

2021

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Recommended Citation

Joseph, Mobólúwajídide D. (2021). Out of Place: Racialized Bodies at the USA-Canada Border. *Undergraduate Review*, 16, 21-33.
Available at: https://vc.bridgew.edu/undergrad_rev/vol16/iss2/6

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Out of Place: Racialized Bodies at the USA-Canada Border

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Abstract: The United States of America and Canada have a strong bilateral relationship that spans trade and national security concerns made necessary by their geographic proximity to one another. However, this is not one that equally impacts both states. This article maps out how marketization and securitization as dual forces shape much of Canada's immigration policy framework. This framework is in response to American post-9/11 national security discourses which resulted in the reification of racial discrimination at the border (Crocker et al. 2007). It will do so by grounding these arguments in a theoretical framework that critically examines neoliberalism as the context in which 'biopolitics of citizenship' at the border emerge which further constrains the mobility of racial others across the Canada-USA border (Sparke 2006). While Canada has always been framed as a safe harbor for freed slaves, we shall discuss how Black bodies have always been marked as out of place and other at the border as early as the eighteenth century through surveillance and biometric technologies like the *Book of Negroes* (Browne 2015). Special attention shall be brought to bear on policy documents, legislation, and agreements like the North American Free Trade Agreement, Canada's Anti-Terrorism Act, and the Immigration and Refugee Protection Act. This attention will situate these discussions within a regulatory framework that continues to mark racialized migrant bodies at this border site as out of place, weakening Canada's ability to articulate a truly emancipatory vision of multiculturalism.

Keywords: Canada-US border, immigration, terrorism, biopolitics, Black Atlantic.

The border, in layman's terms, is often conceptualized as lines on a map that demarcate territories and space. They represent a given authority to include and exclude groups and individuals, to restrict mobility, and to inscribe the limits of a community's power and autonomy. In critical terms, however, borders are imagined sites where power relations play out in complex patterns. The US-Canada border, the longest international land border statistically, is no different. This article will attempt to delineate how dual imperatives of the market and security intersect to shape the body of policies and legislation that underpin this contested site and mark racialized bodies as out of place. Contemporarily, this is often traced back to the national security discourses transplanted from the US to Canada after 9/11 and the War on Terror that followed it. However, Simone Browne's investigation

of the *Book of Negroes* helps disrupt this by showing how Black bodies fleeing slavery were surveilled as early as the eighteenth century. These discussions shall be grounded in an exploration of neoliberalism as the context against which the push and pull of market and security discourses are framed, and through which “biopolitics of citizenship” emerge, as is explored by Matthew B. Sparke. It will then move on to the historical case study embodied in Browne’s interrogation of the *Book of Negroes*, before teasing out concepts of marketization and securitization as theorized by Crocker, Dobrolwsky, Keeble, Moncayo, and Tatsoglou (2007) and applying these to the formation of documents such as the Immigration and Refugee Protection Act (IRPA) and the Anti-Terrorism Act (ATA). It shall conclude with Liette Gilbert’s examination (2007) of how these discourses affect Canada’s principal framework for managing difference – multiculturalism.

Matthew B. Sparke provides a useful way to frame neoliberalism by proposing to theorize it “as a contextually contingent articulation of free market governmental practices with varied and often quite illiberal forms of social and political rule.” Sparke explores how the rhetoric around national security and free trade shapes policies and practices at the border and gives us a salient starting point. For him, ‘securitized nationalism’ by which he is referring to “the cultural-political forces that lead to the imagining, surveilling, and policing of the nation-state in especially exclusionary but economically discerning ways” is invoked by public officials who advocate for stronger border control in the North American context. This advocacy is often in contrast to calls for more porous borders to allow for transnational trade. The results are the transformation of citizenship at the border and the emergence of “new transnational mobility rights for some and new exclusions for others” (Sparke 2006, 153).

For Sparke, such an approach requires looking at neoliberalism both at the macroscale as ‘governance’ and at the microscale as governmentality. He writes, “neoliberalism as a regime of governance... is organized around the twin ideas of liberalizing the capitalist market from state control and refashioning state practices in the idealized image of the free market” (while “at the level of the more micro practices that Foucault’s followers have called governmentality... at a still

more personal level, the educational and cultural cultivation of a new kind of self-promoting and self policing entrepreneurial individualism”). Neoliberalism is thus positioned as a system that interacts at the level of the state and manifests itself in what is ostensibly named the deregulation of the markets. However, Sparke posits that this is more accurately described as re-regulation, also at the level of individuals and businesses, actively shaping and constraining the behavioral tendencies of these actors within its web of relations. Sparke notes ultimately that whether at the macroscale or microscale, neoliberalism leads to transformations of state-making and rule (Sparke 2006, 154). In other words, governance and policy making for the Canadian state is affected and impacted by its positioning within a neoliberal context. Consequently, its enactment of its domestic policies, which deal with issues like citizenship, identity, immigration, and integration, do not occur in a vacuum separate and distinct from its foreign relations.

Neoliberalism, as Sparke observes, is often retroactively credited to the Thatcher and Reagan administrations but actually goes back to the efforts of critics of state control on the market from the 1940's to the 1960's, like Friedrich von Hayek and Milton Friedman. Neoliberalism is enmeshed in the project of the formulation of national citizenship and the casting out from the neoliberal state others deemed unworthy of civil rights (Sparke 2006, 154). We can therefore posit that neoliberalism weakens the political agency of state subjects. Foucault's theorizing around the 'homo economicus' – an individual producer-consumer, is revisited by Sparke to illustrate this. By transforming society from being organized around collective citizenship to radically individuated citizenship, “the notion of the social body as a collective subject committed to the reparation of the injuries suffered by its individual members” is replaced by one that distributes “the disciplines of the competitive world market throughout the interstices of the social body” (155). In endeavoring to achieve congruence between a responsible and moral individual, and an economic-rational actor, the social rights or citizenship are pared back where they exist, and the scope of political rights are restricted (155). Sparke takes Barry Hindess' arguments which rely on English sociologist T.H Marshall's conceptions of three categories of citizenship a step further, arguing that they should be rescaled from a national

and territorially enclosed definition to a transnational and territorially open-ended definition. The three categories – social citizenship “associated with the expansion of equality rights...the development of the welfare state”; political citizenship “associated with the development of the public sphere, voting”; and civil citizenship “made up of...mobility rights and rights to sell one’s labour...the establishment of bourgeois property rights” – were proposed by Marshall as an evolutionist account of British national citizenship (155). Nevertheless, Sparke holds that this conception of ‘civil citizenship’ as one that unsettles more political and social forms of agency helps us investigate how neoliberalism as both governance and governmentality has led to the emergence of a new class of transnationally mobile citizens.

Sparke here is providing a new lens through which to examine how the mobility of racial others is constrained across borders, one that is tied to an understanding of power relations as mediated by the market and class structures. The question of mobility and access across borders must thus be framed through an interrogation of how capital is accumulated and distributed between groups and individuals. Specifically, post 9/11, as Sparke leads us to understand, this emergence of a transnational civil citizenship tied to property rights had to be worked out on the ground whilst being constrained simultaneously by intensified border securitization on the US- Canada border (Sparke 2006, 157). This “strategic terrain [is] where countervailing projects of statecraft come to bear on one another” (169).

However, as Browne leads us to understand by her reading of the *Book of Negroes*, the right of specific bodies to cross the US-Canada border has always been bound up in questions of property-ownership, and even more crucially, what can be conceptualized of as property. “*The Book of Negroes*,” she argues, “is the first government-issued document for state regulated migration that explicitly linked corporeal markers to the right to travel” (Browne 2015, 17). This document which accounted for Black bodies as recoverable property allowed the tracking and surveillance of Black bodies within Canada, although to this day Canada’s official discourse of multiculturalism continues to deny a any historical account of Blackness in Canada that worries the national myth of two

founding peoples (65).

The *Book of Negroes* emerged as a method for accounting for every Black body that was allowed to board the 200 ships leaving New York in 1783 following the Phillipsburg Proclamation which provided emancipation to every ‘negroe’ who deserted the ‘Rebel Standard’ and joined the side of the British. It was created due to a fear amongst slave owners about loss of property to serve as a record in case of claims for compensation (Browne 2015, 71). There was then a general fear that those who were not covered by the Proclamation would wield it to seek their freedom and escape to Canada, and by recording every Black body boarding the ships it became easier to track those who did and ensure that slave owners whose property had absconded with the British to Canada could be compensated. Browne goes on to posit that together with notifications of runaways, the *Book of Negroes* lets us understand how text served as precursors to modern forms of surveillance by “marking boundaries making borders, and defining a slave as out of place” (72).

The *Book of Negroes* serves to accomplish this purpose even as only Black bodies were noticeably recorded and marked in this way upon entry to Canada and not their white counterparts, implying that white property owners were the norm and in their rightful place at the border. While ships often did detail their passengers, it was unheard of for them to focus so heavily on such physical descriptors that denoted the capacity of these passengers for labor as the *Book of Negroes* did. These descriptors, as Browne recounts for us, included such notes as: ‘worn out,’ ‘stout healthy negro,’ ‘young woman,’ ‘healthy negress,’ ‘stout labourer’ (Browne 2015, 75). Property capital, and property rights were built heavily into the logic of who was granted or denied entry and whether or not crossing the border was a viable option for some. While the enslavement of Black bodies is often credited as an American practice, two advertisements that Browne illuminates as historical artefacts aid us in understanding that “while many travelled to Canada as emancipated people, not all those who arrived in that country did so freely” (73). Canada, or British North America as it was then known, was also complicit in the enslavement of Black bodies, and as early as the eighteenth century was enmeshed in American processes of racializing newcomers at the border.

Key to the rationale behind the *Book of Negroes*, was the need to preserve the hard-won peace following the American Revolutionary War by ensuring that the ‘property’ of the Americans remained within their control. The marking of these Black bodies as out of place at the border was thus not just about property rights but was also underpinned by discourses of national security and peace. These two entwined forces are further interrogated by Crocker, Dobrolwsky, Keeble, Moncayo, and Tatsoglou (2007) in their report funded by Status of Women Canada’s Policy Research Fund and the Department of Canadian Heritage. Their research, which sets out to explore changes and challenges in Canada’s security and immigration laws, emphasizes the contrasting imperatives put forward by Canada’s commitment to both securitization and marketization. This, they argue, in turn produces “securitization of migration, expansion of the state and reinforcement of state boundaries... perpetuate[s] racialization, and women’s invisibilization” (vii). Crocker et al. are also observant of the perception that the creation and implementation of Canadian policies are reliant on the political climate of its southern neighbor with which it shares an expansive border. This is a claim that takes on salience given the timeline around which critical Canadian policies and initiatives revolving around immigration were adopted and implemented – post 9/11.

Human security, which originally served as Canada’s foreign policy framework and pivoted around the goal of protecting the rights of citizens from the coercive structures of the state has been abandoned in favor of national security against a backdrop of the U.S. post-9/11 War on Terrorism (Crocker et al. 2007, 1). This development which has led to a new fixation with preventing and guarding against terrorism is what Crocker et al. refer to as ‘securitization’. It is against this context, that, they posit, Canada’s Anti-Terrorism Act (ATA) and Immigration and Refugee Protection Act (IRPA) emerged: “both were passed immediately after the 9/11 terrorist attacks” (2). While they observe that these changes and reforms were anticipated prior to the attacks, they hold that the securitization tendencies already apparent in the IRPA were reinforced post 9/11 with laws like the ATA resulting in unforeseen impacts on Canada’s immigrants and ethnic communities, with especially gendered repercussions (2). While Crocker et al. hold that both the IRPA and the ATA

have their specific foci in addressing security: the IRPA focuses on the foreign national and the ATA focuses on the terrorist, given they both deal with immigration, it becomes apparent that they are often implemented in tandem “thus causing the foreign national and the terrorist to be understood as one in the same in government discourse...this approach implies that ‘foreign nationals want to enter Canada for terrorist purposes, they also create the outsider as target’”(14–15). Securitization can therefore be read as imposing markers of distance and danger onto racialized immigrants who wish to enter Canada, transforming them into objects that warrant focused scrutiny and surveillance – an idea that shall be delved into more fully later in this article.

Marketization, which according to Crocker et al. (2007) dovetails with securitization, is described as the continued centrality of the market. This relationship is reminiscent of Sparke’s illustration of the border as a site of conflict between countervailing forces of national security and free trade priorities embodied in the state. For Crocker et al., the IRPA’s facilitation of skilled worker admission, while at the same time introducing new security measures that tie up the movement of certain individuals and groups, shows us that the Canadian state has grown quite adept at balancing both aims. The result is that the state succeeds in divesting itself of “some of its human security priorities” while at the same time intensifying “traditional security powers and advanc[ing] the workings of the market (6).

The IRPA, it should be noted, was specifically “passed in the post-9/11 context of hysteria and fear, and under pressure from the United States to harmonize immigration standards,” and contained within in “new tools to increase the security of Canadian borders” (Crocker et al. 2007, 11). Prior to the post-9/11 adoption of securitization, by the 1990’s, in Canada “family migration which used to be the largest immigration category, slipped to second place behind economic migration”(12), signifying a shift from more normative human rights concerns to the prioritization of market concerns and economic efficiency. Neoliberalism can therefore be said to have already been brought to bear on the projected Canadian trajectory of immigration prior to the emergence of national security as a pivotal principle.

While it might be tempting to think of marketization and securitization as independent and neutral forces which have shaped Canadian policies around immigration, we must consider them in their appropriate context as a by-product of US-Canadian relations. With regard to securitization, by which we mean “the new emphasis on traditional, internal security” (Crocker et al. 2007, vii), it replaced the previous framework of human security due to an attack that did not in fact occur on Canadian soil, and was adopted in response to the American-led War on Terror. We see perhaps most clearly in the case of Maher Arar, a Canadian national who was held and tortured in Syria, how the weight of American national security concerns are borne by racialized Canadian bodies. While on the other hand it could be argued that the emphasis on markets emerged from within Canada and calls from its business stakeholders, such a development still has to be situated within the web of relations and trade treaties such as the North American Free Trade Agreement (NAFTA). These changes and transformations of Canadian domestic policy cannot therefore be divorced from the shadow politics occurring as a result of strong US-Canada bilateral relations.

The stated objective of the IRPA was that immigrants to Canada should be welcomed and, although the stated intent of the ATA was to combat terrorism and terrorist activities at home and abroad, it was to result in the citizenry feeling a growing sense of comfort, safety and security. However, given our secondary research, and in light of the views expressed in our town hall sessions and focus groups, we see that the opposite is the case. That is to say immigrants feel more likely to be targeted than those born in Canada. Many feel as if they have been cast as political, social, cultural or religious villains, as “aliens from within” (Crocker et al. 2007, 7).

It can be surmised from Crocker et al.’s well-stated point that while the IRPA and the ATA were written and enacted to continue and extend the Canadian project of a tolerant and welcoming immigration and integration process for newcomers, they have largely failed. These perceptions of feeling more targeted emerge from the lived experiences of the study’s participants who have to

interact with the ubiquitous impacts of such policies in their day-to-day lives. Public attitudes around safety and security have the ability to influence public policy, affect individuals' daily behavior as well as the collective vision of national identity and consequently shape who 'fits' within the nation and who does not (Crocker et al. 2007, 9). In reading Crocker et al., it is crucial to reflect on their further arguments about the shift from human security to national security and how it creates racial difference in the enactment of Canadian policies. The emerging goal of securitization, they note, creates a national fixation on finding a terrorist within the state who must ultimately be identified and deported (10). By abandoning human security in favor of national security, Canada has therefore failed to live up to its ostensible promise of ethnic and racial tolerance.

Having thus established neoliberalism as a larger context that impacts how Canadian policies are implemented, we shall consider in more detail how multiculturalism – Canada's principal framework for managing racial difference – as an organizing set of principles and a policy has been affected by neoliberalism. In her article, "Legitimizing Neoliberalism Rather than Equality: Canadian Multiculturalism in the Current Reality of North America," Liette Gilbert argues that "that in the current North American reality of economic integration and security cooperation, multiculturalism and immigration policies have been co-opted into a neoliberal rationality legitimizing security and prosperity rather than diversity and equality" (Gilbert 2007, 13). Here, again, we see the same threads of both Crocker et al.'s and Sparke's arguments, with the transformation of immigration policies being attributed to a balancing of both national security and the market as critical objectives.

With the late 1980s demise of the welfare state and the rise of neoliberalism, Gilbert notes that the foundations of multiculturalism were challenged leading to a 1988 revision and a larger shift from collective to individual rights (Gilbert 2007, 18). Multiculturalism was thus recalibrated from being a co-existence framework and positioned rather as a path towards "productive diversity" (Gilbert 2007, 19). Just as the IRPA and the ATA were passed in the context of the emergence of post-9/11 national security rhetoric, the 1988 revision of the Multiculturalism Act was also passed in the context of Canada embracing neoliberalism. This happened just prior to the finalization of the 1989

bilateral Canada-United States Free Trade Agreement (FTA) (Gilbert 2007, 19). In giving continental integration and global competitiveness precedence as policy objectives, attention was deflected away from constitutional debates and cutbacks in welfare services and instead placed new emphasis on individual self-sufficiency as part of the prevalent market mentality (Gilbert 2007, 19).

Diversity thus became less of an inherent good to be striven towards in order to build a more open and tolerant society, and more of an economic value to be probed for its ability to contribute towards the new vision of a prosperous and wealthy Canada. By shifting away from more normative human rights aims towards a more efficiency-driven model of immigration and integration, it became easier to render less visible the forms of discrimination and othering on the basis of class, race, and gender that were being implemented into such policies and structures. Gilbert observes that although economic imperatives have always dominated debates surrounding immigration, “Canada reaffirmed its commitment to attracting and admitting economic immigrants with its points established in 1967, reaffirmed 1994, and made more stringent in 2001” (Gilbert 2007, 19). The years 1994 and 2001 in particular stand out as important dates, even as 1994 was the year NAFTA was signed into law (marketization) and 2001 was the year the attacks of 9/11 took place (securitization). The privileging of bodies categorized as having productive value and worth, and thus being awarded transnational mobility through immigration is echoed here. Gilbert’s comment that “well-educated professionals are more likely to speak or learn English or French, and are thus deemed likely to integrate more easily into Canadian society” (20) helps us see that even in shifting towards what might be more objective rationality of efficiency and productivity in immigration discourses, the underlying baseline was still oriented around European ideals, or what Ahmed refers to as the Occident. The bottom line, as Gilbert so aptly puts it, is that economic immigration is used as a way to manage tensions with existing citizens by emphasizing the benefits it will bring to the national economy (20).

The reality, however, is that this is never allowed to be. Although immigrants are reportedly granted access for their productive potential and ability to contribute to the economy, immigrants

once admitted to Canada are then faced with a systemic dismissal of their foreign credentials and past work experience, de-skilling them and forcing them into the ranks of the disadvantaged (Gilbert 2007, 20). Multiculturalism is thus credited as existing “at the expense of newcomers’ deception, discrimination and exploitation – the exact processes that the policy was established to eliminate” (20). While the Canadian state presents itself as a benevolent home where immigrants will be welcome and accepted while being allowed to contribute and eke out a living for themselves and their loved ones, the Canadian state fails often to recognize the credentials of racialized migrants of ‘third-world’ states. In doing so, the Canadian state is systematically creating a racial lower class that is dually discriminated against, both on the basis of race and by denying access to valuable economic opportunities. In turning to our underlying question of ‘what is within reach?’, not only are barriers being placed that problematize physical mobility, so also are they being erected to curtail social mobility.

Gilbert helps us also to historicize how American pressures were brought to bear on how Canada does multiculturalism, resulting in its transformation into its current-day incarnation. She notes that the Bush administration following the events of 9/11 put pressure on other countries to create domestic legislation to fight terrorism, with initial pressures on Canadian immigration policy and multiculturalism which were “perceived as too liberal, lax, lenient and tolerant, thus, as a security risk” (Gilbert 2007, 23). Canada was at this point more concerned with the movement of goods over its border and did not wish to risk its economy, which was heavily reliant on a porous U.S. border. The U.S. took on the task of enacting its own anti-terrorism agenda most notably through the adoption of the ATA (23). Sharing a border with the U.S through which billions of dollars’ worth in trade crossed annually meant that Canada had to willingly give up some of its sovereignty over its own domestic policies in order to harmonize practices with the U.S. This is exemplified in its creation of Public Safety Canada, which in 2003 was known as the new Ministry of Public Safety and Emergency Preparedness, an agency initially modelled on the U.S. Department of Homeland Security and tasked with emergency management, policing and law enforcement, corrections and conditional release,

and crime prevention (24).

Due to the strength of the bilateral relationship between the two states necessitated by their shared border, information sharing and data collection soon became a joint project. The U.S.-Canada Smart Border Declaration signed into 2001 was the culmination of such perennial efforts. Gilbert notes in reference to the IRPA that “this immigration reform was clearly influenced by security discourses and the discourse of illegal immigration as a threat prevailing in the U.S.” (Gilbert 2007, 26). While a ‘Smart Border Action Plan’ was already in development prior to 9/11, its 30-point action plan bolstered the joint work of the ATA and IRPA by adding to its original goal of economic and trade integration, technological improvements, pre-clearance programs and security actions (27). The declaration was accompanied by the implementation of the Canada-U.S. Safe Third Country Agreement to more effectively manage the flow of refugee claimants (27). Given the context in which the Smart Border Declaration emerged, and while it may have initially been embarked upon to improve market imperatives, it was eventually hijacked by national security rhetoric imported from the U.S., leading Canada to abandon its earlier espoused goals of human security. The Safe Third Country Agreement in effect limited the ability of refugees who had arrived first in the U.S. to seek haven in Canada, an impact that fundamentally unravelled the policy goals of the former human security framework and limited the physical mobility of these vulnerable groups and individuals from seeking recourse within Canada.

Although Canada is well regarded for its human rights record, due in no small part to the effort of the Canadian state to massage its public image, racialized bodies at the US-Canada border and beyond it are often marked as out of place. This emerges in a neoliberal context, in which the bilateral relations between the US and Canada mean that shared priorities are often governed by interests of marketization and securitization. The enmeshed discourses have been present at the border as early as the eighteenth century, and in the contemporary world have become even more visible in light of the War on Terror, which has made them a more overt consideration in crafting policies for the regulation of the US-Canada border.



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