Manufacturing Threats: Asylum Seekers as Threats or Refugees?

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Introduction

Since the terrorist attacks of September 11, 2001, the issue of cross-border movement into Canada has not merely become a prominent item on the political agenda, it has been thoroughly securitized. While this has had a significant impact on several facets of Canadian border policy, including Canada's economic security vis-à-vis trade with the U.S., perhaps the most significant impact has been on individuals seeking protection in Canada and on the importance of international refugee law. The increased use of detention and deportation and the implementation of a safe third country agreement with the U.S undermine the humanitarian principles of international refugee law[1] that have been a fundamental aspect of Canada's approach to asylum seekers and refugee claimants. As significant as these post-9/11 changes have been, it is, in fact, not the first time in Canada's history that Canadian political elites have sought to 'securitize' the issue of asylum seeking and have sought to alter their commitments under the international refugee regime.

Immigration and security have been tightly linked throughout Canada's history, dating back to the racially exclusive nature of Canada's earliest immigration policies. The Canadian state has long employed exclusion clauses to prevent the potential entry of persons considered a risk to Canadian national security – defined in various ways throughout Canada's history. Even Canadian refugee policy, often considered the exemplar of Canada's humanitarianism, has long been connected with security concerns. The makeup of refugee intakes and the nature of post-intake surveillance of refugees have often reflected strategic Cold War interests[2] and fears over the demise of Canadian ideological cohesion[3] as well as fears of importing supporters of various national liberation and terrorist movements.[4] Concerns over the security implications of the 1951 Convention Relating to the Status of Refugees ('Refugee Convention'), namely the ability to deport individuals who were a threat to

national security, even delayed Canada's signing and incorporation of that pivotal international agreement.[5]

At the same time, Canada's refugee policies since the Second World War have also reflected a strong humanitarian commitment, demonstrated by Canada's large-scale refugee resettlement program, its commitment to the principles of the international refugee regime and the treatment it has afforded to those who arrive on its shores seeking refugee status. Compared with other states, Canada's treatment of asylum seekers has been generous, offering asylum seekers a full and fair determination process, considerable socio-economic rights while their claims are processed and protection from being deported to states where they face persecution. Canada's humanitarianism toward refugees has even been acknowledged by the United Nations High Commission for Refugees (UNHCR) when the Canadian people were awarded the Nansen Medal, the only people given such an honour.

While refugees and asylum seekers – like most potential Canadian immigrants – face security checks prior to entry into Canadian society to establish whether or not they are a threat to Canadian security, the dominant discourse on refugee and asylum seekers in Canada has not been securitized. The Canadian immigration and refugee determination system is designed to weed out security threats but, on the whole, treats unauthorized humanitarian migration as a normal, manageable and necessary element of international politics. Thus, the normal, or dominant discourse relating to refugees and asylum seekers in Canada reflects both security and humanitarian concerns. Challenges to this dominant discourse occur with regard to particular refugee movements – either by 'humanitarians', who reject the notion that some unauthorized migrants may not be in need of protection and may, in fact, pose a threat to the nation's security, or by 'securitizers' who contend that all, or most, unauthorized migrants are 'bogus' refugees, criminals, terrorists or otherwise threaten the nation by virtue of the magnitude of the flow.

Altering the dominant discourse toward either the humanitarian or securitized position would permit or even force Canadian political elites to fundamentally alter the manner in which the Canadian state deals with asylum seekers and refugees. This article is primarily concerned with the impact of a successful challenge by the securitizing discourse – such as we have witnessed post 9/11. This article demonstrates that the consequence of successful securitization is to narrow the range of appropriate responses to unauthorized humanitarian arrival. The result is a limiting of the government's options to deterrence and detention policies to the exclusion of the normal procedures for processing refugee claims that were reflective of Canada's concern for humanitarian principles as well as domestic security concerns.

The ability to challenge the dominant discourse relating to Canadian refugee policy, and to alter the manner in which the state deals with asylum seekers, raises a number of important questions. How is it that a relatively small number of asylum seekers were re-construed as a threat to the Canadian state? Furthermore, who decides

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[5] Reginald Whitaker *Double Standard: the Secret History of Canadian Immigration* (Toronto: Lester and Orpen Dennys, 1987) at 57-58.

when a development constitutes a crisis requiring emergency response? In essence, who defines security, and how?

To answer these questions, I examine two asylum seeker 'events' in detail, revealing how the issue of asylum seeking has been constructed as a national crisis requiring an emergency response, and revealing what actors played a critical role in that process. In each crisis, I examine the discursive practices of political leaders and the media, to demonstrate how these actors challenged the humanitarian representation of asylum seekers and contributed to the securitizing discourse. To do so, this article employs a thematic textual analysis of these episodes in four Canadian daily newspapers and one national newsmagazine. I examined the news and editorial content of the *Globe and Mail*, the *Toronto Star*, the *Vancouver Sun*, the *Montreal Gazette* and *Macleans* over the period July 1986 – August 1987. All articles, editorials and letters in each source were categorized as humanitarian or securitized; based on their representations of the asylum seekers and the Canadian state. In addition to the analysis of media texts, I also examined political speeches and parliamentary debates during this period.

Through the examination of migration crises in Canada, this article helps illuminate how security is defined and what actors are most pertinent to this process. It does so by tracing the process through which national borders become securitized and by identifying factors that impact the likelihood of success of these securitizing attempts.

Securitization and Migration

Securitization, associated with Barry Buzan, Ole Waever and the Copenhagen School, is the process whereby existential threats to a designated referent object, such as the state or society, are identified and, if the process is successful, acted upon through the implementation of extraordinary measures. For securitizing claims (statements that identify the existential threat and the referent object) to be successful, the credibility of the claim and the social position of the securitizing agent are important factors.[6] Thus, not just anyone can 'speak security' or make credible claims regarding existential threats; one must have sufficient social capital and be in a position of authority. Buzan and Waever identify a number of potential securitizing actors; of note, they identify political leaders[7], military/security managers, such as military, police and intelligence agencies[8] and, in the case of societal security and migration issues, the media[9]. Through the empirical examination of multiple migration securitizing crises, I have found that political elites, the media and military/security managers play the most important role in the securitizing process, and as such, are the focus in this article.

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[6] Buzan *et al.*, *Security: A New Framework for Analysis* (London: Lynne Reinner, 1998) at 32-33.

[7] *Ibid*. at 40.

[8] *Ibid*. at 55.

[9] *Ibid*. at 124.

Of course, these groups still have to convince an audience of the credibility of their claim. The credibility of a claim depends not only on the speaker, but also on the nature of the threat and the referent object. According to Buzan, Waever *et al.*, migration is a credible security issue – that is, one that is commonly constructed as a threat to society – because migration threatens to alter the current ethnic or religious composition of society.[10] Along a similar vein, Huysmans argues that migration can further be portrayed as a threat to fundamental components of the national identity, such as supra-national integration processes and the continuation of the welfare state. Consequently, there are various ways in which migrants could be portrayed as threatening during a securitization attempt. The most striking example of societal security concerns regarding migration to Canada occurred in the late 1800's and early 1900's with respect to Chinese immigration. As Kelley and Trebilcock document in detail, a significant portion of Canadian societal and political elites felt that 'the Chinese way of living compromised the safety of other communities'.[11] Commensurate with this discourse on Chinese immigrants, immigration restrictions were put in place to limit Chinese immigration to Canada.

The measures taken to prevent Chinese immigration are indicative of successful securitization, whereby extraordinary means are implemented to block the threatening development. According to Buzan and Waever, these extraordinary means ultimately impact interunit relations by breaking free of normal rules.[12] Once an issue becomes successfully securitized, political or societal leaders implement extraordinary measures to counteract the threat, usually through the use of force, though not exclusively.[13] In the case of migration, implementing extraordinary means usually involves the use of the coercive capacity of the state to detain and deport the offending group in order to deter or prevent further arrivals or to otherwise ensure that the offending group remains marginalized in society.

In cases where state leaders securitize the issue of migration, they break free of the normal rules of immigration and border control: first, by violating current legislation governing the treatment of migrants and second, by making these violations the norm by passing new legislation authorizing the extraordinary measures taken. In instances where societal leaders securitize the issue rather than state leaders, the extraordinary measures introduced are not explicitly sanctioned by the state and involve practices ranging from discriminatory hiring practices to violence against migrants – practices evident in a growing number of European countries. Such

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[10] O. Waever *et al.*, *Identity, Migration and the New Security Agenda in Europe* (New York, NY: St. Martin's Press, 1993).

[11] Ninette Kelley & M. Trebilcock, *The Making of the Mosaic: A History of Canadian Immigration* (Toronto: University of Toronto Press, 1998) at 95.

[12] B. Buzan, O. Waever & J. de Wilde, *Security: A New Framework for Analysis* (Boulder: Lynne Reinner, 1998) at 26.

[13] O. Waever, 'Securitization and Desecuritization' in R. Lipschutz, ed., *On Security* (New York: Columbia University Press, 1995) 46.

practices break free of the normal rules governing the relationship between individuals and groups in a society.

Individuals crossing an international border may represent a threat to the state or society in a variety of ways, not just to the current ethno-cultural composition of society. They may also represent a threat to the economic stability or physical integrity of the state and its individual citizens. Under this construction, criminals, terrorists, those with highly contagious diseases or those likely to be economically dependent on the state represent a threat to the state and society. Such concerns are evident throughout Canadian history. Not surprisingly, and as noted in the introduction to this article, this aspect of international migration has been securitized since the early twentieth century. Throughout its history, the Canadian state has consistently placed entrance restrictions on those with serious contagious diseases such as tuberculosis, those likely to be dependent on the state for their economic well being, serious criminals and those deemed terrorists.[14]

Security concerns necessitating control of the border has made unauthorized migration a particularly problematic issue. Unauthorized migrants are essentially unknown, since representatives of the state do not know whether unauthorized migrants belong to a previously securitized group of migrants, such as terrorists or those carrying communicable disease, or whether they belong to another non-securitized categorization, such as refugees or economic migrants. Furthermore, unauthorized migrants represent a problem for the state because they circumvent state efforts to control the borders and, in doing so, demonstrate the inability of the state to fully control cross-border movement. The issue is even more complex because refugees and humanitarian migrants often have to enter the state illicitly in order to escape their home state. In states that have signed the 1951 Refugee Convention, and for whom the admission and protection of humanitarian migrants is a fundamental element of the national identity, this is a particularly difficult issue. According to the Convention, refugees are not to be punished for entering the state illegally or without proper documentation. Consequently, states have had to balance two fundamental components of the constructed national identity: maintaining their 'humanitarianism' by upholding their international commitments to refugees, and protecting the 'national interest' by ensuring criminals, terrorists and those with contagious diseases do not gain access to the state.

Most western states have attempted to strike a balance between the competing values consistent with these identity constructs, by setting up a refugee determination process, whereby asylum seekers are permitted to enter the state on a temporary basis in order to demonstrate that they are, in fact, refugees – regardless of their mode of entry. Thus, over time, in keeping with the principles of the international refugee regime, the normal rules governing the entry of asylum seekers have been established. Asylum seekers, regardless of how they entered the state ('non-

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[14] For an overview of Canadian immigration and those excluded, see Kelley & Trebilcock, *supra* note 11; Dirks, *supra* note 3 and Freda Hawkins, *Canada and Immigration: Public Policy and Public Concern* (Montreal: McGill-Queens University Press, 1988).

punishment'), would not be refouled ('non-refoulement') until they had access to a legal determination of their refugee claim, which would be both reviewable and in accordance with the laws of the country ('legal processing of claims'). Their basic needs would be covered during the determination process and they would not be subject to arbitrary detention for the duration of the determination process ('non-arbitrary detention').[15] If an asylum seeker's claim to the 'refugee' identity construct is rejected in accordance with the legal determination process, the receiving state is no longer bound by the obligations it owes to refugees, or the temporary obligations owed to asylum seekers.

Thus, in the case of successful securitization, the norms and rules of the international refugee regime and domestic legislation pertaining to the refugee determination process are challenged and broken. As the identities of asylum seekers are challenged by securitizing actors who cast them as a security threat rather than the object of threat in their home state, their relationship to the receiving state is altered. When the asylum seeker identity is successfully reconstructed such that they are no longer identified as potential refugees, the humanitarian state is no longer bound by the rules governing the relationship between humanitarian states and asylum seekers. Consequently, successful securitization results in one or more of the four normal rules outlined in the previous paragraph being broken and replaced by other, more restrictive policies.

At its core, the securitized discourse reconstructs the identity of the asylum seeker and reifies the identity of the state, essentially denying its multiple identities, values and goals. In this discourse, the receiving state is portrayed strictly as a sovereign state with a right to determine who can and cannot enter the state and with a need to prevent the current influx,[16] while its humanitarian identity is either ignored or portrayed as a source of weakness that is being exploited by those threatening the state.

Paradoxically, in these instances, it is often the state's humanitarian identity that is portrayed as requiring protection. The state's ability to maintain its humanitarian identity is constructed as dependent upon its ability to maintain its basic sovereignty – interpreted as maintaining control over the border. Thus, in the securitized discourse, the state's humanitarianism is either being used by the asylum seeker to undermine their sovereignty or actually being threatened internally by a decline in humanitarianism due to the arrival of the asylum seekers.

While there are various manners in which the unauthorized humanitarian migrant can be portrayed,[17] there are two primary ways in which the asylum seeker is construed as a threat to the state. The first is as belonging to a class of migrants

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[15] Though the exact duties prescribed by the Convention are contested, in practice, these are the basic principles contained in the 1951 Convention Relating to the Status of Refugees, articulated by the Executive Committee of the UNHCR and identified *supra* note 1.

[16] Peter Gale, 'The Refugee Crisis and Fear: Populist Politics and Media Disclosure' (Dec. 2004) 40 Journal of Sociology 321.

[17] See Peter Nyers, *Rethinking Refugees* (New York: Routledge, 2006).

already securitized and, consequently, excluded from the state – notably criminals, terrorists or those infected with contagious disease. The second is as a threat to the ability of the state to control its borders, primarily by virtue of the magnitude of the flow of asylum seekers. In both instances, the discourse of threat implies that it is imperative that the state ensures that the asylum seekers remain outside the community. As asylum seekers become cast as a threat to the state, the state is forced to enact emergency measures, breaking the normal rules noted above. In essence, this means preventing their arrival, or, if they have already arrived, keeping them out of the community. This strategy is what migration scholars refer to as a policy of deter, detain and deport.

While the securitization of migration has become an accepted component of international politics and is now relatively well-established in the literature on international security,[18] there is a surprising lack of empirical evidence of the process, particularly respecting cases outside the European Union. This article aims to help rectify this deficiency. In the following section, I show how this process has occurred in the Canadian context. The two Canadian cases examined in the next section of the article demonstrates how asylum seekers have been constructed as a threat, identifying actors central to the process and factors likely to impact the success of securitizing attempts.

Background

During the 1980's, the number of asylum seekers arriving on Canada's shores increased dramatically. In 1980, fewer than 1,600 asylum seekers reached Canada's shores; in 1986, there were 18,000 asylum seekers.[19] Canada's refugee determination system was ill designed to cope with the number of refugee claims. Consequently, as the number of asylum seekers increased, there was a growing backlog of cases to be resolved. The Liberal government in the early 1980's, and the subsequent Conservative government, regarded the backlog as a growing political problem, yet there is little indication that it was regarded in any way as a national crisis or a threat to Canadian security. Consequently, asylum seekers continued to be processed in line with Canada's relatively generous refugee determination system.

There was, however, a consensus amongst all political parties that changes needed to be made to Canada's refugee determination process to reflect its new identity as a country of first asylum. The Liberal Government authorized two reports on the issue: the Ratushny Report and the Plaut Report. Both reports recommended streamlining the process, though they differed significantly in some areas. The Ratushny Report recommended tightening the determination process to exclude a

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[18] For example, see Waever, *supra* note 10; N. Poku & D. Graham, eds. *Redefining Security: Population Movements and National Security* (Westport: Praeger, 1998); and R. Miles & D. Thranhardt, eds., *Migration and European Integration: the Dynamics of Inclusion and Exclusion* (London: Pinter, 1995).

[19] Alan Nash, *International Refugee Pressures and the Canadian Public Policy Response* (Ottawa: Institute for Research on Public Policy, 1989) at 34.

number of claimants and to streamline the process,[20] though it was essentially ignored. The Plaut Report recommended minor changes to speed up the process, but changes that highlighted Canada's humanitarian approach.[21] The Plaut Report received much more 'air time' than the Ratushny report, and was tabled in Parliament in 1985. Until the events of 1987, it appeared that the Plaut Report would serve as the general guideline for legislative reform of the refugee determination process.[22]

Rather than overhaul the refugee determination system as recommended by both reports, the Conservative government adopted rather ad hoc measures to deal with the backlog issue. The two primary tools the government implemented to solve the growing problem was an administrative review process (an amnesty in all but name) as well as a fast track process for claimants from particular countries known to produce refugees (identified by the newly created B-1 list).[23] Both policies were aimed at resolving the backlog problem and speeding up the refugee determination process, yet they clearly reflect a greater concern with maintaining a humanitarian approach than with Canadian national security.

Despite the ad hoc, humanitarian approach of the amnesty and B-1 list, it is clear that the government was motivated by security considerations as well. During this same time, visa requirements were introduced for a number of countries producing questionable refugee claims[24] and the surveillance of refugees and immigrants continued in an effort to identify 'threats to the security of Canada'[25] – both of which are indicative of a greater concern for national security than for the security of individual asylum seekers. Yet, the general approach of the Canadian government to the asylum seeker issue does not demonstrate a prevailing concern for security but, rather, demonstrates a concern with upholding humanitarian values. Asylum seekers that arrived in Canada at this time were released into the Canadian population rather quickly (usually less than two days), very few were detained for any length of time and most were given extensive socio-economic rights, including work and travel rights. The Canadian tendency to favour humanitarian over security concerns is further illustrated by the initial response to the 1986 arrival by boat of a group of Tamil asylum seekers.

The 1986 Arrival

The discourse emanating from the media and political elites pertaining to the 152 Tamil asylum seekers reveals a strong humanitarian component. From the outset of

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[20] Ed Ratushny, 'A New Refugee Status Determination Process for Canada,' submitted to the Minister for Employment and Immigration, Ottawa: Supply and Services, 1984.

[21] Gunther Plaut, 'Refugee Determination in Canada: Proposals for a New System,' submitted to the Minister for Employment and Immigration, Ottawa: Supply and Services, 1985.

[22] Nash, *supra* note 19.

[23] *Ibid.*

[24] Kelley & Trebilcock, *supra* note 11 at 415.

[25] Aiken, *supra* note 4 at 62-64.

the 1986 episode, the asylum seekers were portrayed as individuals with legitimate refugee claims, characterized as refugees fleeing persecution in Sri Lanka. According to the newspaper coverage at the time, 'the Tamil minority in Sri Lanka fear persecution'; 'conflict (had) turned Sri Lanka into a killing ground' and Sri Lanka was a country that was 'embroiled in civil war'.[26]

The message relayed by the media was that the past success of Tamils bolstered the current group's identity claims: by reporting that Sri Lanka was one of the countries on the B-1 list (the list of 18 states to which Canada would not deport people because of repressive regimes); that refugee claimants from Sri Lanka ranked third overall in Canada with over 1920 claims in the past five years; and that, of those claims, over 960 had been accepted, an acceptance rate of close to 50%.[27] Additionally, the terminology employed by the Canadian media depicted the Tamils as refugees. The newspapers and news magazines almost exclusively used the term 'refugees' to describe the arrivals. The use of this term, prior to an actual determination process to establish their refugee identity claim, served to construct the asylum seekers as victims that had a genuine claim to the protection of the Canadian state under international law. Use of the term 'castaways' also maintained the humanitarian discourse.

The term 'castaway' served to construct the asylum seekers as victims as it emphasized their plight on the open ocean and their helplessness due to abandonment at sea. They were further constructed as helpless victims by the coupling of humanitarian terms such as refugee and castaway with a narrative account of being 'rescued' by Canadian fishermen, after being 'abandoned' by the transport ship's captain.[28] In nearly all accounts, the captain was accused of the 'transporting', 'smuggling', 'unloading', and 'casting away' of 'Tamil refugees'[29]. In only a very few cases were his activities described as smuggling 'illegal migrants', a construction that has been visited on many others in reasonably comparable situations, in Canada and Australia as well as most other countries around the world. The intense media attention devoted to finding the ship and its captain was due to the overall perception that the captain had 'abandoned refugees at sea' and had 'exploited refugees'.[30] This narrative further emphasized the asylum seekers' victimhood. Contributing to the

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[26]Ann Finlayson, 'Violence in Paradise,' *Macleans*, August 25, 1986 14-5; and Canadian Press, 'Sri Lanka: Each Day brings more terror' *Montreal Gazette*, August 13, 1986 2.

[27] Nash, *supra* note 19.

[28] Ron Lowman, '152 Castaways rescued by fisherman after 5 days adrift off Newfoundland,' *Toronto Star*, August 12, 1986 1; John Picton, 'Skipper now confesses: I took Tamils to Canada.' *Toronto Star*, August 29, 1986 1; and Canadian Press, 'Castaways wet, hungry say rescue skippers,' *Montreal Gazette,* August 13, 1986 2.

[29]Canadian Press, 'Castaways' vessel located off Azores,' *Globe and Mail*, August 16, 1986 1, 'Ship Captain Denies he smuggled Tamils,' *Vancouver Sun*, August 16, 1986 1, 'Smuggling scheme was captain's idea, 2 Sri Lankans say,' *Globe and Mail*, August 19, 1986 4; and Bill Schiller, 'Refugee ship captain broke no law, lawyer says,' *Toronto Star*, August 28, 1986 3.

[30] Nick Auf Der Maur, 'Response to refugees has depressing tone,' *Montreal Gazette*, August 20, 1986 2; Canadian Press, 'Accepting Castaways lauded by opposition,' *Globe and Mail*, August 17, 1986 5; 'Canada needs to stop refugee exploitation, cleric says,' *Toronto Star*, August 15, 1986 4.

humanitarian discourse was the attribution of passive characteristics to the asylum seekers such as: 'living in fear', 'found adrift', 'fleeing', 'fleeing violence', 'rescued', 'discharged', 'forced to leave', 'smuggled', and 'cast away'.[31]

In addition to portraying the asylum seekers as victims of the Sri Lankan state and a sea captain who abandoned refugees at sea, the media portrayed Canada as a humanitarian country that offered protection to those fleeing danger. In the news articles, editorials and letters to the editor, Canada's action in permitting entry to the 152 Tamil refugee claimants was described as 'welcoming', 'sympathetic and understanding', 'humanitarian and generous', 'commendable' and 'morally responsible'.[32] At the same time, calls from those challenging the Canadian government's decision were called 'unthinkable', 'small-minded and ignorant', 'devoid of compassion' and a 'knee jerk reaction' to 'racist backlash'.[33]

Coverage of the incident by four major daily newspapers clearly favored a humanitarian discourse, as illustrated in Table 1.

TABLE 1: HUMANITARIAN MEDIA CONTENT: AUG 13-OCT 7,1986

% Humanitarian (Total)	Front Page	Articles	Editorials	Letters
Globe and Mail	67% (18)	89% (55)	100% (4)	53% (15)
Toronto Star	81% (42)	84% (75)	100% (4)	44% (27)
Vancouver Sun	43% (7)	74% (27)	0% (2)	25% (4)
Montreal Gazette	79% (14)	61% (33)	100% (3)	43% (21)
Macleans	100% (1)	100% (4)	-	67% (3)
Total	74% (82)	80% (194)	85% (13)	46% (70)

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[31] Mark Kingwell, 'Canada best of choices, US spokesman says,' *Globe and Mail*, August 13, 1986 4 and Alan Story, 'Fisherman informed coast guard blip may have been mystery ship,' *Toronto Star*, August 14, 1986 16.

[32] See, for example: Robert Brehl, 'Canada's policy called "humanitarian",' *Toronto Star*, August 16, 1986 6; David Miller, 'Mississauga family welcomes exhausted refugees into home,' *Toronto Star*, August 15, 1986 4; Joe O'Donnell, 'Show compassion for Tamil refugees Mulroney urges,' *Toronto Star*, August 18 1; Canadian Press, 'Accepting Castaways lauded by opposition,' s*upra* note 30; Joe Serge, 'How Canada treats people seeking asylum,' *Toronto Star*, August 14, 1986 20, and 'Metro Tamils open homes for brethren found at sea,' *Toronto Star*, August 14, 1986 16; and Globe and Mail Staff, 'A passage to Canada,' *Globe and Mail*, August 13, 1986 6.

[33] A few examples are: Marjorie Nichols, 'BC bears shame of VanderZalm's racist view of migrants,' *Vancouver Sun*, July 28, 1986 7; Canadian Press, 'Doors open to those seeking freedom,' *Globe and Mail*, August 17, 1986 1, 5; Montreal Gazette Staff, 'Is protest against Tamils racism?' *Montreal Gazette*, August 25, 1986 2; Toronto Star Staff, 'PM shows heart on Tamil refugees,' *Toronto Star*, August 19, 1986 14.

As table 1 indicates, the dominant representation of the boat arrivals was humanitarian. 74% of the 82 front-page articles maintained a humanitarian discourse, describing the asylum seekers as having legitimate refugee claims and permitting their entry as fulfilling Canada's international obligations. 80% of the 194 other articles and 85% of 13 editorials sustained this discourse. Notably, less than 46% of 70 letters to the editors supported the humanitarian discourse – a subject to which I will return below.

The humanitarian portrayal of the Tamil asylum seekers was largely consistent with the humanitarian discourse that was the norm in Canada with regard to asylum seekers. Consequently, the asylum seekers were treated in the same manner that other asylum seekers had been – after initial security checks had been completed they were given permits to enter Canada, which allowed them to find employment while their refugee claims were being processed. The humanitarian discourse was so dominant that the notion that the Tamil asylum seekers may not actually qualify for protection in Canada was rarely expressed in the early stages of the episode. It was not until the media uncovered that the asylum seekers had actually embarked on their journey from Germany, where they already technically enjoyed protection, that competing discourses arose. While Canadian law dictated that their applications still be processed, having arrived from Germany was an element of their journey that opened the way for securitizing actors to identify the asylum seekers as migrants 'shopping' for an ideal migration outcome, rather than fleeing persecution.

The governing Conservative Party publicly supported the humanitarian construction of the asylum seekers. Prime Minister Brian Mulroney repeatedly emphasized Canada's humanitarian tradition in dealing with refugees. In the face of public opposition to permitting entrance to the asylum seekers, on August 18, PM Mulroney urged 'Canadians to show compassion' to the Tamil refugees and argued that 'Canada's humanitarian traditions dictate that they not be turned away'.[34] Again, on September 6, he defended the decision to grant the Tamils entry by comparing the Tamils to Jewish refugees in World War Two and explicitly stated that 'refugees are welcome in Canada and we will open the doors'.[35] The government quickly rejected claims that the asylum seekers were terrorists by asserting that security checks had been completed, and that there was no connection between the refugees and militant groups.[36]

The Liberal and New Democratic parties initially supported the government's approach to the asylum seekers and endorsed the course of action they had taken. On August 18, Ed Broadbent of the NDP and John Turner of the Liberals publicly lauded the response of the Mulroney-led Conservative government.

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[34] Joe O'Donnell, 'Show compassion for Tamil refugees Mulroney urges,' *supra* note 32.

[35] Joel Ruimy, 'People trust me despite the polls, Mulroney says,' *Toronto Star*, September 6, 1986 A.12.

[36] Joe O'Donnell, 'No evidence Tamils tied to militants, Ottawa says,' *Toronto Star*, August 20, 1986 1.

Broadbent stated that 'providing refuge was the only option' while Turner stated that 'Tamils had to be given temporary shelter in Canada'.[37]

Despite the dominant humanitarian discourse evident in the media coverage of the incident and articulated by Canadian political elites, there were clear indications of hostility within the Canadian populace. The majority of the letters to the editors and a few editorials revealed the deep suspicion with which the asylum seekers were regarded. Many claimed that the refugees were 'bogus' or 'illegal' and depicted Canada as 'a dumping ground', a 'soft touch', as 'suckers' or as 'gullible'.[38] This discursive challenge sought to construct the asylum seekers as economic migrants and Canada not as a humanitarian or generous country, but as having fallen for some elaborate trick. Canada's humanitarianism was not to be praised but, rather, to be corrected and stopped. Based on the percentage of letters to the editor and anecdotal evidence from MPs regarding the number of calls their office received, there is evidence to suggest that this perception of the asylum seekers and Canada was well supported within the public at large.[39] Opinion polls also seem to support this. An Angus Reid poll, published in the Toronto Star on September 29, 1987 noted that 58% of Canadians favored a policy review to allow fewer refugee entries, 18% felt Canada should do more for refugees, while 17% wanted no change to the current policy.[40]

As the episode wore on and public opposition became evident, Liberal leader John Turner sought to take advantage of public hostility and challenged the government's response to the asylum seekers. By late August, he was critical of the government for acting too hastily and for not completing a more thorough investigation into their story before allowing them into Canadian society. Turner stopped short of depicting the asylum seekers as a threat but did publicly question whether they should have been admitted so quickly and without investigating their story first. Turner accused the government of not making refugee policies clearer to the Canadian public, which, Turner claimed, fuelled the public backlash against the refugees.[41]

The governing Conservative Party also showed signs of internal disagreement over the decision to admit the asylum seekers in the normal way. Immigration Minister Benoit Bouchard warned that the refugees 'could open the

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[37] Canadian Press, 'Canada right to accept Tamils, Turner declares,' August 16, 1986 6.

[38] Rod Ludlow, 'Immigration system open to abuse: bogus refugees jump the line while others face wait of years,' *Vancouver Sun*, August 17, 1986 3; Toronto Star Staff, 'How Canada's papers view the 155 refugees,' *Toronto Star*, August 15, 1986 21; Hugh Winsor, 'PR flurry an attempt to paper over Tamil immigration gaffes,' *Globe and Mail*, August 25, 1986 2.

[39] Canadian Press, 'Public outrage greets refugee entry,' *Montreal Gazette*, August 16, 1986 2; Francois Shalom, 'Connection to Germany still denied,' *Globe and Mail*, August 16, 1986 4; David Vienneau, 'Confusion over laws blamed for backlash against refugees,' *Toronto Star*, August 20, 1986 8.

[40] Toronto Star Staff, 'Canada outdoes others in accepting refugees, poll says,' *Toronto Star,* September 29,1987 3.

[41] Joe. O'Donnell, 'Ottawa erred in giving permits to Tamils so quickly,' August 21, 1986 8.

doors' to a flood of Third World castaways and that Canada would need to review its refugee policies.[42]   Other Conservative backbench MPs raised concerns over the government's quick acceptance of the asylum seekers.[43] In response to the perceived public backlash, divisions within its own party and increased pressure from the leader of the Liberal Opposition, the government initiated a review of Canada's refugee policies, and by February of 1987 had introduced legislation (Bill C-55) designed to streamline the refugee determination process and prevent false refugee claims.

Securitization in 1987

While the 1986 episode illustrates the relatively humanitarian response of Canadian officials to unauthorized asylum seeker arrivals, it also revealed a potentially hostile public, created divisions among the political elite and highlighted deficiencies in the Canadian refugee determination system. By the end of the 1986 episode, there was a significant challenge to this humanitarian approach, one that highlighted the security component of Canada's refugee policy. In this discourse, the government's quick acceptance of the asylum seekers demonstrated the lack of security screening given to refugee claimants. The government's response was also depicted as a contributing factor to the growing backlog of cases and the public backlash against asylum seekers. By early 1987, it was widely asserted by the media and the governing party that Canada's refugee determination system was being abused by non-genuine claims and that the significant backlog of claimants in the system necessitated legislative changes. At that time, the Conservative government introduced Bill C-55, a piece of legislation designed to speed up the refugee determination process and to exclude certain individuals from the determination system, including those who had already been recognized as a Convention refugees in another state, those making a repeat claim, those who fail to make a refugee claim at the beginning of an inquiry and those deemed a national security risk by the Minister.[44]

The measures proposed in this bill were a result of the growing security concerns expressed toward the end of the 1986 episode. Proposed legislative changes to deal with the growing backlog had been in the works since at least 1984 when the Ratushny report was first commissioned.[45] The Plaut Report, with its humanitarian focus, had seemed to be the guiding principle for legislative reform. Immigration minister Flora MacDonald commended the report and its author and hinted that a legislative package based on the report would be tabled in early 1986.[46] Despite all of

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[42] Canadian Press, 'Refugees "tip of iceberg",' *Montreal Gazette*, August 14, 1986 1.

[43] Joe O'Donnell, 'Show compassion for Tamil refugees Mulroney urges,' *supra* note 32.

[44]Nash, *supra* note 19.

[45] Recommendations for legislative change to the refugee determination system date back to 1981, with the Robinson report, but by 1984 there were expressed concerns over dealing with the backlog. Both the Ratushny and Plaut report were to address that problem.

[46] Charles Campbell, *Betrayal and Deceit: The Politics of Canadian Immigration* (Vancouver: Jasmine Books, 2000) at 75.

the concerns expressed prior to the summer of 1986 and a number of commissioned reports, no major legislative changes were tabled until the introduction of Bill C-55 in May of 1987 – which ignored almost all of the recommendations of the Plaut Report. In the face of heavy criticism and internal division exposed by the 1986 arrivals the generally humanitarian approach to legislative reform contained in the Plaut Report had been replaced by the more security conscious approach of Bill C-55.

By the summer recess of 1987, Bill C-55 did not appear to be on its way to becoming law any time soon. The government appeared in no hurry to get the bill passed or even through second reading. The opposition had stalled passage of the bill, and on June 18th recommended suspending second reading for six months. Attempting to get the bill to committee and avoid suspension of second reading, Government MP Jim Hawkes essentially agreed with the opposition and acknowledged the bill's deficiencies, arguing that the proposed law "needed to be changed" and recommended that it be referred to committee where it would "benefit from expert testimony".[47] Bill C-55 was not referred to committee and nothing more was said about the bill before the summer recess of Parliament.

The arrival of 174 Sikh asylum seekers in the summer of 1987 changed the context in which the bill came to be viewed. The discourse constructing the identity of these arrivals was distinctly different from the year previous. The Canadian government and the media challenged the identity claims of the asylum seekers upon their arrival, signaling an important shift away from the dominant discourse concerning asylum seekers that focused primarily on humanitarian considerations.

Media coverage of the arrival of Sikh asylum seekers cast serious doubt on their refugee claims. Despite the fact that India had been a prominent source of refugee claims in Canada, ranking second only to Guyana over the previous five year period, the media was quick to point out that refugee claimants from India had been far less successful in their claims.[48] The *Globe and Mail* and *Toronto Star* reported that very few Indians had been given the status of refugee in Canada since 1982.[49] The *Toronto Star* reported that the 'Canadian immigration boards have, with only six exceptions since 1982, decided that East Indians, including Sikhs, do not suffer religious repression in their homeland.'[50] From the very beginning of this event, media coverage had made it clear that Canadian immigration officials did not regard India as a refugee producing state. The media also reported that, unlike Sri Lanka, India was

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[47] Canada, Hansard, *Debates in the House of Commons*, 32nd Parliament, 18 June 1987 (Jim Hawkes, MP) at 7354.

[48] Alan Story, '174 are unlikely to get refugee status, official says,' *The Toronto Star*, July 21, 1987 8.

[49] Toronto Star Staff, 'Few Indians given status of refugee since 1982,' *Globe and Mail*, July 15, 1987 4; and Toronto Star Staff, 'Are they refugees or queue-jumpers?' *Toronto Star*, July 14, 1987 12.

[50] Alan Story, '174 are unlikely to get refugee status, official says,' *The Toronto Star*, July 21, 1987 8.

not on the B-1 list of countries to which Canada would not remove individuals due to repressive regimes.

The language used in 1987 differed drastically from the year previous. The term 'refugee' was used far less often and less consistently across the papers to identify the 174 Sikh boat arrivals. In the first few days of the episode, many papers did refer to them as refugees, (some even mistakenly referred to them as Tamil refugees) but that quickly gave way to terms more consistent with a securitized discourse. The *Toronto Star* reported that the various newspapers across the country had used 23 different terms to describe the asylum seekers. The Toronto papers, the *Star* and *Sun*, still had used the word 'refugees', but the *Globe and Mail* primarily used 'migrants', while stories from the Canadian Press, which featured prominently in all Canadian newspapers, used national identifiers such as 'East Indians or Asians'.[51]

Across the four newspapers and one news-magazine that I examined, 'migrants' or some variation thereof ('economic migrants', 'illegal migrants', and 'illegal aliens') was the most common term employed to identify the newest arrivals.[52] Employing the term 'migrant' removed humanitarian considerations from the discourse. When the traditional humanitarian term 'refugee' was employed, there were often a host of qualifiers such as 'illegal', 'economic', 'financial', 'would-be', 'legitimate', 'bogus' and 'bona fide' that were used to differentiate between genuine refugees and the current asylum seekers.[53]

More importantly, securitizing agents, such as the RCMP, members of the media and government, portrayed the Sikh asylum seekers as a potential threat to both Canadian and Indian security. The Air India bombing had occurred just two years earlier, and, as such, provided a recent national event on which to draw in the reconstruction of the asylum seekers' identity. Thus, a number of articles and letters connected the arrivals with Sikh 'terrorist' and 'militant' groups[54], terminology that would have been familiar to most Canadians as referring to the perpetrators of the Air India bombing. They were also labeled as 'mysterious', implying that their intentions were hidden and potentially dangerous.[55] This general air of suspicion surrounding the

[51] Rod Goodman, 'Are they migrants or refugees,' *Toronto Star*, July 18, 1987 2.

[52] Bill Fox, 'Don't let illegal aliens circumvent the system,' *Toronto Star*, August 2, 1987 B.3; Patricia Poirier, 'House meets Tuesday on Migrants,' *Globe and Mail*, August 8, 1987 1; Canadian Press, 'Ottawa to get tough on immigrant-smugglers: Government wants MP recalled to stem the flow of illegals and increase fines and jail terms,' *Montreal Gazette*, July 31, 1987 1; Mike Trickey, 'Alien issue keeping phone wires burning,' *Vancouver Sun*, July 31, 1987 8.

[53] Rod Ludlow, 'Immigration system open to abuse: bogus refugees jump the line while others face wait of years,' *Vancouver Sun*, August 17, 1986 3; Canadian Press, 'All should be detained under supervision, MP says,' *Toronto Star*, July 16, 1987 12, and 'Don't let illegal refugees come to Canada, irate immigrants say,' *Montreal Gazette*, July 22, 1987 1; and Globe and Mail Staff, 'Custody rule could halt bogus refugees,' *Globe and Mail*, August 5, 1987 7.

[54] Peter Edwards, 'Sikh terrorists here worry Gandhi, aide says,' *Toronto Star*, July 21, 1987 1.

[55] Julian Beltrame, 'N.S. set for more boat people; Mystery surrounds "refugees",' *The Gazette*, July 13, 1987 A.1.FRO and Toronto Star Staff, 'Confusion of rumors, denials set stage for mysterious landing,' *Toronto Star*, July 13, 1987 10.

asylum seekers intentions was highlighted by descriptions of the asylum seekers as living in 'secrecy' and 'silence' after they had been freed from detention.[56]

The RCMP played a prominent role in the securitization attempt, by portraying the asylum seekers as a threat. The RCMP publicly announced that seven of the 'refugees said they would kill' if instructed to do so by Sikh terrorist groups[57] and that it had discovered that one of the claimants had killed two men in India, while another had already been deported from Canada for working illegally.[58] These stories, which featured prominently in all four of the print news sources under examination, constructed the asylum seekers as threatening to Canada and Canadian society. These public announcements, from the most prominent Canadian military/security manager, later proved to be either unfounded or untrue, yet they profoundly shaped the discourse on the asylum seekers. Statements from the RCMP regarding security checks on refugee claimants were extremely rare and thus were prominently reported in all news sources under examination, were frequently repeated and created a general sense that the asylum seekers were considered a serious national security threat by one of the Canadian institutions most qualified to make such an assessment. Furthermore, such public statements from the RCMP, an organization that enjoys a prominent social standing from which to discuss security, went virtually unquestioned until lawyers for the asylum seekers attempted to set the record straight. By then, the RCMP and the media had successfully portrayed the asylum seekers as a security threat.

In addition to the construction of the asylum seekers as threatening to Canada, they were also portrayed as representing a threat to India. The Canadian newspapers widely reported that the Indian government had expressed concerns about the asylum seekers, particularly the timing of their arrival.[59] These news articles left the impression that the timing of the arrival of the 174 Sikhs seemed to fortuitously coincide with an upcoming visit to Canada by Indian Prime Minister Rajiv Gandhi. The Indian government's speculation that the asylum seekers might have been sent to Canada for the purpose of assassinating the Indian Prime Minister was widely reported by the Canadian news press. According to the Indian envoy in Canada, Canada had become 'the world's largest exporter of Sikh terrorism', a phrase prominently reported and largely undisputed in the Canadian media.[60]

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56 Toronto Star News, 'Secrecy and Silence follow 92 refugees to Sikh sanctuaries,' *Toronto Star*, July 30, 1987 1.

57 Kevin Donovan, '7 Detained refugees said they'd kill if asked, Mounties testified at hearings,' in *Toronto Star* July 24, 1987 1.

58 Victor Malarek, 'Killed two men in India, immigrant told hearing,' *Globe and Mail*, July 27, 1987 1; Alan Story & Kevin Donovan, 'East Indian says he'd kill if asked, hearing told,' *Toronto Star*, July 23, 1987 1.

59 Peter Edward, 'Lax Canada top exporter of Sikh terror,' *Toronto Star*, July 20, 1987 1; Peter Edwards, 'Sikh terrorists here worry Gandhi, aide says,' *Toronto Star*, July 21, 1987 1; and Patricia Poirier, 'Foreign Terrorists able to Slip in Undetected, Senate study finds,' *Globe and Mail*, Friday, July 31, 1987 3.

60 See *ibid.*

Table 2 illustrates that the dominant discourse concerning the Sikh asylum seekers was significantly different than in 1986. Of the total 146 front-page headlines, just 38% portrayed the asylum seekers in a humanitarian way, identifying them as victims in some manner and Canada as having a responsibility to take them in. Over 60% of front-page articles portrayed the asylum seekers in a securitized manner, either as illegal migrants, bogus refugees, Sikh terrorists or some combination of the three. The back-page articles were slightly more favorable to the asylum seekers with close to 60% portraying the asylum seekers in a humanitarian fashion. Even the news magazine Macleans, which had strongly favoured a humanitarian discourse in 1986, adopted a significantly less humanitarian tone in its coverage.

TABLE 2: HUMANITARIAN MEDIA CONTENT: JULY 11-OCT 31, 1987

% Humanitarian (Total)	Front Page	Articles	Editorials	Letters
Globe and Mail	43% (44)	64% (101)	44% (9)	69% (26)
Toronto Star	43% (54)	61% (108)	64% (14)	44% (34)
Vancouver Sun	23% (22)	52% (67)	67% (6)	40% (10)
Montreal Gazette	23% (26)	55% (31)	100% (1)	28% (18)
Macleans		57% (7)		33% (3)
Total	38% (146)	60% (314)	60% (30)	47% (91)

In addition to the media and the RCMP (through the media), the governing Progressive Conservative Party played a prominent role in the securitization attempt. Immediately after the arrival of the asylum seekers, Immigration Minister Benoit Bouchard informed the media and government agencies that the asylum seekers should not be called 'refugees' but rather should be called 'migrants'.[61] Government officials also employed the term 'illegal aliens' to describe the 174 Sikh arrivals, a term that was not widely used in Canada, but more commonly used in the United States to refer to illegal economic migrants.[62] On July 18, the Toronto Star reported that a spokesman for the Prime Minister's office referred to the 174 Sikh arrivals as 'illegal aliens'. Again, with the emergency recall of Parliament in late July, the Star reported

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[61] Canadian Press, 'Seized freighter had been in Rotterdam, 2 charged in Nova Scotia as ship drops 174 refugees,' *Toronto Star*, July 13, 1987 1.

[62] Joe O'Donnell, 'Mulroney rules out special treatment,' *Toronto Star*, July 13, 1987 1.

government officials using the term to describe the asylum seekers.[63] The use of this term represented a radical shift from the language used by the Prime Minster's office concerning the 152 Tamil refugees a year earlier. It implied not only that the asylum seekers were doing something illegal, but also that they were alien to Canada and hence did not belong. On another occasion, Bouchard called the asylum seekers 'bogus refugees... because they lie'.[64] The discourse emanating from the governing elites was that these asylum seekers were illegal migrants.

The leader of the Liberal Party, John Turner, played an important role in the securitizing attempt, declaring that had he been leader he would have intercepted and turned back the boat carrying the asylum seekers.[65] He later accused the asylum seekers of exploiting Canada's refugee system, of 'destroying the humane and open way our country deals with visitors and refugees' and of 'underhanded cutting of queues or the jumping of the line'.[66]

Other political elites contributed to the securitized discourse. Canadian military officers were reported as saying that the arrival of the asylum seekers had exposed Canada's long coastline as 'easily penetrated'.[67] Within days of the asylum seekers' arrival, the findings of a task force instructed to examine Canada's immigration security was leaked to the media. The task force, set up well before the arrival of these asylum seekers, found that Canada's immigration security was too lax.[68] The leaked report lent considerable support to the securitized discourse regarding the Sikh asylum seekers. Just one week after the leak, a Senate committee investigation into Canada's immigration program revealed that it found that foreign terrorists were able to slip into Canada largely undetected.[69] The committee's report depicted Canada's refugee determination system to be near collapse.[70] Through the early part of July, it was clear that the dominant discourse portrayed the Sikh asylum seekers as illegal migrants, terrorists and a threat to a Canadian system on the verge of collapse.

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[63] Martin Cohn, 'Parliament being recalled in bid to end refugee abuse' *Toronto Star,* July 31, 1987 1

[64] Toronto Star News, 'Bouchard believes refugees lied about departure from India,' *Toronto Star*, August 1, 1987 11.

[65] John Temple, 'Turner says he would have turned ship away,' *Toronto Star*, July 17, 1987 14.

[66] Toronto Star News, 'Refugees are exploiting laws, Turner tells B.C. constituents,' *Toronto Star*, July 26, 1987 4.

[67] Robert Matas, 'Coast easily penetrated, Canadian officer says,' *Globe and Mail*, July 15, 1987 4.

[68] Richard Cleroux, 'Task Force Condemns Immigration Security,' *Globe and Mail*, July 22, 1987 1 and Peter Edward, 'Report attacks lax security on immigrants,' *Toronto Star*, July 22, 1987 8.

[69] Patricia Poirier, 'Terrorists can slip in, Senate report says,' *Globe and Mail*, Friday, July 31, 1987 3.

[70] David Vienneau, 'Lax screening of immigrants lets in terrorists, senators say,' *Toronto Star*, July 31, 1987 1.

Implementation of Extraordinary Means

The securitized discourse made certain policies acceptable that had hitherto not been seriously considered or enacted. Unlike previous boat and air arrivals, the asylum seekers were detained for a significant amount of time while their identity and security checks were carried out. Most of the boat arrivals were held in detention for over two weeks and, in an effort to establish their identity, the Canadian government released the names of the asylum seekers to the Indian government.

These two policies were indeed extraordinary. In Canada at this time, it was unusual, and legally questionable, for asylum seekers arriving in Canada to be detained for longer than a couple of days while security checks were carried out. These asylum seekers were held for over two weeks after making their refugee claim – violating the principle of non-arbitrary detention. At this time, there was no domestic legislation authorizing the prolonged detention of the asylum seekers. It was not until after a legal challenge mounted on the asylum seekers' behalf that the asylum seekers were ordered released from detention. Even then, they were only permitted to leave detention and enter the community after sponsors were found to post a bond on their behalf.

Releasing the names of the asylum seekers to the Indian government was an unusual step for the Canadian government and violated the principle of limiting harm to the asylum seekers; it clearly indicates that the immigration department did not regard the arrivals as individuals with genuine refugee claims. Traditionally, the names of refugees and asylum seekers are not reported back to their home state for fear of retribution to their families, though in this case it was done almost immediately. This practice reflected and reproduced the identity of India as a non-refugee producing state; that is, it was seen not to be tyrannical, totalitarian, genocidal or even repressive.

Another measure made available by the securitized discourse was the use of Canada's military to detect and prevent further boat arrivals. The Canadian government ordered a full air and sea search for a second asylum seeker vessel. [71] The mobilization of Canada's military forces to find the vessel represented an extraordinary response to the arrival of an estimated 50 or so asylum seekers. It was not clear what they would have done had they located a second ship carrying asylum seekers, as there was no domestic legislation authorizing the Canadian navy to turn away a ship carrying asylum seekers from its territorial waters.

Most notably, the Conservative government announced an emergency recall of Parliament on July 30 to implement a crackdown on illegal immigrants and to prevent the smuggling of migrants.[72] It was only the second emergency recall of Parliament in Canada in the 20th century.[73] The government had taken the exceptional

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[71] Peter Edward, 'Another refugee boat is off our coastline,' *Toronto Star*, August 1, 1987 1.

[72] Richard Cleroux & Victor Malarek, 'Tip on new voyage checked Mulroney will recall House for crackdown on migrants,' *Globe and Mail*, July 31, 1987 1.

[73] Howard Adelman, 'Canadian Refugee Policy in the Postwar Period' in H. Adelman, ed., *Refugee Policy: Canada and the United States* (Toronto: York Lanes Press, 1991) 174.

step of recalling Parliament during the summer in order to pass two pieces of legislation that would legalize the measures they had taken in response to the Sikh asylum seekers, and that would allow the government to take more drastic measures in the case of future arrivals.

Addressing Parliament immediately after the recall, immigration minister Benoit Bouchard stated that Parliament had been recalled to deal with an issue of 'grave national importance'. In his speech, Bouchard claimed that the number of migrants entering Canada by posing as refugees had reached critical proportions. He claimed that the arrival of the Sikh asylum seekers had endangered the physical safety of the migrants, imperiled the security of Canada and, worst of all, jeopardized public support for Canadian immigration and refugee programs.[74]

According to the government, the two refugee bills, including the stalled C-55, were essential to equip the government with the necessary tools to prevent smuggling people to Canada and illegal immigrants from abusing the refugee determination system. As originally formulated by the government and presented to Parliament, the two pieces of legislation provided the government with extraordinary powers in combating abuse of the refugee system, including the right to search, without a warrant, properties suspected of being used to aid the smuggling of people; the authority to turn back boats without processing the refugee claims of those on board; the power to detain asylum seekers for up to 28 days without review (and potentially indefinitely with reviews every 7 days); the (re)introduction of security certificates[75] and the power to return asylum seekers to a safe third country. These policies represented a formal breaking of the rules of Canadian refugee law and signalled a fundamental shift in the government's approach to asylum seekers and Canadians who assisted them. The proposed legislation changed the relationship from a humanitarian approach moderated by national security concerns, to a security- and control-oriented approach. Some of the proposed legislative changes, such as the authority to turn back boats and to deport foreign nationals without first processing their refugee claims, clearly violated international laws regarding the treatment of refugees.

Limitation of Securitization

Facing strong opposition from opposition parties and NGOs, the Canadian government succeeded in passing the two refugee bills with significant amendments

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[74] Canada, Hansard, *Debates in the House of Commons*, 17 August 1987(Benoit Bouchard, Minister of Immigration).

[75] Security certificates, in one form or another, have been in place in Canada since 1977, having been established in the Immigration Appeal Board Act and again in Section 39 and 40 of Bill C-24. It appears as though the certificates were rarely used until 1991, two years after they had been re-introduced with the passage of Bill C-84. With the implementation of Bill C-84, security certificates were used to detain and remove inadmissible non-Canadians – including those in the refugee determination process – while keeping some or all of the evidence confidential. Since 1991, 27 security certificates have been issued.

and the inclusion of sunset clauses on some of the more controversial elements. While, during the crisis itself, extraordinary measures, such as detention, air and sea search and a recall of Parliament were implemented without opposition, the government was unable to implement a number of its proposed changes. The media, NGOs and the opposition parties successfully constructed the government's legislation as un-Canadian and in violation of its humanitarian identity.

There were two key factors that limited the degree of securitization first proposed by the government's legislation in 1987. The first was that the immediate threat of further boat arrivals had passed and the issue had been de-securitized. The media reported on the failure of the air and sea search to find any asylum seekers aboard the second suspected asylum seeker vessel on August 3rd. The well-publicized failure of the search allowed political elites to de-securitize the issue. The opposition parties, with support of the Canadian media in the form of coverage and editorial commentary, accused the government of 'overreacting' and of wasting a 'shocking' amount of money.[76] Second, the findings of the refugee determination committee that the Sikh asylum seekers did not pose a threat to Canadian security and that they did not have connections with terrorist groups undermined the rationale for the securitizing move.

Political elites in Canada were clearly divided over the securitizing move. The Liberal opposition, whose leader had initially contributed to the securitization process, now harshly condemned the government's course of action. Immigration critic Sergio Marchi accused the government of whipping up the fears of Canadians.[77] With the sudden discursive change brought about by the two developments noted above, the two bills the government sought to implement faced a serious challenge. The bills were overwhelmingly depicted as 'draconian', 'harsh', 'wide sweeping powers', 'overreaction', and 'un-Constitutional'.[78] NGO and church groups condemned the bills, while lawyers raised fears that the bills would allow the government to 'arrest church groups' and 'kick in the doors of ordinary Canadians.'[79] The government, in an effort to defend the bills, argued that they would not use the powers contained in the bills.[80] This assurance, however, was not enough; the government was forced to amend the

[76] Richard Cleroux, 'Mulroney "occupied with other things," still has not requested recall of House,' *Globe and Mail*, August 5, 1987 A.1.

[77] *Ibid*.

[78] Linda Diebel, 'Asians test Tory refugee policy, boatload may provide excuse for get tough law,' *Montreal Gazette*, July 18, 1987 B.1; Victor Malarek, 'Church, rights group urge Senate to take close look at refugee bills,' *Globe and Mail*, September 16, 1987 2; Marjorie Nichols, 'Its nothing but an immigration war measures act,' *Vancouver Sun*, August 12, 1987 9; and Lorne Waldman, 'Why is there a queue for queue-jumpers to jump,' *Toronto Star*, July 28, 1987 13.

[79] Pearl Chud & Yew Lee, 'Proposal too harsh,' Letter to Editor, *Globe and Mail*, September 2, 1987 A.6; Ian McCuaig, Chairman, Human Rights Committee, 'Refugee entry system,' Letter to Editor, *Globe and Mail*, August 13, 1987 A.6; and Geoffrey York, 'Immigration Staff could kick down doors, Lawyers warn,' *Globe and Mail*, August 15, 1987 1.

[80] Patricia Poirier, 'Ottawa not bound to use powers in tough refugee bill, minister says,' *Globe and Mail*, August 20, 1987 5.

two pieces of legislation. In an effort to legitimize its actions and to maintain the appearance of humanitarianism, the government drastically increased its intake of refugees for the following year, as a 'carrot' for the NGO and church groups critical of the bill.

While the opposition parties, members of the media and humanitarian NGOs had succeeded in having the bills amended, the provisions contained in Bills C-55 and C-84 still gave the Canadian government exceptional leeway to prevent, detain and deport asylum seekers. The incorporation of the two bills represented a clear break in the Canadian approach to asylum seekers and refugees.

Conclusion

While the 1987 case clearly demonstrates the process of securitization, it also illustrates that governing parties are not able to fully securitize an issue simply through rhetoric, unconstrained by 'real-world' events. They are constrained not necessarily by material, objective criteria, but by socially constructed relevant criteria that they have used to substantiate their securitization claims. Once the criteria on which the government had based their securitizing move (i.e. more boats and terrorists ties) were shown to be false, political opponents had an opportunity to challenge the government's securitizing discourse and its subsequent policies. While the Canadian government did succeed in securitizing the issue of asylum seeking to a significant extent, this episode demonstrates that there are limits on the ability of political elites to securitize. The emergency measures implemented indicated the extent to which the issue had become securitized, while the powers contained in Bills C-55 and C-84 indicated a stark change in the direction of Canadian refugee policy.

This event provides further insight into the conditions for successful securitization. The core group, which includes the media and opposition parties, must accept that the response is proportionate to the level of threat. The cases examined here empirically demonstrate Buzan and Waever's contention that failure to gain acceptance or to maintain cohesion during the securitization process can result in a failed or abortive securitization attempt.[81] In the Canadian case in 1987, the failure to legitimize all of the proposed changes occurred because the attempt failed to maintain cohesion. The media, NGOs and opposition parties attempted to de-securitize the issue by presenting the government's legislation as a violation of Canada's identity as a generous, humanitarian, compassionate state. In essence, the government's securitization attempt was limited because the extraordinary measures the government attempted to implement were successfully reconstructed as an overreaction and a betrayal of Canada's humanitarian identity.

In addition to demonstrating the importance of maintaining cohesion in the core group, the Canadian case provides a number of important lessons regarding the securitization process. First, it demonstrates the power of discourse in shaping and legitimizing policy response. Furthermore, it demonstrates the ability of certain actors

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[81] See Waever, *supra* note 13 at 58-59 and Buzan, Waever & de Wilde, *supra* note 12 at 23-35.

– namely, the government and the media – to influence the discourse on migration and border security and, ultimately, on the national identity. However, it also demonstrates that these actors are not the only actors capable of influencing discourse, identity and, consequently, policy. The opposition parties and humanitarian NGO groups were instrumental in challenging the securitizing discourse. Furthermore, the Canadian case shows that securitizing actors can be constrained by the logic and credibility of their securitizing claim. Evidence demonstrating the weakness of the securitizing discourse can produce resistance to the emergency measures advanced.

While border security has risen to prominence in domestic and international political agendas since the events of 9/11, the association of migration as a potential threat to national security is not a new phenomenon. As the cases examined in this article illustrate, unauthorized arrivals of asylum seekers have been constructed as a threat to national security, in various ways – as a flood, as criminals, as importing disease and social problems and as potential terrorists. This securitized portrayal, however, is not the only construction of asylum seeker identity, nor has it been the norm. Asylum seekers have been portrayed as humanitarian migrants and refugees; individuals in need of the protection of the state. As the preceding cases demonstrate, the humanitarian construction prescribes a radically different response on the part of state leaders.

Through the examination of two episodes of asylum seeker arrivals to Canada in the mid-1980's, this article shows how the discursive practices of political and media elites construct the identity of asylum seekers and in turn, make particular policy options more or less available to state leaders. Humanitarian portrayals, in which the asylum seekers were portrayed as genuine refugees, made policies that were consistent with international laws regarding the treatment of asylum seekers most acceptable. Media coverage and the 'speech acts' of state elites contributed to a securitized discourse in which the asylum seekers were constructed as a threat to the state. This securitized discourse made the adoption of harsh border control policies, some of which undermined key principles of the international refugee regime, acceptable.