

# WORKING PAPERS

## Discourses of Exclusion and Undesirability: The Designated Countries of Origin Policy and its Impact on Hungarian Romani Refugee Claimants

Jenna Koumantaros

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The Designated Countries of Origin Policy and its Impact on  
Hungarian Romani Refugee Claimants**

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## **Abstract**

For years, government actors defended the Designated Countries of Origin (DCO) policy as a necessary tool to curb the alleged abuse of Canada's refugee determination system. The DCO policy, however, had garnered a lot of criticism over its restrictive provisions which have targeted nationals of specific countries, making it harder for them to obtain refugee status in Canada. As a result of these conflicting perspectives, the following working paper will explain that the DCO policy was an exclusionary refugee policy that unjustly limited the ability for nationals of DCO countries (DCOs) to obtain refugee status in Canada. It will demonstrate that actors of the Canadian Government, through mainly the former Minister of Citizenship, Immigration and Multiculturalism (the Minister), reinforced discourses of exclusion to justify the DCO policy's implementation as necessary. By exemplifying the DCO policy's impact on the Romani people of Hungary, this paper will expose how exclusionary refugee policies, and the discourses that substantiate them, represent the widely embedded and deeply discriminatory belief that some refugee claimants are less desirable than others.

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## **Introduction**

Canada has a duty to give all eligible people seeking refuge the opportunity to have their case heard and their status determined at the Immigration and Refugee Board of Canada (IRB) (Immigration and Refugee Board of Canada, 2020a). Although there are no laws that bind Canada to accept all claimants as legitimate refugees, some policies purposely make it difficult for certain claimants to have a fair and equal chance to successfully obtain refugee status in Canada. One such policy was the Designated Countries of Origin (DCO) policy. Since its implementation in 2012, the DCO policy had been widely criticized as an exclusionary policy that was used to keep nationals of certain countries out of Canada, preventing them from obtaining refugee status. Although the DCO policy is no longer in use, the following working paper will explain that the DCO policy was an exclusionary refugee policy that unjustly limited the ability for nationals of DCO countries (DCOs) to obtain refugee status in Canada. It will demonstrate that actors of the Government of Canada, through the former Minister of Citizenship, Immigration and Multiculturalism (the Minister) in particular, reinforced discourses of exclusion to justify the DCO policy's implementation as necessary. By showcasing the DCO policy's impact on the Romani people of Hungary, this working paper will reveal how exclusionary refugee policies, and the discourses that substantiate them, represent the widely embedded and deeply discriminatory belief that some refugee claimants are considered less desirable than others.<sup>1</sup>

## **The DCO Policy Problem**

On June 28, 2012, Bill C-31 Protecting Canada's Immigration System Act (Bill C-31) came into effect to amend the Immigration and Refugee Protection Act (IRPA) and introduce the DCO policy (Government of Canada, 2012a, paras. 1). The DCO policy was marketed as an abuse deterrence measure, giving the Minister executive power to designate alleged "safe" countries as DCOs under both qualitative and quantitative thresholds. Quantitative thresholds for designation as DCOs are "... numbers, periods or percentages" determined exclusively by the Minister, of denied, abandoned, and withdrawn claims from nationals from certain states that, if met, would trigger a country for designation (Immigration and Refugee Protection Act [IRPA], 2001, s.109(3)). Qualitative thresholds include if: "(i) there is an independent judicial system, (ii) basic democratic rights and freedoms are recognized and mechanisms for redress are available if those rights or freedoms are infringed, and (iii) civil society organizations exist" (IRPA, 2001, s.109(2)(b)). Meeting the quantitative and/or qualitative thresholds would not result in the automatic designation of a country on the DCO policy (Yeates, 2015). Instead, meeting the thresholds would trigger that nation for further review under the DCO Country Review (Yeates, 2015). "The DCO Country Review is an in-depth report of country conditions based on a select set of human rights and state protection criteria and associated indicators. Reports draw on a wide range of open source and classified information" (Yeates, 2015, p. 000050). Although parts of the DCO Country Review may be available for public inquiry, other parts are classified, which may not provide the full explanation behind a country's designation. Likewise, there are no official documents publicly available that state definitively which of the criteria a country meets that led to its designation. Instead, the qualitative and quantitative criteria listed in the IRPA, coupled with the DCO Country Review only provide the assumed basis upon which a country was designated. In other words, it is assumed based on the information available that the country met or surpassed the criteria listed. As a result, the mix of quantitative and qualitative

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<sup>1</sup> This working paper expands upon ideas presented in my master's thesis.

triggers, in addition to the public and confidential information used in the DCO Country Review, make it difficult to fully understand or determine the rationale for a country's designation under the policy.

The premise behind the DCO policy was that some countries are “safe” in comparison to others and therefore should not produce refugees. The DCO policy mimics Europe's Safe Country of Origin (SCO) lists from the 1990s where European Union (EU) Member States labelled countries as “safe”, preventing nationals of those countries from claiming refugee status in other EU Member States (Atak, 2018). The rationale of the SCO list is that “... asylum seekers from designated States are opportunistic migrants exploiting the refugee system (including its slow pace) to circumvent more restrictive admissions regimes for non-citizens” (Macklin, 2011, p. 102). This is suspected to be the same logic utilized by government actors to justify the use of the DCO policy.

The DCO policy had been championed as a rational and necessary means of deterring abuse from opportunistic refugee claimants trying to avoid the strict requirements of other programs such as the immigration process (Nobe-Ghelani, 2017). However, the problem posed by the DCO policy is that in practice, it was an exclusionary policy that unfairly labelled all nationals from DCOs as “safe” and therefore those claimants were all considered to be fraudulent and not in need of refuge. In fact, the DCO policy has been expressed as a guise for government actors to impose “... blanket exclusions based on country of origin, which may deny genuine refugees from claiming asylum” (Reynolds & Hyndman, 2015, p. 48). It presented a conflicting narrative where countries are labelled “safe”, yet the production of refugee claimants from those nations exposes the lack of safety. These contradictions will be discussed in detail in upcoming sections.

Before proceeding with the analysis, it is important to note that the DCO policy is no longer in use. Section 109 remains within the IRPA, but as of May 19, 2019, all countries have been removed from the DCO policy list (Government of Canada 2019, paras. 1). More detail will be provided on what led to the removal of all countries from the policy in a later section of this paper. Although the DCO policy's impact will be discussed in the past tense in this working paper, it was a significant part of refugee law for 7 years. As a result, it is essential to evaluate the DCO policy's impact during the years it was in use. To continue, the next section will critically analyze the discourses employed by government actors which solidified the labelling and exclusion of DCO claimants and created the stigma that DCO refugee claimants are less desirable than other claimants (Nobe-Ghelani, 2017).

## **Discourses of Exclusion and Undesirability**

Discourses are defined as the social construction of meaning that influence social phenomena and social relations (Fairclough, 2013). Discourses such as language and speeches are used to make social rules significant (Fairclough, 2013). Discourses construct social action and shared understandings of the world around us (Howarth, 2009). Though most discourses usually create harmless social behaviours, there are instances when normalized discourses create systems of domination, and “... structure patterns of inclusion and exclusion” (Fairclough, 2013, p. 189). Discourses have the ability to create ideologies of power that translate into deeply engrained beliefs about social practices and how social structures ought to be (Jessop & Sum, 2016). In order to deconstruct how discourses of exclusion were embedded into the DCO policy, the following subsections will assess the agents of the Canadian Government and how they use language to justify the implementation of the policy, creating discourses of exclusion and undesirability within Canada's refugee determination system (Fischer, 2015). The “agents” include former Minister Jason Kenney since he tabled and enforced the DCO policy and marketed it to the

Canadian public. Government of Canada websites will also be included because that is how the government informs Canadians about new laws and changes to policies. It is used to disseminate important information to the public and therefore the language used on the websites is essential to constructing discourses. The Minister's speeches and government websites discursively constructed DCO claimants as undesirable by characterizing them as threats to the refugee determination system and threats to the economy (Hout et al., 2015).

### ***The DCO Threat to the Refugee Determination System***

Since Bill C-31 was tabled in March 2010, the Minister began a speaking tour defending and promoting the DCO policy as a necessary measure for Canada's refugee determination system (Diop, 2014; Hout et al., 2015). In one of the Minister's earliest speeches, he outlined how DCO claimants pose a threat to the integrity of Canada's refugee determination system. He began by stating that although most people enter Canada legally and respect the refugee determination system, there are some people that attempt to enter and stay by any means necessary including by making false claims for refugee status to avoid meeting the requirements for immigration status or other settlement programs (Government of Canada, 2011). In a later speech, the Minister stated plainly "to be blunt: Canada's asylum system is broken" (Government of Canada, 2012b, paras. 7). The rationale behind the Minister's declaration was that, for years, there have been many denied refugee claims. According to the Minister, refugee claims being denied was proof of the fraud and abuse of the refugee determination system because "bogus" refugees get denied (Young, 2019). In other words, had those claims been legitimate, they would have been accepted at the IRB and given refugee status (Government of Canada, 2012b). However, because they were denied, their claims were automatically considered fraudulent and illegitimate by the Minister.

The rhetoric used by the Minister was deliberate. The problem was framed to intentionally shift the responsibility of ensuring the integrity of the system from Canada onto the claimants, therefore characterizing DCO claimants as the reason why the refugee determination system was "broken". The Minister blatantly disregarded the fact that claims can be denied for a number of reasons, but instead declared fraud to be the only explanation. In response to this problem, the Minister emphasized that the DCO policy was the solution, stating that it would ensure "real" refugees receive Canada's protection and anyone trying to abuse Canada's refugee determination system will be removed (Diop, 2014). He stated "the Act [Bill C-31] contains long-needed improvements that will result in faster protection for real refugees and quicker removal of "bogus" refugee claimants. That Act went a long way towards addressing problems in our system" (Government of Canada, 2012b, paras. 7). The provisions in the DCO policy claimed it would deter abuse by expediting the process of review at the IRB. Whereas non-DCO claimants would have their claim heard within a minimum of 60 days with no stated maximum days, DCO claimants were subject to a minimum of 30 days and a maximum of 45 days in which their claims were to be heard at the IRB (Government of Canada, 2013). The logic behind this provision is that "real" DCO claimants should have no issue proving their refugee claim in a condensed timeframe, but because they were assumed to be fraudulent, they would be denied quickly and subject to deportation as to not further abuse Canada's refugee determination system (Atak, 2018).

This strategic use of language is referred to as "policy-as-discourse", where policies are created in response to an alleged problem in order to give the actor praise as the problem solver (Hout et al., 2015, p. 134). Policy actors with a stake in the policy outcome use "policy-as-discourse" to deliberately problematize certain alleged issues to push the implementation of policies to address those issues (Bacchi 2000). "Policy-as-discourse" is

considered a political tool, as actors define the problem and propose the policy solution for the purposes of their political interest, rather than the issue being in need of an urgent policy remedy (Bacchi 2000). Essentially, actors create the illusion of a problem and implement policy to eliminate that problem in order to garner political legitimacy and praise for ridding the public of the issue. In reality, these alleged "... problems are created and shaped by the "very policy proposals that are offered as 'responses'" (Hout et al., 2015, p. 134; Bacchi, 2009, p. 48). In other words, "policy-as-discourse" is used as a guise for government actors to push their own political interest, as often times the problem and policy solution only exist by their definition (Bacchi 2000). Policy problems created by the actors are solved by the actors' proposed policy. This, however, can have unintended consequences. "Policy-as-discourse" can also create new, or exacerbate existing, societal problems when actors define issues in a political sense. For example, "policy-as-discourse" was used by the Minister and government actors to justify the implementation of the DCO policy. Refugee claimants from certain nations became political objects and were defined as the alleged problem. Their assumed abuse of the refugee determination system made it harder and slower for legitimate refugees to access refuge (Government of Canada, 2012c, paras. 4). This is not a problem that exists outside of the political sphere. The entire purpose of Canada's refugee determination system is to vet which refugee claimants are legitimate and which are not. In effect, having a lot of denied claims means the refugee determination system is working by effectively vetting refugee claimants and determining they should not have refugee status in Canada. However, government actors used discourses to define the mass denials as abuse and fraud, and the DCO policy as a deterrence mechanism to eliminate this problem. Rather than fixing an alleged problem, however, government actors used "policy-as-discourse" to create the problem and implement the DCO policy to solve it with little regard for the repercussions it may have on the countries bound by the policy. This strategic use of discourse by government actors created a divide in the refugee determination system where some refugee claimants are automatically considered less legitimate than others.

### ***The DCO Threat to the Economy***

In addition to this, the language used to describe and explain the DCO policy on official Government of Canada websites discursively represented DCO claimants as threats to the economy as well. "Too many tax dollars are spent on asylum claimants who are not in need of protection" reads the first line of the DCO policy page on the official Government of Canada website (Government of Canada, 2013, paras. 1). It also states "large numbers of unfounded claims are a financial burden on the economy. But the attraction of Canada's social assistance programs and associated benefits are a draw for many" (Government of Canada, 2013, paras. 9). The language of the website described DCO claimants as opportunistic fraudsters who were not in need of protection, but instead were only interested in government resources (Nobe-Ghelani, 2017). The DCO policy was again marketed as the solution to the alleged threat posed by DCO claimants on the economy because the shortened timeframe would ensure that as little resources were spent on "bogus" DCO claimants as possible. Likewise, once a DCO claimant was denied, they were subject to stricter post-claim measures to limit their ability to satisfy them and ensure their swift deportation in order to decrease the amount of taxpayer money spent on DCO claims (Diop, 2014; Hout et al., 2015). Additionally, the Government of Canada website states "to further reduce the attraction of coming to Canada to make an unfounded claim, it is also proposed that DCO claimants would be ineligible to apply for a work permit..." (Government of Canada, 2013, paras. 10). Again, DCO claimants were characterized as job-stealing frauds



manipulating the refugee determination system to access Canada's economy (Diop, 2014; Hout et al., 2015).

Rather than the issue remaining in the Canadian Government's jurisdiction of responsibility, by claiming that DCO claimants were wasting taxpayer money, taking jobs and resources, government actors strategically shifted the problem onto all taxpaying residents of Canada (Diop, 2014). By framing it this way, Canadian taxpayers were made to believe this was a personal threat, obligating them to alleviate the issue of DCO claimants using their money, taking their jobs and resources. It then became easier for the government to show that the DCO policy as the best resolution to the Canadian public (Diop, 2014). Government actors tactically depicted DCO claimants as a problem for all of Canada through the alleged threat they posed to the refugee determination system and the economy, placing a sense of burden on Canadians to have a stake in eliminating the problem, thus making the DCO policy the most viable solution to this issue.

### **The DCO Policy's Top Source Countries: Hungary & Mexico**

Hungarian refugee claimants were exemplified as one of the main culprits of these threats (Diop, 2014). In fact, the Minister mentioned Hungarian refugee claimants specifically as the catalyst for the introduction of the DCO policy. During a press conference, he stated that 98% of all Hungarian refugee claims are made in Canada and it was the top source country for refugee claims consistently from 2008 to 2011 (Government of Canada, 2012d, paras .6). The Minister continued by stating "... virtually none of them turn out to be well-founded" (Government of Canada, 2012d, paras. 8). This, he suggested, was evidence that the refugee determination system was being abused by Hungarian claimants specifically. In another interview, the Minister explicitly stated that Hungarian claimants are the offenders threatening Canada's economy as well. He stated that Hungarian refugee claimants want access to Canada "... to benefit from the generosity of Canada's welfare system" pointing to public housing, welfare, health care and other tax benefits that would be enticing for fraudsters (Government of Canada, 2012d, paras.10; Rehaag et al., 2015, p. 721, 722).

Hungary, however, was not the only country mentioned specifically by the Minister as the source of the fraud leading to the DCO policy's implementation. Mexico was also claimed to produce fraudulent refugee claimants. Mexico was consistently among the top source countries for refugee claims made in Canada from 2008 to 2012, sparking discussions around a Mexican "refugee crisis" (Gilbert, 2013, p. 828). Some Canadian cities experiencing high levels of unemployment during this time, became inundated with Mexican refugee claimants (Gilbert, 2013). The media and government actors denounced how refugee claimants placed an undue burden onto Canadian cities, limiting the local government's ability to support legitimate citizens (Gilbert, 2013). Mexican refugee claimants were also accused of making fraudulent claims to bypass the immigration process and pursue better work opportunities (Macklin, 2011). Likewise, because Mexico is a democratic country, it was further assumed that they were not in true need of refuge. These claims of fraudulence, however, were not substantiated by fact (Tóth, 2010).

In the years that followed, Mexican and Hungarian refugee claimants were consistently referred to as the fraudsters in the early iterations of what would later be the DCO policy (Gilbert, 2010). Claimants of both countries were consistently grouped together as the supposed threats to Canada to justify and implement the DCO policy. The former Minister even validated that Canada would "... no longer take large numbers of asylum seekers from the [EU] or Mexico ..." in order to focus on claimants suffering "real persecution" through the DCO policy (Government of Canada, 2015, paras. 43). It was for these reasons that Hungary

and Mexico were among the first of 42 countries to be designated as DCOs and subject to the policy's restrictions.

### ***Romani Discrimination in Hungary***

What is not commonly acknowledged, however, is that there is a minority group in Hungary that experiences extreme discrimination. This group is called the Romani people, also commonly referred to as the Roma people. The total population of Hungary has remained just under 10,000,000 and according to Hungarian census data from 2015, approximately 315,000 Hungarians self-identified as Romani, representing approximately 7.5% of Hungary's total population (European Commission, 2020; Immigration and Refugee Board of Canada, 2016, paras. 1). Due to the lack of housing, unwillingness to self-identify for fear of discrimination, and reasons that will be outlined in the next subsection, this was perceived as an underestimation of the Romani population in Hungary (Immigration and Refugee Board of Canada, 2016). Some sources place the total population of the Romani in Hungary at approximately 500,000 to 800,000 people (Immigration and Refugee Board of Canada, 2016, paras. 1). The Romani undoubtedly comprise the vast majority of Hungarian refugee claimants to Canada (Rehaag et al., 2015). Available data suggests that approximately 85.4% of Hungarian claims made from 2008 to 2012 alleged the basis of their refugee claim was the fear of persecution based on their Romani ethnicity (Rehaag et al., 2015, p. 736, 737). In other words, the majority of refugee claims made in Canada from Hungary are Romani. Contrary to Hungary's designation as "safe", the Romani have suffered legitimate persecution in Hungary.

Anti-Romani rhetoric has been entrenched throughout European history, but this is particularly clear in Hungary (Udvarhelyi, 2014). Stereotypes portray the Romani people as travelers who are not honest workers, but instead are beggars, street performers and thieves (Rehaag et al., 2015). They are commonly known as Gypsies. Their lifestyle is considered to be in direct conflict with European culture, making many EU Member States actively seek to criminalize their existence and prevent further incoming migration of the Romani. Hungary passed laws that criminalize transient encampments which are almost exclusively occupied by the Romani (Udvarhelyi, 2014). Anti-Romani protests and extremist violence have driven out Romani camps from many parts of Hungary (Diop, 2014). They are unable to secure adequate housing because non-Romani Hungarians are given priority on properties. They experience excessively high levels of unemployment and face workplace discrimination, leading to higher levels of poverty (Diop, 2014). They are also disproportionately subject to ethnicity-based over-policing, leading to a higher percentage of Romani in the prison population. Hungarian schools are segregated because Romani students are unjustly placed in special schools for the intellectually and developmentally disabled to ensure they are educated separately from non-Romani Hungarian children (Rehaag et al., 2015). In mainstream media, support for the rights of the Romani is considered "anti-Hungarian" (Vidra & Fox, 2014, p. 443). Historical, political and social action in Hungary suggests that the stereotypes of the Romani as fraudulent, criminal parasites have been deeply imbedded in the Hungarian collective consciousness (Loveland & Popescu, 2016). As a result of this, it is difficult to fathom how Hungary could be designated under the DCO policy as a "safe" country if the Romani experience such extreme discrimination.

Based on the very real persecution that the Romani have faced, many scholars have argued that Canada weaponized the DCO policy to designate Hungary, overshadowing the persecution of the Romani people and effectively keeping this perceived undesirable group out of Canada (Hout et al., 2015). Government actors have knowledge of the discrimination of the Romani in Hungary. The Government of Canada website has an extensive list of

country of origin information on Hungary which contains numerous documents explicitly outlining instances of persecution against the Romani (Immigration and Refugee Board of Canada, 2020b). One document compiled all targeted hate crimes against the Romani from January 2008 to September 2012. There was a total of 61 targeted attacks against the Romani or their property including murders, assaults and vandalizations (European Roma Rights Centre, 2013, paras. 4). Although the specific statistics were not provided, an Amnesty International report suggests that hate crimes against the Romani represent the vast majority of violent crimes committed in Hungary overall (Amnesty International, 2010, p. 19-20). During this period of time however, the Canadian Government, under the Minister's direction, ran an official campaign in Hungary to discourage refugee claims from being made. Brochures were distributed throughout Hungary which outlined the changes brought about by the DCO policy and emphasized its condensed timeline (Diop 2014). The brochures included veiled threats stating that the way Hungarians made refugee claims previously "... is not the way you immigrate to Canada" (Diop, 2014, p. 73). Billboards were also placed throughout Hungary warning people to reconsider coming to Canada because they will be subject to harsher rules and deportation (Diop 2014). Though the billboards and brochures were for all Hungarians, this campaign targeted the Romani in particular because they represent the majority of Hungarian refugee claims made in Canada. While acknowledging Romani persecution on their website, the Minister's campaign stated otherwise. These conflicting narratives indicate how the DCO policy was a "self-fulfilling" prophecy (Macklin, 2011, p. 103). Government actors constructed DCOs as fraudulent and imposed a policy on DCO claimants that further perpetuated that fraudulence (Macklin, 2011). Although the policy intended to ensure "real" refugees get protection, DCO claimants such as the Romani who were legitimately facing persecution, were further persecuted by the DCO policy (Diop 2014; Macklin, 2011).

### ***Canadian Refugee Claims Statistics for Hungary***

Lastly, the statistics for Hungarian claims conflict with the discourses of fraudulence presented by government actors and Hungary's designation as a "safe" country. All figures that will be discussed are represented in Table 1 below.

**Table 1**

*Total Refugee Claims Made in Canada By Hungarian Refugee Claimants Per Year*

<b>Hungary</b>	Accepted	Denied	Abandoned	Withdrawn	Total Claims
2011	165	738	249	838	1990
2012	448	2151	147	1406	4152
2013	404	1104	44	439	1991
2014	339	330	18	283	970
2015	587	217	14	137	955

*Note.* Data from 2011 and 2012 sourced from (Rehaag et al., 2015, p. 732). Data from 2013 to 2015 sourced from (Immigration and Refugee Board of Canada, 2020c).

Prior to Hungary's designation, the Minister stressed that denied, abandoned and withdrawn claims were evidence of fraud from "safe" countries. In 2011, before its designation, a total of 1,990 claims were made from Hungary to the IRB. 249 of those claims were abandoned, 838 were withdrawn, 738 were denied and only 165 claims were accepted (Rehaag et al., 2015, p. 732). In 2012, after Hungary was designated as a DCO, 4,152

claims were made overall and of those claims, 147 were abandoned, 1406 were withdrawn, 2,151 were denied and 448 were accepted (Rehaag et al., 2015, p. 732). Although it would seem that the DCO policy was successful because there was a significant increase in denied, abandoned and withdrawn claims, this paper will offer an alternative explanation. The post-designation numbers suggest that Canada failed in its campaign to deter Hungarian claimants because more than double the number of claims were made in 2012 than in 2011. This indicates that Hungarian claimants, specifically Romani claimants, assumed they were legitimately being persecuted and pursued refugee claims regardless of the DCO policy's restrictions. Likewise, more than double the number of claims were accepted in 2012 than in 2011, indicating that more Romani were in legitimate need of refuge which is in stark contrast to their "safe" designation. Finally, there are other issues that could have influenced the increase in denied, abandoned and withdrawn claims. For example, the Romani's high unemployment rate in Hungary potentially made them less likely to afford legal representation to assist with their claim (Rehaag et al., 2015). Likewise, the reduced timeframe to prepare for their hearing coupled with their DCO label which may pre-emptively trigger a negative decision at the IRB for their alleged fraudulence, put Hungarian claimants at higher risk to abandon, withdraw or have their claims denied (Atak, 2018).

These inconsistencies persisted in the years after Hungary's designation, but were especially prominent in the statistics for 2015. There were 955 claims made by Hungarian claimants in 2015, and of those claims 14 were abandoned, 137 were withdrawn, 217 were denied and 587 were accepted (Immigration and Refugee Board of Canada, 2020c). The denied, abandoned and withdrawn claims were significantly lower in 2015 than in 2011 and 2012. Based on the Minister's own logic these post-designation figures would suggest that the DCO policy was successful in lowering the amount of alleged fraudulent claims. Again, this paper will propose an alternate explanation.

Hungarian Romani people travelling to Canada were allegedly questioned and prevented from boarding airline flights in 2015 (Boudjikianian, 2015). Travellers were asked outright if they were Romani and were subsequently prohibited from boarding outgoing flights to Canada. The Canada Border Services Agency (CBSA) admitted to hiring "liaison officers" to informally screen Hungarian travellers for their travel intentions and personal documentation (Boudjikianian, 2015, paras. 23). It is alleged that the CBSA's liaison officers were conducting these screenings to identify and prevent Romani travelers from entering Canada to ensure they do not make refugee claims (Boudjikianian, 2015, paras. 29). A large number of Romani travellers with the intent to make refugee claims in Canada were not allowed to leave Hungary, which would account for the overall decrease in refugee claims made in 2015 (Boudjikianian, 2015). This also indicates that had Romani people not been prevented from boarding planes in 2015, there would have been more Hungarian refugee claims than what was reflected in the statistical data. As a result, although there was a significant decrease in the categories that supposedly indicate fraud, the decrease in denied, withdrawn and abandoned claims corresponded with the overall decrease in total claims. A claim cannot be denied, withdrawn or abandoned if it was never made to begin with. The screening was suspected to be done to ensure that the DCO policy appeared to be successful in lowering the number of claims made from Hungarian refugee claimants, decreasing the figures in all categories that indicate fraud.

Likewise, the majority of Hungarian refugee claims in 2015 were accepted as legitimate refugees. This would indicate that the Minister's reasoning for justifying Hungary as a DCO was clearly flawed. If the purpose of the DCO policy was to determine which countries are "safe" and therefore less likely to produce refugees, the statistics for Hungary as a "safe" DCO should reflect consistently low numbers of accepted claims, especially in the years following its designation. However, in 2015, more Hungarian claimants were accepted as refugees than in 2011 and 2012. There were 139 more accepted claims in 2015

than in 2012, and 422 more accepted claims in 2015 than in 2011 (Immigration and Refugee Board of Canada, 2020c). These figures show that Hungary was producing more legitimate refugees as a “safe” country than it was prior to its designation as such. By the Minister’s own logic, Hungary actually became less “safe” in the years after its designation. The figures simply do not reflect a “safe” country as defined by the Minister to justify the implementation of the DCO policy. There is a significant gap that exists between the Minister’s logic and the actual effect of the DCO policy on refugee claims. It seems that there exists a substantial and growing need for Hungarian claimants, particularly Romani, to seek legitimate refuge in Canada. Taking into consideration the discourses of exclusion in conjunction with the documented persecution of the Romani, as well as the conflicting statistics, it can be reasonably assumed that the DCO policy was a guise for government actors to limit the undesirable Romani through Hungary’s unjust designation as a “safe” DCO.

### **The DCO Policy’s Failure**

As a result of this, refugee advocates have been calling on government actors to address the concerns that DCO refugee claimants were significantly limited from accessing refuge. Likewise, since its implementation, refugee scholars have also studied the disturbing contradictions between what the DCO policy aimed to achieve, the discourses of government actors and what the DCO policy actually accomplished. Many scholars have exposed the inherent inconsistencies of the DCO policy and its negative impact on DCO refugee claimants, similar to what this paper has outlined thus far.

It was for these reasons that the DCO policy became the topic of political debate in 2015, when Justin Trudeau was vying to become the Prime Minister of Canada. Since the DCO policy was implemented by the Conservative government, its elimination was made to be a public priority if Justin Trudeau was elected (The Canadian Press, 2017). After Justin Trudeau and the Liberal government were elected in 2015, former Minister Ahmed Hussen was urged from scholars and refugee advocates to follow through with their campaign promise and eliminate the DCO policy (The Canadian Press, 2017). Minister Hussen continually expressed that the DCO policy was under review, citing the delay of its removal to external reasons such as the U.S. Presidential election of Donald Trump and the subsequent illegal border crossings from American nationals into Canada (The Canadian Press, 2017).

However, as of May 17, 2019, all countries have been removed from the DCO policy list, including Hungary (Government of Canada, 2019, paras. 1). It took 4 years and multiple delays for the current government to act on the DCO policy. Minister Hussen stated that all countries were removed because provisions of the DCO policy contravene with sections of the Canadian Charter of Rights and Freedoms (Government of Canada, 2019). Although the removal of all countries from the policy could be perceived as the encouraging first step towards addressing the discourses of exclusion which limit access to refuge for certain nationals, the Minister also stated that “the DCO policy did not fulfil its objective of discouraging misuse of the asylum system and of processing refugee claims from these countries faster” (Government of Canada, 2019, paras. 3). This statement is troubling because it implies the DCO policy was ineffective because refugee claimants from DCOs were still able to abuse Canada’s refugee determination system and its economy. It does not address the fact the DCO policy was based on discourses of exclusion aimed to target claimants from certain nations rather than factual or proven fraudulence. It is the opinion of this paper that the DCO policy failed not because it did not meet its objectives, but because it did not allow equal access to all refugee claimants to have their cases heard in a fair manner, as per the IRPA’s mandate. A lack of acknowledgement towards the damage the

DCO policy may have caused potential DCO refugee claimants is necessary to reconcile the DCO policy's true failure. What is more troubling is that the DCO policy was not entirely removed from the IRPA, citing the DCO policy is suspended "... until it can be repealed through further legislative changes" (Government of Canada 2019, paras. 1). Instead, the DCO policy still remains part of the IRPA under section 109. If the DCO policy is not repealed, government actors could reimplement the policy and countries could once again be designated as DCOs. Although removing all countries from the DCO policy is an improvement to Canada's refugee determination system, the real victory will occur when the DCO policy is removed from the IRPA entirely, eliminating the possibility of its reimplementation in the future.

## **Conclusion**

The formulation of the DCO policy was based on harmful misassumptions and exclusionary discourses that deemed nationals of certain countries as less desirable. Although the DCO policy claimed to deter fraudulence and only designate "safe" countries that produced "bogus" claims, it is the belief of this paper that the DCO policy designated countries for reasons outside of their supposed fraudulence in order to justify mass denials and limit the acceptance of refugee claimants from specific nations such as Hungary. Although the policy is no longer in use, as all countries have been removed from the DCO policy list, the DCO policy continues to provide a stark example of a failed policy. It modeled how governmental and public perception can influence and justify the implementation of a restrictive policy, having detrimental effects on the countries and claimants that are subject to the policy. Although all the countries have been removed, Canada still needs to actively deconstruct the discourses of exclusion and undesirability which have perpetuated the discrimination of the Romani through the DCO policy and Hungary's "safe" designation. It is the conclusion of this paper that designating Hungary as a DCO was a guise to label the whole country as "safe", thus ensuring the undesirable Romani were excluded from gaining refugee status in Canada. Only by acknowledging the deeply embedded and discriminatory belief that some refugee claimants are less desirable than others can Canada's refugee determination system truly recover from the exclusionary discourses solidified by the DCO policy.

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