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Sherene H. Razack

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# “SIMPLE LOGIC”: RACE, THE IDENTITY DOCUMENTS RULE AND THE STORY OF A NATION BESIEGED AND BETRAYED

SHERENE H. RAZACK\*

## RÉSUMÉ

Des “mythes nationaux” permettent aux membres d’une nation de se considérer comme membres d’une communauté. Le “mythe national” du Canada se repose grandement sur l’idée que les peuples d’origine européenne sont les “premiers citoyens” du pays et qu’on doit à ces derniers une grande part de son développement. Jouant ce rôle de premier citoyen dans une histoire qui exige le reniement des peuples autochtones et des peuples de couleur, qui ont également contribué à la construction du pays, les Canadiens d’origine européenne en sont venus à représenter l’idée de citoyen. Cette “histoire officielle” est de toute évidence une histoire raciale, représentant les Canadiens d’origine européenne comme ayant droit aux fruits de la citoyenneté, tandis que tous les autres sont considérés comme “extérieurs” à la nation. Dans cet article qui étudie la rhétorique et le discours politiques relativement aux réfugiés “sans papiers”, l’auteure retrace le mythe national sous-tendant la réforme de l’immigration et, plus particulièrement, les réformes limitant les droits des réfugiés ayant obtenu le droit d’asile. L’auteure analyse l’appui politique accordé aux dispositions portant sur les pièces d’identité d’abord présentées dans le projet de loi C-86, puis dans la création en 1996 de la catégorie des réfugiés au sens de la Convention se trouvant au Canada sans pièces d’identité (RCCSPI). Ces dispositions, qui ont nui notamment aux Canadiens d’origine somalienne, demeurent en vigueur malgré leur manque de logique et leur inconstitutionnalité apparents. L’auteure avance que les arguments proposés pour appuyer les dispositions portant sur l’identité reposent sur le mythe national de Canadiens blancs assiégés et trahis par des gens de couleur qui veulent simplement obtenir ce que les blancs possèdent.

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\* Sherene Razack is professor of sociology and equity studies in education, the Ontario Institute for Studies in Education, University of Toronto. Her most recent book is *Looking white people in the eye: gender, race and culture in courtrooms and classrooms* (Toronto: University of Toronto Press, 1998 & 1999). The author deeply appreciates the research assistance and critical feedback of Sheila Gill, Donna Jeffery, Teresa Macias and especially Leslie Thielen Wilson. Their thoroughness and insight made this article stronger than it might otherwise be.

*Simple logic dictates that Canada should protect itself against any Tom, Dick or Harry wanting to enter the country – and you realise that some of these people are false claimants, don't you?*

Fernand Jourdenais, (Progressive Conservative) Member of Parliament (1992)<sup>1</sup>

*Because they have no ID, we will not grant these people permanent resident status until they have had time to demonstrate respect for the laws of Canada and for us to detect those who may be guilty of crimes against humanity or acts of terrorism ... The message is clear – fraud will not be tolerated.*

Lucienne Robillard, (Liberal) Minister of Employment and Immigration (Citizenship and Immigration Canada, 1996)<sup>2</sup>

## INTRODUCTION

National stories, narratives or narrations enable members of nations to think of themselves as part of a community. Stories make it possible for individuals who are unknown to each other to imagine that they share a common bond. It is in this sense that Benedict Anderson writes that nations are imagined.<sup>3</sup> However, national stories, including a story about the nation's origins and its history told over time, are contested stories. As Edward Said reminds us, in imperialism, where the battle is over land ("who owned the land, who had the right to settle and work on it, who kept it going, who won it back, and who now plans its future"), national narratives are those of the dominant group: "The power to narrate, or to block other narratives from forming and emerging, is very important to culture and imperialism, and constitutes one of the main connections between them."<sup>4</sup> As a white settler society founded on the basis of the theft of Aboriginal lands, the Canadian national story, told in the nation's literature, artistic and cultural production, as well as in its parliaments, newspapers and educational institutions, has largely rested on the idea that peoples of European origin are the country's original citizens and the ones who are largely responsible for its development.<sup>5</sup> Cast as the "original" citizens in a story requiring the disavowal of both

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1. Legislative Committee of the House of Commons on Bill C-86, *Minutes of Proceedings and Evidence*, 3<sup>rd</sup> Sess., 34<sup>th</sup> Parl., 1991-1992, at 4:25 [hereinafter *Minutes* and cited by issue]. Note that the dates of the issues are as follows: Issue 1, Tuesday June 23, 1992; Issue 2, 27 July 27 1992; Issue 3, 28 July 1992; Issue 4, 29 July 29 1992; Issue 5, 30 July 1992; Issue 6, 10 August 1992; Issue 7, 11 August 1992; Issue 8, 12 August 1992; Issue 9, 13 August 1992; Issue 10, 15 September 1992; Issue 11, 16 September 1992; Issue 12, 17 September 1992; Issue 13, 29 October 1992; Issue 14, 30 October 1992; Issue 15, 3 November 1992; Issue 16, 4 November 1992; Issue 17, 4 November 1992; Issue 18, 5 November 1992.
  2. Citizenship and Immigration Canada, News Release 96/27 "Minister Robillard Announces Measures for Refugees Lacking ID to Become Permanent Residents" (13 November 1996).
  3. B. Anderson, *Imagined Communities* (London & New York: Verso Press, 1983).
  4. E. Said, *Culture and Imperialism* (New York: Alfred A. Knopf Inc, 1993) at xiii.
  5. D. Stasiulus & R. Jhappan, "The Fractious Politics of a Settler Society: Canada" in D. Stasiulus &

Aboriginal peoples and peoples of colour whose labour also built the country, European Canadians come to represent the idea of the citizen. This official story is manifestly a racial story, producing European Canadians as entitled to the fruits of citizenship, and all others as external to the nation. In this article examining political rhetoric,<sup>6</sup> and discourse,<sup>7</sup> I trace the national story that underpins immigration reform; specifically, I turn to reforms limiting the rights of refugees granted asylum. I suggest that the national story remains a racial story and that one sees its deployment by political elites in the creation of an unequal structure of citizenship.

The racial story of the 1990s is a simple one. Canada is besieged. Every Tom, Dick and Harry wants to get in. They will stop at nothing. They do not respect us. They will return our generosity with betrayal. We have no choice but to become strict and to monitor more closely who is coming in. This is "simple logic", a national story told to justify tighter border controls in the 1990s. Driven by the story, Canada, like so many other Western nations, embarked on a series of immigration reforms intended not only to tightly regulate who could get in but who was entitled to the full benefits of citizenship. Identity documents became a useful tool in this project of nation building. Beginning with Bill C-86 (amending the *Immigration Act*), introduced into the House of Commons under a Conservative government in June 1992 and passed

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Nira Yuval-Davis, eds., *Unsettling Settler Societies: Articulation of Gender, Race, Ethnicity and Class* (London: Sage Publications, 1995) 95 at 97. Examples of the national story as told in art and novels held up as quintessentially Canadian include the paintings of Emily Carr, in which Aboriginal culture appears as dead or dying, and the novels of Margaret Atwood. In the latter, Roy Mikki writes, "an Anglocentric history with Canada as victim of American imperialism" prevails. "The privileging of the author's own subject position as 'English Canadian' reader, in effect, banished 'racialized' Canadians from public space, a gesture that denied them identity in her text of nationhood." R. Mikki, *Broken Entries: Race, Subjectivity, Writing* (Toronto: The Mercury Press, 1998) at 101.

6. I use the term "rhetoric" here in a common sense way to describe language that is "inflected by partisan agendas and desires". I am aware, however, and as Stanley Fish points out about those who use the term, that I imply that there are two kinds of language: rhetoric, a language "that manipulates reality" and "language that faithfully reports on matters of fact". The notion of an unbiased language that will enable us to speak the truth contradicts, however, the idea that I also rely upon, that nations are constructed symbolically in language and that all language constitutes rather than reflects reality (see note 7). In using the term "rhetoric", I am drawing attention to the constructions (the "undocumented", the "original citizen" and so on) that are produced by the political language I examine. S. Fish, "Rhetoric" in F. Lentricchia & T. McLaughlin, eds., *Critical Terms for Literary Study* (Chicago & London: University of Chicago Press, 1990 & 1995) 203 at 205.
7. There are two meanings of discourse, one linguistic and one based on the work of Michel Foucault. In its linguistic meaning, for example in the work of Teun van Dijk upon whom I rely in my analysis of political speech, discourse refers to "text and talk: syntactic forms, lexical style, rhetorical operations, text schemata, and conversational strategies". T. van Dijk, *Elite Discourse and Racism* (Newbury Park, California: Sage Publications, 1993) at 29. In its Foucauldian poststructuralist sense, which I rely upon when I use concepts such as story, narrative or fantasy, the meaning of discourse, as Paul Bové writes, is "the organized and regulated, as well as the regulating and constituting, functions of language that it studies: its aim is to describe the surface linkages between power, knowledge, institutions, intellectuals, the control of populations, and the modern state as these intersect in the functions of systems of thought." P. Bové, "Discourse" in F. Lentricchia & T. McLaughlin, eds. *Critical Terms for Literary Study* (Chicago & London: University of Chicago Press, 1990 & 1995) 50 at 54-55.

into law six months later, and continuing with the creation of the Undocumented Convention Refugee in Canada Class in 1997 under a Liberal government, Canada joined other western nations in the creation of a class of people neatly labelled the “undocumented”, people marked as less deserving of juridical and social rights by virtue of their lack of passports or travel documents.

Under the amendments to the *Immigration Act*<sup>8</sup> introduced in Bill C-86,<sup>9</sup> a refugee who arrives at the border without appropriate identity documents has a greater burden of proving that he or she is a Convention Refugee, a condition of obtaining asylum. Once granted asylum, under s. 46.04(8) of the *Immigration Act* she then does not have the right that other refugees have to apply for permanent resident status.<sup>10</sup> The anomalous situation arises that a refugee can satisfy one arm of the Department of Immigration, the Immigration and Refugee Board, that she is a legitimate asylum seeker in need of protection (in spite of the heavier burden of proof), and still not win the approval of another arm to become a permanent resident of Canada. Convention Refugees caught in what is almost literally a no man’s land (most of the refugees caught in this way are women and children) between asylum and permanent resident status are mostly of Somali origin. By most accounts, there are 13,000 persons in this state of legal limbo where they possess only some of the rights and benefits of citizenship.<sup>11</sup>

As the decade of the nineties wore on, the full impact of s. 46.04(8) began to be felt. Without permanent resident status, Somali Canadians could not sponsor dependants outside Canada (in some cases this meant that children left behind in refugee camps could not be reunited with their parents) or leave its borders. Treated as foreign nationals, they paid higher university fees, and encountered a number of credit and employment roadblocks owing to their irregular citizenship status.<sup>12</sup> Under pressure by refugee advocates and communities to do something, the federal government (now Liberal) responded late in 1996 with the proposal of a special class of Convention Refugee who could be landed without fulfilling the identity document requirement. The class, known as the Undocumented Convention Refugee in Canada Class [hereinafter UCRCC], applies only to those citizens of countries listed in Schedule XII of the *Immigration Regulations*.<sup>13</sup> Currently, only Somalia and Afghanistan are listed.

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8. *Immigration Act*, R.S.C. 1985, c. I-2.

9. Bill C-86, *An Act to Amend the Immigration Act and Other Acts in Consequence Thereof*. 3<sup>rd</sup> Sess., 34<sup>th</sup> Parl., 1991-92 (1<sup>st</sup> reading 16 June 1992).

10. S. 46.04(8) states as follows: “An Immigration officer shall not grant landing either to an applicant under subsection (1) or to any dependant of the applicant until the applicant is in possession of a valid and subsisting passport or travel document or a satisfactory identity document.”

11. A. Brouwer, *What’s In a Name? Identity Documents and Convention Refugees* (Ottawa: Caledon Institute for Social Policy, 1999), online: <[http://www.maytree.com/publications\\_name.html](http://www.maytree.com/publications_name.html)>; J. Dryer, “The Undocumented Convention Refugees in Canada Class: Creating a Refugee Underclass” (1998) 13 *J.L. & Soc’l Pol’y* at 167.

12. Amended Amended Statement of Claim in *Hussein Jama Aden et al. and Her Majesty the Queen*, Court File No. IMM500/501-96 (F.C.T.D.).

13. Citizenship and Immigration Canada, “Regulations Amending the Immigration Regulations 1978,

Persons without satisfactory identity documents from these two countries became eligible for membership in this class, and thus for landing, five years from the date he or she was granted asylum. While a five-year wait for permanent resident status seems preferable to legal limbo, the UCRCC nonetheless further entrenches the idea first given legal expression in Bill C-86, that Convention Refugees without identity documents remain socially suspect and entitled to fewer rights in law than other Convention Refugees. In December 1999 the current Minister of Citizenship and Immigration, Elinor Caplan, announced that the five year waiting period would be reduced to three years.<sup>14</sup> However, observers have continued to point out the consequences of delayed landing for Somalis (three years is a long time to wait for family reunification) and to note that one year after the UCRCC regulation, only 748 Convention Refugees were landed under the new regulation.<sup>15</sup>

Perhaps the most remarkable thing about these identity documents provisions is that very few people have trouble seeing either their illogic or their discriminatory impact. It is relatively easy, for instance, to see how tenuous the relationship is between the objectives of such provisions (to catch criminals) and the demand for proper identity documents. The possession of proper identity documents may reflect nothing more than the power and resources of an individual able to procure them. Refugees are seldom able to procure official documents without considerable risk and those who flee states whose bureaucracies have collapsed have very limited options in this regard. However, over the past decade, these obvious shortcomings have not led to the demise of the identity provision and they are currently the subject of a constitutional challenge.<sup>16</sup> The plaintiffs allege that the identity provision, s. 46.04(8) of the *Immigration Act*, has the effect of discriminating on the basis of national origin, contrary to s. 15 of the *Charter of Rights and Freedoms*. They argue that since Somali nationals are unable to obtain existing documents from Somalia owing to the collapse of that country's bureaucracy, their inability to satisfy the requirement arises because of their country of origin. The subsection thus creates a distinction between Somalis and other Convention Refugees. Further, the UCRCC does not fully remove the penalty.<sup>17</sup>

In this article, I explore why the identity document provisions have continued to stand and why they may even survive a constitutional challenge in spite of the compelling legal arguments against them. In effect I explore what gives vitality to laws that are so evidently discriminatory. In different ways, both Conservative and Liberal governments have remained faithful to "simple logic" and to the penalizing of Convention Refugees who do not possess "suitable" documents, although it is clear that Conser-

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Regulatory Impact Analysis Statement" (16 November 1996) *Canada Gazette*, Part I, Vol. 130, No. 46.

14. Citizenship and Immigration Canada, "Fact Sheet for Undocumented Convention Refugee In Canada Class (UCRCC)" (30 December 1999), online: Citizenship and Immigration Canada <<http://www.cic.gc.ca/english/refugee/ucrcc-e.html>> (date accessed: 3 March 2000).

15. Brouwer, *supra* note 11 at 11.

16. *Supra* note 12.

17. *Ibid.* at 9, para. 58.

vative regimes are more attached to such policies than are Liberal ones. It seems fruitless, then, to search for an explanation in political ideology *per se*. Clearly, the story that Conservative and Liberal political elites tell around the identity provisions strikes deep chords in the Canadian psyche, as these politicians well know. That is to say, it is a story that makes sense to the public even when the facts speak otherwise. It possesses an *internal* coherence that is not undermined by the many counter-arguments that are offered.

With the objective in mind of tracing the internal coherence of the storyline of identity documents – why it makes sense to lawmakers and indeed to many Canadians – I propose to explore political discussions of the identity documents provisions in 1991 and in 1996. First I examine the hearings of the legislative committee which examined Bill C-86 in 1991–92, one of the first occasions for an intensive public discussion over identity provisions and a rich source for the tracing of the structures of parliamentary thinking. I then follow the story through to 1996 when the same committee, now under the Liberals, conducted hearings on the UCRCC regulations. I argue that “simple logic” as it is talked about in these discussions relies for its coherence on a national story of a Canada besieged and betrayed by bodies of colour. “Proper” identity documents become defensible in this vision of Canada as a way of separating the deserving from the undeserving and as a way of dealing with the inevitable duplicity of people of colour. The storyline is hard to pin down as one that is explicitly about race because its racist structure is not overt. Instead, “Canada besieged and betrayed” is told as a story about a sovereign nation, overwhelmed by the large numbers of refugees coming to its borders, refugees attracted by rumours of Canadian generosity. Immigration scholars often accept this story and speak of the “grapevine” that enables asylum seekers to learn of Canadian affluence and sends them flocking to our borders.<sup>18</sup> Underpinned by the image of crowds at the border who simply want what we have, the story of a nation besieged and betrayed is, I contend, a modern version of an old racist narrative. When refugee analysts report that the number of claimants jumped dramatically from 400 a year in the late 1970s to 5,200 annually between 1982 and 1984, and confirm that the numbers are increasing even more in the 1990s,<sup>19</sup> the threat posed by hordes of colour seems self-evident; the increases over the last two decades would seem to support the contention that Canada is indeed besieged. It becomes hard to discern the racial ideas that animate the reporting of the increases, ideas about the “original” citizens of Canada whose superior civilization so attracts the “crowds” of colour at the border. Faced with the numbers only, it is also difficult to see that the increases may not in fact represent a siege but a necessary flow of labour to a country that deeply relies upon it.

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18. F. Hawkins, “The Asylum Seekers” (1994-5) 52:2 *Behind the Headlines* 1 at 1; N. Kelley & M. Trebilcock, *Making of the Mosaic: A History of Canadian Immigration Policy* (Toronto: University of Toronto Press, 1998) at 412.

19. Kelley & Trebilcock, *Ibid.*

I suggest that white citizens come to *believe* that they are overrun, and that their generosity is being abused because of the underlying notion that the crowds at the border are simply greedy Third World peoples out to take advantage of unsuspecting white Canadians who are entitled to live in a calm, ordered space. White citizens also come to believe that as the "original" inhabitants, they are both obliged and entitled to discipline the non-white Others who come to their borders. The relationship between white citizens and refugees is deeply colonial and is revealed in the unself-conscious talk about teaching refugees to be truthful and to learn respect. Non-white citizens sometimes come to share in these beliefs too, understanding their own presence in the country as more legitimate in comparison to those seeking entry now. Without the racial component, the story of siege and betrayal and the stern measures required to protect the "original" citizens would be less than convincing. The national story works because it is able to draw upon colonial notions of a superior white civilization encountering the barbarism of (in this case) Africa and (in an earlier time) Aboriginal peoples. So appealing is the story's underlying racist logic that it cannot be easily undermined by alternative stories. Belief in the story *secures* a racial hierarchy of citizenship as much as it relies upon it. That is to say, white citizens come to believe in their entitlement and at the same time, that entitlement becomes real. While only some people of colour are rendered juridically unequal by the laws born of "simple logic", all people of colour are marked by the stories of race, immigrants, welfare fraud and criminality that abound in the identity documents discussions. The "undocumented" become stand-ins for the race and no one of colour is free from the possibility that he or she will be considered illegitimate, fraudulent, and out to get more than is her due, passports notwithstanding.

My argument focuses on the deployment of the rhetoric of betrayal in the demand for "proper" identity documents. In liberal democracies overtly racist acts cannot be tolerated. But if the story of an overtly racist act is transformed into the story of a state forced to defend itself from bodies bent on betraying its trust, then such acts become acceptable and even laudable. They become self-defence, our rage justifiable in view of the extent to which we, extraordinarily generous but gullible, have been tricked. Citizens learn through such stories who they are. It is in this way that we can speak of the identity documents provisions as a pedagogy of citizenship, one that is required in the building of an unequal *structure* of citizenship. We cannot counter "simple logic" merely by revealing its underlying incoherence, as most critics of the "docs rule" have done. The identity documents rule has coherence in the context of the national story of white innocence and the duplicity and cunning of people of colour. It has coherence in a fantasy in which dominant subjects come to know themselves as morally superior, as simply doing what has to be done to preserve home and nation. This is where we must begin. To contest "simple logic" we must ask what the fantasy does to bodies as it winds its way through parliament, the media and through Canadian homes. It constitutes bodies of colour as illegitimate, and white bodies as entitled; its lifeblood as a story is the notion of the innocence of this white settler society.



## BILL C-86:<sup>20</sup> "SIMPLE LOGIC" 1992

In over 121 pages, Bill C-86 laboriously spells out the measures Canadians are forced to take when confronted as they are by an epidemic of welfare fraud and crowds at the border. For example, Bill C-86 includes a safe country provision denying refugees who have passed through a "safe" country en route to Canada the right to make a claim. Immigration officers are given greater powers to determine who has in fact done so. Family reunification is encouraged but only a restrictive definition of family prevails. An assortment of security measures, including the identity documents provisions and the fingerprinting of all refugees, is included. The Bill's obvious goals, to limit the flow of refugees (most of whom, not coincidentally, are coming from Somalia), and to scapegoat immigrants and refugees as the source of depleted social resources, resemble those of the reforms undertaken by a number of other Western states in the early 1990s.<sup>21</sup> The United States provides the stellar example of the drastic border policing and internal surveillance measures of the 1990s with California's Proposition 187.<sup>22</sup> The underlying logic of Proposition 187 was that if you cut state services to the "undocumented", they would stop coming since services (welfare, health and education) were why they came. Proposition 187 was followed by federal measures to improve border security and impose higher penalties for those caught smuggling in the "undocumented", and bills limiting the "undocumented" from accessing education and health care.<sup>23</sup>

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20. Bill C-86 was debated in an all party legislative committee made up of five members of the ruling party (the Progressive Conservatives) and three members of the opposition including one member of the socialist New Democratic Party and two Liberal party members. The committee sat for four months and heard from fifty witnesses including 19 unions, corporations and individuals, 7 legal associations and 24 non-governmental organizations. The minister and officials of the Department of Employment and Immigration also appeared to defend the Bill and answer questions (S. Dumas, *An Analysis of Bill C-86: Canada's Refugee Status Determination Process* (Master's Thesis, Department of Sociology, University of Manitoba, 1995) [unpublished] at 57).
  21. For example, German asylum laws were also amended in 1993 to deny asylum to anyone arriving via "a safe third country" (S. Scheele, "The Politics of Western Immigration" (1995) 3:1 *Indiana Journal of Global Legal Studies* 277 at 280). Boyd writes of asylum reforms in France for the same period which grant broader police powers. In these reforms, asylum seekers who commit deliberate fraud are not granted asylum. Fraudulent identity documents presumably fall into this category (M. Boyd, "Jaws of the Crocodile: 1993 Asylum Reforms in France" (1996) 10 *Georgetown Immigration Law Journal* 257 at 262). Penalties are imposed on transport carriers who transport (from one European country to another) an "alien" who does not possess the necessary travel documents (Boyd, *ibid.* at 272). Inspired, as was Bill C-86, by the sense that the hordes are coming, French and German parliamentary rhetoric includes the argument that in cracking down on "bad" refugees, the road is being paved for "good refugees" who would not then have to endure the ire of the public when it encounters fraudulent refugees (Boyd, *ibid.* at 269; T. van Dijk, *Elite Discourse*, *supra* note 7 at 95. "For their own good", a narrative repeated ad nauseam, ran and continues to run through Western parliamentary immigration reform.
  22. *Cal. Educ. Code* 48215 (a) (West Supp.1995); *Cal. Health & Safety Code* 130 (a) (West Supp. 1995); *Cal. Welf. & Inst. Code* 10001.5 (West Supp. 1995). For an insightful critique of Proposition 187 see L. Bosniak, "Opposing Prop. 187: Undocumented Immigrants and the National Imagination" (1996) 28:3 *Connecticut Law Review* at 555.
  23. L. Ocasio, "The Year of the Immigrant as Scapegoat" (Nov/Dec 1995) XXIX:3 Report on Immigra-

The welfare-fraud immigrant, the criminal immigrant and the bogus refugee claimant are the key figures of Bill C-86. As Catherine Dauvergne notes, immigration reform rhetoric of the nineties combines in this way economic discourse (they drain our resources), citizenship discourse (citizens' rights are imperilled by the newcomers) and cultural discourse (their culture is different from ours). These overlapping discourses construct an "Other" against whom the normative citizen is defined.<sup>24</sup> Focusing on the reforms after 1995, Sunera Thobani describes the gendered racism of the new rhetoric which makes use of the figure of the immigrant woman of colour as a burden to the state, a figure who threatens the rights of the "legitimate" citizens.<sup>25</sup> Elsewhere I show that both political and media discourse on immigration rely on the construct of an ideal good immigrant who is a neo-conservative against whom the bad immigrant (the criminal) is measured, a relationship used to frame Bill C-86 when it was first presented in parliament.<sup>26</sup>

Despite its foundational role, few scholars have analysed the racial logic of Bill C-86 in any depth. Lisa Jacobowski's work on the discursive reproduction of racism is one early exception. In her analysis of the "safe country" provision and the new powers given to immigration officials in Bill C-86, Jacobowski documents how much discomfort with the changing colour of immigration underscored Conservative policies of the early nineties. Politicians drew upon the white public's worries about the rise in the visible minority population to build support for the new immigration measures and these measures in turn garnered electoral support for the Conservative government. Plainly put, the official logic was as follows:

If the government can convince Canadians that the source of their economic woes lies elsewhere – i.e. with the "abusing immigrant" – and that the government is determined to protect Canada from these opportunistic people, it may be able to regain some public support and confidence.<sup>27</sup>

Carefully mapping how political "text and talk" can be devoid of explicit racial references yet depend implicitly upon racist ideas, Jacobowski identifies a key feature of political anti-immigration rhetoric when she notes that appeals to racism are inextricably linked to appeals to the economic insecurities of Canadians: both meet in a narrative of a nation vulnerable to unscrupulous people of colour.<sup>28</sup> The Minister of Immigration in 1992, Bernard Valcourt, illustrates the narrative's language of betrayal

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tion in North American Congress on Latin America (NACLA) Report on the Americas 13 at 14-17.

24. C. Dauvergne, "Beyond Justice: The Consequences of Liberalism for Immigration Law" (1997) X:2 *Can. J. L. & Jur.* 323 at 337-341.
25. S. Thobani, *Nationalizing Citizens, Bordering Immigrant Women: Globalization and the Racialization of Citizenship in Late 20th Century Canada* (Ph.D. Thesis, Department of Sociology and Anthropology, Simon Fraser University, 1998) [unpublished].
26. S. Razack, "Making Canada White: Law and the Policing of Bodies of Colour in the 1990s" (1999) 14:1 *Canadian Journal of Law and Society* 159.
27. L. Jacobowski, *Immigration and the Legalization of Racism* (Halifax: Fernwood Publishing, 1997) at 69.
28. *Ibid.* at 70.

when he articulates the underlying rationale for Bill C-86. Canadians, he notes, are characteristically kind and generous but “we don’t want to be taken for a ride.”<sup>29</sup> Although she does not analyse the identity documents rule in Bill C-86, Jacobowski notices here what I argue below: the national storyline of a nation betrayed and besieged by people of colour underpins anti-immigration rhetoric of the 1990s enabling “privately racist ideas to be communicated through language that is publicly defensible as non-racist.”<sup>30</sup> For Jacobowski, the racism at work travels from the public to elites. I would argue, however, along with van Dijk, that the form of racism we find in elite discourse is a top down phenomenon where elites pre-figure the narratives that later find popular expression.<sup>31</sup> (Like Jacobowski, Van Dijk compared political rhetoric in European and American parliaments in the early 1990s and noted that politicians made characteristic argumentative moves that produced racist effects without requiring an explicit language of racism. For example, all of the parliaments he studied presented themselves as generous but forced to take harsh measures against unscrupulous people who abused their trust.)<sup>32</sup>

In examining the discourse around identity documents in Bill C-86, it is possible to trace the same rhetorical ploys and semantic practices noted by Jacobowski and van Dijk and come to the same conclusion, namely that such linguistic and narrative strategies allow racist ideas to be communicated in ways that are difficult to pin down as racism. For example, the conflation of internal and external enemies (illegal immigrants and welfare abusers) evident through Bill C-86 marks many of the discussions around identity documents, as I show below: we must insist on documents because if we don’t know who people are when they come in, they can go on to defraud welfare using a variety of fake names. To give these assertions a context in which they might be understood, Conservative politicians deliberately pursued a linguistic strategy of conflating the illegal migrant and the Convention Refugee through the use of the term “undocumented”. Convention Refugees are not in fact “undocumented”, as the phrase is commonly used in the United States, i.e. to describe someone who has snuck into the country without applying for entry. Convention Refugees undergo a rigorous hearing procedure in which the establishment of identity is an important part. Confronted with the issue of Somalis and Afghans without documents, for example, the Immigration and Refugee Board developed procedures that would enable it to assess identity, the lack of legitimate passports or travel documents notwithstanding.<sup>33</sup> Further, many refugees are “documented” but the documents they possess have been assessed by officials at the border as insufficient for the purposes of establishing identity. The difference in legal status between a Convention Refugee and an individual who has not gone through any official channels did not stop Canadian politicians

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29. *Ibid.* at 71 [emphasis added].

30. *Ibid.* at 89.

31. van Dijk, *supra* note 7.

32. *Ibid.* at 49-114.

33. Immigration and Refugee Board, “Commentary on Undocumented and Improperly Documented Claimants. Assessing the Evidence, Enhancing the Procedures” (11 March 1997).

from deploying the rhetoric of "undocumented". In adopting this term, the Canadian government made sure that an aura of criminality would cling to people whose claims have in fact been accepted and who are thus legally present in Canada.<sup>34</sup>

I do not want simply to contribute to the analysis of Bill C-86 by demonstrating, with respect to the identity provisions, the narrative and linguistic moves that enable the communication of racist ideas, although they bear noting when the task is to decode "simple logic". Instead, I want to move from the disembodied realm of linguistic devices to the speakers themselves. That is, how do the speakers of the dominant narratives understand themselves; from what place do they "live the nation"?<sup>35</sup> Fantasy is a useful notion when trying to capture how individuals imagine the landscape in which they are living and in which *their own identities* take shape. Utilizing fantasy in her work, Lauren Berlant writes that the concept designates "how national culture becomes local – through the images, narratives, monuments and sites that circulate through personal/collective consciousness."<sup>36</sup> Through these images and narratives, citizens are taught to personally and collectively imagine who they are and "to perceive the nation as an intimate quality of identity."<sup>37</sup>

The national fantasy – the images and narratives that animate Bill C-86 – has a very simple structure: who We are versus who They are, and the laws we require to protect ourselves from this difference. In 1992, the Bill's framers insisted that we were a nation besieged: the country faced a huge backlog of applications from persons seeking to enter Canada either as immigrants or refugees.<sup>38</sup> Making the case for greater vigilance, the Minister of Immigration, Bernard Valcourt asked reasonably, "Who could refute that in a country like Canada, facing all of these pressures of these mass movements of people, our immigration officers don't have the power to do their jobs?"<sup>39</sup> Such powers as the Bill intended to give to immigration officials could be defended by relying on a long-standing national narrative. We attract more than our share of immigrants and refugees because we are known to be fair-minded, democratic and generous. As Valcourt put it simply: "We are a trusted country in the world."<sup>40</sup> In a country where "citizenship means something", we are naturally overrun by those who want what we have. As a result, against our nature, we are forced to impose harsh measures such as the fingerprinting of all asylum seekers but only until we are sure of the identities of those who come to our door. At such time, the fingerprint records will be erased, the interminable wait for full citizenship will be over, and the new Canadian will become equal to "the baby who is born Canadian" with all its rights

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34. J. Dryer, *supra* note 11 at 181.

35. L. Berlant, *The Anatomy of National Fantasy: Hawthorne, Utopia and Everyday Life* (Chicago: University of Chicago Press, 1991) at 3.

36. *Ibid.* at 5.

37. *Ibid.* at 20.

38. *Minutes*, *supra* note 1 at 2:6.

39. *Ibid.* 2:9-10 (B. Valcourt).

40. *Ibid.* 2:5 (B. Valcourt).

intact.<sup>41</sup> It would all be worthwhile. (By the end of the decade, of course, this image could no longer be used since babies born on Canadian soil but of refugee parents no longer had access to health care in the province of Ontario.)

The government offers few facts and figures in support of its narrative of siege and betrayal. In place of specifics, two stories circulate to give content to the threat. The first is a story about smuggling rings and the second is one of welfare fraud. The two stories come together, such as when Brian Grant, Director, Control Policy, Department of Employment and Immigration, tells the committee that “undocumented” arrivals were unheard of in 1976 whereas in 1992, smuggling and counterfeiting have become sophisticated and many more people are coming to realise that Canada is a land of opportunity, a land worth getting to for its social benefits.<sup>42</sup> Here the siege narrative is bolstered by the idea that Canada is a popular destination because it is so generous to its citizens. Significantly, if people are “undocumented”, it is only because they are smuggled in. “Undocumented” is conflated in this logic with criminality.

Identity documents enter this story as the bridge between our reputation and the proposed harsh measures. The problem facing Canada is presented as a simple one. In the words of the Minister: “It is absolutely impossible to board any plane in the world without documents, yet they come here and land at our airports without the trace of a document. That is impossible.”<sup>43</sup> He continues with an analysis of the problem and its solution:

We know one thing. There is this multi-million-dollar business of smuggling, and of consultants abusing people out there, and they are being encouraged to do that because those poor people are being exploited. We understand that. But if that person came along and said listen, this is not a proper document, this is a forged document, I had to do this to flee persecution, that will never be held against that person in Canada. But the person who comes here and then plays with I don't know who... There are smugglers in air planes who collect all the papers of the people. It creates problems. That is why we have created this disincentive to people by saying that if they come to Canada they had better have their documents, because with this guaranteed legislated benefit of the doubt, they will not get like the others who follow the rules and come here honestly, saying I had to have these documents – they are not mine – because I wanted in. That is why we did that.<sup>44</sup>

A figure emerges, shadowed by another: people who “follow the rules” (and confess their documents are false) highlight for us the treachery of those who don't follow the rules, rely on smugglers, and destroy their documents. Our rules will benefit the former and catch the latter. Holders of fraudulent documents will not be penalized. A torturous distinction must then be made between the moral character of those who commit fraud and those who destroy their documents.<sup>45</sup> That these two figures are different remains

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41. *Ibid.* at 2:9.

42. *Ibid.* at 3:48-49, 50.

43. *Ibid.* at 2:8.

44. *Ibid.*

an article of faith, bolstered by the testimony of the Royal Canadian Mounted Police that smuggling rings exist and the testimony of officials of airline companies who opine that smugglers get refugees to turn in their documents to the smuggler who already has the right of legal entry, so that they can be reused.<sup>46</sup>

The logic of the identity documents provisions is fragile from the start. Fake documents are preferable to destroyed documents. Refugees are the hapless victims of smugglers, yet they must be punished for destroying their documents. Intended as a disincentive for people who destroy their documents, and ultimately as a barrier against smuggling rings, the identity provisions rely on the notion that people who use smuggling rings are probably not *bona fide* Convention Refugees. Yet, given the number of roadblocks in the way of refugees from Africa (many of whom are women and children) making their way to Canada (few Canadian immigration offices in the region, no direct flights to Canada, the vigilance of airline companies, and so on), it is difficult to arrive at the Canadian border without recourse to such smuggling rings. "Simple logic" soon begins to move beyond the story of smuggling rings. The goal, it turns out, is not only to stop smuggling rings, as becomes apparent in the discussion of fingerprinting and identity documents. This is only where it begins. If we fingerprint refugees, we will be able to detect which I.D. belongs to whom, and thus stop the smuggling rings. "The issue is not criminality, the issue is identity," the Minister insists, but the two are in fact indivisible when he adds:

And you get the added benefit that on the domestic scene you can exchange this information with provincial governments who have to cope with not many, but too many, who abuse the welfare system because of their position as refugee claimants.<sup>47</sup>

Having to produce identity documents at the outset, then, will encourage refugees not to abuse the welfare system. Responding to a question about the relationship between the identity provisions and welfare fraud, the Minister offers his welfare story: "You must remember the case in Montreal where a person made 14 different claims under 14 different names and was getting 14 welfare checks."<sup>48</sup> The Bill will help, he assures the Conservative member for Bramalea-Gore-Malton, Harry Chadwick, in dealing with welfare, unemployment and credit card fraud.<sup>49</sup> We learn that in

one city alone 60 people are alleged to have collected about \$2 million through fraudulent welfare claims. At least one person is alleged to have used seven different identities to obtain multiple welfare cheques.

Some suggest that such numbers are a very small proportion of all claimants. Does that mean that we should do nothing?<sup>50</sup>

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45. *Ibid.* at 14:28.

46. *Ibid.* at 4:101.

47. *Ibid.* at 2:9.

48. *Ibid.* at 2:22.

49. *Ibid.* at 2:28.

50. *Ibid.* at 13:12.

Identity documents, then, protect us from the enemy outside our borders and the enemy within. They even reduce stereotyping of immigrants. Brian Grant spells out these connections in detail when he contrasts the nice side of immigration, “bringing families together”, with the “dark side”:

I begin then with a very simple question that we ask ourselves: what is the business we're in, and who exactly are we protecting when we speak about protecting society? I think the answer to that is threefold. The first is that we protect the Canadian public from threats to their health, safety, or security. The second is that we protect public institutions. A prime example of this is the medical and social services in Canada. One of the important additions to the 1976 act was the concept of excessive demand, which I will speak about more fully in a moment. This reflected the then fledgling universal medicare system that had been introduced nine years earlier. This is the second real thrust of who we think we should be protecting. The third is the immigration system itself. I think there are two goals in protecting the immigration system. The first is to preserve the system for legitimate immigrants and refugees. The second is to ensure that there is support for immigration – that the system is a controlled system, it is perceived as a controlled system – and in that way contribute to a positive response to immigration and a reduction of negative stereotypes that could build up.<sup>51</sup>

Since identity documents in and of themselves cannot specifically tell us who is a genuine Convention Refugee and who is not, nor who will abuse our systems and who will not, their value lies elsewhere. They tell us more *generally* about an individual's intrinsic moral character. In the words of Grant, they tell us who is truthful:

We expect truthfulness in response to our questions. We expect the appropriate documentation from anyone coming forward, seeking to enter Canada. Once they are in Canada, we ask that they renew their documents as required. Finally, we ask that they respect Canadian law. That's essentially what the control is based on.<sup>52</sup>

Refugees who admit that they have forged documents are at least being truthful in the moment of interrogation, and will not therefore be penalized, confirms John Butt, Director, Protection Policy, Department of Employment and Immigration.<sup>53</sup> (In fact, the law makes no distinction between those without documents and those with fake documents. Butt's statement is here part of the government's own duplicity.) The rhetoric of truth-seeking strikes a chord in listeners, not only because of its superficial logic (of course people should be truthful and *trusting* of the Canadian government), but also, as I suggest below, because of who the unnamed liars are: refugees of colour whose duplicity and criminality are easily believed in. The demand for documents also has a pedagogic purpose: it teaches refugees who Canadians are and Canadians in this scenario are simply reasonable people who demand honesty. One wonders if the logic here turns on the view that refugees are not likely to be people who value honesty as do Canadians.

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51. *Ibid.* at 3:46.

52. *Ibid.* at 3:47.

53. *Ibid.* at 3:89.

Immigration officials admit to committee members that documents can be lost during the conditions of flight and that refugees might be reluctant to admit possessing forged documents at the border for fear of being turned back, and for fear of implicating others still left at home. They acknowledge too that complicated identity issues are better dealt with during the formal asylum hearing.<sup>54</sup> These acknowledgements, however, do not disturb "simple logic". As the chairman of the committee simply reaffirms at the end of the day, if refugees do not have identity documents, it is likely because a smuggler made them get rid of them.<sup>55</sup> In this story, a refugee who gets to our borders without identity documents is someone we do not know, and someone who is likely to defraud us, as well as someone who is duped by smugglers. Her character and history are fixed for us in the moment of the encounter at the border. She is not someone with a past – although she is someone with a guessed-at future – that of welfare abuser.

When we examine more closely the encounters between Conservative committee members and critics of the identity documents provisions, the figure that gives "simple logic" its coherency is further revealed. For example, when Lucya Spencer of the National Organization of Immigrant and Visible Minority Women of Canada describes at length the difficult conditions of flight for women and the necessity of using forged documents, and when she notes that of 30,000 refugee welfare claims in 1991, only 43 were of a fraudulent nature, Fernand Jourdenais, a government member, replies contemptuously and patriarchally that these facts amount to a claim that we should simply take refugees at their word when we first encounter them:

Should we accept a person who states "Mon nom est Lucya Spencer and I am an honest girl"? How do I know who you are if I cannot really prove that you are?<sup>56</sup>

Ignoring her reply that identity can surely be established in an asylum hearing and that fraud is rare,<sup>57</sup> he simply reasserts "one bad one is one bad one." The figure of the refugee who is likely to deceive generous and unsuspecting Canadians is held as trump, introduced time and again by Conservative politicians to win the rounds.

A similar encounter transpires between Pascual Delgado of the Canadian Hispanic Council when he offers details as to why Latin American refugees are unlikely to have documents. His counter-story elicits the following emotion-laden response from Ross Reid, Parliamentary Secretary to the Minister of Indian Affairs and Northern Development and the representative for St. John's East:

God forbid that I would defend the bureaucrats in this particular area, but my experience I have to tell you, is that their obsession is not so much to keep people out. *Their obsession is to know who it is that they are dealing with.* My experience – and it tends to be limited to the horn of Africa, Central America, the eastern European situation and Newfoundland – has been very much one where they say, "If I

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54. *Ibid.* at 3:101 (Harder); and 4:25 (Schlew).

55. *Ibid.* at 12:33.

56. *Ibid.* at 5:10.

57. *Ibid.* at 5:17.



know who you are, I do not have a big problem with you being in Canada, as long as you are dealing with me straight. Don't try to rip me off as the immigration officer. Don't, at least in my sight, try to rip off the system." That is more the obsession I see. It is not to keep people out. Even the toughest immigration officers that I know in Newfoundland, who would be just as happy to line people up against the wall, are the first ones to call the Association for New Canadians and say, "This person is dealing with the system in an honest and direct way; help him." That is what I tend to see. I tend to see much more an obsession with the idea that, "I would really like to know who you are, and if you are going to be straight with me I am going to help you." It is not to keep people out.<sup>58</sup>

Here the speaker repeats three times that it is honesty he wants, an honesty that can only be revealed in the production of identity documents at the border. In effect, Reid details the script that refugees must learn and perform. They must learn that Canadians are straightforward people who only want the truth. If the obsessive need to "know who we are dealing with", repeated like a talisman to ward off any complicating details, is convincing, it is because the unknown native is a powerful and historical symbol for white people.

Speakers who contest the main story of a kind, truth-loving and generous nation are met with a defensiveness that verges on hysteria. Few witnesses bring up the subject of racism but when they do, an immediate and vehement denial and censure emerges. Dan Philip of the Black Coalition of Quebec opens his presentation with a reminder to the committee that the Minister of Immigration recently remarked in the House that the majority of Somalis were nomads who did not want to come to Canada anyway. Phillip describes the Minister's statement as "one of the most punishing statements made by a minister in recent times, because the people of Somalia, some of whom are here, have been trying to get their families here."<sup>59</sup> By tying in such statements to the privileged treatment accorded to the white-skinned refugees from Yugoslavia,<sup>60</sup> and noting the unequal treatment of Haitian refugees, Mr. Philip is immediately seen to have crossed the line of civilized communication. Mr. Fee takes him to task:

I do have a problem with some of your language ... You described the refugee determination system as hell and yet the UN High Commissioner for Refugees, a representative from the Carnegie Foundation, and other credible groups have all told us our program is an example for the world and one of the best. Our acceptance rate is extremely high. There are actually very few people rejected. So I find it difficult to accept your argument that our determination system is all that bad.<sup>61</sup>

When Philip clarifies that he was speaking of responses to specific groups, and notably to Somalis, he receives another defensive explosion from Mr. Fee: the entire world was caught unawares by Somalia and nobody was able to respond quickly. Canada

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58. *Ibid.* at 7:148 [emphasis added].

59. *Ibid.* at 12:41.

60. *Ibid.* at 12:42.

61. *Ibid.* at 12:50.

shouldn't be singled out for blame. As Mr. Fee puts it: "We recognise that the situation is bad, but what would you have us do beyond what we are doing?"<sup>62</sup> Phillip patiently explains again what could be done and Fee still replies: "We are a small nation; ... [t]here is a limit to what a small nation can do."<sup>63</sup> Phillip encounters here moral outrage that follows the naming of racism; his points remain out of bounds, impolite, accusatory and exaggerated accounts which committee members can only dismiss. Within the official narrative under construction in these exchanges, innocent Canadians who are doing all they can now confront people with whom they are deeply unfamiliar and whom they have reason to suspect. Members of the government note that some of the people seeking entry have "lived on the fringes of legitimacy",<sup>64</sup> and may be people who are "simply not suitable for this particular country".<sup>65</sup> This is why Canada must insist on "knowing who people are".

The "chaos" of Africa makes the task of identifying people both imperative and difficult. As the Chairman of the Immigration and Refugee Board explains to the committee, Canadians face a special challenge in knowing who Somalis are (and thus in protecting themselves from being duped by them). Gordon Fairweather, repeating the colonial story of Somalia as a land beset by warring tribes, a story Catherine Besteman describes as a reformulation of the story "they are all so primitive in Africa",<sup>66</sup> suggests that when we (in the civilized North) find ourselves in the middle of this tribal mess, we can only find our way out again when we are able to confirm the tribal identity of the players.<sup>67</sup> If the demand for identity documents makes sense, it is largely because it is the only way in which order can be imposed on the alien masses at the border. How else can one deal with such an onslaught of foreignness?

The critics of Bill C-86 who appear before the legislative committee must struggle with the implacable logic of the envious and foreign hordes at the border. Their counter-stories have little impact. Professor James Hathaway asks why Canada would penalize someone for document destruction after one member of the Immigration and Refugee Board has already established that he or she is a *bona fide* Convention refugee.<sup>68</sup> Warren Allmand, a Liberal member of parliament reminds the committee that the Geneva Convention makes clear that refugees must not be turned back because they lack suitable documents. He notes that refugees are afraid to admit they have forged documents, for fear this will be later used to assess the truthfulness of their claim to persecution.<sup>69</sup> In any event, as he and several others, including the Refugee

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62. *Ibid.*

63. *Ibid.* at 12:52.

64. *Ibid.* at 15:27 (Friesen).

65. *Ibid.* at 15:32 (Reid).

66. C. Besteman, "Representing Violence and 'Othering' Somalia" (1996) 11:1 Cultural Anthropology 120 at 129-133.

67. *Minutes, supra* note 1 at 5:83.

68. *Ibid.* at 7:115.

69. *Ibid.* at 3:89.

Lawyers Association<sup>70</sup> note, refugees must produce confirmation of their identity at the refugee hearing. When they fail to establish identity, their claims for asylum usually fail. In the refugee hearing, however, identity is not established solely through official documents such as passports and travel documents.<sup>71</sup>

Refugee advocates appearing before the legislative committee repeatedly confirm that more often than not, refugees must resort to false documents and that, owing to their histories of state persecution, they will believe smugglers over the Canadian government when advised to destroy documents.<sup>72</sup> Immigrant associations such as the Multilingual Orientation Services Association for Immigrant Communities go into considerable detail about the conditions of flight of the refugees they know. For example, Fiona Begg describes the political context of refugees who are native people from Guatemala (where the military deliberately burns records), whose histories of persecution are easily corroborated by means other than passports or birth certificates. Ted Walker of the Alberta Association of Immigrant Serving Agencies adds that the Immigration and Refugee Board has been known to suspect the credibility of claimants who *have* documents based on the inference that someone who possesses documents was probably not in a great deal of danger.<sup>73</sup> These arguments and narrative strategies are no match for the figures that give coherency to “simple logic” – the duplicitous native, the tribal unknown. The Bill passes in December 1992, becoming law in February 1993.

### **THE UNDOCUMENTED CONVENTION REFUGEE IN CANADA CLASS: “SIMPLE LOGIC” 1996**

Three years following the passage of Bill C-86, a Liberal government proposes to remedy the hardship s. 46.04(8) imposes on Somalis and Afghans. In the tone of someone granting special rights, the Regulatory Impact Analysis Statement published in the *Canada Gazette* (1996)<sup>74</sup> establishes the creation of a special class of refugees who can be landed despite their lack of documents. Convention refugees from Somalia and Afghanistan are first described in the Statement as innocent victims of regimes that have more or less collapsed. The hardships of not being landed are duly noted, in particular the delay in the reunification of families. However, the government makes clear, the plight of such refugees must be balanced against Canada’s need to protect itself from a small minority of individuals who conceal their country of origin and identity in order to receive protection. Requiring refugees to wait five years before earning the right to permanent residency gives the government time to establish who is criminal and who is not. The Regulations are vague about how this might be done,

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70. *Ibid.* at 5:58.

71. *Ibid.* at 3:100.

72. See for example Amnesty International, 4A:8-10; Inter-Church Committee for Refugees 4:69 in *Minutes*, *supra* note 1.

73. *Ibid.* at 12:29.

74. Regulations, *supra* note 13.

other than to work with the communities in question and to assess "conduct" (in lieu of the background checks done with other applicants) during the five years. The lengthy waiting period is acknowledged but firmly endorsed as necessary in order "to test, over time, the ongoing willingness of those refugees to respect the laws and norms of Canadian society".<sup>75</sup> "Simple logic" remains intact, although slightly muted in the Regulatory Statement. The country has a right to protect itself from those who seek to defraud it and it must teach Convention Refugees to respect the laws of Canada, according to the new Minister of Immigration Lucienne Robillard. Reminiscent of the earlier discussions about teaching refugees to be honest, the figure of the alien migrant who is unlikely to know about honesty and respect for the rule of law highlights the civility and moral superiority of Canadians. Less punitive than s. 46.04(8), the creation of the UCRCC nonetheless establishes a penalty and one that is quite substantial: a five-year wait for equal citizenship. The penalty is justified for those who have not yet demonstrated their qualifications to receive the full benefits of citizenship.

In the hearings of the legislative committee, a committee now made up of fewer Conservatives,<sup>76</sup> fidelity to "simple logic" is once again most evident in the responses of officials from the Department of Immigration and from Conservative members of parliament. Both simply reiterate that it is reasonable for Canada to know who it is dealing with, and that five years allows us to tell who is a criminal and who is not.<sup>77</sup> Val Meredith, the Reform member for Surrey–White Rock–South Langley, illustrates the narrative conventions of "simple logic" best when she asks, no less than ten times during a ten-minute exchange with two witnesses appearing before the committee, "[i]s it unfair of Canada as a country to expect to receive, at the point of entry, some documentation of identity, some travel documentation?"<sup>78</sup> The question, re-phrased only slightly each time and asked of two witnesses who attempt to explain alternative means of establishing identity, turns on an abstraction: the right of Canada to know, through identity documents given at the point of entry, who it is dealing with. No

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75. *Ibid.* at 3258.

76. The House of Commons of Canada Standing Committee on Citizenship and Immigration met to discuss and hear witnesses regarding the landing of "undocumented" refugees, in three separate meetings over the course of two days. Meetings nos. 31 & 32 were held on 3 December 1996; meeting no. 33 was held on 5 December 1996. Among the eight committee members were (at least) five Liberal MPs, one Reform, and one Bloc MP. The committee heard evidence from a total of 23 witnesses. The first meeting of December 3 heard evidence from two witnesses from the Department of Citizenship and Immigration; the second meeting of December 3 heard evidence from one member of the Immigration and Refugee Board and from two community legal representatives; the third meeting of December 5 heard evidence from eighteen witnesses representing various community and legal associations such as the Canadian Bar Association, the Catholic Immigration Center, the Afghan Association of Ontario, and the Somali Council for Refugees. The committee tabled its report to the House of Commons of Canada on 12 December 1996. House of Commons, *Standing Committee on Citizenship and Immigration Report*, 2<sup>d</sup> Sess., 31<sup>st</sup> Legislature (12 Dec. 1996), Hansard at 7423.

77. House of Commons, Standing Committee on Citizenship and Immigration, Meetings No. 31 & 32 (December 3, 1996), No. 33 (December 5 1996) at 31:1-4 (Jeff Lebane, Director General of Refugees) [hereinafter *Standing Committee*].

78. *Ibid.* at 33:7-9 (V. Meredith).

context is allowed, such as why it might be that a legitimate Convention Refugee would not be able to respect this right. This is perhaps the outstanding feature of “simple logic”: its reliance on “simple referentiality”, a bounded system of logic that ruthlessly excludes anything outside of its own limited parameters.<sup>79</sup> Further, as literary studies theorist Homi Bhabha points out, the realist features of this kind of logic, its “transparent factuality” (what you see is what you get), is structurally similar to colonial logic: the Other can only be known on the coloniser’s terms.<sup>80</sup> In this case, the coloniser can insist on knowing the colonised in ways that are impossible for the latter to fulfill. The Other cannot win under these terms and conditions, described here as fairness and straight dealing.

If the right to police the border is paramount, and excludes all other considerations, then the other features of “simple logic” become defensible. Meredith insists repeatedly that to grant any exceptions to the documents rule is to reward people who destroy their documents and to send the message that Canada’s borders are wide open.<sup>81</sup> Here, as in the C-86 discussions, these arguments appeal to those who believe that the “crowds” at the border, the “hundreds of millions of mobile individuals seeking a different life worldwide – people in movement looking for a better life” simply want what we have. Clearly, then “Canada cannot possibly take all the people who would like a better life economically.”<sup>82</sup> Within “simple logic”, refugees are often bogus.<sup>83</sup> To create the UCRCC will simply invite more fraud. Refugees will simply claim to be Somali in order to get in.<sup>84</sup>

Witnesses who appear before the Standing Committee on Immigration attempt to expand the boundaries of “simple logic”, as was done in the C-86 discussions. Chantal Tie of the South Ottawa Community Legal Services attempts to refute the “simple logic” refrain that we must know who people are by pointing out that we do know who they are, either through alternative documents or through corroborating evidence provided in the refugee hearing. She notes that we will not know them in any different way after five years.<sup>85</sup> Others speak of immigration’s “document fetish” where only a few very limited documents are acceptable and where what is an acceptable document remains highly arbitrary.<sup>86</sup> It is again pointed out that documents are very

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79. J. Gallop, “Quand nos lèvres s’écrivent: Irigaray’s Body Politic” (1983) 74:1 *Romanic Review* 77 at 83. Gallop is cited in this regard in I. Chambers, “Narratives of Nationalism: Being ‘British’” in E. Crater, J. Donald, & J. Squires, eds., *Space & Place: Theories of Identity and Location* (London: Lawrence & Wishart, 1993) 145 at 151.

80. H. Bhabha, “The Other question: difference, discrimination and the discourse of colonialism” in F. Baker, P. Hulme, M. Iversen, and D. Loxley, *Literature, Politics and Theory* (London and New York: Methuen, 1986) 148 at 165. Bhabha’s point is cited by Chambers, *ibid.* at 153.

81. *Standing Committee*, *supra* note 76 at 31:5; 31:6; 31:21; 33:35 (V. Meredith).

82. *Ibid.* at 33:41 (V. Meredith).

83. *Ibid.* at 33:49 (V. Meredith).

84. *Ibid.* at 32:15 (V. Meredith).

85. *Ibid.* at 32:9-12 (C. Tie).

86. *Ibid.* at 33:1 (N. Worsfold); 33:3 (L. Affi).

difficult for refugees to access. Rivka Augenfeld, a refugee lawyer, reminds the committee that some of the Jews fleeing Nazi Germany were saved only because Raoul Wallenberg, a Swedish ambassador, provided them with false documents.<sup>87</sup> Mohamed Tabit, representing Midaynta, a Somali Aid organization, tells of babies born during flight who could not possibly possess documents.<sup>88</sup> Witnesses make many of the same arguments as in the earlier discussions. They note, for example, that most of the "undocumented" are women and children, that war criminals are usually very careful to evade detection once in the country, and that in any event, it is possible to deport a permanent resident who is later found to be a war criminal. Often these objections can only be stated incredulously, so little sense does "simple logic" make once one leaves its narrow confines of fair-minded Canadians and duplicitous Africans. Contesting the five-year wait, Chantal Tie asks whether it is "the Minister's understanding that a war criminal is going to be caught shoplifting and we'll suddenly know who they are."<sup>89</sup> David Matas comments that asking Convention Refugees to wait five years before being landed is "a funny way of trying to engender respect for Canadian laws."<sup>90</sup>

Unlike its 1992 counterpart, the Standing Committee is moved by some of these arguments and stories. In its final report, it recommends a two-year waiting period and the eligibility of children of refugees for sponsorship as soon as an application for permanent resident status is made. It also recommends that guidelines be developed as to what constitutes suitable documents, a recommendation that even the dissenting Conservative members support. Surprisingly, in spite of the committee's recommendations, "simple logic" survives relatively intact once again. Even when the Conservative members of the committee are a distinct minority and the government is a Liberal one, the government rejects the committee's recommendations. On January 19, 1997, the Regulations are passed and the five-year wait remains in place. Its inconsistencies and impracticalities are swept aside on the strength of an impregnable internal logic: Canada is besieged and betrayed at every turn and must adopt stern measures to police its borders. We can only surmise that most members of the House agree with (or see the political advantage of) this narrative and believe, on the one hand, in the existence of highly suspect people of colour who need to be watched and, on the other, "original citizens" who must patiently teach these "Others" the deceptively "simple" terms of Canadian respect and decency.

### FINDING RACISM IN "SIMPLE LOGIC": 2000

Faced with the immovability of "simple logic", and the seeming rationality of a country protecting its borders from the unscrupulous, only a few critics have suggested that racism is what enables the identity documents rule to find support over the past

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87. *Ibid.* at 33:52.

88. *Ibid.* at 33:3.

89. *Ibid.* at 31:12.

90. *Ibid.* at 33:20.

decade.<sup>91</sup> In 1999, when Canada accepted 5000 refugees from Kosovo and exempted them from the identity documents provisions, racism surfaced briefly as a plausible explanation for the differential treatment meted out to Somalis and Afghans. Refugees from Kosovo were fast-tracked, granted permanent residence status and assisted with family reunification; all such benefits were denied to Somalis.<sup>92</sup> Since the refugees from Kosovo are white and the Somalis are Black, one newspaper columnist has suggested that racism is the most obvious explanation for the imposition of a five-year wait on Somalis and Afghans.<sup>93</sup> These few moments aside, critics of the identity documents provisions have mainly stayed in the less confrontational realm of disproportionate impact and systemic discrimination, concepts that do not produce the defensiveness that a charge of racism does. Thus, the Somali community, immigration lawyers, human rights analysts, scholars and activists point out the rule's disproportionate impact on Somalis and Afghans whose countries of origin remain in a state of collapse. They note once again that many refugees are forced to flee without documents, are often endangered if they do carry them, and in any event, can usually prove who they are in an adjudication hearing once safely inside Canadian borders. Legal scholars add that the identity documents provisions contravene various international Conventions to which Canada is a signatory. These scholars demonstrate how slight the relationship is between the rule and its declared objective of catching war criminals and welfare abusers.<sup>94</sup> It seems clear, Julia Dryer concludes, that the war criminals who are the object of the Bill are likely to be individuals in the best position to obtain identity documents given that many would have been officials in the former Somali government of Sayed Barre. More to the point, since eighty percent of those without documents are women and children, who are highly unlikely to have been government officials, Dryer reasonably concludes that the Undocumented Convention Refugee in Canada Class regulation is intended to work on a symbolic rather than on a practical level.<sup>95</sup>

It is in the realm of the symbolic that it becomes difficult to steer clear of the issue of racism. The figures who inhabit the land of "simple logic", the refugee bent on deceiving us, the alien who must be taught, and the Canadian who is envied for all the good things his or her country offers, is eerily reminiscent of Franz Fanon's description of the coloniser and the colonized. The colonized man is an envious man, Fanon writes: "And this the settler knows very well; when their glances meet he ascertains bitterly, always on the defensive, 'they want to take our place'."<sup>96</sup> How does it come to be that a complex situation, a refugee fleeing persecution and a nation assessing his or her

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91. Chantal Tie suggests to the committee: "We're denying landing to people who are black." *Standing Committee*, *supra* note 77 at 32:9.

92. Citizenship and Immigration, News Update "Refugees from Kosovo" (10 May 1999) 1.

93. M. Landsberg, "Why Waive Unfair Rules Only for Kosovar Refugees?" *The Toronto Star* (17 April 1999) Section L at 1.

94. Dryer, Brouwer, *supra* note 11.

95. Dryer, *ibid.* 165 at 179.

96. F. Fanon, *The Wretched of the Earth* (New York: Random House, 1963) at 39.

story, can be reduced to the "simple logic" of knowing "who we are dealing with" at a single moment in time through a passport or a travel document, even a forged one? Such a determined decontextualization and an insistent return to the simple narrative that "we must know who they are" draws its strength from another underlying colonial notion. Fanon is instructive here:

It is not enough for the settler to delimit physically, that is to say with the help of the army and the police force, the place of the native. As if to show the totalitarian character of colonial exploitation, the settler paints the native as a quintessence of evil. Native society is not simply described as a society lacking in values. It is not enough for the colonist to affirm that those values have disappeared from, or still better never existed in, the colonial world. *The native is declared insensible to ethics ...*<sup>97</sup>

The threat that the immoral native poses only subsides when we contain it: "In the colonial context, the settler only ends his work of breaking in the native when the latter admits loudly and intelligibly the supremacy of the white man's values."<sup>98</sup> The settler needs to be reassured that the native has left behind the vestiges of tribalism. Five years' wait is not too long a time to tell if the mud of the native town still clings to him or her.

The race shadow behind the insistence on identity documents and on the five-year wait helps to understand why the very logical counter arguments proposed by critics of the identity provisions carry so little weight. As Toni Morrison writes, "contradiction, incoherence and emotional disorder 'fit' when the subject is black."<sup>99</sup> There need not be a logic given "the general miasma of black incoherence."<sup>100</sup> The figure of the refugee in these discussions is simultaneously the hapless victim of smugglers, the persecuted and also the wily and cunning traitor who will turn around the first chance he gets and abuse our generosity (although the majority of refugees without documents are women). These shadows circulate in the text giving substance to the story of our need to know "who they are" and our need to make them wait for the full benefits of citizenship. The story thus acquires a kind of coherency and logic it would not otherwise have. If we believe that refugees can lose their documents, and *are* at risk when they carry them, how can we penalize those who cannot immediately confirm their identities with documents? We can do so if we are equally convinced that the refugee bodies of the 1990s are capable of, and indeed bent on deceiving us. And if we see ourselves as having the right and the obligation to teach them about our unquestionably "superior" values.

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97. *Ibid.* at 41 [emphasis added].

98. *Ibid.* at 43.

99. T. Morrison, "The Official Story: Dead Man Golfing" in T. Morrison & C. Brodsky, eds., *Birth of a Nation'hood: Gaze, Script, and Spectacle in the O.J. Simpson Case* (Lacour, New York: Pantheon Books, 1997) vii at ix.

100. *Ibid.*



Who is the subject who might believe so easily that s/he is besieged and likely to be deceived, the subject who believes s/he must teach Others his values? Writing of the social construction of whiteness, Richard Dyer describes the ways in which whites have constructed themselves in a story of origins as moral and virtuous, capacities which have enabled them to tell the story of having “developed” (rather than colonized) lands occupied by others. The Canadian national story, Dyer writes, relying on the work of Carl Berger (1966), is a characteristic one in this respect with its rhetoric and imagery of enterprising and hardy citizens of a cold land who through their hard work have forged a nation out of nothing.<sup>101</sup> In this compressed narrative, white people become the original inhabitants since it is only they who are cast as capable of making the country what it is. They bring order and civilization where previously there was none, a logic that survives intact in the responses of Canadian courts to Aboriginal land claims.<sup>102</sup> A story of origins thus told depends on the erasure of non-white inhabitants and on their inferiority. Either the land was empty or it was filled by those too lacking in enterprise to develop it. To be white is to be honourable, square-dealing and enterprising, while to be non-white is to be dissolute and dishonest, a national mythology that has considerable historical and contemporary appeal for both elite and non-elite white citizen subjects. Reviewing Canadian nationalist thinkers of the nineteenth and twentieth centuries, including political leaders, historians, social commentators and prominent writers, Berger explores the logic of the myths and legends upon which these thinkers relied in order to promote nationalist feeling. The myth of greater commitment of Northern peoples for liberty, for example, contained the following logic:

Liberty itself depended on self-reliance, a rugged independence, instilled by the struggle for existence. Thus to the equation of “northern” with strength and the strenuous virtues, against “southern” with degeneration and effeminacy, was added the identification of the former with liberty and the latter with tyranny.<sup>103</sup>

Canadian nationalist, Berger concludes, has relied on this notion that stronger and superior Northern peoples have a greater capacity for governing themselves and a correspondingly greater commitment to liberty, while Southern peoples without such values, undermine the nation. The national mythology has often appeared its most vigorous in immigration debates. In the official constructions of Chinese immigration, constructions that led up to the *Chinese Immigration Act* of 1923,<sup>104</sup> Kay Anderson writes, Canada “appears scripted in official texts as a pure space, one that if impregnated by the flow of alien material would become contaminated and offer up inferior ‘stock’.”<sup>105</sup>

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101. R. Dyer, *White* (New York & London: Routledge, 1997) at 21; C. Berger, “The True North Strong and Free” in P. Russell, ed., *Nationalism in Canada* (Toronto: McGraw-Hill, 1966) 3.

102. D. Culhane, *The Pleasure of the Crown* (Vancouver: Talon Books, 1998).

103. Berger, *supra* note 101 at 15.

104. *Chinese Immigration Act*, 1923, 13 & 14 Geo. V., c. 38 at 301.

105. K. Anderson, “Engendering Race Research: Unsettling the Self-Other Dichotomy” in N. Duncan, ed., *Body Space* (New York & London: Routledge, 1998) 197 at 202. See also K. Anderson,

The story of origins and its immigration narrative, to which Richard Dyer, Carl Berger and Kay Anderson refer, is in evidence in the CBC documentary "A Place Called Dixon" which aired on prime time news in November of 1993, some months after Bill C-86 took effect. A documentary about an area (and apartment buildings on a specific street, Dixon Avenue) in Toronto where many Somalis live, the film tells the story of white Canadians as the original occupants of Dixon. Now overcrowded and feeling overrun, these "original" inhabitants describe "tribal" Somalis who abuse welfare. The Somalis, for their part, describe racist incidents including racist police, security guards who name their dogs "Mohammad" and "Allah" and who defend their harassment of Somali youth with the comment that "you all look the same." Ostensibly presenting both sides of the story, the documentary nonetheless devotes considerable time to the story of white citizens who welcomed Somalis and who now have to adapt to a new reality in their country where it is not possible to ride in an elevator with another white person. Far less time is devoted to exploring the comments of Somalis who are interviewed and who comment that Canadians do not know what Somalis have been through. Voice-overs suggest that terrible things have indeed happened to Somalis (things from which we have saved them?) but by the film's end, we are none the wiser although we have hints that what has happened to Somalis has to do with violence and "tribal" warfare. A defiant comment by a young Somali woman that Canadian land is stolen land does little to disturb the central narrative of an innocent people suddenly inundated with things and people they don't fully understand.<sup>106</sup> "A Place Called Dixon" invites Canadian viewers into a specific place from which to safely view and live their nation – a place in which white inhabitants are besieged and betrayed. Such images and storylines enable dominant individuals to "feel" their citizenship,<sup>107</sup> and to imagine Canada as the terrain in which they are the original, and thus the entitled, envied and vulnerable inhabitants.

The sheer intransigence of "simple logic" and its capacity to withstand its critics are indicators that it relies on the same kind of racial story of origins to which Dyer refers and which the CBC documentary illustrates. When we are confronted by the grip that national mythologies have on ordinary people, Gail Ching-Liang Low suggests, it is useful to turn to concepts such as fantasy, focusing on the desires revealed in how individuals imagine their nations.<sup>108</sup> Drawing on Kobena Mercer's work on how Black men are reduced to what white men want to see, a process she calls "a semiotic of primitivity", Low explores the adventure stories of Victorian England (many of which were set in Canada). She shows how these tales reveal the English need to contain the threat of difference posed by Black bodies through repetitive use of stereotype. What,

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*Vancouver's Chinatown: Racial Discourse in Canada, 1875-1980* (Montreal & Kingston: McGill-Queen's, 1991).

106. Canadian Broadcasting Corporation, Documentary Film "A Place Called Dixon" (November, 1993).

107. Berlant, *supra* note 35 at 3.

108. G. Ching-Liang Low, "His Stories? Narratives and Image of Imperialism" in E. Carter, J. Donald, & J. Squires, eds., *Space and Place: Theories of Identity and Location* (London: Lawrence & Wishart, 1993) 187 at 188.

then, is revealed in the insistent refrain that “we must know who they are” through passports and travel documents? Does the notion of Somalis as people who need to be taught respect and honesty help to convince Canadians that they are indeed civilized? Iain Chambers describes how national fantasies work when he explores the hold that the extremely right wing politician Enoch Powell had in Britain and the wide support he won for his anti-immigration platforms. Powell, who rose to prominence in the 1970s with images of the English ‘race’ overwhelmed by hordes of immigrants, manipulated a limited set of images (Oxford and Cambridge, Queen Victoria and Churchill, and the storming of Dunkirk) that called to mind a British story of origins, one of white enterprise and superiority. To be British was to be “spiritually and morally the ‘centre’ of the world,” a world view that lay at the heart of Powell’s contention that Britain was in danger of losing its hold due to immigration. Critics who contested his anti-immigration story appeared to be “desecrating the national heritage” and indeed both sides of the House and the media believed in these powerful images as much as Powell did.<sup>109</sup> In the same way, to contest that Canadians are a generous and fair-minded people is to “desecrate” the national heritage. A powerful rage and censure descends on those who would do so, particularly those who ought to be grateful for being accepted into the country in the first place.

The key contention of “simple logic”, that the “original” Canada is imperilled owing to the arrival of refugees and immigrants (who are coincidentally dark-skinned and from the South), easily draws upon an older storyline evident in racist thinkers of the early twentieth century, a process Joseph Bendersky traces in his article “The Disappearance of Blonds: Immigration, Race and the Reemergence of ‘Thinking White’.”<sup>110</sup> Informed by a man who was visiting New York that the man’s family was told that they were particularly at risk of theft and assault in New York owing to their blond hair, Bendersky explores how this storyline of blonds in peril from the alien darker masses should come to be so easily believed by the tourist, the abundance of secure blond New Yorkers notwithstanding. He traces the genealogy of this idea in racial thinkers at the turn of the twentieth century, from prominent American Social Darwinists who worried that white blood would become tainted through miscegenation to influential scholars who lamented the passing of the great Nordic race. Bendersky shows how the storyline depends on the idea that the inferior non-white races “motivated by pure race envy and jealousy” want all the good things that whites have made for themselves.<sup>111</sup> The racial epic of a higher civilization threatened by a rising tide of colour has sustained several anti-immigration campaigns throughout the century. As morally superior “truthtellers” who possess “innate ethical endowment”, whites are naturally besieged by Jews and the darker races, as Edward Ross, a prominent racial thinker put it in 1914.<sup>112</sup> The emotional intensity of the racial epic

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109. Chambers, *supra* note 79 at 147.

110. J. Bendersky, “The Disappearance of Blonds: Immigration, Race and the Reemergence of ‘Thinking White’” (1995) 104 *Telos* 135.

111. *Ibid.* at 141.

112. *Ibid.* at 143 (Ross quoted in Bendersky).

was such that even those who had never seen Jews and immigrants subscribed to it and politicians were able to count on it when courting electoral support. By the late 1930s, when overt mention of the imperilled Nordic race was no longer socially acceptable, the racial epic was told as a story of a democratic land overwhelmed by "a wide influx of people who know nothing about our institutions and care less for them".<sup>113</sup> Ultimately, in the 1990s, the racial epic came to rely on the figure of the illegal immigrant, the immoral man intent on taking what was not his, a man whose culture and morality was the very opposite of the American way of life.<sup>114</sup>

Immigration as a story of a sovereign nation forced to protect itself from the unscrupulous and envious hordes remains the contemporary racial epic, a feature noted by scholars working in other contexts as well. Allan Pred, discussing Swedish moves to tightly control its borders in the 1990s describes the narratives of Swedish politicians who argue that alien migrant cultures threaten the Swedish way of life. Remarkably similar to Canadian political talk about testing to see if refugees have learned respect for the Canadian way of life, Swedish narratives are underpinned by the idea that Sweden is overwhelmed by immigrants and refugees who know little of Swedish values and customs and who are not often capable of respecting them. As Swedish Social Democrat Averker Astrom put it:

It is neither amoral nor against the law to investigate whether he or she [the potential immigrant or asylum seeker] has a criminal past, maybe as a terrorist; nor to ask oneself whether the individual in question appears willing or is capable of becoming a loyal member of Swedish society and whether he has what it takes to thrive; nor to try to judge whether he or she comes from a country or culture whose customs and usages are so extremely different that a reasonably harmonious adaptation is difficult or impossible ...<sup>115</sup>

The position that alien migrants threaten the original way of life relies upon what Pred calls "a particular geographical imagination", a remembering of Sweden prior to the arrival of migrants. When racist Swedish youth beat a Somali man in the city of Goteborg, in an area very much like Dixon, their defence counsel argues that his clients are not racist: "They only consider Sweden to be packed to the limit."<sup>116</sup> The social space is thus re-imagined to support the idea of the threatening immigrant whom we must control. For the idea of difference as threat to work, Marc Swyngedouw writes for the Belgian context, a prior idea of an original family of people must be in place. Thus an idea of racial descent underpins the notion that the hordes are at the gate and are unlikely to share our values.<sup>117</sup> It underpins as well the notion that we must know

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113. *Ibid.* at 150 (Discussions in Congress in 1935 cited in Bendersky).

114. *Ibid.* at 156.

115. A. Pred, "Memory and the Cultural Reworking of Crisis: Racisms and the Current Moment of Danger in Sweden, or Wanting it Like Before" (1998) 16 *Environment and Planning D: Society and Space* 634 at 643-644.

116. *Ibid.* at 654.

117. M. Swyngedouw, "The 'Threatening Immigrant' in Flanders 1930-1980: Redrawing the Social Space" (1995) 21:3 *New Community* 325 at 337.

who they are, a knowledge that does not include knowing about their histories or about our own complicity in the events that brought them to our borders. Instead, we must know their essence – whether or not they are like us.

The racial story of identity documents, our insistence on knowing who refugees are *outside* of history, derives strong support from the liberal notion of a sovereign state that has a right to control entry and to maintain a distinction between the rights of those inside and those outside its borders. The notion of a sovereign state standing outside of its history is eminently compatible with the narratives of whiteness described by Dyer. How the state has come to be, the bodies on which it has relied, and the historical and contemporary relationships that sustain it (for example Northern exploitation of the South through trade policies), do not typically enter the discussion of rights.<sup>118</sup> Insistently told as an ahistorical and national rather than an international story, liberal terms of reference make it difficult to consider how it comes to be that there is a flow of bodies from the South to the North and how the North is itself implicated in the production of these migrations and refugee flows.<sup>119</sup> For most people, it is difficult to cut through the rhetoric about tribal warfare in Africa and the “crisis” produced by 37,000 refugees at the door, in order to find the Canadian economic and foreign policies that directly contribute to the crises in Africa. Arguing that the creation of an impregnable border only serves to increase the smuggling of immigrants and thus revenues to crime syndicates, Liz Fekete and Frances Webber put the issue of complicity baldly:

So long as globalization of markets continues to destroy the livelihoods of Third World producers, and western arms sales prop up repression, people will try to escape; and so long as their legal means of escape are blocked, whether by protectionist labour policies or by slamming the doors on refugees, they will be forced to use dangerous and illegal means.<sup>120</sup>

The argument that the acceptance of 37,000 refugees marks a national crisis thrives, in spite of the knowledge that the Canadian economy depends upon immigration to survive. Such details sink under the weight of the rhetoric of an entitled, dehistoricized and autonomous citizenry and sovereign nation. It is sobering to consider French academic Emmanuel Terray’s point that the issue of the “undocumented” may well be the heart of today’s political economy.<sup>121</sup> Western nations thrive on the unequal structure of citizenship that is created when some workers have fewer rights than

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118. Perhaps the best illustration of the decontextualized nature of debates over immigration is to be found in the issue of open borders. Scholars adopt positions either for or against yet seldom take into account that the border is relatively open for white populations and mostly closed for non-white ones. See for example D. Galloway, “Liberalism, Globalism, and Immigration” (1993) 18:2 *Queen’s L.J.* 266.

119. S. Sassen, *Globalization and Its Discontents: Essays on the New Mobility of People and Money* (New York: New York Press, 1998).

120. L. Fekete & F. Webber, “The Human Trade” (1997) 39:1 *Race and Class* 67 at 73.

121. Cited in J. Benthall, “Repercussions from the Eglise Saint-Bernard” (1997) 13:4 *Anthropology Today* 1 at 1-2.

others. Indeed, these nations so depend on the labour of the juridically marginalized and their legally produced vulnerability, that their economies would come to a standstill without such inequalities.

## CONCLUSION

Its economic value notwithstanding, if "simple logic" has thrived it is because it is able to draw upon a particular racial story of origins, a story about a kind and generous Northern nation overrun by refugees and immigrants who are simply out to abuse the country's generosity. Whether or not this story is articulated as openly as it is by the more Conservative politicians, it remains sufficiently in place and has an underlying emotional appeal such that the contrasting image of refugees who have specific histories and who are likely to be genuinely fleeing persecution, cannot take root. Facts regarding the rarity of fraud, the existence of alternative strategies to identify who people are, counter-stories about the conditions under which most refugees flee, and descriptions of the hardships imposed mostly on women and children who must wait three years for equal citizenship, do not suffice to dislodge "simple logic." Those who contest it are up against a powerful national mythology, a drama involving reasonable and civilized white people who only want honesty, and racial Others stubbornly bent on deceiving them. It is the simplest of storylines, and a very old colonial one. Today, when the storyline is again deployed to justify an unequal structure of citizenship, we would do well to remember Jonathan Benthall's point that human rights without citizen's rights, are extremely limited rights.<sup>122</sup>

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122. *Ibid.* at 2.

