

FACING THE THIRD COUNTRY AGREEMENT: THE
PRECARIOUS LIFE OF ASYLUM SEEKERS ENTERING
CANADA THROUGH THE US

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ABSTRACT

The 2002 Third Country Agreement between Canada and US requires asylum seekers to apply for refuge in the first country they land in. Through this agreement, Canada positions the US as a safe country for asylum seekers. However, with the election of Donald Trump and subsequent anti-immigration policies, this agreement is being questioned. This paper explores the politics of human rights by looking at the precarity of asylum seekers' lives and unpacks the transformation of these identities. I argue the Third Country Agreement increases asylum seekers' precarity, creating a unique group of refugees working towards social recognition and institutional support.

INTRODUCTION

In recent years, the war in Syria has rendered thousands of people homeless, looking for refugee status primarily in Europe and North America. Canada has accepted 40,081 Syrian refugees between November 2015 to January 2017 (Canada 2017). While much attention has been paid to the massive influx of Syrian refugees, another movement is taking place on Canada's southern border. In 2017, 20,000 asylum seekers passed into Canada from the US between official ports of entry, which is eight times more than the year prior (Pierce, Bolter and Selee 2018). This spike comes after the presidential election of Donald Trump, who made numerous administrative decisions that threaten the livelihood of immigrants living in the US (Connor and Krogstad 2018). These numbers continue to rise as asylum seekers in the US fear their loss of status due to sudden anti-immigration policy changes (Pierce, Bolter and Selee 2018).

The 2002 Third Country Agreement between Canada and the US aims to help manage Canada's refugee intake by stating that people must stay and claim refugee status in the first country they land in—either the US or Canada. Asylum seekers who try to make their way from the US to Canada or vice versa through one of the official crossing points will be turned back (Canada 2002). This agreement was made under the assumption that both Canada and the US are safe countries for refugees and immigrants to settle in. However, since the inauguration of Donald Trump, many asylum seekers have circumvented this agreement by entering unofficially into Canada between designated crossing points (Connor and Krogstad 2018), most notably through Quebec (Canada 2018a). Quebec alone has received 11,813 asylum seekers who entered illegally in the summer of 2018 (Canada 2018a). Many asylum seekers, trying to bypass the Third Country Agreement, risk their lives by passing through unofficial ports of entry. People who cross the border illegally regularly need to walk several kilometres to reach a town in Canada to seek shelter in. This journey is especially dangerous during winter when they risk having hypothermia or severe frostbite, which can lead to amputation or worse (Lambert 2018). Despite many urgent requests made by members of parliament to suspend the agreement, Prime Minister Justin Trudeau is not complying (Canada 2018b). These

statistics and stories reflect the uncertain livelihood of immigrants trying to flee the US to come to Canada.

Two foundational beliefs of humanitarian work are that all people are equal and part of a collective humanity and can help others on a need-by basis and without discrimination (Ticktin 2010). This assumes that everyone is deserving of a foundational set of human rights. However, inequalities exist between various social groups. Oftentimes peoples' struggles go unrecognized, and people do not have adequate access to resources that are considered a human "right," such as clean drinking water. Human rights tend to be upheld by the nation-state they belong to. Thus, when a person's rights are not being upheld by their country or if they no longer have a country to go back to, they are stripped of their institutional supports and left with their mere humanity. Identities shift and change as individuals who were once citizens of a country are forced to leave their homes due to dangerous conditions that could not be deterred by the country's institutional systems. They no longer have the institutional or social support to advocate for their wellbeing and uphold their rights. These individuals become refugees, seeking asylum in another country that can protect their safety and defend their rights. In this process, they are faced with the challenge of legitimizing their experience to others, trying to render their lives recognizable in order to receive adequate institutional support. Left with their bare humanity, their lives become precarious as they move through spaces with uncertainty of the future (Limbu 2009).

One site for this shift in identity is along the Canadian-US border, where recent changes in American politics is challenging the Canadian identity of pro-immigration and creating a group of asylum seekers trying to justify their motivation to flee a "safe" country as deemed by Canada. Asylum seekers who enter the US are often trying to escape violence, war, and extreme poverty. Their country of origin can no longer provide sustainable supports of these individuals and cannot protect their livelihood. When leaving their country, they are placed in a precarious situation as they no longer have a nation-state responsible or held accountable for upholding their human rights and must rely on foreign aid. Through this traumatic transition, adult refugees are even reframed as immoral individuals who willingly abandoned their country and are not to be trusted. Individuals are often perceived to be tied to the land they live and grew up on. One's culture

and morality are presumably “rooted” in the territory. When individuals become refugees, they are “ripped” away from their land, and thus from their culture and morality. They become unidentifiable nomads with no connections to a recognizable nation, and no obligations to anyone or anything. This perceived unbound-ness fuels stereotypes of refugees as dangerous (Malkki 1992). Along the US-Mexico border, this sentiment spills onto migrant children. Conventional ideas of children as innocent victims of violence are overshadowed by fear of the potential threat they pose to their country’s safety, job security, and economy. There is fear around what the child can grow up to do in the future and the resources they will use, like welfare (Fassin 2012). In America, these negative perceptions of refugees result in maltreatment and hostility that increases the uncertainty of their future. Their precarity is compounded by the Third Country Agreement, which positions the US as a “safe” country for asylum seekers despite the strong anti-immigration sentiments perpetuated by the federal government. In Canada, the identities of these asylum seekers are changing through this tension and must be rendered recognizable by the public and government officials before policies are made to protect this unique group of refugees. In this research paper, I explore how recent political changes led to the drastic reframing of the refugee identity and the consequences of this change. Additionally, I unpack how the US’ anti-immigration policies create tensions around the Third Country Agreement, which result in an emerging category of asylum seekers that are fleeing a “safe” country.

TRUMP’S POLITICAL REGIME

Donald Trump’s presidency started with much controversy around his professional background and political stances. Many actions he has taken since his inauguration in January 2017 continue to be highly controversial and contested. Of major concern for most US citizens and spectators around the globe is his harsh anti-immigration stance. In his first year of presidency Trump decreased refugee acceptance to its lowest since 1980, banned citizens of 7 predominantly Muslim countries from entering the US, ceased the Deferred Action for Childhood Arrivals (DACA) program and cancelled the Temporary Protection Status of several countries (Pierce and Selee 2017). Additionally, the Trump administration suspended the visas of

children and spouses of refugees residing in the US. All of these immigration policy changes aim to decrease immigration while increasing deportation (Pierce and Selee 2017). In Trump's first few months of presidency, from January 2017 to September 2017, the number of arrests made by the US Immigrations and Customs Enforcement (ICE) increased by 42% and the number of immigrants deported from the country rose by 37% (Pierce, Bolter and Selee 2018). These actions have the most direct influence on people whose lives are most precarious- refugees and asylum seekers.

The Trump administration's decision to cancel the Temporary Protection Status of citizens of countries such as Haiti and many parts of Central America is an immense threat to the livelihoods of thousands of people residing in the US (Connor and Krogstod 2018). No new admissions or renewals for the Temporary Protection Status are being accepted, meaning that in the next few years, they risk deportation to countries where they fear for their lives. This status cancellation leaves 690,000 people in a highly uncertain position (Pierce and Selee 2017) and leads thousands of asylum seekers to cross into Canada in search of refuge (Connor and Krogstod 2018). While immigration is a topic addressed by the federal government, ICE relies heavily on state and local law enforcement cooperation to report and turn over unauthorized immigrants. Since these policies came into effect, there has been a divide amongst state legislations, with some passing laws that limit and challenge ICE interception and others enforcing full cooperation (Pierce, Bolter and Selee 2018).

Most recently, the Trump administration enacted the Zero Tolerance Policy in April 2018. Thousands of asylum seekers come from South and Central America yearly - trying to escape various forms of violence in their country of origin, including gang violence and domestic abuse. The Zero Tolerance Policy detains anyone illegally entering the US (Smidt and Freyd 2018). That is, anyone who enters the US between the designated crossing points is criminally charged. The Department of Homeland Security separates parents from their children if they suspect the child is not theirs, if they suspect the parent may harm the child, or if the parent is criminally charged (Department of Homeland Security 2018). Hence, families entering between authorized crossing points into the US are separated because the parents are criminally charged with illegal entry. Families are taken

into the custody of the Department of Homeland Security in Custody and Border Protection processing centers (Linton et al. 2017). The children of immigrants criminally charged with illegal entry upon processing are placed in shelters or other facilities run by the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR). Meanwhile, the parents must go to trial for their criminal offence and fight for asylum status (Linton, Griffin and Shapiro 2017; Department of Homeland Security 2018). It is not uncommon for children as young as three years old to be appearing unaccompanied by their parents in immigration courts (Smidt and Freyd 2018). This is a long process, meaning that families can be separated for months at a time. Even after the trial is over, reuniting children with their caregivers is a complicated and time-consuming task as they are held by different government agencies and go through different legal proceedings (Pierce, Bolter and Selee 2018).

While awaiting trial, migrants must endure insufficient living conditions in the processing centers. Individuals, families, and children are supposed to stay in the processing center for no more than 72 hours, yet longer stays are common (Linton, Griffin and Shapiro 2017). A report by the United States House of Representatives (2019) states that 2,648 children were in custody as of June 26, 2018. This number does *not* include the children who were reunited prior to this date, nor does it include the hundreds of children who were separated since. Since April 2018, at least 18 infants and toddlers have been separated from their parents for 20 days to half a year (United States House of Representatives 2019). Due to overcrowding at these holding centers, migrant children and individuals are living in abysmal conditions inadequate for the long periods of time they are being held there. A paper published by the American Academy of Pediatrics notes that many processing centers have a “lack of bedding (e.g., sleeping on cement floors), open toilets, no bathing facilities, constant light exposure, confiscation of belongings, insufficient food and water, and lack of access to legal counsel, and a history of extremely cold temperatures” (Linton, Griffin and Shapiro 2017: 4). At times people detained in the processing centers have insufficient access to medical care, are physically or emotionally abused by staff, and are separated from their friends and family, all of which adds to the trauma of fleeing the violence in their country of origin to seek asylum (Linton, Griffin and Shapiro 2017). From 2018 to 2019, 5 migrant

children have died while being detained by the government (Warren and Attanasio 2019). As many politicians and advocates note, these acts by border control and immigration agencies directly violate the standards set by the 1997 Flores v. Reno Settlement and the Trafficking Victims Protection Reauthorization Act (TVPA) signed in 2008. The Flores agreement outlines the standards of “detention, release, and treatment of minors in federal immigration custody,” which includes sufficient living conditions, and timely release (United States House of Representatives 2019:9). The TVPA holds that unaccompanied children who illegally entered the country must be sent to an Office of Refugee Resettlement facility within 72 hours (United States House of Representatives 2019).

In June 2018, a federal court ordered a temporary stop to migrant family separation while they looked over the details of the Zero Tolerance Policy and its subsequent effects on asylum seekers. The court ordered that all children be reunited with their families by July 2018. However, this deadline was not met as 711 children remained separated from their parents, several hundred of whom were deported prior to being reunited with their children. Since July 11, 2019, 30 separated children remain in government custody (United States House of Representative 2019). While the Zero Tolerance Policy is no longer in effect since Trump signed an executive order officially stopping it, there are still hundreds of children being separated at the border. This is because children can still be separated if there is reasonable belief that the parents pose a risk to the child’s wellbeing. However, the guidelines for this exception are not officially outlined, meaning that many families are divided over “...minor crimes, questionable accusations of gang membership, and unverified safety concerns” (United States House of Representatives 2019: 14). Since the termination of the Zero Tolerance Policy, over 700 children have been separated at the border (United States House of Representatives 2019).

The cancellation of the Temporary Protection Status and the enforcement of the Zero Tolerance Policy is a manifestation of the Trump administration’s anti-immigration stance. Despite worldwide disbelief and outcry, the Trump administration continues to push forward with its anti-immigration position. Furthermore, despite the Canadian Prime Minister and politicians speaking out against Trump’s

actions, the Third Country Agreement still stands. The US is still deemed as a safe country for refuge.

PRECARIOUS LIFE AND ISSUES OF LEGIBILITY

Many governments have human rights policies, such as the Canada Human Rights Act, that are meant to ensure the protection and rights of all human beings. These human rights policies are based on the premise that all people are equal through their membership to a collective humanity (Limbu 2009). We are all biologically human, and thus we are all equal and deserve equal human rights. However, as policies such as the Zero Tolerance Policy shows, not all people are necessarily equal, and some lives are more vulnerable to particular political and institutional forces than others.

There are boundaries to what it means to be “human” and who has access to human rights (Limbu 2009). In order to gain access to particular human rights, the person needs to be rendered relatable and recognizable to the public, government agencies, and other institutions. There are particular norms and ideas of “life” that individuals need to meet in order for their “life” to be socially and institutionally recognized (Butler 2009). A person’s life needs to be rendered legible, meaning that the person’s identity, lifestyle and experiences are recognized and socially meaningful in a society (Limbu 2009). It is important to have a legible life and identity to ensure a protected space within a society. Limbu (2009) argues that a major factor that makes a person legible and able to have access to human rights is their membership in a nation-state. Citizens rely on their governments to ensure their rights are being protected and upheld. Asylum seekers or refugees who fled their country of origin most often were let down by the governments meant to uphold their rights, and by leaving, they no longer have a nation-state to turn to for protection (Limbu 2009). Even though organizations such as the United Nations High Commissioner for Refugees (UNHCR) aid in ensuring the rights of refugees, their influence and capabilities are limited.

People who do not have their rights upheld by institutions are highly vulnerable as they are rendered illegible to citizens, governments and institutions. Refugees and asylum seekers are often met with

suspicion, seen as “betraying” their country for leaving (Malkki 1992). Across many cultures worldwide, there is a strong connection between land and identity. People may be seen as being “rooted” to their country’s land and gain their identity and culture through their connection to their country’s territory (Malkki 1992). When people are forced to leave their country, they are seen as losing their land, and thus losing their morality and culture. Other countries may frame refugees as psychologically ill, violent, or immoral (Malkki 1992). Representing refugees and asylum seekers as being asocial or immoral due to their assumed abandonment of their country adds to the vulnerability of asylum seekers who often have difficulty accessing institutions that can protect and uphold their human rights.

People struggling to maintain their rights are struggling to stay socially relevant and legible to society. If they cannot defend their social relevance and make others identify them as individuals “deserving” of aid, then they risk social death—becoming socially irrelevant and invisible to the greater society (Limbu 2009). Social death makes people’s lives more vulnerable and can result in actual death because policies, agencies, and institutions are unable to identify their needs and adequately uphold their livelihoods. For instance, along the Mexican-US border, border patrollers were usually posted along the border and would hear cries for help coming from asylum seekers exhausted and dehydrated from their journey. While they would usually go into the desert to locate these individuals, due to the influx of asylum seekers entering the US and higher processing times due to Trump’s border policies, there are seldom any patrol officers at the border listening for these cries of help. In 2018 alone, it is estimated that 283 migrants have died while attempting to cross the border. Most recently, a family of 4 were found dead along the Mexican- US border. The two babies, toddler, and woman are speculated to have died a few days prior in the desert, overcome by dehydration and heat exhaustion (Warren and Attanasio 2019). The death toll along the border may have been lower if there were still patrol officers stationed along the border, listening and ready to attend to distressed migrants. Some of these deaths could have been avoided if there were more compassionate immigration policies in place that sped up the asylum process and made processing more efficient, thus freeing up resources to help those crossing the desert looking for refuge. However, the needs of asylum seekers are institutionally ignored and denied through

anti-immigration sentiments and policies that render their lives illegible and socially irrelevant. Instead, resources are placed in the processing centers, which are overcrowded and unsanitary due to strict immigration laws. Unfortunately for hundreds of individuals, the social death of those trying to transition from travelling asylum seekers to US refugee leaves them increasingly vulnerable to the possibility of their actual death.

The degree of precarity of one's life is politically charged and involved in uneven power dynamics that make some lives more vulnerable than others. Who we depend on and how much we depend on a particular person or network of people is dependent on our position within that society. People's position in a society renders some lives more grievable or precarious than others. The recognition of a "worthy" life is context-dependent in that different contexts give way to different ideas of what it means to be alive. These contexts are constantly changing, and thus change how a "life" is recognized, whose life is recognized and by whom (Butler 2009).

The actions carried out by the current US presidential administration renders the lives of asylum seekers more precarious than the lives of citizens born and raised in the US. The sentiments surrounding the anti-immigration policies work to reduce the legibility of the lives of asylum seekers from South and Central America and works to construe human "lives" as simply "living" people. This reduction of life to merely living is best echoed in Trump's comments around illegal immigrants entering from the south of the US border: "We have people coming into the country or trying to come in, we're stopping a lot of them, but we're taking people out of the country. You wouldn't believe how bad these people are [...] These aren't people. These are animals" (Korte and Gomez 2018). This quote reduces the lives of illegal immigrants, many of whom are running from violence in their country of origin and are asylum seekers, to the level of merely "living" "animals." Trump's comments frame illegal immigrants as people whose lives are less grievable than that of the US citizen, thus favouring the lives of US citizens and making the lives of illegal immigrants more vulnerable and precarious. Drastic anti-immigration policies and sentiments such as this change the normative narrative of what it means to have a "life" and whose life is grievable. It reinforces the notion that asylum seekers entering between the official entry

points are immoral and asocial. This threatens the already fragile legibility and recognisability of the lives of asylum seekers who do not have a government supporting and upholding their human rights. While there is a substantial pushback to this re-framing of illegal immigrants' lives, the policies in place and anti-immigration sentiment continue to greatly shape the social, political, and economic conditions of asylum seekers.

In Trump's infamous 2016 campaign speech, he stated: "When Mexico sends its people, they're not sending their best...They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people" (Diamond 2019). These sentiments live on in 2019 as Trump described the influx of asylum seekers and migrants as an "invasion of drugs and criminals" entering the US (Diamond 2019). The crude and harmful generalization of the criminality of South and Central Americans extends beyond adults onto their children and future generations. In 2018 it was leaked that Trump believed that he could end birthright citizenship—a policy that states anyone born in the US is automatically an American citizen—and intended to do so through an executive order (Cillizza 2018). While this is not possible due to the 14th Amendment of the American constitution that directly upholds birthright citizenship, his intention to limit citizenship is an attack on immigrants entering the US and their future children. Didier Fassin (2012) explored the politics of humanitarianism and the limitations of compassion in his book *Humanitarian Reason*. He noted that children are commonly understood as innocent, vulnerable beings in need of protection. Due to this image, many humanitarian groups position children as victims of adults' wrongdoings, which prompt aid groups to focus on defending their rights. However, Fassin argues that at times this compassion is mixed with anxiety over the future potentialities of the child—perhaps the child will grow up to be an abuser, a child soldier, or a drug dealer. Suddenly, the image of the helpless victimized child turns into one of a criminal, threatening the security of the nation and community. This transformation in identity from the child victim to a security threat is manifested in Trump's desire to end birthright citizenship. By reducing adult migrants to "animals," "rapists," and "criminals," he is not only attacking the livelihood of adult asylum seekers, but he is also increasing the

precarity of the lives of migrant children and future generations by framing them as threats to present and future American ways of life. The political rights of the migrant child, adult, and their descendants are denied and questioned, leaving them increasingly vulnerable.

Alec Smidt and Jennifer Freyd (2018) calls these acts against migrants made by the governmental system institutional betrayal. Asylum seekers depend on the US for safety from the violence in their country of origin. However, the US betrays the confidence of the migrants who look to them for sanction. Instead, the US government structurally imposes violence against asylum seekers, systematically harming them through various social structures and institutions, such as government policies and agencies (Farmer 2004). Anti-immigration sentiments and policies create a hostile environment not only for asylum seekers entering the country but also for current refugee status holders and various legal immigrants whose country of origin is being belittled and attacked by these policies and sentiments. Policies such as the Zero Tolerance Policy exerts violence on asylum-seeking immigrants and their families through the systematic process of criminalization, family separation, and the long, difficult immigration process. These political acts of violence further shift and reinforce ideas of the refugee as a threat to American society. These sentiments trickle down to the children of asylum seekers and their future generations, questioning their morality, which increasingly delegitimizes their claims to aid and challenges their social relevance. This perceived identity adds to their precarious circumstances as they struggle against social death and invisibility.

CANADA AND THE THIRD COUNTRY AGREEMENT

What role does Canada play in upholding and reproducing the increasing precarity and illegibility of asylum seekers? Canada prides itself on being culturally diverse, accepting people from various walks of life, and upholding human rights. Current Prime Minister Justin Trudeau tweeted in January 2017 after Trump announced the travel ban on seven predominantly Muslim countries, “To those fleeing persecution, terror & war, Canadians will welcome you, regardless of your faith. Diversity is our strength #WelcomeToCanada” (Smith 2018). However, this tweet and the pride many Canadians have over

being culturally accepting conflicts with the Third Country Agreement that was signed in 2002 and is still in effect today.

Under the Third Country Agreement, people who enter the US and wish to travel to Canada, or vice versa, to seek asylum will be turned back to finish their immigration process in their initial country of entry (Canada 2002). This agreement is only in effect when coming in through the US-Canada land border entry points by train or in airports (Canada 2016). This agreement was made as part of the “US-Canada Smart Border Action Plan” and is meant to share the responsibility of asylum seekers and refugee claimants (Canada 2016). A country is safe as long as they can “respect human rights and offer a high degree of protection to asylum seekers” (Canada 2016). A designated safe third country must adhere to the 1951 Refugee Convention and the 1984 Convention against Torture, among other conditions (Canada 2016). As of today, the US is the only designated safe third country in the Canadian *Immigration and Refugee Protection Act* (Canada 2016). However, the recent political climate and string of anti-immigration policies have left many asylum seekers risking their lives crossing the Canadian border between official entry points to apply for asylum in Canada. The influx of asylum seekers crossing the Canadian border has left many Canadians wondering: Is the US still a safe country for asylum seekers?

Many politicians, lawyers, professors and the general Canadian public have been questioning why the Safe Third Country Agreement has not been suspended. The agreement states that it can be suspended for up to 3 months with a written notice to the other party or, be terminated after a six-month written notice (Canada 2002). In the midst of the 2017 immigration ban of 7 predominantly Muslim countries, over 200 law professors from across Canada had signed and sent a statement to the Minister of Immigration, Refugees, and Citizenship, Ahmed D. Hussen, and Prime Minister Justin Trudeau asking for the agreement to be suspended. The letter reads: “...the Canadian government must immediately stop blocking refugee claimants from crossing the border from the US into Canada” (Suspending Safe Third Country Agreement 2017). This call for a suspension was echoed by the Canadian Association of Refugee Lawyers (CARL), with Vice President of CARL stating, “We should not be sending anyone back to face an increasingly hostile and discriminatory system” (Canadian

Association of Refugee Lawyers 2017). These comments are not far removed from the comments made in the House of Commons, whereupon the recent Zero Tolerance Policy, NDP House of Commons representative Guy Caron stated, “[How] can this government consider the United States to be a safe third country when the U.S. government is locking up children and separating migrant families?” (Canada 2018). A fellow NDP seat holder in the House of Commons, Jenny Kwan, also commented, “Former minister Lloyd Axworthy, the chair of the World Refugee Council, and Allan Rock, former UN ambassador, are clearly stating that the U.S. is no longer a safe country for asylum seekers. Canada must not be complicit in this inhumane treatment of children” (Canada 2018). Yet, the Canadian government warned against illegally crossing the border, stating that refugees and asylum seekers residing in the US who do so risk deportation. In 2017, 8,286 Haitians applied for Canadian asylum, which is a considerable spike from the 631 applicants a year prior. This spike is mostly attributed to Trump’s withdrawal of the Temporary Protected Status (TPS), which risks the livelihood of 46,000 Haitians in the US. Likewise, the suspension of the TPS risks the livelihoods of thousands of Central Americans seeking asylum. The number of Haitians seeking asylum is also considerably higher than the 1,415 Syrian asylum applicants in 2017. Despite these numbers, only a quarter of Haitians who claimed refugee status in Canada were accepted. This is extremely low compared to the 90% of asylum seekers from Syria, Yemen, and Eritrea, who were granted refugee status (Connor and Krogstod 2018). Hence, even if asylum seekers from the US successfully cross into Canada, they are not guaranteed refugee status and continued protection under the Canadian government due to the Third Country Agreement that positions the US as a “safe” country for asylum seekers.

Since early 2018, politicians, lawyers, and members of the public have been debating and questioning the status of the Third Country Agreement. There have been multiple news reports documenting the influx of immigrants coming into Canada from the US, trying to navigate around the agreement by entering between official entry points or entering via boat. Many immigrants risk their lives trying to seek asylum in Canada to avoid the string of harsh anti-immigration policies being carried out in the US. The RCMP intercepted 1,018 migrants along the Manitoban border in 2017. In 2018, they received

over 177 emergency calls from asylum seekers who crossed the border and were in dire need of assistance, many of whom were lost in the prairies in the dead of winter. In one 911 call, a Somali refugee crossing into Canada from the US with a group of people told the operator that he was “freezing to death” and one man could not walk anymore. Despite their dire situation, when the operator told them to find the nearest road and stay put for the ambulance and RCMP, the asylum seeker asked to confirm if the first responders are Canadian (Grabish 2019). This story is not uncommon. Asylum seekers must make risky decisions and endure life-threatening situations in search of a place where their experiences are recognizable to the public. Their lives are precarious as their future remains uncertain in their quest for a legible identity and institutional supports that uphold their human rights.

A survey was done by the polling firm Ipsos that was commissioned by Immigration, Refugees, and Citizenship Canada in 2018 found that while many Canadian citizens are pro-immigration, they are wary about asylum seekers coming in from the US. Many citizens, especially recent immigrants, are suspicious of these asylum seekers. Many wonder if they are trying to take advantage of the Third Country Agreement loopholes and are concerned about the effects the new asylum seekers will have on social services such as housing and welfare (Wright 2018).

Mavis Otuteye was a 55-year-old woman found dead less than a kilometre from the Canadian border. Officials believe she died from hypothermia as she was making her way into Canada from Minnesota. It is believed that she is a casualty of the Third Country Agreement as an asylum seeker looking for refuge in Canada (Glowacki 2017). Her death is, in part, a result of the illegibility of her experience as an asylum seeker fleeing America’s anti-immigration policies that threatened to deport her back to her native country where she faced unimaginable violence. Due to Canadian policies that do not recognize the US as a country threatening to refugees, there are no supports to those fleeing the US. Asylum seekers’ rights are being shaved off by the US government, and Canada is taking part by denying the access of many asylum seekers coming from the US who do not feel safe and are in search of a government that will uphold their human rights. This leaves these asylum seekers venturing alone through the harsh

Canadian wilderness in hopes of finding greater stability and support on the other side of the border. In the case of Mavis Otuteye, illegibility resulted in her social death and tragically, her actual death. The legibility of these particular asylum seekers is further challenged by their ambiguous identity: do these asylum seekers have just cause to be seeking asylum in Canada when they entered the “safety” of the US territory? This ambiguous, illegible life is observed in the general public, as demonstrated by the Ipsos survey, and also in the Canadian federal government through the lack of political action.

As of 2019, the issue of identity recognition for refugees fleeing the US has still not been resolved. In January 2018, a briefing memo to Immigration Minister Ahmed Hussen from Homeland Security stated that the Third Country Agreement between the US and Canada is “no longer working as intended.” It noted that individuals are circumventing the agreement by entering between crossing points, which does not work to curtail and manage the number of asylum seekers entering Canada and the US (Connolly 2019). Bill Blair, the Minister of Border Security and Organized Crime Reduction, has suggested a “modernization” of this agreement. The media has since speculated that the Third Country Agreement would extend to cover the whole Canadian-US border, meaning that anyone caught crossing between checkpoints will be brought to an official entry point and sent back to the US (Canada 2019). During a Citizenship and Immigration Committee meeting in April 2019, Michelle Rempel questioned fellow committee member, Marta Morgan, on these speculated agreement changes. Ms. Morgan refused to specify what changes were proposed to the US government, stating that “There is a wide range of changes that could be anticipated to the Safe Third Country Agreement,” and “Any changes made to the Safe Third Country Agreement would have to be negotiated with the United States. It's an agreement between our two countries; no changes can be made unilaterally” (Canada 2019). From this ongoing conversation, it is clear that Canada’s Department of Immigration, Refugees and Citizenship still views the US as a “safe” country despite years of parliamentary opposition to suspend the agreement, and intends to extend the agreement to all of Canada’s southern border, thereby substantially restricting the passage of US asylum seekers into Canada. This consideration has dire implications for hundreds of thousands of refugees who risk being deported back to their country

of origin, where they risk death. Furthermore, it increases the precarity of asylum seekers' lives who have one less option for safety, and one less chance at having their lives rendered legible.

However, not all hope is lost. The fact that there is a major push back on the Third Country Agreement from politicians, the media, and other members of the public shows that the identity of asylum seekers coming from the US is being recognized. Butler (2009) notes that in order for a particular life to be recognized, the life needs to be made recognizable. The life needs to be made into a subject for recognition in order for it to be recognized. A life that is fully recognized is socially meaningful, makes sense to the society, and will be upheld by laws and policies. While the future of this specific group of asylum seekers seems increasingly uncertain, the conversations that develop around this issue demonstrates that their experiences and lives are increasingly becoming recognized. Even though the Canadian government has not suspended or renegotiated the Third Country Agreement to protect asylum seekers entering Canada from the US, Trudeau acknowledges the negative impacts the US immigration policies have on refugees and vows to “continue to seek ways to modernize it” and “continue to closely monitor developments in the United States” (Canada 2018b). Greater acknowledgement of refugees fleeing the US is a step towards making this social group recognizable and socially relevant, which has the ability to inspire action. For instance, the Canadian Council for Refugees, the Canadian Council of Churches, and Amnesty International Canada openly challenge the Third Country Agreement, arguing that the “goal and the effect of the agreement is to reduce the number of refugees who can claim refugee protection in Canada. By implementing this agreement, Canada joins the many countries that take the ‘Not in my backyard’ approach to refugees. Only a tiny percentage of the world’s refugees reach Canada’s borders. We should not close our doors even on these few” (Canadian Council for Refugees 2017). On two separate occasions, these advocacy groups legally challenged the US’ designation as a “safe” third country. In 2005 the Canadian Federal Court found that the US did not meet multiple requirements of a “safe” country for refugees, but this decision was overturned by the Federal Court of Appeal on technical grounds, which did not consider the main issue at hand. This challenge was reissued in 2017 by the same three

organizations and is currently still in the Canadian Federal Court (Canadian Council for Refugees 2017).

CONCLUSION

There is a drastic identity transition that occurs when an individual leaves their country of origin, no longer covered by their country's political and institutional supports. They transition from a citizen to a refugee, seeking asylum in a foreign country and looking to find a new government that can protect their rights. During this search, asylum seekers fight for recognition and relevance of their lives so that they can receive the aid and support they require. Tied into this uncertainty is a negative stigma around refugees that frame them as dangerous, traitors to their country of origin and devoid of cultural principles and morals (Malkki 1992). This common generalization further threatens their legibility and claims to aid, risking them social death, which can result in their actual death.

The precarity of asylum seekers' lives is increasingly becoming prevalent as anti-immigration ideations and policies spread in the US under the Trump administration. The Trump administration's forceful anti-immigration stance has left many lives in a place of uncertainty - wondering if they will be deported back to the country they were trying to flee, wondering how long they will be held in processing centers, and wondering about their position in US society. The cancellation of the Deferred Action for Childhood Arrivals (DACA) program and the Temporary Protection Status of several countries in 2017 (Pierce and Selee 2017) has generated more precarity in the lives of those already vulnerable. The most recent Zero Tolerance Policy in 2018 has further created confusion and uncertainty in the lives of those crossing between official crossing points in search of asylum. Trump's ongoing public comments about illegal immigration further stigmatize vulnerable people seeking refuge. These sentiments target not only adult asylum seekers but also their children and future generations.

Canada takes part in adding precarity to asylum seekers' lives through the Third Country Agreement. By sending asylum seekers back to the US and still listing the US as their only "safe" third country in the Canadian *Immigration and Refugee Protection Act* (Canada 2016), Canada is adding to the uncertainty of refugee claimants' lives. The

agreement increases precarity by sending asylum seekers back into the uncertain, hostile US immigration system. Simultaneously, this agreement creates a contested category of asylum seekers who are under suspicion because of their effort to leave an assumed “safe” country.

However, increasingly, politicians, persons in the media, lawyers, and healthcare providers are working to bring this social justice issue to light. With the Canadian federal election fast approaching on October 2019, both the Conservative and NDP party platforms address the Third Country Agreement. The NDP aims to suspend the agreement with the US as soon as possible. The Conservative party wishes to renegotiate the terms of the agreement, noting that they look to decrease illegal crossings into Canada. While they do not specifically note how they would ideally like to renegotiate the agreement, the importance placed on reducing illegal entry suggests they wish to extend the agreement to include unofficial ports of entry. Hence, individuals who come between official checkpoints will be redirected and turned away. This sentiment is similar to the speculated suggestions made by the current Trudeau Liberal government, which has not yet released a statement or platform on this issue (Maclean’s 2019). The upcoming federal election will inevitably change the lives of thousands of asylum seekers entering Canada from the US, whether it means supporting or suspending the Third Country Agreement. No matter the result, as Trump’s reign continues to unfold, Canada needs to be mindful of how their policies and actions shape the precarity of lives of those across the border.

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