Criminalizing "Marriage Fraud" at Multiple Borders

Tracing the Gendered and Racialized effects of Crimmigration in Canada

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"Canadians are generous and welcoming, but they have no tolerance for *fraudsters* who *lie* and *cheat* to jump the queue," said Minister Kenney. "This measure will help strengthen the integrity of our immigration system and prevent the victimization of innocent Canadians."

Minister Jason Kenney, Citizenship & Immigration Canada

Presentation Agenda

- Study Overview
  - *How Conditional Settlement Impacts Immigrant Women*
- Canadian Context
- Theory
  - Crimmigration; Structurally Embedded Borders, Intersectionality
- Findings & Key Concerns
  - Racial & gendered effects of structurally embedded and "temporal border"

"How Conditional Settlement Impacts Immigrant Women"

- Study Objectives (2015-2018):
  - Explore immigration policies that impact safety of *sponsored spouses & partners* & *live-in-caregivers*
  - Understand how immigration enforcement impact immigrants access to support services
  - Build capacity for community organizing and participatory research with immigrant women

Methods—Interpretive Policy Analysis

- Individual Interviews with Key Stakeholders
  - Immigration advocates
  - Lawyers
  - Settlement workers
- Parliamentary Debate
- Public Policies & Regulations
- Statistical data on sponsored spouses/partners
- Interviews with sponsored spouses (planned for 2017)

Canadian Context

- Canada = white settler state
- Immigration and nation building
- **First Nations**, **Inuit**, **Metis** and Indigenous peoples struggle for sovereignty and basic needs
- Multiculturalism, state policy since 1980s
  - Seeks equality for all
  - Maintains White Supremacy
    - e.g. English & French are official languages
- Relatively high public support for immigration

Policy & Demographic Shifts

- Steady immigration since the 1980s
  - Average 250,000 new PR/year
  - Top Source Countries: Philippines, India & China

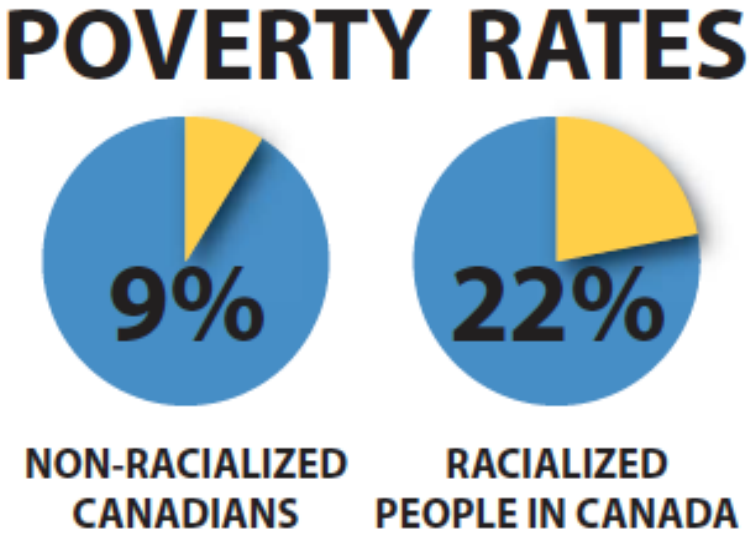
- 2008-2014, most active period of policy change
  - Family Reunification, Economic, Humanitarian & Citizenship
  - Over 100 policy changes (legislated and regulatory)

- ↑ Marked growth in temporary migration (1 in 30 residents)
  - Temporary foreign workers (high skilled & low-skilled)
  - International students
  - New conditions on family sponsorship
  - Fewer refugee claimants

Growing Immigrant Poverty

- Most immigrants are highly skilled, yet underemployed or unemployed

- **35%** poverty rate for immigrants, **<5 years** in Canada



Theoretical Framework

- Crimmigration
- Structurally Embedded Borders
- Intersectionality of the Deportable Subject

Crimmigration – Canadian Context

- 87,317 migrants detained 2006-2014 (noii, 2014)
  - Many without a specific criminal charge
  - No limit on length of detention
- Primary targets of detention & deportation
  - "Failed refugees"
  - Criminal Removals
  - Racialized men (i.e. African, Arab)
- "Criminalizing" administrative violations
  - "Bogus refugees"
  - "Fake visa students"
  - "Marriage fraudsters"

Case Study:

Criminalizing Marriage Fraud

Pre- and Post-Migration Border Controls

Pre-emptive controls on Sponsor

May not be eligible to sponsor if you…

- Did not pay court ordered alimony or child support
- Accessed social assistance for reasons other than being disabled
- Were convicted of a violent crime, crime sexual in nature, an attempt or threat to commit such offenses
- Declared bankruptcy

Pre-Emptive Controls on Sponsored/Immigrant

- May not be sponsored if you…
  - Are "criminally inadmissible"
  - If you or your spouse has been practicing OR intend to practice polygamy
  - Were married to someone else at the time of your marriage
  - Have lived apart from your sponsor for at least one year **and**
    - either you or your sponsor have a common-law or conjugal partner of another person

Pre-Emptive Im/migration Controls

- Temporary Visa requirements
  - Visitor, tourist, work, study permits
- Sponsorship Application Process (overseas or in-land)
  - Evidence of relationship
    - marriage, common-low, conjugal
  - Medical, Criminal and Background check
- Application Processing Time
  - Within Canada: 26 months
  - Overseas: 8 to 36 months (Ave. 16 mos)

Post-Immigration Controls on Marriage Im/migrants

- 2 year period of Conditional Permanent Residence
- 5- year Sponsoring ban
- Misrepresentation charge
- Criminally inadmissible
- Polygamy & Inadmissibility

Conditional Permanent Residence

- Introduced in Oct, 2012
- Applies to sponsored spouses/partners who:
  - Do not have children in common
  - Are in a relationship for two years or less
- Conditions
  - Must cohabitate in a "conjugal" relationship for two years
  - May lose status if the relationship ends or if you do not meet the condition
- Exceptions
  - Death of sponsor
  - "Abuse and Neglect"

"Exceptions for Abuse & Neglect"

- Vulnerability for Domestic Violence
- Uneven implementation of the "exception"
  - *3 of 4 were successful between 2012-2014*
- Low reporting to CIC
  - Fear of losing their status more than abuse
  - Fear for children who all have conditional PR
  - Cases of 'neglect' where sponsor abandons sponsored spouse for a new relationships
- In some cases, CIC officials talk to spouse, neighbors and family when investigating abuse
- Uncertainty about moving from conditional PR to 'regular' PR

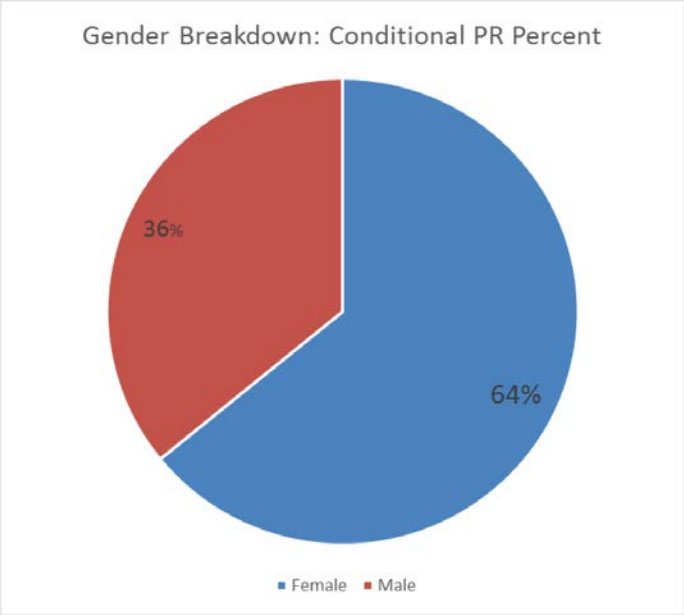
Statistical Profile for Sponsored Spouses From October 2012 to December 2014

- 103,887 newly sponsored spouses, common law partners and conjugal partners
- 28% with conditional PR
- 1,973 dependent children with CPR
- Top 5 countries, with most CPRs include:
  - India, China, Philippines, USA, Morocco
- Top 5 countries with highest percentage of CPR
  - Turkey, Tunisia, Azerbaijan, Algeria, Nepal, Morocco, Cuba
  - Average of 51%-56% received CPR

Gender Breakdown of Sponsors and CPRs

Sponsored Spouse/Partner with CPR

- Female 64%
- Male 36%



Sponsor

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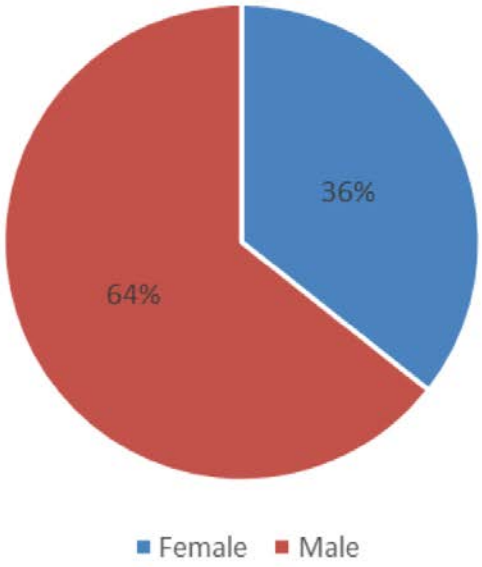
- Male 64%



Countries with Highest Number of PR with Condition

Country of Citizenship	Total PR Applications	Total PR with Condition	% with PR Condition
India	9701	4303	44%
China, People's Republic of	9834	2632	27%
Philippines	7214	2236	31%
United States of America	9084	1956	22%
Morocco	2133	1087	51%
Algeria	1672	902	54%
British Citizen	3085	840	27%
Iran	1961	714	36%
Sri Lanka	1764	709	40%

Countries with Highest % who Get PR with Condition

Country of Citizenship	Total PR Applications	Total PR With Condition	% with PR Condition
Turkey	461	258	56%
Tunisia	976	541	55%
Azerbaijan	29	16	55%
Algeria	1672	902	54%
Nepal	180	94	52%
Morocco	2133	1087	51%
Cuba	1220	617	51%
Albania	261	116	44%
Antigua and Barbuda	18	8	44%

Summary of Key Concerns

- 6 of 10 countries with highest proportion getting conditional PR are Muslim majority countries
- 9 of 10 countries with highest CPR in the Global South
- 9 of 10 countries require a visa to visit Canada
- Application processing times expand temporal border
  - 15 months application processing + 2 year conditional PR

Points For Discussion

- Raceless construction of 'marriage migrant' masks racialized effects
- Compound effect of pre- and post- migration controls
  - Reinforces policing of racialized/Muslim immigrants as suspicious of criminal intent
- Enables racial and gender discrimination
- Normalizes domestic violence
  - Positions state as protector
- Extends bureaucratic control of temporal border

Migrant Mothers Project

Til Immigrations Tears Us Apart: Stories of Strength through Struggle

Unprotected, Unrecognized: Canadian Immigration Policy and Violence Against Women, 2008-2013

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