Privatization, Law, and the Challenge to Feminism

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Immigration policy seems an unpromising place to look for evidence of privatization, if by this one means the retraction of the state. As sociologist Robert Miles remarks, ‘immigration is a social process that is widely considered to require state regulation (especially by governments otherwise ideologically committed to “rolling back the state”’)’ (Miles 1993, 11). Indeed, the real and imagined lines dividing insider and outsider, citizen and foreigner, ‘us’ and ‘them,’ are constituted by and constitutive of the modern nation state. Policing territorial borders against people — as opposed to trade and investment — symbolizes the site, if not the last outpost, of national sovereignty.

For over a century, the periodic arrival of uninvited sea-borne migrants has nourished the spectre of a nation state inundated by waves of humanity washing up on our shores. At various historical moments, South Asians, European Jews, and Chinese have in turn been cast in the role of the desperate and vilified alien clamouring for admission. The moral panic fomented in 1999 by the arrival of six hundred Fujian migrants off the coast of Vancouver Island signals the latest eruption of this anxiety over so-called illegal immigrants.

The fact that only weeks before the arrival of the first ship, Canada admitted to falling short of its immigration target by some 26 per cent in 1998 attracted little mention in the media. With an aging population and low birth rate, Canada depends on immigration to achieve the demographic equilibrium required for economic growth and for social reproduction. Canada’s current problem is not too many immigrants, but too few. Nevertheless, capitalizing on the role of the state as ‘protector’ of law-abiding Canadians against ‘illegal migrants’ deflects attention from the state’s diminishing role as protector of all Canadians from ‘unpre-
dictable market forces' (Brodie 1999, 6) and the place that migration occupies in stabilizing social reproduction. Canadian immigration law is designed to regulate the phenomenon. Policies of interdiction, deflection, and criminalization attempt to deter and punish those who circumvent Canada's entry rules. Although discretion to determine 'who gets in' is constrained by an international obligation not to turn back refugees who reach our shores, Canada attempts to evade its duty by including political refugees in the category of those whose arrival should be deterred. Enforcement is not only effected at ports of entry: foreign airports, the high seas, and the territory of other states all become sites for the extra-territorial extension of Canadian border control. Carrier sanctions for improperly documented migrants mean that even private airline personnel are conscripted into quasi-public service.¹ These employees can refuse to board passengers holding valid tickets for Canada if they deem the travel documents suspicious. When it comes to restricting and regulating entry, the state's geographical and functional reach is expanding, not receding. What does not extend across borders so readily is the reach of domestic legal protections available to those who are wrongly or unfairly rejected, interdicted, or turned back.²

Despite the apparent political consensus affirming the state's monopoly to police borders, immigration policy is not immune from the transformation signified by privatization. After all, Canadian immigration policy is driven largely by the objective of enriching the Canadian economy. In this sense, immigration policy is a quintessentially public form of regulation serving ends defined by the private realm of the market. Allocation of responsibility between state, family, and market will reverberate in the immigration context at two levels: immigrants may be the targets of privatization strategies; they may also constitute embodied instruments of privatization.

This chapter explores those aspects of Canadian immigration policy that affect migrant women disproportionately or distinctively. The first part examines how temporary worker schemes for male- and female-dominated occupations articulate differently with economic globalization to 'promote, control and maximize returns from the market forces in the international setting' (Cerney 1990, 230, quoted in Brodie & Gabriel 1998, 6). Using 'high-tech' professionals, live-in caregivers, and garment workers as case studies, I reveal the way in which the state selectively delegates decision-making authority to private actors, while simultaneously manipulating terms of entry in order to secure a labour supply that accommodates the demands of private employers. The sec-
ond part examines the regulation of family reunification under Canadian immigration law as a site of past and present ‘familialization.’ It draws out strands of historical continuity and interweaves them with contemporary shifts in discourse and in enforcement of family support obligations. This section also highlights the right of landing fee (the so-called head tax) as a counter-example to privatization. The final section reviews the evolution in government funding of immigrant settlement and integration in order to assess the gendered impact of commodification on the provision of language training and other settlement services.

In the course of the chapter, I also refer to legislative changes contained in the new Immigration and Refugee Protection Act (IRPA), passed in October 2001. To the extent that certain provisions involve a renegotiation of responsibility, they offer a timely roadmap of policy trends. However, since the IRPA takes the form of framework legislation, many of the crucial operational aspects remain to be fleshed out in subordinate legislation or guidelines.

A few notes of caution. First, the mere existence of an immigration law or policy says little about implementation and enforcement, owing to the enormous scope for discretion and political intervention. One recent example concerns ‘exotic dancers’ (strippers) admitted to Canada on temporary work visas in response to an apparent shortage of Canadian women willing to do the job. When it emerged that many women were being exploited and/or engaging in prostitution, immigration authorities did not eliminate the exotic dancer visa, they simply manipulated the levers of discretion and rejected all applicants as unqualified. Immigration policy is notorious for conveying multiple, conflicting and contradictory messages: doors that look open on paper swing shut in reality and vice versa. The disjuncture between theory and practice demands an analysis that addresses the endemic, institutionalized deception embedded in Canada’s migration regime.

Second, we must always take into account the interactive impact of ‘race’ and ethnicity on the character and consequences of Canadian immigration policy for women. Canadian immigration policy formally discarded explicitly racist selection criteria almost forty years ago and the majority of recent immigrants to Canada are characterized as racialized or ethnic minorities. While ‘race’ and ethnicity now play a lesser role in determining physical exclusion than in the past, they remain powerful markers of socio-economic marginalization. The persistent segmentation of the labour market along racialized and ethnic lines operates in tandem with the gender hierarchy to locate migrant women
disproportionately on the lower rungs of the economic ladder, especially in low-wage, precarious, female job ghettos (Shamsuddin 1997).

This chapter does not undertake a critique of privatization per se. I do not argue that privatization is inherently good or bad for immigrants in general or for migrant women in particular. A fully realized program of privatization in immigration would presumably deliver benefits to some migrants and impose burdens on others. One could attempt to articulate a normative claim about who ought to get in and how they ought to be treated, and then measure how well an idealized privatization scheme would fulfill these objectives. That is not the project of this chapter, however, because that is not the project of the state. My present interest is in uncovering where, how, and why strategies of privatization are deployed in the field of immigration, and how these strategies affect women. As Fudge and Cossman note, privatization is partial, selective, and inconsistent. In the domain of immigration, its impact may also vary according to context. Certain practices associated with privatization may operate to the detriment of migrant women, while some immigration policies appear to ignore the putative logic of the market model, also to the detriment of women. Indeed, a truly 'free market' model of migration would mean open borders, which would surely offer greater opportunities to prospective migrants around the world. Conversely, most versions of the modern welfare state presume a territorially bounded polity where benefits extend only to a determinate set of members. At a theoretical level, the exclusionary impulse challenges a romanticized conception of the welfare state, at least from a migration perspective.

The complexities of immigration policy suggest that simply tallying up examples of 'privatization' against counter-examples will reveal less about the normative implications of the evolving role of the state, the market, the family, and the non-profit sector in migration policy than will a critical inquiry into when, how, and why the state chooses to regulate, restrict, or delegate control over entry and settlement.

I. Globalization and Temporary Workers

This section examines three categories of temporary workers to illustrate the profoundly gendered impacts of privatization in the context of immigration law and policy. While admission of temporary workers in general is motivated by the state's desire to reduce the costs of reproducing specific sectors of the labour force, the particulars of the schemes vary dramatically. The federal government delegates its super-
visory and selection authority to the private sector to a greater or lesser extent for both 'high-skill' (paradigmatically male) and 'low-skill' (traditionally female) occupations.\(^3\) However, where the Canadian state supplements the private sector’s efforts to recruit ‘high-skill’ workers by encouraging workers to acquire permanent residence, it does not offer incentives to attract ‘low-skill’ workers in the competitive global market, but instead erects barriers to discourage permanent settlement.

Whether workers are designated ‘high’ or ‘low’ skill, Canada reaps the benefits of the education, training, and experience the workers acquired elsewhere. Temporary workers are taxed on their income, but have restricted access to various social welfare benefits and public services while residing in Canada.\(^4\) Foreign workers thus subsidize the resident Canadian population.

The dynamics of privatization interact with gender to influence temporary worker policies at two sites. On the global level, economic restructuring in sending countries often entails an array of privatization strategies. The short- and long-term negative impact of these mechanisms on employment, living conditions, and social benefits function as a significant ‘push’ factor propelling emigration. At the domestic level, where I focus my argument, the delegation of selection authority over temporary workers from Citizenship and Immigration (CIC) to the private sector is an example of the shift from public to private ordering within Canada, with a concomitant loss of visibility and public accountability. A comparison of the salient differences in the recruitment and settlement policies governing male-dominated occupations and female-dominated occupations reveals the gendered impact of delegation as a strategy of privatization.

Globalization figures at least as prominently as privatization in the lexicon of contemporary social, political, and economic transformation. The two terms share more than ubiquity. Cable argues that economic globalization should be understood as privatization writ global: ‘Globalization is largely private sector driven. It represents, therefore, a shift in the locus of decision-making not only from the nation-state to transnational actors, but also from national governments to the private sector. For this reason, economic liberalization and globalization have often gone hand in hand’ (Cable 1995, 37).

What is the relationship between economic globalization and migration? Although the movement of people is frequently invoked as an instance of globalization, contemporary migration to settler societies is, in fact, less intensive in size and velocity than it was in the late nine-
teenth century (Held 1999). In 1913, Canada received over 400,000 immigrants; in 1999, we admitted less than half that number (CIC 2000c, 2). This statistic would hardly assuage the anxieties of those for whom migration is like the crime rate: always increasing and always bad. Indeed, the more globalization is credited with or blamed for dissolving borders for capital and goods, the louder the clamour to fortify those same borders against people. This contemporary assertion of territoriality regarding the movement of people across borders has been dubbed counter-globalization (Sutcliffe 1998, 325). Yet, as Saskia Sassen argues, ‘[t]he idea that international migrations, now directed largely to the center from former colonial territories, ... might be the correlate of the internationalization of capital that began with capitalism is simply not part of the mainstream interpretation of that past and the present’ (Sassen 1996, 142).

How does the dynamic of globalization and counter-globalization affect women? Perhaps the most obvious manifestation of the globalized workplace is the ‘offshoring’ of manufacturing and services to export processing zones, where young women serve as low-wage, ‘docile’ labour for transnational companies. Sex tourism is another facet of taking the work to where labour is cheap. On the other side of the equation, bringing low-cost female labour to the work represents a variation on traditional migration patterns. The extent to which the entry of this labour force is formally restricted or subject to strict temporal limits evinces the ‘counter-globalization’ impulse. In Canada, exotic dancers and garment workers, among others, embody the conjunction of a global demand for commodified gender roles with migration policies that ensure their performance at low cost by women whose foreignness and ethnic/racialized identity is deployed both as marketing device and as justification for subordination. Not infrequently, these women appear on the losing side of the international, sexual, and racialized division of labour (Pettman 1996).

Membership in the nation state is a public good, and it is distributed to migrants to Canada via permanent residence or ‘landed immigrant’ status. Permanent residence creates a qualified entitlement to enter and remain in Canada and is the precursor to legal citizenship, which in turn confers a virtually unqualified right to enter and remain in Canada. Immigrants and most refugees acquire permanent resident status. They are prospective members of the nation state and are free to choose their abodes and occupations. In contrast, migrant workers who seek temporary employment in Canada must obtain a Temporary Employment
Authorization (TEA), which allows them to remain in Canada for the
duration of the permit and typically ties them to a particular employer.
Domestic workers and seasonal agricultural workers are compelled to
live in particular locations.

The TEA system is a more privatized system of choosing migrants
than immigrant selection and the criteria for selection are entirely
labour-market driven. The employer chooses the worker, and CIC issues
the visa once minimal health and security checks are done. A TEA binds
the worker to a specific job with a specific employer. In political terms,
immigrants are admitted to Canada as parties to an ongoing, open-
ended, and theoretically renegotiable social contract; temporary work-
ers on TEAs enter as parties to a private employment contract. The
terms may vary, but the end of the work relationship signals the end of
the worker’s relationship with Canada. Temporary workers have a place
in the economy, but not in the nation.

The ostensible purpose of Canada’s temporary foreign worker policy
is to admit foreign workers to meet domestic labour market needs with-
out displacing qualified and available Canadians and permanent resi-
dents (CIC, Immigration Manual: Chapter FW2, 1.1). Temporary workers
are not supposed to displace Canadian workers or drive down wages,
working conditions, and benefits for Canadian workers. They are also
meant to fill only temporary needs. The state attempts to monitor com-
pliance with these criteria by requiring employers to seek and obtain an
employment validation from a local Human Resources and Develop-
ment Canada (HRDC) office before a prospective foreign worker is
issued a TEA.

In practice, foreign workers are admitted temporarily to do jobs that
Canadians are either unable or unwilling to do under prevailing wages
and working conditions. Despite the theory that TEAs are intended to
meet temporary needs, they have also evolved into instruments for
enabling rapid recruitment to fill immediate but not necessarily tempo-
rary needs, and into mechanisms to fill chronic gaps in devalued and
low pay sectors – such as live-in domestic work, ‘exotic dancing,’ and the
garment industry – which are almost exclusively female domains.

A. ‘High-skill’ Temporary Workers

Two recent developments suggest an increased willingness by Canada to
relinquish its supervisory role and permit the private sector to exercise
greater autonomy over the selection of temporary workers. Significantly,
both involve ‘high-skill’ occupational categories where males predominate, and both arise in a context where the discourse of free trade and competitiveness in the ‘global market’ are asserted to justify the freer movement of certain classes of worker across the Canadian border.

The first example is the insertion of facilitated entry provisions into transnational trade agreements. Both the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade in Services (GATS) exempt employers from the requirement to obtain an employment validation prior to issuance of a TEA for a small retinue of nationals from signatory countries.

NAFTA applies to Mexican and U.S. nationals, and includes professionals, intra-company transferees, business persons, and traders/investors. Some need not obtain a TEA prior to entry, and may apply for it from within Canada. Designated ‘business visitors’ do not require a TEA at all, as long as their primary source of remuneration is outside Canada (Immigration Manual, Chapter FW8).

As Gal-Or indicates (1998, 397, 411), the NAFTA labour mobility provisions are unlikely to become the ‘thin end of the wedge’ of freer trade in labour. Rather, it appears that the class of eligible migrants under NAFTA are conceptualized less as workers than as trade and investment’s personal escorts, who cross the border with approximately the same ease as the capital, trade and investment they ostensibly deliver. As a recent paper by two CIC analysts asserts, ‘It is recognized that facilitated entry through trade agreements benefits businesses that operate around the globe with a high-skill workforce. This trend toward international migration of high-skill workers is becoming an increasingly important ingredient for a firm’s competitiveness ... [and] carries benefits such as job creation and skill transfer to Canadians’ (Pascoe & Davis 1999, 6).

It is also important to observe that neither NAFTA nor GATS replace CIC with a supra-national governance mechanism. Rather, they establish the legal framework within which certain private companies can move their workers across borders with little scrutiny from any public institution or entity.

The Software Development Workers Pilot Project (‘Software Pilot Project’) introduced in May 1997 implements an even broader, sector-wide delegation of selection authority to the market. Since the mid-1990s, Canadian employers in high-tech industries have complained about the shortage of information technology (IT) workers and the impediments to securing prompt validation for qualified foreign candid-
dates. The terms of the Software Pilot Project allow employers to hire foreign workers who meet one of seven designated job descriptions without requiring a job validation. Once the employer has located a foreign worker who fits one of the job descriptions, the worker can obtain a TEA from the nearest Canadian visa office abroad. The involvement of the state in this process is confined to screening the worker for health and security risks. This has reduced the turnaround time in some cases to less than a week. From May 1997 to January 2000, about 3,000 workers entered under the program (CIC 2000c).

Despite their mode of entry, software professionals (80–90 per cent of whom are male) and other ‘highly skilled’ workers would be considered desirable immigrants to Canada. They enter on TEAs on the assumption that expediting their entry will give Canada an edge over other countries competing for their skills. Although they enter on a temporary basis, software professionals are greeted with a welcome that encourages them to stay.

In 1998, CIC launched a pilot project to enable spouses of ‘highly skilled’ workers on TEAs to work legally in Canada without prior labour market testing. Certain other ‘less skilled’ classes of temporary workers are not even allowed to bring their spouses, and in no other case are spouses permitted to work. As I discuss in Part II, even some spouses of citizens and permanent residents are not permitted to work until they regularize their status.

I contend that the pilot project for spouses of highly skilled temporary workers is designed to make Canada a more attractive short- and long-term option for the high-skill foreign worker. The United States, for example, does not offer work permits to spouses of high-skill workers admitted under its H1-B work visa program. Canadian policy makers anticipate that once the spouse of the worker is admitted on terms that facilitate social and economic incorporation of the family unit, at least some workers will apply to remain permanently as immigrants. Most are from South Asia and Western Europe (Pascoe 1999a).

Viewed as a package of policies, the NAFTA and GATS labour mobility provisions, the Software Pilot Project, and the spousal work permit pilot project signal a creeping marketization of the form and content of worker selection practices, combined with public incentives aimed at encouraging permanent settlement. The net effect is that the class of temporary workers over whom the state has delegated greatest selection authority to private employers is also the class for whom permanent resident status will be most facilitated. This gives new meaning to the
phrase 'market citizen,' as the scheme is explicitly designed to place those selected by the market on a fast track to political membership.

B. Live-in Caregivers

Foreign workers who take jobs Canadians are unwilling as opposed to unqualified to do find themselves in a dramatically different position from high-skill workers. In these cases, work authorizations are temporary not because demand is temporary, the workers desire to remain only temporarily, or because of the relative celerity of the TEA process: the insecurity created by linking permission to remain in Canada with continued employment ensures that workers tolerate wages and working conditions Canadians and permanent residents find unacceptable.

Throughout the history of Canadian immigration, female migrant workers have traditionally been admitted through the servant's entrance. Though the source countries and the terms of admission have evolved over time, one enduring feature is the objective of privatizing the cost of social reproduction, and keeping that cost low. Foreign domestic workers constitute the instrument of that privatization.

At present, the Philippines is the largest Asian exporter of migrant labour and dominates the global supply of domestic workers. In many less developed countries (LDCs), including the Philippines, IMF and World Bank global debt and restructuring policies mandate export-oriented development, deregulation of capital and industry, privatization of the public sector, and cuts to government spending. These policies often result in decline in health education and social services, increases in un- and underemployment, shrinkage in public sector employment, price jumps when subsidies are reduced, a deterioration in the status of women, and an expanding gap between rich and poor (Bakan & Stasius 1996; 1997a, 1997b; Brodie 1999, 4). Migration of nationals who will send back foreign currency remittances thus emerges as a crucial strategy for both family and state debt relief (Sutcliffe 1998, 332).

Half a million Filipinos leave annually; 40 per cent of these migrants are women, and most are employed in the 'service-sector' as domestic workers (Tyner 1996, 39, 45). The state aggressively markets its nationals via the Philippines Overseas Employment Administration (POEA) in order to secure a niche in the highly competitive global market for temporary labour. Part of that marketing strategy entails selling gendered representations of Filipinos that appeal to racialized sex stereotypes. This means that many Filipino women are employed well below their
skill level, revealing both a gendered and racialized structuring of opportunity (Tyner 1996, 45). As Tyner states, 'At the risk of over generalizing, labour-importing countries prefer to hire Philippine women as baby-sitters rather than pediatricians, or as hostesses rather than hotel managers' (ibid.).

Within the Canadian context, if market principles of supply and demand were permitted to operate freely, wages and working conditions for live-in domestic work would have to improve significantly to attract and retain employees. If supply still failed to meet demand, or if the cost were prohibitive for too many Canadians, some prospective employers might be driven to make a choice they would not otherwise make, and exit the full-time workplace in favour of unpaid work in the home. Given the gendered division of labour within Canada, that employer would in most cases be the mother, not the father. Alternatively, the paucity of cheap, live-in childcare might stimulate more vigorous demands for a national, public childcare program. A more radical possibility is that it might mobilize public demands to reconfigure the professional workplace, which remains premised on the obsolete model of a full-time breadwinner with a stay-at-home wife. It would be an understatement to say that such a transformation is unlikely in the short run.

The privatization agenda is decidedly incompatible with publicly funded childcare. The gender order promoted by the state manages to exalt both the virtue of women caring for children in the home and market self-sufficiency for both sexes. These apparently irreconcilable objectives create an intractable dilemma for Canadian working women. However, middle- and upper-class parents can be placated ideologically and materially by supplying them with cheap, private, live-in childcare. This can only be achieved by strategic public intervention via immigration law to pre-empt private market forces. The Live-In Caregiver Program (LCP) is the latest scheme designed to secure a pool of labour whose immigration status compels workers to accept conditions which they, like Canadian and permanent resident workers, would otherwise reject (Macklin 1992a; 1994). Live-in caregivers thus serve as a safety-valve mediating the contradictions of the new gender order. Increasingly, the LCP is also being deployed to supply qualified Filipino nurses as live-in home support workers for elderly and disabled people. Privatization of health care has replicated the logic of childcare in the domain of 'home care.'

Until nearly the middle of the twentieth century, the majority of domestic workers were white, working-class British and Northern Euro-
of European women whose migration was organized, encouraged and financed by emigration societies, the Canadian government, and railway and shipping companies. After serving for a suitable time as domestics, these women were expected to marry Canadian men and assume their reproductive role in the nation-building enterprise of a white settler society. As the institution of domestic service waned in Britain and Europe, the supply of white women petered out and employers turned to women of colour from LDCs (Macklin 1992a). Given racist entry restrictions in the 1952 Immigration Act, the supply could not be secured without program-specific government intervention. In the mid-1950s, the Government of Canada negotiated agreements with several Caribbean nations to permit the entry of a designated number of women ‘of exceptional merit’ to serve as live-in domestic workers. The women entered as permanent residents. Racism in the labour market supplied an effective brake on their ability to exit the occupation, but by the 1960s it was no longer adequate to suppress a high rate of mobility (Arat-Koc 1997).

By 1967, the government had replaced explicitly discriminatory selection criteria with a superficially neutral ‘point system’, that appraised prospective migrants against a checklist emphasizing language ability, formal education and training, and occupational demand. The operating assumption of the point system is that Canada neither needs nor wants immigrants to fill ‘low skill’ jobs, and domestic work was one such example. The result was that domestic workers were ineligible as immigrants under the points system. In 1973, the advent of TEAs turned domestic workers into long-term, European-style guest workers, with no entitlement to settle in Canada permanently and no right to bring their families. Unlike their white predecessors, domestic workers from the Caribbean (and later, the Philippines) were not viewed as future members and reproducers of the nation. Their predicament is one example of how structural racism persists in immigration policy long after the demise of explicitly racist restrictions.

The fact that domestic workers could labour in Canada for years under exploitative conditions with no prospect of permanent residence sparked a successful campaign by those workers and their allies, which culminated in 1981 in a unique immigration program known as the Foreign Domestic Movement (FDM) Program. The FDM gave live-in domestic workers the opportunity to become permanent residents after completion of two years of live-in domestic service on TEAs. Although workers could change employers during that time, they required a new employment authorization for each employer. The system effectively
extracted two years of minimum-wage live-in labour in exchange for likely (though not assured) permanent resident status.

In effect, live-in domestic workers are indentured to the state by the positive incentive of permanent residence. While this situation is not optimal, the recent case of *Baker v. Canada* (1999) recalls the harshness of the situation the FDM replaced. Mavis Baker worked as an undocumented live-in domestic worker for eleven years. In the course of rejecting her application for landing based on humanitarian and compassionate considerations, the visa officer tersely summed up the value he attached to her occupation and past service: ‘She has no qualifications other than as a domestic’ (*Baker*, para. 5).

By the mid-1980s, the Philippines had largely supplanted the Caribbean as the major source region for domestic workers. Familiar clichés about domestic workers (‘Filipina women are so docile, so good with children, so willing to do all the cleaning’), along with class arrogance (‘Canada really does these women a favour because they wouldn’t be able to earn that amount of money back home’) and private sphere ideology (‘she’s like one of the family’ ... ‘this work is a labour of love’), operate synergistically to enable the physical, financial, and occasional sexual exploitation of foreign domestic workers (*Arat-Koc* 1999; *Macklin* 1992a). Moreover, because the live-in caregiver is confined to the ‘private sphere’ of the home, she is typically un- or underprotected by provincial employment and labour legislation regarding maximum hours of work, minimum wage, and overtime (Macklin 1992a; 1994; Nemiroff 1999, 10, 12). Her precarious immigration status confines her to a work setting that potentiates mistreatment, and also gives her an incentive not to complain about it.

Unlike the pilot project for spouses of high-skill temporary workers, CIC ignores the fact that live-in caregivers on TEAs have spouses or children. After all, the unpaid labour the caregiver might provide to her own family if they were in Canada would distract her from devoting her labour power to providing childcare and household labour to other people’s families. Live-in caregivers are explicitly prohibited from bringing any dependants with them, even if their employer consents. Giving birth to a child in Canada may jeopardize the live-in caregiver’s application for permanent residence and lead to removal.

In 1992, the FDM program was modified and renamed the Live-In Caregiver Program (LCP), but the essential element of two years’ live-in domestic work in exchange for permanent resident status remained unchanged. The changes made it tougher for applicants to qualify for
entry to the program by raising educational and experience requirements, but easier to obtain permanent resident status after completion of the two-year period of live-in work. Indeed, under the FDM and the LCP, the overwhelming majority of workers do acquire permanent resident status. Nevertheless, both live-in caregivers and their employers know that the workers are ‘on probation’ for at least two years. This creates a disincentive for live-in caregivers to insist on their employment rights.

The LCP ensures that childcare continues to be provided at low cost by women in the home. The constitution of childcare as ‘women’s work’ of low economic value remains unchanged. What has changed are the women doing it: racialized non-citizens who may well be mothers – but not of the children to whom they provide childcare. The LCP furnishes a rich illustration of how migrants propelled by the gendered and racialized impact of privatization strategies in the South become instruments of privatization in the North. Their availability permits the Canadian government to elude, or at least diffuse, demands to place childcare on the roster of public responsibility. As an elaborate regulatory instrument designed to intervene on the supply side of the labour market, the LCP demonstrates how keeping childcare a private matter in Canada requires considerable state intervention.

C. Sewing Machine Operators

The garment industry also reveals many of the global gender dynamics of economic restructuring and national projects of privatization (Fudge 1993). As a 1999 report about the Canadian and international garment industry states, ‘Globalization and trade liberalization policies have caused profound changes not only in the international division and global organization of labour, but also in how, by whom and under what conditions our clothes are made in Canada and in other countries’ (Yanz et al. 1999, ix). Historically, there was no need to import migrant workers to supply inexpensive female labour for the garment industry. The structural inequities in the Canadian labour market have long generated enough Canadian workers – mostly immigrant, mostly women of colour – to meet demand. Today, 76 per cent of all Canadian garment workers are women, half are immigrants, and almost 30 per cent are members of a visible minority. Men predominate in cutting and pressing, women in sewing. Immigrant women comprise 94 per cent of sewing machine operators in Toronto (Yanz et al. 1999, 14).
In the 1990s, globalization and NAFTA eliminated the tariff and quota protections insulating the Canadian garment industry. From 1988 to 1995, between a third and half of all Canadian garment workers lost their jobs as Canadian factories downsized, shut down, or relocated (Yanz et al. 1999, 13). Nevertheless, Canadian manufacturers still require a small pool of local labour to deal with ‘quick turnover.’ The impact of restructuring on remaining employment opportunities in Canada precipitated the emergence of contract-shop and home-work (Yanz et al. 1999). Like live-in caregivers, home-workers in the garment trade experience the deterioration of legal recognition and protection of their status qua workers that accompanies the relocation of their workplace to the feminized ‘private sphere’ of the home. The garment-making workplace, reconstituted in atomized, isolated, and privatized form presents serious impediments to union organizing and enforcement of employment standards (Ocran 1997; Ng 1990; Fudge 1993). On the other side of the global equation, Less Developed Countries (LDCs) anxious to attract foreign investment and work establish export-processing zones ‘which offer cheap labour, favourable terms and investment prohibitions on unionizing and tax environment and labour standards’ (Yanz et al. 1999, 111). China has emerged as the world’s main garment manufacturer, and is the top garment exporter to the Canadian market. The industry is staffed by some four million workers, mostly female, many of whom have migrated from rural areas in search of work in the factories (Yanz et al. 1999, 13). The similar profile of garment workers in Canada and abroad seems to belie the prediction that the current model of export-based development will suppress emigration by boosting local economies. Many garment workers in Canada originate from Asian countries, including China. As Yanz et al. comment, ‘Many come to Canada seeking opportunities or fleeing repression, and find themselves competing against workers in their countries of origin and watching standards fall toward those they thought they had left behind’ (Yanz et al. 1999, 14).

Despite the general decline in the garment industry in Canada, Winnipeg is in the anomalous position of lacking adequate numbers of workers to meet demand. The drive to lower production costs in order to remain competitive may be one reason. Given that one can be trained on the job as a sewing machine operator, I surmise that the shortage of workers must be due to wages and working conditions insufficient to attract and retain Canadian citizens or permanent residents. The story of importing sewing machine operators to Manitoba is brief and regionally specific, but provides a quirky illustration of the contradictions pro-
duced by globalization of production and counter-globalization in immigration policy.

In 1996, in response to pressure from the apparel industry, the Province of Manitoba and the federal government entered into a ‘Sewing Machine Operators Agreement,’ which permitted Manitoba to nominate up to two hundred experienced sewing machine operators (CIC 1996b) as prospective immigrants. Under ordinary conditions, the low skill level attributed to sewing machine operation would preclude this category of workers from accumulating enough points to qualify as immigrants. The agreement created a window for 160 female sewing machine operators who, along with their dependants, migrated to Winnipeg as Canadian permanent residents. An intriguing term of the agreement was the imposition of a sponsorship-style relationship on employers and employees similar to the sponsorship arrangement between family members. Article 6.3 of the Canada-Manitoba Sewing Machine Operators Agreement stated that

Manitoba shall obtain ... from a relative residing in Manitoba or the Mani-
toba employer ... a written undertaking to provide financial support for the principal applicant and his or her accompanying dependants for a period of ten years from the date of landing of the principal applicant. The undertak-
ing ... will include the following provisions:

(a) The relative or employer shall agree to provide for the essential needs of the principal applicant and his or her accompanying dependants while the undertaking is in effect;

(b) The Government of Manitoba shall be entitled to recover directly from the relative or the employer entering into the undertaking the equivalent of all income support or social assistance provided by the Government of Manitoba to the principal applicant and/or his or her accompanying dependent, including (without limitation) benefits, supports or assistance provided under The Social Allowance Act of Manitoba (CIC 1996b, emphasis added)

Although the agreement obliged the governments of Canada and Manitoba to track the economic performance of the sewing machine operators and the integration of their dependants, no formal assessment has ever been made public. One suspects that the program did not achieve its goal of redressing the chronic shortage of sewing machine operators. First, the shortage of workers in Manitoba continued unabated long after the arrival of the 160 workers, but the agree-
ment was not renewed or extended. An unconfirmed rumour indicated that employers 'skimmed off' the most proficient sewing machine operators, leaving the rest to find other jobs or resort to social assistance. There is no evidence that Manitoba attempted to enforce the sponsorship undertaking against employers. To my knowledge, CIC has never attempted to bind employers to a ten-year sponsorship undertaking. Since employment relationships in the garment industry typically feature high turnover rates, the sponsorship undertaking seems unrealistic. It represents a novel, if impractical, attempt to graft familial responsibilities onto market relationships.

In any event, by 1999, representatives of Manitoba's garment industry had hired a private recruiter to go to China to locate qualified sewing machine operators to fill some of the thousand job vacancies with temporary workers (Janzen 1999b, A3). Federal, provincial, and even union officials collaborated on a proposal to issue one-year TEAs to experienced sewing machine operators. The recruiter identified seventy-four Chinese sewing machine operators with prior overseas work experience. In June 1999, Canadian embassy officials in Beijing interviewed five applicants and refused to issue TEAs to all seventy-four applicants. The reason? According to a letter from an immigration official to the recruiter, 'Our checks and interviews revealed the applicants are all earning very low salaries (in China). Moreover, they all come from a region of China that is economically depressed' (Janzen 1999b). Therefore, the visa officer was not satisfied that the workers would return to China after termination of their TEAs. The unarticulated and probably unsupportable premise appears to be that the workers would neither extend nor renew the TEAs when they expired, but would instead go 'underground.' This scenario is a classic Catch-22: foreign workers are motivated to accept jobs that Canadians will not do for the same reason used to deny them entry – the bleakness of life opportunities at home.

At least one factory owner warned that if the government continued to block efforts to import cheap labour to fill his demand, he would consider relocating production to Mexico (Janzen 1999b). Less than a year later, the same recruiter succeeded in obtaining TEAs for thirty-seven female sewing machine operators from Thailand. Within weeks of their arrival, local newspapers reported that the women had been 'cheated and exploited' by the recruiter, prompting the intervention of the Thai Embassy, CIC, and provincial authorities (Guttormson 2000). CIC and the Thai embassy immediately announced a moratorium on arrivals of foreign sewing machine operators.
The story of sewing machine operators in Winnipeg will doubtless continue. While the dynamics of economic globalization, Canadian immigration policy, and the international division of labour may clash over how to supply Winnipeg garment manufacturers with cheap sewing machine operators, they synchronize enough to ensure that sewing machines will be operated for Canadian companies by racialized women from poor countries labouring in substandard conditions, whether in Canada or abroad.

D. Temporary Worker Regimes and Gender

Liberalized trade and investment practices across borders have yielded transnational agreements which, as a subsidiary to facilitating trade, also ease the movement of certain ‘high-skill’ workers. The mobility provisions of NAFTA and GATS represent the purest extension of free trade logic from goods to labour.

Political motives for resorting to temporary worker schemes vary. Experience precipitated the Software Pilot Program. Had CIC been able to process applications for permanent residence promptly, I suspect that software professionals would have been admitted as immigrants through existing channels. Yet, even the conventional TEA system ultimately proved too sluggish for employers. To the extent that the market is promoted as more efficient than the state, the Software Pilot Program appears to validate claims advanced in favour of private ordering. At the same time, the state aids the private sector’s recruitment strategies with public inducements, particularly the spousal work permit, which encourage these workers to settle permanently in Canada.

The situation for live-in domestic workers is very different. Unlike software professionals, domestic workers do jobs Canadians will not do, at least not under prevailing wages and working conditions. Without external pressure, it is doubtful that the government would have reformed the ‘guest worker’ regime, which effectively extracts maximum value at minimal cost to employers and to the state. The campaign by advocacy groups, NGOs, civil libertarians, and others to vindicate the rights of domestic workers mobilized around the slogan ‘good enough to work, good enough to stay.’ The result was not a complete victory, but rather the hybrid regulatory scheme now known as the Live-in Caregiver Program. The treatment of domestic workers under this program stands in stark contrast to the treatment of IT professionals. The prohibition on bringing family members and the ultimate ‘pay-off’ of permanent
resident status operates to discipline live-in caregivers during their two-year stint of compulsory live-in work.

As for sewing-machine operators in Winnipeg, the lack of coordination and cooperation between different institutional actors speaks to the lack of coherence in Canadian immigration policy. The institutional discord between local bureaucrats committed to appeasing employers' demand for low-cost labour, and visa officers committed to border control demonstrates the inability of the neo-liberal state to resolve the contradictions of managing borders in an era of economic globalization.

The implications of delegating increased selection authority over temporary workers to employers will vary according to the location of the worker and the employer in the global marketplace. For example, software professionals operate in a seller’s market vis-à-vis Canadian employers. High-tech workers are in demand all over the industrialized world, and most workers (especially in the computer industry) consider the United States the preferred destination. In 1996, three Canadian workers entered the United States under NAFTA for every American entering Canada (DeVoretz 1999, 5–6). Canadian employers offer prospective employees incentives to lure and retain them. For its part, the state intervenes to supplement market incentives with public inducements: spousal work permits and the prospect of permanent residence. Software professionals’ strong bargaining position in Canada suggests that the efficiency gains of delegation to the private sector do not expose workers to the risk of exploitation. These workers can take care of themselves as long as employers believe that their foreign employees will head south (or home) if conditions in Canada do not meet expectations. The same outcomes would not obtain, however, where the parties do not believe that the workers have alternatives of equal or greater preference. Thus, the material significance of temporary immigration status depends in large measure on the economic opportunities and social citizenship entitlements available to the worker in her country of origin or elsewhere.

Given a profoundly uneven distribution of global wealth, coupled with a burgeoning demand for ‘women’s work,’ considerable numbers of women are willing to enter states on any terms, even if it involves occupational de-skilling and restrictive conditions. The perceived reward is eventual access to a range of economic, social, and political opportunities that their impoverished countries of origin cannot match, even considering the additional race and class barriers facing them in countries such as Canada (Bakan & Stasiulis 1997a, 46). Despite world-
wide demand for women's work, women who migrate as caregivers or sewing machine operators lack meaningful bargaining power anywhere.

The revised point system under the IRPA will award up to ten points for at least one year's full-time authorized employment. However, other elements of the point system diminish the likelihood that a temporary worker in a low-skill occupation will acquire the requisite point total. This means that so-called low-skill temporary workers will remain excluded from the prospect of permanent residence. In any event, the Live-In Caregiver Program exposes the option of delayed permanent residence as an imperfect solution to the problem of using temporary worker regimes to secure 'cheap labour' for the 3D jobs (difficult, dirty, dangerous). In part, the defects of the Live-In Caregiver Program are attributable to the combination of state intervention to create a market for low-paid, live-in domestic labour with state non-intervention in the protection of workers' interests and rights. Offering permanent residence as a reward for performance of socially and economically devalued labour amounts to public compensation for assumption of a publicly created risk of private exploitation. In other words, access to citizenship becomes the remedy for the worker's past vulnerability caused by her non-citizen status.

In principle, this dilemma could be overcome by vigilant state supervision and enforcement of relevant employment standards, the ability to change employers within the sector without jeopardizing immigration status, and information and support services to workers - all of which require more, not less, state regulation. The experience of domestic workers indicates that in practice, these measures are either not undertaken or are insufficient to counteract the vulnerability created by the live-in requirement. Once again, the selectivity of government regulation in this field illustrates the partial, instrumental nature of privatization strategies as mechanisms of actualizing the normative objectives of the neo-liberal state.

II. Immigrants, Markets, and Families

From its inception, Canada's nation-building project has been guided by two key objectives: building an economy and building a citizenry (Avery 1995). Canada needs workers for the former and mothers for the latter. In pursuing the economic goal, the state acts as an agent for the market. From attracting nineteenth-century farmers with free passage and land grants, to entering twenty first-century software programmers
with free flights and spousal work visas, tuning immigration policy to maximize labour market return has been a defining feature of Canadian immigration policy.

As a colonial, settler society, the imagined nation excluded Aboriginal people. Among potential settlers, the state preferred white people of English, French, or northern European descent. As long as Canada could attract sufficient numbers of male workers who met this description, their wives and children were welcome. Unmarried women from preferred countries were actively recruited as servants to supply cheap domestic labour until they married. As wives and mothers, they would provide unpaid domestic labour, thereby reproducing both citizenry and labour force. In general, immigration policy conceived of men as workers and women as housewives or housewives-in-training.

As the labour supply from ‘preferred’ countries failed to meet demand, the emerging incongruity between economic and demographic ambitions was manifested in the treatment of migrants from ‘non-preferred’ countries and racialized groups. The demand for labour – especially cheap labour – could not be met with British and northern Europeans. Eventually, the state grudgingly broadened the concept of ‘nation’ to encompass southern and eastern Europeans, but resolutely excluded racialized minorities deemed undesirable and unassimilable, such as blacks, South Asians, and Southeast Asians. An array of regulatory instruments, including formal but unenforced exclusion, guest worker schemes, prohibition on family reunification, and denial of citizenship, facilitated the insertion of racialized minorities (and women qua workers) into the economy as exploitable labour, while barring them from membership in the nation (Avery 1995).

The legacy of these practices resonates in the modern immigration categories of ‘independent’ immigrant and the ‘family class.’ While evaluating newcomers as future market citizens is not new in immigration policy, perhaps the most significant postwar development was the abandonment of explicitly racist criteria and the adoption of a ‘point system’ in the 1960s (incorporated into the 1976 Immigration Act). The point system disaggregated the assessment into various categories and required the applicant to obtain a minimum number of points to qualify. The more liquid one’s capital, the fewer points required. ‘Skilled workers’ trading on their human capital require seventy points. Investors and entrepreneurs with a high enough net worth and willingness to invest hundreds of thousands of dollars, or start up a business venture in Canada, require only twenty-five points. These elite immigrants are
often ‘closely connected to international trade and international financial institutions’ that typify the globalized economy (Simmons 1999, 64). Skilled workers and business persons are known as ‘economic’ or ‘independent’ immigrants.

Public documents insist that today’s immigrants (from wherever they come) are valued not only for their labour market potential, but for their contribution to social and cultural ‘nation building.’ However, the state tacitly treats the latter as a dependent variable of the former. As a recent government report stated: ‘Highly skilled immigrants make an invaluable contribution to Canadian society. As they integrate into communities, these immigrants become integral parts of all facets of Canadian society. They enrich the cultural and social fabric of Canada’ (CIC 1999c: 28, emphasis added). Even the seven to eight thousand government-sponsored refugees chosen each year are assessed for their ability to establish themselves successfully in Canada; those who have suffered most will be passed over in favour of those likely to perform best in the labour force.

The point system formally eliminated race and ethnicity from the selection process and focused almost entirely on education, training, language ability, and experience as indicators of future labour market performance. In contrast to the explicitly racist criteria for selection in the past, China/Hong Kong, the Philippines, and the Indian sub-continent are the top three regional sources for recent immigrants (CIC 1999a, 7). Unfortunately, discrimination and protectionism persist in the labour market, with the result that many high-skilled immigrants do not find work commensurate with their abilities or expectations because their foreign qualifications go unrecognized. In other words, the points system operates as an idealized representation of how the market ought to work. Unlike temporary workers, immigrants need not obtain a job offer from a specific employer as a precondition to entry. Therefore, the job validation process does not apply and there is no assurance that prospective employers will recognize an immigrant’s foreign qualifications.

The discrepancy between how the point system imagines the labour market should work and how the labour market really works ensures that Canada retains a highly educated and skilled reserve of cab drivers, pizza delivery people, homecare givers, and factory workers. On the other hand, the point system accurately mirrors the market’s devaluation of skills traditionally associated with women, which is one of the reasons why women are relatively less likely to apply and to qualify as independent immigrants. The point system attempts to mimic the mar-
ket's evaluation of skills and places a premium on educational attainment, advanced technical qualifications, and work experience. When one takes into account differential access to education and training for girls and boys in many foreign countries, it is predictable that fewer women than men 'have what it takes' to succeed under the point system. Anecdotal reports also relate that CIC discourages qualified married women from applying as independent immigrants if their spouse also qualified. Between 1996 and 1998, men comprised 70 per cent of principal applicants in the economic class (CIC 1999a).

Family reunification is the other pillar of Canadian immigration policy. Nation building has always meant creating future generations of Canadians. The obverse is that certain migrants considered unworthy of membership in the nation are denied the right to reunite with their families or penalized for having families at all. Up until 1967, sponsorship provisions still discriminated on the basis of nationality (Kelley & Trebilcock 1999, 333). The fact that Mavis Baker, an undocumented, unmarried Jamaican domestic worker, gave birth to four children while in Canada was hardly viewed as a positive contribution to the future of Canadian society by the visa officer assessing her application to be landed on humanitarian and compassionate grounds. The confluence of racialization and family ideology in this context is particularly stark.

Immediate family members (spouses and dependant children) who immigrate with the principal applicant in the independent class are known as 'accompanying dependants.' Close relatives (spouses, dependant children, parents, and grandparents, etc.) living abroad who wish to join a permanent resident or Canadian citizen in Canada are labelled 'members of the family class.' Accompanying dependants and members of the family class are exempt from evaluation under the points system, as they are presumably not entering the labour market. Insofar as this assumption applies to female spouses, it is counter-factual. Immigrant women have higher labour force participation than native-born women, albeit in more precarious, poorly paid jobs.

We should not sentimentalize the rationale for exempting accompanying dependants and the family class from the points system. Admission of family members is conceptualized as ancillary to the economic objectives of immigration policy overall (Hathaway 1994, 6). The family constitutes both a social and economic unit. To use a contemporary example, wages remitted by an immigrant to family members abroad is money withdrawn from the Canadian economy. More generally, the family is also the site for the social and physical reproduction required
to sustain the market citizen, traditionally furnished by the unpaid labour of women in exchange for material support.

The obverse to male overrepresentation in the independent class is female overrepresentation in the family class. In the period 1996–8, at least 60 per cent of accompanying dependant spouses were female, and women comprised approximately 64 per cent of spouses and fiancées entering as members of the family class. Monica Boyd (1999a, 15) reports that for the ten-year period 1985–94, the ratio of females to males immigrating as spouses was almost 7:1.

The bottom line is that despite the growing number of female migrant workers, most adult women still immigrate to Canada as spouses, and most spouses who immigrate to Canada are women. The admission of wives to Canada as accompanying dependants or members of the family class effectively inscribes onto immigration law a gender order that identifies male as independent/economic/producer and female as dependant/family/reproducer.

The rigidity of these categories does not necessarily reflect women’s labour force capabilities or actual participation. Nevertheless, rules regarding the eligibility of sponsors, the admissibility of sponsored family members, and the imposition of a sponsorship undertaking all operate from the tacit assumption that the members of the family class are economic dependants. At the level of discourse, the sharp distinction between independent and dependent immigrants created and enforced by these categories also contributes to a cultural construction of immigrants as wedded to a static, traditional, patriarchal family structure, whereas Canadian men and women are seen as increasingly adopting more egalitarian, flexible, and ‘progressive’ family forms (Lutz 1997a, 105).

In practice, men and women enter Canada as immigrants in roughly equal numbers. The combined number of accompanying dependants and members of the family class exceeds the number of independent immigrants, with the result that females comprise about 51 per cent of immigrants to Canada each year.

A. Enforcement of Family Sponsorship Undertakings

Perhaps the strongest indication of the economic underpinnings of the family class is the sponsorship undertaking. A permanent resident or citizen may sponsor an applicant member of the family class by first demonstrating sufficient income to support the applicant. Next, the
sponsor must provide an unconditional undertaking to provide for the financial needs of the applicant for up to ten years. From the outset, the objective is to ensure that the sponsored member of the family class will not become a burden on the state.

What legal difference does it make if permanent resident status is acquired on the basis of evaluation under the point system or on familial relationship? If a woman successfully applies to immigrate and enters Canada with her spouse and children, the short answer is ‘not much.’ The spouses’ respective legal statuses as permanent residents and entitlements are identical, whether the individual entered as an accompanying dependent or as an independent immigrant. No sponsorship undertaking applies. However, if the would-be immigrant applies to be sponsored as a member of the family class by a person who is already a permanent resident or citizen, the scenario changes.

Some spouses of Canadian citizens or permanent residents apply to immigrate from within Canada. They may have come to Canada on temporary visas (student, visitor, worker) or they may be unsuccessful refugee claimants. Their Canadian/permanent resident spouse must apply to sponsor them, and the applicant is usually permitted to remain in Canada pending processing of the sponsorship application. Until such time as the application is ‘approved in principle,’ the applicant (unlike the spouse of a ‘highly skilled’ temporary worker) cannot work legally. She is also ineligible for public health care, settlement assistance, or social assistance. Due to persistent delays in the processing of applications, an applicant can spend as long as two years in limbo awaiting approval in principle. During this time, she is financially dependent on her husband, who may withdraw his sponsorship application at any time. If he does so, processing ceases and the applicant becomes liable to removal from Canada.

A superb study on the impact of sponsorship on francophone migrant women in Ontario (Côté, Kérisit, & Côté 1999) demonstrates how these restrictions on inland applicants structures the very dependency that the neo-liberal state both disdains and expects in women in the family class (Cossman, this volume). Much like foreign domestic workers, women in the family class know that their continued presence in Canada depends on their relationship to a private actor. Women living in these conditions are especially vulnerable to financial, physical, and sexual abuse from men who choose to exploit this imbalance of power. Despite depictions of gender relations among migrant communities that attribute domestic violence to ‘cultural norms,’ immigrant women point out a connection between immigration status and abuse of power:
‘Dans mon pays, il n’avait pas l’occasion de me faire sentir dépendre de lui et comme on lui avait offert cette occasion sur un plateau en or, il en a abusé’ (Côté et al. 1999, 114).17

Women who are sponsored from abroad enter Canada as permanent residents, enabling them to seek work immediately. The sponsorship undertaking binds their sponsor to a ten-year support obligation. The first regulation formally imposing a duty to ‘receive and care’ for sponsored family members appeared in 1946 (Kelley & Trebilcock 1999, 321), and was incorporated into the 1952 Immigration Act. Still, provincial and municipal governments complained that sponsorship default left them providing social assistance to sponsored immigrants. The 1976 Immigration Act responded by stipulating that any social assistance/welfare expenditures paid to a member of the family class within ten years of landing are recoverable from the sponsor. The intent of the undertaking is to privatize any costs associated with supporting a family member that the state would otherwise bear. The obligation persists regardless of any deterioration in the financial circumstances of the sponsor or the relationship between the parties during the ten-year period.

The sponsorship undertaking can hardly be traced to the revival of the neo-liberal state. Arguably, its introduction should be attributed to the rise (rather than decline) of the Keynesian welfare state in the post-war era, and a concomitant political decision to exclude immigrant families from membership in it. While this may appear anomalous, the sponsorship undertaking is consistent with historical trends in Europe which co-relate the growth of the welfare state to the consolidation of territorial nation states in the last 150 years. Stated briefly, the more responsibility governments undertook to ensure the welfare of those over whom they exercised authority, the greater the perceived need to circumscribe the social and geographical boundaries of eligibility for those benefits and perquisites. Or to put it another way, the more membership has its privileges, the more important it becomes to deny membership, whether legal or social.

We cannot assess how immigration policy works without appreciating the disjuncture between law and its administration. The sponsorship undertaking binds the federal government and the sponsor, but it is the provincial government that distributes welfare and many other forms of social assistance. Neither the applicant nor, until recently, the provincial government were parties to the sponsorship undertaking. The result was that undertakings existed on paper, but were rarely monitored or enforced.

A development which can be attributed to a neo-liberal revival is
more aggressive enforcement of the sponsorship undertaking. Borrow-
ing from the contemporary discourse in family policy about ‘deadbeat
fathers,’ the ‘deadbeat sponsor’ has now entered the immigration ver-
nacular to describe the sponsor who neglects his or her sponsorship
obligation, callously abandoning sponsored family members or wilfully
colluding with them to cheat Canada’s welfare system.

Although the undertaking is only enforceable against the sponsor for
recovery of social assistance payments to the sponsored family member,
sponsors and sponsored immigrants of both sexes are affected by the
enforcement measures, across the full range of relationships between
sponsors and family members (children, parents, siblings, grandchil-
dren, and spouses). My comments focus on spousal sponsorships, though
sponsorship of other family members may raise separate concerns.

Quebec and Ontario take the lead in this area. Quebec exercises
greater control over immigration selection and settlement than do
other provinces. Unlike the federal government, Quebec spousal spon-
sorship undertakings last three years, terminating with eligibility for citi-
zenship. In 1996, the Quebec government began enforcing sponsorship
obligations; between 1 April 1996 and 31 December 1997 the Quebec
Ombudsperson received 396 complaints in respect of this new policy
(Jacoby 1998, 1).

The complaints centred on poor communication of information, the
failure to take into account reasons for non-payment beyond the spon-
sor’s control (e.g., un- or underemployment, lay-off, illness) or deterio-
ration in the relationship between sponsor and sponsored family
member (i.e., marriage breakdown, estrangement between parents and
children). For example, the Quebec government obliges sponsors on
social assistance to forego part of their benefits to reimburse amounts
paid to the sponsored recipient. While Quebec authorities claimed to
be sensitive to situations of domestic violence by suspending debt collec-
tion from sponsors where the sponsoree was the aggressor, the debt
continued to accumulate. In response to the array of problems in the
system, the Quebec Ombudsman issued several recommendations for
reform.

While the Quebec enforcement scheme targets sponsors, the Ontario
strategy thus far has targeted sponsored recipients of social assistance.
Under a regulation passed pursuant to the 1997 Ontario Works Act
(O. Reg. 134/98) the Ontario government automatically deducts a min-
umum of $100 from the monthly benefit payable to sponsored immi-
grants living apart from the sponsor regardless of whether any financial
support is actually available or forthcoming from the sponsor. Payment can be reduced by more than $100 or even refused entirely if the social worker decides that the sponsor is able to pay and the sponsored family member has made insufficient efforts to obtain support from the sponsor (O. Reg. 134/98, s. 13). The only exceptions to the deduction are in cases where the parties live together and both are on social assistance, or where the recipient of social assistance can furnish proof in the form of police reports or health/community service providers that she was the victim of domestic violence (O. Reg. 134/98, s. 51). Given the legal, social, and personal barriers that immigrant and racialized women encounter inside and outside their communities in accessing protection from domestic violence, the evidentiary burden imposed on them by the Ministry of Community and Social Services erects a significant obstacle to acquiring social assistance (Côté et al. 1999, 204–7).

The strategy of familialization has been a key ideological and fiscal instrument for the dismantling of the welfare state (Brodie 1997, 236). In the context of immigration, however, recent initiatives by provincial governments are simply activating commitments already encoded in federal law. In Quebec, this redounds primarily to the detriment of sponsors, whatever their prior understanding of their obligations or the reasons for their default. Ontario targets the recipients, presumably because it is easier to save money by not paying it in the first place than by trying to recover it. In the process, the Ontario government effectively deems permanent residents who happen to be members of the family class less deserving of public assistance solely because of the legal category in which they immigrated to Canada. Given the constitution of the family class, the policy has an obvious discriminatory impact on women, non-citizens, and racialized minorities.

One should not lose sight of the fact that in recent years the Ontario government has diminished the range of entitlements constituting social citizenship for all Ontarians. It is critical to realize, however, that sponsored women in Ontario are restricted to an even smaller slice of that shrinking pie because they entered as members of the family class. This development is not restricted to welfare. A similar trend can be detected in respect of access to health care coverage, where cost-saving measures adopted by the provincial government narrowed the definition of an Ontario resident, imposed a three-month waiting period on eligibility, and changed the basis of entitlement from family to individual. Eight immigrants unsuccessfully challenged the new regulations as violating Charter-protected rights. At present, the combined effect of federal
immigration law and Ontario provincial social welfare legislation explicitly denies sponsored immigrants (many of whom are women) equal social citizenship long after and despite the acquisition of legal citizenship. Côté et al. (1999, 222) aptly describe sponsored spouses under this regime as "citoyennes de deuxième classe." Viewed through the optic of familialization, the IRPA offers an ambiguous response to the current situation. Assessing the meaning or impact of immigration legislation is often futile in the absence of regulations, administrative guidelines, and data about implementation. In general, however, the new legislation eases some of the current entry rules for family members abroad, while imposing more stringent requirements on their Canadian sponsors. The federal government will follow Quebec's lead and reduce the sponsorship undertaking from ten to three years for spouses. It will also exempt sponsored spouses and dependent children from the current admission bar on grounds of "excessive demands on health or social services," thereby loosening restrictions on family class admissibility.

These initiatives, which enlarge the possibility of access to state support by non-citizens, do not sustain a thesis of creeping privatization. However, they are met with countervailing initiatives directing at tightening sponsor eligibility requirements. These include plans to deny sponsorship to persons currently in receipt of social assistance (unless it is for reasons of disability), with some flexibility "to facilitate the entry of some family members on compassionate grounds if their presence in Canada is likely to improve the financial situation of the family" (CIC 2001). Those in default of court-ordered spousal or child support payments are also ineligible to sponsor. The new legislation further intends to strengthen the federal government's ability to enforce sponsorship undertakings. The minister of immigration, Elinor Caplan, proposed requiring prospective sponsors whose income falls below the "Low Income Cut-off" to post a bond as a precondition to admitting family members, to be set off against future social assistance payments (CIC 2000a). Each of these measures is designed to ensure that members of the family class do not access public income support.

One unsolved mystery of the family sponsorship regime is the rationale behind imposing sponsorship undertakings on immigrant families whose members arrive at different times while families who arrive together as principal applicant and accompanying dependants are not similarly encumbered. The putative justification for sponsorship undertakings is that immigrants are beholden to Canada for receiving them. The state extends to them the privilege of entry, but only on condition
that they do not exploit Canada’s beneficence by drawing on public services. As a pragmatic matter, the fact that non-citizens are disenfranchised means that the government can impose burdens on them at low political cost. Yet these factors cannot explain the disparity in treatment of accompanying dependants versus members of the family class. Nor is it apparent why immigrant families (especially nuclear families) warrant greater surveillance of their mutual support obligations than do Canadian families. Do policy makers suspect that, absent the sponsorship undertaking, immigrants are more likely to abandon family members? Do they consider the family support provisions under the Criminal Code and family law legislation inadequate with respect to immigrant families?

Perhaps the state imposes the sponsorship undertaking as a precondition to admission of family class members simply because it can. The desire of separated family members to reunite and the need to secure the state’s permission to accomplish this goal gives the Canadian government leverage to ‘familialize’ social costs that it lacks in other domains. After all, it would be virtually unthinkable to demand that prospective parents sign an undertaking prior to the admission of a child into Canada via birth, or to prohibit Canadian parents on welfare from having children. And, as noted earlier, the state does not insist on a sponsorship undertaking from principal applicants arriving with accompanying dependants, presumably because such a move might deter the migration of the primary applicant, the economic immigrant. The imposition of a sponsorship obligation on family class immigration may be as much a matter of political and practical feasibility as an indicator of the normative distinction between [legal] members and non-members. After all, as Fudge and Cossman argue (Introduction, this volume), the state does utilize other (albeit less draconian) devices to familialize costs among citizens. Moreover, while section 27(1)(f) of the Immigration Act permitted the state to strip permanent resident status from a holder who ‘wilfully fails to support himself or any dependent members of his family in Canada,’ the provision was rarely used and does not appear in the new legislation. Deportation of ‘public charges’ at the present stage of liberal democratic governance in Canada would come at too high a political and bureaucratic cost.

The family class is the least favoured category of immigrants from the perspective both of policy makers and many critics of immigration policy (Stoffman 1993). Admission of the family class is supply driven. Applicants do not have to audition under the points system and are therefore
constructed as B actors in the labour market. Until recently, the family class was also the single largest class by a wide margin. This owes primarily to the absence of quotas and the fact that eligibility is ascriptive, not performative. In theory, anyone who proves the requisite relationship to the sponsor and passes the various medical and security screens is entitled to immigrate as a member of the family class.

Although there has been some tinkering over the years with the range of eligible relationships in the family class, definitional modification alone cannot account for the precipitous decline in the family class relative to the economic class. The ratio of family class to economic class immigrants admitted to Canada reversed from almost 3:2 in 1993 to slightly more than 1:2 in 1998 (CIC 1999a, 3; 1996a, 26). Anecdotal reports suggest at least two additional factors are at work. First, a reduction in staff in the CIC has led to greater delays and inefficiencies in processing applications. Priorizing among classes of immigrants means allocating some applications to the bottom of the pile, which in turn may result in a decline in the number of sponsorship applications processed in any given year and a growth in the backlog. Second, the exercise of discretionary power by immigration officials locally and abroad can make it tougher for family class applicants to qualify. Bureaucratic obstacles may include rejecting the probity of identity documents establishing the requisite relationship to the sponsor, demanding expensive DNA testing, or challenging the adequacy of arrangements made by the sponsor to support the applicants. Each of these ‘low visibility’ mechanisms of adjusting admission rates may have the effect of stalling family reunification for months or years, if not indefinitely. In the meantime, the state continues to benefit from the contribution of the preferred economic migrant.

B. Right of Landing Fee

Another source of delay in family reunification is the Right of Landing Fee (ROLF) imposed on persons seeking permanent resident status. The cost is $975 per adult. This so-called head tax is not a cost recovery device – immigrants and inland refugees pay an additional $500 ($100 for children) to defray the expense of processing the application for permanent residence. If and when they wish to become citizens, they must pay $100 for the ‘Right of Citizenship Fee’ in addition to processing fees of $100 to $200. Like the Chinese head tax, the fees paid by newcomers generate significant revenue for the Canadian government.
In 1997–8, immigration and citizenship fees netted over $360 million (CCR, 1999). The Canadian Council for Refugees calculates that the average burden on newcomers from entry to citizenship has more than trebled from $460 in 1993 to $1,526 in 1998 (CCR 1999). The CIC website dubs the ROLF a ‘privilege fee,’ and justifies it in the following terms: ‘These fees provide partial compensation for the many intangible economic, social and legal rights and privileges that citizenship and permanent resident status confer. They are designed to increase equity in the revenue system by shifting a greater proportion of the financial responsibility from general taxpayers to the principal beneficiaries of the services’ (http://www.cic.gc.ca/english/info/fees-e.html).

In general, the principle of equal citizenship militates against selective taxation: we do not tax old people more even though they consume a disproportionate share of health care services, nor do we tax parents more than childless people to cover the cost of public education. Available data suggests that in the long run, immigrants as a whole contribute more than the native-born to the public fisc than they draw out of it (Kelley & Trebilcock, 1999; Akbari 1995, 1999). Over time, they utilize public assistance at a lower rate than native-born Canadians. Moreover, Canada benefits (to the extent that it chooses to do so) from the education, skills, and experience immigrants acquire in their countries of origin at no cost to Canada. Labelling ROLF a ‘privilege fee’ reinforces the deeply entrenched notion that the state’s right to exclude is unqualified. The corollary is that admission is a privilege which, in turn, translates into a debt that immigrants ‘owe’ Canada, trading on the unsubstantiated proposition that the burdens of immigration exceed the benefits. In any case, the ‘head tax’ is paid into the general revenue fund of the federal government. It is not allocated to subsidizing the ‘up-front’ social costs of integration and settlement, which have been increasingly downloaded to provincial and municipal governments.

The arrival of the Kosovar refugees in 1999 generated substantial public pressure to exempt refugees from the head tax, which materialized in a laudable decision not only to exempt refugees from paying the ROLF, but to refund amounts paid in the past by all refugees. Immigrants, however, must still pay. Maintenance of the ROLF appears especially incongruous since 1999, when the government first boasted of paying off the deficit. Similarly, various pundits and politicians (including Finance Minister Paul Martin) have endorsed cuts to income tax as a means of stopping an alleged ‘brain drain’ of highly skilled Canadians to the United States (many of whom gain admission under the NAFTA
labour provisions); meanwhile, immigrants to Canada merit no relief from the additional tax burden they bear (National Post 1999c). Like the live-in caregiver program, the ROLF suggests that neo-liberal logic loses its charm for policy makers at approximately the point when it might actually benefit migrants, especially those from the South.

The principal impact of the ROLF is to increase the cost to each person who immigrates, meaning that families may elect not to migrate together as principal applicant and accompanying dependants and/or be forced to live apart longer in order to amass the resources to be reunited in Canada. And, of course, money spent on the head tax is money unavailable to the immigrant family to 'look after their own,' as the neo-liberal state instructs them to do.

C. Same-Sex Partners

Fudge and Cossman (Introduction this volume) argue that the 'neo-liberal state seems less concerned with who a family is (traditional/non-traditional) than with what a family does (take care of its members).'

Changes under the IRPA substantiate this hypothesis by expanding eligibility for the family class in various ways. For present purposes, the most interesting proposal involves the addition of same-sex partners to the family class. Since the early 1990s, CIC tacitly conceded that the Immigration Act's definition of spouse as 'the party of the opposite sex to whom that person is joined in marriage' (s. 2) would not withstand a section 15 Charter challenge. Indeed, almost any time a Canadian citizen or permanent resident threatened to attack the exclusion via litigation, CIC found a discretionary route to facilitate the entry of that person's same-sex partner.

In 1994, an enterprising visa officer devised a systematic method of dealing with such applications. It involved advising the non-Canadian partner to apply as an independent (economic) immigrant. Under the points system, visa officers possess residual discretion to award an applicant up to ten points for 'personal suitability' (Immigration Regulations 1978, Schedule I) or to issue an immigrant visa to 'an immigrant who is not awarded the number of units of assessment required' under the points system if 'there are good reasons why the number of units of assessment awarded do not reflect the chances of the particular immigrant ... becoming successfully established in Canada' (s. 11(3)(b)). Furthermore, Immigration Regulations, 1978, section 2.1 permits a program manager at a visa office to exempt an applicant from the points assess-
ment but issue an immigrant visa anyway where 'the person's admission should be facilitated owing to the existence of compassionate and humanitarian considerations.' Independent immigrant applications made by same-sex partners benefit from the favourable exercise of discretion on one or more of these bases, with the result that they eventually receive visas qua independent immigrant. The *Immigration Manual* incorporates the process in guidelines which visa officers are expected (though not mandated) to apply.

According to Lesbian and Gay Immigration Taskforce (LEGIT) advocate Christine Morrissey, the policy has proved enormously successful. She estimates that about seven hundred people have entered on this basis since 1994, and that the success rate among applicants is virtually 100 per cent. Of course, LEGIT continue to advocate for inclusion of same-sex relationships in the family class, and the Minister of Citizenship and Immigration complied by adding a gender-neutral category of 'common-law partner' to the family class. How will the material situation of lesbian and gay couples change if processed under the family class? First, CIC will scrutinize the couple to assess the bona fides of the relationship. Proposed regulations under the IRPA require that the couple prove cohabitation 'in a conjugal relationship' for at least one year unless cohabitation is precluded by 'persecution or any form of penal control.' Anecdotal reports from within the bureaucracy suggest that the factors will more or less mimic the indicia of conjugality drawn from heterosexual relationships (*M. v. H. 1999*). The nature and quantum of evidence required to prove persecution or penal control must await elaboration.

Without the spectre of Charter litigation hanging over visa officers, there is little risk to rejecting same-sex applicants in the family class on grounds that their relationship to the sponsor is one of convenience entered into for purposes of immigration. Rejection of heterosexual spouses on these grounds is not uncommon (though it varies dramatically by region). A certain number of same-sex sponsorships may also be refused as 'relationships of convenience.' Finally and most importantly, lesbian and gay couples will be subject to the same sponsorship obligations as other members of the family class. Given the application of the undertaking to same-sex sponsors, the willingness of the government to recognize same-sex couples under the family class comports with a neo-liberal/functionalist rather than neo-conservative/ideological approach to defining family. Its effect is to expand the range of relationships recognized as familial, and thereby to subject members to the expectation of mutual financial support (Cossman, this volume).
Ironically, lesbian and gay immigrants currently enjoy the most advantageous position possible. Their relationship to a citizen or permanent resident facilitates entry, but they ‘cross the threshold’ as members of the economic class, with relatively little of the invasive scrutiny and none of the sponsorship obligations borne by spouses in the family class. Arguably, this anomalous situation arose because the bureaucracy anticipated (rightly or wrongly) that the courts, if given the opportunity, would opt for a neo-liberal definition of family and strike down the exclusion of same-sex partners as a violation of equality rights under the Charter. Whether owing to neo-conservative conviction or lack of political will, legislators seemed unlikely to take the initiative to pre-empt a Charter challenge by amending the law. CIC’s solution shrewdly steered a middle course that allowed it to avoid litigation in the absence of legislative change, albeit at the cost of transparency and accountability. It bears mentioning that the majority of applicants thus far have also been white people from the North, a group not otherwise strongly represented in the immigrant pool (Morrissey 1999).23

While the foregoing is not an argument against expansion of the family class definition to include same-sex couples, it is a reminder that what is being sought by recognition as family is access to a regime that offers the benefit of relatively easy entry at the cost of intensified surveillance of the relationship. It also imposes a particularly robust privatized model of financial support in the form of the sponsorship undertaking. Though the categories of dependent immigrant, accompanying dependent, and family class immigrant are formally gender-neutral, they codify and replicate a family model premised on a male-breadwinner model with dependent spouse and children. Consequently, while incorporation of same-sex partners as members of the family class looks like victory on an ideological level, the practical implications are ambiguous and uncertain.

III. Settlement and Integration

Settlement and integration services began as private ventures, supplemented by inducements (e.g., free or subsidized passage, land grants) proffered by the state to preferred immigrants. Long before the rise of the welfare state, local charities and religious and ethno-cultural community organizations furnished settlement services to newcomers on a volunteer basis. While the state eventually recognized a public interest in and responsibility for facilitating the integration of newcomers, both the federal and provincial governments avoided playing a dominant
role in service delivery, leaving it to educational institutions and local associations and ethno-cultural/racial groups affiliated with the various immigrant communities. Not only was this decision practical for the government, it was probably wise insofar as community-run initiatives were, in principle, more likely to be culturally sensitive than programs formulated and imposed by bureaucrats.

The central role played by non-profit, community-based immigrant service agencies (ISAs) does not result from a devolution of responsibility from the public to the private sector, but reflects a government decision to underwrite activities previously consigned to the volunteer sector. As the government came to recognize that facilitating their full social, cultural, economic, and linguistic participation in Canadian society enables Canada to realize maximum benefit from newcomers, it expanded the range and scope of services available to them. As Lisa Philipps observes, neo-liberal discourses of voluntarism and community responsibility lubricate the slide by which public services are downloaded to the non-profit sector and community groups (Philipps, this volume).

ISAs provide a wide range of services, including language training, reception and settlement, health care, housing, employment, mental health services, skills training for refugee women, and shelters for abused women from specific ethno-racial communities. Because they are institutionally independent of government, many ISAs also maintain an activist mandate and engage in lobbying and advocacy, anti-racism initiatives, coalition building, and public education. However, as the recent case of Vancouver Society of Immigrant and Visible Minority Women v. Canada illustrates (see Philipps, this volume), these organizations pay a price for their equality and social justice orientation insofar as Revenue Canada narrowly interprets the term ‘charitable purposes’ under the Income Tax Act. This limits the ability of non-profit ISAs to attract private donations. In addition, when administering specific government programs ISAs are constrained by federal or provincial policies dictating eligibility and content.

A. Language Training

Language training is a critical component of settlement services, and language facility is key to liberating the other forms of social and human capital that immigrants possess. Language ability among immigrants is also highly gendered: recent female immigrants are less likely to speak one of Canada’s host languages (English and French) than recent male
immigrants (Boyd 1992, 357). Visible minority immigrant women who do not speak English or French have the highest unemployment rate and lowest earnings of all sex and language fluency groups (Boyd 1992, 351; 1996, 158). Surprisingly, 40 per cent of immigrant women with low or no host language skills are nonetheless employed, usually in service or manufacturing, especially the garment industry. They work longer hours, but more irregularly than other foreign-born women. Though many of these women were poorly educated in their countries of origin, others are well educated but unable to exploit their human capital because of weak host language ability. In addition to the impact of language on labour market performance, inability to converse in a host language limits access to information, opportunities, and autonomy and heightens ‘the potential for intensified isolation and dependency on those who act as linguistic brokers’ (Boyd 1992, 362). A person who cannot communicate in the host language is disenfranchised as a public citizen in almost every way imaginable.

In 1997, the Immigration Legislative Review Advisory Group (ILRAG) struck by then Citizenship and Immigration Minister Lucienne Robillard imported an explicit neo-liberal agenda into its analysis of immigration policy. At the outset, it identified ‘tax fatigue’ and ‘increased fiscal constraints’ as influencing their subsequent analysis and recommendations (ILRAG 1997, 8). The authors later noted the correlation between language ability and labour market performance and ‘successful integration’ (58). It translated this observation into a recommendation that independent (economic) immigrants possess basic proficiency in one of the official languages as a prerequisite to admission, and that ‘no other attribute ... be able to substitute for this lack of ability’ (58).

Of course, the majority of potential economic immigrants come from non-English and non-French speaking countries. This did not trouble the authors, who asserted that ‘[o]fficial language ability can be acquired [overseas] by a motivated person who wants not only to qualify for immigration to Canada, but to succeed and to participate fully in Canadian society’ (58). The authors also observed that metropolitan areas receiving the bulk of new immigrants ‘must cope with the strain exerted on their classrooms by the lack of official language skills – and the lack of adequately funded language training.’ The solution to inadequate funding, they declared, was to impose a tuition fee ‘reflecting the cost of basic language training in Canada [on] all sponsored Family Class immigrants who are six years of age or older and have not achieved a basic knowledge of English or French’ (45).
These language recommendations are a bald attempt to reprivatize settlement by compelling immigrants to internalize the cost of language training. Seen in this light, the ILRAG proposals are the logical endpoint of a fiscally driven immigration policy less interested in maximizing long-term social and economic returns from newcomers than in minimizing short-term investment in language and labour market training. Implementation of the ILRAG proposals would probably disable Canada from attracting enough immigrants to meet its annual immigration targets, and would inevitably increase the debt burden on immigrant families. It would also render language training an unaffordable luxury for many sponsored spouses, who would remain unemployed or trapped in the low-wage occupations reserved for those with little or no facility in the host language. Commentators denounced the proposals so swiftly and so vehemently that then Minister Robillard disavowed them almost immediately.

Quite apart from ILRAG, federally funded language training programs have evolved from a gendered model of unequal access to a gender-neutral model of equal inaccessibility. As Monica Boyd explains, from 1986 to 1992, federal funding for language training allocated most resources to those immigrants ‘destined immediately for the labour force,’ a group deemed to exclude sponsored immigrants who had no language skills and/or no past labour force participation. Furthermore, family class participants in the program were ineligible for the living allowance available to other participants. The assumption was that sponsors would assume financial responsibility for the sponsored immigrant. In practice, of course, migrant households depended on the income from the ‘dependent’ spouse, meaning that women working in the low-skill, low-paying jobs where requisite language ability was minimal could not afford to forgo their income to attend job market language training. A smaller budget was reserved to provide basic linguistic coping skills to adults not destined for the labour force, namely immigrant women caring for children (Boyd 1992, 360). Thus, the older system preferred to invest public funds in those deemed likely to produce the greatest return in productivity as market actors. Members of the family class were assumed to represent a poor investment risk, and treated accordingly.

In 1992, the government reversed its emphasis and allocated approximately 80 per cent of its language training budget to ‘Language Instruction for Newcomers to Canada (LINC),’ which is open to adult immigrants (though not to refugee claimants) regardless of their projected labour market destination. The remaining funds are channelled into a
job-specific 'Labour Market Language Training Program' (LMLT). The government financed this expansion of service in part by abolishing living allowances for all participants. Participants in the LINC program thus rely on employment insurance, social assistance, or family members for financial support.

The reallocation of funds in the current system improved upon its predecessor by directing more funds at those most lacking in language skills. The program also provides a childcare service to facilitate attendance by women with children. It would be churlish not to credit the government with making these positive changes to the system. Nevertheless, it should be noted that the present arrangement does not diminish the pressure on women whose husbands are employed (meaning the family is not in receipt of social assistance) to forgo language training in favour of a second paycheque. It also disqualifies persons who have become Canadian citizens on grounds that they must have acquired proficiency in the host language to pass the citizenship test. Given that citizenship judges have discretion to waive the language requirement on humanitarian grounds, (Citizenship Act, s. 5(3) (a)), this inference is no more valid than the assumption that sponsored spouses are not destined for the labour market. Moreover, Boyd (1996, 158) indicates that women are more likely than men to be both Canadian citizens and lacking proficiency in English or French. Thus, the citizenship disqualification likely has a gendered impact on access to language training.

While the framework of the language training programs remains in place the IRPA increases the relative weight granted to official language ability under the points system. This may reduce demand for language training by independent immigrants, but it does not necessarily follow that consumption of language training by family members would also drop.24 It is clear that increasing the weight attributed to language ability is designed to reduce public investment in immigrant settlement by shifting more of the cost of language acquisition onto the prospective immigrant. From the perspective of government, this privatization strategy has the political advantage of being less visible than functional analogs such as cutting funding, restricting access, or imposing user-pay systems for language training within Canada.

B. Commodification in the Non-profit Sector

Although settlement services for immigrant populations have always been partially privatized (in that they were provided by the voluntary or
non-profit sector), the basis upon which these services are provided is shifting. Settlement services are evaluated not only in terms of integrating newcomers into Canadian society, they are increasingly measured against market-based norms. This is particularly evident in Ontario, where the provincial government has enthusiastically embraced privatization, and especially in Toronto, which now bears much of the responsibility shed by the provincial government.

In 1998, 53 per cent of immigrants and refugees settled in Ontario and 42 per cent of all newcomers to Canada headed for Toronto. Close to half of Toronto’s population was born outside Canada. In 1994, about 35 per cent of settlement funding came from the federal government and 42 per cent from the province (T. Richmond 1996). Government restructuring in the last five years has meant, quite simply, massive budget cuts at the federal and provincial levels in immigration settlement services, as well as progressive downloading of responsibilities from the federal to provincial and municipal governments, and eventually to the Immigrant Settlement Agencies (ISAs).

A 1996 research project estimated that from 1993 to 1996, federal funding of programs was cut by about 10 per cent per year, while provincial funding was frozen (T. Richmond 1996, 4). More recently, the Ontario Coalition of Agencies Serving Immigrants (OCASI) reported that between 1995 and 1999, provincial funding declined by over a third and that it will be reduced again in the next fiscal year (OCASI 1999).

Deficit reduction has provided the rationale for cost-cutting in government, and privatization furnishes a strategy. In Ontario, slogans such as ‘from demand driven to affordability ... from state responsibility to personal and community responsibility’ (Ontario Ministry of Community and Social Services 1996, 2) provide an ideological justification for the state’s abdication from social services. With respect to immigrants, the province (and now municipalities) can also invoke the standard constitutional complaint that since the federal government is responsible for admitting immigrants, it should pay a greater share of expenses associated with their settlement (Spears 1999). Finally, demonization of newcomers – cultivated and exploited all too often by mainstream media and right-wing politicians – create a climate of public opinion that makes ISAs soft targets for budget slashing.

One of the first programs eliminated in Ontario was the Ministry of Community and Social Service’s Multicultural Access to Social Assistance Initiative (MASAI), which supported ISA clients. A government that is busy figuring out how to chase down ‘deadbeat sponsors’ and
penalize family class recipients of social assistance is not likely to allocate resources to help immigrants locate social assistance in the first place. Since 1995, at least forty programs for newcomers have been cancelled; about half of these programs provided settlement services.

Commodification of settlement services includes a variety of strategies beyond budget cutting. One technique is to download delivery of services from government to ISAs. Some of these services had been initiated and retained by government because they were money-losers. Devolving them to ISAs becomes problematic because the agencies do not have the capacity to run deficits, meaning that program delivery suffers. Some service providers also express discomfort with increased pressure to play a policing role, wherein they are expected to monitor and report attendance of program participants in receipt of social assistance.

Another move is the displacement of ongoing funding with short-term market-based delivery models where specific service contracts are allocated on a competitive tendering process. In addition, the non-profit sector now competes with for-profit providers who may lack immigration-related experience or commitment. Community-based ISAs experience greater pressure to enter into ‘partnerships’ within and without the ISA sector. One of the risks is a loss of focus on immigrant and refugee needs, as mainstream organizations assume a greater degree of involvement and control. In addition, small specialized ISAs, including those that serve women, tend to get squeezed out because they lack the resources and infrastructure required to compete effectively for contracts.

Many settlement workers are migrant women themselves. Commodication of the settlements sector affects them both as clients and as service providers. As Jo-Anne Lee reports (1999, 97), restructuring in the front-line settlement sector contributes to ‘working conditions for immigrant and visible minority women [that are] characterized by part-time, low waged, term-limited, and unstable employment’ (98), arising from short-term, contract-based funding. This process is also racialized, insofar as white, Canadian-born women predominate in the better paid and more stable jobs related to ESL and employment training (Lee 1999, 98). Funding cutbacks and contraction of services have cost women jobs or required them to assume the additional work of former colleagues. Some are also expected to ‘volunteer’ without pay to fundraise, provide outreach or community development, and to keep programs afloat during periods of transitional funding (Lee 1999, 99–100). This ethic of voluntarism is, of course, highly gendered and ethnicized, insofar as it plays on assumptions about women’s traditional roles and cultural ‘dif-
ferences' in racialized ethnic minority communities' responses to their members' social welfare needs' (Lee 1999, 103).

The effect of the pressure on the non-profit immigrant settlement sector 'to transform itself to operate according to market principles' (Brodie 1999, 6) is difficult to disentangle from the general impact of massive budget cuts. It is not self-evident that devolution, the tendering process, or comparable measures are inherently detrimental. Nevertheless, the convergence of commodification and budget slashing certainly diminishes the range and quality of settlement-related services available to migrant women. To the extent that the Ontario government opposes affirmative action and employment equity, organizations serving people who stand at the intersection of multiple forms of marginalization – race, gender, class, ethnicity, language, disability – are most likely to be hit by budget cuts. It follows that many programs serving migrant women, including initiatives related to physical and mental health, domestic violence, and anti-racism, would be (and have been) eliminated (T. Richmond 1996, 5).

The impact of restructuring and commodification in the settlement and integration sector is twofold. First, the contraction of government funding narrows the scope of social citizenship available to newcomers. Second, as financial responsibility is increasingly devolved onto immigrant communities, and then onto women within those communities, migrant women increasingly perform the underpaid and unpaid labour of 'civic reproduction' not only for their own families, but for their ethno-cultural community at large.

Conclusion

Paradoxically, immigration policy has always been and will never be privatized. Deregulation of borders in its purest sense is the subject of academic debate and activist aspiration; few seriously expect to see a global regime of open borders and a free flow of labour across territorial frontiers in accordance with market-driven supply and demand. On the other hand, the state always has and will continue to assess prospective members based on a short- and long-term economic valuation of human capital. Increasingly, the state is also delegating selection of temporary workers to the private sector; to the extent that the state encourages 'high-skill' workers to immigrate, the private sector plays a critical role in choosing new Canadians. At the same time, the state reserves its most intensive regulation and intervention in the market for those migrants deemed 'low-skill,' in order
either to keep them out or to ensure that their labour remains cheap and available to private employers on favourable terms. Privatization is a selective, uneven process both in application and impact.

Within this landscape, female migrants are both object and instrument of privatization strategies. Historically, they have been depicted primarily as dependants doing women's work for free within the family, or as temporary workers doing women's work for cheap in the market. In either case, immigration policies hinder them from making certain claims on the state that might actually mitigate their dependence or increase their market value. Access to legal and social citizenship is either contingent (domestic workers), compromised (sponsored spouses), or denied (exotic dancers). Immigration rules and conditions are designed to extract as much as possible from migrants (in the form of labour and taxes) while minimizing investment in their integration or claims to public benefits. In general, the state can extract more for less from migrants than from the native-born, to the extent that much of the cost of social reproduction has already been borne by the country of origin. The operation of the global economy and the gendered division of labour arguably enable the state to extract more for less from female temporary workers, and more from families that migrate separately (often for financial reasons) than from those who migrate together.

One of the ironies exposed by investigating the link between migration and privatization is that many trends attributed to privatization with respect to Canadian-born women have long been standard fare for migrant women. Migrant women were disproportionately represented in low-wage, precarious, irregular work well before 'restructuring' entered public discourse. Family law in the 1990s may have discursively revived an ethic of 'reliance on one's family, even after that family has broken down' (Cossman, this volume), but that principle has been explicit in immigration legislation since the sponsorship undertaking appeared in 1946. Immigrants' contingent claims to membership, along with nativist rhetoric that depicts them as opportunistic welfare cheats, converge with neo-liberal family ideology to intensify the enforcement of familial support obligations on migrants. The gatekeeping function of immigration policy permits the state to impose contractual terms of entry on migrants that it cannot impose on citizens. These conditions may limit access to the welfare state, as in the sponsorship undertaking, or compel performance of certain undesirable jobs that female citizens of the welfare state increasingly reject, as in the garment industry or live-in domestic work. Migrants have, in a sense, always been expected
to rely more on the market and on their families than Canadian-born citizens.

The privatization trend may entail some quantitative reduction in entitlements for migrants in general and for women in particular, but it manifests itself chiefly in the qualitative reallocation of resources to surveillance, apprehension, and criminalization in order to police migrants’ physical exclusion from the state or social exclusion from the welfare state. This pattern fits with a wider phenomenon that Dutch scholar Sarah van Walsum describes as a new form of official nationalism: ‘While relinquishing its central role in dealing with inequality and social risks, the nation state can now profile itself as protector of citizens’ property against violence, defender of the taxpayers against fraud. While no longer attempting to contain or control the export of capital or production activities, the state can claim a role in protecting its borders and repressing international crime’ (van Walsum 1994, 207). The emphasis in the IRPA on mechanisms of deterrence, detention, and criminalization of migrants bears testimony to this phenomenon.

Migrants have always been partially excluded from the welfare state in Canada (and elsewhere); this chapter has proceeded from the thesis that the exacerbating effect of ‘privatization’ in its neo-liberal incarnation is best framed in terms of its historical continuity with, or disjuncture from, the discursive and material practices that preceded it. Looking to the future, we might query whether the experience of migrant women habitually living on the margins of social citizenship yields important clues about where Canadian-born women are headed as the borders of the welfare state are redrawn under their feet.

Notes

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1 Airlines are coerced into this role by virtue of $7,000 carrier sanctions for transporting undocumented or improperly documented passengers. There
is no recourse for the person falsely accused of travelling illegally. (Immigration Act, Part V).

2 A partial exception concerns situations in which a Canadian citizen or permanent resident may challenge a decision not to permit the sponsorship of an overseas family member. Technically, the legal rights accrue to the sponsor who is in Canada, though the benefits of a favourable decision extend to the overseas applicant. Legal scholar Donald Galloway has argued persuasively that the Charter ought to apply to the actions of Canadian immigration officials overseas, but the courts have so far been unreceptive (Galloway 1991).

3 The main exception is male seasonal agricultural workers, for whom demand is regular but intermittent (Morton 1999).

4 Temporary workers who cannot or do not bring their families do not utilize public education. Spouses and dependent children of temporary workers are eligible for health care in Ontario only if the employer intends to employ the worker for at least three years. Temporary workers cannot collect employment insurance (though they pay premiums) or social assistance (Lindberg 1999).

5 Bradley Pascoe, Citizenship and Immigration Canada, Personal Interview, 18 June 1999.

6 A recent media account of the bureaucratic delays in processing live-in caregiver applications is typical in its construction of a mother-nanny dyad. The article depicts the hardship imposed on affluent professional women who are ‘plunged into the hell of holding down a high-powered management job ... while caring full time for a curious toddler,’ or ‘reluctantly playing the role of stay-at-home mother.’ Fathers are not mentioned in the article (Philp 2000).

7 Depending on the applicable provincial employment standard legislation, and the scruples of the employer, the actual salary may sink below minimum wage.

8 Since Mavis Baker did not have a TEA in the first place, she was probably ineligible for the FDM program when it was introduced.

9 One woman, not realizing she was pregnant when she came to Canada, was unable to secure steady employment as a live-in domestic worker after giving birth. Though she did not access public assistance and eventually did find employment, she did not accumulate the requisite twenty-four months of employment in the previous three years and was ordered to leave Canada (Curran 2000).

10 Domestic workers have drawn attention to the linkages between globalization, privatization, migration, and gender. A 1993 brief by the Coalition for
Visible Minority Women to an Ontario Cabinet Committee on NAFTA contained the following trenchant comment: "Many women were casualties of free trade in their home countries — that's why they left. Filipino domestic workers have told us, "We've been squeezed dry once and now it is happening again" (Gabriel & Macdonald 1996, 168).

11 NGOs advocating for the rights of live-in caregivers struggle with this dilemma. Some support retaining but modifying the program in order to better protect workers from exploitation, because it is the only means for women from the Philippines and elsewhere to acquire permanent resident status in Canada. Others object to a system of indentured labour and insist that live-in caregivers be admitted as permanent residents from the outset. If the workers choose to exit the occupation at the first opportunity, then that is the price the state pays for sustaining an occupation that inherently tends towards exploitation. I have elsewhere advocated that the live-in requirement be removed from the domestic worker regime (Macklin 1992a). My reasoning is that if (as the government insists) there is no shortage of Canadian women willing to work on a live-out basis, then participants in the program will perform live-in. If there is a labour market for live-out work, however, foreign domestic workers ought to be able to exercise whichever option they prefer.

12 Baker's family status was only one factor animating the visa officer's decision. Her recent mental illness and the fact that she had been a welfare recipient also weighed heavily against her, to the point where they obliterated the fact that she had actually supported herself and her children for eleven years as a domestic worker.

13 Dependent children are defined as unmarried sons or daughters who are under nineteen, or are full-time students, or by reason of physical or mental disability, are financially dependent on their parents. Immigration Regulations, 1978, s. 2.

14 Other categories of the family class include children under nineteen the sponsor intends to adopt; orphaned siblings, nieces, nephews, and grandchildren under nineteen; and the so-called wildcard relative, who is the sponsor's only relative.

15 This requirement is waived in respect of spouses and children.

16 In Ontario, a person who has applied for landing from within Canada may be eligible for social assistance, on a discretionary basis (Ontario Works, Directive #13.0-8).

17 'In my country, he didn't have the opportunity to make me feel dependent on him but as they have handed it to him [here] on a silver platter, he abuses it' (author's translation).
18 O. Reg 134/98.
19 Citizenship and Immigration Canada 2001. Bill C-11: Immigration and
Refugee Protection Act, Explanation of Proposed Regulations.
20 Government-sponsored refugees fleeing persecution are exempt from the
Right of Landing Fee but must repay the cost of transporting them to Can-
da before they are permitted to sponsor any family members.
21 Alan Simmons (1999, 64) makes the important point that Canadian tax pol-
icy lacks the strong redistributive elements required to adequately support
settlement and training.
22 The Beijing visa office rejected 18 per cent of spousal sponsorship applica-
tions from January to August 1997. Currently, China is also the single largest
source country for immigrants to Canada. The rejection rates at other visa
offices for the same period was much lower (New Delhi, 8%; Hong Kong,
3%; Manila, 0.1%) (Sarick 1997).
23 The top ten source countries for immigrants to Canada in 1999 were China,
India, Pakistan, the Philippines, Korea, Iran, the United States, Taiwan, Sri
Lanka, and the United Kingdom (Canada 2000c, 7).