

WORKING PAPERS

The State of Knowledge Concerning Canada's Irregular Population: Guesstimates, Pathways to Precarity, and Ethical Considerations for Contemporary Research

Craig Damian Smith & Julie (Ha Young) Kim

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Guesstimates, Pathways to Precarity, and Ethical Considerations for
Contemporary Research***

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Table of Contents

Introduction: The Problem of Understanding Irregular Populations in Canada	1
State of Knowledge: Demographics, Guesstimates, and the Geography of Irregular / Unauthorized Populations in Canada and the US	2
Wide Variation and Guesstimates in the Canadian Context.....	2
What do we Know about Canada’s Irregular Population?	3
Canada’s Irregular and Precarious Population Profile.....	3
Comparisons with US Data	4
The US and Data-Based Estimates.....	5
Ways Forward for Canadian Estimates?	7
Pathways into Irregularity and Precarity in Canada.....	7
Overstaying Temporary Visas Amidst Insufficient Pathways to Permanent Status.....	7
Sponsorship Breakdowns and Cessation of Status.....	10
Rejected Refugee Claimants.....	11
Deterrence Policies and Irregular Entry.....	12
Declining Humanitarianism and Compassion?.....	13
Ad Hoc and Self-Interested: The Limits to Pathways out of Precarity in Canada.....	13
Labour-Bases Pathways to Regular Status.....	14
A Growing Political Cause: Solidarity and Activism Around Irregularity in Canada, and Lessons from the US Sanctuary Movement.....	16
The State of Sanctuary Policies in Canada	16
Police Cooperation in Sanctuary Policies and Immigration Enforcement.....	16
A Crucial Difference: The Involvement of Migrants in Advocacy.....	17
Mobilisation During Covid-19: A New Set of Opportunities?	18
Reflections: What <i>Should</i> we Know? Ethical and Political Considerations for Measuring Canada’s Irregular Populations	19
Out of Sight, Out of Mind?.....	19
Do No Harm: Expanding Firewalls from Service Provision to Research and Dissemination	21
Cui Bono? Motivations for Understanding Canada’s Irregular Population	22
References	24

Introduction: The Problem of Understanding Irregular Populations in Canada

This working paper is an exercise in framing the current state of knowledge about Canada's irregular population, understanding political mobilization and policies around the population, and providing reflections for future research on the issue. It explores research and knowledge in the United States (US), and to a lesser extent Europe, to illustrate the comparative absence of detailed data in Canada, as well as differences in political mobilization and policy responses. While terminology on the issue is both fluid and contested, we generally use "irregular" or "without status" to denote the lack of status, as well as "precarious" to denote immigration status with a high risk of falling into irregularity in the Canadian context, and "unauthorized" in the US context in accordance with academic terminology (see Anderson & Ruhs 2010).

Understanding the nature and needs of Canada's irregular population is reflected both in the current Minister of Immigration, Refugees, and Citizenship's mandate letter to explore new regularization pathways, the growing number of sanctuary jurisdictions, and civil society mobilization around the issue, particularly since the COVID pandemic. Evidence also suggests that Canada's irregular and precarious populations play key roles in supporting the Canadian economy, yet the country has seen comparatively little political and legislative change to recognize their contributions. This paper seeks to help address some of the basic knowledge and policy gaps around those dynamics.

The first section describes the state of knowledge on the locations, demographics, and profiles of Canada's irregular population, highlighting how current estimates vary widely, and are based on often-repeated, yet dated research. It contrasts Canadian "guesstimates" with detailed and granular data available in the US, with a particular emphasis on cities. The second section explores pathways to irregularity in Canada, where the majority of the irregular population entered Canada on temporary visas. It specifically examines how government policies and regulations limit access to permanent residence and pathways to regularizing status, in the interest of informing tangible policy interventions. It also highlights the growing role of deterrence policies and migration controls in contributing to new forms of irregular cross-border mobility. The goal of this section is to offer potential pathways for more reliable estimates in the Canadian context.

The third section then turns to Canada's policy responses to irregularity, highlighting the prominence of highly selective, *ad hoc* labour-based regularization programs which not only maintain a frame of "deservingness" for pathways to permanent residency, but continues to limit accurate estimates of the population. The fourth section follows with an examination of growing political solidarity and mutual aid campaigns around Canada's irregular population. It contrasts small-scale, grassroots campaigns in Canada with broad political mobilization and migrant-led advocacy in the US, arguing that the differences in both the scale of mobilization and the types of legislative outcomes are based partly on the legibility of the population and role of unauthorized immigrants in advocacy, but also the limited nature of sanctuary policies in Canadian jurisdictions, which increase the perceived risk of collective action.

The paper's conclusion reflects on the potential ethical, political, and social considerations of research to make Canada's irregular population more legible to policymakers. It suggests that the absence of clear data and estimations may inadvertently insulate Canada from nativist political mobilization, yet may at the same time inhibit collective action to expand rights, protections, and pathways to permanent residency. While Canada's political context also means lower risk that accurate data and estimates to foment anti-immigrant backlash, researchers should consider the role of firewalls in knowledge mobilization based on do-no-harm principles with vulnerable populations, with a clear eye to the potential political impacts of research, and ensuring firewalls are part of any collaboration with government. Finally, it asks who would benefit from more robust data on Canada's irregular population. It suggests that knowledge production is both informed by and informs governmental policy priorities, which in the Canadian context prioritize labour market needs and increasing migration controls, rather than humanitarian and rights concerns for people

with precarious migration status. Researchers can play a role in expanding frames of deservingness from utilitarian to rights-based criteria, and highlighting the largely exclusionary nature of government policy frames.

State of Knowledge: Demographics, Guesstimates, and the Geography of Irregular / Unauthorized Populations in Canada and the US

Wide Variation and Guesstimates in the Canadian Context

Estimates of irregular population in Canada vary widely, and the absence of verifiable data and reliable estimation methods have led some scholars to refer to the irregular population as “unknown and unknowable” (Kamal and Killian 2015, 64). Indeed, Canadian governments have unsuccessfully sought to approximate the irregular population since the early 1970s (Robinson 1984). Dated (and likely conservative) estimates suggest a population anywhere between 80,000 to 500,000 (Magalhaes, Carrasco and Gastaldo 2010; Soberano, Ackerman and Solorzano 2018; Armanyous and Hudson 2019). These figures continue to be cited widely. For example, a recent House of Commons report noted that “limited data suggests there are up to 500,000 undocumented workers in Canada with half living in the Greater Toronto Area” – a figure which has been cited for well over a decade.¹ Activist networks suggest the figure is likely much higher.² Various qualitative studies produce figures which are largely incomparable, and without mechanisms to trace demographic trends, additions to the population, or overlap between studied sub-populations. For example, in 2003 Ontario’s Construction Secretariat claimed there were roughly 76,000 non-status immigrants in Ontario’s construction industry alone (Hudson et al. 2017, 5). A 2010 study found at least 36,000 failed refugee claimants had never been deported, and another 64,000 individuals overstayed their work, student, or visitor visas in 2002 (Magalhaes, Carrasco and Gastaldo 2010, 132).

Canada’s immigration laws did not make note of “irregular migrants” or any variation of the term under the 2002 Immigration and Refugee Act (IRPA) until June 2012, when lawmakers introduced the term “irregular arrivals” into IRPA to address their presence in Canada (Ellis & Stam 2018, 326). Likewise, the CBSA did not collect statistics on irregular border crossers until April 2017 when Roxham Road became a significant political issue.³

In Canada, the most common way that undocumented populations have been described and referenced are through “guesstimates” (Armanyous and Hudson 2019; Magalhaes, Carrasco and Gastaldo 2010). In short, there are no official metrics for the Canadian context to calculate its undocumented population. Due to the lack of official metrics in place to document this population in Canada, some have turned to measuring service access as an estimator. For example, Hynie, Arden, & Robertson (2016) looked at the number of emergency room consultations for the number of uninsured patients as a starting point to identify what percentage is likely to be non-status migrants in Ontario. On a smaller scale, city-level initiatives such as the City of Toronto’s T.O. Health Check (2019) release population demographics including immigration status and ethnicity, which can also contribute to generating metrics to estimate the

¹ City of Toronto “Undocumented Residents” <https://www.toronto.ca/community-people/get-involved/community/toronto-for-all/undocumented-residents/>. See also Government of Canada “CIMM - Temporary to permanent residence pathways - June 2, 2021” (2021) <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-jun-02-2021/temporary-permanent-residence.html>

² See: Migrant Rights Network. “Canada rejected double the number of humanitarian applications for immigration in 2020” (2021) <https://migrantrights.ca/hc202rejections/>

³ See: Immigration and Refugee Board of Canada “Irregular border crosser statistics” (2022) <https://irb-cisr.gc.ca/en/statistics/Pages/Irregular-border-crosser-statistics.aspx>

localization of undocumented populations.⁴ However, as described below, these idiosyncratic studies do not yield generalizable estimates.

What do we Know about Canada's Irregular Population?

Despite the lack of verifiable data, qualitative evidence suggests that irregular population are important contributors to Canada's economy, particularly in major cities (Soberano, Ackerman and Solorzano 2018, 23). Generally, immigrants to Canada are attracted to cities due to the availability of work, proximity to ports of entry, and large immigrant communities (Passel and Cohn, 2019). Irregular populations in Canada likely follow this trend, with estimates suggesting Vancouver, Montreal and Toronto have the highest concentrations, with the latter accounting for 50% of the undocumented population (Magalhaes, Carrasco & Gastaldo 2010, 132-133). However, these figures are largely extrapolations from regular immigration trends (Alcaraz et al. 2021, 257; Hershkowitz, Hudson & Bauder, 2021; 40).

Asylum statistics seem to bolster claims about geographical concentrations. Montreal, Toronto and Vancouver have historically received the highest number of asylum seekers in the country (Garcea 2020, 17). Of the more than 60,000 people who claimed asylum at Roxham Road at the Quebec-US border from 2017 to 2020, for example, 40% are reported to have left Montreal for Toronto or other large municipalities in southern Ontario (Boyd and Ly 2021, 108). These patterns also suggest that failed refugee claimants or those who abandoned procedures (discussed in detail below) may be concentrated in Canada's few major cities. Likewise, the Canadian Border Services Agency (CBSA) operates three Immigration Holding Centres (IHCs) in Toronto, Ontario, Laval, Quebec, and Surrey, B.C. (Global Detention Project, 2021a).

Social service provision offers another proxy indicator. For example, shelters in Toronto reported that they registered 9,406 total refugees and asylum claimants in their system in 2018, and Quebec's ombudsman reported that an estimated 300-400 undocumented children were facing barriers to access schooling, although evidence suggests this is an under-estimation (Romero 2019, 2).⁵ In 2020, the Auditor General of Ontario released a "Special Report for Services provided to Irregular Border Crossers" highlighting the fact that in July of 2018, the premiers of Ontario, Quebec and Manitoba issued a joint statement calling on the federal government to "compensate each of the provinces for impacts to services resulting from the increase in non-point of entry border crossings" (Office of the Auditor General of Ontario 2020). Interestingly, sanctuary policies might also limit accurate data collection given city policies on the collection and protection of demographic data for undocumented populations (Hudson et al. 2017, 3).

Canada's Irregular and Precarious Population Profile

The lack of overarching data also means an absence of granular data on population profiles. However, some evidence suggests that children make up a notable amount of this population. According to Armanyous and Hudson (2019, 5), 25% of the undocumented population in Canada are believed to be minors. Another study by Meloni et al. (2017, 2) noted that approximately 3,000 undocumented school-age children are considered to be living in Quebec. Numerous qualitative

⁴ See: City of Toronto, T.O Health Check "Population Demographics" (2019) https://www.toronto.ca/wp-content/uploads/2019/11/99b4-TOHealthCheck_2019Chapter1.pdf

⁵CBC News. "Quebec's undocumented children have right to education, activists say" (2016). <https://www.cbc.ca/news/canada/montreal/quebec-undocumented-children-education-free-1.3739036>

studies focusing on irregular or precarious migrant youth and adolescents in Canada find that many live in Canada long enough to fully integrate without status (Meloni 2019; Soberano, Ackerman and Solorzano 2018; Kamal 2018; Villegas and Aberman 2019, Meloni et al. 2017).

Although irregular migrants often avoid engaging with governmental institutions due to fears of deportation, they are known to be actively engaged in Canada's workforce (Gastaldo, Carrasco and Magalhaes 2013, 18). Therefore, research on the demographic makeup of specific industries can be telling of broader demographics. Gastaldo, Carrasco, & Magalhaes (2013) found that most undocumented workers are engaged in "low skill" manual labour jobs such as construction work, factory work, painting, landscaping, cleaning, cooking, dishwashing, coat-checking, waitressing, and childcare. Racialized immigrants are more likely to engage in precarious low-wage jobs in comparison to non-racialized Canadians, which suggests that most precarious migrants who are a part of Canada's labour force are likely to be racialized (Block, Galabuzi and Tranjan 2019). However, these trends are not always limited to racialized groups. For example, a recent study by Ellis and Stam (2018) on Polish irregular migrants living and working in Toronto and Mississauga found they were able to live and work within Polish enclaves.

Although qualitative studies do not yield sufficient samples for generalized findings at a national level, they offer some insight on the characteristics of Canada's irregular population. In the aforementioned study, 15 of 16 participants had completed high school (Ellis and Stam 2018, 328). One study on Latin American non-status migrants reported that the majority of participants completed or attended some university degree, college, or trade school (Gastaldo, Carrasco, and Magalhaes 2013), and another on non-status migrants in Toronto reported that more than half their participants were highly-educated with either a college diploma, university degree, or graduate degree (Borras, Goldring, & Landolt 2021, 2). These studies may suggest that some proportion of Canada's undocumented populations are well-educated despite being engaged in "low skilled" and precarious work, and are pushed into that work by their irregular status. Likewise, the economic impacts of precarity may persist even when migrants eventually move into permanent status (Goldring & Landolt 2012).

Comparisons with US Data

In contrast to Canada, the US enjoys long-standing knowledge around overall trends, locations, and demographics of its unauthorized population. Population estimates range between 10 and 12 million (see Pew Research Centre 2019; Warren 2019; Baker 2021; MPI 2019; Camarota and Zeigler 2022). While minor variations exist based on estimation methods, the population can be traced annually with relative accuracy. According to the Pew Research Centre, the majority of unauthorized immigrants in the US are concentrated in 20 metro areas.⁶ The suggestion that irregular populations are concentrated in large Canadian cities is supported by US data, assuming similar immigration trajectories and profiles. In both countries, urban areas appeal to irregular populations due to the availability of work opportunities and pre-existing immigrant communities (Passel and Cohn 2019).

⁶ See: Passel, Jeffrey S, and Cohn, D'Vera "20 metro areas are home to six-in-ten unauthorized immigrants in U.S." Pew Research Centre (2019) <https://www.pewresearch.org/fact-tank/2019/03/11/us-metro-areas-unauthorized-immigrants/>; Pew Research Centre "US unauthorized immigrant population estimates by state, 2016" (2019) <https://www.pewresearch.org/hispanic/interactives/u-s-unauthorized-immigrants-by-state/>; Baker, Bryan "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2015–January 2018" US Department of Homeland Security (2021) https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Pop_Estimate/UnauthImmigrant/unauthorized_immigrant_population_estimates_2015_-_2018.pdf

However, knowledge about population profiles in the US is far more granular. The Department for Homeland Security (DHS) monitors the unauthorized migrant population by state and city, and tracks changes over time to measure domestic mobility and population changes (Passel and Cohn 2019; Baker 2021). Various research institutes and government bodies track demographic profiles such as age, sex, country of birth, occupation, household income, health insurance, home ownership, mode of entry, education and language, and years of US residence (Pew 2019; Warren 2019; Baker 2021).⁷ Mexicans account for just under half of the population, followed by El Salvador, Guatemala, India, and Honduras (MPI 2019). Census data shows there are slightly more males (5,850,000) than females (5,540,000), and the majority are between 35 and 44 years of age (Baker 2021). Of this population, 65% are employed with just 4% unemployed, and the remaining 30% “not in the labor force.” Of those employed, 21% work in construction, 16% in accommodation and food services, arts, entertainment and recreation. Most earn significant incomes and contribute income taxes (MPI 2019). Despite their high engagement in the labour force, more than half of this population is uninsured, barring access to healthcare. 46% speak English “not well” or “not at all,” which poses language barriers in navigating everyday life (*Ibid*).

The US and Data-Based Estimates

The most commonly used and cited measurements of unauthorized populations in the US are based on “residual methods”, wherein estimators take data from surveys which measure the number of foreign-born persons residing in the US, and subtract the number of legally residing foreign-born persons reported in DHS data (which records numbers of naturalized citizens), and the Department of Health and Human Services (which tracks the number of admitted refugees) (Kamarck and Stenglein 2019). Two US Census Bureau Surveys estimate the total number of foreign-born persons – the American Community Service (ACS) which interviews over 2 million households annually, and the Current Population Survey (CPS) – which interviews 55,000-88,000 households annually (National Academies of Sciences, Engineering and Medicine 2016, 415).⁸ Both ask where respondents are born and whether they are citizens, but do not ask about legal status. The Pew Research Centre employs the residual method and the ACS to yield estimates (Passel 2019), as do DHS and the Centre for Migration Studies.⁹ Estimators assume an undercount of undocumented respondents (Pew estimates a 5-15% undercount, while the DHS applies adjusts for a 10% undercount) (Passel 2019; Baker 2018, 7), and adjust for mortality rates and immigration flows.

⁷ For a concise overview of statistics see <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>.

⁸ National Academies of Sciences, Engineering, and Medicine, and Committee on Population. *The integration of immigrants into American society*. National Academies Press, 2016.

⁹ See: US Department of Homeland Security. “Population Estimates ILLEGAL ALIEN POPULATION RESIDING IN THE UNITED STATES: JANUARY 2015” (2018) https://www.dhs.gov/sites/default/files/publications/18_1214_PLCY_pops-est-report.pdf ; Warren, Robert “US Undocumented Population Continued to Fall from 2016 to 2017, and Visa Overstays Significantly Exceeded Illegal Crossings for the Seventh Consecutive Year” Centre For Migration Studies (2019) https://cmsny.org/publications/essay-2017-undocumented-and-overstays/?gclid=Cj0KCCQjwvpv2TBhDoARIsALBnVnlSHUrMw8xLJflbVj0nkxKHBSse6i0dq40_KR6IVgmPmTkqK64eLme0aAht-EALw_wcB; On the other hand, the far-right, anti-immigrant Center for Immigration Studies use the CPS, claiming it allows for more timely estimates, claiming that it allows for generating estimates potentially within the month of data release, which also leads to higher estimates (Camarota and Zeigler (2022).

The availability of administrative data shapes the way that estimates for the undocumented population can be made in the US. The DHS' Office of Immigration Statistics (OIS) releases an annual Yearbook of Immigration Statistics, providing broad administrative data on legal permanent residents, temporary migrants, and enforcement data around apprehension and deportation (National Academies of Sciences, Engineering, and Medicine 2016, 414). The US Citizenship and Immigration Services (USCIS) also produces special reports on the H1B and H2B temporary visas, and the US Department of Justice produces detailed statistics on asylum. MPI, for instance, relies heavily on the OIS for its calculations.¹⁰

In addition, the US Government Accountability Office (GAO) has suggested the application of a "two-card method" in surveys alongside the CPS (Larson 2007). This method guarantees privacy because those without documents only need to admit to being in a category that contains undocumented migrants among several other legal statuses (Larson 2007, 109). However, this survey method has not been used extensively in research as it makes it impossible to identify the characteristics of the undocumented population (National Academies of Sciences, Engineering, and Medicine 2016, 423). Bachmeier, Van Hook & Bean (2014) have argued The Survey of Income and Program Participation (SIPP) and Los Angeles Family and Neighborhood Survey (LAFANS) are underutilized in research, and include measures of legal status and thus serve as valuable sources of data since estimates compare favorably to residual methods. Their findings suggested that assumptions about immigration status being too sensitive may be unwarranted and should be considered in future surveys. The SIPP offers unique data as the only nationally representative Census Bureau survey that asks non-citizens to report legal status (National Academies of Sciences, Engineering, and Medicine 2016, 419).

Another method, demographic modelling, estimates from a starting point of 3.5 million unauthorized immigrants in 1990, and projects the population forward by adding the estimated number of migrants crossing the border irregularly or overstaying visas, and subtracting emigration, deaths, and changes to legal status (Fazel-Zarandi et al. 2018, 5). This method was made possible by a new set of data released by DHS on estimated irregular border crossings and visa overstayers in recent years; the release of this new set of data has sparked interest in configuring new ways to measure the undocumented population (Nuñez-Neto 2019, 2). Demographic modeling found a much higher estimate than residual methods at approximately 16.7 million in 2016 (Fazel-Zarandi et al 2018, 2). Randy Capps et al. (2018, 2) pointed out that the estimates in this approach range too widely and thus causes the estimates to expand rapidly as errors compound.

Finally, although irregular border crossings from Mexico to the US have decreased as a result of changes in the Mexican economy, the 2008 recession, and later pandemic border closures and increased enforcement, Mexican-born persons continue to comprise almost half of unauthorized migrants in the US. In this context, Mexican Censuses have also played a large part in estimation. For example, since almost all of the Mexicans reside either in Mexico or the US, the Pew Research Centre draws on Mexican large-scale surveys and historical data to make inferences on the accuracy of US data (Passel 2019). The Mexican Census of Population and the *Encuesta Nacional de la Dinámica Demográfica* survey asks which household members have been to the US over the preceding five years, and where they resided or visited. Although these sets of data can be useful, Massey, Rugh and Pren (2010) also point out that there are some drawbacks which include not distinguishing between migrants by legal status and not knowing where in Mexico these migrants came from. Others have turned to data from Mexico's Matrícula Consular Program which offers information on the place of origin of nearly one million undocumented migrants who came forward in 2006 to register at one of Mexico's 53 consulates

¹⁰ See: Migration Policy Institute "MPI Methodology for Assigning Legal Status to Noncitizen Respondents in USCensus Bureau Survey Data" <https://www.migrationpolicy.org/about/mpii-methodology-assigning-legal-status-noncitizens-census-data>

in the US in order to cross reference this data by place of residency in the US in order to understand bilateral migration flows (Massey, Rugh and Pren 2010, 132).

Ways Forward for Canadian Estimates?

Like the US, Canada also conducts its own Census of Population survey every five years, with measurements on ethnic diversity and immigration (Statistics Canada 2022; Norris and Costanzo 2005, 3).¹¹ And while the Canadian census is more frequent than US's ten-year measurements, more frequent surveys, such as the ACS, fill in gaps by providing similar data annually (Norris and Costanzo 2005, 5). The Census of Population in Canada is relatively rich on collecting data related to immigration status, as it collects information on permanent residents, on "non-permanent" residents (i.e., temporary visa holders), immigration core questions (i.e., place of birth, citizenship, landed immigrant status and year of landing), birthplace of parents, and mobility questions (Norris and Costanzo 2005, 4). Beyond surveys, there are also immigration and enforcement statistics released by the CBSA, IRCC, and IRB which can potentially contribute to generating estimates. For example, the CBSA releases quarterly and annual numbers on detentions.¹² These data, in conjunction with IRB protection statistics including numbers of rejected claims after appeals may be used as an estimator of the number of rejected refugee claimants who remain in Canada.

Pathways into Irregularity and Precarity in Canada

Overstaying Temporary Visas Amidst Insufficient Pathways to Permanent Status

A little over a decade ago, Goldring, Berinstein, and Bernhard (2009) published their influential article exploring the complex pathways to precarious migration status in Canada. While consensus holds that the vast majority of migrants enter irregular status in Canada by overstaying visas or otherwise becoming irregular over time, recent irregular migration trends are potentially reshaping these dynamics, calling for more sustained engagement with contemporary pathways to irregularity, including cross-border irregular migration. Goldring and Landolt (2012), for example, have described the Canadian system as shifting to one of rapid policy change and increasing complexity, with the result that migrants and immigrants have to navigate "chutes and ladders" in and out of formal, secure statuses, which entails a marked shift away from a prior model of permanent immigration status upon arrival.

Qualitative studies affirm that many enter Canada with temporary status but fall into precarious or irregular status over time (Borras, Goldring and Landolt 2021, 3). Temporary migrant workers are a central focus of this research given their heightened chance of status loss

¹¹ See: Statistics Canada "Census Profile, 2021 Census of Population Profile table" (2022) <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/details/page.cfm?Lang=E&DGUIDList=2021A000011124&GENDERList=1&STATISTICList=1&HADERList=0&SearchText=Canada>; Statistics Canada "Focus on Geography Series, 2016 Census" (2019) <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-can-eng.cfm?Lang=Eng&GK=CAN&GC=01&TOPIC=7>

¹² See: CBSA "Quarterly detention statistics: Fourth quarter (Q4) fiscal year 2020 to 2021" (2021) <https://www.cbsa-asfc.gc.ca/security-secureite/detent/qstat-2020-2021-eng.html>; Canada Border Services Agency "Annual detention, fiscal year 2019 to 2020" (2020) <https://www.cbsa-asfc.gc.ca/security-secureite/detent/stat-2019-2020-eng.html>; Immigration, Refugees and Citizenship Canada "Asylum claims by year – 2022" (2022) <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/asylum-claims/asylum-claims-2022.html>

due to limited pathways to Permanent Residency (PR) (Van Haren and Masferrer 2022; Abu Alrob and Shields 2022; Prokopenko and Hou 2018; Tulli et al. 2022). The focus on Temporary Foreign Workers (TFWs) sharpened significantly during the Covid-19 pandemic, when it became increasingly apparent that they were essential for the wellbeing of Canada's economy as demonstrated by the range of travel exemptions granted to the agrifood sector (Abu Alrob and Shields 2022, 65).

However, the increase in TFW entry has not meant commensurate access to permanent residence. A study which interviewed 11 participants who entered Canada through the Temporary Foreign Worker Program (TFWP) and had since lost status found that frequent policy changes to TFWP meant that pathways to PR become null or unavailable while migrants prepared applications (Tulli et al. 2022, 8). For example, while subsequently reversed by the Liberal Government, in 2014 the Government of Canada under the Harper Conservatives announced a four-year limit for TFWs to remain in Canada on a given visa, which resulted in over 70,000 to lose formal status despite initial expectations of obtaining PR (Tulli et al. 2022, 3).

Most policies enacted in this realm have tended to favour employer needs over providing access to secure and permanent societal membership in Canada. As of April 2022, for example, the Government of Canada implemented five key changes through the "TFWP Workforce Solutions Road Map," which aimed to expand durations of temporary residency and remove caps on worker categories, with the aim of addressing labour shortages.¹³ Although these changes aim to ease restrictions for employers, ameliorating precarity was something of an afterthought. Prior research indicates that rapid policy changes coupled with language barriers, information gaps, and broad misinformation by malicious actors can hinder applicants' abilities to navigate new of complex regulations, which can cause them to fall out of status while wasting time and financial resources (Tulli et al. 2022; Hanley et al, 2020).

Likewise, policy changes often fail to reflect the reality of potential applicants or are small in size. In May 2020, the Government of Canada launched the Agri-Food Pilot to provide a pathway toward PR for non-seasonal and experienced workers in certain industries and occupations.¹⁴ Even with the small size of the program (up to 2,750 per year), *The Globe and Mail* reported that Ottawa only received a fraction (343) of the applications expected as of August 2021.¹⁵ Application fees, cost of legal assistance, and various eligibility criteria often make these programs *de facto* inaccessible even for eligible applicants (Macklin 2022, 38). Lack of clear rules and information continue to be a reason why TFWs fall into irregular status, or remain in precarious status, even when eligibility for PR is broadened. Some also willingly decide to remain clandestine rather than re-apply for status for reasons including avoiding family separations and the financial precarity involved in interrupting work (Prokopenko and Hou 2018, 262).

Employers also play a role in shaping trajectories to irregularity, especially in the cases where TFWs are tied to employer-specific job permits. There are reported cases of employers purposely withholding information from TFWs regarding their Labour Market Impact Assessments or purposely sabotaging their work permits or PR applications – pointing to the power imbalances between employers and workers, and the impacts of those imbalances on irregularity in Canada

¹³ See: Employment and Social Development Canada. "Government of Canada announces Workforce Solutions Road Map – further changes to the Temporary Foreign Worker Program to address labour shortages across Canada" (2022) <https://www.canada.ca/en/employment-social-development/news/2022/04/government-of-canada-announces-workforce-solutions-road-map--further-changes-to-the-temporary-foreign-worker-program-to-address-labour-shortages-ac.html>

¹⁴ See: Government of Canada "Agri-Food Pilot: About the pilot" 2022 <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/agri-food-pilot/about.html>

¹⁵ See: *The Globe and Mail*, 27 Oct, 2021. "Ottawa sees few claims for residency under Agri-Food Pilot" <https://www.theglobeandmail.com/business/article-ottawa-sees-few-claims-for-residency-under-agri-food-pilot/>

(Tulli et al. 2022, 8; Van Haren and Masferrer 2022, 4). Likewise, a string of increasingly high-profile incidents has shown that temporary workers or those in precarious situations are lured into illegal jobs either while in Canada or abroad.¹⁶

International students are likewise vulnerable to falling out of status. Canada has long recognized international students as ‘ideal immigrants’ due to their earned Canadian credentials and integration into Canadian society, which presents various pathways to apply for PR under the Express Entry system (Gopal 2016, 133).¹⁷ Importantly, international students at Canadian universities and colleges are major contributors to institutional income streams. Their contributions increased from \$1.25 billion in 2009-10 to \$2.75 billion in 2015-16, offsetting the \$1.7 billion in government funding cuts to higher education over that period (Usher 2018). In effect, Canada’s higher education system has become dependent on subsidies from international students.¹⁸

Various studies have found many international students come to Canada with the intention of eventually acquiring PR and citizenship (Esses et al. 2018; Adeyanju & Olatunji 2021). Although most international students report the desire to obtain PR, many arrive with little pre-arrival knowledge about the procedures, and face significant and iterated barriers to regularizing their post-study status (Esses et al. 2018, 7). Regulatory barriers also place student visa holders at risk of becoming irregular. The Express Entry system was introduced in 2015 as a way for the Government of Canada to manage immigration applications for all federal programs. However, it has been identified as one of the central barriers to PR for international students (Dam, Chan and Wayland 2018, 892). Under Express Entry, international students compete with all other foreign applicants rather than their peer group, leading to fewer obtaining PR upon graduation (Dam, Chan and Wayland 2018, 894). Other factors such as arbitrariness in distinguishing “high-skill” from “low-skill” work experience, the lack of credit given to “low skill” work experience and experiences acquired during postsecondary studies (e.g., teaching or research assistant experience) all contribute to hindering successful applications (Dam, Chan and Wayland 2018, 897). In 2016, international students only accounted for 2.8% of PRs admitted to Canada – a 170% decrease from 2007 (Dam, Chan and Wayland 2018, 894). At the same time, the number of study permit holders have steadily increased from 122,700 in 2000 to 642,500 in 2019.

Overstaying visas and entering into irregular status are incentivized where PR is highly desired but legal pathways remain competitive and restrictive. Pressure to overstay visas include hopes from the students’ families, economic opportunities, and desires to maintain the social networks and relations they have established in Canada (Esses et al. 2018, 5). PR application backlogs also contribute to the problem, since the long waiting period can mean that work permits expire, shifting applicants to the category of an “out of status temporary foreign worker” (Dam, Chan and Wayland 2018, 896). An option available in these instances is to apply for a Post-Graduation Work Permit (PGWP) to bridge the expiry of their current work permit and the final PR decision, however, there are also cases where the PGWP expires before receiving an invitation to apply for PR, leaving international students without status (Dam, Chan and Wayland 2018,

¹⁶ Thompson, Nicole. 2019. “Ontario Police Free Dozens of Mexican ‘Modern Day Slaves,’” *The Globe and Mail*, 11 Feb. <https://www.theglobeandmail.com/canada/article-dozens-of-mexican-modern-day-slaves-freed-by-police-in-ontario-2/>; Fox, Chris. 2022. “Woman Recruited Mexican Nationals to Canada and then Exploited their Immigration Status and Garnished their Wages, Police Say,” *CP24* 11 July. <https://www.cp24.com/news/woman-recruited-mexican-nationals-to-canada-and-then-exploited-their-immigration-status-and-garnished-their-wages-police-say-1.5983010>. Pike, Helen. 2022. “Contract Workers who Thought they were in Canada Legally Ordered to Leave,” *CBC News* 16 July. <https://www.cbc.ca/news/canada/calgary/contract-workers-lake-louise-border-services-1.6523142>.

¹⁷ Government of Canada. “Study: Permanent Residence for Students” 2022 <https://www.cic.gc.ca/english/helpcentre/results-by-topic.asp?top=15>

¹⁸ See Statistics Canada. 2020. “International students accounted for all the growth in postsecondary enrolments in 2018/19”. <https://www150.statcan.gc.ca/n1/daily-quotidien/201125/dq201125e-eng.htm>.

896). Those who are successful in the Express Entry system are invited to apply for PR, with 60 days to complete an online application.¹⁹ The short time period given to prepare the various documents and certificates, as well as associate legal and processing fees, likewise hinder successful applications.²⁰

Sponsorship Breakdowns and Cessation of Status

Employer and family sponsorship is the second largest avenue for PR admission after the Provincial Nominee Program, comprising 66% of PR approvals in Canada in 2018 (Hooper and Salant 2018, 9).²¹ Sponsored persons depend on a third party to obtain status, and are therefore susceptible to irregular status when sponsorships break down (Goldring and Landolt 2013, 14). The harshest example was seen from 2012 to 2017 when the Government of Canada implemented a “conditional permanent residence” regulation as a part of its agenda to “crack down” on marriage fraud.²² During this period, sponsored spouses and partners were required to cohabit for at least two years as a proxy for verifying the authenticity of their marriage. “Conditional PR” created a pathway into precarious status, particularly for women who lived under the fear that their sponsors may withdraw their applications, and rendered some more vulnerable to domestic abuse (Villegas 2019, 680). Those who had lost their marriage sponsorship and became irregular were found to be involved in precarious work, workplace harassment, and subject to cycles of deportability (Villegas 2019, 676; Ellis & Stam 2018). The Government of Canada eliminated conditional permanent residency in 2017, however there was no resumption of status for those whose PR was revoked during the 5-year period.²³

Conditional PR has also been manifested in the refugee stream. In 2012, the Conservative Government under Stephen Harper introduced Bill C-31 “Protecting Canada’s Immigration System Act,” which was combined with the previous “Balanced Refugee Reform Act”. Among other restrictive and punitive measures including designating specific countries of origin as “safe” and thereby rendering claims from nationals of those countries *de facto* ineligible for applying for protection,²⁴ imposing strict time limits on asylum claims which, if unmet, would mean being barred from initial asylum procedures and appeals after a negative first decision; and making anyone who arrived irregularly in Canada and made a successful refugee claim ineligible to apply for PR for at least five years.²⁵ Bill C-31 also made it possible to strip PR and citizenship if past claimants chose to return to a country of origin at any time, or after a successful application by an immigration officer or the Minister’s Office for cessation of their refugee status based on claims of

¹⁹ Previously, this was 90 days but was changed to 60 days as of June 29, 2021. See: Government of Canada. “Apply for Permanent Residency: Express Entry” (2022) <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/apply-permanent-residence.html>

²⁰ On Application Requirements see: Government of Canada “Documents for Express Entry” (2022) <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/documents.html>

²¹ For detailed figures see: Statista. “Demographics: Number of permanent residents admitted to Canada in 2020, by status” <https://www.statista.com/statistics/612452/immigrants-in-canada-by-status/> (2021).

²² See: Government of Canada “Government of Canada Eliminates Conditional Permanent Residence for Spouses and Partners” (2017) https://www.canada.ca/en/immigration-refugees-citizenship/news/2017/04/eliminating_the_imbalanceforsponsoredspousesandpartnersbyremovin.html

²³ See: Government of Canada. “Notice – Government of Canada Eliminates Conditional Permanent Residence” 2017 https://www.canada.ca/en/immigration-refugees-citizenship/news/2017/04/eliminating_the_imbalanceforsponsoredspousesandpartnersbyremovin.html

²⁴ The Designated Country of Origin (DCO) policy was active in Canada between 2012 and 2015, and subjected claimants from select countries to insufficient preparation times (Atak 2018, 179).

²⁵ <https://www.parl.ca/DocumentViewer/en/41-1/bill/C-31/royal-assent/page-27#1>

false information or fraudulent documents (Ellermann and Gorokhovskaia 2019, 50). For resettled refugees, the Minister of Immigration could deem their country of origin safe for return, incentivizing the choice to remain clandestine at the risk of being returned to a situation of individual persecution.

Prior to this bill, a loss in refugee status did not implicate PR. Subsection 108(1) of IRPA outlines that a successful refugee claimant can have their refugee protection revoked if the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB) concludes that a person has voluntarily availed themselves of the protection of their country of nationality or obtained protection from another country, or if it is determined that they won a successful refugee claim in Canada by misrepresenting or withholding facts to a relevant matter.²⁶ Suspicions can arise if an individual travels to their home country even for a short period of time, if they travel using the passport of their home country, or if they apply for a passport from their home country (Ellermann and Gorokhovskaia 2019, 53). These minor suspicions, in conjunction with Bill C-31, put refugees with PR at a much higher risk of becoming irregular.

Rejected Refugee Claimants

While yearly statistics vary, from 2013 to 2021 an average of 67% of refugee claimants in Canada received protection, and thus eligibility for PR status. Over this period a total of almost 58,000 refugee claims were rejected after their first hearing, and 16,500 were abandoned or withdrawn (Smith, Rehaag, & Farrow 2021). Failed refugee claimants can enter irregular status if they choose to go underground to avoid deportation upon receiving a negative determination, or after abandoning or withdrawing claims – though statistics for those who abscond from asylum or deportation proceedings remain unavailable (Atak 2018, 180). Unlike in the US where inland enforcement routinely leads to mass deportations, the CBSA regularly fails to meet deportation targets due to challenges in obtaining travel documents, lack of cooperation from origin countries, lack of documentation proving nationality, inability to locate individuals, and the high cost of deportation (Atak 2018, 186), and the recent postponement of scheduled removals in March 2020 due to Covid-19.²⁷ Research with failed refugee claimants who remained in Canada found that fears of returning to their origin country outweighed realities of limited access to services, unsafe working conditions, and general legal and economic precarity (Simich, Wu and Nerad 2007, 371).

In recent years, the IRB has focused on enhancing its efficiency to address pre-existing backlogs, which grew rapidly with the rise of irregular border crossings from the US since 2017 (Paquet and Schertzer 2020, 17).²⁸ In 2019, the IRB issued new instructions on governing the stream of “less complex claims” which subjects select individuals to short-hearing processes as well as file-review processing.²⁹ While accelerated processing is most often applied to nationals from countries like Syria or Yemen with high positive decision rates, it can also mean a more limited period to adequately prepare for hearings (Atak 2018, 179). It is also used for those claiming asylum from countries like Mexico and Nigeria, for whom rejection rates are far higher

²⁶ See: Government of Canada. “Cessation and vacation of refugee protection” (2022) <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/refugee-protection/vacation.html>

²⁷ See: Canada Border Services Agency (CBSA). “Overview of the Removals Program” 2021. <https://www.cbsa-asfc.gc.ca/pd-dp/bbp-rpp/pacp/2020-11-24/orp-vpr-eng.html>

²⁸ See: Immigration and Refugee Board of Canada. “IRB Departmental Results Report 2020-2021” <https://irb-cisr.gc.ca/en/reports-publications/planning-performance/Pages/departmental-results-report-2021-r.aspx>

²⁹ See: Immigration and Refugee Board of Canada (IRB). “Instructions governing the streaming of less complex claims at the Refugee Protection Division”. <https://irb-cisr.gc.ca/en/news/2019/Pages/less-complex-claims-rpd.aspx>

than national averages. And while national averages for positive decisions have increased, so too have the aggregate number of people with rejected or abandoned claims.³⁰

Finally, new procedures can also limit access to justice for refugee claimants, particularly requirements for online processing and hearings. During the Covid-19 pandemic the IRB switched entirely to virtual hearings, and Immigration, Refugees and Citizenship Canada (IRCC) introduced a new and mandatory Canadian Refugee Protection Portal to share case status information, and shift from paper to digital files. The all-digital application process faced significant criticisms from refugee rights groups and refugee lawyer associations on the grounds that it adds additional barriers to particularly vulnerable claimants.³¹ The government walked back a policy for a similar system for overseas claimants, but maintained the mandatory system for inland claimants.³²

Deterrence Policies and Irregular Entry

Canada's geography has meant that until recently, cross-border arrivals were not a major contributor to its irregular population (Mountz 2006, 65). This situation changed with the 2016 election of the Trump Administration and the subsequent changes in immigration and asylum policies (Paquet and Schertzer 2020; Smith 2022). The Trump administration's agenda for wall-building, family separations, increased inland enforcement, bans on immigration and refugee resettlement from Muslim-majority countries, proposed cessation of the Deferred Action for Childhood Arrivals (DACA) program, and the end of Temporary Protected Status (TPS) for migrants from El Salvador, Haiti, Nicaragua, and Sudan drove asylum migration to Canada, which in turn led to greater international transit migration (Chacko and Price 2021, 4601; Smith 2022). From 2017 to mid-2020, roughly 60,000 people claimed asylum at irregular points of entry on the US/ Canada border (Boyd and Ly 2021, 101). The main site of these unauthorized crossings was Roxham Road at the New York / Quebec border. Although the Covid-19 pandemic paused unauthorized border crossings, the number of crossings at Roxham Road returned to their previous pace after border restrictions were lifted (IRB 2022).

The move to irregular pathways was significantly influenced by the 2004 Canada-US Safe Third Country Agreement (STCA), which allows either country to turn back asylum seekers at ports of entry on their shared land border. Deterrence measures by nature have been found to have the unintended effect of creating demand for irregular pathways (Atak, Hudson and Nakache 2018, 23), yet it is still unknown whether migrant smuggling from 2004 to 2017 increased the stock of irregular migrants in Canada (Winterdyk and Dhungel 2018, 217). There has been limited empirical analysis of the STCA's impacts on asylum flows (c.f., Abdel 2013: 71-72), and while cross-border asylum claims in Canada dropped dramatically after 2004, it remains an open question whether potential asylum-seekers were deterred by the STCA or whether the agreement fostered clandestine entry (Winterdyk and Dhungel 2018, 217). Canada deemed 5,808 people inadmissible at the border from 2005 to 2015. The number increased from 417 in 2015 to 729 in 2016, before jumping to almost 2,000 in 2017 (Smith 2022).

Although those who successfully cross the border at irregular entry points are eligible to make inland asylum claims, the Canadian government responded with policies to expand

³⁰ See: Immigration and Refugee Board of Canada (IRB). "Refugee Protection Claims (New System) Statistics" <https://irb.gc.ca/en/statistics/protection/Pages/RPDStat.aspx>

³¹ Keung, Nicholas. 2021. "Will Canada's new web portal for refugees make things harder on asylum seekers? Advocates are worried," *Toronto Star* 7 Oct. <https://www.thestar.com/news/canada/2021/10/07/its-an-access-to-justice-issue-advocates-fear-new-refugee-registration-portal-will-deter-and-delay-access-to-asylum-in-canada.html>.

³² Boudjikian, Raffy. 2022. "Government backtracks on plan for online-only asylum applications," *CBC News*. 12 April. <https://www.cbc.ca/news/politics/asylum-claims-online-1.6416573>.

ineligibility, which may in turn incentivize absconding from procedures and remaining clandestine (Atak, Abu Alrob and Ellis 2021a, 2605).³³ In 2019 the Liberal Government under Justin Trudeau responded to the uptick of irregular arrivals with Bill C-97, which amended IRPA by introducing a new ineligibility grounds for asylum seekers who previously made an asylum claim in any of the Five-Eyes intelligence-pact states (the U.S., Canada, Australia, New Zealand, and the U.K.), and instead shunting them to a bureaucratic Pre-Removal Risk Assessment (PRRA) stream (Atak, Abu Alrob, & Ellis 2021b, 30).

Declining Humanitarianism and Compassion?

Likewise, Humanitarian and Compassionate (H&C) rejections in Canada doubled from 35% in 2019 to nearly 70% in the first quarter of 2021 (Migrants Right Network 2021c). H&C applications rose from 8,045 in 2016 to 11,105 in 2020 (Delisle & Nakache 2022, 12). H&C applications are a last resort to stay deportation for failed asylum seekers, and often the only opportunity to obtain PR for those with irregular status (Migrants Right Network 2021c; Rodriguez 2021).³⁴ This pathway is particularly important for those who continue to be excluded from labour-based regularization programs, and includes requirements to prove economic merits and self-sufficiency, despite its name. The increase may be correlated with the backlog caused by the spike in H&C applications as a result of the doubling of annual asylum claims in Canada from 2016 to 2020. The subsequent backlogs have impacted immigration officials, who must meet their workload targets and work under pressure to render fast decisions, and applicants who experience increased waiting times which mean longer experiences of precarity and deportability (Delisle and Nakache 2022, 13). The H&C process has been criticized as a costly process through a bureaucratic decision-maker with declining rates of acceptance, no avenue for legal appeal, and the requirement to wait 12 months since a rejected claim to filing an appeal (Migrant Rights Network 2021b).³⁵

Ad Hoc and Self-Interested: The Limits to Pathways out of Precarity in Canada

Despite the lack of accurate data on undocumented migrants, there is little doubt that they impact Canada's socioeconomic fabric. A range of migrant advocacy groups have called on the Federal Government to implement regularization programs to mitigate the struggles that come with navigating life without status.³⁶ Regularization programs are not new to Canada. The 1960

³³ Evidence from Europe suggests that restrictive asylum policies can influence the likelihood of a person preferring to abstain from lodging an asylum claim and remaining clandestine (Czaika & Hobolth 2016).

³⁴ See: Migrants Right Network. "Canada rejected double the number of humanitarian applications for immigration in 2020" (2021) <https://migrantrights.ca/hc202rejections/>; CTV News. "Canada's rejections of residency applications on humanitarian grounds spiked in 2020: advocates" (2021). <https://www.ctvnews.ca/canada/canada-s-rejections-of-residency-applications-on-humanitarian-grounds-spiked-in-2020-advocates-1.5507590>

³⁵ Government of Canada. No Date. "Humanitarian and compassionate: Intake and who may apply." <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/intake-who-may-apply.html#refugee-claim>.

³⁶ See: No One Is Illegal - Vancouver. "Regularization- Status for All!" <https://noii-van.resist.ca/issues/regularization-status-for-all/>; Migrant Workers Centre. "Amnesty for Undocumented Workers Campaign" (2020) <https://mwcbc.ca/amnesty-for-undocumented-workers-campaign/>; Solidarity Across Borders. "Principles for a Regularization Program In Canada". (2004) <https://www.solidarityacrossborders.org/en/principles-for-a-regularization-program-in-canada>

Chinese Adjustment Statement Program, 1973 Adjustment of Status Program, 1981 Special Regularization Procedure for Haitians Residing in Quebec, 1983-1985 Minister's Review Committee, 1994-1998 Deferred Removal Orders Class, 2002 Special Regularization Procedure for Algerians Residing in Quebec, and the 2004 Humanitarian and Compassionate program are all examples of Canada's history with regularization (Berinstein et al. 2004, 20). Discussions on regularization re-emerged as the COVID-19 pandemic exacerbated the impacts of irregularity, yet the majority of programs remain ad-hoc, and are largely driven by economic rather than humanitarian or rights-based imperatives.

Labour-Bases Pathways to Regular Status

On April 14, 2021, IRCC announced the TR-PR Pathways Initiative, which introduced a new pathway to PR for over 90,000 essential workers and international graduates already residing in Canada.³⁷ If an individual had work experience in Canada in an essential occupation or the health services field, or if they had recently graduated from a Canadian post-secondary institution, they were eligible to apply for PR (Government of Canada 2021a). Under this initiative, three applicant streams were introduced – The Workers in Canada: Health Care Stream which received 7,155 applications out of the 20,000 maximum application spots available, The Workers in Canada: Essential, Non-health Care Stream reached the maximum of 30,000 applications, and The Recent International Graduates from a Canadian Institution Stream reached the maximum of 40,000 applications (Government of Canada 2021a). There were also three streams dedicated specifically to French-speaking persons with three more commensurate streams.³⁸ This initiative closed on November 5, 2021 with a total of 84,117 applications received under the 6 streams, and with 11,425 residents reported to have received PR, with some still awaiting processing (Singer 2021). Although this program successfully secured PR for many individuals living in precarious status, it had some shortcomings. Firstly, its numerical cap and limited duration was not a comprehensive solution. It did not help non-status people given that eligibility criteria included valid temporary resident status, in addition to language proficiency in English or French, and employment at the time of application (Government of Canada 2021a). IRCC claimed that the initiative was to “retain the talent of those already here in support of economic recovery” and to grant permanent residency to those “who possess the skills and experience we need to fight the pandemic and accelerate our economic recovery”.³⁹ This aligns with Abu Alrob and Shields's (2022, 65) argument that the contribution of essential workers to Canada has paved a pathway to citizenship for them, while leaving other groups behind. Advocacy groups such as the Migrant Rights Network (2021a) have further argued the program excluded the majority of racialized, low-

³⁷ See: Government of Canada. “Temporary public policies: Temporary resident to permanent resident pathway – About the program” (2021) <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/tr-pr-pathway.html>

³⁸ The French-speaking Workers in Canada: Healthcare Stream which received 271 applications, the French-speaking Workers in Canada: Essential, Non-healthcare which received 2,054 applications, and the French-Speaking Recent International Graduates from a Canadian Institution Stream which received 4,697 applications, all of which had no cap on the number of applicants being accepted (Government of Canada 2021a).

³⁹ See: Government of Canada. “CIMM - Temporary to permanent residence pathways - June 2, 2021” (2021) <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-jun-02-2021/temporary-permanent-residence.html>; Government of Canada. “New pathway to permanent residency for over 90,000 essential temporary workers and international graduates” (2021) <https://www.canada.ca/en/immigration-refugees-citizenship/news/2021/04/new-pathway-to-permanent-residency-for-over-90000-essential-temporary-workers-and-international-graduates.html>

wage migrants, as well as all residents without status, and international students who have not yet graduated.

Likewise, in mid-August of 2020, the Government of Canada announced a program titled “Permanent Residence Pathway for Pending or Failed Refugee Claimants working in Health Care”. Eligible asylum seekers who claimed protection before March 13, 2020 and possessed valid work permits with an accumulated minimum number of hours of employment in direct provisions of healthcare were to be granted direct access to PR (Macklin 2022, 38). To qualify, applicants must have worked for at least 120 hours between March 13 and August 14, 2020, and before August 31, 2021, the applicant must have total work experience of either full time work 30 hours per week for 6 months or part time work at 750 hours (Government of Canada 2020). The program opened in December of 2020 and closed on August 31, 2021. Estimates suggest it would have benefitted no more than a thousand claimants due to extensive application criteria and associated legal fees (Macklin 2022, 38).

On January 2, 2020, the federal government announced a Temporary Public Policy for Out-of-Status Construction Workers in the Greater Toronto Area (GTA). It was implemented on July 29, 2021.⁴⁰ According to IRCC, the policy was developed to “recognize the economic contribution of long-term resident construction workers and has sought to regularize individuals who have been contributing to the Canadian economy by filling a regional labor market need,” as well as addressing the economic contributions and vulnerability of these workers (Government of Canada 2021b). The program aims for 500 construction workers in the GTA, plus their family members, to gain access to PR (Government of Canada 2021b). This stream also has numerous eligibility requirements such as having legally entered Canada, at least 5 years of residence, working without authorization in the construction industry in the GTA, and those applicants must not be inadmissible other than for reasons of overstaying their temporary resident status or working and studying without authorization (Government of Canada 2021b). As with TR-PR, the initiative targets a select group based on labour market needs, is a one-time initiative, and is limited to end on January 2, 2023, or when 500 principal applicants have been granted PR (Government of Canada 2021b).

Finally, the Agri-Food Pilot was announced on May 22, 2020 as a path to PR for non-seasonal and experienced workers in certain industries and occupations, and is set to run until May 2023 (Government of Canada 2022). As another program developed within the context of Covid-19, it aims to “build resilience in the agriculture sector” (Abu Alrob and Shields 2022, 66). There are a wide range of eligibility requirements, including having eligible work experience, an eligible job offer, language, educational, and financial requirements, and proof of maintaining temporary resident status in Canada (Government of Canada 2022). This program has been criticized for its strict eligibility requirements including a secondary education diploma in Canada and relatively high proficiency in English, and for its limitation of only accepting 2,750 applicants and family members, making it inaccessible for many (Triandafyllidou 2022, 12). Ottawa had only received a fraction of expected applications, with only 343 completed as of August 31, 2021 – well past a year since the launch.⁴¹ In addition to the various eligibility criteria, the cost of legal assistance, private language testing, and application fees act as barriers to potential applicants (Macklin 2022; 38).

⁴⁰ See: Bellissimo Law Group PC. “Updates on Temporary Public Policy for Out-of-Status Construction Workers in the GTA” (2021) https://www.bellissimolawgroup.com/updates-on-temporary-public-policy-for-out-of-status-construction-workers-in-the-gta/#_ftn1

⁴¹ See: “Ottawa sees few claims for residency under Agri-Food Pilot” <https://www.theglobeandmail.com/business/article-ottawa-sees-few-claims-for-residency-under-agri-food-pilot/>

A Growing Political Cause: Solidarity and Activism Around Irregularity in Canada, and Lessons from the US Sanctuary Movement

The State of Sanctuary Policies in Canada

Sanctuary movements exist both in Canada and the US, although the practice in the US is more long-standing, having originated in church-based sanctuary movements in the 1970s and 80s that sheltered migrants from police and immigration enforcement (Bauder & Gonzalez 2018, p.124). Sanctuary cities date to the 1980s, when San Francisco refused to cooperate with federal authorities to protect refugees from Central America (Bauder & Gonzalez 2018, 125; Hershkovitz, Hudson & Bauder 2021, 39). Since then, civic, legal, and bureaucratic models have grown to include formal directives against collecting and sharing identifying information with federal authorities, and the movement today centrally focuses on unauthorized immigrants settling permanently in a municipality rather than refugees requiring temporary protection (Hershkovitz, Hudson and Bauder 2021, 40). To date, there are currently 11 US states which consider themselves sanctuaries, and of these states, Oregon, Washington, Pennsylvania, California, and Colorado have the largest number of sanctuary cities (Vaughan and Griffith 2021).

In Canada, Toronto was the first city to adopt a “Don’t-Ask-Don’t-Tell” policy in 2004 for accessing social services, later adopted by the Toronto District School Board in 2007, followed by a formal vote in City Council in 2013 (Bauder and Gonzalez 2018, 125), and was partly spurred by community service organizations, human rights advocates, professionals, physicians, and migrants mobilizing to secure access to education, healthcare, and police protections (Hershkovitz, Hudson and Bauder 2021, 40). Since 2013, seven municipalities in four provinces and territories have enacted sanctuary policies: Toronto, Hamilton, Ajax, and London (Ontario); Vancouver (British Columbia); Montreal (Quebec); and Edmonton (Alberta) (Paquet et al. 2022, 86). In both the Canadian and US contexts, the movement has similar underlying goals of combatting exclusionary policies and protecting migrants from enforcement measures.

However, differences between Canada and the US in terms of subnational jurisdictions mean widely different effects and comprehensiveness of city-level policies. In both Canada and the US, cities lack independent constitutional status, so provinces and states matter greatly in understanding differences in practice and policy implementation (Paquet 2020, 62). US states have seen a different trajectory towards rights and services for unauthorized populations, including access to special educational financial aid and tuition fees for undocumented students, healthcare programs, access to IDs and driver’s licenses, and access to healthcare for undocumented populations (Paquet 2020, 70; Enriquez, Vera and Ramakrishnan 2019, 35).

The greater politicization and social mobilization around unauthorized populations in the US means states can empower cities to develop sanctuary policies more fully, particularly in states with progressive governments. In contrast, although Canadian cities have made declaratory statements committing to sanctuary, intergovernmental relations mean less power for policy implementation in the absence of provincial commitments – which are hampered by often conservative provincial governments, particularly in Western provinces and Quebec (Hershkovitz, Hudson and Bauder 2021, 46). The demographic profile of undocumented populations in the US also mean a far greater aggregate policy impact given the concentration and scale of unauthorized populations in a few cities.

Police Cooperation in Sanctuary Policies and Immigration Enforcement

Police play a crucial role in effective sanctuary policies and overall safety for irregular populations. Canadian police organizations have been broadly resistant to enacting sanctuary policies, while in the US police tend towards either extreme cooperation with immigration enforcement and

severe anti-immigrant policies targeting racialized groups (and often antagonism with state and city sanctuary policies), or cooperation with sanctuary policies based on arguments around effective public safety and use of resources (Moffette and Ridgley 2018, 150). High-profile cases of local sheriffs and police enacting radical enforcement measures and collaborating with ICE notwithstanding, some cities and counties in the US have formal support and advocacy from police, who recognize that fear around detention and deportation inhibits community-based policing and crime investigation (Hershkowitz, Hudson and Bauder 2021, 38; Moffette and Ridgley 2018; Armenta and Rosales 2019), while police in Canada have generally opposed any attempt to limit their discretionary powers to check immigration status. Canada's sanctuary city policies do not legally bind police services whose operations are subject only to independent Police Services Boards (Hershkowitz, Hudson and Bauder 2021, 47). The absence of provincial commitment also hinders the ability to enforce sanctuary policies. Interviews with Toronto police, for example, show a general belief that provincial government regulations clarifying official procedures would ensure cooperation and limit liability (Hershkowitz, Hudson and Bauder 2021).

Advocacy in Canada has focused on "building a culture of non-cooperation" between police and the CBSA (Moffette, 2021). For example, in Toronto, the Don't Ask, Don't Tell (DADT) coalition successfully pressured the Toronto police to adopt the "Don't Ask" component, though they refused to adopt the "Don't Tell" component (Moffette and Ridgley 2018; Villegas 2017, 1184). Since 2015, the Toronto police have referred 3,278 individuals to the CBSA (Skaidra 2022, 2).⁴²

A Crucial Difference: The Involvement of Migrants in Advocacy

The US case differs significantly in terms of high-profile advocacy campaigns for the rights of unauthorized populations, which have included immigrants since the early 2000s, which serve to "put a face" on the major political issue (Wright 2002, 7). As described below, advocacy in Canada is much smaller scale, likely as a result of the proportion of the population affected and the longer history of sanctuary movements. The trend of migrants as advocacy leaders accelerated under the Obama Administration, particularly its (qualified) amnesty for "Dreamers" under the 2012 Deferred Action for Childhood Arrivals (DACA) program, which offered protection from deportation and temporary employment authorization for youth who were brought to the US before the age of 16, and met a number of other criteria, particularly around criminal records (Bloemraad and Voss 2020, 690; Nicholls and Fiorito 2015).

Key mobilization strategies in major cities like Los Angeles focus on "developing the power of the people to fight and to stand up and advocate for themselves" to train and establish immigrant leadership (Torres 2017, 1). Nicholls and Fiorito (2015) argue that having the undocumented youth population as the face of the Dreamers movement created two unique strategies. The first strategy is the "bounded Dreamer" which constructed political messages stressing the "deservingness" of this population by emphasizing that they were people with good character who conformed with US national cultures and values. However, this inadvertently created a binary between "deserving" and "undeserving" youth. The second strategy, what Nicholls and Fiorito call the "unbounded Dreamer," aimed to combat this binary by stressing broader identities, ties across ethnic groups, and goals to blur the deserving / undeserving line. Some research has found that anti-immigrant sentiments and nativist legislation in the US spurred a broader collective identity among Latinos in general and people of Mexican descent in particular, influencing a broader willingness and need for collective action (Zepeda-Millan 2016, 5).

⁴² See also: Migrants Right Network Latest (2022) <https://migrantrights.ca/latest-news/#:~:text=Canada%20has%20shifted%20to%20a,residents%20in%20the%20same%20year>

In Canada, studies show that people living without status remain hesitant to speak publicly, and apart from a few activists with first-hand experience living without status, frontline service providers and activists often speak on their behalf (Jeffries and Ridgley 2020, 552). This is not to say, however, that undocumented migrants are absent. Networks such as Solidarity Across Borders and the Migrant Rights Network are composed of migrants without legal status alongside Canadian citizens with immigrant backgrounds, and other activists (Monforte and Dufour 2013, 16). Likewise, Migrant Workers United and Migrant Students United have migrants with precarious status in leadership roles. However, there are no examples in the Canadian context like the Dreamers movement where undocumented migrants have taken leadership at a large scale to effect legislative change. Efforts to educate and mobilize precarious migrants, for example, the Canadian Council for Refugee's (CCR) working group meetings provides resources to create better knowledge and transparency on precarious migrants' rights and access to services, yet fall short of building capacities for large-scale mobilization (Torres 2017, 1).⁴³

Canadian organizers have also made significant gains in terms of advocating for justice around immigrant detention. In July of 2022 the government of British Columbia announced it would cancel contracts with the CBSA to detain people in provincial prisons for immigration infractions after a successful campaign by a coalition of social justice, academic, and grassroots organizers – which has expanded to Quebec and Nova Scotia.⁴⁴

Mobilisation During Covid-19: A New Set of Opportunities?

The Covid-19 pandemic exacerbated barriers for service access for undocumented and precarious migrants, including decreased access to health care and social supports including child care, language classes, and settlement services (Benjamin et al. 2021). Accessing vaccinations became a challenge since many did not have valid health cards or coverage, and expressed fear of information collection, and in some cases, struggled to pay fees involved in obtaining a vaccine (Migrant Rights Network 2022). This was particularly problematic considering that many migrant and undocumented persons are believed to be working in essential jobs as frontline workers, with reports that some employers have even threatened migrants with job loss and deportation if they fail to get vaccinated (Migrants Right Network 2022b).

Ontario, Quebec and British Columbia opened access to healthcare for precarious people at different levels, however, British Columbia withdrew access as of December 2020, and Quebec's policy was confined to healthcare related to Covid-19, which left Ontario as the only province which had a policy of access to healthcare for all irrespective of immigration status (Paquet et al. 2022, 91). In the City of Toronto, there was a notable response to ongoing Covid-19 related issues. The City of Toronto launched the "Toronto For All" campaign in partnership with FCJ Refugee Centre and other key agencies to humanize undocumented migrants, as well as to establish the Covid-19 Vaccine Engagement Teams with community partners to ensure that undocumented migrants had accurate information about Covid-19 and vaccinations and vaccination clinics (City of Toronto 2021).⁴⁵ Beyond vaccination efforts, there was a general

⁴³ See Canadian Council for Refugees. "Summer 2022 Working Group Meetings" <https://ccrweb.ca/en/meetings>

⁴⁴ See Amnesty International Canada 21 July 2022. "British Columbia to End Immigration Detention in Jails." <https://www.amnesty.ca/news/news-releases/canada-british-columbia-to-end-immigration-detention-in-jails/>.

⁴⁵ One example of this partnership was seen in Toronto's Kensington-Chinatown area where a pop-up vaccine clinic was set up for those 12 and older and living the M5T postal code in order to bring vaccines directly into the community, with on-site translators to boost outreach efforts and build trust with the community. See Kwong, Evelyn and Jenna Moon. 2021. "Lion dances, translators and building trust: How Chinatown came together to boost vaccine uptake" *Toronto Star*

consensus that undocumented and precarious migrants began to lean more heavily on community supports and mutual aid networks related to language, housing, and food given the absence of official supports, including being excluded from financial assistance like the Canada Emergency Response Benefit (CERB) (Borras, Goldring and Landolt 2021, 6).

In the US, Covid-19 vaccines were freely available to all regardless of immigration or insurance status, and DHS explicitly stated that immigration enforcement activities would not target vaccination sites (Page et al. 2022). However, undocumented migrants continued to fear that information given to access vaccines would later be used by ICE, expressed worries about the cost of vaccines despite them being free, and faced language barriers and conflicts between work and clinic hours, which prohibited them from accessing vaccines effectively (McFadden et al. 2022, 10). Furthermore, there were still large gaps left by national policies such as the Coronavirus Aid, Relief, and Economic Security (CARES) Act which provided cash assistance for eligible Americans while excluding 14.5 million undocumented and mixed status families (Thouez 2022, 5). Therefore, in practice, the needs of undocumented and mixed status families were primarily met through city and state responses especially at the onset of the pandemic, similar to the case of Canada (Thouez 2022, 2). Not only were the efforts of community organizations needed to address the language needs in reducing vaccine access barriers, but local governments in the US with long-standing sanctuary policies began to establish assistance programs of their own, such as the “Angeleno Cards” in Los Angeles providing cash cards residents, and in New York where the city worked with community-based organizations to get cash to communities in need (McFadden et al. 2022, 10; Thouez 2022, 5).

Reflections: What *Should* we Know? Ethical and Political Considerations for Measuring Canada’s Irregular Populations

This concluding section offers some reflections on whether and how scholars and policymakers should seek to fill knowledge gaps around irregular populations in Canada. The first set of reflections suggests that the absence of clear data and estimations may act as something of a bulwark against nativist or anti-immigrant political mobilization around the issue, yet may at the same time inhibit political mobilization to expand rights and protections for irregular migrants. In a word, researchers and policymakers should consider whether Canada’s irregular population should be made legible, or whether it may be better served staying out of sight, and thus out of mind. The second section explains the concept of firewalls to protect irregular migrants in the context of sanctuary jurisdictions, and suggests that researchers should consider extending those firewalls to research dissemination based on do-no-harm principles with vulnerable populations. Following from these reflections, we ask who would benefit from more robust data on Canada’s irregular population through some comparative reflections on regularization programs in other jurisdictions, and in light of Canada’s record of extending prioritizing labour market needs, rather than humanitarian and rights concerns for people with precarious migration status.

Out of Sight, Out of Mind?

Public discourse around irregular migration, unauthorized populations, or similar categories of “unregulated” mobility are prone to deep and potentially damaging politicization (see Clark-Kazak 2021, 127). Research ethics thus implies not only procedural safeguards of ensuring voluntariness, informed consent, identity protection, and mitigating personal risk for vulnerable

<https://www.thestar.com/news/gta/2021/05/25/lion-dances-translators-and-building-trust-how-chinatown-came-together-to-boost-vaccine-uptake.html>

research participants and their communities, but also understanding the political context of eventual knowledge mobilization (Zapata-Barrero & Yalaz 2020). To return to the comparative case of the US, detailed data and broad knowledge mobilization around unauthorized populations represents something of a double-edged sword. On the one hand, data around the scale and concentration of unauthorized populations can bolster nativist policies and political positions, contributing to America's vast ideological schisms. On the other hand, the issue's prominence has resulted in successful mobilization for sanctuary policies at the city and state level, and federal amnesties and enforcement deferrals for hundreds of thousands of Dreamers, allowing them to work, attend universities, and more broadly to participate as members of society without the ever-present fear of detention or deportation.

Detailed data has also been mobilized for enforcement measures, regardless of sanctuary policies. For example, in 2007, the failure to pass the Comprehensive Immigration Reform Act eventually led the Bush Administration to use tax data to attempt to first identify then order companies to fire unauthorized workers, though the plan was blocked by a federal judge (Martin 2010, 249). Under the Trump Administration, ICE was bolstered by significant increases in its budget and enforcement capacities, and directives to detain "all removable aliens," as opposed to earlier, more targeted enforcement for those with criminal records, or targeting employers. The directive manifested in widespread ICE raids in workplaces, homes, and street-level status checks in immigrant neighbourhoods. Likewise, the Trump Administration specifically sought to de-fund sanctuary jurisdictions. These political and policy dynamics offer somewhat stark examples for potential negative knock-on effects of ameliorating knowledge gaps in Canada.

However, the political context in Canada is also vastly different. Anti-immigrant sentiment and political platforms vowing to crack down on irregular populations are far less prevalent, and have negatively affected the electoral success of parties that employ them, particularly the Canadian Conservative Party (CPC) (Donnelly 2017; Bleomraad 2012). The upstart People's Party of Canada campaigned on an anti-immigrant and hard borders platform in the 2018 Federal Election, but won no seats in Parliament, and its leader lost his seat which he previously held as a member of the CPC. While the lack of support for anti-immigrant parties implies far less nativist political sentiment, weak political mobilization around the issue may also limit the perceived need for broad solidarity and collective action. As described above, mobilization in Canada has yet to produce the same types of national-level and high-profile campaigns as in the US. At the same time, mobilization efforts in the US have also been spurred by radical enforcement policies at the federal, state, and municipal levels, which have virtually no parallel in Canada.

Canada's political context also has implications for research. To consider the issue from one angle, it may be the case that the lack of data, reliable estimates, and political mobilization, offer a degree of anonymity (and thus protection) for populations who would prefer to remain clandestine in the absence of policy changes to regularize their status and protect them from detention and deportation. To put the matter succinctly, irregular migrants in Canada may benefit from being out of sight and out of mind.

Considered from another angle, however, reliable data and estimates could facilitate progressive policy interventions, since "the absence of data on the position of migrants and minorities may also legitimise ignorance towards the problems that migrants often face" (Scholten 2018, 294). Indeed, migrant rights organizations, lawyers, and scholars have been pivotal actors in advocating around the rights of temporary foreign workers, which proceeded from goals of understanding and publicizing their vulnerability to abuse and criminalization. Likewise, there is no evidence that the CBSA mobilizes research for enforcement, and university research ethics boards as well as the Federal Tri-Council guidelines include provisions for researchers to anonymize data and to resist disclosing or transferring data to law enforcement agencies.⁴⁶

⁴⁶ See Tri-Council Policy Statement 2 (2018) "Chapter 5: Privacy and Confidentiality." https://ethics.gc.ca/eng/tcps2-epct2_2018_chapter5-chapitre5.html.

Do No Harm: Expanding Firewalls from Service Provision to Research and Dissemination

With these risk-based considerations in mind, researchers and governments should begin from a strategic commitment to influencing how knowledge about irregular populations is framed in public discourse (see Jacobsen 2015). Research ethics around irregular populations, as well as service provision to them, fundamentally rest on do-no-harm principles. Understanding essential power asymmetries between researchers and governments on the one hand, and vulnerable populations on the other, go beyond recruitment and research methods, to how and when scholars should disseminate results or cooperate with governments to make irregular populations legible (on the concept of “legibility” see Scott 1999; Torpey 2009). As Stierl notes, “considering the ‘do no harm’ principle for encounters with policymakers serves, first and foremost, as a reminder of the *politicality* [sic] of knowledge production” (Stierl 2020, 11). Indeed, the production of statistics should be accompanied by significant ethical considerations of their use, since they are often considered hard and objective data, and are most likely to receive media coverage, which can be mobilized and misused by both media and politicians (Düvell, Triandafyllidou, & Vollmer 2010).

Data and identity firewalls are key tools ensure enact do-no-harm principles. Crépeau & Hastie (2015) observe that detention and control practices dominate responses to irregular mobility, but far less attention is paid to the mistreatment of irregular populations in countries of residence, and attempts to quantify vulnerable groups may offer policymakers opportunities to broaden and target enforcement mechanisms. They characterize firewalls as “the separation of immigration enforcement activities from public service provision” given that the latter is necessary “both for upholding migrants’ fundamental rights, and in relation to broader social and public goods” insofar as they allow the whole of community to access services, and ensure that vulnerable people are able to access services including law enforcement and legal procedures (*Ibid* 158). Firewalls have a dual nature. On one side, service providers are forbidden to share information with enforcement agencies collected in the provisions of services, and are protected from immigration enforcement; and on the other side, that migration control and enforcement agencies are forbidden to request said information, or to perform immigration enforcement around the vicinities of service and rights provision (Hermansson et al. 2020, 8).

In the European context, there is broad variation in the degree to which social service providers and government are committed to building and enacting robust firewalls. In some states, including France, the UK, and Sweden, governments have oscillated between ensuring protections and making social services contingent on legal immigration status, essentially deputizing service providers as arms of immigration enforcement regimes. In the most robust cases, firewalls reflect both normative commitments and professional ethics of service providers, to ensure that accessing social services, law enforcement, places of worship, or medical care should not implicate any form of migration enforcement (Hermansson et al. 2020).

These ethical and professional standards around firewalls should be extended to future research on irregular populations in Canada. For example, the International Association for the Study of Forced Migration’s Code of Ethics calls for following do-no-harm principles around how research data and findings “will be disseminated through interactions with media and policymakers.”⁴⁷ As described above, Canadian jurisdictions are yet to fully implement the latter side of firewalls, and police forces routinely share information with immigration enforcement agencies. In the US, the Federal “Secure Communities Program” connects local and federal law enforcement databases with DHS, which allows ICE to identify individuals in custody or, for instance, stopped for routine traffic violations, to be identified and potentially deported. The effect is that unauthorized or irregular populations report well-founded fears of detention and deportation when interacting with law enforcement, which undermines public safety in general.

⁴⁷ IASFM. 2021. Code of Ethics: Critical reflections on research ethics in situations of forced migration,” online: <http://iasfm.org/wp-content/uploads/2021/11/IASFM-Ethics-EN-compressed.pdf>.

This stands in stark contrast, for example, to Dutch police forces' "free in, free out" policy, which grew from local to national policies, in conjunction with the EU's 2015 Victims' Directive, that erect strict firewalls for irregular migrants who are the victims of crime – though in practice the implementation is far from universal (Timmerman et al., 2020). It is conceivable that working towards more robust data collection and instruments to estimate, locate, and understand Canada's irregular population may indeed result in far larger estimates than are available from the extant (and dated) data. More granular data may inadvertently result in calls for more targeted and robust enforcement and removal operation by the CBSA.

Research on irregular populations should prioritize data and identity protection as part of any research design, particular research that may offer data on locations, countries of origin, or industries of employment lest they offer a clearer picture for immigration enforcement. Ensuring firewalls has increasingly international scope. For example, the "Five Eyes" intelligence community already shares data on asylum applicants, which can inform admissibility to Canadian asylum procedures as described above with the changes to the PRRA-only stream for people who had previously sought protection in any cooperation state (see also Hayes 2017, 188). Any formal or informal data sharing with governments in Canada should proceed from a commitment to protect irregular populations from immigration enforcement.

Cui Bono? Motivations for Understanding Canada's Irregular Population

The question thus remains, who would benefit from more accurate data on Canada's irregular population? Collecting and analyzing new data about Canada's irregular population should be rooted in a deep and lasting concern with the goals of associated research projects, and scholars should heed calls not only to minimize harms, but to maximize benefits to vulnerable populations (Clark-Kazak 2021, 131). Contemporary efforts to generate data seem to be geared towards labour-based regularization programs. The 2021 Federal Mandate Letter for the Minister of Immigration, Refugees and Citizenship calls on the Minister to "Build on existing pilot programs to further explore ways of regularizing status for undocumented *workers who are contributing to Canadian communities*" (emphasis added). It likewise calls on the Minister to continue to work with US counterparts to "modernize" the bilateral STCA and to "work" on irregular migration.⁴⁸ Thus any cooperation with governments to research irregular populations should also be predicated on ensuring firewalls between government departments and immigration enforcement agencies.

These priorities comport with both historical and contemporary regularization programs, as well as those in other democracies. Comparative work from Europe shows that the majority of regularization programs over the last three decades – both in terms of the scale of the eligible populations and the number of policy instruments – have been driven by concerns about irregular populations' integration and employability (for instance in Spain, Italy, and Poland). Fewer and smaller-scale programs were driven by humanitarian or rights-based concerns (such as in Germany, Sweden, and The Netherlands) (see Brick 2011). In short, most programs continue to focus on the "deservingness" of particular irregular populations (Chauvin et al. 2013). However, migrants report that access to social rights is a crucial outcome of regularization policies in addition to access to (legal) work and related welfare benefits (Kraler 2019). As such, efforts to estimate and identify irregular population in Canada are likely to continue along current trends to enfranchise workers and their families in key industries, but fall short of ameliorating irregularity in general.

⁴⁸ Prime Minister of Canada. 16 December, 2021. <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-immigration-refugees-and-citizenship-mandate-letter>.

It has long been recognized that research on irregular or unauthorized populations both impacts and is influenced by state policy priorities (see Anderson & Ruhs 2010). The research-policy nexus is often driven by political and funding priorities, wherein the “policy environment exerts influence on the types of knowledge paradigms that emerge, or perhaps those that do not emerge” (Scholten 2018. 287). What has been referred to as “migration policy/policy hype” took on a new pitch following the 2015-16 migration crisis in Europe, pushed by states and supranational institutions for whom the rationale of control underpinned the desire to understand irregular migration, which in turn funded and at shaped current knowledge development (Stierl 2020; see also Crisp 2018).

Canadian researchers are in a better starting position since discourse has largely avoided the types of framing in the US (and to a certain degree in Europe), where immigration policy debates, particularly around unauthorized or irregular migration, tend towards opposite extremes of the political spectrum. Research institutions and individual academics are thus not as prone to the poles of either unauthorized communities’ social and economic contributions and deservingness, or their negative impacts on labour markets and broader economic trends (see Martin 2010, 243-244). Making irregular migrants “legible” to migration policymakers should prioritize ameliorating the policies and practices that structure the experiences of irregularity and create pathways towards it, rather than to simply creating data for the purpose of accurate estimates or targeted regularization programs.

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