Making Canada White: Law and the Policing of Bodies of Colour in the 1990s

Sherene H. Razack*

Department of Sociology
University of Toronto

Abstract — The 1990s inaugurated a new era of policing the border, one in which a variety of legislative initiatives were introduced to regulate more tightly the flow of immigrants and refugees to Canada. Border control is closely linked to the internal policing of people of colour, stigmatising and monitoring such bodies in ways that clearly establish their subordinate status in the nation. In this article, I reflect on the practices involved in the policing of the border through an exploration of how individuals participate in, and experience, these practices. Specifically, I describe my own experience of how an individual judge performed the role of the imperial patriarch in a trial of a racial minority woman lawyer charged with immigration fraud. I do not make an empirical claim that the case I explore demonstrates racism and little else. Rather, my central concern is to describe the everyday performance of domination as it occurs in this trial. I seek to illustrate the kinds of things individuals say and do when they engage in making Canada White through the law and to suggest that such individual performances, in this case of hegemonic masculinity, are part of a national story of belonging, a story in which people of colour are marked as degenerate and white subjects are the bearers of culture and civilization. In the second half of the paper, I demonstrate this national mythology as it is expressed by elites.

Résumé — Les années 1990 inaugurèrent une nouvelle ère de surveillance des frontières, pendant laquelle une variété d'initiatives législatives furent introduites pour réguler de façon plus stricte les flux d'immigrants et de réfugiés au Canada. Le contrôle des frontières est intimement lié au traitement policier interne de gens de couleur qui stigmatisent et gèrent ces corps de manières qui établissent clairement leur statut subordonné dans la nation. Dans cet article, je réfléchis aux pratiques de contrôle policier de la frontière, en explorant comment des individus participent et font l'expérience de telles pratiques. Je

* Sherene Razack is professor of sociology and equity studies in education (OISE/UT) and author of Looking White People in the Eye: Gender, Race and Culture in Courtrooms and Classrooms (Toronto: University of Toronto Press, 1998). The author would like to thank Sheila Gill, Eve Haque and Helle-Mai Lenk for their research assistance and insight and Barbara Heron and Mona Oikawa for their valuable comments on the draft.
décris notamment ma propre expérience d’un juge qui joua le rôle d’un patriarche impérial lors d’un procès d’une avocate d’une minorité raciale, accusée de fraude d’immigration. Mon intention n’est pas de démontrer empiriquement que le cas étudié relève tout simplement du racisme. Je vise plutôt à décrire la domination comme pratique quotidienne, telle qu’elle se présente dans ce procès. J’illustre ainsi le genre de choses que des individus disent et font lorsqu’ils entreprennent de rendre le Canada Blanc grâce au droit, proposant que de telles performances individuelles—dans ce cas de masculinité hégémonique—font partie d’une histoire nationale d’appartenance, une histoire dans laquelle des gens de couleur sont marqués comme dégénérés alors que les sujets blancs sont porteurs de culture et de civilisation. Dans la deuxième partie du texte, je montre comment les élites expriment cette mythologie nationale.

If I am not what I’ve been told I am, then it means that you’re not what you thought you were either! And that is the crisis.¹

James Baldwin

Like immigration, our unity debate is about who we are and who we trust.²

Hon. Bernard Valcourt, Minister of Employment and Immigration, 1992

The 1990s inaugurated a new era of policing the border, one in which a variety of legislative initiatives were introduced to regulate more tightly the flow of immigrants and refugees to Canada. The criminal attempting to cross our borders featured as a central figure in the discursive management of these new initiatives. One of the paramount tasks of border control, and the justification for all the new initiatives, became the separation of the legitimate asylum seeker or immigrant from the illegitimate. Race remained as central to this activity as ever with the illegitimate now conflated with the undocumented, and the undocumented coming increasingly from countries such as Somalia, Sri Lanka and Afghanistan. More than ever, immigration truly was framed as being about who we can trust. Included in the category of those who cannot be trusted are people of colour already in the country. They too can be good or bad; thus the policing of the border requires as well the policing of bodies of colour already inside it. This kind of internal policing of the “documented,” both by


stigmatising as well as monitoring the activities of people of colour, Inderpal Grewal reminds us, restricts access to full citizenship.\(^3\)

The articulation of a national identity is always central to border control and in the 90s this too underwent a shift. Implied in 'who we can trust' is a vision of who we are, as Bernard Valcourt, the Minister for Immigration in 1992, so succinctly put it. Immersed in constitutional struggles in which the separation of Québec (the province in which the majority of French Canadians reside) from Canada, and aboriginal land claims remained unresolved, the Canadian national story of a united, peaceful and civilized country in which there is justice had more than ever to be invigorated. In this project, both the bad immigrant whom the new immigration reform initiatives aimed to keep out, and the good immigrant, who could reconfirm the national character of white goodness and civility, became invaluable and made their appearance on the national scene in ways that they had never done before. Together, these constructs helped the dominant group to tell a story of innocence, of non-involvement in the economic and political interventions of the North into the South that produce refugees and immigrants and bring them to our borders.

My central concern in this article is to explore for the early 1990s how individuals performed themselves in this official story of who we are and who we trust, a story that, as the 90s draw to a close, continues to have considerable vitality.\(^4\) What do individuals say and do to make themselves into the innocent subjects of the national story? The official story of who Canadians are and who they are not, performed in Canadian courtrooms, parliament, media, classrooms and elsewhere, is a story that depends on bodies of colour, both ideologically and materially. Symbolically, racialized bodies as degenerate and uncultured, highlight the heroic qualities of the dominant group, a dark background in a canvass of white subjects. Materially, the dominant group is secured when people of colour contribute their labour to the nation but do not enjoy equal access to society’s resources.

In many ways, the official story described here is a classic one for First World nation states. American scholars have demonstrated its relevance for their national context, and some Canadian scholars have done so for Canada, as I discuss below. I am not therefore describing a phenomenon that has previously gone unnoticed. What I hope to offer in this article is an illustration of the key rhetorical moves and positions taken by individuals who tell such stories of individual and national innocence. In other words, I am interested in making the connection between national mythologies and individual beliefs. My underlying

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preoccupation is an educational one. If the performances of domination described here, and the material structures that both sustain and are sustained by them, are to be disrupted through education, we will need to recognize the everyday ways in which dominance is enacted. We must ask, as well, about the alternative stories of citizenship and national belonging we can tell. How do we transcend the crisis to which James Baldwin refers? When the official story of white respectability and Black degeneracy is disrupted, who can we each know ourselves to be? The “we” in these sentences is a broadly inclusive one, for while the content of our performances varies in important ways, both white and non-white citizens can be drawn into hegemonic national stories.

In part one, I begin with a case in which a racial minority lawyer was charged with immigration fraud. Relying on the Oral Reasons for Judgment, and on my personal experience as a racialized immigrant and female body sitting in the courtroom, I suggest how the positioning of immigrant bodies as degenerate, that is to say, uncivilized, irrational and immoral, pursued with considerable vigour by the judge, effectively functions to make other bodies, specifically those of the judge and the white lawyers and all white people, respectable—that is to say, civilized, rational and benevolent. In part two, I want to locate the judge's individual performance of hegemonic masculinity in the national narrative of a Canada intent on securing the border through a separation of the good immigrant from the bad. I show how the good immigrant must be a man without history, and thus without accountability, a man who confirms for the dominant group that Canada is good and civilized. Throughout, while I focus on the stories that are told, I want to underline the material structures of border patrol and internal policing that they support and that support them. The storylines discussed here are central to how the rights and opportunities of bodies of colour are curtailed, thereby establishing a racialized structure of citizenship. In the conclusion, I consider possible stories of accountability that can replace stories of innocence.

Who We Can Trust: Immigration as a Rossini Opera

One winter, a short time ago, I sat in a Toronto courtroom listening to the case of a racial minority woman lawyer charged with immigration fraud. I knew the

5. R. v. E.P., (22 February 1996), Toronto F-0687/94 (Ont. Gen. Div.) (Oral Reasons) [hereinafter E.P.]. I have changed the initials in an effort to minimise the harm done to the accused.

6. For a discussion of the concepts of respectability and degeneracy as they functioned in the 19th century and as they may be applied today, see Mary Louise Fellows & Sherene Razack, “The Race to Innocence: Confronting Hierarchical Relations among Women” (1998) 1:2The Journal of Gender, Race and Justice 335.
accused but I do not think that this alone gave me a heightened consciousness of how my own, female, racialized, immigrant body was being regarded in that setting. In fact, while the accused is also a woman of colour, she is Canadian-born of a family that has been in Canada for several generations. In our interactions, I tended to see her as more securely attached to this land than I, that is to say, more definitely Canadian by virtue of possessing a 'Canadian' accent and that most enviable of documents (when crossing borders, particularly the Canada/U.S. border), a Canadian birth certificate.

In 1989, my friend, whom in this account I shall call Evelyn P., was working as a junior lawyer in a firm that assisted undocumented migrants to apply for entry into Canada. 1989 was a busy time for immigration lawyers. At the beginning of the year, Canada passed a new refugee determination process that many observers regarded as an infringement on the human rights of those seeking asylum. Concerned about a tremendous backlog of claimants seeking asylum, the Minister of Immigration announced that the refugee determination process would now consist of two stages. In stage one, a board of two individuals would determine, in a quasi-judicial hearing, whether the claimant could progress to the second stage of a full hearing. If the claimant was found not credible at the first stage, she/he would be deported without appeal. If current claimants left Canada voluntarily before the first stage, they would be rewarded with an interview with a visa officer in their own countries of origin (or countries with the nearest offices). In the ensuing furor over the new system, (concerns both about its efficacy and its justice),7 one group of refugee claimants drew particular attention in Toronto, the Canadian city that receives most of Canada's immigrants and refugees. Portuguese-speaking migrants, (a mostly white-skinned, working-class group that I would argue is racialized in Metropolitan Toronto)8) many of whom worked in the city's then burgeoning construction trades, stood to be deported under the new rules. Early in the year,


8. Ilda Januario, “Portuguese-Canadian Students and Inclusive Schooling in Ontario: An Invisible Minority?” in Inclusive Schooling, Report prepared for the Ontario Ministry of Education and Training by George Dei & Sherene Razack(1995) 63. Januario suggests that Portuguese students are a racialized group whose school drop-out rates rival those of Black Canadians for the lowest of any group. She notes as well the low socio-economic status of the Portuguese in Toronto who number 95,305 in Metropolitan Toronto, the Canadian city where most reside.
Toronto's newspapers ran stories of an immigration consultant who was alleged to have advised his Portuguese clients to pose as Jehovah's Witnesses and to claim religious persecution as a means of gaining asylum in Canada. A few months later, the Portuguese again became the subject of headlines as illegal immigrants, an attention that lasted in the press from May to October of 1989. Members of the Portuguese community permanently resident in Canada, principally the Labourers International Union, began lobbying heavily for a special case to be made for Portuguese construction workers who were not legally in the country. Predicting a dire slowdown in Toronto's construction trade, the community organised mass protests urging the Minister of Immigration to grant a special dispensation to members of the Portuguese community seeking entry into Canada.

The Portuguese Canadian community candidly admitted that most of the 5,000 to 15,000 or so Portuguese claimants were in fact bogus refugee claimants but argued that the group should be allowed to stay in Canada on humanitarian and compassionate grounds. Specifically, if claimants had offers of permanent jobs, and had family in Canada, then they should be permitted to stay. Hiring a high-profile Conservative lawyer to help persuade Ottawa, the Labourers International Union worked hard throughout the summer to win support for its case. By October of 1989, they succeeded. The Canadian government agreed that a guaranteed job offer in the construction industry would be worth ten points in an immigration application, an amount that enhanced an applicant's chance of being landed. This new directive was sometimes referred to as the construction initiatives program, indicating its connection to the lobbying by the Portuguese construction community. A clinic was established by the Portuguese community, the Home Builders Association and the labour unions for the construction trades to help process the applicants under the new initiative. Immigration lawyers and consultants also found themselves swamped by such claimants. Claimants who abandoned their refugee claims and who applied for landed status based on an offer of employment, needed to travel to their country of origin or to a nearby Canadian consulate equipped with an immigration form known as the 2151 form, obtainable from the department of immigration upon submission of a letter of employment. Lawyers and immigration consultants

helped their clients to obtain these forms. For the first few months of 1990, the special initiative worked well for members of the Portuguese community in the construction field, enabling nearly all who applied to enter Canada as permanent residents.11

By August 1990, however, the Canadian government cancelled the construction initiatives program on the grounds that the arguments that had held a year earlier no longer applied, owing to a slowdown in the construction trade.12 Six months later, in February of 1991, the Toronto Star ran a series of articles on immigration fraud involving Portuguese construction workers who were being supplied with fake letters of employment and thus 2151 forms that were not based on legitimate job offers. Soon after, the Royal Canadian Mounted Police launched an investigation of fraudulent claims culminating in the charging of two immigration consultants.13 Around the same time, the Royal Canadian Mounted Police arrived at Evelyn P.’s door and charged her with several counts of fraud. She was accused of having agreed to lower her fees for a Brazilian, Portuguese-speaking client seeking to apply under the construction initiatives programme in return for his help in obtaining for other clients fraudulent letters of employment from construction companies. The Crown alleged that she knowingly assisted two individuals to gain immigration status under the construction program even though she knew that the individuals in question were not construction workers but worked instead as a cleaner and a hairdresser respectively. During the trial in the early months of 1996, these claimants as well as immigration consultants working in the Portuguese community (some of whom were also charged in separate proceedings), her old employer and employees from the firm she once worked for, were all called to testify, as were Canadian immigration officials and members of the Royal Canadian Mounted Police. It quickly became evident that there was little or no concrete evidence

either of a special deal cooked up between her and her client, or that Evelyn P. had in fact known that the letters of employment she relied upon were fraudulent. In the end, she was reluctantly acquitted, as I discuss below.

As I sat in the courtroom watching the fear on the faces of the Portuguese-speaking witnesses, particularly those without legal status to stay in Canada, the self-righteousness of the Anglo-Canadian lawyer for the state, and the self-possession of the defence lawyer, himself a white man, all appearing before an impassive, though sometimes irritated white Anglo-Saxon judge, I began to feel a familiar vulnerability. The sensation of being an intimate part of the drama that was unfolding, rather than being simply an onlooker, was strengthened when I, along with others (mostly racial minorities) were prohibited from taking notes in the courtroom. Clearly we too were being policed. A story of immigration was unfolding in this trial that was intimately and directly about me. It was a story that relied on a classic positioning of bodies: calm, ordered, white, citizens (male and Anglo-Saxon, but in this case a Jewish man and an Anglo-Saxon woman were allowed to occupy the space of honorary whiteness, as I show below) attempting to control the hordes, those of us of colour sneaking in, or helping people like ourselves to sneak in to paradise. It is such a familiar script in immigration and in everyday life that I have repeatedly asked myself why it justifies my, or indeed anyone’s, scholarly attention. Two reasons impel me forward. The first is my continuing surprise at how quickly I can go from the reasonable and credible professor teaching in a reputable graduate school to a foreigner with uncertain citizenship rights, a slide that takes place as much in the minds of others, and in the law, as it does in my own mind. Why is this slide so violent an erasure that I am continually surprised? Second, while I felt an instant recognition of the Anglo-Saxon and masculine performance of dominance in this trial, its internal logic and its connection to other performances of dominance remained unclear. In one way, I knew this act well; in another, I did not. The judge’s performance in the courtroom resembles a myriad of everyday imperial encounters in which white subjects presume to know, correct and discipline people of colour all the while maintaining that racism does not exist. These connections, however, are merely intuitive and in exploring the detail of the performance in the courtroom as I do here, I am trying to bridge the gap between what I felt in my body as I sat in that courtroom and what I know intellectually (if such an artificial description of how we know can be tolerated) about

14. I do not have an empirical basis for this observation but it is striking to me that in another case of immigration fraud, the judge also attempted to control the audience. In R. v Laws, [hereinafter Laws], in which Black activist Dudley Laws was charged with running an alien smuggling ring, the judge barred from the courtroom spectators wearing Muslim head coverings (specifically, he barred the Muslim imam for the prisons), insisting on his right to maintain decorum in the courtroom and insinuating that Islam was a fringe religion. Laws, Ruling, Mr. Justice A.C. Whealy, January 5, 1994.
narratives of national belonging and the role that racialized immigrants play in the making of Canada as a white-settler society. 15

In seeking to bridge the gap between a personal, bodily knowledge of historical memory and the “impossibly romantic and excessively metaphorical” idea of the nation, 16 in the context of the law, I am immediately confronted by a methodological problem, one that persists throughout this paper. The subject of the law is an individual abstracted out of history and time. There are readers who will believe in this subject’s existence and who will focus on the individual case I discuss, examining the evidence in order to discern guilt or innocence. This is the business of the law and the basis to legal reasoning. When I make the leap from the individual case to historical context, I leave this realm of individual fact-finding and move on into something as large as a national story. I seek to put history back into the decontextualized storyline of the courtroom. To some, this approach will seem tenuous, and indeed the article will perhaps be read as two separate papers, one about an individual case, the other about national culture. A parallel split remains between the bodily memory I try to pin down and the objective assessment of the facts—the empirical grounding for my argument. It is my objective to heal this fracture, and to insist that, just as my own responses come out of a history, so too do the responses of the legal actors whom I discuss, and of course the readers of this article. If the imperial performance I describe is not a familiar one to you, and if I cannot empirically make the case that it is indeed the enactment of a national mythology, perhaps an initial question that readers might ask is: ‘What story do I know myself to inhabit?’ Ultimately, closing this gap between how we come to know who we are and who the subject of law is, takes me closer to the goal of this writing: how do we (people of colour) collectively disrupt a national play in which we are condemned to play the part of the illegitimate, the undocumented, those who must be disciplined? How do we sever the historical link between race and citizenship at specific sites, the law being only one of those sites?

It is significant that in the Oral Reasons for his decision acquitting Evelyn P. of charges of immigration fraud, Judge Farley does not begin with the construction initiative programme itself or the alleged instances of fraud, but

15. In using the term white-settler society, I am borrowing from Daiva Stasiulis & Radha Jhappan, “The Fractious Politics of a Settler Society: Canada” in Daiva Stasiulis & Nira Yuval-Davis, eds., Unsettling Settler Societies: Articulation of Gender, Race, Ethnicity and Class London: Sage, 1995) 95 at 97 [notes omitted]; “At its base, the white settler construct refers to the intentions of colonial administrators to build in Canada an ‘overseas extension’ or replica of British society. Hence the dominant culture, values and institutions of the society mimic those of the ‘mother’ country: they must constantly be replenished via immigration and importation of British ideas, goods, fashions, institutions, and cultural and economic practices.”

instead turns immediately to the conduct of Evelyn P. herself whom he takes to task in the sternest of patriarchal tones:

Firstly, the accused's conduct as a lawyer is seriously deficient. I cannot sufficiently express my disappointment in her failure to realise her professional obligations. Her training must be very questionable. I am puzzled by her lack of critical questioning. Granted, she did not obtain much assistance from her then previous work (and in that respect her employers may be criticized somewhat), and apparently she got no assistance at Rekai and Johnson. Still, she cannot blame others for her own faults.

Secondly, I would impress upon the accused that she must deal with life as it really is and not in theory, nor as she would have it. (emphasis added) 17

Evelyn P. is rebuked, as one would imagine the lord of the manor rebuking a delinquent and slightly stupid female servant who does not know her place. To be sure, Evelyn P.’s defence—that she did not know the letters were fraudulent, and that she was in fact so mindful of her career that she was unlikely to jeopardise it with an illegal act for someone she did not even know—made her vulnerable to the finding that she was naive, but the Oral Reasons go much further than a simple finding of naivete. She is chastised as someone: with “a limited knowledge of the real world;” 18 who “dabbles” in AIDS cases and doesn’t recognize how complicated they are; 19 who “fails to recognise that not everyone in the world is a nice person,” and who is a Pollyanna 20; someone “who has difficulty with material items” 21 and who “belatedly realises when the penny has dropped.” 22 The rebuke that strikes to the core of her professionalism is profoundly gendered. In its portrait of an unsophisticated and ignorant woman who is entirely unable to make her way in the world of commerce and men, one cannot imagine its application to a man accused of the same crime, except perhaps a man of colour who can be feminized. One wonders too about the racial overtones of the rebuke: As an Asian woman, was Evelyn P. seen as a “foreign” woman who did not stay in her place and who presumed to play in the masculine and white world of law? 23

17. E.P., supra note 5 at 2 [emphasis added].
18. Ibid. at 20.
19. Ibid. at 4.
20. Ibid. at 11.
21. Ibid. at 22.
22. Ibid. at 20.
23. In North America, national myths about foreignness, foreign women are sometimes seen as reminding the nation of a simpler past, a time when women were real women, that is, submissive. Bonnie Honig, “How Foreignness ‘Solves’ Democracy’s Problems” (1998) 16:3 Social Text 56.
To emphasize that Evelyn P. is not made of the right stuff and has strayed far from legitimate lawyerly conduct, Judge Farley notes that the other counsel in the case, who are all white, including the female lawyer for the Crown and Evelyn P.'s own lawyer, a Jewish man, have all been honest, neutral and professional individuals who recognize (as she does not) her duty to the legal system and who are "exemplars for the [legal] profession itself." Instead, negative comments of Evelyn P.'s behaviour are placed alongside of comments about the witnesses in the case whose own honesty is questioned owing to "their concern for currying favour with governmental authorities," and their "evasive, contradictory, dissembling" conduct. These witnesses, for the most part individuals wanting to gain entry into Canada, or helping those who want to gain entry into Canada, are characterized as an illiterate, disreputable bunch who forge letters with misspellings and poor grammar, and who possess "an experience in but not a very good aptitude for cunning." This is a group whose culture might explain why they hold meetings with lawyers in "unusual places" and "unusual times," a practice that perhaps suggests for the judge the group's clandestine nature and not the economic constraints they face in visiting a lawyer's office during regular business hours. Criminal but not smart, the unruly and foreign mob is assisted in its activities by immigration officials who don't perform their duties as well as do the more duty-conscious lawyers or the Royal Canadian Mounted Police. The former is "less than satisfactory," while the latter is straightforward and believable.

When he turns his attention to the construction initiative programme, Judge Farley is obliged to note the obvious: the procedures and policies of Canada's Employment and Immigration Ministries, specifically those in operation in 1989, lent themselves to abuse. He observes that the construction initiative programme was contradictory from the start:

It was said that the nub of the programme was to fill labour needs. However, when one looks at it, those labour needs were already being filled by the refugee workers who were already working for those companies. There did not appear to be any speed in processing of the claims of those refugees. Thus it would seem that there was no imminent danger of those workers being lost to those employers. I can only conclude

24. Ibid. at 22.
25. Ibid. at 3.
26. Ibid. at 7.
27. Ibid. at 13.
28. Ibid. at 14.
29. Ibid. at 18.
30. Ibid. at 8.
31. Ibid. at 17.
32. Ibid. at 10.
that the main purpose of the programme was to help clear the refugee backlog in a face-saving way, and not to maintain the necessary pool of what was said to be skilled labour.\textsuperscript{33}

In spite of the built in contradiction, or perhaps because of it, the construction initiative programme was abused by individuals who “think it an open invitation to either rip off the system by false applications thinking that they will not be caught given the self-created crush on the system.”\textsuperscript{34} Face-saving notwithstanding, Judge Farley is able to insist on his world view of immigration as a clearly demarcated field of activity, a world in which he can make a sharp distinction between moral and immoral actors. He resorts to a familiar discursive strategy\textsuperscript{35} when he characterises the moral side as made up of \textit{bona fide} refugees “who have a moral right to obtain sanctuary in Canada and [whom] we as Canadians have a moral right and obligation” to help. The immoral side is, of course, made up of “unscrupulous persons [who] promote bogus refugee claims.” Canadians had to be especially careful of their moral obligations and of being able to distinguish between these two groups because immigration is “a material building block of our society in Canada since long before the birth of our nation” and because Canadians are a people who “rejoice in our ethnic, racial and cultural diversity.” The bottom line in this moral universe is soon made clear: “If the rules of immigration are not respected, then we risk cracking some of our very vital foundation stones.”\textsuperscript{36} That our foundation stones include a plethora of racist immigration laws, from head taxes on Chinese people at the turn of the century, to head taxes on all entrants to Canada today, does not of course tarnish this bright vision of a young and innocent nation.

Given the clearly drawn lines between respectable and degenerate social actors, it comes as no surprise that Judge Farley views the cast of characters before him, the naive and inefficient accused, the unscrupulous and bumbling crowd of illegal immigrants and their advisors, the reasonable, law-abiding and dutiful legal actors, the Royal Canadian Mounted Police, and of course, himself, as the personage able to thread his way through it all, and concludes that it is as though he is in the middle of “a Shakespearian comedy or perhaps a Rossini opera.”\textsuperscript{37} Marked in this way as a civilized European who knows his

\textsuperscript{33} Ibid. at 5.
\textsuperscript{34} Ibid. at 3.
\textsuperscript{35} For an analysis of typical and racist argumentative moves and rhetorical strategies of European parliamentarians in discussing immigration, see Teun van Dijk, \textit{Elite Discourse and Racism} (Newbury Park: Sage, 1993) at 77. Van Dijk notes that such moves usually involve “a grand claim of virtue and superiority” immediately prior to the introduction of disclaimers introducing negative statements about minority groups.
\textsuperscript{36} E.P., supra note 5 at 3.
\textsuperscript{37} Ibid. at 8.
Shakespeare or Rossini, Judge Farley unintentionally highlights my central argument. The events in the courtroom are staged so that the lead character can make himself out as the hero of the story, a narrative that can only be supported if the non-white characters are successfully inferiorized.

The accused is acquitted in this trial presumably because the drama has not allowed for a finding beyond a reasonable doubt. This, of course, is not the end of the story. Although he acquits the defendant, the language of the decision ensures that the stain of degeneracy is not removed from her. We are not allowed to forget who is civilized and who is not. Evelyn P., upon the judge’s recommendation, continues to be monitored by the Law Society and is required, upon threat of disciplinary action, to buy the most up-to-date and expensive of computer systems and to organize a filing system beyond the means of most single practitioners, in particular those serving immigrant populations. The white Canadians in the script remain secure in the knowledge that they have competently fulfilled their role as reasonable citizens committed to the building of a democratic and racially diverse country, one that is, on the whole, welcoming to immigrants and refugees. They retain the moral high ground. We, those of us on the immigrant/illegal side of the divide, remain publicly chastened and put in our place by the judge’s reconstruction of what occurred in 1989. Those of us who are “documented” are reminded of how our bodies are read. Canadian passports notwithstanding, we can still be confused with the unruly mob and suspected of treason at worst, of failing to conform to respectable codes of behaviour at best.38 Here it is instructive to remember that elites control public discourse. When judges describe such a cleanly divided world, they pre-configure the more popular sentiment that immigrants pollute the body politic and are eternally seeking to bring their own kind into the ordered spaces of the First World.39

R. v. Evelyn P. is indeed so well scripted that one is tempted to consider the case as anomalous and perhaps agree with some legal practitioners that all it reveals is that there are good judges and bad judges, and that Judge Farley is simply one of the more melodramatic. It can be argued that one trial does not make the case for a racist state. I can also imagine readers who suspect that I have simply retrieved from the trial evidence of the judge’s imperial acts and ignored the evidence of wrongdoing on the part of people of colour. Whatever one may think about the evidence in this case, I argue that the excess in the language of the decision alone should alert us to the identity-making processes I

38. Yxta Maya Murray discusses how Latino-Americans are stigmatized and are made to feel insecure “when they see folks who look like them, talk like them, and even act like them, get arrested, rounded up like cattle, and then “repatriated” back into the “heart of the[ir] country.” “The Latino- Crisis of Citizenship” (1998) 31:2 U.C. Davis Law Review 517.

39. Van Dijk, supra note 35 at 11.
have been tracing. Ultimately, what else would explain seeing the world so cleanly divided between the cultured and the uncultured, so untroubled by the wider forces that shape the migration of peoples? Paradoxically, if we are not alerted to these excesses, it is precisely because the idea of the nation is a "powerful historical idea in the west" and its mythologies compel us as subjects. 40 We are easily hailed into the dream of Canada, our bloody origins and contemporary realities notwithstanding.

The Rossini opera in which Judge Farley finds himself is a dream of innocence. Stories that point to the complicity of the dominant group are not part of the script. For instance, the policing activities that bring the Royal Canadian Mounted Police to Evelyn P.'s door are not discussed. We are left with the impression that the actions of the police are entirely moral and beyond question, the practices of a state forced to protect its borders from the unscrupulous. There is no questioning of the rationales behind the surveillance of specific bodies and groups. In their discussion of cross-border crime, Jamieson, South and Taylor observe that in the 1990s, the material practices of border control have been reorganized into a kind of risk management. People who cross borders are increasingly divided into high- and low-risk groups, with an effort made to facilitate the crossing of the low-risk while devoting extra resources to the policing of the high-risk group. A new kind of transnational policing has emerged in the 1990s in which a variety of partners cooperate to police the border. Airline companies, for instance are enlisted so that the screening of prospective immigrants and refugees can happen at airline counters. The border, they conclude, is now "dispersed." 41 If we think of the immigration lawyer's office as a vital part of this dispersed border, and we consider how race is attached to the high risk group and to the bodies and spaces on to and in which additional policing resources are deployed, we must ask about the state's allocation of monies to policing a particular group shortly after a policy change restricting their entry. In effect, the story of fraud on the part of people of colour (but only "face-saving" on the part of the state) helps to justify what might otherwise have been simply an overt manipulation of the flows of labour by the

40. Bhabha, supra note 16 at 1.
state. It enables the nation to tell its seamless story of generosity, even when, and perhaps especially when, it is attempting to be the very opposite. Neither the aspect of the state’s policing activities, nor any wider context of the forces that bring specific migrants to Canada’s borders enter the narrative frame in the trial and the overall storylines remain simple, protecting the national story and its heroes.

The national story in which the judge positions himself is one that is deeply racialized. Generous, legitimate Canadians welcome genuine refugees and construct a wonderful, racially and culturally diverse society which is undermined by illegal immigrants as well as by citizens of colour who are disloyal to the nation. We hear of a country whose positive characteristics can only be discerned when they are thrown into sharp relief by the contrasting behaviour of people of colour. In part two, I turn to the telling of the national story in the Canadian parliament in the making of immigration laws in order to show that the story in which Judge Farley situates himself is indeed a national mythology. Canadian elites regularly present Canada as clean, ordered, white territory in which bodies of colour who are morally deserving are welcomed. The bodies of colour who are welcomed must above all confirm the civilized and generous nature of their hosts, and must believe in the essential decency of their adopted country. As in the trial, we can confirm the national character of goodness, civility and generosity through our ‘generosity’ to good bodies of colour and the disciplining of bad bodies of colour. When individuals of the dominant group come to know themselves as Canadian, and to perform their identities at sites such as the courtroom, it is this national drama in which they are invited to perform.

**Canadian National Stories: Who We Are**

The law is a powerful place from which to articulate national dreams. Not only do people (at least the people of the dominant group) have faith in the law, as Audrey Kobayashi suggests, but immigration law is also one of two places where the importance of “foreign bodies” to the way the nation is imagined is heavily underscored. (The other is aboriginal land claims, which I do not discuss here, although I note the critical need for a national story to “forget” the genocide of Aboriginal peoples when it is confronted with land claims).

42. I note here that there is no accountability that would enable minority communities to question the use of public monies for this kind of activity at a time when the government was clearly trying to clear the backlog. In Laws, supra note 14, one quarter of a million dollars was spent in surveillance of the two accused.

Canadian national narratives articulated in the context of immigration law are not vastly dissimilar from those noted for the American context, except for the important need for Canadians to distinguish themselves from Americans. When we examine the contemporary shape of these narratives (for they change historically), we see the same making of heroic subjects as in the trial, a practice that is highly dependent on the construct of the good immigrant who establishes Canada’s essential goodness, and the bad immigrant who forces otherwise generous people into taking stern disciplinary measures.

Before turning to the specificities of immigrants and the Canadian national story, it is useful to recall briefly how myths about racialized bodies function to make the nation. In Playing in the Dark: Whiteness and the Literary Imagination, Toni Morrison notes that the national story told in American literature is one of autonomous white heroes who subdue nature and create a new nation out of nothingness. In reality, of course, it took a genocide of native peoples and the enslavement of Africans, followed by immigrant labour, to install the white, Anglo-Saxon elite and to make the story of freedom possible, a story in which law plays a crucial role. The forgetting or disavowal of bodies of colour in the national story secures specific material arrangements and simultaneously shapes dominant subjects’ understanding of themselves as entitled and as good.

In contemporary North American national stories about immigration, the nation is depicted as a haven for those fleeing poverty, war and exploitation. Absent from this narrative is any acknowledgement of Western complicity in the economic and political processes that produce migrants and refugees. We do not see the long arm of American or Canadian imperialism and the globalization processes of late capitalism that bring migrants from the South to our doors, either as undocumented, immigrants or refugees. Specifically, what is disavowed or forgotten is that they are here because we were there and because we need them to be here, both materially and ideologically. As Saskia Sassen points out, nation states use a domestic language of immigration (or more accurately a language of border control) to narrate what is in fact a process of globalization: “This language is increasingly constructing immigration as a

44. Morrison finds that Africanism, the constellation of characteristics that blackness comes to signify, has an important function. “Africanism is the vehicle by which the American self knows itself as not enslaved, but free; not repulsive, but desirable; not helpless, but licensed and powerful; not history-less, but historical; not damned, but innocent; not a blind accident of evolution, but a progressive fulfillment of destiny.” Toni Morrison, Playing in the Dark: Whiteness and the Literary Imagination (Cambridge, Mass.: Harvard University Press, 1992) at 52.


devalued process in so far as it describes the entry of people from generally poorer, disadvantaged countries, in search of the better lives that the receiving country can offer; it contains an implicit valorization of the receiving country and a devalorization of the sending country." 47 That is, the dominant understanding of why immigrants come is that they are seeking a better life, one that enables them to survive in ways that their home countries do not. Both liberals and conservatives share this view. Where they differ is on how generous we should be to such "economic" refugees. 48 Clearly, however, as Sassen argues, migrations "do not just happen; they are produced. And migrations do not involve just any possible combination of countries; they are patterned. Further, immigrant employment is patterned as well; immigrants rarely have the same occupational and industrial distribution as citizens in receiving countries." 49 International migration is the direct result of today’s global economic system, a system which immeasurably benefits all the countries of the North. There are both external and internal factors that produce the flow of peoples from certain countries in the South to the North. Sassen makes the important point that there is no direct relationship between overpopulation, emigration and poverty. Instead, the countries experiencing large outward flows to the United States for example, are countries in which the United States has made large-scale economic and political interventions.

If the Third World is thought to be overrunning the First, then the only way for the First World to limit the flow of people and simultaneously preserve a national narrative of goodness and innocence is to establish the categories of deserving and undeserving, keeping the latter out. In a recent article, Bonnie Honig discusses how the narratives of foreignness in the contemporary American context include these two kinds of foreigners. 50 For example, the story of the immigrant who comes with nothing and makes it is the figure who enables the capitalist nation to claim that anyone can make it; conversely, those who do not make it are simply considered individual failures and not the victims of a highly racialized and gendered labour market. Yet, the immigrant who makes it can also be seen as taking things from other more legitimate citizens. In a second story, the immigrant brings to the nation all the things it has lost: the values of a simpler way of life (often one where patriarchs rule supreme), diversity, culture and community. Here too, the immigrant who brings us his or her culture and community and makes us feel so wonderfully multicultural, can be accused of setting up threatening ethnic enclaves where barbarism takes hold (as for

49. Ibid, at 56.
50. Honig, supra note 23.
example in the practice of female genital mutilation). Finally, in a third story, the immigrant who has chosen to come reaffirms that this is a land worth choosing. Yet, such an immigrant is also easily portrayed as desperate, and is infantilized, not as mature as he or she will become when more fully exposed to democracy and civilization. Thus, on the surface, while the role of foreignness is a positive one that might encourage the nation to treat its immigrants equally, underlying each myth is its converse, a contradiction that Honig suggests is born of a tremendous anxious dependence on foreigners. The contradictions at the heart of how foreignness makes the nation can be resolved, or at the very least the anxiety can be lessened, by a very handy device: setting up good and bad immigrants. Good immigrants help us to believe in the myths. Bad immigrants help us to deal with the anxious dependence. The quintessential bad immigrant is, of course, the illegal or undocumented migrant or the criminal. Nations especially need the bad immigrant at moments when citizens need to be reassured of their place in the nation. This is when, as Linda Bosniak writes, the nation has to harden the distinction between the citizen and the non-citizen.51 The early 1990s, the time in which Evelyn P. is charged and tried, was such a time for Canadians.

The Canadian National Story

Canadians imagine their state as a white settler society, one that is a clone of Great Britain. In this historical construction, the presence and central importance of aboriginal peoples, peoples of colour and the French minority are all forgotten. Elaborating further on this forgetting, Robert Shields notes that Canadians construct a national space-myth of their origins that enables them not only to mark themselves as a white-settler society but as one that is distinct from the United States. The national narrative tells of a Canada that is the ‘True North Strong and Free,’ (a line from the national anthem) a pristine land of snow and ice, a land empty of Aboriginal peoples (indeed of all peoples) and unsullied by conquest and the spilling of blood. In the romanticized image of the lone Inuit crossing an expanse of ice, Canadians can forget the brutal exploitation of the North and its peoples. Its white masculine subjects can position themselves as men of grit crossing the wilderness, overcoming immense hardships, and keeping the land as pure as they found it.52

The purity and innocence of Canadians relies on the crucial forgetting of Canada's history of imperialism and white supremacy. Canadians, even my progressive graduate students, generally believe that they have a better history

than Americans, that they are less racist and are a kinder, gentler people. While this story of innocence often refers to Canadians as uninvolved in slavery, another similar kind of story makes aboriginal nations, and thus genocide and the theft of aboriginal lands, vanish altogether. June Callwood, a well-known white Canadian social commentator, articulates this second story in an article written for Canada Day 1994. In a progression of signs, she accomplishes in one grand discursive sweep the forgetting of Canada’s implication in late capitalism, Northern domination of the South and the continuing oppression of aboriginal populations. Addressing the heated national debate over the Constitution, Callwood writes:

What seems to have been overlooked is that everyone, including aboriginal people who migrated here over ice bridges, came to Canada for the same good reasons: food, shelter, and a safe place to raise children... What binds Canadians, despite the incessant power struggles and the visible casualties of economic policies that hurt our youth, is that this is a better country than most: maybe the best. It is not a country of perfect justice, but one that tries earnestly to right inequities... The rather fatuous notion of old, that Canadians somehow are, well, nicer, is not entirely hogwash... The Canadian tradition of providing newcomers with the staples of existence to get them started has not been abandoned. The aberrations in Somalia aside, our blue-beret forces in UN peacekeeping missions behave honourably and with courage. Chilling mistakes occur, but, for the most part, Canada’s immigration policy is rooted in humane principles and is filling the country with hardworking people of glorious variety.

Perhaps the unifying vision for Canada is civility. Fairness to others is a modest aspiration when compared with the dreams of world leadership implied by America’s soaring eagle or Japan’s rising sun, but many advantages would accrue a nation that becomes renowned for a patriotic duty to be kind.

The national story, articulated so succinctly by June Callwood, circulates around the key idea that Canada is a kinder, gentler and more pristine land. Significantly, the ultimate proof of the country’s national character lies in its treatment of immigrants. In the 1990s, it is this national vision that is used to introduce a series of repressive immigration regulations.

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53. For a discussion of how this is evident on the issue of slavery, see George Elliot Clarke, “White Like Canada” (1998) 73 Transition 103. Clark notes that a 1995 poll by the Canadian Civil Liberties Association indicated that 83% of Canadian adults did not know that slavery was practiced in pre-Confederation Canada. This is consistent with the results in my undergraduate history classrooms where most of the class did not know of racial atrocities committed by the Canadian state.

Under a Conservative government, tighter policing of the border began early in the 1990s. In June 1992, the Minister of Immigration, Bernard Valcourt, introduced Bill C-86, an act to amend the immigration act. Included in its over 100 pages were a number of policing measures such as the training of personnel to identify fraudulent documents at sites before the border, increased authority given to immigration officials to use fingerprint records and to make decisions about who could proceed to the border and who could not, and so on. C-86 was the first in a series of measures seeking to limit the flow of refugees, a move that came at a time when the number of refugees from war-torn Somalia, Sri Lanka and Afghanistan was increasing. Underpinned by the idea that immigrants and refugees fleeing poverty and political strife increasingly turn to Canada as a haven in a heartless world, the Bill was presented and defended on the basis that, without stricter controls, Canada would simply be overwhelmed. As the Minister for Immigration put it, “as many as 80 million people are on the move throughout the world. Prompted by political and economic stability, environmental disasters or the simple desire for a new beginning, individuals and families have uprooted themselves in search of new homes.” These “international pressures” and Third-world overpopulation bring too many people to Canada’s doors, yet Canadians “insist that we leave a light in the window for those hounded from their homelands.” It is, then, largely out of this spirit of homespun generosity, that Canadians must determine who is coming in and whether or not they are legitimate refugees.

What is once again evident in these immigration debates, as it was in the trial, is the extent to which the simple national story of a kinder, gentler place that is welcoming to immigrants, leaves no space for a position of greater responsibility where the regulation of the nation’s borders could be discussed with less of an abuse of the human rights of people of colour both within and outside the nation. The stringent control to keep people out, all the while claiming to be the most generous, depends for its logic on a careful delineation of who is deserving and who is not, and the Minister, in introducing C-86 is able to put faces to these categories. The Bill is introduced with reference to the new citizen who is best able to see Canada as it is, a country worthy of being chosen. In this case, this citizen is Neil Bissoondath, a writer of Indo-Trinidadian origin whose words the Minister quotes as emblematic of the new Canadian.

Canada is a grand country, and it is that grandeur that I wish to leave to my daughter; its beauties, its immensities, its incomparable diversities. These diversities include the duality that is her heritage from both her parents, for in her are blended white and brown, francophone and anglophone, native born and immigrant.

55. Supra note 2 at.12457.
56. Ibid. at 12460.
57. Ibid. at.12456.
Able in his own family to make the case for Canadian unity, Bissoondath is the quintessential new citizen whose most outstanding feature is that he is at home in every part of Canada and in both its official languages, a Brown man who confidently declares: "Nowhere have I felt myself a stranger."58

The good immigrant, in the person of Neil Bissoondath, is a much more developed sign than one might ascertain from the words quoted by the Minister, although its vitality as a sign is perhaps evident in the fact that the Minister chose to introduce and close his presentation of Bill C-86 with Bissoondath’s words. Morrison’s reminder that the nation is imagined in its literature, and Edward Said’s observation that the development of the novel occurs with imperialism59 suggests the fraternity I am noting between politicians and writers who share the same national dream. In his writings, Bissoondath makes clear the specific elements that come together in the good immigrant. Rejecting a hyphenated identity, and thus the tenets of Canadian multiculturalism, Bissoondath is the neo-conservative for whom anti-racist initiatives such as employment equity or culturally specific strategies all lead to embracing narrow tribal and regressive identities. Offering his own constellation of signs, Bissoondath demonstrates “the limits of diversity” by connecting female genital mutilation, muslims who marry 14-year-old girls, minority women who do not want their abusive men charged, and Afrocentric schools in a chain of equivalences that spell out the dire consequences when we allow the recognition of groups. Best to leave such tribal vestiges behind, he suggests:

Heritage belongs first and foremost to the individual. It seems to me possible to instruct an individual child in his or her cultural heritage without erecting ghetto walls by engaging in communal endeavour. Emphasizing the “I” and de-emphasizing the “we” may be the only way to avoid the development of cultural chauvinism—the idea that “we” are superior to “them” and the chasms that result.60

58. Ibid. at 12462. The source of the Bissoondath’s words as quoted by the minister can be found in Neil Bissoondath, Selling Illusions (Toronto: Penguin, 1994), at 25-26. On these pages, Bissoondath elaborates that he has no emotional attachment left to Trinidad: “I miss nothing, am prey to no nostalgia. I have neither axes to grind nor scores to settle ... It is here, everywhere, that I find the comforts of home ....”


60. Neil Bissoondath, “Don’t Call me Ethnic: I am Canadian” Saturday Night (October 1994) 22. This article is drawn from Selling Illusions, supra note 58, in which one finds an extensive description of those who are seen as adopting regressive tribal identities. Such individuals and communities are described as possessing an unreflective attitude of “sticking with their own mentality.” They are not seen as responding to racism, since contemporary racism does not exist in Selling Illusions. Nowhere in it do we find police shootings of Black men,
In her exploration of contemporary American discourses of citizenship, Lauren Berlant argues that it is the sphere of private life that forms the contemporary ground of politics. In order to be granted membership in the national community, immigrants must Americanize, "a moral pressure to identify with a small cluster of privatized normal identities."\textsuperscript{61} Property, privacy and individuality is "the only ground for the true practice of nationhood,"\textsuperscript{62} and in this respect, Neil Bissoondath happily obliges. Berlant goes on to argue that, whereas in the 1980s assimilation was the goal, in the 1990s a new national rhetoric describes a multicultural citizenship in which intermarriage and the production of "mixed-race but still white enough children" becomes the fantasy of the future. Analysing *Time Magazine*’s conceptualising of the citizen of the future as a composite racial figure, Berlant points out that the new racially mixed citizen belongs everywhere and nowhere, and has no memory or history. She is, in this respect, the new cosmopolitan ideal whom Richard Delgado and Jean Stefancic also write about.\textsuperscript{63} Taking as their example the description of the new cosmopolitan ideal advanced by Jeremy Waldon, a law professor, who notes that the cosmopolitan man is against identity politics, and is an individual who "refuses to think of himself as defined by his location or his ancestry or his citizenship or his language," Delgado and Stefancic point out that what drops out of the picture of the hybrid lifestyle of the true cosmopolitan is history. Unanchored in time and place, and in concrete social relations, the cosmopolitan citizen does not recognise specific harms such as racism, forced assimilation and labour exploitation. Remedies to such wrongs appear to be like tribalism, "like catering to the unique sensitivity of a small group."

The uniqueness of the clamouring group and its history are lost. We are given a snapshot, a horizontal slice of their situation, and we are told to ascertain what, if anything, they are due in light of what this shows. Debts, obligations, the need for reparations—all of these are not easily captured calculus, which merely asks: what would a citizen of the world—urbane, evidence of the racialized and gendered labour force or the oppression of aboriginal peoples. Those who note such things are merely focussing on "yesterday’s humiliations." *Selling Illusions*, ibid. at 26.


\textsuperscript{62} Ibid., p.200.


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Bissoondath embodies this new cosmopolitan ideal: an individualist who stands determinedly outside colonialism, neo-colonialism and racism, which he associates with bygone eras, a man who can acknowledge that his history and roots shaped him, but who maintains that the past is the past. Collective forms of personhood, as Berlant points out, are thus denied in the interest of individualized and privatized citizenship, actualized by the heterosexual and racially mixed couple. For people of colour such as Bissoondath (and for Berlant the example is O.J. Simpson), passing in this way, leaving history and context behind for an abstract personhood, remains the only portal to national culture.

The periodic appearances of the good immigrant alongside of the illegal or the criminal has dominated Canadian media on immigration for most of the nineties. The bad immigrant to whom Bissoondath is compared, is also given a profile in the national debate. She is a “Toronto woman” who “faces 20 charges in immigration scam,” a woman who is charged with the same kind of immigration fraud as was Evelyn P., namely forging employment letters in order to obtain the immigration form known as 2151, a confirmation of offer of employment. Indeed, the woman referred to was charged after the same policing initiative that led to the arrest of another immigration consultant (both of whom were convicted) and to Evelyn P.’s arrest. In 1994, the Canadian parliament moved on after Bill C-86 to debate Bill C-44, an act to amend the *Immigration Act* in order to facilitate the deportation of criminals, including Canadians who

64. *Ibid.* at 779.
are in the process of receiving their citizenship status. 68 This measure was
doubtless fuelled by the killing of a white woman by a Black Jamaican, a
permanent resident who had been issued a deportation order. 69 Ultimately C-44
resulted in an amendment to the Immigration Act making it possible for
permanent residents to be deprived of their right of appeal if they are deemed to
be a danger to the public and ordered deported. 70 With such measures in place
that facilitate the deportation of permanent residents, the violent slide in status
which first prompted me to write this article, a slide from respectable citizen to
suspected outsider, has a firmer legal basis. The erosion of the citizenship rights
of those already in the country has continued apace through to the end of the 90s
with measures introduced for debate both in 1994 and in 1998 concerning the
citizenship status of babies born of refugees and immigrants. 71

Conclusion: Disrupting the Performance

What will it take to disrupt the performances of innocence so necessary to the
articulation of the national dream and specifically to the individual performances
such as Judge Farley’s and those of the majority of Canada’s politicians and
media? A strategy that is often proposed by critical race theorists is to consider
how information that is disallowed (suppressed stories from the top and stories
from the bottom) might in fact seep through. 72 In the case of immigration fraud,
we might anticipate these as stories about the real structure of immigration
controls—perhaps the internal memos from the office of the Minister of
Immigration announcing administrative procedures directing immigration

68. Federal Bill C-44, an act to amend the Immigration and Citizenship Act and to
69. For a discussion of this case and the media portrayal of illegals, see Arif Noorani
& Cynthia Wright, “They believed the hype” This Magazine 28:5 (December/January 1995) 29; Sue Ruddick, “Constructing Difference in Public
Spaces: Race, Class, and Gender As Interlocking Systems” (1996) 17:2 Urban
Geography 132.
1995, c.15, s.2, ss(3..01)(b) at 14.
71. In November 1994, a private member of the House, Mrs Sharon Hayes moved to
amend the Citizenship Act (Bill C-249) to deny citizenship to a child born of
parents without citizenship or permanent residence until such time as the parents
obtain them. Hansard (16 November 1994) at 7881. The issue surfaced again in
72. See Sherene H. Razack, Looking White People in the Eye: Gender, Race and
Culture in Courtrooms and Classrooms (Toronto: University of Toronto Press,
1998) at 36-55.
officers to be more generous than usual in order to clear the backlog,\textsuperscript{73} perhaps minutes of meetings between the City Police and the Royal Canadian Mounted Police outlining who they were going to catch and why.\textsuperscript{74} We can also consider what would happen if the broader context were allowed in knowing, however, of the law's relentless ruling out of this kind of information. In this case, what if the judge heard about how much we rely on the labour of the so called "illegals," and how we are implicated in World Bank and IMF policies that bring Portuguese-speaking migrants (from both Brazil and Portugal) to our doors? Would this information begin to undermine the performance of dominance? Could we call the border police to account for who they go after and why?

In parliamentary debate on immigration, a debate that usually begins with the Neil Bissoondath stories and countless expressions of our generosity, we could begin from the position that we are \textit{not} a kind and generous country. Only a very few members of parliament attempted to disrupt the story that was told about immigration in the readings of Bill C86. For example, two members questioned the story of a Canada overrun by refugees and immigrants,\textsuperscript{75} and one of these, Dan Heap, attempted to describe in detail how Canada is implicated in the economic and political processes that bring migrants to its borders. Noting that Canadian immigration policy became less generous when refugees and migrants were dark-skinned, Heap spelled out in detail the economic and political arrangements of American imperialism in which Canada was deeply implicated and which brought refugees and migrants to our doors as cheap labour.

The pattern is that cheap labour, cheap land and cheap resources are invested by the United States for their super profits. They also bring about in return massive migration because at the same time the United States' market for low wage labour in the 1970s drew them to the United States...

What does this mean for Canada's immigration policy? These are countries [the United States, Japan and Northern Europe] with which Canada is a partner...For two to three decades these north Atlantic countries, including Canada, have invested and intervened politically and with armaments in the southern neighbours. The rich countries grew richer and the people of the poor countries grew poorer. While tens of billions of dollars net were taken each year by the north from the south, puppet

\textsuperscript{73} This was done in 1984. See W. G. Robinson, "Illegal Immigrants in Canada: Recent Developments" (1984) 18:3 International Migration Review 480.

\textsuperscript{74} This is available in \textit{Laws, supra} note 14, where there was evidence that the police wanted to entrap a noted Black activist. It did not suffice, however, to indict the state.

governments with arms from the north suppressed the revolts of the people.76

His words, perhaps because of his membership in a political party that had few seats in the house, were completely ignored. Yet they suggest the shape of the interventions we can pursue to contest the national story of innocence. Instead of stories of the grandeur and snowy whiteness of the land, we could begin to consider immigration starting with our involvement in transnational relations.

The value for people of colour in tracing what is disavowed in the distinct geographies of the national imagination is that we can learn to recognise, at more than an intuitive level, the narratives in which we are positioned as subordinate. We can then connect the everyday official story of Canada as a kinder, gentler land, with the willful forgetting of past and present practices of domination. We all need to articulate a role for Canada, and for its citizens that does not depend on the structure of innocence one finds in immigration rhetoric. We can refuse to internalize its underlying message of who belongs to the nation state and who does not, who is good and who is not. This does not mean that there are no bad guys but that our assessment of who is a bad guy begins with a refusal to see ourselves as innocent. From there, we can begin to work out what an ethical position might look like in specific contexts. Let us start by thinking of how our bodies are getting positioned by the simple storylines of national stories, that is, by itemising the constellation of signs that establish dominant and subordinate subjects for our national context. In the policing of the border, these signs are organised around heroic figures who stand abstracted outside of place and history, equally situated to all citizens, and who bear no responsibility for the flows of capital, labour and arms. This, above all, is the dream of innocence we must reject. Baldwin's words forcefully remind us how much is at stake in the performance of dominance we are seeking to disrupt: the dominant group's deepest anxiety that they are not who they claim they are. The level of resistance to strategies of accountability should not, therefore, be surprising.