

**Illegality, Exploitability, and Precarity: Repressive Migration Policies,
Carceral Borders and Their Impact on Migrant Lives**

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How do neoliberal migration policy regimes, through border enforcement privatization, restrictive immigration policies, and border controls, contribute to the precarity, exploitation, and gender-based violence experienced by migrants?

Introduction

Borders in the Global North are becoming increasingly militarized, monetized, and deadly, disproportionately prohibiting the freedom of movement of migrants travelling from the Global South. The deployment of neoliberal migration policy, which prioritizes market benefits and economic contribution, enforces the temporality of migrants in the host country and the exploitability of migrant labour for economic gain. The political practices that allow for these exploitations to occur is part of a migration policy regime. A migration policy regime refers to an overarching system of laws, regulations, and institutional practices that govern migration. A neoliberal migration policy regime is shaped by market-driven policies that prioritize the interests of the private-sector as it relates to economic profit and border security. When market-driven security tools merge with nationalist ideologies, borders are not just controlled for security but also to enforce national identity, promoting an identity-based exclusion against racialized groups. Racial profiling is a prevalent issue surrounding movement across borders which is elaborated in Harsha Walia's *Undoing Border Imperialism* (2013).¹ Walia explores the analytical framework of 'racial capitalism', following her experiences as a migrant settler in Canada and movements organizing to dismantle misconceptions, stereotypes and exploitation of precaritized and minoritized migrants. According to Walia, racial capitalism is a useful tool towards understanding the complex interlacing of movements across borders, race, colonial border projects as producing 'geographies of deracination'². In this way, Walia underscores the entanglement of borders with Western neo(liberal) worldviews that exploits the 'other' through settler colonial and white purity policy frameworks. Broadly, she shows the top-down relationship between racial capitalism, biopower, and nationalism; and the bottom-up solidarity initiatives led by indigenous and settler activists around migrant justice issues.

Movement from state to state is readily accessible for some, and criminalized for others, showcasing how priority is placed on white, wealthy, and Global North travellers while criminalizing, exploiting, and endangering racialized migrants and migrants from the Global South or from places that are severally impacted by global economic restructuring, Structural Adjustment loans, global trading policies, political crises and environmental destruction. Closed-border practices and policies garner public support through fear-mongering and anti-migrant rhetoric found prevalent in media from the Global North (Butcher, Neidhardt, 2022). Normalized xenophobic rhetoric, such as the use of terms like 'aliens' or 'illegals' fosters a tolerance for migration policies that endanger migrant lives (Robinson, Su, 2023). Popular discourse that labels migrants as security threats provide nations with the power to manage migrants and militarize borders, playing into the hands of security corporations who profit off of the proliferation of closed border practices. Huysmans (2006:50) states that securitization institutes political solidarity for border protection.³ In the field of EU politics, there is a latent

¹ Walia, H. (2013) *Undoing Border Imperialism*. AK Press

² Gahman, L., & Hjalmarson, E. (2019). Border Imperialism, Racial Capitalism, and Geographies of Deracination. *ACME: An International Journal for Critical Geographies*, 18(1), 107–129.

³ Huysmans, J (2006) *The politics of insecurity: fear, migration and asylum in the EU*. London: Routledge.

political will to constitute European unity that ties the EU perception of 9/11 as a terrorist attack and migrants associated to terrorism with a need to harden borders. The EU and Frontex (EU border and coastal guard agency) are problematic as far as securitization and militarization operations are concerned because they legitimize violent and dehumanizing policies that are otherwise contentious. Current migrant contract worker programs such as Temporary Foreign Worker program and Live-in Caregiver program in Canada disproportionately impact racialized migrants and contribute to cheapening their labor.⁴ Short term contract works, chances of being illegal if the workers stay back after the contract expires, exploitation at work, coupled with securitization and militarization of borders and repressive immigration policies, manifest and maintain the state of illegality that shapes certain migrants' everyday life.⁵

Moreover, migrants, regardless of citizenship status, are made especially vulnerable to abuse, exploitation, and in many cases death due to policies that prioritize border control over humanitarian concerns. In this context, migration policy regimes shaped by neoliberal market-driven policies refer to an overarching system of laws, regulations, and institutional practices that govern and manage current-day migrants while prioritizing economic efficiency. Following these practices and policies around migrants and immigration, my Honors thesis objectives are to analyze: 1) how the border industrial complex links to the migration industrial complex through looking into the privatization of prisons, immigrant enforcement and labour market regulations 2) Can border and immigration policies force periods of waiting for jobs, stable living conditions, access to healthcare and food, and conditions of illegalized movement through the change and temporality of permits, visas, or immigration status, thereby endangering migrant lives in myriad ways. 3) Do strict border controls and repressive immigrant policies contribute to the precarity and vulnerability of migrant women to Gender Based Violence (GBV).

Literature Review

Migration and border research draws from policy studies, critical migration studies, and feminist studies. Each of these interdisciplinary social science disciplines offer unique insight to the impact of borders on migrant lives. The core concepts that have occurred in my analysis are mobility, neoliberalism and borders, border industrial complex, migrant industrial complex (exploitation of labor, detention, and deportation) illegality, precarity, gender-based violence (GBV), and migrant justice alliances. Theoretically I have drawn from critical migration, poststructuralism and feminism.

In *Migration Borders Freedom*, Harald Bauder offers a thought-provoking discussion on border militarization and freedom of movement. According to him, 'freedom of movement' refers to the "individual's autonomy to decide, human equality, absence of structural oppression, and the capacity to create one's future"⁶. He argues that border-related deaths are misrepresented in the media, considering the death toll is on par with war, genocide, major epidemics, and natural disasters⁷. Conceptually, the migrant crisis is a misrepresented term or policy claim when interpreted as an economic or cultural imposition on the host country. The crisis stems from the fatalities that occur in the Mediterranean Sea or US Mexico border zone and other dangerous border areas. Bauder discusses border regimes as interplay between governments and administrations, civic institutions, other actors using various technologies of

⁴ Elizabeth Aranda and Elizabeth Vaquera, 2015. *Racism, the Immigration Enforcement Regime, and the Implications for Racial Inequality in the Lives of Undocumented Young Adults* (Harvard University, Diversity, Equity, Inclusion, and Belonging Explorer Project, n.d.), https://projects.iq.harvard.edu/files/deib-explorer/files/aranda_and_vaquera.pdf.

⁵ Chattopadhyay, S and J, Tyner. 2020. Lives in Waiting. *Geopolitics*. 27, 4: 1231-1256.

⁶ Harald Bauder, *Migration, Borders, Freedom* (New York: Routledge, 2016).

⁷ Ibid

surveillance and mechanisms of control, and migrants' efforts and motivations to circumvent the technologies and mechanisms⁸. When considering who benefits from the proliferation of borders, border regimes and the border industrial complex explains how arms, surveillance, and biometrics companies profit. The discussion surrounding border militarization profitability will offer a broader understanding of why policies that don't work persist despite the devastating impacts on human populations crossing borders under difficult conditions. Literature pertaining to border militarization and the border industrial complex is vital to understanding the proliferation of border-related deaths⁹. When private companies have vested interests in harsh border policies, the impact on migrants and refugees can be compromising and deadly. Bauder's book discusses borders as a theory with many interpretations from different contexts, histories, geographies and socio-economic circumstances. For instance, my understanding, experience, and interpretation of borders may be completely different from my readers. Meanings may change if my audience is not just the intellectual community from the Global North but also from the Global South. In my research analysis, an application of Bauder's borders as a theory is useful. His work aids in shaping my concluding argument that open borders (or no borders) offers an imaginative and utopian solution to the problem of migrant exploitation and deep precaritization of expendable migrant bodies.

Current reports indicate that the Central Mediterranean migration route is the world's deadliest path for migrants, which connects migrants traveling from Algeria, Egypt, Libya, and Tunisia to Italy and Malta. A Norwegian Refugee Council (NRC) report from 2024 argues that with the lack of safe passage or regular migration routes with increased management and fortification of borders the migrants who are escaping economic or political crises fall victim to the hands of smugglers and traffickers¹⁰. In the same view, scholars argue not to conflate traffickers and smugglers under the same category as those fleeing war, political persecution, and hunger or starvation are able to seek safe refuge with the help of traffickers.¹¹ Nandita Sharma's (2006) analysis on the difference between traffickers and smugglers in *Home Economics* has explored this in depth.¹² The Norwegian report supports my contention (as borrowed from Sharma, 2006) that border militarization and deterrent policies have made migrants choose unsafe passage and human smugglers as ways to relocate giving rise to border-related deaths and bolsters perpetual crises facing migrants. The NRC discusses 'Fortress Europe' and how current migration policies rely on deterrent strategies which have proven ineffective due to the desperation of migrants arriving on EU shores. Efforts from Greek, Tunisian, and Libyan coast guards focus on intercepting migrants and refugees rather than protective measures and search and rescue efforts. The report highlights migrant desperation while crossing the most deadliest borders (such as the Mediterranean) and their detention at refugee hotspots in other countries that do not oblige the international human right protocols.¹³ Migrant/refugee hotspots are facilities where migrants are identified, registered, and

⁸ Ibid

⁹ Kawakubo, Fuminori. "Privatizing Border Security: Emergence of the " Border--Industrial Complex" and Its Implications." *Public Voices* 17, no. 1 (2020).

¹⁰ Rutvica Andrijasevic, "Beautiful Dead Bodies: Gender, Migration, and Representation in Anti-Trafficking Campaigns," *Feminist Review* 86, no. 1 (2007): 24–44, [Beautiful Dead Bodies: Gender, Migration and Representation in Anti-Trafficking Campaigns - Rutvica Andrijasevic, 2007](#)

¹¹ Nandita Sharma, "Anti-Trafficking Rhetoric in the Making of Global Apartheid," *National Women's Studies Association Journal*, Special Issue: States of Insecurity and the Gendered Politics of Fear, 17, no. 3 (2005): 88–112 [Anti-Trafficking Rhetoric and the Making of a Global Apartheid](#)

¹² Sharma, N. 2006. *Home Economics: Nationalism and the Making of 'Migrant Workers' in Canada*. Toronto: University of Toronto Press

¹³ Roald Høvrving, "10 Things You Should Know about the Central Mediterranean Migration Route," *Norwegian Refugee Council*, (2024) [10 things you should know about the Central Mediterranean migration route](#)

fingerprinted when they enter the EU. They manage the migratory challenge faced by the EU, hence, hotspots have now moved to neighbouring countries such as Turkey, Libya, Tunisia, Morocco and alike – where migrants are detained under unbearable sanitary conditions, overcrowded cells, and unkept camps. Mega prisons are dangerous due to torture from other inmates, gang violence, and inhumane treatment from prison guards. By understanding the current conditions under which migrants cross borders of the most highly smuggled migration routes (Høvring 2024) the lack of efficient and effective migration policy is evident.

In the context of Canada, Kendra Strauss and Siobhán McGrath's 2017 analysis explores the range of exploitation of temporary workers under the Temporary Foreign Worker Program (TFWP). They show how unstable employment conditions, legal status, and exploitative labour practices are not anomalies but rather institutionalized features of the immigration regimes in Canada.¹⁴ The TFWP is designed in such a way that it benefits the Canadian economy and employers more than the temporary workers as the difficulties in understanding and expressing in English or French language act as the key barrier in comprehending the terms of the contracts and negotiating the employment conditions or argue bad occupational conditions/health and safety conditions. The latter is due to the gap between *de jure* rights and substantive rights. Although the temporary foreign workers often assume that permanent legal status would be a solution to poor conditions of precarious work in Canada, even with permanent immigration (PR) status, study shows a glaring gap between the rights of refugees or other categories of migrant semi-skilled workers as warranted by the government through their PR status and their everyday work realities in agriculture, factories, and processing units where the work is hazardous, unsanitary, repetitive, and long working hours without breaks. The work has been argued to not meet occupational or health and safety standards. The workers often find it difficult to enact their rights as workers or access sick leave, medical support, or other mandated requirements for fear of losing the jobs, or being detained and deported. Bragg and Hyndman (2024) argue this kind of work as a form of “unfreedom” that workers don't expect or cannot contemplate prior to the violation of their rights as human beings and workers which is a fundamental failure of the Canadian state.¹⁵ Others (Cedillo, Lippel and Nakache, 2019) argue the vulnerability of temporary foreign workers are due to their restrictive mobility (to other places or jobs) as migrant workers suppress their bargaining power, making them highly vulnerable to exploitation while maintaining a legal appearance of compliance¹⁶. These studies have informed me on how neoliberal migration regimes, such as TFWP, Blended visa program, Government assisted refugee program and privately sponsored refugee programs in Canada, E.U. detainment practices, and U.S. deportation policies, strategically produce precarity and extract labour under the guise of legality and security. By situating these practices within a broader continuum of ‘unfreedom’, my thesis challenges dominant narratives around ‘crisis’ and ‘security’,¹⁷ and instead interrogates the structural conditions that enable corporate profit from migrant vulnerability, which is especially important for my second chapter that discusses the role of the TFWP and migrant exploitability in Canada.

¹⁴ Strauss, McGrath “Temporary Migration, precarious employment and unfree labour relations: Exploring the ‘continuum of exploitation’ in Canada’s Temporary Foreign Worker Program” *Science Direct Geoforum* (2017) <https://www.sciencedirect.com/science/article/pii/S0016718515301342>

¹⁵ Bragg, Bronwyn and J, Hyndman. 2024. There Is No Safe Place in This Plant”: Refugee Workers in Canadian Meatpacking and the Limits of Permanent Legal Status. *Refuge: Canada’s Journal on Refugees / Refuge : revue canadienne sur les réfugiés*, 40 (1): 1–19.

¹⁶ Cedillo, L., Lippel, K., & Nakache, D. (2019). Factors influencing the health and safety of temporary foreign workers in skilled and low-skilled occupations in Canada. *New Solutions: A Journal of Environmental and Occupational Health Policy*, 29(3), 422–458.

¹⁷ Ibid

For my third chapter discussing the threat of deportation in the U.S., Roxanne Lynne Doty and Elizabeth Shannon Wheatley's 2013 *Private Detention and the Immigration Industrial Complex* offers an analysis of migrant detention, drawing onto Michel Foucault's (1975) panopticon or today's prison industrial complex¹⁸. The article draws on Foucauldian frameworks to understand how the U.S. immigration system exercises power over undocumented migrants not solely through detention, but through the threat of detention as a disciplinary force. Doty and Wheatley (2017) explain that this disciplinary power regulates and constrains migrant life, even for those never physically detained, by producing a state of "illegality"¹⁹ that shapes everyday behaviors and decisions. The immigration detention system, in this context, operates through intersecting modes of power (sovereign, disciplinary, and biopolitical) that manage migrant populations as both individuals and as a threat to the social order²⁰. Therefore, border industrial complex links to migrant industrial complex as corporate profit's role in neoliberal border management policies leads to precarious work, worker exploitation, work segmentation, lack of stability in employment, and chances of detention and deportation - cumulatively adds to the precarity of particular migrants and migrant workers. This statement runs as thread in my thesis which I have mainly developed from the aforementioned scholarly interventions to migration scholarship. .

Methodological Approach

In my research, I draw from discourse analysis, feminist-informed qualitative methods, and policy analysis to gather information. A discourse analysis of peer-reviewed articles and news regarding current events offers insight into how the media is currently framing migration. Right-wing media often represent migration as a threat to national security, culture, and resources. Migrants are oftentimes portrayed as criminals, terrorists, or economic burdens rather than as people fleeing wars, climate disasters, and economic exploitation (which are often caused by Global North policies). This type of popular media discourse is vital to understand how fear-mongering tactics use inflammatory analysis creates a narrative that is far removed from reality but is dangerous towards the target populations who are further dehumanized by ordinary people or made vulnerable at work. When the general population believe migrants pose a threat to their nation's safety, economy, or cultural identity - contentious policies that seek to detain, deport, or exploit migrant labour are unquestioned and rarely contested.²¹ In turn, a tolerance of draconian policies develop. Feminist-informed qualitative methods are applied including a sensitivity to intersectionality and power imbalances. In my research, I examine how the threat of deportation discourages the reporting of crimes committed against migrants including instances of GBV. Women are at a higher risk of experiencing of sexual violence, this risk is increased when a person does not come under the purview of law.²² Hence, in the context of precarious and illegalized migrant situations in the Global North an intersectional lens is vital to understanding the multi-

¹⁸ Michel Foucault 'Discipline & Punish. The Birth of the Prison '(1975)

https://monoskop.org/images/4/43/Foucault_Michel_Discipline_and_Punish_The_Birth_of_the_Prison_1977_1_995.pdf

¹⁹ Roxanne Lynne Doty, Elizabeth Shannon Wheatley, Private Detention and the Immigration Industrial Complex, *International Political Sociology*, Volume 7, Issue 4, December 2013, Pages 426–443, <https://doi.org/10.1111/ips.12032>

²⁰ Ibid

²¹ Max Stephenson 'Fear Mongering is Always Bad Policy 'Virginia Tech Institute for Policy and Governance (2012) <https://ipg.vt.edu/DirectorsCorner/Soundings/Soundings090312.html>

²² Sze Eng Tan and Katie Kuschminder, "Migrant Experiences of Sexual and Gender Based Violence: A Critical Interpretative Synthesis - Globalization and Health," *BioMed Central*, June 28, 2022, [https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-022-00860-2#:~:text=\(Lack%20of\)%20documentation%20as%20a,be%20left%20alone%20%5B69%5D.](https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-022-00860-2#:~:text=(Lack%20of)%20documentation%20as%20a,be%20left%20alone%20%5B69%5D.)

dimensional forms of harms gendered and racialized are experiencing. When discussing the TFWP, it is important to acknowledge that migrants accepted into the program are always young, able-bodied, productive, and profitable²³. A certain profile of migrant bodies are sorted after by the Canadian economic system, which is discriminatory. Feminist informed methodology have helped me come into grips the importance of power and its links to those in the bottom of the economic and social hierarchy. This makes the relevance of an intersectional lens to appreciate race, gender, ability/accessibility, inequalities and colonization as connected and significance, especially in the contemporary times. Decolonial, anticolonial, subaltern feminist praxis have contributed to the rich analysis of social justice, disability justice, reproductive justice and migrant justice. Due to paucity of time and space limitations, I could not explore the latter but look forward to delve into this research in future.

Following I have provided a chapter breakdown of the thesis.

Chapter One

Chapter one discusses militarized border policies in the European Union (E.U.), specifically, detainment and forced periods of indefinite waiting as state strategies that contribute to the ongoing illegalization of migrants. This chapter highlights the Central Mediterranean migration route and its high death rate as the deadliest migration crossing in the world.²⁴ Since 2014, an estimated 28,000 migrants have been recorded dead or missing while attempting to cross the Mediterranean Sea.²⁵ In chapter one, I explore the role of Frontex and militarized interception of migrants as a means of border security in the Mediterranean, and how border militarization is operationalized through public-private contracts.²⁶

Chapter Two

In chapter two, I highlight the internalization of border policies, emphasizing that harmful migration practices do not end at the border or after the border is crossed. There are many mechanisms in place designed to temporalize and limit a migrant's access to jobs, housing, other basic resources. Their rights, and daily presence within a country is compromised. Etienne Balibar states that “borders are no longer at the border”,²⁷ highlighting the criminalization of movement beyond entry checkpoints and into the boundaries of a state. Therefore, in chapter two, I discuss the internalized border controls in Canada, with a focus on the TFWP and its exploitation of racialized migrant labour. The current TFWP “allows Canadian employers to hire foreign workers to fill temporary jobs when qualified Canadians are not available.”²⁸ which positively impacts the Canadian economy and employers utilizing

²³ Vania González Tanamachi ‘Confronting the Neo-Colonial Production of Disability: An Examination of Mexican Migrant Farm Workers’ Experiences and Understandings of Disability’ (2019)

²⁴ Roald Høvring, “10 Things You Should Know about the Central Mediterranean Migration Route,” *Norwegian Refugee Council*, (2024) [10 things you should know about the Central Mediterranean migration route](#)

²⁵ “Migrant Deaths and Disappearances,” Migration data portal, April 2024, <https://www.migrationdataportal.org/themes/migrant-deaths-and-disappearances#:~:text=The%20vast%20majority%20of%20migrant,dead%20or%20missing%20since%202014>

²⁶ European Border and Coast Guard Agency (Frontex), *Management Board Decision 42/2024 Adopting the Annual Procurement Plan 2025*, November 21, 2024,

https://www.frontex.europa.eu/assets/Procurement/MB_Decision_42_2024_Annual_Procurement_Plan_2025.pdf.

²⁷ Balibar, Etienne, and Erin M. Williams. “World Borders, Political Borders.” *PMLA* 117, no. 1 (2002): 71–78. <http://www.jstor.org/stable/823250>.

²⁸ Government of Canada, *Temporary Foreign Worker Program*, Employment and Social Development Canada, last modified April 3, 2024, <https://www.canada.ca/en/employment-social-development/programs/temporary-foreign-worker.html>.

the program by employing migrant labour when a shortage of Canadian citizen labour occurs, usually within agricultural and care-giving sectors.

Chapter Three

In chapter three, deportation practices in the United States (US) that reinforce disposability and racialized exclusion are discussed. This chapter critically examines deportation as a punitive mechanism within the broader framework of the border industrial complex in the United States. It interrogates the political, economic, and ideological motivations behind the expansion of deportation practices, especially under neoliberal governance. Rooted in theories of punishment, including utilitarianism, retributivism, and social critique, the chapter argues that deportation functions as a form of over-punishment disproportionately applied to illegalized migrants. Despite the U.S. Supreme Court's assertion that deportation is not a criminal penalty, this chapter contends that the suffering it inflicts through family separation, livelihood disruption, and exposure to danger, qualifies it as a severe and unjust sanction. Focusing on the 2024 U.S. presidential election, the chapter analyzes President Trump's mass deportation proposal as a case study of how xenophobic rhetoric shapes punitive immigration policy. Trump's campaign promise to remove 11.7 million undocumented migrants reignited debates around due process, human rights, and the moral limits of state power. The proposal's bypassing of immigration courts and reliance on expanded detention illustrates how deportation is being reframed as a disciplinary tool rather than a legal procedure, further embedding it within a neoliberal framework that profits from border control. Additionally, the chapter investigates the role of private companies like CoreCivic in lobbying for and profiting from expanded detention infrastructure, revealing the economic incentives that fuel harsh deportation policies. Drawing from scholars such as Harsha Walia and Tanya Golash-Boza, the chapter situates deportation within a longer history of racialized border enforcement that criminalizes mobility from the Global South while legitimizing exploitation through labor programs. Ultimately, this chapter contributes to migration and punishment literature by emphasizing how deportation operates as a form of state violence, normalized under neoliberal governance and supported by xenophobic social narratives. By applying theoretical frameworks of punishment, it challenges the perceived legitimacy of mass deportation and raises ethical questions about the proportionality of state responses to immigration-related offenses.

CHAPTER 1:

Migrant Bodies in Waiting; How Current E.U. Carceral Borders and Detainment Policies Contribute to the Precaritization of Migrants

Human migration is a practice that has occurred throughout history as a means of escaping conflict, persecution, famine, climate change, or pursuing economic opportunity in other lands. In 2015, the number of migrants/refugees seeking access to Europe for similar reasons exceeded one million. The Mediterranean Sea is considered the deadliest migration route with 31,724 missing migrants recorded since 2014 (Missing Migrants Project, 2025). Factors such as a deteriorating economic situation in Northern Africa, specifically Tunisia and Egypt, act as a prominent push factor.²⁹ Conflicts in the Middle East such as the Syrian Civil War, the Iraq War, and the Libyan Civil War displaced thousands, causing many to migrate towards Europe.³⁰ The conflicts cannot be understood in isolation; rather, they are deeply tied to historical and ongoing political, economic, and military interventions by the Global North, which have contributed to destabilization and entrenched structural inequalities that drive migration toward Europe. Camps, detention centers and prisons, citizenship application, refugee status process, and/or asylum acceptance procedures are some of the numerous forms of waiting experienced by migrants, which contribute to the forced stagnation of migrant mobility. Forced periods of waiting is a policy tool utilized by EU nations to corral and screen migrants (Hainmueller, Hangartner, & Lawrence, 2016). In this thesis, I reviewed the existing literature on migrant bodies in waiting to note that detention centers and prolonged periods of waiting in refugee camps violate the human right to freedom of movement.³¹ Freedom of movement is considered a human right according to the Universal Declaration of Human Rights, where all people have the “right to freedom of movement and residence within the borders of a state and the right to leave any country including his own, and return to his country”.³² Policies that detain migrants for indefinite periods of time prohibit movement and infringe upon the human rights of migrants seeking asylum. Right-wing media often frame migration as a threat to national security, culture, and resources, especially against migrants who may not have status despite the variety of reasons why that may be the case. Migrants are portrayed as criminals, terrorists, or economic burdens rather than as people fleeing wars, climate disasters, and economic exploitation. The portrayal of migrants as criminals and the causes of “migrant crises” seek to illegalize movement and impose barriers to those seeking asylum and refuge. When studying migration and the migrant experience, a “migrant crisis” is better framed as an “upsurge of crises that confront certain migrants [...] from the critical vantage point of the autonomy of migration” (Mudu, Chattopadhyay, 2022 page number if this is a quote). It is also better to shift away from labelling migrants as inherently vulnerable but to acknowledge the susceptibility to exploitation and dehumanizing conditions in some cases through the act of moving across borders militarized by Global North migration policies. To highlight the precarities imposed upon migrants attempting to cross into the EU, I have highlighted the GBV that occurs as a consequence of closed border practices. I have used the examples of the Moria Refugee Camp in Greece and the Ponte Galeria detainment center in Italy to analyze policy failures that occur when prolonged periods of waiting is utilized when addressing migrant mobility. The argument is made that border and immigration policies such

²⁹ Roald Høvring Published 20. Mar 2024, “10 Things You Should Know about the Deadliest Migration Route In ...,” NRC, March 2024, <https://www.nrc.no/feature/2024/10-things-you-should-know-about-the-Central-Mediterranean-migration-route/>.

³⁰ Ibid

³¹ United Nations, 1948. “Universal Declaration of Human Rights,” Article 13 <https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%2013,to%20return%20to%20his%20country>.

³² Ibid

as forced periods of waiting are the condition of illegalized movement meant to dissuade and endanger migrant lives – and create conditions that proliferate the ongoing risk to migrant lives of refugee camps and closed border practices .

When faced with violence and persecution in their country of origin, there are few policies a state can implement that will slow the influx of migrants. Border and immigration policies such as reducing the number of migrants accepted, closing borders, border militarization, migrant detention centers, and extended application approval wait times attempt to deter migration. Asylum application approval can take upwards of 6 months in the EU, and applicants could still face rejection after months waiting interim.³³ Considering the possibility that an application could be denied, the wait times pose an additional risk where migrants remain uncertain of their futures for prolonged periods. If met with closed or tightened borders, migrants will resort to clandestine methods of movement, oftentimes involving smugglers. Smugglers are notorious for charging thousands of dollars to transport migrants and will oftentimes physically and sexually abuse those paying for their services. According to the United Nations Office on Drugs and Crime (UNODC) (2022), the majority of migrants travelling with smugglers are men, however, migrant women report much higher levels of sexual violence perpetrated by smugglers.³⁴ During border crossings, physical and sexual violence is used to intimidate, punish, or coerce migrants³⁵. Migrant women face additional challenges through sexualized violence as due to a variety of gendered factors, women are more likely to be short of money sooner on the journey and more frequently during the migration process, making them more vulnerable to sexual abuse to compensate with in-kind payment in the form of what the Study refers to as ‘transactional rape’.³⁶ Additionally, “women can use sex as a currency to pay their smugglers or kidnappers and move on [...]”³⁷ Smugglers and other individuals who profit from legalized migrants thrive when borders are tight, militarized, or closed. Due to the illegal nature of travelling across borders with smugglers, the assaults that take place go unreported. According to Sonja Wolf (2022) “despite all the research evidence that shows how harmful these policies are to migrants, governments keep on recycling the same approaches because governments want to keep poor migrants – who they perceive as undesirable – out of their jurisdictions.”³⁸ When border processing is made inefficient or unavailable through policy aiming to deter movement, the alternate pathways taken creates vulnerability to GBV experienced by migrant women as they attempt to cross borders.

The surge of migrants crossing the Mediterranean Sea led many EU nations to close their external borders.³⁹ Despite efforts to deter migration, thousands of refugees arrive yearly on EU shores in search of safe domicile. After crossing the Mediterranean into EU countries such as Italy or Greece, oftentimes clandestinely with the aid of smugglers, migrants are

³³ European Commission, *Asylum in the EU*, Migration and Home Affairs, 2024 https://home-affairs.ec.europa.eu/policies/migration-and-asylum/asylum-eu_en.

³⁴ United Nations, *Abused and neglected - a gender perspective on aggravated migrant smuggling offence and response...*, 2020, https://www.unodc.org/documents/human-trafficking/2021/Aggravated_SOM_and_Gender.pdf.

³⁵ Ibid

³⁶ Ibid

³⁷ Ibid

³⁸ Sonja Wolf, “Borders Won’t Stop People Forced to Migrate: LSE Research,” *Borders won’t stop people forced to migrate* | LSE Research, November 15, 2022, <https://www.lse.ac.uk/research/research-for-the-world/politics/borders-increase-the-suffering-of-migrants-forced-to-make-perilous-journeys>.

³⁹ Schengen: A Guide to the European Border-Free Zone - Main Contents,” *Schengen: a guide to the European border-free zone - EU monitor*, 2024, <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vkzhc6sodty8?ctx=vhsjhdftknpb&tab=1#:~:text=The%20functioning%20of%20the%20Schengen%20rules%20was,of%20border%20checks%20by%20several%20member%20states>

detained for prolonged periods of time⁴⁰. If they have applied for asylum, migrants are placed in refugee camps where they spend indefinite periods waiting for their application to be reviewed.⁴¹ Policies aiming to deter migrants from crossing the Mediterranean such as border militarization, migrant detainment, and the threat of deportation have proved not to discourage migrants but encourage them to seek legalized routes to countries such as Greece and Italy. Migrants opting to utilize smugglers and traffickers have resulted in thousands of deaths, many of which can be attributed to failing border and immigration policy that neglects to consider the human impacts. With a lack of legalized, safe, and viable migrant routes to Europe, the journey becomes life-threatening. Since 2014, an estimated 28,000 migrants have been recorded dead or missing while attempting to cross the Mediterranean Sea.⁴² For those who arrive on the shores of EU nations, there are additional precarities that threaten the lives of migrants.

Turkey has one of the world's largest migrant-detainment systems with 30 sites across the country with the capacity to hold 20,000 migrants.⁴³ According to the Global Detention Project (cite), human rights organizations have expressed concern over “allegations of abuse, failure to ensure accountability, push backs along its border, and arbitrary use of “terrorism” designations for certain immigration detainees”⁴⁴. From 2005 to 2021, the increased militarization of Turkey’s borders, whether migrants are attempting to enter or leave, is a result of a deal constructed by Germany’s chancellor Angela Merkel ⁴⁵. There was hope that Turkey would join the European Union in 2016 when the deal was made. The eastward expansion of Fortress Europe sharpened divisions with Turkey; when Croatia and Romania entered the EU, Turks lost their right to travel to those countries without visas. Turkey had become an important route for illegalized migration into Europe and the EU blamed the country’s liberal visa policy, which was open to many Middle Eastern and Asian countries which were not part of the open-border Schengen area. Turkey was the gateway for many migrants seeking access to Europe, therefore, the EU sought harsher migration laws to deter and stem the flow of migrants. “In the EU-Turkey Statement the following month, the quid pro quo was made explicit: Turkey committed to stopping refugees, especially Syrians, from reaching Europe, in return, the EU promised three billion euros and a *visa liberalization road map* for Turkish citizens. An open door for a closed shore. [...]”⁴⁶ indicating that a further militarization of Turkey’s borders is rewarded by the EU, to the detriment of migrants. Since the deal, Turkey actively patrolled their coast, arresting migrants. On the Greek islands, a deployment from Frontex, the European Union’s coast guard and border agency, were reinforced with border patrol cutters, fast rescue craft, and helicopters. The deal caused a spike in the militarization of Turkish borders and hence created an increasingly dangerous journey for migrants. Part of the deal entails that migrants caught in Greece were to be returned to Turkey, which is against international

⁴⁰ 1. Piotr Maciej Kaczyński, “Controlling Migration in Greece: Policies, Problems and Opportunities (ARI),” Elcano Royal Institute, December 14, 2021, <https://www.realinstitutoelcano.org/en/analyses/controlling-migration-in-greece-policies-problems-and-opportunities-ari/#:~:text=Illegal%20migrants%20are%20more%20often,brought%20to%20local%20detention%20centres.>

⁴¹ Ibid

⁴² “Migrant Deaths and Disappearances,” Migration data portal, April 2024, <https://www.migrationdataportal.org/themes/migrant-deaths-and-disappearances#:~:text=The%20vast%20majority%20of%20migrant,dead%20or%20missing%20since%202014>

⁴³ “Turkey Immigration Detention Profile,” Global Detention Project, 2023, <https://www.globaldetentionproject.org/countries/europe/turkey.>

⁴⁴ Ibid

⁴⁵ “The EU-Turkey Deal: Europe’s Year of Shame,” Amnesty International, October 11, 2021, [https://www.amnesty.org/en/latest/news/2017/03/the-eu-turkey-deal-europes-year-of-shame/.](https://www.amnesty.org/en/latest/news/2017/03/the-eu-turkey-deal-europes-year-of-shame/)

⁴⁶ MATTHIEU AIKINS, *Naked Don’t Fear the Water: A Journey through the Refugee Underground* (S.I.: FITZCARRALDO EDITIONS, 2022).

obligations from the United Nations that states refugees are to be protected on their territory.⁴⁷ As a consequence of the deal, migrants awaiting transfer are subject to “inhumane conditions, sleeping in flimsy tents, braving the snow and are sometimes the victims of violent hate crimes.”⁴⁸ and are kept in a state of uncertain limbo in Greek camps where they are not permitted to leave. These policies not only endanger migrants but also lead to overcrowding and resource shortages in camps such as the Moria Refugee Camp in Greece.

The Moria Refugee Camp in Lesbos, Greece was the largest of five migrant holding facilities on the Greek Aegean Islands. The camp was constructed to shelter 2,200 people, however, the population reached 18,000.⁴⁹ The over crowdedness of the camp placed a strain on resources such as food, water, shelter, and bathrooms. The UN Refugee Agency states “the main reasons for the strained resources has been the lack of action on the transfer of asylum seekers to appropriate accommodation on the mainland. While new people keep arriving, few have been able to leave – and the numbers keep growing.”,⁵⁰ indicating a lack of urgency and willingness to offer proper aid relocating refugees and migrants. Several deaths occurred in the camp including four refugees and one child who froze to death, sparking protests within the camp. Moria burnt down in 2020, displacing the 13,000 people who were kept there⁵¹. There are currently 10 migrant detention centers in use in Italy⁵² that are designed to hold migrants whose asylum applications have been rejected. Italy’s Prime Minister Giorgia Meloni’s government has extended the amount of time migrants can be detained at the centers to 18 months as a means of deterring would-be refugees and smugglers from attempting to enter the country by crossing the Mediterranean.⁵³ The conditions in the detainment centers are notorious for being poor and are “black holes for human rights and humanity” according to Italian lawmaker Riccardo Magi who visited Ponte Galeria detention center after a 19 year-old Guinean migrant had committed suicide.⁵⁴ The centre is being petitioned to shut down after complaints of violence, suicide, and protests. The extended periods of waiting experienced by migrants in Italy and Greece are examples of policymakers’ neglect to implement effective policy that addresses migrant well-being. Alternatively, the overcrowding of camps and lack of timely relocations suggests an absence of policy that aims to prevent the proliferation of threats against migrant lives.

Matthieu Aikins (2021) describes his experience in the Moria Refugee Camp after spending several months there. He writes (2021, p. 258), “having to constantly wait in line for something that you desperately need and might not get can change a person for the worse. [...] asylum seekers spent their days lining up for meals, bathrooms, doctors visits, phones,

⁴⁷ “The 1951 Refugee Convention,” UNHCR, accessed December 8, 2024, <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention#:~:text=Since%2C%20by%20definition%2C%20refugees%20are,according%20to%20international%20recognized%20standards.>

⁴⁸ “The EU-Turkey Deal: Europe’s Year of Shame,” Amnesty International, October 11, 2021, <https://www.amnesty.org/en/latest/news/2017/03/the-eu-turkey-deal-europes-year-of-shame/>.

⁴⁹ “Inside Moria Refugee Camp - Australia for UNHCR,” UNHCR, <https://www.unrefugees.org.au/our-stories/inside-moria-refugee-camp/>.

⁵⁰ Ibid

⁵¹ Ibid

⁵² ASGI Website, “Place of Detention - Asylum Information Database: European Council on Refugees and Exiles,” Asylum Information Database | European Council on Refugees and Exiles, July 2, 2024, <https://asylumineurope.org/reports/country/italy/detention-asylum-seekers/detention-conditions/place-detention/#:~:text=10%20CPRs%20are%20present%20on,would%20be%20of%201%2C359%20places.>

⁵³ Ana P. Santos, “Italy: Pressure Mounts to Close Migrant Detention Centers Following the Death of One Migrant and a Series of Suicide Attempts,” InfoMigrants, March 12, 2024, <https://www.infomigrants.net/en/post/55738/italy-pressure-mounts-to-close-migrant-detention-centers-following-the-death-of-one-migrant-and-a-series-of-suicide-attempts.>

⁵⁴ Ibid

cigarettes, even malaria pills”.⁵⁵ Indicating that migrants not only wait for asylum approval or relocation, they experience additional forms of waiting on a day-to-day basis due to camp underkeep and overcrowding. Behrouz Boochani (2021) explains that “the queues have agency and they establish something: any person in the prison who behaves in a more despicable and brutish manner has a more comfortable lifestyle. We are a bunch of ordinary humans locked up simply for seeking refuge. In this context, the prison’s greatest achievement might be the manipulation of feelings of hatred between one another.”⁵⁶ Both Aikins and Boochani describe how the experience of migrants even after crossing deadly migration routes through the Mediterranean face additional hardships and threats to their lives and livelihoods. The frustrations in the camp often led to self-harm and suicides among migrants. The perpetual waiting period experienced by migrants spurred many to seek clandestine avenues of escape. Often migrants were caught and returned to refugee camps. If the migrant was caught with false documentation provided by smugglers, they were sent to jails or prisons. Therefore, the conditions in detainment centers and camps not only create hardships for migrants but have the opposite effect that EU policy makers seek. Aside from border militarization and deterrent policies, the lack of urgency within policy to aid refugees and migrants arriving on EU shores is a conscious political tactic.

Rather than resettling migrants, camps and detention centres are mechanisms utilized to corral and control populations. Much of the literature examined on the subject of migrants in waiting highlights the ways in which periods of waiting are state-sanctioned technologies utilized by policymakers to manage surpluses of people. Migrant detention in the EU perpetuates the exclusion and segregation of migrants. Bayart (2008) states that “waiting has become central to subaltern experience”⁵⁷, meaning those of power and privilege experience less time in periods of waiting. The duration of time spent in wait is a sign of one's wealth and privilege, acting as a class commentary on the privilege of free movement. According to Elizabeth Olsen (2015), generally speaking, waitlists and waiting rooms mask inequalities and infringements on rights, building off of Bayart’s theory of reduced waiting times as a sign of privilege. Olsen explains that detention centres and border prisons are state-sanctioned technologies used to manage (or rather corral) people and to exercise control over populations⁵⁸, specifically racialized migrants. In the context of neo-liberal market-driven policy and late-stage capitalism, prolonged waiting imposed on specific groups is an exercise of abusive power and a blatant example of inequality. Under late-stage capitalism, only those who are deemed economically "useful" (such as workers or consumers) are quickly processed, while others are left suspended in uncertainty. This waiting is not neutral; it becomes a form of control and punishment, especially targeting people already made vulnerable by global inequalities. Immobilization within refugee camps threatens the safety and dignity of migrants. Olsen emphasizes the need for urgency as a means to combat migrant immobility.⁵⁹ Waiting and urgency in terms of ethics and morality calls into question the ways in which governments deprioritize the mobility and security needs of marginalized individuals by imposing a lack of urgency to their cause. Urgency, therefore, acts as purposeful problem solving action in the

⁵⁵ MATTHIEU AIKINS, *Naked Don't Fear the Water: A Journey through the Refugee Underground* (S.I.: FITZCARRALDO EDITIONS, 2022).

⁵⁶ Ashleigh Stewart, “Iranian Refugee Behrouz Boochani May No Longer Be on Manus Island, but He Is Not yet Free,” *The National*, July 5, 2021, <https://www.thenationalnews.com/arts-culture/books/iranian-refugee-behrouz-boochani-may-no-longer-be-on-manus-island-but-he-is-not-yet-free-1.923585>.

⁵⁷ Craig Jeffery, “Sage Journals: Discover World-Class Research,” *Waiting*, 2008, <https://journals.sagepub.com/>.

⁵⁸ *Geography and ethics I: Waiting and urgency* - Elizabeth Olson, 2015, <https://journals.sagepub.com/doi/10.1177/0309132515595758>.

⁵⁹ *Ibid*

form of policy, rather than a reliance on forced waiting periods which inevitably prolong the crisis and precarities experienced by migrants.

A similar sentiment is echoed by Craig Jeffery (2008) on the increasing regimentation and bureaucratization of time in the Global North which creates conditions for waiting.⁶⁰ There are three global changes according to Jeffrey that proliferate diverse forms of waiting. One being the liberalization of national economies in the Global South (such as donor-led structural adjustment programs) which leave people in a state of “limbo”. Another being neoliberal economic reforms that trigger disinvestment in the welfare state, causing populations to be in a state of waiting for food, shelter, education, and healthcare, and relying on other nations for promised aid, which forces stagnation, which creates circumstances that lead to more desire for migration. Another factor is the emergence of new forms of globally organized power and expertise inserting themselves into post-conflict zones, such as the U.S “democratizing” local populations through summary violence while excluding them from decision-making roles.⁶¹ Jeffrey suggests that imposed waiting is a result of long-term Global North interference in Global South nations through colonialism. The sentiment suggests that the influx of migration EU countries are currently experiencing is a product of previous forms of imposed waiting policy, indicating that the ongoing lack of urgency in relocating migrants and the implementation of waiting-based policy is supporting a prolonged precaritization of migrants.

Freedom of movement can be defined as individual autonomy to decide, human equity, absence of structural oppression, and the capacity to create one's future⁶². According to Hannah Arendt (2016), freedom of movement is historically the oldest and also the most elementary human right.⁶³ Meaning, migrant stagnation in indefinite periods of waiting in migrant detention centers and camps violate the human right to freedom of movement. In order to address the human rights violations experienced by migrants, EU governments should be providing safe and legal ways for asylum seekers to reach other European countries. Relocation, family reunification, or humanitarian visas would offer migrants and refugees viable pathways to reaching security. In order to combat harmful enforced waiting practices, a sense of urgency in migrant processing practices and relocations is vital. A large strain on borders and in camps is the lack of efficient screening and relocation, causing backlogs and overcrowding which worsens the situation. Urgency in migration policy such as processing and relocating would offer a more sustainable practice in addressing the alternative policy to forced periods of waiting.

The ongoing crises facing migrants highlights the devastating consequences of policies rooted in enforced waiting and restricted mobility. Detention centers and overcrowded camps, emblematic of state-sanctioned control, not only perpetuate human suffering but also violate the fundamental human right to freedom of movement. Current policies fail to address the root causes of migration or provide sustainable solutions, instead, exacerbating the crisis by forcing migrants into dangerous routes and precarious living conditions. The conditions of Moria Refugee Camp serve as a symbol of the consequences of overcrowding and a lack of urgency in asylum processing. Addressing these issues requires a shift toward policies centred on urgency, human dignity, and equitable solutions. Providing safe and legal migration pathways, expediting asylum processes, and fostering international cooperation are critical steps to

⁶⁰ Craig Jeffery, “Sage Journals: Discover World-Class Research,” *Waiting*, 2008, <https://journals.sagepub.com/>.

⁶¹ *Ibid*

⁶² Harald Bauder, 2016. “Migrant Borders Freedom” 1st Ed. Routledge

⁶³ Tim Pit Hok Yau, “Opinion: In Dark Times, Arendt’s Political Theory Reminds Us Freedom Is Practiced, Not Given,” *The Ubyyssey*, 2024, <https://ubyssey.ca/opinion/opinion-arendt-political-theory-freedom-is-practiced-not-given/#:~:text=She%20equates%20political%20action%20as,freedom%20to%20create%20and%20intervene.>

ensuring migrants' rights and alleviating the crises they face including instances of abuse and GBV. Ultimately, a humane and effective response to migration should prioritize the well-being of individuals, rather than leveraging their suffering as a means of deterrence.

Chapter Two: Gender-Based Violence and Canada's Temporary Foreign Worker Program

Canada represents a sought-after destination for many migrants venturing from the Global South in search of economic opportunity or fleeing hardships in their country of origin. Canada has developed a reputation for being welcoming to refugees and offers routes such as asylum, sponsorship programs, and family reunification programs. However, the recent government decisions to cut the number of migrants entering the country⁶⁴ carries dangerous consequences for those seeking to cross Canadian borders. Strict border policies and practices foster clandestine migration that in turn creates potential for abuse from smugglers, border patrol officers, police officers, employers, sponsors, and other migrants to occur and go unreported and unprosecuted. For migrants who are women and/or identify as LGBTQI + the likelihood of experiencing sexual violence and other forms of GBV is increased⁶⁵. Illegalized bodies such as undocumented migrants are made vulnerable to abuse and harm. Once an assault has occurred, legalized migrants face skepticism from police and are subject to deportation if their status is questioned, therefore, many choose to not report assaults. Harsh border policy fosters dangerous situations for migrants including circumstances where a victim must be reliant on their abuser for financial security, sponsorship, or for fear of their immigration status being changed. This chapter will discuss current migration policies surrounding police response to abuse claims, migrant labour laws, and strict border controls as they contribute to the precarity and vulnerability of migrant women to GBV, specifically, sexual assault, using Canada's TFWP as an example. The program's structure, which ties workers to a single employer, creates power imbalances that can lead to various forms of abuse, including GBV. Migrant women often face additional vulnerabilities due to factors such as language barriers, isolation in rural communities, and fear of deportation, which can prevent them from reporting incidents of sexual harassment or assault. The TFWP's design fails to adequately address the unique needs of migrant women, often overlooking the intersectionality of gender, race, and immigration status. This oversight contributes to a lack of protective measures and support systems, exacerbating the risk of GBV within this population. I argue that the illegalization of migrant bodies is a harmful practice that endangers migrant women's lives and livelihoods. Migration policy decisions made in the interest of economic opportunity, such as temporary foreign worker programs, domestic worker visas, and making citizenship status dependent on a migrants economic productivity ensures cheap and disposable labour and a two-tiered system where high-skilled migrants get residency while low-wage workers remain precarious. Canada's Temporary Foreign Worker Program (TFWP) and the United States H-2A/H-2B visa system relies on temporary migration that prioritizes economic demand while denying long-term rights. TFWP and the Seasonal Agricultural Worker Program (SAWP) excludes migrants from permanent residency and labour protections. The H-2A (agriculture) and the H-2B (low-wage, non-agriculture) visas tie workers to a single employer, making them vulnerable to exploitation, wage-theft, and unsafe working conditions. Both programs legalize precarity for migrant workers and deny citizenship rights long-term. Some groups of migrants are deprived of the knowledge, skills, and support required to negotiate their rights effectively due to their social exclusion from local communities of citizens (Basok, 2010). This exclusion may take

⁶⁴Nadine Yousif and Jessica Murphy, "How Canada Soured on Immigration," BBC News, October 25, 2024, <https://www.bbc.com/news/articles/cp9z5rpgkyeo>.

⁶⁵Sze Eng Tan and Katie Kuscminder, "Migrant Experiences of Sexual and Gender Based Violence: A Critical Interpretative Synthesis - Globalization and Health," BioMed Central, June 28, 2022, [https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-022-00860-2#:~:text=\(Lack%20of\)%20documentation%20as%20a,be%20left%20alone%20%5B69%5D](https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-022-00860-2#:~:text=(Lack%20of)%20documentation%20as%20a,be%20left%20alone%20%5B69%5D).

place in the form of migrants living in crowded rooms together on agricultural job sites under exploitative employers (Lay, 2020).⁶⁶ If a migrant breaks their stringent contract, they are subject to deportation, which discourages the reporting of employer abuse. Deliberate migrant insecurity in labour policy ensures a vulnerable, disposable workforce while limiting access to housing, healthcare, and labour rights.

Once a migrant has crossed the border, either legally or clandestinely, there are additional precarities and vulnerabilities to GBV imposed by immigration laws and their enforcement. Under neoliberalism, regimes prioritize economic efficiency, relying on market-driven policies that privatize migration enforcement and commodify migrant labor often resulting in precarity and exploitation for migrants. Aspects of migration policy such as legal frameworks, meaning who can become a citizen, economic policies, social integration or exclusion, international relations, and enforcement mechanisms lead to disparities between the rights of citizens and non-citizens. Economic interests, political traditions, and cultural understandings underlie migration policy often times responding to the colonial policies around appropriation of resources and the labouring bodies for the maximum accumulation of capital (see Marx (1867) 1887).⁶⁷ In this context, migrant labour is made temporary, disposable, and lacks many safeguards to migrant wellbeing. To support themselves financially, migrants are often subject to work in low-income sectors such as agriculture, accommodation and food services, and waste management which pay minimum wage or less.⁶⁸ Disproportionately, migrant women work in household labour, cleaning, and retail sectors⁶⁹ despite having academic degrees and professional experiences in their countries of origin. Migrant women who are skilled workers are unable to continue in their field of expertise in Canada which relates to the theory of labor segmentation.

Labour market segmentation theory suggests that the labour industry is divided into particular segments (e.g. Reich et al., 1973; Gordon et al., 1982), where those who are employed in the primary segment or high-paid jobs, have stability, benefits and some security; while those in bad jobs or low-paid jobs are insecure with fewer to no benefits, job security, lack workplace or salary bargaining capacities and are often on the verge of getting fired. In Marxian (2001 [1867], 502) terms this is ‘reserve army’ of labour or ‘surplus’ labor. Marxist scholars like Eric Williams (1994)⁷⁰ argued this as original accumulation, accumulation by dispossession, accumulation by theft where the labor and the laborer’s body is appropriated for wealth. According to him this was a form of slavery through the coercion of labor. The Wages for Housework campaign by Italian feminists (in early 1970s.), Maria Mies’s book on *Patriarchy and Accumulation on a worldscale: Women in the New International Division of Labor*⁷¹, Marilyn Waring’s (1988) *If Women Counted: A new Feminist Economics*,⁷² Ivan

⁶⁶ Katie Lay, “Temporary Foreign Workers Face Barriers to Safe Housing and Lack of COVID-19 Safety Precautions,” *Migrant Workers Centre BC*, June 27, 2020, <https://mwcbc.ca/temporary-foreign-workers-face-barriers-to-safe-housing-and-lack-of-covid-19-safety-precautions/>.

⁶⁷ Marx, K. (1867) 1887. *Capital*. Volume 1 - The process of production of capital. Moscow: Progress Publishers.

⁶⁸ Janet McLaughlin and Jenna Hennebry, 1 pathways to precarity: Structural vulnerabilities and ... - york university, February 2024, https://www.yorku.ca/raps1/events/pdf/McLaughlin_Hennebry.pdf.

⁶⁹ Sita Jayaraman and Herald Bauder, Niche employment or occupational segmentation?, 2013, https://www.torontomu.ca/content/dam/centre-for-immigration-and-settlement/tmcis/publications/workingpapers/2014_3_Jayaraman_Sita_Bauder_Herald_Niche_Employment_or_Occupational_Segmentation_Immigrant_Women_Working_in_the_Settlement_Sector_in_Germany_and_Canada.pdf.

⁷⁰ Eric Williams 1994. *Capitalism and Slavery*. Chapel Hill: University of North Carolina Press.

⁷¹ Maria Mies. 1986. *Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour*. New Jersey: Zed Books.

⁷² Marlyn Waring. 1988. *If Women Counted: A new Feminist Economics*. San Francisco: Harper & Row.

Illich's (1981) contributions to unwaged exploitation in shadow work,⁷³ and Harald Bauder's (2015) *Segmentation of Academic Labor: A Canadian example*⁷⁴ have shown links between value of labor, nature of work, form of exploitation and the contributions of cheap segmented work force in successful economies. In contemporary times, the interconnections between race, citizenship, gender, class and immigration status of the worker matters extensively. These connections have provided nuanced explanations of exploitation of laboring bodies are exploited to which kinds of work and why is this form of labor exploitation and management important for the survival of corporate sector and neoliberal-capitalist economy. Not to mention these forms of work are also argued as unpaid work (reproductive) and unfree work. Labor segmentation has become a strategy of reducing wages and labour standards in the entire labour market of countries across the globe. But Canada remains as an exclusive example because here immigrants cannot work as per their professional skills unless recognized and verified by Canadian standards through Foreign Credential Recognition.⁷⁵ Barriers to economic success imposed by the Foreign Credential Recognition policy or lack of immigration status impose vulnerability to sexual assault and other forms of GBV against migrant women in the workplace. According to AMSSA (Affiliation of Multicultural Societies and Service Agencies of BC), "[migrant] women are more likely to have jobs that put them at risk, such as working in residential settings as caregivers. Many of the sexual harassment cases that were heard in BC and Ontario Human Rights Tribunals between 2000-2018 also pleaded discrimination based on race, ethnicity, place of origin and related grounds alongside the sexual harassment"⁷⁶ indicating a disproportionate exposure to unsafe conditions where sexual assault could take place due to a woman's status as a migrant worker.

Additionally, many migrant women engage in sex work and participate in the informal economy if they are undocumented. On December 31st, 2013, amendments to the Immigration and Refugee Protection Regulations (IPRR) under the title 'Protecting Foreign Nationals from Risk of Abuse and Exploitation' states that migrant workers are not to "enter into an employment agreement, or extend the term of an employment agreement, with an employer who, on a regular basis, offers striptease, erotic dance, escort services or erotic massages."⁷⁷ Since then, migrant work permits in Canada include a condition stating "[n]ot valid for employment in business related to the sex-trade such as strip clubs, massage parlours or escort services."⁷⁸ Considering their participation in sex work is illegalized and a condition of their status in Canada, many migrant women do not report their assault due to fears of deportation. Notably, according to a study of the impacts of the legislation, the National Library of Medicine found that "among sex workers who experienced recent violence during the 7.5-year study (n=367), 38.2% of all participants and 12.7% of im/migrants reported violence to police, and

⁷³ Ivan van Illich. 1981. *Shadow Work*. London: M. Boyars.

⁷⁴ Bauder, H. 2015. *The Segmentation of Academic Labour: A Canadian Example*. *ACME: An International Journal for Critical Geographies*, 4(2), 228–239.

⁷⁵ Cyndirela Chadambuka and Beverley Essue, "A Policy Review on the Visibility of Migrant Women Exposed to, and at Risk of Gender-Based Violence: Considerations for Inclusive and Equitable Policies and Programs in Canada," *PLOS Global Public Health*, 2024, <https://journals.plos.org/globalpublichealth/article?id=10.1371%2Fjournal.pgph.0002919>.

⁷⁶ 1. "AMSSA-Info-Sheet-Issue-10-Temporary-Foreign-Workers- ...," *Migration Matters*, 2019, <https://www.amssa.org/wp-content/uploads/2020/09/AMSSA-Info-Sheet-Issue-10-Temporary-Foreign-Workers-Statistics-and-Trends.pdf>.

⁷⁷ Butterfly (Asian and Migrant Sex Workers Support Network), *Work permit restriction on "employment in businesses*, 2018, <https://www.ourcommons.ca/Content/Committee/421/JUST/Brief/BR10006331/br-external/ImmigrationLegalCommittee-e.pdf>.

⁷⁸ *Ibid*

there was no significant change in violence reporting after end-demand legislation.”⁷⁹ indicating that the condition introduced in Canadian immigration policy has done little to encourage migrant victims of sexual assault who are involved in sex work to report their assaults.

Inaccessibility to secure and profitable work poses additional dangers to migrant women as they may rely on their abuser for financial protection and lack the means to support themselves on their own. It is commonplace for an abuser to specifically use a victim’s immigration status as a tool for abuse by “threatening to report the victim to immigration authorities if she calls the police, threatening to withdraw an immigration benefits application, or filing frivolous complaints that may result in serious consequences for the victims.”⁸⁰ When considering heterosexual relationships, men are viewed as the main actors in migration and often travel ahead of their families. Migrant men will then sponsor their wives to immigrate, however, the sponsorship dependence can put migrant women in isolated and precarious positions where their susceptibility to abuse is increased as their status in the country relies on the abuser. This form of GBV is referred to as Intimate Partner Violence (IPV) and can occur in heterosexual or LGBTQIA+ relationships. Experiencing IPV or any form of GBV is worsened when ones’ citizenship status is reliant on the individual perpetrating the violence, whether that is an employer, intimate partner, or a work colleague. Reporting the abuse becomes increasingly dangerous for migrant women as their livelihood in Canada is threatened, whether or not they have status. Fear of authorities is amplified among racialized migrant women who often face discrimination, language barriers, privacy concerns, and precarious legal status.

As stated by the National Library of Medicine in the Journal of Interpersonal Violence in 2022., women are often speculated on the validity of their sexual assault claim by police.⁸¹ Police skepticism is amplified when a victim is a woman of colour or does not fit the ‘ideal victim’ image.⁸² When victims are met with accusatory questioning by police, many victims are discouraged from pursuing criminal justice. For migrant women, especially undocumented migrant women, speculation is dangerous and harmful as police perception of the individual reporting the assault is shifted from victim to perpetrator of unlawful immigration. The resources available to victims after an assault has occurred are not considered safe options for illegalized migrant women. Healthcare, mental health resources, and police often require ID which illegalized migrants do not possess. The threat of deportation or change to their immigration status causes migrant women to not report their sexual assaults. Deepa Matoo’s 2021 intervention titled *Sexual Assault Policy Must Better Protect Migrant Women* highlights the ways in which Canadian immigration and sexual assault policy fail to protect migrant women who are vulnerable to GBV.⁸³ Migrants with precarious status such as Canada’s TFWP,

⁷⁹ Bronwyn McBride, Kate Shannon, and Brittany Bringham, “Underreporting of Violence to Police among Women Sex Workers in Canada: Amplified Inequities for IM/Migrant and in-Call Workers Prior to and Following End-Demand Legislation,” *Health and Human Rights Journal*, December 2020, <https://www.hhrjournal.org/2020/12/08/underreporting-of-violence-to-police-among-women-sex-workers-in-canada-amplified-inequities-for-im-migrant-and-in-call-workers-prior-to-and-following-end-demand-legislation/>.

⁸⁰ I. Caroline Bettinger-Lopez, Jamila Flomo, and Amanda Suarez, (PDF) the effects of anti-immigrant laws in the U.S. on victims of domestic violence, sexual assault, and human trafficking: A gender-based human rights analysis 2020

<https://www.researchgate.net/publication/342975052>

⁸¹ Jodie Murphy-Oikonen et al., “Unfounded Sexual Assault: Women’s Experiences of Not Being Believed by the Police,” *Journal of interpersonal violence*, June 2022, <https://pmc.ncbi.nlm.nih.gov/articles/PMC9136376/>.

⁸² Ibid

⁸³ Deepa Mattoo. Originally published on Policy Options February 14, “Sexual Assault Policy Must Better Protect Migrant Women,” *Policy Options*, April 8, 2021, <https://policyoptions.irpp.org/magazines/february-2020/sexual-assault-policy-must-better-protect-migrant-women/>.

students, refugee applicants, and undocumented migrants are susceptible to having their sexual assault reports turned against them and could suffer deportation back to a country they have not inhabited for many years.

Considering the multiple factors that dissuade migrant sexual assault victims from reporting their assaults, some larger Canadian cities such as Toronto and Hamilton have implemented a “Don’t Ask, Don’t Tell” (DADT) policy where “service providers – from police to health to social services – shouldn’t inquire into a client’s immigration status; and shouldn’t inform the Canada Border Services Agency (CBSA) about clients.”⁸⁴ If the policy were to be implemented correctly, “it would allow any woman, regardless of her migration status, to access services without fear of discovery.”⁸⁵ However, in practice, it has been found that police services, specifically the Toronto police, “had conducted numerous status checks in violation of the DADT policy; that numerous calls had been made to the CBSA; and that the Toronto police had been asking about status and taking steps to enforce immigration law.”⁸⁶ According to Toronto Police in a 2022 statement made online indicates that law enforcement should follow “... procedures to ensure that victims and witnesses of crime will not be asked their immigration status, unless there are *bona fide* law enforcement reasons to do so”⁸⁷ as part of their Don’t Ask Don’t Tell policy regarding illegalized migrants. It is stated on the website that the policy is an effort to ensure that non-documented residents have equal access to police services without the fear that they will be questioned about their immigration status. However, ambiguous wording such as “will develop procedures” and “unless there are bona fide law enforcement reasons to do so” do not inspire confidence in the force’s commitment to protecting victims regardless of their immigration status. The threat of having their immigration status evaluated discourages victims from reporting. Deporting a victim of sexual assault and other forms of GBV not only further victimizes them but criminalizes them. Therefore, police sexual assault response policy discourages reporting and further endangers migrant women in Canada.

Border policy and practices that aim to deter migrant movement and lifestyle often have dangerous and even deadly impacts on migrants. The illegalization of migrant bodies exposes them to higher risk of sexual violence and other forms of GBV in Canada. Closed or tightened border policy allows for human smuggling and trafficking to flourish, and for abuse committed by smugglers against migrants to go unreported and unprosecuted. Once across the border, whether legally or clandestinely, available work imposes additional barriers to security. Migrant women typically work low-wage labour jobs where there is increased vulnerability to sexual assault. Illegalized and documented migrant women alike oftentimes enter into sex work where their personal safety and immigration status can be jeopardized due to immigration laws banning participation in sex work and the exposure to potential sexual assault. Additionally, migrant women who are dependent on sponsors for financial and status security are vulnerable to abuse due to the risk of deportation imposed by Canadian immigration policies. Migrant women who are victimized are not incentivized to report their assaults due to precarities imposed by police reporting policies despite efforts to protect migrant women through the DADT program. The illegalization of migrant bodies creates situations of precarity where sexual assaults may occur without reprimand. Canadian immigration and border policies do not protect migrant women, and are instead complicit in the GBV they experience.

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Ibid

⁸⁷ 1. Etheline, “Victims and Witnesses without Legal Status,” Toronto Police Service Board, January 19, 2022, <https://tpsb.ca/policies-by-laws/board-policies/142-victims-and-witnesses-without-legal-status#:~:text=It%20is%20the%20policy%20of,reasons%20to%20do%20so%3B%20and.>

Chapter three: The Deportation Model and Punitory Systems of Power

The threat of deportation and the policing of migrants contribute to the precariousness of migrant's physical, financial, and social wellbeing. U.S. Border Patrol reports that there have been 10,000 border-related deaths since 1994 at the U.S.-Mexico border, however, human rights groups estimate that the number is closer to 80,000 (Human Rights Watch, 2024), making it the deadliest land migration route in the world. Policies regarding borders and the freedom of movement through them, do little to address the current dangers facing migrants. Instead, current border policies seek to deter migrants by increasing the risk involved with crossing through border militarization. Companies that manufacture military hardware such as surveillance equipment, firearms, and armoured vehicles, outsourced by governments in the Global North for border security have vested interests in border militarization (Isaac, 2024). As risk grows for migrants through border militarization, so do company profits. For example, CoreCivic is a company that supported the development of private migrant detention centers by lobbying for the enactment of stricter laws against migrants (Schwenk, 2024), as they are a real estate investment trust specializing in privatized detention facilities and prisons (de Fraissinette, 2022). As one of the largest private prison operators in the U.S., CoreCivic has significantly profited from contracts with the U.S. Immigration and Customs Enforcement (ICE) to manage detention facilities for migrants along the U.S.-Mexico border. After the 2024 election, CoreCivic's stock value increased by 55% (yahoo finance, 2025) reflecting investor anticipation of expanded detention operations and, consequently, increased profits. This is explained as an extension of Border Industrial complex to Migration Industrial complex – as the militarization of borders, extraordinary power of border guards, management of borders through robodogs and artificial intelligence besides the use of military artilleries use in war zones on migrants – is directly connected to visa, permits, biometrics, growth of camps, private prisons, detention centers and hotspots. Hotspots are supermax prison facilities detaining migrants of one country in another country's detention center. Most often, these countries are known for their lack of regulations in violating human rights and atrocities on dehumanizing particular migrants. Thereby making lives of certain migrants' expendable and invisible. Ironically such exploitation is not statist but entails huge corporate gains to businesses.

Border control and illegalized migrant deportation were highly relevant topics during the U.S. 2024 presidential election race. Both candidates (Kamala Harris and President Donald Trump) took a harsh stance on migration, opting to further militarize and tighten the U.S Mexico border. President Trump in particular centered mass deportation as a major aspect of his political platform. After his presidency win, there is question as to whether or not he will be able to fulfill his promise of deporting the estimated 11.7 million illegalized migrants living in the U.S..⁸⁸ The morality of mass deportation is also questioned by human rights groups who claim it could lead to human rights violations including “the separation of families and the detention of individuals without due process”.⁸⁹ When looking at the consequences of deportation, such as displacement, disruption of one's livelihood, potential threat to their life, etc. the proportionality of the crime does not compare. Many people on President Trump's deportation list are tax-paying people with families who have spent years building a life in America. Regardless, is the crime of illegal entry proportional to the punishment of uprooting and evicting people who are otherwise law-abiding and economic participants? Utilitarian,

⁸⁸ Mark Gollom, “President Trump Wants to Use a 226-Year-Old Law to Deport Millions of Undocumented Migrants. Can He Do It? | CBC News,” CBCnews, November 15, 2024, <https://www.cbc.ca/news/world/President-Trump-deportations-alien-enemies-1798-law-1.7383333>.

⁸⁹ I. Mel Wilson, “Near Certain Cataclysmic Consequences of Mass Deportation Program ,” NASW, National Association of Social Workers, 2024, [Near Certain Cataclysmic Consequences of a Mass Deportation Program](#).

retributivist, and social critical theories of punishment indicate that deportation is a form of over-punishment and does little to address the greater good of society, address the perpetrators moral deservedness, or address the root causes of illegalized migration. Despite the Supreme Court of the U.S.' declaration that deportation is not a form of punishment,⁹⁰ the negative impacts on the lives of those being deported are undeniable, and therefore, deportation will be discussed as a form of punishment due to its enforcement by the government and its infliction of suffering. Specifically, the theories of punishment will be applied to President Trump's proposed plan of mass deportation which seeks to usurp due processes such as Immigration Court. In this chapter I answer the following questions. 1) How is President Trump's mass deportation proposal a form of over-punishment? 2) How can theories of punishment such as utilitarianism, retributivism, and social critique be applied to mass deportation? 3) How does xenophobia contribute to a social tolerance of over-punishment for immigration-related crimes? I draw from Harsha Walia and Tanya Golash-Boza productions to argue migrant management practices such as deportation as an act of disproportionate punishment. When applying theories of punishment such as retributivism, utilitarianism, and social critical lenses one can discern that deportation is a form of punishment reserved for illegalized migrants that is enacted in ways that are cruel, unusual, and disproportionate to immigration crimes. To answer the questions, I have segmented my analysis in the following manner.

Firstly, I explore key concepts such as deportation, illegalized migration, punishment, utilitarianism, retributivism, and social critical forms of punishment. Secondly, I provide an overview of President Trump's proposed mass deportation plan and its impact on societal attitudes of the general population towards immigration related crime and punishment. By examining changing social attitudes toward immigration in America, this analysis applies utilitarian, retributivist, and social critical theories of punishment to mass deportation, showing how the ideas of serving the greater good and moral deservedness are deeply influenced by what society defines as an offence against itself.. A review of literature on borders, migration, and the consequences of mass deportation will follow to juxtapose how xenophobic beliefs are contrary to the reality of illegalized migrants living in America. Finally, I highlight the significance of mass deportation as a form of punishment to conclude that an analysis of President Trump's proposed policy, the theories of punishment, and relevant literature indicates an over-punishment in the enforcement of deportation.

Deportation is defined by the Oxford English Dictionary as "the act of forcing someone to leave a country, usually because they have broken a law or they have no legal right to be there."⁹¹ The U.S. government defines the deportation process as "removing a noncitizen from the U.S for violating immigration law. The U.S may detain and deport noncitizens who participate in criminal acts, are a threat to public safety, or violate their visa."⁹² A mass deportation would imply the removal of all noncitizens within a short timeframe, meaning millions of people currently living in the U.S. would face removal from the country. I use the term illegalized migrant, throughout my thesis, over terms such as non-citizens, clandestine migrants, undocumented migrants, illegal aliens or illegal immigrants. It is important to recognize that the individual themselves is not illegal, or the act of entering a country without documentation is illegal when with neoliberalization of our economies goods, services, jobs or capital have unabated access to any country; also citizens of Europe, U.S., Canada, Australia

⁹⁰ "Mahler v. Eby, 264 U.S. 32 (1924)," Justia Law, 1924, [Mahler v. Eby | 264 U.S. 32 \(1924\) | Justia U.S. Supreme Court Center](#).

⁹¹ "Deportation," Oxford Reference <https://www.oxfordreference.com/display/10.1093/acref/9780199290543.001.0001/acref-9780199290543-e-608>.

⁹² "Understand the Deportation Process: Usagov," Understand the deportation process | USA Gov, [Understand the deportation process | USA Gov](#).

and New Zealand do not need permits or visas to enter most of the Global north and south; and those who are expats move under certain privileges – then why should the movement of extremely marginalized populations who are impacted by livelihood losses, wars, conflicts, persecution are illegalized due to their act of movement responding to survival needs. Data and scholarly analysis have shown that these push factors are creation of the most affluent countries that had colonial or imperial relations with the developing countries in the south. Often terms such as ‘illegal alien’ or ‘illegals’ are used to dehumanize and vilify illegalized migrants while there are a variety of reasons why someone may not have the proper documentation. Oftentimes, those who are living in the U.S. without status fled unsafe conditions in their previous country and could not afford the time or money it costs to enter the U.S. through legal routes. Clandestine migration is another term used to identify those who have sought alternative passage into the U.S. and are staying without recognized status. The dictionary meaning of punishment is “The infliction of a penalty or sanction in retribution for an offence or transgression; (also) that which is inflicted as a penalty; a sanction imposed to ensure the application and enforcement of a law.”⁹³ To apply theories of punishment to deportation, utilitarianism, retributivism, and social critical lenses will be applied. Utilitarian refers to the use of punishment as a means to achieve the greater good for society. Utilitarians utilize the least amount of punishment for the greatest societal benefit. For utilitarians, the crime is analysed through its impact on society rather than the individual committing the crime’s moral culpability or deservedness to be punished.⁹⁴ Retributivist theories of punishment refers to punishing the individual based on their moral desert and the crime committed. Retributivists focus on the proportionality of the punishment to the crime and the individuals’ deservedness to punishment.⁹⁵ A social critical lens to punishment seeks to address the root causes of crime. Social critics look at factors such as racism, poverty, and ableism for example as moral defects of society itself, rather than the individual.⁹⁶

Research methods used for the report are qualitative and will analyse existing data. When considering xenophobic rhetoric expressed by President Trump, a content analysis will be used to identify recurring terms used to fear-monger against and alienate illegalized migrants in the media and in President Trump’s rally speeches. Drawing connections between the theories of punishment and mass deportation is opinion-based and has not been explicitly stated by the U.S. government which theory of punishment they are applying when considering mass deportation. Therefore, I will make inferences based on social attitudes towards illegalized migration and the human impact of deportation. It is important to acknowledge my bias as someone who has legal status as a citizen in Canada. There is immense privilege that comes with having citizenship, for those with documentation movement and travel are made much easier and legal pathways become more available. For those without a passport or other forms of identification, travel and movement become illegalized. The freedom of movement is a privilege not shared by all. There are different circumstances for every individual choosing to migrate to the U.S. whether through recognized or illegalized routes, which are important to acknowledge when discussing mass deportation which fails to acknowledge different experiences and motivations. Migration and deportation are controversial topics; therefore, it is important to acknowledge how my experience with travel and my political beliefs impact

⁹³ Punishment, N. meanings, etymology and more | oxford english dictionary
https://www.oed.com/dictionary/punishment_n?tl=true.

⁹⁴ Joel Feinberg, “Feinberg - Classic Debate,” 1995,
<https://www.yumpu.com/en/document/view/12110234/feinberg-classic-debate>

⁹⁵ “Retributivism,” Legal Information Institute, 2023,
<https://www.law.cornell.edu/wex/retributivism#:~:text=Retributivism%20is%20a%20theory%20of,crime%20or%20to%20rehabilitate%20them.>

⁹⁶ Amelia M. Wirts “The Palgrave Handbook on the Philosophy of Punishment,” Chapter 4. SpringerLink, 2023,
<https://link.springer.com/book/10.1007/978-3-031-11874-6>.

my perceptions. Additionally, when including information stated in speeches from Donald President Trump, it is important to recognize that disinformation is oftentimes expressed as factual.

During his 2024 presidential campaign, President Trump promised to impose a mass deportation in the U.S. of millions of illegalized migrants once he takes office. After a successful presidential bid in November, the threat of deportation has become a fearsome reality for many people living in the U.S.. President Trump has referred to illegalized movement across the border as a crisis and claims illegal entry is one of the largest threats to the American economy, culture, and safety. The current U.S. deportation process is carried out under the U.S. Constitution which applies to everyone regardless of citizenship status.⁹⁷ Due process includes those accused of not having status must appear in immigration court where it is decided if the individual is to be deported or offered alternative pathways to residency such as asylum. Currently there is a backlog of 3.7 million cases and many court dates currently booked 5 years in advance.⁹⁸ In order to achieve his proposed mass deportation of 11.7 million people, President Trump would have to employ more immigration officers, build more detention centers, and hire more immigration court judges.⁹⁹ Combined with costs for arrest, detention, legal processing, and removal, the American Immigration Council estimates the total cost will be over \$300 billion USD.¹⁰⁰ Due to the high cost and backlog of cases, President Trump claims he will invoke the Alien Enemies Act from 1798, stating “This is how far we had to go back, because in those days, we didn’t play games. [...] I will invoke the Alien Enemies Act of 1798 to target and dismantle every migrant criminal network operating on American soil.”¹⁰¹ The Alien Enemies Act was enacted three times during times of conflict including the War of 1812, World War 1, and World War 2 to detain and deport suspected government threats. The act was used to target German, Austro-Hungarian, Japanese, and Italian immigrants and is notable for permitting internment camps against Japanese people.¹⁰² The act would circumvent the constitutional process of immigration courts and detain and deport people without a hearing based on country of birth or citizenship.¹⁰³ If President Trump attempts to enact the Alien Enemies Act, as he has repeatedly stated he will, it will be met with contention, as illegalized migration does not meet the war-time standards needed to enact it. However, President Trump’s election win and immigration policy plan reflects current social attitudes in America towards migrants, whether illegalized or not. The suggestion of the Alien Elimination Act indicates a perceived national threat imposed by illegalized migrants, meaning, the capacity to punish, or rather over-punish, illegalized migrants and imposing harsh border control has become a political expectation and socially acceptable.

Xenophobic rhetoric is prevalent in President Trump’s discussion surrounding border controls and illegalized migrants. Fear-mongering has been a tactic used to garner support for tighter borders. Throughout his previous presidency and multiple campaigns, President Trump

⁹⁷ Veronica, “Immigration Court Process, Including Appeals and Deportation Orders,” Resources for Asylum Seekers, November 21, 2024, <https://help.asylumadvocacy.org/faqs-immigration-court/>.

⁹⁸ Mark Gollom, “President Trump Wants to Use a 226-Year-Old Law to Deport Millions of Undocumented Migrants. Can He Do It? | CBC News,” CBCnews, November 15, 2024, <https://www.cbc.ca/news/world/President-Trump-deportations-alien-enemies-1798-law-1.7383333>.

⁹⁹ Ibid

¹⁰⁰ Ibid

¹⁰¹ Catherine E. Shoichet, “A 1798 Law Was Used to Justify Some Internments during World War II. President Trump Says He’ll Invoke It Again | CNN Politics,” CNN, November 14, 2024, <https://www.cnn.com/2024/11/14/politics/alien-enemies-act-1798-President-Trump-cec/index.html>.

¹⁰² Katherine Yon Ebright, “The Alien Enemies Act, Explained,” Brennan Center for Justice, October 16, 2024, <https://www.brennancenter.org/our-work/research-reports/alien-enemies-act-explained>.

¹⁰³ Ibid

has labeled Mexican immigrants as “drug dealers, criminals, and rapists”¹⁰⁴ to inspire fear and support for his harsh border policies. President Trump has repeatedly stated that migrants are stealing jobs from Americans and are responsible for rising crime rates.¹⁰⁵ The anti-migrant sentiment expressed by President Trump vilifies migrants and creates an “us vs. them” mentality. By accrediting hardships experienced by Americans to the rise of illegalized migration into the U.S., it fosters hatred and fear towards them. By cultivating negative attitudes towards migrants, there is then large spread acceptance of inequitable policies against them. When populations are made to fear or distrust certain social groups, there is allowance and a tolerance of harmful policies that target specific groups. This tolerance was witnessed when President Trump was able to win the Presidency on a mass deportation platform. From a the New York Times article from 2024, I note that “57% of voters in a New York Times/Siena College poll conducted in October said they supported deporting immigrants living in the country illegally, including about 30% of Democrats and 58% of independents.”¹⁰⁶ The news article further include that many registered democrats voted for President Trump due to his harsher border policies.¹⁰⁷ Increases in the general public's tolerance of punishing migrants through detention and deportation is reflected in their votes. Through fear-mongering and promoting xenophobia, mass deportation is oftentimes excused as a punishment that serves the greater good.

When considering President Trump’s proposed mass deportation through a lens of utilitarianism, punishment is justified due to the perception that the removal of illegalized migrants in the U.S. serves the greater good. If one is to believe President Trump at his word that illegalized migrants are responsible for the rise in crime, the lack of jobs, the strain on the healthcare system, and “poisoning the blood of our country”¹⁰⁸ then a mass deportation would help the greater good of the U.S. by punishing those who impose threats to the U.S. by entering the country clandestinely. It is implied that citizens will be safer and generally better off if illegalized migrants are removed. Utilitarianism seeks the least amount of punishment for the greater good regardless of moral culpability of the perpetrator, therefore, in theory, mass deportation is a utilitarian method of punishing illegalized migration. However, where the theory falls short and cannot be applied is when one considers that the societal issues accredited to illegalized migration is not factual and would not be fixed through mass deportation. According to Michael Clemens (2024),the “mass deportation of millions of people will cause reduced employment opportunities for U.S. workers, it will cause reduced economic growth in America, it will cause a surge in inflation, and it will cause increased budget deficits -that is, a higher tax burden on Americans,”.¹⁰⁹ This indicates that the perceived greater good a mass deportation would produce is untrue and counterproductive. Illegalized migrants represent approximately 40 percent of the country’s agriculture workforce,¹¹⁰ meaning their removal would create a large labour gap in a vital sector. In terms of crime, it is recorded that illegalized migrants consistently commit lower rates of violent crime than U.S-born citizens and

¹⁰⁴ “‘Drug Dealers, Criminals, Rapists’: What President Trump Thinks of Mexicans,” BBC News, 2016, <https://www.bbc.com/news/av/world-us-canada-37230916>.

¹⁰⁵ Fatima Hussein, “Despite President Trump’s Claims, Data Shows Migrants Aren’t Taking Jobs from Black or Hispanic People,” PBS, October 12, 2024, <https://www.pbs.org/newshour/politics/despite-President-Trumps-claims-data-shows-migrants-arent-taking-jobs-from-black-or-hispanic-people>.

¹⁰⁶ Miriam Jordan, “Voters Were Fed up over Immigration. They Voted for President Trump.,” The New York Times, November 6, 2024, <https://www.nytimes.com/2024/11/06/us/President-Trump-immigration-border.html>.

¹⁰⁷ Ibid

¹⁰⁸ Ibid

¹⁰⁹ Christina Lu, “What President Trump’s Mass Deportations Would Mean for the U.S. Economy,” Foreign Policy, November 26, 2024, <https://foreignpolicy.com/2024/11/25/President-Trump-us-mass-deportation-economic-impact-immigrants/>.

¹¹⁰ Ibid

documented migrants.¹¹¹ Meaning, their removal would not result in a drastic reduction of crime. It is also found that illegalized migrants utilize healthcare services at a lower rate than U.S-born citizens and migrants in general have “two-thirds the per capita health care expenditures of U.S.-born people”.¹¹² Therefore, mass deportation would not make a significant impact on the availability of healthcare. Considering the utilitarian theory considers punishment a means of reducing societal hardships, mass deportation falls short of meeting the criteria for utilitarian punishment application. The theory is only applicable if mass deportation solved the issues President Trump insists are caused by illegalized migrants. Taking into account the societal benefits of mass deportation are almost non-existent, utilitarian theorists would indicate that it is over-punishing as the punishment outweighs the benefit to the greater good of society.

A retributivist theory of punishment states that the moral culpability of the individual should be proportional to the punishment. Considering the theory applies punishment based on the individual’s moral desert, mass deportation is inapplicable due to its’ generalizing approach. With due process, unique cases are evaluated by immigration courts to decide whether someone is deported or granted asylum meaning there is consideration of circumstances. However, President Trump’s proposed enactment of the Alien Enemies Act, if approved, would invoke a sweeping detainment and deportation of millions. Additionally, many people who are considered illegalized migrants have been living in the U.S. for years and are paying taxes. In this context, an article published by the National Immigration Law Centre (2018) suggests “undocumented immigrants pay billions in taxes to fund programs they can’t access,” by filing taxes through an Individual Taxpayer Identification Number that does not require a social security number and through employment with payroll tax deductions.¹¹³ Their taxes paid go towards social security which they are unable to access due to their status. Additionally, according to the American Immigration Council (year), 80% of illegalized migrants have lived in the U.S. for over 10 years,¹¹⁴ meaning, those at risk of deportation have built lives and families and do not have connections in their country of origin. Additionally, 90% of illegalized migrants living in the U.S. do not have criminal records, meaning for the most part there is no added threat to public safety.¹¹⁵ For example, Goura Ndiaye had lived in the U.S. for 20 years, ran his own business, worked as a primary supporter of his three U.S citizen daughters, and regularly checked in with immigration authorities as required before being deported under the President Trump administration in 2017 to Mauritania in Northwest African which posed a great threat to his safety (see Gupta 2024).¹¹⁶ By deporting those who have families, jobs, and livelihoods in the U.S. back to a country that is unfamiliar and in some cases unsafe, a disproportionate punishment is imposed upon them. Illegalized migration is a route used for a variety of reasons, therefore, one cannot equate deportation as a punishment to the crime of seeking undocumented security. Deportation is disproportionate to the crime of

¹¹¹ “Undocumented Immigrant Offending Rate Lower than U.S.-Born Citizen Rate,” National Institute of Justice, 2018, <https://nij.ojp.gov/topics/articles/undocumented-immigrant-offending-rate-lower-us-born-citizen-rate#:~:text=Every%20other%20violent%20and%20property.burglary%2C%20theft%2C%20and%20arson.>

¹¹² Drishti Pillai Alisha Rao, “Key Facts on Health Care Use and Costs among Immigrants,” KFF, September 24, 2024, <https://www.kff.org/racial-equity-and-health-policy/issue-brief/key-facts-on-health-care-use-and-costs-among-immigrants/#:~:text=For%20example%2C%20one%20study%20found,in%20rates%20of%20uncompensated%20care.>

¹¹³ Ibid

¹¹⁴ “Why Don’t Immigrants Apply for Citizenship?,” American Immigration Council, October 9, 2021, <https://www.americanimmigrationcouncil.org/research/why-don%E2%80%99t-they-just-get-line.>

¹¹⁵ Nayna Gupta, “Mass Deportations Will Undermine Our Safety,” Immigration Impact, December 9, 2024, [https://immigrationimpact.com/2024/12/19/mass-deportations-will-undermine-our-safety/.](https://immigrationimpact.com/2024/12/19/mass-deportations-will-undermine-our-safety/)

¹¹⁶ Ibid

living undocumented in America. Retributivists insist that punishment is justified when the individual morally deserves to be punished. In the case of mass deportation, retributivist theory insists it is a form of over-punishment.

When applying a social critical lens to immigration crimes, it is clear that mass-deportation does nothing to address the underlying causes of illegalized movement. Instead of seeing corruption within the individual, social critical theorists seek to address social defects that lead to crime taking place. Borders are colonial and capitalist practices and apparatus that marginalize specific groups of people in our society. Movement is restricted for some, based on their race, income, class, citizenship, and sexual orientation. According to the National Library of Medicine (yr), “ostensibly neutral immigration laws that illegalize certain immigrant groups, enforcement practices that target the same immigrant groups, media discourses that reify notions of the group as “quintessentially” undocumented, and social attitudes and perceptions that reinforce such narratives coalesce to produce the racialization of illegality.”¹¹⁷ Borders, especially when militarized which President Trump intends to strengthen, create deadly situations for migrants. Scholars such as Roberto D. Hernández argue that borders are manifestations of gendered and racialized colonial violence,¹¹⁸ meaning that the border acts as a violent symbol of settler power and occupation. By punishing those who cross the border without adhering to colonial and capitalist routes of entry, social critics suggest that the root causes and issues of border laws are ignored and over-punishing takes place.

Scholars who grapple with the social implications of borders and border policies suggest that deportation is cruel, racialized, and violent. In Harsha Walia (2021) *Borders & Rule*, she suggests that “contemporary displacement and bordering practices are part of the long history of settler colonialism, the genocide of indigenous peoples, the stolen labour and lives of the trans-Atlantic slave trade and the coerced labour of indentured workers.”¹¹⁹ indicating the systems in which borders were established are inherently racist. Walia additionally states that “with the right passport and the privilege that wealth and whiteness bring, people move unimpeded across borders” highlight the privilege that accompanies having citizenship and status. The common argument made by people who advocate for deportation, that migrants can apply for legal routes of entry fail to acknowledge the privilege one must have to endure wait times for approval, or to get approval in the first place, is debunked by Walia’s research. Walia co-founded the “No-One Is Illegal” movement which actively pushes against deportation. The movement echoes my argument that deportation is disproportionate to the ‘crime’ of illegalized living in the U.S.. ‘No-one Is Illegal’ suggests that “within the legal–illegal binary under which non-citizens were “disqualified” by the state, [...] utilising shared humanity as a common category [is a means to oppose illegalized movement practices]”.¹²⁰ In a report on the movement, Tiina Seppälä writes that “Deportations, deportability and stigmatising or criminalising paperlessness can be understood as technologies of citizenship that are constitutive of state/nationhood, serve to maintain structural inequality and reinforce racialized social hierarchies based on the logic of social and political exclusion/inclusion embedded in state-centric sovereignty”.¹²¹ Following Walia and No One

¹¹⁷ Cecilia Menjívar, “The Racialization of ‘Illegality,’” *Daedalus*, 2021, [The Racialization of “Illegality” - PMC](#)

¹¹⁸ Roberto Hernandez, “Coloniality of the US/Mexico Border,” UAPress, July 2019, <https://uapress.arizona.edu/book/coloniality-of-the-us-mexico-border>.

¹¹⁹ Harsha Walia, Robin D. G. Kelley, and Nick Estes, *Border & Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism* (Chicago, IL: Haymarket Books, 2021).

¹²⁰ Seppälä, Tiina. 2022. “‘No One Is Illegal’ As a Reverse Discourse Against Deportability.” *Global Society* 36 (3): 391–408. doi:10.1080/13600826.2022.2052023.

¹²¹ *Ibid*

Is Illegal movement¹²², I assert that President Trump's mass deportation plan is rooted in xenophobia and racism and is a form of over punishment.

Tanya Golash-Boza (2019) offers further evidence of deportation being over-punishment as she considers its impact on the families of those being deported and the harm that takes place upon arrest. Golash-Boza states that "children whose parents are deported can face multiple traumas; they may witness the forcible removal of their parent, lose one or both of their caregivers, and abruptly have to change their place of residence"¹²³ and after a parent has been deported, "family reunification in the country of origin may not be preferable; a study by Zayas (2015) revealed that those children who relocated to Mexico to rejoin their parents had higher instances of depressive symptoms than those who stayed behind."¹²⁴ indicating that the suffering imposed by deportation reaches further than the individual.

President Trump's proposed mass deportation plan is indicative of a tolerance of xenophobia in the U.S. that encourages the over-punishment of illegalized migrants. After a successful presidential campaign fraught with racist and xenophobic rhetoric, there is deep belief that illegalized migrants are responsible for many of society's troubles. Despite statistics that state otherwise, migrants are blamed for taking jobs from Americans, putting strain on the healthcare system, and committing high levels of crime. Due to widespread disinformation, mass deportation is considered an acceptable solution. When considering mass deportation through a utilitarian lens, one can observe that if President Trump's statements about the negative impacts imposed by illegalized migrants on society were true, then punishing for the greater good would be appropriate. However, the claims are false and therefore their removal from the U.S. is inappropriate and an extreme form of over-punishment. Through a retributivist lens, the crime of living without recognized documentation in the U.S. does not equate the punishment of deportation in proportionality. Many migrants who are subject to deportation are contributing members of society who have lived in the U.S. for over a decade and therefore, deporting them to countries where they may not have connections, are unfamiliar, and may be at risk of harm is disproportionate and undeniably an over-punishment. Deportation also fails to address societal conditions that make illegalized migration the only option for some. With border practices' roots in racism and colonialism, a social critical lens can be applied to conclude that the proliferation of borders serves a system that is inherently racist and violent (Walia 2021, Golash-Boza 2019, Bauder 2017). Borders impose problematic and dangerous circumstances for many people, therefore, a future where the existence and purpose of borders is questioned begins an important conversation on the accessibility of the freedom of movement.

¹²² *ibid*

¹²³ Golash-Boza, T. (2019). 'Punishment Beyond the Deportee: The Collateral Consequences of Deportation'. *American Behavioral Scientist*, 63(9), 1331-1349 (p. 838). <https://doi.org/10.1177/0002764219835259>

¹²⁴ *Ibid*

Conclusion

As the Global North shifts even more towards the tightening of borders and the commodification of migrant lives, I seek to interrogate how neoliberal migration policy regimes in the Global North operate not only as systems of governance, but as tools of profit and exclusion. By examining the intersecting dynamics of militarized border enforcement including detainment and deportation, exploitative labour programs, and gendered violence, this research reveals how migration management has become a mechanism through which racialized and gendered precarity is produced and maintained. Through the lens of the border industrial complex, it becomes evident that state and corporate interests intersect in ways that transform human mobility into an opportunity for economic extraction and control. Migrants are rendered vulnerable by policies that prioritize security and profit over justice and humanity. This research seeks to disrupt dominant narratives that frame migrants as threats and instead highlight how state violence, nationalism, and capitalist logics intersect to endanger lives. In doing so, it contributes to broader interdisciplinary conversations in critical policy studies, feminist analysis, and migration justice, calling for a reimagining of borders that centers freedom of movement, autonomy, and liberation.

The freedom of movement is often taken for granted by those who have access to valid identification and the means to travel.¹²⁵ With President Trump serving his second term as president, there is much cause for concern surrounding the safety and security of those living in the U.S. without status. Globally, the movement across borders poses a perceived threat for many nations who rely on border militarization to secure their perimeters. A rise in xenophobia, border militarization, and border-related deaths indicate a world that is unsafe for migrants. Now more than ever are nuanced approaches to border related policy needed, where helping migrants and refugees find safety is a priority. Regardless of whether or not President Trump is able to enact the Alien Enemies Act, migration (legal and illegalized) will continue, therefore it is imperative that approaches are taken that do not seek to punish those seeking to live safely in the U.S..

Future quantitative research could explore the relationship between border militarization, migrant temporality, and experiences of violence by operationalizing key variables. One way to structure such a study would be to treat the level of border security militarization in the E.U., Canada, and the U.S. as the independent variable. This could be measured through indicators such as government spending on border enforcement, the deployment of surveillance technologies, the expansion of agencies like Frontex in the E.U. and Customs and Border Protection (CBP) in the U.S., and the number of deportations carried out annually. Specific policies—such as the detention of migrants in Mediterranean states like Greece and Italy, Canada's TFWP, and deportation practices in the U.S., could also serve as examples of how migration management has shifted from humanitarian intervention toward deterrence. The dependent variable could focus on the likelihood of migrant death, labour exploitation, and GBV, particularly among migrants and refugees from countries such as Syria, Afghanistan, and Mexico. This could be measured by tracking fatalities during border crossings (e.g., drownings in the Mediterranean, deaths in the U.S.-Mexico desert), analyzing reported instances of labour abuse through programs like the TFWP, and assessing underreporting of crimes using data from NGOs, shelters, and survivor testimonies. Researchers might hypothesize a positive correlation between intensified border militarization and increased risks to migrant safety and well-being. Additionally, they could consider intervening variables, such as migrants' citizenship status, and moderating variables like literacy levels in the host country or levels of distrust toward authorities, which may influence the reporting of exploitation and

¹²⁵ Bauder, H. 2017. *Migration Borders Freedom*. London: Routledge.

abuse. By systematically collecting and analyzing these data points, future research could offer a deeper empirical understanding of how militarized border regimes produce and exacerbate migrant deaths, labour exploitation, and the silencing of abuse.

Audre Lorde's (1984) presentation titled *The Master's Tools Will Never Dismantle the Master's House*¹²⁶ highlights the importance of intersectional voices in feminism. When perspectives are excluded or go unheard, there is little progress towards a society that is liberated for all. Lorde insists that patriarchy, capitalism, and sexism cannot be challenged using practices that are inherently unjust, therefore, one must think outside the realm of the familiar in order to address inequalities. Lorde's words lead one to consider how the migrant experience would differ if there were open borders or no borders at all. Perhaps migrant pathways would have reduced the death toll and passage would be safer for all migrants and refugees. Stories and experiences from illegalized migrants travelling from the Global South are vital to the migrant justice initiatives and feminist movement organizing as they have contributed critically to contemporary discussions on the normalization of Global Northern practices of borders and citizenship. Global North practices such as militarized borders, the human rights violations of asylum seekers and temporary workers in jails, camps, or working are normalized border practices that contrast a government's duty to protect those on their soil. These harmful policies are strengthened by the manner in which movement across borders is portrayed by right-wing media. Thus, a reimagining of open borders is an important potential reality to explore.

¹²⁶ Audre Lorde, *The Master's Tools Will Never Dismantle the Master's House*, 1984
https://collectiveliberation.org/wp-content/uploads/2013/01/Lorde_The_Masters_Tools.pdf.

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