PARLIAMENTARY RE-CONSTRUCTION OF “REFUGEE”: the ideological circle in Canadian immigration

by

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A thesis submitted in conformity with the requirements for the degree of Master of Arts
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THE IDEOLOGICAL CIRCLE IN CANADIAN IMMIGRATION
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Abstract

This project is an investigation into the work accomplished by the Standing Committee on Citizenship and Immigration during their study of the Canadian refugee determination system, commencing in October 1999 and ending in March 2000. The Committee’s study was established in response to the arrival of 599 Chinese immigrants to Canada in the summer of 1999. I apply the research methodology of institutional ethnography, developed by Dorothy Smith, in my analysis of transcripts from the meetings and the Committee’s final report.

In the course of my study I aim to develop two ideas. First, the Committee’s work is part of an ideological circle whereby migrants are produced and re-produced as a crisis. Through this process, people’s lived experience becomes subsumed by ruling knowledges. Secondly, drawing on the ideological circle I argue that migration policies are organized around the objectives of border control rather than humanitarian interests. Ultimately, my goal is to explicate one instance in the process of “othering” that occurs in Canadian social and institutional relations. Subsequently, this will enable some understanding of the work processes of governing by the Canadian state.
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Chapter 1: Background

"Sheltered behind a wall of racist assumptions, administrative regulations and political calculations, Canadians were content that those for whom they felt no kinship, no sympathy, and no responsibility would get no entry either" (Abella and Troper, 1991, Epilogue, None is too Many, p.288)

New Arrivals/The "Case"¹

Over three months in the summer of 1999, 599 people arrived in four rusted and decrepit boats to British Columbia, Canada from Fujian province, China. Reports estimated that each journey had lasted between thirty-eight days and ninety days. The conditions would have been appalling with barely adequate supplies for the passengers and crew. Furthermore, based on the condition of each ship, many people agreed it was a wonder they made it across the Pacific.

Over the subsequent months, the unfolding "facts" of this event were reported in headline news throughout British Columbia and across Canada. Stories repeatedly made reference to the situation as an "invasion" and described the ships as "packed to the gunwales with illegal immigrants" ("Boat people test Canada," 1999). Reports warned that Canadians’ health and security are being compromised by "increased threats of contracting AIDS and tuberculosis" and the presence of "criminals and terrorist groups" ("Weak immigration laws threaten," 1999) resulting from the arrival of the Fujianese migrants². The Canadian public’s reaction documented in hundreds of letters posted on

¹ The arrival of the four ships (discussed in this chapter) will be referred to as "the Case" throughout my analysis. This term reflects the particular approach taken by a large part of the public towards these migrations. Specifically, migrants on these ships were seen to be one cohesive group and, concomitantly, distinct from "legitimate" refugees and migrants. It was this "case" specifically that was used as the starting point for the governmental study that is the basis for my analysis.

² This refers to the specific group of immigrants from China arriving by boat to British
the Canadian Broadcasting Corporation's (CBC) website, numerous opinion pieces published in newspapers, and calls to radio phone-in shows (see for example CBC Radio One, August 15, 1999 and September 12, 1999), further illustrate the fervor with which people reacted. Comments such as "Canada’s the only country that would allow this; boatloads of people saying ‘I’m a refugee’ when you know and I know that is not true" (CBC Radio One, August 15, 1999) became familiar as similar sentiments were echoed throughout the public discourse.

The bulk of the public reaction demonstrate fear, resentment, and a generalized panic in response to this situation. For example the Canadian Broadcasting Corporation (CBC) posted 235 letters on their website, submitted by the Canadian public in response to "the case". These letters reflected a variety of ideas; however their sentiments could be arranged into similar categories. I classified the letters into three broad groups. The first group I refer to as "anti-immigrant" where the focus was on "illegals", queue jumping, newcomers as abusers of and a drain on the Canadian system. These letters called for the detainment and/or deportation of the 599 Fujianese. Examples of letters classified in this group are:

The people arriving by boatloads on our shores are criminals trying to avert due process, nothing more. As criminals, I feel no sympathy for them, and certainly have no interest in supporting them. (Pinchback, 1999)

Columbia in the summer of 1999. Throughout this analysis I use the term "migrant" to refer to anyone with the intention of immigrating, that is, moving to Canada whether through the immigration system, refugee system, or otherwise.
I do not like all those scum of the earth and robbers with criminal history landing here, without our control. What is our future society going to look like? (Burdett-Coutts, 1999)

We are also immigrants, but with a difference. We are well-educated, financially strong and followed all the rights ways and waited patiently for the outcome of our application to become landed residents. We want to make a positive contribution towards the economy and society in this nice country. So why can people just rocked up in a boat and then claim refugee status? Why can’t they not also have to follow the right way of applying for landed residence? (Greyling, 1999)

“Anti-immigrant” letters were by far the most prevalent type, 79 percent (186) of the 235 letters fell into this category.

The second group I refer to as “supportive”. These letters did not necessarily reflect writers who were knowledgeable about the current immigration and refugee systems but, nevertheless, they expressed support for the Fujianese arrivals. Moreover, the “supportive” group uniformly did not criminalize nor scapegoat immigrants and conversely emphasized the legitimacy of new immigrants in Canada. For example:

Shouldn’t we as Canadians embrace these new people...[Canada] has a vast supply of resources and a large magnitude of unoccupied land, that could easily support new people....we complain that so many of our
young Canadians are leaving the country, so shouldn’t we encourage more people to come… (Swick, 1999)

and

People are the greatest natural resource that this world has. If we as Canadians, could give up our stereotype of immigrants living off the government and let more people enter the country, we could build a better nation. We would also be the first nation to be able to say that freedom is for everyone – not just those born in the right place at the right time.

(Higgins, 1999)

Nineteen percent (45) of the letters fell into this category. The third group comprised letters that were not discernible in terms of their sentiments in relation to immigrants and/or the Fujianese arrivals. All of these letters focussed solely on the problem of human traffickers and organized crime. Only two percent (four) of the letters were classified in this group.

Cross Country Check-up is a national phone-in radio programme produced and aired by the CBC. Its aim is to generate discussion reflecting national views on current issues. The show airs once per week for three hours and each episode is devoted to the discussion of a single question. Shortly following the arrival of the second boat in the “case”, the week’s question was, “What should we do with the Chinese boatpeople?” (substitute host Elizabeth Gray, CBC Radio One, August 15, 1999). Later, after all four boats had arrived an additional show was dedicated to this issue. The question put forth for this episode was, “What should be the response to the boatloads of people that are
landing on the West Coast of Canada?” (host Rex Murphy, CBC Radio One, September 12, 1999).

The hosts’ introductory comments together with their focus questions reflected an unambiguous ideological frame. Elizabeth Gray spoke of refugee advocates’ “misguided generosity” (CBC Radio One, August 15, 1999) and sarcastically asked:

should we automatically consider granting refugee status to people who have come here intending to break our law and abuse our system? Should we detain them at public expense, while we process their claims? Should we allow them to start their new lives here on social assistance and trust them to respect the process? (ibid)

In his opening comments, Rex Murphy added, “no one likes...to have their good nature exploited by greedy and heartless people” (CBC Radio One, September 12, 1999). Later he stated:

...the regularity and frequency of the sightings, interceptions and arrivals [of migrant ships] – there are some bus lines that don't have this reliability - have passed from being an irritation to a source of anger.(ibid)

He provocatively brought up the current struggle of Canadian farmers in an attempt to juxtapose the governmental response to the two situations:

In Saskatchewan this week where very many small farms are in deep trouble, and farmers are looking for real help...maybe they should get on a boat and head for BC. At least the government would have something for them then.(ibid)
In this way, both of these episodes of Cross Country Check-up contributed to the crisis frame prevalent in other mainstream media accounts.

Public discourse is characterized by its heterogeneity. Public accounts tend to be less extreme and less stereotyped as compared to the mainstream media coverage (Cohen, 1972). Accordingly, while only a small fraction of the media reporting demonstrates support for the refugee arrivals, 49 percent of Canadians polled indicated their agreement that the Fujianese claimants should be allowed to apply for refugee status and stay in Canada while their applications are decided (Angus Reid, 1999). A less rigorous poll was conducted by the Times Colonist newspaper in Victoria, B.C.. Of the 3,362 respondents to the query, an alarming 97 percent favoured immediate deportation of the Fujianese refugee claimants (B.C. Residents, 1999). While these results are startling, they must be reviewed with caution due to the unknown reliability of the survey.

Hence, throughout the media, a predominant understanding of the “case” became formulated. Specifically, the Fujianese arrivals became known in public discourse as “economic migrants”, “illegal refugees”, “queue jumpers”, and even “criminals” (see, for example, CBC Radio One, and newspaper articles cited in reference section). Authorities in various sectors of immigration, policing and corrections were dispatched to attend to what was increasingly being presented in media and political debates as a crisis.

The first ship arrived on July 20th carrying 123 people. All of these individuals were detained until their identities had been verified by the Department of Citizenship and Immigration Canada (CIC), at which time most claimants were released. Sixty-one people from this group have yet to file the personal information form, the first step towards obtaining a hearing. These claims are considered abandoned and arrest warrants
have been issued by CIC for approximately 30 people for their failure to comply with the conditions of their release. Following the first boat, all adults arriving on the subsequent three ships were detained under maximum security conditions in army barracks and empty prisons. Minors were separated from the larger group, including their parents and relatives, and held in the custody of British Columbia’s Ministry of Child Welfare. Nine people have been criminally charged for their suspected role as traffickers. As of April 2000, more than six months later, more than 70 percent of individuals continue to be held in detention (Canadian Press, 2000).

**Migration, Globalization and the Canadian State**

Historically, migration has been a central element in the globalized world. The concept of migration encompasses the movement of people within national borders as well as across national and even continental boundaries. These relocations can be temporary or permanent. The standard migration literature of the North emphasizes the labour market supply side of migratory patterns, also referred to as “push factors”. In this literature, migrations are seen to result from workers’ search for employment and improved living conditions. What is often neglected is labour market demand, sometimes referred to as “pull factors”. Specifically, research has pointed to the central role of employers in recruiting migrant labour (Kwong, 1997). Peter Kwong states that so long as there is a demand for cheap labour, there will always be illegal migrants. As Saskia Sassen writes, “Migrations do not just happen: they are one outcome or one systemic tendency in a more general dynamic of change” (1998, p.116). Specifically, Sassen points to political and economic forces that stimulate international migrations. This finding is
supported by both Cockcroft (1982) and Portes (1978) who argue that structural components rather than individual choice underlie patterned migrations.

The processes of globalization have been unfolding over the course of human history. In its earliest manifestations globalization consisted of exploration - initially entailing travel of limited distance from known land and later including movement to unknown and distant territories. Canada’s earliest implication in globalized processes occurred with the first European contact and later the brutal colonization and oppression of Native Americans. In this sense, the Canadian example of globalization reflects the prevalent experience in that it is a process laden with violence, exploitation, and oppression of one group over another.

The enactment of immigration legislation is symbolic and prescriptive of nation-building. Within the Canadian context the principles of selectivity and exclusivity are central to this task. Canada has had a dualistic relationship with immigration. As Ivan Head states, “that the results [of immigration] have been of immense benefit to our society and our quality of life is accepted after the event virtually without qualification. To the Canadians alive during those periods of intense migration, however, the case was otherwise” (Head, 2000). On the one hand, immigration is seen to be the cornerstone of Canadian society. As is so often said, “Canada is a nation of immigrants” (Iacovetta, Draper, and Ventresca, 1998). Certainly, the arrival of successive waves of immigrants has had considerable influence on the development of Canadian society. However, on the other hand, immigration policy remains deeply imperialistic and exclusionary. It is used to border undesirables including refugees who represent a particularly low class of the “non-preferreds” (S. Smith, 1993, p.62).
Refugee migration has been termed "the world's major international migration stream" (ibid). The United Nations High Commissioner for Refugees (UNHCR) estimated that as of January 1999 there were 21.5 million people in the world who fall within their mandate for protection (UNHCR, 1999). Approximately 80 percent of these people are believed to be women and children (ibid). Within Canada, approximately 25,000 people make refugee claims each year, approximately 44 percent of which are accepted (CIC, 1998). Unlike immigration programs, refugee policy is purportedly driven by humanitarian interests. UN reports have repeatedly praised Canada, naming it among the top receiving countries in terms of its refugee program. In 1986, Canada was awarded the Nansen Medal, the UN's most prestigious award recognizing exemplary service to refugees.

However, Canada's renowned record of granting asylum is not without its critics. Specifically, Canada's refugee system has been seen as endorsing economic priorities and agendas (Basok, 1996). For example, while Canada is celebrated for being among the first countries to enter refugee camps and accept asylum seekers, this has been interpreted as a move to secure the "preferred" claimants – those with the highest education, most desirable qualifications, and the most money (DARE, 1999). As well, through the strategic placement of its missions abroad together with selection processes, Canada's humanitarian intake is selected from areas with the least refugees, and the majority of those selected are economically active men (S. Smith, 1993, p.63). The number of women, as well as disabled, refugees accepted into Canada is disproportionately low. In fact, what has been found is that the ease of obtaining refugee status in Canada is inversely proportional to the needs of those seeking asylum (Nash, 1989). The Canadian
The refugee selection process has been likened to the State's highly selective immigration program, and described as a "relaxed Points System" (S. Smith, 1993, p.65). In this way Canada can be seen to disregard the most desperate individuals. Thus, instead of a selfless pursuit of humanitarian aid, the Canadian refugee program must be assessed within the larger context of the agendas of the State.

Among the primary functions of nation states is the delineation and preservation of its citizenry. This requires both the development of a national identity, as well as the exclusion of those not seen to fit the accepted construct of citizen. Within the Canadian state this is accomplished through the concurrent processes of migration and citizenship policies. Traditionally, Canada has relied on overtly racist constructs to bar targeted groups from achieving entry and/or citizenship. Canada's public policy, including but not limited to immigration, was historically designed to establish Anglo supremacy in the nation (Palmer, 1990). Socio-political changes together with the impact of globalization have rendered previous mechanisms of border control obsolete. Thus, in order for the Canadian state, and specifically the Department responsible for immigration, to fulfil its role, approaches must be reworked so as to conform to the contemporary context.

The consequences of the social relations that are established through migration categories extend beyond the moment of acceptance or rejection in the immigration process or refugee claim hearing. These groupings operate to organize - in very pervasive ways - the daily lives of every person who attempts to enter Canada. Inevitably, through institutionalized relations of ruling\(^3\) certain groups of people are marginalized. This

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3: This phrase comes from Dorothy E. Smith (1987, 1990, 1993, 1999), and in this investigation refers to the range of extra-local relations that contribute to the governance of Canadian society and, particularly, immigration policy. In this study, examples of relations of
systemic oppression occurs overwhelmingly in the experiences of Third World women who encounter extreme barriers in their attempts to immigrate (Basok, 1996, Brodie, 1996, Calliste, 1991). Thus, criteria within the immigration system have serious implications for the everyday lives of millions of people worldwide.

One of the ways that designations assigned during the immigration process impact on individuals’ everyday lives is in the way they position people as either entitled to or barred from accessing a range of public services. Eligibility for crucial settlement programs and more generalized social services is dependent on the category within the migration system in which an individual enters Canada. In this way, the construction of irregular arrivals as a problem, and the associated production of people as “illegal migrants” has serious implications. For example, whereas business-class immigrants are eligible to receive subsidized career counselling and language training courses as well as healthcare, education, and social assistance, “illegals” have no access to such services. Thus, in contrast to public concerns over the strain on the system/taxpayers, migrant workers pose no risk at all. Access is similarly limited, and in many cases not available, to many of the categories in which women predominate including family-class immigrants (Fincher, Foster, Giles, Preston, 1997). Without these critical supports, certain categories of new immigrants are rendered extremely vulnerable.

The Canadian economy benefits tremendously from immigrant labour. In fact, Canada relies on immigrants for a number of reasons. With an aging population, increasingly Canadian society will not be able to replenish its workforce. Immigrant

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ruling appear through the administrative and bureaucratic processes of Parliament, the differential authority afforded to witnesses that testify (and even those who are not called to testify) to the Committee, and the organization of the coverage of the “case” in the media.
labour is the only feasible option to support the continued functioning of Canadian society. In addition, the arrival of ready workers saves the Canadian state the substantial expenditures required during the developing years (i.e. childhood) of the labour force. Specifically, immigrant workers have been educated, trained, and raised using another state’s resources. Thus the costs of labour force renewal are significantly reduced for the receiving country.

Restricting non-status and “illegal” immigrants from access to labour codes places them in an exploitable position vis-à-vis the labour market. Already, individuals without legal status are employed in the most dangerous and defenseless positions (Kwong, 1997, Lee and Wench, 1980). Without the security of labour codes the potential is even greater for this work to become even more dangerous and exploitative. Furthermore, the criminalized nature of their non-status (i.e. “illegal migrant”) renders migrant workers exploitable, and subject to harsh discipline for fear of being deported/incarcerated.

Current research has documented the pervasive practice of below subsistence wages and unsafe working conditions across a range of work sites that are known to rely on immigrant labour (Calliste, 1993, Kwong, 1997, Ng, 1998). Avvy Go, a prominent immigration lawyer in Toronto, describes the phenomenon of employers who assess wages based on an individual’s immigration status. She reports an example whereby an employer paid hourly wages of four dollars to new immigrants, three dollars to refugee claimants, and two dollars to failed refugee claimants (Sapp, 1998). Furthermore, these conditions undermine the security of “legal” workers’ employment, and individuals in the lowest pay and lowest status jobs, specifically new immigrants, people of colour and women (Kwong, 1997).
**Historical Overview of Chinese Immigration to Canada**

The historical conditions of Chinese immigration to Canada provide a necessary context for contemporary understandings and policy initiatives. Immigration legislation contributes significantly to hierarchical relations in Canadian society (Basok, 1996, Brodie, 1996, Ng, 1992, Thobani, 1998). Canada’s migration policy has a long history of prioritizing white European immigrants, specifically the English and French (Jakubowski, 1999). As recently as 1967, Canada’s immigration policy explicitly restricted admission to people based on classifications of “preferred races” (Anderson, 1991, Thobani, 1998). However, in the history of Canadian Immigration Policy, the Chinese are the only group to have been identified and excluded explicitly based on racialized characteristics (Anderson, 1991, Bolaria and Li, 1988).

Canadian migration programs have consistently been designed to respond to changing labour market needs. In conjunction with racism, legislation has engaged sexist and classist ideology in an opportunistic fashion. As such, during periods when workers were needed for the labour market, those previously marked as “undesirable” were actively recruited. Politicians have skillfully maneuvered around the - often conflicting - demands of Canada’s hegemonic nation-building project and the labour market. Subsequently, the entry of non-preferred races was strictly regulated by comprehensive restrictions to specific immigrants’ legal and personal rights (Anderson, 1991, Bolaria and Li, 1988).

Among the most oppressive regimes was that which was introduced in anticipation of the workforce needed for the building of the Canadian Pacific Railroad
At that time, capitalist interests provided the impetus for policy changes relating to Chinese immigration. In spite of the widespread anti-Asian sentiment in Canada during this period (see, for example, Anderson, 1991, Baureiss, 1985, Li, 1988, Pon, 1996, Synnott and Howes, 1996), Chinese men were actively recruited to fill these positions. In 1883, responding to pressures from the public, Prime Minister John A. MacDonald announced in the House of Commons:

> It will be all very well to exclude Chinese labour, when we can replace it with white labour, but until that is done, it is better to have Chinese labour than no labour at all (Canadian House of Commons debates, 1883:905, quoted in Bolaria and Li, 1988, p.106).

In order to allay the racist fears that were deeply entrenched throughout Canadian society, Chinese immigrants were subject to numerous conditions and limits to their legal rights. One way in which the Chinese Exclusion Act operated was by barring Chinese women from Canada altogether. Chinese men entering Canada during this time were legally prohibited from bringing their wives, or marrying once in Canada (Backhouse, 1994). Thus legislation operated to critically alter the lives and experiences of individuals, and resulted in significant impacts in the Chinese community. Specifically, the Exclusion Act denied Chinese individuals the most basic right to be with their families and went so far as to condemn the formation of partnerships within the Canadian nation. This strategy of legally prohibiting intimate partnerships and reproduction has been prevalent in systemic efforts to marginalize many “other” groups including lesbians and gays, the disabled, and the poor. It reflects a state strategy to preserve the hegemony of the Canadian nation based on white supremacist and heterosexual norms.
Elaborate measures were adopted to ensure that Chinese men had little to no contact with white women⁴ (Backhouse, 1994). In this way sexism and racism can be seen to mutually reinforce one another. For example, legislation was enacted to restrict Chinese employers from employing white women. Together with legislation that obstructed Native Canadians from obtaining employment, and migration policies that prohibited women of colour from entering Canada meant that, in practice, only men were available as employees. Already, the labour market was organized so as to discriminate against women, placing a lower value on their work as compared to men. Hence, women’s wages were significantly lower than men’s were (Backhouse, 1994); employing men cost more. In this way Chinese employers had to struggle enormously to stay in business, competing with white employers who had the benefit of cheap female labour.

Pressures to end Chinese immigration were evaded until after the CPR was completed in 1885. At that time the first formal anti-Chinese immigration legislation was instituted in the form of the Chinese Head Tax of 50 dollars per person, and raised to 100 dollars in 1900 (Bolaria and Li, 1988). By 1903 the burden became even more oppressive when the Chinese Head Tax was raised to 500 dollars per person (Bolaria and Li, 1988). In addition to its overt racism, this approach reveals classist and sexist motivation as it limited access to immigration to the upper classes and men (Basok, 1996).

In 1923 the ultimate structural interdiction occurred when the Chinese Immigration Act was passed. This program effectively excluded all Chinese from entering Canada and revoked the legal rights and status of Chinese living in Canada (Bolaria and Li, 1988). The Chinese Immigration Act was enforced until 1947 when it

⁴ In its most systemic form this was institutionalized as the “White Women’s Labour Law”, a
was finally repealed. Even so, Chinese Canadians and Chinese immigrants alike continued to be marginalized through the social organization of Canadian society. With the end of the Exclusion Act, numerous additional anti-Chinese bills were passed provincially, further limiting the political and civil rights of Chinese (for a detailed account refer to Bolaria and Li, 1988, Backhouse, 1994).

In 1962 overt references to racial and ethnic discrimination were removed from the selection process and, instead, the “Point System” was introduced. Under the Point System, applicants are determined based on their assessed likelihood of successfully settling in Canada. As applied, “settling” equates to assimilating, and thus invokes hegemonic notions of the “ideal” immigrant. This new system emphasizes what are seen to be objective criteria, focussing on formal education and training, occupational skills, occupational demand, employment experience, knowledge of French or English, and age of admission to Canada (Arat-Koc, 1999, Jakubowski, 1999). Nevertheless, the Point System engages racist, sexist, homophobic, and classist notions in its criteria for points. For example, requirements for education and skills in practice become western education and training (Mojab, 1999). Furthermore, “occupational demand” is based on a hierarchical, androcentric valuing of occupations according to their status in North American society (see for example Bakan and Stasiulus, 1997, Calliste, 1991, Fincher, et.al., 1997). Accordingly, policies have resulted in the systemic discrimination against and the concomitant exploitation of specific groups of people, to a large extent affecting working class women from the Third World (Arat-Koc, 1999).

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bill passed to prevent Chinese employers from employing white women.
Research Question

My analysis concerns the activities of the Standing Committee on Citizenship and Immigration during the period of its study of the Canadian refugee system beginning in October 1999 and ending in March 2000. The meetings I examine took place following the arrival of 599 Fujianese migrants, amidst fervent public attention in Canada. Subsequently, 493 individuals from the four boats filed claims for refugee status.

At the outset of the Committee’s investigation, the construct of “illegal migrant” and “bogus refugee” are already well-developed in Canadian public discourse. As a specific group of immigrants, refugees invoke notions of desperation and thus garner, at least to some extent, public sympathy. Conversely, individuals identified as “illegal migrants” and “bogus refugees” evoke vehement disapproval. This can be seen in mainstream media coverage of the Fujianese arrivals, a group predominantly represented as illegitimate in public discourse.

The Committee’s formulation of recommendations for changes to the Immigration Act unfolds following discussions comprised of questions and commentary by Committee Members (henceforth referred to as Members), and presentations and responses to Members’ questions by witnesses. Inexperienced members, in particular, rely on the verbal presentations of witnesses as well as media coverage for their understanding of the issues. The Committee’s objective is to synthesize the various accounts into an agreed upon story about the refugee system and “illegal migrants”. The knowledge that is produced is then used to construct recommendations for policy changes.
The individual circumstances of the refugee claimants are not a subject of my inquiry. This research is not an attempt to understand the political situation in China, nor to formulate a case for whether claimants are or are not "real" refugees. Furthermore, I will not investigate the practices of Canada's refugee determination system in detail. Instead, my interest is in examining the social organization of knowledge underlying the production of ruling knowledges relating to this "case" and the individuals that are involved as claimants, and the subsequent recommendations that are arrived at by the Committee.

Over the course of my investigation, I explore the ways in which the issue of refugee determination, that is, who is and who is not seen to be a "real" refugee, is taken up within the bureaucratic process. I am interested in the ways in which the category of "illegal migrant" is understood and constructed by the Committee so as to reproduce ruling relations in Canadian society. Specifically, my focus is in examining how in the course of the Committee's meetings this issue is constructed as a "crisis" of "illegal migrants" and "bogus refugees" from the South rather than a problem with bureaucracy, colonialist governmental regimes, and the generalized mechanisms of human rights protection. Through the course of my analysis of the Committee's work I aim to identify how certain ideas happen to take centre stage, how certain people come to be produced as "other", and how the Committee's work processes contribute to this process. Ultimately my goal is to explicate one instance in the process of "othering" that occurs in Canadian social and institutional relations.
**Conceptual Framework**

I apply institutional ethnography, a research strategy developed by Dorothy E. Smith (1987), in this investigation. Institutional ethnography is an approach to sociological research that seeks to uncover how individuals’ everyday experiences and understandings are organized by the institutionalized systems that comprise Canadian society. My entry point for this inquiry is through the political discourse. Specifically, I will be examining the ways in which parliamentarians’ knowledge is produced as a result of structural, rather than personal, processes. This involves explicating the ways in which refugee claimants’ subjectivities become objectified through the relations of ruling and, in particular, by the work processes of the Standing Committee. My inquiry is an attempt to identify the ways in which the perspectives of people in their local settings are subsumed in the course of institutionalized relations so that it is the perspective and interests of those in power that are seen to be legitimate. Additionally, ruling interests are depicted as the interests or perspectives of the majority, in this case the Canadian - and perhaps the international – “public”.

In the course of this investigation, I will explicate the ideological work underpinning the ideas that are expressed by politicians in the Standing Committee meetings and thus organizing the broader political discourse on the topic. I apply the concept of the “ideological frame”, described by Roxana Ng as identifying “ideologies as *processes* that are produced and constructed through human activities. They are ways in which capitalist societies are ruled and governed” (1995, p.36, italics added). Ideological frames are created and supported through public discourse. Thus frames that are employed in individual accounts reflect the influence of broader organizations operating
in Canadian society. This is an ideological process - in the sense that Dorothy Smith uses the term ideology, meaning the information that is produced fits the interpretive frame so that no other explanation is possible (D. Smith, 1990). I am interested in how the activities of individual members of parliament are organized by institutionalized processes and relations.

The "ideological circle" is a concept that I will apply in my analysis (D. Smith, 1990, p.44). It is explained by Dorothy Smith as "an interpretive schema...used to assemble and provide coherence for an array of particulars as an account of what actually happened; the particulars, thus selected and assembled, will intend and will be interpretable by, the schema used to assemble them" (1993, p. 139). Smith goes on to explain, "...the schema in itself is not called into question as a method of providing for the coherence of the collection of particulars as a whole" (ibid). Figure 1 taken from Smith (1990, p.148), illustrates a version of the ideological circle.
The work of a professional intelligentsia, the elaboration of theories and conceptual schemata, articulated to the social scientific and/or governmental discourse.

The uses of “theories” originating in the discourse as operating schemata in the production of factual accounts.

The production of records and data as an organizational process.

bureaucratic and/or professional procedures producing a formally warranted factual account.

lived actuality.

Figure 1. The ideological circle
Source: Dorothy Smith, 1990, p.148
Figure 1 depicts the various stages in which an event is taken up in the public discourse and becomes reinscribed and understood by those not directly involved. At the first stage is the lived actuality, which represents the standpoint of the individual(s), experiencing an event first-hand. Although the lived actuality technically sets off the remaining stages, it exists outside of the ideological circle. At the second stage an account is produced through the procedures of bureaucratic and/or professional institutions. This is the point at which the experiential knowledge is first subsumed to the ruling apparatus, the real beginning of the ideological circle. Closely connected to the second stage, at the third stage the construction of records and data move the discursively produced account from the media to a formal organizational process. This account is used by the intelligentsia at the next stage in the development of theories and conceptual schemata. Finally, these schemata are applied in the construction of factual accounts which, in turn, feed back into the institutional accounts.

Dorothy Smith explains, “the ideas, concepts, and categories in which the ordering of people’s activities becomes observable to us are embedded in and express social relations” (1990, p.38). My objective is to uncover the ways in which individuals are drawn into particular work processes so that a story emerges about this “case”, and refugees more generally. Even so, my analysis assumes that this process is dynamic and not entirely unchangeable.

**Research Design**

The primary data that I examine encompass the work accomplished by the Standing Committee on Citizenship and Immigration, which took place in the House of
Commons from October 26, 1999 to April 12, 2000. These include meetings, as well as the draft and final reports produced by the Committee. Committee meetings are electronically recorded and available as transcripts on the parliamentary website (http://www.parl.gc.ca/InfoComDoc/36/2/CIMM/Meetings/Evidence/cimmev31-e.htm) as is the final report. The draft report, intended to be confidential, was made public through the Chief Immigration Critic and Reform\(^5\) member Leon Benoit’s office. In total the data comprise 17 meetings representing more than 40 hours and approximately 700 pages of transcripts. I accessed the pertinent transcripts and minutes from the Committee’s meetings through the parliamentary website (http://www.parl.gc.ca/InfoComDoc/36/2/CIMM/Meetings/Evidence/cimmev31-e.htm). Additionally, I contacted both the Clerk of the Committee to be sent the briefs submitted by witnesses, and the Reform Party office for the publicized Draft Report.

The central participants in these discussions are the Committee members, all of whom are members of parliament (MPs). A complete listing of party affiliations and ridings is presented in Chapter 3, Table 1. Additional participants, referred to as witnesses, are recruited by the Committee to make presentations based on their work and experience, and respond to members’ questions. The witnesses, whose participation is discussed in Chapter 3, are as follows:

1. Citizenship and Immigration Canada
2. Immigration and Refugee Board
3. Royal Canadian Mounted Police
4. Solicitor General of Canada
5. Two former Canadian ambassadors

\(^5\) As of March 2000, following a referendum, the Reform Party became known as the Canadian Alliance (C.A.) Party. On March 27, 2000 the C.A. was made the official party name recognized in the House. Because this change occurred after the period of study, I will use "Reform" to denote what is now the C.A. Party.
6. Association québécoise des avocats et avocates en droit de l'immigration
7. Canadian Bar Association
8. Air Transport Association of Canada
9. Canadian Council for Refugees
10. The Shipping Federation of Canada
11. An Immigration and Refugee Lawyer
12. Inter-Church Committee for Refugees
13. United Nations High Commissioner for Refugees
14. Two Recognized Refugees in Canada
15. Canadian Security Intelligence Service

The transcripts from the Committee meetings are part of the public record, accessible to individual citizens and are used in governmental policy-making strategies. The "findings" from these sessions are used as a source of expertise for policymakers and politicians to apply when formulating and evaluating legislation. The Committee's work is particularly relevant to the development of a new Immigration Act that is currently underway within the Department of Citizenship and Immigration.

I approach the transcripts and the reports as one continuous text representing political discourse on the subject. Applying institutional ethnography, parliamentarians' interpretive practices are seen to be "constituents of social relations rather than merely the idiosyncrasies of individuals. They are social in origin and built into social relations" (D. Smith, 1993, p.121). Accordingly, I attempt to trace connections between what parliamentarians discuss and various sites throughout Canadian society in order to explicate the multi-layered way in which constructions of refugee are produced. Thus, the discursive practices of Committee members are not seen to reflect their individual perspectives or beliefs but rather the local and extra-local social relations in which they are embedded (D. Smith, 1987, p.94).
I began my investigation simply by reading and re-reading the transcripts. My initial aim was to uncover "what the Committee was actually doing", but I didn’t have a clear idea of what I was really looking for. My first step was to uncover the work processes governing the Committee’s work. To do so I sought out the “Standing Orders”, the institutionalized text delineating the procedural code for parliamentary activities. I also located important texts specific to the refugee system such as the Geneva Convention on the Status of Refugees, the Canadian Immigration Act, and the Canadian Charter of Rights and Freedoms.

Once I became familiar with the Committee’s process, and the larger process of Canadian Immigration and Refugee Policy, I was able to focus my inquiry back to my initial interest. My readings of the Committee’s transcripts enabled me to observe the emergence of particular thematic categories across the transcripts, framed by a dominant approach to the issues. Applying what I had uncovered of the parliamentary work process, I could begin to piece together how the Committee's study was produced.

My analysis incorporates two approaches to textual analysis. Initially, I identify the recurrent themes or ideological frames employed in the Committee members’ articulation of the issues. By situating the ideological practices that organize depictions of refugee claimants within contemporary society, I am trying to understand the ways in which the Committee discussions are intricately connected to historical and global relations of ruling rather than approaching them as discrete events. In the second stage of my analysis, I attempt to trace connections between the ways in which this particular situation is presented and talked about in the course of these meetings, and the ways in which the governmental response is constructed.
The construction of the category of “illegal migrant” is a fundamental constituent of the relations of ruling (D. Smith, 1990). I attempt to locate the construction of this category within contemporary Canadian society as well as its historical context. As Roxana Ng states, this type of analysis “treats contemporary moments and events, not as separate fields or areas of study, but as constituents of a society with its own internal logic and dynamic” (1991, p.13).

Summary

I begin this study from the understanding that Canada is riddled with systemic oppression existing throughout a wide range of practices. At the same time, there exists a prevalent belief in the benevolent nature of Canadian society and its citizens. This disjuncture between ideological presumptions and actual practices is the impetus underpinning my inquiry. My interest in this particular situation arises out of this disjuncture and my desire to bring accountability and, ultimately, change to the current context. This project is driven by my commitment to establishing equitable practices as normative throughout Canadian society.

The starting point for my inquiry is in the political discourse and specifically in relation to Canadian migration policies and programs. In this site politicians including parliamentarians and other government representatives contribute to the act of governance through activities that play out in the context of the immigration system. The Standing Committee on Citizenship and Immigration exemplifies the state process of responding to the “problem” of immigration, and concomitantly reproducing it. For example, politicians represent mediators between the media and the more generalized
public discourse (for example, pressure groups), the international agreements (for example, the Geneva Convention) and established protocols that operate in Canadian society (for example, the Canadian Charter of Rights and Freedoms). Parliamentarians’ work, particularly in periods of legislative review and change, offers telling insights into the ruling relations of Canadian society.

In the course of my study I aim to develop two ideas. First, the Committee’s work is part of an ideological circle whereby migrants are produced and re-produced as a crisis. Through this process, people’s lived experience becomes subsumed by ruling knowledges. Secondly, within this ideological circle I argue that migration policies are organized around the objectives of border control rather than humanitarian interests. I describe the Standing Committee’s work processes and the ways in which these inform the depiction of the category of “illegal migrant” and, subsequently, the recommendations that are tabled to the House for the new Immigration Act. Through a thematic analysis of Committee discussions I attempt to arrive at an understanding of how immigrants, and in particular unregulated migrants, are being re-constructed. I aim to explicate the linkages between the procedures coordinating the Committee’s work and the subsequent “findings” arrived at by Committee members. In addition, I identify connections between the Committee’s construction of the “crisis” of “illegal migrants” and the public discourse on the topic. My ultimate goal is to be able to map the institutional and social relations underlying this process.
Chapter 2: The Apparatus of the State

In order to properly assess the Committee's study, it is important to locate it in the context of the apparatus of the Canadian state and, in particular, the process of refugee determination. In this chapter I will examine the institutional structure of the Canadian refugee system, the work process of Standing Committees, as well as the Standing Committee on Citizenship and Immigration.

The Department of Citizenship and Immigration Canada

Citizenship and Immigration Canada (CIC)\(^6\) is the federal department responsible for administering both the Immigration and the Citizenship Acts. The Department itself is composed of three main sections: Departmental Support, Program Delivery, and Service Line Management, each of which has several branches. CIC states as its objective "to build a stronger Canada by deriving maximum benefit from the global movement of people; protecting refugees at home and abroad; defining membership in Canadian society; and managing access to Canada" (accessed: http://www.cic.gc.ca).

CIC is responsible for a wide range of programs and policy that have far-reaching consequences for immigrants and citizens alike. The Department is charged with the development of both immigration and refugee policy, including decisions as to immigration levels. In conjunction with other federal departments and agencies, the Department presides over the entry of immigrants, refugees, and visitors to Canada as

\(^6\) The Department of Citizenship and Immigration Canada (henceforth referred to as CIC or the Department), was formed in 1993. Prior to this, the jurisdiction over citizenship and immigration issues were handled by separate departments. In its present form, CIC is the governmental body responsible for all immigration and refugee policy as well as the Citizenship Act.
well as settlement programs for new arrivals. It is responsible for the development of
citizenship policies, including the designation of eligibility criteria required for the
attainment of Canadian citizenship. An additional task of the Department is to promote
citizenship as a “symbol and expression of the rights and responsibilities of membership
in the Canadian community”. Further, in its mandate CIC states:

[CIC] protects the public health and safety of Canadians through the
medical examination of all immigrants and certain visitors, and also
protects the security of Canadian society by identifying and removing
individuals who are not entitled to enter or to remain in Canada. (accessed:
http://www.cic.gc.ca)

Finally, in its objectives, the Department states as its mission:

...to build a stronger Canada by: deriving maximum benefit from the
global movement of people; protecting refugees at home and abroad;
defining membership in Canadian society; and managing access to
Canada. (ibid)

**The Immigration and Refugee Board**

Under the current refugee scheme of Canadian immigration policy, people
may be admitted to Canada as Convention refugees in one of two ways: selection abroad
and inland claims. My investigation focuses on inland claims, as this is most relevant to
the current “case”. In order to be granted asylum from within Canada, a refugee claimant
must present her/his case at a hearing adjudicated by Immigration and Refugee Board
(IRB) members. The IRB is a quasi-judicial body established to make decisions in these
cases. It operates independently of the government although IRB positions are political
appointments and thus they do not require candidates to possess expertise in the area of refugee determination or other relevant background. The appointment process has been a contentious issue since it was first introduced in 1989. However, neither the Progressive Conservative nor the Liberal governments in power during this period have made changes to the system.

Two members of the IRB usually adjudicate a refugee claim hearing although in some cases, and with the permission of the claimant, only one member presides. During the hearing the claimant, in consultation with a lawyer, presents her/his case. The IRB has a presenting officer on staff who provides what are deemed to be relevant background information to contextualize the claim, and to make the IRB members aware of the country-specific issues involved. However, the onus is on the claimant to demonstrate that her/his story "fits" the Geneva Convention definition of refugee. The IRB’s mission, as stated in its literature, is "to make well-reasoned decisions on immigration and refugee matters, efficiently, fairly, and in accordance with the law" (accessed: http://www.irb.gc.ca).

**The Geneva Convention**

The Geneva Convention relating to the Status of Refugees (henceforth referred to as the Geneva Convention or simply the Convention) was developed out of a conference of the United Nations General Assembly in Geneva in 1951. The Convention itself was undertaken in response to the situation of the Second World War. Currently, the Geneva Convention is a pivotal text organizing the Canadian refugee system. The paragraph-long
definition of “refugee” contained in the text delineates the designation of refugee as applicable in instances where:

...owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion. (UNHCR, 1951)

The Convention’s definition (henceforth referred to as the Definition) is applied in the determination of claims in the Canadian refugee system.

Given the fact that the Geneva Convention was written in 1951, and amended via the 1967 Protocol, it is unavoidable that there would be some disjuncture between these texts and present day applications. Moreover, the context in which the definition was constructed is far removed from contemporary circumstances. In the current era of globalization, international migration has become a fact of life for millions of people worldwide. Migrations are initiated as a response to poverty, exploitation and displacement caused by the processes of the new globalized economy. At the same time, the exceedingly disproportionate accumulation of wealth in the North is a factor influencing immigrations. However, this is not acknowledged in the legislation governing the refugee determination process. The difference between the original intended context and the context today is not accounted for in the way in which the Definition enters into the contemporary refugee determination system in Canada.

Refugees are broadly conceptualized as those in need of protection. However, according to the Definition, refugees are believed to be at risk within specific and a very limited number of ways. The construction of categories is fundamental to the realization of “relations of ruling”. The Definition sets out the accepted categories of refugee claims,
creating a dichotomy between legitimate and fraudulent refugees according to what are named as potential types of persecution and, conversely, what are left out.

The notion of a “well founded fear” as well as the use of the word “persecuted” are vague and thus potentially confusing terms. Without clarifying them, IRB documents advise that the burden is on the claimant to prove these situations exist. The concept, “membership in a particular social group”, is explained in a paper written for the IRB as: groups defined by an innate or unchangeable characteristic; groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association; and groups associated by a former voluntary status, unalterable due to its historical permanence (accessed: http://www.irb.gc.ca).

Further, this paper states that the objective of setting out these three sub-categories is to make clear the fact that not all groups are seen as valid within the Convention. It is significant as well as problematic that “a particular social group cannot be defined solely by the fact that a group of persons are objects of persecution” (ibid).

The Geneva Convention definition exists as a standardized text which objectifies knowledge by subsuming differences between contexts. The text recognizes only instances of war and violence as situations worthy of seeking asylum. There is no category for displaced, exploited, and impoverished people and certainly no reference to the ways in which people’s everyday lives - and particularly those living in the South - are impinged upon by the practices of globalization and capitalist restructuring. It is notable that the situations which are included as legitimate in the Definition are conspicuous in that they cannot easily be traced to the North.
Dorothy Smith describes that, within a bureaucratic process, the limits of what individuals can do are – to a large extent -- regulated by texts. In the case of the refugee determination process, the text that is most prevalent is the Geneva Convention definition of refugee. This document coordinates the formulation of the claim itself, as well as the interpretation and ruling by the Immigration and Refugee Board (IRB) members. All participants - whether IRB members, claimants, or casual observers - are drawn into the conceptual schema invoked by the Definition. In doing so, the Definition overrides the claimant’s lived reality as well as IRB members’ individual perspectives with a standardized, objectified account of who can be, and therefore who is a refugee.

Smith describes texts as “ubiquitous forms of social organization” (1993, p.210) that structure interaction in fundamental ways. In the case of the Geneva Convention definition, it organizes the actions and decisions of designates of the immigration system whose decisions are crucial to the claimants in the process. The designation of refugee status is crucial to an individual in need of protection, and with no access to entering Canada via the immigration system as in the case of the Fujianese claimants. In seeking refugee status, the claimant becomes “hooked into” the extra-local process of citizenship and immigration where a sequence of processes enable or disable a person into further action. For example, obtaining refugee status is a necessary pre-condition to the acquisition of landing status and subsequently a legal working permit ultimately followed by the consummation of citizenship. Without legal documentation an individual is considered “illicit” in Canada and consequently is rendered extremely vulnerable to exploitation by employers, with no tangible protection within the Canadian nation. Moreover, prior to obtaining citizenship, an individual can be re-patriated to their country.
of origin if this is deemed appropriate by the CIC and upheld by the courts. Currently the Supreme Court is deciding the State’s right to revoke citizenship and extradict individuals in some circumstances. Thus, even with full legal status, an immigrant’s access to Canada remains precarious.

The Geneva Convention document is explicitly designed to enable decision making at a number of different sites within the refugee determination process. Essentially, the Definition situates various participants (those with vested interest and casual observers) so that, although they may come from very different standpoints, there is a commonality shared between them as to how the issue of refugee determination is framed. In both explicit and implicit ways, the Definition is apparent in the activities in which people participate at all locations within the refugee system. The Definition organizes rulings made by IRB members, it frames political discussion and debates, and advocacy groups must contend with its use and misuse in relation to refugee determination as well as the media. Furthermore, instances that are alluded to but not dealt with directly here include the ways in which the Definition structures media reporting as well as the fundamental way in which it applies to claimants who, together with their lawyers, invoke the Definition as they formulate the claims.

The language of the Definition structures how refugees can be talked about. As a central text in the refugee field, the Geneva Convention functions in the role of authority. Presented as a “definition”, this text exists as a truth, delineating the acceptable boundaries of who can be a refugee. This definition is particularly dubious in light of the fact that government representatives and IRB members alike are not required to have experience in refugee or other pertinent international issues, significantly limiting their
capacity to challenge this text. Although the Geneva definition does not identify bogus, illegal, or illegitimate refugees, the narrow parameters of its definition automatically illustrate this group. The exclusionary nature of the definition results in the inability for Canadians - either as professionals or lay people, to talk about the Chinese claimants as anything other than "bogus" or fraudulent. Within the present Canadian refugee policy, Canadians do not have the textual documentation to conceptualize "refugee" beyond the established definition. This definition is reciprocally embedded in discourse evoking language, metaphors, notions that serve to reinforce the certainty with which it is established in our thinking. This is an illustration of how an ideological circle operates.

The Geneva Convention definition functions to standardize the practice of the IRB's decision making. The non-descriptive and non-specific nature of the Definition subsumes differences between contexts and infers that the divergent contexts of people's lives can be accurately assessed within the same framework. Even so, in practice the Definition allows for a significant degree of flexibility in its local application. Thus individual immigration officers' and IRB members' practices are mediated by their individual experiences and perspectives.

The Geneva Convention, specifically the Definition, offers a set of institutionalized terms which operate as central frames organizing the public discourse around refugee issues. Underlying the Geneva Convention's narrow conceptualization of valid instances of persecution is a belief system that attributes the circumstance of a refugee claim to a dysfunctional, underdeveloped, and inferior society. In this view, Canada acts as the rescuer of underprivileged victims. Accordingly, notions about who can be a refugee are inextricably linked to beliefs about the countries from which
claimants come. This idea is apparent in the Committee discussions where reference is made to "...countries that are known to be refugee-producing countries" (Mr. Philip Palmer, Standing Committee transcripts, November 4, 1999, p.15), and other examples such as:

...[we can] define the countries that are producing refugees. We know what a refugee is. Obviously the United States isn't producing refugees...

(Mr. John Bryden, Standing Committee transcripts, Wednesday, December 1, 1999, p.24)

The assumption that certain countries can be classified as "refugee-producing" and, thus, the reciprocal conjecture that certain countries cannot produce refugees, is widely held and evident across many discourses on this subject. This sentiment functions in the same way that the Definition does by subordinating people's lived experiences to objectified knowledge. The arrogant notion that there are identifiable refugee-producing countries is an important companion to the Definition, as they mutually support the presumption that refugee claims can be determined a priori.

**Legislative Review**

Directions for Immigration and Refugee Policy and Legislation”, the Department’s response to the advisory group’s report. The current Minister of CIC, Elinor Caplan, was appointed on August 3, 1999, within weeks of the first boat’s arrival. Since her appointment, the Minister has revealed her support for specific changes and amendments to the immigration and refugee systems including her goal of tabling a new Immigration Act by the end of 2000.

Canadian immigration policy is organized at different sites within the institutionalized structure of the State. Political debates around migration issues influence and are influenced by public opinion including organized community groups and the media (Holton and Lanphier, 1997). Similarly, politicians are engaged in work towards the development of new policies. Even so, currently the Immigration Act, encompassing the refugee determination system, is founded in the 1951 Geneva Convention. Accordingly, the definition of refugee remains unaltered in the Canadian refugee system. Although landmark rulings have been passed such as the “Gender Guidelines”7, which actualize gender persecution as a recognized basis for refugee claims, legally these rulings remain a precedent and has not been incorporated into the formal text of refugee determination.8

“The Federal Legislative Process in Canada” sets out the procedure by which federal legislation is adopted and implemented. The majority of public bills are

7 Formally called “the Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act (1993)”. The Guidelines refer to a release by the IRB acknowledging the necessity to extend the current definition of persecution to include instances that are particular to women’s experience.

8 The Canadian refugee system is founded in the definition of refugee set forth in the Geneva Convention of 1951. This definition describes a refugee as anyone with a, “...well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular
introduced by Government Ministers. The initial stage of the process requires that a proposed bill be introduced in the Senate footnote or the House of Commons. A bill then goes through a progression of up to three readings in the House, after which it must achieve Royal Assent in order to become law. The first reading comprises the introduction of the bill to the House. The second reading occurs again in the House, at which time members debate and vote on the principle of the bill. At this time the House may refer the bill to a legislative, standing, or special committee for an in-depth study and to produce a report. The third reading is a debate and vote on the amended bill. After the bill goes through these three stages it is sent to the Senate for its consideration. In the last stage, the bill is presented to the Governor General who can grant, withhold, or reserve Royal Assent. When a bill obtains Royal Assent it becomes law.

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social group or political opinion."
The Standing Committee on Citizenship and Immigration

In the previous section I laid out the groundwork for the generalized procedure of the state in relation to the refugee system and the legislative process. This section will focus specifically on the Standing Committee of Citizenship and Immigration (henceforth referred to as the Committee) and its study of the refugee determination system. I begin this part of my investigation with an analysis of the ways in which the parliamentary work processes that govern the Committee's activities operate in the production of its study. My interest here is in rendering intelligible the procedural business that enables the social organization of "refugee" so that it appears as a natural and common-sense category.

Work Process of Standing Committees

As a central body within the Canadian State, the House of Commons (henceforth referred to as the House) has approximately twenty-two specialized committees whose mandates are to study issues of "national importance" and report their findings back to the House. The House delegates most of the detailed study of proposed legislation and the scrutiny of government policy and programs to its committees (accessed: http://www.parl.gc.ca). Standing committees convene at the beginning of each parliamentary session, with a new group of members and topics of study. They have a dual role: on the one hand they are responding to what are seen to be the public's views and concerns; on the other they are functioning as creators of public knowledge, disseminating to both the House and the public the ideas and issues they conclude to be central to the State's response to an issue.
The Standing Orders is the text governing all proceedings within the House, and thus applies to Standing Committees. However, several of the rules do not apply in the case of Standing Committees. The Standing Orders are seen to be “permissive in nature” (Introduction to the House of Commons Committees, 1999), enabling committees to determine their process independently, while remaining under the authority of the House. In practice, the committee has considerable latitude in interpreting and implementing the Standing Orders.

The members of standing committees are MPs from the five federal political parties in Canada. Each party selects their own representatives to be members for each particular standing committee. Names of potential members are submitted to the Standing Committee on Procedure and Affairs which then compiles a list, approximating the party standings in the House, and presents it to the House. Standing committees have between seven and fifteen members.

At the first meeting of a new standing committee, the members elect a Chair and two Vice-Chairs. The Standing Orders delineate that

Each standing or special committee shall elect a Chairman and two Vice-Chairmen, of whom two shall be Members of the government party and the third a Member in opposition to the government, in accordance with the provisions of Standing Order 116, at the commencement of every session and, if necessary, during the course of a session. (Standing Orders, Chapter 13, p.3)

After the appointment of the Chair and Vice-Chairs, the committee decides a number of routine procedural and administrative matters. Through a motion, a steering committee
called the "Sub-Committee on Agenda and Procedure" is established. A smaller number of the main committee's members make-up the sub-committee. Sub-committee members are responsible for arriving at recommendations as to how the committee should proceed on such topics as selection of witnesses and the schedule of meetings.

The Sub-committee is responsible for the "behind the scenes" planning for the main Committee. For example, time constraints preclude committees from hearing testimony from every individual and group with input relevant to the study. It is the job of the Sub-committee to consider lists of potential witnesses and make recommendations to the main Committee. The main Committee ultimately decides to whom invitations will be issued. Individuals and groups not invited to appear are usually asked to submit briefs. Although the Sub-committee's role is to discuss procedural issues, it does not have the authority to arrive at decisions. Instead the Sub-committee submits reports to the main Committee members, proposing specific action which the main Committee members then vote to either accept or reject. Transcripts from the Sub-committee are not available publicly. However, their work is discernible, to some extent, through administrative discussions in the main Committee meetings. Furthermore, although the public cannot trace the process of the development of their reports, the end result is evident through the process of the main Committee meetings, for example, in who appear as witnesses.

Main committees communicate the findings of their work by tabling reports in the House. The writing of the report is done by a parliamentary researcher assigned to a committee at the beginning of its proceedings. The process of writing the report begins with work by the parliamentary researcher who compiles a preliminary report for the Committee to discuss. Once the researcher submits a preliminary draft of the Report, the
Committee meets to begin the process of writing the report. The committee proceeds in camera to consider the draft reports. At this time members can recommend changes and amendments to the paper. Usually the report goes through three revisions before it is ready to be tabled in the House. Reports reflect the opinion of the majority of the members of a committee. Parties that wish to may include a dissenting report articulating their views that do not appear in the report. These dissenting reports are not presented to the House; however they are included in the appendix of the final report.

The Standing Committee on Citizenship and Immigration examines a range of issues relating to immigration and refugee policy and citizenship. Commencing in October 1999, a new study was undertaken by the Committee to address the widespread public reaction to the arrival of the four boats from China. Concern had been raised by individuals and groups both opposed to and in support of this migration. From very different standpoints, these two sides drew attention to issues relating to detention, and the process of refugee determination. Accordingly, the Committee set out its task as “a study of all aspects of the refugee determination system and illegal migrants” (S.C.C.I., October 26, 1999). Although the Committee’s study was explicitly formulated in direct response to the current issue of the Chinese refugee claimants, the scope of the study extends beyond this particular situation. The Committee’s task is to recommend structural changes that will become legislation organizing the immigration system as a whole.

Therefore, these meetings are crucial moments in the ideological construction of immigration to Canada and, specifically, the issues relevant to refugee claimants from Fujian, China. The discussions operate to organize what are perceived as the relevant issues and the areas in which policy changes will be recommended by the Committee.
These discussions serve as an important public record, becoming, in the words of Sherene Razack, “an official story, an agreed-upon public truth” (1999, p.282). Subsequently they come to organize the knowledge that is disseminated at other sites including within the Immigration and Refugee Board, the judicial system, immigration offices, and public media.

Parliamentarians are elected participants in the activities of the State. Accordingly, they are seen to represent the majority of voters in their constituencies. Members themselves acknowledge their role in representing the interests of the Canadian public. The following comment was made by member Jean Augustine of the Liberal Party and illustrates this point:

...let's work and let's produce a good report in the best interests of Canadians, because remember that what we are doing here is not for the House or for our own personal whatever. We are working in the name of all Canadians. (Standing Committee on Citizenship and Immigration (S.C.C.I.), March 2, 2000, p.35)

As was discussed previously, the Committee is lead by the Chair Joe Fontana and, in his absence, the Vice-Chairs. The following excerpts illustrate the ways in which the Chair's authority allows him to enter into and attempt to re-focus or assist MPs in making their arguments. For example:

(Mr. Andrew Telegdi): It seems to me that decision, particularly if it questions credibility, follows you right through the system. To the extent that a risk assessment was a right prior to being deported, now you have to apply within two or three weeks of being turned down by the Federal
Court. I've seen cases where I believe they were affected by the decision. They weren't independent of what the adjudicator put out but relied very much on what was said by the adjudicator. The worst example I had was that in refusing a refugee claim a board member stated he did not believe there was collusion among the media, the police, and the government in the former Yugoslavia. Those kinds of statements, because it's plain there very much is, because we're talking about a totalitarian regime—

(The Vice-Chair, Mr. Steve Mahoney): I'm sure there's a question coming.

(Mr. Andrew Telegdi): Mr. Chairman, I would appreciate it if you would not interfere with my time.

(The Vice-Chair, Mr. Steve Mahoney): I won't interfere, and I'll extend your time—

(Mr. Andrew Telegdi): I am leading to a question—

(The Vice-Chair, Mr. Steve Mahoney): —but we have witnesses who have come a long way—

(Mr. Andrew Telegdi): That's right, and I'm framing the question—

(The Vice-Chair, Mr. Steve Mahoney): —so would you please ask them a question.

(Mr. Andrew Telegdi): I'm framing the question. If you don't mind, I would appreciate some time.

(The Vice-Chair, Mr. Steve Mahoney): Carry on.

(S.C.C.I., December 2, 1999, pp. 11-12)
The Chair is responsible for keeping meetings on schedule, and thus the above example is in line with his role. However, it is notable that, at his discretion, in other instances the Chair uses his authority to privilege a Member, allowing him extra time to make his comments. For example, after Committee member John Bryden poses his question:

...has anyone asked for a reference to the Supreme Court or asked whether a person is a person for the purposes of the charter if they refuse to identify themselves and if indeed they deliberately try to deceive the Government of Canada as to their identity? Is that really a person who is embraced by the charter? Has anyone ever asked that question?

(S.C.C.I., November 17, 1999, p.21)

During the witness’ response, Mr. Bryden interrupts him because he is running out of his allocated time to speak. The Chair’s support for Mr. Bryden’s line of questioning is overt:

(Mr. John Bryden): I have to interject because I only have so much time, so you’ll forgive me.

(The Chair): The chairman is fair, though. I’m very interested.

(S.C.C.I., November 17, 1999, p. 22)

The Chair’s position of authority allows him the flexibility to permit extra time for those questions and comments he wants to hear. The Chair interjects to let Mr. Bryden know that there is some flexibility with the time limits. In this case the Chair explains that he is “fair” and “interested” and therefore will allow Mr. Bryden to continue beyond his allotted time. As set forth in the Standing Orders, the political party in power federally retains authority within the Committee’s meetings, having two members preside as Chair
and Vice-Chair. The proceedings of the study are influenced by this structure and in this way the federally elected party regulates the discussion in subtle but significant ways.

The production of “illegal migrants” is dependent on a series of assumptions that are institutionalized through immigration policy. Drawing on the Geneva Convention, Canadian policy designates separate processes for immigrants and refugees. Within the refugee category the division between “genuine” refugees and “bogus” refugees is laid out. Constructing the “illegal migrant” and, effectively, “non-status” category was a critical step in the production of the social organization of difference between legitimate and illegitimate immigrants. This difference is organized not just as a citizen/other dichotomy, but between desirable and undesirable categories of non-citizens and potential citizens. Desirable immigrants reflect those who are seen to be valuable within the existing structure of Canadian society. As a rule, education is considered an asset. However the value accorded one’s training varies based on where it was obtained. Specifically, education from the North is positioned as desirable whereas education acquired in the South is routinely given little credibility. This is apparent in the high rate of university educated immigrants from the South working in “blue collar” and service industry jobs once in Canada (Krahn, Derwig, Mulder, and Wilkinson, 2000). Furthermore, certain occupational training and experience is highly regarded while other positions are grossly undervalued. For example technological trades are revered while caregiving jobs, which are in just as high demand in Canada, are dealt with through a separate process. The Domestic Workers’ scheme regulates the arrival of domestic workers by subjecting applicants to invasive regulations. The Scheme, as it is referred to, institutionalizes the positioning of domestic workers as exploitable and vulnerable to
their employers (see Calliste, 1991). Moreover, domestic workers are not eligible to immigrate through the standard Point System. Hence, certain training and expertise is actively recruited whereas “undesirables” are subject to oppressive conditions or denied access. These practices are indicative of the classist, sexist, and racist structure of the Canadian immigration system.

Differential categories applied in the immigration process facilitate the exploitation of certain groups of people within the Canadian labour market. Specifically, individuals with no legal status are not protected by labour codes nor can they access social services. Accordingly, non-status residents of Canada are made dependent on the underground labour market. Hence, employers benefit from a labour pool that can be paid below-minimum wage, and subjected to unfavourable and often dangerous working conditions with no recourse. Immigration and refugee lawyer Avvy Go describes the practice in Toronto whereby employers have been found to pay four dollars per hour to landed immigrants, three dollars for refugee claimants with employment authorization, and two dollars to individuals who do not have legal status (quoted in Jeffcott and Yanz, 1997, p.25).

The predominant ideological framework that underpins the current Canadian immigration system is firmly grounded in the ruling relations that exist in the broader Canadian society. The Parliament positions its interests, or “Canada’s interests”, as the central focus of their study. In fact, there is no dispute raised to challenge the state-focused approach to “solving” the problem.

State work processes are critical to the accomplishment of ruling in Canadian society. Within the Committee specifically, work manifests in several ways. The official
work of the Committee is to propose institutional changes that will “improve” the current refugee system. These activities consist of assessing the current system and recommending specific changes including the process of the determination of claims, and the roles of departments within the system. The unofficial, although no less central, work of the Committee is in the construction of ideological practices relating to the refugee system.

The structure of the Canadian immigration system on its own is an important element in this analysis. The state apparatus is divided into departments and agencies, which maintain jurisdiction over specific sites in Canadian society. While the CIC oversees issues of immigration, including the refugee system and citizenship, the Committee tends to be focused on issues of criminality. This discourse draws on ideological frames prevalent in the media, restructuring immigration legislation so as to increasingly restrict newcomers. Throughout the meetings, the current system is discussed without questioning the framework itself. For example, no parliamentarians nor any of the witnesses presenting to the Committee questioned the organization of the constructs of immigrant, refugee, and non-immigrant.⁹ Instead, these categories are seen as natural, and assumed to arise out of common-sense.

(Pia Zambelli): I think the solution would be to give the Immigration and Refugee Board humanitarian jurisdiction so that some of the issues regarding both the convention and other protection issues, such as risk of

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⁹ These categories differentiate between individuals who are able to enter Canada (through either the “immigrant” or “refugee” programs) and those who cannot obtain legal status based on the current system. Of course, the category “non-immigrant” does not appear in formal migration policies however, I argue, it is a central construct in the enactment of Canadian migration policies.
return based on factors that are not enumerated in the convention, or other factors, humanitarian factors in general, could be adjudicated properly before one well-trained panel. This would save a great deal of time, effort, and litigation, because there is a considerable amount of litigation that arises out of having all the different steps and none of them done properly and fairly. (S.C.C.I, December 2, 1999, p.6)

and,

(Mr. Philip Palmer):...one of the things we have noted as lacking is really sort of a holistic approach to this question. Really, in terms of the bringing together of the Department of Citizenship and Immigration, ourselves, legal aid societies, the provincial governments, their welfare authorities and criteria, the interplay between these systems and the potential costs of them is a continuing source of aggravation. The design of legal aid plans in one province is very different from another, and those differences have different impacts on our processes. They do have an impact on delay, and they do have an impact on the amount of time that's required in the hearing room. These are all factors that I think need to be examined.

(S.C.C.I, November 4, 1999, p.36)

Even though both of these witnesses are supportive of immigrants, their suggestions for institutional change do not dispute the ideological framework which underlies the system itself. Accordingly, they concentrate on adjustments to the jurisdiction or work process of various bodies and, although perhaps inadvertently, re-produce the constructs of potential immigrant/non-immigrant.
The Canadian Charter of Rights and Freedoms (henceforth referred to as the Charter) is the fundamental text institutionalizing individuals’ access to a full range of personal rights in Canada. The Charter is critical as it sets out personal democratic and legal rights at the federal level. One of its central functions is to guarantee to all individuals the due process of law while in the country. In the current context this is of fundamental importance as it confirms the right of the Fujianese arrivals to the courts, regardless of the means by which they entered Canada or their status while in the country.

Members’ questions and suggestions reflect their attempts to negotiate around the institutionalized Canadian policies and Acts that otherwise serve to regulate the directions for change that Members may be recommending. The Canadian Charter of Rights and Freedoms is problematized by members at various points throughout the discussions. The Charter is not called into question directly; however, efforts are made to circumvent its jurisdiction. For example, in the following excerpt, a suggestion is made calling for the interdiction of ships at sea. Member Rob Anders questions witnesses from Citizenship and Immigration as to why Canada has not adopted this approach:

(Mr. Rob Anders): [the Americans] have the ability to go ahead and send their processing agents out to meet the ships at sea. I'm wondering whether or not there's ever any consideration given to Canada developing that type of capability...Are there any considerations at all to live up to the standards of other nations that actually meet migrants at sea and process these things at sea rather than wait for the problem to come to us?...What I want to boil it down to is, what do you need to be able to do that? What do you physically need? What needs to happen? What type of boats do
you need? What type of resources are we talking about allocating for that
to happen?
...(Mr. Greg Fyffe): Our conclusion to date is that this is essentially not an
option for us.
(Mr. Rob Anders): You're saying you don't have the legal authority. Are
you saying, basically, then that Parliament has not given you the type of
legislation or direction you need vis-à-vis the courts in order to be able to
do your job?
(Mr. Greg Fyffe): It's more than that. It comes down to international law,
to maritime law, and to the charter. (S.C.C.I, November 3, 1999, p. 8-9)
In the meeting the following day, Mr. Anders again alludes to the fact that,
without the Charter, solving the issue at hand would be easy:

I know there were questions asked yesterday with regard to how the
charter is possibly messing this up, when we, as parliamentarians looking
at it, are saying there seem to be pretty clear-cut answers to some of these
things. (S.C.C.I, November 4, 1999, p. 21)
Later in the same meeting, Member John Bryden continues the line of questioning
precipitated by Mr. Anders:

I am very interested in looking at that hard comparison of the processes
used by other countries. I am very interested in seeing where the charter
forces us to use a different process. (S.C.C.I, November 4, 1999, p. 22)
In February, Mr. Bryden pursues these ideas again, this time articulating a potential
“solution”: 
We might be able to ameliorate it a bit with some of your suggestions, but we are still going to have the snakeheads taking advantage of the system you're protecting. On the other hand, if we slightly compromise that system, and compromise it in a way that's befitting to the values of Canadians.... We weren't a bad people before the charter, and we're not going to be a bad people whether or not the charter exists. Our immigration authorities do have the ability to show compassion when you give them that discretion. Nevertheless, if you compromise the system, you would take a few of those rights out of that system, but you would be able to all but eliminate this problem. So what is the choice? How would you do it? I address that particularly to Mr. Clark and his colleague.

(S.C.C.I, February 10, 2000, p. 50)

These sentiments move the discussion from the institutionalized system and documents and practices to an emphasis on the Canadian national identity. The Charter is depicted as extraneous in light of the "values of Canadians". This idea will be examined in the next section.

The Committee's Study

During the Committee’s first meeting, the focus of their work together was proposed and agreed upon. A motion for the impending research was put forth by Reform member Leon Benoit as “a study on all aspects of illegal immigration to Canada, including strategies for prevention” (October 26, 1999, p.31). Later, the focus was amended slightly and was formally articulated as “a study on all aspects of the refugee determination system and illegal migrants” (p. 40). As a text, this phrase governs the
Committee’s work by setting out a particular subject for investigation. It was used by the Chair at the commencement of each meeting to set the stage for the discussions that ensued. The re-statement at the commencement of each meeting organizes the Committee’s study by focussing members and witnesses within a particular ideological frame.

At the outset of the study, the situation of the Fujianese refugee claimants was cited as the impetus underpinning the Committee’s study. Throughout the course of the Committee’s work there was a dramatic shift in the focus of the discussions. Specifically, the emphasis moves quickly from refugee claimants to illegal migrants and then, shifts further to a concentration on criminality associated with migration. Finally, just prior to the release of the Report, the language is changed again and the word “illegal” is removed. In this section I deal specifically with how the shift is accomplished through the recruitment of witnesses, structuring of questioning, and the overall proceedings of the study.

Committee Membership

Five different political parties are represented in the Committee’s membership. The fracture is most visible between those representing the Reform Party located at the far right, and the New Democratic Party at the left of Canadian politics. The Parti-Québécois, the Progressive Conservatives, and the Liberals can be placed at various degrees between the two extremes along the continuum. Although the Committee’s membership included all five major political parties in Canada, actual attendance rates show marked variation in levels of participation. Based on this record, the discrepancy between parties’ input is evident. The difference is most significant between the Liberals
and Reform Party who were represented at 100 percent and 94 percent of the meetings respectively, and the NDP who attended only 20 percent of the meetings total.

Committee membership is arrived at through submissions made by each of the five dominant political parties. The Standing Committee on Procedure and Affairs compiles these lists, making each party's numbers reflect membership representative of the House. Table 1 lists the main members and their political affiliations and ridings. In their absence, Committee members are able to have an alternate represent their party, potential alternates are designated as "associate members". This is crucial for the NDP and PC parties who each have only one representative on the Committee.

Table 1: Committee membership with political party and riding.

<table>
<thead>
<tr>
<th>Member of Parliament</th>
<th>Political Party</th>
<th>Riding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joe Fontana (Chair)</td>
<td>Liberal</td>
<td>London North Centre, ON</td>
</tr>
<tr>
<td>Leon Benoit (Vice Chair)</td>
<td>Reform</td>
<td>Lakeland, AB</td>
</tr>
<tr>
<td>Steve Mahoney (ViceChair)</td>
<td>Liberal</td>
<td>Mississauga West, ON</td>
</tr>
<tr>
<td>Rob Anders</td>
<td>Reform</td>
<td>Calgary West, AB</td>
</tr>
<tr>
<td>Jean Augustine</td>
<td>Liberal</td>
<td>Etobicoke-Lakeshore, ON</td>
</tr>
<tr>
<td>Bernard Bigras</td>
<td>Bloc Québecois</td>
<td>Rosemont, PQ</td>
</tr>
<tr>
<td>Paul Bonwick</td>
<td>Liberal</td>
<td>Simcoe-Grey, ON</td>
</tr>
<tr>
<td>John Bryden</td>
<td>Liberal</td>
<td>Wentworth-Burlington, ON</td>
</tr>
<tr>
<td>Sophia Leung</td>
<td>Liberal</td>
<td>Vancouver Kingsway, BC</td>
</tr>
<tr>
<td>Rick Limoges</td>
<td>Liberal</td>
<td>Windsor-St.Clair, ON</td>
</tr>
<tr>
<td>Pat Martin</td>
<td>NDP</td>
<td>Winnipeg-Centre, MN</td>
</tr>
</tbody>
</table>
The Sub-Committee's membership is decided by the main Committee. All of the same powers of the Committee, save the power to report directly to the House, can be designated to the Sub-Committee. The Standing Orders delineate that the Sub-Committee be composed of eight members including the Chair (Liberal), the two Vice-Chairs (one Liberal and one opposition), as well as two additional representatives from the Liberal Party, and one each from the BQ, NDP, and PC. In the following excerpt, Reform Associate Committee member, Chuck Strahl challenges the Liberal dominance in this model:

I'm not sure how common this is, Mr. Chairman. Most of the committees have a steering committee that has the chair, the.... Well, it just takes out the two extra representatives from the Liberal Party on this subcommittee on agenda...unless you guys want to hammer four people out to every one of these meetings, I don't know if you need it. Those meetings are usually pretty informal and work by consensus. Unless you think you really want to have that, I would say that most of the other committees I've been on just have the two Liberal representatives and then one each from the other parties. (S.C.C.I., October 26, 1999, p.3)
Mr. Strahl attempts to argue against the disproportionate number of seats accorded to the Liberals, in particular through its presence on the sub-committee. Subsequently, Liberal member Paul Bonwick, counters the motion to reduce the number of seats given to Liberals on the sub-committee. His input is supported by “some honourable members”, who we can presume are likely to be Liberals themselves. In this circular way the Liberal Party maintains its dominant voice throughout the study:

(Mr. Paul Bonwick): Mr. Chair, obviously Mr. Strahl and I are not attending the same committees, because the steering committees that I've attended in fact are constructed in a similar fashion to what you've described. I would suggest that this committee follow the same direction.

(Some hon. Members): Agreed. (S.C.C.I., October 26, 1999, p.3-4)

The protection of Liberal leverage on the Committee is further instituted in the discussion of quorums. The Committee must decide the point at which meetings will be cancelled due to low attendance, keeping in mind the consideration of witnesses who would be greatly inconvenienced by cancellations and rescheduling. Proposals from various parties suggest a lower limit ranging between one and three members present for meetings to proceed. Members debate over whether or not a member of the government (i.e. the Liberals) and/or a member of the opposition (i.e. the Reform Party) should be required to be present for a quorum. Once again, a representative of the Liberal Party asserts their authority:

(Mr. Jack Ramsay): I find it unbelievable that we'd be taking witnesses without government members being present. The Government of Canada ought to be represented at these committee meetings. If we're prepared to
take testimony from witnesses without the government being represented,

I think that's wrong. I agree with my original comments as well as with
what my colleague from the Tories has said.

(S.C.C.I., October 26, 1999, p.7)

Eventually it is decided that one member of both the opposition and the government must be present at meetings.

Administrative and procedural details are worked out in the course of the first meeting. One of the main issues of contention is the allotment of speaking time to each party. In the following example, Reform representative Chuck Strahl responds to a specific design for designating the speaking time. This discussion, which occurred in the Committee’s first meeting, is consequential, as it will determine the procedure of all subsequent Committee meetings. Mr. Strahl objects to the advantage of the Liberal party in the proposed arrangement:

(Mr. Chuck Strahl): Although I'm sure that has a certain appeal to some members of the committee, in fairness, under this proposal, you're looking at 80 minutes down the round before the first round is done, of which 40 minutes go to the Liberals. I know that's great for—

(The Chair): We are the government.

(Mr. Chuck Strahl): But to be fair, the first round should go somewhat more quickly than that. The proposal Leon has made gets everybody's oars in the water a little bit earlier. Otherwise, under this thing, the PCs have to wait over an hour to get a first comment from one of the parties. The other thing we should think of in terms of fairness is that although committees
are not strictly built along the numbers game, there has to be some recognition of the role of the official opposition and the numbers each party has in it. Basically you're giving it all to the Liberals, and then everybody else gets ten minutes. I don't know whether that's.... I agree it doesn't have to be exactly proportional, but it has to be somehow representative of the numbers of people on the committee and in the House of Commons.

(S.C.C.I., October 26, 1999, p.11-12)

Here Mr. Strahl attempts to do two things. First, he is trying to block the Liberals from dominating the discussion. Secondly, and what is perhaps his actual motivation, he asserts the right of his party to special time allotments since the Reform Party are the “official opposition”.

As the current ruling party in Canada, the Liberals retain a position of privilege throughout the various stages of the Committee’s process. Even though the Committee is structured as a democracy, the greater representation of the Liberals (based on the composition of the Committee which, as discussed in Chapter 4, is designed to “approximate the parties’ numbers in the House”) necessarily gives their party the advantage. Thus, the Liberals have an easy time securing procedural rules that favour their party, for example in time allotments for speaking. They are further aided by the Standing Orders which dictate that two of the Chair/Vice-Chair positions are reserved for their members. The Reform Party, the official federal opposition, has the next highest membership on the Committee and thus enjoys at least some degree of privilege in the proceedings. Accordingly, the C.A. obtains the Vice-Chair position reserved for the
opposition. The BQ, NDP, and PC parties all have the least number of members on the Committee and, correspondingly the least influence.

As would be expected, not all of the ideas expressed by parliamentarians involved in the Committee meetings reflect the same ideological standpoint. One example involves an attempt by a member to refocus the meeting to a more refugee-centered discussion. In their eighth meeting, in response to witness Betsy Kane's suggestion that Canada relax immigration criteria to make the refugee system more accessible, NDP member Pat Martin states:

Thank you for those comments. That's exactly the type of thing I was hoping to hear, to balance things a little bit. As I say, this committee has been bombarded with the opposite point of view for quite some time here.

(S.C.C.I, December 2, 1999, p. 23)

In the same meeting, another member attempts to redirect the discussion away from the concentration on control of refugee claimants to the functioning of the determination system:

(Andrew Telegdi): When I look at the debate we've been having, it has almost been a focus of how to tighten things up and how to process people quicker. I think we've spent little time in terms of the determination system itself in making sure that the quality of the decision-making coming out of the board is as good as it could be. (S.C.C.I, December 2, 1999, p. 11)

Both of these examples reveal the multidimensional nature of the Committee's discussions.
Witnesses

Following the Standing Orders, standing committees have the authority to "send for persons" (Standing Orders, p. 4) they wish to hear from during their study. Witnesses greatly affect the proceedings of the sessions they attend. Specifically, even though their testimony relies on the questions they are posed, members' inquiries are structured according to witnesses' affiliations and experiences. The Committee's study relies on presentations by witnesses to provide information and expertise to the discussions. References to the needs of the Fujianese migrants and to the role that Canada plays in administering support to this group of people were infrequent. Only four of the thirteen meetings involved advocates of refugees and refugee claimants, such as the UNHCR, CCR, and several refugee lawyers who gave evidence to refute what I refer to as the "crisis frame".

The crisis frame is produced through the cumulative effect of the particulars that are worked up in various accounts of the "case" and illegal migration more generally. The crisis frame comprises notions of criminality, disease, economic strain, and a generalized panic and intolerance towards the Fujianese arrivals specifically, and applied more broadly to all immigrants. The development of the crisis frame insulates the government from public criticisms that the system is exclusionary and biased. If the Fujianese migrants were constructed as hard-working entrepreneurs, willing to make significant sacrifices to live in Canada, and healthful enough to endure more than five weeks aboard a crowded and ill-equipped ship, perhaps more Canadians would argue that they deserve a chance to live here and become citizens. The current Point System values money and education above personal character as selection criteria for successful
entrants. Ironically, personal character is also used as a primary rationale for the justification of systemic exclusion.

The majority of the witnesses that made presentations before the Committee contributed to the production of a crisis through their input. Specifically, of the 13 meetings where witnesses appeared, nine of these involved presentations by governmental representatives including CIC, the Solicitor General of Canada, and the IRB. Furthermore, four of the thirteen meetings involved representatives from security and policing bodies such as the RCMP, Corrections, and CSIS. Witnesses representing the Air Transport Association and the Shipping Federation of Canada were invited to discuss approaches to ending migrations via their industries through the surveillance of passengers and ports. Consequently, the input of these two presenters was geared towards policing, and thus contributed to the framing of this group of migrants as a "crisis".

Overall, state representatives were allotted significantly more time than their non-governmental counterparts, enabling them to speak in greater depth and thus make their points more clearly. Table 2 presents a complete listing of witnesses and the dates of their presentations.

Table 2: LIST OF WITNESSES

<table>
<thead>
<tr>
<th>Associations and Individuals</th>
<th>Meeting</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Citizenship and Immigration Canada</strong></td>
<td>2</td>
<td><strong>Wednesday, November 3, 1999</strong></td>
</tr>
<tr>
<td>David Dunbar, Counsel, Legal Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greg Fyffe, Assistant Deputy Minister, Policy and Program Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Martha Nixon, Assistant Deputy Minister, Operations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elizabeth Tromp, Director General, Enforcement Branch</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gerry Van Kessel, Director General, Refugees</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Immigration and Refugee Board</strong></td>
<td>3</td>
<td><strong>Thursday, November 4, 1999</strong></td>
</tr>
<tr>
<td>Glen Bailey, Director General Policy, Planning and Research</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Manon Brassard, Director General Adjudication Division
John Frecker, Deputy Chairperson, Refugee Division
Philip Palmer, General Counsel, Legal Services

Citizenship and Immigration Canada 4 Wednesday, November 17, 1999
Dick Graham, Acting Director Legislative Review, Enforcement
Martha Nixon, Assistant Deputy Minister Operations
Daniel Therrien, Counsel Legal Services
Gerry Van Kessel, Director General Refugees
George Varnai, Regional Manager Citizenship and Immigration Programs, British Columbia, Prairies and Territories

Royal Canadian Mounted Police 6 Thursday November 25, 1999
René Charbonneau, Assistant Commissioner, Director, Federal Services
Raymond Lang, Officer in charge Immigration and Federal Branch Federal Services Directorate
Bill MacDonald, Senior Reviewer Analyst, Immigration and Federal Branch, Federal Services Directorate

Solicitor General of Canada
Jamie Deacon, Director, Anti-Organized Crime Division
Paul Kennedy, Senior Assistant Deputy Solicitor General, Policing and Security Branch
Kenneth Moreau, Executive Assistant Office of the Senior Assistant Deputy Solicitor General Policing and Security Branch

As Individuals 7 Wednesday, December 1, 1999
William Bauer, Former Canadian Ambassador
Martin Collacott, Former Canadian Ambassador

Association québécoise des avocats et avocates en droit de l'immigration 8 Thursday, December 2, 1999
Jean-François Fiset, President
Pia Zambelli, Member of the Board

Canadian Bar Association
Betsy Kane, Executive Member National Citizenship and Immigration Law Section
David Matas, Past Chair, National Citizenship and Immigration Law Section

Air Transport Association of Canada 9 Wednesday, February 9, 2000
Warren Everson, Vice-President and Strategic Planning
George Petsikas, Director, Government and Industry Affairs and Legal Counsel, Air Transat
Bridget Siwik, Manager, Facilitation Air Canada
Canadian Council for Refugees
Sharryn Aiken, Past President
Janet Dench, Executive Director
Mitchell Goldberg, Chair, Working Group on Refugee Protection

The Shipping Federation of Canada
Gilles Bélanger, President
Sonia Simard, Manager, Policy and Government Affairs

As Individual 10 Thursday, February 10, 2000
Barbara Jackman, Immigration and Refugee Lawyer

Inter-Church Committee for Refugees
Tom Clark, Coordinator
Timothy Wichert, Representative of the Mennonite Central Committee, Ontario

United Nations High Commissioner for Refugees
Judith Kumin, Representative in Canada
Greg Lyndon, Legal Officer
Patrick Tezier, Senior Protection Office

As Individuals 14 Wednesday, March 1, 2000
William Bernadas, Recognized Refugee in Canada
Nawal Haj Khalil, Recognized Refugee in Canada

Canadian Security Intelligence Service 15 Thursday, March 2, 2000
Ward P. Elcock, Director

After briefly introducing the witnesses appearing that day, the Chair proceeded to address the witness(es) and instruct them as to what the Committee intended from them, for example:

We'd like you to give us about a 10-minute summary of your brief, which we've read, to give us the opportunity of asking you some questions.
Again I want to thank you for taking the time to brief us on this very important issue as we move towards, hopefully, some improvements in our refugee determination system and for helping us understand the
phenomenon of illegal migrants and how we can distinguish between genuine refugees and those who may be illegal migrants who may want to come to our country from time to time.

(Chair Joe Fontana to witness Judith Kumin, S.C.C.I., February 10, 2000, p.1)

Aside from their brief opening remarks, witnesses’ input is limited to responses to the specific questions directed to them by Committee members. Thus, what emerges in the course of the meetings and the overall study reflects a deliberate organization within parliament to maintain control over the direction and findings of its study. This is, in part, accomplished through the designated “terms of reference” for the study which structure what witnesses can present. Witness Judith Kumin from the UNHCR acknowledges the limits the terms of reference place on what she can present:

I will try to highlight some of the points from that note that are of particular relevance in the framework of your current study. Of course there are many topics we would like to discuss with your committee, but I will do my best to limit myself to those that are relevant in the context of your terms of reference. (S.C.C.I., February 10, 2000, p. 1)

The Committee’s procedural rules allocate a ten-minute time limit to each MP to present their ideas and pose questions to witnesses. In their responses, witnesses are not subject to time constraints. However, at times, the Chair or Presiding Vice-Chair will interject during an individual’s response, asking them to finish quickly or interrupting them completely. In the following example, witness Betsy Kane, Executive Member, National Citizenship and Immigration Law Section, Canadian Bar Association,
is interrupted by the Acting Chair Steve Mahoney who redirects the floor to member Pat Martin.

(Ms. Betsy Kane): If we lower the bar and let some of these less-than-professional individuals come in and make a life for themselves, then perhaps we're not going to see all these bogus refugee claimants we're apparently letting into Canada, it being such a sieve. So you may look at it that way, but the other side of the coin is how high that bar is, which is creating this false refugee....

(The Acting-Chair, Mr. Steve Mahoney): Mr. Martin, do you have any additional questions? (S.C.C.I., December 2, 1999, p.23)

The timing of the Chair's interruptions are telling in that they repeatedly occur during presentations – by both witnesses and members – that conflict with the crisis frame.

Two former Canadian ambassadors, Martin Collacott and William Bauer, appeared as independent witnesses (December 1, 1999). Their appointments while being ambassadors were to CIC posts in countries throughout South-East Asia, although neither served as an ambassador to China during their terms. Mr. Collacott was posted in Hong Kong, and Beijing, as well as several other countries, during his work with the Department of Foreign Affairs and International Trade. Mr. Bauer has not worked or lived in China during his career. He worked as a member of the IRB for a period of four years. Both men are retired and are currently involved in immigration and refugee issues through their independent work. Mr. Bauer is in the process of completing a book on the topic of "world migration, illegal immigration, and the abuse of the refugee determination
system in Canada” (Committee brief, 1999). Neither of these presentations addressed country conditions, or details relevant to the current “case”. Instead Mr. Bauer and Mr. Collacott were used as “experts” in the field of immigration and refugee issues and gave their personal recommendations regarding areas for change. The inclusion of these individuals as witnesses is notable as, even though they are no longer formally employed by the government, based on their career histories they can be seen to represent the standpoint of ruling. Thus, even in its “independent” witnesses, the Committee recruited a largely homogeneous sample of contributors.

In his testimony William Bauer set forth an explicit ideological frame. He made reference to Canadian citizens as “the Canadian family” (p.3), and purported to understand “almost universally accepted Canadian views on what immigration is all about in this country” (p.3). He spoke of Canada’s obligations - and lack thereof - in terms of responding to various categories of immigrants. Mr. Bauer cautioned the Committee about the increase in number and sophistication of fraudulent refugee claims. He proposed that the

test of any refugee determination system is how effectively it separates the genuine refugees from the frauds and how well it discourages the frauds from placing such a load on the system that it gradually becomes slow, easily deceived, and ultimately, I would say, dysfunctional in terms of its objective. (S.C.C.I., December 1, 1999, p. 3)

Several witnesses do attempt to re-focus the discussion to a refugee-centered perspective. Witness David Matas, Past Chair of the National Citizenship and Immigration Law Section of the Canadian Bar Association, is one such example. In the
following excerpt he is responding to a position raised by witness William Bauer in the previous meeting. Mr. Bauer referred to an “immigration industry” in which participants were seen to be motivated by their own interests, including economic gains.

I would criticize the very denunciation of an immigration industry. After all, what we're talking about is a fundamental human right of freedom of movement, which is indeed in our charter. Heaping scorn on people who are trying to help those people get protection or to immigrate is like heaping scorn on people who are trying to protect freedom of the press or the right to form unions. It's simply inappropriate. Also, I would reject the need to tighten things up. In fact, things are already too tight. Year after year we don't meet our targets. The Conservative government under Mr. Mulroney at one point had the target that 25% of our admissions would be refugees, but we could never meet that target. The numbers spiralled down, and now we're at about 10%. If we just keep on tightening and tightening, we'll get to the point where we were during the Mackenzie King years, where we have nobody at all. We will suffer from it. So I think that is completely the wrong focus. (S.C.C.I., December 2, 1999, p. 13)

In another example, witness Jean-Francois Fiset, the President of the Association Québécoise des Avocats et Avocates en Droit de l'Immigration, calls attention to the lack of consistency between IRB decisions regionally:

Incidentally, some of the members appointed to the Board have no open-mindedness whatsoever towards refugees. What is the result? The result is
a refusal rate of 100 or 98%. I will give you an example. I sometimes
plead in Toronto and I don't always plead bad cases. I went there fifteen
times to deal with cases from India. Some of the victims had been
tortured. The cases were well documented. None of those 10 to 15 cases
was accepted. You can see that there is a problem. Had the same case been
presented in Montreal it would have been accepted on the bench. There
are regionalisms which are unexplainable. It is a bit like a lottery.
Sometimes Board members closed-mindedness can be attributed to the
fact that they must not accept too many refugees if they want their term
renewed; therefore, they could not care less about evidence. I had to plead
a case before a Board member who cried when I gave my arguments. I
told myself that it was a positive sign. However I received a negative
decision in the mail. At that stage, one becomes schizophrenic. (S.C.C.I.,
December 2, 1999, p.16)

Less than thirty-eight percent of the witnesses appearing before the Committee
represented refugee and immigrant-centered perspectives. Thus, while the presence of
dissenting voices cannot be ignored, as a position they remain marginalized not just
within mainstream Canadian society, but in the Committee's study as well. This is
apparent in the modest number of refugee advocates heard from throughout the
Committee's study. Furthermore, the time allocated for witnesses varied considerably.
The Department, in each of its three appearances, the IRB, the RCMP, and CSIS, all were
individually given the duration of an entire meeting (approximately two hours). On the
other hand witnesses from outside of the government were scheduled in groups, some
according to convergence in their areas, and some solely for the purpose of efficiency. Refugee lawyer Barbara Jackman, together with representatives of the Inter-Church Committee for Refugees Tom Clark and Timothy Wichert, had less than one hour in total in which to make their presentations and respond to questions from the Committee. Furthermore, only two members were present during this time, suggesting a lack of Committee interest in their presentations. Both members in attendance were Liberals. Thus the contribution of these presenters is compromised by the time they were allowed, as well as the high level of absenteeism during this Committee meeting. Their contribution to the final report relies on the two members who were in attendance to relay the presenters’ input back to the Committee.

Your submissions are in the record and our discussions today are in the record. Some of the suggestions you've put forward have been very useful and constructive, and hopefully they will be taken into account when we write our report. (The Chair, addressing witnesses Barbara Jackman, Tom Clark, and Timothy Wichert, S.C.C.I., Feb 10, 2000, p. 51)

**Pressure Groups/Advocacy**

A range of non-governmental organizations advocating for refugees’ and immigrants’ rights exist in Canada. The following are some of the most prevalent groups, particularly in relation to the Fujianese refugee claimants.

The Canadian Council for Refugees (CCR) is a non-profit umbrella group working for the rights and protection of refugees in Canada and throughout the world. In its mandate the CCR addresses the specific importance of supporting people of colour, women, and children in their work. Furthermore, the CCR calls on all Canadians to act
upon their “responsibility to refugees”. The CCR was represented at one of the Committee’s meetings, in a session shared with both the Air Transportation Association and the Shipping Federation of Canada.

The Refugee Lawyers Association (RLA) is comprised of lawyers practicing refugee law. The RLA engages in education and advocacy around issues concerning refugees and refugee law. Based on their broad base of experience in refugee cases, their regular participation in national consultations on refugee issues, and their background in the law, the RLA feels they are in a unique position to contribute to the refugee discourse. Even so, the RLA was not invited to participate in the Committee’s study.

Direct Action Against Refugee Exploitation (DARE) is an adhoc advocacy group that was organized following the arrival of the Fujianese refugee claimants in 1999. Subgroups within DARE address specific areas including support to detained refugee claimants, public education, and legal services, with specific emphasis on assisting female claimants. DARE characterizes the Geneva Definition as “too narrow” and its use by the Canadian government is described as aiming to “pick refugees according to who are seen as desirable candidates” (1999). Although DARE is a new group, its members include seasoned refugee advocates. Their experience, coupled with the fact that DARE is directly involved in the Fujianese case, make it a key voice in the Committee’s study. Even so, DARE was not invited to participate in the Committee’s proceedings.

Pressure groups working to support refugee claimants are positioned outside of the governmental system, the ruling body in this process. These groups are aligned with refugee claimants in working towards the realization of successful claims and just treatment. Refugee advocates’ views enter into the public discourse through activist work
and the media. However, the major part of advocates' work is focussed on supporting claimants directly in the form of legal and social services, activities that are largely invisible to the mainstream public. This absence is further aggravated by the mainstream media's inattention to refugee and advocates' perspectives. The combined effect of these conditions results in a public discourse that does not adequately represent the advocacy frame.

Many relevant voices are not reflected in the Committee's study. Specifically, various participants in the larger domain of Canadian refugee issues were not heard from at all. Advocacy groups such as VACC and DARE were excluded from the meetings. There were a limited number of representatives from refugee-centered groups who were invited to participate. Both the UNHCR and the CCR appeared in separate shared sessions. In addition, several refugee lawyers including Barbara Jackman, Sharryn Aiken, and David Matas presented to the Committee. The type of input these witnesses provided are evident in the following examples:

(Mr. David Matas): In terms of the second issue before the committee, deterring future arrival of illegal immigrants, I'd like to point out the very inappropriateness of this as an objective. The Canadian immigration system should not be deterring future arrivals. The Universal Declaration of Human Rights talks about the right to seek and enjoy asylum, and that right should not be frustrated. The Universal Declaration of Human Rights talks about the right to leave any country, including one's own, and that right also should not be frustrated. The right to leave as well as the right to seek protection are found in international instruments by which Canada is
bound: the refugee convention and the International Covenant on Civil and Political Rights. The criteria that are used to stop people are also inappropriate. It is simply lack of documentation, which is a very unsophisticated criterion that doesn't differentiate between people seeking protection and people not in need of protection. It is important to use the immigration system and the refugee determination system for their purpose, which is to determine whether or not people are refugees and whether people should migrate or not migrate. It should not be used for criminality purposes. In order to deter criminality, one has to use the criminal justice system and not the immigration system. An attempt to use the immigration system as a deterrent is just going to distort that system and violate international standards. (S.C.C.I., December 2, 1999, p.3)

and, (Ms. Judith Kumin): Mr. Chairman, your committee study is taking place in an environment of heightened concern about the smuggling and trafficking of people. We share that concern, but we would urge you to recognize that many genuine asylum-seekers and genuine refugees have no option other than to resort to the services of smugglers in order to gain access to safety. (S.C.C.I, February 10, 1999, p.1)

Perhaps the most glaring omission in terms of witnesses relates to first-hand accounts of refugee claims and immigration. Specifically, the Fujianese refugee claimants’ voices are curiously absent in the compilation of knowledges that make up the
facts of the case. Accordingly, this omission is never called into question, or even noted in the Committee's proceedings.

There was one attempt made to include the voices of refugees in the study. Two individuals who have obtained refugee status in Canada were called as witnesses. However, neither of these individuals was from China and so, although they reflect an attempt at including a refugee-centered standpoint, their experiences have very little in common with those of individuals involved in the current "case".

Summary

In the above chapter, I examine the principal bodies that make-up the Canadian immigration system, including CIC and the IRB, as well as important texts such as the Geneva Convention, the Charter, and the Federal Legislative Process. These independent yet interconnected mechanisms are crucial elements in the Committee's study. In addition, the Standing Orders delineate the specific process the Committee will follow. These procedural rules arrange the everyday workings of Committee meetings, including the differential authority of members (according to Party affiliations) and who is called to testify as a witness. The institutionalized processes of the Canadian immigration-apparatus together organize a certain approach in the Committee's study. As I argue above, the Committee's work reflects ruling relations that exist in broader Canadian society. Subsequently, and as I will develop in the following chapters, the Committee's investigation serves to re-construct knowledge that is produced in the Canadian public discourse rather than insights relevant to the particular context or "case".
Chapter 3: Producing the Crisis

The conceptualization of migrant arrivals as a crisis reflects a series of institutionalized processes within the social and political milieu of Canadian society, and at work in the Committee’s study. In this chapter my focus shifts from the Committee’s work process to its discursive practices. Through the course of the Committee’s inquiry the “case” is re-organized so that the variety of lived experiences that make up “what actually happened” - the migrants’ lived realities - become obscured by the interpretive frames applied in the process. I examine what is talked about in Committee meetings so as to understand, together with the previous chapter, how the crisis is produced.

Language

From the outset, the language employed by the Committee is crucial as it establishes the ideological frame that will guide Committee members’ approaches to and participation in the research process. The language used to depict the various categories of immigrant, non-immigrant, and citizen are grounded in social relations extending beyond the immediate context. These terms are social constructs that rely on the broader organization of Canadian – and international – society for their meaning. Media reporting contributes significantly to the establishment of these constructs.

As was discussed earlier, the Standing Committee study took place in the context of highly charged public reaction and media coverage of the arrival of boats from China. Radio programs as well as newspaper reports reveal that particular language and themes are prevalent across various sources in the mainstream media. The regular use of certain phrases and vocabulary, particularly those that exaggerate the seriousness of a story, are
typical of the “over-reporting” that is a prevalent tool used by the media (Cohen, 1972). Headlines such as “Chinese migrants disappear” (Mickleburgh, 1999), “B.C.’s trouble with illegals part of a growing global issue” (Moore, 1999), “Migrants not owed free ride, poll says” (Sallot, 1999), “Illegal Migrants Arrive to Mixed Reception in Port Hardy” (Joyce, 1999), are suggestive of the type of coverage this case received. Almost one year later, provocative stories continue to be published, for example, “B.C. braces for new flood of illegal migrants: immigration officials expect up to 1,200 illegal entrants from China will land in B.C. this summer” (Fong, Vancouver Sun, May 2, 2000).

At the time of the boats’ arrivals, the construct of “illegal migrant” is already well-established in Canadian society. As a category it positions people in a social relations hierarchy where citizen is almighty, immigrant is lesser, and illegal migrant is the marginal other. Mainstream media accounts employed this framework in its coverage of the “case”. In the context of the Committee’s study, “illegal migrant” organizes a specific understanding of the relevant issues. The term is entered into the discussion immediately, from the Committee’s first meeting. “Illegal” connotes criminality, an absence of entitlement, and a pervasive and generalized negativity towards the group it references. In contrast, language such as “refugee” and even “refugee claimant”, although not definitively supportive, allow space for a discussion of asylum, protection, and entitlement to aid. Thus the application of terminology has definite implications for the types of relations that are established between the Committee and a particular group of newcomers to Canada.

There was limited opposition expressed in reaction to the categorization of the present refugee claimants as “illegal” and “bogus”. In the following example, member
Rick Limoges points out the inappropriateness of characterizing refugee claimants as “illegal”, alluding to the current process enacted by the Charter and the refugee system:

I'd like to comment also on the issue of improper documentation and illegal migrants. Frankly, as soon as someone makes a refugee claim, they are no longer an illegal migrant, no matter how you want to define it, because they have a legal right to make that claim. (S.C.C.I., March 2, 2000, p. 49)

However, the majority of the Committee members and witnesses did not agree with this sentiment and so, throughout the entire period of the meetings, “illegal migrants” was used as the accepted term of reference for the Fujianese arrivals. Some members used terms such as “bogus refugees”, “fraudulent claimants”, and other labels with similar intended connotations.

Notions of the Fujianese claimants as “illegal migrants” are constructed through the ideological circle. The professional procedures of the media organize a particular account and presented it as fact to the public. Media accounts – particularly in the form of news reporting – stand in for the lived reality, and become what is known about the situation. At the next stage is the state response including the Department, IRB, and the Committee’s activities in relation to the situation. The work accomplished at this stage can be traced back to the public discourse through language and ideological frames that are applied. The Committee’s recommendations are one notable product that emerges out of the previous stage. The recommendations express an elaboration of the knowledge produced at the previous two stages, and subsequently become applied in amendment to
the state process of migration policies. This process is illustrated in Figure 2 in an adaptation of Dorothy Smith’s ideological circle (1990).

The governmental response to “the case” reflects the same understanding that is developed in the media. This is captured in the case of Martin Collacott, a former Canadian ambassador. The following quote is taken from Cross Country Check-up during his participation as a panelist:

the problem is...the boat people coming in don’t have qualifications, don’t speak English, they will settle ...in metropolitan areas where we’re already overpopulated, where our resources are already strained environmentally and in terms of budget and they’re competing with a fairly high level of unemployment already here so we keep saying we’re an immigrant country, we should be able to take endless numbers of people like this, the fact is we can’t. We do need a limited number of highly skilled people in certain occupations like high-tech...we don’t need large numbers of people who can’t find jobs that aren’t going to integrate into the community effectively because they have no English and no educational background. (CBC Radio One, Sept. 12, 1999)

The Committee also called Mr. Collacott as a witness and so his input is likewise directly entered into the parliamentary study. Thus the overlap between the two sites’ accounts reflects ruling relations whereby expert knowers retain authority across a variety of local settings. This supports the critical communication approach proposed by Simmons and Keohane (1992) whereby power is enacted through one’s capacity to participate in and shape communication, and subsequently knowledge and “truth”.
Accordingly, following the mainstream public discourse, the Committee’s recommendations emphasize border control as opposed to humanitarian concerns. Although the application of the recommendations is not analyzed here, presumably the government wants to use the Committee’s findings and thus, I expect the recommendations to influence amendments to migration policies. I include migration policies within the ideological circle presented in Figure 2, which in turn feed back into media accounts and public discourse.

Media reporting develops the ideological frames that are taken up in the public discourse. Public discourse then, through what Dorothy Smith identifies as an ideological circle, reciprocally influences media reporting and the subsequent development of ideological frames. Stanley Cohen describes the distortion which occurs through media coverage. He refers to the emergence of societal “moral panics” and “folk devils” – institutionalized reactions resulting from the cumulative development of misleading and sensationalistic news accounts and public discourse. Cohen’s classic case study of “Mods” and “Rockers” examines the development of fear and intolerance in the public discourse towards these two groups. Cohen explicates how people come to be constructed as threatening and are made scapegoats for a full range of societal problems. One of the central ways in which this is accomplished is through “over-reporting” by the press. Over-reporting consists of widespread coverage, including the placement of stories as headline or front page news. The terms of reference used are provocative and often ambiguous. In Cohen’s study London was described as being under “seige” and “attack” by “screaming mobs” (p.31) of Mods and Rockers. Cohen found that reporting overestimated the numbers involved and, further, solicited public reactions through the
intent and criminalization characterizing depictions of the target groups. Techniques employed by the media to generate public interest in the "case" closely parallels those identified by Cohen in his analysis. Specifically, over-reporting and inflammatory language is widespread in the media, as are allusions to criminality and the intent of migrants to take advantage of Canadians.
In this way the ideological circle operates to legitimize - in the minds of people across divergent sites in Canada - the denial of protection for the individuals involved in the "case".

Figure 2. The ideological circle: the re-construction of "illegal migrant"
Source: Dorothy Smith, 1990, p.148
Committee member John Bryden refers to “Canada’s problem with refugees” (S.C.C.I., November 4, 1999, p. 21), reinforcing the ideological frame set-forth in mainstream media accounts. His comment puts in place a negative framework with a very specific angle. Instead of the circumstances which elicit dangerous international migrations and refugee claims, it is the fact that the Canadian nation must become involved that is depicted as the “problem”. As another example, in an off-hand comment by member Andrew Telegdi, he uses the term “triads” (S.C.C.I., December 1, 1999, p. 29) in reference to the boat arrivals. Although his use of this term is not defined, it is a poignant reflection of anti-Asian racism. The Canadian Oxford Dictionary (Barber, 1998, p. 437) defines triads as “any of several Chinese secret societies in various countries, usually involved in criminal activities.” Infusing the debate with such allusions serves to racialize the discussion making the “crisis” distinctly Asian.

Ken Lu, a caller to Cross Country Check-up reveals a different sentiment:

I would like to preface this by saying that I am from a family that immigrated the legal way, I am of Chinese origin. My family spent ten years going through the process and we got in the proper and legal way. From that basis I am quite offended by the queue jumpers and I think what we need to do is make a separation then, just call these migrants not necessarily refugees I strongly believe that most of these folks are basically trying to get into a better economic situation and more importantly I think I am more offended by the liberal’s government’s lack of activity to seriously address this issue. Yes we do have agreements that we have made to the international community to ensure that all people
who show up on our shores or airports are given a fair hearing and
processed properly however I think that this has gotten to the point of
ridiculousness... (CBC Radio One, September 12, 1999)

The impetus underlying Mr. Lu’s position is apparent later when he comments:

"what appears to be... [and] what they think we’re doing in the name of compassion, in
the longrun will be – in my view – is going to foster intolerance in the country towards
the Chinese community”. This comment reveals his concern that “irregular arrivals” and
refugee claimants such as the individuals from Fujian will provoke new waves of anti-
Chinese racism in Canada. These fears are tied directly to the historical and persisting
racism that pervades Canadian society and to the ongoing struggle by people of colour to
attain equitable treatment in Canadian society. In light of many sentiments in the press
and the previous example from Committee member Andrew Telegdi, Mr. Lu’s concern is
warranted.

In the process of writing the report, the preferred terminology shifted from
“illegal migrants” to “irregular arrivals”. No mention of “illegal migrants” can be found
within the pages of both the Draft and Final Reports. This change reflects an
acknowledgement of the controversy over language use. Committee discussions are
choreographed through both the preparation of the participants and the Standing Orders
governing the procedure of the meetings. However, as meetings unfold, they are also
characterized by their spontaneous nature. Thus, what is said does not always reflect the
ideas and perspectives that members wish to be in the public domain. For this reason,
prior to releasing their report, the Committee’s language is edited so as to conform to
more widely acceptable rhetoric.
Themes

In addition to the language that is used, the parliamentary depiction of the current "case" as a crisis relies on a number of ideological frames invoked by the Committee. Ideological frames that are central in the Committee’s depiction of a crisis and that will be examined here are: 1) abuse of the system, 2) threat, and 3) costs:

Abuse of the System/Taking Advantage of Canada

The ideological frame depicting Canada as being taken advantage of arises frequently in the Committee’s discussions. Member Greg Fyffe articulates this sentiment early in the Committee’s study: “the [migration] process we have in place is being abused. That’s our fundamental dilemma” (S.C.C.I., November 4, 1999, p. 28). The assumption that the Fujianese refugee claimants were attempting to evade detection and enter Canada illegally is repeatedly asserted by governmental officials. Witness Martha Nixon, the Assistant Deputy Minister of Operations with Citizenship and Immigration Canada, stated: “the people who arrived on boats off the coast of B.C. were demonstrably making a very flagrant attempt to come in illegally. They had no intention of going through an airport, being stopped by an immigration officer, and being asked the reason for entry. Indeed I think their intention was not to be detected” (S.C.C.I., November 3, 1999, p. 35). The abuse frame is further developed by René Charbonneau, Director of Federal Services with the Royal Canadian Mounted Police (RCMP), who makes reference to the Canadian national identity as he calls for the punishment of individuals who “abuse” Canada:
...we [Canadian citizens] have to make sure that people who abuse democracy, who abuse Canada.... Canadians are pretty good people, but if people want to abuse our system, I believe they have to be punished...
(S.C.C.I., November 25, 1999, p. 26)

Witness Martin Collacott, a former Canadian ambassador, purports to speak for Canadian citizens' views towards the refugee system. Once again, Canadian citizens are depicted as good – desiring to help those in need -- but also not to be taken advantage of:

I think most Canadians do support a system that accepts reasonable numbers of claimants who have a genuine need for protection, and, as I have indicated, I hope we continue to do so. However, there is widespread concern in the public that the system is being abused. (S.C.C.I., December 1, 1999, p. 11)

Mr. Collacott extends this notion later in the meeting:

In my view, this interpretation involves a fundamental erosion of Canadian sovereignty. In fact, if one were to follow through logically on this interpretation of "everyone", you'd have to say that there is no reason why "everyone" can't be everyone on the planet. Why just restrict it to people who have managed to get into Canada under any circumstances?
(S.C.C.I., December 1, 1999, p. 13)

The Committee members mediated between the national narrative of Canada as a humanitarian state, and the widespread fear of an invasion from the South. The construction of illegal migrant could not have been accomplished without a complimentary construction of Canadian citizen. Throughout the Committee discourse
the Canadian citizen is re-constructed alongside the non-citizen or illegal migrant. The Canadian national narrative, described by Sherene Razack (1998) as a "national drama", depicts Canada as clean, ordered, and with citizenry that are civil, good, generous, and white. This is an important construct in the discourse around refugee, and who is allowed access to Canada.

The notion of a Canadian national narrative is central to perceptions of the refugee claim process. The Canadian national narrative constructs the state as "forced to defend itself from bodies bent on betraying its trust" (Razack, n.d.). Thus, activities to restrict, police, and discipline would-be immigrants are considered self-defensive and acceptable. Moreover, the Canadian refugee system is both presented and perceived as guided by Canada's presumed selfless pursuit of humanitarian goals. The notion that Canada saves desperate victims from the dysfunctional South is fundamental to this perspective. Canada's supposed role as the saviour of people from the South has been examined by many critical scholars in the area (see for example Boyd, 1991, Calliste, 1991, Razack, 1998, and Sassen, 1998).

The Canadian national narrative, which may have posed a problem for the Committee's discussion that ensued, was thus re-interpreted so as to support the current frame. Specifically, by insisting on Canada as generous, civil, and good, the notion that Canadian policy is flawed and particularly that it is problematic and oppressive was not an issue. Subsequently, as would be expected, it was not an issue in the course of the Committee's study. Instead, the construction of refugee claimants as a crisis for Canadian society was a central theme in the Committee's study. Allusions to criminality appeared frequently as MPs representing four of the five participating parties reiterated these
sentiments. The ideological framework which positioned refugees in opposition to State interests was legitimated through the criminalization and more generalized othering that was accomplished in the course of the study.

(Mr. Andrew Telegdi): —whatever we do, we should do it within the framework of the Charter of Rights and Freedoms. We have to do that. That presents some difficulties, no doubt.

(Mr. Greg Fyffé): There's the fundamental issue here of protecting charter rights—the right to make a refugee claim and due process—in an environment in which the process we have in place is being abused. That's our fundamental dilemma. (S.C.C.I., November 3, 1999, p. 28)

A prevalent Canadian response, both in the media and among politicians, has depicted the Fujianese refugee claimants as illegally “jumping the queue”. The allegation is that in doing so the Chinese claimants are placing other refugee claimants, those assumed to be facing “real” persecution, at risk. Positioning “illegal migrants” against “legitimate victims” serves two functions for Canada. First, it works to demonize the Fujianese claimants as selfish, unfair, and even criminal so that they are found undeserving in the public sphere, even prior to having their cases heard. Secondly, this strategy depicts Canada’s refusal of the Chinese claimants as a move enabling its resources to be concentrated on those in “real” danger, thus securing Canada’s coveted reputation as a humanitarian nation.

References to Chinese refugee claimants as “queue jumpers” frame the refugee claims process as something predictable, controlled, and orderly such as a bank line-up. Queue jumping can only be relevant to a methodical system such as lining up for tellers
at the bank. The basic nature of being a refugee is in direct conflict with this tranquil allusion. Invoking this reference distracts attention from any meaningful reference to what it is to be someone seeking protection. Notions of patiently waiting your turn and, conversely, rudely pushing in front of others are incompatible with the realities of seeking asylum.

Furthermore, this ideological frame relies on the assumption throughout much of the public discourse that the standard immigration system is an option. The common understanding is that the "illegal" entry or "queue jumping" denotes a blatant disregard for the Canadian system. In fact, for the Fujianese as well as hundreds of millions of people worldwide, there is no queue in which they can wait their turn. Moreover, they will have no "turn" at all unless they pursue one through a refugee claim or undetected migration. The Fujianese migrants do not adequately fit into the current definition of refugee, based largely on the Geneva Convention. However, even with this knowledge, filing an inland refugee claim offers greater potential for accessing Canada than attempting to enter through the immigration system. Within the Point System there is very little opportunity for individuals without large sums of money and/or formal education to enter.

The Chinese Canadian community itself is divided between support and scorn for the Fujianese arrivals. Even so, both sides are uniformly shut out of the Committee's study. The Vancouver Association of Chinese Canadians (VACC) is a chapter of the Chinese Canadian National Council (CCNC), which is a member of the Canadian Council for Refugees. VACC describes itself as an anti-racist and human rights oriented organization and is involved in front-line settlement services directed to refugees and
refugee claimants (accessed: http://www.amssa.org/migrants/briefs03.htm). VACC's executive director, Victor Wong, posts articles, describing VACC's position and activities with regard to the Fujianese refugee claimants, on the organization's website. He has also participated in numerous community events in the Vancouver area to educate the public and support the detained claimants. The following excerpt is taken from an article Mr. Wong wrote. In it he describes the public discourse that unfolded following the arrival of the first ship:

The public response was immediate and largely driven by media pictures. It took about ten days before we learned that these people aboard the first ship wanted to make a refugee claim. But in the court of public opinion, unburdened by facts, these people were illegal immigrants, bogus refugees, they were economic migrants trying to sneak into the country. An immigration manager suggested that "criminals" were aboard. An RCMP official stated that none were refugees. The Reform Party wanted an immediate recall of Parliament, they wanted immediate deportation, then they changed their mind, proposed a quick process, advocated mass detention and at the same time criticized the cost of detention. (accessed: http://www.amssa.org/migrants/briefs03.htm)

Dr. D. Liang a Canadian citizen who immigrated to Canada from China in 1965, is quoted in the Times Colonist newspaper (August 16, 1999). Dr. Liang said the boat people are not refugees, but immigrants who should take the legal route, although [they are] not illegal, it is my considered opinion that they should not even be allowed to land on Canadian soil. They should be
returned to their point of origin with the reassurance that their application through normal channels would receive sympathetic consideration.

Threat

The construction of refugee claimants as a threat is accomplished in two ways. Firstly, refugee claimants are depicted as criminal and thus dangerous to the social fabric of the nation. Secondly, and perhaps as a back-up argument in the case that a claimant cannot be authentically portrayed as criminal (i.e. children), refugee claimants are constructed as health risks. Together, these frames produce a case for refugee arrivals as threatening to Canadian society. However, accepting this as truth requires that Canadians are also constructed as a uniform group. Specifically, if our society is to be corrupted by others’ crime and weakened by others’ disease, than Canadians must be seen as pure.

The arrival of the Fujianese claimants is widely reported across various sites as the work of human traffickers (see, for example, Kwong, 1997). Elaborate international networks are well established and active in assisting in the movement of millions of people across international boundaries. Migrations attributed to traffickers have been documented throughout the world including Australia, the United States, and Canada. According to the press, traffickers are believed to be connected to broader organized crime, and the individuals they move become indentured workers in their industries. These include diverse trades, from the seemingly benign garment and restaurant industries to highly publicized trades such as drugs and prostitution.

The focus on traffickers in the Fujianese case contaminated the discussion of their status as potential refugees. Attention to issues of criminality and policing are in conflict with notions supporting individuals in need. Accordingly, the Committee’s emphasis
shifted from the refugee system to a discussion of protecting Canada. Specifically, their undocumented mode of arrival, together with other factors such as the connections to organized human trafficking, were seen to be a significant factors justifying detention. Individual refugee claimants are assumed to be guilty through their association with traffickers and they are thus criminalized:

(Rob Anders): So if we know people have links to organized crime, as you've laid out – you've said that's fairly apparent from what you've seen – is it not fair to assume then that having these people walk away and not being adequately tracked poses a threat to national security and a danger to the Canadian public? (S.C.C.I., November 3, 1999, p. 11)

This further removed the discussion from Canadian responsibility to provide asylum and support to Canada's need to protect itself. During the course of the Committee's work, not one MP problematized the attention given to issues of criminality.

Another particularly vivid example of response to this situation is evident in the following comment made by a Committee member:

(John Bryden): What happens when a person does a break-and-enter in your home? Do the police not have powers of arrest because that person has broken and entered? Are there not powers of detention as a result of being found in the premises illegally, even before formally charged and convicted? Is this not an exactly parallel case in that all you are actually lacking is the detail in law that makes the actions of an illegal alien a break-and-enter into Canada, which should be dealt with in the same way
as someone who breaks and enters into your home? (S.C.C.I., November 4, 1999, p. 38)

Prior to this meeting, this metaphor had appeared in several instances in public discourse, including the following example:

If someone breaks into your home because you have things you want, when you catch them in the act, do you invite them in for lunch, allow them to take some furniture and clothes and then send them off with a fistful of dollars? (Cassidy, 1999)

Setting up this analogy, likening Canada’s borders to the walls of a home, constructs a deliberate relationship between Canadian citizens (i.e. owners) and refugee claimants/new arrivals (i.e. burglars). The issue becomes one of entitlement, and refugee claimants are depicted as trying to acquire what is not theirs.

Member John McKay further advances this view: “given that this particular class of migrants has absolutely no interest in obtaining status - they're just here to go somewhere else, or to enter into activities that are incompatible with what our values are in this country” (S.C.C.I., November 3, 1999, p.13). In this statement the issue is made clear, the Fujianese claimants’ values are seen to differ fundamentally from those that are espoused to be “Canadian”.

Costs

Refugee claimants are particularly disquieting because of what are seen to be their demands on the state and thus demands on Canadian citizens. Pursuing a refugee claim is an overt solicitation for help in the form of asylum and humanitarian aid. As I have
discussed, Canada has gained a reputation in the international arena as a humanitarian nation and, as a group, Canadians tend to be ardently proud of this reputation. Accordingly, many examples are apparent where Canadian citizens cling to this identity even as they overtly oppose helping those in need. A caller to Cross Country Check-up illustrates this point:

I think that these people that work for the relief agencies [immigration and refugee advocates] should realize that they’re not really helping their cause when they accuse people of being racist. I am not a racist and I deeply resent the charge that I am a racist. I give generously to all charities overseas. I support two or three children. Just the same as all the other...as a great many other Canadians do, but I really am upset about the cost of all this. (CBC Radio One, September 12, 1999)

The Canadian citizen is frequently positioned as the central figure in the Committee’s study:

(Mr. Jean Augustine): I’m sitting here thinking about the number of phone calls I get in my constituency office and the lack of confidence that there is in the whole system. I think part of our task, through whatever we do via policy direction or legislation, is really to restore confidence and to have Canadians think the system is working and doing its best for them.

(S.C.C.I., November 25, 1999, p. 14, emphasis added)

Rather than taking the perspective of asylum seekers or others in need, it is the standpoint of the Canadian public – and specifically, the Voter-Taxpayer – that is given utmost importance during the Committee’s work. In this way the priority of the Canadian state is
unmistakable. For example, although detention is generally favoured as an interim solution, criticism abounds in the public discourse over its associated costs:

(Ms. Sophia Leung): I don't support detention because we cannot cover the enormous costs. It is also unfair for certain provinces. I would like to ask both of you if you have any suggestions. (S.C.C.I., December 1, 1999, p. 35)

Thus, detention is described as “unfair”, although not for the individuals held captive but for the “provinces” (i.e. taxpayers) who must cover the costs.

Describing European and other “Northern” countries’ refugee systems, William Bauer’s negative language evokes notions of wastefulness, money that would be better spent on something else:

Despite huge amounts of money it [The United Kingdom] is throwing into the [immigration and refugee] system, it will not be able to manage...

(S.C.C.I., December 1, 1999, p. 4)

and,

...we are spending probably between $300 million and $500 million a year in social costs for fraudulent claimants. We are spending about $150 million a year on the operations alone of the refugee determination system. Let's say that half a billion dollars a year of taxpayers' money is being spent on this system in one form or another. (S.C.C.I., December 1, 1999, p. 9)

In these examples the hypocrisy of globalization is apparent. The North fully expects to participate in trade agreements, offshore labour, and other relationships that
directly benefit their economies. However, expenditures towards migrations that are
directly connected to globalization are resented and challenged. Moreover the very fact
that these migrations are motivated by processes of globalization, in which Canada is an
active participant, is completely ignored.

Invisible

The Committee began its study from the public discourse, after the current
apparatus of the refugee system was found to be inadequate to handle concentrated
numbers of inland claims. In accordance with the Standing Orders, the Committee’s
study was to be undertaken in an objective and impartial manner. However, coming from
a governmental perspective, Committee members have a tendency to attend to certain
standpoints and neglect others. Specifically, state-governed areas such as the process of
the determination of claims is focal throughout the proceedings of the study. This is a
property of members’ daily work activities and the social organization of knowledge
which renders certain issues visible and simultaneously obscures others. Accordingly,
although it may seem common-sensical to individual members, the approach is not a
reflection of their personal values. Arguments are made for amendments to the
jurisdiction of governmental bodies, the timing of certain stages, and even the staffing of
the primary decision-makers in refugee determination. Conversely, issues relating to why
people are arriving on decrepit ships and filing refugee claims are not questioned.

Throughout the process of the Committee’s work, there is no mention of the ways
in which people’s experience, not to mention their success, in the migration process is
related to their individual subjectivities. There is no acknowledgement of the
racialization, gendering, and overall *othering* that occurs through the organization of Canadian, and the globalized, society. In my analysis, the terms "race", gender, and class signify social relations rather than essentialist biological categories. Roxana Ng explains gender, "race", and class as "relations that intertwine in multiple and complicated ways in shaping people's everyday life" (1997, p. 5). Following this approach, my analysis understands "race", gender, and class as principal organizing mechanisms within the Canadian immigration system, even in their apparent absence. Subsequently, these categories are of central importance to an understanding of the experience of immigration to Canada. Class, gender, and "race" are constituents of social relations throughout Canadian society and reflect systemic oppression rather than individual perceptions and attitudes. Although overtly racist and sexist categories have been removed from formal migration policies, the impact of these remains firmly entrenched through their application. Furthermore, exclusion based on classism, ableism, and heterosexism continues to be seen as acceptable and rational.

Immigrant women\(^{10}\) are placed in a uniquely vulnerable position within Canada (Arat-Koc, 1999). In particular, immigrant women and Native American women are the most oppressed and invisible groups in Canadian society (Ng, 1993). Migration policies have the effect of systematically disadvantaging women in the selection process, weakening membership, and restricting the rights of immigrant women in the Canadian state and – as a whole – deepening relations of dependence (Arat-Koc, 1999). Thus the

\(^{10}\) Although I am dealing specifically with individuals in the *process* of immigrating, and thus without legal status within Canada, the term "immigrant women" is used to denote women who are *seen to be* immigrants within Canadian society. This refers to all women of colour, regardless of their immigration and/or citizenship status. Ironically, Native American women also can be seen within this group based on their experiences of racism, colonialism, and
combined effect of interconnected systems of oppression render immigrant women precariously unprotected.

Currently, entry to Canada is organized so that, without a sponsor, a woman from Fujian has virtually no access. The Point System of the immigration process restricts Fujianese women who, for the most part, have limited formal education, few economic resources, and do not speak English or French (Chin, 1999). Furthermore, the Geneva Convention definition of refugee organizes the determination system so that, for the most part, the experiences of claimants from Fujian are not recognized, making their claims' success virtually impossible.

Even once a woman overcomes the many obstacles blocking her entry to Canada, she will continue to struggle against marginalization on a daily basis. For example, ideological frames invoking racism, sexism, classism, and more generalized colonialist notions operate to segment the labour force into defined niches. In contrast to immigrant men, immigrant women experience even greater difficulty integrating into Canadian society through paid work (Ng, 1993). Women, and in particular racialized immigrants from the South, are organized into low-wage, exploitative work. Systemic factors account for the enclaves of immigrant and non-status women in employment such as homeworking (Bakan and Stasiulis, 1997, Calliste, 1993, Ng, 1998). Even when age and level of education are controlled for, women who have come to Canada after 1976 have lower incomes than their Canadian-born peers (Drolet and Morisette, 1999).

The very topic of refugee claims and humanitarian aid is disregarded and instead the emphasis is on efforts to control arrivals. The "illegal" means of the Fujianese "othering" in Canada.
claimants’ arrival -- allegedly through human traffickers -- is attributed to the individual claimants themselves. This association makes it almost impossible to talk about the refugee system or this particular “case” without simultaneously speaking of crime.

**Summary**

The above analysis explicates the first stages in the ideological circle through the identification of connections between the public discourse and governmental response. As depicted in Figure 2, the standpoints of those directly involved as “illegal migrants” exist outside of the ideological circle. Thus, these lived experiences are never represented in the knowledge that is produced about the “case” and migrations more generally. A crisis frame is constructed through the use of particular language and ideological frames that figure in the study. Ideological frames depict “illegal migrants” as abusers of the Canadian system, threatening, and as a financial burden to Canadian citizens. The crisis frame is further aided through the generalized negative language used in Committee meetings, including references to migrants as “illegal” and a “problem”. As I have shown, these themes are well developed in the public discourse and are re-produced in the Committee’s study. At the same time, alternative ideological frames that position migrants as legitimate, or at least in supportive terms, are not made visible.
Chapter 4: Solving the Crisis

As refugee claimants were produced as a problem, Committee members worked to identify solutions. These solutions are referred to as "recommendations" and are key artifacts in my analysis of their work. The Committee’s final report entitled, "Refugee Protection and Border Security: Striking a Balance", is structured around the Committee’s forty-six recommendations. The intent of the Committee’s work is not simply to produce more rhetoric around refugee issues and the Fujianese “case”, but to develop plans for legislative change. Accordingly, this document is passed onto the House as well as the Department, and represents the findings of the Committee’s study. My aim in this chapter is to take my analysis beyond the discursive construction of illegal migrants to the institutionalized measures proposed by the Committee in its final report.

At the beginning of its final report, the Committee states that in its investigation:

We will focus on the work of the Board, as well as the refugee claimant procedures that lead up to it, in an effort to suggest how the process may be strengthened, streamlined and made more expeditious. Then we will turn our attention to how we may make our borders more secure so that those we wish to keep from coming here will be deterred and those we welcome will be facilitated. (Refugee Protection and Border Security: Striking a Balance, p. 2)

Using the Committee as my example, I argue that Canadian migration – and specifically refugee – policy supports the interests of border control as opposed to its professed humanitarianism.
The Recommendations

I have divided the forty-six recommendations into four groupings; these are border control and surveillance, procedural issues, humanitarianism, and other. I will discuss each of these categories in the following section.

Border Security and Surveillance

This category of recommendations posits a range of measures aimed at securing Canada’s borders from unregulated arrivals. The emphasis within this category of recommendations is on the criminalization of migrants through detention and other methods of surveillance. This is by far the largest category with twenty-nine recommendations (63 percent).

Once the production of a crisis is accomplished, a particular set of activities are seen to be reasonable. Specifically, the policing of refugee claimants through maximum security detainment and the interdiction of ships prior to their arrival in Canada were presented as “common-sense” responses by the Canadian state. Further, in the immediate context of the Committee’s study, this approach demands particular witnesses that are knowledgeable in areas of crime, corrections, and security. Thus, as evidenced in the list of witnesses, this expertise was accorded higher value than that of lawyers or refugee advocates.

When the problem is the arrival rather than the impetus underpinning the migration, inevitably the solutions sought will focus on hindering movement rather than examining the impetus behind it. Air transportation authorities and the Shipping Federation, along with the RCMP were called upon as witnesses to explore this issue.
The majority of inland refugee claimants arrive to Canada via technically "illegal" means (source). It has been found that the most desperate individuals, that is "real refugees", rely on underground means to access safety (Sassen, 1998). Furthermore, the more difficult governments make it to flee persecution, the more people must rely on smugglers (CCR, 1999). Subsequently, efforts to prevent these types of arrivals are problematic.

The following excerpt is taken from RCMP Sergeant Bill MacDonald’s presentation to the Committee. He describes how Canadian officials have responded to the arrival of stowaways in shipping containers and on board international vessels by increasing security at international ports:

[Canadian authorities] have instituted a number of preventative measures, including increased physical security in the port area, closed-circuit television camera surveillance, and rewards to port workers for turning in unauthorized individuals in the port area. Since this small investment of our resources towards preventing this continued action, there have been no further arrivals in the port of Halifax of people, undocumented or improperly documented, who haven't been screened through Citizenship and Immigration’s programs. (S.C.C.I., November 25, 1999, p. 31)

What is most problematic about this type of approach is that, although it is stated that individuals attempting to immigrate to Canada are "screened" by CIC, this does not mean a regimented hearing. Thus decisions are not subject to the same level of scrutiny as may be expected in the IRB process. The "success" of these preventative steps is measured by the finding that there have been "no further arrivals" (S.C.C.I., November 25, 1999, p.
31) at Halifax’s port. Canada may have effectively diverted refugee claimants to other nations, but this does nothing to address the larger issues, nor to assist individuals in need.

Already within the refugee process, detention is assessed by CIC personnel using criteria specified in the policies and procedures developed by the Enforcement Branch of the Department. CIC officers can arrest or detain individuals if they have reasonable grounds to believe that the individual will not appear for immigration proceedings, or that they pose a risk to the public. Reasonable grounds can be based on a number of indicators, including “association with known criminals” (accessed: http://www.cic.ca). In his presentation to the Committee Greg Fyffe, the Assistant Deputy Minister of Policy and Program Development with the Department of Citizenship and Immigration, addressed the issue of detainment and explained:

...persons are not detained arbitrarily. Non-citizens are detained based on specific grounds listed in the Immigration Act, which are that identity cannot be established, there is a flight risk, or there is a danger to the public and the security of the public. (S.C.C.I., November 3, 1999, p.3, emphasis added)

In stating that detainment is “not arbitrary”, the presumption is that there is an objective procedure followed by immigration officers and thus no personal agency in decisions relating to detainment. This is not the case. The “specific grounds” that appear in the Immigration Act are not rigid and thus must be interpreted by the immigration officer involved in a particular case. Furthermore, evidence is not definitive and so must be assessed to determine its credibility.
The Committee’s first recommendation states:

Refugee claimants who appear to be arriving as part of an organized trafficking operation be detained as flight risks until their refugee claims are fully disposed of. (Refugee Protection and Border Security: Striking a Balance, 2000, p.5)

This institutes a blanket application of detention. Under this approach, no consideration is given to individual claimants’ situations or experiences. Instead they are guilty through their presumed association with crime through human traffickers. The increased use of detention is further supported by recommendation Number 3 where claimants who do not “cooperate in establishing their identity” (Fontana, p.5) are to be detained as well. What is not accounted for in these recommendations is the well-established finding that people in need of asylum rely on technically illegal means of migration to flee their countries (Sassen, 1998). Furthermore, many refugee claimants endure trauma and other experiences that contribute to an unwillingness to openly divulge their specific identity. Thus, what is often interpreted as a refusal to cooperate is in fact a fear of authority figures who may have perpetrated abuse of their positions in the claimant’s previous experiences. Finally, this section proposes the use of detention as a deterrent (Recommendation Number 2) and calls for the establishment of detention facilities (Recommendation Number 4), institutionalizing detention as an everyday procedure in the refugee system.

The Committee calls for the implementation of steps to increase the policing of refugee claimants in the form of immediate criminal record checks, fingerprinting and photographs. Furthermore, the Committee proposes that immigration officers obtain
information as to the "general thrust" of the claim at the port of entry. The Committee's final report reflects this approach as many of the recommendations put forth emphasize the policing of refugee claimants. For example, the Committee calls for the detention of refugee claimants arriving as part of organized trafficking (p.4), and individuals found to be uncooperative in establishing their identity (p.4); the construction and/or identification of new facilities for detention; and the fingerprinting and photographing of refugee claimants at the first point of contact.

The costs associated with immigration programs, and in particular refugee resettlement and support are often the locus of public backlash against immigration. Even so, the public is not always opposed to spending. Instead it is where and how money is spent that is the issue. For example, when announcements are made of plans to build new facilities for detention of refugee claimants, hire additional staff for the detention sites as well as set-up new immigration offices at coastal ports, there was no controversy vocalized in the mainstream Canadian press. Increasing policing, even with the substantial associated costs, is seen to be the logical response to this situation. Conversely, allocating monies to assist claimants, either through resettlement programs or legal services, are adamantly disputed in the public discourse.

The Committee proposes the implementation of strategies to impede undocumented migrations via air transportation. This is to be accomplished through greater presence of immigration control officers (ICO) at facilities abroad, improved security features on documents, increased document checks, and the development of technology to facilitate document checks. In addition, the Committee calls for cooperation between CIC and the transportation industry in order to improve the current
methods of screening passengers so that they do not impede the operation of the industry. Furthermore, the Committee recommends more severe consequences for violations of immigration policy including financial penalties and inadmissibility to, or removal from Canada. Once again this reflects the continued focus by the Committee on the facilitators as opposed to the real root of the migration.

Recognizing individuals as refugees is a politically charged event between two countries. No country wants to be known in the international community as refugee producing; however, this is particularly precarious when the designation is attributed to the governing practices of another state. Thus, the circumstance of Chinese citizens seeking refugee status in Canada is further complicated by the North’s ongoing overt disagreement with the political regime in China. More recently, Canada has joined the United States and other Northern countries in negotiations with China in an attempt to develop trade agreements. These new alliances have widespread economic implications for all countries that are involved. Thus, the Canadian government is interested in preserving the newly developing relationship between itself and China. Accordingly, over the course of the Committee’s work, efforts are continually made to emphasize the co-operation between the two countries:

(Sophia Leung): As you know, three of us went to China and did the negotiating on behalf of Foreign Affairs. I understand that two boats on their way to B.C. were intercepted by the Chinese government. That was really a sign that they listened to us, that we worked together. (S.C.C.I., November 3, 1999, p.24)
Similarly, Canada’s relationship with the United States – also critical to the Canadian economy – figures prominently in immigration issues. Unregulated migrations are particularly relevant. Although there is technically no strictly controlled data kept on “illegal migrants” living and working in North America, it is widely held that the majority of Fujianese migrants are actually destined for New York City (Kwong, 1997). The United States has been overtly critical of Canada for its porous borders. Canada and the U.S. align themselves as allies in their mutual fight against invasions. Witness Martha Nixon captures this vividly in her summation of the dialogue and combined effort of the two countries. Specifically, Ms. Nixon speaks of the agreement between Canada and the U.S. as to individuals that “we don’t want on the North American continent” (31), revealing the imperialist notions underlying the alliance.

We're [Canada and the U.S.] currently working fairly intensively with the United States, particularly in relation to some of the problems we both face at the border. One of the areas we're interested in is how to increase our ability to have interdiction of people who we know we don't want on the North American continent. We've been looking at a variety of efforts we could pursue to try to get better at this. One of the things that became obvious, to begin with, was sharing information, with both of us collecting information on people who are undesirable...[we have also] been involved in joint interdiction exercises. (S.C.C.I., November 17, 1999, p. 31)

In another meeting, Ms. Nixon emphasizes the importance of developing alliances between other countries of the North,
...[Canada is involved in] discussions with the U.S.A. to look at the perimeter of North America, in a sense, as one we deal with together. If we're going to be looking at how to keep people away, in a sense, from flows across the borders in both directions – which we don't want to be there – we really have to start working with countries in the EU, countries in Europe, in order to forge alliances. We have many discussions with many of the European countries now. (S.C.C.I, November 3, 1999, p. 26)

Procedural

There are six recommendations within this category (approximately 13 percent). The procedural classification designates recommendations that relate to the actual process of the refugee system. This group is closely related to the border security and surveillance category. However, they differ in that the "procedural" recommendations are less explicitly aimed at policing and discipline. The recommendations in this category are designed to regiment the migration process; however, they have an effect similar to policing. For example, recommendation Number 9 states,

refugee claimants be advised that it is important to answer all questions honestly and to the best of their ability at the port of entry and that to be untruthful or uncooperative with the authorities will work against them when the time comes for the Board to determine their claims. (Refugee Protection and Border Security: Striking a Balance, 2000, p. 7)

Like others in this category, recommendation Number 9 is illustrative of the profoundly colonial relationship between white citizens and refugees/"illegal migrants", reflected in
the “unselfconscious talk about teaching refugees [and illegal migrants] to be truthful and to learn respect” (Razack, 1998).

Recommendation Number 10 instructs immigration officers to identify two types of claims for priority processing -- those that appear to be “highly meritorious” and those that appear to be suspicious. In Committee discussions the immediate, although preliminary, assessment of claims was thought to be a way to discourage refugee lawyers and other pressure groups from coaching claimants into telling false stories. However, this method presents its own problems as it does not account for claimants’ discomfort with discussing their lived experiences, nor the reality that claimants generally have very little understanding of the Canadian refugee system and thus do not know what details of their story are relevant in the consideration of their refugee claims.

Humanitarian

The humanitarian grouping includes all recommendations that have any relevance to the concern for the well being of refugee claimants. This category is incompatible with measures relating to border security, or any type of policing or surveillance. Only two of the Committee’s 46 recommendations are classified as humanitarian (2 percent). Recommendation Number 32 proposes that intercepted passengers be referred to Canadian missions or UNHCR, presumably as a precautionary measure in the case of errors. Precisely what is meant by “be referred” is unclear and potentially problematic. Canadian missions and UNHCR locations are not always in close proximity to an individual’s residence. Furthermore many countries’ governments – and China included – will sanction their citizens found to be soliciting emigration from their home country.
Recommendation Number 45 states:

When migration is driven by human rights abuses in a particular country, Canada make every effort to encourage that country to improve its human rights record. (Refugee Protection and Border Security, 2000, p.29)

As was observed in the Committee meetings, the focus is on “that country” to solve problems with human rights abuses. Once again, Canada is positioned as innocent.

The Committee’s last recommendation advises:

The government of Canada increase the resources to Citizenship and Immigration Canada, the Canadian Security and Intelligence Service and the RCMP so that they will be able to meet the challenges posed by traffickers in people and ensure the safety and security of Canada and its people. (Refugee Protection and Border Security: Striking a Balance, recommendation #46, p. 17)

There is no mention of refugee claimants or humanitarian principles. Instead, in its final statement, the Committee chooses to focus on the “challenges posed by traffickers” and their goal to “ensure the safety and security of Canada and its people”.

Other

There are nine recommendations within this category targeting various aspects of the hearing process (approximately 20 percent). The Committee calls for reducing the number of IRB personnel who sit at each hearing to one for the majority of cases, consolidating risk-related decisions, and increasing the number of claims that are dealt with through the expedited process. Three of these recommendations reflect an attempt at
making the hearing process quicker and less costly. This is to be accomplished through quicker decisions and only one IRB member presiding at hearings. Three of the recommendations in this section advocate a higher level of participation and authority by CIC and other governmental representatives during the hearing, and at the decision itself. In addition, based on the recommendations, the government would be involved through the Department of Foreign Affairs and International Trade who are given the responsibility for providing the "relevant information" to the IRB regarding country conditions and other specifics for use in determination. In these ways IRB decisions will no longer be "independent" of the government.

Three of the recommendations that fall under this category relate to the qualifications and training of IRB personnel. As was discussed earlier, the political appointment of IRB members has been an ongoing controversy since its inception. The fourth recommendation speaks to removal of unsuccessful claimants, calling for CIC to "tighten its procedures" to improve the likelihood that a person will be deported from Canada. The specifics of how removal is to be accomplished is left unexplained. There is no mention of the logistical problem of repatriating individuals with no identity documents, nor is there a process set out as to how CIC should go about deporting individuals who may be at risk upon return to their home country.

**Summary**

The Committee's final report documents the findings of its study in the form of recommendations for changes to refugee legislation. Not all of the "knowledge" that appears in the Committee transcripts is included in its final report; thus these
recommendations reflect the input and perspectives that were seen to be most valuable by members. The vastly disproportionate concentration on border control as opposed to humanitarian, or any other issues reveals the dominant standpoint existing within the Committee. Specifically, the focus is on regulating and excluding certain people in their attempts to live in Canada. In this way the Committee’s study exemplifies the State’s approach to migration legislation, namely to regulate the entry and rights of immigrants to Canada.
Chapter 5: Discussion

This study has been an attempt to explicate the contemporary construction of "illegal migrant" within the Canadian parliament. I argue that as a category "illegal migrant" continues to be re-produced through historical, political, and more generalized social processes at work in Canadian society. My analysis captures only one brief moment whereby "illegal migrant" came to be constituted as a particular category in Canadian government and society. Through the inclusion of public discourse and several key texts, I have endeavoured to show how the parliamentary discourse is connected to the broader milieu of Canadian society, including public discourse and the established bureaucratic process. Relations of ruling are central to the underlying organization and accomplishment of this work.

In the course of this analysis my aim was to explicate the parliamentary work processes that contribute to the re-construction of the category of "illegal migrant" in Canadian discourse and Canadian governance alike. In the course of the Committee's study, I have observed a concentration on images of fraudulent, undeserving, and even "dangerous" individuals who are seen to be taking advantage of Canadians' goodwill. Conversely, there is very little attention to the needs of individuals who are directly involved in the migration process. My investigation indicates that it is widely accepted within the Committee and in the public sphere that the current "case", and "illegals" more generally, do not warrant such concern. Accordingly, ideological frames that figured prominently throughout my analysis of the Committee's work included refugee claimants as: a threat to national security, an economic liability and, more generally, incompatible with what are assumed to be "Canadian values".

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The institutionalized activities of the Canadian immigration and refugee
determination systems regulate the entry - and therefore the protection - of people in
Canada. The Western world and, in this inquiry, specifically Canada has created the
category of refugee and thus a set of criteria for a person to be deemed legitimately in
need of protection. I argue that these criteria are removed from the lived realities of
claimants’ experiences and are instead tied to Canada’s vested interest in who are seen to
be desirable immigrants. Through immigration policies, as Canadians we position
ourselves as the beneficiaries of the social organization of difference between
citizen/potential citizen and Other. Thus, individuals deemed worthy are allowed access
and all “others” are differentially grouped into migration categories with varying
restrictions to their status here. For example, those classified as “migrant labour” are
subject to strict conditions either through the designation of particular status (i.e.
Domestic Worker) or the refusal of status altogether (i.e. “illegal migrant”). These
individuals’ very existence in Canada is precarious as they can be subject to deportation
at any time.

Notions of “migrant” and how one can succeed in the immigration process do not
take into account the actual conditions of individuals attempting to immigrate. The Point
System allocates a specified number of points or value towards people based on their
education and financial background. This translates into differential access that certain
people retain based on their privileged social positioning. It could be just as “rational” to
value people according to their good nature or any number of personality traits or
characteristics thought to be beneficial to society. As it currently exists, the Canadian
immigration program is demonstrative of the significance of the labour market and the political economy as a whole, as the driving force behind Canadian immigration policies, including refugee legislation.

One of the central functions of sovereign states is in delineating and preserving its citizenry. This is often accomplished through the protection of national borders. Within Canada this is accomplished through the concurrent processes of migration and citizenship policies. Historically, Canada has relied on overt racism to bar targeted groups from entry and/or citizenship rights. Socio-political changes together with globalization have rendered previous mechanisms of exclusion obsolete. Thus, in order to achieve its function, approaches must be reworked so as to conform to the contemporary context. As it currently exists, Canadian immigration policy reflects racist, sexist, and inequitable principles that become visible through its enactment. For example, the Canadian nation has a vested interest in the continued re-production of “illegal migrant”. The successful othering of migrant workers through public discourse justifies and enables their marginalization.

I argue that the exclusionary nature of the public discourse creates a disjunction between whom Canadians perceive to be potential immigrants (including refugees), and the national narrative that is firmly entrenched in Canadian society. Specifically, Canadian refugee policy is widely believed to be motivated by generosity and humanitarianism. However, as I argue, the development of refugee policy is grounded in principles of entitlement/exclusion, imperialist relations, and economic strategizing. Through the enactment of migration policies, the experiences of hundreds of millions of people worldwide – including the estimated 50-100 million Chinese citizens who have
been displaced and oppressed in the movement towards globalization – are not seen as desirable immigrants to Canada.

The process of refugee determination has serious implications for the everyday lives of millions of people worldwide. Proposed changes to Canadian refugee policy will increase government assisted (i.e. "chosen") refugees and reduce the number of inland claims that are accepted. This poses a number of problems that are too extensive to discuss here. Briefly, in relation to the Fujianese-Canadian situation, an immediate issue is the lack of access that would-be claimants from Fujian, and elsewhere throughout China, have to Canadian immigration offices where they would be required to submit their claim. There is no Canadian immigration office feasibly accessible to Fujian. However, even if there were, the implications of undertaking this process from within China places the individual at risk of severe punishment by the Chinese government. The proposed amendments to the Canadian refugee system blatantly ignore this dangerous ramification by deporting unregulated arrivals to be processed in their home countries.

Workers are rendered vulnerable simply by migration across political borders (Portes, 1978). The Canadian nation's motivation to secure migrant labour has been well-documented both historically and in contemporary contexts. Migrant labour is used to reduce the overall cost of replenishing and replacing the labour force. Moreover, "the larger and more multinational the reserve army, the easier it is for capital to divide and discipline the labour force to dequalify or rotate labour" (Cockcroft, 1982, p.56). In this way, the labour force is weakened enabling employers to get away with sub-standard conditions and wages. Sassen-Koob (1981) explains that the State will "put up" with non-citizens as long as they are productive, but the understanding is that they can be re-
patriated whenever they are no longer useful. Furthermore, at the same time that migrant labour is solicited to supply the needs of capital, anti-migrant rhetoric and policing intensify, maintaining the marginal position of migrants in society (Cockcroft, 1982). Subsequently, even as migrants become established as workers in the economy, the social relations organizing their exploitation are secured. This process is encapsulated in the ideological circle.

My attempt in this investigation was not to formulate a case arguing for the Fujianese arrivals as “real” refugees. Instead, my emphasis was on the examination of ruling discourses around Canadian immigration, and the re-construction of “non-immigrants”. To a large extent this diverse group can be described as lacking financial capital, as well as formal training in designated areas, and from the South. The ideological frames employed in the process of “othering” these non-immigrants exemplifies and reproduces the relations of ruling organizing Canadian society.
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