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Publication Date

2018

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UNIVERSITY OF CALIFORNIA

Los Angeles

International Students

and the Race for Foreign Talent

in the United States and Canada

A dissertation submitted in partial satisfaction of the

requirements for the degree Doctor of Philosophy

in Sociology

by

Calvin Nhi Ho

2018

ABSTRACT OF THE DISSERTATION

International Students

and the Race for Foreign Talent

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by

Calvin Nhi Ho

Doctor of Philosophy in Sociology

University of California, Los Angeles, 2018

Professor Roger Waldinger, Chair

Since the end of the Cold War, developed countries have tried to increase their intake of highly educated immigrants. Simultaneously, there has been exponential growth in the number of foreign students who come to developed countries for university degrees. Many countries have linked these two phenomena through "talent retention strategies," which are policies that allow international students to apply for permanent immigration status. Though employers and universities in the United States have actively lobbied for such policies in the last two decades, they have consistently failed to come to fruition. Canada, on the other hand, is often regarded as a world leader in talent retention and a model for other countries to follow. Why did talent retention strategies succeed in Canada but fail in the United States? Using comparative-historical methods, I examine the development of immigration preferences for international students in the two countries. I find that they treated immigrants similarly in the 1800s and early 1900s. In the 1960s, they faced international and domestic pressures to remove racial

discrimination from the immigration system, but came up with very different reforms in response. Canada prioritized highly educated migrants, used guestworker programs to address demand for low-skilled labor, and gave the federal executive branch and provincial governments leeway to experiment with immigrant selection. The United States prioritized family migrants, left low-skilled migration unaddressed, and centralized all immigration rule-making in the fractious federal legislature. These differences shaped the political opportunity structure in later decades. While conditions in Canada facilitated the introduction of talent retention strategies there in the 2000s, circumstances in the United States stymied similar proposals. This study contributes to the immigration policymaking literature by showing how historically-specific constellations of interests and institutions can obstruct the passage of immigration provisions that are broadly popular among key constituencies. This dissertation also challenges the reader to consider how immigrant selection policies may impact other policy areas, including higher education, science and innovation, and foreign relations.

The dissertation of Calvin Nhi Ho is approved.

Rubén Hernández-León

Lauren M. Duquette

Hiroshi Motomura

Roger Waldinger, Committee Chair

University of California, Los Angeles

2018

To my parents.

Contents

List of tables and figures

Appendix 1: Tables

Appendix 2: Figures

Acknowledgments

This dissertation would not have been possible without the intellectual and institutional support of my committee members. I have known Roger Waldinger since I was a college junior, cold emailing all of UCLA's sociologists of migration to see if any of them would take me under their wing for a summer research program. He has been supportive throughout my time in academia, including when I decided that I needed to step away from the field. The topic of this dissertation was inspired by both his earlier work on immigrants in the workforce and his current research on how and why migrants' maintain ties across borders. Rubén Hernández-León's incredibly sharp questions and constructive feedback helped shape the study design. Lauren Duquette-Rury guided me through the literature review with her deep knowledge of the political sociology literature. Hiroshi Motomura's grounded perspective on how the law shapes lived experiences reminded me that the subject matter of this dissertation is not an academic abstraction.

Portions of Chapters 3, 4, 5, and 6 appears in:

Ho, Calvin N. 2017. "Talent Selection and the Reshaping of Asian North America." *AAPI Nexus* 15(1&2):57-84.

Portions of Chapter 7 appear in:

Ho, Calvin N. Forthcoming. "Skills-Focused Immigration Reform Is Not Enough." *Asian American Policy Review.*

Vita

Calvin N. Ho received his Bachelor of Arts in Linguistics and Languages from Swarthmore College in 2011. His choice of languages (Spanish and Chinese), minor field (Latin American Studies), and study abroad destinations (Buenos Aires, Argentina and Taipei, Taiwan) were a result of his deep fascination with the linguistic and cultural mélange of Southern California's San Gabriel Valley, where he grew up. He returned to California for graduate study with the intention of figuring out how and why that diversity came to be. His master's project was a comparative ethnographic study of Chinese language schools in Los Angeles, which was a way to examine Taiwan and China's diaspora engagement programs and how they competed for the attention of the Chinese diaspora. This project introduced him to the political sociology literature, as well as the history of immigration policy changes and how that mapped on to different migration streams. For his dissertation, Calvin decided to embrace these areas as his lens on immigration. He designed a comparative-historical study of immigration policies for international students in the United States and Canada. The results are in the pages that follow.

Education

2016   CPhil, Sociology   University of California, Los Angeles

2013   MA, Sociology   University of California, Los Angeles

2011   BA (Honors), Linguistics and Languages   Swarthmore College

Publications

Ho, Calvin N. Forthcoming. "Skills-Focused Immigration Reform Is Not Enough." *Asian American Policy Review.*

Ho, Calvin N. 2017. "Talent Selection and the Reshaping of Asian North America." *AAPI Nexus* 15(1&2):57-84.

Ho, Calvin N. 2013. "Chinese Students in the United States after 1960." Pp. 297-300 in Asian Americans: An Encyclopedia of Social, Cultural, Economic, and Political History, vol. 1, edited by X. Zhao and E. J. W. Park. Santa Barbara, CA: Greenwood.

Ho, Calvin N. 2013. "Refugee Act of 1980." Pp. 952-953 in Asian Americans: An Encyclopedia of Social, Cultural, Economic, and Political History, vol. 3, edited by X. Zhao and E. J. W. Park. Santa Barbara, CA: Greenwood.

Service to the Profession

- Member, Board of Directors, Future of Research, August 2017-present
- Appointed Member, Mellon Mays Graduate Initiatives Planning and Advisory Committee, Social Science Research Council, October 2015-November 2017

Honors and Awards

- National Science Foundation Science of Science and Innovation Policy Doctoral Dissertation Research Improvement Grant, 2016
- National Science Foundation (US) and Research Council of Norway Graduate Research Opportunities Worldwide Fellowship, 2014
- National Science Foundation Graduate Research Fellowship, 2013
- Mellon Mays Undergraduate Fellowship, 2009

Chapter 1 – Introduction

乙月被囚履不前

滿州輪來蒙古旋

但得南洋登程日

求活何須美利堅

For one month, I was imprisoned; my slippers never moved forward.

I came on the *Manchuria* and will return on the *Mongolia.*

But if I could make the trip to Nanyang, I would.

Why should America be the only place to seek a living?

Poem and translation excerpted from Lai et al. (1991, p. 130-131). This poem was etched into the wall of the male barracks at the Angel Island Immigration Station in San Francisco by an anonymous Chinese detainee, sometime between 1910 and 1940. The speaker laments that his trans-Pacific journey was in vain and regrets not emigrating to Southeast Asia (Nanyang) instead.

A tale of two cities

Kitty Peng and Astrid Zhang are best friends from upper-middle-class Beijing families. They had lived down the hall from each other in the same luxury apartment tower their entire lives. Like many of the kids they grew up with in that tony environment, Kitty and Astrid had extra English tutoring after school and went on study abroad tours during school breaks. Some of their more affluent neighbors were sent to boarding schools in California or New England as early as sixth grade. The Pengs and the Zhangs could not bear the thought of sending their daughters so far away at such a young age, so Kitty and Astrid went to normal Chinese public school up until high school, when their parents paid lavish fees for them to attend the international track of the Affiliated High School of Peking University. This was a special unit of one of Beijing's most elite public high schools, where everyone was expecting to get an undergraduate degree abroad. Indeed, since they were not preparing for the Chinese university entrance exam, they could *only* go abroad.

The Pengs and the Zhangs, like many Chinese parents of similar means, thought that a foreign degree and a little bit of work experience overseas would help them get ahead when they entered the Chinese job market. Even if Kitty and Astrid did not do as well on the SAT and went to a foreign university no one had ever heard of, they would still have a better chance of career advancement than if they had gone to a second-rate Chinese university. (Better a degree from Wichita State than some forgotten provincial university in the Chinese hinterland.) A foreign degree signaled that they came from money, that they had cosmopolitan tastes, and that they could speak mellifluous English and win over any foreigner's business. In any case, the Pengs and the Zhangs wanted to spare their daughters the grueling experience of the *gaokao*, which would assign them to a university after a two-day test. The exam was so taxing and the stakes so high that the teen suicide rate spiked every year around test time.

The girls wanted to stay together through college, or at least be close enough to visit each other every so often. They worked with the same private admissions counselor, who helped them apply to the same universities. They had good (but not great) SAT scores and ranked near the middle of their highly selective high school. After hearing about their preferences for milder weather, larger campuses, and good science programs, the counselor suggested a number of universities on the US and Canadian West Coast and a few in southeastern Australia. Their parents preferred to send them to the United States, whose universities are better known in China, but would fully support their decision to go elsewhere. As international students with no need for financial aid, the costs of all of those schools would be approximately the same.

When the admissions decisions rolled in, it was clear that Kitty and Astrid would not be going to the same university. However, they were able to select campuses that were close enough for a quick weekend trip. Kitty chose the University of Washington in Seattle, while Astrid decided on the University of British Columbia in Vancouver. The girls were sad that they could not see each other every day but managed to stay close through social media and frequent cross-border trips to shop, eat, and catch up. They spent all of their school breaks together, alternating between Seattle and Vancouver, and making good use of the expensive tourist visas they got for the other country.

Both ended up studying computer science and hoped to get a year or two of work experience in North America before going back to China. Surprisingly, both got post-graduation job offers from Amazon, Kitty in their Seattle headquarters and Astrid in their growing Vancouver office. They thoroughly enjoyed their work and their new North American lives. Though they both went back to China a few times a year, the country was feeling more and more foreign to them. To their parents' dismay, they both wanted to stay in North America for longer than they had originally intended. The Pacific Northwest was home.

After two years at work, both started looking into permanent residency, and worked with Amazon's human resources staff and their own immigration lawyers to get the paperwork done.

Astrid was able to apply for permanent residency in Canada through the Canadian Experience Class (CEC) program for individuals who had some previous work experience in the country. It took a large amount of paperwork and patience, but she became a Canadian permanent resident soon after she initially applied. Kitty had a much more difficult time. She was initially hired under the Optional Practical Training status from her F-1 student visa. Amazon applied for an H-1B temporary work visa for her, but she did not get a visa in the lottery and thus had to leave the country. She was distraught, as were her supervisors. She started making plans to go back to Beijing late one night when her work cell phone rang. The Vancouver office, where Astrid worked, was willing to give her a transfer. Would she consider moving there?

Kitty said yes in a heartbeat. She moved back to Beijing temporarily while the Canadian immigration paperwork was being processed. After a few months, she started at the Vancouver office and moved into a West End high rise two blocks from Astrid's condo. The two besties were reunited again. Though Kitty could not apply for the CEC, her credentials and work experience made her a shoo-in for Canada's skilled[1] immigration stream, and she became a permanent resident within a few years. Both are now happily living with their partners in Vancouver, and hoping to start families soon. They plan to apply for full Canadian citizenship in the next few years, but are still keeping the option of returning to China for work.

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[1] Throughout this dissertation, I use "skilled" as shorthand to refer to immigrants with university degrees. This is not an ideal phrasing, but it is consistent with both the academic literature on this topic and with the US and Canadian governments' usage.

As Hagan, Hernández-León, and Demonsant (2015) note, the use of the word "skilled" as shorthand for "formally educated" is indicative of a classist assumption that workers with less schooling have no skills. It is also potentially confusing when discussing the difference between university-educated immigrants and those who have training in the "skilled trades" (blue-collar occupations that do not require a university degree).

I considered replacing "skilled" with "educated," but this interferes with the distinction that policymakers and bureaucrats make between "high-skilled" and "low-skilled" immigrants. To Hagan, Hernández-León, and Demonsant's point, it also does not address the fact that most "low-skilled" immigrants have some education, and that many highly educated immigrants are shunted into blue-collar work because their credentials are not recognized.

What are talent retention strategies?

Kitty and Astrid may be fictional, but their dilemma is a real one. Around five million students study outside of their country of citizenship (ICEF Monitor 2015). Over one million of those are in the United States alone (ICEF Monitor 2016). Canada hosts a smaller number of international students (just over 260,000 postsecondary students in 2015), though they form a larger proportion of total higher education enrollment (about 13 percent of all students in Canada versus 5 percent in the United States) (Statistics Canada 2016d, Knight-Grofe and Rauh 2016, Zong and Batalova 2016). Foreign students are a clear majority in some fields and degree levels. For example, 62 percent of doctorates awarded in the United States in electrical, electronics, and communications engineering in 2015 were to temporary visa holders (i.e., international students) (National Science Foundation 2016). Though international students have historically come to North America for graduate education, undergraduate enrollment is increasing rapidly. At the University of California, Los Angeles, for instance, international students were just 1.2 percent of total undergraduate enrollment in fall quarter of 1998. By fall 2017, 11.3 percent of UCLA undergraduates were temporary visa holders (UCLA Office of Academic Planning and Budget 2017).

Many students study abroad because they want the opportunity to work in the country where they studied (Liu-Farrer 2009, Fong 2011, Geddie 2013, Robertson 2013, Lu and Hou 2015, Thomas and Inkpen 2017, Brunner 2017). This is particularly true of students from developing countries, where work opportunities at home may be limited and foreign experience has cachet. While some begin their study abroad journeys with the intention of staying for the long term, many only plan on staying for a little while before going home or moving on to a third destination. However, much like Kitty and Astrid did, those who intend to stay only temporarily may change their minds (Mosneaga and Winther 2013). Still others may want to go home but get trapped because of geopolitical and economic instability (Su 2017, Zhou 2011). In all of

these cases, international students welcome flexible immigration policies that give them the option to stay if they choose to do so (Shih 2016).

In many countries, advocates and policymakers have proposed *talent retention strategies* to keep international graduates in the local labor market. Talent retention strategies are tweaks to immigration policy that make it easier for foreign students to convert to permanent immigrant status. They typically give foreign students with local degrees a leg up in the broader labor immigration pathway. For example, international[2] graduates of Austrian universities are eligible for a "Red-White-Red Card," which allows them to work for a specified employer. Unlike other Red-White-Red Card applicants, international graduates do not have to go through the points system for immigrant selection. After two years, they can apply for the "Red-White-Red Card plus," which gives unlimited labor market access (Federal Ministry for Labour and Federal Ministry of the Interior). New Zealand does the reverse, in which international graduates are eligible for a one-year visa to find a job with any employer, followed by a two-year visa to work for the same employer (Ministry of Business). After three years, international graduates can apply for permanent residency through the points system, which gives them extra points for current skilled employment in New Zealand (50 out of a minimum of 100 points), previous skilled employment in New Zealand (10 points), and having a New Zealand university degree (10-15 points). These points are in addition to points granted for having a university degree from any country (50-70 points) and skilled work experience anywhere in the world (10-50 points) (Ministry of Business 2017). Even Japan, a country that is notoriously closed to immigration, awards 10 extra points out of a minimum of 70 for foreign professionals who have received a degree from a Japanese university (Immigration Bureau of Japan 2017).

Talent retention strategies are part of the "global race for talent," in which sending and receiving countries vie for increasingly mobile white-collar migrants (Shachar 2006). University

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[2] In this context, "international" means "outside of the European Union and European Economic Area," since there is unrestricted labor mobility within the EU and EEA.

students, almost by definition, become white-collar workers. Luring them in with prestigious campuses and retaining them with immigration incentives presumably reduces the chances of them defecting to a competitor. This competition for skilled migrants fits in with the general trend of economic thinking guiding political decisions (Hirschman and Berman 2014, Fioramonti 2014). According to this logic, governments ought to select migrants based on their potential contributions to industry and to the fiscal base of the welfare state, rather than selecting them by lottery or by their relationships to citizens (Walsh 2008, Walsh 2011, Storesletten 2000). Talent retention strategies maximize the perceived benefits of migration to the state and to the economy. As multistep pathways to immigrant admission, they also reduce the risks inherent in immigrant selection (Cox and Posner 2007, Motomura 2007, Robertson 2013). By the time they apply for change of status, the potential migrants have already been screened twice: once through the formal screening process of applying for a student visa, and once again through the informal screening process of living, studying, and working in the destination country. They will have demonstrated their economic contribution and made progress in their integration in the destination social context.

However, not all advanced industrial countries employ talent retention strategies. For example, in contrast to Canada, Austria, New Zealand, or Japan, the pathway for students to become labor immigrants in the United States is highly uncertain. Despite spending years in Seattle on a student visa, obtaining a degree from a reputable US university, and working for a major US corporation, Kitty was unable to obtain an H-1B temporary work visa. Her US experience and credentials did not give her any advantages when applying for the visa. H-1B visas are issued by lottery, and the applicant pool includes workers applying directly from abroad. Though there are a limited number of complex workarounds, graduates who are unsuccessful in the lottery typically cannot stay in the country to work, even if, like Kitty, they were already working for a US employer that intended to keep them for the long term. Kitty's US

experience also would not count toward her application for permanent residency status, a separate process that her lawyers would likely have initiated after she secured her H-1B visa.

In this dissertation I seek to explain how and why some developed countries have adopted specific policies to attract and retain foreign students, while others have not. Under what conditions do immigration regimes open up to foreign students, and under what conditions do they become more restrictive? To answer these questions, I will compare the United States and Canada, two cases that have divergent outcomes despite cultural and historical similarities and geographic proximity. Canada has implemented talent retention strategies to a much greater extent than the United States. Advocates in the United States have been largely unsuccessful at carving larger pathways for international students to become workers, while their Canadian counterparts have made this pathway central to that country's immigration strategy (She and Wotherspoon 2013, Sweetman and Warman 2010).

How did the United States become an outlier in the global race for talent? Theories of immigration policymaking fail to explain how the United States got to this point. Freeman's theory of immigration policymaking predicts that, over time, Western liberal democracies will tend to adopt more open immigration policies (Freeman 1995a, b, Freeman and Birrell 2001, Freeman 2006, 2011). Building on Wilson's client politics model, he argues that, in general, the benefits of immigration are very heavily concentrated in the hands of employers, while the perceived costs are nebulous and diffuse, borne by the entirety of society (Wong 2006). A logical extension of this argument would be that, in cases where the perceived costs are minimal, states would adopt very open immigration policies. This is the case for students and white-collar professionals, who are generally well-received relative to less affluent migrants (Ceobanu and Escandell 2010, Hainmueller and Hiscox 2010, Facchini and Mayda 2012, Turper et al. 2014, Ben-Nun Bloom, Arikan, and Lahav 2015, Gorinas and Pytliková 2015, Pecoraro and Ruedin 2015). Employers actively lobby for easier access to skilled foreign workers and typically do not encounter opposition. The proliferation of talent retention strategies and other

skilled immigration policies in Western liberal democracies supports this conjecture. Yet again, however, the United States is the outlier. There has been relatively little change in US skilled immigration policy since 1965.

The United States has not become significantly more open or significantly more restrictive toward skilled migrants in the last five decades. This stasis is not, however, due to inaction or inattention. Skilled immigration is already on the political agenda, and policymakers are actively trying to make the United States emulate Canada, Australia, and other leaders in this field. Omnibus immigration bills in the last decade have often included expanded measures for skilled immigrants, and some have proposed skill-based points systems like those used in other top destination countries. Standalone talent retention strategies have also been proposed again and again, often under colorful names like the "SKIL Act" and the "STAPLE Act" (so named because green cards would be "stapled" to diplomas). Table 1 (Appendix 1) lists the 68 bills with talent retention provisions introduced in the 106th-114th Congresses (1999-2016). Of those bills, only one became law—the Kids 2000 Act, which made fairly minor changes to the H-1B system. Furthermore, talent retention is supported by both major parties. Figure 1 (Appendix 2) shows how the primary sponsorship of talent retention bills has been nearly evenly divided between Democrats and Republicans. Most of the bills on the list have cosponsors from the other party.

Institutional theory would predict that all peer countries would converge on similar models for attracting international students, in part because they borrow successful models from each other (Shipan and Volden 2008, Dobbin, Simmons, and Garrett 2007, DiMaggio and Powell 1983). The United States is the country that receives the largest absolute number of international students and consistently ranks at or near the top of foreign students' rankings of desirable study destinations. One would predict that the country would lead the charge, creating talent retention strategies that other countries emulate. In fact, the reverse is true. While most other advanced industrial countries have created talent retention strategies that look broadly similar, the United States has not done so. An alternative explanation would be that *because* it is

the leading destination for international students, the United States does not have to compete with other receiving countries to attract and retain talent. This explanation falls apart, however, when one notes that the share of international students going to the United States has been in decline, even as the population of internationally mobile students has continued to grow. OECD estimates show that the United States has gone from 23 percent of total market share in 2000 to 17 percent in 2011 (OECD 2013). Working with a different data set, the International Institute of Education finds that the US share was 28 percent in 2001 and 24 percent in 2017 (Institute of International Education 2017b). This suggests that the United States is not immune to competition between states and that preferential immigration policies for international students may be playing a role in making other countries more attractive as study destinations.

Research question

Why have talent retention strategies continued to fail in the United States? This empirical puzzle is at the core of my dissertation. I argue that immigration policies for skilled workers and students were very similar in the United States and Canada up until the mid-1960s. For most of their history, the two countries had racially exclusionary immigration policies but allowed small numbers of skilled migrants and students of color to cross the border. Both countries faced pressures to remove explicit racial discrimination from their immigration policies after World War II. The immigration policy reforms of the mid-1960s set the two countries on separate policy development trajectories. The Canadian trajectory was far more amenable to talent retention than the American path. Skilled immigration was at the core of the Canadian immigration system, whereas the American system focused primarily on family reunification. These differing priorities led to different constellations of interest groups fighting for the preservation and expansion of these immigration priorities.

Talent retention proposals in the United States were dogged by two additional issues. First, all immigration types were tightly bundled as a result of the attempt to build an omnibus immigration reform in 1965. Lawmakers left low-skilled immigrants out of this bundle, but did not create other mechanisms to address the demand for and supply of low-skilled labor. This precipitated into an undocumented immigration crisis, which came to dominate discussions of immigration. Reforms for the other types of immigrants in the bundle could not advance without addressing the legal status of migrants who were already living in the country without authorization and managing future supply of and demand for low-skilled labor. Second, unlike Canada, the US federal system does not allow for state and local level experimentation with immigrant selection, and also invests most of the power to make immigration policy in the federal legislature. Congress' inability to address the undocumented immigration issue thus stymied most efforts to implement talent retention strategies. Meanwhile, in Canada, the concentration of immigration rule making authority in the federal executive branch and the ability of provincial governments to make some of their own immigration rules allowed for greater flexibility. Talent retention strategies began as provincial-level experiments and were diffused up to the federal level.

Structure of the dissertation

This dissertation is divided into two chronologically and conceptually distinct parts. Part I (Chapters 3 and 4) examines the period between 1865 and 1967, or the period between the US Civil War and Canadian Confederation and the immigration reforms of the 1960s. It focuses on changing ideas about what makes certain immigrants desirable and others not, and how these ideas became embedded in immigration policy. Part 2 (Chapters 5 and 6) follows the implementation of the 1960s reforms and subsequent policy changes up to the end of the Obama administration in January 2017. This part focuses on the emergence of the idea that

international students should receive preferential treatment in the immigration process, and how the consequences of the 1960s reforms either helped or hindered efforts to turn that idea into policy.

How students and scientists became "desirable" migrants

In Part I, I explain how the logic of immigrant selection in the United States and Canada shifted from a race-based logic in the 1800s to a class-based logic by the 1960s. Crucially for this dissertation, the class-based logic made students, scientists, and other highly educated foreigners into "desirable" migrants. In Chapter 3, I show how the immigration authorities made special exceptions for educated nonwhite migrants during the era of race-based exclusion. Chinese, Japanese, and Caribbean blacks were all banned from entering the United States and Canada through legislative, diplomatic, or administrative mechanisms. Many came clandestinely, but a small number of students and professionals were able to cross the border legally through special exemptions. In Chapter 4, I explore how the sweeping immigration policy changes of the mid-1960s made these exceptions the guiding principle for admitting newcomers with no previous ties to the country. Both governments decided to admit migrants based on their skills and threw out explicit race-based discrimination in immigration law.

My overarching argument in this part of the dissertation is that a confluence of ideological winds and historical conditions changed the rationale for continued mass immigration. In the early period of settler colonialism, immigration was a mechanism to populate North America with European people. Once the settler colonial project was complete, with white control of the entirety of the continent, immigration became a way to supplement the labor market. This shift coincided with changing attitudes about the racial desirability of different migrant groups, which in turn was shaped by the broader geopolitical and economic order. Furthermore, the rise of Keynesian economics during the Great Depression led states to insert themselves into the

economy and encouraged policymakers to see immigration in economic terms. States could optimize their immigrant selection systems to encourage growth.

How preferences for students and scientists became policy after 1967

In Part II, I explain how proposals for talent retention strategies came onto the agenda in both the United States and Canada by the turn of the millennium, and how these proposals had turned into policy in Canada but continued to flounder in the United States. Economic and geopolitical shifts had increased demand for highly skilled labor in both countries. However, the trajectories set by the 1960s immigration reforms were path dependent. While the Canadian path and its emphasis on selecting skilled workers facilitated expansionary reforms for international students, the American path obstructed such reforms. In Chapter 5, I show how the immigration "problem" was defined differently in the US and Canadian reforms in the 1960s. The prioritization of different categories of "desirable" migrants and the exclusion of specific types of "undesirable" migrants continue to shape immigration policymaking today. In Chapter 6, I show how these issues facilitated the introduction of talent retention strategies in Ottawa and Canadian provincial capitals, while thwarting similar proposals in Washington.

The main argument in this second half of the dissertation is that Freeman's client politics model is an insufficient explanation for immigration policy outcomes unless one also considers that the universe of possible next steps is often limited. The client politics model assumes that states tend to reform immigration policy in ways that benefit employers because employers receive the concentrated benefits of immigration. Furthermore, they have the connections, the funds, and the clout to pressure the government to lobby lawmakers to preserve those benefits. The opposition to immigration, on the other hand, is much more diffuse and wields much less political power. Yet, Freeman's model fails to explain the fate of talent retention proposals in the United States, where there is essentially no organized opposition to international student

immigration. Only when one takes into account the path dependent nature of the immigration policymaking system since 1965 does it become clear that proposals for talent retention strategies have been obstructed by a limited political opportunity structure. All US immigration reform discussions since 1965 have been centered on undocumented migration, a phenomenon exacerbated by the deliberate exclusion of low-skilled workers from the immigration "bundle" in the 1965 reform. In the absence of a politically palatable solution for the undocumented issue, talent retention strategies have struggled to advance.

Empirical contribution

This dissertation's main empirical contribution to the immigration literature is a systematic comparison of the development of talent retention strategies in the United States and Canada. Talent retention strategies are significant because they are shaping the discourse around migration in wealthy Western countries. Western politicians are focusing the public's attention on "desirable" educated migrants in response to a political climate that is hostile to "undesirable" migrants (e.g. undocumented labor migrants, asylum seekers, and refugees). They often promise to control migration by reducing inflows of undesirable migrants and increasing inflows of skilled workers and students (Wright 2014a). In his late 2014 executive action on immigration, for instance, US President Barack Obama announced measures to clamp down on undocumented border crossing, but also extend the time that student visa holders can work in the United States after graduation (Johnson 2014a, b). The next week, United Kingdom Prime Minister David Cameron made a speech about restricting immigration from the European Union, but mentioned that any new migration policies would continue to "permit companies to bring in the skilled workers they needed and allowing universities to attract the best talent from around the world" (Cameron 2014).

Talent retention is a conceptual extension of talent selection, which has been a major feature of immigration policies in the United States, Canada, and other settler-colonial countries since the 1960s. Countries that have selected immigrant professionals based on their skills are now attracting and attempting to retain skilled foreigners at an earlier stage in their career and life course. In countries where they are implemented, talent retention strategies are changing the composition of migrant streams. For example, 41 percent of persons[3] who immigrated to Canada between 2001 and 2011 had a bachelor's degree or higher (Hango et al. 2015). While only a quarter of all of those immigrants received their highest degree in Canada, the proportion jumps to nearly half when one considers only those immigrants who arrived between ages 17 and 24 (Statistics Canada 2016a).

Furthermore, selecting students as migrants essentially makes universities the arbiter of immigration decisions, giving them an underappreciated role in the immigration process (Brunner 2017). The existence of policies that explicitly favor international students in immigration processes is fueling and shaping the growth of universities and other firms in the higher education sector. Students prefer countries that have favorable immigration policies for international students (Fong 2011). Increased international enrollment in those countries brings in more tuition dollars to universities, which incentivizes them to enroll even more international students (Robertson 2013). Revenue from international student tuition could lead to cuts in state support. For example, in late 2014 the Conservative-led government of Norway proposed that universities could make up for cuts in the higher education budget by levying tuition on foreign students, who had so far been able to attend universities for free (Ottersen 2014). Declines in international enrollment jeopardize this funding model. Many US institutions, for instance, began to cut programs after the Donald Trump administration's "Muslim ban" and general xenophobic rhetoric led to a drop in interest from Middle Eastern and South Asian students (Saul 2018).

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[3] Percentage of foreign-born persons aged 25-64 who were 17 or older when they immigrated to Canada.

The social and political changes brought on by talent retention are not limited to higher education. As skilled migrants become a larger proportion of migrant inflows, they will change the social, political, and economic structures of the receiving countries. For example, these migrants and their descendants will form a larger proportion of residents and voters. The influx of skilled foreign workers into the labor force will also change working conditions at the middle and top of the wage structure, and may have effects that trickle up and down. Finally, immigration policy decisions today will shape the political landscape for decisions in the future, both by constraining political action and by shaping voters' attitudes (Abrajano and Lundgren 2015, Tichenor 2002). An open avenue for immigration is difficult to close. Thus, understanding the development of talent retention strategies is critical for making sense of the institutional structure of Western liberal democracies today and how this structure may change in the near future.

Theoretical contribution

This dissertation makes two main contributions to sociological theory. The first is a challenge to Freeman's client politics theory of immigration policymaking. Freeman's neoclassical political economy approach has been criticized for its inability to explain the role of institutions in the policymaking process (Boswell 2007). The theory thus has difficulty explaining variations in outcome and in process. On its own, for example, it cannot explain why the United States and Canada developed different approaches to skilled labor migration. If one were comparing two countries that had developed similar approaches (e.g. Canada and Australia) it would not be able to explain why the process leading up to the outcome may have been different. Though the theory is prescient in identifying the employer lobby as the main benefactor of expanded labor immigration, it struggles to explain cases where the employer lobby demands greater access to a group of migrants, there is no organized opposition to that demand, and yet the demand does

not get implemented. My research shows that the historical conditions and institutional context under which these demands are made can facilitate or obstruct them.

I additionally contribute to critical theory with a commentary on the economistic logic with which social scientists often discuss skilled immigration. In discussions within and across many social science disciplines, international students and other skilled immigrants are often seen purely as inputs into the economic system. Many economic models predict that skilled immigrants will have a positive impact on receiving countries' economies and tax systems. Indeed, some economists believe that taking *only* skilled immigrants would be the best way forward. As an example, take this quotation from Storesletten's (2000) study of the economic impact of skilled immigration to the United States. This selection is less noteworthy for its content (which is largely in line with the economic consensus on skilled migration) than for its frank admission that its model abstracts immigration to the point where immigrants are reduced to the contribution of their labor:

> I compute, as a benchmark, the smallest increase in annual immigration required to balance the budget, given that the government is free to choose the distribution of age and skills of new immigrants, while restricted to keeping the current tax and spending policies unchanged. This minimum change involves increasing annual immigration from 0.44 percent to 0.62 percent of the population, or about 1.6 million, provided that all new immigrants are high-skilled and 40–44 years old. *Admitting adult immigrants but excluding their children may not be politically feasible, however.* (Storesletten 2000) (Emphasis mine.)

Given the economics profession's prominent position in the policymaking process, it is unsurprising that this view of skilled immigrants as baggage-free labor has seeped into many "politically feasible" immigration proposals. For instance, points systems for admitting skilled immigrants are often based on this premise.

When discussing skilled immigrants and skilled immigration policies, many sociologists and political scientists often echo this idea that skilled immigrants are valuable labor without

questioning it or situating it within its ideological context. However, the core theoretical strengths of political sociology include situating phenomena in their structural context, identifying the power relations that make up the structure, and unraveling the ideological web that normalize the power relations.

It is not enough to take the economists at their word that skilled migrants will make the economy great again. Political sociologists must ask why skilled migration has become the solution to economic woes in advanced industrial economies; who the major and minor actors are in creating the supply of and demand for skilled labor; and how these beliefs about skilled migrants have become so taken-for-granted that few have questioned their provenance or their logic. Additional questions about skilled immigration that sociologists are uniquely positioned to answer include how skilled immigrants are changing their social milieu and how they are changing intergroup relations in their host countries. To paraphrase Max Frisch's platitudinous remark about labor migration, we asked for brains but *people* came, with all of the social baggage that people bring.

Chapter 2 - Literature review

International students in the United States and Canada today

Since 1965, increasingly large numbers of international students have enrolled in colleges and universities in the United States and Canada. According to the International Institute for Education's estimates, the United States hosted almost 1.1 million international students in 2017, or 24 percent of the 4.6 million internationally mobile higher education students that year. That makes the United States the top receiving country by a large margin; the United Kingdom, the next most popular country, received only 11 percent of the total. Canada hosted the sixth largest number of international students (312,000 students or 7 percent of the total) (Appendix 2, Figure 2). However, international students make up a far larger share of total higher education enrollment in Canada (15.2 percent) than in the United States (5.3 percent) (Institute of International Education 2017b).

Except for a few years in the 2000s, the United States has since 1979 consistently hosted a larger number of international undergraduate students than graduate students (Zong and Batalova 2016). However, foreign students have been a much larger percentage of total graduate enrollment than of total undergraduate enrollment. For example, in 2017, 13 percent (391,000) of the 3 million graduate level students in US universities were temporary visa holders, compared to only 2.5 percent (439,000) of the 17.5 million undergraduates (National Center for Education Statistics 2017, Institute of International Education 2017b). Similarly, in 2013-14, 28.5 percent of doctoral students and 17.2 percent of masters students in Canada were international, compared to 8.9 percent of undergraduates (Statistics Canada 2016c). The proportion of international to domestic students is even starker in certain fields and degree levels. For instance, 52 percent of doctorates awarded in the United States in mathematics and computer science in 2016 were to temporary visa holders, as were 51 percent of engineering

doctorates (National Science Foundation 2016) . At New York University, the campus with the largest total number of international students in 2017, a full 80 percent of graduate students in school of engineering were on temporary visas (Wingfield 2017, Institute of International Education 2017b).

The three countries of origin that send the most students to the United States and Canada are the same. Students from the People's Republic of China were the largest group, forming 33 percent of all international students in the United States and 42 percent in Canada (Appendix 2, Figure 3). The next largest groups came from India (17 percent in the United States and 25 percent in Canada) and South Korea (5 percent in the United States and 7 percent in Canada). The fourth largest group of international students in Canada came from France, reflecting cultural ties as well as aggressive recruitment by the Québec government (Bothwell 2017, Venne 2017). The fourth largest group in the United States, meanwhile, came from political ally Saudi Arabia. In fifth place for both countries was their neighbor across the 49th parallel. The cross-border exchange of students is highly unequal; more than twice as many Canadian students are studying in the United States than there are American students studying in Canada (Institute of International Education 2017b).

A Statistics Canada analysis found that 49 percent of international students who arrived in Canada between 2000 and 2004 for graduate study[4] had become landed immigrants (permanent residents) within 10 years. Thirty-two percent of foreign students who arrived in that time frame for bachelor's study had also become landed immigrants by 2014. Stay rates overall were higher for students from less-developed regions (e.g. 55 percent of students from African countries and India).[5] Forty-seven percent of international students who became permanent residents within ten years applied as principal applicants through the Canadian points system,

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[4] Students whose first Canadian study permit (student visa) was for study beyond the bachelor's level.

[5] Overall stay rates may be deflated because the analysis includes students at the primary and secondary levels, as well, who are not generally in control of their own migration decisions.

20

rather than as spouses or children of principal applicants or as more distant family migrants (Lu and Hou 2015).

Data on how many international students stay in the United States after graduation are scarce. As of the time of writing, the US Department of Homeland Security has not published data on the number of F-1 visa holders who transition to other visa statuses. The few publications available that attempt to answer this question have relied Freedom of Information Act requests for data on very specific topics, such as the Optional Practical Training (OPT) program. OPT is an extension of the F-1 student visa that allows the applicant to work in their field of study for up to 12 months. In 2008, the Bush administration extended this period to a total of 29 months for graduates with STEM degrees who are applying to work in a STEM field; the Obama administration extended the STEM preference to 36 months in total in 2016. Between 2008 and 2014, there was a 379 percent increase in the number of OPT approvals, though the total number of international students in the country only grew by 32 percent (Ruiz 2017, Institute of International Education 2017a). International students clearly responded to the new immigration opportunities, despite the soft economy of the Great Recession. Furthermore, of the international students who obtained OPT status between 2008 and 2012, 45 percent stayed in the metropolitan area of their universities. The proportion was substantially higher in areas with large, diversified economies (e.g. 75 percent in New York) and in areas with specific economic niches aligned with the programs that international students tend to study (e.g. 75 percent in Honolulu) (Ruiz 2014).

The doctrine of dual intent

International students who decide that they want to stay in the United States or Canada for the foreseeable future have several options for doing so. Depending on their personal circumstances, they may be eligible for immigration by marriage or family ties, or for political

asylum. More commonly, however, they will apply to immigrate for employment purposes. The two countries have taken vastly different approaches to allowing international students to apply for permanent residency. In the United States, an individual on a student visa is ineligible to apply for permanent immigration, and thus must first transition to a visa status that will allow them to apply. In Canada, several talent retention strategies are in play, allowing students to transition directly into permanent residency through a number of different channels.

Most countries draw a sharp distinction between those foreigners who can stay in the country temporarily and those who can stay indefinitely. The United States, for instance, issues "immigrant" visas and "nonimmigrant" visas to foreigners who wish to enter the country. Canada makes similar distinctions between "landed immigrants" and "temporary residents." US immigrant visas are issued to those who have a place in the queue for permanent residency status (green card). A foreign citizen could apply for an immigrant visa on the basis of employment or family ties, for example. An immigrant visa allows them to live and work in the country indefinitely, until their permanent residency status is granted.

Nonimmigrant visas, on the other hand, are issued for a specific, time-limited purpose. In the United States, nonimmigrant visas are divided into subtypes named after the section of the Immigration and Nationality Act in which they are described. These include visas for study (F), academic exchange (J), business (B), and temporary work (H). In both countries, student visas are temporary visas, valid only for the duration of the study program, plus some additional years of on-the-job training. Individuals on student visas are expected to leave the country once the purpose of their temporary "visit" has come to an end.

In Canada, the immigration authorities recognize the doctrine of "dual intent" for all types of temporary resident visa. The Immigration and Refugee Protection Act (S.C. 2001, c. 27) states that "an intention by a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay." Thus, a foreigner can apply for a temporary visa

(such as a student visa) and pursue permanent residency in Canada, as long as the consular officer is convinced that she will leave Canada if her temporary visa expires before she receives permanent residency. In the United States, on the other hand, most nonimmigrant visas do not allow for dual intent. F-1 student visa applicants, for instance, must declare that they have "a foreign residence that [they have] no intention of abandoning" (8 U. S. Code 1101[a][15][F]). As part of the application process, applicants must present evidence of their personal and financial ties to their home country to show that they do not intend to settle in the United States long term. Any expression of interest in staying in the United States to settle or work jeopardizes the student visa application. In practice, it is difficult for most F-1 applicants to make such a claim. They are generally young and often do not have the types of employment or property ties that consular officers use as evidence of intent to leave the country for applicants for other types of visas. Furthermore, many study programs can take four years or more, and it can be difficult for the applicant to predict where they might be afterwards. Consular officers have discretion in deciding whether or not applicants intend to immigrate. They likely apply the dual intent rule more leniently for student visa applicants, though decision-making at the consular level continues to be a "black box" for researchers (Teich 2014).

US pathway

The non-recognition of dual intent at the application stage for an F-1 student visa is a clear signal that the United States does not make it easy for international students to stay in the country after graduation. The F-1 visa comes with the option of applying for OPT, which grants 12-36 months of work permission (see Appendix 2, Figure 4). F-1 visa holders who want to stay for longer than the OPT period or must apply for a different category of visa. The most common pathway for a student-migrant who intends to stay in the country for longer than the OPT period

is through the H-1B specialty occupation visa, one of the few temporary visas that allow for dual intent. If an international student acquires an H-1B visa, she can then have her employer help her lodge an application for employment-based permanent residency.

Like nearly all US employment-based visas, the H-1B visa requires employer sponsorship. The student-migrant typically must receive a job offer from an employer who is willing to apply for an H-1B on their behalf. Sponsoring an H-1B worker can be financially burdensome to many employers, and carries a high risk of denial. To hire a foreign worker on an H-1B visa, an employer must pay up to $4,500 in fees to DHS, depending on what proportion of its workforce is on a temporary visa (US Citizenship and Immigration Services 2017). Employers typically also hire attorneys to handle the filing process, including the labor certification process. This process is meant to ensure that the H-1B worker would not displace any domestic workers and that the employer will pay the H-1B worker the prevailing wage for the job.

H-1B visas are strictly capped at 65,000 per year. There are several limited exceptions to this cap. Applicants working for nonprofits and universities are exempt from the caps, and Chileans and Singaporeans are eligible for special treatment because of bilateral trade agreements. There are an additional 20,000 spots reserved for applicants with an advanced degree from a US university. This is the only talent retention preference in the current US immigration system. However, it is not comparable to other countries' talent retention strategies because these spots are almost always distributed by lottery.

When demand for H-1B visas in a given year outstrips supply, the visas are assigned randomly to individuals who submitted their applications before the numerical limit is reached. In 2017, for instance, US Citizenship and Immigration Services opened the application period on Monday, April 3. By Friday, April 7, the agency issued a press release saying that it will no longer be taking any more applications for the year because it had already exceeded both the general and advanced degree caps (United States Citizenship and Immigration Services 2017b, Thibodeau 2017). Ten days later, it issued another statement, saying that it received 199,000

petitions in the week of April 3 and that it used a computer to randomly select the 65,000 general and 20,000 US advanced degree recipients (United States Citizenship and Immigration Services 2017a). Those who are not selected through the lottery must typically leave the country or find some alternate pathway to stay.

Another, less common pathway for student-migrants is the L-1 intracompany transferee visa. Like the H-1B, the L-1 allows for dual intent. If a graduate leaves the United States to work for a multinational corporation and her employer transfers her to a US branch office, she could be eligible for an L-1 intracompany transferee visa. L-1 visas have become more popular with corporations because they are exempt from the labor certification requirement and numerical cap on H-1Bs. As long as the employee has been working for the employer at a foreign branch for at least one year, and the employer can certify that the employee has specialized knowledge that no domestic worker has, then the employer can bring the employee to a US branch. However, this is a less common pathway for international students, since it requires leaving the United States to gain the requisite time with the company.

Both the H-1B and L-1 visas are time-limited. The H-1B is initially issued for three years and can be extended once for a total of six years; the L-1 is issued for one year or three years, and can be extended for a total of seven years. However, migrants who successfully acquire one of these visas can ask their employer to sponsor them for permanent residency. During the various stages of the permanent residency process, which is beset by deep backlogs, migrants can extend their H-1B or L-1 status beyond the maximum time limit. This allows them to remain in the United States and continue working for the same employer.[6] The permanent residency application is a separate process altogether, with its own associated legal and administrative fees. This process is therefore biased towards large corporate employers (including universities)

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[6] At the time of writing, the Trump administration was considering new regulations to limit these extensions, effectively requiring migrants in the green card queue to leave the country after their dual intent visa expires (Ordoñez 2017).

with the capacity to handle all of these legal processes and the budgets to pay the fees[7]. This process also puts the employee in a precarious position vis-à-vis the employer, as both parties are aware of the difficulties of securing a visa, and that any new employer must be willing to shoulder these costs and the costs of transferring responsibility for the employee. Hypothetically, this could lead foreign workers to be less likely to voice concerns about work conditions and unequal compensation (Luthra 2009).

Canadian pathway

The more streamlined immigration pathways available to international students in Canada contrasts strikingly with the convoluted process in the United States. Since the Canadian authorities recognize the doctrine of dual intent for student visas, a foreign student can pursue permanent immigration status while in the country on student status. Multiple options are available, depending on the student's level of study and the location of the university. The most common pathway is via the Post-Graduation Work Permit Program (PGWP; analogous to OPT in the United States). The PGWP allows a graduate of a Canadian postsecondary program to work in Canada (outside Québec[8]) for the length of their program or up to three years. Work experience in Canada under the PGWP gives the graduate a significant leg up in the permanent immigration system. After twelve months of full time work on a PGWP, a graduate is eligible for the Canadian Experience Class (CEC) pathway for permanent immigration. Applications are made through a points-based system called Express Entry, which sets the order and speed in which the federal government processes employment-based permanent immigration applications. Most CEC applications are processed within six months of filing. Thus, an

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[7] Note, however, that universities are exempt from many of the H-1B fees.

[8] Since 1971, the Québec government has negotiated significantly more autonomy from the federal government in the immigration sphere (Kostov 2008). Thus, much of the description of the federal system here does not apply to immigrants wishing to settle in Québec.

international student could, in theory, receive permanent residency status within 18 months of graduation. This is in sharp contrast to the main US pathway for international students, which can take several years, especially for citizens of countries like India and China that have high demand for employment-based green cards. Furthermore, there is no step of the process where applicants can be denied because of their bad luck in a lottery. There is thus less uncertainty for migrants (and their employers) in the Canadian system.

This main immigration pathway for international students in Canada is a fully-fledged talent retention strategy. It gives graduates of Canadian universities numerous advantages in the immigration process. By virtue of having studied and worked in Canada, graduates have an indirect leg up in many stages of the process. For instance, it is likely to be much easier for them to get a job offer from a Canadian employer and to perform well on the English and/or French language assessments. However, there are also numerous direct advantages for international students that are built into the process. While on the PGWP, graduates are exempt from the Labour Market Impact Assessment; employers hiring graduates do not need to demonstrate that the foreign worker will not take the job away from similarly qualified Canadian applicants. In the Express Entry system, graduates who have worked on a PGWP receive priority processing because they have a Canadian degree and Canadian work experience. Additionally, CEC applicants are exempt from several steps of the immigration process. Unlike other applicants, they do not need to prove that they have enough funds to support themselves in Canada. They are also not required to undergo the Educational Credential Assessment, since they received their latest credentials in Canada.

The PGWP to CEC pathway is the primary federal immigration pathway for international students, but it is not the only way to stay. Provincial Nominee Programs (PNPs) allow applicants who intend to live in specific provinces and meet those provinces' requirements to get priority processing at the federal level. Many of the provinces that have historically been less popular with post-1967 immigrants, such as the Prairie and Maritime provinces, have

implemented PNPs to retain international students who study in their universities. PNPs have become so popular that even major immigrant destination provinces have created their own programs. Ontario's PNP, for instance, allows graduates who have received doctorates from a university anywhere in Canada to apply for permanent residency without a job offer. Though the expectation is that the applicant will remain in the sponsoring province, in practice there is no formal way to require permanent residents and new citizens to live within a certain jurisdiction.

Multi-step pathways: immigration policy meets immigrant agency

Both the US and the Canadian pathways for international students seeking permanent residency involve multiple steps. Immigrant-receiving Western countries have increasingly adopted multi-step immigration pathways as a supplement to existing programs that select migrants directly from abroad. In these multi-step pathways, foreigners enter the country on a temporary legal status for a specific duration and purpose. These temporary legal statuses typically give them a strictly limited set of rights. For example, the visa may tie them to a particular employer or university, and deny them access to unemployment insurance, state-funded healthcare, and other social services. While they are in the country, they may apply to transition to a different type of legal status that gives them access to a larger set of rights. From there, they may transition to legal statuses that come with an increasingly large bundle of rights, until they become full citizens, on equal legal terms with all other citizens.

A talent retention strategy is a specific type of multi-step immigration pathway for foreigners who enter the country on student visas. Student visas are typically only valid for the duration of the program of study, and tie the student's legal status to their educational institution. These visas typically also deny students the right to work, except in a limited number of circumstances. A talent retention strategy gives student visa holders a direct pathway to permanent residence status, which gives them the right to work for any employer and additional protection from

28

deportation. There may be additional temporary legal statuses in between student visa and permanent residence, but they all allow for a seamless progression towards permanent residence. The prospective migrant is not required to leave the country, and deportation is only a threat if they commit a crime.

For states, multi-step immigration pathways reduce the risks of selecting economic immigrants (Cox and Posner 2007, Motomura 2007, Robertson 2013). States have typically selected economic migrants blindly. They know little about economic migrants who apply to immigrate from abroad, except for the data collected in the application process. Consular agents not know whether these individuals will thrive in the new environment; all they can do is make an informed assumption. The migrants, on their end, typically do not know this, either. For both sides, the biggest risk is that migrants will not be able to find employment that matches their education and experience. This could be because their credentials or license are not recognized or because there is no demand for their occupation. There are also additional non-economic risks, such as migrants not being able to speak the local language well enough to integrate, feeling isolated because they are removed from familiar social networks, or being unable to cope with a new climate. For the state, all of these economic and social risks are potential burdens on unemployment insurance, settlement services, health care services, and other elements of the welfare state. For migrants, these are intensely personal risks that dissuade all but the most motivated individuals from leaving home.

States have attempted to reduce the economic risks through a variety of pre-arrival selection methods. The US system is *employer-driven*, in that the immigration authorities issue visas based on job offers issued by US employers. Employers, then, select migrants on behalf of the state. In contrast, Canada issues visas based on degrees and certifications, English- or French-language ability, and other *human capital* indicators. The immigration authorities selected the migrant labor pool for employers. Other countries, such as Germany and Australia, have used *sector-specific* selection programs that recruit migrants for specific types of jobs in which there

are labor shortages (Caviedes 2010, Kolb 2010). Employer-driven and sector-specific programs are based on assumptions about firm- and industry-level economic success, while human capital programs are based on individual-level assumptions. The result is that the other levels of analysis end up neglected. Employer-driven programs tie migrants' immigration status to their employers, making them reluctant to change jobs, even in the face of labor abuse (Lenard and Straehle 2012, Luthra 2009, Velayutham 2013, Hahamovitch 2013, Nakache and Dixon-Perera 2015). Sector-specific programs can be so slow to implement that firms cannot get the workers that they need when they need them, and migrants arrive with their employment dreams dashed. Human capital programs may select individuals whose skills do not match up with local labor market needs at all—a PhD sociologist may receive full points, but have no employment prospects in the recessionary oil sands of Alberta. Furthermore, none of these strategies account for the non-economic risks of immigrant selection.

By giving potential migrants a probationary period of entry in which they can accumulate country-specific human and social capital, talent retention strategies reduce both economic and non-economic risks, at the individual, firm, and state levels. Unlike graduates of foreign institutions, foreign-born students who attended domestic universities have credentials that employers in the destination country can readily recognize. In most cases, the students are also given an opportunity to work in the country part-time, thereby developing knowledge of the local working culture, building employable skills, and making contacts that may help them get jobs in the future. This reduces individual-level risks of labor market discrimination, as well as firm-level risks of a mismatch between employer needs and employees' training. Furthermore, universities take on some of the work of helping these potential migrants integrate, by embedding them into a local social network and providing settlement services like language training and visa assistance (Flynn and Bauder 2015). In the Canadian case, this takes the burden of immigrant settlement services off the shoulders of the federal government; in the United States, where the government does not provide settlement services, this is an unexpected benefit.

Making policy

How do policies like talent retention strategies come into being? Policymaking in liberal

democracies like the United States and Canada is a complex process that typically involves

input from multiple sets of actors through both institutionalized mechanisms (e.g. invited

legislative testimony) and informal means (e.g. protests on one end, or bribery on the other).

Pluralist theories of democracy argue that the lack of an absolute fount of power would allow the

people to intervene in the policymaking process and make their voices heard (Dahl 1967). Less

optimistic readings of democracy contend that the continued existence of political and economic

elites and the deep interlinkages between the two groups effectively reduces the role of the

people to a bit part (Mills 1956, Schumpeter 1976). Both the optimists and the pessimists agree,

however, that elected officials are caught between the will of the people and the will of economic

interests, because support from both sides are necessary for re-election at the individual level

and coalition-building at the party level.

This tension between two sets of interests that often do not agree is at the crux of

Freeman's (1995a, b) model of immigration policymaking in liberal democratic states. Freeman

notes that liberal democracies tend to implement increasingly open immigration laws, even if

public opinion is largely *against* liberalization. He argues that this is because the benefits of

increased immigration are heavily concentrated in the hands of business interests, who profit

from an increased labor supply and a larger market of consumers. The costs of immigration to

the welfare state and to social cohesion are limited, diffuse, and borne by all. Thus, business

interests have a strong incentive to mobilize their resources to fight for immigration expansion,

while anti-immigration groups have a far weaker incentive. Furthermore, business interests have

far more resources than the opposition and are already enmeshed in the political and economic

networks of the ruling class. It is unsurprising, then, that immigration policies tend toward openness.

However, policymakers cannot ignore the will of the people entirely. The immigration "problem" is often framed as an invasion of low-skilled, racially othered individuals from backwards countries. The "immigrant" category is thus classed and raced. States have often addressed voters' anger about "immigrants" while quietly allowing less politically salient types of migrants across the border. Public opinion of highly skilled and/or racially similar foreigners is often much higher than opinion of "immigrants" in general, and these well-liked foreigners may not even be lumped together with immigrants in the popular imaginary (Hainmueller and Hiscox 2010, Turper et al. 2014, Guðjónsdóttir and Loftsdóttir 2017). Wright (2014a) argues that the Australian government signaled that they were controlling the immigration "problem" by reducing migration streams that were unpopular with voters (low-skilled workers, refugees, and asylum seekers). Simultaneously, however, they expanded migration streams for skilled workers that were less unpopular with the public and especially favorable to businesses. I argue that these "control signals" can be seen throughout the period under study in this dissertation. For example, they are evident in the mid- to late-19th century bans on non-European immigrants in the United States and Canada. Chinese exclusion, for instance, was meant to address the concerns of the voting public, but contained exceptions for wealthy and skilled individuals to mollify businesses and foreign governments who raised objections to the bans.

Chinese exclusion, like nearly all other major immigration reforms in US and Canadian history, was implemented at time when immigration had become a major political flashpoint. It was at those points that the public inserted themselves into the immigration policymaking process. Most immigration policymaking is done quietly and behind closed doors. Though they are not as egregiously closed as the single-industry policymaking clusters that Baumgartner and Jones (1991) have called policy subsystems, I argue that the immigration policymaking systems in the United States and Canada function similarly. Typically, business interests are the only

groups that consult with the legislators and civil servants who design and implement the rules, because the benefits are concentrated in their hands and they have the resources to expend on an issue that is generally not at the top of the political agenda (Feys 2015). Ethnic organizations may also insert themselves in the policy process when the issue is not salient, because the benefits are similarly concentrated for them (Wong 2006). Both sets of organizations tend to agree on expanded immigration, even if they may disagree on the specifics. Rule-making proceeds smoothly and change happens slowly (Mahoney and Thelen 2010, van der Brug et al. 2015). The main actors remain those groups that benefit the most, and the parts of government involved in policymaking stay the same (Baumgartner and Jones 1991, 2009).

Both the players and the arena can change with an exogenous shock, such as an unexpected migration flow or a major geopolitical event. The shock makes the issue salient and ignites debate across sectors. This is typically when the opposition gets involved. Since the costs of immigration are diffuse, there is little incentive for opposition groups to insert themselves into immigration rule-making when the issue is not salient. Suddenly, there is disagreement about how to address a highly salient issue, and thus the issue becomes contentious and politicized (van der Brug et al. 2015). The groups involved try to reframe the public's beliefs about the issue (what Baumgartner and Jones call the "policy image"). For example, the fight for national origins quotas for Southern and Eastern European migrants to the United States in the 19th century began with eugenic arguments about the racial composition of the United States, but gained steam when activists and commentators linked the racialized immigration problem to issues of national security and anti-communism (FitzGerald and Cook-Martín 2014). They may also take the issue to government institutions that had not previously been involved in shaping this type of policy (Baumgartner and Jones 1991). Conversely, government institutions that had previously stayed in the sidelines may insert themselves to adjudicate conflicts. For instance, both Ottawa and Westminster intervened when anti-Asian

laws in British Columbia threatened to upset Japan's relations with the British Empire (FitzGerald and Cook-Martín 2014).

Interest groups in immigration politics

How did talent retention strategies come about? Theories of policymaking suggest that business groups and other actors who have an interest in international student migration present their concerns to the parts of government responsible for setting labor market and immigration policy. In proposing new policies, they may draw from the experiences of countries with similar histories and political traditions or even directly copy policies that they believe have been successful. This process can be subdivided into legislative and regulatory subprocesses. The larger framework for policy development is developed in the very public forum of the legislature. Outside actors can intervene in the legislative process by lobbying legislators, particularly those in committees that are directly responsible for the policy area in question. Once the legislation is approved, the parts of the civil service that are responsible for carrying out the law develop the detailed regulations that stem from the schematic of legislation.

Baumgartner and Jones (1991, 2009) argue that most of this interaction between legislators, civil servants, and outside interest groups happen within a fairly closed "policy subsystem" outside of the public eye. Interest groups know which units of the government they should target to make their voices heard; conversely, the government knows which interest groups they should consult to develop sound policies. Policy subsystems tend to be stable, but exogenous changes in the policy image (how the public perceives the policy area) can lead to a rapid rearrangement, in which new interest groups may be brought in to the discussion and the policy venues (units of the government responsible for a policy area) may shift.

Businesses have been particularly vocal in advocating for talent retention strategies and other skilled migration pathways. For example, representatives of industries that are heavily

dependent on skilled migrant labor regularly testify in the United States Congress when immigration reform is on the table. Tackling the problem a different way, Facebook CEO Mark Zuckerberg founded the pseudo-grassroots social movement organization FWD.us to lobby for easier access to skilled migrant workers. Universities and research institutes, which depend heavily on international student tuition and on the labor of foreign academics and researchers, engage in similar types of politicking. Other groups that have a stake in talent retention tend to be less organized than employers. Ethnic lobbies have been a major advocate for expanded immigration in the settler societies, but they tend to have far less political clout than large industries do (Freeman 1995a, Tichenor 2002, Wong 2006). Organized labor also typically opposes foreign labor inflows, but they are only significant actors in cases where unionization rates for the specific type of job are high.

Client politics theory suggests that pressure from industry and other pro-migrant interest groups are pushing immigration policy in a more liberal direction. Freeman argues that the benefits of immigration are concentrated in the hands of a few minority stakeholders, while everyone in a society bears the costs (Freeman 1995a, b, 2006). Therefore, those who stand to benefit (e.g. businesses employing migrant labor or ethnic organizations) have strong incentives to organize themselves and engage in the political process. On the other hand, those who could lose out (e.g. those who would compete with migrants for jobs) have much weaker incentives to organize because the perceived costs on them are so diffuse. Furthermore, Freeman argues that low-wage, unskilled or medium-skilled workers (the groups that are most threatened by mass labor migration) have less political power and savvy. Thus, even if they wanted to organize, it would be more difficult for them to do so, and they would likely be less successful. This may hold for native skilled workers, as well, especially in countries like the United States and Canada where skilled worker unionization rates are low. In places like Scandinavia, where unionization rates are very high and unions have an institutionalized role in the lawmaking

process, skilled workers may be more successful at blocking expanded skilled migration pathways.

Framing immigration politics

Nation-building in North America during the mid-to-late 19th century led to more crystallized understandings of what it meant to be American or Canadian. Citizens and lawmakers took these nationalist concepts and mobilized to enable the immigration of groups they thought could become part of the American or Canadian nations, and discourage or ban those groups that they thought were unassimilable. Both ethnic organizations and businesses countermobilized against these movements, the former appealing to economics and the latter appealing to cultural values. Units of government outside of the legislature, particularly the diplomatic corps, intervened as well, arguing that such race- or nationality-based bans would endanger relations with other states and become an unnecessary barrier to free trade.

Tichenor's (2002) two-dimensional typology of immigration politics divides immigration restrictionists into two camps: nationalist egalitarians, who oppose immigration on the basis that it against the *material* interests of receiving country nationals, and classic exclusionists, who oppose immigration because it erodes the *cultural or racial* homogeneity of the nation. Both ideal types appeal to nationalism, but in different ways. Classic exclusionists argue that the nation cannot and should not take in newcomers because newcomers are culturally and racially distinct. Nationalist egalitarians, on the other hand, argue that the state should preserve and promote the welfare of the nation, and that it cannot accommodate more newcomers without reducing the welfare of all who are already part of the nation. This argument is ostensibly

36

inclusive of immigrants who have crossed the border at an earlier point. While these two arguments for exclusion are compatible, the two types differ in their stance on the rights of immigrants already in the polity. Nationalist egalitarians advocate for expanded rights, in order to put all who are in the polity on equal footing, while classic exclusionists argue for restricted rights, in order to discourage migrants from crossing the border.

On the pro-immigration side, Tichenor distinguishes between free-market expansionists and cosmopolitans. These two types also appeal to nationalism, if less directly than the anti-immigration side. During the mid-19th century, the most vocal pro-immigration voices fell in the free-market expansionist camp. Railroads, agriculture, shipping, and other industries that depended on large numbers of manual workers advocated for increased immigration, arguing that it would improve the nation's material wellbeing. More migrants would increase competition in the labor pool and thus reduce business costs. This, they argued, would increase dynamism in the economy and benefit the entire nation. Much rarer in this period (though common today) were the cosmopolitans, who believe that cultural and racial pluralism strengthens the nation. This camp became much more prominent in the post-WWII era on both sides of the border, as the civil rights struggle in the United States and the Québec question in Canada led to public debates about how a nation can be cohesive despite diversity.

While these four camps appear clearly delineated in theory, in practice the boundaries are fuzzier. In this dissertation, I build upon this typology by interpreting it as a typology of *frames*, rather than as a typology of *groups*. In doing so, I bring Tichenor's analytical framework into conversation with the literatures on framing in social movements and agenda setting in policymaking (Benford and Snow 2000, Menz 2016, Baumgartner and Jones 1991, Winter 2014, Baumgartner and Jones 2009). The key question in both of these literatures is: how do we make the most effective argument for what we want? Rather than assuming that the individual actor is consistent in messaging across time, and that this messaging mirrors an unchanging intent for change in the world, these literatures assume that both messaging and

intent change dynamically as the context changes and as time goes on. One key finding in these literatures is that organizations are most effective in making their arguments when they tap into existing beliefs and narratives. For example, arguments for expanded access to skilled immigrants in the United States and Canada today typically use neoliberal language about growth and the market, whereas the same issue was framed in terms of geopolitical competition during the Cold War era (Hirschman and Berman 2014, Teitelbaum 2014).

Most advocacy groups, both in the mid-19th century and today, use a mixture of frames from either the expansive or the restrictive side of Tichenor's typology. For example, Canadian labor unions advocating for Chinese exclusion combined the classic exclusionist frame focused on race and nation with the nationalist egalitarian frame about material wellbeing. They argued that the Chinese were not just a threat because of their race or because of their numbers in the labor market, but because they were "willing to be treated as beasts of burden," while "white men demand the treatment of rational beings" (Goutor 2007a, p.21). They were economic threats *because of* their race. Similarly, pro-immigration groups today often mix free-market expansionist frames with cosmopolitan frames. For example, advocates for undocumented youth in the United States today often argue that they are part of the US nation *and* that they are or will be positive contributors to the economy (Patler 2017).

Pro- or anti-immigration social movement organizations are not the only actors shaping immigration policy. The relevant parts of the state, each with their own interests, also come into play (Skrentny 2000). Democratically elected legislators must be responsive to civic mobilization, because political support (and, ultimately, reelection) depend on it. Other parts of the state are relatively insulated from popular sentiment. The diplomatic corps and the trade promotion units, for instance, share with businesses an interest in the smooth operation of international trade. Bans on migrants of a certain race or nationality rightfully angered migrant-sending countries, causing major headaches for diplomats. Those countries might levy tariffs on American or Canadian goods, or close up their market entirely in retaliation. However, other

geopolitical issues may take precedence over this preference for the free flow of goods and people. These units of government typically have leeway to hinder cross-border traffic to pursue other goals. The immigration bureaucracy is another key player. Both the United States and Canada have historically given officers at the border and in consulates significant autonomy in deciding whether a foreigner should be admitted to the country (Knowles 2007). One can theorize that individual ideology, agency culture, and geopolitics affect the decision-making of these "street-level bureaucrats," but in the end, their decision-making rationale is unknowable and unresearchable with retrospective techniques. Within the limited area of autonomy given to them, these bureaucrats are essentially unaccountable to others.

Agenda setting and framing

Understanding the shape of political structures and the existence of mobilized groups is not enough to explain how and why some policies succeed while others do not. One must also understand how the different actors involved perceive of the issue at hand and how they act upon this perception. Is the issue important enough to discuss? What is the scope of the issue? What kinds of responses are within the realm of possibility? To answer these questions, I turn to the body of literature in political science on agenda setting and policy framing.

Governments tend to decide on the specifics of immigration policy without much public input or debate. Legislators publicly decide on the broader framework of the policy, but once a bill becomes law, the responsible ministries or departments decide on how to implement them. Questions like how many of a certain category of immigrant to admit or which kinds of immigrants should be prioritized for deportation are decided internally within what Baumgartner and Jones (2009) call a *policy subsystem*. Bureaucrats at the level of government that makes immigration policy work together with experts and interest groups to decide on quotas, procedures, and other specific details. These specifics, however, can come onto the public

agenda when actors from outside of the subsystem come into play, or when there is significant

electoral or social change. An issue comes on to the agenda when it is salient to the public. It

becomes a politicized issue if there is disagreement as to how to deal with the problem (van der

Brug et al. 2015).

The way that an issue is framed when it is brought into the public debate shapes the

parameters of the discussion and of the policy outputs that result from the discussion. Like

many other issues, "immigration" is a broad category that indicates very different kinds of social

phenomena with different interest groups involved. The category includes unskilled labor, skilled

labor, and family migrants. It also often includes refugees and asylum seekers. In some

countries, such as the United States, all of these issues are bundled together (see the many

calls in recent decades for *comprehensive* immigration reform). In other countries, these issues

may be relatively unbundled, in that different kinds of immigration are discussed as independent

and qualitatively different phenomena. Framing and bundling are partly dependent on the

structure of government and of party politics. While the United States has a two-party

presidential system, Canada has a multiparty parliamentary system. In the media, the United

States Democratic Party is often framed as pro-migrant and the Republican Party as anti-

migrant, but immigration actually divides both parties. Measures to select immigrants on the

basis of skills, for example, are often opposed by Democrats and supported by Republicans

(Pottie-Sherman 2013).

No matter how the different kinds of migration are bundled, however, they are often pitted

against each other in the debate. Restrictions on one kind of migrant are often paired (explicitly

or tacitly) with expansion for another kind (Wright 2014a). When voters and politicians in

Western liberal democracies think about immigration, skilled immigrants and international

students are unlikely to be the first things that come to mind. The most contentious immigration

issues are with low-skilled labor migrants, refugees, and asylum seekers. These are the groups

that are most likely to be branded as unwanted and unassimilable. In some immigration

debates, skilled immigrants have been counterposed to unskilled immigrants. They are the wanted and assimilable migrants that serve as the rhetorical foil to the first group.

Foreign students are also desirable because they are different from a number of implicit or explicit[9] comparison groups: unskilled migrants, unauthorized migrants, refugees, asylum seekers, and "problematic" domestic minorities. Whereas unskilled migrants (particularly those without work authorization) and domestic minorities are stereotyped as dependent on the welfare state, foreign graduates tend to be paid high, taxable incomes that support the welfare state (Storesletten 2000, Razin, Sadka, and Suwankiri 2014, Medina Garciadiego 2010). While some less-skilled migrants cross borders without authorization, nearly all foreign students arrive with valid documentation. Finally, given the uneven nature of educational opportunity in the Global South, foreign students come from different racial, ethnic, and religious groups than unskilled migrants and "problematic" domestic minorities. In both North America, foreign students are largely Asian, while unskilled migrants and domestic minorities are of black and brown people of African and/or Latin American descent.

The migrant's perspective

The global race for talent is typically framed as a competition between states for skilled migrant workers, who gravitate towards opportunities and incentives like sheep to a shepherd's call. Yet migrants are not sheep but people, and even sheep have agency. Highly skilled migrants are different from less skilled migrants in that they have the privilege of being picky about where they go and can theoretically thrive anywhere in the world (even if their actual

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[9] When this dissertation was proposed in 2015, I wrote that these comparisons were typically implicit. Citing (Freeman 1995a, b), I argued that these comparisons were "rarely vocalized explicitly, perhaps due to norms against outright racial and religious exclusion in immigration policy." Since that time, the far right has risen again in many of the Western liberal democracies that Freeman analyzed, throwing these norms out the window.

choices are more circumscribed) (Hercog 2008). Thus, the student-migrant's perspective on the immigration process is critical to both academic analysis and policy design.

The student-migrant's perspective on talent retention strategies is beyond the scope of this dissertation. All macro-level comparative-historical work necessarily shares this blind spot. However, the historical institutional analysis in this project cannot ignore the individual- or group-level perspective entirely, as the migration flows that immigration policies attempt to regulate are ultimately individual and group level decisions. States may open the doors and universities may provide the opportunities, but it is ultimately up to the individual student-migrant and their family to move (Czaika 2013, Mazzucato 2009, Stark and Taylor 1989, 1991).

A partial solution is to read and cite the historians, ethnographers, psychologists, and theorists whose specialty is the individual and group levels of analysis. One common theme in their work is that perceptions of political opportunities and macroeconomic trends are key factors in deciding where to move. Previous micro-level research has shown that graduates from the developing world typically want to work in the host country because wages are higher and appropriate job opportunities more plentiful (Robertson 2013, Liu-Farrer 2009, Fong 2011, Geddie 2013, Mosneaga and Winther 2013). According to neoclassical economic theories of migration, potential migrants perform a cost-benefit analysis when deciding whether or not to move. If wages in the potential destination are higher than in the place of origin, rational actors will make the move. In this model, migrations persist and do not stop until every worker has maximized his or her wages. However, the neoclassical model does not account for social, cultural, and political factors that may encourage or discourage migration, channel migrants to particular destinations, keep migrants from moving even if they wish to do so, or return home even though the wage differential persists (Hansen 2002, Kapur and McHale 2005, Massey et al. 1998, Saxenian 2005, Skeldon 2012). For instance, macro-level research has shown that international students tend to come from middle-income countries that are in the midst of rapid development. As their home countries become wealthier, there are more opportunities for them

42

to use their foreign training at home. For instance, whereas Taiwanese and South Korean students in the United States during the 1960s-80s tended to stay, it has become much more common for later cohorts to return to the home country or move back and forth, even though there is still a significant wage differential between homeland and hostland (Saxenian 2005). China and India, the main source countries of international students to North America today, are developing similarly. Their graduates are also moving back or circulating, despite the wage differential.

The new economics of labor migration (NELM) addresses some of these issues. It deviates from neo-classical economic theories of migration by conceptualizing the decision to migrate as a group-level process (de Haas 2011). Scholars in this tradition argue that migration is a household decision. Migration allows families to maximize and share scarce resources. The most economically productive members of the household can migrate to work, and send remittances home to the rest of the family. In this view, migration is also a form of insurance to reduce risk (Mazzucato 2009). Economic shocks (e.g. drought or recession) that affect one country or region of settlement may not affect the other, or at least will not have the same kinds of effects. Thus, the scattered members of the household face different levels or kinds of risk, and the overall risk of the household is reduced.

NELM argues that *relative deprivation* is a key factor in choosing to send a household member to work abroad. Households are more likely to send a member abroad if they believe that by having a member earn money in a country with significantly higher wages, they can improve their economic situation relative to others in their social milieu (Czaika 2013, Stark and Taylor 1989, 1991). While Stark, 1991 #633} hypothesized that potential migrants with higher levels of education may be less likely to move across borders than those with less education because the return on investment in human capital would be less than in the home country, the opposite may be the case for migrants at the far end of the education distribution. Those with the most education may see significantly higher return on investment when they migrate, both in

43

relative and absolute terms. This is because the institutional and infrastructural conditions in higher wage countries provide more and greater opportunities for skilled workers to make use of their skills. However, this may not be the case in countries that are developing very rapidly.

If NELM explains *why* people move, then the social networks in migration literature explains the *how*. DiMaggio and Garip (2011) model migration as a social process that has positive externalities; that is, the benefits of migration increase when the number of individuals from one's social network who have migrated increases. Having a connection to a previous migrant both increases the probability of migration and makes the process easier by reducing costs and increasing expected benefits. DiMaggio and Garip's work builds on a large literature on the role of social capital in perpetuating international migration. In their study of migration from selected Mexican communities to the United States, Massey et al. (1990) argue that the cross-border flow of persons is organized in male-dominated social networks. Migrants use their social ties when making the decision to migrate, in planning their trip, and in crossing the border. Once in the US, these networks allow migrants to get jobs and maintain a connection with the home community. In effect, having a link to a previous migrant reduces the financial and social costs of cross-border movement, and even more so when there is a large network of previous migrants. Network-assisted migration starts of a process of *cumulative causation*, in which new migrants eventually help persons in their network to move between the same communities (Singer and Massey 1998, Liang et al. 2008). While work on skilled labor migration has found that social networks structure and enable mobility, whether or not these network mechanisms operate differently for migrants of different levels of human capital remains to be explored (Fong 2011, Xiang 2007a, Perkins and Neumayer 2014).

Finally, micro-level research brings insight into the quotidian experience of migration. Studies of migrants' relationship with their homeland and hostland states are particularly relevant to this dissertation. For example, fears about homeland politics are often a key driver of migration, even for migrants who are hardly "refugees" in any sense of the word. Fear of political

instability after the handover of Hong Kong to China led to an exodus of the wealthy and skilled from that city in the 1980s and 90s, creating enclaves of "yacht people" in Vancouver, Sydney, Los Angeles, and elsewhere (Ong 1999). The heyday of skilled Taiwanese and South Korean emigration coincided with ham-fisted dictatorships in both countries, and subsided after both countries transitioned to democracy. Current emigration from China, India, and other rapidly developing countries is often driven by concerns about economic and political instability. For example, in February 2018, after the Chinese government announced a proposal to remove term limits on the presidency, web searches for "emigration" spiked before being censored (Severdia 2018).

Moving to a new country brings another set of political and economic factors to worry about. Immigrants who are not citizens may be forced out of the country at the whim of the government; even "permanent residency" is conditional on staying on the good side of the state. For international students in particular, staying in the country after graduation is often a highly uncertain prospect. In most countries, the transition from student to migrant is not automatic. One must transition through one or more additional visa categories (e.g. temporary labor migrant) before becoming eligible for permanent residency. More hoops may remain before one becomes eligible for citizenship (Robertson 2013). Though each stage results in a more permanent visa status, student-migrants often do not know if or when they will be granted access to the next stage. In some countries, including the United States, passage to the next stage is lotteried, meaning that a migrant's ability to stay in the country is subject to the luck of the draw. The precariousness of the immigration process and the deleterious social and psychological effects that it engenders are well-documented for low-skilled undocumented workers, but is often ignored in studies of highly educated documented workers (Axelsson 2016, Menjívar and Abrego 2012, Menjívar 2006, Gonzales 2011, Yoshikawa 2010).

Part I: 1865-1967

Chapter 3 - Inclusion and exclusion: immigration policy exceptions for wealthy non-whites, 1865-1939

Historians and social scientists have noted two conflicting trends in the *longue durée* of US and Canadian immigration policy. On the one hand, both countries have been pioneers in immigration openness. The settler colonial states of northern North America were willing to take "the wretched refuse of your teeming shore," as Emma Lazarus' famous poem on the Statue of Liberty stated. European elites saw the United States and Canada as a dumping ground for the human dregs of Europe (Isenberg 2016). Followers of persecuted religions, workers in regions with saturated labor markets, and other groups whose presence in society discomfited the ruling classes of the old country eventually made their way across the Atlantic to start anew. Though perhaps only a fraction of European newcomers were "unwanted" peoples, these groups shaped the United States and Canadian national mythologies. The Pilgrims, the famine survivors, and the republicans were proof of American exceptionalism; the royalists that headed north after the American Revolution showed that there was room in North America for people of all political stripes.

These mythologies obscure the fact that both countries have been highly selective in taking migrants in. Most notably, from the mid-19th to mid-20th centuries, the two countries responded to Asian and black migrants with severe restrictions and even outright bans. In this period, for instance, migrants from China, Japan, and the Caribbean were shut out by legislation, diplomatic agreements, and/or bureaucratic discrimination. However, it was not just non-Europeans who were subject to restrictions. Both countries had defined categories of persons who were inadmissible regardless of their race. The Immigration Act of 1910 in Canada, for example, banned "idiots, imbeciles, feeble-minded persons," as well as "prostitutes, women and girls coming to Canada for any immoral purpose" and "immigrants who are dumb, blind, or otherwise physically defective." While migrants from across Europe were theoretically welcome,

both countries tried to use national origins quotas and literacy tests to reduce the number of Eastern and Southern Europeans coming to their shores. Finally, immigration agents on both sides of the border had the authority to turn anyone away at their own discretion.

Given all the evidence of exclusion, it would be misleading to characterize US and Canadian immigration history as primarily about open doors. The opposite would be similarly unfair, given that the two countries had been unusually open well before any countries of the Old World had become countries of mass migration. Instead, to fully comprehend the broader history of US and Canadian immigration policy and use that comprehension to analyze more recent developments, one must see inclusion and exclusion as two sides of the same coin. The logical obverse of *including some* is *excluding most*. All policies for selecting immigrants can be framed in inclusive (positive) or exclusive (negative) terms. The Chinese *Exclusion* Act of 1882 in the United States, for example, could as easily be understood as *inclusion* for migrants who are not Chinese and who are not otherwise barred for non-racial reasons.

If states are unwilling to take all comers, and inclusion for some must mean exclusion for others, then the question then becomes: whom to include and whom to exclude? Until the mid-20th century, the primary axis of inclusion and exclusion was genetic and cultural origin—that is, race, ethnicity, and nationality as they were variously defined, combined, and conflated at the time. The immigration policies of the mid-19th to mid-20th centuries bore traces of the genetic and cultural ideological movements of the era. The development of nationalism in North America along European lines, the advent of scientific racism and the eugenics movement, and the hierarchies of peoples that justified slavery and colonization all shaped the United States and Canadian immigration policies of this time. British and other Northern European Protestants were ideal immigrants. Southern and Eastern Europeans, as well as Irish Catholics, were not ideal but similar enough in culture and color to be acceptable. Other groups were unwanted.

There was, however, another axis of inclusion and exclusion during the mid-19th to early 20th centuries: class. Even in cases where the policy intention was to ban all migrants from a specific

race, ethnicity, or nationality, both the United States and Canada made exceptions for individuals of middle or high socioeconomic status. In this chapter, I use three examples of racial exclusion during this period in which specific exemptions were made for individuals of high class standing. Incidentally, these three examples of exclusion were made in three different arenas of government. Chinese exclusion was done through the legislature, while Japanese exclusion was done through diplomacy, and Caribbean black exclusion was done through the bureaucracy. All of these exclusionary measures exempted students, merchants, and officials, who were, by and large, not lumped together with manual workers in the "immigrant" category. Exclusion for the vast majority corresponded with inclusion for a select few.

The provisions for migrants of high socioeconomic status were relatively minor exceptions to wide categorical bans. However, they are conceptually important for three reasons. First, when racial discrimination became untenable in the Cold War era, class came to supplant race as the primary axis of discrimination in immigration policy. The immigration policy changes of the late 1960s are often characterized as a major turn towards inclusion, but I argue in later chapters that the reverse is also true. These reforms were as much about bringing in the skilled and the educated as they were about keeping out the less educated. Second, the class exceptions to racialized bans on migrants of certain nationalities demonstrate how global political and economic interests shaped immigration policy, which is often seen as an exclusively domestic issue in both popular understandings and scholarly analyses. Finally, how class modifies a nonwhite migrant's standing before the government and in the community of reception continues to be an important factor shaping the reception of migrants today. In later chapters, for example, I will show how policymakers and interest groups highlight international students' class standing in advocating for expanded immigration channels for student visa holders.

State, nation, and race

States today have effectively monopolized the legitimate "means of movement" (Torpey 1998). A state has the prerogative to decide which non-citizens are allowed into its territory, and under which conditions. This right has become an essential part of state sovereignty as it is understood today, and all states exercise it. There is no state with unconditionally open borders. All states use force (e.g. border walls and patrols) or symbolic threats of force (e.g. visas) to police border entry; most police border exit, as well. This modern status quo is the result of isomorphic pressures from other states. As neighboring countries or powerful global actors began to adopt border controls, states are either coerced into following suit or proactively adopt similar measures in order to align themselves with the emerging norms of statecraft (DiMaggio and Powell 1983). For example, the modern visa system, in which many border crossers are evaluated for their admissibility well before they reach the border, is the result of concerted international systematization through the newly formed League of Nations after World War I (Neumayer 2006, Wang 2004, Zolberg 2000).

"Remote control" of border crossers through visas fundamentally relies on (1) a clear definition of where the border lies and (2) an administrative apparatus to regulate border crossings (Zolberg 2000). Both elements first emerged in North America in the mid-to-late 1800s, when post-Confederation Canada and the post-Civil War US enacted broad regulations banning migrants from certain racial or ethnic groups. These two aspects are hallmarks of Westphalian sovereignty as it had been practiced in Europe. The Peace of Westphalia in 1648 established the idea that European states are sovereign within their own borders. Weber's definition of the state—a community that has a monopoly on the use of force within a given territory— hinges on this idea (Weber 2013). To have a monopoly on the use of force within their borders, states must know where their borders are, and must use force or the threat of force to defend them. While colonial North Americans aimed for Westphalian sovereignty, the realities of settler colonialism made this difficult. Westphalian sovereignty in Europe depended on states having clearly defined borders with other states that were organized along similar

principles. Until the late 19th century, however, borders in northern North America were fuzzy at best. White settlements were surrounded by native societies that were organized around different ideas about peoplehood and territory. The border between the United States and the British dominions to the north was fluid and porous. It was not clear where one country's territory ended and the other's began, and the central government had limited control over the far reaches of the polity, where white settlements, native settlements, and vast expanses of wilderness were intermingled.

Immigration from Europe was seen as the answer to all of these problems. An increase in the white population, spread out across the continent, would allow the nascent US and the British colonies to gain control of all of the territory from the Atlantic to the Pacific. The two governments gained greater control of the continent as the century went on. The Treaty of 1818 and the Oregon Treaty of 1846 established the land border between the United States and Britain at the 49th parallel north. The ideology of Manifest Destiny, along with territories bought or won from Mexico, inspired white Americans and European newcomers to wrest control of all territory south of the 49th parallel and north of the Rio Grande from indigenous people. The Rupert's Land Act of 1868 took a wide expanse of territory out of the private hands of the Hudson's Bay Company and gave it to the Dominion of Canada.

The American and Canadian authorities thus had every incentive to increase immigration. Indeed, until the mid-1800s, they had neither the will nor the need to restrict it in any way. The majority of migrants before the mid-19th century came from northern European Protestant countries and were deemed easily assimilable to the British American way of life. What few migration restrictions did exist before this time were limited local restrictions aimed at keeping slaves from leaving the Southern US for the free states of the north or to Canada. However, by the middle of the 1800s, both countries faced deep conflicts over national identity, borne of trauma in the United States (the Civil War and Reconstruction) and triumph in Canada (Confederation—the political unification of three separate British colonies north of the United

States). Contemporaneously, the immigration stream had begun to diversify. Peasants and laborers from Ireland, Southern and Eastern Europe, the Levant, and East Asia began to seek new opportunities in the Americas, just as the Industrial Revolution slowed emigration from northern Europe.

Immigration from these new areas challenged concepts of nationhood in the United States and Canada. The nationalist intellectual currents sweeping Europe at the time romanticized the ideal-typical nation-state, in which the sovereign state's borders were coterminous with the reach of its people. The state was legitimate because it was for the nation, by the nation, and of the nation. The nation was a social unit because of its supposedly primordial bonds of culture, language, and historical memory—never mind that these ties were often consciously constructed by the intellectual elite and were propagated through the media and through the new institution of universal, state-sponsored education (Brubaker 1992, 1996, Gellner 1983, Hobsbawm 1992). The European ideal of the nation did not translate well in the settler societies, particularly those in northern North America. The European population was diverse in origin, the borders were in constant flux, and, unlike in Spanish or Portuguese colonies, miscegenation between Europeans, slaves, and natives was frowned upon (Guimarães 2002, Vasconcelos 2001). North American elites could not claim that there was a primordial bond of nationhood between the European-origin settlers. Indeed, conflicts over slavery in the former Thirteen Colonies and conflicts over language, religion, and the reach of government in the British dominions to the north led to a civil war in the former and political disjuncture in the latter. On both sides of the border, elites began ambitious nation-building projects to build that sense of nationhood among diverse peoples, much like how post-Revolution France homogenized its multicultural and multilingual population into a French-speaking, unitary nation (Brubaker 1992).

The concepts of American and Canadian nationhood that emerged in the mid-to-late-19th century were firmly rooted in the racial and ethnic ideologies of the time. To be American or British Canadian was to be a Protestant of British, or at least of northern European, heritage.

(The fact that a large swathe of Canada was French and Catholic and that the United States had a large population of African-descended slaves would continue to vex the two countries to this day.) As new groups of migrants began to arrive on North American shores, native-born whites argued that they were culturally and genetically incompatible with the American and Canadian nations. Commentators argued that Irish, Southern and Eastern Europeans, and Jews were not acceptable new nationals. According to the racial-ethnic-religious-class ideologies of the time, in which animal husbandry and human reproduction were one and the same, these new migrants were not of the right "breed" or "stock" to assimilate into the mainstream (Isenberg 2016). European immigration was both the core component of nation-building in northern North America and a major challenge to it.

If other Europeans were of the wrong stock, then Asians, Africans, and indigenous North Americans were essentially other species. East and South Asians were thought to be so different from white North Americans that they were completely unassimilable. Again, animal metaphors are telling. Contemporary discourse compared Asian migration to an invasion of vermin (e.g. "little brown men" covering "the deck of the big steamer from stem to stern like a swarm of ants") (Takai 2011, p. 7). Asians were an unfamiliar threat to most North Americans, and anti-Asian xenophobia only arose when Asian migration began to grow. Black migration, on the other hand, was unwanted even when hardly any blacks crossed the border. Very small streams of Caribbean migrants went to both countries and an even smaller stream of black Americans moved north, but the legacy of the Atlantic slave trade made white populations on both sides of the border very aware of blacks and the "threat" they posed. Americans feared that Haitian migrants would incite revolution among blacks in the South, while Canadians were wary of American-style racial issues emerging within their borders (FitzGerald and Cook-Martín 2014). For instance, when a small group of black workers from Barbados alighted the train in rural Saskatchewan, the local police promptly arrested them for vagrancy. Though they were likely the first black people the town had ever seen, and though "the men's colour and the

peculiar predicament in which they were placed were their only offences," they were never given the benefit of the doubt (Troper 1972a, p. 279).

By the late 19th century, increased immigration from these "undesirable" groups gave the impetus for the first immigration restriction laws. Native-born Americans and Canadians began to call on their governments for numerical restrictions on immigration and for racial and ethnic selection of immigrants. Immigrants ought to be restricted in number, they argued, because increases in the size of the labor force drove down wages. They called for bans on non-white immigrants, as well as a litany of European subgroups, because these groups were undesirable neighbors whose genotypic, phenotypic, and cultural characteristics increased their economic threat.

Anti-immigrant mobilization from below was bolstered by scientific racism and eugenics from above. Western European and North American intellectuals, having "discovered" the world's peoples through conquest, used the tools of Darwin and Mendel to divide ethnic and racial groups into hierarchies and extrapolate the consequences of racial mixing. Experts convinced American and Canadian elites that northern European Protestants—the ruling social group in northern North America—were racially superior to all others, and that selective breeding, restrictive immigration policy, and genocide would prevent racial undesirables from sullying the pure genetic makeup of the superior race. Unlike in Latin America, where scientific racism and eugenics competed with pro-miscegenation theories in a postcolonial social context where most people were of mixed heritage, racial mixing in northern North America was rare and European supremacy theories thus stood alone (Guimarães 2002, Vasconcelos 2001).

Scientific racism and eugenics gave intellectual support to preexisting racism. Racism, in turn, informed nation-building. Nationalists invoked these ideas about racial hierarchies and the threat of race mixing to frame their anti-immigration mobilization. They appealed to the public's existing preconceptions of other groups, arguing that the introduction of racial others into the polity would provoke a crisis in the nation. In cases where there were no "useful" negative

preconceptions because of limited exposure (e.g. attitudes towards Chinese in Eastern Canada, far away from Chinese settlements in British Columbia), nationalist movements borrowed concepts from across the Anglo-American cultural sphere. The flourishing intellectual and cultural exchange between the United States, Britain, and the far-reaching British Empire led to a global racist consensus about which groups were undesirable and how to manage them (Goutor 2007b, Ngai 2015). Theories of race and nationhood and models of exclusion policies made their way between the settler colonies of North America, Australia, and Southern Africa.

States, borders, nationalism

Much of the literature on host country nationalism and immigration focuses on contemporary Europe, where nationalism is a long-standing fact and mass immigration is a new experience (FitzGerald et al. 2017, Bauder 2014, Koopmans et al. 2005, Citrin and Sides 2008). Research on nationalism and immigration in settler societies has also been focused on the contemporary era, when mass immigration is a long-standing fact and nationalism is a relatively new development (Alba and Nee 2003, Gordon 1965, Waters and Jiménez 2005, Glazer 1993, Brubaker 2001, Bloemraad, Korteweg, and Yurdakul 2008, Alba and Nee 1997). Curiously, this literature often does not name "nationalism" or the "nation" outright, preferring circumlocutions such as immigrants' cultural assimilation into the "mainstream," the attitudes of the "native-born" towards immigration, or "nativist" anti-immigration movements. All of these concepts hinge on the idea that the mainstream or the native-born are meaningful social categories, but these ideas emerged through nation-building projects and the national attachments that these projects engendered. Analyses of native-born residents' attitudes towards newcomers are invariably predicated on the idea that the native-born are a distinct social group tied to the land and the polity, and that they know who belongs in that group, even if they never will know all of the members of that group (Anderson 2006). Nationhood is a dynamic, constantly contested

process, and the assimilation of immigrants into the nation (the mainstream) is clear evidence of that change and contestation (Brubaker 1996).

The Chinese exclusion acts

The first and most well-known race-based ban on immigration in North America was Chinese exclusion. The US passed the Chinese Exclusion Act in 1882, effectively banning all Chinese laborers from coming to the United States, with some exceptions for diplomats, merchants, students, and tourists. Canada implemented Chinese exclusion more gradually, first with a head tax on arrivals with the Chinese Immigration Act of 1885, and then with a complete ban on Chinese (except those same special categories exempted from the American law) with the Chinese Immigration Act of 1923. Exclusion of migrants from China, achieved through legislative means, set the terms of later exclusion of Japanese in 1908 and black Caribbean migrants in the late 1910s. It led to the search for diplomatic and bureaucratic means to exclude migrants because sending countries protested the public humiliation of legislative exclusion. It also set the precedent of carving out exceptions to racial bans for individuals of high socioeconomic status, a compromise that allowed both sending and receiving countries to trade and meet trade and development goals despite the ban.

Though emigration from China to neighboring parts of Asia dates back several centuries, mass Chinese emigration to the Americas began with the First Opium War between the Qing and British Empires (1839-42), and accelerated further with the Second Opium War (1856-60) (Zhou 2009). The opium wars put many coastal cities in China under semi-colonial control by Britain and other European powers. The British contracted many Chinese indentured servants to work as "coolies" in Malaya, the Caribbean, and Peru. By the 1850s, California, Hawaiʻi, and Australia also began importing coolie labor, though large numbers of independent, non-indentured Chinese workers emigrated to these destinations, as well. The California gold rush in

56

1849 and the British Columbia gold rush in 1858 brought thousands of independent Chinese to the Pacific coast of North America to seek their fortune. Chinese workers began to arrive in the North American interior in the 1860s, when they were imported in large numbers to build the First Transcontinental Railroad in the United States. The Canadian Pacific Railway, which began construction in the 1880s, also employed indentured Chinese laborers.

Whites in California and British Columbia resented the presence of Chinese workers. Labor unions in Canada construed male Chinese immigrants as a threat because their race catalyzed their economic menace and vice versa. They argued that the Chinese willingness to work cheaply would result in economic domination and "the prospect that tens of thousands of industrious [white] workingmen may become tramps...and the streets of our cities be filled with harlots who might have been decent wives and mothers but for the ruinous competition of Mongolian slave labor" (Goutor 2007a, p. 21). According to this line of thought, wage competition between whites and Chinese would lead to the complete breakdown of patriarchy and white Western society. Whites in California and British Columbia attempted to push the Chinese out through local and state/provincial laws. The California constitution of 1879 banned hiring Chinese workers and instructed municipal governments to segregate them from the white population (FitzGerald and Cook-Martín 2014, Tichenor 2002). Similarly, British Columbia passed over 100 anti-Asian laws between 1872 and 1922 (Ryder 1991). The anti-Chinese movement was primarily led by labor unions, who used classic exclusionist and nationalist egalitarian frames in their arguments that the Chinese were not only racially inferior, but that their racial inferiority made them an especially alarming economic threat. They contended that the Chinese, who did jobs that white men did not do and for pay that white men would not accept, were the tools that the capitalists used to deprive working white men of their livelihood. In turn, the Chinese "Mongolianized" the white elite in their quest for economic domination, making all of Western civilization the fool (Goutor 2007b). While traders, manufacturers, and other elites in California and British Columbia generally benefitted from cheap Chinese labor,

their voices in support of expanded Chinese immigration were eventually drowned out by national, cross-class, bipartisan coalitions (FitzGerald and Cook-Martín 2014, Tichenor 2002).

Chinese exclusion at the United States federal level began in 1879, when President Rutherford Hayes vetoed a Chinese exclusion bill after the Chinese government argued that it would violate the Burlingame Treaty of 1868 (FitzGerald and Cook-Martín 2014). That treaty allowed for Chinese migration to the United States, though it denied the right to naturalize. The veto of this bill prompted the Hayes administration to renegotiate the immigration terms of the Burlingame Treaty, resulting in the Angell Treaty of 1880, which allowed the United States to restrict immigration of laborers from China but not ban Chinese migrants outright. The restrictions on labor migration that followed the Angell Treaty were not enough to satisfy American Sinophobes. Two years later, President Chester Arthur reluctantly signed the Chinese Exclusion Act, which banned Chinese labor migration for ten years. Arthur had vetoed the first version of the bill, which banned Chinese for twenty years, but felt that vetoing the second version would lose him the support of white voters in the west (FitzGerald and Cook-Martín 2014). Chinese exclusion was renewed for another 10 years with the Geary Act in 1892 and made permanent in 1902. It was not repealed until the Magnuson Act in 1943.

Chinese immigration was a central issue in British Columbia politics when it joined Confederation in 1871, and British Columbia politicians pushed Ottawa to ban Chinese immigrants at the federal level. A Royal Commission on Chinese Immigration in 1884 recommended following the Australian head tax model rather than the United States model of complete exclusion. This would restrict immigration, pleasing the exclusionists, without fully cutting off the supply of cheap Chinese labor, pleasing business interests. They could thus signal to voters that they were keeping the Chinese immigration problem under control, while not alienating powerful interest groups. The Chinese Immigration Act of 1885 limited the number of Chinese immigrants a ship could carry and forced the migrant to pay a $50 head tax. By 1901, a new Royal Commission on Chinese and Japanese Immigration reassessed the Asian

migration problem and studied the approaches taken in the United States, Australia, and the Natal colony (now part of South Africa). Both the commission and the United States government (wary of Chinese crossing the border after having landed in Canada) pressured the Canadian government to raise the head tax to $500, which it did. Because immigration from China was not cut off, however, the Chinese population grew and expanded eastward, and anti-Chinese sentiment continued to grow. In 1922, the Chinese Nationalist government and Chinese organizations in Canada tried to convince Ottawa to make a Gentlemen's Agreement with China, much like the 1908 agreement with Japan. However, in 1923, Prime Minister Mackenzie King opted for an order in council restricting all Asians, and then the Chinese Immigration Act of 1923, which banned all Chinese except for diplomats, merchants, and students (FitzGerald and Cook-Martín 2014). Anti-Chinese activists, led by labor unions in British Columbia, had won. Chinese exclusion was not repealed until 1947.

The exceptions for upper class individuals in the Chinese exclusion laws dates back to the Angell Treaty, which stated that any restriction that resulted from the treaty "shall apply only to Chinese who may go to the United States as laborers, other classes not being included in the limitations." "Chinese subjects, whether proceeding to the United States as teachers, students, merchants or from curiosity" and their servants could continue to travel to the United States unhindered. The Chinese Exclusion Act did not explicitly name these categories, but referred to the treaties governing Chinese migration, and required all persons attempting to enter through the exempted categories carry documentation stating that they met the requirements. The Canadian laws and agreements contained similar language. These exceptions were likely concessions to North American business interests, who wanted continued access to traders, and to diplomatic interests, who wanted to soften the humiliating blow to the Chinese.

The ability of students to cross the border was an important element of China's development policy after the opium wars with Britain, and allowed the United States and the British Empire to exert significant influence in the upper echelons of China's government, economy, and society.

In its later years, as Western powers and Japan carved into Chinese territory and demanded concessions, the weakening Qing Empire slowly began to modernize and westernize. The Self-Strengthening Movement (more commonly known in Chinese sources as *Yangwu Yundong*, literally "Western learning movement") proceeded much more slowly than the contemporaneous Meiji Restoration in Japan, but similarly involved hiring Western advisors and sending students overseas for study. Much of the student mobility was facilitated by Christian missionaries. The Chinese Educational Mission (1872-1881) sent 120 boys to high schools in Connecticut and then to colleges across the northeast US. Missionaries also established schools for girls in China, many of whom went to colleges and graduate schools in the United States (Ye 1994). Later, the United States and other Western powers forced China to pay indemnity for the anti-foreign, anti-Christian Boxer Rebellion (1899-1901). The US used some of these payments to create the Boxer Indemnity Scholarship Program, which sent larger numbers of Chinese men to US colleges (Hsu 2014). Some of the funds were used to create a preparatory school in Beijing, which eventually became Tsinghua University, one of China's first Western-style universities. Even at the height of the exclusion era, the United States government was facilitating the flow of select numbers and types of Chinese into the country to bolster its position in Asia.

The use of legislative means to ban Chinese immigrants to the United States in 1882 was a turning point in North American immigration politics. It showed how xenophobic working-class movements could use classic exclusionist and nationalist egalitarian arguments to create a cross-class consensus against a specific immigrant group. It demonstrated how democratic means could be used for illiberal ends, and how short-term, group-specific exclusion can coexist with long-term, generalized openness to immigration. Most importantly for this dissertation, it set the precedent for allowing wealthy and/or skilled individuals across the border, even when others from their nationality or race were strictly banned. The legacy of the Chinese Exclusion Act is not limited to the late 1800s and to the United States, however. Through cultural diffusion and direct pressure, the United States ban informed the Canadian approach to the same issue.

It also set the institutional and geopolitical context for the later bans on migrants from Japan and the British Caribbean.

Gentlemen's Agreements with Japan

While the United States and Canadian governments used legislative means to ban Chinese migrants, their subsequent bans on Japanese migrants were formed privately, through "Gentlemen's Agreements" with Japanese officials that made Japan responsible for restricting *out*flows of migrants to North America. According to the Gentlemen's Agreement with the United States (1907-8) and the Hayashi-Lemieux Agreement (1908) with Canada, the imperial Japanese government would ban laborers from emigrating to the two countries. As with Chinese exclusion, merchants, officials, students, tourists, and other higher class individuals could pass. Achieving the bans through diplomatic means allowed all three governments to save face. Japan, as Asia's ascendant imperial power, did not want the public humiliation of powerful Western countries blocking its people through legislative debate. The US and the British Empire, mindful of Japan's growing military and economic might, did not want unilateral action in response to domestic demands to escalate international tensions even further. The implementation of the agreements was also mutually beneficial in that manual laborers, a problematic migrant population for all sides, would be banned from emigrating, while the high class populations that all sides saw as crucial to maintaining peaceful economic ties could continue to move unhindered.

Emigration from Japan was heavily restricted under the Tokugawa Shogunate (1600-1868), a feudal military government that enacted a policy of near-complete isolationism. In the mid-1800s, the United States, Britain, and other Western imperial powers demanded that Japan open its doors to trade. This led to the rapid social, economic, and geopolitical change under Emperor Meiji (1868-1912). In the Meiji Restoration, the emperor gained control of the country

from the Tokugawa clan and led Japan's transition from a feudal political and economic system to a capitalist empire in the mould of the Western great powers.

Flows of people into and out of Japan facilitated reforms. As the Charter Oath of the new Meiji regime stated, "knowledge shall be sought throughout the world so as to strengthen the foundations of imperial rule" (Hirakawa and Wakabayashi 1989). This knowledge came in the form of hired Western advisors who guided Japan's political and economic elite on best practices for developing industry and institutions. Western-style universities were established to teach Western knowledge to Japanese students. In addition, the Meiji government sent small numbers of Japanese students to the West on short-term diplomatic tours and for longer-term degree programs. A handful of youths had been educated in the West during the feudal era (for instance, Hayashi Tadasu, the diplomat who made the Gentlemen's Agreement with Canada, had studied at King's College London), but the Meiji government accelerated these flows. Young elite men went to study at the top universities in the United States and England, as well as in France and Germany, and came back to Japan with new ideas and the political clout to implement them. Elites, however, were not the only Japanese who left the country. Peasants, uprooted as European peasants were in the transition to capitalism, flocked to the cities and across the seas to new opportunities. They went to the empire's new colonies in Korea, Taiwan, and Manchuria, and across the Pacific to Hawai'i, the United States, Canada, Brazil, and Peru.

Japanese of all classes might have crossed the Pacific on steamships and docked at Vancouver, Victoria, Seattle, or San Francisco, but their final destinations varied greatly by class. Some of the elite remained near the ports of entry, while others continued their journeys overland to the economic, political, and intellectual centers of the east. Those who made it to the eastern cities were generally well-received by the local white elite (Robinson 2016). Nearly all of the laborers, however, stayed in and around the port of entry. British Columbia, California, and Washington were the hubs for the vast majority of Japanese in North America. These regions were also the hubs for Chinese migrants. Though Chinese laborers were not crossing

the Pacific in large numbers after the passage of the Chinese exclusion laws, many of those who were already in North America stayed on in West Coast Chinatowns. Widespread white resentment and hostility toward Chinese expanded to the new Japanese migrants. Japanese migrants entered a context of reception that had already expressed its rejection of Oriental newcomers in no uncertain terms. Though the Japanese might have thought of themselves as different from (and indeed superior to) the Chinese, they were lumped together and indistinguishable to most North American whites.

As was the case with Chinese exclusion, the push for Japanese exclusion began at the local level in the frontier territories before escalating to the national level. The California legislature passed a resolution against Japanese migration in 1905, and in 1906 San Francisco forced Japanese children to join Chinese children in the segregated Oriental School (FitzGerald and Cook-Martín 2014). The reception was hardly warmer in British Columbia. People of Japanese ancestry were stripped of the vote in 1895 and barred from public employment in 1897. The increasing hostility that Japanese migrants faced in California led to a surge in migration to Canada. In September 1907, the Vancouver Asiatic Exclusion League (formed with the help of the Seattle Japanese and Korean Exclusion League and the American Federation of Labor) held a rally which turned into a race riot that decimated the city's Chinese and Japanese neighborhoods (Robinson 2016).

White nativist activists demanded that Washington and Ottawa ban Japanese migrants in the same way that they banned Chinese. Officials were very wary of doing so, and indeed were quietly alarmed by the damage that racist West Coast laws were doing to foreign relations with Japan. Unlike China, an increasingly weak country on the verge of collapse, Japan was becoming a formidable power that could rival the great powers of the West. Both the United States and the British Empire signed treaties of commerce and navigation with Japan in 1894 that recognized the two sides as geopolitical equals and gave Japanese the right to travel and settle in the others' territories. Eleven years later, Japan's victory in the Russo-Japanese War

confirmed Japan's imperial ambitions and military might. Even though many officials in Washington, Ottawa, and Westminster privately agreed with the nativists that the Japanese were not equal to whites and had no place in a white country, unilateral ban on migration from such a powerful and militant empire would be unwise.

Across the Pacific, the Japanese government was well aware that the Western powers did not see Japanese people as true equals because of their race, and that Japanese migrants met hostility in the white settler colonial societies. They began to regulate emigration to spare itself the potential humiliation of a Chinese exclusion-style ban. Chinese exclusion was a major embarrassment for China, and showed the world that China was not strong enough to protest such a move. To avoid conflict over migration with the Western powers, the Meiji government tried to ensure that only those who were good representatives of the empire could leave for Canada and the mainland US. It warned Japanese who left for these countries that they must try to "assimilate with white people" so that they would not have to "endure the shame of being called 'Jap' from morning to night" (Sawada 1996, p. 45). The government also tried to use legislation to restrict emigration, though the state did not have enough administrative capacity to enforce it with much rigor. The 1896 Emigrant Protection Law regulated the nascent "migration industry" of labor recruiters and shipping companies, and vested local governments with the responsibility of making sure that exit visas were only issued to families that met relatively high financial standards. Peasants got around the requirements by applying for exit visas from more lenient localities, changing names, entering marriages of convenience, and enlisting the services of unsavory middlemen (Sawada 1996).

Local restriction and intimidation laws on the West Coast and restrictions on emigration in Japan were not enough to curb migration and satisfy the desires of white nativists. The 1906 San Francisco school segregation ordinance and the 1907 Vancouver riots were domestic crises that escalated to the international level. Between 1907 and 1908, both the United States and British-Canadian governments met and corresponded with their Japanese counterparts to

negotiate a diplomatic solution to the race and immigration problem. Both resulted in confidential agreements that stipulated that Japan would further restrict emigration. In return, the United States and Canada would not pursue unilateral legislative bans and would continue to allow wealthy Japanese students, tourists, and merchants across the border. Japan would thus continue to have access to Western education and the United States and Canada would continue to have access to Japanese markets.

In 1906, the Japanese government protested the San Francisco school segregation ordinance by escalating the issue to the federal government. They argued that the 1894 treaty between the United States and Japan provided for equal treatment of Japanese nationals in the United States, and that the San Francisco authorities had violated the treaty by treating Japanese students differently because of their race (Finkelman 2009). President Theodore Roosevelt and Secretary of State Elihu Root quickly set off to negotiate with the Japanese government and with San Francisco. They sought a solution that would mollify xenophobic whites in California while avoiding turning this dispute with the Japanese into an even larger geopolitical incident. In 1907, through cables across the Pacific and correspondence with the Japanese ambassador to Washington, the Roosevelt administration succeeded in convincing Japan to further restrict migration to the United States, in exchange for a non-binding promise not to humiliate them with a Japanese exclusion act. According to the terms of this Gentlemen's Agreement, Japan could continue to send students, merchants, and tourists to the United States. Family members of Japanese already in the United States could continue to migrate, as well. The Root-Takahira Agreement in 1908, in which the American and Japanese governments agreed not to disrupt the "status quo" in the Pacific, tacitly reaffirmed the agreement from the year before (Sand 2009, Bailey 1940).

The Canadian government negotiated a similar Gentlemen's Agreement with Japan in 1907. At the time, Britain handled foreign policy for its dominions, and post-Confederation Canada was slowly inserting itself into negotiations that were primarily about its territory. Not all

Canadian lawmakers agreed with this move. The Liberal government of Canadian Prime Minister Wilfrid Laurier sent Rodolphe Lemieux, the Minister of Labour, to Tokyo to negotiate a stop to Japanese labor migration. Lemieux, accompanied by the British ambassador to Japan and two other British officials, met with the Hayashi Tadasu, the Minister for Foreign Affairs, who was accompanied by two other Japanese officials. This meeting and the agreement that came out of it caused some controversy in Parliament when Lemieux returned to Ottawa to report on it. Parliamentarians from the opposition Conservative Party, which was in favor of Britain continuing to handle all of Canada's foreign affairs, questioned Lemieux's authority to represent Canada in a meeting with a foreign government. Lemieux's defense of the meeting, however, acknowledged Britain's continued sovereignty over Canada. He argued that Canada had no choice but to accept it, as abrogating the 1894 treaty of commerce and navigation through a unilateral ban on migration would threaten Canada's trading relationship with an expanding export market and endanger Britain's relationship with this new world power. He additionally warned that acting on the demands of British Columbia's white nationalists would provoke a parallel nationalist backlash in Japan, to the detriment of all the Western powers.

The fact that the exact terms of the agreement were confidential was an additional source of aggravation for the Conservatives. Lemieux was, however, able to state that:

> As a result of the negotiations, all emigration of contract labourers, artisans included, is now prohibited—unless they come at the request of the Canadian government…. Of course, bona fide students, merchants, and tourists from Japan will, as before, continue to enjoy freedom of entrance into the Dominion. (House of Commons Debates, January 21, 1908)

These were, of course, the same conditions that Japan agreed to in its agreement with the United States, except that it allowed the Canadian government to decide if and when it wanted to allow additional Japanese laborers (Takai 2011).

The Meiji government upheld its end of the agreements by adopting more stringent emigration restrictions. The emigration reforms in 1908 were clearly designed with the agreements with the United States and Canada in mind. It wanted to avoid the ignominy of Chinese exclusion, so it took the terms of the Chinese exclusion acts and applied them *before* migration. Since the Chinese exclusion acts barred "laborers" and allowed merchants, students, tourists, and other high-class migrants, the Japanese government only issued exit visas to non-laborers. It divided its own people into *imin* (migrants) and *hi-imin* (nonmigrants). In theory, *imin* were manual laborers who intended to settle abroad, while *hi-imin* were high-class sojourners who would return. Only *hi-imin* could get exit visas valid for the mainland US and Canada (Sawada 1996). However, the division between *imin* and *hi-imin* was rather porous in practice. Much like today, student visa holders often ended up performing non-educational labor to support themselves and sometimes decided to stay on in the receiving country as skilled workers or entrepreneurs (Takai 2011, Sand 2009).

After the Gentlemen's Agreements, immigration from Japan to the United States and Canada declined dramatically, though not to zero. In addition to allowing wealthy Japanese to emigrate, the agreements also allowed for family reunification. Savvy entrepreneurs paired single women wanting to emigrate with men living abroad for marriages that fulfilled the usual functions of matrimony but also allowed the "picture brides" to gain exit visas. Even before the Gentlemen's Agreements, some migrants circumvented Japan's emigration restrictions by traveling first to Hawai'i, then onward to North America. Many of those who arrived in British Columbia intended to travel to the United States by boat or by land, though others decided to stay in Canada. The "continuous journey" amendment to the Immigration Act in 1908 effectively stopped this flow (and the flow of Indian migrants via Hong Kong and Shanghai) by stipulating that migrants must come directly from their country of citizenship.

The Gentlemen's Agreements were striking in that they took the form of private, non-binding agreements made through diplomatic channels. They were also unusual in that the onus of

migration control was on the sending country, rather than the receiving country. These agreements essentially bypassed the policymaking systems in the receiving countries by asking the sending country to implement rules that would give the same end result, thereby absolving the receiving countries of responsibility for the result and producing a limited paper trail. Voters, civic groups, and business groups in the receiving countries had an indirect say in the rulemaking process by bringing the issue onto the agenda. The opposition (the Japanese government) then took the issue to a new policy arena (that of foreign policy), where the solution was negotiated behind closed doors.

The exemption of students, merchants, and tourists in the Gentlemen's Agreements were critical for allowing Japan to continue its own development and empire-building strategies, and for American and Canadian businesses to continue profiting from the Japanese market. This exemption is evidence that all three governments categorized uneducated people who work with their hands and intend to stay permanently as "migrants," while those who work with their brains (or need not work) and do not intend to stay permanently were "non-migrants." These categories were fuzzy and permeable, but to acknowledge as much would not have been politically expedient. Both sides wanted to indicate to their audiences that they were solving the migration problem. The US and Canadian authorities wanted to placate xenophobic white voters in the West, while the Japanese wanted to show the United States and Britain that they were equals in geopolitical clout and economic might (if not in the racial hierarchy). They negotiated a curb on laborers as a signal that the migration issue is under control, while continuing to allow the relatively uncontroversial flows of wealthy and educated people that enabled their mutual prosperity (Wright 2014a).

Informal bans on black Caribbean migrants

While Chinese migrants were banned through legislation, and Japanese migrants through diplomatic agreements, black Caribbean migrants were banned through semi-concerted actions at consular offices and at the border. Both the United States and Canada had a long history of restricting movement of African Americans (slaves who were brought to the colonies that became the southern US, and their descendants). However, all of this migration occurred over land. Though foreign blacks did not migrate in large numbers until the latter half of the 20th century, the specter of black migration in the mid-19th and early 20th century nonetheless discomfited white voters and officials. White Americans were concerned that foreign blacks would tip the balance of power out of their favor, particularly in the South, while white Canadians worried that the introduction of blacks would result in American-style racial unrest. The fact that most Caribbean blacks who did try to immigrate to North America were British subjects made it difficult to exclude them through targeted legislation or through negotiations with the British government. Both the United States and Canada settled for bureaucratic exclusion, whereby consular officials used their individual discretion to deny visas to Caribbean blacks who wished to migrate. As with the Chinese and the Japanese, there were some exceptions made for students and professionals.

In this chapter, I focus specifically on Afro-descended migrants from British colonies in the Caribbean (Jamaica, Barbados, Bermuda, and Guyana, among others) going to the United States and Canada between the mid-19th century and the early 20th century. However, black migration to North America and within North America had a longer history and was much more multidirectional. Migration from the Caribbean to the United States and Canada before the 1960s was part and parcel of trade in the North Atlantic. The triangular trade routes that brought slaves from Africa to the Americas and raw materials from the Americas to Europe eventually came to bring free blacks from the Caribbean northward to the United States and Canada. Ships traveling between Europe and the Caribbean closely tracked the North American coast. Free black migrants often disembarked in Massachusetts or Nova Scotia, where they found

work in the industrial port cities. While most migrants moved from south to north, some also moved from north to south—for instance, thousands of free African Americans from northern cities migrated for work in Trinidad, Haiti, and the Dominican Republic in the early 19th century (James 2002). Black migrants also came to North America from islands controlled by other colonial powers and from newly independent countries like Haiti. Québec, for example, was a major destination for women domestic workers from the French colony of Guadeloupe (Calliste 1994). Finally, African Americans from the South moved to free states in the north, as well as to Canada. Earlier African American migrants settled primarily in Nova Scotia, though the western expansion of the mid-19th century brought some to the prairie provinces, as well (Troper 1972b).

The British Empire abolished slavery in 1834, thirty-one years before the Thirteenth Amendment did so in the United States. The collapse of the cane sugar economy and the realization that many of the islands lacked enough educated white workers to run the government led to efforts to educate the black majority population. Though access to education was still highly unequal, many blacks were able to receive an education on the islands, which gave them the means to emigrate in search of greater economic opportunities. A large proportion of blacks from British Caribbean colonies who emigrated to the United States and Canada between the mid-19th century and the early 20th century were professionals and skilled workers. Indeed, they were generally better educated than the European and Asian migrants who arrived in this period and the slave-descended populations that were already in North America. Migrants formed a large part of the professional and merchant classes in black neighborhoods in Northeastern US cities. Black intellectuals in the islands lamented that emigration was bleeding the British Caribbean of its most valuable workers. A black middle-class advocacy group in Jamaica warned the colonial authorities in London that "the brains of the Island have been going to the United States and the brawn to Cuba," leaving the island without the means to sustain its economy (James 2002). However, not all of the Caribbean blacks arriving in North America were "brains." Servants, farm hands, and other manual laborers

formed approximately 44 percent of black immigrants to the United States between 1899-1931

(James 2002). In the same period in Canada, a small stream of black Caribbean men migrated

to Nova Scotia (home to a small black population descended from runaway slaves from the

United States) to work in coal mines and steel mills, while women moved to a broader swathe of

eastern Canada for domestic work (Calliste 1994). Additionally, railway companies dispatched

small numbers of farm workers from the Caribbean to the Canadian prairies (Troper 1972b).

Black migration from the Caribbean during this period has been ignored or downplayed in

the historiography of immigration to North America, perhaps because of their relatively small

numbers (James 2002). Blacks did not reach 1 percent of the foreign-born population in the

United States until 1960 (U.S. Bureau of the Census 1999). In Canada, where most foreign-born

blacks came from the United States, the black population actually decreased from 21,400 in

1881 to 19,500 in 1931 (Milan and Tran 2004). The overwhelming narrative about immigration

between the mid-1800s and mid-1900s is that large numbers of Europeans, and smaller

numbers of Asians, arrived in North America. Through both migration and conquest, a large

number of Mexicans and other Spanish-speaking Latin Americans ended up within the borders

of the United States. The population of the Mexican Cession and Gadsen Purchase territories,

for example, was estimated at around 113,000 at the time of acquisition (Sotelo and Jáuregui

2003).

James (2002) contends that black migrants from the Caribbean have largely been ignored in

this narrative about immigration to the United States, despite the major role that migrant

Caribbean intellectuals played in black intellectual movements and the outsize role that white-

collar immigrants played in black communities like Harlem. The immigration historiography of

Canada is similarly quiet on Caribbean newcomers, though migration from the Caribbean

features prominently in histories of black Canadians. This is in part because chattel slavery

ended much earlier in Canada than in other parts of the Americas, and growth in the black

Canadian population was largely due to migration of free persons and runaway slaves from

points south. While the prominence of Afro-Caribbean migrants in the overall immigration waves of the mid-19th to early 20th centuries is perhaps a debate between historians over their colleagues' priorities, biases, and frames of inquiry, it is undisputed that the United States and Canadian authorities worked to limit black population growth. Scientific racism, eugenics, and emerging ideas about Canadian and American nationhood suggested that black people and white people did not and could not intermingle. Indeed, much of the discourse around international migration of blacks in this period was about black *emigration* from North America. White politicians and black pan-Africanist intellectuals found common ground in the idea that black people in the Americas should "return" to West Africa. Though some Afro-North Americans did in fact emigrate, black *im*migration was far more common.

The emigration of middle-class Caribbean blacks between the mid-19th and early 20th centuries was a consequence of the racial hierarchy within the British Caribbean colonies. The Colonial Office in London wanted to maintain a veneer of equality within the colonies in order to squash opposition to colonial rule. The way that London manufactured this egalitarian façade depended on local demographic circumstances. In the Caribbean, colonial authorities realized that the small number of white colonists could not run the government and the economy alone. They facilitated the development of an educational system for nonwhites and implemented a competitive civil service system to allow nonwhites to enter middle class professions. In addition to equality and meritocracy within the colonies, London also sought to create the impression of equality across the Empire, by allowing for relatively free movement between imperial holdings. Indeed, the imperial economy was heavily dependent on moving workers to where their labor was needed. After the abolition of African slavery, for instance, laborers from India were sent to colonial holdings in the Caribbean, East Africa, Southeast Asia, and the South Pacific (Johnston 2014). However, the white settler colonial dominions, which had a larger degree of self-determination, were generally opposed to nonwhite migration. Social movements loudly demanded restrictions on immigration based on race, but London would not allow laws that

used race as a criterion for restricting the movement of British subjects between British colonies. Laws that achieved the same ends but were not based on race, however, were still acceptable. For example, the Colonial Office facilitated the adoption of the 1897 Natal Act across the settler colonies. The law required that migrants be literate in a European language, which was an acceptable way of screening out most labor migrants from undesirable racial groups. It skirted the issue of racial preference by implementing a class preference system with clear racial consequences. Canada implemented this rule in 1919, though it allowed for literacy in non-European languages, as well, mirroring the United States literacy test that was implemented in 1917 (FitzGerald and Cook-Martín 2014). The Colonial Office also permitted Canada to implement the continuous journey regulation—a requirement that migrants to Canada come directly from their country of origin—even though it was clearly meant to stop immigration from British India.

Empowered by their education, many middle class blacks from the Caribbean sought to emigrate to the United States and Canada, where they hoped to find greater economic opportunities than were available to them on the islands. North American authorities struggled to restrict this flow of educated black migrants. White US policymakers did not want an increase in the black population because that would have disturbed the post-Civil War racial caste system. Their Canadian counterparts opposed black population growth, as well, because they did not want to "import" their southern neighbor's race issues. Middle-class Caribbean blacks were a problem for immigration control because they were English-speaking, literate, and met financial requirements. They could not be banned for being British subjects, and London objected to any publicly stated bans on *black* British subjects. The US was, in theory, free to ban migrants as it pleased, as it was no longer part of the British Empire. However, potential migrants from British colonies who felt unfairly targeted by US immigration laws could protest to London and cause potential rifts in the United States-British relationship. Thus, both the United States and Canada were determined to find ways of blocking or limiting black Caribbean immigration without an

explicit ban. Rather than negotiating with the sending country (British) government, the United States and Canada opted for selective enforcement of ostensibly race neutral rules by relatively autonomous border agents and consular officials.

Before the 1920s, migrants would make arduous journeys overseas or across the continent, only to be denied entry by border agents who decided that they were unsuitable for admission. One particularly egregious case was the Komagata Maru incident in 1914, in which Punjabi Sikhs living in Hong Kong, Shanghai, and Japan were barred from disembarking in Vancouver and held on the ship for two months before being sent back to India (Goutor 2007b, Johnston 2014, Srikanth 2002). During and after WWI, Western governments began to implement remote control of immigration through entry visas (Tichenor 2002). These tools allowed governments to police migration before it even started. For example, the United States Immigration Act of 1924 established country of origin quotas for immigration. While there were no limits on migrants from independent countries in the Western Hemisphere, colonial holdings in the Caribbean were attributed to the quotas for the Western European countries that ruled them. In theory, this would make it very easy for Caribbean blacks to immigrate to the United States, since Western and Northern European countries had large quotas and falling demand for emigration. However, because American consular officials adjudicated individual requests to migrate (starting with the Passport Control Act of 1918), they could deny requests from nonwhite colonial subjects. Indeed, officials at the United States embassy in London, which was responsible for the Caribbean, would routinely deny visas to Caribbean black laborers who wished to immigrate.

Officers at Canadian missions on the islands had similar levels of administrative discretion. The Immigration Act of 1910 allowed the government to deny entry to persons of "any race deemed unsuited to the climate or requirements of Canada, or of immigrants of any specified class, occupation, or character." Though the consular officers were informed by their superiors that the preference was to block black migration as much as possible, there was no official ruling banning blacks, and the decision to approve or deny a request ultimately rested in the

hands of the individual officer. Canadian officers in the Caribbean were warned not to inform

individuals whose requests were denied that they were denied because of their race. Instead,

they should try to justify the denial by choosing from the list of racially-neutral reasons to deny

entry, such as disease, mental illness, immorality, or likelihood to become a public charge

(FitzGerald and Cook-Martín 2014). During economic downturns, even healthy, well-off blacks

with relatives and a Canadian job offer were rejected as potential public charges. Furthermore,

as late as the 1950s, Canadian consular officials, border officers, and judges used the argument

that South Asians and Africans were biologically unsuited for the Canadian climate as a premise

to deny entry (Calliste 1994). For example, Walter Harris, Minister of Citizenship and

Immigration in 1951, argued that:

> It is a matter of record that natives of [tropical or sub-tropical] countries are more apt to
> break down in health than immigrants from countries where the climate is more akin to
> that of Canada. It is equally true that, generally speaking, persons from tropical and sub-
> tropical countries find it more difficult to succeed in the competitive Canadian economy.
> (Calliste 1994, p. 89)

The Canadian government also asked steamship companies not to sell tickets to black

passengers from the Caribbean, at the risk of being liable for the costs of returning and

detaining inadmissible passengers (FitzGerald and Cook-Martín 2014, Calliste 1994). These

companies were, however, permitted to sell tickets to Canada to black merchants, students, and

bona fide tourists (Calliste 1994).This type of remote control of immigration through pressures

on transportation companies continues to this day, through fines on airlines that transport

individuals who are not eligible for entry in the destination country.

Because officers at the consulates and at the border were not bound by a ban on black

immigration, small numbers of merchants, students, professionals, and tourists did arrive in

North America between the 1920s and the major immigration changes of the 1960s. While black

immigration to the United States declined precipitously after 1924, and net migration dropped

below zero following the Great Depression, in-migration never reached zero (James 2002). Similarly, though Canada had essentially banned non-European immigration in 1930 as a presumably protective measure during the economic downturn, Canada Year Book records between 25-104 immigrants of "Negro" descent arriving between 1931 and 1935. In comparison, there was one Chinese immigrant arrival in 1932, 1933, and 1934, and zero in 1931 and 1935. (Though these data are not disaggregated by place of birth, and some black migrants did cross the border between the United States and Canada, the majority of black migrants to North America in this period did come from the Caribbean.) Between the end of WWII and the immigration reforms of the 1960s, most emigrants from the British Caribbean headed to Britain, which actively encouraged such migration to help it rebuild after the war. However, during this time Canada also began recruiting trained nurses and doctors from the Caribbean, as well as nursing students (Calliste 1993).

Conclusion: setting the stage for postwar reforms

Though the United States and Canadian governments responded to white voter pressure to ban undesirable racial groups in the mid-19th to early 20th centuries, in no case did they bar *all* arrivals from those groups. Exclusion for Chinese, Japanese, and black Caribbean labor migrants was, in all three cases, offset by small exceptions for highly skilled professionals, students, merchants, and tourists. These exceptions were put in order to soften the blow to sending country governments and to ensure that American and Canadian businesses could continue to have access to markets and trading partners. Some historians have found evidence that eligible travelers from banned groups were often harassed at the border or at the consulate despite the exceptions (Hsu 2014, Calliste 1994, Takai 2011). However, regardless of whether the United States and Canadian authorities honored these exemptions from exclusion, the

special provisions for the wealthy and the skilled are important for setting the stage for future immigration reforms.

In this chapter, I have shown that the United States and Canada approached immigration in fundamentally similar ways through the early 20th century. Immigration from Europe was a tool to build a nation in a settler colonial context where additional European farmers and workers were needed to wrest control of the continent from natives. Migration of non-European peoples challenged the nation-building project. European-descended voters and activists called on their governments to ban these (other) foreigners, and their governments obliged. However, in every case, they left a small door open for wealthy and skilled potential migrants to signal to the sending countries that they were not completely exclusionary. They showed a "control signal" to their own voters, but demonstrated to the outside world that they were still open for business (Wright 2014b).

In the next chapters, I show how the United States and Canada diverged from this starting point. Domestic social movements and the geopolitical environment after WWII pressured both countries to abolish racial selection. In the 1960s, they both opted to use legislation to turn the small door that they left open for the wealthy and the skilled into one of the primary gateways for new Americans and Canadians. They signaled to the world that North America was open to new migrants of all colors, provided that they had the right mix of skills and education. Class, rather than race, became the primary axis of discrimination, though the results of these policies had clear racial consequences. Where the two countries differed was in their approach to family migration. Family reunification became the largest pathway for new migrants to the United States; skills selection was secondary. Canada, on the other hand, made skills selection the defining feature of its immigration system, and family reunification was secondary. This setup shaped opportunities for reforms to skilled immigration from the 1990s onward, when businesses and universities clamored for easier pathways for international students to remain in the country after graduation.

In addition to creating the institutional framework and historical precedent for the immigration reforms of the 1960s, the examples in this chapter are also illustrative of the rhetoric surrounding migration and the frames that advocates use in their arguments for or against migration. In particular, these early examples show that (white) Americans and Canadians did not see wealthy and educated foreigners as *immigrants*. The "immigrant" category in this time period was reserved for newcomers who worked with their hands, rather than those who worked with their brains. This concept carried over into the postwar period, but changed dramatically in Canada when the government implemented an explicit preference for brain workers and essentially closed the door to hand workers.

Chapter 4 - Science, economics, and the immigration reforms of the 1960s

In the mid-1960s, both the United States and Canada implemented new mechanisms of immigrant selection based on family ties and human capital, breaking away from hundreds of years of immigration policy based on race, ethnicity, and nationality. Potential migrants who had close family members already living in the United States and Canada could enter via one pathway. Those who did not have family in North America but had university degrees and other quantified measures of human capital could enter via another. The US prioritized the family reunification pathway, while Canada prioritized the human capital pathway.

These changes in immigration policy led to dramatic shifts in the demographic composition of incoming migrants and their North American-born children and grandchildren. Post-1965 immigrants were far less likely to be of Asian or African descent, and a large proportion were more skilled and educated than the average native-born American or Canadian. This was a major break from the earlier era of mass immigration to the region. Previously, the vast majority of immigrants coming to North America were manual workers from Europe (or Mexico, in the case of the United States) with little education. Prior to WWII, migrant professionals were a rare sight, and Asian and African migrants were banned or restricted.

How did the United States and Canada go from outright bans on immigrants of color to welcoming them with open arms, if they were judged to be skilled? Historians, sociologists, and political scientists have pointed to the postwar consensus against race-based immigration discrimination and domestic racial, ethnic, and nationalist social movements as factors contributing to the shift to race-neutral immigrant selection programs in the 1960s. But while these factors can explain the shift *away* from race-based selection, they do not explain the shift *towards* economic selection. This chapter answers this question and contributes to the political sociology of immigration by bringing insights from the sociology of knowledge and science and

technology studies. I argue that shift towards class-based selection of immigrants must be understood in conjunction with the rise of economics as a discipline and the high intrinsic and instrumental valuation of science during the postwar period (Fourcade-Gourinchas 2003, Eyal and Buchholz 2010, Fourcade, Ollion, and Algan 2015, Moore et al. 2011, Hirschman and Berman 2014, Fioramonti 2012, 2014).

In the first half of the 20th century, economics became part of the cognitive infrastructure of policymaking (Hirschman and Berman 2014). The big ideas that economists brought to the policymaking process—government intervention, economic growth, and measurement and modeling chief among them—dramatically altered the way that the United States and Canadian governments approached the immigration problem. Theoretical and empirical shifts in academic economics, promulgated by well-placed economists, allowed that social science to gain unprecedented levels of political influence (Mügge 2016, Coyle 2014, Philipsen 2015, Yarrow 2010, Fioramonti 2012). Keynesian thinking and the invention of macroeconomic indicators like gross domestic product (GDP) and gross national product (GNP) inspired governments to think about how state action can facilitate economic growth and prosperity. Furthermore, the discipline became dominated by econometrics, which allowed policymakers to use data to analyze the past and project into the future. The discipline shifted from qualitative social theory (the type of political economy work that political scientists and sociologists do today) to quantitative and empirical science in an age when the natural and physical sciences enjoyed a high social status for their perceived instrumental (military-political) and intrinsic value.

In this context, selecting immigrants became a matter of choosing contributors to national prosperity, not just finding new members of the national community. Because return on investment was paramount, eligibility to become American or Canadian became tied to education and wealth. The boundaries of the nation became much more open to nonwhites, but only those of higher class standing. Lower class migrants were shut out or relegated to temporary or undocumented statuses. Whether this class preference had a significant positive

effect on US and Canadian economic growth in the postwar era is a counterfactual best left to the econometricians. However, the demographic consequences were clear. The door was opened for skilled immigrants to come to North America, and come they did. By 2010, the percentage of foreign-born and native-born individuals in the United States with bachelor's degrees or above was nearly identical (28 percent vs. 27 percent), but some foreign-born groups were much more likely to be college educated than natives. For instance, 74 percent of foreign-born individuals from India and 50 percent of those from China and the Philippines had bachelor's degrees or above (American Community Survey 2010). Similar trends hold in Canada, where the proportion of immigrants with postsecondary degrees was twice as high as for native-born Canadians (Galarneau and Morisette 2008).

In the first section of this chapter, I review the literature on the move away from racial selection in the 1960s immigration reforms. This abundant literature in history, sociology, and political science has provided robust explanations for why and how the United States and Canada dismantled racial selection in this time (Tichenor 2002, Kelley and Trebilcock 1998, Knowles 2007, FitzGerald and Cook-Martín 2014). The analyses are primarily centered on the geopolitical climate of the post-WWII, early Cold War era, as well as domestic race- and nationality-based social movements. While this literature is helpful in understanding why racial selection of immigrants fell out of fashion, it cannot explain why economic selection was adopted in its stead. In the second section, I bring in the history and sociology of economics, to show how changes in that field, combined with a favorable structural context for the wholesale suffusion of economics into social and political life, led to economic selection becoming the "natural" successor to racial selection (Fourcade-Gourinchas 2003, Fourcade, Ollion, and Algan 2015, Mügge 2016, Coyle 2014, Philipsen 2015, Yarrow 2010). The values and worldviews of the economists of the day became obscured as economic logic became the dominant logic for political decision-making (Eyal and Buchholz 2010, Fioramonti 2012, 2014).

Finally, in the third section, I show how the shift to economic selection of immigrants must also be considered in the context of increased state support for basic and applied research in the natural sciences, physical sciences, and engineering (Teitelbaum 2014, Xie and Killewald 2012, Schofer, Ramirez, and Meyer 2000, Leslie 1993). Not only did state investment in science further legitimize expert knowledge in politics, but it also created the conditions for skilled foreign workers to take advantage of the immigration pathways forged by the 1960s reforms. Science created lucrative and attractive new job opportunities for skilled workers; immigration law created mechanisms for foreign skilled workers to take up these new job opportunities. Furthermore, state investment in science overlapped with and facilitated state investment in higher education, which grew exponentially in the postwar period. North American universities developed expansive capacities for research and education, and became large magnets for migrants in their own right.

Snowballing immigration reforms: 1940s to 1960s

The US and Canadian immigration systems were dramatically restructured between 1940 and 1970, with gradual reforms early in the period snowballing into wide-reaching reforms in the late 1960s. The fight against Nazi genocide made explicit race-based discrimination at the border harder to justify to other countries. The Cold War posed another international challenge to race-based immigrant selection, as communist countries used these policies as examples of how the First World oppressed the Third. Decolonization in the Third World and racial and nationalist movements at home further pressured the United States and Canadian governments to remove explicit race discrimination from immigration policy. The repeal of Chinese exclusion, the restructuring of nationality quotas, and the implementation of skills preferences in the 1940s and 50s led to a full-fledged rethinking of immigration goals and pathways in the 1960s.

FitzGerald and Cook-Martín (2014) argue that foreign policy concerns were the primary drivers of change to race-based immigration policy in both the United States and Canada. For example, Chinese were the primary targets of anti-Asian laws, given that they were the most numerous Asian migrants, and that both the United States and the British Empire felt that they could bully China into submission. They felt differently about Japan, Asia's imperial power prior to WWII. Instead of banning Japanese migrants outright using legislation, both governments pursued "Gentlemen's Agreements" with the Japanese government, whereby the Japanese authorities would restrict emigration to North America. China and Japan's positions vis-à-vis Britain and the United States switched with WWII, as China joined the Allies and Japan sided with the Axis. The US and Canadian governments' treatment of Japanese and Chinese migrants dramatically reversed. Both the United States and Canada forced people of Japanese ancestry, regardless of citizenship, into internment camps. The US reversed its ban on Chinese immigration to the United States with the Magnuson Act of 1943.

After the war, both countries began to open the door to immigration from outside of Europe. They began by allowing non-white migrants to become citizens. In 1947, as part of Canada's gradual disentanglement from Britain, Parliament passed the Canadian Citizenship Act. Previously, native-born white Canadians were considered British subjects, and white immigrants could attain British subject status. After the 1947 law, all persons resident in Canada could become Canadian citizens, and all persons born on Canadian soil received Canadian citizenship by birthright. In the United States, the Immigration and Nationality Act of 1952 (also known as the McCarran-Walter Act) also allowed immigrants of all races to become citizens. Additionally, it banned the government from explicitly using race as a basis for discriminating against potential immigrants. However, the law introduced the "Asia-Pacific Triangle" quota, which was specifically meant to restrict migration of Asians (Fitzgerald and Cook-Martín, 2014).

By the 1960s, decolonization and the Cold War had accelerated the loosening of immigration restrictions. European colonies in Africa, the Middle East, and the Asia-Pacific

region gained their independence, often through armed struggle. Through new international forums like the United Nations, these newly independent countries demanded equal treatment on the global stage (FitzGerald et al. 2017). This included the abolition of race- or nationality-based immigration policies in the West. Layered on top of this was the newly emerging Cold War order, in which the West and the Communist bloc vied for support from the "Third World" in achieving global domination. Indeed, the Soviet Union attempted to sway Third World opinion by emphasizing how hypocritical it was of the West to aid Africa, Latin America, and Asia but bar their people from immigrating (FitzGerald and Cook-Martín 2014).

Pressure was also building within US and Canadian borders. The Civil Rights movement in the United States initiated a nation-wide reckoning about the role of race in society and in policymaking. The movement exhorted all levels of government not only to remove racial discrimination in their processes, but to push actively for integration. Simultaneously, associations for European ethnic groups were lobbying to allow more of their coethnics into the United States. In Canada, the broad social changes of the Quiet Revolution in Québec and the surge in Québécois nationalism and separatism that followed it led Ottawa to consider Canada's preexisting multi-ethnic, multi-linguistic reality. This paved the way for official federal-level multiculturalism in later decades.

These domestic social movements pushed North American elites to rethink what it meant to be American or Canadian. White Anglo-Saxon Protestants were no longer the *ne plus ultra* of Americanness and Canadianness. Previously unwanted Eastern and Southern European groups became part of the "white" majority as new generations adopted North American culture and the Great Depression stopped the flow of newcomers from the old country. Québec nationalists argued that they were not Canadian; the Civil Rights movement reminded Americans that black Americans were Americans, too. Intellectual currents in favor of cultural pluralism gained momentum as refugee academics who fled Nazism joined university faculties in North America (Ngai 2004, Tichenor 2002).

Moving away from race selection: geopolitics and domestic social movements

In his January 1965 State of the Union address, US President Lyndon B. Johnson laid out his plans for legislation in the year ahead. His plans for immigration policy were detailed in a section entitled "Opportunity for All." "To those in other lands seeking the promise of America," he said, the country should "throw open to them the city of promise… through an immigration law based on *what a man can do* and not where he was born or how he spells his name" (89 Cong Rec 1 [1965], emphasis mine). The Immigration and Nationality Act of 1965, known also as the Hart-Celler Act, passed a few months later, made "what a man can do" the central criterion for admitting new immigrants with no immediate family ties to the United States. "Qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts" were admitted based on their perceived ability to "substantially benefit prospectively the *national economy*, cultural interests, or welfare of the United States" (79 Stat 911, emphasis mine). This preference for skilled professionals was the third in a hierarchy of immigration preferences, after children and parents of US citizens. This was the first and main eligibility category for immigrants with no close family ties to the United States.

In Canada in 1966, a White Paper on Immigration, commissioned by the Liberal government and presented by Jean Marchand (Lib.-Que.), Minister of Manpower and Immigration, argued that "without a substantial continuing flow of immigrants, it is doubtful that we could sustain the high rate of economic growth and the associated cultural development which are essential to the maintenance and development of our national identity beside the economic and cultural pulls of our neighbour to the South" (Marchand 1966, p. 7). The parliamentarians behind the paper argued that skilled, credentialed workers were the key to Canada's continued prosperity, and recommended that the immigration system be changed to prioritize them. A year later,

Order-in-Council PC 1967-1616 created the world's first points system for the selection of immigrants based on human capital factors.

To select politically palatable immigrants with a facially colorblind system, American and Canadian lawmakers limited immigration to two main groups of politically palatable newcomers: close family members of citizens and white collar workers (Watson 2018, FitzGerald and Cook-Martín 2014). Class became the primary selection criterion for newcomers who did not have preexisting family ties to the country. Workers with less education were provided very narrow pathways for entry that were disproportionately small compared to historical supply of and demand for unskilled workers. Both countries, in effect, took the two axes of immigrant selection from the previous period (race and class) and reversed them. The two countries differed in the priority that they gave to the two palatable groups and in the mechanism of selection. The US heavily prioritized family migration, in a perhaps misguided attempt to maintain the 1960s racial status quo (Chin 1996, FitzGerald and Cook-Martín 2014). Canada, on the other hand, made the selection of white collar workers its main immigration priority. Both systems have seen gradual reforms in the decades since, but the United States system of numbered preferences and the Canadian points system have maintained their place at the core of the two countries' immigration systems.

The retooling of immigration policy around economic selection and family reunification did not mean that race disappeared altogether. Both reforms had clear racial consequences. For instance, colonialism made the distribution of economic resources and educational infrastructure in the non-European world highly unequal. The countries and regions whose nationals were best poised to take advantage of the new opportunities for skilled migration to North America were typically former British, American, or Japanese colonies in Asia with strong primary and secondary education systems for native elites. East and South Asian immigrants, once vilified and explicitly banned, became the majority of immigrants coming through skilled

immigration channels. Unskilled workers, coming as family migrants, temporary workers, or undocumented immigrants, came predominantly from Latin America and the Caribbean.

The US was both quicker to open up to non-white migrants and less selective about their levels of skills and education than Canada was. The Hart-Celler Act made family reunification the primary priority and deemphasized employment-based immigration, while Canada, acting in 1967, did the opposite. These changes put the two countries on separate immigration policy trajectories, in part by structuring the immigration agenda. US discussions of immigration in later decades focused on family reunification; skilled employment-based migration rarely became a politicized topic of discussion. In Canada, on the other hand, skilled labor migration dominated the political discussion later on; family reunification also came onto the table, but as a consequence of skills selection. While Canada has developed numerous new ways of selecting for skilled migrants since 1967, including talent retention strategies for international students and temporary foreign workers, the United States only had one major skilled immigration change in this period, namely the introduction of the H-1B temporary skilled worker visa in 1990.

Changes in US policy

The Hart-Celler Act eliminated the previous system of country of origin quotas and created the current framework for allocating permanent residence visas for different purposes. It prioritized family reunification above all other immigration channels. Spouses, parents, and minor children of US citizens could be admitted in unlimited numbers and were not considered part of the green card queue. The first two categories in the queue were for other family members: unmarried adult children of citizens first, and then spouses or unmarried adult children of permanent residents second (Appendix 1, Table 2). The third preference category was for "qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national

87

economy, cultural interests, or welfare of the United States." The fourth was for married children of citizens and the fifth for siblings of citizens. The sixth category in the 1965 law was for workers in professions where there were not enough Americans in the labor pool. For migrants with no family ties to the United States, the main options to immigrate were the third (qualified immigrants) and sixth (shortage professions) preferences. Both preferences favored working-age immigrants who had high levels of education. The third preference was directly targeted for professionals. Though the sixth preference did allow unskilled workers, it was difficult to certify that no American worker was available for a given unskilled job, and thus the balance was still tilted in favor of white collar jobs.

The groundwork for dividing potential migrants into family reunification and employment-based channels was laid over a decade earlier, with the McCarran-Walter Act in 1952. That law divided each country's quota into four preference categories, with skilled migrants being the largest category at up to 50 percent of the total. Parents, spouses, and unmarried children of citizens and permanent residents were another potential 50 percent, and siblings or married adult children could take any remaining slots (Tichenor 2002). Nationality quotas were allocated in such a way that Northern and Western Europeans (who were increasingly unlikely to emigrate after WWII) were allocated many more slots than were actually used, and others (notably Eastern and Southern Europeans and those in the "Asia-Pacific Triangle") were allocated far fewer slots than were demanded. The Hart-Celler Act took out all elements of explicit race, ethnicity, and nationality discrimination from the McCarran-Walter Act and used the preference framework as the sole basis of selecting immigrants.

On the surface, the new law did not discriminate on the basis of race or nationality. However, neither the intent behind the legislation nor the consequences of it were racially neutral. The family reunification preferences were meant to mollify skeptics who did not want to open up the United States to nonwhite immigration, and simultaneously placate Irish, Italian, and other European-origin ethnic lobbies who wanted expanded immigration pathways for their

countrymen (FitzGerald and Cook-Martín 2014, Wong 2006). The logic was that prioritizing relatives of US citizens and permanent residents would keep the racial balance from changing too dramatically. However, the Hart-Celler Act created new openings for potential non-European immigrants who did not have relatives in the United States already. These new immigrants would acquire permanent residence status and citizenship, and thus were able to sponsor their own relatives.

Changes in Canadian policy

Two years after the United States passed its immigration reforms, the Canadian government issued its own. Like in the United States, Canadian lawmakers faced pressure to remove explicit discrimination based on race, ethnicity, and nationality from the immigration system. However, Canada's geopolitical and economic pressures were different from those that the United States faced. Indeed, many of the problems that Canada faced were because it had a small population and a resource-dependent economy, and was economically and socially tied to its much larger southern neighbor. Canadians have long migrated to the United States in search of its more plentiful and better remunerated job opportunities. Parliamentarians believed that the country needed immigrants to fill in the gaps that emigrants left behind. An additional issue that Canada faced was its political relationship with Britain, and the consequences of that relationship in an era of decolonization. While the predominantly white settler colonial dominions of Canada, Australia, and New Zealand maintained their close ties to the Queen, the largely non-white British colonies fought for formal independence, self-determination, and the end of racial subjugation. Many of these new republics demanded that their citizens be allowed to immigrate to the more prosperous white societies.

Unlike in the United States, where major changes to immigration policies have come out of the legislative branch, many major changes to Canadian immigration policies have emerged

from the executive. In an order in council (roughly equivalent to an executive order in the United States presidential system, though still considered a type of legislation), the government established the world's first points system for selecting potential immigrants (Order in Council PC 1967-1616). Points were awarded for education, age, ability in English and/or French, whether there was a shortage in the hopeful immigrant's occupation, and other factors that were assumed to be associated with successful integration into Canadian society and the labor market. Migrants could be admitted if they achieved at least 50 out of 100 points. Nine years after the points system was established, Parliament passed the Immigration Act of 1976, which came into effect in 1978. This Act formally enrshrined the three prongs of Canada's immigration system (skills selection via the points system, family reunification, and refugee assistance) in legislation. It also mandated that the government periodically establish immigration goals, and to ensure that these goals aligned with the country's demographic and economic needs.

The US and Canada took different paths primarily because of their different places in the geopolitical order. Foreign policy concerns have historically been the main drivers of immigration policy in the Americas, and this period was no exception (FitzGerald and Cook-Martín 2014). As the Western superpower, the United States used selective immigration policies to curry favor with Third World allies and gently antagonize the Communist enemy. Canada, its much smaller neighbor, was steadily extricating itself from Britain's grasp and sought its own place in the world as a middle power (Kelley and Trebilcock 1998, Knowles 2007). Even as Canada became independent from Westminster, however, it could not escape its asymmetrical interdependence with its southern neighbor. Because of the major disparity in size between the two countries, the effects of US political decisions and economic shifts spilled over into Canada. Many Canadians, particularly skilled workers, moved across the relatively open border to live and work in the United States; some Americans moved to Canada, but their numbers were smaller in both absolute terms and relative to the size of their home country's population.

The specter of the United States was a major contributor to the discourses around skilled immigrant selection in Canada during this time (Marchand 1966). The two countries had very lenient immigration regulations for citizens of the other country. Because of the relative size and strength of the American economy, many more Canadians have settled in the United States than vice versa. Canadian businesses and politicians were worried about the outflow of skilled Canadian citizens to their neighbor to the south (Card 2003). Canadian physicians, for instance, moved to the United States for better pay and advanced training just as the health care system began to expand. Doctors trained in Britain (both white and South Asian) filled the positions in rural health clinics that Canadian doctors shunned (Mullally and Wright 2007, Wright and Mullally 2016). They were also concerned that the United States was attracting immigrants that would otherwise have gone to Canada, that the United States was skimming the cream of the crop and leaving Canada with immigrants that were less qualified and less desirable, and that immigrants who did land in Canada would use it as a stepping stone to the United States (Kelley and Trebilcock 1998, Knowles 2007).

These fears led to the creation of specifically targeted immigration policies for skilled workers and shorter wait periods for permanent residency and citizenship. The goal was to build Canada's image as a more attractive destination for immigrants than the United States, and then make it easier for them to develop ties to Canada and stay there. The points system that developed out of these fears in the 1960s was the precursor to talent retention strategies for international students that emerged in the 1990s. In the United States, on the other hand, the logic of competition did not enter the immigration discussion at this time. Consistent with the narrative of American exceptionalism, it was considered a given that the United States would be the most attractive destination for migrants of all skill levels. Skilled migration never gained the political salience that it had in Canada, perhaps because skilled Americans rarely emigrated.

Moving towards class selection: the rise of economics in policymaking

In early 1965, the Canadian White Paper on Immigration was being drafted. The government hoped to issue changes in immigration policy within the next few years. Hubert Badanai (Lib.-Ont.), the Parliamentary Secretary to the Minister of Immigration and Citizenship, spoke in the House of Commons about the changes that the department was considering. He told his fellow MPs that the department "*naturally* seeks immigrants who have formal academic, educational or vocational training" (HC Deb 12 Mar 1965; emphasis mine). "Other factors also enter into the considerations," he added, "such as an applicant's knowledge of one of Canada's official languages, his financial resources, personal adaptability, and desire to succeed."

What did Badanai mean by "naturally"? The use of class factors in selecting immigrants was not a direct continuation of past practices (though, as discussed in the previous chapter, class-based exceptions were made in the racial bars on immigration). Nor was it a removal of arcane and artificial practices to return to a state free from excessive political interference in human population flows. Indeed, the points system that resulted from the work that Badanai's department was doing made immigration more complex and more subject to arbitrary mathematical formulae. It was "natural" to move toward economic selection at this time because new logics of economics had seeped into all aspects of policy and policymaking. Economic thinking (of the sort that had come into vogue at the time) became the baseline for all policy decisions. The values inherent in economic thinking and economic interventions had become obscured (Eyal and Buchholz 2010, Fioramonti 2012, 2014).

Economic sociologists have argued that the discipline of economics not only interprets the economy, but also helps to shape it (Çalışkan and Callon 2009, 2010, Fourcade-Gourinchas 2003, Fioramonti 2012). The development of class-based immigrant selection after WWII is inextricable from the dramatic reinvention of economics and the concept of the economy that began with the Great Depression. Keynesian ideas about the role of government intervention in the economy, bolstered by the invention of "national" (state-centered) economic indicators and

by the increasing dominance of econometrics in the field, changed perceptions of what

economists could do, and gave them a new, influential role in politics and policymaking

(Hirschman and Berman 2014, Coyle 2014, Philipsen 2015, Yarrow 2010, Mügge 2016,

Fourcade, Ollion, and Algan 2015, Fioramonti 2012, 2014). For example, before the second half

of the 20th century, immigration debates and the laws that came out of them did not discuss

immigration's effect on the "national economy." While local-level effects on the labor market was

considered, federal and even state/provincial level economic effects were not part of the

equation. Immigration policy was primarily seen by policymakers as a mechanism of nation-

building, rather than as a mechanism of economic manipulation. The settler colonial societies

wanted more immigrants to help expand their reach into native territory and build a white society

on European models.

Prior to the Great Depression, governments took a hands-off approach to the economy. The

severity of the economic crisis in the 1920s and 30s showed western policymakers the fragility

of the capitalist system and the drawbacks of their laissez-faire position. They then heeded

British economist John Maynard Keynes' call to intervene in the economy with fiscal and

monetary policy. Separately, the invention of GDP and GNP allowed Keynesians to measure the

effects of such intervention.[10] Finally, newly developed statistical models allowed economists to

use data to infer the causes of past successes and failures and to predict what might happen in

the future. These factors, taken together, gave economists and their ideas unprecedented

influence on policymaking and political discussions (Yarrow 2010, Fioramonti 2012, 2014). By

the latter half of the twentieth century, immigration policy had evolved into economic policy. The

US Immigration and Nationality Act of 1952, for instance, was the first US immigration statute to

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[10] For the purposes of this dissertation, it is important to note that GDP became the leading indicator of economic output, rather than GNP. GDP measures economic output within nation-state borders, regardless of the citizenship or nationality of the workers or of the owners of capital. GNP, on the other hand, measures the economic output of all citizens or nationals and the capital they own, regardless of where in the world that output is happening. In a wealthy country that receives immigrants, GDP consequently tends to rise with immigration and decline with emigration, while GNP does not.

mention the national economy. In the 1960s, legislative and administrative changes retooled the immigration systems around economic concerns. Immigrants were selected based on their ability to contribute white collar labor, which resulted in high taxable wages that, in theory, bolstered the social safety net for the poor and created greater economic growth for all Americans and Canadians.

That the nation-state was the primary unit of analysis in the macroeconomics of the time dovetailed neatly with the desire of policymakers to further the national interest. In this new era, all national policy became national economic policy, because all policy areas have some potential effect on GDP. GDP is the sum of consumption plus investment plus government spending plus net exports. Population increases spurred by changes in immigration policy, for example, affect consumption, which in turn affects private investment and government spending. Assuming that these population changes create a larger workforce, then they also have a potential effect on imports and exports. All of these individual variables have catalytic effects on each other.

Economists came to believe in the twin dogmas of government intervention and measurable GDP growth, and managed to convince policymakers to play along. One of Keynes' key contributions to economic theory was the idea that governments could intervene to increase aggregate demand, or the total level of spending in the economy (Philipsen 2015). Without intervention in times of crisis like the Great Depression, he argued, the private sector would continue its death spiral. Businesses would lose capital, prompting them to lay off workers, who would then have no money, leading to more loss of capital at the top.

Crucially, Keynes' ideas began to take hold just as government economists in Britain and America began to take on the gargantuan task of measuring the totality of the economy (Coyle 2014, Philipsen 2015, Fioramonti 2012). Though we take "economic growth" for granted today as an overarching political goal, it did not exist as a meaningful idea until it could be measured through the newly developed conceptual tools of national income, GNP, and GDP. Yarrow's

(2010) analysis of articles in academic economics journals on JSTOR found that no articles used the term "economic growth" in the title in the 1920s and 30s; by the 1950s, nearly 1,500 articles had "economic growth" as part of the title, and many more discussed the concept without having it in the title (Yarrow 2010). Even "the economy" did not appear in print until the 1930s (Michel et al. 2011). Using these new concepts, governments were able to measure the extent to which the economy as a whole was expanding or contracting.

In the 1940s and 50s, policymakers and the public also began taking economic forecasting seriously. Forecasting efforts from economists in government and business became more legitimate as GDP and other economic concepts took hold and economists developed new mathematical tools to measure and predict it. Whereas economics prior to the Great Depression was a largely qualitative and theoretical discipline, similar to political economy scholarship in sociology and political science today, quantitative statistical work in economics took off in the 1930s and 40s and began to dominate the field. The statistical turn in economics allowed economists to develop forecasts of GDP growth and predict the extent to which different variables (including government intervention) affected it. Though Keynes himself was an econometrics skeptic, statistical models gave policymakers the tools and scientific legitimacy to implement Keynesian reforms (Coyle 2014).

Keynesian intervention, GDP, and econometrics would not have catapulted economics to the forefront of policymaking and public relevancy if it were not for the fact that economists were called to government service in response to two exogenous shocks: the Great Depression and WWII. Prior to the Great Depression, Western governments consulted business leaders for advice on economic policy, rather than academically-trained economists (Philipsen 2015, Coyle 2014). The severe economic crisis called for new approaches. In the United States, the Franklin D. Roosevelt's New Deal programs brought thousands of economists to Washington. Some took jobs directly with the federal government, while others worked for emerging think tanks like the National Bureau of Economic Research (NBER). Among those recruited to NBER was

University of Pennsylvania economist Simon Kuznets, who developed the concept of GDP with a team of assistants at NBER and the Department of Commerce (Philipsen 2015). WWII was another factor bringing economists into government. In the late 1930s, the British Treasury brought in economists, including Keynes, to figure out how the Empire could produce enough to fuel the escalating war with Germany (Coyle 2014). Economists became central to policymaking in these times of crisis, and were able to remain relevant to policymaking after the crises had been resolved.

Additionally, the role of an actively interventionist, heavily quantitative economics was bolstered by general attitudes towards science and scientific reasoning at the time. The twentieth century (particularly the middle decades, during WWII and the Cold War) were a golden age for Western science, as wartime imperatives led to massive public investment in research and in scientific education at all levels. Science was seen as an engine of economic growth and as the means to world domination. Public opinion of science and scientific research has been consistently high, even though scientific literacy has remained low (Miller 2004, Allum et al. 2008). Along with the high valuation of science came the fetishization of the quantitative. Quantification and quantitative analysis became seen as highly specialized scientific knowledge, giving economists and their increasingly quantitative work additional prestige (Fourcade, Ollion, and Algan 2015, Fioramonti 2014).

Immigration and the gospel of growth

Growth of GDP became the overarching goal of policymakers around the world during the post-WWII era. GDP and its cousin GNP were born in Washington and Westminster, respectively, but the gospel of growth was spread around the world through postwar international organizations like the World Bank, International Monetary Fund, and the United Nations. Domestically, GDP was used as the main gauge of national prosperity. Internationally, it

became tied to foreign aid as a benchmark of progress, starting with the Marshall Plan (Philipsen 2015, Coyle 2014). GDP was not solely a capitalist cause; even the countries of the Eastern Bloc were obsessed with quantitative measures of growth, output, and production (Fioramonti 2012). The world was embroiled in a competition to see which country could grow biggest and do it the fastest.

In this context, immigration, along with many other policy areas, became an explicit matter of economic growth. For example, during the debates over immigration in 1964, Representative Joseph P. Addabbo (D-NY), argued in a statement that under the proposed reforms, "one can easily see that the immigrants would not be burdens upon our economy, as some charge, but in most instances they will be assets, bringing needed skills, and we must remember that they will become consumers" (House of Representatives 1964, p. 264). More consumers meant more growth, and more growth was a good thing.

This had not necessarily been the case before. North American immigration laws prior to the 1960s were meant to increase the European-origin population so that settlers could help the state consolidate control over native territory. The impact of immigration on local-level economic patterns like unemployment and wages was considered, but its effect on the national economy was not. For example, as late as 1952, during US congressional debates over what became the McCarran-Walter Act, discussion of the economic impact of immigration was almost entirely restricted to the issue of local unemployment and competition with the native born. Shanks (2001) argues that these local-level economic issues only mattered in these debates insofar as they were seen as leading to ethnic and racial unrest. By the 1960s, however, there was a cross-party consensus on the effect of immigration on national economic growth:

> "By 1960, both parties again pushed for reform. The Republicans argued that 'immigration has been reduced to a point where it does not provide the stimulus to growth that it should, nor are we fulfilling our obligations as a haven for the oppressed…. The guidelines of our immigration policy be based upon judgement of the individual merit

of each applicant for admission and citizenship.' The Democrats echoed the substance of this position." (Shanks 2001, p. 158)

In Canada in the 1960s, immigration as a policy area became tied to other labor market matters. The government reorganized and combined the employment and immigration ministries as it considered its role in a new era of macroeconomic indicators, Keynesian intervention, and dramatically shifting labor market structures. The Department of Manpower and Immigration was established in 1966 and was in charge of developing and overseeing what became the Canadian points system. As Hawkins (1988) notes in her analysis of the reorganization:

> "If it was accepted that labour market policy should be an integral part of general fiscal, monetary, and other policies for achieving national economic objectives, then it followed that the Employment Service must have a key economic role. It could no longer be regarded as simply an agency for registering unemployed applicants and taking orders from employers with unfilled vacancies, important as these services were. 'A new concept of the role of an employment service,' the Council said, 'has developed in many of the advanced industrial nations. This concept suggests that the employment service must have the means to promote the occupational, industrial, and geographical mobility of the labour force to meet the requirements of a changing industrial economy.'" (Hawkins 1988, p. 140).

New ideas about government intervention in the economy, policy models from peer countries, and the new economic landscape had thus pushed the government to think about employment and immigration as national concerns, rather than purely local ones. Smaller, local parties did not always agree with the national focus. In 1964, two MPs from the conservative-populist Ralliement créditiste du Québec party challenged René Tremblay (Lib.-Que.), the Minister of Immigration (and an economist by training), arguing that his claims that skilled immigration would increase job opportunities for less-skilled Canadians did not address the concerns of their constituents in rural Québec mining towns.

Tremblay: I should like to point out to the hon. member for Villeneuve that there is no question of bringing in all kinds of immigrants. What we are considering is selective immigration, which means the entry of contractors, technicians and other workers who can easily be absorbed into our economy. It must be remembered that while there are thousands of unemployed in Canada, there is a shortage of labour in some areas of the country.

Grégoire: Name them.

Tremblay: It is precisely by means of a selective immigration instead of restrictions being imposed to the economic activity that we shall be able to increase our prosperity.

Grégoire: We entirely disagree with that.

Tremblay: Therefore, I believe that an aggressive and dynamic immigration policy, provided it is sensible and selective, will be likely in the long run to bring about an increase in the economic activity and a more rational development of our natural resources.

That is what happened in the United States and in every country which enjoyed prosperity resulting from a large increase in population. Whether this increase is due to normal growth or to the excess of immigrants over emigrants, or to any other basic factor, it is admitted everywhere in the world that an increase in population means an increase in national revenue and prosperity of a country, and it is because we want our country to be more prosperous that we want to attract those immigrants over here.

We want to develop our resources systematically where they exist and if immigrants can help us to do it, they and their children will benefit by the prosperity which we will all have created together.

Grégoire: Pure sophism. (HC Deb 5 May 1964, p. 2964-2965, emphasis mine)

With the advent and adoption of macroeconomic indicators and econometric methods, policymakers and the public developed an understanding of the effect of population growth on aggregate measures of economic output. Both labor and capital believed the economists' argument that immigration led to growth and that growth was a good thing. For example, during the hearings over what became the Hart-Celler Act, Representative Richard Poff (R-Va.) asked Juvenal Marchisio, the President of the American Committee for Italian Migration, to explain his argument that "by increasing the number of consumers in the United States we would promote the economic progress of the United States." Marchisio replied:

"I quote the economists on that, and I also quote our Secretary of Labor, Mr. Wirtz, who told our ACIM Symposium that in substance, and I believe testified along those lines here. I also have attached there a statement from the AFL-CIO, which is the last of several that they have made, and they feel that it would increase the benefits to labor because consumer goods require production, production requires work, work requires labor, and labor earns money." (House of Representatives 1964, p. 695)

Similarly, in Canada, the 1966 White Paper on Immigration was tabled[11] by the Minister of Manpower and Immigration, Jean Marchand, who was a prominent Québécois trade unionist prior to his career in politics. That paper also took a strong pro-growth stance, noting how increased immigration would allow the economy to grow through increased productivity and efficiency created by economies of scale:

"A bigger population means increased domestic markets for our industries. A larger home market permits manufacturing firms to undertake longer, lower-cost production runs, and it broadens the range of industry we can undertake economically; for both these reasons, population increase in turn improves our competitive position in world markets." (Marchand 1966, p. 8)

The impact of immigration on the economy was discussed in more specific terms, as well. The US reforms required potential employment-based migrants and their employer sponsors to acquire a certification from the Department of Labor indicating that the migrant will not displace an American worker, and that the migrant's presence will not have an adverse effect on wages and working conditions for native-born workers. Representative Michael A. Feighan (D-OH), head of the House Judiciary Committee, argued in a report that the Department of Labor "should have no difficulty in adapting to this procedure" given that it already devoted much of its efforts to data gathering and economic modeling and forecasting (Feighan 1965).

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[11] In Canadian usage, "to table" means to put something on the table for discussion, especially when speaking of legislation or reports in Parliament. To avoid confusion, I only use "table" as a verb when discussing Canadian parliamentary proceedings, and have not used the American sense of "table" anywhere in this dissertation.

Funding the welfare state

Economists also argued that immigration would have positive effects on the growing welfare state. Keynes divided government intervention in the economy into two types: monetary policy (changing the value of money) and fiscal policy (collecting or spending money). Immigration policy is fiscal policy, in that increases in population resulted in increases in tax revenue and could affect the level of government spending. Immigrants pay income taxes, but also spend money in businesses, create new businesses, and drive business investment, all of which is taxable. Immigrants also increase the fiscal burden on government because many public goods and services are enjoyed by all residents, regardless of nativity or citizenship. The burden on schools, transportation infrastructure, health care, policing, and other public provisions increases along with increases in population. Most economists today agree that, at the nation-state level, the fiscal benefits of immigration outweigh the costs, though there is some contention about how different types and quantities of immigrants affect the balance (Piore 1979, Borjas 1999, Razin and Sadka 2014, Razin, Sadka, and Suwankiri 2014).

The American and Canadian welfare states expanded during the Great Depression and continued to grow after WWII. Both countries implemented what Esping-Andersen calls "liberal" welfare states—systems that provide a small amount of support to the needy after determining that they have no private resources to draw upon (Esping-Andersen 1990). Modest as they are, the American and Canadian welfare systems are universal, conditional on means tests. All members of the national community whose private economic resources fall below a given threshold are covered by the social safety net. (This is different from truly universal welfare systems like the Scandinavian models, which cover all members at all income levels.)

How to fund such a safety net, and how population increase through immigration would affect the safety net, became a hot button issue, particularly in the United States. In Canada, for instance, the effect of immigration on healthcare was a nonissue. Even before the 1967 reforms

in Canada, immigrants were eligible for health care coverage immediately upon boarding a ship

to Canada:

> "First, the federal government absorbs the cost of any emergency hospital, medical or dental care required by indigent immigrants while en route from port of arrival in Canada to final destination. Second, the federal government absorbs any similar expenditures incurred by immigrants at any time they are in receipt of assistance from the Department of Manpower and Immigration. Third, the federal government has entered into arrangements with all provinces, except Quebec and Manitoba, whereby the provinces have accepted responsibility for the provision of assistance required by immigrants after they have been placed in initial employment by the Department of Manpower and Immigration. Recipients of such assistance are thereby entitled to the same medical coverage available to other Canadian residents in similar circumstances." (HC Deb 30 Nov 1966, p. 10550)

In the United States, where health care has historically been seen as a private matter rather

than as a human right or public responsibility, anti-immigrant groups used the potential burden

on healthcare as one of their main arguments against the Hart-Celler bill. For example, the

chairman of "Citizens for a Sensible, Security-Minded Immigration Law" wrote to Congress:

> "One of the true roads to socialism is a country burdened with untrained, unskilled, unproductive, unhealthy people who are forced to depend on doles from the Federal Government. The Hart bill will be just one more step toward the complete overthrow of our free enterprise system as we know it by overburdening the already swelling relief rolls." (House of Representatives 1964, p. 1012)

Whether foreigners deserve schooling, health care, and other government-funded social

assistance was an uncomfortable moral question. Few, if any, claimed that foreigners were not

deserving, but some argued that care for "them" should not fall on "us." As a homemaker from

the Washington, DC suburbs testified before the House Judiciary Committee:

> "Who is going to support all these people while they learn our language and are trained for jobs? Don't we have enough to do with our own children and our own problems without asking for more?

Can we provide adequate health services for new people? It is my understanding that there is a great shortage of medical colleges, medical technicians of all kinds, doctors, and dentists. Importing new people would aggravate our health problems." (House of Representatives 1964, p. 1003)

Immigration challenges universal welfare states by bringing in newcomers whose eligibility for benefits and attachment to the nation are ambiguous and in flux (Crepaz 2006, Quadagno 1996, Walzer 1984). The American and Canadian governments' response to this thorny dilemma of welfare universalism was to adjust the demographic characteristics of newcomers. Though both ended up loosening restrictions on "feebleminded" individuals and other groups that were previously banned for being potential burdens on the state, the bigger change was that they prioritized migrants with higher income potential (including the aforementioned medical professionals) and strictly curbing poor and working-class migrants who did not have family in the country. This, in theory, would have a positive effect on the social safety net. Workers with higher incomes would pay more in taxes than they receive in welfare state spending, resulting in a net fiscal benefit (Storesletten 2000, Razin, Sadka, and Suwankiri 2014, Medina Garciadiego 2010). Furthermore, workers with higher incomes could accumulate capital and invest it in businesses that create more jobs and more growth. While the provision or non-provision of welfare was a means of immigrant *ex*clusion, the funding of welfare became a means of immigrant *in*clusion (Brochmann and Hagelund 2011, Banting and Kymlicka 2006, Fox 2012).

The 1960s reforms restricted the burden that immigrants would place on the welfare state by selecting newcomers based on their lack of need. For instance, the 1967 version of the Canadian points system gives progressively more points for youth, arranged employment, and proficiency in English and/or French. This effectively ensures that migrants will not need publicly provided unemployment insurance, job training, or language training, and will not need old age insurance in the immediate future. The requirement that skills-based immigrants to the United States be sponsored by an employer likewise ensures that potential migrants can take care of

themselves, and will contribute to the welfare state through taxes rather than become a burden upon it.

Immigration, the Space Race, and the scientific labor market

Scholars of immigrant assimilation and of comparative political economy rightly note that the transition to a postindustrial economy after WWII created new opportunities for skilled immigrants to insert themselves in the North American workforce. In the latter part of the 20th century, the "liberal" model of capitalism found in North America (with light labor market regulation, a relatively underdeveloped safety net, and a hands-off approach to vocational education) created an hourglass-shaped economic structure that had more job opportunities at the top and bottom of the income and education distribution (Portes and Zhou 1993, Alba and Nee 2003, Hall and Soskice 2001, Devitt 2011). However, the introduction of immigration preferences for skilled workers and professionals predates the transition to the hourglass shape. In the United States, explicit preferences for skilled immigrants appeared in the 1952 McCarran-Walter Act and were cemented as a central pillar of US immigration policy in the 1965 Hart-Celler Act. In Canada, the points system, which structured the entire immigration program around admissions of skilled migrants, came in 1967. Meanwhile, the shift from a Fordist industrial economy to a postindustrial, services-heavy model happened over the course of decades and only began to accelerate in the 1970s. Economic selection of immigrants preceded the crystallization of the postindustrial economic structure, and is thus not a consequence of it.

However, it is fair to say that economic selection of immigrants coevolved with (and indeed accelerated) major structural changes to the economy that would favor skilled workers. Industrial and military prowess, agricultural fecundity, and abundant natural resources allowed the United States to become the world's dominant economy. Canada, whose small, resource extraction-based economy has largely depended on trade with the United States, tagged along

for the ride and became similarly prosperous. However, in the postwar period, both started to shift from economies focused on the production of physical goods to ones dominated by services and intangible goods. Manufacturing moved to low-cost centers in Asia as the advent of container shipping led to a precipitous drop in transportation costs. By the 1970s, factory centers along the Great Lakes like Detroit, Michigan and Hamilton, Ontario were hollowing out. Cosmopolitan "global cities" like Toronto and New York became even more dominant as internationally-oriented white collar services blossomed (Waldinger 1987, Sassen 2005). White collar immigrants, who mostly concentrated in and around the big cities, entered an economic context that was especially favorable to them.

One of the major factors that accelerated this shift to a postindustrial, services-centric economic model was heavy state investment in science. Research and development in science and technology was a key driver of economic growth in the postwar era, and was largely spearheaded by the US and Canadian federal governments. The heavy state role in science began with military demands in WWII. One major difference between the First and Second World Wars was that the Second relied heavily on new advances in basic science that were translated to the applied military context, such as the atomic bomb and radar (Avery 1998, Leslie 1993). As the Cold War arms and space races that followed clearly showed, war and peace going forward would depend on continued technological advances. Economic growth, too, was driven by science as private contractors collaborated with government on research and development and innovations created with state support became commercialized.

State investment in science expanded dramatically during WWII and the Cold War. Both countries expanded existing research institutes and created new ones to satisfy the national security state's demands for both basic and applied inquiry. Federal funds poured into extramural research done on university campuses and into the research and development programs of for-profit companies. However, progress in science could not be made with government appropriations alone. Science was (and remains) a human-centered industry,

requiring the intellectual, emotional, and sometimes physical labor of highly trained and increasingly specialized workers. As Vannevar Bush, Director of the Office of Scientific Research and Development (and later founder of US military contractor Raytheon) stated in his 1945 report to President Roosevelt on the future of American science, "We shall have rapid or slow advance on any scientific frontier depending on the number of highly qualified and trained scientists exploring it" (Bush 1945).

To create more scientists, both the United States and Canadian governments began to invest heavily in science and scientific education. The postwar push for science coincided with and accelerated the rapid expansion of higher education. After the war, the Serviceman's Readjustment Act ("GI Bill") in the United States and the Veteran's Rehabilitation Act in Canada enabled larger swathes of the population to access higher education than ever before, and new universities were created in the 1960s to accommodate the children of these upwardly mobile veterans (Lemieux and Card 2001). Young white men on veterans' benefits, many of whom would have been shut out of higher education before the war for their low social status and lack of money, enrolled in colleges and universities en masse. Their "baby boom" children came into the educational system in a context that heavily emphasized STEM learning. By the time they entered higher education in the 1950s and 60s, more nonwhites and middle class white women also gained access to higher education. Existing universities expanded enrollments at both the undergraduate and graduate levels. New universities were created to serve the growing student population.

This historical context, rich in both financial and human resources, also helped raise the prominence of North American universities in the research and higher education fields. The infusion of cash and strong state backing allowed newer institutions like the University of California to become major players in a field that venerates age and status. These newcomers joined the upper echelon of universities that, before the war, were largely concentrated in the US Northeast and Eastern Canada. The deep pockets and high prestige of this elite tier

attracted high profile researchers from across the country and around the world, whose research activities funneled disproportionate amounts of competitive public funds to these institutions.

Federal funding and the research that came out of it attracted more prominent researchers and high caliber students, perpetuating a feedback cycle that helped them maintain their position at the top of the research pecking order. North American universities (particularly the elite tier of research-intensive institutions) became global hubs of scientific advancement. Foreign students and scholars arrived to take advantage of the synergistic environment of US and Canadian universities. The immigration policy reforms of the 1960s, which created opportunities for highly skilled foreigners of non-European origins to settle permanently in the country, turned these universities into veritable magnets for foreign-born talent by further increasing the allure of a study or research stay in North America. North American universities were appealing because of their high standards and resource-rich environment, and North American employers were attractive because of their demand for skilled workers and their central place in the global economy. However, nonwhite foreigners could not parlay their North American university credentials into opportunities to live and work there after graduation. The immigration reforms of the 1960s began to build the connection between study and work by allowing foreign nationals (regardless of skin color or country of origin) to immigrate if they met certain human capital standards.

Skilled immigration thus became an additional avenue for growing the population of STEM workers. In the United States, the mechanisms for selecting immigrants based on their skills had already been established in the McCarran-Walter Act in 1952. The skills preferences remained largely unused by migrants from Europe, though it was often the only means for immigration from Asian under the Asia-Pacific Triangle provision (Wolgin 2011). When the Soviet Union launched Sputnik 1 in 1957, setting off the space race, American lawmakers and officials argued that the immigration system should focus on providing foreign-born skilled professionals to the

national security state. As Roderick O'Connor, the State Department's Administrator of Security and Consular Affairs argued in 1958 before the National Council on Naturalization and Citizenship, "In earlier decades our rapidly expanding country desperately needed mass labor from whatever sources. Today, this is no longer true" (Wolgin 2011, p. 94). The Cold War had dramatically altered the economic and geopolitical landscape. The immigration system had to adapt to this new reality.

Growing training programs and immigration of foreign-born scientists led to dramatic growth in the STEM workforce. Between 1950 and 2000, the number of science and engineering workers in the United States grew at an annual average rate of 6.8 percent, compared to 1.6 percent for the workforce as a whole (National Science Board 2008). But was there truly a shortage of scientific workers? As Teitelbaum (2014) notes, the fervor for science and calls for expansion in the science workforce have historically been independent of actual supply of and demand for scientists, as measured by wages, unemployment levels, time to fill vacancies, and other objective metrics of labor shortage. Instead, these cries of alarm come cyclically and reflect broader economic and geopolitical insecurities. The postwar push for more science labor in the United States led to a weak STEM labor market in the 1970s; several more cycles of STEM alarm and labor market boom and bust have happened since then (Teitelbaum 2014).

Conclusion

The immediate impetuses for immigration policy change in the mid-1960s are well documented. Geopolitical pressure from postcolonial states in the aftermath of WWII, combined with domestic pressure from immigrant advocacy groups and racial, ethnic, and nationalist social movements led the United States and Canada to replace racial selection of immigrants with new immigrant selection systems. However, the reasons economic selection replaced racial selection have been less scrutinized. Selecting immigrants by race could have been replaced

with any number of alternatives that (1) limited the number of immigrants admitted per annum and (2) did so without explicit racial discrimination. Allowing immigration through family reunification only, dispensing immigrant visas through a random or semi-random lottery, or admitting the first potential migrants to queue up at the embassy are all potential systems that meet those two criteria. Lawmakers in both countries could have also decided that their countries would no longer be countries of immigration, and shut their doors to all.

That the United States and Canada chose to prioritize skilled migrants (among those who had no immediate family ties) precipitated from the economic logics that had suffused policy discussions since the Great Depression. Perhaps the lack of attention to this problem in social science and history is an artifact of those logics, as well. Selecting immigrants based on their economic characteristics seems "natural," as Badanai had argued, and thus undeserving of additional scrutiny. However, as I have shown in this chapter, the use of economic logics in immigration policymaking did not come out of thin air. The immigration policies of the previous period (from the United States Civil War/Canadian Confederation to WWII) hardly considered the macroeconomic impact of population inflows from abroad. The advent of Keynesianism and the increased dominance of statistics, formal modeling, and forecasting in academic economics brought economic thought to the forefront of policymaking and debates about public policy. This was further facilitated by exogenous shocks of the Great Depression and the Second World War, which brought economists to government agencies and think tanks in Washington, Westminster, and Ottawa in a consultative capacity. Economists thus came to have a platform to develop and promulgate the gospel of growth and the good word of Keynes. All policy areas were held to fiscal tests; all policy became economic policy. Immigration, once primarily an issue of creating a white nation in native territory, became an issue of supplementing gaps in the labor market and funding the welfare state.

The economic conditions of the time led to greater demand for university-educated white-collar workers than had been seen previously. Globalization and the transition from industrial to

postindustrial economy created more opportunities for people who work with their brains and fewer for those who work with their hands. "Global cities," which were already centers for high-end services and the highly remunerated workers who provide them, grew dramatically, while industrial cities declined and rural areas hollowed out (Sassen 2005). Finance and technology grew in prominence as manufacturing declined. Resource extraction and agriculture remained major industries but shed jobs as they became more efficient and more mechanized.

The transition to a postindustrial economy centered on high-end services was driven in part by advances in basic and applied sciences. WWII (and, later, the Cold War) accelerated government research in military laboratories, state-sponsored civilian laboratories, and private industry. All of these laboratories required university-trained STEM workers. As the advances made with state sponsorship became commercialized, private industry began to demand more STEM workers, as well. The expansion of higher education after WWII supplied much of this demand by training domestic students. International students also began trickling into the picture at this time. The immigration policy changes of the mid-1960s created legal avenues for these highly qualified Third World citizens to come and stay in North America if they so wished. Some stayed, while others went home, often to train more STEM students who would circulate to North America, starting the cycle anew.

The selection of newcomers based on their human capital was thus not a "natural" transition away from racially discriminatory immigration policy but a product of contemporaneous changes in the economic structure and in ideas about how policy should be made and how government should intervene in the economy. The structure of the human capital-based immigration selection systems that were developed in the mid-1960s has largely remained intact, though the details have changed over time and guestworker programs like the Canadian Temporary Foreign Worker Program and the United States H-1B visa have created new pathways for skilled immigrants outside of the main immigration system. The overarching structure of these immigration systems has shaped the way that advocates for and against talent retention

strategies have made claims about how the immigration system should be amended. I explore

this issue in the next chapter.

Part II: 1968-2017

Chapter 5 - Putting talent retention on the agenda, 1965-2002

By the 1970s, the movement of students and professionals from poorer countries to wealthier ones had become a major point of international tension. Developed countries had opened up many new training opportunities for foreigners during the Cold War. Thousands of Third World students were pursuing advanced degrees and professional development in First World universities. Many ended up settling permanently in the country where they were trained. Established professionals in the Third World also took advantage of new human capital-based immigration policies to make permanent moves to wealthier destinations. This movement unsettled government officials in their home countries, who viewed these trainees and professionals as precious national resources that were being drained away. At the World Health Organization meeting in Geneva in 1977, M. Khiami, the Syrian Minister of Health, excoriated rich countries for causing a brain drain of medical trainees:

> When newly graduated physicians and health technicians went to study abroad, this was presented as humanitarian assistance from the developed nations to the developing nations, since it gave those personnel the opportunity to undergo further training and become more qualified, making them more efficient in the service of their country and in the development of its health establishments; however, their assimilation and incorporation in the developed countries changed their training from a humanitarian service into egotism and selfishness; the impression is that it was never humanitarian, but just a means to overcome manpower shortages and to give our oppressed personnel the hard and exacting jobs that the citizens of the host country do not want. Once again we raise our voices and reiterate our demand to the beneficiaries from the "brain drain" of physicians and technicians that they should limit residence permits to the period of specialization and training. (World Health Organization 1977, p. 182)

Khiami, like many developing country officials at the time, placed all of the blame for brain drain on the governments of developed countries. Developed countries largely denied that their policies were inducing these population flows. They argued that they did not intend to siphon professionals from poorer countries. Rather, migrants were free agents responding to higher wages and better working conditions.

By the new millennium, the conversation had shifted dramatically in the other direction. Developed country governments were openly using policy to recruit as many foreign students and professionals as possible. In Canada, the Canadian Experience Class (CEC) program did the opposite of what Khiami urged developed countries to do: it allowed time-limited student visas to be converted into permanent residency. Furthermore, developed countries were openly competing with each other and with the developing countries for the same limited pool of "talent." Immigration ministries loosened policies and partnered with higher education institutions to make migration easy (or at least easier than their rivals). The United States, Canada, Australia, and Britain continued to dominate the "race for talent," but many other developed countries joined the competition (Cerna 2016, Kolb 2005, Brekke 2006, van Riemsdijk and Cook 2013, Bedford and Spoonley 2014). Developing countries did not sit on the sidelines. Countries of origin were actively seeking to recruit emigrants back. Some wanted to become foreign talent magnets in their own right (Xiang 2007b, Saxenian 2002, 2005, Gamlen 2006).

In Chapters 5 and 6, I investigate why Canada and the United States have diverged on talent retention strategies for international students. Since the 1970s, international students have become a larger and more visible population of skilled foreign residents. Employers and policymakers have called for policies to allow these students to gain work permission and permanent residency. The (perceived) costs of international student migration are minimal, while the benefits are highly concentrated in the hands of industry and the higher education sector, facilitating the introduction of talent retention strategies to the political agenda in both countries (Freeman 1995a, Baumgartner and Jones 1991). However, while many of these strategies were implemented in Canada, analogous policy proposals in the United States have largely failed. The reasons for these divergent outcomes lie in the consequences of the 1960s reforms. I argue that the 1960s reforms set off a path dependent process whereby major changes to the structure of the immigration system became increasingly difficult. Furthermore, the immigration

issues that appeared on the political agenda were strongly shaped by the social problems that the 1960s reforms created.

I begin by placing the US and Canadian cases in the context of the comparative capitalisms literature, which sheds light on the role of skilled labor migration in the North American economy. I then discuss path dependency logic, and show how immigration policymaking in both countries operates in a self-reinforcing manner. The wide-ranging reforms of the 1960s created new configurations of institutions and interest groups, which began a positive feedback loop. As Freeman (1995a) argues, immigration tends to produce benefits that are highly concentrated in the hands of certain interest groups, and costs that are highly diffuse. For example, the introduction of measures for skilled labor migration brought employers of highly skilled workers (such as technology companies and universities) into the immigration discussion. These employers benefit from a larger labor pool with a skills profile that is different than what is available domestically. They will tend to fight to keep the door open for skilled workers and to open it further.

Subsequently, I explore how path dependency affects problem definition and agenda setting. The institutions and the logics of action created by the 1960s reforms led to consequences that then set the agenda for immigration reform going forward. In both countries, the 1960s reforms defined immigration as the permanent settlement of two kinds of foreigners: family members of citizens or permanent residents on the one hand, and skilled workers on the other. These two types of immigration were bundled together as a singular issue. However, not all foreigners wishing to enter the polity fit into one of these types, and the system was set up in ways that created more adverse consequences for some types of foreigners than for others. In Canada, where skilled labor migration was the largest part of the bundle, the large pool of underemployed, highly educated immigrant workers created by the initial iteration of the points system was *the* main issue on the immigration agenda. In the United States, the political

discussion of immigration became dominated by a migration type that was specifically excluded from the bundle: low-wage migrants working in low- to medium-skilled jobs.

After setting the theoretical framework through these discussions of path dependency and problem definition, I then segue into the empirical heart of the dissertation: explaining how talent retention came onto the political agenda in both countries. This chapter focuses on the decades between the introduction of the 1960s immigration reforms and the terrorist attacks of September 11, 2001, while the next goes from September 11 to the end of the Obama administration in 2017. By tracing attempts to introduce talent retention strategies and linking them to the consequences of previous immigration measures, as well as to broader geopolitical battles, domestic issues, and economic structures, I show that talent retention failed to gain traction in the United States because the immigration issue became dominated by the lack of resolution to the undocumented immigration problem. In Canada, where the main negative consequence of the 1960s reforms was "brain waste," talent retention succeeded because it was a direct response to that problem.

Methods

Chapters 5 and 6 draw from secondary literature, as well as online archives of legislation, legislative proceedings, and other government documents from the United States and Canada. I am indebted to the collaborative work of historians, computer scientists, and corpus linguists working as private citizens, university researchers, and federal bureaucrats. If it were not for the extensive digitization of US and Canadian federal government texts, the research for this project would have been far more onerous and expensive. The rapid progress of digitization and data manipulation has been a boon for researchers and for the general public by making these data both available and easily accessible. While libraries have long held printed copies of these materials, optical character recognition (OCR) and searchable corpora have cut down research

time significantly. Rather than reading through hundreds of volumes of legislative proceedings and searching through indices, for example, I could run Boolean searches on user-friendly websites using full-text strings (e.g. "universit*", with the * being a wildcard character allowing for both "university" and "universities") or sometimes tagged topics (e.g. a search for all discussions of "international students," even when the term was not explicitly used in the specific utterance). That is not to say that I entirely avoided extensive searches for needles in haystacks—I still did plenty of reading, as much of the data dredged up through these methods was not necessarily relevant to the topic at hand.

US data primarily came from Congress.gov, the US government's own public database of Congressional materials. Materials from prior to 1995 largely came from ProQuest Congressional, a for-profit, subscription-only database with content dating back to 1789. The landscape of available Canadian data changed dramatically during the course of the research for this project. During the first stages, I collected data on Canadian parliamentary proceedings from the Canadian Parliamentary Historical Resources (CPHR) database (a collaboration between the nonprofit historical society canadiana.org and the Library of Parliament), the Canadian Parliament database, and openparliament.ca. CPHR provided PDF-format scans of all debates and journals from 1867 to the mid-1990s, all of which were processed through OCR software to allow for searching. However, because of the nature of the PDF format and the outdated user interface, reading through these documents required digging through gigabytes of high-resolution scans. The period from the mid-1990s to the present was far easier to search, because these documents were created using computer. The Canadian Parliament and the independent open data project openparliament.ca provided data from 1994 to the present using different search interfaces. Crucially, these data were linked to other relevant data. For example, each individual speech was a separate entry, linked to the speaker, the topic, the date, and the order in which it was spoken that day. One could click on (or otherwise query) all speeches by that speaker on that date, or all speeches on that topic, etc. In June 2017, I discovered the holy

grail of searchable Canadian parliamentary data—the Linked Parliamentary Data Project (LiPaD) database from the University of Toronto, which used the open source application processing interface (API) from openparliament.ca and OCR software to turn all debates and journals from 1867 to the present into easily searchable text (Beelen et al. 2017a).

Additional data for this chapter come from 19 semi-structured interviews with key opinion leaders. I spoke with staff of advocacy organizations for universities, technology companies, and other private sector actors with a large stake in international education and/or the STEM workforce. I conducted the interviews in Ottawa and Toronto in spring of 2016 and in Washington, DC in fall of 2016. I selected organizations based on theoretical criteria: their prominence in debates on these topics (e.g. whether they have been invited to testify before Congress on these issues) and whether they had stated positions on these issues on their web sites. I typically contacted the person listed on the website as being responsible for government affairs.

(Neo)liberal economies and foreign workers since the 1970s

The period between 1965 and 2001 saw major economic, social, and technological changes that affected the context in which the United States and Canada received new migrants. First and most importantly, economic restructuring since the 1970s has pushed the advanced capitalist countries in a postindustrial and neoliberal direction. The labor demands of late capitalism are distinct from those of the previous era. Mass manufacturing, once the backbone of the urban economy, began moving to low-cost centers in the developing world. Mechanization and automation led to reduced demand for labor on farms, oil fields, and other rural employment sites. The advanced capitalist countries began to specialize in the global trade of services and production of intangible goods. Additionally, there remains certain types of hyperlocal work that remains difficult to offshore, mechanize, or automate, such as the cleaning

of houses, the production of food, and most medical services. These, too, generate demand for labor.

All of the advanced capitalist countries import some labor to meet these demands. The comparative capitalisms literature, building on typologies from welfare state studies, has categorized these wealthy countries based on their political-economic structures and the type of foreign labor demands that these structures produce (Devitt 2011, Afonso and Devitt 2016). The US and Canada, along with the United Kingdom and other wealthy settler colonial countries in the Commonwealth, sit firmly in the "liberal" camp of advanced capitalist countries. Liberal economies have weak welfare states and a relatively high tolerance for wage inequality. They tend to generate demand for (1) low-wage, low-skill, low-prestige workers and (2) higher-wage workers with specific skills, both in the professions and in the skilled trades (Devitt 2011, Menz 2010).

For various structural reasons, US- or Canadian-born workers do not meet employers' demands in these two ends of the labor market. Because of limited market regulation (e.g. low minimum wages and limited worker protections), there are some jobs that are so precarious and so low-paying that all but the most desperate native-born workers shun them. In the middle and high ends of the wage structure, there is often a gap between the skills that employers want and the skills that the domestic labor market can provide (again, at rates that employers are willing to pay). The American and Canadian education systems focus on general knowledge rather than vocation-specific training, as in central and northern Europe (Hall and Soskice 2001, Devitt 2011). Furthermore, employers have historically not been involved in training future workers. Education is seen as a private matter for the individual, rather than as a collective or societal good.

Employers on both sides of the border have turned to immigration to address these unmet labor needs. However, the immigration systems developed in the late 1960s were not necessarily well-suited for the demands for foreign workers that arose in later decades. In

Canada, for instance, the skilled migration stream's emphasis on general measures of human capital resulted in a major "brain waste" problem because it was not paired with measures to ensure that migrants could be employed in their professions in their area of destination (Simmons 1999, Galarneau and Morisette 2008, Kaushal and Lu 2015). A sociologist with a PhD may land in rural Manitoba to find that there is no demand for sociologists anywhere in the Western provinces. Similarly, a physician may be lured by claims that Nova Scotia has a high demand for medical professionals, but finds upon arrival that the local barriers to licensure are impossible to meet (Bauder 2003). In the United States, the lack of provisions for lower-skilled workers in the immigration system despite high supply and demand for low-skilled workers from Mexico led to large influxes of unauthorized migrants (Andreas 2009, FitzGerald and Cook-Martín 2014). The relatively porous border and authorities' high tolerance for illegal and exploitative working conditions enabled low-skilled[12] Mexicans to fill dirty, dangerous, and demeaning jobs in exchange for wages that were higher than back home (Ngai 2004, Massey et al. 1990, Waldinger and Lichter 2003).

By the 1980s, it was clear that these systems needed to change. Rather than demolishing the immigration system and starting from the ground up, however, the two countries have opted to renovate, expand, and open a few side doors. Over the last few decades, both countries have maintained the structure of the systems put in place in the 1960s while making adjustments to address problems that have arisen. These problems were often the result of unintended consequences of the structures that were put in place and specific geopolitical events that resulted in high demand for migration that could not be met by the preexisting system. To address the "brain waste" issue, the Canadian points formula was adjusted several times to reduce the likelihood that immigrant professionals would be trapped in low-wage work (Walsh

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[12] As Hagan, Hernández-León, and Demonsant (2015) note, "low-skilled" and "unskilled" are misnomers. Though they may have limited experiences with schooling and few formal credentials, these migrants tend to gain new skills through their employment experiences in the United States. Relatedly, many migrants in both the United States and Canada work in unskilled jobs despite high levels of education.

2008, Walsh 2011, Lu and Hou 2015). In 1986, the United States implemented a one-time amnesty program for undocumented immigrants (Calavita 1989). Both countries clarified the position of refugees in the immigration system in the aftermath of the Vietnam War. None of these changes fundamentally altered the selection mechanisms or hierarchies of migrant categories established in the late 1960s.

Second, another "problem" that arose starting in the 1980s and 90s was the expansion of international education. While foreign students have studied in North America since the 19th century, if not earlier, globalization, decolonization, and development created large flows of students from developing countries and new developed countries (e.g. Taiwan and South Korea). Many of these students, spurred by educational strategies back home that emphasized scientific knowledge as a mechanism for national economic development, came to North America to pursue advanced degrees in STEM fields. This influx coincided with the insertion of market logics into the higher education and immigration fields (Börjesson 2017, Walsh 2011, Bauder 2008a, b, Bhuyan et al. 2015, Flynn and Bauder 2015, Simon-Kumar 2015, Schofer and Meyer 2005, Slaughter and Cantwell 2012). Keeping international students in the country after they graduated was anathema throughout the Cold War period, since international education was seen as a means of development assistance and a way of keeping Third World countries on the side of the First. By the 1990s, however, policymakers on both sides of the border began reconsidering that stance, as Cold War tensions faded and economic changes in the developed world increased the demand for highly skilled workers.

Path dependency

I argue that the development of immigration policy for skilled workers and students in the United States and Canada since the 1960s has been a path dependent process. By path dependency, I do not mean simply that the outcome is dependent on historical precedent but

that this development has been a self-reinforcing process initiated by an event that was not necessarily predicted (Mahoney 2000, Pierson 2000). The specific immigration reforms that the United States and Canada chose in the 1960s were just two of an unknown number of plausible possibilities. Why they chose the specific options that they chose cannot be explained by social theory. The consequences of these (almost) random choices, however, were not themselves random. They were structured by the initial choices and the fixed costs that those choices incurred. The first events in the sequence struck a path in a given direction and began to pave it. Subsequent events tended to follow that path.

Hungarian mathematician George Pólya's urn model is the classic analogy used to explain this type of path dependence. Imagine that you had an urn with two purple balls and one green ball. You pull a ball out at random, then place the ball back into the urn, along with an additional ball of the same color. Repeat. Eventually, the ratio of purple balls and green balls will be skewed in favor of the color of the first ball that was drawn. Furthermore, by the time you tire of drawing balls and putting them back into the urn, you will have reached an equilibrium, in which the ratio of ball colors changes only slightly with each ball draw. Indeed, the more you repeat this exercise, the less each subsequent ball draw affects the ratio of colors. The introduction of new balls reinforces the ratio of ball colors through a non-random process initiated by the first random draw. Change happens, but in increasingly incremental amounts. The more you repeat the process, the less likely it is that the ratio of colors will change significantly.

While politics is certainly not as simple as drawing balls out of an urn, the self-reinforcing principle often applies. The first action, which initiates the process, is drawn at random (or close to random) from the urn of possible scenarios. Subsequent actions, however, are not random. For example, the immediate consequence of this first action might be the creation of new institutions, legal and regulatory frameworks, and/or interest groups. These consequences create a relatively fixed path for future action because the startup costs are high, there is potential for network effects, and actors learn to use the new systems and adapt their

expectations accordingly (Pierson 2000). The historical trajectory then follows this path. Because new events and decisions are strongly skewed in the direction of previous events and decisions, the costs of exiting the path increase over time, as do the benefits of continuing along the same path. Path dependent processes are thus characterized by relatively deterministic patterns of sequential causality (Mahoney 2000). Staying along the same path is not inevitable, however, because an exogenous shock could completely restructure the pathways and incentives in the policy area.

The development of immigration policy in the United States and Canada since the 1960s has the classic markers of a path dependent process. The late 1960s reforms were a clear break from the previous historical trajectory. In retrospect, the break could have been predicted, as pressures to eliminate racial discrimination from the immigration system had been mounting), but the divergent ways in which the two countries chose to address that pressure was not necessarily a given. Later developments in immigration policy have changed the systems developed in the 1960s at the margins, rather than restructuring them wholesale. In both countries, no immigration reforms of similar magnitude had been enacted between the mid-1960s and the end of 2016. While there were a number of changes that were monumental in their given historical context (such as the US Immigration Reform and Control Act in 1986 and the Quebec-Canada Accord in 1991), the fundamental structure of the immigration system has remained the same on both sides of the border. Attempts at wide-ranging overhauls, such as calls for "comprehensive immigration reform" in the United States during the George W. Bush and Obama administrations, have been stymied by the logics and interests developed by the initial reforms. Though there might be consensus that an alternative path would be better, the costs of exiting the path are so high that they effectively squash and deter attempts to deviate from it.

In creating a permanent immigration category for skilled migrants, the 1960s reforms brought new sets of interest groups into the immigration discussion. The main pro-immigration

interests up to this point were employers of low-skilled labor (including in the agriculture, resource extraction, construction, and manufacturing industries) and lobby organizations for ethnic and racial groups. The inclusion of skilled migration as a state-designated category, combined with the geopolitical and economic changes that led to greater skilled migration, brought employers of high-skilled labor into the pro-immigration camp. This included universities, first in their capacity as employers of skilled professionals, and later in their capacity as educators of foreign students (Flynn and Bauder 2015, Brunner 2017). Though universities' interests had long been enmeshed with those of government and industry in areas like scientific research, they did not make a concerted foray into the immigration field until the immigration issue expanded to include skilled workers (Etzkowitz 2008, Avery 1998, Leslie 1993).

The anti-immigration side also saw some changes after the 1960s reforms. Though they are perhaps best known for anti-immigration and anti-immigrant agitation, labor unions have been involved in both sides of the immigration debate (Goutor 2007b, a, Fine and Tichenor 2009, Facchini, Mayda, and Mishra 2011). For example, in the United States, they were instrumental in supporting the expansionary and anti-discriminatory Immigration and Nationality Act of 1965. In general, organized labor in the United States and Canada has moved in a pro-*immigrant* direction since the beginning of the 20th century, though their support of *immigration* (that is, the introduction of new workers into economy) remains a point of internal contention (Reitz and Verma 2004, Fine and Tichenor 2009). However, an important caveat for the discussion of talent retention is the fact that, like in other liberal economies, unionization rates in the United States and Canada are low, and the vast majority of white collar work in these countries is not unionized. Neither country has had prominent labor organizations advocating for restrictions on skilled immigration. However, some professional societies have taken stances against specific immigration policies (e.g. opposing guestworker programs). Researchers in government and academia have blamed these organizations for exacerbating the immigrant underemployment

crisis by tightening licensing requirements for individuals with foreign training and work experience (Bauder 2003, Lowry 1989, Godley 1992, Jenkins and Reddy 2016).

Problem definition and the bundling of immigration types

The immigration reforms of the 1960s were the first ball draws from Pólya's urn. These reforms were a clear break from the past. They created new alignments of interests and set the terms of the immigration discussion going forward. Once the reforms were implemented, it soon became evident that the clear-cut immigration rules and admissions criteria developed by Washington and Ottawa bureaucrats had to confront a much messier reality. Domestic and geopolitical struggles challenged the neat immigration programs for skilled workers and family reunification. The challenges they faced corresponded to the weaknesses and blindspots in the immigrant selection models they developed. In the United States, the exclusion of unskilled workers from the immigration policy framework created a vexing undocumented immigration problem that put unskilled workers front and center in the immigration bundle. In Canada, where the unskilled immigrant issue was resolved through temporary foreign worker programs, chronic underemployment of skilled newcomers became the most pressing immigration issue to resolve.

I argue that the American and Canadian reform packages defined the immigration problem differently. Both packages took different types of newcomers and bundled them together as a singular immigration issue, essentially tying their fates together. The composition of the bundles was different on the two sides of the border, which set distinct "policy images" of immigration (Baumgartner and Jones 2009, 1991). The American and Canadian publics saw immigration differently, because the 1960s reforms set different definitions of the immigration problem and created immigration streams that were socioeconomically and racially distinct (Weiss 1989, Dery 2000). In the United States, the Immigration and Nationality Act of 1965 made family reunification the largest part of the immigration bundle. Skilled workers were a much less

emphasized part of the immigration program. Canada did the reverse. At the outset, the two

bundles excluded humanitarian migrants and workers without formal education from the bounds

of the immigration problem. However, both types of migrants eventually joined the bundle, either

through deliberate policy revision from the top or through unexpected actions from below.

While the fates of all of those types of migrants were conjoined, the most salient part of the

bundle served as the face of the immigration issue. Workers without formal education became

the most salient part of the American immigration bundle. The lack of provisions for unskilled

workers, relatively lax border and labor enforcement regimes, and high demand for unskilled

labor led to a large stream of undocumented immigration, primarily from neighboring Mexico

(Andreas 2009, Calavita 1989). In Canada, the most prominent part of the bundle continued to

be skilled migrants. Because of Canada's geographical position and the use of temporary

foreign worker programs to meet unskilled labor needs, undocumented immigration never

became as much of a hot topic as it was south of the border (Nakache and Dixon-Perera 2015,

Lenard and Straehle 2012, Fleras 2015, Magalhaes, Carrasco, and Gastaldo 2009, Campbell et

al. 2014). The main immigration issue that developed in Canada was the underemployment of

skilled migrants. Government analysts and academics argued that this was a result of having

few mechanisms in place to ensure that migrants admitted for their skills could use those skills

in the Canadian labor market (Galarneau and Morisette 2008, Hou and Bonikowska 2016,

Bauder 2003, Man 2004, Clarke and Mikal 2013). Thus, the undocumented Mexican laborer

became the prototypical immigrant in the United States, while the prototypical immigrant in

Canada was a wealthy (or at least well-educated) Chinese or Indian professional who came to

the country legally. This shaped public opinion toward immigrants and the immigration problem.

These newly defined problems then set the stage for the policy responses that followed. A

problem definition, according to Weiss (1989), is not just the identification of an issue as

something that needs to be changed (Weiss 1989). In addition to setting the scope of a political

issue, a problem definition also includes a theory of how the issue came to be and how one

might fix it. Thus, "there is a large population of undocumented, low-wage workers in the United States" is not a problem definition until one adds, for instance, that this issue is the result of lax border security and that the solution is to build a wall on the United States-Mexico border. A problem definition often creates a path-dependent, self-reinforcing process by arbitrarily limiting the issue at the outset and entrenching interest groups:

> At whatever stage a new problem definition gains significant support, it shapes the ensuing action. It legitimates some solutions rather than others, invites participation by some political actors and devalues the involvement of others, focuses attention on some indicators of success and consigns others to the scrapheap of the irrelevant. To reap these rewards, participants in the policy process seek to impose their preferred definitions on problems throughout the policy process. Much policymaking, in fact, is preoccupied with whose definitions shall prevail. (Weiss 1989, p. 89)

Thus, a problem definition sets the arena of policy action and determines which players' voices get heard. Once an issue is identified, defined, and theorized, it may move on to become an issue that the government chooses to address. Agenda setting, or how an issue becomes a target of government action, is a process separate from problem definition. For instance, an issue may have a problem definition but may never make it to the agenda. Likewise, an issue may make it onto the agenda without a proposed solution (Dery 2000, Baumgartner and Jones 2009).

The political science and behavioral economics literature on policy bundling typically considers bundling as a combination of disparate types of policies. For example, in the United States two-party system, the Democratic and Republican platforms bundle social and economic policies (e.g. restrictions on abortion combined with low tax rates) even though these two types of policy may have little to do with one another and public opinion on social and economic issues are often weakly correlated, at best (Lee and Roemer 2006). Behavioral economists have suggested that bundling policies together may lead to greater success in passing bills because voters prefer to avoid losses (Milkman et al. 2012). In this dissertation, I consider

immigration as several distinct issues bundled together, even though the immigration literature typically considers it a singular issue. Each type of migration comes with its own collection of problem definitions. Undocumented border crossing, skilled worker underemployment, and refugee assistance, for example, all have different (immediate) causes, different costs and benefits, and different potential policy solutions. The bundling of immigration into a singular issue becomes a political dilemma when the fate of one type is tied to the fate of all of the others, or if the most salient type is given the bulk of the attention, to the detriment of the others.

Perhaps the strongest pieces of evidence in favor of treating immigration as separate issues bundled together are polls and surveys showing that the public has very different attitudes towards migrants depending on the migrants' reasons for migration, their socioeconomic status, and their racial and ethnic origin. Research in both settler-colonial countries and in European destination countries has consistently shown that native-born respondents show more favorable attitudes toward skilled migrants than toward unskilled migrants (Pecoraro and Ruedin 2015, Ben-Nun Bloom, Arikan, and Lahav 2015, Emmenegger and Klemmensen 2013, Facchini and Mayda 2012, Hainmueller and Hiscox 2010). Qualitative work in social science and history has long shown that migrants who are racially, culturally, and linguistically similar (or desirable) are viewed more positively than those who are more dissimilar from the native population or viewed as undesirable in some way (Ben-Nun Bloom, Arikan, and Lahav 2015, Burns and Gimpel 2000, Leslie 1993, FitzGerald and Cook-Martín 2014). Furthermore, in the United States and Canada, the boundaries of similar/dissimilar have been changing, in part because of the selective immigration policies implemented in the 1960s (Jiménez and Horowitz 2013, Lee and Bean 2007).

Additional evidence for the separability of immigration issues comes from work that shows that skilled migrants and other types of migrants are often traded in a zero-sum immigration game. Wright (2014a) argues that Australian politicians have publicly advocated for tougher policies on undocumented migrants, refugees, and asylum seekers, while privately seeking to

expand immigration avenues for skilled workers. Net migration numbers stay the same, but the politicians get credit for "cracking down" on politically unpalatable migrants. In economics terms, the losses and gains from the different types of migration offset each other. Relatedly, research on undocumented immigrant social movements in the United States has shown that activists often point to "model" migrants who are skilled and acculturated (Yukich 2013, Patler 2017). Though most argue that policy solutions should address all undocumented immigrants, some proposed solutions (such as the DREAM Act) focus on those model migrants only. Both lines of research suggest that actors on the ground consider different types of migration to be different problems, with different potential solutions.

Reorganizing the bundle

In his remarks upon signing the 1965 Immigration and Nationality Act, President Lyndon B. Johnson explained that the United States would now be selecting immigrants based on positive criteria, rather than the negative criteria of the past:

> "This bill says simply that from this day forth those wishing to immigrate to America shall be admitted on the basis of their skills and their close relationship to those already here. This is a simple test, and it is a fair test. Those who can contribute most to this country--to its growth, to its strength, to its spirit--will be the first that are admitted to this land." (Johnson 1965)

Two years later, when the Canadian government revealed its reformed family reunification measures and an unprecedented point system for selecting immigrants based on their skills, the spin was similarly laudatory. An editorial in the Montreal Gazette proclaimed that "Canada needs more immigrants, and has needed more humane methods for selecting them. These changes in the rules should help to meet both needs" (Kelley and Trebilcock 1998, p. 360). Gone were the days of immigration policy based on banning people based on the color of their skin. Now, immigration policy was about welcoming people based on their relationships or

on their contribution to the economy. New immigrants would be skilled workers that the country needs or family members of Americans and Canadians. Migrants were thus good for the economic and social wellbeing of citizens.

The new laws and regulations in both countries bundled these two types of immigrants together. In the United States, family migrants were first in the queue, followed by skilled workers. Canada chose the reverse. If one were to examine authorized permanent immigration only, it would seem that the ratio of immigrant types has stayed true to the original vision. From 2012 to 2014, economic class immigrants (namely skilled workers and their dependents) hovered between 57 percent and 63 percent of immigrant arrivals in Canada, while family reunification (all other family members) made up 25 percent to 30 percent of arrivals (Martel and D'Aoust 2016). In the United States, family members of US citizens and green card holders made up approximately two-thirds of new green cards issued in 2015 (Zong and Batalova 2017).

However, even though lawmakers sought to restrict the immigration problem definition to those two types of migration, it soon became clear that other types of migrants would come (back) into the picture. None of these types of migration were new, but the lack of provisions for them in the 1960s reforms pushed them to the sidelines until crises brought them back into the public eye. For instance, neither policy reform left room for unskilled workers, which exacerbated the issue of undocumented low-skilled migrants and unauthorized overstayers. Undocumented migrants quickly came back to national attention in the United States during the 1965-1970 grape boycott led by César Chávez and the United Farm Workers (Fine and Tichenor 2009). In Canada, visa overstays were a sleeper issue that came to the government's attention when the number of applications for adjustment of status skyrocketed because of a loophole in the process (Parai 1975). Both governments subsequently tried to limit undocumented flows using temporary foreign worker programs. The 1960s reforms also did not leave room for refugees and asylum seekers. Crises in the Third World led to *ad hoc* admission

of humanitarian migrants, followed by new legislation affirming the two countries' commitment to refugee resettlement. All of these other types of migration, each with their own logics and potential solutions, came to (re)join skilled migration and family reunification in the bundled immigration issue.

By the 1960s, the conditions were ripe for mass movement of low-skilled workers from the Third World to the First. As developed countries' populations started to age after the postwar baby boom, developing countries' youthful populations were ballooning. The gap in wages and living standards between wealthy countries and poorer countries was growing. The globalization of goods and services was accelerating, to the point where nearly everything was globalized except for hyperlocal low-wage service labor. All of these structural changes pushed workers in developing countries to migrate, perhaps from the countryside to the city or from their home countries to wealthy regions of the Global North (Pritchett 2006, Castles 2004, Anderson 2017). Furthermore, many wealthy countries (particularly the settler-colonial countries) had long been comfortable with a two-tiered labor market, with immigrants, indigenous people, and/or slaves and slave descendants occupying the bottom tier of difficult, dirty, and dangerous jobs (Piore 1979). In North America, employers actively sought low-skilled migrants to reduce labor costs and fill jobs that could not be outsourced, like farm work and janitorial services.

However, it was precisely at this time that the United States and Canada opted to restrict flows of low-skilled workers by implementing new immigration policies that favored skilled workers and immigrants with preexisting family ties to the countries. These new policies essentially pretended that neither the supply nor the demand for low-skilled workers existed, thereby taking low-skilled migrant workers out of the immigration bundle. They limited the parameters of the immigration issue to a very narrow scope. The message to the public was that, from this point forward, the only immigrants who could come to North America were immigrants who could fit within these two categories.

The exclusion of low-skilled migrants was a win for organized labor groups, who wanted to reduce exploitation and competition in the labor market. By this time they were less virulently xenophobic and racist than in the past, and had adopted a cautiously pro-migrant consensus. However, they were not necessarily pro-*immigration*. Support for migrant workers who were already in the country was, in their view, compatible with controls on the entry of new migrant workers (Tichenor 2002, Fine and Tichenor 2009). By supporting immigration reforms that eliminated racial barriers to immigration but simultaneously restricted immigration based on class, they could put on a progressive face while (theoretically) ensuring that their class interests were not at risk.

Employers, understandably, were less than enthused with the prospect of having no legal channel for importing low-skilled labor, and made their opinions known throughout the process of drafting and debating the new rules. In an immigration discussion in Parliament six months before the order in council that reformed the Canadian immigration system, Hubert Badanai, an Italian-born Liberal MP from rural Northern Ontario, relayed arguments from provincial government and business representatives that the human capital selection system proposed in the 1966 White Paper on Immigration would be a blow to labor-intensive industries:

> With regard to educational standards required for admission, this is considered by nearly everyone to be the most decisive deterrent to attracting the number of people we should be looking for to populate our vast country…. I wish to refer to the excellent presentation made on behalf of the government of Manitoba by Hon. Sydney Spivac, Minister of Industry and Commerce, in which he pointed out that the requirements of that province are in the order of 3,500 unskilled immigrants yearly up to a maximum of 10,000 in the next few years. He contended, and I agree, that certain aspects of the policy outlined in the white paper, while claiming to be non-discriminatory in terms of geography and race, do in fact discriminate against the kind of people his province needs today to enable its economy to expand and grow…. I do not wish to take the time to refer to a dozen other briefs and submissions made by responsible individuals and organizations, nearly all of them pointing to the fact that the number of years in school or I.Q. tests or academic degrees do not always spell brilliance or even brightness in assessing the desirability of prospective immigrants. (Beelen et al. 2017b, 27 February 1967)

The US also opted to exclude low skilled workers from the McCarran-Walter Act in 1952. However, unlike in Canada, the industries that depended on low-skilled labor had other means of getting it. Indeed, Senator Pat McCarran himself said in a Senate subcommittee hearing in 1953 that though "the agricultural people, the farmers along the Mexican side of the border in California, in Arizona, in Texas… cannot get along" without low-skilled immigrant workers, "a farmer can get a wetback and he does not have to go through that red tape [of minimum wage, health insurance, etc.]" (Hadley 1956). Immigration outside the law was a fact of life along the southern border, impervious to changes to policy changes made in Washington because labor protections were weak and border enforcement was aligned with the interests of agribusiness. In short, having no immigration pathway for low-skilled workers would send a signal to organized labor and the voting public that Washington was controlling the immigration issue, but the exclusion ultimately did not matter for the people who depended on cheap labor (Wright 2014a).

The US and Canadian governments intended the indirect exclusion of the 1960s reforms to curb the arrival of politically unpalatable low-wage foreign workers. However, the barrier was not impenetrable. Though low-skilled workers were unable to receive authorization to migrate, they could still find ways to move. Both the United States-Mexico and Canada-US borders were relatively porous, given that the bulk of the land along both borders is uninhabited wilderness or farmland. Those coming from further afield could arrange for visitor visas and overstay, or claim to be family members of coethnic strangers who were already residing in North America. Furthermore, the authorities often turned a blind eye to illegal hiring practices, allowing employers to openly exploit undocumented workers. For geographical and historical reasons, undocumented labor migration was a much larger problem for the United States than it was for Canada. The conquest and annexation of Mexican territory in the 19th century and decades of experimentation with guestworker programs resulted in a large number of Mexicans having cross-border ties. These ties facilitated unauthorized border crossing and eventual integration

133

into low-wage sectors of the labor market (Singer and Massey 1998, Hagan 1998, Ellis, Wright, and Parks 2007). Despite its remote location, Canada also received undocumented immigrants, many of whom arrived by smuggling boat or across the border with the United States. Because they came from different source countries, undocumented immigrants were othered and racialized differently on the two sides of the border. While the face of the "illegal immigrant" was a dark-skinned Mexican one in the United States, unauthorized migrants in Canada were more likely to be Chinese, Southern European, or white American.

The US and Canadian governments attempted to resolve the undocumented immigration issue through amnesty programs in the 1970s and 1980s. In 1973, the Adjustment of Status Program in Canada gave undocumented migrants two months to report themselves and adjust to permanent residency. Though the program benefitted 39,000 migrants who had come to Canada from many parts of the world under a wide range of circumstances, the popular perception of the program was that it was intended for young American men who had fled the draft (Amuchastegui 2004). In 1986, the Immigration Reform and Control Act (IRCA) in the United States provided amnesty for almost 2.7 million immigrants, about 2 million of whom were from Mexico. While there is an abundant literature showing that IRCA positively affected migrants' economic mobility and integration in the United States, some have found that it had no effect on long-term patterns of undocumented migration (Hernández-León and Zúñiga 2000, Orrenius and Zavodny 2003).

The arrival of unauthorized migrants also overlapped with the arrival of humanitarian migrants. Though both countries had taken in European refugees during the first half of the 20th century, and the first wave of Cuban asylum seekers arriving in the United States was as recent as 1959, refugee policy was curiously absent from the otherwise forward-thinking immigration reorganizations of the 1960s. Decolonization and the Cold War created major humanitarian crises around the world, though not all resulted in refugees and asylum seekers seeking resettlement in North America. The first major humanitarian crisis resulting in resettlement was

the expulsion of Asian Indians from Uganda in 1972. As Indians had arrived in Uganda as a result of British colonialism, Britain began to resettle the refugees and asked the settler colonial Commonwealth countries to do so, as well. Canada accepted 7,000 refugees from Uganda, its first major intake of refugees from outside of Europe (Raska 2016). The crisis response exposed that the 1967 immigration reforms made no provisions for refugees. This was later amended in the Immigration Act of 1976, which formally defined refugees as a special class of migrant and outlined the government's responsibility to resettle them and ensure their successful integration into Canadian society.

The second major refugee crisis emerged from the Vietnam War. Millions of residents of Vietnam, Laos, and Cambodia were forced to flee from their homes, often in unseaworthy boats. This led to the first large-scale resettlement of non-European refugees in North America. In Canada, the intake of Ugandan Asians had spurred the development of bureaucratic infrastructure to handle refugee crises. Canada resettled 60,000 Southeast Asian refugees, primarily in Ontario, Québec, and British Columbia. For the United States, this was the first major resettlement program of the Cold War. The 1965 reform had included refugees, but the population of Southeast Asian refugees far outstripped the refugee places that the law allowed. Furthermore, the United States was directly culpable for the devastation of the war, and many voters and policymakers felt that the country had a moral imperative to take in the majority of these refugees. The Indochina Migration and Refugee Assistance Act of 1975 was passed specifically to accommodate this population. Between 1975 and 1977, over 175,000 Vietnamese refugees arrived in the United States (Cutts 2000). Five years later, the United States reformed its refugee resettlement program and laid out the federal government's responsibility for supporting refugees in the Refugee Act of 1980. The *post hoc* inclusion of refugees in the American and Canadian immigration systems allowed the two countries to accommodate further flows later in the Cold War, including Cubans, Chileans, Salvadorans, Ethiopians, and many other groups.

Because their new comprehensive immigration overhauls excluded provisions for migrants who did not fit into the skilled worker or family migrant categories, neither country had a formalized process in place to address the undocumented immigration or refugee issues when they came up. Furthermore, in part because the two-part immigration bundle created a specific constellation of interest groups, institutional structures, and pro- and anti-migration discourses, a comprehensive overhaul to accommodate permanent entry of unskilled workers has become neither feasible nor palatable. Thus, action on the undocumented issue has been limited to *ad hoc* responses: deportation, amnesty programs, and guestworker programs among them. All of these responses have been highly divisive, pushing unskilled immigration to the forefront of the bundled immigration issue. The refugee problem was less contentious, but also resulted in the immigration issue taking on more dimensions than policymakers had intended with the 1960s reforms. Government action or inaction on these highly salient and highly polarizing issues diverted attention from the clean and simple two-part immigration bundle that the 1960s reforms tried to create.

Talent retention and brain drain during the Cold War

Even though both the US and Canadian governments implemented selective immigration policies for professionals that attracted large numbers of students and skilled workers from the developing world, both sheepishly denied that they were responsible for brain drain. In 1974, UN Secretary-General Kurt Waldheim accused the United States, Canada, and United Kingdom of taking physicians, scientists, and engineers away from developing countries and thereby exacerbating global inequality (1974). In response, Mitchell William Sharp, the Canadian Secretary of State for External Affairs, denied that the government intended to attract skilled labor from the developing world, even if that was the consequence of the points system. His

evasive answers to Douglas Roche, a Progressive Conservative MP from Alberta, are telling in

that he attempts to sidestep the issue altogether:

> *Roche:* Mr. Speaker, my question is for the Secretary of State for External Affairs. How does the government intend to respond to UN Secretary General Kurt Waldheim's charge that Canada is among those developed nations engaged in a brain drain of developing countries by which we promote the migration of physicians, engineers and scientists from the countries most in need of these educated leaders?
>
> *Sharp:* Mr. Speaker, I would deny it.
>
> *Roche:* Having in mind that this charge was carried in the New York Times Sunday edition, I should like to ask if the government intends to relax its now stringent regulations, recently announced, insisting that prospective immigrants have jobs before entering Canada, thereby tying immigration to manpower in precisely the way criticized by the UN Secretary General.
>
> *Sharp:* Mr. Speaker, I want to make it quite clear I was not denying the fact that the statement had been made. I was denying the allegation. (Beelen et al. 2017b, 19 March 1974).

The response to "brain drain" from immigration officials in the United States was similarly

evasive. In a 1975 hearing of the House Subcommittee on Immigration, Citizenship, and

International Law, Sam Bernsen, the General Counsel for the Immigration and Nationality

Service, argued that

> the brain drain is no longer really a sensitive matter, the sensitive matter that it has been for some years past. There are just too many factors involved in a brain drain. There are push as well as pull factors. What is the situation in another country? If conditions are bad in another country, no matter what we do here people are going to want to come here. (Committee on the Judiciary 1976, p. 86)

Leonard F. Walentynowicz, the Administrator for the Bureau of Security and Consular Affairs

in the State Department, gave the same Subcommittee his agency's recommendation that the

immigration system reduce preferences for skilled migrants:

We propose one change in the order of preferences, to place all four relative preference classes ahead of both occupational preferences… We believe that the emphasis placed by the 1965 amendments to the law upon the encouragement of immigration by foreign professionals has become too great. Among other things, it leaves us open to charges that we are augmenting—even fomenting—"brain drain" by granting to professionals the degree of preferential treatment we now do. (Committee on the Judiciary 1976, p. 49)

As in Canada, the brain drain discussion did not lead to substantive change in the skilled immigration program.

Not all brain drain was equally taboo. The United States and Canada could acceptably take in skilled workers away from Communist countries, as this demonstrated the superiority and attractiveness of capitalism to "the best and the brightest." Immigration from similarly developed countries was also less controversial. Since the standards of living and levels of political freedom were high across all developed countries, migration between First World countries was largely due to factors like salaries, professional development, and quality of life. Indeed, Canadian pundits and lawmakers have long lamented the flow of Canadian professionals heading south to larger salaries and better climes (Kelley and Trebilcock 1998, Knowles 2007). Notably, the unequal exchange of skilled workers between First World countries was the only type of brain drain that was discussed openly and framed in market terms. As historian Mark A. Kishlansky told a New York Times reporter in a 1987 article about British humanities professors moving to well-paid jobs in American universities, "America is simply the biggest consumer of cutting-edge knowledge in the world. We are the Japanese of the education industry" (Johnson 1987).

Much of the brain drain discussion was focused on established professionals who were already working in their country of origin. Indeed, the Canadian points system and the US immigration pathways for skilled workers were designed to bring in newcomers who already had a professional track record back home. However, the number of international students and trainees was growing while this discussion was going on. Developed western countries were bringing in students from poorer countries for degree programs, and practicing professionals for

additional training. International education was seen as a form of development assistance. In the logic of the Cold War, such assistance was intended to curry favor with poorer countries in hopes of making the Western capitalist economic model more appealing than the socialist alternatives.

Foreign students and trainees were "non-immigrant" temporary visitors. As such, they were largely expected to return home after graduation. Those who were on government scholarships (whether from the North American side or from their home countries) were indeed required to do so. They were thus not officially recognized as a potential pool of permanent skilled immigrants, and there was no process in either country for directly transitioning from a student visa to a permanent resident visa. However, some students managed to stay permanently regardless. They could leave the country to apply for a skilled worker visa from abroad or remain in the country through alternate channels. For example, many Vietnamese students in Québec from the 1950s to the 1970s married Canadian citizens and/or remained in Canada during the Vietnam War, making them eligible for family reunification or humanitarian immigration channels (Bun and Dorais 1998, Dorais 1991).

In the late 1980s and early 1990s, the US and Canadian governments' attitudes toward professional and student migration began to shift, as the Soviet Union and China opened up their borders. The two countries had long welcomed immigration from communist countries, particularly if the immigrants were highly skilled. They received many Cubans, Vietnamese, and Soviet Jews during the Cold War. However, restrictions on emigration from China and on non-Jewish emigration from the Soviet Union dampened flows from the largest communist states.

STEM workers' mobility was heavily regulated in the Soviet Union because of the high value of their knowledge (Borjas and Doran 2012). After the Union's dissolution, they were freer to move. The United States responded to this opportunity with a piece of legislation that overtly courted these workers. The Soviet Scientist Immigration Act of 1992 allowed "scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or

who are working on nuclear, chemical, biological or other high-technology defense projects" to apply through the first preference for "aliens of exceptional ability in the sciences," and additionally waived the requirement that they have job offers from employers in the United States. The arguments in favor of this bill were largely built around the idea that these scientists were now free agents, and that the United States should attract them first before other countries do. As one of the Senate bill's cosponsors, Al D'Amato (R-NY), stated:

> I am pleased to join Senators Brown and Dole in this important legislation, aimed at preventing the former Soviet nuclear, chemical, and biological warfare scientists from being lured to Iran, Iraq, Libya, or North Korea and other radical States. If the position of these scientists are not secured, they may well sell themselves to the highest bidder and go on to enhance the arsenals of these brutal and irresponsible dictatorships. (138 Cong Rec S 2857)

Thus, this law, which actively sought to drain brains from a poorer country, was framed in terms of national defense and humanitarian aid. The programs in both the US and Canada that gave students from China a pathway to citizenship were framed in similar terms. In China, the ban on higher education was lifted at the end of the Cultural Revolution in 1976, and by the 1980s the country was sending students to the West for advanced degrees. Students in China, newly emboldened by their education and the relative freedom of expression after the Cultural Revolution, began making demands for democracy. The brutal crackdown on the student uprising, culminating in the Tiananmen Square massacre in June 1989, led many students who were studying abroad at the time to fear for their lives. Seeing a humanitarian crisis and an opportunity to make a political point, both the United States and Canada implemented special immigration programs for students from China (Brooks 1992, Gecelovsky and Keenleyside 1995).

Notably, both programs opened the doors temporarily to a much larger population than just students who were already studying in the United States or Canada. The US law was written such that it also provided a pathway to permanent residency for Chinese nationals on other visa

statuses and even undocumented workers (Orrenius, Zavodny, and Kerr 2012). The Canadian program allowed "Chinese students, workers and other visitors who feared to return" to China the option to extend their current visa for a year or to seek permanent residence through asylum from within Canada or through a permanent residence or refugee application from abroad (Zhu 1997, p. 22-23).

Growing acceptance of temporary sojourners

Immigration, according to the 1960s reforms, meant permanent settlement. Individuals admitted through the family reunification or skilled worker categories were assumed to desire permanent resettlement in the destination country. They would set down roots, bring their family members with them, and beget new generations of Americans or Canadians. Newcomers were North Americans "in waiting," whose foreignness was but a temporary stage before they blossomed into full-fledged members of the polity and of society (Motomura 2006). Mexican farmhands, European "birds of passage," and other sojourners who crossed the border according to the availability of work did not fit easily into this narrative about what the immigration system was supposed to do. This is clearly reflected in the awkward bureaucratic circumlocutions for foreigners entering the polity who do not have the privilege of staying for good. The term "immigrant" is reserved for those who have been admitted with the assumption of permanent settlement. Those who do not fall into this category upon arrival (or do not change to such a category while in the country) are "nonimmigrants" in the eyes of the bureaucracy, even if they settle for the medium-to-long term and would be considered immigrants to laypeople.

Two types of nonimmigrants became politically salient in North America in the period from 1967 to the end of the Cold War: temporary foreign workers and international students. In the late 1960s and early 1970s, the United States was limiting the guestworker programs that had

begun during WWII, while Canada began to establish them anew to address the shortcomings

of the points system-driven immigration program. The US had two wartime guestworker

programs: the Bracero Program for Mexicans and the H-2 program for Caribbean workers

(Hahamovitch 2013). Though the Bracero Program created an administrative mechanism to hire

Mexican workers on a temporary basis, employers in the Southwest often preferred to hire

undocumented migrants, as this eliminated the fees and red tape of the program (Surak 2013).

The guestworker programs thus did not eliminate the undocumented immigration problem, and

created a workforce that was further stratified by precarity. Both authorized and unauthorized

immigration of low-wage Mexican workers were controversial, leading to the Operation Wetback

program that deported undocumented workers starting in 1954, and in Congress' refusal to

renew the Bracero program in 1964. The H-2 program continues to this day, though it is now

open to many nationalities.

Canada did not share a porous border with a developing country, and its immigration reform

in 1967 did not allow for large numbers of low-skilled workers, except those who came through

the family reunification channel. By the early 1970s, it was becoming evident that the point

system could not address employers' demands for low-skilled labor. Furthermore, the slow-

moving permanent immigrant admission process could not facilitate the fast-paced, temporary

mobility of both low- and high-skilled workers that the new era of capitalism was demanding. In

1973, Canada tried to resolve these interconnected demands with the Non-Immigrant

Employment Authorization Program. Though highly educated workers, such as managers and

researchers, did come to Canada for short-term work under this program, the majority of

"temporary foreign workers" had less formal education (Boyd, Taylor, and Delaney 1986). In

1981, the Foreign Domestic Movement Program (later known as the Live-In Caregiver Program)

provided a pathway for domestic workers to enter the country. Most of these workers were

women from the Caribbean and the Philippines. The Canadian government followed later with

temporary foreign worker programs for seasonal agricultural work and other types of lower-skilled jobs.

Broadening the immigration coalitions

These programs that actively and openly sought to attract and retain international students and professionals in the transition out of the Cold War were billed as defense programs and/or humanitarian aid. The economic effects of allowing large cohorts of skilled individuals into the country for permanent residency was not explicitly stated. However, deindustrialization in the West was already leading to increased demand for highly educated workers. Firms had been adjusting their hiring practices to the availability of skilled immigrant workers since the 1960s reforms, and had become reliant on the immigration system to bring in foreign workers when American or Canadian workers did not meet their needs. The 1960s reforms effectively brought employers of knowledge workers into the immigration discussion, just as knowledge work became a larger portion of all work being done in developed countries.

Technology, higher education, and other industries that demanded a steady supply of professionals with specialized skills joined the pro-immigration coalition, alongside agriculture, construction, and other industries that have long depended on foreign labor. Broad pro-business lobbying groups like the Canadian Chamber of Commerce and the U.S. Chamber of Commerce had long advocated for more immigration. As the technology industry became more dependent on foreign-born workers, these groups were joined by narrower industry interest groups like the Canadian Advanced Technology Alliance and the Information Technology Industry Council in the US. In the higher education space, organizations specifically advocating on behalf of institutions for expanded access to foreign students and workers (e.g. the Canadian Bureau for International Education and the National Association of Foreign Student Advisors) led the

charge, but were eventually joined by generalist advocacy groups for educational institutions like Universities Canada and the American Council on Education.

On the anti-immigration side, few (if any) new groups have entered the ring with a specific focus on skilled workers or international students. Labor unions have been a major player in the historiography of US and Canadian immigration policy writ large, but have almost no role in advocating against immigration expansion for international students and skilled workers in the post-1965 era. This is largely because unionization rates are low across the board (11.1 percent in the US and 28.8 percent in Canada in 2014) and especially low in white collar work (Galarneau 2017, United States Department of Labor 2018). In 2017, for instance, only 3.9 percent of workers in "computer and mathematical occupations" in the United States were members of a union. This figure includes public sector workers, who are more five times more likely to be union members than private sector workers (Bureau of Labor Statistics 2018).

However, both countries have some interest groups advocating for professions, as well as professional licensing societies that operate at the state/provincial level. Professional associations and licensing bodies have had a conflicted relationship with immigration. Much like their trade union counterparts, they often advocate in favor of immigrant members of the profession while decrying specific immigration policies (Fine and Tichenor 2009). Since these groups aim to protect the economic interests of their membership, they typically take what Tichenor (2002) calls "nationalist egalitarian" positions on immigration, arguing that immigration undermines their efforts to ensure high wages and equality of opportunity within their profession. For instance, groups like the Institute of Electrical and Electronics Engineers have been outspoken critics of the H-1B temporary skilled work visa in the US since the 1990s (Matloff 2003). In Canada, professional licensing bodies in particular have been blamed for erecting impossible barriers for immigrants and causing "brain waste" (Reitz 2001a, b, Bauder 2003). In April 1989, 13 foreign-born graduates of foreign medical schools (all of whom had naturalized as Canadian citizens) began a hunger strike to protest discriminatory issuance of residency spots

by the Corporation professionelle des médicins du Québec and the Québec government (Lowry 1989). In British Columbia, five foreign medical graduates also went on hunger strikes in 1990 and 1991 for the same reason; in 1992 they lodged a complaint with the provincial Human Rights Council against the College of Physicians & Surgeons of British Columbia (Godley 1992, Matas 2002). Similar restrictions on graduates of international medical schools exist in the United States, though with the additional complication that many US citizens pursue medical degrees abroad because spots in medical schools are similarly rationed to preserve the profession's prestige and high wages (Jenkins and Reddy 2016).

North American universities: from provincial schoolhouses to global talent magnets

The higher education systems in the United States and Canada are fairly similar in structure. The vast majority of postsecondary students in both countries are served by public institutions run by the states and provinces. The federal government role is limited to providing some funding (especially for research). Both countries distinguish between local vocational training schools that do not grant bachelor's degrees ("colleges" in Canada and "community colleges" in the United States) and institutions that grant bachelor's degrees and above ("universities" in both countries, but sometimes "colleges" in the United States). Universities in both countries also have the additional mission of producing academic research. The reputation of a university is largely based on the reputation of its researchers and the work that they produce, which in turn is a function of the funding available for research.

Universities in both countries are stratified by prestige, though the Canadian system is much more egalitarian. The stratification is primarily driven by the large and prominent private nonprofit higher education sector in the United States. Many of the oldest, wealthiest, and most prestigious US universities are private, while the most prominent Canadian institutions continue to be run by the provinces. Until the latter half of the 20th century, universities on both sides of

145

the border, regardless of funding source, were rarified spaces occupied by the sons of the elite.

Post-WWII veterans' rehabilitation benefits, the baby boom, and the reduction of gender- and

race-based barriers to entry increased the size and socioeconomic diversity of the applicant

pool in the 1950s and 60s. Existing universities expanded enrollments and developed new

programs, and new universities (typically less prestigious than prewar institutions) were

established to accommodate the new student population.

Another factor that helped put talent retention on the table was the internationalization of

North American universities and the economic dependencies that it engendered. Though

universities have facilitated the international flow of ideas and people since the Middle Ages,

they became especially global and outward looking in the Cold War and post-Cold War eras, as

advances in communications and travel allowed for unprecedented cross-border collaborations

and exchanges. This was especially true of older, highly prestigious, well-funded research

institutions, who dominated the discussion of higher education and academic research even

though they educated only a small fraction of the student population. For this clique of elite

universities, globalization was a status symbol, showing their desirability in the global

marketplaces for education and for research. Their deep pockets allowed them to attract and

hire the best researchers, regardless of nationality, and their high profile made them magnets

for well-heeled students from abroad who sought highly valued credentials.

These elite institutions set the bar for less prestigious, less well-funded universities, which

sought to emulate them by making similar investments in research and attracting similar kinds of

foreign students. Foreign students, who often paid higher tuition, were both a sign of status and

a fiscal necessity in light of reduced government investment in higher education in the latter

decades of the 20th century. As decolonization and development proceeded apace in East and

South Asia and the Middle East, increasing numbers of wealthy students in these regions

sought North American educational credentials and work experience. Universities seized this

market opportunity, recruiting more foreign students and becoming more dependent on foreign

students' tuition dollars. Ancillary industries in college towns, like housing and car sales, also came to benefit from the increasing tide of moneyed foreign students (Johanson 2016, Powell 2018).

Discussion

This chapter provides the analytical tools to understand the introduction of talent retention regimes in the 2000s and 2010s, and why these proposals succeeded or failed. The period between 1965 and 2001 saw the implementation of new immigrant selection programs in the United States and Canada. The 1960s immigration reforms set off a path dependent process in immigration policymaking, where every move forward had to address the issues that stemmed back to the original design and implementation of the new immigrant selection system. The original designs bundled immigrants of different skill levels and mechanisms of entry into one comprehensive system, and set the system by which the government would prioritize different types of migrants. Deliberately or not, these designs did not include some key migrant populations, such as refugees and unskilled workers. These designs also set the terms under which future immigration reforms should be discussed, by defining the immigration problem.

By the late 1980s and early 1990s, it was clear that these exclusions were precipitating into major immigration crises. The American system shut out less-skilled workers despite high supply and demand for less-skilled work and a multitude of institutional and social factors that made undocumented border crossing a viable alternative for migrants with no legal pathway to get in. The Canadian system successfully selected highly-skilled immigrants but had no mechanisms for ensuring that these migrants could practice in their professions, leading to a restive population of newcomers who were overqualified and underemployed. Additional reforms like IRCA in 1986 addressed these surface-level issues but did not fundamentally change the elements of the 1960s reforms that caused these problems in the first place.

Another major legacy of the 1960s reforms was the introduction of new interest groups into the immigration field. The transition from an industrial economy to a services-centered economy drove up demand for skilled workers. Employers used the skills provisions of the 1960s reforms to supplement the domestic supply of professionals. Hiring of foreigners accelerated after the Cold War, because geopolitical barriers between wealthier and poorer countries had fallen and because the taboo against brain drain had given way to an unabashed race for talent. By the new millennium, some industries had become fiscally dependent on skilled foreign labor, particularly those that hired large numbers of workers with degrees in STEM fields. These industries became key players on the pro-immigration side of the debate, which had long been dominated by agriculture, manufacturing, and other sectors that employ large numbers of less-skilled workers.

Chapter 6 - Making talent retention happen, 2001 to 2017

In a press conference in Toronto in 2012, Jason Kenney, the Minister for Citizenship,

Immigration, and Multiculturalism, feted the 20,000th skilled worker admitted to Canada as a

permanent resident under the Canadian Experience Class (CEC) program. The CEC was an

explicit talent retention strategy, meant to encourage international students to stay in Canada

permanently after graduation. In his description of the 20,000th worker, Kenney highlighted the

many qualities that made international students desirable as immigrant workers and new

Canadians:

> "And the 20,000th resident is Mr. Gaurav Gore of Toronto, originally of India, who came
> to Canada to do his Masters at the Rotman School of Business here at the University of
> Toronto, was shortly thereafter employed, works for the Bank of Montreal. And I've just
> had a brief chat with him and his wife, who has now come up here from the United
> States. And I can already tell that they perfectly typify the kind of newcomers who we
> hope to attract through the Canadian Experience Class. This young couple represent in
> many ways the future of Canada: bright, hardworking, energetic people who are going to
> contribute to Canada, raise a family here. And we are so proud to welcome them."
> (Kenney 2012)

To many stakeholders in the immigration field, Gore and other former international students

are "designer migrants" (Simmons 1999). They are educated young people, working well-paid

professional jobs. Compared to skilled migrants recruited directly from overseas, they have

immediately recognizable university credentials and tend to have better skills in English or

French. In many ways, they are the opposites of the manual workers with limited education that

have been so reviled and so politicized around the world, including in Canada.

A year earlier in the United States, President Barack Obama called out two types of highly

desirable student-migrants in his State of the Union address: undocumented "DREAMers" and

international students:

"Today, there are hundreds of thousands of students excelling in our schools who are not American citizens. Some are the children of undocumented workers, who had nothing to do with the actions of their parents. They grew up as Americans and pledge allegiance to our flag, and yet they live every day with the threat of deportation. Others come here from abroad to study in our colleges and universities. But as soon as they obtain advanced degrees, we send them back home to compete against us. It makes no sense…. let's stop expelling talented, responsible young people who could be staffing our research labs or starting a new business, who could be further enriching this nation." (Obama 2011)

That year, numerous immigration proposals were discussed, from comprehensive immigration reforms to targeted strategies for managing specific types of immigration. For undocumented students, there was the Development, Relief, and Education for Alien Minors (DREAM) Act, introduced by Senator Harry Reid, a Democrat from Nevada. For international students, there was the Stopping Trained in America Ph.D.s From Leaving the Economy (STAPLE) Act, introduced by Representative Jeff Flake, a Republican from Arizona. Both of these proposals had been introduced in some form in previous congresses. Neither became law. Indeed, immigration reform was at an impasse throughout the Obama administration, and the only real changes came through executive orders that created programs like Deferred Action for Childhood Arrivals (DACA) and an extension of temporary work status for international students with STEM degrees. Unlike in Canada, both of these were limited, temporary fixes.

In the previous chapter, I described how the immigration policy landscape had changed between 1965 and 2001. The two countries shared a geopolitical and economic context that was facilitating the movement of skilled workers. Parallel economic shifts led developing countries to produce more highly educated workers just as employers in developed countries demanded them. The end of the Cold War lifted the taboo of developed countries wooing skilled workers and students from the developing world for long-term sojourns or permanent residency. Business interests urged policymakers to follow the logic of the nascent neoliberal era and think about immigration as a marketplace matching desirable nations to desirable laborers. However,

these workers were increasingly mobile. As international travel became more affordable, more travelers (including immigrants) began to shuttle across borders more often. Permanent settlement was no longer a given. Technological advances could put an Indian engineer in Michigan in touch with recruiters in Montreal, Manchester, or Mumbai with an immediacy that was unfathomable before. By the new millennium, it was clear that the "race for talent" was heating up, and governments were looking into using immigration policy to get ahead.

As a result of similar ideological forces, universities increased their spending in an attempt to beat the competition in the research and education market. Simultaneously, the federal and state/provincial governments reduced their funding for higher education. Increases in tuition and in the number of full-tuition-paying international students helped to fill that gap. The growing numbers of international students caught the attention of businesses looking for desirable workers. International students were an ideal solution for their staffing problems. By definition, they had local credentials and spoke English or French well enough to succeed in a degree program. They tended to study subjects that were less popular among local students, but in high demand in industry. Most importantly for businesses, they were already in the country. They wanted to be able to identify a good worker and have her in the office as quickly as possible.

However, because the two countries had started on different policy trajectories in the late 1960s, they had different issues dominating the immigration debate in this context. In the United States, the growing undocumented population was the most salient problem in the latter half of the 20th century. The most pressing problem in Canada was chronic underemployment of skilled migrants. While there were occasional spikes in activity and attention, both were slow-moving crises that gradually grew in prominence over the years. Incremental immigration policy changes largely sought to address these main issues. Proposals to speed up the immigration process for skilled workers or reduce barriers to international students applying for permanent residency had to fight for attention to get onto the immigration agenda. Talent retention fit in with the Canadian debate as a potential solution to underemployment (at least for new arrivals).

South of the border, talent retention calls were drowned out by calls to address the undocumented population. Bundling talent retention with reforms for the undocumented population was not the solution either; these combined proposals failed because there was no consensus on the politically toxic undocumented issue.

In this chapter, I analyze how the US and Canadian governments have responded to calls for talent retention since 2001. Talent retention ultimately became reality in at the federal level in Canada by 2008, while continued attempts by lawmakers, businesses, and universities to create similar programs in the United States continued to falter through the end of the Obama administration in 2017. I argue that the path dependent processes started by the initial implementation of the immigration reforms of the 1960s continued to shape outcomes in this period. The bundling of different immigration types doomed US efforts to provide special pathways for international students. In Canada, where skilled migration was at the core of immigration policy since the 1960s, additional efforts in the same vein were implemented more easily. In both countries, talent retention came onto the agenda because ideas about brain drain and temporary migration had done an about-face in the post-Cold War context. Attracting skilled workers from poorer countries was no longer taboo, and the sharp conceptual distinction between guestworkers and permanent immigrants gave way to a spectrum of temporary immigration statuses. Furthermore, new interest groups were inserting themselves into the immigration debate as their business models became increasingly dependent on a mobile skilled workforce. Employers of knowledge workers were generally absent from the immigration discussion in previous eras, but several decades of skilled immigration brought them into the fold. Universities were also entering the discussion, both in their capacity as employers of foreign skilled workers and in their capacity as educational institutions for foreign students.

I also point to two major differences in political structure between the two countries that were at play in this period and contributed to the divergent outcomes. First, the Canadian parliamentary system gives the immigration ministry (in the executive branch) far more authority

and flexibility to make immigration rules than the equivalent department in the US federal government has. This was further cemented with the Immigration and Refugee Protection Act in 2001, which gave the ministry even more leeway to set its own priorities for economic migration. In the executive branch, controlled by one party, rules can be made more nimbly and are relatively insulated from the demands of voters. Meanwhile, in the US presidential system, Congress has the most authority in making immigration rules, leading to a much more sclerotic lawmaking process that is, however, much more directly accountable to voters. Second, the Canadian Constitution allows the provinces to insert themselves in the immigrant selection process, while the US Constitution makes immigration the exclusive domain of the federal government. Starting in the late 1990s, the provinces began to experiment with talent retention programs. These experiments were effectively pilot projects that the federal government later adopted. In the US federal system, the states do not have the ability to innovate in this way.

This chapter contributes to theories of immigration policymaking by showing how path dependent political trajectories can interfere in the operation of interest group politics. Freeman (1995a, b) has argued that immigration policymaking in liberal democracies is largely controlled by powerful business interests who tend to support freedom of movement and the expansion of the workforce. Businesses and the lobbyists and professional organizations that support them have far more to gain from immigration expansion than opponent groups have to lose. The costs of immigration are diffuse, while the benefits are very much concentrated in the hands of businesses that demand better-trained workers at lower wages. However, this model falls short as an optic for explaining two very similar cases that pursued the same type of policy change but had divergent results. Additionally, while the dynamic that Freeman theorized has largely played out in the *longue durée* in both US and Canadian immigration history, it does not account for the effect of previous policy choices on the options that are available in any given historical moment, or for the varied opportunities afforded by different political structures.

This chapter also contributes to the immigration literature by introducing the higher education sector as an emergent player in the immigration field. There is a burgeoning literature on the "migration industry" of organizations other than employers facilitating migration (Gabriel 2013, Hernández-León 2012). Some of this literature focuses on training programs, particularly schools in sending countries that prepare students for jobs in the destination country (Kapur and McHale 2005, Kapur 2010, Gabriel 2013). However, less attention has been paid in migration studies to the role of destination country higher education institutions in facilitating skilled immigration, even though talent retention is an increasingly large and popular mobility pathway (Beech 2017, Robertson 2013, Flynn and Bauder 2015). Though the scope of this chapter limits the analysis to higher education institutions in destination countries, other organizations also participate in the higher education migration industry, including cram schools and preparatory classes in origin countries, admissions brokers working transnationally, and a myriad of student services firms in college towns across North America (Robertson and Rogers 2017).

Talent retention comes to fruition

This chapter examines the path by which talent retention programs came to be implemented in Canada in the late 2000s, while such programs continued to flounder in the US federal policymaking process through the end of the Obama administration in January 2017. Specifically, the primary positive outcome that I examine in Canada is the federal-level Canadian Experience Class (CEC) program, which was introduced in 2008 and allows international students and certain classes of temporary foreign workers to apply for permanent residency based on their previous experience in the country. Additional positive outcomes that I consider in this chapter include the federal-level immigration stream for PhD students introduced in 2011 and the provincial-level Provincial Nominee Programs (PNPs), most of which predate the CEC. All of these pathways allow individuals who enter the country on student visas

to transition to permanent residency on the basis of their accumulated time in, experience with, and ties to the country. On the US side, I examine the failure of talent retention legislation, including comprehensive immigration reform bills that include talent retention measures (see Appendix 1, Table 1). I also consider the extended debates over the H-1B visa program for temporary skilled workers as well as the executive order extending the Optional Practical Training (OPT) period for foreign STEM graduates. These stopgap measures were intended to introduce some elements of talent retention by bypassing the legislative process.

An ideal solution to immigration woes?

Talent retention strategies for international students were one of the most prominent new immigration policy proposals that emerged in the 2000s on both sides of the border. Allowing international students to become permanent residents solved several immigration issues that had come onto the agenda after the 1960s reforms. In Canada, where the human capital-based points system was failing to ensure that skilled immigrants were suitably employed after arrival, talent retention could bring migrants with Canadian degrees, experience, and social ties into the migration stream. In the United States, where demand for skilled migrants was high and the immigration agenda was dominated by the vexing undocumented problem, talent retention could appease employers and show voters that the government could act on immigration (even if it ultimately did not resolve the most pressing issue at hand).

International students, as temporary visitors, were not initially part of the immigration bundle in either country. Many did become immigrants through the skills-based channel, but that was not explicitly welcomed. Indeed, they were often discouraged from doing so, to avoid the appearance that the First World was inviting brain drain from the Third. However, after the Cold War ended, the ideological barriers to keeping foreign students were lifted, and economic restructuring led to the "race for talent" among wealthy countries (Shachar 2006). This was both

a race to produce skilled workers (particularly in STEM fields) domestically, as well as a scramble for skilled immigrant workers. In this context, policymakers came to see international students as particularly desirable "designer migrants" and brought them into the immigration discussion (Simmons 1999).

Foreign students are "designer" in many senses. They are educated, affluent individuals, as opposed to the uneducated working-class migrants that make up the bulk of the immigration bundle. Their employable skills are made to North American specifications by domestic universities. In advocating for further streamlining of the talent retention pathway, the Canadian Bureau of International Education goes as far as calling foreign students "ideal" immigrants:

> Since assuming his role as Minister of Immigration, Refugees and Citizenship Canada, the Honourable John McCallum has stated on many occasions that international students are at the top of the list to become permanent residents because of their language skills, education and age. They also have a proven desire to be here, with a level of familiarity and understanding of Canada. They can provide economic, social and political links to their home countries, and add to the multi-cultural fabric of our society.
>
> As Canada's national international education organization, the Canadian Bureau for International Education (CBIE) wholeheartedly supports this position. However we must recognize that if international students are 'ideal' immigrants, they are not necessarily 'immediate' ones. Where some international students proceed directly to permanent residency, for most it is not a linear path and there are many barriers en route. (Canadian Bureau for International Education 2016)

Additionally, international students serve as status symbols in the zero-sum interstate game to acquire as much human capital as possible. As a lobbyist for the Institute of Electrical and Electronics Engineers stated during a US House of Representatives Judiciary Committee meeting in 2013:

> Advanced degree [foreign-born] STEM graduates are key contributors to innovation and increased productivity that will help grow whatever economy employs them. In America, they will enhance our productivity and prosperity, growing American jobs and the American standard of living. Or, they can take their skills nurtured by our world leading universities and put them to work building another country's prosperity. There are plenty of competitors in the world outside our borders ready to hire them. (Morrison 2013)

Unlike undocumented immigrants, who entered the immigration bundle from below, international students were introduced to the bundle from above, by policymakers seeking to use them to resolve specific immigration problems. These problems stemmed from the trajectory of the 1960s reforms, and thus were different on the two sides of the border. By the 2000s in Canada, it was clear that the human capital model of selection was insufficient for ensuring that skilled migrants who were selected to come to Canada could find suitable employment upon arrival. International students, who had the same university degrees as native-born skilled workers but tended to cluster in fields with labor shortages, were an ideal solution to the brain waste problem. In the United States, after the terrorist attacks of September 11, 2001, border security surfaced to the top of the agenda, but a solution to the undocumented problem was as elusive as ever. Structural issues in the federal government, combined with fundamental disagreement between political parties and interest groups on how to handle the growing population of undocumented immigrants and stem future undocumented flows, stymied most action on immigration. Politicians in search of small bipartisan wins in this period of gridlock latched onto international students as a politically palatable group of potential migrants that had many boosters but almost no detractors.

Divergent pathways for international students

Since 1967, foreign students in Canada had been able to apply for permanent residence status after graduation through the same points system as everyone else. In the late 1990s, the first provincial nominee programs made special pathways for students who had studied in less popular provinces to settle there permanently (Paquet 2015, 2014, Fleras 2015, Baglay 2012, Carter et al. 2009). In 2006, the Off-Campus Work Permit Program allowed foreign students to work off-campus during their studies, giving them opportunities to gain Canadian work

experience (Lu, Zong, and Schissel 2009). The Post-Graduation Work Permit for student visa holders was changed to allow students to stay and work for up to three years after graduation before moving on or changing to a different visa status. Finally, in 2008, the Canada Experience Class program allowed former international students to count their Canadian degrees, work experience, and time in the country toward their permanent residence application (Fleras 2015).

The US system is much more difficult for international students to navigate than the Canadian system, in that there is no direct path to permanent residency. The US has the Optional Practical Training (OPT) program for F-1 student visa holders, which operates like a combination of Canada's Off-Campus Work Permit and Post-Graduation Work Permit programs. Most students are allowed to work for up to 12 months. Unlike in Canada, off-campus work experiences before graduation, such as internships, count toward the 12-month cap. In 2008, OPT was extended from 12 months to 17 months for students with STEM degrees. In 2016, this 17-month extension was replaced with a 24-month STEM extension. Unlike in Canada, however, there is no direct pathway to permanent residency after OPT, meaning that hiring an OPT worker is a risky proposition for an employer looking for an employee to fill a non-temporary position. Most students who are not eligible for other immigration pathways (e.g. family reunification, marriage, or refugee status) typically apply for employer-sponsored H-1B visas through a lottery system. Those who successfully obtain H-1B visas are then eligible to apply for permanent residency through a separate process. There were many similar attempts to give foreign students priority access to the US immigration system, though most have failed (Appendix 1, Table 1). In recent memory, for instance, the Stopping Trained in America Ph.D.s From Leaving the Economy (STAPLE) Act was introduced in every Congress since the 110th (2007-2008). The Securing Knowledge Innovation and Leadership (SKIL) Act was introduced in 2006, 2007, and 2010. Neither bill has ever passed in the chamber in which it was introduced. Other proposed immigration legislation that included talent retention strategies have also failed to gain traction.

From provincial experimentation to federal policy in Canada

Talent retention strategies in Canada began with experimentation at the provincial level. Canadian universities' interests aligned with business interests at the same time, and universities were firmly within the purview of provincial government. This alignment, facilitated by structure of Canadian federalism and the legacy of Québécois separatism, led to provincial governments creating the first talent retention strategies in North America. Specific measures facilitating international students' ability to transition from student visa status to permanent residency began appearing in Canada in the late 1990s with the first crop of provincial nominee programs (PNPs). Unlike in the United States, the Canadian Constitution specifies that immigration is an area of shared federal-provincial jurisdiction. However, the federal government handled immigration nearly exclusively until the 1970s, when Québec began to negotiate for greater autonomy in this area. Starting in the late 1990s, other provinces also began to seek their own agreements with the federal government, primarily as a way to attract migrants to less popular destinations (Paquet 2014, 2015). Provinces that were already recruiting international students to their university campuses began to create immigration pathways to incentivize them to stay in that province. For instance, Manitoba, which was the first province to sign a PNP agreement with the federal government in 1996, created an international student stream that allowed foreign graduates of Manitoba colleges and universities to gain Canadian permanent residency status, provided that they had at least six months of experience working in the province and had secured a full-time job offer in the province.

At the time of writing, all of Canada's provinces and territories except Nunavut have implemented some type of immigrant selection program at the subnational level. PNPs spread across the country as provincial governments (even those in already popular immigrant destinations like Ontario and British Columbia) sought to fine-tune their immigrant intake and

allow "desirable" migrants to bypass the most arduous steps of the sclerotic federal immigration system (Paquet 2014, 2015, Baglay 2012). Though each province defined desirability differently, depending on the needs of the local labor market, most include international students in their PNPs. Manitoba's program continues to be limited to students who studied in the province, but other provinces' programs are open to students with degrees from any Canadian university. For example, Nova Scotia's program is open to graduates from colleges and universities across Canada who have worked in Nova Scotia for at least three months. Ontario took a different path with its two student streams: one for PhD and masters graduates from Ontario universities (no job offer required), and another for graduates of any Canadian university with a job offer in a defined shortage occupation (Baglay 2012). Though provincial programs are popular with migrants and provincial governments alike, the evidence on whether they actually stay in the province for the long term is mixed (Baglay 2012, Carter et al. 2009). Once migrants gain permanent residence, they are free to move elsewhere in the country as they please.

Provincial governments' experiments with talent retention strategies eventually bubbled up to the federal level by the 2000s. At this point, the federal government, in Liberal hands since 1993, had already been exploring ways to fix the emerging immigration problems on its own. The Immigration and Refugee Protection Act of 2002 was designed to correct some of the underemployment issues stemming from the immigration reform of 1967 and the Immigration Act of 1976 (which codified in legislation much of the changes made in 1967). It gave the Government (executive branch) more leeway in setting immigration priorities and regulations for skilled workers. Though, as in the United States, the ministries have historically had the mandate to turn the high-level frameworks set in legislation into detailed regulations, the "ministerial instructions" clause of the 2002 law allowed the ministry responsible for immigration to bypass the legislative process and make their own frameworks for economic class immigration. (Family migration and humanitarian migration remained in the hands of Parliament.) Since 2002, there have been other changes from the federal executive branch

designed to increase the likelihood that admitted immigrants find work in their field (Ferrer, Picot, and Riddell 2014). These changes include placing more emphasis on English and/or French proficiency (from 15 points out of 100 in 1992 to 24/100 in 2006) and giving points for preexisting ties to Canada or Canadian experience (Kaushal and Lu 2015).

Now that the federal immigration ministry could tinker with selection mechanisms for the economic class, it was freer to pursue its own priorities in this area without needing to go through Parliament for what would previously have been considered major changes. The federal government took notice of the provincial nominee programs (which were started because the provinces were frustrated with the inadequacy of the federal immigrant selection system) and began to collaborate with the provinces in creating new temporary-to-permanent pathways. The first of these collaborations was work permit programs for international students. Between 2004 and 2006, the federal government signed memoranda of understanding with several provincial governments. Under these agreements, international students in the signatory provinces were allowed to work off-campus under certain conditions. These agreements were typically made between Citizenship and Immigration Canada and the provincial ministries for education and for immigration. The trial work permit programs led to the extension of the federal Post-Graduation Work Permit (PGWP) from one year to two years in 2005 and the implementation of the federal Off-Campus Work Permit (OCWP) in 2006 (Lu, Zong, and Schissel 2009, She and Wotherspoon 2013). These programs allowed international students to gain work experience that could be counted directly toward their points balance. The lack of work experience had previously been a barrier immigration for many international students, who, because of their youth and/or because they forewent work opportunities to pursue advanced degrees, had limited full-time work experience in the field of their training and were thus at a disadvantage in the points system. Furthermore, work experiences in the country would presumably allow the student to assess the availability of job opportunities in areas of the country where they wanted to live, give them familiarity with the local working context that would facilitate future job offers, and provide them

with more opportunities to practice using English and/or French in daily life. All of these factors would have positive effects on a potential migrant's points score.

The apex of the federal government's efforts to woo and retain international students came in 2008, with the introduction of the CEC program under the Conservative government of Stephen Harper. The CEC was explicitly designed to allow students and temporary foreign workers to apply for permanent residency after one to two years of professional work experience in Canada. At the outset, international students were eligible for admission through the CEC if they had graduated from at least a two-year degree or diploma in Canada and had at least 12 months of professional work experience in the country within 36 months of applying. Skilled temporary foreign workers initially had to have 24 months of professional experience in Canada, though in 2012 this was reduced to 12 months to harmonize the two streams (Evaluation Division 2015). Also in 2008, the government extended the PGWP to three years. With these two programs, virtually all international students could be eligible for permanent residency after graduation. The federal government supplemented the CEC further by introducing an additional, independent admissions stream for students in PhD programs in 2011. PhD students could apply for permanent residency after just two years of study, *before* they graduated with a doctorate. Thus, many students started the program as international students and graduated as permanent residents well on the path to citizenship. Unlike the American STAPLE Act proposals, the doctoral stream was open to all fields, not just to STEM.

Controversially, with the introduction of the Express Entry program in 2015, the Harper government took a step backward from the explicit talent retention programs it created less than a decade earlier. This program, again created through the ministerial instructions provision of the Immigration and Refugee Protection Act of 2002, was billed as a new mechanism of filtering applications for economic class skilled migrants. It added an additional layer of bureaucracy to the existing skilled migrant selection processes and was meant to address the problem of long wait times for visas and a continued mismatch between admitted skilled immigrants and job

openings in Canada. Taking a cue from employer-centered US immigration policy, Express

Entry created a complex online lottery system that prioritized applicants with job offers from

Canadian employers and those who worked in in-demand fields. Crucially, Express Entry

eliminated the ability of international students to count time spent in the country on a student

status toward their application for permanent residency through the CEC. Just one year later, in

2016, the Liberal government of Justin Trudeau restored some of the previous provisions for

international students but largely kept Express Entry intact.

Confronting the elephant in the room in the United States

In the United States, policymakers and interest groups had successfully put talent retention

on the agenda by the late 2000s. They had framed skilled immigration as a problem and

proposed international students as a solution. Unlike in Canada, however, talent retention

advocates struggled to turn this proposal into policy. Path dependent structural factors

stemming from the 1960s reforms stymied these attempts, as did deeper structural issues in the

organization of government. The fact that the 1965 law did not address the supply of and

demand for low-wage labor migration contributed to the growth of a large undocumented

population. The undocumented issue became politically polarizing and dominated immigration

debates. Attempts to address undocumented immigration, such as the combination of amnesty

for migrants and strengthened enforcement created by the Immigration Reform and Control Act

(IRCA) in 1986, did not resolve the root causes of these controversial migrant flows.

International students and skilled migration would seem to be the perfect foil and distraction, as

they were in Australia (see Wright 2014), yet because the undocumented issue loomed so large,

lawmakers faced pressure to address that issue before moving on to other immigration areas.

Since the 1990s, US lawmakers have proposed overhauling the immigration system and

replacing it with a Canadian-style points system that favors skilled workers. The initial drafts of

what became the Immigration Act of 1990 included such a system, as did several standalone

bills during the Bill Clinton administration, and many of the "comprehensive immigration reform"

proposals that gained traction but ultimately failed during the George W. Bush and Barack

Obama administrations (FitzGerald and Cook-Martín 2014). None of these proposals became

law. Later point system proposals failed because they were not paired with broadly acceptable

solutions to the undocumented migration crisis. While lawmakers were attracted by the prospect

of reimagining the immigration system, the conditions were not ripe for a Canadian-style reform.

The 1960s immigration reforms were created in a postwar context of historically low

immigration. By the 1990s, the reforms of the 1960s had been in place for decades and were

facilitating large flows of migrants. This included legal flows through the family and skilled

worker channels, as well as undocumented flows, which were, in large part, a consequence of

unskilled workers' exclusion from the 1965 law. Without additional measures to regularize the

preexisting undocumented population and facilitate future flows of unskilled migrants (either

temporarily or permanently), the adoption of a Canadian-style points system would indeed

exacerbate what is widely considered the most pressing post-1965 immigration problem in the

United States.

Between the 106th Congress (1999-2000) and the 114th Congress (2015-2016), lawmakers

introduced 68 immigration bills that had some talent retention measures. The primary sponsors

of these bills were evenly split between Democrats and Republicans (Appendix 2, Figure 1).

Most of these bills had some measure of support from the other party. Some of the proposed

talent retention strategies would have made dramatic changes to the immigration system, while

others would have made relatively minor changes. The more ambitious bills proposed

eliminating numerical restrictions on permanent residency for holders of STEM advanced

degrees from US universities (12 bills), holders of any advanced degree from a US university

(10 bills), or even holders of any advanced degree from anywhere in the world (2 bills). More

modest proposed changes included creating a permanent residency visa allocation for holders

of STEM advanced degrees from US universities, expanding the H-1B program for holders of advanced degrees from US universities, or allowing dual intent for some or all student visa types (Appendix 1, Table 1).

Given that talent retention was the rare facet of the immigration issue bundle that Republicans and Democrats could agree on, it is not surprising that measures for international students featured prominently in many comprehensive immigration reform bills. For example, the Comprehensive Immigration Reform Act of 2010 would have exempted from numerical caps on permanent residency all holders of advanced STEM degrees from US institutions who have worked in a related field in the United States for at least two years on a temporary visa (e.g. H-1B). In 2013, the Border Security, Economic Opportunity, and Immigration Modernization Act went even further. This bill, which passed the Senate, would have exempted all doctorate degree holders (regardless of field or country of doctoral granting institution) from the caps, as well as all advanced degree graduates of US STEM programs (regardless of their work experience).

The failure of these reforms is also attributable to the bundling of the different facets of the immigration issue. All of the comprehensive immigration reform proposals eventually failed, largely because of disagreements over amnesty and/or deportation for undocumented migrants. When policymakers tried to make skilled migration the centerpiece of a new immigration policy proposal, activists on both sides of the aisle pointed out that undocumented immigration and issues with family migration were the main immigration issues that the country faced, and needed to be addressed first. For example, though the debate that led to the Immigration Act of 1990 began with proposals to adopt a Canadian-style points system (and thus prioritize skilled workers), the resulting legislation was very different. In response to ethnic lobbies advocating for more family migration opportunities and employers seeking cheap temporary labor, the law revised some of the details of the 1965 law but ultimately did not change the structure that the earlier law had built (FitzGerald and Cook-Martín 2014). Similarly, in the immigration reform

debates of the post-9/11 era, both parties attempted to pursue "comprehensive" immigration

reform, which bundled selection mechanisms for new immigrants with increased patrols on the

border with Mexico and amnesty or deportation for undocumented migrants.

Reforming immigration policy in the post-9/11 context

This chapter focuses on the period between September 11, 2001 and the end of the Obama

administration in 2017. This 15-year period saw talent retention proposals flounder in the US,

while similar proposals blossomed into cornerstones of immigration policy in Canada. The

September 11 terrorist attacks were a catalyst for reconsidering the immigration system in both

countries. Long-simmering concerns about undocumented migration in the US, migrant

underemployment in Canada, and cultural and racial differences on both sides of the border

came to a sudden rapid boil when the attacks led politicians and the public to view immigration

policy through a national defense lens. The crisis opened up opportunities to reform the

immigration systems, which had been largely unchanged since their introduction in the 1960s.

Unlike in the 1960s, the immigration policy changes that were proposed in the post-9/11 era

were not acting upon a relatively blank slate of historically low immigration. The immigration

systems had been in operation for a generation, bringing large numbers of immigrants to North

America year after year. The policy changes that were proposed in this context of continuous

migration were responses to the problems that the 1960s programs had created. What were

once new ideas about bringing foreigners into the polity had calcified into structures that

facilitated the perpetuation of the original trajectory. For example, in the United States,

undocumented immigration came onto the agenda in a big way. This was partly because of the

post-9/11 focus on keeping "bad guys" out, but mostly because the continued lack of legal

pathways for unskilled workers led the issue to balloon to the point where it could no longer be

ignored. In Canada, the most vexing immigration problem remained the underemployment of skilled workers selected through the points system, which had largely remained the same since it was introduced in 1967. Post-9/11 immigration policy proposals had to address the concerns created by the policy choices that came before them, and also appease the various webs of interests that had sprung up around those previous choices.

In the United States, the security crisis and the undocumented immigration issue opened an opportunity for a complete overhaul of the immigration system. Universities and employers of skilled migrants called for talent retention to become part of this potential "comprehensive immigration reform." Talent retention measures featured in comprehensive bills as well as in standalone measures for skilled migration only. However, the lack of resolution to the undocumented immigration issue stymied efforts to introduce talent retention by legislation. Immigration reform for skilled workers and students was limited to a handful of limited stopgap measures coming from the executive branch, such as the extension of work authorization for international students with STEM degrees.

The security crisis also led Canada to restrict border crossing and migration in the name of national defense. However, there was no undocumented immigration issue as in the United States. The country's remote location, carefully-designed guestworker programs, and politically prudent amnesties for previous undocumented arrivals made illegal border crossing nearly a non-issue (Magalhaes, Carrasco, and Gastaldo 2009, Campbell et al. 2014). Furthermore, with the securitization of the border after 9/11, the United States helped to reduce undocumented arrivals to Canada even further. The two countries signed the Safe Third Country agreement in 2002, allowing Canadian border officials to return asylum seekers from third countries to the United States if they crossed the border without authorization. Unwanted migrants to Canada were thus thrust back into the hands of the United States, allowing Canada to piggyback on the growing US security apparatus to police its sole land border.

While the United States and Canada shared the post-9/11 economic and geopolitical context, their immigration systems had gone in very different directions since the 1960s, leading to different challenges and opportunities for reform. Canada is the only major immigrant receiving country where all major interest groups and all political parties broadly agree that immigration is good and necessary for the country. The country's famed foreigner-friendliness is not a result of a primordial tolerance deeply held in the Canadian psyche. In Chapters 3 and 4, I showed how Canadian and American immigration policy reflected the same racist and xenophobic worldviews through to the mid-1960s. Canada's openness to migration today is in large part due to the highly selective points system in 1967, which brought in professionals to become "Canadians in waiting." Insulated from the developing world by its remote location, Canada did not receive undocumented influxes of low-wage workers like the United States, and managed demand for foreign workers carefully using temporary work visas that largely met employers' needs. Careful management, however, did not mean that there were no immigration crises. Between the 1970s and 1990s, there had been a marked decline in new arrivals' economic outcomes compared to previous cohorts, even as refinements to the points system increased immigrant selectivity over that timeframe (Reitz 2001b, a). Many migrants with high points scores were floundering in underemployment, as they were unable to access jobs that were appropriate for their skills and experience. Discrimination from employers and professional licensing bodies was partly to blame, but this trend also made evident that the points system had no mechanism for ensuring that immigrants selected for their skills could be matched to appropriate jobs upon arrival. The government thus sought policy innovations that would reduce the risk of migrant underemployment.

Immigration has been a much more contentious issue in the United States since the 1960s. Like in most other immigrant-receiving countries, voters and political parties are deeply divided over immigration. Furthermore, in a two-party system, views on economic issues and on social issues are often imperfectly matched, leading to intra-party struggles over the issue but also

opportunities to work across the aisle. In this fractious context, lawmakers have struggled to address the most pressing issue stemming from policy choices made in the 1960s: undocumented immigration, mostly of low-skilled workers coming across the border with Mexico. While Canada also excluded low-skilled workers from the points system, undocumented immigration was a far larger issue in the United States for geographical and historical reasons. Furthermore, unlike in Canada, the American government did not implement compensatory measures like guestworker programs and legal pathways for immigration in proportion to the supply and demand of low-skilled workers. The most pressing immigration issue in the US debate was thus how to handle this crisis.

In both countries, the 1960s immigrant selection systems created a legal structure for immigration and a constellation of interest groups with a stake in defending that structure. Any major changes proposed have been hotly contested, and successful changes have largely built on top of the existing structure rather than fundamentally changing it. Talent retention gained more traction in Canada than in the United States because it was a direct response to "brain waste," which was widely perceived to be the country's most pressing post-1960s immigration problem. In the United States, the most pressing problem was and continues to be undocumented migration of low-skilled workers, primarily from Mexico. The lack of resolution to this issue and the highly polarizing debate around it overshadowed talent retention and other skilled labor migration proposals. Crucially, in the United States, the fate of skilled labor migration reform became tied to the resolution of the undocumented issue.

Furthermore, much of the experimentation and rapid decision-making that helped elevate talent retention from small provincial programs to federal immigration policy in Canada is not structurally possible in the United States. Unlike in Canada, immigration remains a strictly federal responsibility. Additionally, the federal ministry responsible for immigration has a greater ability to make its own rules, especially after the Immigration and Refugee Protection Act of 2002, which gave the ministry the authority to bypass Parliament in changing the system for

skilled migrant selection. The US presidential system introduces more checks and balances to the policymaking process, especially when the presidency and Congress are controlled by different parties. The US president does have some limited ability to change the immigration system through executive orders. For example, the precursor to the Chinese Student Protection Act was George H. W. Bush's Executive Order 12711 to give temporary protected status to Chinese nationals (many of whom were students). In 2014, Barack Obama issued an executive order on immigration that, among other things, asked the Department of Homeland Security to revise the rules to extend work visa opportunities for international students in STEM fields. However, executive orders are limited in scope and can be overturned by successors or by the courts. Thus, most immigration policymaking still happens in the legislative branch.

Realigning ideas and interest groups

In addition to the exogenous shock of 9/11, a shift in ideologies around temporary migration and a realignment of interest groups contributed to the divergent outcomes for talent retention proposals. In the ideological sphere, the Cold War "brain drain" taboo transformed into a zero-sum race for talent in which both wealthy countries and poorer countries were competing. Additionally, neoliberal ideology made receiving countries more comfortable with the idea of blurring the lines between temporary and permanent migration as a way of reducing risk in immigrant selection.

In the interest group structure, knowledge economy employers became key players in the immigration advocacy world, as they were becoming more and more dependent on imported labor. Universities joined the immigration debate in two complementary functions. They are employers of highly skilled, highly specialized workers, but also educational institutions that bring in hundreds of thousands of foreign students, many of whom have aspirations of migrating. As state support for higher education dwindled, universities assumed a role in the

migration industry by facilitating international students' immigration petitions in exchange for cash.

Talent retention: brain drain rehabilitated

By the new millennium, ideas about immigration had been changing dramatically. The post-Cold War geopolitical context and the mass arrival of immigrants from all over the world, many selected based on their skills, had changed the social and political context of reception. Immigrants were no longer just the farmers and factory workers of generations past, but scientists and entrepreneurs and all manner of white-collar workers. Furthermore, neoliberal ideology was quietly shaking up some of the unspoken rules of immigrant selection. Brain drain, a major taboo during the Cold War, gave way to an aggressive recruitment of skilled workers and students from developing countries. Simultaneously, the idea that immigrants are permanent settlers and guestworkers are temporary sojourners began to unravel as new policies created a gray area between temporary and permanent.

In the 1990s, the Cold War discussions of brain drain was giving way to an unapologetic global race for talent. Major geopolitical barriers had been lifted, capitalism had triumphed, and neoliberal ideology was ascendant. The major immigrant-receiving countries, which had long been attracting skilled professionals and students from the Global South, began to recruit them in earnest. In the past, employers were the main institutional actors recruiting foreign skilled workers, and relied on favorable policies to enable that recruitment. Now, government were beginning to take on a larger role in enticing skilled workers to move onshore. Meanwhile, political reforms and economic development resulted in greater production of professionals and students in the Global South, who were freer and more able to move to the Global North.

As neoliberal ideas gained currency, these population movements were increasingly seen in market terms. Even in settler-colonial societies like the United States and Canada, where the

founding myth of immigration remained strong, newcomers came to be seen primarily as a source of labor rather than as new Americans or new Canadians. The global "race for talent" was a zero-sum game in which skilled workers and their labor power are matched to states/economies through a competitive bidding process (Boucher 2016, Teitelbaum 2014, Shachar 2006, Florida 2005, Geddie 2015, OECD 2008, Bedford and Spoonley 2014, Xiang 2011, Kapur and McHale 2005). Countries used relaxed immigration policies and slick advertising materials to woo the most skilled workers and the best skilled workers. Workers that one country snapped up would not be available to another country.

Temporary-to-permanent pathways after the Cold War

Historically in settler-colonial countries, foreigners who were admitted as permanent immigrants were given a large bundle of rights upon acquisition of permanent residence status. When they naturalized, they acquired all or nearly all of the rights of the native born. Permanent immigrants were expected to make a lifelong commitment to the country and to "assimilate" to the furthest extent possible. They were, as Motomura puts it, citizens "in waiting" (Motomura 2006). On the other hand, temporary migrants would be given a bare minimum of rights, and no right to settlement, because they were brought in as an expendable workforce rather than as hopeful equals in society. In most settler-colonial countries, guestworker programs were small-scale experiments, usually involving racial others, rather than the cornerstone of immigration policy.

Under the neoliberal logic that began to permeate immigration policy after the Cold War, the strict lines between temporary migration and permanent migration became blurred. Reducing risk and increasing return on investment became guiding principles of immigration reform. Permanent immigration was full of risk. A permanent migrant who appears on paper to be well suited to immigrate may end up floundering upon arrival, becoming a burden on the welfare

state just as neoliberal ideology called for the reduction of the state's role in service provision. However, as discussed in Chapter 4, skilled migrants with higher incomes are assumed to be net contributors to the welfare state (Storesletten 2000, Razin, Sadka, and Suwankiri 2014, Medina Garciadiego 2010). Combining these ideas led to proposals for temporary-to-permanent immigration pathways for skilled workers, which give these migrants a defined "trial period" before being granted permanent residency.

From the state's perspective, the period of temporary residence is an experiment for both sides. Migrants coming directly from overseas often have limited to no experience with the country. Because of their lack of experience, they may only have a theoretical idea about how and where they might apply their skills and training in the local labor market, and may underestimate the extent to which they will face linguistic and cultural barriers to integration. Temporary migrants get a chance to try out living in the country for a predetermined amount of time before deciding whether or not to make a permanent move. A temporary sojourn is also typically chance for them to upgrade their skills and labor market position through experience with the local labor market or educational system (Paul 2011, Liu-Farrer 2009).

Migrants themselves have long used transitioned from temporary stays to longer-term stays. Sometimes, this is because of calculated decision making (i.e. the migrant decides, after a short term stay, that long-term settlement would be ideal), while at other times it is a result of factors outside of the migrant's control (e.g. war or border closure) (Skeldon 2012, Gilbertson and Singer 2003). However, the use of temporary-to-permanent migration pathways by states and the enshrinement of such pathways in immigration regulations is a distinctly post-Cold War phenomenon, with hallmarks of the neoliberal era's market logic. Guestworkers are admitted under terms that seek to reduce the social and political risks of migration, while simultaneously enhancing the benefits that they can give to the domestic economy. Skilled workers are given more generous and flexible terms than unskilled workers, reflecting the amount of risk the state perceives them to bring. Thus, while some categories of skilled guestworkers have been

afforded the opportunity to transition to permanent status, unskilled workers typically have not had the same privilege. Rajkumar et al. (2012) contend that allowing these transitions for some types of migrants but not others further stratified the hierarchy of migrant desirability and rights. Highly desirable migrants like students and skilled workers were "temporarily temporary," while unskilled workers were "permanently temporary," with no right or opportunity to become new Americans or new Canadians.

Temporary-to-permanent pathways in the United States and Canada provide an alternative channel for migrants to enter the employment- or skills-based immigration categories after having proven themselves during a temporary stay. They do not necessarily make major changes to earlier immigration frameworks. For example, in the United States, the nonimmigrant visa categories used today originated with the McCarran-Walter Act (Immigration and Nationality Act) in 1952. Students in full degree programs were given F visas, "exchange visitors" (including some types of students and postdoctoral fellows) J visas, and temporary workers H visas. The H category was meant to allow employers to hire foreign workers on a temporary basis for when no US citizen or permanent resident workers are available for the job. All of these visas are time-limited. For instance, the H-1B visa for skilled workers is issued for three years and is extendable for another three years after that. The F-1 visa for students is limited to the duration of the degree program, plus some months of Optional Practical Training (work authorization) depending on the type of degree.

By the 1990s, the time limitations on some of these visa types began to be extended or lifted through loopholes. The Immigration Act of 1990 raised the cap for the number of H-1B visas issued per year and encoded the principle of "dual intent" in the statute. The new law stated that having filed an application for permanent residence in the United States "shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant" (104 Stat. 5020). Thus, even though a migrant applying for an H-1B visa was required to affirm that she had no intention to leave her home country permanently, she could

174

simultaneously have an active petition to immigrate permanently to the United States through the skilled work pathway or another pathway for which she was eligible.

Higher education and the immigration debate

Politicians did not pluck international students out of the ether to turn them into solutions for their immigration problems. They had already emerged into public consciousness through the higher education agenda. By the 2000s, international education was growing exponentially, and had become a veritable industry on both sides of the border. The number of international students in both countries was growing dramatically. In the 2004-2005 academic year, there were about 565,000 international students in the United States, or 3.3 percent of total US higher education enrollment. In Canada that year, international students numbered around 66,000, or 7.4 percent of total enrollment. By the 2013-2014 academic year, their numbers had increased to 886,000 (5.2 percent of total enrollment) in the United States and 124,000 (11 percent of total enrollment) in Canada (Institute of International Education 2017a, Statistics Canada 2016c).

North America became the largest destination region in what Börjesson calls the "Pacific pole" of international student mobility from poorer countries in Asia to North America and the Antipodes (Börjesson 2017, Perkins and Neumayer 2014). This mobility was largely driven by the economic pulls of global capitalism and facilitated by the spread of English as the world's lingua franca through Cold War military and political intervention. Education policy and immigration policy also played a part in channeling students along the Pacific pole. Public universities facing neoliberal reforms and budget cuts were starting to become dependent on alternate sources of revenue (including international student fees) to stay afloat. The prominent first tier of highly prestigious and generously endowed private US universities became the benchmark for their public peers in North America and around the world. League tables cemented these institutions' position as the best players in the field. As of October 2017, private

US universities form the majority of universities in the top 10 of the two most influential global university tables, the Academic Ranking of World Universities (formerly the Shanghai Jiao Tong University Ranking) and the Times Higher Education World University Rankings (Times Higher Education 2017, Shanghai Ranking Consultancy 2017). The performance of these universities in the ranking algorithms has led to mimetic spending and isomorphic reforms at lower-ranked universities which aspire to similar levels of prominence (Marginson and van der Wende 2007, Halffman and Leydesdorff 2010).

The confluence of structural factors in higher education and the labor force that led to the first policies to attract and retain international students hit the United States less aggressively than Canada. The United States had a much larger population that was more evenly spread and negligible flows of professionals out of the country. The American higher education field was far larger and far more unequal, with a diverse array of institutional forms and funding structures and less state involvement from the start. With its significantly smaller population that was heavily concentrated in the "MTV" (Montréal, Toronto, and Vancouver) metropolitan areas and moderate levels of emigration of professionals to the United States, Canada was arguably more in need of foreign skilled workers. Immigrant selection at the federal level brought foreigners into the country, but the human capital-based system could not spread them out geographically or across industries and job types. Furthermore, because nearly all Canadian universities are run by the provinces, the retrenchment of the welfare state in the neoliberal era led to an earlier search for alternative revenue streams. Thus, Canadian universities faced similar structural incentives to increase international enrollment, and many Canadian employers were looking to hire foreign skilled workers. In the United States, on the other hand, universities were less unified in their approach to foreign students, and only some industries were reliant on foreign skilled workers.

Hernández-León (2012) defines the migration industry as the for-profit provision of specialized services that facilitate international human mobility and social practices related to

such movement. The large scale recruitment of international students has effectively turned universities into migration industry actors (Beech 2017). They facilitate human mobility by giving international students access to immigration categories that would otherwise be off-limits. Indeed, in countries with talent retention strategies, universities have become *de facto* immigrant selection offices (Mosneaga 2015, Liu-Farrer 2009, Brunner 2017). Where talent retention strategies have not come into law, they still provide access to credentials that provide access to employers, who in turn may hire them for internships that turn into permanent positions with the possibility of visa sponsorship (Bruland and Rusten 2012). Furthermore, though most universities may not be for profit *per se*, they still pursue international student recruitment with the goal of increasing revenue. The potential influx of cash remains the primary motivator for increasing international enrollments.

The fact that universities are increasingly dependent on international enrollments for revenue generation makes them vulnerable to changes in immigration policy that affect the country's relative attractiveness to international students. Universities have thus acquired a fiscal interest in the immigration debate, at least when it comes to student mobility. Many aspiring foreign students have a hierarchy of potential foreign study locations in mind that reflects geopolitical and economic structures, cultural and historical ties, and idiosyncratic preferences. The United States is often at the top of that hierarchy, particularly for students from the Pacific Rim, with other Anglophone destinations like Canada and Australia forming a second tier (Börjesson 2017). Immigration policies and potential for working abroad can become a deciding factor for students, alongside other factors like prestige or value of a degree from that country, social ties, and cost of education (Fong 2011). Canadian higher educations stakeholders broadly agree that immigration opportunities are a key factor in Canada's competitive advantage in the field. As a university administrator in Ontario told me in an interview, "We're secretly hoping, of course, that the United States doesn't fix its immigration situation," because Canada becomes a much more attractive destination in this context.

177

Universities began advocating for immigration reform through broad higher education organizations like Universities Canada and the Association of American Universities, as well as membership organizations specifically organized around international education like the Canadian Bureau of International Education and the National Association of Foreign Student Advisors (known since 1990s as NAFSA: Association of International Educators). These organizations have tended to take a broad pro-immigration stance in addition to advocating solely for increased access to international students and scholars. In 2013, for instance, the American Council on Education and twelve co-signing higher education organizations submitted a "dear colleague" letter to the House urging them to pass "meaningful, comprehensive immigration reform legislation." The letter then highlights the undocumented immigrant youth, talent retention of international graduates, and H-1B reform as three key areas of focus for their organizations (Reilly et al. 2013). Similarly, in 2016, the Canadian Bureau of International Education submitted a response to a federal government consultation on immigration that emphasized the demands of the universities and colleges that the group represents but also advocated for broader changes for all immigrants, such as faster visa processing times and increased funding for settlement services (Canadian Bureau for International Education 2016).

The higher education sector's advocacy in immigration has largely been unopposed. No prominent group advocating against international student enrollment has emerged in either country. As discussed in the previous chapter, specific opposition to skilled foreign workers has also been largely invisible. Anti-immigration groups have either focused specifically on unskilled migrants or have attacked foreigners and nonwhites in general. Though there are some populations, such as domestic students who feel shut out of universities, that could theoretically have reasons to mobilize against increased international student enrollment and immigration. However, these costs of immigration are diffuse. Meanwhile, the benefits of international education are strongly concentrated in the hands of the universities and businesses that benefit

from this pool of potential labor (Freeman 1995a). The benefactors thus have a much stronger incentive and much larger capacity to mobilize.

Technology employers and the foreign talent pipeline

International students had been concentrated in high-demand STEM fields before, but the growth in international enrollment made this concentration much more salient, as international students became the majority of students in some programs. For example, according to the National Science Foundation's Survey of Earned Doctorates, temporary visa holders made up over half of all students who were awarded doctorates in engineering in the US in 2015 (National Science Foundation 2016). Furthermore, employers had become comfortable with hiring foreign workers through the skilled permanent immigration and skilled guestworker programs. The demand for workers with hard-to-find skills was increasing as the transition to a postindustrial knowledge economy gained speed. A report commissioned by two Silicon Valley foundations found that 57 percent of STEM workers in the region in 2015 were foreign-born (Silicon Valley Leadership Group and Silicon Valley Community Foundation 2017). This figure includes those who immigrated to the US as children, but former international students and foreign-trained professionals form the bulk of this population. Thus, the calls to allow international students to transition directly to permanent residency began to grow. Businesses that hired skilled workers clamored for policy change, as did universities. Their calls for change aligned with the desires of the students themselves. Transitioning to permanent residency status was something that many foreign students had already been doing, through the onerous channels that were available to them.

In the post-9/11 era, large technology companies became the most prominent voices advocating for skilled immigration reforms, including talent retention strategies. Organizations like the Canadian Council of Innovators (a group of technology CEOs chaired by Jim Balsillie of

Blackberry maker Research in Motion) and [FWD.us](#) (an immigration advocacy group funded by Facebook founder Mark Zuckerberg) have called for easier access to skilled workers, including international students. Firms and their leaders have also acted alone. According to the Center for Responsive Politics, seven of the top fifteen most active lobbyists in the immigration area in the US since 2006 were technology companies or organizations (Center for Responsive Politics 2017).

Their motives and tactics are similar to those of industry groups that have been in the immigration discussion for generations. Like manufacturers, for instance, US technology companies have threatened to move production overseas if their own government would not meet their demands for flexible immigration policies. As an anonymous technology lobbyist said to a Politico reporter in 2013, "Our choice isn't between legal and nonlegal immigrants like it has been for the [agricultural] industry. We're going to hire legal but in other countries. That's what is at risk" (Quinn 2013). With advances in telecommunications, it can be more cost-effective to hire the same Indian or Chinese workers in India or China and avoid the immigration system altogether, though employers would lose out on the advantages of physical proximity for creativity and productivity (Xiang 2007a). In Canada, technology executives have argued that firms there will depart for Silicon Valley in search of those advantages unless immigration, higher education, and economic policies create a hospitable environment for growth (Balsillie 2016, 2015, Silcoff 2016). This argument is not a new one. The threat of Canadian workers and businesses moving south is a perennial issue in Canadian politics. The difference is that, in the global race for talent, many of the workers who may leave Canada are not Canadian.

In Canada, the technology industry's lobbying efforts have focused less on temporary visas and more on permanent immigration. The main issue for Canadian technology companies has been further reductions in the amount of bureaucracy involved in hiring foreign workers. As a lobbyist for a business membership organization in Toronto said to me in an interview, "We need people to come in, to, say, the MaRS Centre [a startup incubator] here in Toronto. We don't

want them waiting. We don't want to be putting barriers up there, saying that you're going to

have to wait six, nine, twelve months. 'You can be here tomorrow.' We need that kind of a

system."

In the United States, technology industry lobbying regarding immigration policy has largely

focused on expanding the availability of H-1B visas for hiring temporary workers. Critics have

argued that these temporary work visas allow companies to treat foreign employees poorly and

pay them less than native-born workers (Matloff 2003, Luthra 2009). However, the potential for

exploitation is inherent in all immigration channels that require employer cooperation and

investment. Critics of the technology industry's role in immigration have also argued that these

employers have sought to present H-1Bs as the sole solution to high skilled immigration. As a

lobbyist with a Washington, DC-based professional organization said in an interview:

> "The difference between a temporary visa and a green card is not immediately evident to
> most people. You have to explain it to them. And, frankly, the business community has
> done an excellent job of confusing the two. You're constantly in the media and on Capitol
> Hill talking about how great immigrants are and that's why we need more H-1B visas.
> The two have become linked. That was a deliberate political strategy."

There are many more existing mechanisms for skilled immigration to the United States than

just the H-1B visa. Policymakers and pundits could also concoct an infinite number of new

mechanisms. By focusing on H-1B visas, critics argue, technology employers are reframing the

conversation to preclude other possible visa statuses and programs that could give immigrant

workers more flexibility and more independence from their sponsoring employers. Industry

lobbyists could counter, however, that their intent is not to exploit the temporariness of H-1B

workers, and that they have focused on temporary work visas in their advocacy because

opportunities for more comprehensive reshaping of the immigration system have been lacking.

Indeed, as I have shown in this dissertation, the challenge of undocumented low-skilled

immigration and the "stickiness" of the 1965 legislations' prioritization of family migrants over

labor migrants have made it difficult to completely overhaul the immigration system for skilled migrants. Incremental changes that expand on preexisting programs and categories have been a seemingly more viable path for advocates in the decades since 1965.

Discussion

Talent retention strategies are the *ne plus ultra* of neoliberal immigration reforms. They effectively turn migrant selection over to the higher education market in order to get a migrant pool that presents minimal political and economic risks. Migrants selected through these programs have acquired degrees and certifications that are identical to those held by domestic students, reducing the risk of a mismatch between the qualifications they offer and the qualifications employers demand. The vast majority of graduates are young, so they have several decades of taxpaying ahead of them. They also tend to land in the middle and upper income brackets, so even in old age, they will likely be net fiscal contributors to the welfare state. Almost by definition, they speak the local language and understand the local culture well enough to participate in work and social life, reducing demands on settlement services in countries that provide them. The fact that they have typically paid handsomely for the privilege (often to government-run universities) is icing on the cake.

Talent retention strategies have been popular among policymakers around the world, but not all countries have the right conditions to implement them. As I have discussed in this chapter, US lawmakers have repeatedly proposed such programs, but to no avail. Neighboring Canada, on the other hand, has been a pioneer in the talent retention area. By comparing the development of immigration policies for skilled workers in the United States and Canada since the major reforms of the 1960s, it becomes clear that the setup of those initial reforms has created path dependent processes that facilitated talent retention in Canada but stymied similar proposals in the United States. In the 1960s reforms, both countries excluded "low-skilled"

migrants from the formal, permanent immigration process and tried to present immigration as a matter of bringing in skilled workers and family members of Americans and Canadians. These new immigration regulations did not wish low-skilled migration away. In the United States, geographic, demographic, economic, and historical factors led to a large supply of and strong demand for undocumented low-skilled workers. What to do about these "undesirable" migrants issue came to dominate the immigration discussion, and limited action on "desirable" migrants until and unless the undocumented migration issue is resolved. Canada, on the other hand, has not only been a less accessible destination for unskilled workers from the developing world, but had implemented amnesty programs for dealing with undocumented migrants and created guestworker visas to address demands for low-skilled labor. The major immigration issue in Canada throughout the latter half of the 20th century was the underemployment of immigrants selected through the skills channel. This consequently led to policies designed to reduce "brain waste." The authority of the immigration ministry to design and implement new regulations independent of the legislative process and the insertion of the provinces in immigration selection allowed for additional flexibility and experimentation that was not possible in the United States system.

Even in places like the United States where they did not become law, talent retention strategies reflect changing attitudes toward immigration in the neoliberal era. In settler-colonial countries like the United States, Canada, and Australia, permanent immigration had long been seen as the default mode of cross-border movement. Talent retention strategies and expanded guestworker programs show that these countries are increasingly trying to hedge the risks of permanent immigration by creating a stratified system of temporary statuses with different bundles of rights (Rajkumar et al. 2012, Sweetman and Warman 2009, Velayutham 2013, Ruhs and Chang 2004, Surak 2013, Hahamovitch 2013). In Canada, for instance, temporary visas for nonimmigrants were by definition time-limited, with no option to transition to a permanent status. This began to change for students in the early 2000s, as the federal government adjusted the

points system to address the brain waste issue and the provincial governments began to insert themselves into the immigration discussion. The Post-Graduation Work Permit program gave students the option to work for a few years after finishing their degrees. The CEC program that came later allowed them to count their student experience toward their permanent residency applications. Conversely, most categories of Temporary Foreign Workers continued to be shut out of the permanent immigration stream.

Talent retention strategy proposals were also influential in bringing new actors into immigration advocacy. Knowledge economy employers, particularly technology companies, became some of the most prominent lobbyists for immigration as their staffing strategies came to depend on foreign-born workers. They focused specifically on talent retention, temporary skilled work visas, and permanent immigration for skilled workers, but in doing so also took a stance on other issues in the immigration bundle like undocumented immigration and refugees. Universities came into the immigration discussion both as knowledge economy employers and as institutions that are fiscally dependent on the flow of international student tuition dollars. Since their budget projections depended on decisions on immigration policy made in Washington and Ottawa (and in Canadian provincial capitals), they mobilized their lobbying organizations to ensure that the immigration system could stay open for foreign students.

Chapter 7 - Conclusion

Talent retention strategies in the United States and Canada

The primary goal of this dissertation is to explain how and why the United States and Canada came to develop markedly different approaches to international students as a potential source of migrant labor, despite starting with very similar immigration policies. While the phenomenon lies in the period from 1960 to the end of the Obama administration in 2017, the explanation can be traced back to the late 1800s, when the United States developed its first ever immigration restriction policy (the Chinese Exclusion Act of 1882) and pressured Canada to follow suit. The restriction policies of this period set a historical precedent for including or excluding immigrants based on criteria specified in Washington or Ottawa[13] and provide the conceptual framework for the policies that followed. The idea that states can and should police border crossings is self-evident today, as is the idea that states can and should deny entry to newcomers deemed incapable of joining the nation. These ideas were just beginning to emerge in the late 1800s.

In Chapter 3, I showed how lawmakers and bureaucrats carved out exemptions from racial exclusion laws for the wealthy and educated. Small numbers of international students landed ashore from the Caribbean, China, and Japan, despite formal and informal bans on black and Asian immigration. Though they initially did not filter the flow of migrants coming to their shores, both countries eventually developed the legal framework and administrative capacity to block the entry of undesirable migrants. How and why they began to block certain groups of migrants is a story of political mobilization within liberal democratic systems and the separation of powers in decentralized democratic states. The states began to exclude migrants in response to pressure from organized groups of constituents. Counter-pressures from groups opposed to the

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[13] Or Westminster, prior to the full devolution of policymaking power to Canada.

bans led to compromises and loopholes to allow specific types of migrants through. The bans were managed and implemented by different units of government, including the legislature, the executive, and the civil service, all of which had their own interests and constraints.

In Chapter 4, I showed how ideological changes and political pressures in the post-WWII era pushed both countries to move away from race-based immigrant selection systems and toward class-based selection systems. The main conceptual point of this chapter is that economic theory only became a guiding framework for building social policy during WWII. The elevation of economics as a politically-influential field during the war coincided with the popularization of Keynes' theories about government intervention in the economy. The influence of Keynesian theory in policymaking made economic-based immigrant selection the "natural" alternative to racial selection. The immigration reforms of 1965 in the US and 1967 in Canada selected migrants based on their potential to contribute to the high end of the labor market. The premise was that highly skilled immigrants will be net contributors to the welfare state and to economic growth. The US made immigration contingent on finding white collar work with an employer who is willing to navigate the immigration bureaucracy on the employee's behalf. Canada selected newcomers through a points system based on measures of human capital.

In Chapter 5, I showed how these different systems developed in the mid-1960s created path dependent processes that led to different approaches to the international student problem. The key conceptual point is that the 1960s policies bundled different types of foreigners coming into the polity into one overarching immigration issue. Farmworkers, accountants, foreign students, and refugees were all tied together, even though some types of foreigners are more controversial than others and the government grants each type a slightly different bundle of rights and privileges. Crucially, in the United States, low-income, low-prestige foreign workers with limited education were not included in the 1965 bundle at all. This was despite long-standing reliance on foreign workers in some regions and industries and high demand for immigration from neighboring Mexico. The exclusion of low-skilled immigration turned the entire

immigration issue into a political flashpoint that stymied efforts to expand immigration for other groups of foreigners.

In Chapter 6, I showed how this phenomenon has played out for international students since September 11, 2001. In Canada, where low-skilled immigration has been addressed through guestworker programs, universities' and employers' demands to make it easier for international students to immigrate have resulted in a number of overlapping talent retention strategies that enable foreign students to transition to permanent residency within a few years of graduation. In the United States, similar efforts have been impeded by the continuing conflict over how to address undocumented immigration. Furthermore, the Canadian political system allows much of immigration policy to be decided by the federal executive, without extensive consultation. The provinces also have their own immigrant selection authority. In the US political system, where immigration is exclusively a federal responsibility, most immigration policy is made at the fractious level of the federal legislature. Since Congress is generally split between the two major parties, both of which represent tenuously bundled ideologies and constituencies, changes to immigration policy cannot move as quickly as they do in Canada.

Open doors, but for whom?

In a discussion of citizenship ideologies in the United States, Wu writes that "the mythology of American democracy depicts liberal egalitarianism as a succession of triumphs over exclusions, and that the circle of those included in the polity as full members of society has continued to widen over time" (Wu 2014, p. 3). The same could be said for Canada, a country that shares the liberal democratic tradition. While it is undoubtedly true that both countries have expanded their immigration and citizenship policies to include people who would have been excluded for their skin color as recently as fifty years ago, the mythos of liberal expansion obscures the fact that the selection of newcomers is now primarily based on socioeconomic

factors.[14] Socioeconomic selection of immigrants has become as naturalized as racial selection once was. In the era of the global race for talent, it is self-evident that foreign-born physicists are desirable migrants while dishwashers and garment workers are not.

Two troubling ideas link all of the special policies for students and skilled workers discussed in this dissertation, from the exemptions carved out for students and merchants in the Chinese Exclusion Acts to the talent retention strategies implemented and proposed today. The first is that diplomas and cash are tickets that allow a foreigner to come onshore. In the late 18th and early 20th centuries, Asians and blacks were not welcome, but affluent Japanese merchants and Caribbean students could be grudgingly accommodated. After the 1960s reforms, education and wealth were the main mechanisms by which migrants with no previous family ties could come to North America. By the new millennium, both the United States and Canada were moving towards increasing selectivity on these factors, through programs like talent retention strategies and investor migration programs. Migrants of high socioeconomic status were wooed and welcomed, even as the door remained shut for their less educated or less wealthy compatriots.

The second idea tying the project together is the idea that Americans and Canadians primarily want educated and wealthy foreigners onshore because of their potential contributions to the capitalist economy. The exemptions to the racial bans were made to accommodate pressure from businesses and foreign governments. Without some small amount of permeability at the border, the economy would suffer. Discussions of "brain drain" during the Cold War and talent retention in more recent years has often depicted foreign-born skilled workers as disembodied bundles of skills, ready to be plugged in to the economic machine. It is not so simple. To paraphrase Max Frisch, we asked for brains, but people came. Immigration necessarily comes with cultural change and (in the North American context) adjustments to the racial system (Jiménez and Horowitz 2013).

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[14] This mythology also presumes that the forward march of progress cannot be reversed. As Donald Trump's Muslim ban has shown, racial selection has been brought back onto the table.

Policy implications for the United States

Advocates for a Canadian-style immigration policy in the United States often argue that Canada has used its system to great ends. It has built a tolerant, multicultural country where immigrants are net contributors to the economy. Unlike in the United States, where public opinion on immigration has remained divided, Canadians are overwhelmingly welcoming of migrants. Indeed, *all* major political parties in Canada believe in expanded immigration (Black and Hicks 2008). However, Canada and the United States are very different places, in part because of the divergent immigration policy decisions the two countries made in the 1960s. Are Canadians more open to immigration because they have resolved their low-skilled labor demand through guestworker programs? Is immigration more contentious in the United States because we handled the same issue by leaving a back door open for unauthorized immigrants? These are empirical questions of political psychology that this dissertation is ill-equipped to answer.

This dissertation is, however, poised to answer questions about how the Canadian experience with talent retention strategies and other skilled immigration reforms can inform US policy development. Many elements of Canada's approach to international students can be adapted to the American context. The multistep process of transitioning out of a student visa and into an employment-based permanent residency visa through the Canadian Experience Class (CEC) is a particularly promising model. It is similar enough to the current multistep US system that it would not require a complete overhaul of the system, but it does make the process significantly less risky for both the migrant and the employer. In emulating Canada, however, American lawmakers should not ignore how our northern neighbor's geopolitical circumstances and approaches to other forms of migration have worked in conjunction with its skilled labor migration program. The Canadian system accommodates low- and medium-skilled

189

labor migrants through guestworker programs and family migration. It is also isolated from unauthorized border crossers from the developing world by a series of real and virtual walls, the most important of which is the fact that its sole land border is with a geographically expansive, similarly affluent superpower that spends significant resources on border security. It would be folly to adopt Canada's points system and its talent retention strategies without recognizing the key differences between the two countries and addressing the root causes of the US undocumented immigration issue.

Could talent retention strategies work in the United States?

Talent retention strategies can be a win-win for the migrants, for the employers, and for the government. They capture prospective migrants at an earlier stage of career development and of the life course. After being selected by admissions offices, they spend years within local universities and colleges. Theoretically, in these years they are boosting their credentials, their language skills, and their comfort and familiarity with the local context. Employers cannot discriminate against these immigrants based on credentials alone, as international graduates have the same degrees as domestic students. The migrants are less likely to find themselves alienated from their new environment, since they will have spent years developing social ties in the destination country and becoming accustomed to its way of life.

A talent retention strategy for the US could emulate many features of the Canadian system. One solution that involves minimal changes to the current visa system would be to amend the regulations to make the F-1 visa a dual intent visa. In Canada, students can apply for permanent residency directly from student status. In the current US system, on the other hand, F-1 holders must transition to a visa category that allows dual intent before lodging a separate application for permanent residency. H-1B is the most popular and widely applicable option, but carries substantial risk for both the migrant and the sponsoring employer because the visa is

issued by a random drawing. If the F-1 visa were a dual intent visa, then an employer could sponsor a new graduate for employment-based permanent residency while the graduate is still on OPT status. The graduate would then be allowed to stay in the country to work while the green card application is processed, even after the student visa expires. This policy option would streamline the process for international students wishing to stay in the country after graduation, but would not make any substantial changes to the immigration system. Because it is a change in regulations only, it may even be possible through executive action, though a legislative change would make the fix more permanent.

Another solution that has been proposed through many talent retention proposals in the United States (see Appendix 1, Table 1) is giving automatic permanent residency status to new graduates who meet certain criteria. The STAPLE Act favored doctoral graduates in STEM fields; other proposals gave a pathway to permanent residency to all advanced degree graduates. As catchy as it sounds to staple green cards to diplomas, automatic permanent residency could create perverse incentives in the education system, both inside the United States and abroad. One could imagine that giving automatic green cards to all international graduates with a certain type of degree would cause enrollment in these degree programs to skyrocket, and capacity to increase accordingly. Outside of the United States, this could cause a funneling of students into programs that give them the best chances of emigrating. For example, this is already evident in high enrollments in nursing programs in the Philippines (Kapur and McHale 2005). Furthermore, many universities and colleges are using aggressive international student recruitment as a way to make up for decreased state funding for higher education. One could imagine that the arrow of causality could start to point the other way: With so many international students willing to pay full freight, why not reduce state spending on education and raise the cost of higher education for both domestic and foreign students?

The pitfalls of a skills-focused immigration policy

Talent retention strategies will likely continue to be a key part of immigration debates in the United States in the near future. The pro-business expansionist wings of both parties broadly support increasing skilled labor migration, and talent retention is a skilled migration pathway that is even less risky than selecting skilled immigrants directly from abroad. As I have shown in Appendix 1, Table 1, numerous bills for increasing the proportion of immigrants who are selected based on their qualifications have been proposed in the last few decades. Worryingly, many proposals suggest replacing the current immigration system with an immigration program built entirely around selecting for skills. Recently, for instance, the Reform American Immigration for Strong Employment (RAISE) Act supported by the Donald Trump administration proposed a Canadian-style points system for selecting immigrants that would dramatically favor young workers with doctorates and offers for highly remunerated employment (Segarra and Johnson 2017, United States Senate 2017).

My research on the development of skilled immigration policies in the United States and Canada shows that such a policy change would be a Pyrrhic victory. The RAISE Act and most other proposals to replace the current US immigration system with one focused on skilled immigrants do not make any additional provisions for low- and medium-skilled labor. Like the Hart-Celler Act, these proposals bill themselves as systems that *in*clude migrants who are educated, young, and well-paid. This positive framing obscures the fact that they *ex*clude those who are uneducated, older, and poorly paid. Such a reform would sidestep the most salient immigration issue of our era and replace it with a policy "achievement." It would signal to the public that our politicians are in "control" of the immigration issue while simultaneously distracting from the fact that over 11 million people will continue to live in the country as second-class citizens and that many more will hope to join them (Krogstad, Passel, and Cohn 2017, Wright 2014a).

Immigration is a hot topic today because nearly all sides can agree that the population of undocumented immigrants has grown to an unsustainable point. Most of these immigrants arrived in the country with limited formal education and currently work in low- and medium-skilled jobs. A new immigration reform must, at minimum, address the legal status of the current undocumented population and ensure that future needs for low- and medium-skilled labor continue to be met. Failing to address the undocumented issue today will only kick it down the line to the next Congress. Furthermore, an immigrant selection system that is exclusively focused on skilled immigrants would cause conflict within the pro-immigration coalition, given that skills-focused systems often make it easier for migrants from some countries to immigrate than others.

The Canadian experience is instructive here, because Canada's big experiment with the skills-focused points system was launched in 1967, just two years after the Hart-Celler Act. As I discussed in Chapter 3, prior to the mid-1960s, both countries had racially exclusionary immigration policies that favored white newcomers and sharply restricted opportunities for nonwhites. While the Chinese Exclusion Acts on both sides of the border are the most well-known examples of racial exclusion in immigration, the whiteness of the immigrant pool was also maintained through diplomatic pressures against sending countries and discriminatory consular officials. Even European groups who were not considered fully "white," (e.g. immigrants from the southern and eastern parts of the continent) were subject to discriminatory nationality quotas.

The Allies' victory over the Nazis and the demonization of their genocide made *de jure* racism déclassé after World War II. Simultaneously, decolonization struggles around the world, the Civil Rights movement in the United States, and active lobbying from European ethnic organizations called for the end to racially discriminatory immigration policy in settler colonial countries. As I discussed in Chapter 4, by the mid-1960s, lawmakers in both the United States and Canada had mustered the political will to find new ways to select immigrants. Both decided

to combine selection based on family ties and selection based on skills, but in different ratios. While the Hart-Celler Act prioritized family reunification (in what some scholars have called a misguided attempt to preserve the racial status quo), the Canadian points system prioritized recruiting new skilled immigrants (Chin 1996, FitzGerald and Cook-Martín 2014). The near-simultaneous implementation of these two programs allows us to compare demographic outcomes across the same period of time and examine the distinct policy challenges that arose as a result of these decisions.

The most pressing immigration issue in the United States today is what to do with the population of 11 million unauthorized immigrants (about 3.4 percent of the current US population). Many of these immigrants crossed the US-Mexico border without authorization, while others fell out of status when their visas expired. Undocumented immigration is a significantly less salient issue in Canada, so much so that neither scholars nor the government regularly publish estimates of the number of "nonstatus" immigrants. Research from the late 2000s suggests that the number of nonstatus immigrants was between 200,000 and 500,000, or at most 1.5 percent of the 2009 population (Magalhaes, Carrasco, and Gastaldo 2009, Campbell et al. 2014). Given Canada's geographic distance from the developing world, nearly all nonstatus immigrants are visa overstayers rather than unauthorized border crossers.

In the United States, each political faction sees a different problem with undocumented immigrants. Some see these immigrants as criminals who need to be deported *en masse*. Others see a vulnerable population that should be granted a path to legal status. Though the two sides rarely see eye-to-eye, most agree on a handful of contributing factors: American employers' preferences for an exploitable, sub-minimum wage labor pool; historically lax enforcement of immigration regulations; and an immigration system that does not give low-skilled immigrants an opportunity to come to this country, unless they are a relative of a US citizen or permanent resident.

This last point is a key difference between the United States and Canada. In their 1960s immigration reforms, neither country created a policy for permanent immigration of blue-collar migrants with no preexisting family ties. In response to employers' demand for access to blue-collar migrant labor, Canada created the TFW guestworker programs. The TFW programs give low- and medium-skilled migrants work visas that are valid for a certain period of time. These programs have resolved much of the demand for low-skilled immigrant labor. The United States opted instead to leave the low-skilled immigration question unanswered. Lawmakers addressed demand for low-skilled labor by turning a blind eye to the growth of an undocumented population and ensuring that unauthorized immigrants have limited rights and precarious status. By not allowing blue-collar migrants to come in legally while simultaneously persecuting them for their liminal status, American lawmakers have made a second class of vulnerable and expendable workers.

It is an economic and moral imperative that we address the current undocumented population, as well as future needs for low- and medium-skilled labor. Previous attempts to address undocumented immigration have shown that regularizing the status of people living in the shadows has overwhelmingly positive economic effects. For instance, the IRCA gave amnesty to nearly 2.7 million undocumented immigrants (Orrenius and Zavodny 2003). This allowed them to move into better paying, more prestigious, and more highly skilled jobs (Kossoudji and Cobb-Clark 2004, Pan 2012). The effects of regularization are not limited to the individual immigrants and their families, since higher pay results in higher taxes, and allows workers to make larger investments. An economic model of comprehensive immigration reform in 2012 found that regularization would add at least $1.5 trillion to US gross domestic product over 10 years (Hinojosa-Ojeda 2012). From a moral perspective, forcing 11 million people (about the same size as the population of Ohio) to remain in legal limbo is grossly unethical. Social scientists have shown that this lack of status and stability affects every aspect of undocumented immigrants' lives, leading to worse psychological, social, and economic

195

outcomes for themselves and for their US citizen family members (Menjívar and Abrego 2012, Hall, Greenman, and Farkas 2010, Menjívar 2006, Bean et al. 2011, Gonzales 2011, Yoshikawa 2010).

Furthermore, the economic and political pressures that pull low-skilled migrants to the United States and push them away from their home countries are not going away. As what comparative political economists call a "liberal" market economy, the United States will continue to generate demand for low-skilled labor that cannot be filled solely with domestic supply (Devitt 2011, Afonso and Devitt 2016, Hall and Soskice 2001). Political instability, repressive regimes, economic distress, climate change, and other factors will continue forcing people to move. For much of the Western Hemisphere, the United States is the obvious safe haven, even as the country's politicians seek to make it as inhospitable as possible. With land and sea borders with countries that are much poorer, even the greatest wall cannot keep all border crossers out.

Race-neutral policy with racialized results

Immigration systems that focus explicitly on formal qualifications also tend to produce racialized results, even though they select immigrants based on racially neutral attributes. This is clearly evident when you compare the immigrant populations in the United States and Canada by education and region of origin. Compared to immigrants to the U.S., immigrants to Canada are both more likely to have a bachelor's degree or higher, and less likely to have less than a high school education (Kaushal and Lu 2015). Furthermore, immigrants to Canada tend to be more educated than the average Canadian-born person. While 23.8 percent of native-born Canadians age 15 or older in 2015 had a bachelor's degree or above, 41 percent of immigrants who arrived between 2001 and 2011 had a university degree (Hango et al. 2015, Statistics Canada 2016b). In the United States, meanwhile, the proportion of native-born individuals with a

bachelor's degree or higher (31 percent) is nearly the same as for the foreign-born (30 percent) (Pew Research Center 2017a).

Both the United States and Canada are home to immigrants from all over the world, but the region of origin distribution in the two countries is starkly different. Fifty-one percent of immigrants living in the United States in 2015 were born in Mexico, Central and South America, or the Caribbean, while 27 percent were born in South or East Asia (Pew Research Center 2017b). Thirty-three percent of immigrants living in Canada in 2011 were born in East, Southeast, or South Asia, forming the largest group of immigrants in the country, while immigrants born in Central and South America (including Mexico) were just 6.5 percent of the total (Statistics Canada 2017).

In the United States, cross-tabulating region of origin by education shows a clear relationship between the two. For instance, fifty-seven percent of Mexican immigrants in 2015 had less than a high school education, versus 15 percent of South and East Asian immigrants and 9 percent of the native-born. Conversely, 51 percent of South and East Asian immigrants had a bachelor's degree or higher, compared to 6 percent of Mexican immigrants and 31 percent of the native-born (Pew Research Center 2017a). These differences are a result of different entry pathways. South and East Asian immigrants have largely come through skilled employment channels, while many Latin American immigrants in the United States arrived without documentation. However, the educational infrastructure in the sending country also matters. The potential immigrants who were best positioned to take advantage of U.S. employment immigration and the Canadian points system in the 1970s and 80s came from rapidly developing countries with strong school systems and growing middle classes, such as Taiwan and South Korea (Model 2017, Saxenian 2002). Now, immigrants are more likely to come from China and India, who are at stages of development similar to the "Asian Tigers" back then. Skills-based immigration proposals like the RAISE Act typically require a bachelor's degree or higher to immigrate. This would effectively favor immigrants from a handful of Asian

countries, if only because these countries have the educational infrastructure and class composition to create a large population of would-be white-collar immigrants.

These types of proposals would be highly unpopular with Latino advocacy groups. They could rightly claim this skills-based policy would shut out immigrants from Latin America, even if explicit discrimination is not written into the statute. The support of Latino advocates is essential for immigration reform since Latin American immigrants are by far the largest region of origin group and the most salient immigration issue is the undocumented (largely Latin American) population. Latin American governments could also try to use diplomatic pressure to stop such a proposal since it would disproportionately affect their citizens. Such a move is not unprecedented; foreign policy concerns were a major factor in shaping the 1960s immigration reforms, as well as previous immigration policies like Chinese Exclusion (FitzGerald and Cook-Martín 2014).

Bundled issue, bundled solutions

One of the major theoretical issues that I tackled in this dissertation is the bundling of different types of policy under a single umbrella issue. Both the American and Canadian immigration reforms in the 1960s tried to engineer a comprehensive immigration strategy by grouping different types of border crossers together. Both countries specifically excluded unskilled and semi-skilled migrants from the reforms. This exclusion became a major contributor to today's immigration crisis in the United States. In Chapters 5 and 6, I argued that talent retention proposals floundered in the US legislative process because they became tied to undocumented immigration, family migration, refugees, asylum seekers, and other types of cross-border population movement.

For better or for worse, the 1960s reforms made "immigration" into a single issue. Proposals to replace the current US immigration system with a skills-focused, Canadian-style system have

been popular because they focus attention on types of migrants that are broadly popular. Politicians hope that implementing a skills-focused policy on its own will show voters that they can act on the immigration crisis (Wright 2014a). However, these proposals have floundered because they leave the thorniest immigration issue—undocumented migration—either entirely unaddressed, or resolved in ways that are unacceptable to advocates.

What is clear is that the United States needs to reform its immigration system in a way that addresses the biggest immigration issue of the moment: the 11 million unauthorized immigrants living in fear and administrative limbo. Replacing the current immigration system with a new, skills-focused program without addressing the root causes of undocumented immigration will only exacerbate the problem. The immigration reform that the United States needs now must address demand for labor at all skill levels. A proposal that selects immigrants based on formal educational qualifications, could be a core element of a response to this crisis. However, it will only exacerbate the current undocumented immigration issue unless it is paired with measures to regularize the current undocumented population and address future needs for low-skilled labor.

A regularization program must allow all undocumented immigrants to become green card holders and give them a pathway to citizenship. Allowing 11 million people to live without fear of deportation, work above the table, and make long-term investments in themselves and their families is the right thing to do, for both moral and economic reasons. Addressing future needs for low-skilled labor is much more complicated. An ideal solution would be to allow some number of immigrants without formal educational qualifications to immigrate directly from abroad, just like skilled immigrants can do today. Perhaps new blue-collar immigrants could apply through a different points system based on skills other than those taught through formal university education (Hagan, Hernández-León, and Demonsant 2015, Papademetriou and Sumption 2011). Other potential models include some Canadian provincial programs that allow "entry-level and semi-skilled" immigrants to apply for permanent residency if they have a job

offer in certain economic sectors or regions of the province (The BC Provincial Nominee Program 2017). Expanding the current lottery-based Diversity Immigrant Visa Program could be an option, though the program as it stands excludes the countries with the highest level of demand for immigration. Furthermore, it has a human capital bar of its own. It requires either a high school diploma or two years of experience in a skilled trade. As of 2018, the bar for work experience is set so high that even some very skilled blue-collar tradespeople like carpenters and welders could be excluded, let alone farmworkers, home health care aides, and other job categories that are heavily staffed by undocumented immigrants today (National Center for O*NET Development 2018, U.S. Department of State 2018).

One solution inspired by the Canadian experience would be to revisit the idea of a guestworker program. Immigrant rights advocates have traditionally been wary of these policies. Immigrants in these programs as they exist today are often very vulnerable to exploitation. Americans have seen this in action with the Bracero Program and the deportation campaigns that followed, as well as with the continued existence of the H-2A agricultural guestworker program, which punishes immigrants with deportation if they speak out against poor working conditions (Hahamovitch 2013). Canadian advocates have called out their government's TFW programs for creating a "permanently temporary" second-class of labor (Boyd, Taylor, and Delaney 1986, Lenard and Straehle 2012, Nakache and Dixon-Perera 2015, Rajkumar et al. 2012). However, it is not impossible to design a guestworker program that protects immigrants' rights. In Canada, for instance, not all TFW programs are equal. Some programs for skilled workers allow the immigrant to take their visas with them to new employers. Another feature of the Canadian immigration system is that individuals can enter on a temporary status and apply for permanent residency while in the country. This is the primary pathway for international students who want to stay in Canada after graduation. Perhaps the United States could create a pathway for low-skilled workers to become permanent residents after some years on a guestworker status.

Discussion

Recent instability in U.S. politics may have a chilling effect on international education in the United States. The Trump administration's ban on travelers from several Middle Eastern and North African countries, unannounced revocation of visas, and Islamophobic rhetoric may lead to dramatic drops in the number of international students from that region, but also students from South and Southeast Asia, many of whom are Muslim or may be perceived as Muslim (Glum 2017). Such students may still wish to study abroad in a similar English-speaking country with a more open immigration regime and less intolerant social atmosphere. The Canadian higher education market is well poised to take advantage of this opportunity (Harris 2017). As a researcher in an Ottawa think tank told me in an interview (many months before the 2016 election), "We're secretly hoping, of course, that the United States doesn't fix its [immigration] situation… If we do a risk analysis, probably the greatest risk is the United States fixes its immigration policy so that international students have a pathway. That would really hurt Canada."

American universities and employers would welcome the introduction of a talent retention strategy in the United States, as would the international students who are already studying here. Such a policy change would undoubtedly make the country a more attractive destination for study, work, and investment. However, talent retention strategies must be considered within the full context of immigration policy. American policymakers and pundits have been pointing to education-based immigration policies as an alternative to policies that allow "unskilled" immigrants into the country. They present educated immigrants as good and uneducated immigrants as bad. The reality is, however, that as a liberal market economy, the US capitalist system demands immigrants at *all* education levels. Selecting immigrants based on any given criterion means rejecting those who do not meet that criterion. A skills-based

immigration program standing alone would continue to keep out the low-skilled migrants who have been excluded since 1965, despite continued high demand for their labor and high supply of willing migrants. The struggles over immigration since 1965 have made clear that the only real solution is a comprehensive immigration reform, one that can roll out the welcome mat for migrants at all education levels.

Appendix 1 - Tables

Table 1. Talent retention legislation in the United States in the 106th Congress (1999-2000) to the 114th Congress (2015-2016)

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
106TH CONGRESS (1999-2000)	S. 1645	Helping Improved Technology Education and Competitiveness Act (HITEC Act)	Democrat	Creates five-year nonimmigrant work visa for STEM advanced degree graduates from US universities	9/28/99	**FAILED:** Read twice and referred to the Committee on Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 3508	To amend the Immigration and Nationality Act to provide status in each of fiscal years 2000 through 2002 for 65,000 H-1B nonimmigrants who have a master's or Ph. D. degree and meet the requirements for such status and whose employers make scholarship payments to institutions of higher education for undergraduate and postgraduate education.	Democrat	Increases H-1B numerical limitations for applicants whose employers pay into scholarship fund	12/1/99	**FAILED:** Referred to the Subcommittee on Immigration and Claims.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 4200	American Worker Information Technology Skills Improvement Act of 2000	Democrat	Creates H-1B allocation for graduates of US advanced degree programs	4/18/00	**FAILED:** Referred to the Subcommittee on Immigration and Claims.
	H.R. 4227	Technology Worker Temporary Relief Act	Republican	Increases H-1B numerical limitations and makes it easier for H-1B holders to change jobs	6/23/00	**FAILED:** Placed on the Union Calendar.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 2045	Kids 2000 Act	Republican	Increases number of employment-based visas available Increases portability of H-1B visa Exempts universities and nonprofits from H-1B numerical limitations	10/17/00	**PASSED:** Became Public Law No: 106-313.
	H.R. 4166	American Workforce Improvement and Jobs Protection Act	Republican	Creates H-1B allocation for advanced degree holders	5/20/04	**FAILED:** Referred to the Subcommittee on Immigration, Border Security, and Claims.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 1918	Strengthening America's Workforce Act of 2005	Republican	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities	10/25/05	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 2326	WISH Act of 2006	Republican	Eliminates numerical limitations on permanent residency for holders of advanced degrees	2/17/06	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 2454	Securing America's Borders Act	Republican	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities	4/7/06	**FAILED:** Cloture on the bill not invoked in Senate by Yea-Nay Vote.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 2612	Comprehensive Immigration Reform Act of 2006	Republican	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities Allows dual intent for STEM graduates on F-1 visas	4/24/06	**FAILED:** Read the second time and ordered referred to the Committee on the Judiciary.
	S. 2691	Securing Knowledge, Innovation, and Leadership Act of 2006 (SKIL Act)	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	5/2/06	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 2611	Comprehensive Immigration Reform Act of 2006	Republican	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities Allows dual intent for STEM graduates on F-1 visas	5/25/06	**FAILED:** Passed Senate with amendments by Yea-Nay Vote.
	H.R. 5744	SKIL Act of 2006	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	6/29/06	**FAILED:** Referred to the House Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
110TH CONGRESS (2007-2008)	S. 1083	Securing Knowledge, Innovation, and Leadership Act of 2007 (SKIL Act)	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	4/10/07	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 1092	High-Tech Worker Relief Act of 2007	Republican	Eliminates H-1B numerical limitations for advanced degree holders	4/11/07	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 1758	To amend the Immigration and Nationality Act to provide status in each of fiscal years 2008 through 2012 for 65,000 H-1B nonimmigrants who have a master's or Ph.D. degree and meet the requirements for such status and whose employers make scholarship payments to institutions of higher education for undergraduate and postgraduate education.	Democrat	Creates H-1B allocation for advanced degree holders	4/20/07	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 1350	A bill to amend title II of the Immigration and Nationality Act to reform the diversity visa program and create a program that awards visas to aliens with an advanced degree.	Republican	Creates visa lottery allocation for advanced degree holders	5/10/07	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 1397	Skilled Worker Immigration and Fairness Act	Independent	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	5/15/07	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 1930	SKIL Act of 2007	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	6/4/07	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
	S. 1348	Comprehensive Immigration Reform Act of 2007	Democrat	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	6/7/07	**FAILED:** Cloture on amendment SA 1150, upon reconsideration, not invoked in Senate by Yea-Nay Vote.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 2538	Defend the American Dream Act of 2007	Democrat	Eliminates numerical limitations on H-1B for holders of advanced degrees from US universities	6/25/07	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
	S. 1639	A bill to provide for comprehensive immigration reform and for other purposes.	Democrat	Allows dual intent for STEM graduate students	6/28/07	**FAILED:** Returned to the Calendar.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 3371	To amend the Immigration and Nationality Act to eliminate the diversity immigrant program and to re-allocate those visas to certain employment-based immigrants who obtain an advanced degree in the United States.	Republican	Creates permanent residency visa allocation for holders of advanced degrees from US universities	9/10/07	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
	H.R. 1645	STRIVE Act of 2007	Democrat	Eliminates numerical limitations on permanent residency for holders of advanced degrees from US universities	12/26/07	**FAILED:** Border security parts of the bill were incorporated into appropriations bill that passed. Talent retention measures were abandoned.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 2653	ACTION Act of 2008	Republican	Allows dual intent for international students	2/14/08	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 2672	Conrad State 30 Improvement Act	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	2/27/08	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	H.R. 5630	Innovation Employment Act	Democrat	Eliminates numerical limitations on H-1B for holders of STEM advanced degrees from US universities	4/14/08	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 5707	Conrad State 30 Improvement Act	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	4/14/08	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
	S. 2868	A bill to amend title II of the Immigration and Nationality Act to replace the diversity visa lottery program with a program that issues visas to aliens with an advanced degree.	Republican	Creates permanent residency visa allocation for holders of advanced degrees from US universities	4/16/08	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 6039	To amend the Immigration and Nationality Act to authorize certain aliens who have earned a master's or higher degree from a United States institution of higher education in a field of science, technology, engineering, or mathematics to be admitted for permanent residence.	Democrat	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities	6/3/08	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 3084	A bill to amend the Immigration and Nationality Act to authorize certain aliens who have earned a master's or higher degree from a United States institution of higher education in a field of science, technology, engineering, or mathematics to be admitted for permanent residence and for other purposes.	Democrat	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities	6/5/08	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 6090	To amend the Immigration and Nationality Act to eliminate the diversity immigrant program and to re-allocate those visas to certain employment-based immigrants who obtain an advanced degree in the United States.	Republican	Creates permanent residency visa allocation for holders of advanced degrees from US universities	7/28/08	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
111TH CONGRESS (2009-2010)	S. 628	Conrad State 30 Improvement Act	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	3/18/09	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 1791	STAPLE Act	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of STEM doctorates from US universities	4/27/09	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
	H.R. 3687	To amend the Immigration and Nationality Act to eliminate the diversity immigrant program and to re-allocate those visas to certain employment-based immigrants who obtain an advanced degree in the United States.	Republican	Creates visa lottery allocation for advanced degree holders	10/19/09	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 4321	CIR ASAP Act of 2009	Democrat	Eliminates numerical limitations on permanent residency for holders of advanced degrees from US universities	3/1/10	**FAILED:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.
	H.R. 5658	Securing Knowledge, Innovation, and Leadership Act of 2010 (SKIL Act)	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of advanced degrees from US universities	7/1/10	**FAILED:** Referred to the House Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
112TH CONGRESS (2011-2012)	H.R. 43	To amend the Immigration and Nationality Act to eliminate the diversity immigrant program and to re-allocate those visas to certain employment-based immigrants who obtain an advanced degree in the United States.	Republican	Creates visa lottery allocation for advanced degree holders	1/24/11	**FAILED:** Referred to the Subcommittee on Immigration Policy and Enforcement.
	H.R. 399	STAPLE Act	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of STEM doctorates from US universities	2/7/11	**FAILED:** Referred to the Subcommittee on Immigration Policy and Enforcement.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 2805	Doctors for Underserved Areas in America Act	Democrat	Allows dual intent for foreign doctors working in medically underserved areas	8/25/11	**FAILED:** Referred to the Subcommittee on Immigration Policy and Enforcement.
	H.R. 2161	IDEA Act of 2011	Democrat	Creates permanent residency visa allocation for holders of STEM doctorates from US universities Allows dual intent for international students	9/8/11	**FAILED:** Referred to the Subcommittee on Workforce Protections.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 3119	Protecting American Families and Businesses Act of 2011	Democrat	Eliminates numerical limitations on permanent residency for employment-based immigrants Allows dual intent for foreign students	10/24/11	**FAILED:** Referred to the Subcommittee on Immigration Policy and Enforcement.
	H.R. 3146	American Innovation and Education Act of 2011	Republican	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for international students	11/18/11	**FAILED:** Referred to the Subcommittee on Higher Education and Workforce Training.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 1986	STEM Visa Act of 2011	Democrat	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities	12/13/11	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 3185	STAR Act of 2012	Republican	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for international students in STEM advanced degree programs	5/15/12	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 3192	SMART Jobs Act	Republican	Allows dual intent for STEM graduate students	5/16/12	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 3553	BRAINS Act	Democrat	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for international students	9/19/12	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 6412	Attracting the Best and Brightest Act of 2012	Democrat	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for international students	10/2/12	**FAILED:** Referred to the Subcommittee on Immigration Policy and Enforcement.
	H.R. 6429	STEM Jobs Act of 2012	Republican	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for STEM student visas	12/4/12	**FAILED:** Read the second time. Placed on Senate Legislative Calendar under General Orders.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
113TH CONGRESS (2013-2014)	S. 1	Immigration Reform that Works for America's Future Act	Democrat	Promotes idea that talent trained in the US should be retained	1/22/13	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	S. 169	I-Squared Act of 2013	Republican	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities Allows dual intent for international students	1/29/13	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 303	STEM Jobs Act of 2013	Republican	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for STEM student visas	2/13/13	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	H.R. 459	STEM Visa Act of 2013	Republican	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities	2/28/13	**FAILED:** Referred to the Subcommittee on Immigration And Border Security.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 616	Conrad State 30 and Physician Access Act	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	3/19/13	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	H.R. 1227	STAPLE Act	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of STEM doctorates from US universities	4/15/13	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 744	Border Security, Economic Opportunity, and Immigration Modernization Act	Democrat	Eliminates numerical limitations on permanent residency for holders of STEM graduate degrees from US universities and doctorate degrees in any field from any university	6/27/13	**FAILED:** Passed/agreed to in Senate: Passed Senate with an amendment by Yea-Nay Vote.
	H.R. 2484	Conrad State 30 and Physician Access Act	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	7/15/13	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 3163	CIR ASAP Act of 2013	Democrat	Eliminates numerical limitations on permanent residency for holders of advanced degrees from US universities	10/15/13	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.
	H.R. 15	Border Security, Economic Opportunity, and Immigration Modernization Act	Democrat	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities and doctorates in any field form US universities	3/26/14	**FAILED:** Motion to Discharge Committee filed by sponsor.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 4467	BRAIN Act	Democrat	Creates permanent residency visa allocation for holders of STEM doctorates from US universities	6/9/14	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.
	H.R. 4951	Doctors Helping Heroes Act of 2014	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	7/21/14	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 2131	SKILLS Visa Act	Republican	Creates permanent residency visa allocation for holders of STEM doctorates from US universities Allows dual intent for medical trainees	12/15/14	**FAILED:** Placed on the Union Calendar.
114TH CONGRESS (2015-2016)	S. 98	STEM Jobs Act of 2015	Republican	Creates permanent residency visa allocation for holders of STEM advanced degrees from US universities Allows dual intent for STEM student visas	1/7/15	**FAILED:** Read twice and referred to the Committee on the Judiciary.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 153	I-Squared Act of 2015	Republican	Eliminates numerical limitations on permanent residency for holders of STEM advanced degrees from US universities; allows dual intent for international students	1/13/15	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	H.R. 1272	Doctors Helping Heroes Act of 2015	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	3/31/15	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.

236

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	S. 1189	Conrad State 30 and Physician Access Act	Democrat	Eliminates numerical limitations on permanent residency for foreign doctors and medical residents working in underserved areas	5/5/15	**FAILED:** Read twice and referred to the Committee on the Judiciary.
	H.R. 2181	STAPLE Act	Republican	Eliminates numerical limitations on permanent residency and H-1B for holders of STEM doctorates from US universities	6/1/15	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.

CONGRESS	LEGISLATION NUMBER	TITLE	SPONSOR PARTY	TALENT RETENTION PROVISIONS	LATEST ACTION	STATUS
	H.R. 4097	BRAIN Act	Democrat	Creates permanent residency visa allocation for holders of STEM doctorates from US universities	12/4/15	**FAILED:** Referred to the Subcommittee on Immigration and Border Security.

Source: Congress.gov. Accessed: January 22, 2018.

Table 2. Visa allocation order in the Immigration and Nationality Act of 1965 (Hart-Celler Act)

RANK	TYPE	PERCENTAGE OF VISAS ISSUED PER ANNUM
1	Unmarried adult children of US citizens	20 percent
2	Spouses or unmarried adult children of US permanent residents	20 percent plus any visas not used for rank 1
3	"Members of the professions" and individuals with "exceptional ability in the sciences or the arts"	10 percent
4	Married children of US citizens	10 percent plus any visas not used for ranks 1-3
5	Siblings of US citizens	24 percent plus any visas not used for rank 1-4
6	Skilled and unskilled workers in non-seasonal occupations with an identified labor shortage	10 percent
7	Refugees who have fled from Communism, the Middle East, or natural disasters	6 percent

Table 3. Lobbying clients with the most mentions of "immigration" in lobbying records held by the US Senate Office of Public Records, 2016 to October 21, 2017

RANK	CLIENT	INDUSTRY
1	Microsoft	Technology
2	US Chamber of Commerce	General business
3	Oracle	Technology
4	National Concrete Masonry Association	Construction
5	Intel	Technology
6	Qualcomm	Technology
7	AFL-CIO	Labor union
8	People for the American Way	Progressive advocacy
9	National Association of Home Builders	Construction
10	National Association of Software and Services Companies	Technology
11	US Olympic Committee	Sports
12	Gemalto	Technology
13	NAACP	Racial/ethnic advocacy
14	NumbersUSA.com	Anti-immigration advocacy
15	Information Technology Industry Council	Technology

Source: Center for Responsive Politics, 2017.

Appendix 2 - Figures
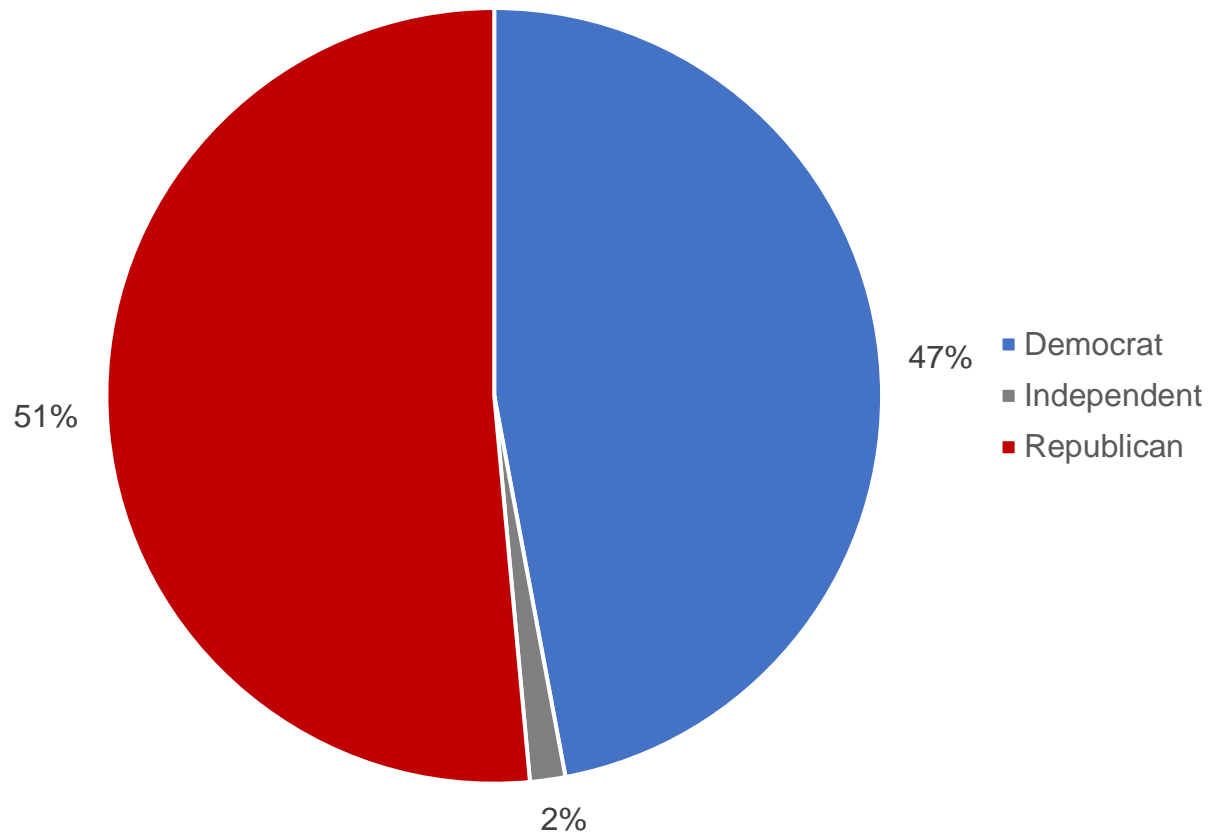
Figure 1. Party of primary sponsor of talent retention legislation in the United States from the 106th Congress (1999-2000) to the 114th Congress (2015-2016)
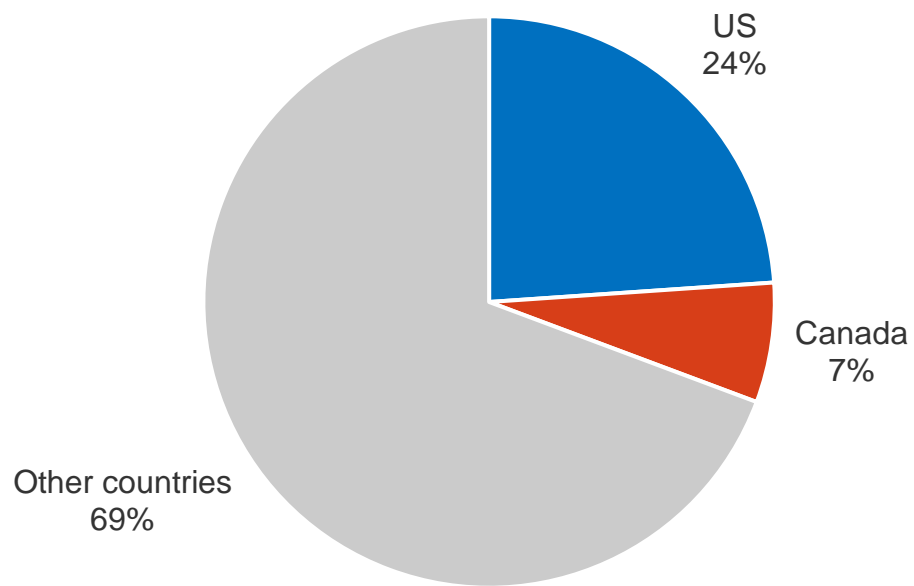
Figure 2. Percentage of internationally mobile higher education students in 2017
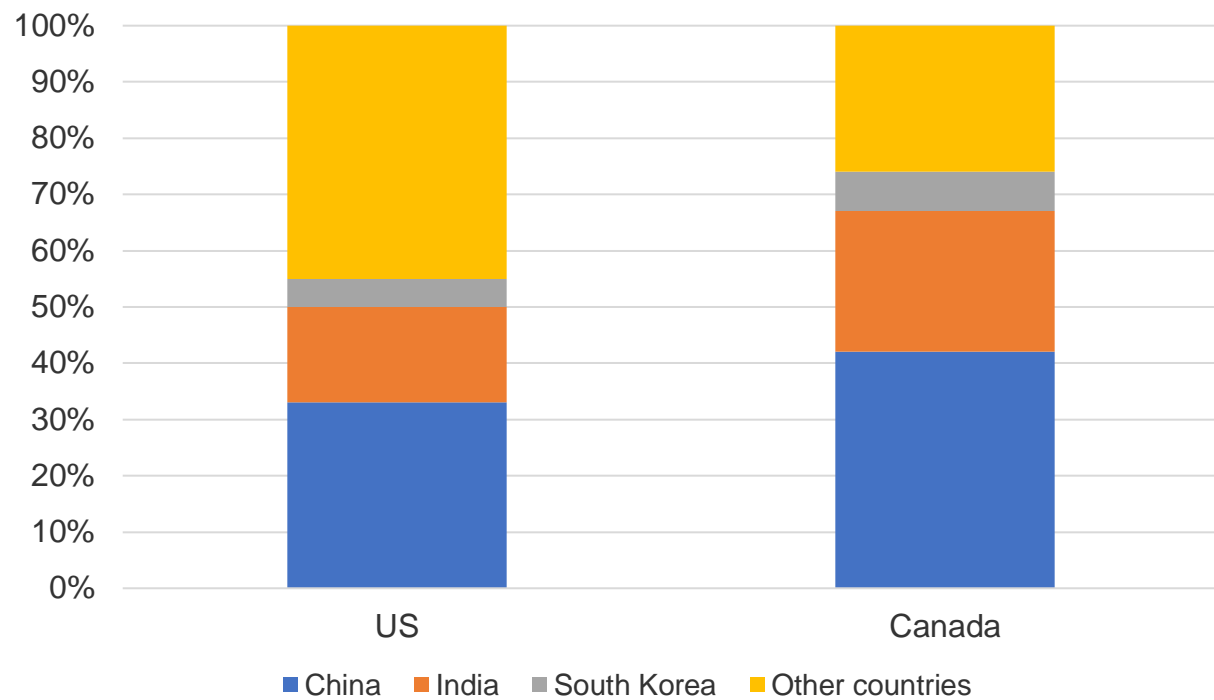
Source: Institute of International Education (2017b)

Figure 3. Top source countries of international higher education students in 2017
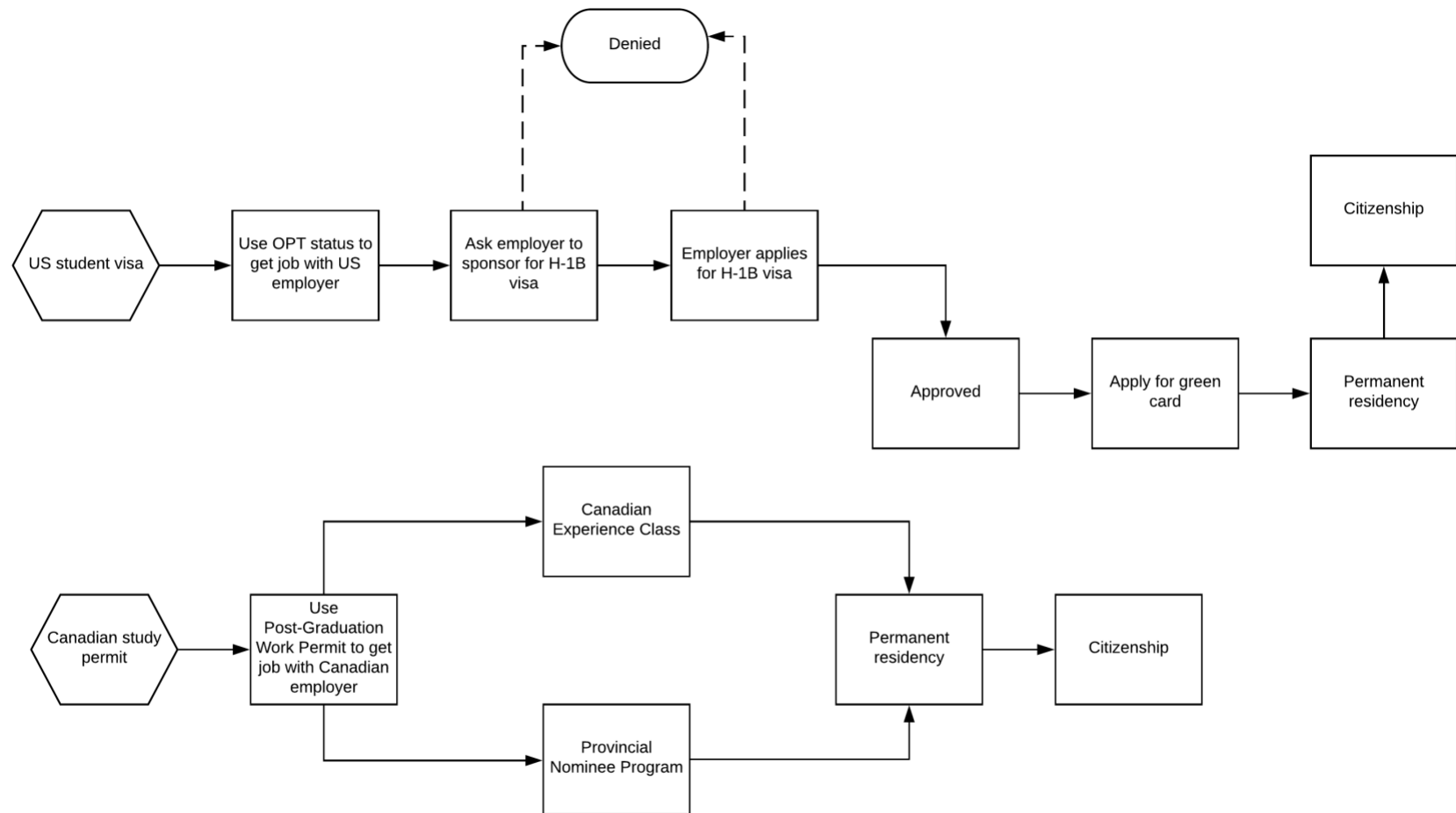
Source: Institute of International Education (2017b)

Figure 4. Flowchart of typical pathway from student visa to permanent residency and citizenship in the United States and Canada

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