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**ABSTRACT**

Current academic debates push to view citizenship (and its associated rights and entitlements, including access to stay, work, and welfare) as a process rather than status, thereby creating room for negotiation (Benhabib 2007; Bloemraad 2000). Pathways to permanence towards landed status and eventually citizenship distinguishes different streams of migration in several traditional immigration-receiving countries. Restrictive or the categorical denial of pathways blocks access to important rights and entitlements noted above, making select groups vulnerable to abuse, exploitation, and denial of entry/deportation. Viewing citizenship as a process opens intellectual and political spaces to better understand immigration, refugee, and citizenship policies as the products of a political process that is inextricably linked with notions of national sovereignty, economic growth, and nation building.

In this paper, I explain and nuance this political process in the Canadian context; in particular Canada's bifurcated system for admitting (im)migrants on the basis of perceived skill level and type. The objectives of this paper are two-fold: 1) to discuss the particularities of Canada's human capital approach to its federal citizenship and immigration portfolio by comparing its tendency to privilege those as highly skilled, often represented as homogenous, while simultaneously relying heavily on rotational/seasonal migrant labour to fill its labour market needs; and 2) challenge the homogenous representation of highly skilled immigrants by highlighting differential rights and entitlements under the contemporary iteration of the Federal Skilled Worker (FSW) programs. Overall, this paper reiterates Canada's reliance on (im)migrant labour to fill its labour market needs by adjusting policy to turn the proverbial immigration tap on and off while concurrently including and excluding different groups and persons on the basis of their utility to the state and/or social status.

**INTRODUCTION**

There is a concerted and ongoing effort among academic and community advocates to view citizenship and its associated rights and entitlements (access to stay, work, and welfare) as a process rather than status (Benhabib 2007; Bloemraad 2006). Moreover, scholars distinguish between the legal components of citizenship (legal standing in relation to the state) from its social dimensions (the social experiences of membership in a polity including claims to recognition of rights and identity) (Basok 2004; Staeheli *et al.* 2012). This facilitates a shift towards an individual-based and universal concept of rights and further away from national

ascriptions (Joppke 2007; Sassen 2002) that inevitably include and exclude different groups and persons on the basis of their utility to the state and/or social status. This proposed shift is not without its criticisms (Soysal 1994; Bosniak 2000) and limitations (Benhabib 2007; Ong 2006). Nonetheless, this line of reasoning and re-evaluation of citizenship however is becoming critical against the reality of the growing numbers of migrant groups struggling for recognition, making claims to rights (Joppke 2007; Gabriel and Macdonald 2011; 2014), and seeking pathways to permanence.

A pathway to permanence towards landed status and eventually citizenship is an integral factor when viewing citizenship as a process and distinguishing different streams of migration in several traditional immigration-receiving countries. Restrictive or the categorical denial of pathways blocks access to important rights and entitlements noted above, making select groups vulnerable to abuse, exploitation, and denial of entry/deportation. Viewing citizenship as a process opens intellectual and political spaces to better understand immigration, refugee, and citizenship policies as the products of a political process that are inextricably linked with notions of national sovereignty, economic growth, and nation building. In this paper, I discuss this political process in the Canadian context by explaining Canada's bifurcated system for admitting newcomers based on perceived skill level and type.

The paper will proceed in five sections following this introduction. The first section provides a brief history of Canadian immigration laws and policies from 1885 to the early 2000s, detailing the early racist model of immigration towards a human capital approach distinguishing between high and low skilled occupations and workers. The following section explains the rationale for Canada's bifurcated system of admission, which favours the highly skilled, individualised, flexible and adaptable worker who can quickly determine and meet local and specific labour needs. The next section outlines the most recent reforms to Canada's highly skilled immigration policies from 2008 to 2019, including the challenges presented by earlier iterations of the program and goals embedded in the current changes. The penultimate section compares the outcomes for two sub-groups of highly skilled immigrants – Information and Communication Technologies (ICT) skilled workers and international students – to challenge and nuance the relatively homogenous representation of the privileged highly skilled category in Canada. In the concluding remarks, I highlight the contributions of the paper and some areas for future research.

## **A BRIEF HISTORY OF CANADIAN IMMIGRATION**

Canadian immigration laws from 1885 until 1962 were explicitly racist in both wording and intent. The federal government used targeted policies to prohibit non-White and non-European migration to build a preferred Canadian identity as a White British settler colony in demographic, cultural, and institutional terms (Abu-Laban 1998; Taylor 1991; Wayland 1997). Some examples of the Canadian federal government's racist and discriminatory immigration policies include the 1885 Chinese Immigration Act (placing a head tax exclusively of Chinese immigrants) and the 1906 Immigration Act permitting the government to effectively prohibit the landing of any immigrant group.

The declining fertility rates and growing labour shortages in the post-World War II period led to three significant immigration policy changes. Some social theorists predict that these changes were to some extent the result of growing international political pressures from the

United Nations, the International Labour Organisation, a multiracial commonwealth, and national immigrant lobby groups to correct the inherent racism in historical Canadian immigration policy (Taylor 1991). The gradual economic recovery of traditional source countries in Northwestern Europe dramatically reduced immigrant flow to Canada from these regions. Meanwhile, the onset of a sustained economic boom, ending in the 1960s, pushed the Canadian federal government to look elsewhere to compensate for these declining numbers of immigrants and growing labour demands (Green and Green 1995).

The first significant policy change in the post World War II period occurred in 1962, when the long-standing system of European preference was revoked. In 1966, the liberal government under Prime Minister Lester B. Pearson supported the White Paper on Immigration that proposed to develop a more universally applicable framework to determine admission (Abu-Laban 1998; Hiebert and Pendakur 2003). The second significant immigration policy change was the implementation of the Points System, in 1967, used to assess objectively the admissibility of applicants for permanent residency regardless of their place of origin or their ethnocultural similarities to the dominant construction of a White-European Canada. This policy contributed to the arrival of a large influx of economic migrants from what Canada considered to be traditionally non-preferred regions – Asia, Latin America and Africa. Under this system of admission, points are awarded on the basis of assumed adaptability to the Canadian economy and society. The Points System evaluated the individual applicants' education, age, language proficiency and targeted characteristics such as job arrangements prior to immigration and also whether they intended to enter occupations facing perceived shortages in Canada's labour markets. In response to these perceived shortages, immigration policy started to be biased towards skilled migration.

The third significant policy change occurred almost four decades later: the implementation of the Immigration and Refugee Protection Act (IRPA) on June 28, 2002. IRPA was intended to increase the general levels of educational attainment and skills amongst new immigrants by excluding explicit occupational criteria and focussing on education, work experience, age, arranged employment and knowledge of official languages (Iredale, 2005). IRPA identifies four main categories under which permanent immigrants are admitted into the country:

1. *Economic*: skilled workers, business immigrants, live-in caregivers, provincial/territorial nominees, and since 2008, the Canadian experience workers and their dependents;
2. *Family class*: spouses, partners, children and other relatives of Canadian residents such as parents or grandparents;
3. *Refugees*: government assisted or privately sponsored refugees as well as refugees landed in Canada and dependents abroad; and
4. *Other immigrants*: those admitted for humanitarian and compassionate or public policy reasons, temporary resident permit holders, immigrants facing deferred removal orders and post-refugee claimants.

Although significant, these policy changes did not eliminate the Canadian state's overreliance on the cyclical/seasonal labour of migrant workers to fill what are considered short-term labour needs. Canada is not alone in this approach. European and North American economies have relied on a variety of temporary labour migration programs to support recovery efforts, control rising wages, prevent economic downturns, and support growing industries (Wong 1984; Hahamovtich 2003; Castles 2006a, b; Ilias 2008); at the core of all such programs was the rotation principle whereby applicants were denied pathways to permanence.

Canada's historical temporary labour migration programs included mainly the recruitment of foreign domestic help (Arat-Koc 1989; Cohen 1991; Macklin 1994; Grandea 1996; Pratt 1999, 2009; Langevin and Belleau 2001; McKay 2005; Moors 2003; Khan 2009; Fudge 2011) and farm labour (Binford 2002, 2009; Basok 2002, 2003, 2004; Preibisch 2004, 2007, 2010). The foreign domestic worker program was closely tied to national-building objectives whereby the most restrictive and coercive policies were reserved for racialized women (Bakan and Stasiulis 1994; 1997). Young western European women, and later German, Italian, and Greek domestic workers entered with permanent status until the 1950s. Racialized women, predominantly from the Caribbean entered through the Caribbean Domestic Scheme from 1955 to 1973 to fill persistent domestic labour shortages. These migrant women were denied the right to permanent residence in Canada based on racist notions of unsuitability for Canadian climate and culture. As Canada moved towards a human capital mode of immigration, foreign domestic workers continued to be denied permanence since their low wages prevented them from applying as independent immigrants. Farm labour, predominantly men, was recruited through bilateral agreements with Mexican and Caribbean governments and categorically denied access to permanence and citizenship.

Much like the earlier European programs, Canada largely abandoned or drastically changed these programs over time. Canada introduced the Non-Immigrant Employment Authorization Program (NIEAP) in 1973 that maintained the rotational principle by issuing short-term permits to domestic labourers and farm workers (Nakache 2010), thereby transforming them into disposable workers (Macklin 1992; 1994). The NIEAP instituted Canada's bifurcated system for admitting (im)migrants on the basis of perceived skill level and type. It evolved into two general streams: one targeted at highly skilled workers and the other targeted at low-skilled workers (Nakache 2010). The Live-In Caregiver Program (LCP), the Seasonal Agricultural Worker Program (SAWP), and the most recent Stream for Lower-Skilled Occupations eventually replaced the low-skilled component of the NIEAP. The third and most recent stream was first introduced as the Pilot Project for Hiring Foreign Workers in Occupations that Require Lower Levels of Formal Training (also known as the Low-Skill Pilot Project) in 2002. The program was further modified in 2007, and in the 2012 and 2013 fiscal years. The government cited the high and persistent demand to make the pilot project a permanent fixture of the Canadian immigration system.

Many scholars and activists have documented the "super-exploitation" of Temporary Migrant Workers (TMWs) in Canadian economy and society (Sharma 2001, 2006; Walia 2010; Marsden 2011); furthermore, migrants are often at a disadvantage when contesting unjust living and working conditions under federal and provincial systems. Employment and Social Development Canada (ESDC), a federal body, approves work contracts for temporary foreign workers. ESDC has no regulatory authority however to monitor employer compliance; this is under provincial jurisdiction. TMWs are entitled to rights provided under the provincial employment standards; however, monitoring is restricted to a complaints-based model. Few workers initiate complaints and those who do face practical barriers to successful litigation (time, visa, and financial constraints). These arrangements expose workers to non-payment or underpayment of wages, unsafe working conditions, inadequate accommodation and long work hours.

In addition, TMWs are not entitled to social assistance anywhere in Canada. They rely on employer-provided healthcare or are required to purchase private insurance. The bonded nature of employment, and the threat of deportation, repatriation or exclusion from employer lists for

seasonal work is an effective measure of control. It limits workers' mobility, preventing them from leaving abusive employment situations. Sending country governments provide little to no support for workers. This in due, in part, to a fear of losing steady flows of remittances as well as threats posed by "country surfing" practices by receiving states (switching supply countries) (Hari, McGrath and Preston 2013). Despite their contribution to the Canadian economy (including Employment Insurance which TMWs pay into but are unable to benefit from), these workers are restricted from accessing the Canadian welfare state. In addition, temporary status is a fundamental dimension of labour market stratification, and can have a lasting effect on the quality of future jobs (Landolt and Goldring 2013).

LCP participants are an exception to applicants arriving through all other programs; they are offered a pathway to permanence. The efforts of scholars and advocates was integral to the removal of the exploitative live-in requirement of the now caregiver program, which allowed for application for permanent residence. SAWP and all low-skilled workers arriving through temporary labour programs are categorically denied pathways to permanence. Despite these restrictions, Canada maintained a relatively open immigration policy for highly skilled migrants, allowing access to permanence. These policies are the focus of the next section.

### **A BIFURCATED MODEL OF CITIZENSHIP**

In the last decade, the Canadian state introduced sweeping changes to its federal immigration regime. The changes maintained the distinguishing feature of the NIEAP discussed above: a bifurcation and resultant hierarchy based on perceived skill level and type used as a proxy for contribution to the economy. This hierarchy is legislated through the National Occupational Classification (NOC), a standard taxonomy and framework to categorize occupational information using skill type (type of work performed with respect to education and field of study) and skill level (education and level of training). There are two consistent and interrelated outcomes of the sweeping changes introduced to the federal immigration regime in the last decade: 1) an overreliance on temporary migration streams to fill labour needs; and 2) the privilege of landed status and citizenship reserved for highly skilled migrants.

In 2008, the number of TFWs overtook the number of permanent residents with numbers rising in all provinces. These numbers prompted the implementation of the Stream for Lower-Skilled Occupations, along with the grandfathered Seasonal Agricultural Worker Program and Caregiver Program. As discussed above, temporary and/or precarious status means limited rights, conditionality, and increased risk of exploitative living and working conditions for migrants. Temporariness is fast becoming the new norm (Hari, McGrath, and Preston 2013; Landolt and Goldring 2013).

The privilege of citizenship offered to highly skilled immigrants is a continuation of Canada's commitment to creating convenient pathways for the increased mobility of highly skilled workers to come, work, and settle in Canada. A key motivation for facilitating the immigration of persons categorized as highly skilled is a broad acceptance by governments and industries of a convincing correlation between economic growth and technological advancement. Technology in and of itself can quickly become obsolete, meaning that technological progress is contingent on continued learning and innovation. This shifts the logic of competition from the technology itself to the people, that is, the knowledge workers whose skills, abilities and capacities determine competition. Governments and industries accept that ongoing technological

innovation is critical for economic progress, requiring a reliable supply of appropriate knowledge workers; therefore shaping migration regulations to construct a need for foreign-born professionals in order to rectify the local mismatches in demand and supply of the necessary skills needed to promote and sustain national industrial growth.

The ideal worker and therefore newcomer is a highly skilled, individualised, flexible and adaptable worker with a ‘mobile portfolio career’. This global demand is reflected in global population movements in the form of temporary and permanent international labour migration from the global South to the global North, discussed extensively by migration scholars (Arat-Koc, 1999; Bauder, 2006; Ley and Hiebert, 2001; Sassen, 1999). This active search constructs a race for talent (Shachar, 2006) for a particular mould of an international labour migrant, highly skilled, innovative, adaptable, flexible and independent knowledge workers, continuing to reduce immigrants to economic terms of trade, negotiated to gain comparative advantage in a global knowledge economy. The central assumption made by governments implementing this skills bias in migration regulations across the global North is that highly educated and qualified foreign-professionals would potentially easily acquire country-specific knowledge rapidly and at little or no cost to the state, allowing them to quickly adapt to the local labour markets.

Although Canadian immigration policies typically promise greater possibility for highly skilled workers to receive permanent resident status as compared to their lower-skilled counterparts, differences among immigration programs still separate economic immigration candidates into categories of comparatively advantaged and disadvantaged. Moreover, in recent years, the Canadian immigration system is reinforcing a two-tiered model of arrival whereby highly skilled workers who are granted temporary work or study permits have a greater advantage of accessing employment opportunities and pathways to permanence. Moreover, despite Canada’s commitment to increase the mobility of the highly skilled, these workers face a persistent challenge when integrating into the labour market (Borjas 1999; Chiswick 2005).

Governments, employers, professional regulatory bodies, and employment agencies alike inadvertently perpetuate a hierarchy of eligibility for various occupational sectors and positions (Hiebert 1999; Li 2000; Frenette and Morrisette 2005). This hierarchy has been attributed to the non-recognition of education and work experience acquired outside Canada, perceived linguistic abilities, loss of previous social memberships and networks, and in some instances it has also proven to be result of racial and gender prejudices (Pendakur and Pendakur 1998; Man 2004). The discriminatory effects of such a hierarchy are often more acute for immigrants entering regulated occupations such as medicine, healthcare, engineering and law, due to the structural gaps between a federally regulated immigration policy and provincially operated professional regulatory bodies (Boyd 1984, Reitz 2001, Bauder 2006).

## **REFORMS TO CANADA’S SKILLED IMMIGRATION POLICY 2008 – 2019**

As discussed earlier, Canada first began to move towards a human capital model of immigration and citizenship through the introduction of the Points System in 1967. The system assessed candidates for immigration based on human capital factors such as education, work experience, arranged employment, language skills, among other factors to identify newcomers with the most potential to succeed in the Canadian economy and society. Once a point threshold was met, applicants were admitted on a first-come-first-served basis to land in Canada with permanent status and its associated rights and entitlements. This earlier system followed the sorting logic of

skill level and type to determine individual professional success and Canada's global competitive advantage. The most recent changes introduced to the skilled immigration portfolio instituted further divisions within the previously broad and relatively homogenous category of highly skilled immigrants. The Express Entry system, introduced in 2015 and discussed in greater detail in this section, relies on occupational lists and increasingly employers and provinces to select newcomers, encourages a two-tiered model of arrival (temporary permits to permanent residents), and no longer allows for direct application for immigration but rather into a pool of pre-selected applicants who might be issued Invitations to Apply (ITAs).

Beginning with ministerial instructions in 2008 to the 2018-2020 federal immigration targets, Canada introduced several key changes to its FSW programs. Scholars speculated five main factors informing these changes: 1) as discussed in the previous section, the deterioration of economic outcomes for highly skilled immigrants since the 1990s, which persists within the second-generation despite their higher educational attainments and effective elimination of barriers associated with linguistic skills and foreign educational and work experience; 2) occupational and sectoral labour shortages; 3) global economic competitiveness in the race for talent; 4) significant backlogs and administrative delays in processing applications; 5) more generally, austerity and a need for public sector restraint while continuing to recruit for highly-flexible and competitively-priced human capital (Picot and Sweetman 2012; Ferrer, Picot, and Riddell 2014; Giles 2014).

The first set of ministerial instructions in 2008 implemented priority processing for certain occupations to correct for a backlog of 900,000 applications, two-thirds of which was in the former Federal Skilled Worker Program (FSWP), with some applications having processing times as long as six years. The instructions included 38 listed occupations, pre-arranged employment, and priority for residents who were students or Temporary Foreign Workers (TFWs) for over one year. The Canadian Experience Class (CEC) was introduced in the same year and valued demonstrated employability in Canada either in the form of a TFW with two years of full-time work experience or post-secondary education in Canada. On June 26, 2010, a new set of ministerial instructions were issued: pre-arranged employment or 1 year full-time employment in one of 29 listed occupations, an overall cap of 20,000 in each listed occupation with a sub-cap of 1,000 for each, and new language requirements. In Fall 2011, Citizenship and Immigration Canada, now the Immigration, Refugees and Citizenship Canada (IRCC) issued four further sets of ministerial instructions. The government retained occupation as a means of selection with no fixed timetable to updating the list. Moreover, it overhauled all Federal Skilled Worker (FSW) programs with new quotas and caps to promote efficiency through locally attuned selection; however, the criteria governing selection was not transparent or precise (Alboim 2010). Overall, the government maintained an experimentalism in public policy (Baglay 2012) that favoured a focus on skilled labour that is diversified, competitive, and flexible and to a great extent pre-selected via Canadian provinces, employers, and institutions rather than self-selection.

Canada's efforts to correct for the complexity and uncertainty of the former Federal Skilled Worker Program (FSWP) to make it more effective, efficient, and transparent therefore had some paradoxical results. Canada developed a narrowly focused economic immigration policy constructed on a short-time horizon (Alboim & Cohl, 2012), involving a larger role for provinces and employers, increased and robust use of TFW programs, and a general move away from the human capital model to a focus on specific occupations. Canada is limiting its search to "flexible" immigrants, who are entrepreneurial and resilient, can readily adapt to the economic environment, and yield immediate economic benefits. There is little room however for any

consideration of skilled immigrants' agency, desires, aspirations, and family status. In addition, during this search, cracks started to appear in attitudes of Canadians towards immigration (Simmons 2010). The government maintained its efforts to use occupations to select newcomers despite overwhelming evidence to suggest that it is difficult to establish labour-market information; in particular, labour shortages related to skill or regional mismatches. Finally, using "arranged jobs" to select immigrants has made the process more complex and less transparent, running counter to the objectives legitimating the changes in the first place. Nonetheless, the result of this five-year period of policy experimentalism is the development of three main streams to attract skilled immigrants: Canadian Experience Class (CEC), a revised Federal Skilled Worker Program (FSWP) and Federal Skilled Trades Program (FSTP).

In 2008, the Canadian government created the Canadian Experience Class (CEC) immigration program at the federal level, which offered highly skilled foreign workers present in Canada opportunities to apply for permanent resident status with two years of gaining Canadian experience. CEC selects skilled immigrants on a pass/fail model. The selection criterion is used to assess candidates' Canadian educational degrees (for international graduate students), Canadian work experience, and official language proficiency. The growing number of highly skilled immigration candidates applying and admitted through this program was used as proof of its success of the CEC immigration program with over 50,000 admitted between 2009 and 2014 (Government of Canada 2016). Seeing its positive effects, the Canadian government harmonized the student and worker streams and reduced the Canadian work experience requirement from two years to one year. This reform was highly beneficial to applicants who faced a reduced period of precarity in their transition to permanence in Canada while also creating a comparative advantage or disadvantage for specific groups of highly skilled, discussed in the next section.

The most recent and significant change to Canada's federal skilled immigration regime is the introduction of the Express Entry (EE) system in 2015, intended to streamline the management and processing of permanent residence applications from all skilled workers. It generated substantial changes to the pathways available for highly skilled immigrants to Canada by allowing provinces, employers, and educational institutions a greater role in determining qualified immigration candidates. Evidence of this includes the government's initial mandatory requirement for the immigration candidates to register at the Job Bank, as a means to connect them directly with Canadian employers. The rationale was rapid integration and reduction of resettlement services. The government modified these requirements based on effectiveness. The Job Bank registration is no longer mandatory. Moreover, the points awarded for pre-arranged employment was reduced.

Overall, the government maintains the three programs, Canadian Experience Class, Skilled Worker Program, and Skilled Trades Program, and select immigrants for each by assessing them against a revised selection grid. This revised points system, the Comprehensive Ranking System (CRS), evaluates a potential applicant's educational level, work experience and skills, official languages proficiency, age, pre-arranged employment, spouse's education, work experience, and language proficiency, and additional points for education completed in Canadian colleges and universities and provincial nominations. Immigration candidates who can meet the minimum points threshold are deemed as qualified for applying for the permanent resident status. Candidates with the highest rankings however are issued Invitations to Apply (ITAs) unlike the direct applications permitted under the former FSWP. Canadian education and work experience are not mandatory requirements of the program; there is a possibility for highly skilled workers to establish connections with Canadian employers to come to Canada. However, the CRS

automatically prioritizes applications from immigration candidates already within Canada and those who have acquired Canadian experience and/or education by allocating additional points for candidates with provincial nominations, pre-arranged employment in Canada, and a Canadian post-secondary degree.

## **COMPARING (DIS)ADVANTAGES AMONG SKILLED IMMIGRANTS TO CANADA**

Thus far, I have discussed the particularities of Canada's human capital approach to its federal citizenship and immigration portfolio and its commitment to facilitate the work and settlement of highly skilled newcomers while categorically denying pathways to permanence for the growing numbers of temporary migrant workers. In this section, I discuss the comparative advantage of some groups of highly skilled workers under the current iteration of Canada's federal skilled immigration programs. Two notable outcomes of the current programs are: 1) encouraging a two-tiered system of immigration that privileges applicants currently residing in Canada having acquired Canadian work experience and to a lesser extent education; and 2) a greater role for provinces, employers, and institutions by permitting additional points under the CRS for provincial nominations, pre-arranged employment, and Post-Graduation Work Permits (PGWP) from Designated Learning Institutions (DLIs).

An earlier feature of the experimentalism with federal skilled immigration policy between 2008-2013 was a reliance on occupational lists despite the challenges of identifying in-demand occupations in a fair and transparent way. Although occupational lists are no longer a specific feature under the current EE system, higher points continue to be awarded for individuals with MA, PhD, and specific professional degrees. Although it is too early to predict the full implications of the current EE system for applicants, I attempt to expose the differential outcomes for specific groups of highly skilled newcomers admitted under the EE system. The primary objective is to nuance the relatively homogenous group of privileged highly skilled immigrants welcomed to live, work, and settle in Canada under the current federal skilled immigration regime. To achieve this objective in this penultimate section, I present a discussion of two highly skilled immigrant groups with differential rights and entitlements under the current system: Information and Communication Technology (ICT) workers and international students. In particular, the discussion revolves around their differential access to Permanent Resident (PR) status and ultimately citizenship.

### ***Information and Communication Technology Professionals***

ICT professionals maintain a significant comparative advantage under the current EE system for two very important reasons: 1) a high demand from Canadian employers willing to offer jobs to qualified foreign professionals to compensate for a limited supply of Canadian workers; and 2) greater opportunities provided under the current federal immigration regime. Information and Communication Technologies Council (ICTC), a not-for-profit national research center, in its most recent 2016 review of the sector identified that there are more than 350,000 (40%) immigrants employed in ICT jobs in Canada's digital economy (as compared to 25% in the overall economy). About 96% are permanent residents or Canadian citizens and 4% are temporary workers. Unemployment amongst ICT immigrant professionals (landed and

temporary) is consistently low at 2.7% and has remained relatively steady for the past four years; in contrast the number for immigrants overall is 7.7% (ICTC 2016).

Why is Canada so reliant on immigrant labour for the ICT sector? In Canada, three trends in particular contribute to the construction of a need for ICT-skilled migrants. First, large-scale restructuring of the sector after the tech-bust in 2001 and perceptions of increased practices of offshoring, led to a number of skilled and experienced Canadian workers to switch career paths away from ICT sectors. Secondly, a perception among young Canadians of the industry as boring has resulted in declining enrolments in postsecondary programs in computer science and technology, thereby reducing the long-run supply of recent graduates that is critical to recruitment (Ticoll, 2005). Thirdly, governments and industries calculate shortages in the IT industry on the basis of the gap between estimated demand for workers with particular skills and the number of workers available at that moment, not accounting for unemployed IT workers who could learn the requisite skills quickly (Xiang, 2007). Using this definition, critical skills shortages could be understood as a myth created by an industry that desires a constantly growing supply of ICT labour.

In a sense, the shortage is more speculative, intangible and virtual; however, its effects on governments' migration regulations and investments, following from perceived industrial demands, are real and clearly evident. In 2015 alone, over 90,000 ICT workers were nearing retirement and this number will continue to grow as more baby boomers exit the workforce in the upcoming years. While annual ICT enrolment rates have increased by 24% since 2010, the number of ICT graduates, this growth represents less than a quarter of the workers needed to satisfy employer demand, according to ICTC. In addition, not enough young Canadians pursue STEM courses in secondary school — a critical gateway for entering ICT post-secondary programs and careers in the future.

As part of the sweeping changes to the federal immigration regime, Canada ended the Facilitated Processing of Information Technology Workers program in September 2010. This program was widely favoured by employers because it enabled them to secure highly skilled talent for in-demand jobs without having to acquire a Labour Market Impact Assessment (LMIA). From 2000 to 2009, this program admitted more than 18,000 ICT workers to Canada. However, unlike other programs and occupational categories that faced significant cuts, caps, and quotas, the EE System highly supports and privileges ICT immigrants. Out of the top ten occupations of invited candidates, four are ICT occupations — information systems analysts and consultants, software engineers, computer programmers and interactive media developers, and graphic designers and illustrators. For all the Express Entry candidates the top three countries of residence includes Canada (78%), India (6.2%), and the United States of America (2.2%) The top three countries from which Express Entry candidates held citizenship in were India (22.4%), Philippines (12.6%), and China (5.9%). Moreover, the newest Global Skills Strategy, introduced on June 12, 2017, is heavily ICT-based and allows eligible workers to bring their spouses/dependents on visitor visas or work/study permits. This newest stream maintains a two-week processing standard for work permits if the Canadian employer is:

1. Referred to the Global Talent Stream by a designated partner of which 5 are almost exclusively ICT-based, or
2. Hiring a worker in a position on the Global Talent occupations list – 9 out of the total 13 global talent streams are ICT based

A high sectoral demand for ICT-skilled talent coupled with cooperative immigration mechanisms encourages a steady supply of foreign professionals and further opportunities for

employers to facilitate permanent residency applications for this select group. Unlike ICT-skilled immigrants, international students face a comparative disadvantage under the current EE system that I turn to next.

### *International Students*

Growing international student mobility is changing how countries invest in educational attainment and human capital (Verbik and Lasanowski 2007). Canada's international student population has grown exponentially over the last decade. The Canadian Bureau for International Education noted that from 2010-2018, there was a 154% increase in international students with valid study permits in Canada ("Study in Canada" N.D.). This growth is complemented by significant federal government investments in international student recruitment, with the 2019 budget allotting \$148 million to recruit international students over the next five years as part of a new international education strategy (Macdonald, 2019). An analysis completed by Roslyn Kunin & Associates, Inc. for Global Affairs Canada found that in 2016, international students in Canada spent approximately \$15.5 billion on tuition, accommodation, and discretionary spending (Global Affairs Canada, 2017). The international education sector also supported 170,000 jobs in 2016 and "had greater economic impacts than Canada's exports of auto parts, aircraft and lumber" (Blatchford, 2019). Despite the growing supply and complementary investment in this highly skilled group, the most recent EE program places them at a disadvantage when applying for Permanent Resident (PR) status.

The original Canadian Experience Class (CEC) program was introduced in 2008 with the intention of addressing the labour market disadvantage being faced by highly skilled workers arriving under the former Federal Skilled Worker Program. In this vein, it prioritized permanent residency applications from individuals who had completed two years of continuous work (in designated highly skilled occupations) or a two-year post-graduate degree, assuming that these individuals would be job-market ready and not face the labour market disadvantage of skilled professionals with foreign education and work experience. The program therefore supported applications for two separate streams: highly skilled workers and international students. Regulatory changes to the program in 2013 harmonized the two streams and required all applicants to have 12 months of Canadian work experience in occupations designated as highly skilled, within the 36 months prior to applying. Under the current EE program, international students now have to secure employment to be eligible to apply for pre-selection and in turn receive an Invitation To Apply (ITA), issued only to the highest ranking applicants, towards PR status. Federal immigration programs such as the former CEC that allowed international students to apply directly for PR status no longer exist. The current system relies on both Canadian employers and institutions to select international students permitted to become members of the Canadian economy and society.

Under the EE system, there are two main options for graduating international students to acquire Canadian PR status. The first option is to work temporarily in Canada after graduation supporting a two-tier immigration regime discussed earlier. Students who have studied at a Designated Learning Institution (DLI) are eligible to apply for a Post-Graduation Work Permit (PGWP). Students with two or more years of study at an approved institution may be eligible for a work permit of up to three years. Potential applicants must apply within 180 days of receiving their official final grades, must have maintained full-time status throughout their studies in Canada (unless a formal leave was taken), must have received a degree, diploma, or certificate,

and must not have received a PGWP previously. Once an international student on a PGWP completes one year of Canadian work experience, they are eligible to apply under the EE system to be considered for permanent residency. (“Stay in Canada after graduation” 2018). For graduates who are not eligible for the PGWP, it may be possible to receive a different type of work permit, and is determined on a case-by-case basis (“Stay in Canada after graduation”, 2018).

Overall, based on these restrictions international students are at a comparative disadvantage under the current EE system with smaller chances than under previous program iterations to receive PR status. Moreover, points awarded for Canadian education (50 points) under the CRS is half of what is gained for pre-arranged employment (100 points) and 25 percent of what is gained from a provincial nomination (200). Although a later reform in November 2016 changed to award more points for Canadian educational experience, international students still cannot secure enough points as individuals promoted by employers or provinces.

### **CONCLUDING REMARKS**

This paper contributes to the growing academic and activist efforts to understand citizenship and immigration policies as products of a political process linking national sovereignty, economic growth and nation building. The focus here is the Canadian federal immigration regime; in particular, historical and contemporary moments of inclusions and exclusions of persons and groups based on their utility to the state and/or social status. Beginning with a brief history of Canadian immigration, I discuss the particularities of Canada’s bifurcated system of admission based on perceived skill level and type, which confers the privilege of permanent residency to highly skilled immigrants while simultaneously relying heavily on rotational/seasonal low skilled workers to meet persistent labour needs.

The original contribution of this paper is to nuance this relatively homogenous representation of the privileged skilled worker group by highlighting differential rights and entitlements of different sub-groups of immigrants categorized as highly skilled. Since it is beyond the scope of the paper to discuss all groups, I select two: ICT skilled immigrants and international students. The treatment of these two groups under the current Express Entry system, introduced in 2015, reinforce two important trends in Canada’s contemporary federal skilled immigration regime: 1) a two-tiered model of immigration thereby drawing on Canadian newcomers from temporary foreign worker pools; and 2) a growing reliance on employers, institutions, and provinces to select newcomers as opposed to historical programs of self-selection. I do this through a detailed discussion of the EE program and the comparative advantages and disadvantages for two groups of highly skilled immigrants seeking Canadian membership: ICT-skilled immigrants and international students.

The EE program however is still in its early stages and there is still room for further research on how the system is impacting different groups of immigrants over time. Moreover, there is even less known about the extent to which the EE system addresses the challenges of its predecessors, mainly the deskilling, underemployment, and labour market disadvantage faced by Canadian newcomers, as well as the program’s potential to increase Canada’s global competitiveness. Finally, there is a critical need for empirical research to document the experiences of highly skilled applicants traversing this new policy terrain.

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