in Canada, however in a different light. In the 2002 parliamentary Speech from the Throne, the Governor General underlines this concept specifically in relation to "[...] promoting safety for people from threats of violence" (Lowry 2002, 30). She also added that terrorism, drug trafficking, and the illicit trade of small arms were a threat to Human Security (Lowry 2002, 30). In addition, the concept of "Human Security" has been incorporated into Canadian foreign policy. The Canadian government has initiated Human Security Programs (HSP) to promote the Human Security agenda component of Canadian foreign policy (DFAIT 2006). Most of these programs focus on protecting civilians through conflict prevention programs, promoting accountability and good governance, and strengthening the capacity of each country to address global threats (DFAIT 2006).

According to the UNHCR, human insecurity forces individuals to seek refuge in neighboring countries (Nyers 2006, 61). Individuals leave their homeland when there are serious threats to their life and liberty. They are seeking basic necessities: basic defense of their human rights. If Canada can apply the Human Security framework to its foreign policy, should it not be applied to its domestic policies? If Canada is willing to help those abroad, should it not open its doors to those in need, providing them with human security

from within its own borders? Refugees are a population escaping conflict and persecution, generally searching for Human Security; if Canada is an advocate of human security, then this concept should be applied to its population of refugees and immigrants and incorporated into immigration policies.

In summary, despite the need to protect refugees and asylum seekers, this has unfortunately not been the case. In a post-9/11 era, the migrant has become seen as a threat against the nation-state (Ibrahim 2005, 169). Furthermore, it is questionable if Human Security has been applied towards this vulnerable population. Through control mechanisms and the securitization agenda, refugees and asylum seekers are being scrutinized, their human rights potentially placed in jeopardy. Irene Khan, Secretary General of Amnesty International, fearing for the future of human rights, states that "[i]n the past, human rights were seen as a key to secure societies. Now human rights are seen as a key obstacle" (Wilkinson 2001, 9). It will be demonstrated in the following chapters that refugees and asylum seekers are being deprived of their fundamental rights through practices justified by the War on Terrorism and the securitization paradigm.

B) Canadian Immigration and Refugee Policy

I) Immigration in the 20th century

Canada relies heavily on immigration for both its population growth and economic prosperity. Most of its current population is composed of first, second, or third generation descendants (Li 2003, 36). Historically, Canada has relied on immigration from Western countries, predominantly from the United States and Europe (Li 2003, 22). Canada has always encouraged immigration yet this has not signified an open door policy; the door was closed to some (Atkey, 1990, 1). Canada's first immigration statute was created in 1869

(Atkey 1990, 1). During this period, immigration was dealt with on a "laissez-faire", allowing the market flow to determine the number of immigrants needed in the country (Li 2002, 17). Mainly European settlers came to Canada at that time (Li 2002, 18). The first large wave of immigrants arrived between 1885 and 1914 to provide the unskilled labour necessary for Canada's early industrial development (Atkey 1990, 1). Most worked on agricultural land development, a few worked factory or mining jobs.

Canada discouraged non-European peoples from settling in Canada. In 1885, Canada imposed a $50 head tax on Chinese immigrants, later increased to $500. Furthermore, in 1910, the Immigration Act denied the right of those deemed unfit to enter Canadian borders. It stated that "[t]he Governor in Council may prohibit [...] the landing in Canada [...] of immigrants belonging to any race deemed unsuited to the climate or requirements of Canada, or of immigrants of any specificed class, occupation or character" (Kruger et al. 2004, 73).

The second and largest wave of immigration in the twentieth century occurred from 1896 until 1914. This was in large part due to economic expansion and intense industrialization (Li 2002, 18). However, the government continued to favour European birthplace. It was believed that Asians would have more difficulties adapting to Canada's social and physical climate. In essence, European settlers were given priority. Although many at that time were choosing to subsequently relocate to the United States, it created the beginning of a new ideology: immigration as a nation building tool (Stoffman 2002, 39). During the 1930's, the depression caused a halt to the inflow of immigrants (Stoffman 2002, 40). Canada witnessed its lowest immigration rate of the twentieth century (Li 2002, 21).

During the Second World War, Canada adopted an anti-Semitic attitude towards Jews fleeing the Holocaust. Few Jewish refugees were admitted in Canada during this time (Ungerleider 1992, 2). The Canadian government also set up internment camps for immigrants of Japanese origin. Canadians felt that, following the bombing of Pearl Habour, Japanses people were a threat to their livelihood. The third large wave of immigrants arrived in the post Second World War era to alleviate the need for unskilled labour work (Atkey 1990, 1). However, following the Second World War, the purpose for immigration would change; Prime Minister Lyon Mckenzie outlined the need for immigration to overcome a decreasing population. However, although the need for immigrants increased, in an often cited passage, Mackenzie maintained that Canada should not accept immigrants who "would alter the 'character of our population'" (Atkey 1990, 1). He argued that "[i]t is not a 'fundamental human right' of any alien to enter Canada. It is a privilege" (Ungerleider 1992, 7). Between 1947 and 1952, immigrants were admitted based on *ad hoc* procedures.

The Act was amended in 1952, re-wording discrimination using different terms to include "nationality, ethnic group, occupation, lifestyle, unsuitability with regard to Canada's climate, and perceived inability to become readily assimilated into Canadian society" (Kruger et al. 2004, 74). Although the new amendments eliminated factors such as race and country of origin, it continued to discriminate against nationality and ethnicity groups.

The Point System introduced in 1967 would eliminate some of the discriminatory practices. It would allow a broader ethnic diversity into Canada. Immigrants would be allocated points based on their education, training, skills, and other specific qualifications

(Atkey 1990, 2). Canada began to accept immigrants from non-Western countries, producing a vast ethnic diversity. However, multiculturalism policies would only be integrated into the 1976 Immigration Act. Europe's improved situation encouraged less people to migrate elsewhere; consequently, Canada fell short of immigrants and began to accept migrants from Africa, Asia, Latin America, and the Caribbean. Between 1980 and 1986 these immigrants represented 63.43 percent of immigrants in Canada (Ungerleider 1992, 3).

The new Immigration Act introduced in 1976, "explicitly affirmed the fundamental objectives of Canadian immigrations laws, including family reunification, non-discrimination, concern for refugees and the promotion of Canada's demographic, economic and cultural goals" (Atkey 1990, 2). In 1988, immigration continued to be a way to deal with the falling birthrate and demographic trends such as labour shortage and aging population (Kruger 2004, 76).

In June 2002, the newest and current Immigration and Refugee Protection Act came into effect and remains in existence (Canadian Council for Refugees 2002). One of its goals is to get "tough on those who pose a threat to Canadian security, but maintain Canada's humanitarian tradition" (Kruger et al. 2004, 77). Its purpose is to increase and implement tighter security measures to tackle possible national security threats. Amongst the new provisions, review boards are still available but only to a select few, from 1989 to 2004, 89 percent of applicants were rejected. In addition, Canadian Immigration and Citizenship (CIC) expanded its intelligence gathering section and created an information sharing centre

with other key agencies (Kruger et al. 2004 83)[11]. Whereas immigrants in the past were seen as a population and civilization threat, now they are seen as a security threat.

II) Refugees in Canada

In 1969, Canada became a signatory to the 1951 Geneva Convention, and in 1973, incorporated it into its domestic laws (Shoyele 2004, 549). Canada later ratified the 1967 Protocol relating to the status of refugees and the 1984 Convention Against Torture. Thus, Canada accepted the obligation of accommodating refugees (GOC 2002). In the 1980's, Canada was ranked as one of the top countries in providing a proper quality of life to new refugees. The Nansen medal was awarded for Canada's track record of protecting refugees and promoting a safe haven for those being persecuted around the world; "Canada ranked 11th in the world in dollars contributed [towards refugees] and also in dollars per capita" (Canadian Council for Refugees 2002). However, as noted earlier, the world standards were and remain low.

Each year, Canada grants approximately 30,000 refugees permanent citizenship. From 1978 until 1981, refugees made up 25 percent of all immigrants in Canada. In 2004, Canada was the fifth-largest destination country for asylum seekers (Crepeau and Nakache 2006, 3). CIC argues that "Canada offers safe haven to persons with a well-founded fear of persecution, as well as those at risk of torture or cruel and unusual treatment or punishment" (Citizens and Immigration Canada). According to CIC's facts and figures in 2002, Afghanistan, Sri Lanka, and Pakistan were rated as the top three source countries for refugee populations. Afghanistan and Sri Lanka remained part of the top three countries in

[11] The 2002 Immigration and Refugee Protection Act (IRPA) will be further analyzed in the following chapters

2001 and 2002. Yugoslavia was considered the top ranked source country in 2000 and fell to the thirteenth position in 2002. Colombia was placed in the twelfth position in 2000 while rising to the forth position in 2002. For ample details on Canada's refugee source countries, refer to Appendix 2.

Article 96 of the Immigration and Refugee Protection Act defines a refugee as a person who fears to remain in his or her country of origin as a result of his or her race, religion, nationality, political opinion, or membership in a particular social group (Shoyele 2004, 550). The refugee section of the Act consists of two components: the refugee and humanitarian resettlement program and the asylum program. The resettlement program for refugees and humanitarian aid provides assistance to those who are seeking entry into the country. CIC conducts background checks for criminal records, medical concerns, or security threats before granting them this status. Conversely, the asylum program can dispense aid to those who have escaped their country and are pursuing a refugee claim from within Canada (Citizenship and Immigration Canada, 2006). Upon arrival, a person must apply to obtain his or her refugee status. Once granted, he or she is recognized as a refugee until given permanent status. Canada has a third refugee system, which provides refugee status to those who are in Canada visiting when war breaks out in their country. This is referred to as refugees *sur place.*

In recent years, due to the unprecedented number of refugees and asylum seekers, the refugee system has had to reform its mandate (Rousseau et al. 2002, 44). As mentioned above, the IRB was created after the *Singh* case and would provide the tools to accept five times the amount of refugees it previously accepted (Campbell 2000, 6). Prior to the

creation of the IRB, Canada's acceptance rate was 20 percent. Following the creation of the IRB, the acceptance rate rose to 90 percent (Stoffman 2002, 86).

The IRB is composed of three divisions: the Refugee Protection Division, the Immigration Division and the Immigration Appeal Division (IRB 2006a, 6). Pertinent to this study, the Refugee Protection Division is responsible for deciding refugee claims of individuals in Canada; their central responsibilities include holding admissibility hearings, conducting detention reviews and hearings, and deciding appeals on immigration matters (IRB 2006a, 7)[12]. The IRB tribunal process is generally based on Canadian domestic laws, international obligations, and humanitarian responsibilities towards global citizens (IRB 2006a, 8). All claimants have a right to be represented by council and interpreters during the proceedings in front of a one member panel. If the claimant is unsatisfied with the IRB's decisions, he or she can appeal to the Federal Court of Canada (IRB Publication 2006, 8).

* * *

To summarize, it has been shown that international and national conventions and legislation were drafted in attempts to prevent violations of human rights. The Universal Declaration of Human Rights integrated into the Canadian Charter of Rights and Freedoms, has contributed to protecting citizens and non-citizens on Canadian soil. On an international scale, the UNHCR, CAT, and the newly drafted concept of Human Security are also legally binding documents that help promote the safety and protection of refugees and asylum seekers. Although Canada participated in discriminatory practices in the past, it has made commitments to and integrated multicultural views into its current immigration policies. The adoption of the Point System has changed the way immigrants were selected

[12] Generally, CIC is responsible for choosing refugees in refugee camps outside of Canada.

into the country; however, the following chapters will document that discriminatory practices have persisted in Canadian society as refugees have remained the target of discrimination.

The nation-state has contributed to widening the gap between the "us" vs. "them" through its migration control policies, while international and domestic human rights attempt to decrease this gap (Crepeau and Nakache 2006, 5). The War on Terror has created a new atmosphere that essentially undermines rights set out by international conventions and domestic policies. Ironically, it is those same countries responsible for the elaboration of these conventions that are now undermining them; "Western liberal regimes that quite persuasively cite gross human rights violations as grounds for justifying wars and military interventions, proceed to ignore, or unilaterally reinterpret, international human rights treaties when they allegedly obstruct the successful execution of such wars" (Klug 2005, 12). The Rule of Law is continually being undermined; in a securitization era, the government appears to be accumulating excessive power through the securitization of policy domain. The fear instilled in citizens allows the government to set forth its agenda, despite its problematic stance on human rights. The following two chapters will examine this particular question in a post-9/11 and securitized era.

Chapter 3: The Paradigm Shift: Securitization of the Nation

The previous sections have underlined the important historical and theoretical background concerning refugees and their rights. It was determined that following the Second World War, Canadians showed a willingness to accept refugees, embracing immigration and refugees as part of their Canadian identity. However, in the recent

decades, the public and governmental perception of refugees has changed considerably. The events that unfolded in the late twentieth century and early twenty-first century have played a crucial role in recent legislation. The 9/11 events created a sense of insecurity that led to a shift in public policy (Coutu & Giroux 2006, 313). National security has become a priority for the Canadian government; the focus has shifted from border security to national security (Kruger et al. 2004, 82).

The first National Security Policy, drafted in 2004, aimed to address three core national security interests: protecting Canadians at home and abroad, prohibiting enemies of Canadian allied countries from building a home in Canada, and contributing to international security (Privy Council 2004, Foreword). Over the past few years, Canada has invested more than eight billion dollars in an attempting to guarantee security for all Canadians across its territory (Privy Council 2004, Foreword). In 2005, the National Security Policy one year review declared it would allot another billion dollars over the next five years towards security schemes (Privy Council 2005, xiv).

However, this new framework has been contested. Some believe that that there has been an abolition of liberty in exchange for security, while others argue for further increases in security. Political parties are quarrelling over the balance between human security and national security. On the other hand, the National Security Policy articulates that "[t]here is no conflict between a commitment to security and a commitment to our most deeply held values" (Privy Council 2004, 1).

The first section of this Chapter will highlight important facts and major shifts in the late twentieth century and early twenty-first century pertaining to security and its impact on refugee populations. Through the analysis of official documents such as various

speeches from the throne, the National Security Policy, reports created by CSIS, and CIC publications, the following section will highlight important paradigm shifts prior to the events of 9/11 along with the repercussion of these events on national security. The next section will examine some of the changes that occurred after the events of 9/11 and demonstrate the discursive shift towards the securitization paradigm, inevitably leading to the 'new normal'. The last segment of this chapter will examine the repercussions of the securitization agenda on the refugee population.

A) Social and Political Change in Light of National Security

As described in Chapter 1, securitization is the act of turning a policy matter into a security issue (Crepeau & Nakache 2006, 4). Through 'speech-acts', issues are identified and labeled as threats that in turn allows the government to take actions against these perceived threats. Since 9/11, refugees are allied with terrorism in political security discourse. However, through historical evidence, it can be argued that, in fact, negative labeling and increased security of the refugee populations was established well before the events of 9/11. Historical events amplified fear, allowing radical migration security policies. This section will attempt to illustrate events and legislation leading to the depiction of refugees as terrorists in contemporary society.

Immigration legislation has always contained elements of discrimination. In 1947, Mackenzie King had declared immigration as a privilege, not a right (Pratt 2005, 75). The 1952 Act excluded nonwhites from entering the country; it also prohibited idiots, imbeciles, morons, epileptics, prostitutes, homosexuals, etc. from crossing the borders (Pratt 2005, 77). The 1976 Immigration Act was the first liberal Immigration Act of its

kind to become law in Canada (Pratt 2005, 87). Sharren Aiken, Law Professor at Queen's University, argues that "[t]he Act included among its purposes the imposition of standards of admission that [did] not discriminate on grounds of race, national or ethnic origin, colour religion, or sex" (Aiken 2000, 61). It also integrated the principle of *non-refoulement* and attempted to uphold Canada's humanitarian tradition (Aiken 2000, 61). Thousands of refugees were admitted from various nationalities, countries, and religions due in part to the 1976 Act. An act adopting a liberal stance of this kind was the last to be seen. During the late 1980's and early 1990's, fear began increasing around the "bogus" and "clandestine" refugee.

Anna Pratt, a sociology professor at York University and an expert in security, detention, and deportation in Canada, argues that several factors have led to the negative governmental and public perception of refugees in the late twentieth century. During that time, Canada began witnessing a nonwhite refugee composition that may have induced racism and xenophobia (Pratt 2005, 95). Furthermore, Pratt argues that during the 1980's in Canada, refugees were increasingly associated with fraud, crime, and system abuse: "[n]ew immigrants and refugees came to be closely associated with the lack of jobs in Canada, with the perceptions of rising crime, and with the perceived decline of social order and cohesion" (Pratt 2005, 95). As a consequence, a public and political panic erupted in the late 1980's around the issue of illegal immigrants and refugees. The panic resulted from illicit boats carrying refugees onto Canadian land. In 1986, a boat carrying 155 Tamils from Sri Lanka was found on the coast of Newfoundland. A few months later, a second boat carrying 173 Sikhs was found on the East Coast of Canada. Both these incidents were

viewed as a lack of control over Canadian borders and called for an immediate response to this newly constructed refugee crisis (Pratt 2005, 97).[13]

The 1990's witnessed an increase in brutal conflicts creating a large number of refugees. A "culture of disbelief" concerning the legitimacy of refugee claimants led the Canadian public to fear the refugee migrant. It was believed that "although the number of refugee claimants [had] increased exponentially, "the proportion of claimants who [were] found to be Convention refugees [was] falling'" (Pratt 2005, 104). Moreover, the media fanned the flames of panic which eventually led to political crisis: a number of citizens and politicians believed that Canada was being invaded by refugees. Waves of panic paved the way for radical reform (Lacroix 2004, 150).

In response to the perceived threat in the early 1990's, migration was framed as a concern and a threat in policies and legal documents' discourse. Governmental documents such as The Foreign Policy Themes and Priorities (1991), The White Paper on Defense (1994) and Canada in the World (1995) articulated migration into a domestic and local security concern to Canadians (Bourbeau 2006, 13).

At that point, welfare fraud was a major concern to the Canadian government. Refugees were placed on the same continuum, recognizing them as "welfare bums" who abused the Canadian welfare system (Pratt 2005, 117). In turn, the Canadian government created new policies to tackle welfare fraud; "[i]n a sense, criminality was the common denominator, allowing people to begin a sentence with 'immigration policy' and end with

[13] Although these events caused a stir throughout the Canadian population, Minister of Foreign Affairs, Lloyd Axworthy claimed this incident to be a human security concern. He argued that the arrival of the boats "brought home to Canadians the ugly reality of another human security threat of global proportions- the smuggling and trafficking in human beings" (Bourbeau 2006, 18).

'system abuse' or 'welfare fraud'" (Pratt 2005, 117). The media continued to fuel these beliefs by endorsing refugees as violent or criminals (Pratt 2005, 118).

In 1995, the Just Dessert Bill (bill C-44) was introduced in attempts to get tough on 'criminal immigrants'. The bill took its name from a "Just Desserts" restaurant in Toronto following the murder of a white woman by four black men, the Bill allowed government officials to detain indefinitely and deport if necessary a non-citizen legal migrant charged with a criminal offence that could potentially endanger public safety, regardless if he or she faced torture upon their return (Burman 2006, 284; Pratt 2005, 140-141). This gave the government sweeping powers deemed unnecessary to tackle these issues; "[t]his kind of administration of punishment through removal, however, sidesteps questions of socialization and criminalizes racialized noncitizen bodies" (Burman 2006, 284).

Moreover, Bill C-84 was created allowing immigration officers to turn away ships suspected of carrying refugees coming from international ports. It also granted these officers the powers to search, seize, and detain if deemed necessary (Lacroix 2004, 150). These Bills raised a number of troubling questions with respect to human rights.

Despite these concerns, Prime Minister Kim Campbell in her swearing-in speech, was the only PM to overtly associate migration with security concerns in the 1990's (Bourbeau 2006, 15). In 1999, the government's security concerns focused on creating solutions for domestic issues: crime prevention, restorative justice, and the youth justice system were geared towards tackling local and domestic crime. According to the Speech from the Throne that year, terrorism, money laundering, drugs, guns, and people smuggling were new emerging threats (Governor General of Canada 1999). A CSIS report published in 1999 argued that Canada was likely not to be a key target for terrorist attacks (Aiken

2000, 55). Yet the government placed much of its "terrorist" efforts on non-Western refugees and immigrants, who at the time were perceived as the threat (Aiken 2000, 55). The CSIS report argued that Canada accepted a large number of migrants who were then able to raise money to sponsor causes abroad (CSIS 1999). However, it must be noted that at that time, no information indicated higher refugee and immigration rates of participation in terrorist activities than rates by Canadian citizens participating in terrorist activities (Aiken 2000, 55). Yet in 2000, John Manley, newly appointed Minister of Foreign Affairs, declared in his first speech to the public that "[w]e are facing new and complex security threats: including illegal migration, crime, terrorism, disease, illegal drug trafficking, and computer-based crime" (Bourbeau 2006, 18-19).

The year 2001 marked a crucial point in Canada's security history. Some have argued that the 9/11 events changed the global dynamic, while others claimed that the 9/11 events have allowed the government to move forward on its securitization agenda. In spite of the 9/11 attacks, terrorism was only mentioned once in the Speech from the Throne that year, again, as a new and emerging threat (Governor General of Canada 2001). In this speech, security was associated with strong and safe communities and building "local solutions for local problems". Furthermore, the government felt the need to create safe communities to, in turn, encourage and embrace immigration. On an international level, the government introduced the notion of human security, development, conflict resolution, and peacekeeping missions.

In his address during a special House of Commons debate over the 9/11 issues, Prime Minister Jean Chrétien affirmed a linkage between migration and security concerns. However, he added that his government would not be "stampeded in the hope-vain and

ultimately self-defeating that we can make Canada a fortress against the world" (Bourbeau 2006, 15)[14]

Notwithstanding the omission of the terrorism attack in the speech made that year, the most important piece of legislation in regards to security was created by the Liberal government that year: the Anti-Terrorism Act[15] (Stoffman 2002, 21). The creation of this Act would directly support the new War on Terror (Brunschot et al. 2005, 646). For the first time in Canada, the Act would attempt to define terrorism (Daniels 2001, 4).[16] In addition to this Act, the government announced an eight billion dollar budget for anti-terrorism projects and security efforts (Privy Council 2004, 4).

Besides the Anti-Terrorism legislation, Canada and the United States signed a joint border and immigration accord in December 2001 (Adelman 2002, 26). The accord, named the *Joint Statement of Cooperation on Border Security and Regional Migration Issues*, created a 30-point action plan such as common biometric identifiers, increased security screening of refugees and asylum seekers, and a compatible immigration database (Crepeau & Nakache 2006, 19)[17]. The agreement would eventually lead to the Safe Third Country Agreement which came into effect in December 2004 (Adelman 2002, 27; Crepeau & Nakache 2006, 17).

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[14] It is interesting to note that CSIS and the Canadian government seem to have opposing views at this time in relations to immigration and refugees. CSIS associates refugees and immigrants with potential terrorism while the PM's speeches demonstrate the need to continue to encourage immigration of migrants and refugees (CSIS 1999; Bourbeau 2006, 15). Various actors from within the securitization process may have different perception of security.

[16] Canada had experienced terrorism acts on two previous occasions; the FLQ crisis and the Air India bombing, yet it was only in 2001 after the terrorism attack on the USA that Canada decided to define and label these acts.

[17] Some have argued that this 30 point plan action, was in fact, targeting refugees rather than protection the borders from intruders (Crepeau & Nakache 2006, 19)

Security discourse drastically changed in 2002. The parliament Speech from the Throne that year addressed security concerns at the beginning of its speech, demonstrating the rank of importance.[18] The government opened its 37th parliamentary session alleging that things have changed and that "we live in uncertain times". That year marked the first reference to the 9/11 events. Safety and security appeared to be the central focus and concern, emphasizing that Canada needed to tackle this new emerging threat. The Canada–U.S. Smart Border Declaration was perceived as a tool towards safeguarding national security and the safety of Canadian citizens. Despite these "new emerging threats", the government maintained that Canada had to uphold its efforts in promoting immigration to replace the aging population (Governor General of Canada 2002).

In 2002 the Immigration and Refugee Protection Act was introduced. Originally the Act, formerly known as Bill C-31, was designed to tackle the threat of crime and fraud in the shape of organized crime, which at that point in time was seen as a threat to national security (Pratt 2005, 3). However, the 9/11 attacks induced government officials to modify the Act to emphasize the Canadian government's new efforts towards tackling the "new terrorism threat", renaming the Act as Bill C-11 (Pratt 2005, 3).

That same year, the Smart Border Accord was implemented. This was designed to maintain trade across the border with the United States (Brunschot et al. 2005, 652). A economic slow-down following 9/11 pushed the Canadian government to react and ensure that trade would continue to flow.

[18] I mentioned in the first chapter that the organization and structure of text reveals hidden messages. In this case, addressing security issues at the beginning of a text demonstrates the government's list of priorities.

In 2003, a Global Case Management System was proposed by Immigration Minister Denis Coderre; this system allowed CIC to better manage its client database system. Its main goals were to tighten control, improve decision making, and ameliorate the selection process to better manage complex cases and risk management (CIC 2003).

In December 2003, the Canadian government announced changes to the parliamentary committees, key agencies and departments that would better reflect a national security mandate (Office of the Auditor General 2005, 4). It introduced the Public Safety and Emergency Preparedness agency[19]; the purpose of PSEPC is to coordinate national security efforts between key agencies concerned with National Security such as CSIS, RCMP, and CBSA (Crepeau & Nakache 2006, 18). Its main goal is to secure "an open society" (Walters 2004, 240). The Government stated that "[t]he Minister of Public Safety and Emergency Preparedness will have clear responsibility for the integration of watch list information across the Government" (Privy Council 2004, xi).

In addition to this, the Canada Border Services Agency was introduced as part of the new Public Safety and Emergency Preparedness case (Pratt 2005, 89). The agency is responsible for border safety and control. CBSA mainly conducts intelligence screening of foreigners such as visitors, refugees, and immigrants. The Agency is also responsible for deporting individuals deemed a threat (Crepeau & Nakache 2006, 18); "[...] the CBSA is said to be an 'integral component in enhancing Canada's national security'" (Bourbeau 2006, 13).

[19] PSEPC is equivalent to American Department of Homeland Security (DHS) (Crepeau & Nakache 2006, 18)

Moreover, the Canadian Intelligence Service created the Integrated National Security Assessment Centre (INSAC) in an attempt to detect threats at an early stage and create a liaison between several governmental agencies. The Privy Council in their 2004 annual report had emphasized the importance of sharing information not only in government departments and law enforcements agencies but with other governments as well (Privy Council 2004, xi).

Amongst many other changes, the following are some of the most important Acts to be amended after the events of 9/11. Amendments were made to the Criminal Code to reflect international conventions related to terrorism; these amendments provide tools to combat terrorism (Adelman 2002, 17). The Official Secrets Act was converted to the Security of Information Act to address the threat of espionage by foreign civilians and terrorism groups (Adelman 2002, 17); "[i]t also created new offences to counter intelligence-gathering activities by foreign powers and terrorist groups, including the unauthorized communication of special operational information" (Adelman 2002, 17). Amendments were made to the Canadian Evidence Act, granting the Attorney General the power to assume the carriage of prosecution as well as prohibit the disclosure of information that may cause a threat to national or international security (Adelman 2002, 18). The Proceeds of Crime (Money Laundering and Terrorist Financing Act) was created out of an old Act, providing tools to detect and deter money laundering for the purpose of financing terrorist activities on Canadian land or overseas (Adelman 2002, 18).

Law enforcement agencies were given extraordinary powers to arrest and detain those suspected of engaging in terrorist activities (Adelman 2002, 18). The government has

also co-located federal, provincial, and municipal operational emergency centres (Privy Council 2004, 1). However, some authors argue "[t]he expansion of law enforcement powers to arrest, detain, force those arrested to talk, and other initiatives all challenge the core tenets of civil liberties and the restrictions to police powers at the centre of our conception of democracy" (Adelman 2002, 18-19).

In 2004, the Canadian government attempted to create an action plan for democratic reform (Committee of Parliamentarians 2004, 6). In essence, it attempted to have parliament represent the majority, a "place where Canadians can see and hear their views debated and their interests heard - in short, a place where Canadians can have an influence on the policies that affect their lives" (Committee of Parliamentarians 2004, 6). The National Security Committee of Parliament was created out of this initiative (Committee of Parliamentarians 2004, 6). Given the circumstances and the atmosphere that year, this body of individuals would attempt to advise parliament on security concerns, as the parliamentary Speech from the Throne that year highlighted the new global reality: new emerging health threats and non-state terrorism. The Committee of Parliamentarians asserted that: "[t]here is no role more fundamental for government than the protection of its citizens" (Governor General of Canada 2004; Committee of Parliamentarians 2004, 6)[20].

In April of 2004, Canada's first National Security Policy named *Securing an Open Society: Canada's National Security Policy* was released. This document attempted to undertake what Paul Martin had declared to be an "increasingly complex and dangerous threat environment" (Bell 2006, 148). The Policy confirmed Canada to be a participant in the War on Terror and underlined the conduct of Canada in playing such role (Bell 2006,

[20] It seems clear in 2004 that the government is responding to the "global reality" and "events". More importantly, the contingency of events are framed by the actors

148). The first chapter underlines the paradigm shift in concern from crime to the new worrisome threat of terrorism; "[w]hile most criminal offences, for example, may threaten personal security, they do not generally have the same capacity to undermine the security of the state or society as do activities such as terrorism or some forms of organized crime" (Privy Council 2004, 3).

Following the election in 2004, the 38th Parliamentary session was introduced. Again, the government reiterated the need to deal with the new security threats. Security at this point is associated with an enhanced military based on strategic and focused principles. In addition to this, national security appeared to be focused on building a strong relationship with the United States: a relationship built on shared morals and mutual respect (Governor General of Canada, 2004).

Consequently, on December 29th, 2004, The Safe Third Country Agreement between the United States and Canada came into effect (Showler 2006, 230). The agreement was part of the 30-point action plan that had been implemented through the Smart Border Declaration in 2001. Essentially, it allows both countries to return asylum seekers to the country where they first landed. Thus, Canada is permitted to return refugees who had initially landed in the United States. This agreement was put in place in an attempt to reduce the estimated 15, 000 asylum seekers arriving from U.S territories on a yearly basis (Crepeau & Nakache 2006, 17).

The 39th Parliamentary session was introduced in February 2006. According to the Speech from the Throne, the new minority Conservative government set out to create change; it stated that its focus and efforts would be on re-establishing trust between the government and its citizens. Tackling crime re-surfaced in 2006; issues such as crime

prevention, punishment, guns, gang, and drugs were set out as a priority. With regards to terrorism, it emphasized Canada's continued contribution and efforts to the War on Terrorism but does not suggest any new policy or legislation changes (Governor General of Canada, 2006). [21]

In summary, prior to 2001, threats to national security focused mainly on domestic and local crime. Gradually through the 1980's and 1990's, the government enforced and increased preventative programs and harsher penalties for those engaging in crime. As time progressed, the national security threat shifted to terrorism and transnational crime; "[t]his may not be apparent in day-to-day life, but, since September 11th, the concept of emergency, and the notion that an exceptional state of affair exists, have been a major influence on our political world" (Coutu & Girou 2006, 313). The securitization process is highly visible in newly drafted policies and legislation[22]. To review, securitization theory argues that the threat is conceived by a 'speech-act' or discourse relating to security. Through 'speech-acts', the process of talking and writing about security and insecurity, threats are labeled and, in turn, materialized into the process of securitization (Huysmans 2006, 25). Once the threat is labeled through official documents and speeches, the audience then internalizes and accepts it as such. As a consequence, the threat is translated into risk that calls for a security agenda permitting the implementation of extraordinary measures. Thus, in this case, the media and government disseminate the threat through various channels, alarming the general public, which in turn demands protection. Through political

[21] It appears that in 2006, the Canadian government is returning to goals and mandates previously suggested. Local and domestic crimes were a concern in 1999's Parliamentary Speech from the Throne. The 'new emerging threat' has reached stagnation; while efforts in place will continue, the government has not suggested new tactics.

[22] The policies introduced here are only a few of many changes that occurred since 9/11. Unfortunately, a more detailed exposition exceeds the scope of this thesis. Please refer to the National Security Policy and its revision one year later for more complete account of changes that occurred since 9/11.

discourse one can conclude that Canada is placing much effort towards securitizing its nation. According to the Copenhagen school; "[i]f actors do not successfully neutralize these threats, they lose their political character, that is their capacity to rule [...]. Consequently, security problems have priority over other questions and will enter the political sphere as extremely urgent issues" (Huysmans 1998, 491). As demonstrated, the government has clearly identified the threat of terrorism and is taking extraordinary means to tackle it.

B) The New Normal

Language tells a story; deconstructing the meaning of language can reveal the structure of society (Blommaert & Bulcaen 2000, 459). Language and social structure work in a dialectical relation; discourse uttered through official documents helps shape the social reality, while the social structure promotes discourse (Blommaert & Bulcaen 2000, 452). The 9/11 attacks for example, were actual events that helped shape discourse. In return discourse produced by 9/11 has shaped social reality: the new normal. More importantly, discourse uses what Dryzek refers to as 'soft power': "[t]he ability to induce others to share one's values and goals, to attract them to one's viewpoint, and to persuade them to engage in supportive actions" (Dryzek 2006, 110). Thus, the use of soft power can reinforce a government's hegemony, allowing it to gain more power over implementing its agenda: in this case a security agenda. As a consequence, soft power is used through discourse to shape people's identities and perception, which in turn shapes a society's social structure (Fairclough 2003, 8). The following section will underline key discourse found in legislation and policies that have helped, over the last few years, define the new normal.

I) Conceiving a Threat

There is no doubt that the 9/11 events were horrific in nature. However, both the media and political discourse have created a panic around the issue of terrorism. Politicians and the media work in dialectical relations to promote and strengthen this panic. On the 11th of September every year, citizens are bombarded with clips, segments, and documentaries of the World Trade Center attack; it is inescapable. One is subjected to the reiteration of these events time and time again. As a consequence, these horrific events appear ongoing, which instills fear in citizens.[23] As a consequence, tougher laws and zero tolerance policies are created and widely accepted by citizens. Threats are labeled through political speeches and press releases. President George Bush declared after 9/11 that: "America was targeted for attacks because we're the brightest beacon for freedom and opportunity in the world. And no one will keep that light from shining" (Rothe & Muzzatti 2004, 332). The same can be said for Canadian political discourse; the speeches and legislation reiterate time and time again that Canadians are facing new dangers. Accordingly, since the events of 9/11, Canada faces new and complex threats "undermining the core values of its democratic society" (Privy Council 2004, Foreword). The CSIS 2003-2004 report claims that "[t]he most significant threat to Canada is that posed by terrorism" (CSIS 2003, 1), while the National Security Policy argues that "[t]he world is a dangerous place, even if the relative safety of life in Canada sometimes obscures just how dangerous it is" (Privy Council 2004, vii). This is not to say that Canada has never faced threats; the National Security Policy argues the Influenza scare in the early twentieth century and the Soviet threats some time ago required the Canadian government take action

[23] A media analysis would prove to be beneficial to my argument, but it is not my intent to prove the media's intervention on this subject matter.

against these threats (Privy Council 2004, Foreword). However, terrorism is a new kind of threat and danger to Canadians. Such discourse argues Jef Huysmans, Lecturer at the Open University in securitization and migration, tends to drive forward policy questions and justifies new policies concerning security issues (2006, 24).

Through discourse used in legal governmental documents, the threat is described as a known fact to all Canadians: "[...] as all Canadians know, we live in an increasingly interconnected, complex and often dangerous world" (Privy Council 2004, vii). Statements such as these create a normalizing effect that produce a new and accepted normal. This process is known as "discourse-as-a-social practice". The representation of the threat in this type of dialogue has the deliberate intention of creating a new normal. Such discourse attempts to control the public's perception of the threat. Reflecting on that statement, are all Canadians aware or accepting of such a fact? Are we really living in a more dangerous world, more so than that of the cold war era? More importantly, is terrorism the greatest danger to Canadians? Chances are that one is more likely to die from a heart attack or a car accident than in a terrorist attack. Thus, the threat is blown out of proportion. However, one can argue that terrorism is a more controllable threat in comparison to a heart disease or a road accident. Citizens are more likely to elect a candidate who promises to protect them from palpable and controllable risks than the candidate who promises to protect them from what appears to be uncontrollable and impalpable risks. In turn, the candidate who promises to protect against threats also gives way to a more vigilant society, allowing the government to implement its legislation and policies accordingly.

Although a common message is sent through various discourse channels, there can be inconsistencies in the way the threat is presented in documents. CSIS, for example,

labels and defines the threat of terrorism inconsistently. In 2003, CSIS alleged that: "although the last few years of the previous century saw a reduction in the number of terrorist incidents, the beginning of the new millennium witnessed an increase in deadly and indiscriminate terrorist attacks" (CSIS 2003, 3). On the other hand, the 2004-2005 CSIS report states that: "[i]n the early 1990s, transnational terrorism began to emerge as the most serious security threat" (CSIS 2005a, 1). Yet, in 2003, CSIS published that 2003 was marked "by a level of instability not seen in years" (CSIS 2003, i). What in 2003 caused such high levels of instability for Canadians? Fairclough argues that sometimes discourse can actually bear "[...] elements which have varying and sometimes contradictory stylistic and semantic values" (Flairclough 1992, 195). He argues these elements are often found in periods marked by rapid social change. The 9/11 events created a new world order, with increased vigilance and security. This would then explain the inconsistencies CSIS appears to be expressing in its annual reports.

However, for social change to occur, successful speeches and writings must be constructed by governmental officials as well as accepted and internalized by the general public. Social change was initiated through the 9/11 attacks. The actual threat and risk posed by the 9/11 events were, in fact, internalized and constructed through governmental speech-acts and legislation that surrounded the events. Many speech-acts at the turn of the twenty-first century reiterated the threat and the need for security (Huysmans 2006, 24): "A threat is only a threat because of a threat being invoked by saying 'I threaten...' or I am threatened..."" (Huysmans 2006, 24).

It is made apparent through governmental discourse published since 9/11 that Canadians are at potential risk of a threat, placing its nation in a "period of emergency".

However the concept of crisis or emergency implies a short period of time; it makes reference to a temporary, unstable situation that implies an immediate response (Nyers 2006, 8). Extraordinary measures, such as the Anti-Terrorism Act, should only be given to the state during times of emergency. Yet the new global terror, counterpoised by the War on Terror, has introduced laws and legislation on a permanent basis; the state of emergency therefore becomes infinite (Gross 2001, 46). With the enactment of these legal documents, the government has created a permanent emergency era. On the other hand, terrorism is not a phenomenon unique to the twenty-first century. President Ronald Reagan in the 1980's and 1990's had declared terrorism to be a major international problem; "[i]n April of 1986, a national survey showed that terrorism was 'the number one concern' for Americans" (Zulaika 2003, 191). If terrorism is not a new phenomenon, how has it created a new normal in the twenty-first century?

These allegedly increased terrorist threats have called for an immediate response. According to the Canadian government: "Canadians have proved themselves willing to put in place important measures to address extraordinary threats" (Privy Council 2004, Foreword). As a result, CSIS argues that: "[s]ecurity forces must respond with unrelenting vigilance and creative cooperative responses in order to prevail (CSIS 2003, i). Yet, "creative cooperative responses" is never defined.

Weber, in his definition of the state, argues that the state retains its power, control, and legitimacy through the use of violence; "Weber's classical definition of the state as holding a monopoly on the exercise of legitimate violence rests upon this conception of the state, including the notion that social order is crucial to the state" (Gerth and Mills, 1946: 78). The new War on Terror legitimizes the use of excessive violence practiced by the

state; "We allow for more repressive emergency measures when we believe that we possess the key to peek beyond the veil and ascertain that such powers will not be turned against us" (Gross 2001, 44). In essence, extraordinary powers held by the state do not affect Caucasian Canadian citizens; it affects refugee populations that lack the voice to rebut such accusations.

Nevertheless, it must be noted that while the government claims that it may not be possible to eliminate the threat as there is no such thing as a risk-free society, it does set out to "manage" and "reduce" the threat (Privy Council 2004, 8; Privy Council 2005, 1). The National Security Policy states that "[t]here is no such thing as a risk-free society. Canadians, like others around the world, face an increasingly complex, volatile and ever-changing threat environment" (Privy Council 2004, 8). Referring back to the concept of risk society set out by Beck, he argues that in modern times "[...] thinking in terms of risk has become central to the way in which human agents and modern institutions organize the social world" (Elliott 2002, 299). Politics has developed into risk management above all else (Elliott 2002, 299). Governmental discourse reiterates time and time again that "terrorist attacks often top the list of potential security threats, [...]" (Privy Council 2005, 1). Thus, it is no surprise that contemporary society is consumed with this notion of risk, which allows the securitization agenda to materialize itself.

II) Creating an enemy

For a threat to exist, a group must be labeled as a threat: a scapegoat must be constructed. In this context, governmental documents help frame this threat. According to CSIS, Global instability and tension is related to *modern* terrorist activities (CSIS 2005a, i).

In addition to this, CSIS claims that the threat is "increasingly international and transnational" (CSIS 2003, i). However, CSIS never really defines "modern terrorism". Moreover, the 2003-2004 report states that most of their counterterrorism concerns are directed towards Sunni Islamic extremists (CSIS 2003, 3). CSIS claimed that Morocco, Turkey, Saudi Arabia, and Indonesia have all experienced terrorist attacks caused by Sunni Islamic extremist groups (CSIS 2003, 1). Furthermore, CSIS states that domestic terrorism is a lesser terrorism concern (CSIS 2003, ii). More importantly Micheal Humphrey, Professor at New South Wales University, argues that since 9/11, Western countries have criminalized refugees coming from Afghanistan, Iran and Iraq. These states are labeled "'terrorists' states or states collaborating with terrorists" (Humphrey 2003, 32). Paradoxically, these countries are also those which are currently producing the most refugees (Humphrey 2003, 32). Yet the National Security Policy states that "[w]e reject the stigmatization of any community and we do not accept the notion that our diversity or our openness to newcomers must be limited to ensure our security" (Privy Council 2004, 2). Following the 9/11 attacks, visible minorities such as Arabs, and Sikhs were victims of discriminatory practices or unfair treatment. Increased surveillance was especially felt amongst the Muslim communities. A public opinion poll conducted two weeks after 9/11 reported that half of the Canadian public supported increased security and control of Arab communities. The same poll conducted two months later proved a drop of 36 percent in public support (Kruger et al. 2004, 85), while a second poll showed that 82 percent of the public feared the Arab community would become political targets of racism and discriminatory practices (Kruger et al. 2004, 85). Discrimination of this kind has become the reality of many ethnic groups in a post-9/11 era. CSIS alleged in their 2003 annual

report that religion often justifies terrorist attacks (CSIS 2003, 5); statements like these directly link a broad social practice such as religion with terrorism activities. Governmental agencies such as CSIS, as well as the general public, have gotten into a habit of over-generalizing entire religious movements or ethnic groups as potential security threats. These practices directly affect refugees most likely from different religious or ethnic backgrounds.

Samuel Huntington's essay, 'The Clash of Civilization?', can offer some explanation. Although contested in recent years, Huntington argues that world politics has entered a new phase since the cold war era, that wars will now be based on religious and cultural beliefs rather than ideologies and economics. Conflicts will take place between different civilization groups, region, ethnic, national, and religious (Huntington 1993, 23). Huntington claims that "[a]s people define their identity in ethnic and religious terms, they are likely to see an "us" versus "them" relation existing between themselves and people of different ethnicity or religion" (Huntington 1993, 29). According to Huntington, world politics favours Western countries while non-Western countries are struggling against the "universal civilization" (Huntington 1993, 40); "[t]his will require the West to maintain the economic and military power necessary to protect its interests in relation to these civilizations" (Huntington 1993, 49). Thus, according to Huntington, the differences between various religious groups will create a clash of civilizations, which may lead to conflicts. This can offer some explanation as to why foreigners in Western country can be perceived as a threat, particularly, Muslim immigrants who "are interpreted as representatives of a competing civilization whose values and everyday manners risk undermining Western civilization" (Huysmans 2006, 20). Although Huntington's stance

may shed light on the issue at stake, it also produces a simplistic dichotomy that may in fact pressure Western countries to build barriers against the rest of civilization.

III) The Birth of Counterterrorism

According to CSIS, counterterrorism programs are a progression towards eliminating terrorism (CSIS 2003; CSIS 2005a). By definition, efforts of counterterrorism are a response to terrorism. Therefore if terrorism is defined as "the illegitimate use of force to achieve political objectives by the targeting of innocent people [...] acts that are committed by our enemies against our allies or us personally" (Rothe & Muzzatti 2004, 331), counterterrorism attempts to tackle against illegal use of force (Rothe & Muzzatti 2004, 331). The Anti-terrorism Act has proven to be the most fundamental piece of legislation concerned with the threat of terrorism. Thus, a thorough analysis of the Anti-Terrorism Act is important here.

In addition to ratifying twelve United Nation Conventions and Protocols relating to counterterrorism (Brunschot et al. 2005, 646), Canada introduced its own Anti-terrorism Act in 2001. The Anti-terrorism Act facilitates the task of surveying, arresting and prosecuting terrorists (Kruger et al. 2004, 77). It also provides law enforcement agencies with greater powers and tools to fight terrorism (Coutu & Giroux 2006, 314). The Anti-Terrorism Act:

> creates measures to identify, prosecute, convict and punish terrorist groups; provides new investigative tools to law enforcement and national security agencies; and ensures that Canadian values of respect and fairness are preserved and the root causes of hatred are addressed through stronger laws against hate crimes and propaganda (DJC 2006).

Essentially, when the terrorism alarm is sounded, these agencies have a different set of rules and policies to follow. Unlike the Criminal Code, the Anti-Terrorism Act acts upon probability instead of "beyond a reasonable doubt" (Crepeau & Nakache 2006, 22). The Act grants permission to use extraordinary measures without having to divulge information as to why such measures are being taken. However, these extraordinary measures could lead to an abuse of power as counterterrorism actions are justified under national security (CCR 2005, 1).

The Act provides grounds to classify the following as terrorism groups: those who knowingly carry out, attempt to carry out, participated in, or facilitated a terrorist activity (PSEPC 2006); "[i]t is an offence to knowingly participate in or contribute to, directly or indirectly, any activity of a terrorist group.[24] This participation is only an offence if its purpose is to enhance the ability of any terrorist group to facilitate or carry out a terrorist activity" (PSEPC 2006). For a group of people to be considered a terrorist group, information is gathered by intelligence services. The information is then disclosed to the Ministry of Security & Emergency Preparedness for consideration. The Ministry then recommends the Governor in Council to place the entity on the list. If the Governor in Council is satisfied with the information, the group is placed onto the terrorist list (PSEPC 2006). There are currently thirty-nine groups on this list. Examining the composition of this list, twenty-seven groups are of Islamic or Muslim religious background, many being Sunni extremist groups.

According to the National Security Policy, the Anti-terrorism Act is consistent with the Canadian Charter of Rights and Freedoms (Privy Council 2004, Foreword). However,

[24] Although associating with a terrorist group is not a threat under the Anti-Terrorism Act, it is a reason for inadmissibility under IRPA (Crepeau & Nakache 2006, 22).

many authors and academics consider the Anti-terrorism Act to be draconian (Coutu & Girou 2006 313). Methods taken by the Canadian government such as incommunicado confinement, preventive detention without charges, and deportation of people facing death penalty overseas are problematic (Coutu & Girou 2006, 313)[25].

IV) Canada's Vulnerability

The National Security Policy claims that the scope of issues that must be dealt with goes beyond the capacity of individuals, communities, or provinces to address alone (Privy Council 2004, Foreword). Although the Canadian government refers to their practices and actions as a national security concern, they are participating in a much broader type of security: that of transnational security. CSIS argues that "[a] growing number of countries are experiencing attacks by terrorist groups affiliated with Al Qaeda. Because this form of terrorism ignores borders, it is characterized as transnational terrorism" (CSIS 2005a, 4). In its 2004-2005 annual report, CSIS makes a direct link to other worldwide attacks and its potential threat to Canada. It is no longer about past events that have taken place within a country's own territory but rather about world events that threaten a country's security. The government reminds Canadian citizens that the 2004 train bombing in Madrid, the 2002 Bali bombing, and the 9/11 attacks represent the vulnerability of Canada's democratic state (Privy Council 2004, vii). In addition, both CSIS and the National Security Policy assert that Osama Bin Laden has listed Canada on its list of targets. Thus, the Canadian government argues that national security overlaps with personal and international security (Privy Council 2004, 3). It claims that assistance from both local and international

[25] At the time of writing, this Act has been voted against in parliament. The Canadian government has one year to review the legislation and make changes for it to be constitutional with the Canadian Charter.

authorities may be required to uphold the best services to the Canadian public. It recognizes terrorism as a global threat, and therefore must try to tackle the problem accordingly (Privy Council 2004, Foreword; CSIS 2005A, 1).

Moreover, CSIS claims that Canada's involvement in Afghanistan has increased our risk of terrorism threats. Amongst many other threats listed, Canadians fighting with the insurgency in Iraq, veterans training in terrorism camps around the world, and plots against Canadian targets, have placed Canada in a vulnerable position (CSIS report 2005, 2). Thus, for Canada to protect itself from the threat, it must create alliances with other countries. More importantly, it must renew its friendship with its neighboring country, the world's current super power: the United States.

V) Canada-U.S Relationship

"Canada shares a border with only one country, and it happens to be the most powerful in the world" (Stoffman 2002, 49). The attacks of September 11th, 2001 have proven to be important events in history for Canada and its relationship with the United States. Although Americans were concerned with Canadian borders prior to the 9/11 events, the terrorism attacks would amplify anxiety towards Canada's lax border security (Adelman 2004, 111). Immediately following 9/11, enhanced security on the U.S. side of the border produced a significant decrease in border crossings, causing an impact on the Canadian economy (Kruger et al. 2004, 81). Trade between the United States and Canada was significantly affected, forcing Canada to rethink its immigration and security policies (Kruger et al. 2004, 81). Immigration Minister Caplan, in a Media report, claimed that "[t]he events of September 11, 2001 have cast a new importance on our relationship with the United States, particularly with respect to border security and the legitimate flow of

people across our shared border" (CIC 2001c). It was therefore in Canada's best interest to comply with the United States' new policies and legislation.

The American goal in 2001 was to harmonize many of the Canadian and American immigration and security systems. Although Canada rejected most of the harmonizing projects, the Safe Third Country Agreement was established in 2002. In addition to this, both countries worked together to implement intelligence and law-enforcement coordination, visa screening abroad, pre-clearance of flights abroad, and the sharing of passenger information before arriving at airports (Adelman 2004, 118).

According to the National Post and the Fraser Institute, Americans perceive the Canadian borders as a safe gateway for terrorism (Kruger et al. 2004, 81). Peter King, Republican chairman of the House of Representative's homeland security committee, claims that the border must be heavily secured as Canada hosts a large number of Al-Qaeda representatives (National Post June 5, 2006, A3)[26]. He claims that asylum seekers are easily granted status in Canada (National Post June 5, 2006, A3). Senator Levin, a Democrat from Michigan, claims that border controls are a large concern as certain cargos such as dump trucks are going through borders without proper inspection (National Post June 5 2006, A3). The Conservative minority government, elected in February 2006, increased its control of security, satisfying to a certain extent the American standards (National Post June 5 2006, A3). However, the National Post claims that Canada and the U.S are facing a "sensitive time in Canada-U.S border relationship" (June 5 2006, A3).

[26] Alberts, Sheldon. Washington, Canada 'On the Job,' Rice Declares. *National Post,* June 5, 2006: A3.

Canada is replicating the U.S. policies on counterterrorism strategies in an attempt to maintain its friendship and alliance with the world's most powerful leader (Kruger et al. 2004, 72). After all, 87 percent of Canadian trade is with the United States (Adelman 2004, 128). It would be detrimental to Canada's economy if the shared border between the United States and Canada was shut down for security reasons.

After the arrest of seventeen men in Ontario presumed to be engaged in terrorist activities in June 2006, Secretary of State Condoleeza Rice expressed her satisfaction with regard to Canada's counterterrorism strategies (National Post June 5th 2005, A3). Yet Anna Pratt argues that initiatives in the wake of 9/11 like these "are less about national security and public safety and more about reassuring the United States that Canada is taking a tough stance in the wake of September 11th" (Pratt 2005, 51).

For the state to survive these new global risks, it must denationalize and transnationalize (Beck 2003, 264). Beck argues that "[t]he dismantling of national autonomy and the growth of national sovereignty in no way logically excludes each other, but rather can even reciprocally strengthen and accelerate one another" (Beck 2003, 264). Canada, for example, can only maintain its strength if it creates an alliance with the United States. This point will be further analyzed in the following section.[27]

C) National Security and Reforms to the Refugee System

The acceptance of immigrants to one's nation is a complex subject; the issue can be boiled down to two main arguments: those in favour of immigrants and those against. "Some UNHCR documents explicitly describe a polarization between refugee protection

[27] Beck argues that this new global threat and global risk society may in fact empower states. It creates a cooperation amongst states that has never been seen in history (Beck 2003, 265). Henceforth, combined work provides greater power and strength.

and immigration control" (Taran 2000, 30). On the one hand, in recent years, Canada has been criticized for its lax policy concerns towards immigrants, and more importantly refugee legislation. Stewart Bell, Diane Francis and the Fraser Institute, among others, have criticized the Canadian government for its lack of concern for the safety and protection of Canadian citizens. Many advocates have argued that the immigration and refugee system must be tightened to prevent terrorism from infiltrating into Canadian land. On the other hand, some authors have suggested that government documents and public debates have accentuated population control and security rather than endorsing a humanitarian approach. These authors have suggested that the 2002 Immigration and Refugee Protection Act places more emphasis on deterring and punishing illicit migrants, criminals and abusers than protecting immigrants and refugees (Lacroix 2004, 152). Refugees in these documents are being labeled as dangerous and as potential threats to Canada's sovereignty. Thus, they argue that these immigrants, who could be viewed as indispensable to Canada's prosperity, can also be perceived as threats that could undermine or jeopardize national security (Kruger et al. 2004, 78). Nonetheless, human rights advocates argue that this control-focused agenda and pre-emptive approach have undermined fundamental human rights (Taran 2000, 31).

The 1951 United Nations Convention recognizes that refugees' rights and protection must be safeguarded by international law (Humphey 2003, 32). However, for many Western states, "boat people" are a threat to national sovereignty (Humphey 2003, 33). As demonstrated in Section A, refugees, once seen as victims seeking shelter from persecution, are now viewed as terrorists (Aiken 2000, 55); "[t]he emergence of the *securitization* discourse as the dominant type is motivated by the need for national

governments to control influxes, placate media pressures and comfort public opinion against the fear of being 'swamped' by foreigners" (Buonfino 2004, 24). Inevitably, securitization leads to a negative representation of non-citizens. Not only are foreigners denied rights and protection but they are perceived as threats. In the immediate aftermath of 9/11, the Canadian Council for Refugees stated the following; "[t]alk is already beginning on what changes in the immigration system might be needed to protect ourselves against terrorist attack. Much of this talk focuses on the refugee claim system" (CCR 2001b).

Through discourse, immigrants and particularly refugees are being recognized as potential threats to Canada. Words such as "problem", "crisis", "border control" and "national security" are associated with refugees (Nyers 2006, 4). According to Daniel Stoffman, author and critic of the Canadian immigration system, Canadians acknowledge that "[i]mmigration is now recognized [...] as a national security issue" (2002, 182). The National Security Policy asserts that failed or failing states are "[...] one of the most recent and disturbing of recent security developments" (Privy Council 2004, 7). These failed states are perceived as the root and spread of insecurity that provides a haven for terrorist and organized crime;[28] "[f]ailed and failing states can provide a haven for terrorists, which can pose risks to the security of Canadians" (Privy Council 2004, 6). As a result, the National Security Policy states that "[n]o one better appreciates the need to protect our society than those who chose this country as a place to build a better life or who fled the consequences of instability and intolerance in other parts of the world" (Pricy Council 2004, 2).

[28] The discourse used by the government in this particular case resembles the language used during the red scare. These actions amounted to the fear of spread of communism, prohibiting democracy from expanding.

Through speeches and discourse used in policies, legislation, and official documents, refugees have become the targeted population in recent years. Subsequent to the 9/11 events, Prime Minister Jean Chrétien however stated the following: "while there is a need to work together with the U.S on immigration and refugee matters, this government is going to resist the temptation of hastily reforming the system to the detriment of the country's liberal traditions and its welcome to immigrants and refugees" (Wilkinson 2001, 11). Nevertheless, amendments and new legislation after 9/11 would prove the contrary.

In October 2001, the Canadian government announced forty-nine million dollars would be devoted to Citizenship and Immigration Canada for its new Anti-Terrorism plan. The five point security strategy included the following: two million dollars were allocated to fast-track the preparation of new permanent resident cards for incoming immigrants in June 2002; seventeen million were allocated to front-end security screening of asylum and refugee claimants and increased staff at point of entry to improve security; an extra 5.6 million were placed towards increased detention and deportation capacities (CIC 2001a); an additional nine million dollars went towards enforcement activities such as screening and detaining refugee claimants currently in the country. Immigration Minister Kaplan added that the IRPA forthcoming in 2002: "would further contribute to the security of Canada's borders" (CIC 2001a).

The new Immigration and Refugee Protection Act (IRPA) was introduced in the summer of 2002. The Act offered new tools to remove those who were deemed a security threat. In addition, it imposed harsher penalties for those involved in immigrant smuggling (Kruger et al. 2004, 77). The legislation introduced four reforms to the refugee selection

process. First, it formalized the Pre-Removal Risk Assessment. Second, it downgraded the two-member IRB panel to a one-member IRB panel. Third, it attempted to establish a Refugee Appeal Division.[29] Lastly, it "consolidated decision making on protection grounds extending beyond the 1951 Geneva Convention" (CIC 2005a). Denis Codere, Minister of Immigration at the time of the enactment, claimed that the new Act would provide a balanced approach to issues relating to immigration and refugee states (CIC 2002c).

The Act appears to emphasize the protection of Canada's borders, nationality and sovereignty rather than that of refugees and immigrants. In a time of heightened security this is not surprising, yet the title is somewhat deceptive: Immigration and Refugee Protection Act. This misleads many into thinking the Act is designed to protect immigrants, when in reality the Act protects the Canadian public from the potentially threatening immigrant (Pratt 2005, 5). Pratt argues that "[t]he needs of refugees for protection and for a place to live are very much in second place" (Pratt 2005, 5). Immigration Minister Elinor Caplan reiterates the same premise by emphasizing that the goals of the new Act are to provide severe penalties for those trying to defraud front-end security, clearer grounds for detention, fewer appeals and opportunity for judicial review for delay or removal of serious criminals. Yet she maintains that the Act is committed to improve the safeguards for people in need of protection (CIC 2001b). Minister Caplan argues that a faster but fairer immigration and refugee process allows a more efficient system (CIC 2001b). Caplan claimed that "[b]y saying 'No' more quickly to people who would abuse our rules, we are able to say 'Yes' more often to the immigrants and refugees Canada will need to grow and prosper in the years ahead," (CIC 2001b).

[29] The Refugee Appeal Division never came into force; this will be further examined in Chapter 4 section B.

Yet Janice Charette on behalf of Immigration Minister Joe Volpe in 2005 declared at a commemorative ceremony during the World Refugee Day that: "[w]e all have a moral obligation and the responsibility to lend a helping hand to people who must flee persecution or internal conflict. We must welcome them to our great country with open arms" (CIC 2005c). Moreover, that same year Immigration Minister Joe Volpe claimed that Canada's immigration system was a new modern and balanced system that acted as a model for the world (CIC 2005a; CIC 2005b). According to the IRB, the Act focuses on "[...] immigration and refugee protection matters in Canada, including detention and detention reviews" (IRB 2006b, 1), while the National Security Policy believes it, "provides more tools to address security threats" (Privy Council 2004, 42). In essence, a struggle between the human security of refugees and asylum seekers and Canadian national security has developed in the last decade (Huysmans 2006, 3)

The National Security review policy in 2005 declares that reform of the refugee system has proven to be successful and maintains that reform of the refugee determination system will continue to be a priority for years to come. Although no changes were proposed in this document, it highlights that there will be ongoing reviews for future propositions (Privy Council 2005, 44); "[t]he Government will table new measures in the coming months to better provide protection to those genuinely in need and to more efficiently identify and remove those individuals who may be attempting to abuse our refugee and immigration system" (Privy Council 2004, 42).

With relation to the United States, "[t]he buzz word in immigration circles at the end of the year [2001] was 'harmonization of the two countries' immigration and refugee

policies [...]" (Wilkinson 2001, 11). On October 2001, President Bush ordered the harmonization of immigration and refugee policies and security systems at borders (Adelman 2004, 111). Minister Caplan however, refused the harmonizing of systems, but as an alternative encouraged an information sharing arrangement (Adelman 2004, 111). To date, the only harmonizing system is the Safe Third Country Agreement established in 2002. The agreement shifted a large part of the asylum seeker problem to the United States (Adelman 2004, 127). Many critics argue that most asylum seekers land in the United States first and make their way to Canada; it was estimated that between 1995 and 2001, one third of all refugee claimants had first landed through the American borders (Crepeau & Nakache 2006, 17). Furthermore, pro-refugee groups have argued that the U.S is not safe for these people; the refugees system in the U.S is in fact harsher than the Canadian system, creating an unsafe reality for refugees. Many feel that Canada is trying to deflect asylum seekers from coming into its country, allowing a harsher country to decide their fate (Crepeau & Nakache 2006, 17). One could argue that this, if fact, undermines the principle of *non-refoulement* underlined by the UNHCR, as it is believed that refugees are being sent back to an unsafe country. It also denies refugees the option of choosing their country of destination (DeVoretz & Hanson 2003, 2; Lacroix 2006, 151).

Considering the Act has only been in effect since 2005, it is difficult to determine whether the Safe Third Country Accord has had positive or negative repercussions in Canada. Thus far, there have been no attempts to study the effects on refugee population. However, it must be noted that 2005 witnessed the lowest number of refugee claims since the mid 1980's (CCR 2007). Far fewer refugees are able to seek refuge on Canadian land.

Nevertheless, Canada's immigration system remains under scrutiny by the United States. Canada has had to adopt immigration and border policies similar to those of their neighbor to maintain their relationship. However, the harmonization of these two systems "should not lead to a harmonization of immigration and refugee policies based on the lowest common denominator" (Crepeau & Nakache 2006, 21). The United States refugee system is far more repressive than the Canadian system. Although it may be necessary to increase security, it must respect and maintain its obligation towards international conventions and national policies despite the American pressure.

* * *

To review, it was demonstrated above that the shift from a crime prevention model to an anti-terrorism and pre-emptive model has created a "new normal". Such practices have framed a threat and labeled the enemy, which in many documents appears to be the refugee. This leads to the following reflection: perhaps the creation of a social problem is necessary for society's function, just as crime is a functional part of society. An author once said; "[a] world in which the possibility of war is utterly eliminated, a completely pacified globe, would be a world without distinction of friend and enemy, and hence a world without politics" (Muller 2004, 283).

Through the discourse articulated by its governmental agencies, the Canadian government has reiterated time and time again that Canadians are facing a new threat that is causing risks to Canadian citizens. Yet "[t]he chances of any individual being the victim of a terrorist attack are statistically quite small" (Dryzek 2006, 112). It is undeniable that the possible risk of threat is present, but in recent years this threat has been magnified through governmental discourse and practice. The Canadian government has created policies that

have led to questionable practices. It assures its public that its actions, legislation and policies have been created to better tackle the issue at stake; that these official documents are consistent with its domestic and international human rights obligations. The following section will examine in greater details the outcome of these policies and legislation.

Chapter 4: Refugees, the Potential National Security Threat

Most Canadians are proud to be part of a democratic nation rich in humanitarian traditions. According to the Canadian government,

> Canadians have built a remarkable country shaped by a deep attachment to democracy, the rule of law, respect for human rights and pluralism. Our way of life is based on an openness to ideas and innovations, and to people from every part of the world — a commitment to include every individual and every community in the ongoing project that is Canada (Privy Council 2004, 1).

However, to maintain a true democracy, the government must abide by and defend these principles. Yet since the events of 9/11 and the introduction of the War on Terror, the government's discourse has shifted its focus and priorities from its humanitarian responsibilities towards a security and prosperity partnership (Humphrey 2002, 32). The risks and threats have been integrated into Canadian political discourse, allowing for a risk management society to take flight. The securitization process has been permanently ingrained in Canadian security legislation and policies. As a result, after the events of 9/11, the UNHCR feared "[...] that vulnerable people might be penalized in several areas including tougher, unfair regulations on deportation, extradition, exclusion from protection instruments, the withdrawal of refugee status and the possible cancellation of resettlement

programs" (Wilkinson 2001, 10). In essence, security practices implemented throughout the last decade has challenged the rights of non-citizens.

The previous chapter examined the Immigration and Refugee Protection Act and other key legislation introduced after 9/11. It examined the discourse used by governmental officials as well as the discourse used within legislation. In essence, 9/11 justified the need for increased refugee control mechanisms. These official documents and laws have had an impact on the way refugees are dealt with on a daily basis. The following section will analyze in depth the application of various parts of the IRPA and the implications of these laws. This chapter will be divided into four practices: deterrence, determination, detention, and deportation.

A) Deterrence: Preventative Measures at the Point of Entry

Deterrence, within this context, is the process by which officials prevent or discourage foreigners from entering their national borders. Thus, borders become the main focus in this discussion as border security prevents or allows foreigners to enter a country. Border security has been a concern for Canadians for some time now. Prior to the 9/11 attacks, the RCMP had issued a warning stating that

> Canada is . . . quickly becoming one of the most important bases for the globalization of organized crime in recent years, and criminals are increasingly attracted to the weak laws governing their activity and the lower risk of detection than is found in the United States or Europe (Kruger et al. 2004, 82).

Ward Elcock, CSIC director at the time, also alleged in 2000 that "[m]is à part peut-être le cas singulier des États-Unis, il y a plus de groupes terroristes internationaux au Canada que dans n'importe quel autre pays" (Bell 2003, 14). Furthermore, in 1999 two boats holding 599 Fijian Chinese refugees docked on the coast of British Columbia. They were all

detained, shackled, handcuffed, and stripped searched without the right to a fair hearing, the ability to obtain documents from overseas, or to consult with a counsellor (Kruger et al. 2004, 77). According to Peter Nyers, Political Science Professor at McMaster University, these actions taken by the government demonstrated one thing above all else: a xenophobic hysteria around refugees (Nyers 2006, 73).

Agencies and official documents such as the National Security Policy placed a particular focus on securing borders. CBSA defines their mandate as an agency responsible for providing "integrated border services that support national security and public safety priorities" (CBSA 2006a). Particularly in the case of refugees, border security has become increasingly stringent. The National Security Policy states that "[t]he Government [...] provided funds to improve the screening of immigrants, refugee claimants and visitors" (Privy Council 2004, 41). The Immigration and Refugee Protection Act established new grounds for deterrence and reduced the grounds for admissibility (Burman 2006, 283).

Section 34(1) (c) of the IRPA states that a person is inadmissible on security grounds for:

> (*a*) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada; (*b*) engaging in or instigating the subversion by force of any government; (*c*) engaging in terrorism; (*d*) being a danger to the security of Canada; (*e*) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or (*f*) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (*a*), (*b*) or (*c*).(CCR 2003, 3)

Moreover, the IRPA has included strict sanctions for those caught using false documents, those helping migrants or providing false documentation, and those involved in offences related to organized entry (CCR 2001a, 13). Thus according to the Canadian Council for

Refugees, "people whose only motive was compassion for someone fleeing persecution would be punishable and could face extremely serious penalties" (CCR 2001a, 13).

Canada has also augmented its security at the point of entry by introducing front-end security checks. In the wake of 9/11, Canada re-enforced its border security by adding 646 million workers in 2001 (Privy Council 2004, 41). The refugee identification process has also been modified. Claims prior to 9/11 were processed while applying for permanent residency; with increased security, the identity and background checks of refugees are now reviewed upon arrival to the country (CCR 2001a, 3). Claims are first processed by CSIS, the information is then transferred to CIC, which assesses and decides the outcome of the case. If a security issue arises, there is no set time for decisions, thus refugees can wait an indefinite time period for a decision concerning their fate in the country (CCR 2003, 7). Furthermore, officials have created an Immigration Intelligence Branch to screen those who could be involved in terrorist activities, organized crimes, war crimes, or crimes against humanity. The 2004-2005 CSIS report published the following: "[a]s part of the government's Front-End Screening program, it [CSIS] checks all refugee claimants arriving in Canada against CSIS records, thereby identifying potential security cases as soon as possible in the refugee determination process" (CSIS 2005, 12).

Moreover, Canada has forty-five migration intelligence officers in thirty-nine locations across the world. According to the National Security Policy, this allows the government to screen people who may pose a threat to security before they enter the country (Privy Council 2004, 42). As a result, in 2003, 72 percent of those attempting to enter were intercepted before entering Canadian borders (Crepeau & Nakache 2006, 13).

Part of deterrence measures is also about creating a system that provides minimal benefits, in other words, where the cost exceeds the gains. The more obstacles a country places, the less likely a refugee will choose that country as a country of destination. In Canada, the possibility of detention at the point of entry, the lack of appeal systems, and the lack of legal aid act as deterrence mechanisms. I must reiterate that Canada is by no means the worst receiving country in the world, but it should not be perceived as a role model.

I) Problematizing Deterrence Practices

Articles 14 and 15 of the Universal Declaration of Human Rights state that everyone has the right to seek and enjoy asylum from persecution and the right to a nationality or to change his or her nationality. Canada, as a signatory to the UDHR, has an obligation to respect these principles. Nonetheless, many refugees have been treated unjustly because of their perceived risk and threat to national security.

Moreover, the screening of every refugee that enters the country presents a powerful message. It systematically assumes that refugees represent a danger to national security regardless of their country of origin, nationality, gender, or religion[30]. Screening mechanisms also have the intent of reassuring the general public that precautions are taken vis-à-vis the perceived security threat. Yet thus far, not a single refugee has been proven guilty of engaging in terrorist activities. A society that bases its efforts on pre-emptive tactics produces questionable procedures.

There must be a distinction between refugees and terrorists, victims and perpetrators (CCR 2002). Not all refugees entering Canada belong to extremist or

[30] It can in fact be argued that some countries' migrants could represent a larger threat to Canadians than others; however, ethnic profiling is not the intent of this work.

fundamentalist[31] groups that could be recognized or associated with terrorism. The vast majority, in fact, do not. Overgeneralization can be dangerous, particularly to the most vulnerable of society.

Although no one supports terrorism in their country, the issue at stake is far more complex than it appears to be. Section 34(1)(a) of the IRPA states that terrorists are inadmissible at the point of entry. However, a terrorist's identification cannot be established through his or her physical attributes. Thus, the article seems rather vague, lacking a proper definition of what exactly constitutes a terrorist (CCR 2001a, 12). Furthermore, "[a] public opinion poll conducted by the research company EKOS, administered two weeks after the attacks, found that half of the Canadian public supported increased policy and customs scrutiny of individuals of Arabic origin" (Kruger et al. 2004, 85). Nation-states are more concerned with protecting their borders than protecting the individual (Humphey 2002, 36). National security means, above all else, a focus on the nation rather than the people or the individual. National security can therefore not allow the proper protection that human security promotes.

B) Determination: The Validity of a Claim

Since the mid-80's, Western societies have welcomed larger numbers of asylum seekers than in previous years (Rousseau et al. 2002, 44). In 2004, it was estimated that refugees accounted for one of every 3,000 Canadian citizens (UNHCR 2006a). Yet according to Peter Showler, Law Professor at the University of Ottawa, "compared to nations of the developing world, in particular some African and Middle Eastern countries,

[31] Many official documents openly use fundamentalist and extremist as a means of defining terrorism. It is important to note that these terms should not be directly associated to terrorism. An extremist, by definition, has a negative connotation but is not equated to criminality.

our refugee numbers are disproportionately small" (Showler 2006, 222). Some 25, 521 asylum seekers applied in 2004, in comparison to 31,857 in 2003; 33,428 in 2002; and 44,728 in 2001 (UNHCR 2006a). Although Canada has witnessed a slight decrease in asylum seekers in recent years, Canada ranked 10th on UNHCR's donor list in 2004 (UNHCR 2006a). It is important to note here that the determination system has always been a complex system. This section will underline some of he complexities that persist and have intensified in a 9/11 era.

As mentioned in Chapter 2, Canada has two refugee programs: the inland and the resettled refugees selected outside of Canada. According to Pratt, Canada prefers to choose its refugees through the resettlement program (Pratt 2005, 91). Such practices consist of sending Immigration Officers overseas in refugee camps to select the most desirable claimants. In spite of this, my analysis here will mainly examine the inland program.

To briefly overview determination procedures, once an asylum seeker arrives in Canada, he or she must undergo a stringent security clearance process. Security clearance must be done by CSIS, CIC, RCMP, and other information databases. Upon arrival, refugee claimants are photographed, finger printed, and interviewed. Once deemed eligible, he or she is required to fill out a Personal Information Form (PIF), which will be later used to assess and determine his or her case (Showler 2006, 218). The PIF is then sent to the RCMP and to the IRB for further analysis. For those deemed a non-threat and a valid claimant, the "Fast Track" system is used; this allows a claimant's case to be decided in a matter of weeks without a formal hearing. A regular refugee claimant, on the other hand, is called into a meeting by the IRB; this meeting consists of a quasi-judicial hearing where a claimant can be represented by legal counsel and assisted by an interpreter. The board's

decision is based on the claimant's PIF, his or her testimony, and other documents supplied by experts (Showler 2006, xiv). Refer to Annex # 1 for the chart illustrating the refugee determination process.

On average, 25,000 refugees from both the inland and the oversea programs are granted permanent residence a year, representing 12 percent of the immigration population (Showler 2006, 221). Claimants who are refused have fifteen days to appeal the board's decision through applying to the Pre-Removal Risk Assessment program, remaining on humanitarian and compassionate grounds, or asking for an appeal to the Federal Court (CIC 2005b, backgrounder)[32].

I) Problemetizaing Determination Practices

According to Peter Showler, the chair of the Immigration and Refugee Board in 2000, the determination of the validity of a refugee claim "[...] is the single most complex adjudication function in contemporary Western society" (Rousseau et al 2002, 44). To make a well-founded judgment, the decision maker must take into consideration the social, political, cultural environment as well as review the recounted, in most cases horrific, details of the claimant's life. In addition, some refugee claimants may have experienced torture, rape, arbitrary detention, and other types of cruelty that may cause them to suffer from post-traumatic stress. Recounting their stories can be difficult and can affect the communication of their testimony.

Moreover, IRB members are politically appointed to their position. Thus, some members of the IRB are not necessarily knowledgeable or experts on immigration or

[32] Although statistics on removal could prove to be useful to my argument, the government appears to be discrete about its removal rates; these numbers cannot be found at the present time.

refugee issues (Rousseau et al. 2002, 45). In addition, these members generally have no or scarce psychological abilities or understanding of legal and social issues (Rousseau et al. 2002, 66). Furthermore, it is difficult for a board member, having basic knowledge of the claimant's country, to determine if he or she is facing well-founded fears (Showler 2006, 572). Relying on expert documents may not reveal the severity of the circumstances in a particular country at war or in conflict. History has proven to be a written account of someone's perception. Consequently, the board member can only determine a case on good grounds or probability of persecution. The combination of these factors may inhibit or cause challenges in delivering a fair decision.

Showler published a book in 2006 compiling some of his lived experiences at the Immigration and Refugee Board. Although most of his stories are what he refers to as a "mosaic composed of pieces broken from hundreds of refugee claims", his work demonstrates the complexity that board members, refugee claimants, legal counsel and interpreters face in such hearings (Showler 2006, XV). His compilation of short stories demonstrates the intricacies of determining the validity of a claim. Showler argues that "[t]he hearing itself is a crucible in which fact and fiction, communication and miscommunication, fear and courage, passion and indifference, logic and bias, insight and ignorance, intermingle and combine to form a story that may or may not capture the truth of the refugee's experience" (Showler 2006, XV).

According to Showler, there are three major flaws with the current determination system. First, Showler believes that the appointed refugee board members have proven to be incompetent in this field of work. The federal cabinet holds the sole authority to appoint

members of the board. Hence, many politically appointed and re-appointed members are left in charge of a claimant's life (Showler 2006, 225). Nonetheless, Showler argues:

> Obviously, the finest judicial process in the world is neither fair nor effective if the decision maker is incompetent. Over the years the Board's morale and reputation have suffered because of a minority of weak members making bad decisions (Showler, 2006, 225).

This is not to say that all board members are incompetent, but simply that one bad decision can have rippling effects.

Second, Showler argues that the second flaw is the lack of a meaningful appeal system available for refused claimants. Since the introduction of the IRPA, little or no appeal has been offered to refused claimants. A board member deciding a refugee's fate is of equal importance to a doctor performing surgery on his or her patient. Both hold lives in their hands; a bad decision could equate to a certain death. Everyone makes mistakes; it is part of human nature. However, if an honest and truthful claimant is refused he or she may face persecution, death, or torture. Thus, there must be a safety net to prevent innocent people from being deported back to persecution. However, due to the unprecedented number of claimants, that had nearly doubled since the implementation of the Act, Immigration Minister Dennis Codere declared in 2002 that Refugee Appeal Division (RAD) of the Immigration and Refugee Board would be delayed to allow the board to adjust to the increased claimant numbers (CIC 2002b). CIC determined in 2005 that the RAD was not necessary to uphold national and international obligations. In fact, CIC determined that the system, without RAD, met the requirements set by the Canadian Charter of Human Rights. Furthermore, CIC added that the UNHCR continued to view Canada as

> an important country of asylum and resettlement, stating that 'Canadian policy and practice are often seen as setting the example for other countries. [Canada is] viewed as one of the most generous countries in the world in offering protection to those who arrive in Canada who are in need of it (CIC 2005b).

CIC felt therefore no obligation to incorporate RAD into the refugee determination system. The government chose not to implement a system due to additional time constraints and costs of legal and social assistance (CIC 2005b). As a consequence, the government eliminated a second system that could act as a safety net for mistakes committed by the first system.

It must be noted, that a refused claimant can request the Federal Court to review his or her case. However, according to Showler, for a review of the board's decision, a claimant must ask permission from the Federal Court of which over 90 percent are denied (Showler 2006, 227). It seems apparent that Canada is taking its "World Leader" title for granted. A system focused on filling only the basic necessities is a flawed system.

A third flaw of the Canadian system is the inconsistency of legal counsel offered to refugees throughout the process. Legal aid during the quasi-judicial hearing is available at the refugee claimant's own expense. Yet many refugees enter the country with little or no financial resources and are therefore not able to afford this service. According to Showler, most have some form of representation such as a consultant, support agency worker, or relative. However, the lack of legal knowledge these agencies or people have has proven to be problematic. Many are ill prepared, provide poor evidence, and are misrepresented (Showler 2006, 227). Four provinces do provide legal aid programs, but funding for legal aid should be implemented across the country (Showler 2006, 227).

The fourth flaw is in reference to the IRB panel. Prior to 2001, a two member panel decided on the validity of the refugee's claim. In recent years, the panel has been cut to a

one-member panel. This is problematic as this places the claimant's fate in the hands of one person. Taking into consideration a popular saying "two heads are better than one" seems particularly important in this circumstance. It seems more relevant in a post-9/11 era, where cases seem to be more sensitive and complex.

In summary, although the determination complexities are not novel issues, the determination of a refugee claimant has become more complex in a post-9/11 era. Inadmissibility under THE IRPA is rather vague, allowing great discrepancies. A refugee undergoing the determination process faces more challenges in a post-9/11 era. Inadmissibility because of the possible security threat he or she may cause to Canada is vaguely defined and subject to interpretation based on unverifiable information; the decision is formulated on opinion rather than fact (Crepeau & Nakache 2006, 22). An inadmissible claim may lead to possible detention and/or deportation, which will be examined in the following sections.

C) Detention: Security Certificate and Holding Facilities

Once again, the use of refugee detention practices is not a post-9/11 phenomenon. However, since 9/11 there has been an increase in the use of these facilities. More refugees are being held in refugee detention centres; accordingly, new facilities have been opened or modified to meet these needs, such as the Kingston Immigration Holding Facility, which opened its doors in the spring of 2006.

To briefly go over detention procedures, a refugee is generally detained when he or she is unlikely to appear for court, is a danger to the public, is a security threat, has violated human rights, or has not satisfied government official's requirements with regards to his or

her identity claim (IRB 2006a, 17). With the introduction of the IRPA, the reasons for detention have become much broader. For example, "the use of detention for reasons relating to identity are much more prominent" (Pratt 2005, 51). Immigration Officers are permitted to detain for reasons of "administrative convenience", in other words, to complete examination on the basis of reasonable grounds of suspicion (CCR 2001a, 5). The grounds to arrest for unsuitable identification have increased; if the Immigration Officer is unsatisfied with the cooperation of the claimant with regards to his or her identity, the claimant may remain in custody for as long as the officers deems necessary. Moreover, Immigration Officers are allowed to arrest and detain an individual without a warrant for reasons of inadmissibility (CCR 2001a, 5). This places discretionary powers in the hands of CIC rather then a court of law (CCR 2001a, 5).

Within 48 hours of the arrest, the detainee must appear in front of an Immigration and Refugee Board member to claim his or her case (CIC 2002a, 29). At this hearing, a detainee is entitled to legal counsel and an interpreter. In some cases, a UNHCR representative may be present (IRB 2006b, 2). Unlike Refugee Board Hearings, Detention Hearings are open to the public and the media unless the safety of the claimant is at risk (IRB 2006b, 3). If the claimant is deemed a threat, a second review is carried out within seven days. If the claimant is classified as a threat, a review by an IRB member is conducted every thirty days to continually assess the situation until the release of the claimant (IRB 2006a, 18).

From the scarce resources found on the topic of detention holding facilities, it can be determined that Canada has three holding facilities and one maximum-security centre.

The immigration and refugee detention facilities are located in Mississauga, Vancouver, and Laval. Mississauga's detention centre is the largest centre and holds 100 people comfortably. It is located near Pearson Airport at the Celebrity Inn Hotel.[33] The hotel is divided into two sections: on one side are paying customers, and located at the rear is a medium-security immigration detention centre (Pratt 2005, 28). Laval's holding facility is located in a refurbished prison; little is known of the Vancouver detention centre. Both Vancouver's and Laval's detention centres can hold between twenty and forty people (Pratt 2005, 27). Most of the detainees at all three locations are non-criminals, non-citizens who have been suspected of violating immigration laws and are a "flight risk" while waiting for possible deportation (Pratt 2005, 27).

Although most of these detainees are not criminals, they are treated like criminals. At the Mississauga Celebrity Inn, they are escorted in and are removed any personal belongings; they are given a log number and confined to their rooms (Pratt 2005, 39). They are allowed to bring clothing and non-threatening objects and have access to their luggage only during a designated hour of the day. The facility is supervised by CIC staff and private security forces and functions under the Criminal Code of Canada. Detainees that are of "suicide risk" or have disciplinary problems are transferred to prisons (Pratt 2005, 41)[34]. Those suspected of criminal acts or of being a danger threat to the public are generally sent to provincial jails (Pratt 2005, 27).

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[33] In Footnotes at the end of her book, Anna Pratt states that the Celebrity Inn hotel has shut down. However, in 2004 CIC opened a new facility, the Heritage Inn, an airport motel (Pratt 2005, 229). It must be noted that no information has been found on the facility at this time.

[34] It seems unorthodox to send suicidal refugees that may have experienced torture or torment to a prison; it is a well known fact that prisons may not be the sanest atmosphere.

Over the past years, the number of detained migrants has risen; this can be linked with the new powers CIC possesses. Immigration offices now hold the authority to arrest and detain migrants who could represent a threat to national security (Crepeau & Nakache 2006, 16). They have also been granted the powers to issue removal orders in cases involving minor offences and issue deportation orders in cases involving criminal offences (CIC 2002a, 30). It is estimated that from 1996 until 1997, 6,400 refugees were detained. The numbers have increased steadily since (Pratt 2005, 43). In 2000, 8,786 were detained of whom 5,755 were unsuccessful refugee claimants; in 2001 after 9/11, it was estimated that 9,542 people were detained (Pratt 2005, 43). The number of refugee claimants generally held at Mississauga's facility ranges between ten and fifteen men at a time (Pratt 2005, 46). It is estimated that to detain a refugee at Celebrity Inn, it costs $33,000 00 yearly, averaging to $90 a day (Pratt 2005, 50). Although there are no statistics outlining the ethnographic composition of those being detained, most are poor, non-white, middle aged men (Pratt 2005, 46).

I) Problemetizing Detention Practices

Although the Canadian government alleges that detention of refugee applicants is consistent with the Criminal Code, many activists question this. Detention is used for a wide range of reasons that would not be permissible under the Criminal Code. First, refugees can be arrested and detained for reasons not recognized under the Criminal Code such as, for example, lack of identification (Pratt 2005, 59). Second, no warrant is required to arrest and detain a foreign individual (CIC 2002a, 28). Third, these individuals can be detained for an indefinite period of time, thus violating Section 7 of the Charter of Rights

and Freedoms: "[e]veryone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" (DJC 1982). Furthermore, in detention review hearings, legal counsel is not necessary or obligatory and the onus of proof is reversed, hence the person in detention must prove why he or she should be released (Pratt 2005, 59). CIC had established a detention Directorate and a National Detention Management Committee to try and enforce consistency, offer strategic direction, and maintain national and international direction. These efforts, however, were dropped after 9/11 (Pratt 2005, 32).

The public seems to have accepted and supported these practices. A recent poll taken by the UNHCR indicates that three out of four Canadians polled feel that refugees without proper documentation should be detained, unless it is a woman or a child[35]. Although a lack of identification documents is not a crime, many refugees are detained for such reasons. Extra funds in the name of national security have been allocated to immigration detention centres, which has allowed for larger numbers of non-criminals to be detained; "[f]rom June to December 2003, for example, 56 percent of detentions were on grounds of flight risk, 10 percent because of a lack of satisfactory identity documents and only 1 percent on security grounds" (Crepeau & Nakache 2006, 16). There is no international law that prevents governments from detaining asylum seekers or refugees, but the UNHCR argues that detention should only be used in exceptional cases and the duration should be proportional and subject to judicial review (UNHCR 2006b, 43). This however has not been the case, many states such as Canada justifies the use of detention for national security purposes. For severe cases, Security Certificates are issued; these

[35] In many cases, refugee are fleeing their country, leaving their personal belonging behind. There might not be the possibility to ensure proper documentation

detainees are held at the Kingston Immigration Holding Facility, which the Canadian government argues is necessary for national security.

II) Security Certificates

There are two ways in which the Canadian government can expel a non-citizen deemed potential threat. A Danger Opinion is the first option, and is normally used when a refugee is deemed a threat to national security. The immediate removal without a referral to the Immigration and Refugee Board is generally executed. There is no opportunity to challenge the Danger Opinion, thus denying fundamental rights guaranteed by the Charter of Rights and Freedoms.

A second option for removing a non-citizen deemed a threat is through the use of Security Certificates issued and carried out by CBSA (CSIS 2005b). Contrary to popular belief, Security Certificates were introduced in the 1976 Immigration and Refugee Act, not the Anti-Terrorism Act[36] (CBSA 2005). However, the introduction of the IRPA has broadened the scope of Security Certificates by "including suspension or termination of a claim for protection, broader provisions on organized crime, elimination of appeals and streamlining the removal process (Crepeau & Nakache 2006, 23). The Certificate allows the government to detain and deport a foreign national or a permanent resident who poses a security concern without formally charging the person[37] (CBSA 2005). The government can withhold evidence against the accused without disclosing evidence to the individual or his lawyer, thus making it impossible to cross-examination key witnesses (AI 2006b). The IRPA states that the accused is allowed to be reasonably informed, but is not to be provided

[36] According to CSIS, Security Certificates have been made available since 1991 (CSIS 2005b)
[37] Security Certificates cannot be used on Canadian citizens (CBSA 2005)

with information that could hinder national security or the safety of any person (CSIS 2005b). Hence, this procedure does not allow legal grounds to fight against possible injustices (Greenspan 2003, 30). Following the challenge in 2004 by Adil Charkaoui and Mohamed Harkat of the Security Certificate process; "[t]he Federal Court and the Federal Court of Appeal have ruled that the Certificate process strikes the proper balance between the rights of an individual and the need to protect Canada's national security" (CSIS 2005b)[38].

Security Certificates can be used for permanent residents or foreign individuals that may be involved in subversion or espionage, violating human or international rights, terrorism, serious crimes, or organized crimes (CBSA 2005). They are used only in cases deemed exceptional, where the individual presents a high security risk. According to CSIS, the following must be present: the person must be a significant threat; there must be enough information to demonstrate a threat; and the information must hail from reliable and multiple sources (CSIS 2005b). CSIS contends that "[t]he result is a very detailed document, the contents of which are meticulously 'facted'" (CSIS 2005). However, the definition of what consists of a "high security risk" is not properly addressed in these documents. The CCR argues that the terms "security threat" and "security inadmissibility" are loosely defined, moreover "t]he language of IRPA gives the government extremely broad parameters for finding a person inadmissible on security grounds" (CCR 2005, 3).

Between 1997 and 2005, twenty-seven men have been held under Security Certificates. Of these twenty-seven men, one case was quashed (CSIS 2005b). CSIS claims that these cases range from Islamic terrorists, secular Arab extremists, right-wing

[38] At the time of completion of this thesis, Security Certificates were struck down by the Supreme Court, review process is underway (refer to epilogue).

extremists, Russian nationals engaged in espionage, Sikh terrorists and Hindu extremists engaged in supporting the Liberation Tigers of Tamil Ealem (LTTE) in Sri Lanka (CSIS 2005b). However, all five men detained after 9/11 are of the Islamic faith (CBSA 2005).

The decision to issue a Security Certificate depends on the information provided by criminal intelligence and other confidential information sources (CBSA 2005). The Certificate is decided upon and signed by both PSEPC and CIC (CBSA 2005). The foreign national is immediately arrested and detained, while a warrant is required to arrest and detain a permanent resident (CBSA 2005). A judge from the Federal Court reviews the admissibility of the information. If the court rules in favour of the Security Certificate, a removal order is produced for the foreign national, despite possible torture or death threats, while a permanent resident is held indefinitely.

Certificates can only be used with non-citizens, thus, refugees, visitors or permanent residents (AI 2006b; CSIS 2005a, 3). During the Federal Court proceedings, the claimant can apply for a Pre-Removal Risk Assessment (CSIS 2005). Both Ministers can try and obtain assurance from the country of origin to make certain that the accused will be protected upon his return (CSIS 2005b). While reviewing the Security Certificate, the Federal Court will also assess the Pre-Removal Risk Assessment before delivering a decision. Once the Security Certificate has been found reasonable, the certificate becomes a removal order that cannot be appealed (CSIS 2005b). According to CSIS "[t]here is thus no need to hold an admissibility hearing after such a determination" (CSIS 2005b).

Since 2001, five men have been held on Security Certificates. These cases, also known as the "Secret Trial Five", have appeared as headlines on several occasions. All

five men are refugees from Middle Eastern Islamic countries. The following section will briefly outline the stories of these five men over the past five years[39].

Accused of being an Al-Qaeda sleeper agent, Mohamed Harkat was arrested in December 2002[40]. Harkat is believed to have belonged to the Islamic Salvation Front in Algeria. Its members were being prosecuted during the 1990's. Although Sophie Harkat, Harkat's wife, claims this to be false, Harkat was accused of fleeing to Pakistan, then to Afghanistan (Wong 2005). AbuZaida, a terrorist in Afghanistan, gave a description of an associated man that matched Harkat. Harkat arrived to Canada as an Algerian refugee with a false passport, claiming his life would have been in danger had he used his real passport. He was arrested and detained in 2002 and imprisoned for three and a half years before being granted bail and released in May 2006 under house arrest with tight conditions never seen before in Canada (Harkat 2006). Some of these conditions include wearing an electronic device and remaining under the superviseon of his wife or mother at all times. He is allowed three four-hour outings a week; these outings must be pre-approved by CBSA. He is denied any phone, cell phone, or internet access and his phone and mail to his house are intercepted and approved. Harkat may no longer be in prison but under these conditions, he continues to live under jail like conditions today.

Hassan Almrei was a Syrian refugee. Almrei arrived in Canada in 1999 from Saudi Arabia, on a forged United Arab Emirates and Syrian passport (Amiel 2006). Suspected of associating with Al Qaeda, he was arrested and detained in 2001. His Certificate was found to be reasonable and he was ordered to be removed in 2003 (AI 2006b). During his first few months in isolation at the Metro Toronto Detention Centre, Almrei was deprived of

[39] "The Secret Trial Five" cases are complex and the scope of required analysis exceeds the capacity of this thesis.
[40] Ironically Harkat was arrested on December 10th, International Human Rights Day (Harkat 2006)

heat and shoes (Wong 2005). Almrei faces particularly challenging circumstances, as he does not have any family to assure his surety. Alexandre Trudeau, son of late Pierre Elliott Trudeau, amongst others, offered to play this role. Dr. Diane Ralph, a professor from Carleton on a permanent disability leave, and her wife have also offered their home and surety to Almrei (Amiel 2006). He remains at the KIHF at this time, waiting for a decision. In 2005 he was granted a stay of removal, facing possible torture (AI 2006b).

Adil Charkaoui was born in Morroco and immigrated to Montreal with his parents and sister in 1995. He was married with two children and working on a master's degree in education at the University of Montréal when he was arrested in May 2003. Charkaoui is suspected of being a sleeper agent who trained at camps in Afghanistan. He remained in custody for two years before being released under tight conditions in February 2005. He is waiting for possible deportation to Morocco where he could face torture (cageprisoners.com)[41].

Mohammed Mahjou came to Canada claiming refugee status in 1995. Shortly there after, he married and subsequently had two children. In 1999, in his absence, Mahjoub was convicted and sentenced to fifteen years in prison in Egypt for his activities in a terrorist organization. Mahjoub was arrested in 2000 in Canada and placed under a Security Certificate (CTV 2007)[42]. CSIS believes that Mahjoub is a member of Vanguards of Conquest and a radical wing of the Egyptian Islamic Jihad (CSIS 2005, 3). His Certificate was found reasonable and he was ordered to be deported in 2004; he was however granted a stay of removal in 2005, fearing torture if returned (AI 2006a). Mahjoub is soon to be released under tight conditions such as those of Harkat's case. In December 2006, the

[41] Information taking from http://www.cageprisoners.com/prisoners.php?id=1357
[42] "Egyptian Man Held Since 2000 Ordered released," *CTV News*, February 15, 2007. http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20070215/suspect_terror_070215/20070215/

Federal Court ruled that his case was "patently unreasonable" and ordered the government to perform a thorough review (CTV 2007).

Mahmoud Jaballah, Egyptian born, immigrated to Canada with his six children in 1996. In 1998, he alleges he invited Armed Said Khadr[43] for a friendly cup of tea. Shortly after, he was arrested on a Security Certificate in 1999; it was subsequently quashed for a lack of evidence (Hanes 2006)[44]. He was arrested once again in 2001; however no new information was added [45] (Harkat 2006). He is accused of being a senior operative of the Egyptian Islamic terrorist organization Al Jihad (CSIS 2005, 3). Jaballh believes the Egyptian government is trying to accuse him of participating in terrorism activities in Egypt (Hanes 2006). He is currently in KIHC, waiting on the deportation order, fearing torture if returned (AI 2006b).

III) **Guantanomo North: Kingston's Holding Facility**

In April 2006, Canada opened the Kingston Immigration Holding Centre (KIHC). That same month Harkat, Mahjoub, Jaballah and Almrei were secretly moved to the KIHC without notifying their family or the media. Many activists have criticized the Canadian government for this new facility, referring to it as "Guantanamo North", Canada version of Gantanamo Bay.

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[43] Khadr is believed by Canadian officials to be a high ranking Canadian Al-Qaeda member who was killed in Afghanistan some time ago.

[44] Hanes, Allison. "Jaballah admits he knew Khadr." *National Post, May* 19, 2006.

[45] It must be noted that Article 11, Sub-Section H of the Charter of Rights and Freedoms argues that "Any person charged with an offence has the right h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again" (DJC 1982)

The holding facility is located on Millhaven's federal high security prison grounds (CBSA 2006b). The facility consists of six cells situated in a portable. Inside the facility there is a common room and an area for family to meet with detainees (Harkat 2006). The facility is surrounded by concrete pavement: no backward, lawn, or chairs to sit on (Harkat 2006). Those still residing in KIHC are isolated with no access to television, newspapers, or their sacred religious texts (Harkat 2006). Ironically, across the lot, Canada's most dangerous **convicted** criminals at Milhaven appear to have a more luxurious facility. It must be reiterated that those held in KIHC are not convicted and can be held for an indefinite amount of time. In essence, this facility should only contain the bare necessities, as these men are theoretically waiting for deportation. However, these men may be exposed to torture or cruel punishment if returned, which violates international conventions. Thus, these men are caught in a vicious securitization cycle. Canadian deportation measures will be touched upon in the last section of this chapter.

IV) Problematizing Security Certificates

Amnesty International, amongst many, has asserted that Security Certificates are undermining a number of fundamental human rights (AI 2006a). First and foremost, on the international level, Security Certificates violate Article 9 of the Declaration of Human Rights that states: "[n]o one shall be subjected to arbitrary arrest, detention or exile" (UDHR 1948). It also violates both Sub-Sections 1 and 2 of Article 11:

> (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be

> imposed than the one that was applicable at the time the penal offence was committed (UDHR 1948).

Moreover, the International Covenant on Civil and Political Rights also claims that accused are entitled to a fair hearing. Article 14 stipulates that

> (2) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. (3) In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: a) To be informed promptly and in detail in a language which he understands of the nature and the cause of the charge against him; (...) d) To be tried in his presence, and to defend himself ... ; (...) e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him (...) (AI 2006b).

However, regardless of these international treaties formulated to protect international citizens, national law prevails over international law. Thus, the Canadian Charter of Rights and Freedoms and IRPA override international law in Canada.

It must also be emphasized that refugees are entitled to the same rights and protection as Canadian citizens. The Supreme Court determined in the *Singh v. Ministry of Employment and Immigration* in 1985 that the Charter of Rights and Freedoms applied to anyone physically present in Canada, including refugee claimants (Bourgon 2003, 172-173). Thus, refugees should be protected under Canadian domestic laws. Furthermore, with relation to the IRPA, according to Section 3(3)f, "[t]his Act is to be construed and applied in a manner that [...] complies with international human rights instruments to which Canada is a signatory" (IRPA 2002). Accordingly, the sections pertaining to refugees in the IRPA have been tailored to the UNHCR. In addition to this, Section 3(3)(d) highlights that the decisions taken under the IRPA must be consistent with the Canadian Charter (CCR 2005, 9).

The Security Certificates process challenges key principles of Canada's due process and adversarial system. Security Certificates is a procedure that does not provide information about the charges to the accused or his lawyer; detainees can be held for an indefinite amount of time without knowing the reasons for arrest. Moreover, under a Security Certificate, revealing the reasons of arrest or detention is not necessary at any point in the arrest or trial process (CCR 2005, 4). Such practices undermine Sub-Section A of Article 11 that states that "[a]ny person charged with an offence has the right A) to be informed without unreasonable delay of the specific offence" (DJC 1982). Not only are the claimants and defense lawyers unaware of the reasons of detention, but they are unaware of the sources of information[46] (CCR 2005, 4). This prevents the accused from mounting a case or challenging the charges laid against him (AI 2006b). More importantly, the right to appeal a decision is non-existent; once the decision has been taken, it is final. Essentially, officials are labeling a detainee a terrorist without the consent or a proper battle from the defendant, his lawyer, or the general public. Any detainee, regardless of race, ethnicity, status, or country of origin should have the right to a fair trial. Security Certificates process denies this fundamental right guaranteed under the Charter of Rights and Freedoms.

Section 515 of the Criminal Code allows even the most dangerous offenders to be released on bail, as long as they have a surety bail or cash deposit. In Jaballah's case, he was denied bail despite the fact that fourteen people offered to act as sureties (Crepeau & Nakache 2006, 23). Furthermore, in a Federal Case ruling in 2002, the Supreme Court determined that:

> 'indefinite' detention is justified under the Charter in cases involving people who have been found to be a danger to the public by an adjudicator in a detention

[46] The source of information may come through process of torture, unworthy and unreliable sources, and is in many cases is inaccurate; this will be touched upon in the following section. (CCR 2005, 4)

> review, who have 'hampered' efforts to remove them, and where there are no real alternatives to detention (Pratt 2005, 31).

The Supreme Court of Canada in 2004 ruled in Charkaoui's case that Security Certificates were a constitutional process that was in agreement with the Canadian Charter of Rights and Freedoms (CBSA 2005). Thus, an individual held on a Security Certificate can be detained for an unlimited amount of time (Crepeau & Nakache 2006, 23).

Ultimately, Security Certificates omit due process. They undermine Article 9 of the Charter of Rights, which states that: "[e]veryone has the right not to be arbitrarily detained or imprisoned" (DJC 1982). Evidence at these trials is based on suspicion and unfounded information, not on facts. According to CBSA: "[t]he certificate process is one of the many tools at the government's disposal to ensure the safety and security of Canada and the Canadian public" (CBSA 2005). However, in reality, they provide a weapon for the Canadian Government to undermine or take away civil and individual liberties, freedoms, and human rights (Greenspan 2003, 30). The security concerns listed in the 2002 Immigration and Refugee Act are vague, yet provide a powerful tool to imprison an individual for as long officials see fit (Greenspan 2003, 30). Thus, human rights, human security, the rule of law, and democratic principles are all violated using security discourse (Greenspan 2003, 30). Although it can be argued that Security Certificates are important in the safekeeping of our country, "[c]oncerns about security can never justify violating fundamental human rights" (AI 2006b).

Many have advocated against the use of Security Certificates. Sophie Harkat, Matthew Behrens, coordinator of the campaign to Stop Secret Trials, the Canadian Council on Refugees, and Amnesty International, among others, have dedicated much time and

effort this cause (Wong, 2005). In February 2000, the Inter-American Commission of Human Rights found Security Certificates incompatible with the Canada's Charter of Rights and Freedoms. Furthermore, a Judge from the Federal Court stated the following: "We do not like this process of having to sit alone hearing only one party and looking at the materials produced by only one party and having to try to figure out for ourselves what is wrong with the case that is being presented before us and having to try for ourselves to see how witnesses that appear before us ought to be cross-examined" (Crepeau & Nakache 2006, 23). Sophie Harkat clearly stated during a rally demonstration: all should be entitled the right to a fair and just trial (Wong 2005).

The government has had a tendency to use extraordinary powers to maintain safety and security, regrettably at the cost of a free and democratic state. An article published in Macleans argues that "[a]ny country that lives by a rule of 'trust us, there is no need for due process,' is totalitarian" (Greenspan 2003, 30). Yet in this new state of emergency, these actions fit under the securitization process fabricated by the government and accepted by the general public. Guantanomo Bay has become the symbol of the United States' War on Terror (Willis 2006, 123). Could Security Certificates and the new Kingston Holding Facility represent Canada's new symbol of anti-terrorism?

Keeping someone in custody indeterminately under secret information can pose potential danger to the detained person. The information remains private; it is therefore difficult for the media and the public to be the government's watch dog. The validity of these threats is not negotiable as the evidence is confidential. The danger of secret information will be touched upon in the following section, through deportation measures leading to possible torture as seen in the Maher Arar case. In essence, Security Certificates

> initiate a quasijudicial process that reduces considerably the procedural safeguards guaranteed by the Canadian Charter, including the right to disclosure of the case, the right to confront and cross-examine one's accusers, the right to a public proceeding and the right of appeal. Deportees are also subject to lengthy terms of preremoval incarceration and might face torture or inhuman treatment in their destination country (Crepeau & Nakache 2006, 24).

Canadian detention practices are deplorable but are not the worst in the world. World refugee policies will be touched upon in Chapter 5

D) Deportation: Torture and Risk Factors

Deportation or removal orders have been a controversial issue in Canada in recent years. Many activists and NGO's have devoted their time and efforts to lobbying against removal orders, as removal orders may be infringing on human rights. Deportation refers to the removal of an individual deemed a threat to national security. In recent publications the word "deportation" has been replaced with the word "removal". At quick glance, these terms essentially mean the same thing. However, the term removal makes reference to "getting rid of" or "making disappear" (Burman 2006, 280). Thus, the word removal has a more powerful connotation than that of deportation, which is more readily acceptable in a 9/11 era.

Article 33 of the United Nations Convention on Refugees states that a refugee cannot be rejected, returned, or deported to his or her country of origin if he or she faces persecution; this is recognized as the principle of *non-refoulement.* (Showler 2006, 211; UNHCR 2006b, 94; Coutu & Giroux 2006, 324). Furthermore, signatory countries such as Canada must provide refugees with a fair trial or hearing to determine the validity of the claim and must assess the possibility of torture or persecution if deported.

According to Pratt, the privatization of deportation has become a new process, allowing the work to be done in a timely fashion. CIC argues that privatization of removal orders accelerates the removal process. In 2001, it was alleged that CIC contracted Protecting and Indemnity Associates International (Pty) to remove three "extremely difficult" cases (Pratt 2005, 35). In 2003, CIC affirmed having removed 130 high risk or uncooperative individuals on fifteen chartered flights. Seven of those flights were in collaboration with the United States. Following these events, a government official argued that "It's a very good initiative for us to collaborate with [the United States]...and put our individuals on the same plane...It's a cost effective means of removing these people" (Pratt 2005, 36). One must question the legitimacy of contracting-out removal efforts. Pratt argues that this practice allows the government to shift its coercive power onto to private companies (Pratt 2005, 36). Moreover, evidence of contracting out can be easily hidden and purposely forgotten.

II) Problematizing Deportation Measures Leading to Possible Torture

On December 10th 2005, Kofi Annan, Secretary General of United Nations claimed the following: "Let us be clear: torture can never be an instrument to fight terror, for torture is an instrument of terror [...] Today, on Human Rights Day, let us recommit ourselves to the principles of the Universal Declaration of Human Rights, and let us rededicate ourselves to wiping the scourge of torture from the face of the earth" (UN 2006). Furthermore, Article 9 of the Declaration of Human Rights states: "[n]o one shall be subjected to arbitrary arrest, detention or exile" (UNDHR 1948).

Canada is currently facing allegations of sending men accused of terrorism to developing countries where they have been subjected to torture. Canadian Muslims Maher Arar, Abdullah Almalki, Ahmad El Maati, and Muayyed Nureddin were all sent to Syria for an extended period of time during which they endured torture (CCR 2005, 7). The Canadian Government has offered apologies to Mr. Arar; however, the Canadian Government refuses to inquire on the cases of Almalki, El-Maati and Nureddin who may have undergone processes that undermine both domestic and international law.

The Arar case, which had captured the media's attention at the time, has demonstrated the extent to which government officials have gone in order to fight this War on Terror. Maher Arar's case, although he was not a refugee, demonstrates the extraordinary powers the government is ready to use when it comes to national security. Arar was born in Syria and immigrated to Canada in 1987 where he pursed his studies in a master's degree in computer engineering. In September 2002, Arar was arrested by American official on a stopover in New York on his way back to Montreal. American officials believed he was associated to Al-Qaeda. He was deported to Jordan, then to Syria where he endured torture for information until his release in October 2003. In January 2004, Arar launched a lawsuit against American authorities for sending him to a country that practiced torture. An inquiry by the Canadian government was instigated that same year. CSIS has recently revealed that it had approved of the U.S decision to send Arar to Syria without informing the Foreign Minister. It was determined that "under the Canadian Charter principles, there was not enough evidence to detain Mr. Arar, and that it was therefore "much better," for intelligence gathering purposes, to keep interrogating him in Syria" (Crepeau & Nakache 2006, 24). Part of the reason Arar's case captured the media's

attention was because of him being a Canadian citizen (Crepeau & Nakache 2006, 24). A non-Canadian citizen who is sent to a country in which he or she is tortured is likely not to make headlines; such cases are generally unreported or unknown. It is estimated that 60 percent of refugee claimants are denied entry each year. It therefore remains questionable how many refugees are denied status and are sent back to their country in which they face risk or danger every year. This question is unfortunately difficult to answer as these figures are probably non-existent.

In theory, those held under Security Certificates can be released as long as they agree to be deported. However, international laws prohibit countries from sending refugees back to a country where they could face the risk of torture. Article 5 of the Declaration of the Human Rights states that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (UNDHR 1948). In addition to this, Canada is a signatory to the Convention Against Torture, which in, Article 3, prohibits any country from deporting to torture (CCR 2005, 7). Consequently, international law allows no exception to this rule (CCR 2005, 7). According to Amnesty International, all five men who are currently on a Security Certificate are facing the risk of torture if deported (AI 2006b). Furthermore, in 2002, "the Supreme Court of Canada, while recognizing that international law provides absolute protection against being returned to torture, nonetheless left open the possibility in 'extraordinary circumstances'" (AI 2006b). Thus, if the claimant represents a danger the security of Canada and/or is recognized as a terrorist he may be issued a removal order regardless of the dangers faced. The principle of *non-refoulement* is then not absolute in Canada, and in 'extraordinary circumstances' the accused can be sent

to torture, such as seen in the *Suresh vs. Ministry of Citizenship and Immigration*[47] (CCR 2005, 7). Furthermore, the Federal Court of Appeal determined that in these extraordinary circumstances, Article 1 of the Charter, which states that there are limits prescribed by law can counterpoise Article 7, which justifies that everyone has the right to life, liberty, and security (Bourgon 2003, 176) [48]. Thus, the Supreme Court ruled that these procedures (Article 53(1)(b)) did not violate Article 7 of the Charter, leaving the Ministry with discretionary powers in certain proceedings leading to a possible removal of a claimant (Bourgon 2003, 177).

Although Canada is a signatory to many international conventions, the Supreme Court argues that: "[international law] concern is not with Canada's international obligations *qua* obligations; rather, our concern is with the principle of fundamental justice [Article 7 of the Charter]. We look to international law as evidence of these principles and not as controlling in itself" (Bourgon 2003, 174). Thus, according to Professor Macklin, Law Professor at the University of Toronto, if Canada does not incorporate international laws within its own domestic laws, international laws remain possible guidelines (Bourgon 2003, 176). Canada has incorporated international law to a certain extent through Article 12 of the Charter of Rights and Freedoms, which states that "[e]veryone has the right not to be subjugated to cruel and unusual treatment and punishment" (DJC 1982). Thus, according

[47] Suresh, a Sri Lankan refugee, arrived to Canada in 1991. It was determined soon after that he was a threat to national security due to his involvement with the LTTE. The Supreme Court ruled that deporting him back to Sri Lanka, despite possible torture, was constitutional because of the threat he posed to Canada (Adelman 2004, 123). The Supreme Court ruled that, although deportation to face possible torture violates national and international conventions, it left the possibility to deport in exceptional circumstances (Bourgeon 2003, 185).
[48] Article 1 "The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" (DJC 1982).

to Macklin, deporting to torture would undermine Canada's own Charter of Rights and Freedoms (Bourgon 2003, 176).

The Pre-Removal Risk Assessment (PRRA) acknowledges Canada's duty towards the UNCAT. Such process allows claimants who have been deemed a threat and are facing a removal order to present new evidence that would prove the claimant would face danger if deported; this is by no means an appeal to the decision (CCR 2001a, 10). The PRRA can only grant a stay of removal, it cannot reverse the decision (CCR 2003, 1). However, in these cases Canada's national security plays a larger role in the courts decision than that of the individual facing torture, which once again challenges Canada's obligation towards the UNCAT (CCR 2001a, 10). Moreover, CIC conducts PRRAs, which places the onus on an agency rather than a court of law (CCR 2001a, 10).

Part of the security and prosperity partnership of North America implemented in March 2005 is to harmonize security amongst Canada, the United States, and Mexico. Thus it should not be a surprise that Canada's laws and policies are beginning to resemble those of the United States. Maher Arar was a victim of this new system; the information sharing-system between the two countries is problematic as government officials are unaware of the intent or the use of the information shared.

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To conclude, the practices examined under deterrence, determination, detention, and deportation all in some shape or form challenge the most fundamental rights: that of the right to life and liberty. Refugees are among the most vulnerable in society; they lack nationality, stability, and protection. The process of applying for refugee status can lead

them to be further victimized. Those deemed a threat to national security are, in some cases, treated worse than Canada's most dangerous criminal offenders. In addition to this, the lack of access to an appeal system leaves refused refugee claimants with little or no opportunity to defend their case. The National Security Policy argues that new security strategies protect citizens in a fashion that "articulates core national security interests and proposes a framework for addressing threats to Canadians. It does so in a way that fully reflects and supports key Canadian values of democracy, human rights, respect for the rule of law, and pluralism" (Privy Council 2004, Foreword). This section has demonstrated that in fact these new security policies undermine democratic values, Canada's Rule of Law and human rights. These policies are justified through a pre-emptive ideology that prevails in a 9/11 era. Many are willing to give up some of their rights and freedoms to ensure their safety. Yet, in this case, the individuals who are deprived of their rights have few rights to begin with. Would one accept these procedures if these practices targeted their own family members trying to escape persecution? Yet these procedures are widely accepted in a society where risk, threat, and fear triumph over humanitarian traditions.

Chapter 5: Discussion

A) International Context

As illustrated above, Canada, in both law and practice, has undermined refugee and asylum seekers' rights to enjoy asylum in Canada. Their human rights have been challenged under the "national security" rubric. Refugees and asylum seekers have become one of the most important targets since the 9/11 events. Ironically, the terrorists involved in

9/11 were visa students, some of whom had resided in the United States for years prior to the events (Adelman 2004, 124).

Canadian borders have been tightened and secured to prevent "leaks"; our Immigration Act has been re-vamped to prevent "bogus" refugees from entering. According to Pratt "[t]he IRPA and the Anti-terrorism Act were promoted as Canada's hard–hitting, two pronged contribution to the post-September 11th 'War against Terrorism'" (Pratt 2005, 4). The refugee system was modified to enhance security even though refugees represent a minimal threat to Canada's sovereignty (Adelman 2004, 130). The political discourse would lead one to assume that threats reside only in external territories and foreign lands; yet terrorism attacks in recent years have proven the contrary. The 2005 London bombing was confirmed to be a home-grown terrorism attack (CCR 2005, 8). In the Canadian context, major terrorist attacks have been undertaken by Canadian citizens: the FLQ were separatist extremists and the Air India bombers were Indo-Canadians. The seventeen men arrested in the Toronto area in June 2006 were also accused of home grown terrorism. Refugee targeting is excessive and unfair. However, by targeting a population, Canadians are reassured that the government has taken control of the situation; "[t]he bottom line: Refugee protection has declined with little evidence of significantly enhanced security for Canadians citizens" (Adelman 2004, 129).

Canada, however, is not the worst player on the international scale. Many countries have far worse policies and legislation that explicitly undermine refugees and asylum seekers' rights. For many countries, "[t]he emergence of the securitization discourse type as the dominant one is motivated by the need for national governments to control influences, placate media pressures and comfort public opinion against the fear of being

'swamped' by foreigners" (Buonfino 2004, 24). The securitization of migration aims to reassure and "protect" the public, when in fact these actions re-create fear within society (Buonfino 2004, 48).

Some countries have focused their attention on reforming policies and legislation, while "[...] most asylum reforms in Europe, North America, and Australia have focused on denying access to asylum proceedings rather than reforming the systems themselves" (Showler 2006, 230). Although I have depicted Canada's system as unsatisfactory, undermining refugees' rights appears to be common throughout the Western hemisphere. Many Western countries have adopted policies and practices towards refugees that are questionable. Several countries have increased their border security and intensified control mechanisms over their refugee population. The UNHCR claims that "[t]he danger in the current international context is that states will use the issue of terrorism to legitimize the introduction of restrictive asylum practices and refugee policies, a process which began well before the events of 11 September 2001" (UNCHR 2006, 53). Australia, the United Kingdom, the United States, France, and Germany have all adopted and increased discriminatory practices in recent years. Ironically, Showler points out that "at a ceremony in Geneva marking the fiftieth anniversary of the UN Convention in December 2001, the signatory nations unanimously re-affirmed the Convention to be the cornerstone of international refugee protection" (Showler 2006, 231). Yet it is these countries that are engaged in the securitization of their migration population. The following section will briefly draw attention to certain countries breaching international standards.

Australia was amongst the first to set an example for human rights violation. Australia is the only democratic country to impose mandatory detention on any illegal or

unwanted migrant, including children (Marfleet 2006, 268). These policies were implemented in 1992 after refugees from South East Asia had filtered through the remote north-west coast (Marfleet 2006, 268). In March 2000, it was estimated that 3,622 refugees were being detained; it was also established that these individuals had, in fact, fewer rights than criminals. Furthermore, the United Nations' report declared that Australia's mandatory detention practices breached Australian human rights codes (Marfleet 2006, 268). 9/11 allowed the government to increase control mechanisms. Amongst these mechanisms, Australia introduced tighter visa controls on all air arrivals. For those intercepted at sea, Australia created the 'Pacific Solution', in which the Australian government intercepted ships carrying undocumented migrants and asylum seekers to send them to detention facilities located outside of Australian territory such as the Island of Nauru, Papua New Guinea, Christmas Island, Cocos Islands, and Manus Island (Pratt 2005, 7; Marfleet 2006, 269). Ironically, Nauru formerly housed convicted criminals (Pratt 2005, 7). Regrettably, according to most academic writers, "[s]ince the declaration of a global War on Terror its [Australia's] policies have been canvassed worldwide" (Marfleet 2006, 268)

Like Australia, the United States' reforms and practices have had rippling effects in Canada and around the world. The United States have no doubt increased its vigilance towards refugees and asylum seekers, mostly towards those coming from Arab or Muslim countries. Following the events of 9/11, the United States introduced extraordinary enforcement measures. Its anti-terrorism laws expanded the definition of terrorism and provided new powers to detain and deport any non-citizen posing a threat to national security. It implemented the NSEER, a systematic screening system that monitors all

entries and exits by fingerprinting, photographing, and interviewing Americans born in Middle Eastern and African countries, regardless of their citizenship status (Vukov 2003, 345). In 2001, hate crimes based on ethnic and national origin more than doubled in the United States. Anti-Islamic incidents were the second most frequent acts committed against a religious group. Formerly, this group was the lowest targeted group (Rothe & Muzzatti 2004, 343). According to some authors, "Americans have been filled with terrorist anxiety, fear, and panic, which is conducive to the overregulation of society without opposition" (Rothe & Muzzatti 2004, 344). In 2005, the House of Representatives voted in favour of building physical barriers between Canada and the United States (Fraser Institute 2006, 26). In certain areas such as the coast of New Brunswick, barriers have been built to prevent terrorists living on Canadian territory from trespassing on American land (Adelman 2004, 129).

In addition, the United States has been criticized for its detention practices. The United States will arrest any asylum seeker coming from countries where Al-Qaeda is believed to operate (Crepeau & Nakache 2006, 34).[49] Furthermore, "[t]he US is also criticized for the prolonged detention of asylum-seekers in unacceptable conditions, such as detaining them with convicted criminals, as demonstrated in several Amnesty International reports of the past years" (Crepeau & Nakache 2006, 34). Moreover, the U.S. has a reputation for detaining unaccompanied minors lacking legal status (Crepeau & Nakache 2006, 18).

Germany has similar practices. In 1993, Germany tightened its asylum borders, creating a Safe Third Country Act and a Safe Country of Origin Agreement, allowing entry

[49] Not withstanding the fact that these countries are most likely to be countries struck by wars which are creating refugees and asylum, such as Afghanistan.

from designated countries, while denying entry to the rest of migrants reaching German borders (Pratt 2005, 6). In 2001, Germany introduced anti-terrorism laws which gave enforcement officials more authority to conduct security checks and surveillances on non-citizens and increased the capacity to detain and deport asylum seekers (Pratt 2005, 6).

Like many other countries, Britain had introduced increasingly controlling and restrictive acts during the 1990's. The Asylum and Immigration Appeals Act, the Asylum and Immigration Act, and the Asylum Act all introduced more restrictive measures to control their asylum population (Pratt 2005, 6). In 2002, Britain established the Nationality Immigration and Asylum Act that introduced technology to detect false identities, created enhanced abilities to use detention as a control practice, restricted access to appeal systems, and facilitated removals (Pratt 2005. 7). The following year, the government proposed Asylum Transit Camps. However, many human rights advocates fought against this proposal, resulting in it being struck down (Pratt 2005, 7).

As for developing countries, it is difficult to examine refugee systems and practices as in many cases these countries simply do not have laws and policies to protect refugees. Thus, there is no formal breach of national standards. These countries are often stricken by poverty, famine, and disease, thus allowing little or no allocation of resources or efforts placed in refugees or asylum seekers' programs. Yet in a 9/11 era, this may be a considerable problem as the number of displaced people remains high and many seek refuge in neighboring countries. They are choosing neighboring countries for two reasons: first, it may be a more viable option to escape to a near location; and second, increased control in Western countries act as a deterrence mechanism. Thus, it may be necessary for

these countries to undertake the responsibility for assuring the safety of these vulnerable populations.

For countries that receive a high number of refugees for which the government does not take responsibility, the UNHCR attempts to intervene by providing programs and aid for these populations. However, in many of these countries these programs are under-funded and understaffed, creating an enormous and challenging task. Countries such as Egypt, Syria, and Burundi receive a large number of refugees from neighboring countries. For instance, Egypt has received a large number of Somalian refugees. Most Egyptians, however, are poorly informed or unaware of the refugee problem within their country. In fact, poor health care, little access to resources, and little funding is the reality for most refugees in this country. Consequently, refugees become the lowest of the lower class people (Kasseem 2006)[50].

In contrast, security policies in a democratic country allow for social control. The power of social control in most democratic countries is most often denied to political leaders. However, having security policies permits political leaders to indirectly maintain the power to manipulate social control (Webb 2007).

B) The New Normal

As demonstrated throughout this study, there are a number of reoccurring themes, including: fear, risk, and threat. The following section will focus on attempting to link these together and relate them to the undermining of refugee rights.

A number of countries are currently involved in brutal civil wars or conflicts, making civilians prime targets of these atrocious battles. Thousands are fleeing their

[50] Heba Kasseem, Refugee Centre for Human Rights, Egypt (Speaker, York University, June 17-19 2006)

country in hope of finding security and freedom. The established securitization agenda in Western countries, however, ignores the plight of many refugees and asylum seekers seeking safety. The War on Terror appears to have taken precedence over the plight of these vulnerable individuals without a nation, a home, and a sense of belonging. Strikingly, Western citizens have accepted these questionable practices and ignored the plight of these vulnerable populations; "[b]ut the point is, in a world in which terrifying and tangible risks and dangers are mingled with perceived and exaggerated ones, it is understandable that many of us reach out for something (or someone) enduring to steady us" (Klug 2005, 3). "Better be safe than sorry" prevails in a 9/11 era. The concepts of fear, risk, and threat play an important role in the unfolding events as demonstrated in Chapter 3 and 4.

I) Fear

In Canada, it was demonstrated in Chapter 3 through the use of discourse analysis, that the Canadian government has created a sense of fear around terrorism. The language utilized in the Security Policy implies fear and assumes that this fear to be of common knowledge: "as all Canadians know, we live in an increasingly interconnected, complex and often dangerous world" (Privy Council 2004, 7). It is repeated time and time again throughout official documents that 'our contemporary world is a dangerous place'. Fear, by definition, refers to an intense emotion towards a real or perceived danger that citizens choose to fight against or take refugee from it (Nyers 2006, 51). Fear corresponds to being outside the zone of safety (Nyers 2006, 52). A certain amount of fear is useful, while an excess amount of fear can be destabilizing. Excessive fear can lead to intense alienation and anxiety, which may promote irrational behavior. Thinkers such as Thomas Hobbes,

Charles de Montesquieu, Alexis de Tocqueville and Hannah Arendt have examined the role of fear in politics (Robin 2006, 42). However, Hobbes, for instance, understood that fear was constitutive of sovereignty; "Hobbes understood that fear was a formidable force, difficult to manage, and yet crucial for his project of creating the conditions under which sovereign political spaces and subjectivities could emerge" (Nyers 2006, 53).

The state and its sovereign power are inextricably linked to its ability to provide safety and protection to its people (Nyers 2006, 53). Political liberalism, in essence, guarantees the freedom and equality of all individuals. In a democratic nation, politics are geared towards managing people's fears by incorporating them in a community of shared values (Sunstein 2005, I). The legitimate use of violence ensures the security and protections of its territory and borders. These practices tame citizen's anxiety and fear (Nyers 2006, 53). However, practices mitigating fear can also violate equality and freedom and move politics towards coercion and excessive control. Fear can also be used to manipulate public opinion so that citizens become less inclined to challenge policies generated by fear. The Rule of Law should apply to all, particularly to the government. Yet in states where the laws are driven by fear, government officials can act in a repressive manner while using "legitimate" means. Fear then becomes : « un instrument politique, un instrument du pouvoir de l'élite » (Robin 2006, 301).

In these contexts, citizens do not question these actions, as they feel protected by their government's stance against terrorism (Robin 2006, 250). Laws such as the Anti-Terrorism Act or Security Certificates are not questioned as these tools are perceived as necessary for safety and security in a 'highly dangerous world'. One does not question the government's excessive power as these tactics are inscribed within laws, policies, and

official documents that citizens trust. (Robin 2006, 250). « Qu'il s'agisse de la guerre froide de jadis, ou du lieu de travail et de la guerre contre le terrorisme aujourd'hui, la peur affaiblie notre engagement libéral pour la liberté et l'égalité, et renforcée certaines des forces les plus revanchardes et conservatrices de notre pays, qu'il s'agisse des hérauts de la discrimination raciale, qui recouraient à la peur pour priver les Noirs de leurs droits» (Robin 2006, 297).

Fear must be initiated and talked about before it can materialize. Fear is generally generated when something or someone presents a possible threat to one's security and safety. Ward Elcock, director of CSIS in 1998, stated that, with perhaps the exception of the United States, "there were more international terrorist organizations active in Canada than any other country in the world and that the counterterrorism branch of CSIS was investigating over 50 organization and about 350 individuals" (Fraser Institute 2006, 4). In addition to this, an RCMP report indicated that "It is not a matter of 'if' but 'when' an incident will occur" (Fraser Institute 2006, 16). Furthermore, Canada's National Security Policy states that: "Canadians, like others around the world, face an increasingly complex, volatile and ever-changing threat environment" (Privy Council 2005, 1). The concept of threat is used in this case and in many other documents loosely and in an ill-defined manner. Citizens are bombarded with messages from the media provoking fear without knowing what or who to fear concretely. Some groups are identified as threats such as Sunni Islamic extremists or Al-Qaeda members; but in large part, these "terrorist" remain faceless and more terrifying for being so[51]. Many of these official documents examined indirectly or directly allude to refugees and asylum seekers as threats, and in several cases link them to terrorism. "Increased vigilance" in Canadian policies and legislation is

[51] Both these groups were mentioned in the 2003 CSIS annual report

apparent. Refugees and asylum seekers have been transformed into uncertain entities and for this reason highly threatening populations.

Other institutions such as think tanks or journalists have helped stimulate this fear. The Fraser Institute, Sewart Bell and Diane Francis, amongst many others, have been outspoken on Canada's "lax" immigration and refugee laws, which have led, they claim, to Canada being recognized as a haven for terrorists. The Fraser Institute in February 2006 published research indicating that, in fact, the Canadian refugee system was inadequate and highly dysfunctional. The institute criticized the system for allowing terrorists to gain access to Canadian territory. Experts and government agencies have repeated time and time again that there is a potential threat; CSIS claims that "[...] terrorism represent[s] an acute threat to domestic public safety and to Canada's international interests" (Fraser Institute 2006, 5). However, it is difficult for the public to evaluate the validity and gravity of such threats; in a pre-emptive society, much information is kept secret for national security reasons. It is difficult to argue against or contest information if the public is unaware of the content of this information. Consequently, the public is forced to place its trust in the government and its agencies.

While many have criticized IRPA's focus reflecting a control and securitization agenda, the Fraser report argues that the Act emphasizes a humanitarian tradition (Fraser Institute 2006, 17). The report adds that "the refugee system has to date been the channel most frequently used by terrorists to both gain entry to Canada, and to avoid removal once they are here" (Fraser Institute 2006, 27). It argues that most terrorists have gained entry into Canada by seeking refugee status. The Fraser Institute as well as other similar research organizations may have a detrimental effect on the refugee system, as some of these

institutions have a significant impact on policy makers in Canada. However, one must be critical of the types of claim made by the Fraser Institute when it generalizes entire nations as 'terrorist-producing countries'[52].

II) Threat and Risk

Threats, in a Canadian context, are described as a danger and risk to Canadian citizens. However, thus far, the chances of being caught in a terrorist attack are rather slim. In the last 25 years, Canada has witnessed one terrorist attack: that of the Air India bombing that killed 329 people in 1985 (Privy Council 2005, 33). In point of fact, many more people are prone to die from heart attacks, murders, or accidents than terrorism attacks. Furthermore, as demonstrated in chapter 1, this threat is rather old. Ronald Reagan declared terrorism in the early 1990's to be of major concern worldwide (Zulaika 2003, 191). In reality, there are far greater threats. Nevertheless, terrorism appears to be the most manageable threat to tackle.

Risks must be certain and represent significant or serious harm for actions or funds be placed towards tackling the cause (Sunstein 2005, 26). Pre-emptive actions are generally justified when the risk is blatant. Nearly one fifth of Americans believe that until global warming becomes a real and palpable problem, funds should not be allocated towards preventing global warming (Sunstein 2005, 24). However, with regards to terrorism, global citizens have witnessed such horrific events. The risk is real and certain, justifying pre-emptive actions.

Cass Sunstein, prominent law professor at the University of Chicago Law School, argues that when the probability of harm and risk cannot be measured, the "worse-case"

[52] Taken from the Fraser Institute Report 2006, page 31

scenario is adopted (Sunsetin 2005, 60). To measure the probability of risk or outcome of a terrorism attack is impossible, thus the worse-case scenario is used to generate laws and policies to better protect citizens; this inevitably creates excessive fear around unlikely events (Sunstein 2005, 74). Both the government and media play a role in creating and promoting threats and risks to generate fear. Incidents that are highly publicized lead people into believing that the risk is higher than the reality (Sunstein 2005, 91). The increased perception of risk allows the government to set forth its control or securitization agenda.

Protecting citizens against real or fabricated threats "is the best way to justify taxation, that is, the extraction of resources necessary to the reproduction—and the expansion—of war-making and state institutions" (Béland 2005, 28). The War on Terror in Canada has pushed the government to spent over 8 billion dollars on securitizing the nation (Privy Council 2004, Foreword). The control of unwanted migrants seems to be at the forefront of many electoral debates. Promising a "threat-free" society is for many people an important issue. Conversely, the government argues that there is no such thing as a risk-free society, and the threat can never be eliminated (Privy Council 2005, 1). Yet the government tries to assure its citizens that everything will be done to regulate the risk, justifying any spending; "People will be closely attuned to the losses produced by any newly introduced risk, or by any aggravation of existing risks, but far less concerned with the benefits that are forgone as result of regulation " (Sunstein 2005, 43). Regrettably, in this case, regulation affects a vulnerable population that has little or no voice to begin with (Crepeau & Nakache 2006, 4).

From the evidence presented in this study, the new securitization paradigm is in full force and is here to stay. The state of emergency has been incorporated into Canadians' daily lives. Although emergency by definition represents a short period of time, the government has normalized this new threat. National Security Policy's one year review states the following:

> In fact, the job of promoting national security will never be completely finished. Building on the many measures taken to date, the Government will continue to implement strategies and initiatives to meet the evolving threat environment, enhance the security of Canadians, and contribute to international security in the 21st century (Privy Council 2005, 3).

But when does it become excessive? Where must Canadian draw the line? Bold statements and over generalizations can produce harmful effects. Over exaggeration and dramatization not only by the media but by governmental discourse and policies may work in the government's favour to promote fear and the call for a security agenda (Beland 2005, 33). "Operation Threat" in 2003 was an excellent example of such a practice. In 2003, government officials arrested 23 Pakistani and Indian men suspected of engaging in terrorism. They were publicly labeled as terrorists without having concrete evidence to support this claim. An apology was never issued publicly, thus allowing the media to continue publishing false stories with regards to these men; this not only violated their rights to be presumed innocent before proven guilty but also proved that much is accepted in a securitized era (CCR 2005, 2).

C) Canada in Retrospect

Structural discrimination against non-citizens has been part of Canadian discourse for decades. The Canadian immigration selection process has revealed discrimination since

its first enactment (Kruger et al. 2004, 86). The Chinese head tax, Canada's anti-Semitism views, and Japanese Internment Camps are a shame to Canadian history. Yet fifty years later, policies, legislation and practices are once again targeting a vulnerable population. Are Canadians, fifty years down the road, going to look back at the events of the twenty-first century as being yet again a dark and shameful part of Canadian history?

Fear would seem to be instinctual in humans. The unknown is a potential danger or threat, but it can also be part of a social process. Fear can be shaped and molded by the media or politics to fit the current society's structure. For example, in a post-9/11 era, an intensified security discourse is present in political speeches and the media. Policies undermining the rights of immigrants and refugees are then justified. In essence, these policies partially act to reassure the public against the imminent threat.

Even though the securitization agenda seems recent, evidence proves that in fact the agenda has been in place for some time. Concerns surrounding "bogus" refugees or immigrants had driven both the Canadian and American nations to be suspicious of these individuals long before the events of 9/11. Border security and stern immigration laws were established prior to 2001 (Pratt 2005, 4). In the United States, "[t]he *Krouse-Perla Report* to the American Congress on terrorism and recognition technology was tabled on June 18, 2001, almost three months before 9/ 11. It specifically referred to refugees as potential terrorists" (Adelman 2002, 22). In Canada, an Angus Reid Poll in 1991 demonstrated that half of the Canadian population believed that too many immigrants were being allowed into the country. One third believed that immigrants were taking away their jobs and placing a burden on the welfare system (Pratt 2005, 66-67). In 1999, a second poll indicated that policies should attempt to deter illegal immigrants from coming to Canada rather than

encouraging qualified immigrants to do so (Pratt 2005, 67). Yet according to CCR, in 1999, refugees accepted in to Canada represented less than 1 percent of Canadian population (CCR 1999). Moreover, fewer than half of refugee claimants are granted refugee status (CCR 1999).

The 9/11 events gave new life to what the Americans perceived as a potential danger: Canadian borders and our lax immigration and refugee determination system. 9/11 gave the American government new reasons to criticize the Canadian system claiming it was promoting a "haven for terrorists'' (Pratt 2005, 3). According to the Fraser Institute, Americans perceive the Canadian system to be the most generous asylum policy in the world (Fraser Institute 2006, 22). In May 2003, the Centre for Immigration Studies in Washington concluded that "Canada is a 'weak link' in America's defense against terrorist operations. United States' security is only as good as Canadian security since the United States has no control over who comes into Canada and since the border is so easily crossed" (Fraser Institute 2006, 22).

Canada's immigration system has been re-vamped, not only to promote the securitization agenda but, more importantly, to better reflect the American system. Canadians are the proud owners of a democratic system; it would be a loss if the government won the War on Terror by eliminating its democratic values (Coutu & Giroux 2006, 322). On the other hand, the Canadian government cannot ignore the new terrorism discourse put forth by the international community. Canadian officials fear a possible hostile response if it chooses to ignore the fear of other Western countries. In the United States, the Bush administration has been inclined to label those in opposition to the Bush administration as terrorists (Robin 2006, 227). Thus, if Canada does not attempt to

harmonize its systems with those of the United States, the American government could perceive Canada as a threat to its sovereignty. Referring back to war ideologies, Charles Tilly argues that countries that did not engage in conflict or war prior to the twentieth century would likely disappear (Tilly 1985, 184). Canada would likely lose its credibility as a world player if it does not show its commitment to the War on Terror.

As part of my concluding remarks, I was hoping for an easy answer or a solution to solve or improve the current situation, but the problem is far more complex. Balancing the rights of citizens and non-citizens is a multifaceted issue. The purpose of my work is to attempt to call attention to the current situation and make it known. I must, however, add one last comment. The fact of the matter is this: Canada has a duty to welcome and protect refugees' fleeing persecution in failed states. By ratifying the United Nations High Commissioner on Refugees, Canada took on the responsibility of providing shelter and aid to this vulnerable population. Canada was awarded the Nasen Medal in the 1980's to reward its contribution and dedication towards refugees and asylum seekers. Furthermore, the UNHCR considers Canada's system to be the "Cadillac" of refugee systems (Showler 2006, 217). The Canadian system however, is expensive and far from being perfect. Showler explains that "[t]he Canadian system has merited neither all of the praise nor all of the criticism" (Showler 2006, 218). In 2004's 37th parliamentary Speech from the Throne, the government argued the following: "[a]s others have said: the world needs more Canada. [...]We want governments to reflect our values in the actions they take" (Governor General of Canada. 2004b). In order to do so, Canada must abide by international and domestic standard to maintain its reputation and remain an example to other international communities, despite its increased vigilance and securitization agenda. It is essential that

Canada maintains refugees' human rights as an obligation, not as a charitable case. Moreover, with the exception of Section 3 and 6 (the right to vote and be elected), all sections of the Charter of Rights and Freedoms should be applicable to citizens *as well as* non-citizens physically present in Canada (Crepeau & Nakache 2006, 26).

The CCR, amongst many other advocacy groups, has communicated that terrorism cannot be solved by increasing vigilance towards refugee population and immigration policies (CCR 2001b, 2). Furthermore, if Canada wants to maintain its reputation for its contribution to its refugee population, it must revise its position and changes must be made its legislation. A system can never be perfect, but there is always room for improvement. Things such as a two-member panel, legal counsel for all, a proper appeal process, and fair trial procedures regardless of status must be reinstalled (Showler 2006, 232-233). These improvement measures are not about leniency but rather about giving everyone a fair chance to present his or her stories to the decision makers. The bottom line is this: the argument here is not to allow every refugee into the country but to allow every claimant an opportunity to defend their case in a fair and equal manner (CCR 2003, 9). If found inadmissible, they should be given the right to an appeal in which they may represent their side of the story in a way that follows national and international laws, policies and conventions.

Epilogue

Within the past year, there have been some changes to the securitization agenda. These changes may not be significant at the moment, but are a stepping stone towards allocating a balance between security and human rights.

I) Security Certificates

In June 2006, Adil Charkaoui, Mohamed Harkat and Hassan Almrei challenged the Security Certificates process at the Supreme Court. On February 23rd, 2007, the Supreme Court ruled that the Certificate process was unconstitutional, ordering the federal government to revise the law, so that it is formulated in a way that would be consistent with the Charter of Rights and Freedoms.

The IRB is also experiencing some significant changes to its structure. Jean-Guy Fleury, chair of the IRB has recently announced his resignation, stating the view that it was time for new blood. The IRB is currently in the process of revising the appointment procedures of its members. Immigration Minister Diane Finley has declared that the new selection process will be more rigorous, asserting that "[a]ll appointees will now have to pass the competency test to ensure they have the skills to do the job. Candidates who pass the test will then have to be interviewed by a seven-member committee" (Globe and Mail, February 28, 2007)[53].

II) Anti-Terrorism Act

In October 2006, the Ontario Court struck down a key element of the Anti-Terrorism Act, asking the government to rethink the definition of terrorism given in this piece of legislation. The court argued that defining terrorism on the basis of political, religious or other beliefs violated the Charter of Rights and Freedoms.

A vote in the House of Commons on February 27th, 2007 defeated the possibility of renewing Canada's extraordinary legal powers for detaining and interrogating terrorism

[53] Jiménez, Marina, "Immigration Board head abruptly resigns amid changes," *The Globe and Mail,* February 28, 2007, A4A.

suspects outlined by the Anti-Terrorism Act. The New Democratic Party, Bloc Québécois, and Green Party have long opposed the renewal of these policies; but the recent change in heart of the Liberals has obliged the government to scrap policies that were implemented while in crisis mode following the 9/11 events. Mr. Dion, Liberal leader at the time of vote, argued that it was time to place human rights at the forefront of political arguments. The rejection of the renewal of this Act has in fact opened the possibility of having new policies with regards to national security (Globe and Mail, Feb 28th, 2007)[54]

III) Safe Third Country Agreement

On March 29th 2006, the Canadian Council for Refugees, the Canadian Council of Churches, and Amnesty International launched a legal campaign against the Safe Third Country Agreement, judging it to be unconstitutional; recent security policy developments in the United States are believed to cause unsafe grounds for refugees. Practices such as the detention of men, women, and children asylum seekers alongside convicted criminals, a rigid determination process that does not take into account the possible risk of punishment and cruelty, and discrimination on the basis of nationality, ethnicity, and religion means that make the U.S is not a safe country (CCR 2007). On December 6th, 2006, the CCR submitted to the federal cabinet evidence demonstrating increased security policies in the United States since the enactment of the Safe Third Country Agreement. As a consequence, the U.S no longer offers a safe haven for refugees. Amongst several elements, the report revealed that the U.S was responsible for the deportation of Maher Arar to Syria where he was subjected to torture. It also emphasized that the IRPA clearly states that U.S. policies must be constantly re-examined to ensure it continues to follow international guidelines.

[54] Sallot, Jeff, "Terror vote fails as Dion reins in Liberals" *The Globe and Mail*, February 28, 2007, A1/A4.

With events such as the Arar case, the CCR believes that international conventions have long been forgotten. Refugee advocacy groups are urging the government to withdraw the designation of the United States as a safe third country (CCR 2007). The outcome of the submission is unknown at the time of writing.

To date, these developments have not produced any concrete changes in the system. However, they are small steps towards striking a balance between human security and national security. These changes may or may not have an effect on immigration and refugee policies. Decisions that will be taken by courts in months to come will determine an outcome for refugees in Canada.

Bibliography

A) References

Adelman, Howard. 2004. Governance, Immigration Policy, and Security: Canada and the United States Post -9/11. In *The Maze of Fear; Security and Migration After 9/11*, edited by John Tirman. New York: The New Press.

Adelman, Howard. 2002. Canadian Borders and Immigration Post 9/11. *International Migration Review* 36(1): 15-28.

Aiken, Sharryn J. 2000. Manufacturing "Terrorists": Refugees, National Security, and Canadian Law. *Refugee, Canadian Periodical on Refugees* 19(3): 54-73.

Amiel, Baraba. 2006. Weird bedfellow Sacha Trudeau and me. *Maclean's* http://www.zerra.net/freemohamed/data2/Macleans-Aug29-2006.php Accessed April 2007.

Atkey, Ronald G. 1990. Canadian Immigration Law and Policy: A Study in Politics, Demographics and Economics. *Law Journal* 16.

Axworthy, Lloyd. 2004. A New Scientific Field and Policy Lens. *Security Dialogue* 35(3): 348-349.

Babbie, Earl and Lucia Benaquisto. 2002. *Fundamentals of Social Research; First Canadian Edition*. Scarborough: Thomson Nelson.

Bauman, Zygmunt. 2002. Guerre de reconnaissance sur la frontière sur la frontière planétaire. *Esprit Revue international* 290: 59-70.

Beck, Ulrich. 2000. *What is Globalization?* Cambridge: Polity Press.

Beck, Ulrich. 2002. The Terrorist Threat: World Risk Society Revised. *Theory, Culture and Society* 19(4): 39-55.

Beck, Ulrich. 2003. The Silence of Words; On Terror and War. *Security Dialogue* 34(3): 255-267.

Beck, Ulrich, Wolfgang Bonss and Christoph Lau. 2003. The Theory of Reflexive Modernization: Problematic, Hypotheses and Research Programs. *Theory, Culture & Society* 20(2): 1-33.

Béland, Daniel. 2005. Insecurity, Citizenship, and Globalization: The Multiple Faces of State Protection. *Sociological Theory* 23(1): 25-41.

Bell, Colleen. 2006. Surveillance Strategy and Population at Risk: Biopolitical Governance in Canada's National Security Policy. *Security Dialogue* 37(2): 147-165.

Bell, Stewart. 2004. *Terreur Froide*. Les editions de l'Homme: Montréal.

Bhandar, Davina. 2004. Renormalizing Citizenship and Life in Fortress North America. *Citizenship Studies* 8(3): 261-278.

Bislev, Sven. 2004. Globalization, State Transformation and Public Security. *International Political Science Review* 25(3): 281-296.

Blommaert, Jan and Chris Bulcaen. 2000. Critical Discourse Analysis. *Annual Review Anthropology* 29: 447-466.

Bourbeau, Philippe. 2006. Migration and Security: Securitization theory and its refinement. http://www.iir.ubc.ca/isac2006/Bourbeau%20ISA%202006%20Paper.pdf Accessed September 2006.

Bourgon, Stephane. 2003. The Impact of Terrorism on Principle of 'Non-refoulement' of Refugees; The Suresh Case before the Supreme Court of Canada. *Journal of International Criminal Justice* 1: 169-185.

Brunschot, Erin E, Gibbs Van and Alison Sherley. 2005. Communicating Threat: The Canadian State and Terrorism. *The Sociological Quarterly* 46: 645-669.

Buonfino, Alessandra. 2004. Between Unity and Plurality: The Politization and Securitization of the Discourse of Immigration in Europe. *New Political Science* 26(1): 23-49.

Burman, Jenny. 2006. Absence, "Removal," and Everyday Life the Diasporic City; Antidetention/Antideportation Activism in Montreal. *Space and Culture* 9(3): 279-293.

Callocott, Martin. 2006. Canada's Inadequate Response to Terrorism: The Need for Policy Reform. *The Fraser Institute* The Fraser Institute Digital Publication, Vancouver: 1 -99.

Campbell, Chales M. 2000. *Betrayal & Deceit; The Politics of Canadian Immigration*. Vancouver: Jasmine Books.

Coutu, Michel and Marie-Helene Giroux. 2006. The Aftermath of 11 September 2001; Liberty vs. Security before the Supreme Court. *International Journal of Refugee Law* 18(2): 313-332.

Crepeau, Francois and Delphine Nakache. 2006. Controlling Irregular Migration in Canada; Reconciling Security Concerns with Human Rights Protection. *Institute on Research and Public Policy* 12 (1): 1-42.

Daniels, Ronald. 2001. Introduction to *The Security of Freedom, essays on Canada's Anti-Terrorism Bill*, edited by Ronald J. Daniels, Patrick Macklem and Kent Roach. Toronto: University of Toronto Press.

DeVoretz, Don. 2006. Deflection at the Borders: Immigration and Security after 9/11. *Research on Immigration and Integration in the Metropolis* No. 05-02: 1-6.

DeVoretz, Don and Philipe Hanson. 2003. Sourcing out Canada's Refugee Policy: The Safe Third Country Agreement. *Research on Immigration and Integration in the Metropolis* No 03-06: 1-4.

Dryzek, John S. 2006. Transnational Democracy in an Insecure World. *International Political Science Review* 27(2): 101-119.

Dunmire, Patricia. 2005. Preempting the future: rhetoric and ideology of the future in political discourse. *Discourse & Society* 16(4): 481-513.

Elliott, Anthony. 2002. Beck's Sociology of Risk: A Critical Assessment. *Sociology* 36(2): 293-315.

Fairclough, Norman. 2003. *Analyzing Discourse; Textual analysis for social research.* London: Routledge Taylor & Fancis Group.

Fairclough, Norman. 1992. Discourse and Text: linguistics and intertexuality analysis within discourse analysis. *Discourse and Society* 3(2): 192-217.

Fairclough, Norman. 1985. Critical and Descriptive Goals in Discourse Analysis. *Journals of Pragmatics* 9:739-763.

Foucault, Michel. 1984. The order of Discourse. In *Language and Politics*, edited by M. Shairo. New York: New York University Press.

Gerth and Mills. 1946. *From Max Weber: Essays in Sociology.* New York: Oxford University Press.

Gottweis, Herber, 1998. *In Governing Molecules; The Discursive Politics of Genetics Engineering in Europe and United States.* Cambridge: The MIT Press.

Graham, Kennedy. 2005. The Security Council and Counterterrorism: Global and Regional Approaches to an Elusive Public Good. *Terrorism and Political Violence* 17:37-65.

Greenspan, Edward L. 2003. In Defense of Freedom. *MacLean's* 116(30): 30.

Gross, Oren. 2001. Cutting Down Trees: Law-Making Under the Shadow of Great Calamities. In *The Security of Freedom, essays on Canada's Anti-Terrorism Bill*, edited by Ronald J. Daniels, Patrick Macklem and Kent Roach. Toronto: University of Toronto Press.

Harkat, Sophie. 2006. Alternative Voices: Who's Right is it Anyway. Speech presented at Cinema Politica. University of Ottawa, Ottawa. Http://www.cinemapolitica.org/ottawa/whos_rights_anyway_secure_free.html

Heckman, Geralds P. 2003. Security Procedural Safeguards for Asylum seekers in Canadian Law: An Expanding Role for International and Human Rights Law? *International Journal of Refugee Law* 15(2): 212-253.

Hendess, Barry. 2004. Citizenship for All. *Citizenship Studies* 8(3): 305-315.

Heng, Yee-Kuang. 2002. Unraveling the 'War' on Terrorism: A Risk-Management exercise in War Clothing? *Security Dialogue* 33(2): 227-242.

Hicks, Stephen. 1999. Michel Foucault and Postmodernism. *The Objectivist Center*. http://www.objectivistcenter.org/obj-studies/cyber/FoucSumm.asp. Accessed April 2007.

Humphrey, Michael. 2003. Refugees, endangered species? *Journal of Sociology*, 39(1): 31-43.

Huntington, Samuel P. 1993. The Clash of Civilization? *Foreign Affairs* 72(3): 22-50.

Huysmans, Jef. 2006. *The Politics of Insecurity. Fear, Migration and Asylum in the EU.* London and New York: Routledge Taylor and Francis Group.

Huysmans, Jef. 1998. Revisiting Copenhagen: Or, on the creative development of a Security Studies Agenda in Europe. *European Journal of International Relations* 4(4): 479-505.

Ibrahim, Maggie. 2005. The Securitization of Migration: A Racial Discourse. *International Migration* 43(5): 163-187.

Kaldor, Mary. 1999. *New Wars and Old Wars: Organized Violence in a Global Era.* Stanford: Stanford University Press.

Klug, Francesca. 2005. Human rights: above politics or a creature of politics? *Policy & Politics* 33(1): 3-14.

Kruger, Erin, Marlene Mulder and Bojan Korenic. 2004. Canada after 11 September: Security Measures and "Preferred" Immigrants. *Mediterranean Quarterly* 15(4):72-87.

Lacroix, Marie. 2004. Canadian Refugee Policy and the Social Construction of the Refugee Claimant Subjectivity: Understanding Refugeeness. *Journal Refugee Studies* 17(2): 147-166.

Li, Peter S. 2003. *Destination Canada; Immigration Debates and Issues*. Oxford: Oxford Press.

Lowry, Michelle. 2002. Creating Human Insecurity: The National Security Focus in Canada's Immigration System. *Refuge*, 1: 28-39

Marfleet, Philip. 2006. *Refugees in a Global Era*. New York: Palgrave Macmillan.

McRae. Rob. 2001. Human Security in a Globalized World. In *Human Security and the New Diplomacy; Protecting people, Promoting Peace*, edited by Rob McRae and Don Hebert. Montreal & Kingston: McGill-Queens University Press.

Muller, Benjamin J. 2004. (Dis)Qualifyed Bodies: Securitization, Citizenship and 'Identity Management'. *Citizenship Studies* 8(3): 279-294.

Nyers, Peter. 2006. *Rethinking refugees; Beyond States of Emergency*. New York: Routledge Taylor & Francis Group.

Pratt, Anna. 2005. *Security Borders; Detention and Deportation in Canada*. Vancouver: UBC Press.

Robin, Corey. 2006. *La Peur; Histoire D'une Idée Politique*. Paris: Armand Colin.

Roman, Leslie G. 2004. State of Insecurity: Cold War memory 'global citizenship' and its discontents. *Discourse: studies in the cultural politics of education* 25(2): 231-259.

Rothe, Dawn and Stephen L. Muzzatti. 2004. Enemies Everywhere: Terrorism, Moral Panic and US Civil Society. *Critical Criminology* 12: 327-350.

Rousseau, Cecile, Francois Crepeau, Patricia Foxen and France House. 2002. The Complexity of Determining Refugeehood : A Multidisciplinary Analysis of the Decision-making Process of the Canadian Immigration and Refugee Board. *Journal of Refugee Studies* 15(1): 43-70.

Schnapper, Dominique. 2002. Citizenship and National Identity in Europe. *Nations and Nationalism* 8(1): 1-14.

Schutz, Alfred. 2003. *L'Etranger*. Paris: Editions Allia.

Schneiderman, David. 2001. Terrorism and the Risk Society. In *The Security of Freedom, essays on Canada's Anti-Terrorism Bill*, edited by Ronald J. Daniels, Patrick Macklem and Kent Roach. Toronto: University of Toronto Press.

Showler, Peter. 2006. *Refugee Sandwich; Stories of Exile and Asylum*. Kingston & Montreal: McGill-Queen University Press.

Shoyele, Olugbenga. 2004. Armed Conflicts and Canadian Refugee Law and Policy. *International Journal of Refugee Law* 16(4): 547-583.

Spence, Keith. 2005. World Risk Society and War against Terror. *Political Studies* 53: 284-302.

Stoffman, Daniel. 2002. *Who gets in; What's Wrong with Canada's Immigration Program-and How to Fix it*. Toronto: Mcfarlane, Walter & Ross.

Sunstein, Cass R. 2005. *Laws of Fear; Beyond the Precautionary Principle*. Cambridge: Cambridge University Press.

Taran, Patrick A. 2000. Human Rights of Migrants; Challenges of the New Decade. *International Migration* 38(6): 7-51.

Tilly, Charles. 1985. War Making and State Making as Organized Crime. In *Bringing the State Back*, 169-191. Edited by P. B. Evans, D. Rueschmeyer, and T. Skocpol. Cambridge: Cambridge University Press.

Trudeau, Alexander. 2006. Documentary Series; Secure Freedom. Produced by Films JuJu, http://www.cinemapolitica.org/ottawa/whos_rights_anyway_secure_free.html

Ungerleider, Charles S. 1992. Immigration, Multiculturalism, and Citizenship: The Development of the Canadian Social Justice Infrastructure. *Canadian Ethnic Studies* 24(3): 7-23.

Vukov, Tamara. 2003. Imagining communities through immigration policies; governmental regulation, media spectecals and the affective politics of national borders. *International Journal of Cultural Studies* 6(3): 335-353.

Walters, William. 2005. Figuring security: Notes on Power, In/security and Territory. Global Norms under Siege symposium, Carleton University: Department of Political Science 1-12.

Walters, Williams. 2004. Secure Borders, Safe Heaven, Domopolitics. *Citizenship Studies* 8(3): 237-260.

Wilkinson, Ray. 2001. The September Terror: A Global Impact. *UNHCR publication of Refugees* 4(129): 4-13.

Willis, Susan. 2006. Guantanamo's Symbolic Economy. *New Left Review* 39: 123-131.

Williams, Michael C. 2003. Words, Images, Enemies: Securitization and International Politics. *International Studies Quarterly* 47: 511-531.

Wong, Anice. 2005. Document Series; Who's Right Anyways. Produced by Hugh Gibson and Anice Wong, www.cinemapolitica.org/ottawa/whos_rights_anyway_secure_free.html

Zulaika, Joseba. 2003. Self-Fulfilling Prophecies of Counterterrorism. *Reflections and Reports* 85: 191-199.

Zulaika Joseba and William A. Douglass. 1996. *Terror and Taboo: The follies, Fables, and Faces of Terrorism.* New York and London: Routledge.

B) Documentary Corpus

Amnesty International (AI). 2006a. AI Report 2006. http://web.amnesty.org/report2006/index-eng. Accessed May 26, 2006.

Amnesty International (AI). 2006b. Canada: Security Certificates-Time for Reform. http://www.amnesty.ca/take_action/actions/canada_certificates.php Accessed October 2006.

Canadian Borders Agency Service (CBSA). 2006a. Mandate. http://www.cbsa-asfc.gc.ca/agency-agence/who-qui-e.html. Accessed September 2006.

Canadian Borders Agency Service (CBSA). 2006b. News Release: Kingston Immigration Holding Centre Opens. April 25 2006. http://www.cbsaasfc.gc.ca/newsroom/release-communique/2006/0424ottawa-e.html. Accessed October 2006.

Canadian Borders Agency Service (CBSA). 2005. Facts Sheet: Security Certificates under the Immigration and Refugee Protection Act. http://www.cbsa-asfc.gc.ca/E/pub/cp/bsf5012/README.html. Accessed September 2007.

Canadian Council for Refugees. 2007. Safe third country Brief to the Standing Committee on Citizenship and Immigration. (February 2007). http://www.ccrweb.ca/eng/engfront/frontpage.htm. Accessed April 2007.

Canadian Council for Refugees (CCR). 2005. Brief to the House of Commons Subcommittee on Public Safety and National Security of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness. *Submission on Anti-Terrorism Act Review* (September, 2005).

Canadian Council for Refugees (CCR). 2003. Refugees and Security (February 2003).

Canadian Council for Refugees (CCR). 2002. State of Refugees in Canada (November 2002). http://www.web.ca/ccr/pepage.html. Consulted in February 2006. Accessed February 2006.

Canadian Council for Refugees (CCR). 2001a. Bill C-11: New Immigration Bill (July 27th, 2001).

Canadian Council for Refugees (CCR). 2001b. News Release; Statement in Response to the Attacks on the U.S. (September 14, 2001). http://www.web.net/%7Eccr/attack01.html. Accessed August 2006

Canadian Council for Refugees (CCR). 1999. Facing Facts: Myths and Misconceptions about Refugees and Immigrants in Canada. http://www.web.net/~ccr/myths.htm#N_4_. Accessed October 2006.

Canadian Security Intelligence Service (CSIS). 2003. *Public Report 2003*. Public Works and Government Services Canada. ISBN 0-662-06907-5.

Canadian Security Intelligence Service (CSIS). 2005a. *Public Report 2004-2005*. Public Works and Government Services Canada: http://www.csisscrs.gc.ca/en/publications/annual_report/2004/report2004_e.pdf Accessed July 06.

Canadian Security Intelligence Service (CSIS). 2005b. Backgrounder No. 14: Certificates under the Immigration and Refugee Protection Act (IRPA). http://www.csis-scrs.gc.ca/en/newsroom/backgrounders/backgrounder14.asp Accessed Oct. 2006

Canadian Security Intelligence Service (CSIS). 1999. Trends in terrorism. *Report no. 2000/01*. http://www.csis.gc.ca/en/publications/perspectives/200001.asp. Accessed November 2006.

Citizenship and Immigration Canada (CIC). 2005a. News Release; An Immigration System for the 21st Century (Ottawa: April 18, 2005). http://www.cic.gc.ca/english/press/05/0509-e.html. Accessed May 2006

Citizenship an Immigration Canada (CIC). 2005b. Backgrounder: The Refugee Appeal Division. http://www.cic.gc.ca/english/refugees/rad-backgrounder.html. Accessed September 2006.

Citizenship and Immigration Canada (CIC). 2005c. Speech: Notes for an Address by Janice Charette Deputy Minister of Citizenship and Immigration (June 20, 2005). http://www.cic.gc.ca/english/press/speech-2005/ccwrd.html. Accessed May 2006.

Citizenship and Immigration Canada (CIC). 2003. News Release: Citizenship and Immigration Canada and Accenture to Develop the Global Case Management System. (Ottawa: April 7th, 2003). http://www.cic.gc.ca/english/press/03/0311-pre.html. Accessed May 2006.

Citizenship and Immigration Canada (CIC). 2002a. Canada's immigration law. Minister of Public Works and Government Services Canada. ISBN 0-662-667182.

Citizenship and Immigration Canada (CIC). 2002b. News Release: Refugee Appeal Division delayed. (Ottawa: April 29, 2002). http://www.cic.gc.ca/english/press/02/0212- pre.html. Accessed May 2006

Citizenship and Immigration Canada (CIC). 2002c. News Release: Immigration and Refugee Protection Act. Final Set of Proposal Regulations Republished. (Ottawa: March 8, 2002). http://www.canada.gc.ca/gazette/part1/pdf/g1-13610.pdf. Accessed May 2006.

Citizenship and Immigration Canada (CIC). 2001a. News Release: Strengthened Immigration Measures to Counter Terrorism (Niagara Falls: October 12, 2001). http://www.cic.gc.ca/english/press/01/0119-pre.html. Accessed August 2006.

Citizenship and Immigration Canada (CIC). 2001b. News Release: Immigration and Refugee Protection Act Introduced (Ottawa: February 21, 2001). http://www.cic.gc.ca/english/press/01/0103-pre.html. Accessed May 2006.

Citizenship and immigration Canada (CIC). 2001c. News Release: Canada-United States Issue Statement on Common Security Priorities (Detroit/Ottawa December 3, 2001) http://www.cic.gc.ca/english/press/01/0126-pre.html. Accessed March 2007.

Committee of Parliamentarians. 2004. A National Security Committee of Parliamentarians; A Consultation Paper to Help Inform the Creation of Committee of Parliamentarians to Review National Security. Ottawa.

Department of Foreign Affairs and International Trade Canada (DFAIT). 2006. Human Security Programs. http://www.humansecurity.gc.ca/psh-en.asp Accessed December 2006.

Department of Justice Canada (DJC). 2006. Anti-terrorism act. http://laws.justice.gc.ca/en/A-11.7/218664.html. taken 25 may 2006 Accessed May 2006

Department of Justice Canada (DJC). 2001. Backgrounder: Highlights of Anti-terrorism Act. http://www.justice.gc.ca/en/news/nr/2001/doc_27787.html. Accessed 25 May 2006.

Department of Justice Canada (DJC). 1982. Canadian Charter of Rights and Freedoms. Constitutional Act, 1992. http://lois.justice.gc.ca/en/charter/index.html. Accessed October 2006.

Government of Canada (GOC): Dolin, Benjamin R. and Margaret Young. 2002. Canada's Refugee Protection System. Publication by the Government of Canada: Law and Government division.

Government of Canada. 2002. Bill C-11: The Immigration and Refugee Protection Act. (Revised January 31st, 2002). http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=2330877&Language=e&Mode=1. Accessed September 2006.

Governor General of Canada. 2006. Speech from the Throne to Open the First Session of the 39th Parliamentary of Canada. *Privy Council Office*. http://www.sft-ddt.gc.ca/default_e.htm. Accessed September 2006.

Governor General of Canada. 2004. Speech from the Throne to Open the Third Session of the 37th Parliamentary of Canada. *Privy Council Office*. http://www.pcobcp.gc.ca/default.asp?Language=E&Page=sftddt&doc=sftddt2004_1_e.htm Accessed September 2006.

Governor General of Canada. 2002. Speech from the Throne to Open the Second Session of the 37th Parliamentary of Canada. *Privy Council Office*. http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=sftddt&doc=sftddt2002_e.htm Accessed September 2006.

Governor General of Canada. 2001. Speech from the Throne to Open the First Session of the 37th Parliamentary of Canada. *Privy Council Office*. http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=sftddt&doc=sftddt2001_e.htm Accessed September 2006.

Governor General of Canada. 1999. Speech from the Throne to Open the First Second Session of the 36th Parliamentary of Canada. *Privy Council Office* http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=sftddt&doc=sftddt2001_e.htm Accessed September 2006

House of Commons. 2005. Citizenship Revocation: A question of Due process and Respecting Charter Rights. Report on Standing Committee on Citizenship and Immigration.

Immigration and Refugee Board (IRB). 2006a. Immigration and Refugee Board of Canada: An Overview. ISBN 0-662-49166-1.

Immigration and Refugee Board (IRB). 2006b. Detention Review Hearings. ISBN:0-662-49225-0.

Office of the Auditor General. 2005. Chapter 2: National Security in Canada-The 2001 Anti-Terrorism Initiative: Air Transportation Security, Marine Security and Emergency Preparedness. *The Report of the Auditor General to the House of Commons.*

Privy Council. 2004. Securing an Open Society: Canada's National Security Policy. (Ottawa: April 2004). www.pco-bcp.gc.ca/docs/Publications/NatSecurnat/natsecurnat_e.pdf. Accessed June 2006.

Privy Council. 2005. Securing an Open Society: One year later. *Progress Report on the Implementation of Canada's National Security Policy.* (April 2005). www.pco-bcp.gc.ca. Accessed June 2006.

Public Safety and Emergency Preparedness Canada (PSEPC). 2006. Keeping Canadians Safe: About the Listing Process. http://www.publicsafety.gc.ca/prg/ns/le/atlp-en.asp Accessed May 2006.

Public Safety and Emergency Preparedness (PSEPC) (2006). Keeping Canada Safe; Listed Entities. http://www.psepc.gc.ca/prg/ns/le/index-en.asp. (Accessed April 2006).

Universal Declaration of Human Rights (UDHR). 1948. All Human Rights for All. *United Nations.* http://www.un.org/Overview/rights.html . Accessed June 2006.

United Nations (UN). 2006. United Nations Human Rights Day. http://www.un.org/events/humanrights/2005/index.htm. Accessed November 2006.

United Nations Convention against Torture (UNCAT). 1987. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. *United Nations.* http://www.ohchr.org/english/law/pdf/cat.pdf. Accessed March 2007.

United Nations Population Fund (UNFPA). 2006. *A Passage to Hope: Women and International Migration.* New York.: UNFPA State of World Populations.

United Nations High Commissioner on Refugees (UNHCR). 2006a. Country Operations Plan; Overview Canada. *The United Nation Refugee Agency*.

United Nations High Commissioner on Refugees (UNHCR). 2006b. The State of the World's Refugees: Human Displacement in the New Millennium. Oxford: Oxford University Press.

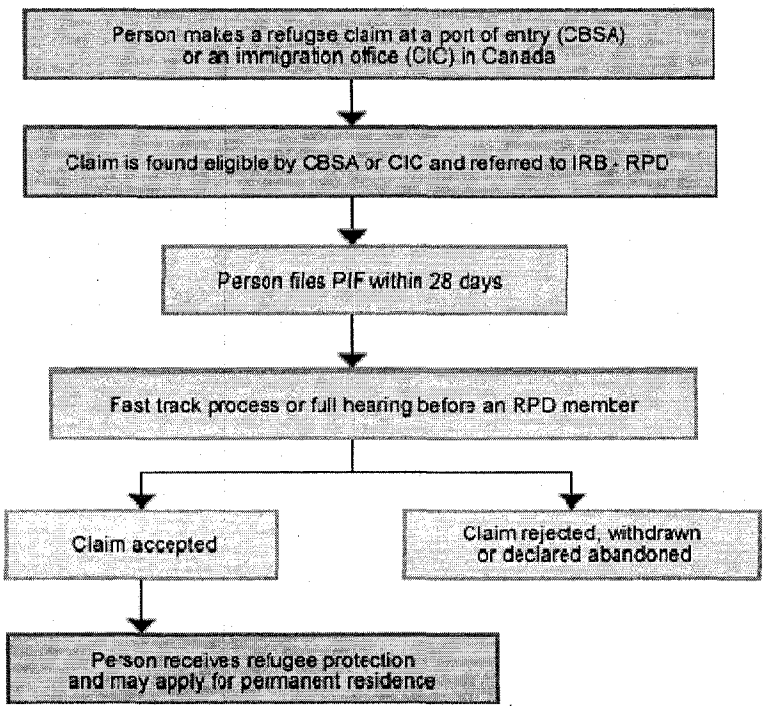
Office of the United Nations High Commissioner for Refugees (UNHRC). 2006c. Convention Relating to the Status of Refugees. http://www.ohchr.org/english/law/refugees.htm. Accessed March 2006.

Appendix

A) Appendix # 1: The refugee determination process

(Taken from IRB Publication 2006, 12)

The following chart illustrates the refugee determination process:



B) Appendix # 2: Top Ten sources of Refugees in Canada from 2000 until 2001

(Taken from CIC Website: Facts and Figures)

Refugee Class by Top Ten Source Countries (Principal Applicants and Dependants)

COUNTRY	2000			2001			2002		
	Num.	%	Rank	Num.	%	Rank	Num.	%	Rank
Afghanistan	2,538	8.44	3	2,917	10.45	1	2,743	10.92	1
Sri Lanka	3,235	10.76	2	2,504	8.97	2	2,207	8.79	2
Pakistan	1,237	4.11	5	2,111	7.56	3	2,102	8.37	3
Colombia	783	2.60	12	1,282	4.59	6	1,729	6.88	4
China, People's Republic of	636	2.11	15	729	2.61	12	1,249	4.97	5
Iran	1,503	5.00	4	1,474	5.28	5	1,243	4.95	6
Sudan, Democratic Republic of	651	2.16	14	1,038	3.72	9	1,240	4.94	7
India	1,110	3.69	7	1,153	4.13	7	1,201	4.78	8
Iraq	982	3.27	8	1,077	3.86	8	927	3.69	9
Congo, Democratic Republic of	951	3.16	9	929	3.33	10	782	3.11	10
Somalia, Democratic Republic of	1,211	4.03	6	829	2.97	11	502	2.00	13
Yugoslavia	3,834	12.75	1	1,747	6.26	4	339	1.35	16
Bosnia-Herzegovina	839	2.79	10	639	2.29	13	201	0.80	23
Total for Top Ten Only	**17,440**	**58.00**		**16,232**	**58.15**		**15,423**	**61.40**	
Total Other Countries	**12,635**	**42.00**		**11,678**	**41.85**		**9,699**	**38.60**	
Total	**30,075**	**100**		**27,910**	**100**		**25,122**	**100**	