

Telling Tales: Canadians and Asylum Seekers, Then and Now

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Most of us think that history is the past. It's not. History is the stories we tell about the past. That's all it is. Stories. Such a definition might make the enterprise of history seem neutral.

Benign.

Which, of course, it isn't.

– Thomas King, *The Inconvenient Indian* (2010)

I. Telling Tales



- Legal Citizenship “refers to the juridical status of membership held by an individual in relation to a territorial nation-state.”
- Substantive Citizenship “addresses the rights, entitlements, obligations, duties, and other legal, social, and political practices that [are held to] constitute the individual as an active, participatory, and functional political subject within a nation-state.”
 - Audrey Macklin, “Exile on Main Street”

I. Telling Tales



- “...historically-invested discourses help define the terrain of politics, the objects of governance, and the case of recognized political actors.”
 - Janine Brodie, “Citizenship and Solidarity”
- History can serve “to cultivate informed citizens prepared to ask tough questions regardless of their political affiliation or that of their government; to foster openness to other people, regardless of the era in which they lived or the continent they might inhabit; and to highlight the complexity of historical phenomena and the actors that drive them.”
 - Yves Frenette, “Conscripting Canada’s Past”

II. Two Tales Told



Canadian Citizenship Regime Evolution

	1	2	3
State Responsibilities	Nightwatchman State (exclusive)	Welfare State (inclusive)	Neoliberal/Security State (targeted)
Inclusion/Exclusion	Limited political rights	↑Political, Social, Economic Rights (Marshall) (shared risk)	↓Political, Social Rights/ ↑Economic Rights (selective) (individualised risk)
Governance	Limited (local) democracy	↑Individual/Community representation; national politics	↓Individual/Community representation; national politics/ ↑Continental/Global
Belonging	Loyal British subjects	Pan-Canadian nationalism (state-nation)	?

Drawn from: Jane Jenson and Susan D. Phillips, “Redesigning the Canadian Citizenship Regime,” Janine Brodie, “Three Stories of Canadian Citizenship,” and Alexandra Dobrowolsky, “(In)Security and Citizenship.”

II. Two Tales Told



- “...grafting neo-conservative values that emphasize tradition, Christianity, Britishness, and national security” onto an existing neoliberal and securitised orientation.
 - Laura Tonon and Tracey Raney, “Building a Conservative Nation”
- Send “a clear message to individuals coming to this country that harmful and violent cultural practices are unacceptable in Canada. These practices are incompatible with Canadian values and will not be tolerated.”
 - *Zero Tolerance for Barbaric Cultural Practices Act*

II. Two Tales Told



- No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
 - *1951 Convention relating to the Status of Refugees*
- “...all parties to the process are sandwiched between the demands of fairness and efficiency, between the differences in cultures, between wealth and poverty, between the fearful chaos of the refugee experience and the logical and unrealistic expectations of law and government.”
 - Peter Showler, *Refugee Sandwich*

II. Two Tales Told



Immigration Minister Benoit Bouchard, August 11-14, 1987

“...the vast majority” of refugee claimants, who “steal their way in to Canada, confident that although they have broken our laws, we, the people of Canada, will not break our own laws. Not only has the generosity of Canadians been abused, but the generosity of our entire system of justice has been abused...”

“[O]ur first priority as a country is to help genuine refugees who are confined to camps overseas.”

“It is unfair that an individual who is not a legitimate refugee can jump to the head of the line. That undermines a legitimate immigration policy.”

“Not everyone in the world requires our protection. Five billion people should not be allowed to make a claim here.”

The government would “immediately declare through this legislation that Canada will no longer tolerate the willful and flagrant violation of our traditions, laws and borders.”

II. Two Tales Told



- “Canada has a long and proud history of providing protection to the vulnerable. This protection extends both to resettling refugees from abroad and to those who seek asylum at our borders, and who go on to successfully be granted refugee status. The legislation that I brought to the House today reinforces this commitment. This legislation also addresses the fact that our generosity is too often abused by false asylum claimants who come here and do not need our protection. They’re misusing the asylum system to jump the immigration queue rather than waiting their turn like everyone else...”
 - Citizenship and Immigration Minister Jason Kenney (2010)

II. Two Tales Told



- “They try to enter the country through the back door and they take advantage of our asylum system to avoid waiting in line like everyone should for their application to be processed. 58 percent of asylum claims processed by the Immigration and Refugee Board are subsequently rejected by the board, abandoned or withdrawn by claimants. You only have to search the World Wide Web to find sites that promote making fraudulent asylum claims as an easy way to get into Canada and remain here for years.”
 - Citizenship and Immigration Minister Jason Kenney (2010)

II. Two Tales Told



- “Our country’s strong tradition of refugee protection stretches back several centuries, even predating Confederation, and it’s because of that tradition that we’ve done these reforms and have been determined every step of the way to make them a success.”
 - Citizenship and Immigration Minister Christopher Alexander (2014)

III. Tales We Could Tell



- *1885 Chinese Immigration Act*

III. Tales We Could Tell



- “Of course we ought to exclude them, because if they came in great numbers and settled on the Pacific coast they might control the vote of that whole Province, and they would send Chinese representatives to sit here, who would represent Chinese eccentricities, Chinese immorality, Asiatic principles altogether opposite to our wishes; and, in the even balance of parties, they might enforce those Asiatic principles, those immoralities ..., the eccentricities which are abhorrent to the Aryan race and Aryan principles, upon this House.”
 - MP John Charlton (1885)

III. Tales We Could Tell



- “No country is perfect. Like all countries, Canada has made mistakes in its past, and we realize that. Canadians, however, are a good and just people, acting when we’ve committed wrong. And even though the head tax – a product of a profoundly different time – lies far in our past, we feel compelled to right this historic wrong for the simple reason that it is the decent thing to do, a characteristic to be found at the core of the Canadian soul.”
 - Prime Minister Stephen Harper (2006)

III. Tales We Could Tell



Protesting the *1885 Chinese Immigration Act*

“...the Parliament of Canada should [not] make any distinction of race at all; that the Chinese, Negroes, Indians and Whites should be on the same footing; that no exceptions should be made in favour of one or against another race.”

“I think it is entirely inconsistent with the very fundamental principle of the British constitution that legislation of this kind should find a place on the statute book.”

“In a free country, Chinamen as well as persons of other nationalities have their rights and privileges, so long as they conform to the laws of the land.”

“We, who pride ourselves on the freedom of our institutions ... that we should become slave-drivers, and prohibit strangers from coming to our hospitable shore because they are of a different colour and have a different language and habits from ourselves ... is a thing I cannot understand.”

“...a law so utterly inconsistent with the well understood rights which every human being has when he steps on British soil.”

III. Tales We Could Tell



- *1885 Chinese Immigration Act*
- *1910 Immigration Act*

III. Tales We Could Tell



- No court, and no judge or officer thereof, shall have jurisdiction to review, quash, reverse or otherwise interfere with any proceeding, decision or order of the Minister or of any Board of Inquiry, or officer in charge, had, made, or given under the authority and in accordance with the provisions of this Act relating to the detention or deportation of any rejected immigrant, passenger or other person, upon any ground whatsoever.

○ *1910 Immigration Act, S.33*

III. Tales We Could Tell



- “[I]n the face of the menace of Asian immigration, that the administration of the Government of Canada should be fully empowered, and should be absolutely responsible for protection against that menace, and that if the courts or any processes of law are allowed to interfere with the proper exercise of that authority in expressing the mind and the will of the people of Canada, then we are facing a condition that will require readjustment, and serious readjustment.”
 - Immigration Minister Frank Oliver (1914)

III. Tales We Could Tell



- “The *Komagata Maru* incident ... illustrates the extreme racism that once existed in Canada. Upon arriving in British Columbia, early East Indians encountered hate, ostracism and negative stereotyping that resulted in discriminatory immigration restrictions, social and economic deprivation, and political disenfranchisement. Discrimination was legislated, legal and official. Injustices, humiliation, prejudice and exploitation were rampant. The *Komagata Maru* incident was not an error but rather an intended, deliberate action of the divisive, exclusionist and racist policies of the provincial and federal governments of the day.”
 - Conservative MP Nina Grewal (2008)

III. Tales We Could Tell



- “All we are asking of you is justice and fair play, because the Sikhs have believed in fair play, and have believed all the time that they will get justice; that ultimately they will get justice from the British people... [Y]our laws cannot be one thing for one set and a different thing for the rest of us.”
 - Sunder Singh (1912)

III. Tales We Could Tell



- *1885 Chinese Immigration Act*
- *1910 Immigration Act*
- *1967 Immigration Appeal Board Act*

III. Tales We Could Tell



- Immigration policy should “as a matter of principle ... involve no discrimination by reason of race, colour or religion.”
 - *1966 White Paper*
- “...to the best of our ability immigration must be administered in accordance with the basic principles of justice and humanity which Canadians demand in their national endeavours.”
 - Immigration Minister Jean Marchand (1967)

III. Tales We Could Tell



- “Fundamental rights are not for the majority alone. They are not for the popular. They are not for the accepted. Fundamental rights are for minorities, for unpopular minorities. They are for harried, would-be immigrants who are seeking admission to this country. It is important in the interests of Canada, not just of the immigrants, that our immigration procedures should be fair and in accordance with the best of our traditions.”
 - MP Andrew Brewin (1967)

III. Tales We Could Tell



- *1885 Chinese Immigration Act*
- *1910 Immigration Act*
- *1967 Immigration Appeal Board Act*
- *1985 Plaut Report on Refugee Determination in Canada*

III. Tales We Could Tell



- Canada should “guide itself in this matter not by the minimal requirements of our international obligations but by the higher traditional Canadian standards of fairness and justice.”
 - Immigration Minister Lloyd Axworthy (1980)
- “The highest measures of the moral character of our country should be our willingness to allow individuals who have no claim on us, save that they are victims of persecution, to make a claim on us for protection and our readiness to meet that responsibility and offer that protection.”
 - Refugee Status Advisory Committee Chair Joe Stern (1986)

III. Tales We Could Tell

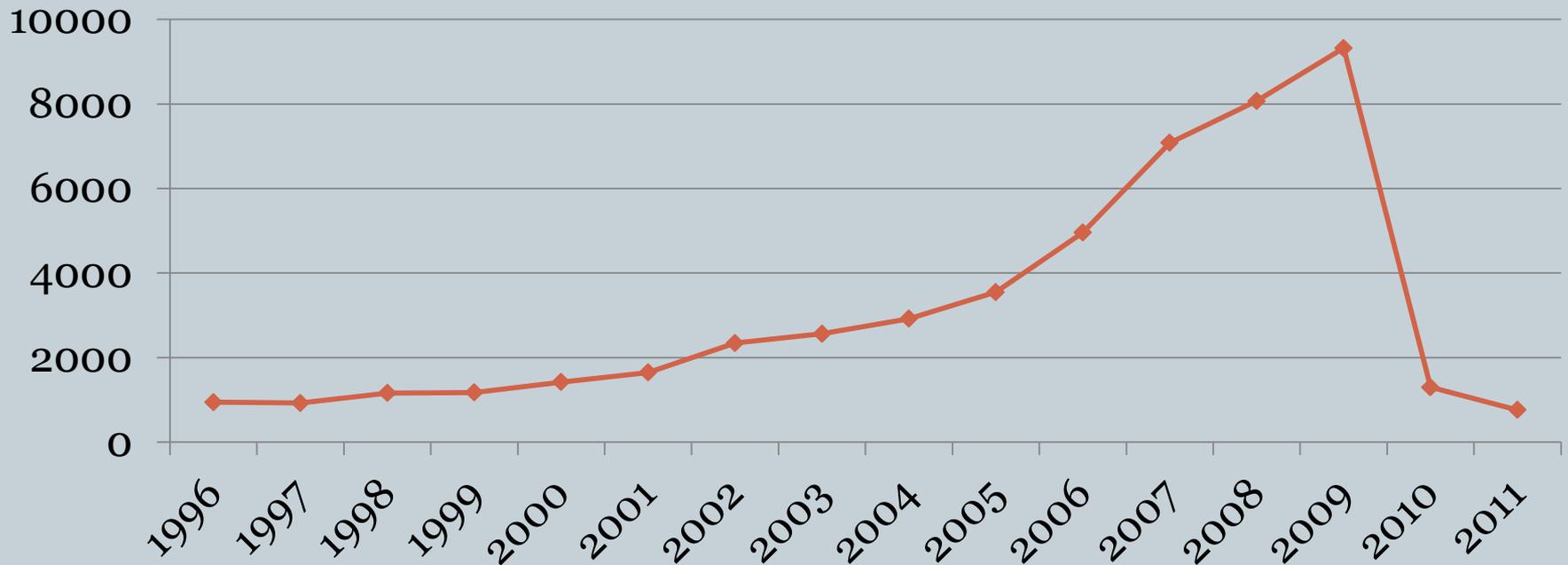


- Asylum seekers “who come to our shores are considered not so much persons in need of protection as potential lawbreakers who must be confronted with enforcement procedures.”
- The inland system must “be seen and designed as an act of welcome. It must be forever responsive to our humanitarian impulses and obligations and wary of any encroachment that would seek to impose other considerations and concerns upon it.”
- “...to fulfill Canada’s international legal obligations with respect to refugees and to uphold its humanitarian tradition with respect to the displaced and the persecuted.”
 - W. Gunther Plaut (1985)

IV. Telling Tales Today



Mexican Claimants



“...claims of domestic abuse, state failure to ensure protection, persecution due to sexual preference, and threats from security forces and organized crime.”

- Celeste Mackenzie (2006)

IV. Telling Tales Today

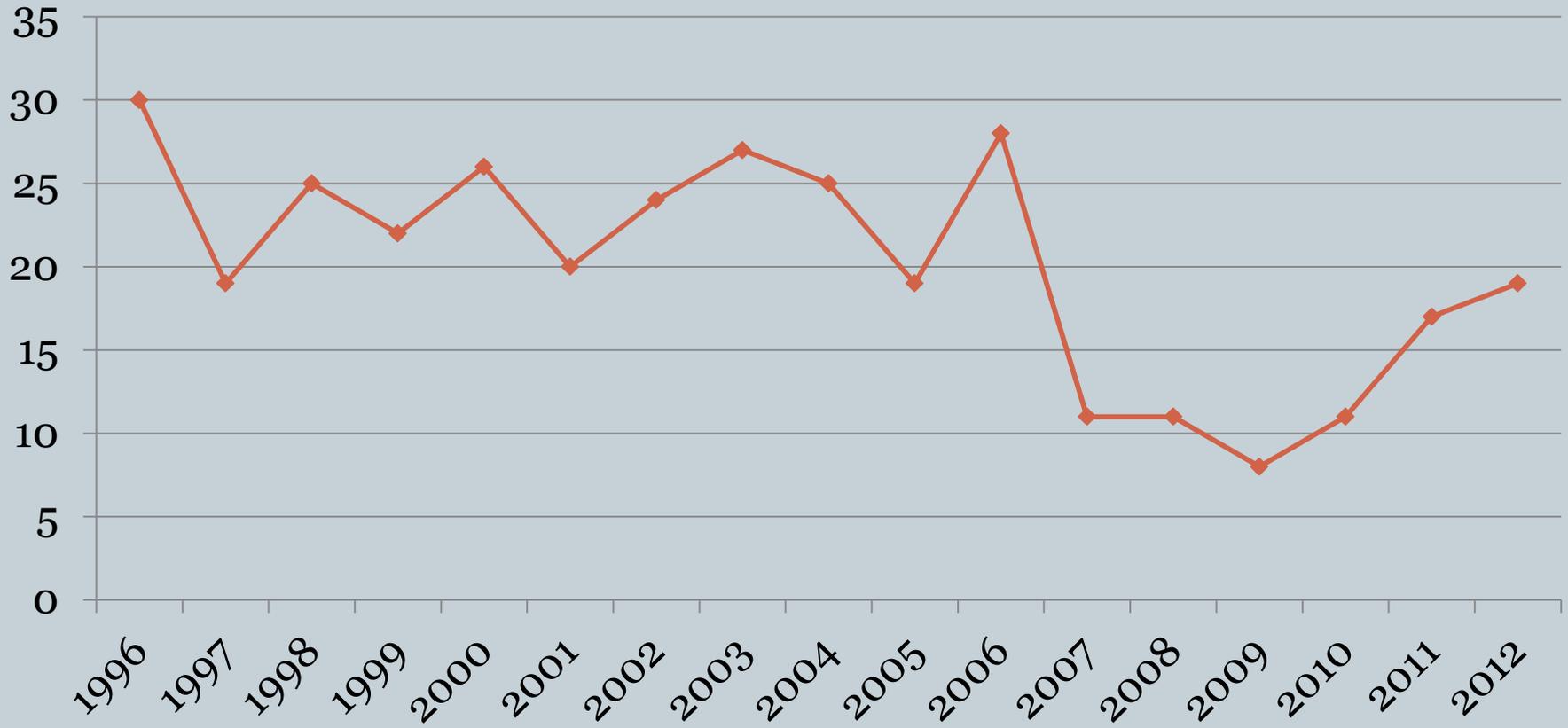


- The visa process will allow us to assess who is coming to Canada as a legitimate visitor and who might be trying to use the refugee system to jump the immigration queue. It is not fair for those who have been waiting patiently to come to Canada, sometimes for years, when others succeed in bypassing our immigration system... By taking this important step towards reducing the burden on our refugee system, we will be better equipped to process genuine refugee claims faster.
 - Citizenship and Immigration Minister Jason Kenney (2009)

IV. Telling Tales Today



Acceptance Rate Mexican Claimants (%)



IV. Telling Tales Today

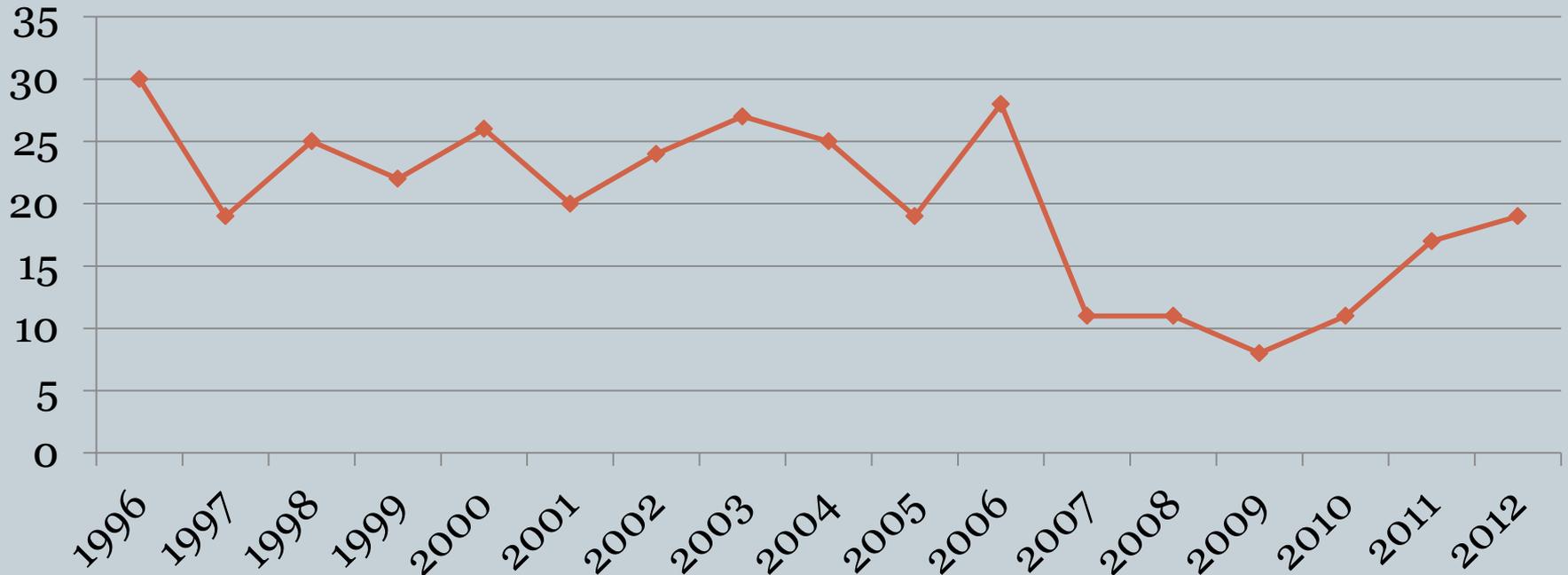


- “The visa requirement succeeded in choking off the torrent of bogus claimants, but it was such a blunt instrument that the law of unintended consequences kicked in.”
 - John Ivison (2010)
- “The people who came claiming refugee status were economic migrants, people seeking better lives. When they heard how easy it was to enter Canada and get caught up in the refugee-determination system, they told friends and the surge was on.”
 - Jeffrey Simpson (2009)

IV. Telling Tales Today



Acceptance Rate Mexico (%)



“Canadian authorities judge Mexicans much harsher than claimants from other countries and put a greater onus on them to produce more thorough documentation.”

- Francisco Rico-Martinez (2006)

V. Telling Tales Again



- “I am glad the Prime Minister takes the ground that we have a right to do as we please here in Canada [concerning border control]. The question is: What is right for us to do?”
 - J.S. Woodsworth (1936)
- “Canadians and their governments choose how they will live together, and they continue to make significant and consequential choices about responsibility, community, governing and inclusion in their actions every day.”
 - Jane Jenson, “Social Citizenship in 21st Century Canada”